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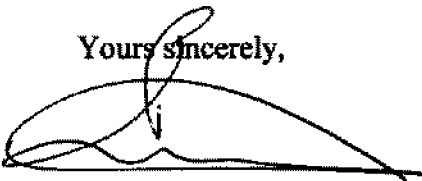
Canadian Environmental Assessment Agency  
1801 Hollis Street, Suite 200  
Halifax, Nova Scotia B3J 3N4  
Attention: Derek McDonald

Dear Derek,

I would like to take you up on your offer to review various sections of the EIS and am enclosing a draft covering section 6.4 of the Environmental Impact Assessment Process and Approvals and section 6.5 Regulatory Environment for your comments as to completeness from CEEA's perspective.

Your assistance is very much appreciated.

Yours sincerely,



Paul G. Buxton P.Eng.  
Project Manager

CEAA / ACEE  
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## **6.4.1 The Environmental Impact Assessment Process and Approvals**

### **6.4.1.1 Overview**

During the summer of 2003, by order of the Hon. Mr. David Anderson, Minister of the Environment, the Whites Point Quarry and Marine Terminal environmental assessment was placed under an Environmental Assessment (EA) by a Joint Federal - Provincial Review Panel.

The following sections address the arrangements surrounding the practice of environmental assessments and those by Review Panel in particular. Information on the environmental assessment Review Panel process is available on the Environment Canada (EC) and Canadian Environmental Assessment Act (CEAA) web sites and is specified below. Highlights of the EA processes applied specifically to the proposed Whites Point Quarry and Marine Terminal project follow the general information on the process. Specific project descriptions are found elsewhere with this EIS document and the project details will not be repeated.

#### **Federal Environmental Assessment**

Environmental assessment is a process to predict the environmental effects of proposed initiatives before they are carried out. An environmental assessment:

- Identifies possible environmental effects
- Proposes measures to mitigate adverse effects
- Predicts whether there will be significant adverse environmental effects, even after the mitigation is implemented

There are two main purposes of environmental assessment:

- Minimize or avoid adverse environmental effects before they occur
- Incorporate environmental factors into decision making

Timely and efficient environmental assessments result in more informed decision-making that supports sustainable development.

By considering environmental effects and mitigation early in the project planning cycle, environmental assessment can have many benefits, such as:

- An opportunity for public participation
- Increased protection of human health
- The sustainable use of natural resources
- Reduced project costs and delays
- Minimized risks of environmental disasters

- Increased government accountability

Many important steps help to identify possible environmental effects and mitigative measures.

- Determine if an environmental assessment is required
- Identify who's involved
- Plan the environmental assessment - scope of the proposed project
- Conduct the analysis and prepare the environmental assessment report
- Review environmental assessment report
- Make environmental assessment decision
- Implement mitigation and follow-up program, as appropriate

Public participation is an important element of an environmental assessment process. It strengthens the quality and credibility of environmental assessments. The public is an important source of local and traditional knowledge about a proposed project's physical site and likely environmental effects. Through public participation activities, project proponents can obtain information, better understand and respond to public concerns, and inform people about decisions.

### **The Act**

The Canadian Environmental Assessment Act is the legal basis for the federal environmental assessment process. The Act sets out the responsibilities and procedures for carrying out the environmental assessments of projects, which involve federal government decision-making. A number of regulations have been established under the Act. Some are essential to the functioning of the Act. Others apply in special circumstances.

The four essential regulations are the:

- Inclusion List Regulations
- Law List Regulations
- Exclusion List Regulations
- Comprehensive Study List Regulations

The federal environmental assessment process is applied whenever a federal authority has a specified decision-making responsibility in relation to a project, also known as a "trigger" for an environmental assessment. Specifically, it is when a federal authority:

- Proposes a project
- Provides financial assistance to a proponent to enable a project to be carried out

- Sells, leases, or otherwise transfers control or administration of federal land to enable a project to be carried out
- Provides a license, permit or an approval that is listed in the Law List Regulations that enables a project to be carried out

If a project does not involve any of the “triggers” to the Act, an environmental assessment under the Act may still be possible. If the Minister of the Environment receives a petition from individuals or interested parties requesting a project to be referred to a mediator or Review Panel and the Minister considers the project has the potential to cause significant adverse environmental effects across boundaries between non-federal and federal lands, or across provincial or international boundaries, then the Minister has the authority to require an assessment of the transboundary effects in some circumstances.

