Dear [Redacted]

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (File # NR-99-2019)

June 3, 2019

On May 16, 2019, the Department of Natural Resources received your request for access to the following records/information:

Quarries - Fermeuse
Time Period: December 1, 2018 – current
All records for:
1. File #7118923
2. File #7112530.

The Department of Natural Resources is providing access to the most information possible but have made redactions in accordance with Sections 29(1)(a), 30(1)(a), 30(2), 35(1)(f), 35(1)(g) and 40(1), as follows:

29. (1)(a) The head of a public body may refuse to disclose to an applicant information that would reveal advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

30. (1)(a) The head of a public body may refuse to disclose to an applicant information that is subject to solicitor and client privilege or litigation privilege of a public body;

30. (2) The head of a public body shall refuse to disclose to an applicant information that is subject to solicitor and client privilege or litigation privilege of a person other than a public body;

35. (1)(f) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on
behalf of the government of the province or a public body, or considerations which relate to those negotiations;

35. (1)(g) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body;

40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party’s personal privacy.

As set out in section 42 of the Act you may ask the Information and Privacy Commissioner to review the department’s decision to provide access to the requested information. A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your request should identify your concerns with the department’s response and why you are requesting a review.

The request for review may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P.O. Box 13004, Stn. A
St. John’s, NL A1B 3V8
Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

Pursuant to section 52 of the Act, you may also appeal directly to the Supreme Court Trial Division within 15 business days after receiving the department’s decision.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

For further details about how an access to information request is processed, please refer to the Access to Information Policy and Procedures Manual at http://www.atipp.gov.nl.ca/Info/index.html.
If you have any questions, please feel free to contact me at 709-729-0463 or rhynes@gov.nl.ca.

Sincerely,

Rod Hynes

Rod Hynes
ATIPP Coordinator
Parsons, Bernadette

From: Brazil, Bernie  
Sent: Friday, December 14, 2018 9:35 AM  
To: Kennedy, Gerald  
Subject: RE: 7118923

Looked through everything I have I don’t see that number on any of them or that name

From: Kennedy, Gerald <geraldkennedy@gov.nl.ca>  
Sent: Friday, December 14, 2018 9:01 AM  
To: Brazil, Bernie <BernieBrazil@gov.nl.ca>  
Subject: RE: 7118923

Terrence Kavanaugh may be the name as well.

From: Brazil, Bernie  
Sent: Friday, December 14, 2018 8:55 AM  
To: Kennedy, Gerald  
Subject: RE: 7118923

Who’s the company so I can narrow search

From: Kennedy, Gerald <geraldkennedy@gov.nl.ca>  
Sent: Thursday, December 13, 2018 10:11 AM  
To: Brazil, Bernie <BernieBrazil@gov.nl.ca>  
Subject: 7118923

Bernie,

Do you have any paper work on this site?

Thanks,
G

Gerald Kennedy, B. Sc.
Manager - Quarry Materials  
Mineral Lands Division  
Department of Natural Resources  
Natural Resources Building  
50 Elizabeth Avenue; 3rd Floor  
St John’s, NL A1A 1WS
T: (709) 729-6447  
P: (709) 729-6782  
E: geraldkennedy@gov.nl.ca
QUARRY PERMIT APPLICATION

I/We Harbour Construction Limited.

Address: P.O. Box 37, Unsus 1, NL Postal Code: A0A 4K0

Hereby apply for a quarry permit for 1 hectares to expire December 31st, 2019 under the terms and conditions of the Quarry Materials Act, 1998, SNL 1998.

QUARRY HISTORY:
Have you had permits for this site previously? ☐ YES ☐ NO
If Yes, please list the permit or file numbers associated with that site: Quarry Construction Z11 893

Are you applying for a permit to the same area you held under permit last year? ☐ YES ☐ NO
If yes, please complete ONLY the following section.

QUARRY PERMIT RE-APPLICATION SECTION

File Number: Previous Permit Number:

I certify that there are no changes or modifications to the site, boundaries or location of the existing quarry permit area or to the method of removal or processing planned at the location.

NOTE: If there are any changes to the site of the quarry, the method of removal or processing, a new application MUST be completed for the site.

Date: ______________________ Name: ______________________
Signature: __________________ Position: ____________________

CONTRACT INFORMATION:
Complete this section if the quarry material is required for a specific contract.

Agency Awarding Contract: ______________________ Phone No.: ______________________
Address: ______________________ Contract No.: ______________________
Anticipated Starting Date: ______________________ Tender Closing Date: ______________________
Anticipated Completion Date: ______________________

Amount of material required:
Class A: ______________________ Class B: ______________________
Asphalt aggregate: ______________________ Other (please specify): ______________________

Have you been awarded the contract? ☐ YES ☐ NO

LAND OWNERSHIP:
Ownership of the land, best of your knowledge: ☐ CROWN ☐ PRIVATE

If private, complete the following and attach a letter from the owner authorizing you to occupy the property for the purpose of removing quarry material; confirmation of the title and ownership must be included.

Name of property owner: ______________________
Address of property owner: ______________________

Form of Title:
Crown Grant: ______________________ Date issued: ______________________
Crown Lease: ______________________ Date issued: ______________________
Other (specify): ______________________

Volume: ______________________ Folio: ______________________
QUARRY INFORMATION:
For the purpose of removing:
☐ Sand
☐ Gravel
☐ Rock
☐ Borrow material
☐ Horticulture peat
☐ Stockpiled material
☐ Other (please specify)

The quarry operation will involve:
☐ drilling and blasting
☐ Ripping
☐ Crushing
☐ Screening
☐ Washing
☐ Use of settling ponds
☐ Pit run removal
☐ Asphalt batch plant
☐ Concrete batch plant
☐ Other (please specify)

NOTE:
Topsoil removal is NOT permitted

Proposed end use of material: _____________________________
Location of end use material: _____________________________

SITE PREPARATION:
At the time of application, the site being applied for must be clearly marked on the ground with a company sign and flagging to mark the corners and to outline the area.

Is the site visible from nearby highways or main roads?  ☐ YES ☐ NO
Is there existing access to the quarry site (e.g., road, trail)?  ☐ YES ☐ NO
Describe the type of vegetation cover over the area to be quarried (e.g., forest, scrub, barren, etc.):

Describe marking, if any in addition to the above required markings: ____________________________

LAND USE INFORMATION:
• Is the site being applied for an existing quarry? ☐ YES ☐ NO
  If yes, what are the dimensions of the quarry? Width: 81, Length: 105, Average face heights: 2M
• Are there any structures (e.g., house, fence, pole line) within the boundaries of the quarry site? ☐ YES ☐ NO
  If yes, describe the structures & give distances from the site:

• Are there any brooks, rivers, ponds or streams within the boundaries of the quarry site? ☐ YES ☐ NO
  If yes, specify type of water body:

• Are there any brooks, rivers, ponds or streams within 200 meters of the boundaries of the quarry site? ☐ YES ☐ NO
  If yes, specify type of water body and give distances from the site:

• Is there any land being used within a 300 meter radius of the boundaries of the quarry ☐ YES ☐ NO
  If yes, describe the land and give distances to the site: ____________________________

LOCATIONAL INFORMATION: NAD 27 S3287913  NAD 27 M717876
Describe the location of the proposed quarry with reference to the UTM grid (NAD 1927) on a 1:50,000 topographic map.
Description must include NTS map sheet, UTM zone and the co-ordinates. List co-ordinates of each corner in the spaces provided below. Additional coordinates may be listed on an additional sheet and attached to this application.

NTS MAP SHEET (e.g., 01K15): ____________________________
UTM ZONE: ☐ 15 ☐ 20 ☐ 21 ☐ 22

1. 320180 mE 530430 mN
2. 812 mE mN
3. 812 mE mN
4. 812 mE mN

Describe the location of the proposed quarry with reference to nearby prominent landmarks (road intersections, bridges, etc.) to nearest tenth of a kilometre: Existing Quarry West of S54, 850 North 80 East from S54.
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atippoffice@gov.nl.ca.
Hi Gerald:

This is the quarry area that we are applying for.

