

*9.3.4 Transportation*

**EIS Reference: EIS Volume VII, Chapter 9, Section 9.3.8**

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**9.3.4 Transportation**

**WP 1452 – Joint Review Panel  
9.3.8 Transportation – Land and Marine**

*Quantify the expected increases in truck traffic along Highway 217 during construction and decommissioning of the project. Explain how it is possible for the Project to “effectively eliminate heavy truck traffic from the quarry” given the need to bring in some materials and remove wastes by road.*

**RESPONSE**

As stated in the EIS paragraph 9.3.8.2, the context for “effectively eliminate heavy truck traffic from the quarry” refers to the transportation of quarried rock products produced at the Whites Point quarry on rural Highway 217 over the 50 year operational life of the project. Many quarries transport rock products using local roads. The Whites Point quarry intends to transport rock products exclusively by water.

Data on existing truck traffic using Highway 217 in the area of the proposed quarry is not available from the Nova Scotia Department of Transportation and Public Works. However, the quarry is expected to generate increased truck traffic during construction, operation, and decommissioning. Following is the anticipated truck and barge loads during these project phases.

*Construction – Marine*

<b>Equipment</b>	<b>Bargeloads</b>
Ship loader components (conveyor, stacker, trusses, pilings, elec. motors)	15

*Construction - Land*

<b>Mobile Equipment</b>	<b>Truckloads</b>
3 – Cat 773 rock trucks	6
1 – Cat 990 loader	3
2 – Cat 988 loaders	6
1 – Cat D9 bulldozer	1
1 – Cat 345 excavator	1
1 – Cat 914 loader	1
1 – 75 ton crane	1
2 – water trucks	2
1 – service truck	1
2 – welding trucks	2

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4 – welders	2
2 – compressors	1
2 – flatbed trucks	2
2 – Cat skid steer loaders	1
1 - drill rig – check dk’s original	1

<b>Plant Equipment</b>	<b>Truckloads</b>
Portable crushers	2
Concrete batch plant	4
Jaw crusher	2
Rock box and supports	4
Cone crushers	2
Aggregate and sand screens	7
Sand process equipment and clarifier tank	10
Generators	4
Conveyor truss panels	10
Conveyor belts	6
Water lines and pumps	8
Electrical transformers	2
Fuel tank and pumps	3
Plant enclosure siding and girts	10
Drainage structures	6
Geotack	2
Shop and office materials and equipment	20
Sewage disposal tank	1
Fencing	10

<b>Materials</b>	<b>Truckloads</b>
Asphalt pavement	30
Sand and dry bulk cement	120
Explosives	312
Sewage disposal system sand	40
Power poles	3
Reinforcing steel	5
Construction steel	50
Concrete forms	3
	<u>707</u>
Contingency @ 20%	141
<b>Total Construction Truckloads</b>	<b>848</b>

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This amounts to an increase of 10 – 12 trucks per week during the 18 month construction phase of the project.

**Operation – Marine**

Quarry Products	Bulk Carrier Loads
Aggregate, sand, grits	44 per year

**Operation – Land**

Materials and Supplies	Truckloads
Explosives	88 per year
Fuel	44 per year
Oil and grease	52 per year
Miscellaneous	22 per year 206
Contingency @ 20%	41
<b>Total Yearly Truckloads</b>	<b>247</b>

This amounts to an increase of approximately 5 trucks per week during the year.

**Decommissioning – Marine**

Equipment	Bargeloads
Shiploader components, elec. motors, etc	10

**Decommissioning – Land**

Equipment	Truckloads
Mobile	31
Plant	68
Demolition	175 274
Contingency @ 20%	55
<b>Total Decommissioning Truckloads</b>	<b>329</b>

### 9.3.4 Transportation

This amounts to an increase of approximately 6 trucks per week during the 12 month decommissioning phase of the project.

*How does the Proponent propose to mitigate or compensate the inconvenience its activities will cause lobster and other fishers during the ship berthing and loading periods?*

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#### RESPONSE

Licensed lobster fishers who attended the three meetings specifically noted that they did not see inconvenience as an issue. It should be noted that the attendees were lobster fishers who fished specifically in the in-shore Whites Cove area. Discussions have yet to be held with lobster fishers or other fishers who fish off-shore Whites Cove with respect to inconvenience.

The mitigation proposed to limit inconvenience is to ensure that the vessel uses the same designated route inbound and outbound for every transit enabling fishers to avoid this area.

*What mechanisms will be used to alert fishers to activities on the site and offshore?*

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#### RESPONSE

Bilcon will implement a dedicated toll free number for fishers to call to receive status reports. These reports will be updated daily.

#### 9.3.8.3 Mitigation

*Provide details regarding the "lobster trap fund" the Proponent commits to financing, including details of the consultation process that was followed to develop a plan for the fund, and the conflict dispute mechanism to be employed. Clarify what losses it will cover.*

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#### RESPONSE

Three meetings were held with licensed lobster fishers who traditionally fish in the nearshore Whites Cove area. Agreement was reached on the establishment, in consultation with lobster fishers of a designated inbound and outbound route, the increase in turning radius of the ship immediately adjacent to the Whites Point terminal and the establishment of a compensation fund to be administered by a committee of lobster fishers. No specific details of the compensation plan have been established pending a meeting with the Lobster Fishing Area #34 Management Board.

A letter requesting a meeting to clarify details was sent on September 20<sup>th</sup>, 2006 but to date no response has been received.

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#### WP – 1498 – Nova Scotia Department of Environment and Labour Pollution Prevention Branch

7. *There is no information provided on ship refuelling or storage of fuel for ships at the site. It should be made a condition of the release from the EA that no ship fuel will be stored or dispensed at the site.*

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#### RESPONSE

Bilcon has stated elsewhere in the document that no ship refuelling will take place at the site, nor will there be any storage of fuel for ships at the site.

#### WP 1524 – Transport Canada

1) *General – Proponent to ensure any changes made in EIS are carried through the document where applicable and that changes are reflected in the Plain Language Summary*

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#### RESPONSE

Comment noted.

2. *Proponent is encouraged to complete, in conjunction with Transport Canada Marine Safety Group, a Port Procedures Manual (Manual). Manual should be completed at least six (6) months in advance of the arrival of the first ship.*

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#### RESPONSE

Bilcon will complete a Port Procedures Manual at least six (6) months in advance of the arrival of the first ship, in conjunction with the Transport Canada Marine Safety Group.

