

ANNEX A

Regulatory approvals and responses obtained for Wharf 402 Repairs, Burin, Newfoundland and Labrador:

1. Fisheries and Oceans Canada
2. Environment Canada
3. Government of Newfoundland and Labrador,
Department on Environment and Conservation, Water
Resources Management Division

From: XNFL, FPP
Sent: July-30-13 11:47 AM
To: Cathy Martin
Subject: RE: Project Notification - Wharf Repairs, Burin, NL

Attention: Ms. Cathy Martin
Public Works and Government services Canada
P.O. Box 4600
St. John's, NL
A1C 5T2

Dear Ms. Martin

Title: Wharf Repairs – DFO, Small Craft Harbours, Burin, NL
DFO File No.: 13-HNFL-NA1-00240

Fisheries and Oceans Canada – Fisheries Protection Program (DFO) received your proposal on July 18th, 2013. Your proposal has been reviewed to determine whether it is likely to result in impacts to fish and fish habitat which are prohibited by the habitat protection provisions of the Fisheries Act, or by those prohibitions of the Species at Risk Act that apply to aquatic species.*

We understand that you propose to:

- Remove existing creosote timber cribwork at the edge of the shoreline, as well as some grounding bed timbers and concrete decking at the end of the wharf
- Place 5 new cribs along the existing wharf.
- Construct a new area of rock fill which will be topped with slab on grade, adjacent to the existing L-shaped wharf. The rock fill area and new cribs will run along the length of the existing wharf for a combined distance of 48m.

To reduce potential impacts to fish and fish habitat we are recommending the following mitigation measures be included into your plans:

- The in-water use of heavy equipment is not permitted. The operation of such equipment must be confined to dry stable areas.
- All vehicles and equipment must be clean and in good repair, free of mud and oil, or other harmful substances that could impair water quality.
- Efforts should be made to limit silt arising as a result of stone placement in the work area. Work should be completed at low (or falling) tide.
- There should be no silt and/or sediment, concrete, or any other substance deleterious to fish or fish habitat released to watercourses and/or water bodies as a result of these works.
- Shoreline areas disturbed during the proposed undertaking must be stabilized to prevent erosion.

- Any required excavation to seat and place the timber crib should be carried out during low tide and low wind/wave conditions to minimize turbidity, and to minimize the area that might be affected by turbidity immediately adjacent to the project area.
- Waste materials should not be deposited in any inland or tidal waters
- Material used for the timber crib ballast should be obtained from an approved quarry site and should be clean, free of fine materials and of sufficient size to resist displacement during peak flood/high energy events.
- Shoreline disturbance should be restricted to the immediate work area
- Please refer to applicable FACTSHEETS at the following link for suggested mitigation techniques:
<http://www.nfl.dfo-mpo.gc.ca/e0005361>
- Local fishermen in the area should be advised of the project and starting date.
- A copy of this letter should be provided to the successful contractor.
- It will be the responsibility of both parties to this work to ensure that proper fish habitat mitigation measures as may be necessary are put in place.
- The Fisheries office at Marystown should be notified in advance [telephone (709) 279-7863] of the start-up of this works.

Provided that the mitigation measures described above are incorporated into your plans, DFO has concluded that your proposal is not likely to result in impacts to fish and fish habitat. You will not need to obtain a formal approval from DFO in order to proceed with your proposal.

A copy of this e-mail should be kept on site while the work is in progress.

However, if your plans have changed or if the description of your proposal is incomplete you should submit a "Request for Review under the Fish Habitat Protection Provisions of the Fisheries Act" (Application form can be found at <http://www.nfl.dfo-mpo.gc.ca/e0005354>) and send the completed form to FPP-NL@dfo-mpo.gc.ca.

Please be advised that any impacts to fish and fish habitat which result from a failure to implement this proposal as described could lead to corrective action such as enforcement.

In addition, under the new Fisheries Act, there is a requirement to notify DFO of any harmful alteration or disruption, or any destruction of fish habitat that has not been authorized. Such notifications should be directed to FPP-NL@dfo-mpo.gc.ca or via telephone at (709)772-4140.