Thanks,
Martina

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From: Kennedy, Gerald <geraldkennedy@gov.nl.ca>
Sent: December 14, 2018 11:38 AM
To: Harbour Construction Limited (harbourconstruction@nf.aihn.com) <harbourconstruction@nf.aihn.com>
Subject: Boundary
Mineral Lands Division

**QUARRY PERMIT NUMBER: 140338**

This quarry permit, issued under the provisions of The Quarry Materials Act, 1998 entitles: Harbour Construction of Witless Bay, NL.

to dig for, excavate, remove, and dispose of Borrow Material, Gravel, Rock, by Drilling & Blasting, Pit Run Removal, Ripping.

for an area comprising approximately 1 hectare(s) located in the district of: Ferryland

and being more particularly indicated on a map under File Number 71112530 in the Department of Natural Resources and generally described and shown as indicated on the attached map at: 250m W of R10, 0.5km NW of Fermeuse.

Removal of topsoil is not allowed under this permit.

This permit is non-transferable and expires on: 13-Dec-2019
Subject to the following terms and conditions:

Definitions

“the Act” means the Quarry Materials Act, 1999.

“angle of repose” means the steepest angle of descent or dip relative to the horizontal plane to which a material can be excavated or stockpiled without slumping. The angle of repose can range from 0° to 90° or be described as a ratio of horizontal and vertical distances (e.g. 2:1 means 2 horizontal units of measure for 1 vertical unit of measure).

“blaster” means a person who holds a valid blaster’s certificate granted by the Department of Advanced Education, Skills and Labour.

“Crown” means any department of the Province of Newfoundland and Labrador.

“Department” means the Department of Natural Resources.

“designated blast area” includes the danger area, which is the zone in which there exists a possibility of hazard to a person or property from fly rock, fume, air blast or ground vibrations, and is the area where the blaster has made arrangements to evacuate all persons whose safety might be threatened by the blasting operation.

“final rehabilitation” means rehabilitation carried out upon exhaustion/depletion of a part or all of the Quarry Permit area in accordance with the Act, the Regulations, and terms and conditions of the Quarry Permit and is supplemental to any progressive rehabilitation that has been completed.

“flyrock” means rock that becomes airborne as a direct result of a blast.

“grubbing” means the stumps, organic material and topsoil that are stripped to access quarry materials.

“inert” means material that is deemed acceptable for disposal at a location other than at an approved waste disposal facility in accordance with the Department of Environment and Climate Change’s legislation and regulations.

“Minister” means the Minister of Natural Resources.

“overburden” means any unconsolidated materials located between the grubbing and bedrock.

“peak particle velocity (PPV)” means the maximum component velocity in millimetres per second that ground particles move as a result of energy released from explosive detonations.

“permittee” means the person or company to which a Quarry Permit has been issued. Where applicable, permittee means the person or company to which a Subordinate Quarry Permit has been issued.

“pre-blast survey” means a detailed record, accompanied by film or video, as necessary, of the condition of private or public property prior to the commencement of blasting operations.

“progressive rehabilitation” means rehabilitation done sequentially during the term of the Quarry Permit, within a reasonable time following individual quarry operations, in accordance with the Act, the Regulations, and terms and conditions of the Quarry Permit.

“quarry material” is defined under Section 2(1)(j) of the Act.

“the Regulations” means the Quarry Materials Regulations, 1996.

“rehabilitate” means to treat land from which quarry materials have been excavated so that the use or condition of the land is:
   a) restored to its former use or condition; or
   b) changed to another use or condition that is or will be compatible with the use of adjacent land.

“sensitive receptor” means a place of residence or commercial place of business, where people normally occupy at any given time.
A - General

1) This Quarry Permit does not relieve the permittee from:
   a) adhering to other Provincial and Federal legislation or regulations; and
   b) obtaining all other permits and authorizations that may be required for the quarry operation (e.g. municipal development permits, development control permits, crown land access and highway access permits, forestry cutting and operating permits, environmental permits for asphalt plants, stream crossing, etc.).

2) A rental fee of $120.00 per hectare and an annual quarry permit application fee of $100 are payable in advance.

3) A royalty of $0.75 per cubic metre for quarry material removed is payable within two months from the expiration of this Quarry Permit.

4) The permittee shall retain any existing tree screens between quarrying and adjacent roads, highways, waterbodies (including wetlands), or other land uses.

5) Where no tree screens exist, earth berms and/or other measures approved by the Department shall be implemented to screen the operation from the general public on adjacent roads, highways, or other land uses.

6) The Crown reserves the right to quarry and remove from the Quarry Permit, at any time, any required quarry materials free of charge without obligation to compensate the permittee in any way.

7) A copy of this Quarry Permit shall be at the quarry site and available for inspection at all times during operations.

8) Any person authorized by the Minister may at any time enter upon the Quarry Permit for Departmental purposes in order to inspect, map or examine the quarry operation.

9) This Quarry Permit may be cancelled by the Minister without notice if operations fail to comply with any of the terms and conditions of this Quarry Permit, the Act, or Regulations.

10) Any Subordinate Quarry Permit issued for this site is subject to all applicable terms and conditions of the Quarry Permit.

B - Restrictions

1) There shall be no quarrying within:
   a) 300 metres of a sensitive receptor without permission in writing from the Minister;
   b) 15 metres of private property without the written permission of the private property owner(s) Land title documentation shall be provided to the Department for verification;
   c) 90 metres of the road centerline of a protected roadway as designated under the Protected Road Zoning Regulations;
d) the building control line of a protected roadway without a development permit issued under the Protected Road Zoning Regulations. As set out in the Protected Road Zoning Regulations, building control lines are located at the following distances measured perpendicular from the road centreline:

- 100 metres within a municipal boundary;
- 150 metres within a municipal planning area but outside of a municipal boundary;
- 400 metres within an unincorporated community or outside of a settled area;

e) 50 metres of a road not specified in subsections (a), (b), (c), and (d); and

f) 50 metres of any waterbody or 30 metres of wetlands and ephemeral watercourses.

2) Removal of grubbing (e.g. topsoil) is prohibited, unless otherwise stated.

3) The permittee shall prevent unauthorized access to the Quarry Permit area.

4) The permittee shall neither pollute nor permit the pollution of any pond, brook, river or other waters, including wetlands.

5) The Fisheries Act requires that projects avoid causing serious harm to fish unless authorized by the Minister of Fisheries and Oceans Canada. This applies to work being conducted in or near waterbodies that support fish that are part of or that support a commercial, recreational or Aboriginal fishery. If quarrying related activities (e.g. access road construction) are to take place in or near a waterbody, please complete the Department of Fisheries and Oceans (DFO) Self-Assessment at: http://www.dfo-mpo.gc.ca/mwppp/index-eng.html.

a) As per Section 38(5) of the Fisheries Act, every person has a duty to notify DFO of an occurrence that results in serious harm to fish, or the deposit of a deleterious substance in water frequented by fish. Should such an occurrence take place, the Proponent shall contact DFO at 709-772-4140 or FPP-NL@dfo-mpo.gc.ca.

6) Except with the consent in writing by the Minister of Environment and Conservation, the permittee shall not interfere with any pond, brook, river or other waters, including wetlands.

7) All access roads to the Quarry Permit that traverse watercourses (e.g. streams, creeks, rivers) shall be constructed in accordance with the Department of Environment and Climate Change’s regulations and policies.

8) Except with the written permission from the Minister, quarrying is not permitted to result in excavation below the water table and cause the accumulation or ponding of water. Creation of settling ponds for quarry production purposes requires both the written permission of the Minister and the Department of Environment and Climate Change.

9) Buildings or structures shall only be erected in the Quarry Permit area with written permission from the Minister. Any erected buildings, structures and equipment approved for this permit shall be temporary in nature and kept in good repair and working order.

10) The Quarry Permit area shall be kept free of scrap materials including, but not limited to refuse and abandoned or derelict vehicles, equipment, and buildings.
C - Site Preparation

1) The permittee, prior to commencing operations, shall establish suitable corner posts or rock cairns at least one-metre high and carry out suitable blazing of trees, placement of felling, erection of fencing, or other appropriate methods to outline the area under Quarry Permit.

2) All boundary markings shall be maintained during the term of the Quarry Permit.