3. *In regards to mandatory pilotage at the proposed project site, under the present rules, there will be no mandatory pilotage, however, in order to determine if mandatory pilotage may be necessary the Atlantic Pilotage Authority must conduct a Pilotage Risk Assessment Methodology.*

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#### RESPONSE

On the completion of the Environmental Assessment Process, Bilcon will request that the Atlantic Pilotage Authority conducts a Pilotage Risk Assessment Methodology.

### 9.3.4 Transportation

4) *Vol. I Page 8 – Proponent to clarify Transport Canada’s role in the proposed Project as described above.*

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**RESPONSE**

The following paragraph is added to Volume I, Plain Language Summary, under 4.0 - Environmental Assessment Process for Whites Point Quarry and Marine Terminal:

“On March 29, 2004, responsibility for the NWPA Program was transferred from Fisheries and Oceans Canada to Transport Canada, and Transport Canada, as of this date, became a Responsible Authority. Transport Canada is responsible inter-alia for marine safety and pilotage.”

5) *Vol. IV Table ECM – 1 Project Phase should demonstrate that phases such as Modification, Decommissioning and Abandonment were considered.*

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**RESPONSE**

No particular Project works and activities have been identified that are associated with a Project modification. Should any modifications to the construction, operation or decommissioning become necessary, these will be addressed through the adaptive management approach.

Decommissioning (including abandonment) has been addressed explicitly in Table 2 (Mitigation Commitment Summary) presented in the responses to Section 11 (Environmental Management).

6) *Vol. IV – Table ECM – page 21 – Does Environmental Component for Recreation include marine based activities?*

---

**RESPONSE**

Use of the marine terminal for recreation activities will not be permitted. Access to the beach from the water by, for example, kayakers, will not be affected by the quarry or marine terminal operations.

7) *Vol. IV Table ECM – 2 Project Phase should demonstrate that phases such as Modification, Decommissioning and Abandonment were considered.*

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**RESPONSE**

No particular Project works and activities have been identified that are associated with a Project modification. Should any modifications to the construction, operation or decommissioning become necessary, these will be addressed through the adaptive management approach.

### 9.3.4 Transportation

Decommissioning (including abandonment) has been addressed explicitly in Table 1 (Follow-up and Monitoring Programs – Summary) presented in Section 11 (Environmental Management).

8) *Vol. IV – Table ECM – 2 Page 4 – Environmental Component for Transportation – Marine states that no regulatory requirement exists. NWPA applies to “works” in any navigable waterway in Canada and is a regulatory requirement.*

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**RESPONSE**

Comment noted. Please refer to Table 2 – Mitigation/Commitment Summary in Section 11.0 of this document.

9) *Vol. IV – Table ECM – 2 Page 4 – Does Environmental Component for Recreation include marine based activities?*

---

**RESPONSE**

Use of the marine terminal for recreation activities will not be permitted. Access to the beach from the water by, for example, kayakers, will not be affected by the quarry or marine terminal operations.

10) *Vol. IV – Table CEM -1 – Project Phase should demonstrate that phases such as Modification, Decommissioning and Abandonment were considered.*

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**RESPONSE**

Bilcon’s cumulative effects assessment has been revised. Please refer to the information presented Section 10 (Cumulative Effects).

11). *Vol. IV – Table CI-1 – Page 2 Commitments Table should indicate exact permits/authorizations required. (i.e. TC-NWPA).*

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**RESPONSE**

Comment noted. This has been addressed in Section 6.1 Regulatory Environment.

12) *Vol. IV – Section 6.4.2 – Page – 36 – List of Key Events should include TC becoming an RA via the NWPA program transfer.*

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**RESPONSE**

Volume IV, Section 6.4.2, Page 36 - The following paragraph is added to Section 6.4.2 – Key Elements, Milestones and Actions:



### 9.3.4 Transportation

“On March 29, 2004, responsibility for the NWPA program was transferred from Fisheries and Oceans Canada to Transport Canada and, as of that date, Transport Canada became a Responsible Authority.”

13) *Vol. IV – Section 6.4.3 – Page – 37 – The Panel will also deliver their report and recommendations to the Minister of Transport as well as to the Ministers of DFO and EC.*

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#### RESPONSE

Bilcon acknowledges that the Panel will also deliver their report and recommendations to the Minister of Transport as well as to the Ministers of Fisheries and Oceans and Environment Canada.

14) *Vol. IV – Table 6A – Page 48 – TC is the sole responsible federal department for NWPA (DFO no longer has any involvement).*

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#### RESPONSE

It is noted that Fisheries and Oceans Canada no longer has any involvement with NWPA and DFO should be removed under the Agency column.

15) *Vol. IV – Table 6B – Page 51 – TC is the sole responsible federal department for NWPA (DFO, CCG no longer has any involvement)*

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#### RESPONSE

It is noted that neither DFO nor CCG have any involvement with NWPA and that TC is the sole responsible department with respect to permitting for construction within navigable waters.

16) *Vol. IV – Table 6B – Page 51 – Explosives Transportation Permit is not a CEAA EA trigger therefore remove TC reference as an RA for this.*

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#### RESPONSE

TC is incorrectly referred to as the regulatory agency with respect to Explosives Transportation Permit. Licensing of the process vehicle for the delivery of explosives is by Natural Resources Canada.

17) *Vol. V – Section 8.2.4 – Page – 21 – Meetings with Indigenous Peoples – Bilcon notes that MKS report not received as of November 2005. Has Bilcon received this report as of yet? Is this report contained in Appendix 16?*

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#### RESPONSE

Bilcon has received the MKS report and it is included in the EIS in Appendix 16.

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18) *Vol. VI – Section 9.2.2.1 – Page 45 – Reference is made to a north water course and south water course. The Proponent is requested to contact TC – Navigable waters Protection Program (Mr. Jon Prentiss) to determine the navigability of these waterways.*

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#### RESPONSE

With respect to the navigability of the north and south water course, Bilcon refers to Reference Document Volume II, Table 10, 4.4 – Brooks. The author, Dr. Michael Brylinsky characterizes the water courses as follows:

“The lower portion of the north brook (Figure 4.4.1) is about 0.7 – 1.0 metre in width and, at the time of the survey, had a moderate flow of water. Water depths averaged about 0.2 metres, but in some places there were small pools, generally less than one metre in diameter and 0.5 m in depth. The bottom of the stream was mainly bedrock with a few small areas that contained cobbles. There was little evidence of any sandy or gravelly areas that would serve as suitable spawning habitat for salmonids. Two surber samples taken in an area containing a cobble substrate, contained only a few caddis fly larvae, and visual examination of the undersides of submersed rocks failed to reveal the presence of any other types of aquatic invertebrates. It is unlikely that this stream serves as a significant habitat for salmonids.

