

CONFIDENTIAL ACCESS

**IN THE MATTER OF AN ARBITRATION UNDER CHAPTER 11 OF
THE NORTH AMERICAN FREE TRADE AGREEMENT
AND THE UNCITRAL ARBITRATION RULES**

**WILLIAM RALPH CLAYTON, WILLIAM RICHARD CLAYTON, DOUGLAS
CLAYTON, DANIEL CLAYTON and BILCON OF DELAWARE INC.**

Investors

v.

GOVERNMENT OF CANADA

Respondent

INVESTORS' REQUEST FOR DOCUMENTS FROM CANADA

July 30, 2009

REVISED DRAFT

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C0406-001

Bilcon of Delaware et al.
v.
Government of Canada

Investors' Request for Documents from Canada

July 31, 2009

Pursuant to paragraph 3.3 of the Tribunal's *Procedural Order No. 3* of June 3, 2009 ("Document Production Order") as further amended by the paragraph 1.1 of the Tribunal's *Procedural Order No. 5* of July 24, 2009, the Investors hereby request the production of all relevant documents.

The documents requested are reasonably assumed to be in the possession or control of the Government of Canada ("Canada") or the Government of Nova Scotia ("NS"), and all requests are inclusive of all relevant documents in the possession or control of all of their respective branches, ministries, agencies, agents, affiliates, crown corporations, and enterprises. The documents are referenced, specifically or generally, in other arbitral materials such as the Statement of Claim, Notice of Arbitration and Statement of Defense, or are documents of the type reasonably expected to exist, and pertain to or reference the Investors, Investors' Corporate Entities, Senior Representatives and former Affiliate, or the consideration of applications made by the Investors and the Investors' Corporate Entities related to the denied Project approval which is the focus of this claim. The Investors believe the documents, and categories of documents, are within the possession or control of Canada or NS.

The term "document" herein means a writing or communication, or information of any kind, whether recorded or stored on paper, or by electronic or photographic means, or in audio or visual recordings, or by any other mechanical or electronic means of storing or recording information. Whether or not it is explicitly stated in each individual or general request, every request is for all relevant documents, whether in draft or final form, including electronic records and documents in the possession or control, directly or indirectly, of Canada or NS.

Each request for a document herein is for a document or documents that are, or may be, directly or indirectly, relevant and material to the issues arising and the matters in question in the Claim and will provide the Tribunal with the complete factual matrix it needs to fairly and reasonably determine the merits of the issues entrusted to it.

Where a request relates to spreadsheets or cost models, the Investors request the information be provided in its native machine-readable form with all the original data attributes (including metadata if present) in addition to production in paper format.

Whether a request is made to Canada or NS, it refers to all levels of government, and to any documents that have been created jointly or partially by either government.

For greater clarity, definitions for the purposes of this document request include:

“Government” means the respective ministers, ministries, departments, branches, agencies, agents, crown corporations, affiliates, enterprises, officials, administrators, and representatives exercising statutory or governmental authority or discretion, and all Government Entities of Canada and NS that have in any way had involvement with or have Documents related to this Project or to the Investors, the Investors’ Corporate Entities and Senior Executive and Affiliates, or to the Joint Review Panel;

“Government Entities” means any of the following that have in any way had involvement with or have Documents related to this Project or to the Investors, the Investors’ Corporate Entities and Senior Executive and Affiliates, or to the Joint Review Panel:

- Environment Canada
- The Canadian Environmental Assessment Agency (CEAA Agency)
- Department of Fisheries and Oceans (DFO)
- Natural Resources Canada (NRCan)
- Transport Canada
- Canada Coast Guard
- Nova Scotia Department of Environment and Labour (NSDEL)
- Nova Scotia Tourism, Culture and Heritage
- Nova Scotia Department of Transportation and Public Works
- Nova Scotia Department of Agriculture and Fisheries
- Nova Scotia Department of Natural Resources
- Ministers of these Departments and Ministries as well as their personal office staff, advisors and assistants
- Public servants employed by and consultants retained by these Government entities
- Deputy Ministers and Assistant Deputy Ministers of these Ministries, Departments and Agencies
- the offices of the Prime Minister of Canada and Premier of Nova Scotia
- Cabinet Ministers of Canada and NS who in any way had involvement with or have Documents related to the Project, to the Investors, the Investors’ Corporate Entities and Senior Executive and Affiliates
- the Cabinet offices of Canada and NS, including without limitation the Privy Council and Office of the Prime Minister, the NS Cabinet office/secretariat
- the Prime Minister and NS Premier and their respective staff, advisors, Deputy Ministers and Assistant Deputy Ministers
- Members of Parliament and Members of the NS House of Assembly

“Document” means any Government or Government Entity record of information or documentary material, regardless of medium and however recorded, whether in printed form, on film, by electronic means or otherwise, including,

- (a) correspondence, a memorandum, an e-mail, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and whether in draft or final form, and any copy thereof;
- (b) any record that is capable of being produced from a machine readable record by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the Government Entity or individual;
- (c) without limiting the scope of clauses (a) and (b), briefing notes, policy options, backgrounders and other Documents related to options and decisions for processing the statutory approvals including any environmental assessment which may be required for this Project;
- (d) protocols, policies, measures, practices published or unpublished and decisions that have been applied to consideration by Government of applications similar in nature to this Project in the period from January 1, 2000 to December 31, 2007;
- (e) briefing notes, policy options, backgrounders and other Documents published or unpublished which may be relevant to considerations of fairness, national treatment, exercise of discretion and substantial deprivation of these and other Investors.