3) The area to be excavated shall be cleared of all vegetation prior to the removal of any quarry materials. Unless otherwise approved by the Minister, only an area necessary for the term of the Quarry Permit shall be cleared. The nearest Forestry Management office must be contacted to obtain any necessary wood cutting permits and instructions regarding the salvage of wood.

D - Quarry Operations

1) The permittee shall conduct quarry operations in an efficient manner.

2) All trees must be removed and grubbing carried out within five metres of the active quarry and stockpile areas; these activities shall remain within the boundaries of the quarry permit. Prior to stockpiling the grubbing material, any topsoil shall be separated and stockpiled separately. The permittee shall ensure that the quality of the topsoil is not affected by dilution with other materials.

3) Quarrying shall be conducted in a systematic manner taking into account the life expectancy of the operation, the eventual slopes upon completion, the potential for future use of the site, and the various potential end-product uses of quarry materials available at the site.

4) Where mobile crushing and/or screening equipment is used to process quarry materials, Section 414 of the Occupational Health and Safety Regulations require, as applicable, equipment to have dust controls, adequate mechanical exhaust system(s), and adequate water spray system(s).

5) Noise and dust shall be mitigated on site if a sensitive receptor is within 500 metres from the Quarry Permit operation and/or for environmental reasons and in accordance with applicable industrial and environmental standards, regulations, and guidelines.

6) If blasting is required, it shall be performed under the direct supervision of a blaster who is present at the project and who holds a valid blaster's certificate which authorizes the performance of the particular type of work that the blaster is to conduct or supervise.

7) If blasting is required, the permittee and/or blaster must notify, in writing, all sensitive receptors within 500 m of the blast site.

8) If blasting is required, a drill and blast design plan shall be prepared by a qualified individual and monitoring for ground vibration and overpressure shall be carried out by the blaster to ensure compliance with appropriate guidelines. The drill and blast design plan shall include, as a minimum, the following:
   a) PPV and design peak sound pressure level at 300 m radius from the area of the blast or to nearest utility, residence, structure, or facility;
   b) Number, pattern, orientation, spacing, size, and depth of drill holes;
   c) Collar and toe load, number and time of delays, and mass and type of charge per delay;
d) Setback distances to affected fish habitat;

e) The explosive products to be used; and

f) The designated blast area.

The drill and blast design plan shall be kept on site at all times.

9) If blasting is required, a pre-blast survey shall be prepared for all buildings, utilities, structures, water wells, sewage disposal systems, and other facilities likely to be affected by the blast. The standard inspection procedure shall include the provision of an explanatory letter to the owner or occupant with a formal request for permission to carry out an inspection and to obtain any necessary water samples for analysis and flow testing. The pre-blast survey shall include, as a minimum, the following information:

a) Type of structure, including type of construction and if possible, the date when built;

b) Identification and description of existing differential settlements, including visible cracks in walls, floors, and ceilings, including a diagram, if applicable, room-by-room. All other apparent structural and cosmetic damage or defect shall also be noted. Defects shall be described, including dimensions, wherever possible; and

c) Digital photographs or digital video or both, as necessary, to record areas of significant concern.

Photographs and videos shall be clear and shall accurately represent the condition of the property. Each photograph or video shall be clearly labelled with the location and date taken.

A copy of the pre-blast survey, including copies of any photographs or videos that may form part of the report shall be provided to the owner of that residence or property, upon request.

10) If blasting is required, it shall only be carried out during daylight hours and at a time when atmospheric conditions provide clear observation of the blast from a minimum distance of 500 metres.

11) If blasting is required, it shall not be carried out on a holiday or between the hours of 6 PM on any day and 8 AM the following day. These time constraints do not apply if it can be demonstrated that a sensitive receptor does not exist within 1000 metres of the Quarry Permit.

12) If blasting is required, all fly rock shall be contained within the Quarry Permit via the use of blast mats, adjustment of drill and blast plan, or other appropriate operational measures.

13) Benching or other operational processes may be necessary to allow for the extraction of specific types of quarry materials or to prevent the contamination of relatively high quality materials by low quality materials. High quality materials shall not be used when lower quality would be adequate (e.g. materials suitable for hot-mix asphalt applications shall not be used for fill or road subgrade applications), unless contract requirements specify otherwise.

14) Without written permission of the Minister, quarry faces and bench heights shall be maintained in accordance with Section 409(2) of the Occupational Health and Safety Regulations. Specifically,

a) the bench/facing height of quarries developed in unconsolidated material shall not exceed five metres and not be higher than can be reached safely with the equipment in use;

b) the bench/facing height of quarries developed in consolidated (bedrock) shall not exceed ten metres and not be higher than can be reached safely with the equipment in use;

c) where there are two or more benches, berms shall be constructed on the second and higher benches to prevent material from falling to a lower bench;
15) Progressive rehabilitation is required for all operations throughout the term of the Quarry Permit.

E - Termination of Operations and Rehabilitation

1) Not less than thirty days prior to removing equipment from the Quarry Permit, the permittee shall notify the Department to arrange for an inspection of the site.

2) Prior to progressive or final rehabilitation of any part of the site, the site shall be inspected for waste materials (e.g. petroleum products, garbage, plastics, metal, and waste equipment). Any waste materials shall be removed from the site and taken to an approved waste disposal facility.

3) Upon completion of the operation or during extended periods of shutdown, where the quarry haul road accesses directly onto a provincial road/highway, municipal road, or publicly accessible road, the quarry haul road shall be barricaded (e.g. ditches/berm, gate) to the satisfaction of the Department.

4) The Department may require the permittee to perform maintenance on the portion of the quarry haul road that accesses directly onto a provincially maintained road/highway, municipal road, or publicly accessible road. Any maintenance to be performed on the quarry haul road or access from the road shall be at the expense of the permittee.

5) For final rehabilitation, quarries developed in unconsolidated material (sand and gravel) shall be sloped at 3:1; and quarries developed in consolidated (bedrock) sloped at 2:1. If approved by the Department, the slopes may conform to that which existed prior to quarrying and/or be left at a safe angle of repose. Surplus overburden may also be used to attain proper slopes; grubbing shall then be spread uniformly over the slopes.

6) If approved by the Department, if there is insufficient overburden available on site, clean inert fill may be imported for the purposes of carrying out final rehabilitation described in Paragraph E(5).

7) If approved by the Department, if there is insufficient grubbing to completely re-cover the site after sloping is complete, an additional organic substitute material shall be used to complete the process, provided that no invasive species are introduced. Acceptable substitute materials are straw, hay, trees having been cut in other parts of the quarry area, or ground vegetation produced by seeding.

8) If approved by the Department, final rehabilitation of the quarry site as outlined in Condition E(5) may not be required, where the Department confirms that the excavated portion(s) of the Quarry Permit contains sufficient reserves of quarry materials for future use. In this case, final rehabilitation may be required only for depleted areas of the site. Sloping and seeding of remaining topsoil and overburden stockpiles may be required.

9) Upon surrender, cancellation or expiration of the Quarry Permit, the permittee shall, within thirty days after the surrender, cancellation or expiration, remove from the permit area any buildings, machinery, chattels, personal property and quarry material which have been extracted. In default of doing so, the Minister may sell or otherwise dispose of the said buildings, machinery, chattels, personal property and quarry material under such terms and conditions as is considered appropriate. In the event that the cost of disposing of the said buildings, machinery, chattels, personal property and quarry material exceeds the amount recovered by the Minister, the permittee shall pay to the Minister any deficiency.

10) A complete report, on the form available from the Department, stating the actual quantity and type of material removed under this permit shall be filed with the royalty payment referred to in Condition A(3) of this Quarry Permit.
“Special Terms” additional to the above terms and conditions:

No vegetation clearing is to occur within 800 metres of a bald eagle or osprey nest during the nesting season (March 15 to July 31) and 200 metres during the remainder of the year. The 200m buffer also applies to all other raptor nests (e.g. Northern Goshawk, Sharp-shinned Hawk, Merlin, American Kestrel, Great-horned Owl, Boreal Owl, Northern Saw-whet Owl). The location of any raptor nest site must be reported to the Wildlife Division.