The south brook is only about 0.2 – 0.5 metres in width at its lower end and flows over a very steep gradient containing a number of small waterfalls. Water depths were only 5-10 centimetres at the time of the survey. Its steepness and small size make it unlikely to be a significant habitat for salmonids.”

20) *Vol. VI – Section 9.2.13.4 – Page – 133 – Which existing TC regulatory requirements are being referred to in this section?*

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#### RESPONSE

The existing TC regulatory requirements Bilcon referred to in this section can be found in the *Canada Shipping Act – Eastern Canada Vessel Traffic Services Zone Regulations*.

21) *Vol. VI – Section 9.2.14 – Page 134 – Proponent to ensure TC marine Safety (Mr. Mihai Balaban) is consulted with in regard to Ballast Water Exchange.*

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#### RESPONSE

In June 2006, following submittal of the Environmental Impact Statement, regulations came into force with respect to ballast water exchange. Bilcon will consult with Mr. Mihai Balaban, Transport Canada Marine Safety, with regard to these regulations.

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22) *Vol. VII – Table ECM – 1 – Page 21 – Does Environmental Component for Recreation include marine based activities?*

---

**RESPONSE**

Use of the marine terminal for recreation activities will not be permitted. Access to the beach from the water by, for example, kayakers, will not be affected by the quarry or marine terminal operations.

23) *Vol. VII – Table ECM – 2 – Page 4 – Component for Transportation – Marine states that no regulatory requirements exists. NWPA applies to “works” in any navigable waterway in Canada and is a regulatory requirement.*

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**RESPONSE**

Comment noted. Please refer to revised Table ECM – 1 in this submission.

**WP 1525 – Natural Resources Canada**

**C-Comments from Reviewer 3**

*Ship traffic in the area will increase considerably and there is little shelter for ships against storms in the immediate area. Given that a marine oil spill can occur as a consequence of a marine accident, NRCan did not see any detailed preparation plans for shoreline cleanup or containment of marine oil spills other than the short section in Chapter 11 pg 21 which states spill response teams are available. The rough nature of the coastline and marine conditions will likely make this a very difficult area to conduct an oil spill clean-up or contain it to a small area. An adequate knowledge of these shoreline and marine conditions is relevant to determining how long it would take for response teams to reach the site and the adequacy of spill response. This knowledge should be brought to bear during spill response planning.*

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**RESPONSE**

Please refer to Bilcon’s response in Section 11.0 Accidents and Malfunctions in this submission.

**WP 1541 – Fisheries and Oceans Canada**

**Volume I – Plain Language Summary**

*Page 33 - The proponent states that “North Atlantic right whale sightings in the Whites Cover area will be communicated to the ships captain before the ship exits the inbound shipping lane (see Map 4) or leaves the marine terminal for the outbound shipping lanes.” Who will do the sightings and at what times? If a North Atlantic right whale is sighted, what would be the course of action, understanding that Bilcon of Nova Scotia is not the operator of the vessels? What will be the accuracy of a trained observer in poor weather conditions? Is there a contingency plan for this situation?*

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#### RESPONSE

As noted elsewhere in this document, the ship will leave the shipping lanes at or less than a speed of 12 knots. This speed will diminish as the ship nears the terminal to a speed of 1 knot. Contact with the ship's captain will be maintained throughout this transit and if a project employee observes marine mammals or waterbirds in the designated lane from the shipping lane to the terminal, this information will be transmitted to the ship's captain. The ship's captain will have two alternate strategies. During the lobster season the captain will further reduce speed and outside of the lobster season, the captain may alter his course or reduce speed or both. These conditions will be stipulated in the contract with the shipper. Observations from the shoreline will clearly vary with the distance to the shipping lanes and with weather conditions. It should be noted again, that the primary mitigation measure is the slow speed of the ship in the area between the marine terminal and the shipping lanes.

With respect to poor weather conditions which are still suitable for the ship to berth safely, should visibility hinder the accuracy of the trained on-shore observer, the contingency plan will be for the work boat to examine the designated shipping route ahead of the arriving or departing vessel.

#### Volume IV – Chapter 1

*Table ECM-1-Page 20- Coordination of shipping with local fishers – Will there be exclusion zones setup during inbound/outbound shipping, approaches and departure?*

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#### RESPONSE

The ship will approach Whites Point and return to the shipping lanes on a very specific bearing which will be discussed and agreed to with local fishers and whale watch operators. All ships will use this specific route. While this is not an exclusion zone, fishers will know that there is some risk to setting nets or traps directly in this lane.

#### Volume VI – Chapter 9

##### 9.2.13 Ship Interactions – North Atlantic Right Whale – also in 9.2.3 – Aquatic Ecology - Marine

*Page 128 – Section 9.2.13 – The EIS defines the possible area of effects for ship/whale interactions as the area between the shipping lanes and the quarry. This area is chosen because “Vessels arriving and departing the Whites Point marine terminal are ‘rule’ vessels (vessels >20m in length and >300 gross registered tonnes)”. However, the guidelines for the EIS acknowledge that the spatial boundaries of the assessment will vary depending on the VEC and will extend beyond the project site in many instances. One of the criteria proposed for determining appropriate boundaries is “the physical extent (terrestrial and marine) of the proposed Project, including any offsite facilities or activities (such as shipping).” Based on the data provided in the EIS, it would appear more likely that vessels en route to or from the quarry would interact with whales while in the shipping lanes rather than after turning in*

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*towards the marine terminal. Also, it is unclear why the size and weight of the vessels is the appropriate determinant of the area of effects for ship/whale interactions.*

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#### RESPONSE

**Map 25** contained in the EIS indicates the density of right whales sightings per unit effort (SPUE) in the Bay of Fundy. Also, **Maps 38A through 38D** indicate sightings of right whales, finback whales, humpback whales and minke whales in the Bay and **Maps 42A through 42F** indicate historic sightings (2000-2005) of right whales. The latter two series of maps are contained in Section 2 - Maps. Based on these maps, there appears to be a greater number of SPUE and sightings of whales in general in other areas of the Bay than between the shipping lanes and the marine terminal at Whites Point. The low density and infrequent sightings were an important determining factor for the proposed shipping route selection between the inbound/outbound shipping lanes and the marine terminal.

