



Fisheries and Oceans  
Canada

Pêches et Océans  
Canada

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6th Floor Polaris Bldg, B610  
Dartmouth, Nova Scotia  
B2Y 4A2

RECEIVED  
APR - 7 2011

Your file

Votre référence

April 1, 2011

Our file

Notre référence

11-HMAR-MA3-00017

Scott Hatcher  
Town of Rothesay  
70 Hampton Road  
Rothesay, New Brunswick  
E2E5L5

Dear Hatcher:

**Subject:** Authorization under the *Fisheries Act* – Start of environmental assessment under the *Canadian Environmental Assessment Act*

Fisheries and Oceans Canada (DFO) have concluded that your proposal received on January 24, 2011, from New Brunswick Department of Environment and Local Government concerning building a detention pond at Oakville Acres will require a *Fisheries Act* Authorization. To expedite future correspondence or inquiries, please refer to your referral title and file numbers when you contact us.

DFO File No.: 11-HMAR-MA3-00017  
Title: **UNKNOWN TRIB TO SALMON BROOK -  
OAKVILLE ACRES PROPOSED DETENTION  
POND**

It is our understanding that your proposal consists of:

*Building of a detention pond and culvert installation*

as outlined in the following plans:

*As proposed by CBCL in The document "Application for Authorization", dated March 2011*

If the above plans have changed since the time of your submission, you should consult with us to determine if the information in this letter still applies.

.../2

Canada

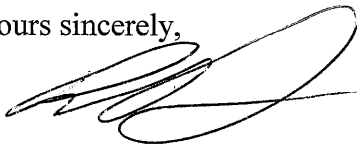
The harmful alteration, disruption or destruction of fish habitat is prohibited unless authorized by DFO pursuant to subsection 35(2) of the *Fisheries Act*. In reviewing your proposal and the above mentioned impacts, we will consider the Department's Policy for the Management of Fish Habitat, which provides that no authorizations be issued unless acceptable measures for any habitat loss are developed and implemented by the proponent.

Please be advised that subsection 35(2) of the *Fisheries Act* are included in the list of laws that trigger the *Canadian Environmental Assessment Act* (CEAA). This means that DFO is required to conduct an environmental assessment of your project, as prescribed by CEAA, before deciding to issue an authorization. Your project description information will be circulated to other federal government departments for their review and comments. If, as a result of the environmental assessment under the CEAA, we are satisfied that the project, after taking into account the implementation of any mitigation measures, is not likely to cause significant adverse environmental effects, an authorization under the *Fisheries Act* may be issued.

**IMPORTANT NOTE:** Information provided by you related to the Environmental Assessment for this project will be part of the Canadian Environment Assessment Registry and will be made available to members of the public, if requested. A package with additional information about these requirements is attached. Please ensure that you review and understand these requirements. Please be aware that release of documents to the public may be part of the CEAA process. Should you provide any documents that contain confidential or sensitive information that you believe could be protected from release to the public, please contact the undersigned to obtain an Exclusion Form. This Form can be used to identify the information to be considered for exclusion from the Canadian Environment Assessment Registry and the rationale for the exclusion.

Should you have any questions or comments, please contact me directly by telephone at (902) 426-7818, by fax at (902) 426-1489, or by e-mail at deviner@mar.dfo-mpo.gc.ca.

Yours sincerely,



Richard Devine  
Habitat Planning Officer

Attachments: Important Note – CEA Registry Requirements  
Section 55 of CEAA

c.c.: Leanda Delaney

## Canadian Environmental Assessment Act (CEAA) Canadian Environmental Assessment Registry s. 55

### Establishment of Registry

55.

#### Canadian Environmental Assessment Registry

(1) For the purpose of facilitating public access to records relating to environmental assessments and providing notice in a timely manner of the assessments, there shall be a registry called the Canadian Environmental Assessment Registry, consisting of an Internet site and project files.