The Migratory Birds Convention Act, 1994, Migratory Bird Regulations, Wild Life Act and Wild Life Regulations protect birds and prohibit the disturbance or destruction of bird nests and eggs in Canada. Proponents are advised to develop and implement appropriate preventative and mitigation measures to avoid incidental take of birds, nests and eggs.

There is no open season for any wildlife species that is not named in the annual hunting and trapping orders. The proponent must follow appropriate hunting and trapping protocols as set in the annual Hunting and Trapping Guide. Proponents are advised to develop and implement appropriate preventative and mitigation measures to avoid incidental take of wildlife species.

The proponent must, generally ensure that activities associated with the Quarry Operations are conducted in compliance with the Occupational Health & Safety Act and its Regulations. This includes the responsibility for ensuring that contractors hired to perform the work also comply with this regulation, as per OHS Act s.10.

A Permit is required under the Water Resources Act, 2002, specifically Section 48 http://assembly.nl.ca/Legislation/sr/statutes/w04-01.htm for any work in any body of water (including wetland) including but not limited to culverts, bridges, diversion channels, etc. Contact: Amir Ali Khan, Manager, Water Rights, Investigations, and Modelling Section - (709) 728-2295.

Effluent or runoff leaving a site must conform to the Environmental Control Water and Sewage Regulations, 2003 (http://assembly.nl.ca/Legislation/sr/regulations/rc030065.htm).

Stockpiles: Certain species of migratory birds (e.g. Bank Swallows) may nest in large piles of soil left unattended/unvegetated during the most critical period of breeding season (April 15 through August 15th). 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.

Copies of all required permits or other authorizations must be submitted to this office prior to commencing any work. Failure to abide by this condition will result in cancellation of the quarry permit.

Permit required from the Town of Fermeuse prior to quarry activity proceeding.

A 15 metre buffer must be maintained between quarry operations and the trail. Any existing excavation within this buffer zone must be rehabilitated immediately.

Written notice must be provided to the Town at least 48 hours prior to any blasting operations.

Signage must be posted along any nearby roadway and trail to advise of quarry operations.

In addition to using appropriate dust suppression, at least 100 metres of the access road from the highway (Route 10) must be treated with an appropriate thickness of Class "A", or other clean granular material to prevent tracking of mud and other debris onto Route 10; these treatments are to be maintained by the operators.

Depleted areas of existing quarries must be rehabilitated.

All on-site fuel storage must be registered with Service NL.

At no time are fuel tanks to be located such that refueling is conducted by gravity flow.

Spills in excess of 70 litres and all leaks must be reported immediately to the 24-hour spill-report number (call 709-772-2083) or 1-800-563-0889.

All spills and leaks, regardless of volume, must be cleaned up immediately and the affected area inspected and given clearance by Service NL.

When scheduling blasting activities, the proponent shall provide the coordinates and time of blasting to NAV CANADA so that it may be issued in a Notice to Airmen (NOTAM). This would also serve as a notice to other low flying aircraft (i.e. helicopters, off-shore aircraft, etc.) to avoid these areas at specified times.
In the event blasting is required, ensure that the Blasting Requirements of Part XIX of the NL OHS Regulations are followed.

A commercial cutting permit is required prior to any clearing at the site and, during the declared fire season (usually May 1st to October 15th), an operating permit also is required.

The Wildlife Division advises the applicant to operate under the established regulations and guidelines with respect to mitigating disturbance of wildlife and its habitat (e.g., nesting birds, caribou, waterfowl, wetlands, inland fish, rare plants, riparian species) - see Section 106 of the Wildlife Regulations to the Wildlife Act (O.C. 96-809): www.env.gov.nl.ca/env/wildlife/index.html.

Pursuant to Section 106 of the Wild Life Regulations: A person shall not operate an aircraft, motor vehicle, vessel, snow machine or all-terrain vehicle in a manner that will harass any wildlife.

Habitat disturbance and noise impact the wildlife (birds and animals) and should be kept to a minimum, especially during the nesting, breeding and brood-rearing season (approximately May to mid-July) and, in order to reduce negative impacts on any species, vegetation clearing and excessive noise should only occur outside of this most critical period. Where vegetation clearing cannot be avoided and an active nest is found during the breeding season, the nest and surrounding vegetation are to be left undisturbed and construction activities minimized in the immediate vicinity of the nest until the young have fledged and left the area.

The Wildlife Division recommends no activity within 30 metres of waterbodies and wetland areas to protect sensitive riparian and aquatic species and their habitat.

Alternate measures will then need to be taken to reduce potential for erosion, and to ensure that nests are protected until chicks have fledged and left the area. For a species such as a 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.

All heavy equipment used in the construction and operating phase of this project should be operated in a manner to maximize fuel efficiency, thereby reducing greenhouse gas emissions that could contribute to climate change.

for

Minister of Natural Resources

Date: 14-Dec-2018
MINERAL LANDS DIVISION
80 ELIZABETH AVE
ST JOHN'S NL

CARD TYPE: VISA
DATE: 2018/12/14
TIME: 15:40:27
RECEIPT NUMBER: M2018F 100 103-001-0

PURCHASE
TOTAL: $220.00

PASSWORD USED
APPROVED
AUTH #: 08401 01-027
THANK YOU

CARDHOLDER SIGNATURE
OBTAIN MANUAL IMPRINT

CARDHOLDER WILL PAY
CARD ISSUER ABOVE AMOUNT
PURSUANT TO CARDHOLDER
AGREE TO

MERCHANT COPY
CURRENT BATCH TOTAL
TERMINAL 02018627
BATCH # 303

VISA
PURCHASE 1 $220.00
NET TTL 1 $220.00

GRAND TOTAL
PURCHASE 1 $220.00
REFUNDS 0 $0.00
CORRECT 0 $0.00
NET TTL 1 $220.00

Batch 303 CLOSED
END REPORT
7/1/01 14:41

Ernest Dunn
FYI, Tara Kavanagh dropped by to speak with you on the quarry permit in Fermeuse. Alex met her downstairs and advised you were off today and to schedule an appointment with you next week.

Also, they faxed in some documentation from their solicitor — Jessica just sent this to you via email.

Have a good weekend,

Andrea
Please open the attached document. It was scanned and sent to you using a Xerox Multifunction Device.

Attachment File Type: pdf, Multi-Page

Multifunction Device Location: 3\Elizabeth\St John's\NL\CAN\nDevice Name: XRX9C934E6683BA

For more information on Xerox products and solutions, please visit http://www.xerox.com
Mineral Lands Division

QUARRY PERMIT NUMBER: 140338

This quarry permit, issued under the provisions of The Quarry Materials Act, 1998 entitles: Harbour Construction of Witless Bay, NL

to dig for, excavate, remove, and dispose of Borrow Material, Gravel, Rock, by Drilling & Blasting, Pit Run Removal, Ripping,

for an area comprising approximately 1 hectare(s) located in the district of: Ferryland

and being more particularly indicated on a map under File Number 71112530 in the Department of Natural Resources and generally described and shown as indicated on the attached map at: 250m W of R10, 0.5km NW of Fermeuse.

Removal of topsoil is not allowed under this permit.
This permit is non-transferrable and expires on: 13-Dec-2019

P.O. Box 8700, St. John's, NL A1B 4J6, Telephone (709) 729-4044, Fax (709) 729-6782
Subject to the following terms and conditions:

Definitions

“the Act” means the Quarry Materials Act, 1998.

“angle of repose” means the steepest angle of descent or dip relative to the horizontal plane to which a material can be excavated or stockpiled without slumping. The angle of repose can range from 0° to 90° or be described as a ratio of horizontal and vertical distances (e.g. 2:1 means 2 horizontal units of measure for 1 vertical unit of measure).

“blaster” means a person who holds a valid blaster’s certificate granted by the Department of Advanced Education, Skills and Labour.

“Crown” means any department of the Province of Newfoundland and Labrador.

“Department” means the Department of Natural Resources.

“designated blast area” includes the danger area, which is the zone in which there exists a possibility of hazard to a person or property from fly rock, fume, air blast or ground vibrations, and is the area where the blaster has made arrangements to evacuate all persons whose safety might be threatened by the blasting operation.

