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May 28<sup>th</sup>, 2014

**RE:** Request that the Black Point Quarry Project be referred to a Review Panel and Comments on the *Draft Environmental Impact Statement (EIS) Guidelines* for the Project (Ref. No 80064)

Dear Ministers Aglukkaq and Delorey and CEEA Officials:

We are pleased to submit our comments on *the Draft EIS Guidelines* for the Black Point Quarry Project (Reference Number: 80064). We are also taking this opportunity to request this project be referred to a Review Panel environmental assessment.

This project will entail quarrying 188 ha of coastal land and an additional 28 ha will be used for stockpiles and project-related uses, the construction of a completely new marine shipment facility intended to accept Panamax-size vessels, and traffic of these large vessels into a relatively pristine coastal area. The project is also large in temporal scope, with an intended lifetime of at least 50 years. Impacts of the project may also be large: there are potentially significant and irreversible impacts on fish and fish habitats, aquatic life, migratory birds, traditional use of the land by Aboriginal people, Species at Risk, wetlands, and cultural heritage. There is also local concern about the implications of the project on the environment and community values. A project of this size and scope and with such large implications deserves the highest level of assessment possible. For this reason, we are respectfully requesting you refer this project to a Review Panel.

Please find below our detailed comments of the *Draft Environmental Impact Statement Guidelines* for the Black Point Quarry Project. We hope these additions will be made to the Guidelines so that we are able to fully assess the impacts of this project. To the extent possible, we have organized the comments according to the sections laid out in the *Draft Guidelines*. Where no applicable heading exists, we have created a suggested heading.

Thank-you for your consideration of our comments and our request to refer this project to Review Panel. We look forward to receiving your considered response.

Sincerely,

Gretchen Fitzgerald  
Director

# **Specific Comments on the *Draft EIS Guidelines for the Black Point Quarry Project***

(CEAA Reference Number [80064](#))

## **Sustainable Development**

CEAA 2012 defines sustainable development as:

“sustainable development” means development that meets the needs of the present, without compromising the ability of future generations to meet their own needs.

The proponent should be required to describe how this project will enhance sustainable development, as laid out in the Purpose of CEAA 2012 as:

4 (h) to encourage federal authorities to take actions that promote sustainable development in order to achieve or maintain a healthy environment and a healthy economy.

Impacts on sustainable development should include discussion of the following:

- biodiversity impacts;
- impacts on renewable resources & industries;
- impacts on ecosystem integrity and resilience;
- impact on future generations ability to make sustainable use of renewable resources; and
- long-term social and economic benefits of the project.

## **5.2 Regulatory framework and the role of government**

The proponent should include discussion of the principles and goals laid out in the NS Environmental Goals and Sustainable Prosperity Act.

The proponent should also indicate how the project will impact our ability to meet provincial and federal greenhouse gas emissions targets.

The proponent should clearly lay out how the provincial and federal environmental assessment rules and regulations are being applied to this project.

## **5.4 The proponent**

The proponent should also describe its record for environmental performance and that of its contractors, etc.

The relationship between the proponent and the municipality should also be fully described in terms of contracts, shared benefits of the project, lease agreements, etc.

## **9.1 Existing Environment**

### **9.1.2 Biophysical environment**

Surveys undertaken for wildlife, birds, flora and fish should be performed at appropriate times of year to determine habitat use (i.e. migratory birds should be monitored when migration is occurring, freshwater fish and / or amphibian surveys should not be undertaken when fish and amphibians are dormant, etc.).

Baseline information on non-native species should be provided.

Information on potential invasive species introductions via project activities should be described, as well as ballast water volumes to be discharged at the site, and potential ports of origin for this ballast (since open ocean ballast water exchange is not 100% efficient at replacing coastal ballast with open ocean water).

Traditional knowledge of habitats (i.e. fishers' knowledge of marine fish distribution) should be incorporated in the assessment.

Existing biodiversity levels and potential impacts on biodiversity should be described.

#### *Atmospheric Environment and Climate*

Studies of ambient noise should include ambient vibration measurements as well as noise, and the proponent should then indicate how vibration levels will change because of the project.

#### *Species at Risk and Species of Conservation Concern*

This section should include the following additions:

- include species being evaluated to be listed as SAR
- describe species assessed by COSEWIC as being of conservation concern (threatened, vulnerable, endangered, etc.)
- identify species for which critical habitat has not been identified and / or for which recovery plans are not in place

### **9.1.3 Human environment**

The proponent should include here culturally significant stories and songs relevant to the site.

## **10.1 Environmental effects**

The proponent should be reminded that as a joint environmental assessment, the definition of "environmental effect" they indicate in their assessment should encompass both definitions laid out in CEAA 2012 and the NS Environment Act and its Regulations.

#### *Application of precautionary approach*

We think this section should be revised to encompass the precautionary approach or principle (as laid in Section 4(2) of CEAA 2012). The proponent should clearly identify where inadequate information or certainty exists about impacts and outcomes and err on the side of caution in evaluating these impacts.

In addition to the items laid out in the Draft Guidelines, the proponent should:

- clearly identify areas where uncertainty exists about outcomes;
- use verifiable scientific research and high quality information;
- be transparent about their decision-making and public participation processes;
- ensure that liability and insurance regimes are established that hold the proponent and its contractors accountable for adverse effects and associated damages, and their limitation and control, throughout the life of the project, including its decommissioning and rehabilitation; and
- maintain the position that the onus of proof shall lie with the proponent to demonstrate that a proposed action will not lead to serious or irreversible environmental damage.