



Habitat Management Division
P.O. Box 1006
B505, 5th Floor
Dartmouth, NS
B2Y 4A2

Your file *Votre référence*

Our file *Notre référence*

May 29, 2003

Mr. Paul G. Buxton, Project Manager
Global Quarry Products
P.O. Box 2113
Digby, N.S.
B0V 1A0

Dear Mr. Buxton:

RE: Whites Point Quarry Blasting Plan

The Department of Fisheries and Oceans (DFO) has reviewed the document **Whites Point Quarry Blasting Plan**, submitted November 18, 2002 by Nova Stone Exporters Inc., and the additional information submitted January 28, 2003 and March 28, 2003. DFO has concluded the proposed work is likely to cause destruction of fish, contrary to Section 32 of the Fisheries Act which states:

“No person shall destroy fish by any means other than fishing except as authorized by the Minister.”

Works or undertakings resulting in the destruction of fish, by means other than fishing, are prohibited unless Authorized by the Minister of Fisheries and Oceans. An application for a Section 32 Authorization is attached for your submission if you wish to proceed with the proposed work as outlined in the blasting plan. It is important for you to consider that the species of concern is inner Bay of Fundy Atlantic salmon, which is listed endangered by the Committee on Status of Endangered Wildlife in Canada (COSEWIC). The review of your application will include consideration of the recovery plan of this species and an application for a Section 32 Authorization may not necessarily be approved.

.../2

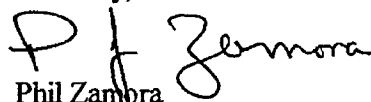
Also, the 3.9-hectare quarry is within the larger area of the proposed **Whites Point Quarry and Marine Terminal, Digby County, Nova Scotia**, which is currently undergoing an environment assessment (EA) under the Canadian Environmental Assessment Act (CEAA). DFO is the federal authority conducting this EA and is subject to laws governing this CEAA assessment including Section 5(2)(d) which requires that an EA of a project be completed before a federal authority "*under a provision prescribed pursuant to paragraph 59(f), issues a permit or licence, grants an approval or takes any other action for the purpose of enabling the project to be carried out in whole or in part.*"

A Fisheries Act Section 32 Authorization is in the Law List Regulations of CEAA and therefore DFO would not be able to issue a Section 32 Authorization for the four-hectare blasting plan until the CEAA assessment for **Whites Point Quarry and Marine Terminal, Digby County, Nova Scotia** has been completed.

You may wish to redesign the blasting plan to mitigate the potential destruction of endangered fish and some other potential harmful effects to endangered marine mammals that have been identified by DFO Scientists during our review. If so, please forward a revised blasting plan, including all mitigation techniques and monitoring methods to be used, to DFO for review. I have attached an addendum, which outlines DFO's concerns for potential harmful effects to fish and fish habitat from blasting at Whites Point. The revised plan should also state clearly, the purpose of the blast and the intended use of the blasted rock.

If you have any questions regarding the review of the blasting plan, feel free to contact me at (902) 426-4692.

Sincerely,



Phil Zamora
Habitat Management Division

Attachment Addendum: DFO Concerns -- Potential Harmful Effects of Blasting at
Whites Point
Application of Section 32 Authorization

cc. M. McLean
D. McDonald
T. Wheaton
C. Myra
B. Petrie