Triage & Planning Unit
 Fisheries Protection Division
 Ecosystems Management Branch
 Fisheries and Oceans Canada
 80 East White Hills Road
 PO Box 5667
 St. John's NL A1C 5X1
 telephone: (709) 772-4140
 facsimile: (709) 772-5562
 email: FPP-NL@dfo-mpo.gc.ca

c.c.

D. Walsh, Detachment Supervisor - Marystown Detachment (email)



Environment Canada Environnement Canada

Environmental Protection Operations
Environmental Stewardship Branch
6 Bruce Street
Mount Pearl, NL A1N 4T3

1 August 2013

Cathy Martin
Public Works and Government Services Canada
P.O. Box 4600
St. John's, NL, A1C 5T2

Dear Ms. Martin:

RE: Wharf Repairs, Burin, NL

EAS 2013-066

As requested in your email of 18 July 2013, Environment Canada (EC) has reviewed the project description for the above-noted project. Please note that our review comments, in areas related to Environment Canada's mandate, are being provided to support your environmental management process for this project.

The project consists of widening the approach of the existing wharf in Burin, NL. The scope of work includes:

- Minor demolition of the existing creosote timber cribwork at the edge of the shoreline, and removal of some grounding bed timbers and concrete decking at the end of the wharf where five new cribs will be connected to the existing structure;
- Placement of the five new cribs along the existing wharf; and
- Construction of a new area of rock fill, which will be topped with slab on grade, adjacent to the existing L-shaped wharf. The rock fill area and new cribs will run along the length of the existing wharf for a combined distance of 48m.

There may be a requirement to remove some material to accommodate for crib seating. The material will be disposed of as appropriate, likely at an approved landfill site or utilized on the uplands, following analytical analysis. Construction debris will be disposed of appropriately as per regulatory approvals.

Environment Canada is also responsible for administering several statutes including the *Department of Environment Act*, *Fisheries Act* (Section 36), *Canadian Environmental Protection Act*, *Canada Water Act*, *Canada Wildlife Act* and the *Migratory Birds Convention Act*, which are focused on promoting sustainable development, protecting the environment, conserving certain renewable resources and reporting on environmental conditions. Environment Canada is also the lead federal department in promoting a variety of federal policies and programs including, *A Wildlife Policy for Canada*, the *Toxic Substances Management Policy*, and *Pollution Prevention - A federal strategy for action*. Stemming from these responsibilities, EC possesses expertise relevant to this proposed project that should be considered by the proponent, in conducting the environmental review of this project.

REVIEW COMMENTS

Regulatory Requirements

Fisheries Act

The proponent should be aware of the general applicability of Section 36(3) of the *Fisheries Act* which states: “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 substances or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water”. Environmental protection and mitigation measures should reflect the need to comply with Section 36(3) of the *Fisheries Act*. For example, measures should be taken to prevent substances such as lubricating fluids, fuels, etc. from being deposited into water frequented by fish, and drainage from construction and operational drainage must not be harmful to fish.

Migratory Birds Convention Act

Migratory birds, their eggs, nests, and young are protected under the Migratory Birds Convention Act (MBCA). Migratory birds protected by the MBCA generally include all seabirds except cormorants and pelicans, all waterfowl, all shorebirds, and most landbirds (birds with principally terrestrial life cycles). Most of these birds are specifically named in the Environment Canada (EC) publication, *Birds Protected in Canada under the Migratory Birds Convention Act*, Canadian Wildlife Service Occasional Paper No. 1.

Under Section 6 of the Migratory Bird Regulations (MBR), it is forbidden to disturb, destroy or take a nest or egg of a migratory bird; or to be in possession of a live migratory bird, or its carcass, skin, nest or egg, except under authority of a permit. It is important to note that under the current MBR, no permits can be issued for the incidental take of migratory birds caused by development projects or other economic activities.

Furthermore, subsection 5.1 of the MBCA describes prohibitions related to deposit of substances harmful to migratory birds:

- 5.1 (1) No person or vessel shall deposit a substance that is harmful to migratory birds, or permit such a substance to be deposited, in waters or an area frequented by migratory birds or in a place from which the substance may enter such waters or such an area.
- (2) No person or vessel shall deposit a substance or permit a substance to be deposited in any place if the substance, in combination with one or more substances, results in a substance — in waters or an area frequented by migratory birds or in a place from which it may enter such waters or such an area — that is harmful to migratory birds.