“final rehabilitation” means rehabilitation carried out upon exhaustion/depletion of a part or all of the Quarry Permit area in accordance with the Act, the Regulations, and terms and conditions of the Quarry Permit and is supplemental to any progressive rehabilitation that has been completed.

“flyrock” means rock that becomes airborne as a direct result of a blast.

“grubbing” means the stumps, organic material and topsoil that are stripped to access quarry materials.

“inert” means material that is deemed acceptable for disposal at a location other than at an approved waste disposal facility in accordance with the Department of Environment and Climate Change’s legislation and regulations.

“Minister” means the Minister of Natural Resources.

“overburden” means any unconsolidated materials located between the grubbing and bedrock.

“peak particle velocity (PPV)” means the maximum component velocity in millimetres per second that ground particles move as a result of energy released from explosive detonations.

“permittee” means the person or company to which a Quarry Permit has been issued. Where applicable, permittee means the person or company to which a Subordinate Quarry Permit has been issued.

“pre-blast survey” means a detailed record, accompanied by film or video, as necessary, of the condition of private or public property prior to the commencement of blasting operations.

“progressive rehabilitation” means rehabilitation done sequentially during the term of the Quarry Permit, within a reasonable time following individual quarry operations, in accordance with the Act, the Regulations, and terms and conditions of the Quarry Permit.

“quarry material” is defined under Section 2(1)(j) of the Act.

“the Regulations” means the Quarry Materials Regulations, 1996.

“rehabilitate” means to treat land from which quarry materials have been excavated so that the use or condition of the land is:
   a) restored to its former use or condition; or
   b) changed to another use or condition that is or will be compatible with the use of adjacent land.

“sensitive receptor” means a place of residence or commercial place of business, where people normally occupy at any given time.
A - General

1) This Quarry Permit does not relieve the permittee from:
   a) adhering to other Provincial and Federal legislation or regulations; and
   b) obtaining all other permits and authorizations that may be required for the quarry operation (e.g. municipal development permits, development control permits, crown land access and highway access permits, forestry cutting and operating permits, environmental permits for asphalt plants, stream crossing, etc.).

2) A rental fee of $120.00 per hectare and an annual quarry permit application fee of $100 are payable in advance.

3) A royalty of $0.75 per cubic metre for quarry material removed is payable within two months from the expiration of this Quarry Permit.

4) The permittee shall retain any existing tree screens between quarrying and adjacent roads, highways, waterbodies (including wetlands), or other land uses.

5) Where no tree screens exist, earth berms and/or other measures approved by the Department shall be implemented to screen the operation from the general public on adjacent roads, highways, or other land uses.

6) The Crown reserves the right to quarry and remove from the Quarry Permit, at any time, any required quarry materials free of charge without obligation to compensate the permittee in any way.

7) A copy of this Quarry Permit shall be at the quarry site and available for inspection at all times during operations.

8) Any person authorized by the Minister may at any time enter upon the Quarry Permit for Departmental purposes in order to inspect, map or examine the quarry operation.

9) This Quarry Permit may be cancelled by the Minister without notice if operations fail to comply with any of the terms and conditions of this Quarry Permit, the Act, or Regulations.

10) Any Subordinate Quarry Permit issued for this site is subject to all applicable terms and conditions of the Quarry Permit.

B - Restrictions

1) There shall be no quarrying within:
   a) 300 metres of a sensitive receptor without permission in writing from the Minister;
   b) 15 metres of private property without the written permission of the private property owner(s) Land title documentation shall be provided to the Department for verification;
   c) 90 metres of the road centerline of a protected roadway as designated under the Protected Road Zoning Regulations;
d) the building control line of a protected roadway without a development permit issued under the Protected Road Zoning Regulations. As set out in the Protected Road Zoning Regulations, building control lines are located at the following distances measured perpendicular from the road centreline:

i. 100 metres within a municipal boundary;
ii. 150 metres within a municipal planning area but outside of a municipal boundary;
iii. 400 metres within an unincorporated community or outside of a settled area;

c) 50 metres of a road not specified in subsections (a), (b), (c), and (d); and

f) 50 metres of any waterbody or 30 metres of wetlands and ephemeral watercourses.

2) Removal of grubbing (e.g. topsoil) is prohibited, unless otherwise stated.

3) The permittee shall prevent unauthorized access to the Quarry Permit area.

4) The permittee shall neither pollute nor permit the pollution of any pond, brook, river or other waters, including wetlands.

5) The Fisheries Act requires that projects avoid causing serious harm to fish unless authorized by the Minister of Fisheries and Oceans Canada. This applies to work being conducted in or near waterbodies that support fish that are part of or that support a commercial, recreational or Aboriginal fishery. If quarrying related activities (e.g. access road construction) are to take place in or near a waterbody, please complete the Department of Fisheries and Oceans (DFO) Self-Assessment at: http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html.

a) As per Section 38(5) of the Fisheries Act, every person has a duty to notify DFO of an occurrence that results in serious harm to fish, or the deposit of a deleterious substance in water frequented by fish. Should such an occurrence take place, the Proponent shall contact DFO at 709-772-4140 or FPP-NL@dfo-mpo.gc.ca.

6) Except with the consent in writing by the Minister of Environment and Conservation, the permittee shall not interfere with any pond, brook, river or other waters, including wetlands.

7) All access roads to the Quarry Permit that traverse watercourses (e.g. streams, creeks, rivers) shall be constructed in accordance with the Department of Environment and Climate Change’s regulations and policies.

8) Except with the written permission from the Minister, quarrying is not permitted to result in excavation below the water table and cause the accumulation or ponding of water. Creation of settling ponds for quarry production purposes requires both the written permission of the Minister and the Department of Environment and Climate Change.

9) Buildings or structures shall only be erected in the Quarry Permit area with written permission from the Minister. Any erected buildings, structures and equipment approved for this permit shall be temporary in nature and kept in good repair and working order.

10) The Quarry Permit area shall be kept free of scrap materials including, but not limited to refuse and abandoned or derelict vehicles, equipment, and buildings.
C - Site Preparation

1) The permittee, prior to commencing operations, shall establish suitable corner posts or rock cairns at least one-metre high and carry out suitable blazing of trees, placement of flagging, erection of fencing, or other appropriate methods to outline the area under Quarry Permit.

2) All boundary markings shall be maintained during the term of the Quarry Permit.

3) The area to be excavated shall be cleared of all vegetation prior to the removal of any quarry materials. Unless otherwise approved by the Minister, only an area necessary for the term of the Quarry Permit shall be cleared. The nearest Forestry Management office must be contacted to obtain any necessary wood cutting permits and instructions regarding the salvage of wood.

D - Quarry Operations

1) The permittee shall conduct quarry operations in an efficient manner.

2) All trees must be removed and grubbing carried out within five metres of the active quarry and stockpile areas; these activities shall remain within the boundaries of the quarry permit. Prior to stockpiling the grubbing material, any topsoil shall be separated and stockpiled separately. The permittee shall ensure that the quality of the topsoil is not affected by dilution with other materials.

3) Quarrying shall be conducted in a systematic manner taking into account the life expectancy of the operation, the eventual slopes upon completion, the potential after-use of the site, and the various potential end-product uses of quarry materials available at the site.

4) Where mobile crushing and/or screening equipment is used to process quarry materials, Section 414 of the Occupational Health and Safety Regulations require, as applicable, equipment to have dust controls, adequate mechanical exhaust system(s), and adequate water spray system(s).

5) Noise and dust shall be mitigated on site if a sensitive receptor is within 500 metres from the Quarry Permit operation and/or for environmental reasons and in accordance with applicable industrial and environmental standards, regulations, and guidelines.

6) If blasting is required, it shall be performed under the direct supervision of a blaster who is present at the project and who holds a valid blaster's certificate which authorizes the performance of the particular type of work that the blaster is to conduct or supervise.

7) If blasting is required, the permittee and/or blaster must notify, in writing, all sensitive receptors within 500 m of the blast site.

