

BRIEFING NOTE FOR THE DEPUTY MINISTER

PROPOSED ROCK QUARRY AND SHIPPING TERMINAL, WHITES COVE, DIGBY COUNTY, NOVA SCOTIA

(Information Only)

SUMMARY

- There has been considerable media and public interest in a provincially approved 3.9-hectare stone quarry site and associated deep-water marine shipping terminal proposal at Whites Cove, Digby County, Nova Scotia.
- The Department of Fisheries and Oceans (DFO) has determined that quarry and marine terminal will undergo an environmental assessment under the *Canadian Environmental Assessment Act (CEAA)*
- The project will require a Comprehensive Study level environmental assessment (EA) pursuant to the CEAA. DFO, the lead Responsible Authority (RA) and other RA's are in the process of harmonizing the assessment with the province.

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Background

- On February 6, 2002, the proponent applied to DFO to construct piers for a marine shipping terminal. DFO advised the proponent of its responsibilities pursuant to the *Fisheries Act* and *Navigable Waters Protection Act* (NWPA), and the authorizations and approvals that may be required, which would result in a *CEAA* assessment. The proponent was also advised that the plan required further information.
- On April 30, 2002, the proponent received provincial approval to operate a 3.9-hectare quarry. DFO reviewed the proponent's blasting plan for the quarry and requested additional information to evaluate potential impacts on marine resources. DFO received the revised plan on November 20, 2002, and following its review, asked the proponent for further information. This information has yet to be provided.

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- On January 6, 2003, DFO, the proponent and representatives of the Canadian Environmental Assessment Agency and the Nova Scotia Department of Environment and Labour had preliminary discussions about an EA, and the possibility of co-ordinating the federal and provincial reviews.

- On February 17, 2003 Navigable Waters Protection advised that the marine terminal will require an approval under ss. 5(1) of the NWPA. The requirement for this approval dictates that the project must undergo an EA under CEAA.

- On March 24, 2003, DFO received registered plans for the deep-water marine shipping terminal.

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- On March 31, 2003 DFO met with CEAA, Nova Scotia Department of Environment and Labour (NSDEL) and other potential RA's. It was agreed that a joint federal-provincial EA process would take place and an agreement or Memorandum of Understanding (MOU) would be signed between all parties involved in the EA. NSDEL is drafting the agreement.

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Analysis / DFO Comment

- Considerable media and public attention have focused on this project and its potential impacts on aesthetics, fisheries and marine mammals including the endangered right whale.
- The proposed shipping terminal will require DFO approval under ss. 5(1) of the *Navigable Waters Protection Act* and authorizations under the *Fisheries Act* ss. 35(2) and possibly s. 32. These regulatory requirements will trigger a *CEAA* assessment. The size of shipping terminal will necessitate a comprehensive study, pursuant to the *CEAA - Comprehensive Study List* ss. 28(c). DFO will be lead RA for the assessment.

Recommendation / Next Steps

- DFO recognizes the high level of public concern over the potential environmental and social effects of this project and will carefully consider this in its review. The EA process will solicit public comments on the signed agreement or MOU, a Draft Scoping Document, and a Draft Comprehensive Study Report.
- DFO has suspended the review of the 3.9 hectare blasting plan for the quarry. CEAA sss. 5(1)(d) prohibits a federal authority from taking any action for the purpose of enabling the project to be carried out in whole or in part.

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¶ DFO is reviewing a blasting plan for the quarry, with respect to the plan's effectiveness at mitigating impacts to fish, marine mammals and their habitats.

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