

Detroit River International Crossing



Environmental Assessment
Terms of Reference

SUPPORTING DOCUMENTATION

May 2004

Detroit River International Crossing
Environmental Assessment Terms of Reference
Supporting Documentation

- A) Record of Consultation During Preparation of the TOR
- B) Supporting Documentation
 - 1) Canada-U.S.-Ontario-Michigan Border Transportation Partnership Transportation Problems and Opportunities Report (January 2004)
 - 2) The FHWA/NEPA Planning and Approval Process
 - 3) Preliminary Description of Existing Environment and Potential Effects
 - 4) Proposed Factors to Assess Feasibility of the Opportunity Corridors
 - 5) Environmental Components to be Considered During the Generation of Alternatives
 - 6) Criteria for Evaluating Illustrative and Practical Alternatives
 - 7) Typical Elements of Concept Design
 - 8) Federal / Provincial EA Coordination Process
 - 9) Activities Following Approval of the EA

A. Record of Consultation During Preparation of the TOR

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1.0 Introduction

The Partnership of Transport Canada, the U.S. Federal Highway Administration, Ontario Ministry of Transportation and Michigan Department of Transportation, developed a six-stage process to identify and implement effective solutions to current and future cross-border transportation problems. The first stage was completed with the publishing of the Planning/Need and Feasibility Study in January 2004. The study identifies a 30-year strategy for cross-border transportation in the Detroit River area.

As part of the second of six stages leading to the implementation of major transportation improvements, the Partners are proceeding with the formal environmental study processes on both sides of the border, namely, the U.S. National Environmental Policy Act (NEPA), the Ontario Environmental Assessment Act (OEAA), and a study that meets the requirements of the Canadian Environmental Assessment Act (CEAA).

Prior to preparing an Individual Environmental Assessment (EA), the Ontario Environmental Assessment Act requires that a proponent prepare a Terms of Reference (TOR). The TOR is a document that provides framework to guide the preparation of the Environmental Assessment (EA), and requires approval by the Minister of the Environment (MOE). The subsequent Individual EA is then prepared in accordance with the approved TOR.

This Consultation Records has been prepared as required under 6(3) of the Ontario Environmental Assessment Act whereby a "description of the consultation by the proponent and the results of the consultations" in preparation of the TOR must be appended to TOR document as part of the submission to the Minister of the Environment for approval.

2.0 Stakeholders Engaged In Preparation of the Terms of Reference

The public and various government agencies were engaged in preparation of the Terms of Reference. The Partnership sought to inform all stakeholders on the purpose of the Terms of Reference and the process for submission / approval and opportunities for public/agency participation (reviewing and commenting on the contents of the Terms of Reference).

Public and agency contact lists developed as part of the Purpose Need / Feasibility study (i.e. from previous PIOH sign-in sheets, and correspondence with public sector and private sector groups) were updated and provided the basis for informing / notifying stakeholders of the TOR process and opportunities to participate.

Contact list are included in Appendix A. Consistent with the Freedom of Information and Protection of Privacy Act, public lists developed as parts of this study have not been included.

3.0 Public Consultation in Preparation of the Terms of Reference

Public Information Open Houses (PIOHs) were held to provide the opportunity to allow the public to review the draft TOR, provide comments and discuss with representatives of the Partnership. The open houses were held as follows:

Monday, March 22, 2004
 2:00 p.m. – 9:00 p.m.
 Cleary International Centre
 Canadian Club Room B
 201 Riverside Drive West
 Windsor, Ontario

Tuesday, March 23, 2004
 4:00p.m. – 9:00p.m.
 Sandwich West Public School
 2055 Wyoming Avenue
 LaSalle, Ontario

Wednesday, March 24, 2004
 4:00 p.m. – 9:00 p.m.
 Verdi Club
 689 Texas Road, R.R. 3
 Amherstburg, Ontario

Thursday, March 25, 2004
 4:00 p.m. – 9:00 p.m.
 Ciociaro Club
 3745 North Talbot Road
 Tecumseh, Ontario

Saturday, March 27, 2004
 10:00 a.m. – 3:00 p.m.
 Radisson Riverfront Club Room
 Radisson Hotel
 277 Riverside Drive West
 Windsor, Ontario

Representatives from Transport Canada, Ontario Ministry of Transportation, U.S. Federal Highway Administration, Michigan Department of Transportation, URS Canada Inc., Corradino Group, and IBI Group staffed the open houses. The format for the PIOHs was a presentation of display panels that contained information about the TOR process and contents. Representatives of the Partnership were available to answer questions and listen to comments from the public.