### **Types of Environmental Assessment**

The Act describes different types of environmental assessment that may be required: screenings (including class screenings), comprehensive studies, mediations and Review Panels. All EA are conducted under the auspices of the Federal agency / department most affected or in control of the proposed works. That agency is referred as the responsible authority or RA. For additional information on screenings, comprehensive studies and mediations, the reader is referred to the CEAA web site.

### **Review Panel**

A Review Panel is a group of experts selected on the basis of their knowledge and expertise and appointed by the Minister of the Environment. The Minister also appoints one of the panel members as chairperson.

A Review Panel is appointed to review and assess, in an impartial and objective manner, a project deemed to present likely adverse environmental effects. A Review Panel may also be appointed in cases where public concerns warrant it. Such projects may be referred by the responsible authority to the Minister of the Environment for assessment by a Review Panel. Only the Minister of the Environment may order an assessment by a Review Panel. A Review Panel submits its recommendations to the Minister of the Environment and to the responsible authority (RA) for subsequent action and decision.

Review Panels have the unique capacity to encourage an open discussion and exchange of views. They also inform and involve large numbers of interested groups and members of the public by allowing individuals to present evidence, concerns and recommendations at public hearings. A panel allows the proponent to present the project to the public and explain the projected environmental effects, and provides opportunities for the public to hear the views of government experts about the project.



- Section 28(c) Comprehensive Study list Regulations of the CEAA, relating to marine terminals for vessels larger than 25,000 DWT

March 2003 Proponent submission of Project Description to regulator

The intended and stated outcome of these preliminary meetings and actions during the early part of 2003 was the definition of the most favoured EA process as a Comprehensive Study. The regulator group notified the Proponent that a Memorandum of Undertaking would be prepared to harmonize the Federal and Provincial EA Requirements and also a Draft Scoping Document for the comprehensive study to be made available for public and proponent review and comment. That initiative was never completed.

In June of 2003, The Hon. Robert Thibault, Minister of Fisheries and Oceans and also the RA, requested the Minister of the Environment to refer the project for a Review Panel in accordance with paragraph 21(b) of the CEAA. The Minister of the Environment consented to the request and decided to submit the Whites Point Quarry and Marine Terminal project to a EA panel review.

#### **6.4.1.3 Joint Panel Review Process and Timeline**

By means of a joint press release on August 11, 2003, Federal Minister of the Environment David Anderson and Nova Scotia Minister of Environment and Labour Ronald Russell, released a draft Agreement on the joint environmental assessment panel review process for the proposed Whites Point Quarry and Marine Terminal in Digby County for public comment,

"In deciding to refer this project to a Review Panel," stated Minister Anderson, "I believe that a public process will help Nova Scotians better understand the potential impacts of this project. Public discussion and debate are crucial elements in the review process."

Following the comment period for the draft agreement a final agreement was signed by the Federal and Provincial Governments. The Joint Review Panel formation was formally announced in Halifax on November 5, 2004. A three-member panel chaired by Dr. Robert O. Fournier was set up to review the proposed project. The panel was established on the basis of the Agreement, establishing the panel, setting out the rules for conducting the joint review process, the procedures for appointing panel members and the panel's terms of reference.

On 10 Nov 2004, the agencies invited the public to comment on draft Guidelines for the preparation of the Environmental Impact Statement (EIS) for the Whites Point Quarry and Marine Terminal project in Digby County. The Guidelines identify the issues the proponent will be required to address in its environmental assessment of

the proposed project. The Guidelines also provide direction to the proponent on how to describe and assess these issues, and how to structure the EIS that will be submitted to the joint Review Panel.

On 2 December 2004, the joint Review Panel invited the public to attend public meetings where their views were sought on the draft Environmental Impact Statement (EIS) Guidelines. These scoping meetings were a part of the public participation process that began November 10, 2004 with the release of the draft EIS guidelines for public comment.

The times and locations for the scoping meetings were:

- January 6:** Digby Neck Consolidated School, Sandy Cove, 7:00 p.m. - 10:00 p.m.
- January 7:** Digby Regional High School (cafeteria), Digby, 7:00 p.m. - 10:00 p.m.
- January 8:** Horton High School (cafeteria), Wolfville, 1:00 p.m. - 4:00 p.m.
- January 9:** Meteghan Fire Hall, Meteghan, 1:00 p.m. - 4:00 p.m.

