

BILCON OF NOVA SCOTIA CORPORATION

FAX

To: Honourable Mark Parent - NS Minister of the Environment
902 424-0575

From: Paul G. Buxton, P. Eng. - Bilcon of Nova Scotia

5 pages in total

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P (902) 245-2567 F(902) 245-5614 305 Hwy #303, Suite 3, Digby, NS B0Y 1A0

Email: bilcon.ns@ns.aliantzinc.ca Website: www.bilcon.ca

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November 16, 2007

The Honourable Mark Parent
Minister of Environment and Labour
5151 Terminal Road, 6th Floor
Halifax, Nova Scotia
B3J 2T8

Dear Minister,

Re: Whites Point Quarry – Ministerial Backgrounder

We hasten to offer any help we can to you and your government with your current deliberations about the approval of this important development project for Nova Scotia.

The Project: Real Facts About The Project And Our Commitment

As you know, we are proposing to develop a basalt quarry at Whites Point. Over the past five years, we have invested over 6 million dollars in this project, which will employ more than 30 people on a full time basis, and is expected to have a safe and sustainable life span of 50 years, generating significant tax revenues, without any need for governmental assistance, with little to no negative environmental impact, and many positive socio-economic impacts.

This has been clearly confirmed and documented by the Environmental Impact Statement, which carefully and comprehensively assessed the effect of the project on people, the environment, and the economy. It involved extensive public and stakeholder consultations and surveys, and detailed scientific analysis.

The project has significant support from the local community and is also backed by our parent company, Clayton Concrete, which has a sterling track record of excellent employee relations and benefits, exemplary occupational health and safety standards, and excellence in design and manufacture. For over 50 years, we have been recognized as an outstanding corporate citizen for our leadership in corporate social responsibility, and our active and positive community engagement, especially in the areas of health and education.

These are the real facts about the project, and the real measure of our commitment, our performance, and the social compact we make with the people and communities in which we operate.

The Problem: The Panel Misunderstood Its Task

Yet, despite our good faith and best efforts to develop a project of the highest quality, which goes well beyond regulatory requirements, something has gone wrong, and the truth about the project has become confused and distorted. We are compelled to note that this has happened in part because the Panel formed to review the project was obviously biased and unfair, and did not do its job.

The Panel showed no interest in considering how the project might work. It seemed only to be interested in reasons why it would not work. The reasons for this are as follows:



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1. Six of the seven recommendations made by the Panel have nothing to do with the project, but rather presume to set government policy for Nova Scotia. That is not what the Panel was asked to do. The mandate of the Panel is clearly set out in its public Terms of Reference. The Panel either misunderstood what it was asked to do, or it deliberately acted in an inappropriate way to misuse the review process as a platform for its own policy activism, rather than to provide you with an honest and objective assessment of the facts to help inform your decision about the merits of the project.
2. Rather than objectively assessing the information it was given about the project to see if it showed any of the “environmental effects” set out in the Canadian Environmental Assessment Agency’s reference guide, the Panel simply assumed that there were environmental effects, even though its guiding legislation did not consider many of the issues it was concerned about to be environmental effects at all. In addition, the Panel simply assumed that those effects were “adverse, significant and likely”, without providing any substantiating analysis or discussion.
3. Before any project construction can actually begin, it must also satisfy all the necessary regulatory requirements, and get the actual approvals from the responsible regulatory authorities. It was not the role of the Panel to predetermine those approvals. Instead, the proper role of the Panel was to identify any adverse significant and likely environmental impacts and give us an opportunity to suggest mitigating measures. The Panel should have also of its own initiative at least attempted to propose other mitigating measures that would bring those impacts within acceptable levels, which it did not do. This would have provided the regulators with a reference to determine if the specific designs and plans being submitted for the project should be approved. If they are not, then the project would not go ahead until they are. This is the real safeguard in the system that protects the public as well as the public interest. The Panel, however, criticized us for not producing those specific plans for its review now, rather than at the later regulatory approval stage. Doing so at the environmental assessment stage was not only unnecessary, but completely inappropriate.
4. The Panel made up the notion it called the “core values” of the community. Apart from the fact that no one on the Panel actually comes from Digby Neck, “core values” are not an “environmental effect”. The Panel’s approach was neither based on scientific principles nor supported by objective and empirically verifiable data. We had no indication the Panel was going to do this. We have had no opportunity to respond. It appears the only basis for the Panel’s approach is a non-governmental document which was given to the Panel seven years ago by a self-interest advocacy group that has since been disbanded because it did not reflect a balanced view of community priorities. The Panel should not have relied on this document; and to the extent it did, it should have at least considered it in a balanced way. This document encouraged a “climate which supports business development, entrepreneurship, investment and the attraction of new business” to “send a message to the world that the Western Valley is an excellent place to do business.” The Panel, of course, completely ignored this.
5. The Panel also ignored a petition in favour of the project, personally signed by 30% of the local population of adult voters. It also ignored an Attitude Survey presented to it that showed that 50% of the local population was in favour of the project. The continuing public support from the project could be seen by the recent public rally that took place to protest the Panel’s recommendations.



