

Statement of Bradley Yeaton  
Fishery Officer  
Liverpool Detachment

Subject: SERVICE OF INSPECTOR'S DIRECTION ON MARK LOWE, 12 DECEMBER 2002.

At 1321 hrs on the above date I located Mr. Mark Lowe at 20 Scotia Street, Bridgewater, Nova Scotia. I served the original signed Inspector's Direction on Mr. Lowe at this time. Mr. Lowe stated that he knew what it was about, being his piece of land and the silt fence. I proceeded to explain the Inspector's Directive and read the directions from pages 2 and 3 word for word.

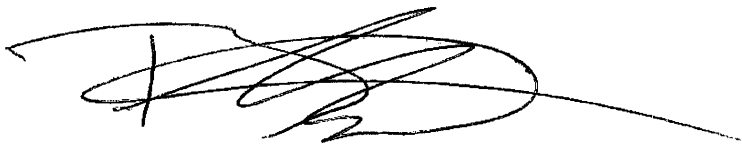
Mr. Lowe requested an explanation of what a TYPE 2 silt fence is. I explained it to him and informed him that any contractor should know what is required to properly install one.

Mr. Lowe stated that he planed on putting rocks in place, and I stated that he has to follow the Inspector's Direction. The requirement for this work to be done immediately was emphasised to Mr. Lowe indicating that he should not wait any length of time to get the process started. I informed Mr. Lowe of the seriousness of such directions and that the next step is court action.

Mr. Lowe stated to me that he would get his guys to start this right away and that he would contact Thomas Wheaton about this.

I asked Mr. Lowe if he had any questions about what was required. He answered no.

I thanked Mr. Lowe for his time, left a business card and departed the residence at 1330 hrs.



17 Dec /02



Fisheries  
and Oceans


Pêches  
et Océans

Southwest Nova Scotia

Sud-Ouest De La Nouvelle  
Ecosse

280 Logan Road  
Bridgewater, Nova Scotia  
B4V 3X1

280, rue Logan  
Bridgewater, Nouvelle-Ecosse  
B4V 3X1

Original  
Served on  
Mark Lowe  
@ 1321 hrs  
12 Dec/2002  
@ 20 Scotia St  
Bridgewater NS  
December 12, 2002  


## INSPECTOR'S DIRECTION

Pursuant to Section 38(6) of the Fisheries Act

To: Nova Stone Exporters Inc.  
Registry Number 3058438  
10 Church Street  
Truro, Nova Scotia  
B2N 5B9  
and

Corinna Kincaid, Director and  
20 Scotia Street  
Bridgewater, Nova Scotia  
B4V 1E5  
Telephone (902) 521-5583

Mark Lowe  
20 Scotia Street  
Bridgewater, Nova Scotia  
B4V 1E5  
Telephone (902) 521-5583

### Description of Occurrence:

While in the area, I inspected the conditions on your property located on Highway #3 (Civic Number to be determined), Dayspring, Lunenburg County, Nova Scotia (N44<sup>o</sup>, 22".13 & W064<sup>o</sup>, 27".71) PID Number 60238540. This site is located along the eastern bank of the LaHave River within the portion identified as 'Federal Harbour Jurisdiction'.

While on-site I observed that a large amount of fill has been placed on this property adjacent to the LaHave River. The fill that has been placed appeared to consist of mainly unconsolidated sand and gravel and various size cobble and boulders mixed with silt and some loam, etc. The remnants of a type 1 silt fence was noted near the toe of the slope, however this fence was broken down and overtopped in many areas (or buried) and thus offers no protection against the entrance of sediment into the LaHave river (considered to be Fish Habitat). Sediment is defined as a "deleterious substance" under the Fisheries Act. It is my opinion that sediment deposition is currently occurring during the tidal flow and precipitation events. Additionally, there is an imminent danger of the further deposit of a deleterious substance (sediment) into the LaHave river from this site due to the instability of the placed infill, close proximity to the LaHave river, and lack of appropriate sediment controls.

**Excerpts from the Fisheries Act:**

**Section 35(1): No person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat.**

**Section 36(3): No person shall deposit or permit the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water.**

**Fish Habitat: Spawning grounds and nursery, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out their life processes.**

It is my view that this area constitutes fish habitat as defined under the Fisheries Act and potentially provides migratory, nursery, rearing and feeding habitat for one or more fish species important to the fisheries of Southwest Nova Scotia.

These species and their important habitat features may have already been impacted and are in danger of further impact from sediment deposition and any contained contaminants into the waterbody, as well as uncontrolled run-off from recently disturbed areas. It is for this reason that you are being ordered to take the following actions:

Pursuant to Section 38(6) of the Fisheries Act you are directed to take the following reasonable measures consistent with safety, and conservation of fish and fish habitat to prevent the above mentioned occurrence or to counteract, mitigate, or remedy, any adverse effects that have resulted or may reasonably be expected to result from the above mentioned occurrence:

- 1. Cease any and all infilling activities on this site.*
- 2. Immediately install a TYPE 2 silt fence along the entire perimeter (river-side) of the infilled area, as close as possible to the existing toe-of-slope, ensuring that the sediment barrier fabric is well secured to the bottom.*
- 3. The integrity of the Silt fence is to be monitored no less than once every three days and any deterioration is to be repaired as soon as possible.*
- 4. Within 14 days of receiving this Inspectors Direction, submit a long-term stabilization plan, prepared by a qualified professional, to Mr. Thomas Wheaton, A/Area Habitat Coordinator, Fisheries and Oceans, Canada, Habitat Management Division, 280 Logan Road, Bridgewater, Nova Scotia, B4V 3X1, telephone: 902-527-5585.*

Please notify the undersigned at 902-527-5585 as soon as item #2 is completed so that an on-site meeting can be conducted to assess whether the placement of the Type 2 Silt fence has been completed to the satisfaction of our Department.

**Name of Inspector Designated under  
Section 38 of the Fisheries Act:**

**Thomas J. Wheaton**

Department of Fisheries and  
Oceans – Habitat Management  
Division (DFO-HMD).

Signature of Inspector

*Thomas J. Wheaton* December 12, 2002

**NOTES:**

- 1) **Compliance with this order does not preclude any legal action this department may take with respect to this matter.**
- 2) **Failure to comply with the whole or part of the direction of an Inspector is a violation of Section 40(3)(f) of the Fisheries Act.**

Copy: DFO-Conservation and Protection, Liverpool