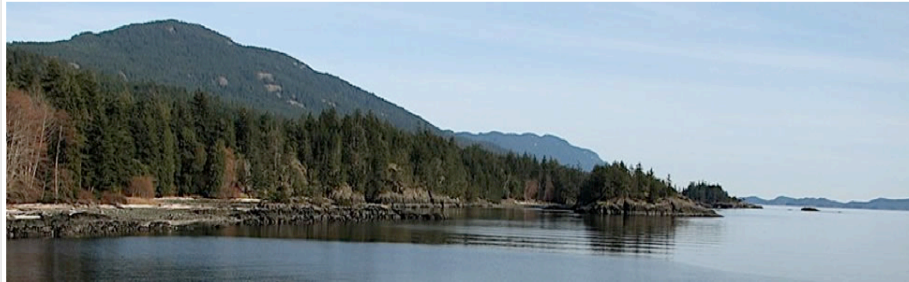


F R I E N D S O F D A V I E B A Y .



To Linda Sullivan

Transport Canada

By e-mail lindasullivan@tc.gc.ca

December 14, 2009

Dear Linda,

**Re: Texada South Quarry. Lehigh Materials Ltd. Barge Loadout and Conveyor, Davie Bay, Texada Island.
CEAR reference number 09-01-49595**

I understand James Mack of Friends of Davie Bay ("Friends") has been speaking to you with respect to the application of Lehigh Minerals Ltd for the Texada South Quarry.

If you go to <http://daviebay.com/> you will see the submissions Friends have written to Federal and BC ministries.

[Submissions to DFO and Canadian Environmental Assessment Agency ref: 09-01-4959](#)

To the BC Minister of the Environment we have made it perfectly clear that as the CAPACITY of the facility is scaled to extract 5m tonnes of limestone a year, he must under BC law declare this a reviewable project, hence a full environmental assessment must follow. And the number of barge movements will be 20 times more than the applicant concedes in his application. (5m /240,000 tonnes). This is highly material and should alert Transport Canada to the need for a full review of this application.

To the DFO, we have made it perfectly clear that we will be making a full representation to BC Supreme Court Justice Bruce Cohen in his review of reasons for the collapse of the sockeye and the performance of the DFO itself. Friends have asked the DFO not to approve any action at Davie Bay that may prejudice Justice Cohen's recommendations and be mindful that a decision not to declare a HADD will come under public scrutiny at the inquiry.

This proposed load out facility would be the first such facility ever allowed in an RCA. This fact, along with the presence of eelgrass beds and rearing and nursery areas must trigger a specific survey designed by DFO in order to assess the extent of eelgrass beds and rockfish rearing and nursery habitat. *The Fisheries Act provides for*

the protection of fish and fish habitat. Under the Act, no one may carry out any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat (HADD) unless authorized by the Minister of Fisheries and Oceans Canada. In most instances where a work or undertaking will result in a HADD, DFO must also conduct an assessment under the Canadian Environmental Assessment Act (CEAA) prior to issuing an authorization under the Fisheries Act. Not to have done so demonstrates a clear lack of responsibility to Section 35(2) authorization under the Fisheries Act for this project. The law protecting fish and fish habitat evokes HADD, which requires an environment assessment by the DFO. This has clearly been ignored. In another precedent-setting case this year, the Georgia Strait Alliance, the Wilderness Committee and the David Suzuki Foundation took the government to court, saying the strategy to save the Nooksack dace was doomed to fail because DFO did not identify habitat crucial to survival of the species. Judge Campbell agreed, saying critical habitat is mandatory in recovery strategies drafted under SARA.

Please be under no illusion that Friends will not hesitate to take all legal remedies to ensure that BC's environment is fully protected as prescribed by law. If necessary it will be up to the Courts to ensure our ministries act as prescribed in the legislation.

We have identified serious and material shortcomings in this application which must be acted on by BC and Federal authorities, see **REQUEST FOR EXPLANATIONS AND INFORMATION November 18, 2009** (attached)—this document is also filed on <http://www.daviebay.com/submissions/submissions.htm>

We look forward to your response.

Yours truly,

Richard Fletcher
Friends of Davie Bay.
RickyFletch@gmail.com

Attachment:
**REQUEST FOR EXPLANATIONS AND INFORMATION
November 18, 2009**
Texada South Quarry and Barge Loading Facility. CEAR 09-01-49595

cc by e-mail
Robert Sisler, Regional Manager, Environmental Services, Transport Canada.
Scott Northrup DFO
Karen Christie, Project Assessment Director, Ministry of Environment, BC.