



News

Challenge over limestone quarry has day in court

Outcome could set precedent

Print Page

by Kyle Wells | reporter@prpeak.com

Published: Wednesday, February 9, 2011 12:18 PM CST

Texada Island's Friends of Davie Bay Society (FODB) is predicting a ruling in its favour following court proceedings to force an environmental assessment of Lehigh Hanson Materials Ltd.'s proposed limestone quarry.

The February 1 BC Supreme Court case came as a result of the court challenge filed by the society on July 26, 2010. The society is arguing that even though Lehigh Hanson's proposed project doesn't technically require an environmental assessment, due to a production level under 250,000 tonnes annually, the environmental sensitivity of the area and the fact that the proposed infrastructure could support a much larger operation should result in a mandatory assessment.

John Dove took part in the proceedings as petitioner on behalf of FODB. He said that the society was happy with the performance of its legal team. Dove reported that the judge seemed accepting to the society's argument and had far more questions for Lehigh Hanson's lawyers than he did for the society. He is optimistic about the judge's decision, which should be released sometime this spring.

According to a summary of the court proceedings from FODB, Lehigh Hanson's legal team argued that all environmental considerations had been taken into account during the development of the project. It reiterated that because the project comes in under the 250,000 tonnes necessary for a mandatory assessment, no further assessments are required. The summary notes that the judge did question Lehigh Hanson on whether a company and the government could "work together to avoid an environmental assessment."

FODB would like to see the leases to Lehigh Hanson revoked and the permit for the operation withdrawn, pending a comprehensive environmental assessment of the project. FODB lawyer David Perry from Singleton Urquhart confirmed that it is within the judge's power to order an environmental assessment or tell the Environmental Assessment Office that it is not properly interpreting the act and has to take into account the infrastructure of the project.

If the judge decides in FODB's favour the case will be precedent setting, according to Perry. All future mining applications under 250,000 tonnes but with larger infrastructure will be subject to an assessment and environmental advocacy groups will have a precedent to call into question mining permits similar to Lehigh Hanson's. Perry believes this is a reasonable request given the legal loophole that exists for environmental assessments.

"Really this group isn't saying 'don't do it,'" said Perry. "They're just saying you have to look at it carefully ahead of time and you have to let the local people have a say. They're not asking for anything particularly unreasonable here."

Lehigh Hanson replied to the *Peak's* enquiries with a letter stating that "British Columbia's Environmental Assessment Office, with input from six other federal and provincial government agencies, considered the project and concluded that it would not have a significant adverse effect on the environment." In the letter Joerg Nixdorf, Lehigh Hanson's vice-president of cement operations, and Greg Carrier, manager of industrial minerals, exploration and development, go on to say that "since the matter is before the court we will have no further comment at this time."

Copyright © 2011 - Powell River Peak

[\[x\] Close Window](#)