

CANADA - NOVA SCOTIA

AGREEMENT


FOR THE ESTABLISHMENT OF A
FEDERAL - PROVINCIAL
ENVIRONMENTAL ASSESSMENT REVIEW PANEL


TO CONDUCT A PUBLIC ENVIRONMENTAL ASSESSMENT REVIEW

OF THE PROPOSED

KELLY ROCK LIMITED
GRANITE QUARRY PROJECT

VICTORIA COUNTY, NOVA SCOTIA


The Honourable Robert de Cotret
Minister of the Environment
Government of Canada


The Honourable John G. Leefe
Minister of the Environment
Province of Nova Scotia

Dated:
Ottawa 5 March 1991

Dated:
Halifax 5 March 1991

Witness: David Barnes

Witness: [Signature]

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Introduction

The purpose of this Agreement is to establish an Environmental Assessment Review Panel (Panel) to conduct a joint Federal - Provincial environmental review of the proposed Kelly Rock Limited - Granite Quarry Project, Victoria County, Nova Scotia.

The Agreement provides for the joint issuance of the Mandate of the Panel by the Ministers of Environment for Canada and Nova Scotia (the Ministers) and outlines minimum requirements for a public review process.

General principles of cost sharing, jurisdictional responsibilities and secretariat support are identified.

Terms of Agreement

1. The public review process will satisfy the requirements of the Environmental Assessment and Review Process (EARP) Guidelines Order (1984) and the Nova Scotia Environmental Assessment Act and Regulations (1989).
2. Panel members shall be nominated by Canada and Nova Scotia in consideration of the attached framework (Attachment 1) for member qualification and selection.
3. The Panel shall consist of five (5) members which are to be jointly appointed by Nova Scotia and by Canada. One appointment shall chair subject to the concurrence of the Ministers.
4. The public environmental review shall be conducted in accordance with the attached Mandate (Attachment 2) which has been jointly issued by the Ministers.
5. The public review process shall at a minimum contain the elements of the review as outlined in Attachment 3.

6. Following the public review the Panel shall prepare and submit its report to the Ministers and the Minister responsible for Industry, Science and Technology Canada.
7. Costs associated with the public review shall be shared between Canada and Nova Scotia in accordance with agreements to be developed by assigned officials representing both jurisdictions.
8. Secretariat support to the Panel will be shared with co-executive secretaries assigned by Nova Scotia and Canada.

ATTACHMENT 1

PANEL MEMBER SELECTION

Kelly Rock Project

Environmental Assessment Panel

The Kelly Rock Project is a proposal for a major aggregate quarry on Kelly's Mountain that could affect the environment of St. Anns Bay and surrounding lands, the social environment of the community and perhaps those areas of Kelly's Mountain that have spiritual significance to the traditionalist MicMac people of the Maritime Region. Persons appointed to the Panel should have backgrounds that allow the Panel to address all aspects of the project assessment including the environmental, economic and social impacts.

It is desirable therefore to have appointed to the Panel persons possessing backgrounds in one or more of the following fields:

- * environmental studies;
- * business development;
- * fisheries management;
- * mining engineering and materials handling;
- * structural geology and geochemistry; and
- * public consultation and moderation.

Collectively, Panel members should possess a knowledge of and have professional experience in areas of importance to the examination of the proposed quarry development. The Panel should also have a good understanding of the history, geography and social values of the community.

ATTACHMENT 2

MANDATE

OF THE

KELLY ROCK PROJECT ENVIRONMENTAL ASSESSMENT PANEL

Introduction

The Environmental Assessment Panel (Panel) has been jointly established by the Ministers of the Environment for Nova Scotia and Canada in accordance with the provisions of the Nova Scotia Environmental Assessment Act and under the authority of the federal Environmental Assessment and Review Process (EARP). The Proponent of the proposal under review is Kelly Rock Limited of Sydney, Nova Scotia.

Purpose

The purpose of this document is to define the mandate and responsibilities of the Panel.

Mandate of the Panel

The Panel is mandated to conduct a public environmental review of Kelly Rock Limited's proposed granite quarry and shipping facilities at Kelly's Mountain, Victoria County, Nova Scotia. Following its review the Panel will advise the Ministers of Environment of Nova Scotia and Canada and the Minister responsible for Industry, Science and Technology Canada whether the Project can be carried out in the proposed manner without causing significant adverse effects to the environment. The Panel shall submit its final report to the Ministers within fifteen (15) months of its appointment.

Scope of the Review

The scope of the review shall include matters relating to the environmental and community impacts of the design, construction and operation of the proposed quarry, processing facilities, marine shipping facilities, and other ancillary structures, buildings and activities associated with the Project.

