

## Comment Index

### Morden Road Sand Pit Expansion Project Kings County

Comment Period End Date: November 23, 2025

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**Nova Scotia Mi'kmaq**

<b>Number</b>	<b>Source</b>	<b>Date Received</b>

**Public**

<b>Number</b>	<b>Source</b>	<b>Date Received</b>
1	Maritime Aboriginal Peoples Council	23 November 2025

## **Human Health Considerations in Impact Assessment**

Health Canada (HC) provides the following generic considerations for evaluating human health impacts in environmental/impact assessment (EA/IA). Please note that this is not an exhaustive list of human health concerns that may result from projects, and that issues will vary based on project specifics. Please also note that HC does not approve or issue licenses, permits, or authorizations in relation to the IA. HC's role in Impact Assessment is founded in statutory obligations under the Canadian Impact Assessment Act, and its knowledge and expertise can be called upon by reviewing bodies (e.g., Impact Assessment Agency of Canada, review panels, Indigenous groups and/or other jurisdictions). In the absence of such a request from one of the above noted groups, HC is unable to carry out a comprehensive review of the project. However, HC is able to accommodate specific requests for human health advice and guidance related to provincial environmental assessments within a reasonable timeframe.

HC currently possesses expertise in the following areas related to human health: air quality, recreational and drinking water quality, traditional foods (country foods), noise, and methodological expertise in conducting human health risk assessment. Based on Health Canada's "Guidance for Evaluating Human Health Impacts in Environmental Assessment", please consider the following information on these topics to assist in your review.

	Consideration	Reference Document
Receptor Location(s)		
Please ensure the registration document clearly identifies the locations of all receptors that may be impacted by the proposed project, including any receptors located along the transportation route, if applicable.	<ul style="list-style-type: none"> <li>It is important to clearly describe the location and distance from the proposed site(s) to all potential human receptors (permanent, seasonal or temporary), taking into consideration the different types of land uses (e.g. residential, recreational, industrial, etc.), and identifying all vulnerable populations (e.g. in schools, hospitals, retirement or assisted living communities). Note that the types of residents and visitors in a particular area will depend on land use, and may include members of the general public and/or members of specific population subgroups (Indigenous peoples, campers, hunters, etc.)</li> </ul>	<p><i>Health Canada. 2023. Guidance for Evaluating Human Health Effects in Impact Assessment: Human Health Risk Assessment. Healthy Environments and Consumer Safety Branch, Health Canada, Ottawa, Ontario.</i></p> <p><a href="https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-6-2023-eng.pdf">https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-6-2023-eng.pdf</a></p>
	<ul style="list-style-type: none"> <li>If there is the potential that project-related activities could affect human receptors, impacts to human health should be considered.</li> </ul>	

Atmospheric Environment		
Project impacts to the atmospheric environment include changes to air quality and noise, and can occur in both the construction, operation and decommissioning phases of the project. Project impacts to air quality are commonly caused by emissions from equipment or vehicles as well as by dust. Noise impacts are commonly caused by equipment as well as by activities such as blasting.	<ul style="list-style-type: none"><li>• If there are receptors that could be affected by project-related activities, impacts to the atmospheric environment should be considered. Changes to the atmospheric environment that may impact human health include:<ul style="list-style-type: none"><li>○ impacts to air quality (dust or fumes including PM<sub>2.5</sub>, NO<sub>x</sub>, SO<sub>x</sub>, PAHs)</li><li>○ increased noise from construction or operations</li></ul></li></ul>	<i>Health Canada. 2023. Guidance for Evaluating Human Health Impacts in Impact Assessment: Noise. Healthy Environments and Consumer Safety Branch, Health Canada, Ottawa, Ontario</i> <a href="https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-3-2023-eng.pdf">https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-3-2023-eng.pdf</a>  <i>Health Canada. 2023. Guidance for Evaluating Human Health Effects in Impact Assessment: Air Quality. Healthy Environments and Consumer Safety Branch, Health Canada, Ottawa, Ontario.</i> <a href="https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-1-2023-eng.pdf">https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-1-2023-eng.pdf</a>
	<ul style="list-style-type: none"><li>• If there are receptors who could be impacted by project-related noise, it may be necessary to inform receptors prior to loud activities, such as blasting.</li></ul>	
	<ul style="list-style-type: none"><li>• If there is the potential for impacts to human receptors from noise and/or air quality changes from the project, the proponent should consider establishing mitigation measures. If complaints are received additional mitigation measures may be required.</li></ul>	
Recreational and Drinking Water Quality		
The proponent should consider whether any nearby waterbodies are used for recreational (i.e. swimming, boating, or fishing) or drinking water purposes, as well as whether there are any drinking water wells in the area potentially impacted by the project. Nearby drinking and/or recreational water quality may be impacted by	<ul style="list-style-type: none"><li>• If there is the potential for impacts to drinking and/or recreational water quality from the project site, the proponent should consider establishing mitigation measures. If complaints are received additional mitigation measures may be required.</li></ul>	<i>Health Canada. 2023. Guidance for Evaluating Human Health Effects in Impact Assessment: Drinking and Recreational Water Quality. Healthy Environments and Consumer Safety Branch, Health Canada, Ottawa, Ontario.</i> <a href="https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-2-2023-eng.pdf">https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-2-2023-eng.pdf</a>

<p>accidents or malfunctions, such as a fuel spill; by dust and increased sediment runoff; and by other chemical discharges to the environment. Additionally, wells in the area potentially impacted by the project may be impacted by activities such as blasting.</p>	<ul style="list-style-type: none"> <li>• The proponent should consider preparing a response plan in the event of an accident or malfunction with the potential to impact drinking and/or recreational water quality. Response plans should include a spill response kit, adequate spill response training, and a communication plan to notify all recreational and drinking water users in the impacted area as well as all relevant authorities.</li> <li>• In some cases, for projects that are likely to have an impact on drinking and/or recreational water quality, the proponent should consider conducting water monitoring prior to the start of the project (to establish a baseline). Monitoring would continue throughout the construction, operation and decommissioning phases of the project (as applicable) to monitor for any changes in water quality or quantity.</li> </ul>	
<b>Country Foods</b>		
<p>If there are plants or animals present in the area potentially impacted by the project that are consumed by humans, there may be potential for impacts to country foods. The proponent should consider all country foods that are hunted, harvested or fished from the area potentially impacted by the project. Impacts to country foods may occur from the release of contaminants into soil or water (including from an accident or spill) or from deposition of air borne contaminants.</p>	<ul style="list-style-type: none"> <li>• If there is the potential for impacts to country foods from the proposed project, the proponent should consider establishing mitigation measures. If complaints are received additional mitigation measures may be required.</li> <li>• The proponent should consider preparing a response plan in the event of an accident or malfunction with the potential to impact country foods. Response plans should include a spill response kit, adequate spill response training, and a communication plan to notify all potential consumers of country foods in the impacted area as well as all relevant authorities.</li> </ul>	<p><i>Health Canada. 2023. Guidance for Evaluating Human Health Effects in Impact Assessment: Country Foods. Healthy Environments and Consumer Safety Branch, Health Canada, Ottawa, Ontario.</i>  <a href="https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-5-2023-eng.pdf">https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-5-2023-eng.pdf</a></p>

For more information on HC's guidelines for evaluating human health impacts in environmental assessments, please see:

*Health Canada. 2023. Guidance for Evaluating Human Health Impacts in Impact Assessment: **Noise**. Healthy Environments and Consumer Safety Branch, Health Canada, Ottawa, Ontario.*  
[https://publications.gc.ca/collections/collection\\_2024/sc-hc/H129-54-3-2023-eng.pdf](https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-3-2023-eng.pdf)

Appendix B of this guidance document provides a checklist that may be beneficial in verifying that the main components of a noise environmental assessment are completed.

*Health Canada. 2023. Guidance for Evaluating Human Health Effects in Impact Assessment: **Air Quality**. Healthy Environments and Consumer Safety Branch, Health Canada, Ottawa, Ontario.*  
[https://publications.gc.ca/collections/collection\\_2024/sc-hc/H129-54-1-2023-eng.pdf](https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-1-2023-eng.pdf)

Appendix A of this guidance document provides a checklist that may be beneficial in verifying that the main components of an air quality environmental assessment are completed.

*Health Canada. 2023. Guidance for Evaluating Human Health Effects in Impact Assessment: **Drinking and Recreational Water Quality**. Healthy Environments and Consumer Safety Branch, Health Canada, Ottawa, Ontario.*  
[https://publications.gc.ca/collections/collection\\_2024/sc-hc/H129-54-2-2023-eng.pdf](https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-2-2023-eng.pdf)

Appendix A of this guidance document provides a checklist that may be beneficial in verifying that the main components of a water quality environmental assessment are completed.

*Health Canada. 2023. Guidance for Evaluating Human Health Effects in Impact Assessment: **Country Foods**. Healthy Environments and Consumer Safety Branch, Health Canada, Ottawa, Ontario.*  
[https://publications.gc.ca/collections/collection\\_2024/sc-hc/H129-54-5-2023-eng.pdf](https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-5-2023-eng.pdf)

Appendix A of this guidance document provides a checklist that may be beneficial in verifying that the main components of a country foods environmental assessment are completed.

*Health Canada. 2023. Guidance for Evaluating Human Health Effects in Impact Assessment: **Human Health Risk Assessment**. Healthy Environments and Consumer Safety Branch, Health Canada, Ottawa, Ontario.*  
[https://publications.gc.ca/collections/collection\\_2024/sc-hc/H129-54-6-2023-eng.pdf](https://publications.gc.ca/collections/collection_2024/sc-hc/H129-54-6-2023-eng.pdf)

Appendix B of this guidance document provides a checklist that may be beneficial in verifying that the main components of a human health risk assessment are completed.

Date: October 22, 2025

To: Anthony Heggelin, Environmental Assessment Officer

From: Protected Areas Branch Sustainability and Applies Science Janet MacKinnon  
Executive Director

Subject: **Morden Road Sand Pit Expansion Project, Kings County, Nova Scotia**

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**Scope of review:**

This review focuses on the following mandate: Protected Areas

**List of Documents Reviewed:**

[WAPA](#)

[Map](#)

**Details of Technical Review:**

**No Protected areas in vicinity**

**Key Considerations: (provide in non-technical language)**

**No other comments**



Fisheries and Oceans  
Canada

Pêches et Océans  
Canada

Bedford Institute of Oceanography  
1 Challenger Drive  
P.O. Box 1006, Station P500  
Dartmouth, Nova Scotia B2Y 4A2

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Date: October 24, 2025

To: Anthony Heggelin, Environmental Assessment Officer, EA Branch

From: James Boak, Regulatory Review Biologist, Fish and Fish Habitat Protection Program

Subject: Morden Road Sand Pit Expansion, Annapolis County, Nova Scotia

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### Scope of Review:

Fisheries and Oceans Canada (DFO) is responsible for administering the fish and fish habitat protection provisions of the *Fisheries Act* (FA), the *Species at Risk Act* (SARA), and the *Aquatic Invasive Species Regulations*.

DFO's review focused on the impacts of the works outlined in the Morden Road Sand Pit Expansion Project Environmental Assessment Registration Document (EARD) to potentially 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*;
- 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*.

### Recommendations:

DFO did not identify any potential impacts to fish or fish habitat during the review of the EARD for the Morden Road Sand Pit Expansion Project, Annapolis County and has no further comments or recommendations.

Further information can be provided through the NSECC watercourse and/or wetland alteration approval process(es), and/or through submission of a DFO Request for Review application to DFO to allow DFO staff to conduct a regulatory review of the project to identify potential impacts to fish and fish habitat, and to determine if an authorization under the *Fisheries Act* and/or a *Species at Risk* permit is required.



