

Court grants injunction to Orica

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By Richard Vivian

A Grand Valley-area explosives operation can stay open — at least for a couple more weeks. A Superior Court judge agreed to allow Orica Canada Inc. to carry on business as usual until an injunction hearing can be heard June 22 to 26.

Without the court's approval, Orica would have been in violation of its federal licensing as of last Friday, when temporary approval granted in 2007 expired.

Last month East Luther Grand Valley council denied Orica's applications for permanent status, as well as a two-year extension on temporary approval. The explosives company filed an Ontario Municipal Board (OMB) appeal and is seeking court approval to keep operating until the appeal is resolved.

At press time, a hearing date hasn't been set.

"We are very pleased with the court's decision today," Orica vice-president Richard Brown said in a news release issued Thursday. "We are disappointed that we were forced to seek an urgent order from the court, but the town council's refusal to allow Orica to continue to operate during the appeals process left us no choice."

Township lawyer Jeff Wilker says the municipality was served with "voluminous motion materials" from Orica Wednesday evening, with the matter to be argued in court the following morning.

"The court has adjourned this matter to the week of (June) 22 so that the Township can provide a full and complete response in court to the Orica materials," Wilker explains. "In the interim period, the status quo will remain without prejudice to the Township's right to argue whether or not the court has the jurisdiction to grant the by-law extension sought by Orica. The Township remains opposed to Orica's motion."

"If they're going to take us to court, we're going to be defending our position," adds Mayor John Oosterhof, referring to council's decision to deny Orica's requests.

ELGV lawyers will also defend council's decision at the OMB, Oosterhof notes.

The Sideroad 21-22 property leased by Orica has been used for explosives storage since 1994 — largely without approval. Orica officially took over the facility last year and constructed a new multi-million dollar building there.

That site supplies explosives to gravel pits throughout southern Ontario.

"If Orica is forced to shut down its operations at Grand Valley even temporarily, Orica would not only incur significant financial costs, but would face enormous challenges meeting its customer's ongoing demands," Brown said.

"If we are forced to suspend operations, we will try to find alternatives," adds company spokesperson Neal Mednick.

At two public meetings held earlier this year, Grand Valley residents and others raised concerns about the company's operation, citing safety issues and the prospect of water contamination.

The facility, which includes a 60-tonne ammonium nitrate silo, neighbours Luther Marsh and isn't far from the Grand River, which supplies drinking water to numerous downstream communities.

Following public outcry, Orica altered its proposal to include a spill containment cell around the ammonium nitrate silo and a revised emergency response plan. A hydrogeological study was also commissioned.

A grassroots association, known as Grand River Watershed Protection, formed in response to Orica's proposal continues to oppose the plan.

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