



GULF NOVA SCOTIA FLEET PLANNING BOARD

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The Honourable Catherine McKenna
Minister of Environment and Climate Change
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Ottawa, Ontario K1A 0A6

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April 11, 2018

RE: Request for Federal Environmental Assessment of Northern Pulp Nova Scotia Corporation's Effluent Pipe Project

Dear Ms. McKenna:

1. Request for Federal Environment Assessment under Section 14 of CEAA 2012

[1] We the undersigned are writing to formally request that you, as Minister of Environment and Climate Change, designate Northern Pulp Nova Scotia Corporation's proposed pulp mill effluent treatment project at Abercrombie Point, Nova Scotia, as one that requires a federal environmental assessment under the *Canadian Environmental Assessment Act 2012*. The proposed new effluent treatment facility includes a ten-kilometre pipe to discharge effluent from a bleached kraft pulp mill into the Northumberland Strait.



[2] We make this request given that you have legislative authority under subsection 14(2) of the Act to designate a project for a federal environmental assessment, notwithstanding that the project is not identified in the *Regulations Designating Physical Activities* (Project List) under the Act. We are confident that Northern Pulp's effluent treatment project falls under the authority of the Canadian Environmental Assessment Agency.

[3] We note that, per subsection 14(5) of the Act, Northern Pulp has not yet begun the physical carrying out of the project, and we understand that no federal authority has exercised a power that would permit Northern Pulp to carry out the project. Thus, we suggest that the subsection 14(5) limitation does not apply to this matter.

[4] Subsection 14(2) of the Act states, in part, that you may order a federal environmental assessment for a project if, in your opinion, (a) the project "may cause adverse environmental effects" or if (b) "public concerns related to those effects may warrant the designation." We urge you to consider the following information regarding these criteria. We are confident that Northern Pulp's effluent treatment project may cause severe adverse environmental effects and that the abundance of public concern over this project warrants federal review of the project.

[5] Furthermore, as explained below, we are confident that the anticipated negative impacts of the effluent project touch on several areas of federal legislative authority, namely: fish and fish habitat; aquatic species under the *Species at Risk Act*; changes on federal lands (ocean and sea floor beyond the jurisdiction of Nova Scotia); changes that impact a province other than where the project is proposed (Prince Edward Island and New Brunswick); and impacts to the aboriginal rights of Pictou Landing First Nation.

2. Significant Adverse Environmental Effects of the Project

2.1 Harm to Fish, per section 2(1) of the Fisheries Act

[6] Northern Pulp's proposed effluent treatment project will pipe 70-90 million litres of toxic pulp mill effluent per day from the pulp mill into the Northumberland Strait. These toxins may include dioxins, furans and heavy metals such as mercury, zinc, cadmium and chromium, along with oxygen-depleting nutrients. The toxins present in the effluent (and the bio-accumulation of these toxins) pose a danger to the fish, shellfish, crustaceans (including lobster), and other marine animals that inhabit this highly productive marine ecoregion. Furthermore the toxins may have a negative impact on the eggs, sperm, larvae, spat, juvenile and adult states of these organisms. In addition to the toxins present in the effluent, the pipe will deliver a vast amount of fresh, warm water into the Strait, which will potentially kill eggs and larvae from numerous species, lobster included, that pass within the zone of concentrated freshwater. Finally, the temperature of the effluent may further negatively impact



marine life. The Strait is known for its prolific shellfish and lobster populations and these are threatened by the effluent pipe project.

[7] Construction associated with laying ten-kilometres of pipe, including dredging, laying a rock mattress, laying pipe, and installing armour rock, will inevitably damage fish habitat.

[8] We are concerned that the pipe, over time, will inevitably leak and leaks will be extremely difficult to fix if (when) they occur during winter months when ice build-up makes accesses to the pipe impossible.

[9] The accumulation of toxins and nutrients from the effluent may also create a zone of contamination and a zone of eutrophication within the Northumberland Strait, which would effectively destroy a portion of the Northumberland Strait's fish habitat.

2.2 Cumulative Impacts on the Northumberland Strait's Marine Environment

[10] According to a study conducted by AMEC Earth & Environmental for the Department of Fisheries and Oceans (DFO), there are already dead zone areas in the Northumberland Strait that lack oxygen due to excessive nutrient inputs. The pipe will contribute to reduced oxygen levels in the Strait; even if reduced oxygen levels do not outright kill fish, they can cause sub-lethal effects such as reduced growth and reproduction.