Date: November 4, 2025

To: Anthony Heggelin, Environmental Assessment Officer

From: Air Quality Unit

Subject: **Morden Road Sand Pit Expansion Project, Kings County, Nova Scotia**

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**Scope of review:**

This review focuses on the following mandate: Air Quality

**List of Documents Reviewed:**

- *Morden Road Sand Pit Expansion Project EA Registration Document – Part 1*
- *Morden Road Sand Pit Expansion Project EA Registration Document – Part 2*
- *Morden Road Sand Pit Expansion Project EA Registration Document – Part 3*
- *Appendix A-H*

**Details of Technical Review:**

Kenneth Lutz Trucks Ltd. (the Proponent) proposes to expand the existing Morden Road sand pit by approximately 1.46 hectares, for a total operational area of about 5.46 hectares. The expansion would extend the pit's operational lifespan by 10-15 years, with progressive reclamation carried out throughout the project. The expansion is intended to meet local and regional demand for construction sand while continuing operations in compliance with provincial environmental standards. The annual extraction from the expansion area is expected to be approximately 10,000 tonnes per year.

Impacts on air quality from this project are most likely to occur during excavation, clearing/grubbing, operation of heavy equipment, loading/unloading of materials, wind erosion, and onsite routine operations. These activities are most likely to contribute to increases in concentrations of total suspended particles (TSP), while vehicle emissions are likely to contribute to increases in fine particles (PM<sub>2.5</sub>) and nitrogen oxides.

No ambient air quality monitoring is included in the EA registration document. The Proponent provides a summary of air quality data from two National Air Pollution Surveillance (NAPS) Program monitoring stations in Aylesford and Kentville to demonstrate existing air quality conditions around the project. Should the Department request that air emissions be monitored, the Proponent should refer to the NSECC Air Assessment Guidance Document when developing an ambient air monitoring plan.

The Proponent states that dust mitigation will include the use of lignin-based solutions and chloride mixtures for dust suppression, progressive reclamation, reducing vehicle speeds/minimizing idling, ceasing activities during high winds, and maintaining vehicles/equipment in good working order.

It is unclear whether the above-mentioned mitigation measures will be sufficient to avoid impacts given that several residential receptors on Crocker Street are within 150 m of the proposed expansion area, the closest receptor being within approximately 60 m.

**Key Considerations:**

The Air Quality Unit notes the following key considerations:

- The use of the proposed dust management methods, along with best operational practices, would reduce air emissions.
- It is unclear how effective the proposed mitigation measures will be, given that the proposed expansion area is close to several receptors on Crocker Street.

Date: November 4, 2025

To: Anthony Heggelin, Environmental Assessment Officer

From: Air Quality Unit

Subject: **Morden Road Sand Pit Expansion Project, Kings County, Nova Scotia**

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**Scope of review:**

This review focuses on the following mandate: Noise

**List of Documents Reviewed:**

- *Morden Road Sand Pit Expansion Project EA Registration Document – Part 1*
- *Morden Road Sand Pit Expansion Project EA Registration Document – Part 2*
- *Morden Road Sand Pit Expansion Project EA Registration Document – Part 3*
- *Appendix A-H*

**Details of Technical Review:**

Kenneth Lutz Trucks Ltd. (the Proponent) proposes to expand the existing Morden Road sand pit by approximately 1.46 hectares, for a total operational area of about 5.46 hectares. The expansion would extend the pit's operational lifespan by 10-15 years, with progressive reclamation carried out throughout the project. The expansion is intended to meet local and regional demand for construction sand while continuing operations in compliance with provincial environmental standards. The annual extraction from the expansion area is expected to be approximately 10,000 tonnes per year.

No noise monitoring or modelling is presented in the EARD, instead in Table 7.26 the Proponent provides expected noise levels produced by various types of equipment and the potential noise levels at 150 m from those sources (baseline noise was not included). The proponent states the pit will adhere to the noise limits in regulatory guidelines but does not specify which guideline. Should the expansion be approved, the Proponent would be required to meet the permissible sound levels (PSLs) in the NSECC Guidelines for Environmental Noise Measurement and Assessment (GENMA) for a rural area. Given the potential noise levels from Table 7.26 and that there are several residential receptors within 150 m from the proposed expansion, it is possible that the proposed expansion could exceed the PSLs in GENMA.

The proponent states noise mitigation will include maintaining vehicles and heavy equipment in proper working order, restricting operations to daytime hours, the use of noise barriers/berms around the extraction area, and maintaining a vegetative buffer around the pit. The proponent states that noise levels associated with the expansion are not expected to increase beyond those generated by existing pit operations.

**Key Considerations:**

The Air Quality Unit notes the following key considerations:

- In the absence of noise monitoring/modelling, it is unclear if the proposed expansion has the potential to exceed the appropriate GENMA daytime and evening permissible sound levels for the nearest receptor (rural classification).
- It is unclear how effective noise management and mitigation will be in the absence of a noise management plan with a clear chain of responsibility for actions, including timely complaint resolution.

Date: October 21, 2025

To: Anthony Heggelin, Environmental Assessment Officer

From: Environmental Health Consultant, Environmental Health and Food Safety Unit,  
Sustainability and Applied Science

Subject: **Morden Road Sand Pit Expansion Project, Kings County, Nova Scotia**

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**Scope of review:**

This review focuses on the following mandate: Environmental Health

**List of Documents Reviewed:**

Environmental Assessment Registration Document

**Details of Technical Review:**

The purpose of the proposed undertaking is to expand an existing sand pit off Morden Road in Auburn, Kings County, Nova Scotia (PIDs 55090187 and 55545354), by approximately 1.46 hectares, for a total operational area of about 5.46 hectares. The annual extraction from the expansion area is expected to be approximately 10,000 tonnes per year.

A review of the above noted documents was undertaken with a particular focus on the potential for health impacts related to air quality, noise, and drinking water wells. Environmental Health impacts related to this project have been assessed within the EARD and mitigation measures provided.

**Key Considerations: (provide in non-technical language)**

Environmental Health concerns are either addressed within the documents provided, assessed for and deemed to have no negative effect, or are already covered withing existing legislative requirements. No additional un-addressed health related considerations have been identified based upon the information provided for this project.



Newfoundland and Labrador Office  
901- 10 Barter's Hill  
St. John's NL A1C 6M1

Bureau de Terre-Neuve-et-Labrador  
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October 30, 2025

Anthony Heggelin  
Environmental Assessment Officer  
Policy Division, Environmental Assessment Branch  
Government of Nova Scotia  
[anthony.heggelin@novascotia.ca](mailto:anthony.heggelin@novascotia.ca)

**SUBJECT : Morden Road Sand Pit Expansion Project, Kings County**

Dear Anthony Heggelin:

Thank you for the opportunity to review the registration document for the Morden Road Sand Pit Expansion Project (the project), received on October 7, 2025.

The federal environmental assessment process is set out in the [Impact Assessment Act](#) (the IAA). The [Physical Activities Regulations](#) (the Regulations) set out a list of physical activities considered to be "designated projects" under the IAA.

IAAC reviewed the Regulations and notes that item 19(f) is relevant for this type of project:

*19(f) The expansion of an existing mine, mill, quarry or sand or gravel pit, in the case of an existing stone quarry or sand or gravel pit if the expansion would result in an increase in the area of mining operations of 50% or more and the total production capacity would be 3 500 000 t/year or more after the expansion*

It is understood that the expansion of the existing sand pit involves an increase of 1.46 hectares (ha), bringing the total operational area from four ha to approximately 5.46 ha. This expansion represents an increase in the area of mining operations of less than 50%, which is below the threshold of the Regulations.

While it is the responsibility of proponents to determine whether their proposed project includes physical activities described in the Regulations of the IAA, based on the information submitted to the Province of Nova Scotia on the Morden Road Sand Pit Expansion Project, the Impact Assessment Agency of Canada (IAAC) is of the opinion that, as proposed, the project does not appear to be described in the Regulations. As such, the proponent would not be expected to submit an Initial Project Description of a designated project. If the project changes from what has been described in its provincial registration, the proponent is advised to contact IAAC if, in their view, any proposed project activities may be described in the Regulations.

The proponent is advised that under section 9(1) of the IAA, the Minister may, on request or on the Minister's own initiative, by order, designate a physical activity that is not prescribed by regulations made under the Regulations if, in the Minister's opinion,

the carrying out of that physical activity may cause adverse effects within federal jurisdiction or direct or incidental adverse effects. Should IAAC receive a request for a project to be designated, IAAC would contact the proponent with further information.

Please note that for physical activities not described in the Regulations, should the project be carried out in whole or in part on federal lands, section 82 of the IAA would apply if any federal authority is required to exercise a power, duty or function under an Act other than IAA in order for the project to proceed, or if a federal authority is providing financial assistance for the purpose of enabling the project to be carried out. In that case, that federal authority must ensure that any project assessment requirements under the applicable sections of the IAA are satisfied.

We also note that in proceeding with the project, the proponent may still be required to obtain or seek amendment to other federal regulatory permits, authorizations and/or licences.

The proponent is encouraged to contact IAAC at (902) 426-0564 if it has additional information that may be relevant to IAAC or if it has any questions or concerns related to the above matters.

Samantha Zabudsky

Environmental Assessment Officer, Newfoundland and Labrador Satellite Office  
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Agent d'évaluation environnement, Bureau satellite de Terre-Neuve-et-Labrador  
Agence d'évaluation d'impact du Canada / Gouvernement du Canada  
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Date: October 31, 2025

To: Anthony Heggelin, Environmental Assessment Officer

From: Beth Lewis, Director of Special Places Protection

Subject: **Morden Road Sand Pit Expansion Project, Kings County**

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**Scope of review:**

This review focuses on the following mandate: ***Archaeology and Geology***

**List of Documents Reviewed:**

Review of EA Documents

Review of ARIA Final report for HRP A2025NS030 – Morden Road Project ARIA

**Details of Technical Review (Archaeology):**

The EA includes the details of the ARIA completed for the project under SPP permit A2025NS030 by CRM Group Limited. See Sections 7.3 and 8.3. The EA describes the Project, the methodology employed, the identification of one area of high archaeological potential, recommendations from the ARIA report to avoid it, and that the area of high archaeological potential will be avoided during ground disturbance activities.

**Key Considerations: (provide in non-technical language):**

It is recommended that an appendix be added to the EA document that includes the archaeology permit report approval and recommendations letter for the project issued by CCTH. Do not publish the ARIA.

**Details of Technical Review (Geology):**

As mentioned in the project proposal the bedrock geology (Wolfville Formation) and surficial geology (Kames and Eskers) occur in the project area. As the surficial geology is the intended target of extraction, and no known fossil resources are expected to be found in the unit there is low risk to palaeontology resources. If a suspected fossil occurrence is encountered, the quarry operators are encouraged to contact the museum for additional advice or guidance. If extensive exposures of bedrock are exposed, it would be desirable for a palaeontologist to examine the site for potential occurrence of rare Triassic aged fossil vertebrates, invertebrates or plants.

**Key Considerations: (provide in non-technical language):**

If suspected fossils are encountered during excavation work, the museum should be contacted for advice and information.



**DATE:** November 12, 2025 (Revised)

**To:** Anthony Hagelin, Environmental Assessment Officer

**FROM:** Dawn M. Sutherland, Provincial Director of Planning

**SUBJECT: MORDEN ROAD SAND PIT EXPANSION PROJECT, KINGS COUNTY, NS**

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**Scope of Review:**

This review focuses on the following Department of Municipal Affairs (DMA) mandates: Statements of Provincial Interest and engagement with municipalities.

**Document Reviewed:**

Registration Document

**Details of Technical Review:**

The property proposed for the expansion of the sand pit is primarily in the Rural Mixed Use (A2) zone with a portion on the eastern edge of the Environmental Constraints (O1) zone of the Municipality of the County of Kings. Neither of these zones explicitly allow for a sand pit or other similar aggregate extractive industries.

The Proponent, however, has indicated in their EA document (Section 7.2.2): “This zoning designation is intended to accommodate the existing sand pit and the majority of the proposed expansion area for the project. The inclusion of agricultural and resource industries within the A2 zone supports the compatibility of sand pit operations with the surrounding land uses while also aligning with municipal goals for agricultural growth and rural development.” Aggregate-related industries are listed as permitted uses in the Heavy Industrial (M2) and Rural Industrial (M3) zones.

For the proposed Project, a 30m setback from watercourses has been incorporated into the design to ensure that sand pit operations do not encroach onto sensitive environmental areas covered by the O1 zone, which also encompasses adjacent wetlands.

