

October 10, 2019

The Honourable Minister Gordon Wilson
Department of Environment
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P.O. Box 442
Halifax, NS B3J 2P8
Minister.Environment@novascotia.ca

Environmental Assessment Branch
Nova Scotia Environment
PO Box 442
Halifax, NS B3J 2P8
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Sent via Electronic Mail

Dear Minister Wilson:

Re: Replacement Effluent Treatment Facility Project – Northern Pulp Nova Scotia
Environmental Assessment – Focus Report

We write as counsel for Friends of the Northumberland Strait to request that you grant additional time within the above-captioned environmental assessment process currently underway. Specifically, we request that you:

1. Grant additional time for the submission of public comments, with a new deadline of Monday December 9, 2019; and
2. Add 30 more days to the 25-day period within which the Administrator must submit all comments and a recommendation to you, following close of the public comment period.

As Minister, you may increase the time allotted for public comments, pursuant to section 16(2) of the *Environmental Assessment Regulations*, if the default 30 day period for review is insufficient in a particular case. Likewise, Section 17(2) of the *Regulations* empowers you to allow more time for the Administrator's review of focus reports, when the default regulatory timeframe is insufficient.

In the present case, due to the volume, complexity and highly technical nature of the Focus Report materials submitted by Northern Pulp, more time is clearly required to permit a sufficient and reasonable opportunity for the public to review and comment on the submission, and for those comments to be given serious and fair consideration by the Administrator, and ultimately by yourself.

The Focus Report and supporting materials submitted on behalf of Northern Pulp Nova Scotia amount to well over two and a half thousand pages. The materials involve many scientific disciplines and are not readily accessible or easily understandable by laypeople. Further, the Focus Report, and some of the supporting materials refer the reader back to the original materials filed within Northern Pulp's Environmental Assessment Registration Document (EARD) package submitted in February 2019. As you will be aware, that submission was also very large and consisted of many other scientific reports and technical materials. It is unfair and counterproductive to require the general public to address all of this material within the short time currently allowed.

The Focus Report was made available to the public on the Nova Scotia Environment website on October 3, 2019 at 2:32 pm. The announcement indicates that comments are due on November 8, 2019. It will be essentially impossible for people to fit a comprehensive review of all this material into their daily lives, without more time. As well, while paper copies of the Focus Report package were made available at the New Glasgow and Pictou Libraries, these are available for review only by a few people at a time, and only when the library is open.

Northern Pulp Nova Scotia has had several years to prepare these materials, and was given a second chance in April 2019, via this Focus Report, to attempt to fix all the omissions in its original submission. It is noted that most, if not all, of these materials were prepared with taxpayer monies, yet the average taxpaying resident of Pictou and area will be given almost no time to review them.

As per NSE's "Citizen's Guide to Environmental Assessment," "[p]ublic participation is vital to the success of environmental assessment."¹ In respect of Northern Pulp's original EARD, then Minister Miller acknowledged that it was very difficult for the public to address a submission of this nature, within a short timeframe. She said "I don't know that the public is really going to be able to fully digest everything that's been submitted."²

It is clear that this project is highly controversial and has generated a very high level of public interest and concern, within the Pictou area and across Nova Scotia. Serious concerns have also been raised by residents and officials in Prince Edward Island. Appropriately, the Terms of Reference for the Focus Report recommended that Northern Pulp Nova Scotia engage with relevant stakeholders and the Mi'kmaq including Pictou Landing First Nation, and to share relevant studies and reports, in the process of preparing its focus report. However, Northern Pulp has shared nothing with our clients or many other affected groups who have taken a consistent and active involvement in this project and the Environmental Assessment process. Instead, its materials were submitted *en masse* all at once, creating barriers for our clients and for the general public which prevent a thorough and thoughtful review. This approach has also made it very difficult for our clients to receive timely and comprehensive advice from experts in the many fields covered by this submission.

¹ Nova Scotia Environment, *A Citizen's Guide to Environmental Assessment* (Halifax, NS: Nova Scotia Environment, 2017) at p 4. Link to: <https://novascotia.ca/nse/ea/docs/EA.Guide-Citizens.pdf>

² Jean Laroche, "Northern Pulp's plans for pipeline, effluent treatment plant now public," CBC, February 7, 2019.

The additional time requested herein is also appropriate as there are materials promised, but not included in the Focus Report package. For example, it appears that the following materials are to be considered by NSE and Minister but are not included in the package:

1. Appendix 7.2 – states it includes as Appendix A an “Underwater Benthic Habitat Survey Video”. However, no such video or link to any such video is included in the package.
2. Appendices 10.1 and 10.2 both refer to reports which are not provided.
3. Appendix 11.1 refers to a Mi’kmaq Ecological Knowledge Study but no such study is included in the package.

We hereby request that all these documents be posted on the NSE website forthwith, and that our clients, and all other affected groups, are given a sufficient opportunity to comment on them, and the public comment period be lengthened as requested.

As well it is unclear as to whether reports are intended to be included, or submitted late, under Appendices 3.3, 3.5, 5.2, 6.1 and 7.5 of the Focus Report. If any such report will be submitted for your consideration, it must also be made available for public comment prior to any decisions being made by you as Minister.

We make these submissions in the alternative to, and without prejudice to, our submissions dated February 12, 2019 and March 8, 2019, and our client’s submission of September 27, 2018, in respect of our position that you, as Minister of Environment within the government of Nova Scotia and as a member of cabinet, have shown that a reasonable apprehension of bias exists in relation to this project and that you must recuse yourself from any further decision-making in relation to this environmental assessment process.

On behalf of the Friends of the Northumberland Strait, we therefore ask that you:


1. Provide additional time for the public comment period under section 16 of the *Regulations* such that comments may be submitted no later than Monday, December 9, 2019; and
2. Likewise, under s 17 of the *Regulations*, give the Administrator an additional 30 days, beyond the 25 day period default set out therein, to summarize all comments submitted and provide recommendations to you as Minister of Environment;

Thank you for considering these submissions and we look forward to hearing from you. As time is of the essence in this matter, we ask for a response no later than Tuesday October 15, 2019.

Sincerely,



James Gunvaldsen Klaassen
Barrister & Solicitor



For Sarah McDonald
Barrister & Solicitor

c. Friends of the Northumberland Strait, by electronic mail