The inbound/outbound shipping lanes were relocated in 2003 to reduce the possibility of ship/right whale interactions in the Bay of Fundy and to avoid to the extent practicable, the concentration of right whales and other species of whales frequenting the right whale conservation area. The size of vessels transporting quarry products entering and exiting the Bay of Fundy are required to use the inbound/outbound lanes with no alternatives. Bilcon would agree that there may be a possibility of whale/ship interactions in the shipping lanes as presently located. Since no alternatives exist to the inbound/outbound lanes, appropriate mitigation measures must be relied upon to avoid interactions such as ship speed reduction and avoidance.

*Page 128 – Section 9.2.13 – Ship Interactions, North Atlantic Right Whale – The EIS indicated that sightings of North Atlantic right whale in the area of proposed operation are relatively low compared to other areas of the Bay of Fundy. DFO and Right Whale Consortium hold sighting data additional to the SPUE data analyzed in the EIS. These data suggest that right whales are seen occasionally in the area.*

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#### RESPONSE

Sightings of North Atlantic right whales in the area of proposed quarry operations are relatively low compared to other areas in the Bay of Fundy. Right whale sightings from 1971 through 2005 from the database file housed at the University of Rhode Island were reviewed. A total of 13,509 sightings are recorded in this database for the 30 year period (1971-2005). Right whale sightings in addition to the SPUE data, from the University of Rhode Island database for the years 2000 through 2005 are shown on **Maps 42A through 42F**. Also, an aggregate of right whale sightings from the Maritime Fisheries and Oceans Canada, St. Andrews Biological Station Sightings Database is shown on **Map 38A**. These databases indicate that right whales were sighted very infrequently in the area of the proposed ship route between the inbound/outbound shipping lanes and the marine terminal at

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Whites Point. As indicated on Map 38A, 1 sighting of a right whale was recorded during an approximate 30 year period in this area of the ship route.

*Page 133 – The proponent should explain what the statement “this route will be designated” means.*

---

#### RESPONSE

The proposed shipping route from the inbound/outbound shipping lanes and marine terminal is shown on Map 25 in the EIS and on Map SR-1 in Section 7.0 – Revised Project Description. The term “designated route” is intended to be the course which the master of the ship will adhere to unless safety considerations for ship and crew or marine mammal sightings indicate a variance is necessary.

*Page 133 – The section on mitigation measures for shipping impacts on Right Whale requires some clarification and further details. It is not entirely clear from the first paragraph, whether the proposed mitigation activities will be carried out or may be carried out. This section proposes that the presence of whales along the proposed ship route be monitored through communication with research and whale watching vessels operating around the project area. Specifics on how the quarry will maintain communication with research vessels and whale watchers, whether the latter have agreed to cooperate with the quarry operators, and whether they are likely to be present in the project area with any frequency is needed (see note below Fundy Traffic reports). Also, details should be provided on the mitigation measures that will be taken if whales are sighted. And as noted above, research and whale watching may not be conducted year round, unlike quarry operations.*

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#### RESPONSE

Mitigation measures proposed by Bilcon are specific to the ship route between the inbound/outbound shipping lanes and the Whites Point Marine Terminal. As mentioned previously, Fundy Traffic Services provide vessel captains with regular advisories on right whale locations in the Bay of Fundy.

As an additional precautionary measure, Bilcon intends to request any right whale sightings from whale watching tours operating in the area between the shipping lanes and marine terminal. Provision of right whale sightings to Bilcon by tour operators would be voluntary. It is quite likely, due to the historic infrequent sightings of right whales in this area, that whale watching tours may not frequent this area on a regular basis. Also, tour operators generally do not provide tours throughout the year when shipping of aggregate products are proposed. Therefore, a more reliable source of information may be from Fundy Traffic and their advisories which would provide a more comprehensive observation source.

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Implementation of mitigation measures, if right whales are sighted, is the responsibility of the ship's captain. In this regard, mitigation measures are presently being considered in certain waters in the United States (National Oceanic and Atmospheric Administration (NOAA) 2006). The intent of these proposed regulations is to reduce the risk of collision between ships and endangered northern right whales. These proposed rules were published in the Federal Register/Vol.69, No. 105/Tuesday June 1, 2004/Proposed Rules. A key aspect of the proposed rule by NOAA Fisheries service is a uniform, mandatory vessel speed reduction to 10 knots or less in specific locations along the U.S. East Coast during times when whales are likely to be present.

*Page 133 – Commercial vessels operating in the shipping lanes and approaches are advised to contact Coast Guard Fundy Traffic if they sight right whales. Fundy Traffic then issues reports to all ships in the area. This would provide a more comprehensive observation source, supplemented by whale watchers and researchers. Also, the main period of concern is May-November for these animals.*

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#### RESPONSE

Comment noted. Bilcon agrees with the approach that Coast Guard Fundy Traffic be the primary source of right whale sightings, supplemented by whale watch tour operators. Also, the main period of concern is May – November for the right whale.

*Page 133 – The EIS states only that shipping activity will be monitored (i.e., keeping records of arrivals and departures, fulfilling Transport Canada monitoring requirements). SARA requires monitoring of the effect on species at risk. Monitoring measures for shipping impacts on marine species at risk should be added. This should include monitoring the effectiveness of mitigation measures and confirming the effect predictions.*

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#### RESPONSE

In addition to monitoring shipping activities at the marine terminal, Bilcon will monitor any sightings and/or ship interactions by the shipping company with right whales between the shipping lanes and the marine terminal. The intent of this monitoring would be to determine the effectiveness of the mitigation measures being implemented but it should be noted that this sea area will be frequented by other boats so that only the mitigation by Bilcon will be able to be assessed rather than the overall effect on species at risk as listed by SARA by all shipping activities in the area.