On April 16, 2025, Project information was distributed, via email, to representatives of the Municipality of the County of Kings, the Town of Berwick, the Village of Greenwood, and the Village of Kingston. These communications included a Project description and a cover letter inviting questions and feedback. On April 28, 2025, the Town of Berwick responded, via email, indicating that Council did not have any concerns about the proposed Project. The villages and the Municipality of the County of Kings have not responded.

**Statements of Provincial Interest:**

- **Drinking Water:** No anticipated impact. The Project is in a surficial aquifer zone, but the nearest municipal drinking water source is 2.5km away. No excavation below the water table will be conducted as part of the Project.

- Agricultural Land: The proposed use may not be reasonably consistent with the SPI. Noting that the Proponent was approved to operate a sand pit on the adjacent property before the current Municipal Planning Strategy and Land Use By-law were adopted (November 2019) by the Municipality of the County of Kings, we recommend comment from the Nova Scotia Department of Agriculture to determine whether the property has agricultural potential.
- Flood Risk: No anticipated impact; no flood areas have been identified in the Project area.
- Infrastructure: No anticipated impact. No identified impact on municipal infrastructure as defined by the SPI.
- Housing: No anticipated impact.

**Key Considerations** *(provide in non-technical language):*

The Department recommends further engagement with the Municipality of the County of Kings to ensure that they have an opportunity to comment on the proposal and that all land use requirements are met.

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Date: November 4, 2025

To: Anthony Heggelin

From: Lesley O'Brien-Latham, Executive Director, Policy and Strategic Advisory Services

Subject: Morden Road Sand Pit Expansion Project, Kings County

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**Scope of review:**

The scope of this review follows the Department of Fisheries and Aquaculture's (NSDFA) legislated mandate to develop, promote and support fishing, aquaculture, seafood processing and sportfishing in Nova Scotia.

**List of Documents Reviewed:**

- Morden Road Sand Pit Expansion Project EA Registration Document (EARD) - Parts 1-3 and appendices

**Details of Technical Review:**

Aquaculture:

There are no rockweed leases or aquaculture sites within 25km of the proposed project.

Marine Fisheries:

The NSDFA Marine Division's mandate covers impacts to commercial fishing enterprises which includes but is not limited to: harvesting, buying, and processing by licensed entities.

The proposed sandpit expansion is located inland off Morden Road, Kings County, Nova Scotia, and does not encompass any marine watercourses or waterbodies containing commercially valuable species within the project footprint. Consequently, there is no anticipated risk to commercially valuable aquatic species.

The nearest commercial fishing wharf is located in Halls Harbour, approximately 40km northeast of the site. At this location there is also the Halls Harbour lobster pound and restaurant, owned by Cameron Seafoods. The L.J. Robichaud Fisheries groundfish plant in Middleton is about 25km from the project site. Given these distances and the nature of the project, it is reasonable to conclude that there should be no direct or indirect impacts on the commercial seafood sector.

The sand pit expansion is expected to continue supplying aggregate materials for regional infrastructure projects, consistent with its historical operations. There is no indication of overlap with commercial fisheries or seafood processing activities

### Inland Fisheries:

In the submitted EARD, the proponent identified potential risks from changes in flow of run-off that could cause increased erosion and sedimentation in McGee Brook, adjacent to expansion site, and also identified risks associated with fuel spills.

The project proponent indicated their mitigation and subsequent monitoring measures would be sufficient to address concerns, as no work is to occur within 30m of McGee Brook. For example: drainage will be directed away from McGee Brook, and dust suppression techniques will be used during operations, such as spill kits for fuel, etc.

While the project proponent did identify 'fish', 'minnows', and 'unidentified mussels' present in McGee Brook, no attempt was made to identify species present. NSDFA's records indicate that brook trout, white sucker, and various minnow species have been found in this cold-water brook (*MacMillan et al* 2008; [https://novascotia.ca/fish/documents/special-management-areas-reports/MacMillan et al 2008.pdf](https://novascotia.ca/fish/documents/special-management-areas-reports/MacMillan_et_al_2008.pdf))

The project proponent provided water chemistry and physical habitat data in the EARD. However, they did not record water temperatures. *MacMillan et al 2008* determined that McGee Brook is a cold-water stream (with an average summer temperature of 14.2°C) which provides important summer habitat for brook trout. While there is some information lacking on fish specifics, the information provided on pit operations and risk mitigation and monitoring measures should be sufficient to mitigate the minimal anticipated risk to McGee Brook, sportfish or sportfishing.

### **Key Considerations: (provide in non-technical language)**

As there are no aquaculture or rockweed harvesting operations within a 25km radius of the project location, there are no concerns from NSDFA's aquaculture division.

The proposed project does not encompass any marine watercourses or waterbodies and therefore, there are no anticipated risks to NSDFA's marine fishery interests.

McGee Brook serves as an important cold-water habitat for brook trout. Risks to the fish populations should be insignificant, so long as the proponent adheres to the proposed mitigation measures presented in the EARD, to prevent sedimentation/erosion of the watercourse.

Project proponent should also be made aware of:

- the [Fisheries and Coastal Resources Act](#),
- Provincial [Aquaculture License and Lease Regulations](#),
- Provincial [Aquaculture Management Regulations](#),
- the [Nova Scotia Rock Weed Harvesting Regulations](#), and
- the Department's [Site Mapping Tool](#) for information on the location of sites and leases in the area of their proposed project.

## **Agriculture**

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Date: October 31, 2025

To: Anthony Heggelin, Environmental Assessment Officer

From: Philip Sampson, Acting Executive Director, Policy and Corporate Services,  
Nova Scotia Department of Agriculture

Subject: Morden Road Sand Pit Extension Project  
Auburn, Kings County, Nova Scotia

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Thank you for the opportunity to review the documents for the above-noted project.


Some agricultural impacts are anticipated given that:

- Agriculture is one of the predominant activities in the area. Lands within a 2 km buffer around the project site are classed using the Canada Land Inventory (CLI) as:
  - **Class 2 (~38%)**: (565 hectares), defined as having “moderate limitations that restrict the range of crops or require moderate conservation practices.”
  - **Class 3 (~2%)**: (38 hectares), defined as having “moderately severe limitations that restrict the range of crops or require special conservation practices.”
  - **Class 4 (~52%)**: (781 hectares), defined as having “severe limitations that restrict the range of crops or require special conservation practices.”
- Within the buffer area are 113 agricultural fields including 63 fields (355 hectares) for rotational crops and 43 (166 hectares) for long-term crops. Two of these fields immediately border the project boundary.
- Increased dust from traffic, use of heavy equipment and extraction of sand is likely to have some impact on nearby agricultural operations.

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Date: October 30, 2025

To: Anthony Heggelin, Environmental Assessment Officer

From: Department of Public Works, Environmental Services – Brent MacDonald,  
P.Eng., Manager 

Subject: **Morden Road Sand Pit Expansion Project, Kings County, Nova Scotia**

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**Scope of review:**

This review focuses on the following mandate: Traffic Engineering and Road Safety\_\_\_\_\_

**List of Documents Reviewed:**

*Kenneth Lutz Trucks Limited, Morden Road Sand Pit Expansion Project, Kings County Environmental Assessment*

**Details of Technical Review:**

The Proponent is proposing to expand an existing sand pit (roughly 4 ha) by an additional 1.46 ha located near Auburn, Kings County.

The EA includes many different Transportation Related sections and references to Transportation related items. As a result, there tends to be repetition of key points throughout. Consolidating these references into one or two main sections would be beneficial so that any impacts or mitigations are clearer and more concise.

The Nova Scotia Department of Public Works offers the following comments on the EA document:

- Production from the expansion area is estimated to be 10,000 tonnes per year, but the conversion to truck rate is not mentioned for the expansion nor the original sandpit. This is important to know to assess any potential truck volume impacts. Section 7.2.3 Transportation and Infrastructure (page 125) references the transportation route in general and completes a desktop analysis, including referencing several relevant regulations (Spring Weight Restrictions, Pit and Quarry etc.), as well as obtaining Annual Average Daily Traffic (AADT) rates for one of the roads near the Sandpit. However, it concludes that "since the project is already in operation, the proposed expansion of the sand pit is not expected to significantly increase traffic volumes, as the current transportation activity will remain largely the same". While this appears to be a reasonable conclusion given

the relative sizes of the expansion versus the original sand pit, information on current truck volumes is not supplied to support this conclusion.

- The Proponent has indicated the expansion will not involve construction of new access roads or new infrastructure for this expansion; however, reference is made to potentially upgrading any existing access roads should they be required (page 13). Upgrading existing roads may require a Working Within Highway Right of Way Permit (WWHROW), available from the local Area Manager, depending on where the upgrade occurs (i.e. at or near an intersection with a provincial highway). If work involves a temporary work zone on a provincially owned road, it must comply with the appropriate section of the Nova Scotia Temporary Workplace Traffic Control Manual (NSTWTCM). The Proponent is responsible for supplying Traffic Control Plans.
- Table 6. 2 Summary of Engagement with Government Departments (page 23) does not explicitly mention NSDPW. The proponent should aim to maintain contact with local NSDPW staff during this process.
- Transportation Safety Practices (page 142) referencing Driver and Operator Training, Weight Restrictions, Inspections are appropriate.
- Section 8.2.3 Effects on Transportation and Infrastructure – Effects Assessment and Mitigation measures identified on page 195 and in Table 8-3 on page 221 are appropriate.  
The document mentions assessing whether truck entrance signage is required, the wording indicates this to be more of an ongoing process, which is prudent. However, since the sand pit has been an existing operation for many years, the need for any signage would most likely have been determined by this point. This is not explicitly stated in the report, neither is the type of signage. Sign erection on any provincially owned roads must be reviewed (and approved as necessary) by local NSDPW staff through the Area Manager.
- Section 9.3.6 Transportation (page 228) provides a good concise assessment of both the current and anticipated conditions of the Sand Pit operations in terms of its impacts and proposed mitigation measures.

**Key Considerations: (provide in non-technical language)**

1. The Proponent may require a Working Within Highway Right of Way Permit if intending to upgrade access roads.
2. Work zones created on provincially owned roads must comply with the Nova Scotia Temporary Workplace Traffic Control Manual. The Proponent must also submit Traffic Control Plans as required.
3. NSDPW should be mentioned as a stakeholder.
4. The Proponent should include information regarding current truck volumes.
5. New signage to be erected on provincially owned roads must be approved by the local Area Manager.

Date: November 4, 2025

To: Anthony Heggelin, Environmental Assessment Officer

From: Climate Change Division – Lori Skaine, Executive Director

Subject: **Morden Road Sand Pit Expansion Project, Kings County, Nova Scotia**

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**Scope of review:**

This review focuses on the following mandate: Climate change adaptation and mitigation

**List of Documents Reviewed:**

Morden Road Sand Pit Expansion Project EA Registration - All Documents

**Details of Technical Review:**

Adaptation

Chapter 10 *Effects of the Environment on the Project* provides a brief overview of climate change impacts and adaptation considerations. The proponent has described general climate change trends from the provincial climate change risk assessment but has not included specific historical or projected climate change data for the location.

The proponent has noted that interruptions due to extreme weather are likely to be temporary, not cause significant damage, and can be mitigated through site design and appropriate scheduling of activities.

Mitigation

The proponent does not provide a detailed analysis of greenhouse gas (GHG) emissions and appears to assume they are minimal, estimating them to be below 10,000 tonnes of CO<sub>2</sub> annually. Key sources of GHG emissions associated with the project include fuel combustion from heavy machinery, transportation activities, and land clearing. Although overall emissions are expected to be low, the proponent has not presented a quantified estimate nor assessed the potential loss of carbon storage resulting from the removal of forested areas.

**Key Considerations: (provide in non-technical language)**

Adaptation



We suggest the proponent should consider examining historical and projected climate data for the project location. Reviewing local climate data may help to identify potential climate hazards and plan adaptation measures.

### Mitigation

The proponent is encouraged to state GHG emissions estimates for various stages of the project (construction, operational) and determine opportunities for reducing emissions.