[11] We are extremely concerned with the cumulative impact that the effluent treatment project will have on the Strait's fish habitat. The Northumberland Strait is already a fragile marine environment; the pipe cannot be considered in isolation from the other threats already impacting fish habitat in the Strait, such as eutrophic conditions, reduced oxygen, increased global warming, etc. The pipe could be the 'tipping point' that triggers ecosystem collapse within the Strait.

2.3 Impact on Marine Species at Risk

[12] The effluent treatment project may impact species at risk that inhabit or frequent the Northumberland Strait. The following marine species, found within the Strait, have been identified as at risk or of special concern by COSEWIC (not all are yet designated under the *Species at Risk Act*): Acadian Redfish, Atlantic population (*Sebastes fasciatus*); Deepwater Redfish (Gulf of St. Lawrence population) *Sebastes mentella*; American Plaice (*Hippoglossoides platessoides*); Atlantic Cod, Laurentian South population (*Gadus morhua*); Atlantic Sturgeon, Maritimes Population (*Acipenser oxyrinchus*); Harbour Porpoise (Northwest Atlantic population) (*Phocoena phocoena*); Striped Bass, Southern Gulf of St. Lawrence population (*Morone saxatilis*); White Hake, Southern Gulf of St. Lawrence population (*Urophycis tenuis*); Leatherback Sea Turtles,



Atlantic population (*Dermochelys coriacea*); North Atlantic Right Whale (*Eubalaena glacialis*).

2.4 Impact on Air Quality

[13] We are concerned that the proposed effluent treatment system will increase air pollution through the burning of contaminated sludge. Northern Pulp has repeatedly violated their allowed levels of air pollution, and the proposed treatment system may increase the amount of pollutants released into the air, thereby increasing health concerns for local residents.

3. Significant Public Concern Related to the Adverse Environmental Effects of the Project

[14] We, the undersigned, directly represent approximately 3,600 people from Nova Scotia, Prince Edward Island and New Brunswick, including members of the Prince Edward Island Fishermen's Association, the Maritime Fishermen's Union, the Gulf Nova Scotia Fleet Planning Board, and the Pictou Landing First Nation. The people we represent have made it abundantly clear to us that they are deeply concerned that the adverse environmental impacts of the effluent treatment project will directly impact their livelihoods, their quality of life, and their inherent right to live in a healthy environment.

[15] Beyond the people we directly represent, citizens of Nova Scotia, New Brunswick and Prince Edward Island have voiced their concerns with the environmental impacts of the proposed effluent treatment project. The Premier of Prince Edward Island, Wade MacLauchlan, for example, has publicly voiced his concern that the effluent pipe project may adversely affect the commercial fishing industry. Premier MacLauchlan stated (in a letter to you) that "an effluent pipe that would allow as much as 75,000 cubic metres of fresh warm water to be directed daily into the Northumberland Strait is not a project that our government will support as proposed." Premier MacLauchlan also referred in his letter to the unique tidal and water circulation patterns present in the Strait. The Premier concluded that,

"we all agree that any development that risks the habitat and reproductive cycle of species such as lobster - or that threatens the livelihood of thousands of families dependent on the fisheries in the Northumberland Strait - cannot proceed."

[16] We have received letters from citizens who are deeply concerned with the potential impact of the proposed effluent treatment system on recreational fisheries in the Northumberland Strait, particularly impacts from increased water temperature and toxic chemicals. Of particular concern is the potential impact on Atlantic Salmon within the Strait.



[17] Numerous letters to the editor from concerned citizens have been published by local newspapers and the provincial Chronicle Herald paper. A few examples of these letters can be found at the following links:

- <https://www.ngnews.ca/opinion/letter-to-the-editor/letter-need-thorough-unbiased-environmental-study-173041/>
- <http://thechronicleherald.ca/letters/1538435-letter-of-the-week-trashing-my-place-of-business>
- <http://pictouadvocate.com/2018/01/12/politicians-insist-mill-clean-act/>

[18] Some 7,000 citizens are following and engaging in social media platforms created specifically to share information with concerned citizens. Following are several examples:

- https://www.facebook.com/groups/545965902107532/?ref=br_rs
- <https://www.facebook.com/search/top/?q=gulf%20of%20st%20lawrence%20fishers%20and%20community%20against%20pollution>
- <https://www.facebook.com/friendsofthenorthumberland/>

[19] Several citizens' events have been held in Nova Scotia, including a panel discussion on the proposed project hosted by Solidarity Halifax and attended by some 150 people. Speakers included author Joan Baxter, members of the Pictou Landing First Nation, and Northumberland fishermen. As well, fishermen, their families, and concerned citizens joined the 'Rise Up Rally' on the steps of the Nova Scotia Legislature to protest the project and demand that our fisheries be protected.