Comment sheets were made available at the Open House for attendees to submit questions and/or comments to the Partnership for consideration in this study. The attendees were also provided with an information package that contained all of the presentation boards, a Project Team Contact Information sheet, and a Study Update sheet.

The purpose of the PIOHs was to present the TOR process and contents and to obtain public input and comments on the draft TOR. The information presented in the draft TOR included:

- Purpose of the project;
- Integrated process for conducting the EA;
- Framework for generating and assessing alternatives;
- Framework for defining study area;
- Proposed generation and evaluation criteria;
- Proposed evaluation methodology; and
- Proposed consultation plan.

Additional detail on the information presented is provided in Appendix D.

Public Notification

Prior to the PIOH, the following measures were carried out in order to make details of the Open Houses known to study area residents and interested members of the public:

1. An Ontario Government Notice (Public Notice - Public Information Open House) was placed in the following newspapers on the specified dates to notify the public of the PIOH meetings and also to provide a listing of viewing locations for the draft TOR (see Appendix D):

Windsor Star	March 6 and March 20
Kingsville Reporter	March 9 and March 23
Amherstburg Echo	March 9 and March 23
Leamington Post	March 9 and March 23
Harrow News	March 9 and March 23
Le Rempart	March 10 and March 23
LaSalle Post	March 10 and March 23
Essex Free Press	March 10 and March 23
LaSalle Silhouette	March 12 and March 23

2. Notices were sent to Ontario elected officials in the project study area, as well as to the City/Town/County Clerks in Windsor, LaSalle, Amherstburg, Essex and Tecumseh.
3. Notices were directly to those on the Project Team's external mailing list, including representatives of the Private and Public Consultation Groups.
4. Details of the PIOHs were posted on the project web site at www.PartnershipBorderStudy.com.
5. An additional Ontario Government Notice (Public Notice - Review Period Extension) was published following the PIOHs to announce the extension of the review period for providing comments on the draft TOR. This notice was placed in the following newspapers on the specified dates (see Appendix D):

Kingsville Reporter	April 6
Amherstburg Echo	April 6
Leamington Post	April 6
Windsor Star	April 7
Harrow News	April 7
Le Rempart	April 7
LaSalle Post	April 7
Essex Free Press	April 7
LaSalle Silhouette	April 9

PIOH Attendance/Summary of Comments

A total of 474 members of the public chose to sign the visitor's register for the five Public Information Open Houses.

In addition to verbal comments, the Project Team encouraged visitors to express, in writing, all comments they had regarding the information presented. In total 101 written comments were received at the PIOHs. In addition, 11 comments were received via mail and 62 comments were submitted via the project team web site. A breakdown of attendance and comments by PIOH date/venue is provided as follows:

Date / Venue	Total Attendance	Written Comments Received
March 22, 2004 – Windsor, ON	87	25
March 23, 2004 – LaSalle, ON	318	59
March 24, 2004 – Amherstburg, ON	44	10
March 25, 2004 – Tecumseh, ON	15	3
March 27, 2004 – Windsor, ON	10	4
Total Comments received via fax / mail		11
Total Comments received via e-mail		62 (via e-mail and project web site March 4/04 to April 30/04)
Total	474	174

A comprehensive list of public comments submitted in preparation of the TOR (i.e. at PIOHs / during pre-submission review of the draft TOR) and the associated responses provided by the Partnership is included in Appendix B.

Additional details regarding the Public Information Open Houses are documented in the PIOH Summary Report, provided in Appendix D.

4.0 Consultation with Municipalities, Agencies and Interest Groups in Preparation of the Terms of Reference

Private and Public Sector Consultation Group Meetings

Public and Private Sector Consultation Groups were formed to provide input and advice to the Project Team at key points during the study. The Private Sector Consultation Group is comprised of user groups, area businesses, and crossing operators and proponents of new crossings. The Public Sector Consultation Group is comprised of representatives from government agencies and staff of local and regional municipalities within the study area.

