

## **CONDITIONS OF ENVIRONMENTAL IMPACT ASSESSMENT APPROVAL Proposed Modifications to the Petitcodiac River Causeway**

Under subsection 16(2) of the Environmental Impact Assessment (EIA) Regulation (NB Reg. #87-83) – Clean Environment Act, the Lieutenant-Governor in Council, having considered the report and the recommendation of the Minister under subsection 16(1), gives approval to the following Project Options in relation to the proposed Modifications to the Petitcodiac River Causeway as described in the document “Environmental Impact Assessment Report for Modifications to the Petitcodiac River Causeway” dated September 30, 2005:

- (a) Project Option 3 – Permanently opening the causeway gates;
- (b) Project Option 4A – Replacing the causeway with a 170 metre long bridge;
- (c) Project Option 4B – Replacing the causeway with a 280 metre long bridge;  
and
- (d) Project Option 4C – Constructing a 315 metre long bridge in the central portion of the existing causeway;

subject to the following conditions:

- (1) This approval does not relieve the Proponent from the necessity to comply with other applicable federal and provincial Acts or Regulations. This includes, but is not limited to, compliance with the federal Fisheries Act and the federal Navigable Waters Protection Act. The Regional Manager of Environmental Assessment and Major Projects, Fisheries and Oceans Canada should be contacted with respect to the former, and the Superintendent, Navigable Waters Protection, Transport Canada should be contacted with respect to the latter;
- (2) Commencement of this undertaking must occur within ten years of the date of this approval. Should commencement not be possible within this time period, the undertaking must be registered under the Environmental Impact Assessment Regulation (87-83) – Clean Environment Act again, unless otherwise stated by the Minister of Environment;
- (3) Implementation of the selected Project Option shall proceed in stages as outlined in Chapter 7 of the document “Environmental Impact Assessment Report for Modifications to the Petitcodiac River Causeway” dated September 30, 2005. The three implementation stages are:
  - (i) Stage 1 – Design, construction and communication prior to opening the existing causeway gates,

(ii) Stage 2 – Open existing causeway gates, and

(iii) Stage 3 – Construct the structure required for the selected Project Option,

the Proponent shall submit an Implementation Plan describing how they will carry out the obligations, commitments, monitoring and proposed mitigation measures to the Director, Project Assessment Branch of the Department of Environment for review and approval. Commencement of construction/demolition (hereinafter “activities”) related to the implementation of the selected Project Option cannot be undertaken prior to the approval of this plan by the Project Assessment Branch. The Implementation Plan will be directly linked to the Environmental Management Plan that is required as part of Condition #4 below;

(4) The Proponent shall develop a comprehensive Environmental Management Plan (EMP). The EMP must include an Environmental Protection Plan, Standard Operating Procedures, an Emergency Response and Contingency Plan as well as a Follow-up Program for the full life of the selected Project Option. The EMP must also define and identify roles and responsibilities, accountability and reporting procedures during each phase of the Project. The EMP, its supporting documents and procedures must be submitted to the Director, Project Assessment Branch, Department of Environment;

commencement of activities related to the implementation for each stage of the selected Project Option cannot be undertaken prior to approval of the specific phase EMP, and the Follow-up Program, by the Director, Project Assessment Branch, Department of Environment;

(5) The Follow-up Program (per condition #4 above) must:

(i) be divided into stages that correspond with the Implementation Plan,

(ii) include objectives, content, implementation and reporting schedules,

(iii) be submitted to the Department of Environment for review and approval. This review will involve public, stakeholders and Aboriginal Community review of the Terms of Reference,

(iv) as a minimum, contain the components identified in Chapter 13 of the “Environmental Impact Assessment Report for Modifications to the Petitcodiac River Causeway” dated September 30, 2005,

(v) include the commercial lobster and scallop fisheries in the Bay of Fundy and eel fisheries in the Petitcodiac River system. As a minimum

the following will need to be undertaken in this regard:

- (i) identification of areas of concern through consultations with fishers,
- (ii) collection of baseline data on sediments within the above areas,
- (iii) follow-up monitoring that would include both monitoring of sediment characteristics post project as well as fisheries landings,

this portion of the Follow-up Program is to be developed in consultation with Fisheries and Oceans Canada. The Regional Manager of Environmental Assessment and Major Projects, Fisheries and Oceans Canada should be contacted for additional information;

(6) Should the Follow-up Program determine that the implementation of the selected Project Option resulted in surface water quality below the accepted criteria as determined by regulatory agencies, the Proponent shall implement mitigative measures in order to address the issue. Such mitigation must be approved by the Director, Project Assessment Branch, Department of Environment, prior to implementation;

(7) Should the Follow-up Program determine that commercial fishing activities have been negatively affected, appropriate financial compensation for commercial fishers whose fishing activities are impacted by the implementation of a Project Option will need to be determined in consultation with Fisheries and Oceans Canada. The final decision with respect to the amount of financial compensation (if applicable) will be made by Fisheries and Oceans Canada. The Regional Manager of Environmental Assessment and Major Projects, Fisheries and Oceans Canada should be contacted for additional information should this become necessary;

