



2003-009-01167

JUN 23 2003

MEMORANDUM FOR THE MINISTER

**JUNE 26, 2003 MEETING WITH SHERYL DENTON
REGARDING STATUS OF PROPOSED QUARRY AND
SHIPPING TERMINAL, WHITES COVE, DIGBY COUNTY, NOVA SCOTIA**

(For Information)

SUMMARY

- The Department of Fisheries and Oceans (DFO) has determined that the marine shipping terminal portion of a terminal/quarry project proposed by Global Quarry Products / Nova Stone Exporters (proponent) will require approval under the *Navigable Waters Protection Act* Subsection (Ss.) 5(1) and at a minimum a Comprehensive Study (CS) level Environmental Assessment (EA) pursuant to the *Canadian Environmental Assessment Act (CEAA)*. DFO will be the lead Responsible Authority (RA) for the CS. However, due to the potential impacts of this project, DFO is considering all EA options, including referring the project to the Minister of Environment for a Panel Review under *CEAA*.
- DFO has advised the proponent that blasting as proposed for a 3.9 ha. test quarry will require *Fisheries Act* S. 32 authorization. DFO is conducting discussions and field work with respect to the overall 155 ha. quarry to determine if it requires authorization under the *Fisheries Act* Ss. 35(2) or S. 32. Authorizations under either of these sections of the *Fisheries Act* will necessitate a *CEAA* assessment.
- The Province of Nova Scotia is responsible for the entire project (terminal and quarry) in its Environmental Impact Assessment (EIA) process and has made representation to DFO for joint EA review, which implies same scope of project for both levels of government. The proposed project has been very controversial and the Province is therefore anxious to have federal involvement with assessment of both the terminal and quarry.
- Speaking points are attached. (Attachment 1)



Background

- On March 24, 2003, DFO received the proponent's project description for the proposal, consisting of a 155 ha. quarry and deepwater marine shipping terminal.
- Previously, on February 17, 2003, DFO had advised the proponent that the marine terminal would require an approval under Ss. 5(1) of the *Navigable Waters Protection Act*. This regulatory requirement is a trigger for a *CEAA* assessment.
- The type of EA required on the terminal is a CS, pursuant to the *CEAA - Comprehensive Study List* Ss. 28(c) - marine terminal designed to handle vessels larger than 25,000 DWT. DFO will be the lead RA for the CS.
- On March 31, 2003, DFO met with the Canadian Environmental Assessment Agency (Agency), Nova Scotia Department of Environment and Labour (NSDEL) and other Federal Authorities. It was agreed that a joint federal-provincial EA process will occur and an agreement will be signed between all parties involved in the EA. NSDEL is drafting the agreement.
- On May 29, 2003, DFO advised the proponent that blasting, as proposed at a 3.9 ha. test quarry would require *Fisheries Act* S. 32 authorization - to kill fish by means other than fishing. The proponent has not yet responded as to whether it will apply for this authorization or propose mitigation in order to avoid the need for an authorization. DFO is conducting on-going discussions and field work of the overall 155 ha. quarry site to determine if approvals are required under the *Fisheries Act* Ss. 35(2) or S. 32. Authorizations under either of these sections of the *Fisheries Act* will necessitate a *CEAA* review of the quarry.
- This proposal has generated extensive public and media attention related to its potential environmental and social impacts. Concerns include impacts on lobster, herring and endangered Bay of Fundy stock of Atlantic salmon, fisheries, marine mammals including the endangered right whale, release of ballast water and introduction of exotic species, loss of tourism and disruption of the local community.

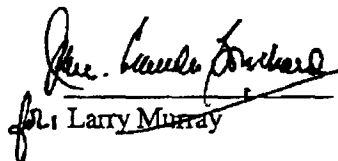
Analysis / DFO Comment

- The Province is responsible for the entire project (terminal and quarry) in its EIA process and has made representation to DFO for joint EA review which implies same scope of project for both levels of government. The proposed project has been very controversial and the Province is therefore anxious to have federal involvement with assessment of both the terminal and quarry.

- DFO has determined that the marine terminal will require a *CEAA* assessment, however, it has yet to be determined if there is a trigger for assessment of the quarry. It is likely, due to public opposition of the proposal that there will be a court challenge if the scope of project for the *CEAA* assessment does not include both the quarry and terminal.
- DFO believes that the project as proposed is likely to cause environmental effects over a large area of both the land and marine environments. For this reason, DFO considered all EA options, including referring the project pursuant to *CEAA* Ss. 21(b) to the Minister of the Environment for a Panel Review. In this event, the Minister, after consulting with the RA, makes the decision on scope of project for the review pursuant to *CEAA* Ss. 15(1)(b).
- On June 20, 2003, DFO received a written response from the Province of Nova Scotia indicating its willingness to participate in a Joint Panel Review under *CEAA*, once an agreement between the two levels of government is reached. Additionally, on June 20, a letter referring the project to the Minister of the Environment for his referral to a review panel was prepared for your signature.

Recommendation / Next Steps

- DFO is working with the Agency and the Province on the referral process and communication material. A public announcement on the referral to a review panel is expected later this month.
- Mr. Thomas Wheaton, Area Habitat Co-ordinator will be accompanying you to the meeting on June 26, 2003.


for Larry Murray

Attachment (1)

Bruce Hood/Richard Nadeau/Richard Wex/Susan Kirby/cjr