“Investors” means Bilcon of Delaware Inc., William Ralph Clayton , William Richard Clayton, Douglas Clayton and Daniel Clayton.

“Investors’ Corporate Entities, Investors’ Senior Representatives and former Affiliate” means Bilcon of Delaware Inc., Bilcon of Nova Scotia, Bilcon of Nova Scotia, Corporation, Novastone Exporters Inc., Clayton Concrete, Clayton Sand Co., Global Quarry Products, Paul G. Buxton, John Wall and Mark Lowe

“Joint Review Panel” means

- a) the Panel established pursuant to an Agreement between the Minister of Environment, Canada and the Minister of Environment and Labour, Nova Scotia in 2004 in respect of the Whites Point Quarry and Marine Terminal Project; and
- b) Panel Members Fournier, Grant and Muecke, and all personnel of Government and Government Entities and Joint Review Panel retained advisors or consultants who assisted the Panel in pre-hearing matters, analysis of issues, the hearing as well as the decision-making and report writing process (excluding the witnesses before the Joint Review Panel or persons who made written representations to the Review Panel which became exhibits to the Panel hearing).

“**Project**” means the Whites Point Quarry and Marine Terminal as proposed from time to time by the Investors and the Investor’s Corporate Entities during the period January 1, 2002 – December 31, 2008, including any proposals made by or on behalf of Bilcon of Delaware Inc., Bilcon of Nova Scotia, Bilcon of Nova Scotia, Corporation, Novastone Exporters Inc., Clayton Concrete, Clayton Sand Co., Global Quarry Products.

PLEASE PRODUCE THE FOLLOWING:

NAFTA Documents

1. All unpublished Documents recording discussions, including any negotiating texts, leading up to the final chapters of the following provisions of the NAFTA: Chapters One and Two, Chapter Three (Trade in Goods); all unpublished documents related to Chapter Eleven (Investment), Chapter Twelve (Cross-border Trade in Services) Chapter Fourteen (Financial Services), Chapter Eighteen through Twenty and all unpublished letters of exchange regarding the NAFTA, and all Reservations and Annexes not published with the NAFTA by January 1, 1994.

Document Request No. 1 is relevant and material to NAFTA Chapter 1 (Objectives) and NAFTA Chapter 11 (Investment). Document Request No. 1 seeks to obtain unpublished negotiating texts of certain NAFTA Chapters that would aid the Tribunal to properly interpret the context and the meaning of certain NAFTA Chapter 11 obligations such as National Treatment and International Law Standard of Treatment. In addition, the Investors have requested the production of all unpublished letters of exchange regarding the NAFTA, and all reservations and annexes not published with the NAFTA by January 1, 1994. These documents constitute an integral part of the NAFTA agreement thus having a bearing on the interpretation of obligations of the NAFTA, including those obligations currently before the Tribunal for adjudication.

Document Related to Discretionary Decisions by Canada as to the Scope and Manner of Application of the *Canadian Environmental Assessment Act* to Similar Projects

2. All unpublished Documents of the CEAA Agency, Environment Canada, DFO, NRCan and Transport Canada that are or contain policy advice, draft policies, advice to Ministers, discussion of political considerations, considerations of fairness, like treatment or other criteria for the making of discretionary decisions with respect to the scope and manner of application of the *Canadian Environmental Assessment Act* (CEA Act) to projects, including, but not limited to, decisions related to
 - (a) the scope of a project to be assessed
 - (b) the scope of the assessment