(8) The Proponent shall develop a detailed gate opening strategy in conjunction with the New Brunswick Department of Transportation and Fisheries and Oceans Canada prior to implementing Stage 2. This strategy must be submitted to the Director, Project Assessment Branch, Department of Environment. Gate opening (per Stage 2) cannot be undertaken prior to approval of this strategy by the Director, Project Assessment Branch, Department of Environment;

(9) In the event that the water quantity or quality of residential wells is impacted by the implementation of the selected Project Option (as raised by the resident(s)), it will be the proponent's responsibility to investigate and potentially rectify the situation. The proponent must immediately notify the Manager of the

Water Sciences Section, Department of Environment of any complaint(s) received regarding water quantity or quality problems. If an agreement as to the cause of water problems cannot be reached between the proponent and the resident(s), the Department of Environment will provide independent third party arbitration;

(10) The proponent shall develop a Compensation/Mitigation Plan for the loss of the Tri Community Marina, the Sea Cadets facility, the Town of Riverview public dock and other recreational facilities. This Compensation/Mitigation Plan must be approved prior to the start of any physical activities associated with the implementation of the selected Project Option. This Compensation/Mitigation Plan is to be submitted to the Director, Project Assessment Branch, Department of Environment, for review and approval;

(11) The Proponent shall conduct an examination of all sewer and drainage outfalls along the Petitcodiac River that could be affected by the selected Project Option, and implement any necessary measures to ensure their continued operation. This review must be completed prior to commencement of any activities related to the implementation of the selected Project Option. Any measures identified as necessary to ensure continued operation of the sewer and drainage outfalls must be completed prior to the opening of the causeway gates for the selected Project Option. This information is to be submitted to the Director, Project Assessment Branch, Department of Environment for review and approval;

(12) Implementation of the selected Project Option could result in scouring/erosion along the south (Riverview) riverbank of the Petitcodiac River. To address this, the Proponent shall install riprap prior to causeway gate opening to protect the linear park and trail along the river in that area. Bank protection must also be provided on the Moncton side of the channel as outlined in the EIA Report ("Environmental Impact Assessment Report for Modifications to the Petitcodiac River Causeway" dated September 30, 2005). In addition, to prevent erosion of the former Moncton Landfill due to storm surges, the exposed slope must be protected with riprap. Details of this activity must be approved by the Director, Project Assessment Branch, Department of Environment prior to any physical activities related to the implementation of a Project Option;

(13) The proponent shall ensure that the dykes and aboiteaux in the headpond area are repaired/upgraded prior to the permanent opening of the causeway gates in order to prevent saltwater inundation of land (e.g., agricultural lands, Ducks Unlimited sites). Prior to any repair or upgrading of dykes and/or aboiteaux, the proponent must develop a detailed plan in consultation with the appropriate regulatory agencies, landowners and Ducks Unlimited. This plan is to be submitted to the Director, Project Assessment Branch, Department of Environment for review and approval. The required repairs and upgrades must

not proceed until the plan is approved. Permanent opening of the causeway gates cannot be undertaken prior to the completion of these necessary repairs and upgrades;

(14) Notwithstanding the preceding conditions, the Proponent shall adhere to, and ensure adherence by all contractors, sub-contractors and workers for this Project, to all conditions listed herein, and all obligations, commitments, monitoring and proposed mitigation measures as outlined in the document “Environmental Impact Assessment Report for Modifications to the Petitcodiac River Causeway” dated September 30, 2005, and related documents and correspondence as deemed applicable by the Minister to this Project;

(15) In the event of a modification to the obligations, commitments, monitoring and proposed mitigation measures pursuant to the preceding conditions, the Proponent shall:

(i) request any modification in writing,

(ii) justify each modification relative to site-specific conditions,

(iii) explain how that modification provides an equal or greater level of environmental protection than the original measure,

(iv) submit to the Director, Project Assessment Branch, Department of Environment, detailed information concerning any necessary modification(s) to the obligations, commitments, monitoring and proposed mitigation measures, and

(v) not implement any modification until approval has been granted by the Minister of Environment;

(16) The Proponent shall develop a tracking database that can be used to track and document compliance with all material, permit, and approval conditions and commitments made during the regulatory review process as detailed in the document “Environmental Impact Assessment Report for Modifications to the Petitcodiac River Causeway” dated September 30, 2005. The guidelines for this database shall be developed in consultation with the Project Assessment Branch of the Department of Environment. This database is to be approved by the Director of the Project Assessment Branch prior to initiation of any activities associated with the implementation of the selected Project Option. Once approved, the Proponent shall submit an electronic copy of the tracking database to the Project Assessment Branch as a means of tracking and documenting compliance throughout project implementation. The Proponent shall update the database, and provide such updates to the Department, on a monthly basis throughout implementation (until such a time as determined by the Project Assessment Branch);

(17) All of the above terms and conditions are an integral part of this approval, and the approval, including all terms and conditions, applies to the Project notwithstanding the rights of any users, lessees, and/or subsequent owners.