#### Section 9.2.14 Ballast Water

*Page 134 – The summary of invasive species in section 9.2.0 does not mention concerns about the potential for the introduction of disease organisms. Among those mentioned in the reference document (Reference Document 13) is the pathogen thought to be responsible for lobster disease in New Jersey:*

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*“The greatest immediate concern for the Whites Point ecosystem and fishing community would be the potential introduction of the “pathogen” responsible for the mass lobster mortalities observed in the Long Island Sound area in 1999. Evaluating this risk is, however, very difficult given the current status of the research on this issue” (Carver and Mallet, 2003).*

*The potential for the transport of this pathogen could be addressed by experts in aquatic animal disease. This potential for introduction of pathogens and other invasive (such as the Asian crab) by this project may be no different than that from existing shipping but this does not appear to be addressed.*

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#### RESPONSE

Bilcon assumes that the new regulations introduced by Transport Canada in 2006 will negate the potential for the introduction of pathogens and other invasive species. However, Bilcon will conduct monitoring as set out in the following response.

*Page 136 – The proponent states that they will employ a “reputable bulk carrier” which is required to follow ballast water exchange guidelines. They agree to conduct monitoring at the receiving terminal, and submit a written report to Environment Canada upon completion of the investigations. However, they provide no details of what “upon completion of the investigations” means. The proponent should be more specific about this. They conclude that no mitigation is required and the impact is neutral. While current practices for ballast water management do not eliminate all risks, there is no compelling reason to disagree with their position regarding ballast water control.*

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#### RESPONSE

Notwithstanding the fact that new regulations under Transport Canada are now in place, monitoring in marine waters adjacent to the Whites Point Marine Terminal is proposed on a voluntary basis in order to contribute and add to the knowledge base as to the effectiveness of the regulations, please refer to EIS Volume VI, Chapter 9.2.14.4. Monitoring would be conducted seasonally during the first year of shipping activities. Thereafter, monitoring would be conducted once a year for the next five years. After five years, an evaluation of the monitoring results would be conducted to determine if continued monitoring is warranted. Written reports will be prepared at the end of the first year (seasonal) and at the end of the five year period. Coordination will be maintained with Environment Canada and Fisheries and Oceans Canada.

*Section 9.2.14.1 – Ballast Water Research – This section should note that the Ballast Water Control and Management Regulations do not retain designation for “vulnerable area” as contained in the draft Annex V of the “Guidelines for the Control of Ballast Water*



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*Discharge from Ships in Waters under Canadian Jurisdiction” (200). As such, the Bay of Fundy is not formally considered a vulnerable area for the purpose of ballast water management and regulation.*

*A more detailed description of the Ballast Water Control and Management Regulations should be provided by the proponent, particularly the provision requiring the management of ballast water on vessels operating between points south of Cape Cod, Massachusetts and Canadian waters.*

*The proponent should also note that invasive species may be transferred via hulls of ships, although the primary vector and risk is expected to be via ballast water.*

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#### RESPONSE

It is noted that the Ballast Water Control and Management Regulation have changed from the 2001 Draft.

The provision for ballast water management on vessels operating between points south of Cape Cod, Massachusetts and Canadian waters is contained in the Ballast Water Control and Management Regulations (Canada Shipping Act, Ballast Water Control and Management Regulations SOR/2006-129). In the case of shipping at the Whites Point Marine Terminal, paragraphs 6 (Ballast Water Exchange – Transoceanic Navigation) and paragraph 7 (Ballast Water Exchange – Non-Transoceanic Navigation) of the Regulations should be referred to.

In addition to potential for invasive species carried via ballast water, it is noted that invasive species may be transferred via hulls of ships.

*Section 9.2.14.3 – Ballast Water Mitigation – The proponent should state that mitigation will occur through ballast water management on vessels using the marine terminal. The proponent should also discuss the potential for a ballast water management plan to be incorporated into any shipping agreement.*

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#### RESPONSE

Since regulations governing ballast water management on vessels are in effect, this would constitute a mitigation measure. A ballast water management plan is a requirement of these regulations and Bilcon does not intend to have any additional requirements incorporated into any shipping agreement.

*Page 136 – The requirement for monitoring is not based on community and stakeholder concerns about invasive species resulting from ballast water discharges. The requirement for monitoring is based on the risk of invasive species associated with marine traffic at the*

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*terminal. While the commitment to monitoring is recognized, the proponent will have to provide a detailed monitoring plan for review by DFO and other relevant agencies if the project proceeds.*

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#### RESPONSE

Bilcon's proposed monitoring in marine waters adjacent to the Whites Point Marine Terminal is a voluntary precautionary measure and not a requirement of the Ballast Water Control and Management Regulations. As previously mentioned, monitoring is proposed seasonally for the first year of shipping activity and once a year thereafter for five years. A detailed monitoring plan will be coordinated with Environment Canada and Fisheries and Oceans Canada

*Page 136 – The impact statement is likely valid provided that vessels operate in compliance with ballast water management and control measures. However, the ongoing risk of invasive species posed by vessel traffic in the area should be acknowledged. The determination of magnitude of effects is challenging in that one successful invasion/colonisation (i.e., from one vessel discharge) can lead to local and regional effects.*

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#### RESPONSE

Bilcon concurs with this paragraph and acknowledges that all vessel traffic in the Bay of Fundy poses a risk of invasive species introduction. In this regard as a precautionary measure, Bilcon intends to monitor marine waters in the vicinity of the Whites Point Terminal to determine the effectiveness of ship mitigation measures involving ballast water control and management during the first six years of project shipping activities.