Public and Private Sector Consultation Group meetings were held in Windsor, Ontario on March 10, 2004. Separate sessions were held for each respective group. The purpose of these meetings was to discuss the overall study process, introduce the draft TOR and identify any preliminary issues/concerns.

Municipal Council Meetings

Separate presentations were made by Project Team representatives to local municipal councils. The purpose of the meetings was to discuss the draft TOR. The dates of the council presentations were as follows:

Windsor City Council.....	March 9
LaSalle Town Council	March 9
Tecumseh Town Council	March 9
Essex County Council.....	March 10
Amherstburg Council	March 15

Ministry of the Environment

Meetings and discussions with MOE were undertaken between December 2003 and May 2004 regarding the approach to the TOR, review of the Draft TOR and to coordinate the logistics of TOR submission.

A comprehensive list of agency / municipal / interest group comments submitted in preparation of the TOR (i.e. during pre-submission review of the draft TOR) and the associated responses provided by the Partnership is included in Appendix C.

5.0 Pre-submission Review of the Terms of Reference

The Partnership conducted a review of the draft TOR prior to submitting the final document for approval. The consultation activities outlined in Sections 3 and 4 of this Consultation Record were coordinated with the pre-submission review so that the Partnership could inform stakeholders of the purpose of the TOR and opportunities to participate as the draft TOR was made available for review and comment.

The Partnership allocated a 7-week review of the draft TOR, which was later extended to a 9-week review period in response to stakeholder requests.

The draft TOR was made available for review at the following viewing locations and was posted on the project web site (www.PartnershipBorderStudy.com):

- City of Windsor Clerk's Office
- Windsor Public Library
- Town of LaSalle Clerk's Office
- LaSalle Public Library
- Town of Amherstburg Clerk's Office
- Amherstburg Library
- Town of Tecumseh Clerk's Office
- Tecumseh Public Library
- Essex County Clerk's Office
- Essex Library

All comments received during the pre-submission review were carefully considered in finalizing the TOR document. Refer to Appendix B and C for comments received during the pre-submission review and the Partnerships' responses to comments.

APPENDIX A -

List of Stakeholders Consulted in Preparation of the Terms of Reference

List of Stakeholders Consulted in Preparation of the Terms of Reference

The following list of interest groups and government agencies were consulted in preparation of the TOR:

Aamjiwnaang First Nation	General Motors U.S.
Ambassador Bridge/Detroit International Bridge Co.	Health Canada
Association of Int'l Automobile Manufacturers CA	Hennepin Pt. Crossing Inc.
Association of Int'l Automobile Manufacturers U.S.	Indian & Northern Affairs Canada - Ontario Region
Automotive Parts Manufacturer's Association (APMA)	International Business Consultants of Canada Inc.
Bison Transport Inc.	Jefferson East Business Association
Blue Water Bridge Authority	Magna Transportation Inc.
Canada Border Services Agency (CBSA)	Maritime Systems Inc.
Canada Customs & Revenue Agency	Mich-Can International Bridge Company
Canada Political/Ec. Relations & Public Affairs	Michigan Trucking Association
Canadian Coast Guard	Motor and Equipment Manufacturers Association
Canadian Environmental Assessment Agency	Norfolk Southern Railway
Canadian Heritage	Office of the Minister for Int'l Cooperation
Canadian Pacific Railway	Oneida Nation of the Thames
Canadian Transit Company/Ambassador Bridge	Ontario Ministry of Economic Development & Trade
Canadian Transportation Agency (CTA)	Ontario Ministry of Enterprise, Opportunity & Innovation
Canadian Trucking Alliance	Ontario Ministry of Natural Resources
Canadian Vehicle Manufacturers' Association	Ontario Ministry of the Environment
Canadian/America Border Trade Alliance	Ontario Ministry of Tourism, Culture & Recreation
Chamber of Maritime Commerce	Ontario Trucking Association
Chippewas of Kettle & Stony Point First Nation	Rush Trucking
Citizenship & Immigration Canada	Sarnia-Lambton Chamber of Commerce
City of Detroit	SEMCOG
City of Port Huron	Serco Aviation Services Inc.
City of River Rouge	Skylink International
City of Riverview	SLH Transport Inc.
City of Sarnia	Southwest Detroit Environmental Vision
City of Windsor	St. Clair County Road Commission
City of Wyandotte	Tourism Industry Association of Ontario
County of Essex	Town of Amherstburg
County of Lambton	Town of LaSalle
Coyle Group Inc.	Town of Tecumseh
Daimler Chrysler of Canada	U.S. Army Corps of Engineers
Daimler Chrysler of Michigan	U.S. Coast Guard
Detroit Regional Chamber	U.S. Customs
Detroit River Tunnel Partnership (DRTP)	U.S. Department of Transportation
Detroit/Canada Tunnel	U.S. Environmental Protection Agency
Detroit/Wayne County Port Authority	U.S. General Services Administration
Detroit-Windsor Truck Ferry	U.S. Immigration & Naturalization Service
Detroit-Windsor Tunnel	Village of Point Edward
Environment Canada - Ontario Region	Wayne County
Essex Region Conservation Authority	Windsor & District Chamber of Commerce
Fisheries & Oceans Canada	Windsor Port Authority
General Motors Canada	Windsor-Essex County Development Commission

