

PUBLIC HEARING

WHITES POINT QUARRY AND MARINE TERMINAL PROJECT

JOINT REVIEW PANEL

V O L U M E 1

HELD BEFORE: Dr. Robert Fournier (Chair)
Dr. Jill Grant (Member)
Dr. Gunter Muecke (Member)

PLACE HEARD: Digby, Nova Scotia

DATE HEARD: Saturday, June 16, 2007

PRESENTERS: Bilcon of Nova Scotia
Mr. Paul Buxton

Recorded by: A.S.A.P. Reporting Services Inc.
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Per: H el ene Boudreau-Laforge, CCR

1 important.

2 And I think the knowledge, we got into
3 a three-month exercise in the beginning to find out what
4 the traditional knowledge was. And this has been
5 ongoing. We have people stopping into our office on
6 virtually a daily basis who helped us with things like
7 fisheries issues, background in the fishery, what used
8 to be carried out on the site, the use of the site in
9 the past.

10 And I think that we have developed a
11 significant traditional knowledge base, and we have used
12 that knowledge throughout the process.

13 Ms. JILL GRANT: And can you give us an
14 indication... One of the information requests was about
15 ocean conditions, and I wonder if you could give us an
16 idea of how you have tried to incorporate traditional
17 community knowledge about ocean conditions in things
18 like the design of the marine terminal?

19 Well first of all, I think I should
20 make it clear that the marine terminal is not designed.
21 The conceptual design of the marine terminal is in
22 place.

23 What we did for example on the source
24 of information that would be required for us to do a
25 conceptual design is that we would go to more

1 traditional sources initially. We would go through the
2 literature to find out what typical wave heights are,
3 what the currents are, what the winds are, the general
4 climate, whether there is ice, the number of fog days,
5 et cetera, et cetera.

6 But we have certainly talked to
7 fishermen who come in the office to ask about usual
8 conditions, how they found the conditions in the... Not
9 just the Whites Cove area, but in the general area of
10 the fishing lanes, and I think that we have received
11 some very useful knowledge from these people that use
12 the waters on a daily basis.

13 But I would like to emphasize again
14 that there is a far different level of standard required
15 for a detailed design than there is for a conceptual
16 design.

17 We have taken this project to a
18 conceptual design stage so that we know in general terms
19 what needs to be done.

20 I could not tell you at the present
21 time whether the pipe piles need to be 42 inches in
22 diameter or 39 inches in diameter, nor could I tell you
23 in fact what the thickness of the steel is required for
24 a pipe pile, but we can determine what the effects of
25 putting that pipe pile down into water are and how much

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1 habitat is going to be destroyed, et cetera, and whether
2 or not it will generally affect currents or tides or
3 marine environment.

4 So I think it should be clear that
5 virtually all the aspects of this site... The detailed
6 design has not been done.

7 We would be required to do and we will
8 do use of consultants' experience, very specific
9 oceanographic studies, wave studies, wind studies
10 specific to Whites Cove and its effect on the marine
11 terminal.

12 But we felt that the information that
13 we gathered through traditional sources, that is to say
14 the sources through information and through background
15 which is available and research, and I think by what we
16 have heard from local users of the water, that we feel
17 very secure in our conceptual design.

18 Ms. JILL GRANT: The effects that are
19 predicted from the conceptual design, do you see the
20 effects as conceptual too? How do you predict the
21 effects without some detail of this information on the
22 marine terminal?

23 Mr. PAUL BUXTON: Well, I think that the
24 conceptual design is not just the statement that we
25 would require pipe piles, much more goes into it than

1 that.

2 We have been consulting a very
3 experienced marine terminal designer who is here today,
4 and who could answer very specific questions, who has
5 built these marine terminals. In fact, he built one
6 very recently which has just become operational.

7 It is really not a question that the
8 pipe pile is 50 feet in diameter. We know in general
9 terms what it is.

10 It may vary. The thickness of the
11 steel may vary slightly. We know what the bottom is, we
12 know that we don't have to deal with thick sediments
13 because we have the visual evidence of that, so we do
14 have a very extensive amount of knowledge.

15 When I say that we have only done a
16 conceptual design, this is a fairly technical and
17 sophisticated point.

18 But I believe that we have sufficient
19 information and that the sizing that you saw on the
20 cross-section of the marine terminal is adequate to
21 determine what the effects may be, and we know that by
22 the construction of the marine terminal, we will destroy
23 fish habitat.