8) If blasting is required, a drill and blast design plan shall be prepared by a qualified individual and monitoring for ground vibration and overpressure shall be carried out by the blaster to ensure compliance with appropriate guidelines. The drill and blast design plan shall include, as a minimum, the following:

   a) PPV and design peak sound pressure level at 300 m radius from the area of the blast or to nearest utility, residence, structure, or facility;

   b) Number, pattern, orientation, spacing, size, and depth of drill holes;

   c) Collar and toe load, number and time of delays, and mass and type of charge per delay;
d) Setback distances to affected fish habitat;

e) The explosive products to be used; and

f) The designated blast area.

The drill and blast design plan shall be kept on site at all times.

9) If blasting is required, a pre-blast survey shall be prepared for all buildings, utilities, structures, water wells, sewage disposal systems, and other facilities likely to be affected by the blast. The standard inspection procedure shall include the provision of an explanatory letter to the owner or occupant with a formal request for permission to carry out an inspection and to obtain any necessary water samples for analysis and flow testing. The pre-blast survey shall include, as a minimum, the following information:

a) Type of structure, including type of construction and if possible, the date when built;

b) Identification and description of existing differential settlements, including visible cracks in walls, floors, and ceilings, including a diagram, if applicable, room-by-room. All other apparent structural and cosmetic damage or defect shall also be noted. Defects shall be described, including dimensions, wherever possible; and

c) Digital photographs or digital video or both, as necessary, to record areas of significant concern.

Photographs and videos shall be clear and shall accurately represent the condition of the property. Each photograph or video shall be clearly labelled with the location and date taken.

A copy of the pre-blast survey, including copies of any photographs or videos that may form part of the report shall be provided to the owner of that residence or property, upon request.

10) If blasting is required, it shall only be carried out during daylight hours and at a time when atmospheric conditions provide clear observation of the blast from a minimum distance of 500 metres.

11) If blasting is required, it shall not be carried out on a holiday or between the hours of 6 PM on any day and 8 AM the following day. These time constraints do not apply if it can be demonstrated that a sensitive receptor does not exist within 1000 metres of the Quarry Permit.

12) If blasting is required, all fly rock shall be contained within the Quarry Permit via the use of blast mats, adjustment of drill and blast plan, or other appropriate operational measures.

13) Benching or other operational processes may be necessary to allow for the extraction of specific types of quarry materials or to prevent the contamination of relatively high quality materials by low quality materials. High quality materials shall not be used when lower quality would be adequate (e.g. materials suitable for hot-mix asphalt applications shall not be used for fill or road subgrade applications), unless contract requirements specify otherwise.

14) Without written permission of the Minister, quarry faces and bench heights shall be maintained in accordance with Section 409(2) of the Occupational Health and Safety Regulations. Specifically,

a) the bench/face height of quarries developed in unconsolidated material shall not exceed five metres and not be higher than can be reached safely with the equipment in use;

b) the bench/face height of quarries developed in consolidated (bedrock) shall not exceed ten metres and not be higher than can be reached safely with the equipment in use;

c) where there are two or more benches, berms shall be constructed on the second and higher benches to prevent material from falling to a lower bench;
15) Progressive rehabilitation is required for all operations throughout the term of the Quarry Permit.

E - Termination of Operations and Rehabilitation

1) Not less than thirty days prior to removing equipment from the Quarry Permit, the permittee shall notify the Department to arrange for an inspection of the site.

2) Prior to progressive or final rehabilitation of any part of the site, the site shall be inspected for waste materials (e.g. petroleum products, garbage, plastics, metal, and waste equipment). Any waste materials shall be removed from the site and taken to an approved waste disposal facility.

3) Upon completion of the operation or during extended periods of shutdown, where the quarry haul road accesses directly onto a provincial road/highway, municipal road, or publicly accessible road, the quarry haul road shall be barricaded (e.g. ditch/berm, gate) to the satisfaction of the Department.

4) The Department may require the permittee to perform maintenance on the portion of the quarry haul road that accesses directly onto a provincially maintained road/highway, municipal road, or publicly accessible road. Any maintenance to be performed on the quarry haul road or access from the road shall be at the expense of the permittee.

5) For final rehabilitation, quarries developed in unconsolidated material (sand and gravel) shall be sloped at 3:1; and quarries developed in consolidated (bedrock) sloped at 2:1. If approved by the Department, the slopes may conform to that which existed prior to quarrying and/or be left at a safe angle of repose. Surplus overburden may also be used to attain proper slopes; grubbing shall then be spread uniformly over the slopes.

6) If approved by the Department, if there is insufficient overburden available on site, clean inert fill may be imported for the purposes of carrying out final rehabilitation described in Paragraph E(5).

7) If approved by the Department, if there is insufficient grubbing to completely re-cover the site after sloping is complete, an additional organic substitute material shall be used to complete the process, provided that no invasive species are introduced. Acceptable substitute materials are straw, hay, trees having been cut in other parts of the quarry area, or ground vegetation produced by seeding.

8) If approved by the Department, final rehabilitation of the quarry site as outlined in Condition E(5) may not be required, where the Department confirms that the excavated portion(s) of the Quarry Permit contains sufficient reserves of quarry materials for future use. In this case, final rehabilitation may be required only for depleted areas of the site. Sloping and seeding of remaining topsoil and overburden stockpiles may be required.

9) Upon surrender, cancellation or expiration of the Quarry Permit, the permittee shall, within thirty days after the surrender, cancellation or expiration, remove from the permit area any buildings, machinery, chattels, personal property and quarry material which have been extracted. In default of doing so, the Minister may sell or otherwise dispose of the said buildings, machinery, chattels, personal property and quarry material under such terms and conditions as is considered appropriate. In the event that the cost of disposing of the said buildings, machinery, chattels, personal property and quarry material exceeds the amount recovered by the Minister, the permittee shall pay to the Minister any deficiency.

10) A complete report, on the form available from the Department, stating the actual quantity and type of material removed under this permit shall be filed with the royalty payment referred to in Condition A(3) of this Quarry Permit.
"Special Terms" additional to the above terms and conditions:

No vegetation clearing is to occur within 800 metres of a bald eagle or osprey nest during the nesting season (March 15 to July 31) and 200 metres during the remainder of the year. The 200m buffer also applies to all other raptor nests (e.g. Northern Goshawk, Sharp-shinned Hawk, Merlin, American Kestrel, Great-horned Owl, Boreal Owl, Northern Saw-whet Owl). The location of any raptor nest site must be reported to the Wildlife Division.

The Migratory Birds Convention Act, 1994, Migratory Bird Regulations, Wild Life Act and Wild Life Regulations protect birds and prohibit the disturbance or destruction of bird nests and eggs in Canada. Proponents are advised to develop and implement appropriate preventative and mitigation measures to avoid incidental take of birds, nests and eggs.

There is no open season for any wildlife species that is not named in the annual hunting and trapping orders. The proponent must follow appropriate hunting and trapping protocols as set in the annual Hunting and Trapping Guide. Proponents are advised to develop and implement appropriate preventative and mitigation measures to avoid incidental take of wildlife species.

The proponent must, generally, ensure that activities associated with the Quarry Operations are conducted in compliance with the Occupational Health & Safety Act and its Regulations. This includes the responsibility for ensuring that contractors hired to perform the work also comply with this regulation, as per OHS Act s.10.

A Permit is required under the Water Resources Act, 2002, specifically Section 48 http://assembly.nl.ca/Legislation/sr/statutes/w04-01.htm for any work in any body of water (including wetland) including but not limited to culverts, bridges, diversion channels, etc. Contact: Amir Ali Khan, Manager, Water Rights, Investigations, and Modelling Section - (709) 729-2295.

Effluent or runoff leaving a site must conform to the Environmental Control Water and Sewage Regulations, 2003 (http://assembly.nl.ca/Legislation/sr/statutes/rc030065.htm).

Stockpiles: Certain species of migratory birds (e.g. Bank Swallows) may nest in large piles of soil left unattended/unvegetated during the most critical period of breeding season (April 15th through August 15th). 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.

Copies of all required permits or other authorizations must be submitted to this office prior to commencing any work. Failure to abide by this condition will result in cancellation of the quarry permit.

Permit required from the Town of Fermeuse prior to quarry activity proceeding.