Environment and Climate Change Canada (ECCC) has reviewed the Environmental Assessment Registration Document (EARD) for the Morden Road Sand Pit Expansion Project in Kings County, NS and we have the following comments:

### **Water Quality**

1. 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. Additional information on what constitutes a deposit under the Fisheries Act can be found

here: <https://www.canada.ca/en/environment-climate-change/services/managing-pollution/fisheries-act-registry/frequently-asked-questions.html>

### **Wildlife and Wildlife Habitat**

#### **Wetlands**

2. ECCC notes that on page 39 of Section 7.1.2 of the EARD it states “*the NSNRR Wetland Inventory identified one wetland within the Project Site - a 7 ha shrub swamp located along the northeastern edge of the Project*” and on page 44 of the same section it states “*wetland surveys completed on the Project Site found one wetland (hereafter referred to as WL1) along the eastern boundary of the Project Site that is contiguous with McGee Brook*”. Given potential impact to wetlands, ECCC appreciates strong consideration of mitigation measures as highlighted on page 152 of Section 8.1.2 of the EARD.

The proponent should be aware that as part of its commitment to wetlands conservation, the Federal Government has adopted The Federal Policy on Wetland Conservation (FPWC) with its objective to “promote the conservation of Canada’s wetlands to sustain their ecological and socio-economic functions, now and in the future.” In support of this objective, the Federal Government strives for the goal of No Net Loss of wetland function on federal lands or when federal funding is provided. Though this project does not take place on federal lands, ECCC recommends that the goals of the policy be considered in wetland areas as a beneficial management practice. A copy of the FPWC can be found at: <http://publications.gc.ca/pub?id=9.686114&sl=0>.

While the Federal Policy on Wetland Conservation does not apply to this project, ECCC advocates for the conservation of wetlands in areas where wetland losses have already reached critical levels (e.g. NB, NS, PEI, southern Ontario, Prairies) and regionally important wetlands. ECCC recommends that project effects on wetlands be avoided, where they cannot be avoided, they should be minimized, and mitigation identified for residual effects. As a mitigation measure to compensate for the lost habitat function for wetland associated landbird species at risk and species of conservation concern, in instances where such habitat cannot be avoided,

ECCC recommends the use of conservation allowances as a third step in the mitigation hierarchy of avoidance, mitigation and compensation.

ECCC would like to convey that the 30-meter buffer (related to wetlands) is also used in order to maintain movement corridors for migratory birds.

### **Migratory Birds**

#### **Vegetation Clearing**

3. ECCC notes that on page 174 of Section 8.1.4 of the EARD it states “*Vegetation clearing will be avoided during peak breeding season for birds (April to September). If vegetation clearing must occur during this time, pre-disturbance nest searches will be conducted, and appropriate nest buffers will be applied and avoided*”.

Clearing vegetation may cause disturbance to migratory birds and may inadvertently cause the destruction of their nests and eggs. Many species use trees, as well as brush, deadfalls, and other low-lying vegetation for nesting, feeding, shelter and cover. This would apply to songbirds throughout the region, as well as waterfowl in nearby wetland areas. Disturbance of this nature would be most critical during the breeding period. The breeding season for most birds within the project area occurs between April 15<sup>th</sup> and August 15<sup>th</sup> in this region, however some species protected under the MBCA nest outside of this time period. Please see “Nesting Periods” (Website: <https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/general-nesting-periods/nesting-periods.html>) for more specific information concerning the breeding times of migratory birds.

ECCC provides the following recommendations:

- The proponent avoid certain activities, such as clearing, during the regional nesting period for migratory birds.
  - Active nests can be discovered during project activities outside of the regional nesting period. To reduce the risk of impacting nests or birds caring for pre-fledged chicks at those times, ECCC recommends implementation of measures such as the establishment of vegetated buffer zones around nests, and minimization of activities, in the immediate area until nesting is complete, and chicks have naturally migrated from the area. It is incumbent on the proponent to identify the best approach, based on the circumstances, to complying with the MBCA.
  - The proponent should be aware that while most migratory bird species construct nests in trees (sometimes in tree cavities) and shrubs, mitigations should be appropriate for migratory birds with different strategies. For example, several species nest at ground level (e.g. Common Nighthawk, Killdeer, sandpipers), in hay fields, pastures or in burrows. Some bird species may nest on cliffs or in stockpiles of overburden material from mines or the banks of quarries. Some migratory birds (including certain waterfowl species) may nest near head ponds created by beaver dams. Some migratory birds (e.g. Barn Swallow, Cliff Swallow, Eastern Phoebe) may build their nests on structures such as bridges, ledges, or gutters.
4. ECCC notes that on page 174 of Section 8.1.4 of the EARD it states “*a WMP will be developed and incorporated into the Environmental Protection Plan (EPP). This Plan will include measures to avoid or reduce adverse effects on priority fauna species during all phases of the Project*”.

The management plan should include appropriate preventative measures to minimize the risk of impacts on migratory birds (Please see 'Avoiding harm to migratory birds: guidelines to reduce risk to migratory birds' at <https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html>). For beneficial management practices regarding how to avoid the incidental take of migratory birds nests and eggs, please refer to the Avoidance Guidelines (Website: <https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/guidelines.html>). The management plan should include processes to follow should an active nest be found at any time of the year.

### Nest Searches

5. ECCC notes that on page 175 of Section 8.1.4 of the EARD it states "*Stockpiles and areas of exposed soil, as well as other project infrastructure, will be routinely inspected to rule out the possibility of nesting wildlife*".

ECCC generally does not recommend nest searches or "sweeps", except when the nests searched are known to be easy to locate without disturbance (e.g. previously cleared area, simple habitats, low vegetation). Ground nesting migratory birds may also be attracted to the quarry or previously cleared areas during the breeding season.

Common Nighthawk may choose to nest in open areas (e.g. gravel or sand) or cleared areas (e.g. forest harvest blocks, recent cleared land, and recent burns). This species is very cryptic in coloration and finding a bird on the nest or a nest site can be challenging. Using active nest searching techniques must be carefully evaluated because the risk of disturbing active nests is high.

Nest surveys may be carried out successfully by experienced observers using scientific methodology in the event that activities would take place in simple habitats (e.g. in human-made settings) with only a few likely nesting areas or a small community of migratory birds. Examples of simple habitats include:

- An urban park consisting mostly of lawns with a few isolated trees;
- A vacant lot with few possible nest sites;
- A previously cleared area where there is a lag between clearing and construction activities and where ground nesters may have been attracted to nest in cleared areas or in stockpiles of soil; or,
- A structure such as a bridge, a beacon, a tower or a building (often chosen as a nesting spot by robins, swallows, phoebes, Common Nighthawk, gulls and others).

Nest searches can also be considered when looking for:

- Conspicuous nest structures (such as nests of Great Blue Herons, Bank Swallows, Chimney Swifts);
- Cavity nesters in snags (such as woodpeckers, goldeneyes, nuthatches); or,
- Colonial-breeding species that can be located from a distance (such as a colony of terns or gulls).

Should any nests or chicks be discovered, protection with an appropriate-sized buffer is expected. Note: Nests should not be marked using flagging tape or other similar material as this increases the risk of nest predation. ECCC can be contacted for further advice on bird monitoring and/or mitigation if a nest is found.

### Noise Disturbance

6. ECCC notes that on page 175 of Section 8.1.4 of the EARD it states “*to minimize noise- and vibration-related effects on wildlife, pit operations will comply with relevant municipal and provincial guidelines, including By-Law # 84 - Noise Control By-Law (MoCK, 2001), the Pit and Quarry Guidelines (NSEL, 2003), and the Guidelines for Environmental Noise Measurement and Assessment (NSECC, 2023)*”.

Anthropogenic noise produced by construction and human activity can have multiple impacts on birds, including causing stress responses, avoidance of important habitats, changes in foraging behaviour and reproductive success, and interference with songs, calls, and communication. Activities that introduce loud or random noise into habitats with previously low levels of anthropogenic noise are particularly disruptive.

ECCC recommends the following best management practices:

- The proponent should develop mitigations for programs that introduce very loud and random noise disturbance (e.g. blasting programs) during the migratory bird breeding season for their region.
- The proponent should, where possible, prioritize construction works in areas away from natural vegetation while working during the migratory bird breeding season. Conducting loud high disturbance construction works adjacent to natural vegetation should be completed outside the migratory bird breeding season.
- The proponent should keep all construction equipment and vehicles in good working order and loud machinery should be muffled if possible.

#### Banks and Stockpiles

7. ECCC notes that on page 174 of Section 8.1.4 of the EARD it states “*Existing sand faces in the test pit will be managed to discourage Bank Swallow nesting prior to construction. Alternate nesting habitat will be created nearby in consultation with qualified biologists, mimicking the slope, substrate, and orientation of the original site. All activities will be timed to avoid the breeding season*” and on page 175 it states “*Stockpiles and areas of exposed soil, as well as other project infrastructure, will be routinely inspected to rule out the possibility of nesting wildlife*”.

Certain species of migratory birds (e.g. Bank Swallow) may nest in banks or large piles of soil left unattended/unvegetated during the breeding season. To discourage this, the proponent should consider measures to cover or to deter birds from these large piles of unattended soil during the breeding season. If migratory birds take up occupancy of these piles, any industrial activities (including hydroseeding) will cause disturbance to these migratory birds and inadvertently cause the destruction of nests and eggs. Alternate measures will then need to be taken to reduce potential erosion, and to ensure that nests are protected until chicks have fledged and left the area. For a species such as Bank Swallow, the period when the nests would be considered active would include not only the time when birds are incubating eggs or taking care of flightless chicks, but also a period of time after chicks have learned to fly, because Bank Swallows return to their colony to roost.

#### Species at Risk and Species of Conservation Concern

8. ECCC notes that while Species at Risk (SAR) have been observed within the proposed project site, there is no critical habitat (CH) within the project footprint.

#### Avian Species at Risk

9. ECCC has noted commitment to clear outside the breeding season. However, it has also been noted that clearing may need to be undertaken during this time. Therefore, measures to avoid/minimize adverse effects of the project on these SAR species should be provided in the instance that activities are unavoidable during the breeding season. Furthermore, post-construction monitoring to verify impact predictions and adequacy of mitigation measures would be recommended.

ECCC generally recommends buffers for landbird SAR as follows during the breeding season:

- Low disturbance activities (e.g. surveys) – 50 m
- Medium disturbance activities (e.g. sensory disturbance) – 150 m
- High disturbance activities (e.g. clearing) – 300 m
- Very high disturbance activities (e.g. blasting) – 1,000 m

10. ECCC notes the following avian SAR identified during field surveys or through ACCDC data: Bank Swallow (Threatened), Barn Swallow (Threatened), Bobolink (Threatened), Common Nighthawk (Special Concern), Eastern Wood-pewee (Special Concern), Evening Grosbeak (Special Concern), Olive-sided Flycatcher (Special Concern) and Rusty Blackbird (Special Concern). Further information on these species can be found below, which includes important considerations as well as information on species specific surveys for some species.

#### Bank Swallow

11. Bank Swallows (BANS) are listed as Threatened (SARA Schedule 1). There has been a 98% decline in Canada's BANS population in the last 40 years, likely driven by cumulative effects (e.g. loss of breeding and foraging habitat, pesticide use, etc.). They are small insectivorous and highly social birds and tend to breed in a wide variety of natural habitats, but also at artificial sites with vertical banks (e.g. aggregate pits, road cuts, and unattended/unvegetated stockpiles of soil). BANS are aerial insectivore that forage over open country and aquatic habitats that support insect populations. Wetlands with emergent vegetation are often used to roost overnight during the breeding period and data from areas in Maritime Canada indicate that BANS can travel 10 – 15 km from their colony site to these cattails marshes to roost only to return the following morning. Note: This activity occurs during the crepuscular period, visibility of the surveyor may be decreased.

Biophysical attributes for both nesting and foraging habitat are described in the [\*Recovery Strategy for the Bank Swallow \(\*Riparia riparia\*\) in Canada \(2022\)\*](#).

- Nesting
  - Vertical or near-vertical face (portion of the bank above the talus with a slope of more than 70 degrees), and
  - Minimum height of bank face of 0.5 metres, and
  - Erodible material – sand, silt, loose clay, fine gravel, organic soils (e.g. sand and gravel quarries).
- Foraging
  - Insect-producing waterbodies (e.g., rivers, creeks, lakes, wetlands, salt marshes)
  - Insect-producing (i.e., vegetated) open country (e.g., grassland, shrublands, pastures, hayfields, dunes)

#### BANS Residence

BANS tend to breed in colonies ranging from several pairs to a few thousand. Under the SARA, BANS have one type of residence: the occupied burrow. Therefore, any activity that damages or

destroys the functions of an occupied burrow would constitute damage or destruction of the residence. These activities include, but are not limited to:

- damaging or destroying the burrow;
- blocking access to the burrow;
- changing the slope of the vertical face used for nesting;
- adding, moving or removing material from the vertical face causing the burrow to collapse or fill; or
- any other activity that would destroy the function of the burrow.

