

File Ref No. 200.18.0246:0001

September 20, 2018

Mr. Blaine Sullivan
Ocean Choice International
1315 Topsail Rd
St. John's, NF
A1B 3N4

For: Infilling Waterbody for Offloading and Laydown Area
At: Long Pond, Conception Bay South
From: Ocean Choice International

Dear Mr. Sullivan :

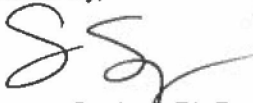
This application was referred to the Environmental Assessment Division and it has been determined that registration is NOT required under Section 47 of the Environmental Protection Act, SNL 2002, cE-14.2.

I understand that this project will involve the infilling of approximately 2.5 hectares of Long Pond in the municipality of Conception Bay South including a marginal wharf for the offloading or loading of ships, vehicle parking and a general laydown area.

Please be aware that this Department must be notified of any significant changes to the undertaking. All proponents are required to comply with all relevant legislation including permits and approvals from this Department and any other municipal, provincial or federal regulatory authorities.

If you have any questions regarding this matter please contact Eric Watton at (709) 729-0834, toll free at 1-800-563-6181 or email ericwatton@gov.nl.ca.

Sincerely,



Susan Squires, Ph.D.

Director

Environmental Assessment Division

c.c. Mr. Neil Hunt, AFN Engineering Inc.
Mr. Corrie Davis, Planner, Town of CBS
Mr. Jim House, Manager, Long Pond Harbour Authority Inc.

COR/2021/01830-01

June 29, 2021

Mr. Bradley Moss, Citizens' Representative
Office of the Citizens' Representative
P.O. Box 8400
St. John's, NL A1B 3N7

Dear Mr. Moss:

RE: Citizen's Representative File #: 10CF21

The Department of Environment and Climate Change appreciates the opportunity to review the above referenced draft report from the Office of the Citizens' Representative (OCR), and respectfully submits that upon more fully considering the draft report's analysis, our position remains unchanged. The Department does not agree with the draft report's conclusion that it has breached the Citizens' Representative Act in determining that registration for environmental assessment was not required under the Environmental Protection Act (EPA) for the proposed Ocean Choice International (OCI) infilling project in Long Pond. The Department remains of the view that the EPA, and its regulations, were appropriately applied and that the 2018 decision was correct.

Before commenting more specifically on the draft report's assessment of the substantive issue, we feel it important to point out that even if the Department ~~was inclined to accept the~~ draft report's conclusion, it could not legally implement a recommendation to cancel the 2018 decision and require an environmental assessment of the project. We would draw to your attention a decision of the Newfoundland and Labrador Supreme Court in a matter titled *Eagleridge International Limited v. Newfoundland and Labrador (Environment and Conservation)*, 2018 CarswellNfld 335 ("Eagleridge"), which can be found at: <https://www.canlii.org/en/nl/nlsc/doc/2018/2018nlsc180/2018nlsc180.html>

Additionally, it is not apparent that OCI has been afforded an opportunity to be heard in the drafting of the report. OCI could be aggrieved if draft recommendation 1 was acted upon in the manner suggested without ever being given the chance to be heard, even if that outcome were legally possible.

Whether to establish a clear definition of estuary so as to minimize the ambiguity created by the absence of such a definition, the draft report's second recommendation, is under consideration as part of the ongoing review of environmental assessment legislation.

I am providing a more detailed analysis of the Eagleridge decision and of the draft report in Appendix A, attached. Please contact me at 729-4751 if you have any questions or concerns on this matter.

Sincerely,



SEAN DUTTON
Deputy Minister