



## PARAGRAPH 35(2)(b) FISHERIES ACT AUTHORIZATION

### Authorization issued to

Bedford Bay Limited (*hereafter referred to as the "Proponent"*)

Attention to:

Monte Snow, President  
Bedford Bay Limited  
607 Bedford Highway  
Halifax, Nova Scotia  
B3M 2L6

### Location of Proposed Project

Nearest community (city, town, village):	Bedford
Municipality, district, township, county:	Halifax Regional Municipality
Province:	Nova Scotia
Name of watercourse, waterbody:	Bedford Basin, Halifax Harbour
Longitude and latitude, UTM Coordinates:	44° 72' 07" N, 63° 66' 936" W

### Description of Proposed Project

---

The proposed project of which the work, undertaking or activity authorized includes a breakwater construction located within Bedford Basin, Halifax Harbour, Halifax County, Nova Scotia. The project involves infilling within the Bedford Bay waterlot portion leased from Halifax Port Authority (HPA) to construct a breakwater and marina. The objective of the project is to facilitate a future area for the docking of up to 4 personal vessels for homeowners. The proposed project footprint within HPA's waterlot is approximately 2205 square metres (m<sup>2</sup>).

### Description of Authorized work(s), undertaking(s) or activity(ies) likely to result in serious harm to fish

The work(s), undertaking(s), or activity(ies) associated with the proposed project described above that are likely to result in serious harm to fish, are:

- Infilling and minor excavation in the project footprint.

**The serious harm to fish likely to result from the proposed work(s), undertaking(s), or activity(ies), and covered by this Authorization includes:**

- The destruction of 2205 m<sup>2</sup> of marine fish habitat as a direct result of the infilling; and
- The incidental death of American lobster, crab species, squid, American eels, alewife (gaspereau), Atlantic salmon, Atlantic mackerel, winter flounder and other fish during any works, undertakings and activities associated with the proposed infilling.

**Conditions of Authorization**

The above described work, undertaking or activity that is likely to result in serious harm to fish must be carried on in accordance with the following conditions.

**1. Conditions that relate to the period during which the work, undertaking or activity that will result in serious harm to fish can be carried on**

The work, undertaking or activity that results in serious harm to fish is authorized to be carried on during the following period:

From:	To:
Date signed by Regional Director General	December 31, 2023

If the Proponent cannot complete the work, undertaking or activity during this period, Fisheries and Oceans Canada - Fish and Fish Habitat Protection Program (DFO-FFHPP) must be notified in advance of the expiration of the above time period. DFO may, where appropriate, provide written notice that the period to carry on the work, undertaking or activity has been extended.

The periods during which other conditions of this authorization must be complied with are provided in their respective sections below. The proponent may, where appropriate, provide written notice that these periods have been extended, in order to correspond to the extension of the period to carry on a work, undertaking, or activity.

**2. Conditions that relate to measures and standards to avoid and mitigate serious harm to fish**

2.1 Sediment and erosion control: Develop and implement an Erosion and Sediment Control Plan, which includes but is not limited to: regular inspection and maintenance of sediment control measures and structures for the duration of the project, repairs sediment control measures and structures if damage occurs and removal on non-biodegradable sediment control materials once site is stabilized;

2.2 List of measures and standards to avoid and mitigate serious harm to fish:

2.2.1 All materials to be used in the project must be non-toxic material (i.e., free of fuel, oil, grease and/or other contaminants) and free of excessive fines.