It is the responsibility of the proponent to ensure that activities are managed so as to ensure compliance with the MBCA and associated regulations.

Species at Risk

The proponent should be reminded that the prohibitions under the Species at Risk Act (SARA) are now in force. The complete text of SARA, including prohibitions, is available at www.sararegistry.gc.ca.

Canadian Environmental Protection Act

The proponent should also be aware of the potential applicability of the *Canadian Environmental Protection Act* (CEPA). The *Canadian Environmental Protection Act* enables protection of the environment, and human life and health, through the establishment of environmental quality

objectives, guidelines and codes of practice, and the regulation of toxic substances, emissions and discharges from federal facilities, international air pollution, and disposal at sea.

Disposal at Sea

It is stated in the project description that it may be necessary to remove some material will be appropriately disposed, likely at an approved landfill site or utilized on the uplands, following analytical analysis. It should be clarified that “upland” is above the ordinary high water mark in order to determine that a Disposal at Sea permit is not required. If at any point project activities will include the placement or disposal of dredged or excavated materials into seawater or brackish waters (waters with salinity levels above 0.5 ppt measured under conditions of high tide, low flow), the proponent is advised to contact EC, to verify applicability of Part 7 Division 3 of the Canadian Environmental Protection Act (contact Ms. Natasha Boyd at 709-772-2161 or Natasha.Boyd@ec.gc.ca).

Migratory Birds

The Canadian Wildlife Service of Environment Canada (EC-CWS) has reviewed the above project and offers the following comments.

Fuel Leaks

The Canadian Wildlife Service of Environment Canada recommends that the proponent adhere to best practices with regard to fuelling and servicing equipment, using biodegradable fluids, fuel spills and spill contingency plans, to protect migratory birds and their habitats (described in more detail under **Management of Hazardous Materials and Waste**). Furthermore, the proponent should ensure that contractors are aware that under the *Migratory Birds Regulations*, “no person shall deposit or permit to be deposited oil, oil wastes or any other substance harmful to migratory birds in any waters or any area frequented by migratory birds.”

Species at Risk

The following species at risk may occur within the study area: Olive-sided flycatcher (Threatened) and Red Crossbill (*Percna* subspecies, Endangered), may be present, though they are unlikely to be found within the project footprint. From December through April, Harlequin Duck (Special Concern) may forage in rough waters near the entrances and breakwaters of harbours in the area. To avoid disturbance to Harlequin Duck, EC-CWS recommends following the above advice concerning coastal infrastructure activities. We request that sightings of any species at risk be reported to EC-CWS.

Other Coastal Infrastructure Activities

EC-CWS has the following recommended beneficial management practices for working on shorelines:

- Project staff should not approach concentrations of seabirds, sea ducks or shorebirds.
- Project staff should use the main navigation channels to get to and from the site; and should have well muffled vessels and machinery.
- Project staff should undertake any measures that may minimize or eliminate discharge of oily waste into the marine environment.
- Food scraps and other garbage left on beaches and other coastal habitats can artificially enhance the populations of avian and mammalian predators of eggs and chicks. The proponent should ensure that no litter (including food waste) is left in coastal areas by their staff and/or contractors

- If there is any noticeable change in seabird numbers or distribution at the location during operations, EC-CWS should be notified.

Suspension of Sediments

The disturbance of substrate during dredging increases sediment concentrations and turbidity in the water column. This disturbance may alter light penetration, temperature and water chemistry regimes, and may affect photosynthesis. The CCME (Canadian Council of Ministers of the Environment) *Canadian Environmental Quality Guidelines* (1999) recommend that, for protection of marine waters, human activities should not cause suspended solids levels to increase by more than 10% of the natural conditions expected at the time. The guidelines also recommend that no solid debris, including floating or drifting materials or settleable matter, be introduced into marine and estuarine waters.

On-land Disposal and Site Disturbance

It is stated in the project description that it may be necessary to remove some material by dredging (C. Martin, personal communication, 22 July 2013). The on-land disposal method should ensure that the dredged material will not be re-deposited in the ocean through environmental factors, such as heavy precipitation, storm surge, and/or significant wave action.

