

# Ministers' Reasons for Decision

## *BURNCO Aggregate Project*

*Proposed by BURNCO Rock Products Ltd.*

On March 18, 2018 pursuant to Section 17(3)(c) of the *Environmental Assessment Act*, we, the Minister of Environment and Climate Change Strategy and the Minister of Energy, Mines and Petroleum Resources, have issued an Environmental Assessment Certificate for the Project. This document sets out the reasons for this decision.

**March 18, 2018**



## 1.0 NATURE AND SCOPE OF THE DECISION

The environmental assessment (EA) of the BURNCO Aggregate Project (BURNCO Project), located approximately 22 kilometres south-west of Squamish, began in 2010 and included the establishment of an advisory Working Group, consultation with Aboriginal groups and engagement with the public.

On February 6, 2018, the Environmental Assessment Office (EAO) referred BURNCO Rock Products Ltd.'s (BURNCO) Application for an EA Certificate (Application) for BURNCO Project to us for a decision. Section 17(3) of the *Environmental Assessment Act* (Act) sets out that ministers must consider the Assessment Report and any recommendations accompanying the Assessment Report, and may consider any other matters that they consider relevant to the public interest in making their decision on an application. Ministers must decide whether to issue an EA Certificate with any conditions they consider necessary, refuse to issue an EA Certificate, or order that further assessment be carried out.

We considered the documents provided by the EAO including the Assessment Report, the Recommendations of the Executive Director, and the proposed Certified Project Description and EA Certificate conditions.

## 2.0 MINISTERS' CONSIDERATIONS

### 2.1 EAO'S ASSESSMENT

The EAO, with advice from the Working Group, reviewed BURNCO's Application, provided its detailed findings in the Assessment Report, and summarized its findings in the Summary Assessment Report. As described in the Assessment Report and Summary Assessment Report, the EAO worked closely with provincial and federal agencies, local governments and Aboriginal groups to identify issues and seek ways to address these issues, including proposing 25 EA Certificate conditions for consideration. We are also aware of an agreement between Squamish Nation and BURNCO that includes additional conditions to be met.

The EAO advised us that it was satisfied that the proposed EA Certificate conditions and project design requirements set out in the proposed Certified Project Description would prevent or reduce potential adverse environmental, social, economic, heritage or health impacts of the BURNCO Project, such that no significant adverse effects are expected. We concur with the EAO's conclusion.

### 2.2 RECOMMENDATIONS OF THE EXECUTIVE DIRECTOR

The EAO's Executive Director considered the Assessment Report, the proposed EA Certificate conditions and the project design requirements set out in the proposed EA Certificate. He recommended that an EA Certificate be issued for the BURNCO Project.

The EAO's Executive Director further advised that he was satisfied that the Crown's duty to appropriately consult and accommodate Aboriginal groups had been discharged for the BURNCO Project. During the EA the EAO consulted with Squamish Nation, Tsleil-Waututh Nation and Musqueam Indian Band on the potential terrestrial and marine impacts of the BURNCO Project and also consulted with the Cowichan Tribes, Halalt First Nation, Lake Cowichan First Nation, Lyackson First Nation, Penelakut Tribe and Stz'uminus First Nation on the potential marine impacts of the BURNCO Project. The EAO's Executive Director advised that he received a letter from Squamish Nation indicating that it had entered into a legally-binding agreement with BURNCO to address their concerns and that, subject to compliance with the agreement and its conditions, Squamish Nation supports the issuing of an EA Certificate.

We are of the view that consultation has been carried out in good faith and that the process of seeking to understand potentially outstanding issues and project impacts was reasonable. We are also of the view that the potential for adverse effects on the Aboriginal rights and title (Aboriginal Interests) of Aboriginal groups has been appropriately avoided, minimized or otherwise accommodated.

## 2.3 KEY CONSIDERATIONS

The EAO examined whether the BURNCO Project would have adverse environmental, economic, social, heritage or health effects to a wide range of Valued Components. The EAO identified a few residual effects to Valued Components that are expected after the implementation of legally-binding conditions and mitigation measures.

### *Potential Effects on Surface Water and Groundwater*

The EAO identified that the BURNCO Project would have residual adverse effects on surface water and groundwater flows. The BURNCO Project would permanently reduce surface water baseflows by 19 percent, and BURNCO Project activities would decrease groundwater flow by approximately 8 percent during construction and operations. Groundwater flow would increase by two percent at closure when the mine site becomes a permanent pit lake feature. During the course of the EA, BURNCO refined its proposed mitigation measures to address concerns raised by the Working Group. The EAO has proposed conditions that include requiring additional baseline development and long-term surface and groundwater monitoring programs to address the residual effects to surface water and groundwater.

