



**NOVASCOTIA**  
Department of Environment & Labour

Environmental Monitoring & Compliance Division  
Yarmouth District Office

Bob Petric, District Manager

13 First St.  
Yarmouth, Nova Scotia  
B5A 1S6  
petricr@gov.ns.ca

Tel: (902) 742-8985  
Fax: (902) 742-7786

July 23, 2003

Mr. Paul Buxton, P. Eng.  
Nova Stone Exporters Inc.  
PO Box 455  
Bridgewater, N.S.  
B4V 2X6

Dear Mr. Buxton:

This is in response to your letter of June 25, 2003 and your request for us to seek verification from DFO as to whether you have satisfied conditions 10 (h) & (i) contained in Approval #2002-026397.

Condition 10(h) specifically requires that:

*"Blasting shall be conducted in accordance with the Department of Fisheries and Oceans Guidelines for the Use of Explosives In or Near Canadian Fisheries Waters - 1998."*

By copy of this letter we are requesting that DFO provide confirmation as to whether the proposed blast is in accordance with these guidelines.

Condition 10(i) specifically requires that:

*"A report shall be completed by the proponent in advance of any blasting activity verifying the intended charge size and blast design will not have an adverse effect on marine mammals in the area. This report shall be submitted to the Department of Fisheries and Oceans (DFO), Maritimes Aquatic Species at Risk Office and written acceptance of the report shall be received from DFO and forwarded to the Department before blasting commences."*

We acknowledge that the report has been completed, submitted to DFO and includes mitigation measures to prevent adverse effects to marine mammals. Many of DFO's subsequent comments relate to species other than marine mammals. We recognize that while these are important issues, these are outside the scope of Condition 10(i) and are therefore not considered when determining whether Condition 10(i) has been met.

With respect to mammals we have reviewed the comments we received from DFO and your responses. As a result of our review we note the following outstanding issues:

1. Seal Colony- In your correspondence of January 28, 2003 you responded to the comments concerning the seal colony at Crowell's Cove (3 km. away). Our understanding of your proposed mitigation is that you plan to visually monitor the 500 m. surrounding the blast for the presence of marine mammals and to halt the blast if any are sighted.

Despite your proposal, DFO continues to express concerns regarding the effects on the colony (ref. letter dated May 29/03 from Zamora to Buxton, Addendum p. 2).

2. Blasting within 500 m. of a marine mammal- Your response indicates that your mitigation will consist primarily of visual monitoring from shore of a 500 m. radius, and avoidance of blasting if mammals are sighted within this area.

Despite your proposal, DFO:

(a) has stated that the area in which mammals could be disturbed by noise may extend beyond the 500 m. discussed in the blasting plan (ref. letter dated May 29/03 from Zamora to Buxton, Addendum p. 2)

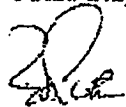
(b) also states in their letter of May 29/03 that a redesign of the blasting plan is needed to mitigate "*other potential harmful effects to endangered marine mammals that have been identified by DFO Scientists during our review.*"

Based on the above we are currently unable to conclude that Condition 10(i) has been met.

I must point out that resolution of these issues in no way relieves you of the necessity to address other requirements outlined by DFO respecting the requirements under the *Fisheries Act*. It is your responsibility to ensure that the provisions of the *Fisheries Act* which apply to this matter are satisfied. Although we have acted to seek clarity in this instance, the responsibility and obligation for resolving these issues rests solely with Nova Stone Exporters.

I trust that this is sufficient to address the concerns you have outlined. Please contact me if you have any further questions.

Yours truly,



Bob Petrie  
District Manager

cc: K. MacNeil  
J. Cook ✓  
R. Balcom  
J. Fanning  
P. Zamora- DFO