



**Environment
Office of the Minister**

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Our File number:
23000-30-131
10700-40- 52260

Bill Horne
c/o Paul Miller
Paul B. Miller Law Offices Inc.
20 Foster Avenue
Fall River, NS B2T 1E7

**Re: Mr. Bill Horne – Notice of Appeal from decision of an Administrator to authorize a quarry -
Application for Approval - No. 2016-095664 – Approval for Construction, Operation and
Reclamation – Quarry, Goffs, Halifax County, Nova Scotia**

I am writing regarding your Appeal of the Administrator's decision dated June 19, 2017, to authorize the above Application, to Scotian Materials Limited (SML).

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

Respecting Ground 1, there is reference to an October 2015 Group ATN Consulting Inc. (ATN) report, submitted by the Appellant. It is noted this report was authored more than a year prior to the Approval being issued.

The report is an assessment of the 2015 quarry design using a Google map with the 2015 quarry site plan and existing features of the Aerotech Business Park (Park). Feedback was sought from businesses in the Park about the possibility that it would become home to a quarry, a cement plant and an asphalt plant. However, the cement plant and the asphalt plant does not form part of the Approval that was issued SML.

The ATN report did not consider the Pit and Quarry Guidelines (NSE 2003) relating to setback distances. The Guidelines are used by the Administrator to assist in determining the impact of the activity, prevention of adverse effects, as well as the framework for the approval's terms and conditions.

Respecting the ATN report addendum of April 2016, involving a report from Dr. R. F Favreau, several Park businesses were re-canvassed on the proposed blast design. However, the report and addendum predates the current Approval, and the business owners were advised that an asphalt and cement plant may be a part of the quarry activity. As noted above, these two activities are not a part of the quarry and are not captured by the Approval.

Respecting Ground 2, groundwater monitoring is included as terms and conditions of the Approval. Baseline sampling had been conducted. The Approval includes a condition allowing NSE to require additional monitoring of chemicals and frequency of monitoring should impacts from the quarry operation be identified.

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If impacts occur and additional mitigation measures are insufficient, the Administrator has the option to suspend the Approval. Groundwater monitoring will be quarterly as a condition of the Approval, just as Shubenacadie Watershed Environmental Protection Society (SWEPS) had requested in their February 10th letter.

To detect potential groundwater influence due to quarrying, comparisons will be made between up-gradient and down-gradient wells. A 48-hour notification to Nova Scotia Environment (NSE) is required for increases in chemicals above background.

Respecting Ground 3, the administrator considers the suitability of the site and whether the effects of the proposed activity are acceptable. The application includes such detail as site suitability and sensitivity, proximity to watercourses, residences and institutions, geology and hydrogeology. These details form a part of the review of the application for the SML Approval.

Concern was expressed that this site is the first to operate below the water table. The SML Approval is not the first quarry approval to operate below the water table, and NSE has experience in issuing approvals after considering the quarry location and whether an adverse effect can be mitigated.

Respecting Ground 4, the Environmental Assessment Regulations state that quarries less than 4 hectares in size are not an undertaking identified at Schedule "A". Therefore, the SML quarry with an area of 3.99 hectares is not subject to Part IV of the Environment Act or the Environmental Assessment Regulations.

It was determined during the review of SML's application that dewatering or operating below the water table would occur. NSE worked with SML to obtain further information to confirm this condition, and SML identified the changes to the application on its website (November 2016).

From this information, members of the public were notified that operating below the water table is a possibility, and a hydrogeological study will be carried out. Although the public consultation process had concluded, NSE continued to accept information and this information was taken into consideration during the review of the application.

Respecting Ground 5 reference is made to Soldiers and Miller Lakes providing water for the City of Dartmouth, however, these two lakes form part of the Shubenacadie River Watershed and are not part of the water supply for the City. The Lake Major Watershed provides water to the Halifax Regional Municipality, including Dartmouth.

Hydrogeological assessment and water handling plans were prepared and submitted to NSE as part of the application requirements. Monitoring measures to predict/identify an impact are captured in the Approval and include monitoring for quality and quantity.

Respecting Ground 6, pre-blast surveys are required at all sites with structures within 800 metres. Letters of permission have been provided for the two structures that are within 800 metres.

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A well survey was completed, and based on information provided, it is not anticipated that there will be interference with nearby water wells. In review of the hydrological information, groundwater flowage from the SML quarry site is to the south and southwest away from residential areas, and the nearest private well is approximately 1.2 kilometers from the site.

The blast plan, noted in the reference documents in the Approval, indicates that the limits set out in the Pit and Quarry Guidelines for ground vibration and air concussion can be met.

Respecting Ground 7, the Nova Scotia Court of Appeal in Northern Construction Enterprises Inc. v. Halifax (Regional Municipality), 2015 NSCA 44 concluded that the Province of Nova Scotia has the right to control the location of quarries and that all quarrying activities fall exclusively within provincial authority. Notwithstanding, as noted above, the Administrator upon receipt of an application does take into consideration the suitability of the site and whether the effects of the proposed activity are acceptable.

For the reasons outlined above, your appeal is dismissed.

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

Yours truly,

A handwritten signature in blue ink, appearing to read "Leo Giavine".

Honourable Leo Giavine
Minister of Environment

c: Bill Horne
Darlene Willcott, Solicitor, Justice