- (c) the use of a Comprehensive Study
 - (d) the use of a Panel Review
 - (e) the requirement to use socio-economic factors generally and community core values in particular as factors under s. 16(1) of the CEA Act
 - (f) the use of community core values as a specified criteria or factor in the Panel Review Terms of Reference.
3. Documents of the CEAA Agency, Environment Canada, DFO, NRCan and Transport Canada pertaining to all mines, quarries and marine terminals in Canada where an environmental assessment under the CEA Act was triggered or otherwise required in the period since January 1, 1995 to date, where a Panel Review or Joint Panel Review with another jurisdiction was held, and in particular:
- (a) the name of the proponent and the project, the file number for the Responsible Authority(ies) i.e. DFO, Environment Canada, Transport Canada and/or NRCan, and the CEAA Agency or CEA Registry File No.
 - (b) any Document requesting a hearing or Panel Review
 - (c) any internal Document of the CEAA Agency, DFO, Environment Canada, Transport Canada and/or NRCan considering the scope of the project to be assessed under the CEA Act, the factors to be applied in the assessment, whether a Panel Review should be required, including analysis, advice to Ministers, briefing papers, emails, notes of internal meetings
 - (d) communications between Government and Government Entities on the issue of whether a Panel Review should be required including communications with Ministers and Deputy Ministers of DFO, Environment Canada and the President, Acting President and Vice President of the CEAA Agency.
 - (e) communications between the CEAA Agency and any Government Entity and the Panel or Joint Panel regarding the Terms of Reference finally adopted by the Panel Review or Joint Panel Review
 - (f) the decision and communications related to the decision as to why a Panel Review was required.
4. Documents of the CEAA Agency, Environment Canada, DFO, NRCan, and Transport Canada pertaining to all mines, quarries and marine terminals in Canada where an environmental assessment under the CEA Act was triggered or otherwise required in the period since January 1, 1995 but where no Panel Review or no Joint Panel Review with another jurisdiction was held, and in particular:

- (a) the name of the proponent and the project, the DFO and/or Environment Canada File No. and the CEAA Agency or CEA Registry File No.
- (b) any Document requesting a hearing or Panel Review
- (c) any internal Document of the CEAA Agency, DFO, Environment Canada, Transport Canada or NRCan considering the scope of the project to be assessed, the factors to be applied, whether a Panel Review should be required, including analysis, advice to Ministers, briefing papers, emails, notes of internal meetings
- (d) communications between Government on the issue of whether a Panel Review should be required including communications with Ministers and Deputy Ministers of DFO, Environment Canada and the President, Acting President and Vice President of the CEAA Agency;
- (e) communications between the CEAA Agency and any Governmental Department and the Panel or Joint Panel regarding the Terms of Reference finally adopted by the Panel Review or Joint Panel Review
- (f) the decision and communications of decision as to why no Panel Review was required.

Document Requests 2 to 4 are relevant and material to NAFTA Chapter 1 (Objectives) and NAFTA Chapter 11 (Investment). Document Requests 2 to 4 all relate to whether discretionary decisions made by Canada as to the scope and manner of the application of the *Canadian Environmental Assessment Act* is consistent with the obligations contained in NAFTA Chapter 11.

Documents Related to the Bilcon Project and the Panel Review Process - General

- 5. All Documents constituting communications between the Governments of Canada and NS and between Government Entities pertaining in any way to the Project from January 1, 2002 to December 31, 2008.
- 6. All Documents related to the process, policy options and manner in which the application of the *Canadian Environmental Assessment Act* to the Project were considered by Government and Government Entities, including discretionary decisions as to the scope of the project to be assessed, the criteria to be used, the determination of whether the process should be a screening, Comprehensive Study or Panel Review, and the manner in which a Panel Review hearing was to be applied to the Project.
- 7. All Documents containing requests, recommendations, policy option analysis, briefing notes or otherwise referring to discretionary decisions made or considered by Government and Government Entities related to the application and manner of

application of the *Canadian Environmental Assessment Act* and a Panel Review to the Project.

8. All Documents related to the decision by each Government to refer to the Project to a Joint Review Panel or other form of public hearing as well as related to the interest and involvement of Government Entities in having a Panel Review or Joint Panel Review for the Project.
9. All Documents in any way related to the identification of potential Joint Review Panel members, including records related to the vetting, selection, appointment and involvement of the Joint Review Panel members (Fournier, Grant and Muecke) for the Project.
10. All Documents containing communications of Government and Government Entities with the Joint Review Panel members, staff and consultants during the period January 1, 2003 to December 31, 2009.
11. All Documents which are records of communications between members of the Joint Review Panel from the time they were first approached to be panel members to December 31, 2008.
12. All Documents of the Joint Review Panel members, staff, consultants and advisors made during the period January 1, 2003 to December 31, 2007.

Document Requests 5 to 12 are relevant and material to NAFTA Chapter 1 (Objectives) and NAFTA Chapter 11 (Investment). Document Requests 5 to 12 all relate to measures taken by Canada in relation to the Panel Review Process.