APPENDIX B -

Responses to Public Comments During Pre-submission Review of the Terms of Reference

THEME	ISSUE	RESPONSE
Partnership	Who is conducting the study	The study is being conducted by the Canada-U.S.-Ontario-Michigan Border Transportation Partnership. This bi-national partnership includes representatives from Transport Canada, the United States Federal Highway Administration, the Ontario Ministry of Transportation and the Michigan Department of Transportation.
	Local consultants should be used	Comment noted. The current Consultant Team includes a number of persons with local project experience in the Windsor/Essex County – Detroit/Wayne County area, as well as current and former residents from the area.
P/NF Study	What is the purpose of P/NF	The purpose of the Planning/Need and Feasibility (P/NF) Study was to develop a long-term transportation strategy for the safe and efficient movement of people and goods across the United States and Canadian border within the region of Southeast Michigan and Southwest Ontario, including improved connections to national, provincial, and regional transportation systems. The Planning/Need and Feasibility Study Report provides a comprehensive 30-year strategy to address both medium- and long-term solutions for ensuring the Southeast Michigan-Southwest Ontario border remains a key gateway between Canada and the United States.
	What are the results of P/NF	The study examined potential transportation alternatives to meet the projected growth in future trade and traffic between the two countries. The P/NF Report outlines the potential elements of a strategy to address transportation needs for the next 30 years. The key elements of the strategy are: <ul style="list-style-type: none"> • Optimize border processing resources; • Construct a new, or expand an existing, international crossing connecting the interstate freeway system in Michigan to the provincial highway system in Ontario; • Optimize the use of the existing road network in the short- to medium-term (5 – 10 years); and • Implement travel demand measures and encourage use of other modes.
	How has the Partnership responded to the recommendations from P/NF	The Partnership is taking a number of actions on the recommendations from the P/NF Study. For example, the Partnership is proceeding with the formal environmental studies for a new or expanded international border crossing connecting the interstate system in Michigan and the provincial highway system in Ontario. In addition, the individual government partners are continuing with initiatives to address the short-term need of the network and optimize use of the existing network on both sides of the border. The Partnership is also continuing to meet with border processing agencies in both countries to address, among other things, transportation infrastructure solutions to support border-processing initiatives.
	Traffic projections	In regard to your comments on traffic projections and how they were determined, additional information will be presented in the next stage of the project. Background information on existing and future travel demand developed for the Planning/Need and Feasibility Study is available from the project web site.
P/NF Alternatives	Which corridors are being studied	During the Planning/Need and Feasibility Study (P/NF) some preliminary corridors were identified, in order to confirm that feasible alternatives exist. The corridors presented at the Public Information Open Houses in June 2003, and in the P/NF Study have no official status at this time. During the environmental assessment process, formal study area limits will be developed, and a range of alternative corridors will be developed, analyzed and evaluated. It is anticipated that the corridors identified during the P/NF study will be brought forward into the formal environmental study, but additional corridors may also be considered. Under the environmental study processes in both Canada and the U.S., it is not possible to rule out any corridors at this time. This is a bi-national study, and each alternative will be assessed as to its impacts and benefits to Ontario and Michigan, in order to find a solution that provides the best balance between environmental impacts and transportation engineering considerations. The impacts to local communities on both sides of the Detroit River will be incorporated in the evaluation of alternatives in the environmental studies.
	Are the corridors the same as June/03	The corridors presented in June 2003 have no official status at this time.
	Is new crossing a tunnel, road, railway, ferry, etc.	All reasonable options will be considered during the EA/EIS Study. The new crossing may be a bridge or a tunnel. Alternative solutions will be evaluated, and mitigation will be developed, using a wide range of factors and indicators, which will represent natural, social, cultural, economic and engineering factors. The decision as to whether a new/expanded crossing will be a bridge or a tunnel will be made in the next stage of the study. At this time, no decisions have been made regarding the feasibility of tunneling any portions of any new or improved road connections. Alternative solutions will be evaluated, and mitigation will be developed, using a wide range of factors and indicators. The indicators will represent natural, cultural, social, economic and engineering factors.
	Why is the DRTP being carried forward	The corridors presented in June 2003 have no official status at this time. The P/NF Study identified that the DRTP proposal does not provide sufficient capacity to meet the long-term needs of the network. However, the DRTP proposal, in conjunction with other alternatives (i.e. another new/expanded crossing) may provide sufficient capacity to serve the projected travel demand. Further, no decisions regarding the locations for a new/expanded crossing have been made by the Partnership.

