

MEMORANDUM TO THE MINISTER

**Parker Mountain Aggregates, New Quarry
Armourstone Supply for Wharf Repairs at Tiverton, Digby County, Nova Scotia**

(Information only)

SUMMARY

- The Department of Fisheries and Oceans, Small Craft Harbours Branch (DFO, SCH), Maritimes Region, applied for an Authorization under Section 35(2) of the *Fisheries Act* to infill below the low water mark at Tiverton. An environmental assessment, under the *Canadian Environmental Assessment Act* (CEAA), was concluded on January 30, 2003.
- A new quarry at Tiverton, operated by Parker Mountain Aggregates, was approved by the Nova Scotia Department of the Environment and Labour (NSDEL) on March 24, 2003. The quarry will provide rock for the Tiverton infill.
- A separate project in the same area, White's Point quarry, is currently in the initial stages of a comprehensive study under the CEAA.
- On March 26, 2003, DFO received a call from Mark Lowe of Nova Stone, the proponent for White's Point quarry, questioning whether or not the Parker Mountain quarry had undergone an environmental assessment. Nova Stone are extremely upset because they had to scope the White's Point quarry with the marine component (marine terminal) of their project. They felt that the two companies were not being dealt with in an equitable manner.

Background

- SCH proposed to repair an existing wharf and infill sub-tidal habitat at Tiverton. DFO Habitat Management assessed the proposed project and determined that the work would result in a harmful alteration, disruption or destruction (HADD) of fish habitat. A CEAA screening was completed and SCH received a *Fisheries Act*, section 35(2) Authorization on February 5, 2003.
- In the screening report, it was stated that SCH was to obtain the rock for the infill from an "existing approved quarry". On March 3, 2003, Parker Mountain Aggregates filed an application with NSDEL for a new quarry at Tiverton, less than 4 hectares in size, to provide rock for the Tiverton SCH project. A quarry less than 4 hectares does not require a Provincial environmental assessment. The quarry was approved by NSDEL on March 24, 2003.
- On March 26, 2003, Mr. Mark Lowe of Nova Stone contacted DFO to express his concern with the development of the quarry at Tiverton. He was concerned that there were inconsistencies with the application of the CEAA because Parker Mountain Aggregates received their approval without completing a Federal environmental assessment.
- The Tiverton quarry proposal was reviewed by DFO. Due to the scale and location of the project as well as the timing of the blasting, it was determined that there were no concerns with respect to fisheries resources. This conclusion was verbally communicated to the NSDEL.
- HMD issued a letter (attached) to SCH on March 27, 2003. The letter stated that the use of the new quarry as the source for the armourstone constituted a significant change in the Tiverton SCH project from the time the CEAA assessment was conducted. Therefore, according to the CEAA, this component of the project would have to be scoped into the assessment in order to comply with the requirements of the CEAA.

Recommendations

- SCH, to comply with the CEAA, should cease work on the wharf until the requirements under the CEAA are satisfied.
- Any permits issued under the *Fisheries Act* or the *Navigable Waters Protection Act* are considered invalid.

- Conservation and Protection will be requested to monitor the situation for compliance with the *Fisheries Act*.

Attachment

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