24 We completed the necessary
25 documentation for the Department of Fisheries and

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1 Oceans. We have had extensive discussions with the
2 Department of Fisheries and Oceans with respect to the
3 compensation of that habitat.

4 If we can be precise to the square
5 metre at the present time as to the extent of the
6 compensation? The answer is no. But the general
7 principles are there and we came to an agreement with
8 DFO with respect to the type of compensation, to the
9 amount of compensation which is legislated, three
10 times of the habitat which we destroy must be
11 compensated.

12 So whether it's 200 metres or 205
13 metres, that will be determined in the final
14 compensation plans when the detailed design is done.

15 Ms. JILL GRANT: Thank you. I wanted to
16 ask a quick question about public involvement, which is
17 another one of the principles that's articulated in the
18 guidelines and to ask whether you had seen the kind of
19 participation programs that you have used as offering
20 meaningful opportunities for the community to express
21 its views and have them taken into account?

22 Mr. PAUL BUXTON: I believe we have done
23 so. I believe we have done this for five years. We
24 have encouraged people to make contact with us, either
25 in formal groups, or in the Community Liaison

1 Committee.

2 They could come into our office at
3 anytime. We have had an office which I am in every day
4 and I would say that certainly in the last year, we have
5 had five or six people a day come into our office to
6 inquire about the Project itself, some element of the
7 Project, the opportunities for jobs, et cetera.

8 We have made ourselves I believe fully
9 available. We have sent newsletters to the public in
10 the general area, and I think the level of communication
11 has been extensive.

12 I don't believe that anybody could say
13 that they have not had the opportunity to bring their
14 concerns to our attention.

15 Mr. GUNTER MUECKE: You just said that
16 you have been gathering local knowledge for some period
17 of time, including knowledge on the local conditions,
18 oceanic or ocean conditions where the terminal is going
19 to be located.

20 Now I am somewhat puzzled by the fact
21 that we have repeatedly asked to be provided with some
22 information on local conditions and it has never been
23 supplied to us. Could you explain?

24 Mr. PAUL BUXTON: I don't believe that
25 that accurately reflects what is in the EIS. I think

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1 that the current conditions, and we will have a marine
2 geologist here on Wednesday that you can ask the
3 specific question to, but the current conditions in the
4 area are quite well known.

5 The wave conditions in the area, in
6 that area of the Bay of Fundy, are quite well known.
7 The wind conditions are quite well known.

8 Now we recognize that we are in a very
9 specific position and we may get a horrible combination
10 of wind and wave which may cause to make adjustments to
11 a detailed design, but one could argue at this point
12 whether an eight metre wave is more or hugely more
13 significant than a 7.8 metre wave.

14 We think that the information which we
15 have to have is sufficient for us to go to a conceptual
16 design stage.

17 We do recognize that we will need more
18 information but this information that we need in a
19 detailed design stage is obtained at very significant
20 cost over a period of time, and we do not think that it
21 adds anything to the conceptual design which we have put
22 forward.

23 I can't... We have problems
24 understanding or perhaps I have problems understanding
25 why we would need to go to the detailed design stage,

1 which is what I appear to be hearing, i.e. the contract
2 package stage, with the specifications and the detailed
3 designs to address the concerns of environmental
4 effects.

5 Mr. GUNTER MUECKE: Perhaps you are
6 misunderstanding me. What I am saying is that it is of
7 concern to the Panel to know what the local conditions
8 are for the site that you have in mind.

9 We are well aware of the fact that
10 general conditions in the Bay of Fundy have been studied
11 and are known, but when it comes to the local
12 conditions, if you consulted community knowledge, local
13 knowledge, we haven't seen it.

14 And you have said that you have some
15 information, and we have been asking for it.

16 Mr. PAUL BUXTON: The traditional
17 knowledge that was gathered, I think that we did remark
18 on that in the Environmental Impact Statement. We
19 certainly had nothing from any local fisherman or local
20 user of the water that would believe us to be wrong in
21 our conceptual designs.

22 THE CHAIRPERSON: One of the things that
23 has struggled us for some time is that there is a view
24 offered by you that you have consulted with the
25 community, you have had open houses, and as you have

1 said your door is opened, and that you attempted to
2 interface with community members in order to extract
3 knowledge.