The presence of a nesting colony should be confirmed from the bottom of the vertical face, or otherwise in front of the face, as the occurrence and size of the colony can be overlooked from the top of the bank above the colony. The presence of a residence can be identified by one or more BANS entering or leaving a burrow, or the presence of young at the burrow entrance.

For a species such as BANS, the period when the nests (e.g. the burrow) are considered active includes not only the time when birds are incubating eggs or taking care of flightless chicks, but also a period of time after chicks have learned to fly, because BANS return to their colony to roost. A 'BANS Residence Description (GoC 2019)' is available at [Bank Swallow \(Riparia riparia\): residence description - Canada.ca](#).

For additional information on designing mitigation measures for Bank Swallow, refer to the following guidance: [Bank Swallow \(Riparia riparia\): in sandpits and quarries - Canada.ca](#).

#### Barn Swallow

12. Barn Swallows are listed as Threatened (SARA Schedule 1). It is a medium-sized songbird and is closely associated with rural human settlements and human-built infrastructure. Barn Swallows are social throughout the year but may nest individually or in groups. Nests in small, loose colonies that usually contain no more than about ten pairs. Nests are built mainly of mud pellets. Regional surveys in the Maritimes show significant population declines over the long term.

#### Residence

Under the SARA, Barn Swallows have one type of residence: the nest. Any activity that damages or destroys the functions of the nest would constitute damage or destruction of the residence. These activities include, but are not limited to, moving, damaging or destroying the nest; blocking access to the nest; disturbing the nest, or any other activity that would damage or destroy the functions of the nest. Under SARA, the nest, occupied or not, is considered a residence from May 1st or the date when the adults are first observed building or occupying the nest, whichever is earlier, to August 31st or the date when a bird is last seen at the nest, whichever is later.

#### Recommendations:

- Clarify whether Barn Swallow habitat, colonies and residences occur on site or in vicinity of the Project, and include a discussion of how these may be impacted and avoided;
- Be aware of the risk of nesting barn swallows within their project footprint, and educate site workers about this risk, and what constitutes a contravention of the SARA and the MBCA.
- Protect active barn swallow nests within their project footprint until such a time the residence is no longer active, and fledglings have naturally left the area (May 1<sup>st</sup> to end of August, or when chicks have naturally fledged). Barn Swallow juveniles typically fledge



around 20-21 days old; however, it is possible for Barn Swallow to be using their nests until the end of August in the case of late nesting birds or second broods.

- Monitoring should be undertaken by an experienced observer familiar with stress behavior of birds and can confirm the adequacy of proposed mitigation (e.g. buffer);
- Barn Swallow nests are protected under the MBCA and SARA s.33 until August 31<sup>st</sup>.

#### Bobolink

13. The Bobolink is listed as Threatened (SARA Schedule 1) and is a wetland dependant SAR. They mostly nest in grassland, hayfields, pastures (both native and cultivated), and abandoned fields dominated by tall grasses, although it also uses wet prairie, grassy peatlands, alvars and grass meadows of marshes and bogs. They are semi-colonial species that is often polygynous, arrive in mid-May, males establish their breeding territories by performing elaborate courtship flights, chases, and songs and females construct nest on the ground. Issues and threats include habitat loss breeding and wintering grounds. The proposed recovery strategy for Bobolink can be found at [Bobolink \(\*Dolichonyx oryzivorus\*\): recovery strategy \[proposed\] 2022 - Canada.ca](#).

#### Common Nighthawk

14. Common Nighthawk (CONI) are listed Special Concern (SARA Schedule 1). CONI may choose nest sites in open areas (e.g. gravel or sand) or cleared areas (e.g. forest harvest blocks, recent cleared land, and recent burns) in a wide range of habitats and a variety of substrates, and may establish nest sites in newly cleared habitats, such as lands cleared for industrial development. Common Nighthawk are very cryptic in coloration and finding a bird on the nest or a nest site can be challenging. The use of active nest searching techniques must be carefully evaluated because the risk of disturbing active nests is high. Flushing nesting birds increases the risk of predation of the eggs or young or may cause the parent birds to abandon the nest. Should an adult be flushed from the ground or display agitated behaviour, it should be suspected that a nest or chicks are present, work in the area should be halted, and CWS should be contacted for further advice.

#### Eastern Wood-pewee

15. The Eastern Wood-pewee is a Species of Special Concern (Schedule 1 of SARA) which is mostly associated with the mid canopy layer of forest clearings and edges of deciduous and mixed forests. It is most abundant in forest stands of intermediate age and in mature stands with little understory vegetation. During migration, a variety of habitats are used, including forest edges, early and successional clearings. Further information on Eastern Wood-pewee can be found at [Eastern Wood-pewee \(\*Contopus virens\*\) - Species search - Species at risk registry \(canada.ca\)](#).

#### Evening Grosbeak

16. Evening Grosbeak are listed as Special Concern (SARA Schedule 1) and is found throughout the Maritimes. The Evening Grosbeak is a very secretive species, and courtship rituals are essentially done without any elaborate displays or vocalizations. Habitat generally includes open, mature mixedwood forests, where fir species and/or White Spruce are dominant, and Spruce Budworm is abundant. One of the threats to this species is the reduction of mature and old growth mixedwood forests, mortality due to collisions with windows and vehicles. The proposed management plan for the Evening Grosbeak can be found at [Evening Grosbeak \(\*Coccothraustes vespertinus\*\): management plan proposed 2022 - Canada.ca](#).



### Olive-sided Flycatcher

17. The Olive-sided Flycatcher (OSFL) is listed as Special Concern (SARA Schedule 1). This bird is usually associated with open areas that contain tall live trees or snags of coniferous or mixed wood, and often near wetland areas. Olive-sided Flycatcher (OSFL) have relatively large territories for landbirds and beyond “forested wetland” habitat type. OSFL have other habitat requirements that may include access to snags or tall isolated trees, high insect abundance (or specific insect types) from local wetlands, good quality natural edge, proximity to burn areas, etc. As such, ECCC notes that OSFL habitat is not easily modeled by landcover / ecological land classification of forest type methods alone, and the assertion that OSFL will successfully move elsewhere is not sufficiently supported with scientific evidence. The recovery strategy for the Olive-sided Flycatcher can be found at [Olive-sided Flycatcher \(Contopus cooperi\)](#).

### Rusty Blackbird

18. The Rusty Blackbird is a species of Special Concern (SARA Schedule 1) and a wetland dependant SAR. Note: Blackbirds were all considered pests and omitted from the list of birds protected from the MBCA and fall under provincial jurisdiction. The breeding range of the Rusty Blackbird in Canada is almost entirely within the boreal forest. Breeding habitat there is characterized by coniferous-dominated forests adjacent to wetlands, such as slow-moving streams, peat bogs, sedge meadows, marshes, swamps and beaver ponds. On migration, the Rusty Blackbird is primarily associated with wooded wetlands. In winter, it occurs primarily in lowland forested wetlands, cultivated fields and pecan groves. Suitable habitat for the species appears to be decreasing on its breeding range and wintering grounds, due mainly to the loss and degradation of wetlands by human activities. Rusty Blackbird nest in isolated pairs on the margins of wetlands, but sometimes in loose colonies. Nest are located in shrubs or small tree over or near water. The management plan for the Rusty Blackbird can be found at [Management Plan for the Rusty Blackbird \(Euphagus carolinus\) in Canada - Public consultation search - Species at risk registry](#).

### **Non-Avian Species at Risk**

19. The following non-avian SAR (listed on Schedule 1 of the SARA) may occur within the study area: Little Brown Myotis (Endangered), Northern Myotis (Endangered), Eastern Painted Turtle (Special Concern), Snapping Turtle (Special Concern), Wood Turtle (Threatened), Monarch (Special Concern) and Yellow-banded Bumble Bee (Special Concern). Given jurisdiction, provincial biologists at the NS Department of Natural Resources and Renewables should be consulted for technical expertise and avoidance windows.

### Bat SAR

20. ECCC recommends the proponent identify mitigation measures to avoid impacts on individuals or residences potentially affected by this project. The Recovery Strategy for the Little Brown Myotis (*Myotis lucifugus*) and the Northern Myotis (*Myotis septentrionalis*) is available at [Little Brown Myotis \(Myotis lucifugus\)](#), [the Northern Myotis \(Myotis septentrionalis\)](#), and [the Tri colored Bat \(Perimyotis subflavus\)](#). Table 8 of the Recovery Strategy provides examples of “*Activities Likely to Result in the Destruction of Critical Habitat*” which includes activities that cause excessive disturbance (e.g., light, noise, vibrations), such as quarrying, excavating, blasting and forest clearing activities during the overwintering period. Hibernating bats in Atlantic Canada typically enter hibernacula in the fall and remain until the following spring. Outside of the listed critical habitat (i.e.

hibernacula), other habitat features such as bat maternity roosts are important to the maintenance and recovery of the species. ECCC encourages the proponent to submit SAR bat observations to the ACCDC (<http://accdc.com/en/contribute.html>) and the North American Bat Monitoring Program (NABat) (<https://sciencebase.usgs.gov/nabat/#/results>).

#### Turtle SAR

21. ECCC recommends the proponent identify mitigation measures to avoid impacts on individuals potentially found nesting in the project area and along roads, and/or travelling from overwintering areas to nesting habitat. For species-specific technical information, ECCC recommends consulting NS Department of Natural Resources and Renewables' provincial SAR biologist for technical expertise.

#### Monarch

22. ECCC recommends that the proponent ensure that native species that are beneficial to Monarch are planted during revegetation/restoration efforts. The Proponent should consult the [Pollinator Partnerships Canada](#) planting guide for Nova Scotia for information on native species.

### **Standard Recommendations**

#### Revegetation

A variety of species of plants native to the general project area should be used in revegetation efforts. Should seed mixes for herbaceous native species for the area not be available, it should be ensured that plants used in revegetation efforts are not known to be invasive.

#### Buildings, Bridges, and Other Infrastructure

Certain species of migratory birds may nest on the sides of buildings, bridges or other pieces of infrastructure. Additionally, some species may nest on equipment, if they are left unattended/idle for long periods of time.

ECCC recommends the following beneficial management practices:

- Ensure that project staff are aware of the potential of migratory bird nests on infrastructure, buildings, and bridges, if applicable.
- If a nest is discovered, do not conduct any activities around the nest that may cause the nest to be abandoned or destroyed. Activities should be suspended until the chicks have fledged and left the area.
- If the proponent anticipates that birds may nest on infrastructure, install anti-perching and nesting exclusion devices (e.g. snow fencing, chicken wire fencing, etc.) before any nest attempts are made.

If there is ultimately a need to decommission a building or structure used for nesting by migratory birds, ECCC should be consulted in a timely manner in advance of any proposed decommissioning activities for species-specific considerations.

#### Fuel Leaks and Emergency Response

The proponent must ensure that all precautions are taken by the contractors to prevent fuel leaks from equipment, and that a contingency plan in case of oil spills is prepared. Furthermore, the proponent should ensure that contractors are aware that under section 5.1 the MBCA, "*no person shall deposit or permit to be deposited oil, oil wastes or any substance harmful to migratory birds in any waters or any area frequented by migratory birds.*" Biodegradable alternatives to petroleum-

based chainsaw bar oil and hydraulic for heavy machinery 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. Fueling and servicing of equipment should not take place within 30 meters of environmentally sensitive areas, including shorelines and wetlands. The proponent is responsible for ensuring that all precautions are taken by the contractors to prevent fuel leaks from equipment, and that a contingency plan is prepared in the case of spills. Furthermore, the proponent should ensure that contractors are aware of s.5.1 MBCA prohibitions.

ECCC recommends incorporating a Wildlife Emergency Response Plan into emergency response contingency plans for scenarios that may impact avifauna directly (injury or mortality e.g. polluting incident) or indirectly (collisions causing mortality, stranding due to light attraction).