*Page 137 – 9.2.15 concludes that noise from shipping will have a long term, insignificant negative effect on marine organisms. The EIS does not specify which organism will be affected but it can be assumed that this would include locally occurring species at risk, and especially at risk marine mammals, which are considered to be sensitive to noise. Ambient/ship induced noise is identified as a potential limiting factor for right whales in the COSEWIC Status Report*

*No mitigation for ambient noise is proposed but SARA Section 79 requires that measures be taken to reduce or avoid adverse effects on species at risk. The EIS does note that vessels will reduce their speed after they turn in from the shipping lane, and implies that this will result in noise reduction. This could be viewed as an effort to reduce the adverse effect of noise, as required by Section 79. If so, the proponent should provide more detail on the expected noise levels at the speed at which the vessels will be travelling.*

*The proposed monitoring of noise levels is supported, but DFO recommendations (in Appendix 9 of EIS) regarding noise monitoring need to be considered. Also, unless it can be*

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*clarified that the negative impact of noise will only affect marine organisms that are not SARA listed, monitoring of the effect of noise on species at risk will be required. This could involve for example, coupling passive acoustic monitoring and/or visual behavioural monitoring with the noise monitoring system to determine whether the movement of ships is affecting marine mammals*

*DFO supports the proposal for sound and vibration monitoring in the water column near the marine terminal but more detail should be provided by the proponent (e.g., target frequencies, duration, seasonality, reporting, continuance etc). There also seems to be a disconnect between this section and the earlier one on blast monitoring (9.2.11.4). If the proponent is going to install a semi-permanent acoustic monitoring system, it should be designed so that it can be used to monitor blasting noise as well as more general sound from the terminal operation.*

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#### RESPONSE

The effect of noise from shipping was primarily directed to marine mammals at risk, which may be sensitive to noise. It is recognized that ambient/ship-induced noise has been identified as a potential limiting factor for right whales (COSEWIC Assessment and Update Status Report 2003). Further clarification is offered for the previous statement.

“It has been suggested that the constant hum of shipping noise in the North Atlantic has habituated right whales to ship sounds, making them less likely to avoid oncoming vessels. It is also possible that the higher levels of ambient noise in the ocean have reduced the ability of right whales to hear mating calls over large distances, perhaps reducing mating opportunities” (COSEWIC Assessment and Update Status Report 2003).

Sound levels and frequency characteristics are generally related to ship size and speed. The primary sources of sounds are propeller cavitation, propeller singing and propulsion equipment. Propeller cavitation is usually the dominant noise source (Ross 1976). Both propeller cavitation and singing originate outside the hull of the vessel while noise from propulsion machinery originates inside and reaches the water via the vessel hull. Large vessels create stronger and lower frequency sounds because of their greater power, large drafts and slower turning engines and propellers. Commercial vessels such as the bulk carriers that will carry aggregate products from the Whites Point quarry produce high sound levels mainly at low frequencies. Noise also increases with ship speed (Richardson et al 1995). Expected noise levels for a vessel traveling at 10 knots would be 152 dB re 1  $\mu$ Pa<sup>2</sup>/Hz at 100 Hz near the source (Urick 1975). It should be noted that this data is based on a freighter of that time period and at 1m from the vessel. More modern vessels may produce greater noise levels. Speed between the shipping lanes and the marine terminal, a distance of approximately 13k, would range from 10 to 0 knots. Reduction in speed generally results in a decrease of noise. Thus, continued speed reduction will result in continued noise reduction

### 9.3.4 Transportation

as the ship approaches the terminal. When the ship departs the terminal, loaded, there may be an increase in noise as compared to the unloaded ship approaching the terminal.

Large commercial ships could be quieted with the application of certain vessel quieting technologies, however, there is apparently no consensus as to whether the need for this is clear, based on current understanding of impacts. Also, the application of these technologies whether in new construction or retrofitting existing vessels is expensive. It therefore appears that any mitigation measures such as quieting technologies to reduce noise from vessels presently lies with the shipping industry in either new construction or retrofitting.

An ecosystem-based approach to conservation management regarding marine pollution, which could include noise, appears to be emerging under IMO as well as other conventions and agreements. However, there are currently no explicit and binding international guidelines or regulations regarding the impacts of anthropogenic noise sources, including vessels, on marine mammals (NOAA 2004. "Shipping Noise and Marine Mammals: A Forum for Science, Management and Technology").

Vessel speeds in the shipping lanes are expected to be approximately 14 to 15 knots. Reduction from these speeds upon approach to the marine terminal at Whites Point would begin approximately 24km from the terminal. Expected speed upon exiting the inbound shipping lane would be less than 10 knots and 2 to 5 knots while beginning manoeuvring to the marine terminal, depending on sea conditions. There are presently no speed restrictions for vessels operating in or outside the shipping lanes in the Bay of Fundy. Ship speed is at the discretion of the ship's master in accordance with ship and crew safety considerations.

As stated in the EIS, Bilcon has indicated that monitoring of noise levels from vessels arriving and departing the marine terminal will be conducted. Also, as stated in Bilcon's Blasting Protocol, background noise monitoring in the Bay at the edge of the Right Whale Conservation Area will be conducted at the time of monitoring the initial blast. Bilcon is not aware of any regulations requiring monitoring of noise from vessels in marine waters. This proposed monitoring would be done on a voluntary basis. Details of the proposed monitoring program will be coordinated with DFO and could involve visual behavioural monitoring of marine mammals in conjunction with the noise monitoring. Bilcon's intention would be to incorporate appropriate equipment for monitoring noise from vessels, at appropriate frequencies, at the monitoring stations proposed for monitoring blasting noise and vibration in the vicinity of the marine terminal and at the edge of the Right Whale Conservation Area.

*Page 137 – Section 9.2.15 – Noise and Vibration, Marine – In Sub-section 9.2.15.2 it is stated that for a one day sonobuoy deployment within the North Atlantic right whale Conservation Area, sound levels were elevated at both 500 and 100 Hz, the measurement*

### 9.3.4 Transportation

*period coinciding with verified high levels of shipping in the area. Upon examination of the literature, the measured noise levels reported in Sub-section 9.2.15.1 at 100 Hz appear to be as much as 10 dB higher than normally expected in corresponding heavy shipping areas in the deep ocean and 20 – 25 dB higher than those anticipated in the same deep ocean areas both measured a sea state zero. The sonobuoy levels are somewhat comparable to older historical acoustic levels measured in shallow waters of New York harbour (Urick 1975) however; one day of recording does not provide a representative sample of baseline noise.*

