

Ministry of the Environment

Environmental Assessment and
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ENV1283MC-2008-3895

October 29, 2008

Ms. Gabrielle Simonyi
Senior Manager, Special Projects
Capital Planning and Real Asset Management
National Capital Commission
202-40 Elgin Street
Ottawa ON K1P 1C7

Dear Ms. Simonyi:

Thank you for your September 29, 2008 letter regarding the Ottawa River Interprovincial Crossing Study Project (Project) that is being prepared by the National Capital Commission (NCC).

In your letter you advise that Phase 1 of the NCC's Project is drawing towards completion with a preferred crossing location (the Kettle Island crossing) of the Ottawa River having recently been identified for further study. In order to proceed with the second phase of the study, a determination of project proponentcy and the applicable environmental legislation to be followed, including processes and approvals, must be made.

To address these issues, the NCC's consultant, Roche-NCE, prepared a draft memorandum, which recommends that the NCC, on behalf of the Federal Government, be the proponent (lead responsible authority) for the purposes of carrying out an Environmental Assessment Study (EAS) under the Canadian Environmental Assessment Act (CEAA). In order to proceed with the second phase of the NCC's study, you have requested comments on the draft memorandum. You have also asked for confirmation that the requirements of the Ontario *Environmental Assessment Act* (EAA) are not triggered by the Project.

Comments respecting the draft memorandum were provided in an October 17, 2008 e-mail to you by staff of this Branch and are still applicable.

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Based on our understanding of the Project that will be carried forward for further study, the preferred interprovincial bridge crossing alternative that has been identified at Kettle Island will involve a bridge constructed on lands under the jurisdiction of the NCC and the Province of Quebec and/or the City of Gatineau. In order to improve access to/from the Ontario side of the proposed bridge, the Project will likely require improvements and/or modifications to municipal roads and/or provincial highways.

Provided that the NCC is the sole proponent of the Project, that any of the modifications to provincial or municipal facilities and/or lands are described as part of the undertaking, and that any such works are implemented by the Federal Government or an agent acting on their behalf, we are in agreement with the recommendations in the September 29, 2008 memorandum that the second phase of the NCC's study can be completed as an EAS under the CEAA.

This conclusion has been reached using a strict interpretation of the Ontario EAA. Specifically, it is recognized that the NCC is an agent of the Federal Crown, that the Project has not been designated subject to the requirements of the Ontario EAA, and that there is no agreement between the NCC and the Minister of the Environment to have the Ontario EAA apply in this case. It is the Ministry of the Environment's opinion therefore that Ontario's EAA does not statutorily apply to the Project.

Given the strict interpretation of the Ontario EAA, we are of the opinion that the constitutional conclusions reached by your Consultant are not needed and ask that they be removed from the draft memorandum. In the event you choose not to remove these conclusions, the ministry is not prepared to take a position on this issue.

Should you have further questions please contact Mr. D. Jeffrey Dea, Project Officer of the Environmental Assessment and Approvals Branch, at 416-314-7213 or by e-mail at jeffrey.dea@ontario.ca.

Yours sincerely,



Agatha Garcia-Wright
Director
Environmental Assessment and Approvals Branch