Issues to be Addressed by the Panel

The Panel review shall address the environmental and the socio-economic effects of the proposal. The review shall include, but not be limited, to the following matters:

- 1) Comparison of reasonable alternatives to the proposal, including not proceeding (the null alternative), as well as alternative locations;
- 2) Environmental effects of the construction, operation and abandonment of the quarry, production facilities and the tide water shipping facility. Such effects should include those with regard to the air quality, noise levels, the quality and quantity of surface water and groundwater, the use of explosives, wildlife and bird populations, including the bird populations of "Bird Islands", rare and endangered species, fish species, and crustaceans and shellfish of commercial value; and
- 3) Socio-economic effects attributable to the construction, operation and abandonment of the quarry, production facilities and the tide water shipping facility. Such effects should include those with regard to lifestyle, aesthetics, land use, marine recreation, property values, employment, road traffic, Micmac spiritual sites, areas of archaeological and historic importance, traditional fishing access, and tourism.

ATTACHMENT 3

**KELLY'S MOUNTAIN AGGREGATE QUARRY
ENVIRONMENTAL ASSESSMENT REVIEW**

REVIEW PROCEDURES

1. Guideline Finalization

The Environmental Assessment Panel (the Panel) will review the Final Guidelines for the Preparation of Terms of Reference, Kelly Rock Limited, Kelly's Mountain Aggregate Quarry, April 9, 1990 prepared by the Environmental Assessment Administrator (the Administrator) in accordance with the requirements of Section 13(3) of the Nova Scotia Environmental Assessment Regulations. Following its review the Panel shall advise Kelly Rock Limited (the Proponent) that the Final Guidelines are adequate or provide the Proponent with additional requirements.

2. Terms of Reference

- (a) The Proponent shall prepare and supply to the Administrator ten (10) copies of the proposed Terms of Reference for the preparation of the Environmental Assessment Report.
- (b) The Administrator, in consultation with the Panel, shall review the proposed Terms of Reference and make recommendations to the Minister of the Environment for Nova Scotia regarding the acceptability of the proposed document.
- (c) The Proponent shall be advised of the Minister's decision within ten (10) days of receipt of the proposed Terms of Reference.
- (d) Upon approval, the Proponent shall submit the required number of copies of the final Terms of Reference to the Administrator, who shall provide a copy to the Panel.
- (e) If the draft Terms of Reference are unacceptable, the Proponent shall make the required changes and resubmit the document and sections 2(a) to 2(e) apply.

3. Environmental Assessment Report

- (a) The Proponent, on completion of the Report, shall submit the final draft of the Report to the Minister of the Environment for Nova Scotia and shall provide ten (10) copies to the Administrator.
- (b) The Administrator shall examine the draft Report for compliance with the Terms of Reference and make recommendations to the Minister of the Environment for Nova Scotia regarding the acceptability of the Report.
- (c) Within ten (10) days of receipt of the draft Report the Proponent shall be advised of the Minister's decision regarding its acceptability for public review.
- (d) If the Report is accepted by the Minister, the Proponent shall submit the required number of copies of the final report to the Administrator, who shall provide a copy to the Panel.
- (e) Within ten (10) days of receipt of the copies the Administrator shall publish a notice in one newspaper with circulation throughout the province of Nova Scotia, in one newspaper with circulation in the area of the proposed project and in the Royal Gazette announcing the release of the Report to the public.
- (f) If the draft Report is unacceptable, the Proponent shall make the required changes and resubmit the document and sections 3(a) to 3(f) apply.

4. Technical Review

- (a) The Administrator shall distribute copies of the Report to interested reviewers in municipal, provincial and federal government agencies and request written comments on or before forty (40) days from the date of release of the Report.
- (b) Within fourteen (14) days following the final date for comments from the agencies, the Administrator shall prepare a report and recommendation to the Minister of the Environment for Nova Scotia.

5. Public Review

- (a) On receipt of the Report (section 3(d)), the Panel shall initiate its public review process in accordance with its mandate and independent of the work of the Administrator.
- (b) The Panel shall announce its procedures and initiate a public information programme.
- (c) The Panel shall provide the public with an opportunity to comment on the adequacy of the Report.
- (d) If necessary, the Panel may require the Proponent to provide additional information.
- (e) The Panel shall announce the procedures and dates for Hearings.
- (f) The Panel shall conduct public Hearings and submit a report to the Ministers of the Environment for Nova Scotia and Canada and to the Minister responsible for Industry, Science and Technology Canada.

6. Ministerial Decision

Following receipt of the Report of the Panel, Ministerial decisions shall be made and announced in accordance with the requirements of the Nova Scotia Environmental Assessment Act and the federal Environmental Assessment and Review Process.