As a product of these sessions and also the written comments received, the Review Panel released the final Guidelines on 31 March 2005 for the preparation of the Environmental Impact Statement (EIS). In transmitting the Guidelines to the proponent, the Panel asked Bilcon to provide a schedule indicating the anticipated timeframe to produce the EIS. Bilcon offered a tentative date for the completion of the EIS as 31 Oct 2005.

Following the receipt of the EIS from the proponent, the public will be invited to assist in the EIS review by submitting written comments over a period of at least 90 days, on the statement's conformity to the Guidelines. Once the Panel has determined the EIS is complete and that no additional information is required, public hearings will be scheduled.

The Panel will hold public hearings in locations determined by the Panel within the area likely to be affected by the Project, or in any area reasonably close to where the Project is proposed to be carried out, where appropriate.

The Panel shall deliver its Report and recommendations to the Minister of the Environment and to the Minister of Fisheries and Oceans within ninety days (90) following the close of the public hearings.

#### **6.4.1.4 Stakeholders**

For the convenience of the reader we list our understanding of the various stakeholders with interest in the Whites Point Quarry and Marine Terminal project.

**Proponent**

Bilcon of Nova Scotia as project owner

**Community**

- Residents of communities of Digby Neck and surrounding areas
- Municipal, Provincial and Federal Governments
- Various commercial and environmental associations
- Potential future employees as quarry and screening plant operators, ship loaders, labourers, supervisors, office workers and management
- Commercial suppliers of goods and services to the project
- Near shore fishers of the Bay of Fundy close to the Marine terminal

**Governments**

The principal agencies are listed. The specific roles of Government agencies are detailed in section 6.5 of this document.

Municipality of Digby as regulator and tax collector

Province of Nova Scotia as regulator

- NS Department of Environment and Labour
- NS Department of Natural Resources
- NS Department of Finance

Government of Canada as regulator

- Environment Canada
- Canadian Environmental Assessment Agency
- Fisheries and Oceans Canada
- Transport Canada
- Revenue Canada
- Health Canada





## **6.5 Regulatory Environment**

### **6.5.1.1 Overview and approach**

Three levels of government; Municipal, Provincial and Federal administration regulate commercial operations in Nova Scotia. General matters relating to zoning, noise and other bylaws, building permits etc. are administered under the authority of Municipal Councils. The Province of Nova Scotia regulates matters relating to environmental approvals, labor concerns, and land leases under provincial authorization. Some aspects of commercial operations are regulated under provincial taxation laws with respect to road tax, business tax and requirements relating to workers compensation. All businesses are regulated under federal corporate taxation law. In this particular case, where environmental issues are deemed important federal issues, regulations under the Departments of the Environment, Fisheries and Oceans Canada and Transport Canada among others, will apply.

The following sections will address the various acts and requirements that will apply to the proposed Whites Point Quarry and Marine Terminal project in sufficient detail to meet the requirements of the EIS guidelines.

In the case of the Federal statutes, those Acts and Regulations that apply strictly to the actual Quarry and Marine Terminal installation have been listed. There are a great many regulations that apply to all shipping vessels operating in Canadian waters. Of these, only those that pertain to the proposed project defined parameters and limits have been identified. For example, "Aids to Navigation Protection Regulations under the Shipping Act" has been identified as being relevant to near shore navigation but "Boat and Fire Drill Regulations" as not being project specific.

Clearly the project conducting an approved and lawful business will have to adhere to all the laws of the land, All of the legislation that is most relevant to the current EA approvals and associated proposed commercial operations has been listed.

The preceding section of text addressed all of the matters relating to the environmental assessment processes and therefore those topics will not be repeated in detail here. In accordance with the instructions presented in the EIS guidelines, the various pieces of legislation tabulated in the prescribed manner have been listed.

### **6.5.1.2 Municipality of Digby**

#### **By Laws and Regulations**

The Municipality of Digby advises that bylaws dealing with Buildings and Noise are enforced. The Municipality does not have a Municipal Development plan and does

not impose any zoning restrictions or exercise any planning guidelines for establishing industries or projects.

Assessments of Land, building and equipment values performed by NS tax assessors forms the basis of the value of taxation revenues collected by the Municipality.

Table 6A presents a list of the relevant Municipal legislation.

### **6.5.1.3 Government of Nova Scotia**

#### **Acts and Regulations**

The government of Nova Scotia under the authority of the Environment Act and Labour Standards Code will regulate all of the on site activities relating to operations, ranging from the construction activities associated with the access and infrastructure, quarry development and marine terminal construction phase. During operational phases of quarry and ship loading worker safety and monitoring of environmental controls will be the prime areas of regulator concern.