For consideration in emergency response and contingency planning related to accidents and malfunctions, ECCC has prepared *Guidelines for Effective Wildlife Response Plans* (ECCC 2022) available online at: <https://www.canada.ca/en/services/environment/wildlife-plants-species/national-wildlife-emergency-framework.html>. Plans should include:

- Measures to deter migratory birds from coming into contact with the oil or polluting substance;
- Measures undertaken if individuals of migratory birds and/or sensitive habitat become contaminated; and,
- The type, extent of monitoring, and reporting in relation to various spill events.

Events involving a polluting substance should be reported to the 24-hour environmental emergencies reporting system: **1-800-565-1633**.

Bird mortality incidents of 10 or more birds in a single event, or an individual species at risk, should be reported via ECCC-CWS Main Office **(506) 364-5044** or via email to [SCFATLEvaluationImpact-CWSATLImpactAssessment@ec.gc.ca](mailto:SCFATLEvaluationImpact-CWSATLImpactAssessment@ec.gc.ca).

### Invasive Species

ECCC recommends that a variety of species of plants native to the general project area be used in revegetation efforts. Should seed mixes for herbaceous native species for the area not be available, it should be ensured that plants used in revegetation efforts are not known to be invasive.

Measures to diminish the risk of introducing invasive species should be developed and implemented during all project phases. These measures could include:

- Cleaning and inspecting construction equipment before transport from elsewhere to ensure that no vegetative matter is attached to the machinery (e.g., use of pressure water hose to clean vehicles before transport).
- Regularly inspecting equipment prior to, during and immediately following construction in areas found to support Purple Loosestrife or other invasive plants to ensure that vegetative matter is not transported from one construction area to another.

### Noise Disturbance

Anthropogenic noise produced by construction and human activity can have multiple impacts on birds, including causing stress responses, avoidance of certain important habitats, changes in foraging behaviour and reproductive success, and interference with songs, calls, and communication. Activities that introduce loud and/or random noise into habitats with previously little to no levels of anthropogenic noise are particularly disruptive.

ECCC recommends the following best management practices:

- Develop mitigations for programs that introduce very loud and random noise disturbance (e.g., blasting programs) during the migratory bird breeding season for their region.
- Prioritize construction works in areas away from natural vegetation while working during the migratory bird breeding season. Conducting loud construction works adjacent to natural vegetation should be completed outside the migratory bird breeding season.
- Keep all construction equipment and vehicles in good working order and loud machinery should be muffled.

#### Working near Waterbodies or Riparian Environments

ECCC recommends the following beneficial management practices for working on/near waterbodies or riparian environments:

- Project staff should not approach concentrations of migratory birds (e.g., seabirds, shorebirds, waterfowl, etc.)
- Project staff should use the main navigation channels or access roads to get to and from the site; and should have well-muffled vessels and machinery.
- Project staff should avoid discharge of oily waste into the marine or riparian environment.
- Food scraps and other garbage left near waterbodies or riparian environments 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, qualitative change in migratory bird numbers or distribution at the location during operations, ECCC should be notified.

#### Light Attraction and Migratory Birds

Attraction to light at night or in poor visibility conditions during the day may result in collision with lit structures or their support structures, or with other migratory birds. Disoriented migratory birds are prone to circling light sources and may deplete their energy reserves and either die of exhaustion or be forced to land where they are at risk of depredation.

To reduce the risk of disturbance to migratory birds related to human-induced light, ECCC recommends implementation of the following beneficial management practices:

- Use the minimum number of site-illuminating lights necessary. Where required, lighting should be fully shielded and directed downward to reduce skyward illumination and light spill. This includes lighting for worker safety, as well as street and parking lot lighting.
- Use LED fixtures where feasible, as they better direct light and minimize light trespass, reducing the risk of attracting migratory birds.
- At night, only strobe lights should be used, operating at the lowest intensity and flash rate permitted by Transport Canada.
- Limit the use and duration of decorative exterior lighting (e.g., spotlights and floodlights), especially during migration periods and when Leach's Storm-Petrels are dispersing from colonies. These lights can attract birds from long distances, particularly on foggy, humid, or rainy nights.

#### Applicable Legislation and Standard Advice

##### *Migratory Birds Convention Act*

The federal [Migratory Birds Convention Act](#) (MBCA) and its [regulations](#) protect migratory birds and their eggs and prohibit the disturbance, damage, destruction or removal of migratory bird nests that contain a live bird or a viable egg. Migratory birds are protected at all times; all migratory bird

nests are protected when they contain a live bird or viable egg; and the nests of 18 species listed in [Schedule 1 of the MBR 2022](#) are protected year-round. These general prohibitions apply to all lands and waters in Canada, regardless of ownership. For more information, please visit: [Avoiding harm to migratory birds - Canada.ca](#).

For migratory birds that are listed as Endangered, Threatened or Extirpated on Schedule 1 of the *Species at Risk Act* S.32 (protection of individuals) and S.33 (protection of residences) apply to all land tenure types in Canada. For some migratory bird species listed under the *Species at Risk Act* (SARA), the residence prohibition will protect nests that are not active but are re-used in subsequent years (please note that the residence of a migratory bird may not necessarily be limited to their nest).

The proponent is responsible for ensuring that activities are managed to ensure compliance with the MBCA and associated regulations.

#### *Species at Risk Act*

The *Species at Risk Act* (SARA) “General prohibitions” apply to this project. In applying the general prohibitions, the proponent, staff and contractors, should be aware that no person shall:

- kill, harm, harass, capture or take an individual;
- possess, collect, buy, sell or trade an individual, or any part or derivative;
- damage or destroy the residence of one or more individuals.

General prohibitions only apply automatically:

- on all federal lands in a province,
- to aquatic species anywhere they occur,
- to migratory birds protected under the Migratory Birds Convention Act (MBCA) 1994 anywhere they occur.

Section 33 of SARA prohibits damaging or destroying the residence of a listed threatened, endangered, or extirpated species. For migratory bird species at risk (SAR), this prohibition immediately applies on all lands or waters (federal, provincial, territorial and private) in which the species occurs.

For project assessments, SARA requires:

79 (1) Every person who is required by or under an Act of Parliament to ensure that an assessment of the environmental effects of a project is conducted, and every authority who makes a determination under paragraph 82(a) or (b) of the [Impact Assessment Act](#) in relation to a project, must, without delay, notify the competent minister or ministers in writing of the project if it is likely to affect a listed wildlife species or its critical habitat.

(2) The person must identify the adverse effects of the project on the listed wildlife species and its critical habitat and, if the project is carried out, must ensure that measures are taken to avoid or lessen those effects and to monitor them. The measures must be taken in a way that is consistent with any applicable recovery strategy and action plans.

ECCC notes that all comments it provides concerning species at risk that are not migratory birds derive from federal recovery/management plans as posted on the Species at Risk Registry (<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry.html>), and thus comments may not be comprehensive to the body of knowledge for the species. The Province of Nova Scotia’s Department of Natural Resources and Renewables (NSDNR)

holds expertise and authority regarding mitigations and management of non-migratory avian terrestrial species at risk (e.g., bats, reptiles, amphibians, land-mammals, plants, lichen and birds that are not protected by the MBCA, such as raptors) in Nova Scotia.

For species which are not listed under SARA but are listed under provincial legislation only or that have been assessed and designated by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), it is best practice to consider these species in EA as though they were listed under SARA.

Date: November 4, 2025

To: Anthony Heggelin, Environmental Assessment Officer

From: Inspection, Compliance and Enforcement (ICE) Division, Kentville Office

Subject: **Morden Road Sand Pit Expansion Project, Kings County, Nova Scotia**

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**Scope of review:**

This review focuses on the following mandate:

- Compliance with the Environment Act and regulations made pursuant to the Act
- Industrial Approval requirements
- Surface water
- Groundwater
- Air
- Watercourses and wetlands
- Reclamation/Rehabilitation
- Consultation and engagement
- Design and Scale of the Undertaking
- Baseline Environmental Conditions
- Cumulative Environmental Effects
- Emergency and Risk Management

**List of Documents Reviewed:**

- Registration Document

**Details of Technical Review:**

**1) Pit Boundaries and Surrounding Disturbance**

The nature of activities/disturbance just outside of the existing pit area and expansion area are unclear. If these areas are part of the active area (as defined below), separation distances may need to be reassessed, and reclamation or authorization may be required.

*Active Area means the area occupied by the working face, disturbed areas, rehabilitated areas, any structure, processing facility, pollution abatement system, settling pond, aggregate stockpile and/or overburden associated with the Pit and Pit activities. The active area excludes the scale, scale house, and access roads.*

Examples from Drawing 4.3.1 and Appendix B suggest disturbed areas near the entrance, access roads, and cleared land south and southeast of the pit.

The site plan for the Morden Road Sand Pit Expansion Project shows that the southeast boundary of the proposed pit expansion area is located less than 30 m from the property boundary, which does not meet the required separation distance specified in the Pit and Quarry Guidelines.

## **2) Separation Distances to Wells**

Section 7.1 references two wells on-site and nearby drilled wells. It's unclear of the type (i.e. dug, sandpoint or drilled) of wells on adjacent properties. The location of the domestic well serving the on-site residence are not discussed, nor are wells on neighboring properties. These are also missing from the Reclamation Plan.

In this area, homeowners rely on private wells for their drinking water. The closest point of the proposed pit expansion area to the neighbouring property is approximately 20 m.

## **3) Groundwater Depth and Groundwater Flow Direction**

Section 7.1.1 estimates groundwater elevation between 23.34 and 25.56 m above sea level. It's unclear if the water level in the on-site wells were measured, or how they compare to the proposed pit floor elevation of 25.5 m. The document mentions test pits but provides no details. Were test pits dug in the existing pit floor? Was groundwater encountered? At what depth?

No direct water level measurements were provided. The water table elevation for the Project Site was estimated using static water level data from the Nova Scotia Well Logs database. This approach is not appropriate as using aggregated water level data for both surficial and bedrock aquifers without differentiation, and these levels are also influenced by well casing depths.

The use of aggregated well level data for determining the groundwater flow direction is also inappropriate.

## **3) Baseline Domestic Well Conditions**

The well log database indicates that most domestic wells in the surrounding area draw from the surficial sand aquifers, which are the same media as the sand pit. Given the proximity to neighboring wells, the local geology, the high permeability of the sand aquifer, and the proposed expansion area's location hydraulic upgradient of these wells, it is necessary to collect baseline water samples and to verify the actual water table depths.

## **4) Fuel and Chemical Storage**

Section 8.1.6 notes that fuel and other substances could harm McGee Brook if spilled. However, no details are provided on fuel or chemical storage.



## **5) Contingency Plan**

Section 11.3 commits to updating the Emergency Response Plan and Contingency Plan but does not reference the *Contingency Planning Guidelines* and does not consider the potential impacts to the domestic wells

## **6) Erosion and Sediment Control Plan**

Section 8.1.1 commits to developing an Erosion and Sediment Control Plan but does not reference the *Guide to Developing Erosion and Sediment Control Plans* and *Erosion and Sediment Control Handbook for Construction Sites*.

## **7) Rehabilitation Plan**

A commitment to progressive rehabilitation in accordance with the *Pit and Quarry Guidelines*, and preliminary rehabilitation strategies are noted but the Guidelines offer only general direction. Additional requirements would be specified in the amended Industrial Approval. The Reclamation Plan in Appendix B indicates existing slopes may be steeper than 3:1, and it is unclear how gentler slopes will be achieved given the pit extends to a third-party property. Slope stability especially important near third-party property boundaries to prevent slumping or erosion.

## **8) Nearby Projects**

Section 9.2.3 mentions that there are several pits and quarries in the region. While no pits with Industrial Approvals or Environmental Assessment Approvals are identified within 5 km of the Site, it would be appropriate to identify nearby pits that have at least Environmental Assessment Approvals for consideration of project alternatives and benefits. Seven pits with EA approvals are situated within 23 km of the Site.