2.2.2 The placement of any sulphide-bearing material as fill in the project area shall be done according to accepted best management practices for handling this material. This includes minimizing duration of storage onsite prior to placement, ensuring the material is placed

- sub-aqueously at least 0.3 to 0.5 metres (m) below low tide levels, the material must be free of contaminants and excessive fines, and capped with non-sulphide-bearing material.
- 2.2.3 Each day there is in-water activity occurring and there is sediment observed in the water from onsite project activities, turbidity measurements (measured in nephelometric turbidity units (NTUs)) shall be collected. Samples shall be obtained approximately midway through daily activities in-plume within 30 metres of in-water activity and; if the in-plume measurement exceeds 8 NTUs another turbidity measurement shall be taken at a background location (at least 100 metres outside the visible plume), the work will stop and contingency measures (e.g., changes in the timing according to the tidal cycle, additional screening of material, slowing the rate of equipment, phasing work, etc.) will be implemented as required.
- 2.2.4 Avoid work during periods which Environment and Climate Change Canada has issued any storm surge, wind and wave warning for the work area.
- 2.2.5 Machinery will operate from a barge or from land or infrastructure above the high water mark in a manner that minimizes disturbance of benthic habitat.
- 2.2.6 An emergency response plan must be developed to be implemented in the event of sediment release or spill of a deleterious substance with an emergency spill kit kept on-site. All spills or leaks must be promptly contained, cleaned up and reported to the 24-hour environmental emergencies reporting system (1-800-565-1633).
- 2.2.7 No on-site blasting or use of explosives shall be carried out in association with the project.
- 2.3 Contingency measures: Additional sedimentation controls shall be put in place if conditions 2.2.2 & 2.2.3 above indicate that the measures and standards to avoid and mitigate serious harm to fish are not successful.
- 2.4 Dates by which these measures and standards shall be implemented: Measures and standards to avoid and mitigate serious harm to fish shall be implemented as necessary, prior to, during and after construction activities.
- 3. Conditions that relate to monitoring and reporting of measures and standards to avoid and mitigate serious harm to fish**
- 3.1 Monitoring and avoidance mitigation measures: The Proponent shall monitor the implementation of avoidance and mitigation measures referred to in section 2 of this authorization and report to DFO-FFHPP within 30 days that the work authorized has been completed, and indicate whether the measures and standards to avoid and mitigate serious harm to fish were conducted according to the conditions of this authorization. This shall be done, by:
- 3.1.1 Demonstration of effective implementation and functioning: Providing dated photographs and inspection reports to demonstrate effective implementation and functioning of mitigation measures and standards described above to limit the serious harm to fish to what is covered by this authorization;
- 3.1.2 Contingency measures: Providing details of any contingency measures that were followed, to prevent impacts greater than those covered by this authorization in the event that mitigation measures did not function as described.
- 3.1.3 Completing and submitting to DFO-FFHPP the attached Completion of Authorized Work(s), Undertaking(s) or Activity(ies) and monitoring details within 30 days of completing the work, undertaking or activity.
- 3.2 Other monitoring and reporting conditions:
- 3.2.1 N/A

