



Environment and  
Climate Change Canada

Environnement et  
Changement climatique Canada

Environmental Stewardship Branch  
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Dartmouth, NS B2Y 2N6

March 30, 2016

Mr. Myles Thompson  
Public Works and  
Government Services Canada  
1713 Bedford Row  
Halifax, NS B3J 3C9

Dear Mr. Thompson:

**RE: Lighthouse Rehabilitation  
Cape Sable Island, Nova Scotia**

**EAS# 2016-016**

Environment and Climate Change Canada (ECCC) has reviewed the project notification information provided regarding the above-noted project received with your March 16<sup>th</sup> electronic notification. It is understood that the project will involve the repair and rehabilitation of Cape Sable Lighthouse. Both interior and exterior elements of the lighthouse will be rehabilitated and/or reconstructed, however, the bulk of the work will be done on the interior of the lighthouse.

ECCC has specialist knowledge and information relevant to the proposed project that stems from our mandate as set out in various statutes including the *Migratory Birds Convention Act (MBCA)*, *Canadian Environmental Protection Act*, *Canada Water Act*, *Canada Wildlife Act*, *Species at Risk Act*, *Department of Environment Act*, and the *Fisheries Act* (Section 36). ECCC is also the lead federal department in promoting a variety of federal policies and programs concerning the environment.

## **REVIEW COMMENTS**

### **Wildlife and Habitat**

#### Applicable Legislation

The *Migratory Birds Convention Act* protects most bird species in Canada however, some families of birds are excluded. The complete list of species under protection can be found at <https://ec.gc.ca/nature/default.asp?lang=En&n=421B7A9D-1>.

Under Section 6 of the *Migratory Birds Regulations* (MBR), no person shall 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, Section 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 comply with the MBCA and regulations.

Further information can be found at <http://www.ec.gc.ca/paom-itmb/default.asp?lang=En&n=C51C415F-1>

The proponent should also be reminded that the prohibitions under SARA are now in force. The complete text of SARA, including prohibitions, is available at [www.sararegistry.gc.ca](http://www.sararegistry.gc.ca).

## **Water Quality**

Pollution prevention and control provisions of the *Fisheries Act* are administered and enforced by ECCC. Subsection 36(3) of the *Fisheries Act* prohibits “anyone from depositing or permitting 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 such water”.

It is the responsibility of the proponent to ensure that activities are managed so as to prevent the release of substances deleterious to fish. In general, compliance is determined at the last point of control of the substance before it enters waters frequented by fish, or, in any place under any conditions where a substance may enter such waters.

## **Management of Materials, Substances and Waste Products**

### *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.

### Provisions for Management of Hazardous Waste

If hazardous wastes or hazardous recyclable materials are to be transported out of the province for disposal or recycling (e.g., waste oil), then the *Interprovincial Movement of Hazardous Waste Regulations* (IMHWR) (<http://ec.gc.ca/lcpe-cepa/eng/regulations/detailReg.cfm?intReg=68>) administered by ECCC under CEPA 1999 may apply. These regulations set out the conditions which must be met in order to monitor and track the transboundary movement of hazardous wastes in Canada to ensure that they are recycled or disposed of in an environmentally sound

manner. The proponent should be aware that under the IMHWR, all hazardous wastes and hazardous recyclable materials must be transported by an authorized carrier within Canada and must be accompanied by a manifest form or movement document.

### **Accidents and Malfunctions**

Hazardous materials (e.g. fuels, lubricants, hydraulic oil) and wastes (e.g. waste oil) should be managed so as to minimize the risk of chronic and/or accidental releases. For example, proponents are encouraged to undertake refueling and maintenance activities on level terrain, at a suitable distance from environmentally sensitive areas including watercourses, and on a prepared impermeable surface with a collection system. Biodegradable alternatives to petroleum-based hydraulic fluid for heavy machinery are commonly available from major manufacturers. Such biodegradable fluids should be considered for use in place of petroleum products whenever possible.

Proponents are encouraged to prepare contingency plans that reflect a consideration of potential accidents and malfunctions and that take into account site-specific conditions and sensitivities. The Canadian Standards Association publication, *Emergency Preparedness and Response*, CAN/CSA-Z731-03, is a useful reference.

All spills or leaks, such as those from machinery or storage tanks, should be promptly contained and cleaned up (sorbents and booms should be available for quick containment and recovery), and reported to the 24-hour environmental emergencies reporting system (Maritime Provinces 1-800-565-1633)

The Canadian Wildlife Service (CWS) of ECCC is currently reviewing the project information; therefore, additional comments will be forthcoming. I trust these comments will be useful in your review. If you have any questions, please contact me at 902-426-4287 or [Jacqueline.Ginnish@canada.ca](mailto:Jacqueline.Ginnish@canada.ca).

Yours truly,

***Original Signed by Jacqueline Ginnish***

Jacqueline Ginnish  
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