



**Environment
Office of the Minister**

PO Box 442, Halifax, Nova Scotia, Canada B3J 2P8 • www.novascotia.ca/nse

Our File number: 23000-30-123

APR 18 2016

Re: Notice of Appeal Form (February 18, 2016)

Approval No. 2008- 061384-A03 dated January 20th, 2016 to Alton Natural Gas Storage LP (the "Industrial Approval "or IAA03)

I am writing regarding your Notice of Appeal Form dated February 18, 2016 respecting Approval No. 2008-061384-A03, dated January 20th, 2016 to Alton Natural Gas Storage LP.

After careful review of the "grounds for appeal", the information you submitted in support of your appeal, and the applicable statutory provisions, your appeal has been dismissed.

In dismissing the appeal, the reasons for my decision are provided as follows, with reference to the grounds documented in the Notice of Appeal:

1. There has not been any public consultation, by either Alton Gas or the provincial government.

This ground refers to the public consultation completed for the 2007 Environmental Assessment Approval. NSE recognizes the Industrial Approval captures the requirements in the 2007 Environmental Assessment Approval. Note, however, that under the *Environment Act*, environmental assessment approvals cannot be appealed.

For the 2007 environmental assessment, the proponent issued two press releases, launched a project website, held a presentation in Brookfield (advertised through letters of invitation, electronic notifications and media interviews), and held an open house at the Brookfield Fire Hall (publicized via a newsletter distributed to over 1,200 stakeholders and area residents, an ad in the Truro Daily News on November 18th and 19th, and radio announcements on the local radio station). Alton Gas committed to notify the public on the progress of the project through website updates and a regular newsletter. In addition, Alton committed through the Environmental Management Plan to develop an Issues Resolution System, which will include a procedure to deal with project-related complaints/issues from landowners and/or the public. Once the project was registered for environmental assessment, the proponent advertised as required in two newspapers and indicated the deadline to submit comment to NSE. This was also done when they were required to submit additional information.

In addition to the consultation associated with the 2007 environmental assessment, the proponent implemented an interactive website accessible to the public where environmental, safety and community information can be viewed at any time. They also created and circulated a community newsletter providing update and contact information. In November 2015, the company established their Community Liaison Committee (CLC) and hired a community liaison advisor in advance of the operation of the brine storage facility.

Alton Gas did meet with [redacted] along with scientists on October 21, 2014, which provided an opportunity for members to express concerns and seek resolution or the consideration thereof. In addition, an invitation to join the CLC was made to [redacted] in late 2015. This invitation was declined.

The *Approval and Notification Procedures Regulations* under the *Environment Act* gives the Minister discretion to undertake consultation for any project. However, consultation is not mandatory. Under NSE process for the consideration and administration of consultation, any application for an industrial approval preceded by an environmental assessment approval is not subject to consultation. Notwithstanding this, the mechanisms in the Industrial Approval for the CLC and Issues Resolution allow for continual interaction with the proponent and on-going communication.

In light of this and the finding that the public consultation for the 2007 environmental assessment conformed to the procedure for the time, ground #1 for appeal cannot be supported.

2. COSEWIC listing that is pending SARA listing

The Department recognizes the importance of all species habitat including striped bass. Notwithstanding the COSEWIC decisions as asserted by the Appellants, the Industrial Approval has been designed to address concerns involving the potential impact on the environment.

The [redacted] concerns are acknowledged, however ground #2 cannot be supported.

3. Flawed Studies on behalf of Alton Gas

The scientific reports prepared and considered in the application for the Industrial Approval have given due consideration to the potential effects on fish species at various life stages at brine outflow. Conclusions indicate that the effects are expected to be inconsequential or that on-going monitoring is needed at the commencement of the brine release and water intake to further assess the impacts (if any). The terms and conditions of the Industrial Approval can then provide for a mitigated response.

Based on this, the concerns at ground #3 cannot be supported.

4. Conflicting scientific data

The appeal was not supported by proof of conflicting scientific data between the reports completed on behalf of Alton Gas and COSEWIC reports for early stage requirements of striped bass. The appeal also questions the experience of those who may have been involved in the studies completed for this project. The appeal, however did not identify the study participant(s) believed to have been involved in the project, or comment on their associated experience/qualifications, or lack thereof.

The appeal is concerned that the proponent's studies have focused on the striped bass with little assessment of other species that use the river system. The scientific reports states the effects on fish species as a result of the introduction of brine in the Shubenacadie River may not be a significant issue as species found in the Shubenacadie River and associated estuary are regularly exposed to a change in salinity of 0-30 part per thousand (ppt) due to the 30 km tidal influence from the Bay of Fundy. Therefore, many of the fish species in the River have the ability to adapt to salinity variations and may be unaffected by the changes in salinity.

Another report identifies 19 species of fish and their life cycles, and discusses the implications of the Alton Natural Gas Storage project. This report examined the life cycle of species other than striped bass and concludes that on-going monitoring will be conducted to track numbers during stages and seasonal cycles.

As a result of these findings, this ground cannot be supported.

5. Alton Gas site flooding

The appeal references flooding at the Alton Gas site in fall 2014; however, no evidence to support this ground is provided. The review of the appeal has determined that the top elevation of the brine storage pond is 1.4 metres above the top elevation of the river dyke, thereby providing protection from flooding. The review could not confirm the river had flooded to the extent to have impacted the brine pond.

Based on this information, this ground cannot be supported.

6. Brine discharge and water intake

The appeal is concerned that the proponents can release brine into the river at any point in the tidal cycle.

The Industrial Approval outlines conditions to address this concern. This includes conditions to restrict brining activities during spawning periods and to monitor the intake to determine if impingement is occurring. The operation of the facility (operation of the intake) will need to occur before any entrainment or impingement impacts, if present, can be assessed and addressed.

In the event of an effect or potential for an effect, the Administrator has the option to modify the Site Monitoring Plan assess the risk of repeated exposure to uptake risk based on any new or determined science as a result of monitoring. Note also, that the appeal references an earlier version of the Site Monitoring Plan that has since been updated and replaced.

Based on the above, ground #6 cannot be supported.

7. Alton Gas has repeatedly refused to meet with the

A Community Liaison Committee (CLC) has been established and its maintenance is a condition of the Industrial Approval. The CLC facilitates on-going communication between stakeholders and Alton Gas. Any concerns with the operation of the CLC can be brought to the attention of and subsequently addressed (as appropriate) by the Administrator or Minister.

The CLC is an acceptable forum by which to address any concerns. On this basis, ground #7 cannot be supported.

8. There is no provision in the approval for adequate monitoring

The appeal notes concern with adequate notification being provided by the proponent to the Department in the event of a pumping malfunction. As a condition of the Industrial Approval, the proponent must immediately contact the Department regarding any incidents of non-compliance.

The Environment Act requires a person responsible for a release that has caused, is causing or may cause an adverse effect to immediately report it to the Department. On this basis, this ground cannot be supported.

9. Public do not realize the amount of salt that will be entering the river

Control settings for the release of brine are provided in the Industrial Approval to ensure the minimum and maximum range of salinity released to the river is controlled. All organisms within the estuary can tolerate salinities within the prescribed salinity range.

Based on this information, this ground cannot be supported.

Pursuant to Section 138 of the *Environment Act*, you have thirty (30) days to appeal my decision to the Supreme Court.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Miller', written over a horizontal line.

**Margaret Miller, MLA
Minister**