



FRIENDS OF THE NORTHUMBERLAND STRAIT

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Environment Minister Tim Halman  
[minister.environment@novascotia.ca](mailto:minister.environment@novascotia.ca)

NSECC lead on Northern Pulp  
[ea@novascotia.ca](mailto:ea@novascotia.ca)

**Re: Northern Pulp and the EA process**

Dear Minister Halman and NSECC staff,

I am writing on behalf of Friends of the Northumberland Strait (FONS) to express our concerns about efforts by Northern Pulp and allied organizations to achieve two main goals:

- a) that the TOR set “hard targets” based on “national standards” for effluent and air emissions, and
- b) that the government appoint an independent review panel made up of pulp experts “soon.”

Role and Duties of an EA Review Panel

1. FONS recognizes that a Class II EA in Nova Scotia requires appointment of an independent review panel. According to the [Nova Scotia Environment Act](#),  
**42 (1)** The Minister may appoint persons to a review panel **for the purpose of conducting a review of an environmental-assessment report** and making a report and recommendation to the Minister **with respect to the undertaking to which the environmental-assessment report relates**.  
Further, the Environment Act specifies that:  
**43** A review panel shall
  - (a) **review an environmental-assessment report with respect to an undertaking** referred to the review panel by the Minister in accordance with the directions of the Minister;
  - (b) consult with the public in accordance with this Act; and
  - (c) recommend to the Minister the approval or rejection of an undertaking, or conditions that ought to be imposed upon an undertaking if it proceeds.

The Environment Act is clear that an environmental assessment Report (EAR) is central to the role and duties of a Review Panel. In the absence of an EAR, there is no specified duty or function of a review panel under Nova Scotia’s Environment Act or related regulations.

Timing of Review Panel Appointment

2. FONS believes that the appropriate timing for establishment of an independent review panel should be consistent with the review panel’s role in the EA process as defined by the NS Environment Act, the [Environmental Assessment Regulations](#), and the [EA Review Panel Regulations](#). Until the proponent submits their EAR, there is no role for an independent review panel to play.
3. From the perspective of conducting a fair, transparent and science-based EA process, FONS cannot see any reason for the government to appoint an independent review panel prior to receiving Northern Pulp’s EAR. Certainly, there is no role for the review panel when the proponent has not even determined a discharge point or carried out a Receiving Water Study (RWS). We do not understand why Northern Pulp is pushing so hard to have a panel appointed when the company has barely begun to do the work required for their EAR, which will require an absolute minimum of one year, due to the requirement for studies that must be conducted over all seasons. The EAR could be submitted up to 2 years from the date the TOR are finalized.
4. Further, the EA Review Panel Regulations specify:  
**13(5)** Subject to these regulations, before, during and after a hearing, a member of a review panel **must not communicate in private with anyone except another panel**

**member, a technical advisor, the Administrator, legal counsel to the panel and staff of a government department about the substantive issues under consideration by the panel.**

If Northern Pulp is hoping that having a Review Panel appointed “soon” would allow the company to make their case with panel members before submitting their EAR, either directly or through other interested parties, Section 13(5) makes clear that such private lobbying is not appropriate. Section 13(5) ensures transparency and guards against actions that might compromise the EA process.

#### Panel composition

5. FONS believes that a review panel’s ability to assess the potential health and environmental effects of Northern Pulp’s proposed project requires a range of expertise in a variety of fields. Although Northern Pulp presents the project as a “Mill Transformation Project”, in fact the proposed project involves both changes to the mill and construction of a completely new effluent treatment facility (ETF) discharging 45 million litres of bleached kraft pulp effluent into the shallow marine waters of Pictou Harbour.  
Over the past four years, independent experts from a wide range of fields including marine geologists, experts in air quality modeling, experts in marine dispersion modeling, fisheries biologists, organic chemists, and veterinarians, as well as members of the public with detailed knowledge about local conditions including tides, currents, fisheries, ice conditions, uses of the area and multiple socio-economic factors have all made important contributions to an understanding of the potential impacts of Northern Pulp’s earlier proposed project. This range of expertise has allowed for identification of significant gaps and incorrect information in Northern Pulp’s earlier proposals.
6. We believe that an independent review panel must be made up of people who jointly have the capacity to objectively evaluate the information presented by the proponent as well as comments on that information presented by the public, independent scientists, government departments and First Nations as to the range of potential impacts, both positive and negative, of the proposed project throughout its lifetime.
7. FONS also believes that an independent review panel must be independent both of government and of any one industry. A panel of pulp and paper experts and scientists who regularly advise that industry would not represent the breadth of perspectives required for a truly independent evaluation. There is no reason to believe that such a panel would have the full range of objective expertise and independent viewpoint to evaluate the proposed project on the basis of the standards established under the *Environment Act* statutory scheme. Ultimately the panel must provide recommendations to the Minister as to whether the project can be carried out without causing adverse effects or significant environmental effects, including effects on human health, that are unacceptable and that cannot be mitigated.

#### Standards and role of *Pulp and Paper Effluent Regulations* (PPER)

8. The PPER do not establish safe levels for effluent. Northern Pulp’s push to adopt the PPER as the appropriate standards for the company’s proposed project misrepresents the role of the PPER in avoiding environmental harm. Existing PPER have been in place since 1992 (with a few minor revisions.) The present review and modernization of PPER standards being carried out by the Federal government and stakeholders makes clear that compliance with the PPER does not prevent harm to the environment.
  - “Environmental effects monitoring (EEM) studies required by the PPER have shown that the effluents from 70% of pulp and paper mills are impacting fish and/or fish habitat, and that the **impacts at 55% of these mills pose a high risk to the environment**; ... [Our emphasis, and our note: these mills all met existing PPER regulations.]