Nova Scotia Documents

13. All Documents of the Nova Scotia Department of Environment and Labour (NSDEL), Nova Scotia Tourism, Culture and Heritage, Nova Scotia Department of Transportation and Public Works, Nova Scotia Department of Agriculture and Fisheries, Nova Scotia Department of Natural Resources and other NS Government Entities (as defined above) pertaining to the Investors, the Investors' Corporate Entities, the Investor's Senior Representative and former Affiliate, the Project and the Joint Review Panel.
14. Without limiting the generality of the foregoing request, all Documents in the following Government of Nova Scotia files:
 - NSDEL, Office of the Deputy Minister, File No. 10350-40
 - NSDEL File: 029707
 - NSDEL Application/Approval No. 2002-026397

- NSDEL Application 2002-025483
 - NSDEL File: 92100-30
 - NSDEL File: 10700-4D
 - NSDEL File: 40100-34-70
 - Nova Scotia Tourism, Culture and Heritage (Heritage Division) File:
Environmental Screening 05-07-13
15. Documents pertaining to the Investors, the Investors' Corporate Entities, the Investor's Senior Representatives and former Affiliate, the Project and the Joint Review Panel in the following NS Government offices:
- NSDEL
 - Environmental Assessment Branch and Environmental Assessment Officers
 - Environmental Assessment Administrator
 - Environmental Assessment Manager and Acting Manager
 - District Manager and Acting District Manager, Yarmouth Office
 - Regional Manager
 - Environmental Monitoring and Compliance Division
 - Communications
 - Water and Wastewater Branch
 - Air Quality Branch
 - Pollution Prevention Branch
 - NS Department of Natural Resources
 - Land Administration Office
 - Mineral Resources Branch
 - Senior Forester, Eco-system Management
 - Forest Technician office

- Wildlife Division
- Species at Risk Biologist
- Director of Geological Services
- Director of Mineral Development and Management
- Nova Scotia Transportation and Public Works
 - Executive Director, Highways Operations
 - District Director, Western
- Nova Scotia Tourism, Culture and Heritage
 - Manager, Special Places Program
 - Corporate Strategy and Operations Division
 - Senior Policy Advisor, Corporate Strategy and Operations Division
- Nova Scotia Department of Agriculture and Fisheries
 - Director of Inland Fisheries
 - Policy, Planning and Coastal Resources

16. Without limiting the generality of the foregoing requests, all Documents made, kept or which are or were under the control of the following NS Government personnel:

Nova Scotia Government Personnel	
Name of Government Employee	Department
Almon, Christine	Nova Scotia Department of Transportation and Public Works
Arthur, Bruce	Acting District Manager, Nova Scotia Environment and Labour
Balcom, Robert	Nova Scotia Department of Environment & Labour
Balser, Gordon, Honourable	Nova Scotia Minister of Agriculture and Fisheries

Nova Scotia Government Personnel	
Name of Government Employee	Department
Baxter, Brant	Pollution Prevention Branch, Nova Scotia Environment and Labour
Benjamin, Cheryl, L.	Department of Fisheries and Oceans, formerly Nova Scotia Environment and Labour
Birch, Angela	Program Administrative officer, Air Quality Branch, Nova Scotia Environment and Labour
Briggins, David	Water and Wastewater Branch, Nova Scotia Environment and Labour
Cameron, Andrew	Policy, Planning and Coastal Resources, Nova Scotia Department of Agriculture and Fisheries
Cook, Jacqueline	Inspector Specialist, Nova Scotia Environment, Environmental monitoring & Compliance Division, Yarmouth District Office
Daly, Christopher, A.	Manager, Environmental Assessment, Nova Scotia Department of Environment and Labour
Delaney, Martin	Executive Director, Highways Operations, Nova Scotia Transportation and Public Works
Drage, John	Hydrogeologist, Water and Wastewater Branch, Nova Scotia Department of Environment and Labour
Elderkin, Mark	Species at Risk Biologist, Nova Scotia Department of Natural Resources
Epstein, Howard	Species at Risk biologist, Nova Scotia Department of Natural Resources
Fenton, Darlene	Nova Scotia Department of Environment and Labour
Fraser, Rod	Land Administration Officer, Nova Scotia Department of Natural Resources
Geddes, Peter	Environmental Assessment Analyst, Secretariat, Nova Scotia Department of Environment and Labour
Haggart, Melonie	Planner, Pollution Prevention Branch, Nova Scotia Department of Environment and Labour
Hurlburt, Richard	Nova Scotia Minister of Natural Resources
Jones, Don	Director of Mineral Development and Management