In general, impacts related to onshore disturbance should be designed so as to:

- place a priority on pollution prevention;
- facilitate compliance with the general prohibition against the deposit of a deleterious substance into waters frequented by fish (Section 36 of the *Fisheries Act*); and
- respect applicable Canadian Council of Ministers of the Environment (CCME) Canadian Environmental Quality Guidelines.

In terms of site disturbance the following 'best practices' should be reflected in efforts to manage impacts so as to respect the above-noted objectives:

- install siltation control structures (e.g. silt curtains, cofferdams, sediment fences) prior to beginning any activities involving disturbance of the site and work along the shoreline if appropriate;
- schedule work to avoid periods of heavy precipitation;
- maintain a vegetated buffer zone, as appropriate and where possible, to protect surface waters;
- immediately stabilize any disturbed areas along the shoreline to prevent erosion;
- monitor the integrity and effectiveness of the siltation control structures daily for the duration of the project; and
- upon completion of the project, only remove silt control structures when suspended sediment concentrations within any contained water have returned to background conditions.

Management of Hazardous Materials and Waste

In order to ensure compliance with Section 36 (3) of the *Fisheries Act* and with the *Migratory Birds Convention Act* and related Regulations, provisions for the management of hazardous materials (e.g. fuels, lubricants) and wastes (e.g. contaminated soil, sediments, waste oil) should be identified and implemented so as to ensure the risk of chronic and accidental releases is minimized.

Additionally, the following mitigation recommendations are made with respect to the transport, storage, use and disposal of petroleum products and toxic substances which, when employed, may minimize impacts to nearby receiving waters:

- Even small spills of oil can have very serious effects on migratory birds and fish. Therefore, every effort should be taken to ensure that no oil spills occur in the area. Refuelling and maintenance activities should be undertaken on level terrain, at least 30m from any surface water (including shorelines), on a prepared impermeable surface with a collection system to ensure oil, gasoline and hydraulic fluids do not enter surface waters. Waste oil should be disposed of in an approved manner.
- Biodegradable alternatives to petroleum-based hydraulic fluid for heavy machinery and chainsaw bar oil are commonly available from major manufacturers. Such biodegradable fluids should be considered for use in place of petroleum products whenever possible, as a standard for best practices.
- Drums of petroleum products or chemicals should be tightly sealed against corrosion and rust and surrounded by an impermeable barrier in a dry, water-tight building or shed with an impermeable floor.
- In order to ensure that a quick and effective response to a spill event is possible, spill response equipment should be readily available on-site. Response equipment, such as adsorbents and open-ended barrels for collection of cleanup debris, should be stored in an accessible location on-site. Personnel working on the project should be knowledgeable about response procedures. The proponent should consider developing a contingency plan specific to the proposed undertaking to enable a quick and effective response to a spill event. The proponent should indicate how the contingency plans will be prepared, and response measures implemented, to reflect site-specific conditions and sensitivities. In developing a contingency plan, it is recommended that the Canadian Standards Association publication Emergency Planning for Industry CAN/CSA-Z731-03, be consulted as a useful reference.
- The proponent should report any spills of petroleum or other hazardous materials to the Environmental Emergencies 24 Hour Report Line (St. John's 709-772-2083; other areas 1-800-563-9089).

I trust that this information will be of assistance in your review of this project. If you wish to discuss these comments or have further questions, please do not hesitate to contact me at 709-772-4313 or via email at jerry.pulchan@ec.gc.ca at your convenience.

Yours truly,



Jerry Pulchan
Environmental Assessment Analyst
Environmental Protection Operations Directorate- Atlantic

Attachment

Cc: J. Corkum
M. Hingston



Government of Newfoundland and Labrador
Department of Environment and Conservation
Water Resources Management Division

File Reference #

December 15, 2010

Paul Curran, P. Eng.
Regional Engineer
Small Crafts Harbours
St. John's NL A1C 5X1

Dear Mr. Curran:

**Re: Section 48 Permitting Requirements under the Water Resources Act –
Wharves, Breakwaters, Slipways and Boathouses**

This letter is to inform you that as of January 1, 2011 permits will no longer be required under Section 48 of the *Water Resources Act* for the construction and maintenance of wharves, breakwaters, slipways and boathouses. Therefore blanket permit ALT5055 is canceled effective January 1, 2011. Water Resources Management Division is currently preparing guidelines on environmental controls which should be followed during the construction and maintenance of wharves, breakwaters, slipways and boathouses. These guidelines will be posted on the department's website once they are completed. In the interim, we have attached a list of terms and conditions which we recommend be followed when completing these types of projects.