*It is reasonable to assume that two bulk carrier transits per week through or close to the Conservation Area would not add greatly to average incremental exposures in the Conservation Area itself. However it should be emphasized that for any individual vessel passage the locally observed noise level and any specific animal exposure will be very dependent on the distance to the vessel and also, at increasing ranges, water depth and other physical variables. As an example, for a freighter traveling at 10 knots Urick (1975) quotes a 100 Hz spectral noise level of 152 dB re 1 VPa<sup>2</sup>/Hz at 1 yd, which is about equivalent (within 1 dB) to a reference viewing distance of 1m. Crudely assuming single vessel noise to fall-off at a 20 log R rate up to a distance comparable to the water depth, say 200m in the Grand Manan Basin, and at a 10 log R rate for distances beyond 200m, vessel acoustic levels comparable to the above reported 93 to 81 dB ambient would be approached at ranges of 4 to 60 km. What this implies is that at observation ranges up to at least a few kilometers the noise levels from a large ship will almost certainly be above the measured (elevated) ambient background. The last sentence in Sub-section 9.2.15.2 stating “background noise levels are therefore expected to be less than noise levels recorded in the North Atlantic right whale Conservation Area study previously mentioned” is difficult to interpret. This is no doubt true providing acoustic levels are highly averaged over time and space. Levels from one or two close bulk carrier passages will no doubt average to something close to the otherwise ambient levels provided the averaging period is long enough (e.g., one week).*

*The last sentence in Sub-section 9.2.15.2 stating “background noise levels are therefore expected to be less than noise levels recorded in the North Atlantic right whale Conservation Area study previously mentioned” is difficult to interpret. This is no doubt true providing acoustic levels are highly averaged over time and space. Levels from one or two close bulk carrier passages will no doubt average to something close to the otherwise ambient levels provided the averaging period is long enough...*

*If this project were to proceed, it would be advisable to make baseline measurements of bulk carrier noise around the terminal and nearby areas of potential environmental sensitivity. It should be noted that it is not entirely certain that modern bulk carrier generated noise levels would closely approximate those of a “freighter at 10 knots” nor if the general ambient noise levels close to Whites Point would be similar to those measured in the Conservation Area during a period of high shipping density.*

### 9.3.4 Transportation

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#### RESPONSE

In response to the first paragraph of the comment: Bilcon would agree that one day of recording noise levels in the North Atlantic Right Whale Conservation Area does not provide a representative sample of baseline noise. Regarding ambient noise levels in the Bay of Fundy, Bilcon was unable to access contemporary data. If Fisheries and Oceans Canada has reliable contemporary data, Bilcon would appreciate being provided references.

In response to the second paragraph of the comment: It should be noted that the proposed ship route from the inbound/outbound shipping lanes to the marine terminal at Whites Point does not pass through the right whale conservation area. Based on the infrequent shipping schedule of two transits per week, and the reduced ship speeds (below 10 knots entering or exiting the shipping lanes, the predicted effect of quarry induces shipping would constitute an insignificant negative effect (EIS Volume VI, Chapter 9.2.15.5). This predicted effect is for the marine waters between the inbound/outbound shipping lanes and the marine terminal. Bilcon agrees with DFO's analysis that the ship would produce noise levels comparable to that recorded in the Right Whale Conservation Area based on the presented assumptions. However, other variables such as vessel speed (less than 10 knots), duration (travel time to and from the shipping lanes to the marine terminal), water depth, season, etc. should be considered.

In response to the third paragraph of the comment: Bilcon would agree that shipping activities at the Whites Point Quarry will add to the ambient noise levels in the Bay of Fundy. Also, there appears to be a lack of quantifiable data existing on ambient noise levels in various areas of the Bay. Since no regulations exist concerning noise level emissions from ships in marine waters, Bilcon has voluntarily proposed monitoring at the marine terminal (EIS Volume VI, Chapter 9.2.15.5). Also, as indicated in Bilcon's Blasting Protocol, monitoring at the edge of the Right Whale Conservation Area will be conducted for the initial blast. Background/ambient noise monitoring would be conducted prior to and after the initial blast. This response should be read in conjunction with the previous response.

It should be realized that sources other than large ships contribute to ambient noise in the area of the Bay. Natural environmental forces such as wind driven waves and surf and other anthropogenic sources such as fishing and whale watching boats also contribute to ambient noise. The fishing and whale watching boats in coastal regions contribute significant sound, adding to aggregate noise. Since fishing boats comprise the largest number of vessels operating in the Bay, and have higher-speed engines and propellers than large ships (Richardson et al 1995), their contribution to ambient noise may far exceed the noise generated by two bulk carrier transits per week.

#### References

Richardson et al. "Marine Mammals and Noise". 1995

### 9.3.4 Transportation

Gisiner, Robert C., Ph.D. Marine Mammal Science Program Office of Naval Research. "Proceedings – Workshop on the Effects of Anthropogenic Noise in the Marine Environment". 10-12 February 1998.

Final report of the National Oceanic and Atmospheric Administration (NOAA) International Symposium: "Shipping Noise and Marine Mammals: A Forum for Science, Management, and Technology". 18-19 May 2004. Arlington, Virginia, U.S.A.

In summary, at the present time, Bilcon is not aware of any regulation requiring noise/vibration monitoring in the marine environment. Bilcon intends to operate in accordance with the Fisheries Act and Species at Risk Act and other applicable acts. Bilcon also intends to follow the criteria/thresholds regarding blasting contained in the "Guidelines for the Use of Explosives in or Near Canadian Fisheries Waters". As a precautionary measure, Bilcon will voluntarily monitor an initial blast at the Whites Point site to verify the CONWEP model results and DFO's formulas upon which the "Guideline" criteria are based. Once this initial data has been gathered and analyzed, any effects of concern regarding marine animals would be identified. If the criteria/thresholds contained in the "Guidelines" are achievable based on the results of the initial findings, a reasonable time frame for "significance" monitoring would be established. Bilcon proposes a one year (4 season) time frame to further verify original predictions of change either positive or negative. This monitoring would be conducted during the first year of quarry construction.

Regarding spatial boundaries for monitoring, Bilcon believes it reasonable that the suggested "far-field" monitoring would only be implemented if significant near-field monitoring results are deemed of concern, i.e. if the results of the initial blast conclusively exceed the model and DFO's guideline criteria/thresholds. If DFO's guideline criteria/thresholds in the near-field where the greatest effect is most likely, it would appear unreasonable to continue monitoring in the far-field after the one year verification period, provided there were no new scientific standards or regulatory requirements. If, during the 50 year life of the project new standards or regulations come into effect, Bilcon would take an adaptive management approach in coordination with the regulatory authority.

*Wharf Construction - the proponent should describe the impact of drilling rock sockets (as compared to pile driving)? Also the impact of the terminal operation, ship loading and the drilling of blast holes should be described.*

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#### RESPONSE

Please refer to Bilcon's response to Fisheries and Oceans Canada, in Section 9.1.7 – Noise and Vibration.