## **9) Supporting Information for the Industrial Approval Amendment Application**

Several plans referenced in the EA will need to be developed/expanded for the amendment application for Industrial Approval, including:

- Erosion and Sediment Control Plan
- Surface Water Management Plan
- Groundwater Management and Monitoring Plan
- Emergency Response Plan and Contingency Plan
- Rehabilitation Plan
- Complaint Response Protocol

## Key Considerations: (provide in non-technical language)

The following items are suggested for consideration during project planning and amendment application.

1. **Define the active area boundaries** clearly, including separation distances—particularly from wells—and implement adjustments or mitigation measures as needed. This may involve realigning on-site roads or restricting activities near the pit edge to minimize dust and noise impacts.
2. **Conduct a well survey** to establish baseline groundwater data.
3. **Measure water levels in on-site wells** and compare them with proposed pit depths to inform groundwater protection strategies. Installation of monitoring wells may be necessary to verify extraction depths and ensure vertical separation from groundwater. The proposed Groundwater Management and Monitoring Plan is acknowledged and should be provided in detail. Additional monitoring wells may be required between the pit and downgradient property boundaries or neighboring wells to detect hydraulic changes and potential impacts on groundwater quality.
4. **Develop a contingency plan** to address potential impacts on nearby wells.
5. **Prepare a comprehensive reclamation plan** aimed at minimizing long-term effects on groundwater quality.
6. **Identify all on-site petroleum and chemical storage areas** and review the *Petroleum Management Regulations* and *Dangerous Goods Management Regulations* to determine applicability.
7. **Use the Contingency Planning *Guidelines*, Erosion and Sediment Control *Plans*, and the Erosion and Sediment Control *Handbook for Construction Sites* to guide the development of appropriate site plans.**
8. **Assess slope stability**, particularly near adjacent properties, and outline how stable slopes (e.g., 3:1) will be achieved.
9. **Consult with ICE** prior to submitting the Industrial Approval amendment application to ensure all required documentation and information are included.
10. **Be aware that additional requirements** related to the Industrial Approval amendment may arise during the application process.

Date: November 4, 2025

To: Anthony Heggelin, Environmental Assessment Officer

From: Department of Natural Resources and Department of Energy

Subject: **Morden Road Sand Pit Expansion Project, Kings County, Nova Scotia**

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## **Scope of review:**

This review focuses on the following mandate: Subsurface Energy, authorities and approvals required from the Land Services Branch, geoscience health and safety, mineral exploration, mineral development, abandoned mine openings, biodiversity, species at risk, wildlife and wildlife habitat.

## **List of Documents Reviewed:**

### **Land Services Branch:**

- Environmental Assessment Registration Document
- Appendices A-H
- GIS shapefiles

### **Geoscience and Mines Branch:**

- Morden Road Sand Pit Expansion EARD document and Appendices (Parts A through H).
- Mineral Occurrence Database (MODB, Version 12, 2024)
- Google Earth
- Provincial Geoscience Atlas
- Nova Scotia's Registry of Claims (NovaROC)
- Open File Map ME 2019-006 Bedrock Geology Map of the Central Annapolis Valley Area, Nova Scotia C. E. White, scale 1:50,000.

### **Forestry and Wildlife Branch:**

- Morden Road Sand Pit Expansion Project EA Registration Document - Part 1
- Morden Road Sand Pit Expansion Project EA Registration Document - Part 2
- Morden Road Sand Pit Expansion Project EA Registration Document - Part 3
- Morden Road Sand Pit Expansion Project EA Registration Document - Appendices

## **Details of Technical Review:**

### **Land Services Branch:**

Based on the information provided, the Project is located on privately owned land, and it does not include/or adjoin Crown lands. No authorities or approvals are required from the Land Services Branch unless the scope of the project changes to include Crown lands.

### **Geoscience and Mines Branch:**

Department staff have completed a preliminary review of the Morden Road Sand Pit Expansion Project. Staff note that the geological characterization of the proposed site is appropriate and identifies the transition in surficial geology within the proposed expansion area from primarily silty till plain to alluvial deposits. It is recommended that the Proponent consider monitoring aggregate and sand quality across this boundary as development progresses. The Proponent identifies that the Project Area is underlain by the Fundy Group Wolfville Formation consisting of pink to red, coarse grained sandstone and conglomerates with aeolian sandstone, hosting the current resource.

The Proponent also considers geological suitability of the area for continued extraction in their application.

### **Mineral Occurrences**

The proposed Project Area is ranked low for mineral potential using the 2009 model; however, it is considered to have a high potential for aggregate resources, with multiple established surficial resources defined in the area comprised primarily of outwash sand and gravel deposits. No exploration licenses are located within 10 km of the Project Area as of the effective date of this review. A single mineral occurrence containing minor amounts of manganese is located 600 m south of the PA. It is not anticipated that the proposed project will result in any negative impacts to mineral exploration in the area.

### **Forestry and Wildlife Branch:**

ACCDC and other data indicate that wood turtle, eastern wood-pewee and little brown bats have been observed near the project footprint. Known wood turtle streams exist to the south of the project footprint.

The desktop review process further indicated that snapping turtles, eastern painted turtles, barn swallows, bobolink, common nighthawk, evening grosbeak, olive-sided flycatcher, and rusty blackbird have also been observed near the project footprint.

Flora, breeding bird, nightjar, trail camera, bat, wood turtle surveys were conducted, and these were generally executed at an appropriate level of effort and using an appropriate methodology. The exception was the nightjar survey, which was conducted on July 26, which is outside the recommended survey period (June 15 to July 15) outlined in the Canadian Nightjar Survey Protocol. Consequently, this survey may have been too late to detect at-risk bird species, including the eastern whip-poor-will and common nighthawk.

During the breeding bird surveys, eastern wood-pewees were observed, but not confirmed breeding on site. Bank swallows were confirmed to be breeding on site; they have built nesting cavities along the vertical face of the exploration pit. The proponent

has suggested alternative bank swallow breeding habitat will be created. Mitigations will be required to ensure the alternate nesting habitat is a sufficient distance so project activities will not disturb breeding birds, and to ensure the current breeding habitat is destroyed prior to the nesting period.

Bat monitoring showed the presence of little brown myotis and northern myotis, particularly during July, suggesting they may be foraging in the adjacent wetland/stream.

Wood turtles were not observed, however, McGee Brook, as well as the surrounding uplands, may provide suitable habitat for wood turtle nesting, over-wintering and foraging. Because suitable habitat is present and there is the potential for wood turtle encounters within the project area, appropriate mitigations will be required.

## **Key Considerations: (provide in non-technical language)**

### **Subsurface Energy Branch:**

No additional comments.

### **Land Services Branch**

No additional comments.

### **Geoscience and Mines Branch:**

No additional comments.

### **Forestry and Wildlife Branch:**

Based upon a review of the information submitted, the following recommendations are provided:

- Obtain all necessary permits to undertake the project as required under legislation related to wildlife, species at risk, watercourses and wildlife habitat alterations.
- Provide digital waypoints and/or shapefiles for all species detected during flora and fauna surveys, including Species at Risk and Species of Conservation Concern to DNR (those species listed and/or assessed as at risk under the *Species at Risk Act*, *Endangered Species Act*, COSEWIC, as well as all S1, S2 and S3 species). Data should adhere to the format prescribed in the DNR Template for Species Submissions for EAs and is to be provided within two (2) months of collection.
- Develop a Wildlife Management Plan (WMP) in consultation with DNR and ECCC which includes:
  - Communication protocol with regulatory agencies.
  - General wildlife concerns (e.g., human-wildlife conflict avoidance).
  - Education sessions and materials for project personnel on Species at Risk, especially bank swallows and turtles, non-Species at Risk-wildlife, and other important biodiversity features they may encounter on-site and how to appropriately respond to those encounters.
  - Noise, dust, and lighting mitigation and monitoring.

- Emergency response plans for accidental spills, pollution, chemical exposure, and fire.
- Apply standard best management practices for any material stockpiles to avoid creating artificial habitat for wildlife. Mitigation measures for bank swallows to ensure any stockpiles or banks have a slope of less than 70 degrees to deter bank swallow nesting in high disturbance areas.
- Measures to protect and mitigate against adverse effects to migratory birds during all Project phases. The incidental take of migratory birds, as well as their nests and/or eggs, is not permitted under the *Migratory Birds Convention Act* and the *NS Wildlife Act*. This may include avoidance of certain activities (such as vegetation clearing) during the regional nesting period for most birds, buffer zones around discovered nests, limiting activities during the breeding season around active nests, restricting lighting use at night during seasonal migration periods, and other best management practices.
- Quarries and pits are known to provide suitable habitat for herpetofauna, so include measures to protect and mitigate adverse effects to turtles during construction and operation. This may include timing windows for vegetation clearing, buffer zones around discovered nests and contingency plans for encountering turtles on the work site which would include consulting with DNR biologists.
- Mitigation measures consistent with recovery documents (federal and/or provincial recovery and management plans, COSEWIC status reports) to avoid and/or protect Species at Risk/Species of Conservation Concern and associated habitats discovered through survey work or have the potential to be found on site. The EA document outlines “Alternate nesting habitat will be created nearby in consultation with qualified biologists, mimicking the slope, substrate, and orientation of the original site. All activities will be timed to avoid the breeding season”. An additional consideration is that the alternate nesting habitat should be far enough away from the active site to ensure that any bank swallows utilizing the alternate nesting site will not be disturbed. 300 to 500m from high-impact activities (such as a sandpit or quarry) is recommended, with the exact distance depending on the type of activities that will be conducted on site.
- It is recommended that the proponent ensures standard practices are established during development, construction, and operation of the site to prevent wildlife interactions that may result in entanglement, entrapment, or injury. As part of daily operations staff should be trained to survey the site, identify issues, and consult as appropriate for solutions when wildlife is found to be utilizing artificial or existing habitat conditions during the operation of the site.
- Establish a decommissioning and site reclamation plan to revegetate areas that are no longer operational with native plant species to aid in the control of invasive species that may be in the process of becoming established.

- Develop a plan to prevent the spread of invasive species both on and off site. The plan should include monitoring, reporting, and adaptive management components
- Details on monitoring and inspections to assess compliance with the WMP.

Date: October 31, 2025

To: Anthony Heggelin, Environmental Assessment Officer

From: Water Resource Management Branch

Subject: **Morden Road Sand Pit Expansion Project, Kings County, Nova Scotia**

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**Scope of review:**

This review focuses on the following mandate: surface water quality and quantity, groundwater quality and quantity, and wetlands.

**List of Documents Reviewed:**

Environmental Assessment Registration Document (EARD) Submission, including Drawings and Appendices.

**Details of Technical Review:**Groundwater

The proponent is seeking EA approval to expand their current sand pit from 3.995 hectares to 5.46 hectares. The site is approximately 10.86 hectares and is located within a suburban area with mixed land use, including residential, agricultural, and forested areas. The proposed pit is located within a glaciofluvial, i.e., unconsolidated sand and gravel aquifer, underlain by sedimentary bedrock. According to the well logs database, there are 54 private water supply wells within 500 meters of the proposed project. McGee Brook flows along the northeastern most edge of the site, along with an associated wetland.

Based on available information, there does not appear to be an existing groundwater monitoring well network or groundwater monitoring program associated with the existing pit. The EARD provided estimates of groundwater flow direction, aquifer thickness, and water table elevation using data acquired through the well logs database. The estimated thickness of the surficial aquifer, i.e., vertical distance between the water table and the top of bedrock, ranges from approximately 4 to 36 meters, with an estimated water table elevation of 25 meters above sea level, and a southwestward trend in groundwater flow across the site. The EARD states excavation will be limited to at least one meter above the groundwater table, and verified by groundwater level monitoring, and no pumping or dewatering activities are planned”.

Surface Water



The EARD identified McGee Brook as a watercourse adjacent to the project area. The proponent committed to maintaining a 30-metre natural vegetated buffer around McGee Brook to ensure the protection of water quality, sediment filtration, decreasing soil erosion, preventing streambank collapse, and allowing for infiltration into underlying soils within the project area.

The proponent identified flooding as a risk that may occur due to intense rainfalls and may cause erosion and runoff on the project site. They will mitigate this impact by directing runoff away from sensitive areas and developing an erosion and sediment control plan. They will develop a surface Water Management Plan to manage surface water quality and quantity in the project area.

