

Notes from the Meeting Between DFO-HMD and Bilcon of Nova Scotia November 2, 2004

In attendance: Paul Buxton - Project Manager, Bilcon
Dave Kearm - Environmental Consultant, Bilcon
Marci Penney-Ferguson - Section Head, DFO-HMD
Phil Zamora - Habitat Assessment Biologist, DFO-HMD

This meeting was requested by Bilcon to establish a working relationship with DFO in order that the fish and fish habitat provisions under the *Fisheries Act*, for the proposed Whites Point Quarry and Marine Terminal Project, may be discussed. The objective of the meeting was to identify the issues pertaining to fish and fish habitat, which have the potential to be affected by the project. Although the environmental impact statement (EIS) is not yet available, many of the issues are referred to in the Project Description and the EIS Guidelines. The following issues were identified:

HADD of fish habitat

A harmful alteration, disruption or destruction (HADD) of fish habitat is likely, as a result of construction of the proposed marine terminal. Therefore, Bilcon will be required to obtain a *Fisheries Act* (FA) subsection 35(2) Authorization from the DFO Minister before the project can proceed. The issuance of a FA subsection 35(2) Authorization cannot be considered until the current panel review process under the *Canadian Environmental Assessment Act* is completed. A suitable fish habitat compensation plan will also be required from Bilcon as an integral part of a FA subsection 35(2) Authorization.

An application for a FA subsection 35(2) Authorization was received from Bilcon on May 19, 2003. DFO will review the application to determine whether any amendments or updates are required.

There is also potential for a HADD of fish habitat to occur in the freshwater environment resulting from quarry excavation. Although the proposed excavation area does not include any fish bearing streams, the quarry could affect groundwater supplies to fish bearing streams that flow southward into Saint Mary's Bay. This question will be investigated by looking at hydrologic data collected by Bilcon. DFO will seek expert advice from Natural Resources Canada on this issue when information on groundwater test results is available.

Blasting

Proposed blasting at the Whites Point quarry will have the potential to cause harmful effects on fish and fish habitat. Since blasting is planned for near shore areas, there is concern that pressure waves have the potential to harm or kill finfish and marine mammals and that sound could harm marine mammals or disrupt their behavior.

DFO began a review of the blasting issue when Bilcon (then Nova Stone Inc) submitted a Blasting Plan in 2003. Technical and scientific information has been exchanged and the review is ongoing.

Species at Risk

There are at least two species at risk identified as potentially being effected by blasting operations. These are the inner Bay of Fundy (iBoF) Atlantic salmon and the North Atlantic right whale.

Information on potential harmful effects of blasting pressure waves on iBoF Atlantic salmon and safe set back distances have been provided to Bilcon as a result of DFO's review of the Blasting Plan previously submitted.

Review of the potential effects of blasting on the North Atlantic right whale is in progress. Technical information on time delays for the charge as well as on pressure and sound waves that will result from blasting is required in order to complete the review. Bilcon agreed to supply this information.

Bilcon raised the possibility of performing a test blast to measure the pressure waves and their effects on species at risk. DFO would only support a test blast if it were necessary in order to gain information that was not already available for determining safe levels for operation with respect to protecting fish and fish habitat. At this point in their review, DFO science has not concluded this to be the case.

These were identified as being the key issues. Other issues such as ballast water transfer and invasive species will be discussed as the EIS is developed. There was agreement to continue to meet again as needed.