Nova Scotia Government Personnel	
Name of Government Employee	Department
Joudrey, Gerry	Nova Scotia Department of Natural Resources
L'Esperance, Ronald	Deputy Minister, Nova Scotia Department of Environment and Labour
Lahey, William G. R.	Deputy Minister, Nova Scotia Department of Environment and Labour
Lamb, Tom	Mineral Resources Branch, Nova Scotia Department of Natural Resources
Langille, Brad	Nova Scotia Department of Environment and Labour, Western Region, Yarmouth Office
Larkin, Roger	District Director Western, Nova Scotia Transportation and Public Works
Lister, Scott	Hydrogeologist, Nova Scotia Environment and Labour
MacDonald, Darlene	Tourism, Culture and Heritage
MacDonald, Mike	Director of Geological Services, Nova Scotia Department of Natural Resources
MacKinnon, Russell	MLA, Nova Scotia
MacLellan, G.	Nova Scotia Department of Environment & Labour
MacNeil, Kim	Regional Manager, Nova Scotia Department of Environment and Labour
MacPhail, H.	Nova Scotia Department of Environment and Labour, Environmental Assessment Officer (File No.40100-34-70)
Marsten, Heather	Senior Policy Adviser, Corporate Strategy and Operations Division, Nova Scotia Tourism, Culture and Heritage
McLean, Mark	Senior Environmental Analyst, Fisheries and Oceans Canada, formerly Nova Scotia Department of Environment and Labour
Murphy, Andrew	Air Quality Branch, Nova Scotia Department of Environment and Labour
Neily, Peter	Senior Forester, Eco-System Management, Nova Scotia Department of Natural Resources
Ogilvie, Bob	Manager, Special Places Program, Nova Scotia Tourism, Culture and Heritage, Heritage Division

Nova Scotia Government Personnel	
Name of Government Employee	Department
Paton, Andrew	Service Nova Scotia and Municipal Relations
Perkins, John	Communications Adviser, Nova Scotia Department of Environment and Labour
Petrie, Bob	Nova Scotia Department of Environment and Labour
Poirier, Adèle	Nova Scotia Department of Environment and Labour
Russell, Ron, Honourable	Nova Scotia Minister of Environment and Labour
Sabeau, Barry	Director, Wildlife Division, Nova Scotia Department of Natural Resources
Saccary, Jacqueline, A.	Nova Scotia Department of Environment and Labour
Saywood, Mark	Forest Technician, Nova Scotia Natural Resources, Digby
Stone, Paul, C.	Area Manager, Middleton, Nova Scotia, Department of Transportation and Public Works
Taylor, Darrell	Environmental Analyst, Water and Wastewater Branch, Nova Scotia Environment and Labour
Tower, Julie	Acting Manager, Environmental Assessment Branch, Nova Scotia Environment and Labour
Vanstone, Nancy	Deputy Minister, Nova Scotia Department of Environment and Labour

17. Records regarding the Letters of Intent or applications made to the NSDEL from Bilcon of Delaware Inc, Novastone Exporters Inc., Bilcon of Nova Scotia
18. All records of communications to or from Bob Petrie, Nova Scotia Department of Environment and Labour pertaining to the above-referenced companies i.e. Novastone Exporters Inc., Bilcon of Delaware Inc., Bilcon of Nova Scotia Corporation
19. The complete file of the Nova Scotia Department of Labour and any communications to or from that department and its officials pertaining to Novastone Exporters Inc. prior to the issuance of as well as after the issuance of Approval No.2002-026397 for the “construction and operation of a Quarry at or near Little River, Digby County, in the

province of Nova Scotia”, signed April 30, 2002 and any records in the Nova Scotia Department of Environment and Labour file 92100-30

Document Requests 13 to 19 are relevant and material to NAFTA Chapter 1 (Objectives) and NAFTA Chapter 11 (Investment). Document Requests 13 to 19 relate to documents in the possession of Nova Scotia Provincial authorities pertaining to the Bilcon Project and the Panel Review Process.

Canada Documents

20. All Documents of Environment Canada, DFO, the Canadian Environmental Assessment Agency, Natural Resources Canada (NRCan), Transport Canada, Canadian Coast Guard, and other Federal Government Entities (as defined above) pertaining to the Investors, the Investors’ Corporate Entities, the Investor’s Senior Representative and former Affiliate, the Project and the Joint Review Panel.
21. Without limiting the generality of the foregoing request, all Documents in the following Government of Canada file Numbers:

Canadian Government File Numbers	
Re: Bilcon of Delaware NAFTA Claim	
Government Agency	File No.
Canadian Coast Guard, Navigable Waters Protection Office, Maritimes Region	CMA 8200-02-2042
Environment Canada (Dartmouth, N.S.),	4194-82/1 EAS 2002-395
Environment Canada, Environmental Assessment Section, Pollution Prevention Division (Atlantic Region), Environmental Protection Branch, Dartmouth, N.S.	4194-82/2 EAS 2002-395
Federal Environmental Assessment Index (FEAI)	37211
Fisheries and Oceans Canada (Dartmouth, N.S.), Regional Director, General, Maritimes Region (Habitat File)	03-FCR-020
Fisheries and Oceans Canada	8200-02-2042
Fisheries and Oceans Canada, Navigable Waters Protection Program, Coast Guard	CMA 8200-02-2042
Fisheries and Oceans Canada, Habitat Management Division, 215 Main Street, Yarmouth, N.S.(Files of Thomas J. Wheaton,	02-W8-372

