

Sadaka, Jennifer -JLT

From: McDonald,Derek [CEAA]
Sent: June 10, 2003 11:32 AM
To: Chapman,Steve [CEAA]
Subject: RE: Whites Point and the 3.9 Ha quarry

More thinking about this.....

Although not proceeding with the 3.9 Ha operation is arguably the 'high road', there is no clear legal impediment to its operation. A cynical view might be that DFO wants to avoid making a decision on the blasting plan and the Agency is a convenient scapegoat.

The proponent is clearly frustrated, and with good reason, I think. Things are dragging. I find it frustrating myself and it's not even my money. They are seeking legal advice and, in my view, there is chance the proponent will soon seek legal recourse (against DFO, the Province and/or CEAA - I'm not sure who) to assert its right to proceed. Paul Buxton mentioned to me that they want to bid on some road upgrading work in the area (worth \$60K), but cannot under the present circumstances. Clearly, we want to avoid legal action.

Notwithstanding CEAA's views on project splitting and the fact that that this could be perceived as project splitting, this one appears to have gotten by us all, and it may be too late to make a compelling argument against the 3.9 Ha operation. Maybe CEAA should bite the bullet, recognize the Province's jurisdiction, and chalk it up as a lesson learned. FYI, the province is already on record (April 23 letter from Mark McLean to Paul Buxton) with the position that "GCP is not to commence work on any aspect of the proposed expansion of the Whites Point Quarry until all approvals, if warranted, are issued by the regulatory departments and/or agencies." I'm not sure if this would apply to an access road.

Derek

-----Original Message-----

From: McDonald,Derek [CEAA]
Sent: June 9, 2003 14:15
To: Chapman,Steve [CEAA]
Subject: Whites Point - DFO letter to NSDEL - FYI

Hi Steve,

<< File: dfo_ltr_to_nsdcl_re_panel.pdf >>

The letter was copied to CEAA via Bill Coulter.

The proponent is seeking a meeting. I'm not sure of the full agenda (I'm waiting to hear back from Paul Buxton), but it includes the blasting plan. I suspect Global is still pushing ahead with the 3.9 Ha quarry and will want to discuss this. I think CEAA's position should be that if DFO has a FA s.32 trigger, they should not exercise it at this time. Even if the proponent can eliminate the need for the s.32 authorization (by modifying the blasting plan or providing additional mitigation), I think proceeding with the 3.9 Ha quarry is not consistent with CEAA-recommended practice (project splitting). It would also be poor PR and optics - likely undermining what little credibility the proponent has that it intends to "do the right thing".

The proponent is, to my knowledge, unaware of DFO's desire to refer. I still feel that a Comp Study, with an appropriate scope and public participation plan, would be the correct path - and I have said this to Phil Zamora. To me, a referral to facilitate harmonization reflects poorly on both governments and is perhaps an undesirable precedent. But, hey, public review is the Canadian way!

Do you want to participate in the meeting? Do you think we should try to buy time until the referral is made?

Derek McDonald

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