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Français  
DFO Home  
FAQs

Contact Us  
What's New  
Fast Facts

Help  
About Us  
Site Map

Search  
Media Room  
Regions

Canada site  
Info for:



**FISHERIES AND OCEANS CANADA**  
Standing Committee Reports and Government Responses

**SUBJECTS**

- A-Z Index
- Aquaculture
- Canadian Coast Guard
- Oceans and Fish Habitat
- Proactive Disclosure
- Fish & Aquatic Life
- Fisheries and Aquaculture Management
- Maps & Charts
- Marine Services
- Science
- Seals and Sealing
- Species at Risk

**RESOURCES**

- Acts, Orders & Regulations
- Fun Zone
- Library
- Reports & Publications
- Statistics

**THE GOVERNMENT OF CANADA'S RESPONSE TO THE ENVIRONMENTAL ASSESSMENT REPORT OF THE JOINT REVIEW PANEL ON THE WHITES POINT QUARRY AND MARINE TERMINAL PROJECT (THE PROJECT)**

On March 24, 2003, Fisheries and Oceans Canada (DFO) received the proponent's (Bilcon of Nova Scotia) project description, consisting of a 152-hectare basalt quarry, processing facility and marine shipping terminal at White's Point, Digby County, Nova Scotia approximately 35 km southwest of Digby, N.S along the shores of the Bay of Fundy.

The Project consists of a 152 hectare (ha) basalt quarry, processing facility and deepwater marine shipping terminal. The proponent proposes that a total of 120 ha of the 152 ha site would be quarried. Quarrying production is expected to be 2 million tonnes of aggregate per year. The land-based quarry operations are expected to be year round with aggregate stockpiled for ship loading once per week. Drilling and blasting of basalt rock, loading, hauling, crushing, screening, washing, and stockpiling would be done on-site.

It was determined that the proposed construction of the marine terminal would require: (i) DFO authorization pursuant to subsection 35(2) of the *Fisheries Act*; and (ii) Transport Canada (TC) approval in accordance with paragraph 5(1) (a) of the *Navigable Waters Protection Act*. Prior to the issuance of any federal approvals, it was necessary to conduct an environmental assessment (EA) of the Project under the *Canadian Environmental Assessment Act (CEAA)*. DFO and TC are Responsible Authorities (RAs) for the EA by virtue of their regulatory responsibilities under the *Fisheries Act* and *Navigable Waters Protection Act* related to the proposed marine terminal component of the proposal.

The proposal is also subject to an environmental assessment under the *Nova Scotia Environment Act*. On March 31, 2003, both levels of government agreed to a joint federal-provincial EA process.

In June 2003, the Minister of Fisheries and Oceans referred the Project to the Minister of the Environment for referral to a review panel pursuant to section 21 (b) of the CEAA. On November 5, 2004, Canada and Nova Scotia announced that a joint federal-provincial review panel had been established for the Whites Point Quarry and Marine Terminal Project.

The Joint Review Panel hearings were held in Digby, N.S. between June 16, 2007 and June 30, 2007. DFO and TC presented their technical advice and views to the Panel on June 20, 2007.

The Panel report was made available to the public on October 23, 2007. The Panel found that the Project would have a significant adverse effect on a valued environmental component represented by the "core values" of the affected communities. The Panel believes that "core values" are shared beliefs

by individuals within groups, and constitute defining features of communities. It stated that the people of Digby Neck and Islands have developed core values that reflect their sense of place, their desire for self-reliance, and the need to respect and sustain their surrounding environment. The Panel concluded, based on an analysis of the burdens and benefits, that the burdens outweighed the benefits and that it would not be in the public interest to proceed with the Whites Point Quarry and Marine Terminal development.

The Panel recommended that the Nova Scotia Minister of Environment and Labour reject the White Point Quarry and Marine Terminal proposal and recommended to the Government of Canada (GoC) that the Project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances.

The Joint Panel report contains seven (7) recommendations. The first recommendation from the Panel is directed at the provincial Minister of Environment and Labour to reject the proposal and at the Government of Canada recommending that the Project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances. Of the remaining six recommendations, four were directed at Nova Scotia to improve its planning processes, consultation and quarry regulations. One was directed at the Canadian Environmental Assessment Agency with respect to developing guidance on adaptive management in environmental assessment. The last recommendation was directed at TC regarding the need to revise its ballast water regulations.

The Joint Review Panel's recommendations to the Government of Canada are addressed through this federal response, as approved by the Governor in Council, and in consultation with other federal agencies, pursuant to subsection 37(1.1) of CEAA.

In preparation of this Government of Canada Response, DFO and TC, as the RAs under CEAA, carefully considered the report submitted by the Joint Review Panel. The Government of Canada accepts the conclusion of the Joint Review Panel that the Project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances. Under subsection 37(1) of CEAA, DFO and TC shall not exercise any power or perform any duty or function conferred on it by or under any Act of Parliament that would permit the Project to be carried out in whole or in part.

Paragraph 37(1.1)(c) indicates that the RAs shall take a course of action that is in conformity with the approval of the Governor in Council. With regards to the course of action decision, following Governor in Council approval of this response, DFO and TC will not be issuing any subsection 35(2) *Fisheries Act* authorizations or subsection 5(1) *Navigable Water Protection Act* approvals associated with this Project.

The Panel directs Recommendation 1 to both Nova Scotia and Canada. In relation to this, the Government of Canada states the following:

#### **Recommendation 1**

*The Panel recommends that the Minister of Environment and Labour (Nova Scotia) reject the proposal made by Bilcon of Nova Scotia to create the Whites Point Quarry and Marine Terminal and recommends to the Government of Canada that the Project is likely to cause significant adverse environmental effects that, in the opinion of the Panel, cannot be justified in the circumstances. (Section 4.1);*

#### **Response:**

**The Government of Canada accepts this recommendation.**  
The Government of Canada supports the recommendation of the Panel "that the Project is likely to cause significant adverse environmental effects that, in the opinion of the Panel, cannot be justified in the circumstances."

The Panel directs Recommendations 6 and 7 to the Government of Canada. In relation to these, the Government of Canada states the following:

**Recommendation 6**

*The Panel recommends that the Canadian Environmental Assessment Agency develop a guidance document on the application of adaptive management in environmental assessments and in environmental management following approvals. (Section 4.2);*

**Response:**

**The Government of Canada accepts this recommendation.**

In collaboration with key federal authorities, the Canadian Environmental Assessment Agency will develop, by December 2008, concise guidance on adaptive management, covering broad principles and practices that are relevant to the environmental assessment process and to related environmental management.

**Recommendation 7**

*The Panel recommends that Transport Canada revise its ballast water regulations to ensure that ships transporting goods from waters with known risks take appropriate measures to significantly reduce the risk of transmission of unwanted species. (Section 4.2);*

**Response:**

**The Government of Canada accepts this recommendation.**

Transport Canada recognizes the importance of applying the appropriate ballast water management measures in order to avoid and/or minimize the introduction of invasive species into waters under Canadian jurisdiction, from foreign waters.

After extensive consultations with the industry, environmental groups, stakeholders and other federal agencies, Transport Canada, in June 2006, implemented the Ballast Water Control and Management Regulations under the *Canada Shipping Act*. These regulations are intended as an important first step in minimizing the risk of introducing harmful aquatic species into Canadian waters. Transport Canada will continue to consult with the appropriate federal authorities and work with the industry, scientific community and environmental groups, and will consider any recommendations made with respect to improving the Ballast Water Control and Management Regulations.

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