Canadian Government File Numbers	
Re: Bilcon of Delaware NAFTA Claim	
Government Agency	File No.
Acting Habitat Coordinator)	
Fisheries and Oceans Canada, Habitat Management Division, Regional, Director, General, Maritimes Region, Bridgewater, N.S.	03-FCR-020
Fisheries and Oceans Canada/DFO/Records Office	CSB 5300-1
Natural Resources Canada	NS-015
Transport Canada	ES-2004-254 and No.8200 02 2042
Transport Canada, Navigable Waters Protection Program	CMA 8200-02-2042-1

22. Documents pertaining to the Investors, the Investors' Corporate Entities, the Investor's Senior Representative and former Affiliate, the Project and the Joint Review Panel in the following Canada Government offices:

➤ DFO

- Headquarters (Ottawa)
- Records Office
- Maritimes Region HQ, Dartmouth
- Habitat Management Division, Yarmouth, N.S. and Bridgewater, N.S.
- Habitat Management Division, Oceans Sector
- Habitat Management Division, Maritime Region, Dartmouth
- Habitat Management Division, Oceans and Environment Branch, Maritimes Region, Dartmouth
- Bedford Institute of Oceanography
- Referrals Secretariat, Habitat Management Division, Maritimes Region

- Area Habitat Coordinator for S-W Nova Scotia
- Regional Director General and Acting Regional Director, Maritimes Region
- Regional Advisory Process Coordinator
- Environmental Assessment and Major Projects Division, Maritimes Region
- Environmental Analyst
- CEEA Agency
 - Halifax Office
 - Gatineau, Quebec
 - Office of the President and Acting President
 - Communications Branch/office
 - Information officer
 - Senior program officer
 - Panel Manager
 - Analyst
- Canadian Coast Guard
 - Maritimes Region, Dartmouth
 - Navigable Water Protection Program
 - Navigable Waters Protection Office, Maritimes Region
 - Regional Superintendent, Navigable Waters Protection, Maritimes, Dartmouth
- Natural Resources Canada
 - Ottawa – Environmental Assessment officer
- Environment Canada

- Halifax
- Dartmouth, N.S.
- Environmental Protection Branch, Dartmouth
- Regional Director and Acting Regional Director, Environmental Protection Operations Directorate, Atlantic
- Environmental Assessment Section, Pollution Prevention Division (Atlantic Division)
- Environmental Assessment Analyst
- Health Canada
 - Environmental Assessment Coordinator
- Transport Canada
 - Navigable Waters Protection Program, Marine Safety, Atlantic
 - Environmental Officer
 - Manager, Environmental Affairs, Maritimes Region

23. Without limiting the generality of the foregoing request, all Documents made, kept or which are or were under the control of the following Government of Canada personnel:

Government of Canada Personnel	
Re: Bilcon of Delaware re. NAFTA Claim	
Name of Government Employee	Department
Abraham, J.	Environment Canada
Amiro, Peter	Department of Fisheries and Oceans
Badke, Catherine	Natural Resources Canada
Balaban, Mike	Transport Canada, Marine Safety
Bastien, Nathalie	Canadian Environmental Assessment Agency

Government of Canada Personnel	
Re: Bilcon of Delaware re. NAFTA Claim	
Name of Government Employee	Department
Benjamin, Cheryl, L.	Department of Fisheries and Oceans, formerly Nova Scotia Department of Environment and Labour
Blair, K.	Environment Canada
Boudreau, Paul	Acting Division Manager, Habitat, Management Division, Oceans Sector, Department of Fisheries and Oceans Canada
Burgess, Margo	Natural Resources Canada, GSC
Campbell, D.	Environment Canada
Chapman, Stephen B.	Canadian Environmental Assessment Agency, Gatineau Quebec
Chard, Sharon	Health Canada, Atlantic Region
Cochrane, Norman	Research Scientist, Department of Fisheries and Oceans
Connelly, Robert G.	Acting President, Canadian Environmental Assessment Agency
Cormier, Jim	Manager, Environmental Affairs, Maritimes Region, Transport Canada
Coulson, Jessica	Senior Environmental Assessment Officer, Natural Resources Canada
Coulter, W. (Bill)	Canadian Environmental Assessment Agency
Crepault, Jean	Canadian Environmental Assessment Agency
Davis, Jeff	Analyst, Canadian Environmental Assessment Agency
Denning, Allison	Regional Environmental Assessment Coordinator Health Canada – Atlantic Region
Dhaussy, Elise	Senior Communications Adviser, Canadian Environmental Assessment Agency
Dober, Maria	Acting Regional Director, Environmental Protection Operations Directorate (Atlantic), Environment Canada
Donovan, Melinda	Regional Superintendent Navigable Waters Protection, Canadian Coast