THEME	ISSUE	RESPONSE
	Disappointed no alternatives shown on maps	<p>During the Planning/Need and Feasibility Study (P/NF) some preliminary corridors were identified, in order to confirm that feasible alternatives exist.</p> <p>The corridors presented at the Public Information Open Houses in June 2003, and in the P/NF Study have no official status at this time. During the environmental assessment process, formal study area limits will be developed, and a range of alternative corridors will be developed, analyzed and evaluated. It is anticipated that the corridors identified during the P/NF study will be brought forward into the formal environmental study, but additional corridors may also be considered. Under the environmental study processes in both Canada and the U.S., it is not possible to rule out any corridors at this time.</p> <p>This is a bi-national study, and each alternative will be assessed as to its impacts and benefits to Ontario and Michigan, in order to find a solution that provides the best balance between environmental impacts and transportation engineering considerations. The impacts to local communities on both sides of the Detroit River will be incorporated in the evaluation of alternatives in the environmental studies.</p>
Consultation Plan	Public involvement in study	<p>Over the course of the Planning Study, two rounds of Public Information Open Houses were held on both sides of the border, one in November 2002 and another in June 2003, and a public meeting was held in LaSalle in October 2003 where members of the public were provided opportunities to review, comment and ask questions on the study, as well as to discuss concerns with members of the study team. Presentations were also made to municipal councils to provide information to and obtain feedback from the elected officials.</p> <p>In addition, both Public and Private Sector Consultation Groups were established to provide agencies/stakeholders with opportunities to review the study's progress, raise their concerns and provide comments to the study team.</p> <p>A web site and 24-hour toll free hotline were also set up to provide the public with continuous access to information and a forum for feedback throughout the project. The proposed consultation program for the EA is provided in the TOR. Public consultation is considered an essential component of a successful planning project.</p>
	Assemble consultation group of 'citizens at large'	<p>Your suggestion of a Citizens' panel will be considered. The consultation program for the EA proposes several Public Information Open Houses to be held at key points during the study to gain input from members of the public. In addition, meetings with stakeholder and community groups will be held throughout the study as required. The format of these activities will be flexible, in order that discussions may be as meaningful and effective as possible.</p>
Timeframe/ Schedule	Project Timeframe/Next Steps	<p>The Partnership is moving forward with the formal environmental processes in both the U.S. and Canada. There are three environmental study processes that govern the major planning and approval of border crossing transportation projects. In the U.S., the process is governed by the National Environmental Policy Act (NEPA). In Canada, the requirements of both the Ontario Environmental Assessment Act (OEAA) and Canadian Environmental Assessment Act (CEAA) will apply to this project.</p> <p>Overall, the three processes are similar, and their purposes are to:</p> <ul style="list-style-type: none"> • Identify purpose and need for the proposed action; • Identify alternatives to the undertaking and alternative methods of carrying out the undertaking; • Identify and evaluate social, economic and environmental impacts (note: the main focus of the CEAA is to identify if the undertaking will cause any adverse environmental effect); • Analyze preliminary alternatives and identify practical alternatives; • Select recommended alternatives; • Conduct public consultation as part of the process; • Seek approvals and endorsement from statutory authorities; and • Provide a structured framework to assist public officials in making sound decisions. <p>The Partnership is proposing to follow an integrated study process, which meets the requirements of NEPA, CEAA and OEAA.</p> <p>As a member of the Partnership, the Ministry of Transportation is moving forward with the development of a Terms of Reference (TOR) for the preparation of the environmental assessment for Ontario. Comments received on the draft TOR will be incorporated in a final TOR, which will be submitted to the Ontario Minister of the Environment for approval. Once approved, the Partnership will proceed with the environmental studies required to develop and select transportation alternatives.</p> <p>In the U.S., FHWA and MDOT are developing a draft Purpose and Need Statement, in accordance with NEPA requirements.</p> <p>A Project Description under CEAA will be developed once the nature of the project (study area and range of alternatives) is better defined.</p>
	Take trucks out of Windsor/city/neighbourhoods	<p>Impact on local communities is one of a wide range of environmental factors that will be considered in the analysis and evaluation of alternatives during the environmental studies. The weighting to be applied to individual factors will be determined during the environmental assessment. Under the environmental study processes in both Canada and the U.S., it is not possible to rule out any corridors at this time. This is a bi-national study, and each alternative will be assessed as to its impacts and benefits to Ontario and Michigan, in order to find a solution that provides the best balance of all</p>

