



P.O. Box 5667
St. John's, NL
A1C 5X1

September 1st, 2021

Your file *Votre référence*

Our file *Notre référence*

21-HNFL-00454

Regional Engineer, Small Craft Harbours
North Atlantic Fisheries Center
80 East White Hills Road, St. John's, NL
A1C 5X1

Attention: Mr. Paul Curran, P. Eng.

**Subject: Re: Wharf Construction, Bay de Verde, Conception Bay, NL –
Implementation of Measures to Avoid and Mitigate the Potential for
Prohibited Effects to Fish and Fish Habitat**

Dear Mr. Curran:

The Fish and Fish Habitat Protection Program (the Program) of Fisheries and Oceans Canada (DFO) received your proposal on August 6th, 2021. We understand that you propose to:

- Construct a new 43m x 6.1m timber crib and span finger pier wharf from the existing marginal wharf;
- Construct a rock mattress to -5.25m LNT for the new cribs to rest on; and
- Construction will be carried out using dump trucks, cranes, barges, manual labour and an excavator operating from existing structures on land.

Our review considered the following information:

- Request for Review, site photos and engineering diagrams received on August 6th, 2021 (C. Martin to N. Collins).
- Meeting between O'Rourke/Curran (et.al.) June 29, 2021

Your proposal has been reviewed to determine whether it is likely to result in:

- the death of fish by means other than fishing and the harmful alteration, disruption or destruction of fish habitat which are prohibited under subsections 34.4(1) and 35(1) of the *Fisheries Act*; and
- effects to listed aquatic species at risk, any part of their critical habitat or the residences of their individuals in a manner which is prohibited under sections 32, 33 and subsection 58(1) of the *Species at Risk Act*.; and

- The introduction of aquatic species into regions or bodies of water frequented by fish where they are not indigenous, which is prohibited under section 10 of the *Aquatic Invasive Species Regulations*.

The aforementioned outcomes are prohibited unless authorized under their respective legislation and regulations.

To avoid and mitigate the potential for prohibited effects to fish and fish habitat (as listed above), we recommend implementing the measures listed below:

- Limit the duration of in-water works to only activity related to the above noted project elements so that it does not diminish the ability of fish to carry out one or more of their life processes (spawning, rearing, feeding, migrating);
- Conduct in-water undertakings and activities during periods of low tide and low wind/wave conditions;
- Implement erosion and sedimentation controls as needed to avoid the introduction of sediment into any waterbody during all phases of work
 - Install effective erosion and sediment control measures prior to beginning work in order to stabilize all erodible areas;
 - Regularly inspect and maintain the erosion and sediment control measures and structures during all phases of the project;
 - Regularly monitor the watercourse for signs of sedimentation during all phases of the project and take corrective action;
 - Keep the erosion and sediment control measures in place until all disturbed ground has been permanently stabilized;
 - Remove all exposed, non-biodegradable sediment control materials once the site is stabilized;
 - Schedule work to avoid wet, windy, and rainy periods that may result in high flow volumes and/or increase erosion and sedimentation;
- Operate machinery on land in stable dry areas, or from stable floating platforms;
- All materials placed in or near water should be clean and free of fines, concrete or any other deleterious substance and of sufficient size to resist displacement by wave action;
- Rock material should not be end dumped; rather, it should be placed on station using an excavator or similar equipment;
- When works are completed, shoreline and approaches should be restored to original condition; and
- Be aware of AIS species in the area and take precautions with respect to any vessel traffic and gear movement between affected and unaffected areas to prevent introductions and spread (<https://www.dfo-mpo.gc.ca/species-especies/ais-eae/index-eng.html>):
 - All equipment used in water should be cleaned, drained and dried on land before and after use for the purposes of preventing the introduction or spread of aquatic invasive/non-indigenous species; and
 - Report any AIS and non-indigenous species to DFO at 1-855-862-1815 or AISEAE.XNFL@dfo-mpo.gc.ca.

Provided that you incorporate these measures into your plans, the Program is of the view that your proposal is not likely to result in the contravention of the above mentioned prohibitions and requirements.

Should your plans change or if you have omitted some information in your proposal, further review by the Program may be required. Consult our website (<http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>) or consult with a qualified environmental consultant to determine if further review may be necessary. It remains your responsibility to remain in compliance with the *Fisheries Act*, the *Species at Risk Act* and the *Aquatic Invasive Species Regulations*.

It is also your *Duty to Notify* DFO if you have caused, or are about to cause, the death of fish by means other than fishing and/or the harmful alteration, disruption or destruction of fish habitat. Such notifications should be directed to (<http://www.dfo-mpo.gc.ca/pnw-ppe/contact-eng.html>).

We recommend that you notify this office and the local Conservation and Protection (C&P) office at least 10 days before starting your project and that a copy of this letter be kept on site while the work is in progress. It remains your responsibility to meet all other federal, territorial, provincial and municipal requirements that apply to your proposal.

Please note that the advice provided in this letter will remain valid for a period of 1 year from the date of issuance or for the duration of the construction activity. If you plan to execute your proposal after the expiry of this letter, we recommend that you contact the Program to ensure that the advice remains up-to-date and accurate. Furthermore, the validity of the advice is also subject to there being no change in the relevant aquatic environment, including any legal protection orders or designations, during the 1 year period.

If you have any questions with the content of this letter, please contact Jack O'Rourke by cell at (709) 725-1286 or by email at John.ORourke@dfo-mpo.gc.ca. Please refer to the file number referenced above when corresponding with the Program.

Yours sincerely,

John O'Rourke
Senior Biologist – Hydro, Flows & Linear Development
Regulatory Review, Fish and Fish Habitat Protection Program

CC: Ms. Cathy Martin, Environmental Services, PWGSC.