#### Right of access

(2) The Registry shall be operated in a manner to ensure convenient public access to it. This right of access to the Registry is in addition to any right of access provided under any other Act of Parliament.

#### Copy

(3) For the purpose of facilitating public access to records included in the Registry, in the case of a screening or comprehensive study, the federal environmental assessment coordinator and, in any other case, the Agency shall ensure that a copy of any such record is provided in a timely manner on request.

### Internet Site

55.1

#### Establishment and maintenance

(1) The Agency shall, in accordance with this Act and the regulations, establish and maintain an Internet site to be generally accessible through what is commonly referred to as the Internet.

#### Contents

(2) Subject to subsection 55.5(1), the Internet site shall include

- (a) within 14 days after the commencement of an environmental assessment, notice of its commencement, except where a class screening report is used under subsection 19(5) or (6);
- (b) an agreement contemplated by subsection 12.4(3);
- (c) a description of the scope of the project in relation to which an environmental assessment is to be conducted, as determined under section 15;
- (d) a statement of the projects in respect of which a class screening report is used under subsection 19(5) or (6);
- (e) any declaration referred to in subsection 19(4) and the report to which it relates or a description of how a copy of the report may be obtained, and any declaration referred to in subsection 19(9);
- (f) notice of termination of an environmental assessment by a responsible authority under section 26;
- (g) notice of termination of an environmental assessment by the Minister under section 27;
- (h) any public notices that are issued by responsible authorities or the Agency to request public input into an environmental assessment;
- (i) notice of a decision of the Minister to refer a project under paragraph 21.1(1)(a);
- (j) where the responsible authority, in accordance with subsection 18(3), gives the public an opportunity to participate in the screening of a project or where the Minister, under paragraph 21.1(1)(a), refers a project to the responsible authority to continue a comprehensive study, a description of the factors to be taken into consideration in the environmental assessment and of the scope of those factors or an indication of how such a description may be obtained;
- (k) the screening or comprehensive study report taken into consideration by a responsible authority for the purpose of a decision under section 20 or 37 or a description of how a copy of the report may be obtained, except where a class screening report is used under subsection 19(5) or (6);
- (l) an environmental assessment decision statement under subsection 23(1) and any request made under subsection 23(2);
- (m) notice of the referral of a project to a mediator or review panel;
- (n) the terms of reference of a mediation or a review panel;
- (o) if the Minister has ordered the conclusion of a mediation under subsection 29(4), notice of the order;
- (p) a report of a mediator or review panel or a summary of the report;
- (q) a response under paragraph 37(1.1)(a) to the report of a mediator or review panel;
- (r) except where a class screening report is used under subsection 19(5) or (6), the decision of a responsible authority, made under section 20 or 37 concerning the environmental effects of the project, and a statement of any mitigation measures the implementation of which the responsible authority took into account in making its decision;
- (s) a notice stating whether or not, pursuant to subsection 38(1), a follow-up program for the project is considered appropriate;
- (t) a description summarizing any follow-up program and its results or an indication of how a full description of the program and its results may be obtained;
- (u) any other information that the responsible authority or the Agency, as the case may be, considers appropriate, including information in the form of a list of relevant documents in which case a description of how they may be obtained shall be provided; and
- (v) any other record or information prescribed under paragraph 59(h.1).

#### Form and manner of Internet site

(3) The Agency shall determine and notify the public

- (a) what the form of the Internet site is to be and how it is to be kept;
- (b) how records and information are to be included in it;
- (c) what information must be contained in any record referred to in subsection (2);
- (d) what records and information are to be included in the Internet site, in addition to any record referred to in subsection (2);
- (e) when information must be included in the Internet site;
- (f) when information may be removed from the Internet site; and
- (g) how access to the Internet site is to be provided.

## 55.2

### **Duty to contribute records - Agency**

(1) The Agency shall ensure that the records referred to in paragraphs 55.1(2)(b), (e), (i) and (l) are included in the Internet site.