4 Mr. PAUL BUXTON: Yes.

5 THE CHAIRPERSON: But when you look at
6 the responses that have emerged from the community in
7 response to the EIS, they are almost universally
8 negative. And in your side, they are almost universally
9 positive.

10 The community members say: AWe haven't
11 been consulted. The CLC has not worked very well. We
12 know a great deal about ocean conditions off the coast
13 because we have been fishing here for hundreds of years.
14 We haven't really been consulted. Questions may have
15 been asked, but it was not a true consultative
16 process.≅

17 The reason why this concerns us is that
18 it is the cornerstone of the TIA Process. The TIA
19 Process says that traditional knowledge and public
20 involvement are the cornerstone of any project, working
21 with the community, engaging the community in a
22 meaningful discussion long term.

23 So there clearly is a disparity, a
24 disparity which is difficult for us to comprehend
25 because on one side we are hearing very positive, on the

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1 other side we're hearing very negative, and there seems
2 to be no middle ground.

3 So I would ask that you reflect on that
4 for a moment and tell us why that would be the case, why
5 would there be such a disparity between what you think
6 is the perfect process or that you seem to think is a
7 process that has been perfectly executed and on the
8 other side, the negative side, which seems to be just
9 the opposite. It just strikes us as unusual.

10 Mr. PAUL BUXTON: I believe there is an
11 explanation to this. I believe that anybody that
12 genuinely wanted to know what the Project was about and
13 how they could be involved in it and influence it, that
14 is in its various parts, whether you were concerned
15 about noise, dust or any of the other issues, that the
16 opportunities were there, and I think those people came
17 in to see us, and I believe that they got the
18 information that they were looking for.

19 I believe that those people that from a
20 philosophical perspective did not want to see this
21 Project did not consult with us and in fact chose not to
22 consult with us.

23 We can't force people to consult with
24 us. The opportunities were there. I think we provided
25 them continuously over a five-year period.

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1 And those people that really did want
2 to know what we were doing about the elements of concern
3 came in to talk to us. Those that in fact did not want
4 to know about the elements of the project itself or the
5 specific elements of concern, but who opposed the
6 project from a philosophical perspective, and it is
7 certainly their prerogative, did not consult us and did
8 not want to consult us or be part of any type of
9 consultative process. And you know, I think that that
10 has continued for five years.

11 THE CHAIRPERSON: Are you suggesting
12 that the burden of responsibility for engagement rests
13 with the public?

14 Mr. PAUL BUXTON: I did not. What I do
15 say is that if we provide the opportunity and people
16 chose not to take that opportunity, we cannot drag
17 people into meetings. We cannot force them to come and
18 talk to us or if we set up specific meetings to discuss
19 and people do not come, we cannot make them come. Both
20 sides must be willing to discuss.

21 THE CHAIRPERSON: The burden of
22 responsibility I think rests with the Proponent and it
23 seems to me given the prominent nature that traditional
24 knowledge and public involvement has in the TIA Process,
25 it would seem to me as well that this is something which

1 should have been pursued more vigorously, or do you feel
2 that you have pursued it as vigorously as you possibly
3 can?

4 Mr. PAUL BUXTON: I fail to see how we
5 could have pursued it more vigorously. We have made
6 ourselves available on numerous occasions...

7 THE CHAIRPERSON: But you seem to be
8 saying that you had an open door policy.

9 Mr. PAUL BUXTON: Yes.

10 THE CHAIRPERSON: But I'm thinking about
11 workshops, I'm thinking about public engagement, I'm
12 thinking about documents presented, walking people
13 around the site. In other words...

14 Mr. PAUL BUXTON: We have done all these
15 things. We did site tours.

16 THE CHAIRPERSON: Then why do we get
17 these negative responses?

18 Mr. PAUL BUXTON: We did site tours. It
19 has been a difficult process for us to engage in. I
20 have talked to literally thousands of people in the past
21 five years on a personal basis.

22 I think that we have taken every step
23 in those years. I don't think anyone can genuinely say
24 that they did not have their opportunity to make their
25 views known to us throughout that process.

