

## **FEDERAL JUDGE RULES IN FAVOR OF ST. MARYS -- DISMISSES WAUKEGAN HARBOR CASE**

**September 8, 2008 -- For a second time, Judge, Matthew F. Kennelly, of the United States District Court for the Northern District of Illinois, has dismissed an action seeking cleanup costs under the federal Superfund law (CERCLA) brought by the City of Waukegan, Illinois, against several industrial defendants, including St. Marys Cement. This action stems from a discharge of polychlorinated biphenyls (PCBs) into Waukegan Harbor by Outboard Marine Corp several decades ago.**

**OMC conducted an EPA supervised remedial action to address the PCB contamination in 1992. OMC subsequently ceased operations in 2000.**

**In 2007, the City of Waukegan filed this action under CERCLA, claiming that industrial defendants caused deep draft cargo vessels to deliver materials to their operations adjoining Waukegan Harbor. The City asserted that propellers on those vessels stirred up sediment and redistributed the prior PCB contamination. The City sought millions of dollars in clean-up costs from these companies.**

**Judge Kennelly dismissed the case, ruling that the federal claim was filed too late, and is barred by the applicable statute of limitations. This was the City of Waukegan's second attempt at bringing this action. The initial action was dismissed because it failed to allege sufficient facts to support the City's claims.**

**St. Marys Cement has operated a terminal facility in Waukegan Harbor since 2001. Other defendants, including National Gypsum, Bombardier Motor Corp of America, and Lafarge have also conducted industrial business operations around Waukegan Harbor for many years.**

**The Harbor has been a source of employment and revenue for decades, providing jobs to local residents, and business opportunities not only to the local economy, but to many surrounding cities, municipalities and states relying on the Harbor for transportation of goods and material throughout the region. Recent actions of the City of Waukegan administration focus on removing the industrial operations from the Harbor, to be replaced with residential and recreational uses. With this decision, St. Marys continues to look forward to the many opportunities that this industrial facility offers.**