The proponent committed to monitoring their activities to ensure mitigation measures for sediment and erosion are effective and to detect any unexpected impacts on water quality and drainage.

The proponent assessed water quality at McGee River and outlined several mitigation and monitoring measures for water quality protection during excavation activities including monitoring for sulfide-bearing materials and unexpected geological hazards, conducting regular compliance checks, and maintaining equipment to prevent fuel leaks. The proponent committed to developing a spill prevention and emergency response plan prior to operations that include measures to mitigate the risk of spills of hazardous substances from machinery that may lead to contamination of surface water and groundwater sources. The proponent also committed to monitor total Suspended Solids (TSS) for surface water leaving the site to ensure compliance with water quality standards.

### Wetlands

The EARD identified one wetland within the project site along the eastern boundary which is contiguous with McGee Brook. The wetland complex was identified as a floodplain throughflow wetland dominated by a combination treed/shrub swamp and marsh. The proponent has avoided direct impacts to wetlands and will be operating above the water table, therefore, no impacts to wetland from groundwater drawdown is anticipated. The proponent identified that there will be a vegetated buffer for McGee Brook but does not identify if the wetland will be buffered. Indirect effects identified in the EARD include dust, invasive species, and Project Site runoff.

### **Key Considerations: (provide in non-technical language)**

#### Groundwater

According to the EARD, "Project activities are not expected to result in significant impacts to groundwater levels, including domestic wells, as excavation will occur above the groundwater table, ensuring that the water table is not disrupted". Maintaining separation distances and implementing a groundwater monitoring program are the mitigation and monitoring measures recommended in the EARD. The groundwater monitoring program should involve properly constructed groundwater monitoring wells and include seasonal baseline data, to identify the seasonal high-water table and ensure the 1 m separation is

maintained, and to monitor the effects of the project on nearby private wells, watercourses, and wetlands.

Should the excavation extend below the seasonal high-water table, the estimated groundwater zone of influence from the pit excavation area should be determined using calculated analytical drawdown predictions or numerical modeling. The estimated groundwater zone of influence can be used to evaluate drawdown effects on adjacent receptors, i.e., surface water, wetlands, and water supply wells.

Since residents in the vicinity of the site rely on groundwater as a source of drinking water and there are several private wells nearby, a baseline well survey (water levels and quality) should be conducted. Baseline well surveys are typically conducted for wells within 1 km.

The potential for water quality degradation exists in the event of accidental spills of chemicals or fuels during operations. Equipment maintenance, spill response, and contingency plans, as suggested in the EARD, are important for protecting groundwater quality in the event of a spill or release during operations.

### Surface Water

The proponent provided many mitigation measures and plans to ensure the protection of surface water. However, the efficiencies of these measures cannot be assessed at this time because they did not provide enough details.

The proponent should provide clear details in the surface water monitoring and management plans to guide site staff and support implementation. The monitoring plan should include details on monitoring locations (e.g., site discharge location in comparison to McGee Brook and wetland area), monitoring methods and frequency, and sediment levels monitoring locations.

The proponent should select appropriate extreme rainfall events (e.g., return period, duration, intensity) based on the pit lifespan to help them estimate site runoff specially during extreme rainfall events and guide their surface water management design.

### Wetlands

During detailed design, if potential indirect impacts are anticipated, the proponent should submit a Wetland Alteration Approval Application for review and approval for any wetlands proposed to be directly or indirectly altered and complete any necessary compensation and monitoring. The proponent should utilize Nova Scotia's Wetland Alteration Application's Guided Template for the permit applications.

**From:**  
**To:** [Environment Assessment Web Account](#)  
**Cc:**  
**Subject:** MAARS Response - Morden Road Sand Pit Expansion  
**Date:** November 19, 2025 3:16:13 PM  
**Attachments:** [MAARS Response - Morden Road Sand Pit Expansion.pdf](#)

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**\*\* EXTERNAL EMAIL / COURRIEL EXTERNE \*\***

Exercise caution when opening attachments or clicking on links / Faites preuve de prudence si vous ouvrez une pièce jointe ou cliquez sur un lien

To Whom It May Concern,

Attached is the written submission, provided on behalf of the Maritime Aboriginal Aquatic Resources Secretariate and the Native Council of Nova Scotia, as it relates to the Morden Road Sand Pit Expansion being undertaken by Kenneth Lutz Trucking Ltd.

Thank you,

Habitat Impact Advisor  
Maritime Aboriginal Aquatic Resources Secretariate  
80 Walker Street, Suite 3  
Truro, Nova Scotia, B2N 4A7  
(902) 895-2982 - [mapcmaars.ca](mailto:mapcmaars.ca)

# Maritime Aboriginal Peoples Council



The Maritime Regional Aboriginal Leaders  
Intergovernmental Council of Aboriginal Peoples  
Continuing to Reside on Traditional Ancestral Homelands

## Forums

- ☐ Leaders Congress
- ☐ MAPC Commissions/Projects
- ☐ MAARS Secretariate
- ☐ MAPC Administration

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November 23<sup>rd</sup>, 2025

Environmental Assessment Branch  
P.O. Box 442  
Halifax, Nova Scotia  
B3J 2P8

## RE: Morden Road Sand Pit Expansion

To Whom It May Concern,

On behalf of the Native Council of Nova Scotia (NCNS), the Maritime Aboriginal Aquatic Resources Secretariate (MAARS) is providing comments to the Environmental Assessment Branch of the Nova Scotia Department of Environment and Climate Change regarding the Environmental Assessment Registration Document (EARD) for the Morden Road Sand Pit Expansion being undertaken by Kenneth Lutz Trucking Ltd.

We expect the proponent to execute this expansion with a high level of commitment to minimizing environmental impacts, including respecting the 30-metre buffer around both McGee Brook and the adjacent wetland. Given the relatively small footprint of the expansion and the proponent's commitment to environmental stewardship, MAARS and the NCNS do not have any commentary to provide regarding the proposed undertaking, however we would like to be kept apprised of any developments or changes to the project.

## For contextual purposes

We would like to take this opportunity to reiterate that it is important for all proponents of projects to understand that the Off-Reserve Aboriginal Community represented by the NCNS is included within the definition of the word "Indian" of Section 91(24) of the *Constitution Act*, 1982. The Supreme Court of Canada in a landmark decision in *Daniels v. Canada (Indian Affairs and Northern Development)*, 2016 SCC 12, declared that "the exclusive Legislative Authority of the Parliament of Canada extends to all Indians, and Lands reserved for the Indians" and that the word "Indians" in s.91(24) includes the Métis and non-Status

Indians<sup>1</sup>. Since 2004, in multiple decisions passed by the Supreme Court of Canada: *Haida Nation*<sup>2</sup>, *Taku River Tlingit First Nation*<sup>3</sup>, and *Mikisew Cree First Nation*<sup>4</sup>, has established that,

“Where accommodation is required in decision making that may adversely affect as yet unproven Aboriginal Rights and title claims, the Crown must balance Aboriginal concerns reasonably with the potential impact of the decision on the asserted right or title and with other societal interests.”

Further, both the Government of Nova Scotia and the Government of Canada are aware that the “Made in Nova Scotia Process” and the *Mi’kmaq-Nova Scotia-Canada Consultation Terms of Reference* does not circumvent the Provincial Government’s responsibility to hold consultations with other organizations in Nova Scotia that represent Indigenous Peoples of Nova Scotia. While the proponent may have to engage with the thirteen Mi’kmaq First Nations through the Assembly of Nova Scotia Mi’kmaq Chiefs, represented by the Kwilmu’kw Maw-klusuaqn Negotiation Office (KMKNO), the KMKNO does not represent the Off-Reserve Aboriginal Community who have elected to be represented by the NCNS since 1974.

We assert that the Off-Reserve Aboriginal Communities, as 91(24) Indians, are undeniably heirs to Treaty Rights and beneficiaries of Aboriginal Rights as substantiated by Canada’s own Supreme Court jurisprudence. As such, there is absolutely an obligation to consult with the Off-Reserve Community through their elected representative body of the NCNS. The Crown’s duty is to consult with all Indians, not only the Indian Act Bands.

For over forty years, the three Native Council partners of the Maritime Aboriginal People’s Council (MAPC) have continued to be the Aboriginal Peoples Representative Organizations representing and advocating for the Rights and issues of the Mi’kmaq/Wolastoqiyik/Peskotomuhkati/Section 91 (24) Indians, both Status and non-Status, continuing to reside on their unceded Traditional Ancestral Homelands. In the early 1970s, the communities recognized the need for representation and advocacy for the Rights and Interests of the off-Reserve community of Aboriginal Peoples, “the forgotten Indian”. Women and men self-organized themselves to be the “voice to the councils of government” for tens of thousands of community members left unrepresented by Indian Act-created Band Councils and Chiefs. Based on the Aboriginal Identity question, Statistics Canada (2021 Census - 25% sample) enumerate 25,415 off-Reserve Aboriginal Persons in New Brunswick, 42,580 in Nova Scotia, and 2,865 in Prince Edward Island.

Each Native Council in their respective province asserts Treaty Rights, Aboriginal Rights, with Interest in Other Rights confirmed in court decisions, recognized as existing Aboriginal and Treaty Rights of the Aboriginal Peoples of Canada in Part II of the Constitution Act of Canada, 1982. Each Native Council has established and maintains Natural Harvesting Regimes, and each have a co-management arrangement with DFO for Food, Social, and Ceremonial use of aquatic species, through the: Najiwsgetaq Nomehs (NBAPC), the Netukulimkewe’l Commission (NCNS), and the Kelewatl Commission (NCPEI).

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<sup>1</sup> Daniels v. Canada (Indian Affairs and Northern Development), 2016 SCC 12, [2016] 1 S.C.R. 99

<sup>2</sup> Haida Nation v. British Columbia (Minister of Forests), (2004), 2 S.C.R. 511

<sup>3</sup> Taku River Tlingit First Nation v. British Columbia (Project Assessment Director), (2004), 3 S.C.R. 550

<sup>4</sup> Mikisew Cree First Nations v. Canada (Minister of Canadian Heritage), (2005), 3 S.C.R. 388

The Native Council of Nova Scotia was organized in 1974 and represents the interests, needs, and rights of Off-Reserve Status and Non-Status Section 91(24) Indians/Mi'kmaq/Aboriginal Peoples continuing to live on our Traditional Ancestral Homelands throughout Nova Scotia as Heirs to Treaty Rights, Beneficiaries of Aboriginal Rights, with Interests to Other Rights, including Land Claim Rights.

The Native Council of Nova Scotia (NCNS) Community of Off-Reserve Status and Non-Status Indians/Mi'kmaq/Aboriginal Peoples supports projects, works, activities and undertakings which do not significantly alter, destroy, impact, or affect the sustainable natural life ecosystems or natural eco-scapes formed as hills, mountains, wetlands, meadows, woodlands, shores, beaches, coasts, brooks, streams, rivers, lakes, bays, inland waters, and the near-shore, mid-shore and off-shore waters, to list a few, with their multitude of in-situ biodiversity. Our NCNS Community has continued to access and use the natural life within those ecosystems and eco-scapes where the equitable sharing of benefits arising from projects and undertakings serve a beneficial purpose towards progress in general and demonstrate the sustainable use of the natural wealth of Mother Earth, with respect for the Constitutional Treaty Rights, Aboriginal Rights, and Other Rights of the Native Council of Nova Scotia Community continuing throughout our Traditional Ancestral Homeland in the part of Mi'kma'ki now known as Nova Scotia.

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We would appreciate an opportunity to engage on the Morden Road Sand Pit Expansion Project directly with the proponent, Kenneth Lutz Trucking Ltd. We look forward to further dialogue as we continue to advocate for the rights of Off-Reserve Status and Section 91(24) Indians/Mi'kmaq/Aboriginal Peoples of Nova Scotia. To continue to represent the interests and needs of the off-Reserve Aboriginal Community in Nova Scotia, we would like to request the opportunity to participate in early engagement in future Environmental Assessment Reviews.

Advancing Aboriginal Fisheries and Oceans Entities  
Best Practices, Management, and Decision-making

Habitat Impact Advisor, MAARS

Executive Director, MAARS & MAPC Projects

CC: , Chief & President, NCNS  
Commissioner, Netukulimkewe'l Commission, NCNS