- Canadian mills, in general, discharge effluents with higher suspended solids, biochemical and chemical oxygen demand and nutrients per tonne of production than competitors in Europe and United States;”<sup>1</sup>
9. The present PPER establish standards for only two substances, biochemical oxygen demand (BOD) and suspended solids (SS.) The current draft proposal for updated PPER regulations indicate that additional substances are likely to be added, including chemical oxygen demand (COD), phosphorus and nitrogen, as well as standards for temperature and PH.<sup>2</sup> The substances specified in the draft revised PPER are some, not all, of the recognized harmful substances in pulp mill effluent. In addition, the PPER regulations remain the same regardless of whether the substances would be discharged into a small lake or the middle of the ocean, and regardless of whether a mill releases one litre of effluent a day, or 45 million litres. Clearly, the PPER are not intended to be used exclusively to determine potential harm to the environment or adverse effects on health.
  10. Canada’s hazardous substances list includes “[effluents from pulp mills using bleaching](#).” The hazardous substance categorization applies only to effluent from mills “utilizing a chlorine or chlorine dioxide process (which is used to whiten pulp and paper products).”<sup>3</sup> The Northern Pulp mill at Abercrombie Point is a pulp mill using bleaching; it is one of 21 bleached kraft pulp mills in Canada, also known as chemical mills.
  11. If the PPER were meant to be the sole measure establishing levels that would not cause harm, the new PPER would not be considering allowing chemical mills to discharge higher levels of BOD, SS and COD than mechanical mills.<sup>4</sup>

How can acceptable limits be determined?

12. FONS finds reasonable the sections of the Draft TOR (Executive Summary, Background, paragraph 2 and Section 10.0, discussion on emission limits), which explain why the TOR will not set the “hard targets” which Northern Pulp is pushing for. We agree with the Draft TOR that acceptable limits of contaminants cannot be determined without a full analysis of the receiving waters and surrounding environment of a proposed project, including independent assessment of the information submitted by the proponent through the EA process. We hope that the final TOR will continue to make this point clear and explicit.

Summary

13. A recent comment from Meinhard Doelle, Professor of Environmental Law at Dalhousie University,<sup>5</sup> illustrates how Northern Pulp’s demand for hard targets or an exclusive reliance on

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<sup>1</sup> Executive Summary, <https://www.canada.ca/content/dam/eccc/documents/pdf/PPER%20Modernization%20-%20Detailed%20Proposal.pdf>

<sup>2</sup> Section 3.0 <https://www.canada.ca/content/dam/eccc/documents/pdf/PPER%20Modernization%20-%20Detailed%20Proposal.pdf>

<sup>3</sup> <https://www.canada.ca/en/environment-climate-change/services/management-toxic-substances/list-canadian-environmental-protection-act/effluents-pulp-mills-using-bleaching.html>

<sup>4</sup> The draft proposed new PPER regs would establish higher allowable levels of BOD, SS and COD to be discharged from chemical pulp mills than from mechanical mills. The draft proposed standards, Section 3.0, would allow chemical pulp mills to discharge 3.4 times more BOD, 2.5 times more SS and 1.5 times more COD than mechanical mills. [The proposed allowable levels for both chemical mills and mechanical mills under the new PPER would be significantly lower than present PPER limits.]

<sup>5</sup> <https://www.saltwire.com/atlantic-canada/news/northern-pulp-seeks-hard-targets-independent-panel-for-environmental-assessment-100681997/> )

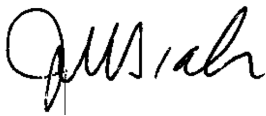
PPER standards would undermine the role of the EA process. FONS found this comment compelling, and consistent with statements included in the Draft TOR.

“It’s understandable that proponents like certainty but for everyone else, impact assessments have always been about flexibility and about planning.... If you set effluent limits at the start, then you can no longer have discussions about what level of effluent will be acceptable given the particular circumstances of the receiving environment. You can have a certain level set for effluent, then someone enters evidence that at that level there will be negative impacts on lobster grounds or on a particular fishery. **So if you’ve already determined a concentration you’ll accept, it undermines the role of the environmental assessment process to determine what is safe in the particular circumstances of the project.”** (our emphasis)

14. FONS believes that Northern Pulp’s demand for an independent review panel comprised of pulp mill experts, and the company’s demand that such a panel be appointed soon, are inappropriate for the reasons outlined above, and would undermine the integrity of the EA process and the ability to reach a science and risk-based conclusion based on all the applicable data and information.
15. FONS hopes that consistent with existing law, you as Minister and NSECC will reaffirm that:
  - As the law requires for a Class II EA, if and when Northern Pulp submits the EAR for the proposed project, you will appoint an independent review panel.
  - The Review Panel for this project will be made up of members able to evaluate the information presented in a fair and unbiased manner, and who have the range of expertise and perspectives needed to evaluate whether the project will meet the standards required by law, as established in the Environment Act and the EA regulations, that is, can the project be carried out without causing significant harm to the environment or human health that cannot be mitigated.

Thank you for your attention to our concerns.

Sincerely,



Jill Graham-Scanlan  
President, Friends of the Northumberland Strait

Cc:  
Chief Andrea Paul, Pictou Landing First Nations  
Dennis McGee, Northumberland Fishermen’s Association  
Mayor Jim Ryan, Town of Pictou  
Mayor Danny MacGillivray, Town of Stellarton  
Mayor Donald Husshar, Town of Trenton  
Mayor Lennie White, Town of Westville  
Mayor Nancy Dicks, Town of New Glasgow  
Warden Robert Parker, Municipality of Pictou County  
Minister Karla MacFarlane, MLA for Pictou West  
Premier Tim Houston, MLA for Pictou East  
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