[20] The Tourism Industry Association of Nova Scotia recently wrote to Premier McNeil to ask for a more rigorous assessment process of the proposed project in order to instill public confidence in the decision-making process and to ensure that other business sectors' interests are protected.

[21] A citizens group known as Friends of the Northumberland Strait has been created to oppose the proposed project, and (a) has presented their concerns about the project to four local municipal councils; (b) has set up nearly 1,000 "No Pulp Waste in Our Water" signs throughout Pictou County, Halifax Regional Municipality and Prince Edward Island; (c) has written to Nova Scotia's Environment Minister to challenge his assertion that effluent has been discharged into the Strait for fifty years; presented at a public information session on January 27th to over 60 local community members in Pictou, NS; (d) will host a public open house on April 14th to help inform citizens about the proposed project; (e) has created on-line platforms to share facts, science and opinions on the proposed project and its consequences on the economy, the environment, and the health and quality of life of citizens throughout the region (<https://www.friendsofthenorthumberlandstrait.ca/>); and (f) has created the #NOPIPE trend which is spreading widely through social media.

[22] The citizens groups Save our Seas and Shores Prince Edward Island, the Prince Edward Island Council of Canadians, the University of Prince Edward Island



Environmental Society, the McCilop Centre for Social Justice and the Sierra Club Atlantic will be co-hosting an information open house on April 8th, with Joan Baxter and Melanie Giffin presenting.

[23] The Town of Pictou and the Municipality of the County of Pictou have passed resolutions expressing their citizens' concerns about the proposed project.

[24] There has been extensive media coverage of the proposed project and the concerns of citizens (https://docs.wixstatic.com/ugd/b61814_4df46ccd4a6f406784b3997464d59a5a.pdf).

[25] During a Standing Committee session in the Prince Edward Island Legislature on the proposed project, there was standing room only and citizens had to be routed into an overflow room in another building with the proceedings live-streamed to them.

[26] The Assembly of Nova Scotia Mi'kmaq Chiefs, which represents over 22,000 Mi'kmaq in Nova Scotia, has written (to you) in support of a Federal environmental assessment.

4. Provincial Environmental Assessment alone not Adequate

[27] You are likely aware that the province of Nova Scotia will be undertaking an environmental assessment of Northern Pulp's effluent pipe project. Under Nova Scotia's *Environmental Act*, the province has two levels of environmental assessment, Class 1 and Class 2. The province has decided to undertake the less rigorous Class 1 assessment, which would last a maximum of fifty days and allow a mere thirty days for public comment on the project. We strongly believe that the province's Class 1 environmental assessment of Northern Pulp's effluent pipe is woefully inadequate to deal with the potential adverse impacts on Northumberland Strait marine environment and the level of public concern with these adverse impacts.

[28] Without a doubt, there is a critical need for a federal environmental assessment to ensure adequate investigation and mitigation of the potential adverse effects of the effluent pipe project, and to allay public concerns regarding these adverse effects. Anything less will not be acceptable to the fishermen's organizations, Pictou Landing First Nation, and general public in Nova Scotia, Prince Edward Island and New Brunswick.

5. Existing Regulatory Mechanisms not Sufficient

[29] We recognize that Northern Pulp may be required to meet generic regulations regarding pulp mill effluents. Nonetheless, the unique ecological and hydrographical circumstances of the Northumberland Strait require a federal environmental assessment in order to ensure that potential adverse impacts are known for this



specific location and these circumstances, and measures are taken to mitigate the specific potential impacts of the effluent pipe.

6. Standard Design Features and Mitigation not Applicable

[30] Given that the effluent pipe project proposed by Northern Pulp has no equivalent in the Northumberland Strait, there are no known design features or mitigation methods that could be relied on in advance of the project going forward. A federal environmental assessment is necessary to determine the extent of potential adverse environmental effects of the effluent pipe project and to determine acceptable mitigation options.

7. Impacts to the Pictou Landing First Nation's Aboriginal Rights

[31] Pictou Landing First Nation's main industry is fishing, including lobster, and Chief Andrea Paul has strongly stated her and her Nation's concerns with the potential adverse effects of the effluent treatment project on her community and its fishing industry. The Pictou Landing First Nation asserts its traditional aboriginal right to fish in the Northumberland Strait, and is deeply concerned that the Northern Pulp effluent treatment project will negatively impact this right.

