



Fisheries and Oceans
Canada

Pêches et Océans
Canada

1 Challenger Drive
5th Floor Polaris
PO Box 1006, B505
Dartmouth, NS
B2Y 4A2

July 10, 2007

Your file Votre référence

Our file Notre référence

07-EIA-022

Ms. Vanessa Margueratt
Environmental Assessment Officer
Nova Scotia Department of Environment and Labour
5151 Terminal Road
PO Box 697
Halifax, NS
B3J 2T8

Dear Ms. Margueratt:

Subject: Final Report, Environmental Assessment Registration Elmsdale Quarry Expansion Project, Gallant Aggregates Limited

Fisheries and Oceans Canada (DFO) received your submission on July 10, 2007, requesting a review of the proposed Elmsdale Quarry Expansion. To expedite future correspondence or inquiries, please refer to your referral title and file numbers when you contact us.

Referral File No.: **07-EIA-022**
Habitat File No.: **07-EIA-022**
Referral Title: **Elmsdale Quarry Expansion**

It is our understanding that the proposal consists of:

- *The expansion of an existing quarry to 60ha with an anticipated production rate of 400,000-500,000 tonnes/yr.*

as outlined in the following plans:

- *Final Report, Environmental Assessment Registration Elmsdale Quarry Expansion Project, Gallant Aggregates Limited*

If the above plans have changed since the time of submission, the advice in this letter may no longer apply and you or the proponent should consult with us to determine if further review is required.

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We have concluded that the proposed works will likely result in the harmful alteration, disruption or destruction (HADD) of fish habitat. The HADD of fish habitat is prohibited unless authorized by DFO. Authorizations are not issued unless acceptable measures to compensate for the habitat losses are implemented by the proponent.

The proponent should apply to DFO if they wish to have a subsection 35(2) Authorization. Attached is a copy of this application for their convenience.

Please be advised that subsection 35(2) of the *Fisheries Act* has been included in the list of laws that trigger the *Canadian Environmental Assessment Act* (CEAA). This means that DFO may be required to conduct an environmental assessment of aspects of the development proposal, as prescribed by CEAA, before deciding to issue an authorization. The application and supporting documentation would also be included in the Canadian Environmental Assessment Registry.

IMPORTANT NOTE: Information provided by you or the proponent related to aspects of the development proposal that is subject to an Environmental Assessment under CEAA will be part of the Canadian Environment Assessment Registry and will be made available to members of the public, if requested. A package with additional information about these requirements is attached. Please ensure that you or the proponent review and understand these requirements. Please be aware that release of documents to the public may be part of the CEAA process. Should you or the proponent provide any documents that contain confidential or sensitive information that you believe could be protected from release to the public, please contact the undersigned to obtain an Exclusion Form. This Form can be used to identify the information to be considered for exclusion from the Canadian Environment Assessment Registry and the rationale for the exclusion.

It has also been determined that **Atlantic salmon, American eel and Striped bass**, which are respectively listed as endangered or undergoing review as a species of special concern in Canada, are likely to be present at the development proposal site. If the works proceed as proposed the proponent may be contravening the *Species at Risk Act*, which prohibits the killing, harming or harassing of aquatic species at risk (section 32), damaging or destroying their residence (section 33), or destroying critical habitat (section 58). The issuance of a *Fisheries Act* 35(2) Authorization is conditional on ensuring that the effects on aquatic species at risk are acceptable and meet the conditions laid out in section 73 of SARA. If you or the proponent are interested in more information on the species noted above or the *Species at Risk Act*, please visit the SARA public registry at www.sararegistry.ca.

DFO prefers to avoid the HADD of fish habitat and effects to aquatic species at risk. The point(s) below outline the aspects of the proposal that will likely result in a HADD on fish habitat and effects to aquatic species at risk. If the plan is revised to avoid these effects, then a HADD is not likely and an authorization and CEAA review are not needed.

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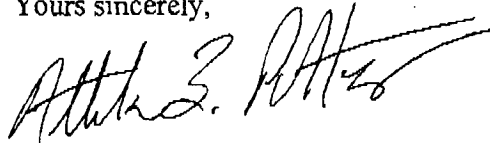
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- *Disruptions and/or alterations of groundwater quality and quantity which support fish habitat;*
- *Blasting activities which may kill, harm or harass aquatic species;*
- *Physical destruction of fish habitat.*

Please resubmit the proposed plan for review if you or the proponent wish to redesign or relocate the project to avoid a HADD and effects to aquatic species at risk.

If you or the proponent have any questions concerning the above, please contact myself directly or Mr. Joseph Crocker, Habitat Assessment Biologist at our Regional Headquarters office by telephone at (902) 426-1269, by fax at (902)426-1489 or by e-mail at Crockerj@dfo-mpo.gc.ca.

Yours sincerely,



Attila Potter
Regional Manager
Habitat Protection and Sustainable Development

Attachment(s): Request for Authorization for Works or Undertakings affecting Fish
Habitat
Important Note - CEA Registry Requirements
Section 55 of CEAA

c.c.: J. Crocker
C. Hominick