### 9.3.4 Transportation

#### WP 1641 – Nova Scotia Department of Tourism, Culture and Heritage Transportation of Materials (Trucking and Shipping)

##### Trucking

*The department understands that there will not be an increase in trucking traffic, given that most of the material will be shipped from the marine terminal and transported by water.*

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##### RESPONSE

Please refer to Bilcon's response to the Panel in this Section 9.3.4.

##### Increased Shipping

*The tourism industry in the Digby Neck area offers many nature based experiences resulting from the Bay of Fundy eco-system. For example, there are ten whale watching operators in the area. The visitors coming to this area are attracted by the pristine outdoor scenery. Whale watching and birding are two of the experiences which are offered by the Digby Neck area. According to a recent "Birding Opportunities" study, this area has been identified as one of the best all-round birding sites in Atlantic Canada because of its geographic position. The Digby Neck area is highlighted in our Annual Plan as an area where the "birding" market is emerging and growing.*

*This area is also the summer home to the endangered right whale population. The world population of this species is currently estimated to be around 300 – 350. Increased industrialization in this area may have a negative impact on whale watching and visitor perception may impact the attraction of the area. Although some whale watching operators state that the whales are not usually in the water directly in front of the proposed quarry site, the whales are in the area and will be in the shipping lanes which will be crossed by the ships.*

*The threat for the whales increases with the increased industrial shipping in the area. Since whale watching is the dominant product in the area, the tourism industry is very concerned that this may negatively impact their businesses.*

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##### RESPONSE

With respect to the comment on whale watching, recent research has found that this activity may be responsible for damaging changes in the mammals' behaviour and could be putting them off feeding. A study of killer whales by researchers from the University of St. Andrews in Scotland and Dalhousie University in Halifax, Nova Scotia has revealed that the approach of boats disturbed the animals to such an extent that they decreased their food intake by up to 18%.

Rob Williams, a sea mammal researcher from St. Andrews, based on Pearse Island, British Columbia, who led the killer whale research, said that although all boat traffic within an



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average of five square kilometres disturbed the whales behaviour, whale watching boats were the only vessels that actively searched for the mammals.

“The most contentious example of human disturbance may be commercial whale watching operators”, said Mr. Williams. “The exponential increase in commercial whale watching activity has caused some to question the benign nature of that industry. This study provides indirect evidence that feeding activity is disrupted by the presence of boats, which could lead to a substantial decrease in energy gain opportunities. Overall, whales reduced their time spent feeding from 13% to 10% when boats were present. They showed not only a lower probability of continuing feeding, but also a lower probability of initiating a feeding bout.”

Conservation groups believe that the effects of whale watching boats on killer whales also apply to other whale populations. They fear that dwindling food stocks are forcing whales to spend more time searching for food and, if they are frightened away from a good feeding spot by whale watching activity, they become weaker and could even starve.

Vanessa Williams-Grey, the head of the Responsible Whale Watching Program at the Whale and Dolphin Conservation Society, said: “researchers over the last few years are starting to notice whale population being displaced from favourite feeding or resting areas by the presence of too many vessels.”

Please refer to the article “Why Watching Whales Does More Harm Than Good, by Richard Gray, Science Correspondent, Sunday Telegraph, 19/11/2006.

Please refer to Section 9.2.3 – Aquatic Ecology – Marine in this document.

#### **Potential Growth of the Development**

*Blasting noises and increased industrial shipping and loading of basalt will impact visitors to the area.*

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#### **RESPONSE**

Please refer to Section 9.1.7 Noise and Vibration and Section 9.3.3 – Aesthetics.

#### **WP 1652 - Nova Scotia Department of Transportation and Public Works**

##### **Comment**

*Whites Cove Road (hereinafter referred to as the “Road”) is a publicly listed but unmaintained gravel road (Class K).*

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#### **RESPONSE**

Comment noted.

### 9.3.4 Transportation

*The existing entrance to the Road where it intersects Highway 217 has been checked for Commercial Stopping Sight Distance (SSD) and it meets the requirements of TPW at that point. However, as the width of the right of way (ROW) on the Road is believed to be only 33 feet wide, it may be difficult for tractor trailers to exit Hwy 217 onto the Road safely. Discussions must take place between the proponent and TPW via the local Area Manager, with respect to upgrades to the Road as well as the intersection of the Road and Hwy 217, before any upgrades take place. Should additional ROW be required to properly design the Road this would normally be at the cost of the proponent.*

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#### RESPONSE

Comment noted. Bilcon will consult with TPW should any upgrades of the Whites Cove Road be contemplated. Bilcon has acquired the land to the north of the Whites Cove Road so that should additional ROW be required for design considerations, it is in place.

*Should upgrades or changes to the Road be necessary, "Access to Property" and "Breaking Soil" permits are required from TPW. Any changes to the present Road must be done according to TPW standards or as directed by TPW. Changes to the Road which result in environmental or other problems will be the responsibility of the proponent.*

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#### RESPONSE

Comment noted.

*An upgraded Road will only be maintained if the Road is brought up to maintainable appropriate government standards and the maintenance standards would be as per the normal priorities for the area.*

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#### RESPONSE

Bilcon has noted in the EIS that a paved access road will be constructed to the quarry property to reduce dust in the local area. The Whites Cove Road or an alternate access road will be built to the appropriate government standards and paved.

*Gated access on a public road is not standard government policy. Gated access to a private road constructed and maintained by the proponent is at the discretion of the proponent.*

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#### RESPONSE

The Whites Cove Road would not be gated at any location along the road since it is a public road. Access would be restricted only during a blasting operation. Should a new access road be developed on private property, it would be gated.

*Due to siltation problems along the present Road, any construction which aggravates sediment and erosion control issues on this Road especially on the down grade near the*

### *9.3.4 Transportation*

*shore of the Bay of Fundy should be first addressed with the local Area Manager and must meet the requirements of the Department of Environment and Labour and Federal Department of Fisheries and Ocean officials.*

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#### **RESPONSE**

Bilcon is very well aware of the siltation issue on the down grade portion of the Whites Cove Road near the Bay of Fundy shoreline and has assisted TPW in trying to solve this issue. Unless Bilcon acquires the Whites Cove Road from the quarry property line to the Bay of Fundy shore, any quarry operations affecting the Whites Cove Road will be coordinated with NSDTPW's Area Manager.