1 THE CHAIRPERSON: I think we will draw
2 that line of questioning to a close. I'd like to move
3 us on to something...

4 Mr. GUNTER MUECKE: You just stated in
5 your presentation that the CLC was suspended in 2003,
6 that is a couple of years ago now. Could you provide us
7 information on why the CLC was suspended?

8 Mr. PAUL BUXTON: If I said it had been
9 suspended, I misspoke. I don't believe that I did.
10 However, there has not been any meetings for over two
11 years.

12 Mr. GUNTER MUECKE: Sorry, you said
13 something else about 2003, is it 2007?

14 Mr. PAUL BUXTON: Yes. If you ask the
15 specific question, I will give you the specific answer.
16 The CLC was a difficult proposition to set up.

17 With my knowledge of people in the
18 local area and people that I have worked with on Digby
19 Neck, and I recall that the responsibility of
20 establishing the CLC lies with the Proponent and we did
21 originally under instruction from the Nova Scotia
22 Department of Environment and Labour.

23 I talked to about ten people who I
24 thought were appropriate sort of people. They were
25 fishermen, they were whale-watch operators, they were

1 people who had worked in the area that I had personal
2 knowledge of. They were agreed to serve on the CLC.

3 Within three weeks, I was down to three
4 members and I called the people and they told me that
5 they could not serve, that they had decided not to serve
6 on the CLC.

7 We did go ahead with the small number
8 and it was added to over the next year or so, until I
9 believe there were seven or eight members.

10 There was the Chair who was running a
11 local business, in fact a gas station and a convenience
12 store in Centreville. The local lady was of great
13 interest I think in the local area, and certainly, to my
14 knowledge, not a committed supporter nor opponent to the
15 project, and she was felt to be a very neutral sort of
16 Chair.

17 The purpose of the CLC was for us to
18 enable the flow of information from the public and from
19 the Proponent in both directions, and we were
20 disappointed that we had so few people representing the
21 local community.

22 The Chair continued to sit as Chair
23 through the 14 or 15 meetings, until we got into the
24 more formal stage of this process, into the Panel
25 process. She then declined to call any further

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1 meetings.

2 She will be making a presentation to
3 the Panel, and I believe it's on June the 26th, and
4 perhaps it would be more appropriate that the Panel asks
5 her specifically why she did not want to hold anymore
6 hearings or meetings of the CLC Committee.

7 Mr. GUNTER MUECKE: Thank you.

8 THE CHAIRPERSON: As I said, I think we
9 will terminate this line of questioning but there is
10 just one further thing I wanted to raise, and that is
11 that I wonder why it is that the 400 individuals that
12 you have on record as wanting jobs in this project were
13 not available for consultation or public involvement?

14 Mr. PAUL BUXTON: At this meeting?

15 THE CHAIRPERSON: No, I mean in the
16 public consultation processes in the community. You
17 have made the suggestion that you have 400 people on
18 record as wanting jobs emanating from this project.

19 Well those 400 people are potential
20 candidates for consultation, are they not?

21 Mr. PAUL BUXTON: Oh, absolutely. And
22 in the recent past, we have held two meetings on-site.
23 I think there were 23, 24 at the first meeting, 40 out
24 of the second meeting, and they come in on a regular
25 basis to consult with us.

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1 THE CHAIRPERSON: Thank you Mr. Buxton.
2 Mr. Buxton, we were going to break at noontime. It is
3 11:55. Before we get into a different topic, I think
4 this is probably a reasonable time to break. We will be
5 coming back at 1:00, okay?

6 Mr. PAUL BUXTON: Sounds good.

7 THE CHAIRPERSON: I will see you at that
8 time. Thank you all.

9 --- Lunch recess at 11:55 a.m.

10 --- Upon resuming at 1:00 p.m.

11 THE CHAIRPERSON: Ladies and gentlemen,
12 could I ask you to take your seats please? Thank you.
13 I have been handed two or three housekeeping things
14 which you should be aware of.

15 First of all, we have been having some
16 problems with the sound this morning, and I'm told that
17 they are working on improving the sound.

18 The second thing is that there are
19 headsets available and the headsets provide service in
20 English and French. Also, if anyone in the room is
21 hearing impaired in any way or has reduced hearing, I'm
22 told the headsets help so that they amplify the sound,
23 so that someone could consider using that. It is
24 available for that.

25 And then the third item which I should

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