A 15 metre buffer must be maintained between quarry operations and the trail. Any existing excavation within this buffer zone must be rehabilitated immediately.

Written notice must be provided to the Town at least 48 hours prior to any blasting operations.

Signage must be posted along any nearby roadway and trail to advise of quarry operations.

In addition to using appropriate dust suppression, at least 100 metres of the access road from the highway (Route 10) must be treated with an appropriate thickness of Class "A", or other clean granular material to prevent tracking of mud and other debris onto Route 10; these treatments are to be maintained by the operators.

Depleted areas of existing quarries must be rehabilitated.

All on-site fuel storage must be registered with Service NL.

At no time are fuel tanks to be located such that refueling is conducted by gravity flow.

Spills in excess of 70 litres and all leaks must be reported immediately to the 24-hour spill-report number (call 709-772-2083) or 1-800-563-9089.

All spills and leaks, regardless of volume, must be cleaned up immediately and the affected area inspected and given clearance by Service NL.

When scheduling blasting activities, the proponent shall provide the coordinates and time of blasting to NAV CANADA so that it may be issued in a Notice to Airmen (NOTAM). This would also serve as a notice to other low flying aircraft (i.e. helicopters, off-shore aircraft, etc.) to avoid these areas at specified times.
In the event blasting is required, ensure that the Blasting Requirements of Part XIX of the NL OHS Regulations are followed.

A commercial cutting permit is required prior to any clearing at the site and, during the declared fire season (usually May 1st to October 15th), an operating permit also is required.

The Wildlife Division advises the applicant to operate under the established regulations and guidelines with respect to mitigating disturbance of wildlife and its habitat (e.g., nesting birds, caribou, waterfowl, wetlands, inland fish, rare plants, riparian species) - see Section 106 of the Wildlife Regulations to the Wildlife Act (O.C. 96-809): www.env.gov.nl.ca/env/wildlife/index.html).

Pursuant to Section 106 of the Wild Life Regulations: A person shall not operate an aircraft, motor vehicle, vessel, snow machine or all-terrain vehicle in a manner that will harass any wildlife.

Habitat disturbance and noise impact the wildlife (birds and animals) and should be kept to a minimum, especially during the nesting, breeding and brood-rearing season (approximately May to mid-July) and, in order to reduce negative impacts on any species, vegetation clearing and excessive noise should only occur outside of this most critical period. Where vegetation clearing cannot be avoided and an active nest is found during the breeding season, the nest and surrounding vegetation are to be left undisturbed and construction activities minimized in the immediate vicinity of the nest until the young have fledged and left the area.

The Wildlife Division recommends no activity within 30 metres of waterbodies and wetland areas to protect sensitive riparian and aquatic species and their habitat.

Alternate measures will then need to be taken to reduce potential for erosion, and to ensure that nests are protected until chicks have fledged and left the area. For a species such as a 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.

All heavy equipment used in the construction and operating phase of this project should be operated in a manner to maximize fuel efficiency, thereby reducing greenhouse gas emissions that could contribute to climate change.

Minister of Natural Resources

Date: 14-Dec-2018
From: Sheppard, Kevin
Sent: Monday, April 15, 2019 10:47 AM
To: Devereaux, Andrea; Kennedy, Gerald; Rideout, Jessica
Subject: BN-10311 : Decision Note - Quarry Permit Issued to Harbour Construction
Attachments: Decision Note - Quarry Permit Issued to Harbour Construction.tr5

Please review.

Thanks
Kevin

------< HPE Records Manager record information >------

Record Number: BN-10311
Title : Decision Note - Quarry Permit Issued to Harbour Construction
Title: Quarry Permit Issued to Harbour Construction Limited

Decision/Direction Required:

- Whether to cancel the Quarry Permit issued to Harbour Construction Limited.
- It is recommended that the Minister authorize the cancellation of the Quarry Permit issued to Harbour Construction Limited.

Background and Current Status:

- Quarry permits are issued under Section 5 of the Quarry Materials Act (the Act).
- NR's current practice of reissuing a Quarry Permit following expiry is to process a re-application along with appropriate fees (application and rental) and royalties, provided the application, fees, and royalties are submitted within two months of the permit expiry date.
- Quarry Construction Limited (QCL) held a Quarry Permit for a site in the Fermeuse area from 2010 to 2017.
- Following the expiry of the Quarry Permit in 2017, QCL visited NR to reapply for the permit and was advised that applications are available on the NR website and that payment of fees and royalties could be paid via government’s online payment website.
- QCL proceeded to pay appropriate fees and royalties in February 2018, but did not submit a Quarry Permit re-application.
- The QCL Quarry Permit was not reissued in 2018.
- QCL operated the quarry in 2018.
- Harbour Construction Limited (Harbour) applied for and was issued a Quarry Permit for the former QCL site on December 14, 2018 following payment of application and rental fees.
- In February 2019, QCL paid royalties for its 2018 operations and re-application and rental fees for 2019.
- Harbour planned to use the quarry site in 2019 to supply a local project.
- After discovering that Harbour was planning to use the quarry site, QCL advised NR that Harbour should not have the quarry permit and that the permit should be reinstated to QCL.
- Harbour Construction has obtained Subordinate Quarry Permits in two adjacent quarries held to supply materials to the local project.

Analysis:

- NR has followed a long-time practice of reissuing quarry permits provided reapplications, fees, and royalties are received within two months of a permit expiry date.
- QCL paid fees and royalties in 2018 and 2019, but did not submit reapplications.
QCL advised NR that it was of the understanding that paying via the online payment page replaced previous reapplication administrative processes.

Although NR did not reissue quarry permits to QCL in 2018 and 2019, NR also did not refund the fees paid by QCL.
  - NR is currently in possession of both QCL’s and Harbour’s application and rental fees.

While NR has a process in place to reconcile applications with payments received, it does not use this process to identify whether payments are made without an application.

Section 5(7)(c) of the Act notes that a Quarry Permit may be cancelled if the permit was issued in error.

Alternatives:

- The recommended alternative is to cancel Harbour’s Quarry Permit and refund Harbour the application and rental fee. The Quarry Permit would then be issued to QCL as it has paid all appropriate fees and recently followed-up with a completed reapplication. It is NR’s position that Harbour was issued the Quarry Permit in error under Section 5(7)(c) of the Act as NR did not follow a process to determine whether payments received from QCL could be reconciled with an application. Harbour has obtained a Subordinate Quarry Permit from an adjacent quarry to supply the local project; no additional quarrying and haulage costs will be incurred by Harbour.

- Another alternative is to not cancel Harbour’s Quarry Permit. This is not recommended as it can be demonstrated that NR committed an error under Section 5(7)(c) of the Act by not following a process to determine whether reapplication and rental fees received from QCL could be reconciled with a reapplication. QCL’s application and rental fees were not refunded after payment by the company in 2018 and 2018, despite receiving payment for same from Harbour in 2018.

Prepared/Approved by: K. Sheppard / P. Canning
Ministerial Approval: [Signature]

April 16, 2019
Parsons, Bernadette

From: Rideout, Jessica
Sent: Monday, April 15, 2019 11:46 AM
To: Sheppard, Kevin
Cc: Kennedy, Gerald; Devereaux, Andrea
Subject: RE: BN-10311 : Decision Note - Quarry Permit Issued to Harbour Construction

Harbour Construction has obtained two SQP’s adjacent to the site in dispute (Concord and Clowe’s Construction)

- Harbour Construction has obtained two Subordinate Quarry Permits in adjacent quarries held by local quarry operators to supply materials to the local project.

Jessica

From: Devereaux, Andrea <AndreaDevereaux@gov.nl.ca>
Sent: Monday, April 15, 2019 11:30 AM
To: Sheppard, Kevin <KevinSheppard@gov.nl.ca>
Cc: Kennedy, Gerald <geraldkennedy@gov.nl.ca>; Rideout, Jessica <JessicaRideout@gov.nl.ca>
Subject: RE: BN-10311 : Decision Note - Quarry Permit Issued to Harbour Construction

Looks good.

My only recommendation would be to include a note to say that the site Harbour Construction has obtained a SQP in is immediately adjacent to the site in dispute. [S.29.1.a]

- Harbour Construction has obtained a Subordinate Quarry Permit in an adjacent quarry held by a local quarry operator to supply materials to the local project.