8. Project may Change Components of the Environment within Federal Legislative Authority

[32] As stated above, Northern Pulp's effluent treatment project may cause adverse impacts (a) to fish and fish habitat as defined in subsection 2(1) of the *Fisheries Act*; and (b) to aquatic species as defined in subsection 2(1) of the *Species at Risk Act*.

[33] Furthermore, the effluent treatment project may cause impacts that radiate onto federal land (ocean floor and water beyond provincial jurisdiction), and the impacts of the project may affect provinces other than Nova Scotia, specifically Prince Edward Island and New Brunswick (per subsection 5(1)(b) of CEEA 2012).

[34] We note, as well, that the effluent treatment project will impact a federal Marine Refuge area, namely the Scallop Buffer Zone (SFA 24) created in the Northumberland Strait to protect juvenile lobster habitat. This Marine Refuge counts towards the 10% target to protect Canadian coastal and marine areas before 2020.

[35] Finally, as noted above, the effluent treatment project's anticipated changes to the environment may affect the Pictou Landing First Nation's (a) health conditions via consumption of contaminated marine species; (b) socio-economic conditions due to adverse impacts on the Nation's lobster fishers, whether through reduction in catches and/or through damage to lobster markets caused by negative publicity of the effluent pipe; and (c) current use of the marine environment as a traditional food source and



to obtain a moderate livelihood, via contamination and deterioration of the Strait's marine ecological health (per subsection 5(1)(c) of CEAA 2012).

9. Concern with Perceived Potential Bias of Provincial EA Decision-Maker

[35] We are concerned that the province of Nova Scotia may be, or may be perceived to be, biased with respect to its relationship with Northern Pulp and thereby unable to undertake an unbiased decision-making process with respect to the proposed effluent treatment system. The following are some of our specific concerns:

- the Nova Scotia Minister of Transportation and Infrastructure Renewal stated recently that the Province will be contributing to the costs of the new effluent treatment system, that is, the very system that the Province will be reviewing through the Environmental Assessment process; the Province has already paid \$300,000 towards the design cost of the proposed treatment project;
- the Province is party to an extremely generous indemnity agreement signed with Northern Pulp's predecessor Scott Paper covering the current effluent treatment system; given that the Province may be legally responsible to fully reimburse Northern Pulp for any legal action against Northern Pulp (including charges for breaches of any environmental laws, and including any costs related to loss of profit) related to the current effluent treatment system, there may be an incentive for the Province to approve a new effluent treatment system in order to rid itself of the onerous conditions of the indemnity agreement;
- the Province has invested \$117 million in Northern Pulp in recent years; given this level of financial investment, is it difficult to see how the Province can now act as an impartial decision-maker; Northern Pulp repeatedly claims that it will shut down if the pipeline is not approved as proposed, thereby exerting extreme pressure on the Province to approve the treatment system as proposed;
- should Northern Pulp shut down (temporarily or permanently) due to a delay or required modification of the new effluent treatment process, the Province may be legally responsible for the ensuing financial losses suffered by Northern Pulp because of the indemnity agreement; and



- we have received letters from the Minister of Nova Scotia Environment (Mr. Iain Rankin) assuring us that the environmental impacts of the proposed effluent treatment system will be minimal; given that the Province has yet to conduct an Environmental Assessment, this is an extremely troubling indicator that the Province cannot be considered an unbiased decision-maker in this matter.

Sincerely,

Robert H. Jenkins
Prince Edward Island Fishermen's Association, President

MARITIME FISHERMEN'S UNION (FOR CARL ALLEN), EXECUTIVE
Director
Carl Allen
Maritime Fishermen's Union, President

Ronnie Heighton
Gulf Nova Scotia Fleet Planning Board, President

Andrea Paul
Pictou Landing First Nation, Chief



Cc: Mr. Sean Fraser, M.P.
Central Nova

Mr. Rodger Cuzner, M.P.
Cape Breton-Canso

Mr. Bill Casey, M.P.
Cumberland-Colchester

Honourable Mr. Dominic LeBlanc, P.C. M.P.
Minister of Fisheries, Oceans and the Canadian Coast Guard

Mr. Jonathan Wilkinson, M.P.
Parliamentary Secretary to the Minister of Environment and Climate Change

Mr. Lawrence MacAulay, M.P.
Mr. Sean Casey, M.P.

Mr. Wayne Easter, M.P.

Mr. Robert Morrissey, M.P.

Prince Edward Island Premier Wade MacLauchlan