We agree with the EAO's conclusions that the BURNCO Project would not have significant adverse residual effects on surface water and groundwater, and are satisfied that the EA Certificate conditions and existing and future regulatory requirements will effectively manage project impacts.

### *Potential Effects on Fish and Fish Habitat*

The EAO identified that the BURNCO Project would have a residual adverse effect on fish and fish habitat, specifically the loss of fish habitat in Watercourse 2 (WC2), a groundwater-fed channel designed and constructed by Fisheries and Oceans Canada (DFO) as salmon spawning and rearing habitat to compensate for impacts from unrelated, off-site projects. We are aware that during the EA, members of the EAO's advisory working group, Aboriginal groups and the public expressed concerns about the loss of salmon spawning habitat, the effectiveness of the proposed fish habitat offset plan and the baseline data that

supported BURNCO's determination that there would be no net loss to fish. In response to these concerns, BURNCO conducted additional baseline surveys of WC2 and later presented the results of the surveys and revisions to its proposed fish habitat offset plan. We are aware that this information was reviewed by the EAO and the advisory working group, which included Aboriginal groups, DFO and the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD), while the EA timelines were suspended. As a result of this further review, the revised plan proposed increasing the amount of new habitat, proposed a contingency plan that considered additional habitat in Harlequin Creek, and provided greater detail on its predicted effectiveness based on physical habitat design, baseline water quality and groundwater modelling. These changes are expected to result in a net gain of over 700 m<sup>2</sup> of instream habitat and 21,209 m<sup>2</sup> of riparian habitat to the south of the mine site. We are aware that FLNRORD and DFO reviewed this information and were of the opinion that the surveys conducted, in addition to having to meet DFO's offsetting requirements, provide the assurance that the plans to offset impacts would be sufficient for the purposes of the EA.

The EAO has proposed conditions that include the development of a fish and fish habitat offset and management plan to address residual effects to fish and fish habitat in consultation with DFO, and consistent with their requirements. BURNCO will be required to obtain a subsequent authorization from DFO pursuant to the *Fisheries Act* in order to develop and implement the fish and fish habitat offsetting plan. In response to concerns raised during the EA in regards to McNab Creek, an important fish-bearing creek in Howe Sound, the EAO has proposed conditions to monitor surface flow, and fish and fish habitat in McNab Creek, to ensure that adverse impacts do not occur. The plans required by the conditions would be developed in consultation with DFO, FLNRORD, the Ministry of Energy, Mines and Petroleum Resources, and Aboriginal groups, and would include an adaptive management plan that would trigger the need for mitigative action, as required. The plans must be implemented to the satisfaction of a qualified professional and to the satisfaction of the EAO throughout all project phases. The EAO would enforce the requirements of the conditions through annual inspections, investigations, audits and self-reports.

We agree with the EAO's conclusions that the BURNCO Project would not have significant adverse residual effects on fish and fish habitat, and are satisfied that the EA Certificate conditions and existing and future regulatory requirements will effectively manage project impacts.

#### *Potential Effects on Wildlife*

The EAO evaluated the effects of the BURNCO Project on amphibian species at risk, birds, Roosevelt elk and grizzly bears. Sensory disturbance from noise and human presence would affect wildlife habitat effectiveness, fragment habitat and increase mortality risk. We are aware that approximately 30 hectares of wildlife habitat would be permanently lost during aggregate extraction, as the mine site would remain a pit lake after closure. To mitigate these potential adverse effects, the EAO has proposed conditions that include habitat compensation and the development of a wildlife protection plan in consultation with FLNRORD and Aboriginal groups. We are aware that the plan must also be developed with Squamish Nation and be approved by Squamish Nation under their separate agreement with BURNCO.

We agree with the EAO's conclusions that the BURNCO Project would not have significant adverse residual effects on wildlife, and are satisfied that the EA Certificate conditions and existing and future regulatory

requirements will effectively manage project impacts.

#### *Potential Effects on Real Estate Values*

The EAO evaluated the BURNCO Project's effects on real estate values by reviewing anticipated changes to land use, air quality, noise levels and visual conditions. While the EAO determined that air quality would exceed BC's Ambient Air Quality Objectives within the mine site during operations, exceedances were not predicted beyond the project area, including at the McNab Creek Strata residences immediately adjacent to the mine site. Noise levels would be most audible during construction, the first year of operations, and during barge loading activities, but are not expected to exceed Health Canada guidelines. The EAO noted that a treed foreshore buffer is expected to reduce visual impacts, although six of the McNab Creek Strata residences will likely have sightlines to the BURNCO Project. The EAO acknowledged that these changes could cause a downward pressure on real estate values for adjacent properties, and that the impacts of these factors are uncertain and difficult to quantify. In response to these concerns, the EAO has proposed conditions that include limiting hours of operation, the development of noise and air quality management plans, and the maintenance of a treed foreshore buffer to reduce visibility of the BURNCO Project.