Andrea

-----Original Message-----
From: Sheppard, Kevin
Sent: Monday, April 15, 2019 10:47 AM
To: Devereaux, Andrea; Kennedy, Gerald; Rideout, Jessica
Subject: BN-10311 : Decision Note - Quarry Permit Issued to Harbour Construction

Please review.

Thanks
Kevin

-----< HPE Records Manager record Information >-----

Record Number : BN-10311
Title : Decision Note - Quarry Permit Issued to Harbour Construction
From: Sheppard, Kevin
Sent: Monday, April 15, 2019 3:51 PM
To: Butland, Anne
Cc: Devereaux, Andrea; Rideout, Jessica; Kennedy, Gerald
Subject: OCOR-34459: Quarry Permit 140338 (File 71112530) Cancellation Letter from Minister to Harbour Construction Limited
Attachments: Quarry Permit 140338 (File 71112530) Cancellation Letter from Minister to Harbour Construction Limited.tr5

Hi Anne:

For attachment to BN-10311.

Thanks
Kevin

------< HPE Records Manager record Information >------

Record Number: OCOR-34459
Title: Quarry Permit 140338 (File 71112530) Cancellation Letter from Minister to Harbour Construction Limited
Mr. Ernest Dunne  
51 Dunn's Lane  
P.O. Box 37  
Witless Bay, NL  
A0A 4K0  

E-mail: harbourconstruction@nf.aibn.com  

Dear Mr. Dunne:

Re: Quarry Permit 140338 (File 71112530)

Please be advised that the above-noted Quarry Permit was cancelled on April 17th, 2019 in accordance with Section 5(7)(c) of the Quarry Materials Act. The reason for the cancellation is that the Department made an error in issuing your company the permit. This error was the result of the Department not processing the payment of permit related fees that were received from the previous permit holder prior to processing your Quarry Permit Application.

As a result of the cancellation, your Quarry Permit application fee ($100) and rental fee ($120) will be refunded to you.

Please accept our apologies for any inconvenience this may have caused and we look forward to working with you in the future.

Sincerely,

SIOBHAN COADY, MHA  
St. John’s West  
Minister
Fyi - fees to be refunded. Permit can be issued to Kavanagh.

Kevin

-----Original Message-----
From: Butland, Anne
Sent: Thursday, April 18, 2019 1:58 PM
To: 'harbourconstruction@nf.aibn.com'
Cc: Sheppard, Kevin
Subject: Letter - Harbour Construction

Please see attached letter re Quarry Permit 140338.

If you have any questions, please contact Kevin Sheppard at 729-6425.

Thank-you.

Anne

Anne Butland
Administrative Assistant to ADM
Department of Natural Resources
Government of Newfoundland & Labrador
P.O. Box 8700
St. John's, NL A1B 4J6
Phone: (709) 729-2005

Your message is ready to be sent with the following file or link attachments:

Harbour Construction.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.
Mr. Ernest Dunne
51 Dunn's Lane
P.O. Box 37
Witless Bay, NL
A0A 4K0

E-mail: harbourconstruction@nf.aibn.com

Dear Mr. Dunne:

Re: Quarry Permit 140338 (File 71112530)

Please be advised that the above-noted Quarry Permit was cancelled on April 17th, 2019 in accordance with Section 5(7)(c) of the Quarry Materials Act. The reason for the cancellation is that the Department made an error in issuing your company the permit. This error was the result of the Department not processing the payment of permit related fees that were received from the previous permit holder prior to processing your Quarry Permit Application.

As a result of the cancellation, your Quarry Permit application fee ($100) and rental fee ($120) will be refunded to you.

Please accept our apologies for any inconvenience this may have caused and we look forward to working with you in the future.

Sincerely,

SIOBHAN COADY, MHA
St. John's West
Minister
Hi Gerald:

This permit can be issued now – I have the original application here.

Please let Quarry Construction know that the permit will be reissued to them and that the permit to Harbour Construction has been cancelled.

Thanks
Kevin

---

Hi Tara,

This permit has not been issued yet as it is still under review.

We will have a response for you in the near future.

Thanks,

Gerald

---

Hi

just missing one, the one for fermeuse nl

tara
From: Mooney, Colleen <ColleenMooney@gov.nl.ca>
Sent: April 16, 2019 10:48 AM
To: 'TARAKAVANAGH
Subject: QUARRY PERMIT

Good Day

Please find attached your re-issued Quarry Permit for 2019

Regards,

Colleen Mooney
Mineral Lands Division
Natural Resources
50 Elizabeth Avenue, 3rd Floor
St John's, NL, A1A 1W5
709-729-4044

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Ok perfect
Thanks

On Apr 24, 2019, at 3:32 PM, Kennedy, Gerald <geraldkennedy@gov.nl.ca> wrote:

Hi Tara,

The quarry permit for Quarry Construction located in Fermeuse will be issued very soon (711:8923) and the permit issued to Harbour Construction is cancelled.

Gerald

From: Mooney, Colleen
Sent: Wednesday, April 17, 2019 8:51 AM
To: Kennedy, Gerald
Subject: FW: QUARRY PERMIT

From: tara kavanagh <tarakavanagh@domain.com> s.40.1.
Sent: Tuesday, April 16, 2019 5:42 PM
To: Mooney, Colleen <ColleenMooney@gov.nl.ca>
Subject: Re: QUARRY PERMIT

hi
just missing one, the one for fermeuse nl

tara

From: Mooney, Colleen <ColleenMooney@gov.nl.ca>
Sent: April 16, 2019 10:48 AM
To: tara kavanagh <tarakavanagh@domain.com> s.40.1.
Subject: QUARRY PERMIT

Good Day

Please find attached your re-issued Quarry Permit for 2019
Regards,

Colleen Mooney
Mineral Lands Division
Natural Resources
50 Elizabeth Avenue, 3rd Floor
St John's, NL, A1A 1W5
709-729-4044

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Parsons, Bernadette

From: Sheppard, Kevin
Sent: Thursday, May 9, 2019 12:42 PM
To: Devereaux, Andrea; Rideout, Jessica; Kennedy, Gerald
Cc: Canning, Perry
Subject: Fw: Harbour Construction Quarry Permit

Sent from my BlackBerry 10 smartphone on the Bell network.

From: Pelletier, Randy <RandyPelletier@gov.nl.ca>
Sent: Thursday, May 9, 2019 11:32 AM
To: Sheppard, Kevin
Subject: Fw: Harbour Construction Quarry Permit

FYI
Randy Pelletier
Civil Division
Department of Justice and Public Safety
Government of Newfoundland and Labrador

From: Danielle Somerton <dsomerton@bensonbuffett.com>
Sent: Thursday, May 9, 2019 11:31 AM
To: Pelletier, Randy
Subject: RE: Harbour Construction Quarry Permit

Thanks Randy.

Danielle

Danielle Somerton
Lawyer
Suite 900 Atlantic Place
215 Water Street, P.O. Box 1538
St. John’s, NL
Canada A1C 5N8

T 709. 570.7299
F 709.579.2647
W bensonbuffett.com

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Please consider the environment before printing this email.
Danielle,

My client asked that I pass this along.

Randy

Civil Division,
Office of the Attorney General
Department of Justice and Public Safety
Government of Newfoundland and Labrador
P.O. Box 8700
St. John's, NL
A1B 4J6

Tel: 709-729-1339
Fax: 709-729-2129

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From: Sheppard, Kevin
Sent: Wednesday, May 08, 2019 1:51 PM
To: Pelletier, Randy
Cc: Kennedy, Gerald; Rideout, Jessica; Devereaux, Andrea
Subject: RE: Harbour Construction Quarry Permit

Hi Randy:

s.29.1.a  s.30.1.a  s.35.1.f  s.35.1.g
Good afternoon,

Danielle Somerton
Cell: [redacted]

Danielle Somerton
Lawyer
Suite 900 Atlantic Place
215 Water Street, P.O. Box 1538
St. John's, NL
Canada A1C 5N8
T 709.570.7299
F 709.579.2647
W bensonbuffett.com

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