This letter does not affect other activities, such as dredging, which will continue to require permits under Section 48 of the Act. As such existing blanket permit ALT5054 remains valid.

This letter does not release Small Crafts Harbours from the obligation to obtain permits and approvals from other concerned provincial, federal and municipal agencies for wharves, breakwaters, slipways and boathouses.

Please do not hesitate to contact this office at **729-5713** if you have any questions.

Yours truly,

A handwritten signature in black ink, appearing to read "Clyde McLean".

Clyde McLean, P.Eng
Manager Water Investigations

cc. Shawn Kean
Haseen Khan

RCM/MSWord 2003
SCH Wharves Breakwaters Permitting Dec 15 2010.doc

PO Box 8700, St. John's NL A1B 4J6 tel: 709.729.2563 fax: 709.729.0320 www.gov.nl.ca/env/water

Environmental Terms and Conditions

General Alterations

1. All work must take place within the legal boundaries of the proponent or with the approved of the land owner. The constructed works must comply with all other terms and conditions provided in the Crown Lands grant, lease or license for occupancy.
2. Any work that must be performed below the high water mark must be carried out during a period of low water levels.
3. Any flowing or standing water must be diverted around work sites so that work is carried out in the dry.
4. Water pumped from excavations for work areas, or any runoff or effluent directed out of work sites, must have silt and turbidity removed by settling ponds, filtration, or other suitable treatment before discharging to a body of water. Effluent discharged into receiving waters must comply with the *Environmental Control Water and Sewage Regulations, 2003*.
5. All operations must be carried out in a manner that prevents damage to land, vegetation, and watercourses, and which prevents pollution of bodies of water.
6. The use of heavy equipment in streams or bodies of water is not permitted. The operation of heavy equipment must be confined to dry stable areas.
7. All vehicles and equipment must be clean and in good repair, free of mud and oil, or other harmful substances that could impair water quality.
8. During the construction of concrete components, formwork must be properly constructed to prevent any fresh concrete from entering a body of water. Dumping of concrete or washing of tools and equipment in any body of water is prohibited.
9. Wood preservatives such as penta, CCA or other such chemicals must not be applied to timber near a body of water. All treated wood or timber must be thoroughly dry before being brought to any work site and installed.
10. The use of creosote treated wood is strictly prohibited within 15 metres of all bodies of fresh water in the province.
11. Any areas adversely affected by this project must be restored to a state that resembles local natural conditions. Further remedial measures to mitigate environmental impacts on water resources can and will be specified, if considered necessary in the opinion of the Department of Environment and Conservation.

12. All waste materials resulting from this project must be disposed of at a site approved by the regional Government Service Center of the Department of Government Services. The Department of Government Services may require samples to be submitted for testing and analysis.
13. Periodic maintenance such as painting, resurfacing, clearing of debris, or minor repairs, must be carried out without causing any physical disruption of any watercourse. Care must be taken to prevent spillage of pollutants into the water.
14. The owners of structures are responsible for any environmental damage resulting from dislodgement caused by the wind, wave, ice action, or structural failure.
15. Sediment and erosion control measures must be installed before starting work. All control measures must be inspected regularly and any necessary repairs made if damage is discovered.
16. Fill or ballast material must be of good quality, free of fines or other substances including metals, organics or chemicals that may be harmful to the receiving waters.
17. Armour stone must be placed around cribbing, where required, to prevent erosion.
18. Suitable booms must be deployed around construction sites to contain any floating debris that might otherwise be carried away. All booms must be properly maintained and remain in place until all work is completed.
19. The proponent must consult with the Department of Fisheries and Oceans should the total combined footprint of the dock exceed 15 metres squared (15m^2) and/or it is made of concrete or steel sheeting or any other skirting that isolates the inside of the crib from the rest of the water.
20. This work must not interfere with the operation of any sanitary or storm sewer outfalls in the area. If it is determined that your work adversely impacts any outfalls, you will be responsible for any repairs, modifications or associated costs to correct the problem.
21. Before commencing work on this project, approval must first be obtained from any municipality in which the work is planned.