



**Department of
Environment & Labour**

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Our File Number:

Office of the Minister

Ms. Michaele Kustudic
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*Revised Version
Oct 22/02
3:40 pm -
e-mailed to Barb - JL*

Dear Ms. Kustudic:

Thank you for your letter dated September 23, 2002, regarding the development of a quarry in White's Cove on Digby Neck. In response to your specific questions I offer the following information.

The approval given thus was for a 3.9 hectare quarry. No preliminary approval for anything else has been granted. In this case, the only application made thus far was for a quarry of that size. As with other similarly sized quarries in Nova Scotia, the application review is technical in nature and addresses environmental impacts however, at this application stage the proponent is not required to consult the community in advance. Only those applications for quarries 4 hectares or greater in size will trigger the Environmental Assessment (EA) process for which public consultation is a requirement. The final approval for the 3.9 hectare quarry included a condition for the proponent to undertake a public information program and to establish a community liaison committee.

The provisions relating to quarries exceeding 4 ha. are contained in the N.S. *Environmental Assessment Regulations*. These regulations are public documents and available to anyone. The fact that the *Environmental Assessment Regulations* do not pertain to quarries of 4 ha. or less is not a "loophole", but a means of distinguishing smaller projects with limited impacts from larger projects with broader impacts. Any future plans of the proponent to expand this quarry beyond four (4) hectares would require a provincial Environmental Assessment according to the regulations.

The regulations would also apply to cumulative or additional developments at the same location, therefore the proponent can not avoid an EA by establishing additional 3.9 ha. projects near one another. Any expansion of or addition to the existing project will require an Environmental Assessment. Whether or not a smaller operation has already started would not affect the outcome of an EA if it were determined that there were unacceptable or unmitigable impacts.

Chapter 11 of NAFTA does not prevent any level of government from legislating and regulating in the public interest. Chapter 11 rules ask that companies be treated fairly and equally, whether Canadian, American, or Mexican, which would be the Province's policy in any case.

Although I do not have specific information regarding Mr. Balsler's visits to the U.S., it is not uncommon for such trips to involve general trade promotion which stimulates economic development in Nova Scotia. It is not the practice of this government to provide any company with information on doing business in N.S. which is not in the public domain, or which might provide an unfair advantage.

As an environmental regulator in these cases, it is not the role of the Department of Environment & Labour to speculate about who would receive profit from such an operation. As with any private company, owners, shareholders, employees and contractors could all potentially benefit.

As with any approval, our staff will be monitoring the company's compliance with the regulations as well as the terms and conditions of approval. Any non-compliance will be investigated and appropriate action taken.

Since there are many people and groups concerned about this project I can not notify each one personally upon receipt of an EA Registration for this project as you requested. However if you wish, you can join the Environmental Assessment Mailing List by visiting our website at www.gov.ns.ca/enla/ess/ea/. This will enable you to receive notification of new environmental assessment project registrations and Ministerial decisions. Other information about the EA process can be found at this site as well.

I trust that this answers your questions. Should you have any further questions or concerns, please do not hesitate to contact Mr. Kim MacNeil, Western Regional Manager, at (902) 679-6086.

Sincerely,

David Morse
Minister

cc: Hon. G. Balsler, MLA

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