

MEMORANDUM FOR THE MINISTER

**PROPOSED ROCK QUARRY AND SHIPPING TERMINAL, WHITES COVE,
DIGBY COUNTY, NOVA SCOTIA**

(Information Only)

SUMMARY

- There has been considerable media and public interest in a provincially approved 3.9-hectare stone quarry site and associated deep-water marine shipping terminal proposal at Whites Cove, Digby County, Nova Scotia.
- On March 3, 2003, Nova Stone Exporters (proponent) submitted a revised plan for the marine shipping terminal component of the proposal to the Department of Fisheries and Oceans (DFO). DFO is reviewing the proposal to ensure it meets the requirements of the *Fisheries Act* and the *Navigable Waters Protection Act*.
- The project will require a *Canadian Environmental Assessment Act* (CEAA) environmental assessment (EA). DFO and other Responsible Authorities (RAs) will determine the type of EA required and consider harmonizing the assessment with the province.

Background

- On February 6, 2002, the proponent applied to DFO Navigable Waters Protection Program (DFO-NWPP) to construct piers for a marine shipping terminal. DFO-NWPP forwarded the proposal to DFO Habitat Management (DFO-HM) for review under the habitat protection provisions of the *Fisheries Act*. The proponent was advised that the plan required further information.
- DFO subsequently advised the proponent of its responsibilities pursuant to the *Fisheries Act* and *Navigable Waters Protection Act*, and the authorizations and approvals that may be required, which would result in a CEAA assessment.

- On April 30, 2002, the proponent received provincial approval to operate a 3.9-hectare quarry at the site. DFO reviewed the proponent's blasting plan for the quarry and requested additional information to evaluate potential impacts on marine resources. DFO received the revised plan on November 20, 2002, and following its review, asked the proponent for further information. This information has yet to be provided.
- On January 6, 2003, DFO-HM staff, the proponent and representatives of the Canadian Environmental Assessment Agency and the Nova Scotia Department of Environment and Labour had preliminary discussions about an EA, and the possibility of co-ordinating the federal and provincial reviews.
- On March 3, 2003, DFO-NWPP received registered plans for the deep-water marine shipping terminal.

Analysis / DFO Comment

- Considerable media and public attention has been focused on this project and its potential impacts on aesthetics, fisheries and marine mammals including the endangered Right whale.
- DFO-NWPP has determined that the proposed shipping terminal will require approval under ss. 5(1) of the *Navigable Waters Protection Act*. It is also likely that DFO-HM will need to issue *Fisheries Act* ss. 35(2) and s. 32 authorizations for the project.
- These regulatory requirements will trigger a CEAA assessment. The size of ship expected to use the terminal would necessitate a Comprehensive Study, pursuant to the *CEAA* - Comprehensive Study List ss. 28(c). DFO would likely be lead RA for the assessment.
- As required under s. 9 of the *Navigable Waters Protection Act*, the proponent gave public notice of its intentions to construct this work. Notices appeared in the Chronicle Herald on March 3, 2003, the Digby Courier on March 5, 2003, and the Annapolis Spectator on March 4, 2003. In addition, notice of the project will be published in the Canada Gazette Part I on Saturday March 8, 2003.
- Respondents have until April 8, 2003 to file comments with the Superintendent, DFO-NWPP (Maritimes Region).
- The strong negative reaction to the notice in the Chronicle Herald on March 3, 2003, seems to have been based on three factors

1. the belief that DFO had published the notices,
2. the belief that the notice was placed in the Chronicle Herald because it was a newspaper less likely to be seen by Digby residents,
3. the Chronicle Herald publication occurred two days before the notice was published in the Digby Courier.

Recommendation / Next Steps

- DFO recognizes the high level of public concern over the potential environmental and social effects of this project and will carefully consider this in its review. It is recommended that a potential CEAA assessment include an appropriate level of public consultation.
- DFO will consider a harmonized EA with the province, followed by discussion of the process, respective roles and responsibilities, timelines and information requirements.
- When the proponent submits a revised blasting plan for the quarry, DFO will finalize its review and provide comments to the province and proponent, with respect to the plan's effectiveness at mitigating impacts to fish, marine mammals and their habitats.

Peter Harrison
Deputy Minister

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