- 4. Conditions that relate to the offsetting of the serious harm to fish likely to result from the authorized work, undertaking or activity**
- 4.1 Letter of credit: DFO-FFHPP may draw upon funds available to DFO-FFHPP as the beneficiary of the letter of credit provided to DFO as part of the application for this authorization, to cover the costs of implementing the offsetting measures required to be implemented under this authorization, including the associated monitoring and reporting measures included in section 5, in instances where the Proponent fails to implement these required measures.
- 4.2 Scale and description of offsetting measures: Offsetting measures shall be carried out in accordance with the measures set out in the Proponent's offsetting plan dated September 7, 2018 and approved by DFO-FFHPP and attached to this authorization. The offsetting plan proposes to restore and enhance approximately 1500 m<sup>2</sup> of fish habitat in the Sackville River system.
- 4.3 Offsetting criteria to assess the implementation and effectiveness of the offsetting measures: All fish habitat offsetting measures shall be completed and functioning according to the dates and criteria outlined in the Proponent's offsetting plan dated September 7, 2018 and attached to this authorization, unless otherwise approved by DFO-FFHPP. The final monitoring report to assess the implementation and effectiveness of the offsetting measures is due to DFO-FFHPP by January 31, 2023.
- 4.4 Contingency measures: If the results of monitoring as required in condition 5 indicate that the offsetting measures are not completed by the date specified and/or are not functioning according to the above criteria in 4.3, the Proponent shall give written notice to DFO and shall implement contingency measures and associated monitoring measures to ensure the implementation of the offsetting measures is completed and/or functioning as required by this authorization.
- 4.4.1 Scale and description of contingency measures: An additional area of restoration within the Sackville River watershed will be undertaken at several sites using proven methodologies for offsetting serious harm.
- 4.4.2 Monitoring measures to ensure offsetting contingency is completed and/or functioning as required: Monitoring watershed restoration works will be carried out in accordance with proven methodologies for offsetting serious harm.
- 4.5 The Proponent shall not carry on any work, undertaking or activity that will adversely disturb or impact the offsetting measures.
- 5. Conditions that relate to monitoring and reporting of implementation of offsetting measures (described above in section 4):**
- 5.1 Schedule(s) and criteria: The Proponent shall conduct monitoring of the implementation of offsetting measures according to the timeline and criteria below:
- 5.1.1 List of timeline(s) and monitoring and reporting criteria: Monitoring will be conducted annually for three years after habitat enhancement is completed; and
- 5.1.2 Monitoring criteria shall be based on the plans outlined in the following document unless otherwise approved by DFO and the appropriate federal and provincial regulatory department: "*River Restoration - Project General Outline*". Prepared by Sackville River Association. September 7, 2018.
- 5.2 List of Report to be provided to DFO: The Proponent shall report to DFO-FFHPP on whether the offsetting measures were conducted according to the conditions of this authorization by providing the following:

- 5.2.1 'First year progress report', January 31, 2021, is completed and submitted;
- 5.2.2 'Second year progress report', January 31, 2022, is completed and submitted; and
- 5.2.3 'Third year progress report', January 31, 2023 is completed and submitted.

### **Authorization Limitations and Application Conditions**

The Proponent is solely responsible for plans and specifications relating to this authorization and for all design, safety and workmanship aspects of all the works associated with this authorization.

The holder of this authorization is hereby authorized under the authority of Paragraph 35(2)(b) of the *Fisheries Act*, R.S.C., 1985, c.F. 14 to carry on the work(s), undertaking(s) and/or activity(ies) that are likely to result in serious harm to fish as described herein. This authorization does not purport to release the applicant from any obligation to obtain permission from or to comply with the requirements of any other regulatory agencies.

This authorization does not permit the deposit of a deleterious substance in water frequented by fish. Subsection 36(3) of the *Fisheries Act* prohibits the deposit of any deleterious substances into waters frequented by fish unless authorized by regulations made by Governor in Council.

This authorization does not permit the killing, harming, harassment, capture or taking of individuals of any aquatic species listed under the *Species at Risk Act* (SARA) (s. 32 of the SARA), or the damage or destruction of residence of individuals of such species (s. 33 of the SARA) or the destruction of the critical habitat of any such species (s. 58 of the SARA.)

At the date of issuance of this authorization, no individuals of aquatic species listed under the *Species at Risk Act* (SARA) were identified in the vicinity of the authorized works, undertakings or activities.

The failure to comply with any condition of this authorization constitutes an offence under Paragraph 40(3)(a) of the *Fisheries Act* and may result in charges being laid under the *Fisheries Act*. This authorization must be held on site and work crews must be made familiar with the conditions attached.

This authorization cannot be transferred or assigned to another party. If the work(s), undertaking(s) or activity(ies) authorized to be conducted pursuant to this authorization are expected to be sold or transferred, or other circumstances arise that are expected to result in a new Proponent taking over the work(s), undertaking(s) or activity(ies), the Proponent named in this authorization shall advise DFO in advance.

Date of Issuance: April 8, 2020



Mary-Ellen Valkenier  
Regional Director General  
Maritimes Region