

Fisheries and Oceans
CanadaPêches et Océans
CanadaHabitat Management Division
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Dartmouth, NS
B2Y 4A2Your file *Voire référence*Our file *Notre référence*

03-FCR-020

April 14, 2003

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

Dear Mr. Buxton:

RE: White Point Quarry and Marine Terminal, Digby County, Nova Scotia

Habitat Management Division (HMD) was advised on February 17, 2003 that the above-mentioned project will require an approval under Section 5(1) of the *Navigable Waters Protection Act* (NWPA). This project must undergo an environmental assessment (EA), in accordance with the *Canadian Environmental Assessment Act* (CEAA), before a decision can be made on whether to issue a NWPA approval.

Your document titled "PROJECT DESCRIPTION, WHITES POINT QUARRY AND MARINE TERMINAL" was received for review by Department of Fisheries and Oceans (DFO) on March 24, 2003.

It is our understanding that this project includes a marine terminal designed to handle vessels larger than 25 000 DWT which falls under the CEAA Comprehensive Study List Regulations. The type of screening used for the EA will therefore be a Comprehensive Study (CS).

DFO will manage the EA process as the Responsible Authority (RA) under CEAA. This federal EA process will be harmonized with a provincial EA process. A harmonization agreement, in the form of a Memorandum of Understanding (MOU) between DFO, the Canadian Environmental Assessment Agency, and the Province of Nova Scotia will be developed to govern the joint EA process for this project.

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The "scope of the project" for the purpose of this EA will include the construction, installation, operation, maintenance, modification, decommissioning and abandonment of the quarry and marine terminal. In order to provide scoping information for the CS, DFO will develop a Draft Scoping Document for the project. This document will include a description of the scope of the project that will be assessed, the factors to be considered in the assessment, and the scope of those factors.

The Draft Scoping Document and the MOU will be made available for public comment. Global Quarry Products (GQP) is required to provide a suitable means of acquiring public input on these documents. All public comments must be sent to DFO. In addition, GQP may also make comments on these documents. GQP is advised to contact DFO as soon as possible to develop a suitable public consultation process for this phase. This public consultation process, along with consultation with DFO, other federal departments and the Province of Nova Scotia, will form the basis for finalizing the Scoping Document that will provide the framework for the CS. GQP is responsible for conducting the CS, preparing the Comprehensive Study Report (CSR), and providing the CSR, in both official languages, to HMD and CEA Agency.

It is strongly advised that GQP engage a consultant with extensive experience in conducting environmental assessments under CEAA as early in the process as possible. Experience has proven this to be a more efficient and timely approach with projects of this size, especially when conducting a CS and preparing the CSR. Also please be advised that, although the type of assessment being used for this project is a CS, CEAA (Section 23) includes the provision that the project could be referred to a mediator or review panel.

Under Section 55 of CEAA, DFO is required to maintain a Public Registry for this project. The Public Registry is intended to provide convenient public access to information about an EA. A package with additional information on the Public Registry requirements is attached. Please ensure that you review and understand these requirements. Release of documents to the public will be part of the process. Forms have been provided in the package for your convenience. Please sign and return Form A (and/or Form B, if required), as soon as possible.

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In your project description you mention the four- hectare Blasting Plan, previously submitted by Nova Stone Exporters Inc., and currently under review by DFO-HMD. Since this project is now undergoing an EA under CEAA, DFO will not likely be able to take any action regarding the four- hectare Blasting Plan. Section 5(2)(d) of CEAA requires an environmental assessment of a project 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.*" Your project description states that one of the primary objectives of the Blasting Plan is to gather specific on-site data for further assessment of potential impacts on the marine environment from blasting operations. Any blasting plan with the objective of supplying information for the EA of the project would need to explain how the plan supports the EA, describing all monitoring methods used and environmental components targeted. The plan would have to be appropriate to the scope of the assessment and meet with DFO's approval. We advise that such a blasting plan, if required, should be developed after the Scoping Document for the CS has been completed.

Based on the information provided in your project description we have also concluded that your project is likely to result in the harmful alteration, disruption or destruction of fish habitat (HADD). If a HADD is likely to occur, the project can only proceed if an authorization under Section 35(2) of the *Fisheries Act* (FA) is granted. Please find the attached Application for Authorization form to be completed and returned to us. In reviewing your project, we will consider DFO's *Policy for the Management of Fish Habitat*, which provides that no authorizations be issued unless acceptable measures for any habitat loss are developed and implemented by the proponent.

A requirement of an authorization is that the proponent must prepare a plan to compensate for any alteration, disruption or destruction which is authorized. The compensation plan and its execution must meet the approval of DFO.

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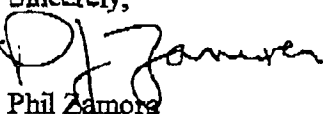
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Depending on information gathered from the EA process, other sections of the *Fisheries Act* may also apply to this project, in particular Section 32. Section 32 gives DFO the authority to prohibit the destruction of fish by any means other than fishing. An application for a Section 32 Authorization will be forwarded to you if and when it is likely to be needed.

If you have any questions in regards to the EA process, the FA Authorization, or any other aspect of our review of this project, feel free to contact me at (902) 426-4692.

Sincerely,

Phil Zamora
Habitat Management Division

Attachments CEAA public Registry Requirements
Application of Section 35(2) Authorization (Application for
Authorization for Works or Undertakings Affecting Fish Habitat)

- cc. M. McLean
- D. McDonald
- T. Wheaton
- C. Myra
- B. Petric