Government of Canada Personnel	
Re: Bilcon of Delaware re. NAFTA Claim	
Name of Government Employee	Department
	Guard, Maritimes
Dubé, Joy	Habitat Management Division, Department of Fisheries and Oceans
Ferris, Tom	
Freeman, Michael	Environmental Officer, Transport Canada
Gershberg, Sid	President, Canadian Environmental Assessment Agency
Grant, M. T.	Environment Canada
Harris, Gordon	Canadian Environmental Assessment Agency
Henderson, Tony	Department of Fisheries and Oceans
Hendriksen, Debbie	Canadian Environmental Assessment Agency
Hill, Murray	Director of Inland Fisheries, Nova Scotia Department of Agriculture and Fisheries
Hundert, E.	Environment Canada
Jacobi, Carol	Department of Fisheries and Oceans
Jacinthe, David	Health Canada, National Capital Region
Jeffrey, Barry	Department of Fisheries and Oceans, Environment Canada, Halifax
Jollymore, Brian	Department of Fisheries and Oceans, Habitat
Jamault, Lucille	Sr. Communications Adviser Canadian Environmental Assessment Agency
Kontak, Dan	Formerly of Department of Natural Resources, Nova Scotia
Lane, Stuart	NWPA
Langille, Lorelei	Department of Fisheries and Oceans, Navigable Waters

Government of Canada Personnel	
Re: Bilcon of Delaware re. NAFTA Claim	
Name of Government Employee	Department
Lemay, Simon	Information Officer, Canadian Environmental Assessment Agency
Li, Victor	Environment Canada
Lister, Scott	Hydrogeologist, Nova Scotia Environment and Labour
MacDonald, Adrian	Canadian Environmental Assessment Agency
Matteau, Yanick	Environmental Assessment Officer, Natural Resources Canada, Ottawa
McAllister, Andrew	Senior Environmental Assessment Officer, Natural Resources Canada,
McDonald, Derek	Senior Program Officer, Canadian Environmental Assessment Agency
McLean, Mark	Senior Environmental Analyst, Fisheries and Oceans Canada, formerly Nova Scotia Department of Environment and Labour
Moir, K.	Environment Canada
Murray, Larry	Deputy Minister, Fisheries and Oceans Canada (Ottawa)
Myles, Debra	Panel Manager, Canadian Environmental Assessment Agency
Myra, Charlet	Navigable Waters Protection Program, Canadian Coast Guard, Maritimes Region, Dartmouth
Penney-Ferguson, Marci	Section Head, Department of Fisheries and Oceans, HMD
Potter, Ted	EA and Major Projects Division, Manager, Department of Fisheries and Oceans, Maritimes Office
Prentiss, John	Navigable Waters Protection Officer, Waters Protection Program, Marine Safety, Transport Canada, Atlantic
Ross, Jim	Section Head, Habitat Management Division, Fisheries and Oceans Canada, Bedford Institute of Oceanography
Scattlon, Faith G.	Department of Fisheries and Oceans
Schaefer, Heidi	Department of Fisheries and Oceans

Government of Canada Personnel	
Re: Bilcon of Delaware re. NAFTA Claim	
Name of Government Employee	Department
Smith, D. J.	Health Canada, National Capital Region
Surette, Tim	Department of Fisheries and Oceans, Habitat Management Division, Bridgewater, Nova Scotia
Sweeney, R.	Department of Fisheries and Oceans
Taweel, Tracey	Health Canada, Atlantic Region
Wheaton, Thomas, J.	Department of Fisheries and Oceans, Habitat Management Division, Acting Area Habitat Coordinator, File No.02-W8-372
Winchester, Peter	Habitat Management Division, Fisheries and Oceans Canada, Area Habitat Coordinator for South-West, N.S.
Worcester, Tana	Regional Advisory Process Coordinator, Department of Fisheries and Oceans
Wright, D. G.	Department of Fisheries and Oceans, Co-chairperson, Coordinator, Environmental Affairs, Centre for Science Advice, Winnipeg, MB
Young, Bruce	Director, Canadian Environmental Assessment Agency
Zamora, Phil	Fisheries and Oceans Canada, – HMD, Habitat Assessment Biologist, Regional Headquarters, Dartmouth, N.S.
Zwicker, Steven	Environmental Assessment Analyst, Environment Canada Environmental Assessment Section, Pollution Prevention Division (Atlantic Region), Environmental Protection Branch, Environment Canada, Dartmouth, N.S.

Document Requests 20 to 23 are relevant and material to NAFTA Chapter 1 (Objectives) and NAFTA Chapter 11 (Investment). Document Requests 20 to 23 relate to documents in the possession of Canadian Federal authorities pertaining to the Bilcon Project and the Panel Review Process.

Records of Ministers, Deputy Ministers and Assistant Deputy Ministers, Canada and NS

24. All Documents of the following Ministers, Deputy Ministers and Assistant Deputy Ministers of Canada and NS Government Departments and their personal staff and advisors during the period January 1, 2002 to December 31, 2007 pertaining to the Investors, the Investors' Corporate Entities, the Investors' Senior Representatives Project and the Joint Panel Review.

