



Bruce - info

**MEMORANDUM TO MINISTER
NOTE DE SERVICE AU MINISTRE**

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| Subject / Objet | Purpose for Memorandum / Raison d'être Decision and signature |
| | Prepared by / Préparé par Jean Crépault 957-0351 |
| Joint Panel Review of the Whites Point Quarry and Marine Terminal Project | Security Classification / Classification de sécurité PROTECTED |
| | File number / No. de dossier MIN-060318 |
| | Date OCT 20 2004 |

ISSUE

Approval of the agreement between you and the Minister of Environment and Labour, Nova Scotia, to establish a joint review panel for the environmental assessment of the Whites Point Quarry and Marine Terminal project; and approval of the appointment of the joint review panel members.

RECOMMENDATION

I recommend that you sign the attached:

1. duplicate copies of the agreement to establish a joint panel with Nova Scotia (a French translation is provided);
2. letters to appoint panel members; and
3. letters to the Minister of Fisheries and Oceans and the Minister of Transport.

JOINT REVIEW AGREEMENT

On June 26, 2003, the former Minister of Fisheries and Oceans referred the project to your predecessor for environmental assessment by a review panel. On August 11, 2003, Minister Anderson and his Nova Scotia counterpart released, for public comment, a project-specific draft agreement for the establishment of a joint review panel.

The draft agreement has been modified as a result of public comments received. The principal changes are to provide authority for the panel to finalize the guidelines for the proponent's preparation of its environmental impact statement and to hold public meetings on this matter. The agreement establishes the panel's terms of reference, which include the components of the review and associated timelines. It also sets out a collaborative panel selection process.

We had delayed submitting the final agreement to you for approval - as has Nova Scotia Environment and Labour to its Minister - at the request of Bilcon of Nova Scotia, Corporation. Bilcon is now the sole proponent and land leaseholder, having just completed ownership discussions with a previous partner, and has requested that we now proceed. We have received confirmation of Bilcon's ownership from its former partner, Nova Stone Exporters Inc.

PANEL MEMBERS

The Agency and Nova Scotia Environment and Labour together interviewed several potential panel candidates. I recommend that you appoint:


- Mr. Robert Fournier as chair; and
- Ms. Jill Grant and Mr. Gunter Muecke as members.

The Minister of Environment and Labour, Nova Scotia, supports the nomination of the above-mentioned individuals as members of the panel. In addition, he also agrees with the nomination of Mr. Fournier as chair. I am confident that all three candidates meet the criteria for panel membership, which are set out in the *Canadian Environmental Assessment Act*. That is, they are unbiased, free of any conflict of interest in relation to the project, and have knowledge or experience relevant to the anticipated environmental effects of the project. Biographical notes for each candidate are attached.

NEXT STEPS

If you and your Nova Scotia counterpart sign the agreement, the Agency and Nova Scotia Environment and Labour will finalize a joint news release announcing the agreement, the appointment of the panel members and the start of the joint review. We will consult your office on the announcement.

Shortly thereafter, the Agency will issue a news release announcing the federal Participant Funding Program. As well, the Agency and Nova Scotia Environment and Labour will issue a joint news release inviting public comment on draft guidelines for the preparation of the environmental impact statement.


Robert G. Connelly
Acting President

Attachments

c.c.: Samy Watson

BACKGROUND

Bilcon of Nova Scotia Corporation is proposing to construct and operate a basalt quarry, processing facility and marine terminal located on Digby Neck in Digby County, Nova Scotia. Quarrying is expected to take place on 120 hectares of land with production expected to be 2 million tons of aggregate per year. Approximately 4 hectares of new quarry would be opened each year.

Land-based permanent structures would include rock crushers, screens, closed-circuit wash facilities, conveyers, load-out tunnel, support structures and environmental control structures, land aggregate processing equipment, and wash-water pumping systems.

Marine facilities would include a conveyor, ship loader, berthing dolphins and mooring buoys, including anchoring of pile support structures to the basalt rock extending offshore and concrete caps as dolphins. Approximately 40,000 tonnes of aggregate would be produced for loading each week.

Potential issues associated with the project include effects on marine biota (e.g., Right Whale, Atlantic Salmon) and introduction of foreign species (via ballast water) in the Bay of Fundy, noise, dust and adverse effects on groundwater. The project has attracted media attention in the region along with public concern.

The project requires an authorization under the *Fisheries Act* and a permit under the *Navigable Waters Protection Act*. Prior to issuing these approvals, Fisheries and Oceans Canada and Transport Canada are required to undertake an environmental assessment pursuant to the *Canadian Environmental Assessment Act*. The project is also subject to an environmental assessment under the Nova Scotia *Environment Act*.

According to subsection 47(1) of the Nova Scotia *Environment Act*, the provincial Minister has the authority to adopt for the purposes of joint reviews all or part of the procedures of the other jurisdiction. This includes - at Nova Scotia's request in order to avoid provincial procedural delays - the appointment of the panel members by the federal Minister of the Environment.

The Agency and Nova Scotia Environment and Labour received approximately one hundred comments during the comment period on the draft agreement for the joint review of the project. The majority of the comments related to the opportunities and time allotted to public participation and timing of the appointment of review panel members. Neither the Agency nor Nova Scotia Environment and Labour support changes to the proposed timelines and recommend that the panel determine the location and time for public hearings. Other comments received related to the potential effects of the project on the environment. These are being considered in developing the guidelines for the preparation of the environmental impact statement.