We agree that with the application of the EA Certificate conditions and existing and future regulatory requirements, the BURNCO Project would not have significant adverse residual effects on real estate values and that any potential project impacts would be effectively managed.

#### *Public Interest in the BURNCO Project*

Members of the public expressed concerns that the BURNCO Project would impact recreational opportunities in Howe Sound because of its impacts to air quality, noise, visual aesthetics and marine traffic. In order to address these concerns, in addition to the conditions above, the EAO has also proposed conditions requiring BURNCO to establish a Community Advisory Group to support communication and engagement between BURNCO, local governments and local stakeholder groups.

We are aware that members of the public expressed concern about the use of professional reliance during the EA. We note that unlike typical permitting and authorizations processes, the professional reliance model does not extend to the EA process in British Columbia. The application for the BURNCO Project included information and analyses prepared by qualified professionals, which underwent a rigorous review and assessment during the EA by the EAO's advisory Working Group, which includes representatives from federal, provincial and local government agencies and Aboriginal groups. We note that government retains decision making authority and is not legally compelled to accept the conclusions of professionals retained by a proponent.

We agree with the EAO's conclusions that the BURNCO Project would not have significant adverse residual effects on air quality, noise, visual aesthetics and marine traffic, and are satisfied that the EA Certificate conditions and existing and future regulatory requirements would effectively manage project impacts.

### *Aboriginal Consultation*

The EAO consulted deeply with Squamish Nation, Tsleil-Waututh Nation and Musqueam Indian Band during the EA. Both Squamish Nation and Tsleil-Waututh Nation participated in the EA as members of the Working Group and had opportunities to review key documents and meet with the EAO on a number of occasions to discuss aspects of the EA. The EAO assessed the potential adverse effects and the impacts of the BURNCO Project on Squamish Nation, Tsleil-Waututh Nation and Musqueam Indian Band's Aboriginal Interests.

During the final stages of the assessment we received a letter from Tsleil-Waututh Nation indicating that they were given inadequate time to fully consider their response to the final draft documents. We understand that the EAO has recently provided additional opportunities for Tsleil-Waututh Nation to raise any remaining issues and that these have been considered in the assessment and included in the advice on which we have made our decision.

The EAO has received correspondence from the Squamish Nation indicating their support for the BURNCO Project, having reached an agreement with BURNCO, which would mitigate Squamish Nation's concerns related to the project. The EAO has included a Table of Concordance as Schedule C to the EA Certificate, which describes how the EAO's conditions align with Squamish Nation's environmental management plans required by Squamish Nation's conditions under their legally-binding agreement with BURNCO.

The EAO also consulted members of the Hul'qumi'num Treaty Group, including Stz'uminus First Nation, Cowichan Tribes, Halalt First Nation, Lake Cowichan First Nation, Lyackson First Nation, and Penelakut Tribe on the marine-based components of the BURNCO Project.

### *Public Consultation*

We are aware of the opportunities for the public to submit comments during the three public comment periods held during the EA. In total, over the course of three public comment periods, the public had 110 days of consultation in order to review materials and submit comments, including a final 30-day public comment period on the EAO's draft decision materials. We note also that these comments, and the Proponent's, and the EAO's responses, were considered during the EA as reflected in the EAO's Assessment Report and EA Certificate conditions.

### *Provincial and Community Benefits*

We are aware that the BURNCO Project would provide local, regional and provincial benefits. BURNCO estimates that total construction costs would be \$21.5 million, while estimated expenditures during 16 years of operations would average \$15 million per year. BURNCO predicted that the BURNCO Project would generate an average of 40 full-time equivalent (FTE) positions per year during the 2 years of construction and 14 FTE positions in British Columbia during operations. BURNCO estimated overall provincial revenue from taxes to be \$0.4 million annually during construction and \$0.6 million annually during operations. We are also aware that Squamish Nation reached an agreement with BURNCO, which was the basis of their approval of the project.

### 3.0 CONCLUSION

We have considered the EAO's Assessment Report, the recommended Certified Project Description and conditions of the proposed EA Certificate, and the Recommendations of the Executive Director. Now, having regard to our responsibilities under the Act and Crown obligations to consult and accommodate Aboriginal groups, we have decided to issue an EA Certificate for the BURNCO Project.

The EA Certificate includes enforceable conditions and specifies design parameters. These give us confidence to conclude that the BURNCO Project will be constructed and operated such that no significant adverse effects are likely to occur.



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Honourable George Heyman  
Minister of Environment and Climate Change  
Strategy



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Honourable Michelle Mungall  
Minister of Energy, Mines and Petroleum  
Resources

signed this 18 day of March 2018