THEME	ISSUE	RESPONSE
		<p>factors.</p> <p>During the Planning/Need and Feasibility Study (P/NF) some preliminary corridors were identified, in order to confirm that feasible alternatives exist. The corridors presented at the Public Information Open Houses in June 2003, and in the P/NF Study have no official status at this time. During the environmental assessment process, formal study area limits will be developed, and a number of alternative corridors will be developed, analyzed and evaluated. It is anticipated that the corridors identified during the P/NF study will be brought forward into the formal environmental study, but additional corridors may also be considered. Under the environmental study processes in both Canada and the U.S., it is not possible to rule out any corridors at this time.</p> <p>This is a bi-national study, and each alternative will be assessed as to its impacts and benefits to Ontario and Michigan, in order to find a solution that provides the best balance between environmental impacts and transportation engineering considerations. The impacts to local communities on both sides of the Detroit River will be incorporated in the evaluation of alternatives in the environmental studies.</p>
	Identify/implement short-term solutions to get trucks off local roads	In the P/NF Study, the Partnership identified a number of short-term measures to address more immediate needs including providing additional staff at the border, promoting use of NEXUS and FAST, supporting plaza improvements at existing crossings such as the Ambassador Bridge Gateway Project and other initiatives. The Governments of Canada and Ontario are committed to working with the City of Windsor and Essex County to identify additional projects to improve the efficiency of the Windsor Gateway.
	Does the Partnership support DRTP in short-term	<p>Under the environmental study processes in both Canada and the U.S., it is not possible either to endorse or to rule out any corridors or any specific proposals at this time.</p> <p>The DRTP has been participating in the bi-national planning process and sharing information with the project team. The Partnership understands that in Canada, DRTP intends to pursue federal approval for their proposal under the provisions of improvements to a railway. The DRTP application will be considered by the Canadian Transportation Agency and the Ontario Ministry of Transportation will be a review agency. On the U.S. side, DRTP has indicated that they are proceeding with activities under the process for obtaining federal approvals used for the Port Huron-Sarnia rail tunnel project. The Partnership is considering the DRTP proposal within the EA/EIS process, along with other crossing proposals.</p>
	Status of Windsor Gateway Action Plan (9-point plan)	<p>On March 11, 2004, the governments of Canada, Ontario and Windsor announced new measures that are part of a joint \$300-million federal-provincial investment to help improve the Windsor Gateway. The five initial project investments include:</p> <ul style="list-style-type: none"> • Improvements to the Detroit-Windsor Tunnel Plaza; • Construction of a pedestrian overpass on Huron Church Road near Assumption High School; • Construction of the Walker Road rail grade separation at Grand Marais Road and completion of an EA for the Howard Road rail grade separation; • Improvements to Huron Church/Industrial Drive intersection; and • Implementation of Intelligent Transportation Systems on the approach roadways of existing border crossings. <p>The announcement represents the first important steps in the new Let's Get Windsor-Essex Moving strategy. It will be a multi-year strategy that will improve road safety, speed up the flow of cross-border traffic, protect and strengthen local jobs and growth, and beautify transportation corridors.</p> <p>A subsequent agreement will be developed to identify additional projects that will be pursued to improve the efficiency of the Windsor Gateway. This new approach replaced the nine-point Windsor Gateway Action Plan.</p>
	Timeframe for recommendation	Once the TOR is approved by the Ontario Minister of the Environment, the Partnership will move forward with the generation and evaluation of alternatives, to meet the requirements of environmental legislation in Canada and the United States (NEPA, OEAA and CEAA). The environmental studies are expected to take approximately 2 to 3 years. At the end of this time, the Partnership will have developed, consulted and carried out preliminary design of a recommended plan for the border.
	Timeframe for implementation of new crossing	Should a new crossing be selected at the end of the environmental study process, design and construction would follow. In total, it could take approximately 8 to 10 years between now and the opening of a new or expanded crossing.
	Clarification/notification of future meetings	The public will have many opportunities to provide input throughout the project. Public Information Open Houses and public events will be advertised both in local media sources and on the project web site. As well, your name has been added to the project mailing list and you will receive project updates and meeting notification.
	Accelerate process/too slow/long process/get on with it	The Detroit River International Crossing Project addresses the long-term needs of the border transportation network. The pressure for a quick solution to the border crossing traffic problems is understandable. The Partnership will expedite the study as rapidly as laws and regulations permit while ensuring that stakeholders have adequate opportunities to provide input. In the meantime, short-term measures that are underway by governments of both countries to address more immediate needs include providing additional staff at the border, promoting use of NEXUS and FAST, supporting plaza improvements and other initiatives, such as the new Let's Get Windsor-Essex Moving strategy, a multi-year strategy that will improve road safety, speed up the flow of cross-border traffic, protect and strengthen local jobs and growth, and beautify transportation corridors.