Issuance of a lease for a water lot to accommodate the marine shipping terminal and ship berthing structure is required from the Province of Nova Scotia.

Site reclamation planning, bonding with progressive and final execution is normally regulated by Nova Scotia. In the case of the Whites Point Quarry and Marine Terminal as a joint Canada / Nova Scotia Environmental Assessment, some of the on going environmental and final reclamation requirements may also be approached on a joint Canada / Nova Scotia basis. It is possible that the environmental monitoring and regulator management may also be performed on a joint basis as well. The conditions of EA release will specify the final arrangements, particularly the responsibilities assigned to the various levels of government regulators.

Matters of provincial taxation assessment are a provincial responsibility. Harmonized Sales Tax (HST) is a provincial concern although administered by the CCRA. Likewise the provincial share of corporate and employee income tax will be of interest to the Province of Nova Scotia.

Table 6A presents a list of the relevant Nova Scotia legislation.

### **6.5.1.4 Government of Canada**

#### **Acts and Regulations**

The Government of Canada's prime responsibilities within Environmental Assessment under Environment Canada, is mandated by virtue of the DFO responsibility for fish habitat and also the administration of the Navigable Waters Protection Act and the Canada Health Act. The details of the EA process are given in Sec 6.4.

Following release from the joint EA, ongoing environmental monitoring and regulator management may also be performed on a joint basis as well. The conditions of EA release will specify the final arrangements, particularly the responsibilities assigned to the various levels of government regulators.

Issues relating to marine shipping including communication licenses and navigational related fees are regulated by Transport Canada under the Canada Shipping act. Taxation measures are administered by CCRA that will include corporate and employee income tax.

**6.5.1.5 Table 6A presents a list of the relevant legislation.**



Whites Point Quarry and Marine Terminal – Environmental Impact Statement

<u>Act, Regulation or Bylaw</u>	<u>Agency</u>	<u>Project Activity</u>
<b><u>Government of Canada</u></b>		
Canada Wildlife Act and Regulations	EC	Operational Phase
Migratory Birds Convention Act and Regulations	EC	Operational Phase
Species at Risk Act	EC	Operational Phase
Canadian Environmental Assessment Act and Regulations	Canadian Environmental Assessment Agency and DFO as Responsible Authority	EA approval
Canadian Environmental Protection Act	Marine Environment Division Environmental Protection Service Environment Canada	Project operational Phase Hazardous Wastes
Canadian Environmental Protection Act - Part VI (Ocean Dumping Regulations, 1988)	Marine Environment Division Environmental Protection Service Environment Canada	Marine Terminal
Fisheries Act Metal Mining Liquid Effluent Regulations	Department of Fisheries and Oceans	Works or Undertakings Affecting Fish Habitat
Navigable Waters Protection Act Navigable Waters Works Regulations	Canadian Coast Guard Department of Fisheries and Oceans	Works or Construction Activity in Navigable Waters
Canada Shipping Act Aids to Navigation Protection Regulations Air Pollution Regulations Anchorage Regulations Charts and Nautical Publications Regulations	Canadian Coast Guard , Department of Fisheries and Oceans and Transport Canada	Shipping operations

Whites Point Quarry and Marine Terminal – Environmental Impact Statement

<u>Act, Regulation or Bylaw</u>	<u>Agency</u>	<u>Project Activity</u>
Eastern Canada Vessel Traffic Services Zone Regulations Garbage Pollution Prevention Regulations Non-Pleasure Craft Sewage Pollution Prevention Regulations Oil Pollution Prevention Regulations Pollutant Discharge Reporting Regulations Pollutant Substances Regulations Publication of Standards Regulations	Canadian Coast Guard , Department of Fisheries and Oceans and Transport Canada	Shipping operations Worker Health and Safety