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6. Although the Panel was comprised of three academics, with no particular legal or business experience, it concluded that the project was not economically viable, and that any mitigating measures would simply be too costly. Having little or no practical experience in developing quarries, the Panel was quite frankly not qualified to come to these conclusions, especially since it had no factual basis on which to do so, and did not allow us to respond to its assumptions. If we did not think the project was economically viable, we would not have invested the effort, years, and millions of dollars we have. In any case, Minister, the public policy of Nova Scotia is for you and not the Panel to make, just as our investment decisions are for us and not the Panel to make.

7. The Panel's manifest lack of impartiality is reflected throughout the fabric of its report, the tone and content of which reveal a disturbing lack of equanimity and fairness. At every turn, the Panel went out of its way to emphasize any possible shortcomings of the project, and downplayed its benefits. Even though the public hearings for the project only went ahead because the Panel had already decided our environmental impact statement was sufficiently prepared, the Panel allowed the process to be high-jacked by special interest groups in line with its own pre-set attitudes and philosophies. The Panel showed no interest in getting professional information or input from our experts, who made themselves available for days on end to avail the Panel of their expertise. Other signs of the Panel's lack of impartiality are as follows:
 - a. The Panel consistently ignored important information it was given, and drew unwarranted conclusions; like its conclusion that we would not be able to utilize the Whites Cove Road, when the Department of Transportation and Public Works showed how this could be done; and
 - b. The Panel analyzed the project as if the region was currently untouched by development, even though basalt quarries already exist on Digby Neck, even though there are already 45 to 50 quarries over 4 hectares in Nova Scotia, and even though it was the Province that had identified our proposed site as a prime area for another quarry.

In its report to you, Minister, the Panel abandoned any pretext of the objective scientific analysis that is called for in environmental assessments, and that you are entitled to expect. Instead, the Panel made up subjective philosophical criteria without giving us the courtesy of any prior notice or a chance to say anything about it. This relentless lack of balance in the Panel's approach leaves us no choice but to conclude that the Panel was predisposed to make unfavourable recommendations to you from the get-go. It is fundamentally wrong and unfair, and certainly not what we expected, or are entitled to expect, of the regulatory system in Nova Scotia or Canada. The business community is entitled to have an assessment based on established rules. Otherwise the process is just a crap shoot. No serious business can invest the necessary time, money and resources when the deck is stacked, and when the rules can change in midstream.

The Solution: Allow The Project To Go To The Regulatory Approval Stage

We trust, Minister, that you will understand why we consider the process followed by the Panel to be fundamentally flawed, and its recommendations to be, at the very least, highly suspect. The Panel's recommendations are unauthorized and inappropriate, and we urge you not to be misled by them. They are so obviously biased and unfair, and functionally untenable, that accepting them would have the effect of making it practically impossible for any resource extraction project in Nova Scotia to ever be recommended, no matter how responsibly it might be put together. In effect, accepting the Panel's



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recommendations would send a message that Nova Scotia is totally closed to investment in the natural resource sector.

We do not believe that is the view of your government. And this is not the way other environmental assessments of projects like ours have been conducted in the past. In this case, it is clear that the Panel's mind was made up from the beginning, and its report and recommendations to you are nothing but political mischief making.

We ask, Minister, that you use your own good judgment to disregard the recommendations as not being of useful assistance to you, and that you and your government determine what you consider to be the right thing to do in these circumstances. In this regard, we point out that allowing the project to go ahead to the regulatory approval stage is risk free. If it does not meet all the regulatory standards and requirements for permitting as it goes forward, the responsible regulatory authorities are there to stop it, because it cannot go ahead without their approvals. The regulatory authorities have the power to put in place any additional requirements they may consider necessary and appropriate.

It is extremely important to understand that this is all just an overview of our analysis of the Panel's report. We have many more specific details and evidence which we wish to share with you prior to any decision on your part. We trust that you will provide us an opportunity to fully inform you, and look forward to hearing from you in this regard.

In the meantime, Minister, we thank you for your thoughtful courtesy and attention, and want to assure you of our continued commitment to the economic development of Nova Scotia and the well-being of the people of Digby Neck, with a project that will be safe and sustainable to the highest standards.

Sincerely,



Paul Buxton P. Eng.
Project Manager
Bilcon of Nova Scotia

cc:

Hon. Rodney MacDonald - Premier of Nova Scotia
Hon. David Morse - Minister of Natural Resources
Hon. Angus MacIsaac - Minister of Economic Development
Hon. Murray Scott - Minister of Transportation and Infrastructure Renewal



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