### **In the case of mediation or review panel**

(2) The Agency shall, in the case of a mediation or an assessment by a review panel, ensure that the records referred to in paragraphs 55.1(2)(c), (g), (h), (m), (n), (o), (p), (q) and (u) and any record or information referred to in paragraph 55.1(2)(v) are included in the Internet site.

### **Duty to contribute records - responsible authorities**

## 55.3

(1) A responsible authority shall ensure that the records referred to in paragraphs 55.1(2)(a), (f), (j), (k), (r), (s) and (t) and, in the case of a screening or a comprehensive study, the records referred to in paragraphs 55.1(2)(c), (h) and (u) and any record or information referred to in paragraph 55.1(2)(v), are included in the Internet site.

### **Statement - paragraph 55.1(2)(d)**

(2) A responsible authority shall ensure that the statement referred to in paragraph 55.1(2)(d) is included in the Internet site every three months or with any other greater frequency to which it agrees with the Agency.

### **Time for inclusion of report**

(3) A screening report referred to in paragraph 55.1(2)(k) or a description of how a copy of it may be obtained shall be included in the Internet site not later than the decision referred to in paragraph 55.1(2)(r) that is based on the report, unless otherwise authorized by the Agency.

## Project Files

### 55.4

#### **Establishment and maintenance**

(1) In respect of every project for which an environmental assessment is conducted, a project file shall be established and maintained, in accordance with this Act and the regulations,

(a) by the responsible authority from the commencement of the environmental assessment until any follow-up program in respect of the project is completed; and

(b) where the project is referred to a mediator or a review panel, by the Agency from the appointment of the mediator or the members of the review panel until the report of the mediator or review panel is submitted to the Minister.

#### **Contents of project file**

(2) Subject to subsection 55.5(1), a project file shall contain all records produced, collected or submitted with respect to the environmental assessment of the project, including

(a) all records included in the Internet site;

(b) any report relating to the assessment;

(c) any comments filed by the public in relation to the assessment;

(d) any records relating to the need for, design of or implementation of any follow-up program; and

(e) any documents requiring mitigation measures to be implemented.

## General

### 55.5

#### **Categories of information that may be made publicly available**

(1) The Registry shall contain a record, part of a record or information only if

(a) it has otherwise been made publicly available; or

(b) the responsible authority, in the case of a record under its control, or the Minister, in the case of a record under the Agency's control,

(i) determines that it would have been disclosed to the public in accordance with the *Access to Information Act* if a request had been made in respect of that record under that Act at the time the record came under the control of the responsible authority or the Agency, including any record that would be disclosed in the public interest pursuant to subsection 20(6) of that Act, or

(ii) believes on reasonable grounds that it would be in the public interest to disclose it because it is required for the public to participate effectively in the environmental assessment - other than any record the disclosure of which would be prohibited under section 20 of the *Access to Information Act*.

#### **Applicability of sections 27, 28 and 44 of Access to Information Act to third party information**

(2) Sections 27, 28 and 44 of the *Access to Information Act* apply to any information described in subsection 27(1) of that Act that the Agency or a responsible authority intends be included in the Registry with any modifications that the circumstances require, including the following:

(a) the information is deemed to be a record that the head of a government institution intends to disclose; and

(b) any reference to the person who requested access shall be disregarded.

#### **Deemed application**

(3) This section applies with respect to a responsible authority that is a parent Crown corporation but is not a government institution within the meaning of the *Access to Information Act* as if it were such a government institution.

#### **Protection from civil proceeding or prosecution**

### 55.6

Notwithstanding any other Act of Parliament, no civil or criminal proceedings lie against a responsible authority, the Agency or the Minister, or against any person acting on behalf of them or under their direction, or against a director or officer of a Crown corporation to which this Act applies and no proceedings lie against the Crown, the Agency or any responsible authority, for the disclosure in good faith of any record or any part of a record pursuant to this Act or for any consequences that flow from that disclosure or for the failure to give any notice required under section 27 or 28 of the *Access to Information Act* if reasonable care is taken to give the required notice.