Whites Point Quarry and Marine Terminal – Environmental Impact Statement

<u>Act, Regulation or Bylaw</u>	<u>Agency</u>	<u>Project Activity</u>
Ship Radio Inspection Fees Regulations Ship Station Radio Regulations Ship Station Technical Regulations Tonnage Regulations Vessel Traffic Services Zones Regulations VHF Radiotelephone Practices and Procedures Regulations	Canadian Coast Guard , Department of Fisheries and Oceans and Transport Canada	Shipping operations Worker Health and Safety
Transportation of Dangerous Goods Act, 1992 and Regulations	Transport Canada	Transporting and Handling Dangerous Goods
Explosives Act Explosives Regulations	Natural Resources Canada	EA approval and Quarry operational Phase
Transportation Act Ammonium Nitrate Storage Facilities Regulations	Canadian Transport Commission	Storage of Ammonium Nitrate at Site
Transportation Act Flammable Liquids Bulk Storage Regulations	Canadian Transport Commission	Storage of Flammable Liquids at Site
National Building Code of Canada	Canadian Commission on Building and Fire Codes	Facilities
National Building Code of Canada	Canadian Commission on Building and Fire Codes	Facilities
National Fire Code of Canada	Canadian Commission on Building and Fire Codes	Facilities
National Plumbing Code of Canada	Canadian Commission on Building and Fire Codes	Facilities
Radio communication Act	Industry Canada	Ship to shore communication



**6.5.1.6 Regulatory Approvals and guidelines**

Pending release from EA and subject to any stipulations or restrictions as may be recommended by the Review Panel, the proposed Whites Point Quarry and Marine Terminal will need to apply for and secure a number of approvals and authorizations from all levels of Government. Generally these approvals are required of any project regardless of the nature of EA. Table 6B lists the various approvals organized by level of government and in accordance with the instructions in the Guidelines for EIS.

**Table 6B Regulatory Approvals**

<b><u>Name of Permit / Approval Regulation / Act</u></b>	<b><u>Regulatory agency</u></b>	<b><u>Activity</u></b>	<b><u>When Required</u></b>
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**Municipality of Digby**

Building Permits	Municipality	Facilities	At time of Construction
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**Province of Nova Scotia**

Release from EA Environment Act and Regulations	Review Panel, NSDEL Joint with EC	EA	Concurrent with Project Release
Crane Operator: Certificate of Qualification	NSDEL	To operate Mobile Cranes, Boom Trucks, Overhead Travelling Cranes or Tower Cranes.	At time of Construction
Blaster's Certification		Quarry Blasting personnel	In advance of operational start up
Boilers and Pressure Vessels: Certificate of Installation and Inspection	NSDEL	Operating Equipment	In advance of operational start up
Industrial Approval Environment Act and Regulations	NSDEL	Quarry and Marine Terminal operations. This is a key approval defining operational parameters such as operating hours, traffic restrictions, blasting procedures, dust, noise and vibration restrictions, effluent discharge limits, compensation for project related environmental injury or inconvenience; site reclamation program and bonding, project surety requirements etc.	In advance of operational start up
Reclamation Bond Environment Act and Regulations Policy	NSDEL	Assessed and held by NSDEL as security for the performance of agreed site reclamation.	In advance of operational start up

**Whites Point Quarry and Marine Terminal – Environmental Impact Statement**

HST (Harmonized Sales Tax) Registration	Provincial Tax Commission	Business wanting to sell goods and/or services in Nova Scotia, either wholesale or retail.	At start of commercial operations
Sewage Disposal (On-Site) Permit	NSDEL	Required to install a septic tank and / or disposal system	The Province requires that this permit be obtained before approval can be given to install a disposal system on a building lot. Municipality will demand permit as prerequisite to issue of building permit.
Water approval Environment Act and Regulations	NSDEL	Permits the extraction of surface and groundwater for project use in quantities greater than 23,000 litres per day	In advance of operational start up
Water Lot Grant	DNR	Assigns ownership of submerged land in coastal waters to permit the construction of large wharves, causeways, infills or breakwaters	In advance of construction

<b><u>Name of Permit / Approval Regulation / Act</u></b>	<b><u>Regulatory agency</u></b>	<b><u>Activity</u></b>	<b><u>When Required</u></b>
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**Government of Canada**

Release from EA Environment Act and Regulations	Review Panel, EC Joint with NSDEL	EA	Concurrent with Project Release
Permit for Construction Within Navigable Waters	DFO / Coast Guard	5. (1) No work shall be built or placed in, on, over, under, through or across any navigable water unless (a) the work and the site and plans thereof have been approved by the Minister, on such terms and conditions as the Minister deems fit, prior to commencement of construction;	Prior to the construction of Marine works
Authorization for Works or Undertakings Affecting Fish Habitat	DFO	35. (1) No person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat.- approval	Prior to the construction of Marine works
Explosives Transportation Permit ;Magazine Licence	NRCAN	Explosive transport storage use on site	Prior to construction
Approval under the National Building Code of Canada	Department of Government Services and lands		Prior to construction
Approval under the National Fire Code	Department of Government Services and Lands		Prior to construction