Environment Canada

Position	Name	Dates
Minister	David Anderson	August 3, 1999 – July 19, 2004
Minister	Stéphane Dion	July 20, 2004 - February 5, 2006
Minister	Rona Ambrose	February 6, 2006 - January 3, 2007
Minister	John Baird	January 4, 2007 – October 29, 2008
Deputy Minister	Alan Nymark	October 26, 1999 – June 2, 2003
Deputy Minister	Suzanne Hurtubise	June 3, 2003 – May 9, 2004
Deputy Minister	Sammy Watson	May 10, 2004 – May 22, 2006
Deputy Minister	Michael J. Horgan	May 23, 2006 – August 1, 2008
ADM Environmental Protection Service	Barry Stemshorn	2002 - 2007
ADM Environment Conservation Service	Karen Brown	2002 - 2006

Department of Fisheries and Oceans

Position	Name	Dates
Minister	Herb Dhaliwal	June 2, 1999 – January 15, 2002
Minister	Robert Thibault <i>MP West Nova (Nov 2000-Oct 2008)</i>	January 15, 2002 – December 11, 2003
Minister	Geoff Regan	December 12, 2003 – February 5, 2006

Position	Name	Dates
Minister	Loyola Hearn	February 6, 2006 – October 29, 2008
Deputy Minister	Wayne G. Wouters	September 2, 1997 – May 12, 2002
Deputy Minister	Peter Harrison	May 13, 2002 – April 21, 2003
Deputy Minister	Larry E. Murray	April 22, 2003 – August 5, 2007
Deputy Minister	Michelle D'Auray	August 6, 2007 – March 1, 2009
ADM Oceans	Matthew King	2002 - 2003
ADM Oceans	Sue Kirby	2004 - 2007
ADM Canadian Coast Guard	John Adams	2002 - 2005
Acting ADM Canadian Coast Guard	George Da Pont	2006
Commissioner CCG Canadian Coast Guard	George Da Pont	2007

Transport Canada

Position	Name	Dates
Minister	David Collenette	June 11, 1997 – December 11, 2003
Minister	Tony Valeri	December 12, 2003 – July 19, 2004
Minister	Jean Lapierre	July 20, 2004 – Feb 5, 2006
Minister	Lawrence Cannon	February 6, 2002 – October 29, 2008
Deputy Minister	Margaret Bloodworth	January 20, 1997 – May 12, 2002
Deputy Minister	Louis Ranger	May 13, 2002 - Present
ADM Safety and Security	W. J. Elliot	2002 - 2003
ADM Safety and	Marc Grégoire	2004 - 2007

Security		
ADM Programs and Divestiture	R. Sully	2002 - 2005

Nova Scotia Environment and Labour

Position	Name	Dates*Estimated
Minister	David Morse	Prior to 2002 – January 2003
Minister	Ronald S. Russell	Feb 2003 – Nov 2003
Minister	Kerry Morash	Dec 2003 – Feb 2006
Minister	Carolyn Bolivar-Getson	Mar 2006 – June 2006
Minister	Mark Parent	July 2006 - 2008
Deputy Minister	Kevin McNamara	2002
Deputy Minister	Ron L'Esperance	2003
Acting Deputy Minister	Rosalind Penfound	2004
Deputy Minister	Bill Lahey	2005 - 2006

Nova Scotia Department of Agriculture and Fisheries

Position	Name	Dates*Estimated
Minister	Ernest Fage	2002 - 2003
Minister	Chris d'Entremont	2004 - 2005
Minister	Ron Chisholm	2006
Minister – Department of Fisheries and Aquaculture	Ron Chisholm	2007
Deputy Minister	Peter Underwood	2002 - 2004

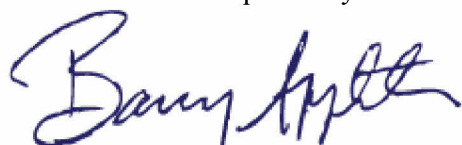
Position	Name	Dates*Estimated
Deputy Minister	Rosalind Penfound	2005 - 2006
Deputy Minister – Department of Fisheries and Aquaculture	Rosalind Penfound	2007

Nova Scotia Department of Department of Natural Resources

Position	Name	Dates*Estimated
Minister	Ernest Fage	2002
Minister	Tim Olive	2003
Minister	Richard Hurlburt	2004 - 2005
Minister	Brooke Taylor	2006
Minister	David Morse	2007
Deputy Minister	Dan Graham	2002 - 2003
Deputy Minister	Peter Underwood	2004 - 2007

Document Request 24 is relevant and material to NAFTA Chapter 1 (Objectives) and NAFTA Chapter 11 (Investment). Document Request 24 relates to records of Ministers, Deputy Ministers and Assistant Deputy Ministers at the Federal and Provincial government level pertaining to the Bilcon Project and the Panel Review Process.

All of which is respectfully submitted



Barry Appleton
Appleton & Associates International Lawyers

Date: July 30, 2009