THEME	ISSUE	RESPONSE
	When will alternatives/corridors be shown	It is anticipated that the alternative corridors to be considered will be presented for comment at the next open house. Although the timing of this consultation event has not been established, one can expect this to occur in early 2005.
TOR/TOR Review	What is the TOR	<p>The Environmental Assessment Act in Ontario requires proponents to prepare a Terms of Reference (TOR), before undertaking an individual environmental assessment (EA). A TOR is a document that describes:</p> <ul style="list-style-type: none"> • the problems to be addressed in the EA; • the process to be followed to identify alternatives which address the problem; • the process to be followed to develop a study area; • the process to be followed for evaluation of alternatives; and • the public consultation process to be followed during the EA. <p>Comments on the draft TOR will be incorporated in the Final TOR, which is submitted to the Ontario Minister of the Environment. A TOR must be approved by Ontario's Minister of the Environment before an individual EA can proceed.</p>
	What kind of comments are requested on TOR	<p>Comments on any and all aspects of the TOR are welcome and will be considered in the Final TOR. Information provided in the TOR includes:</p> <ul style="list-style-type: none"> • Purpose of the project • Integrated process for conducting the EA • Framework for generating and assessing alternatives • Framework for defining study area • Proposed generation and evaluation criteria • Proposed evaluation methodology • Proposed consultation plan
	Length of review period & providing comments	<p>Following presentations in March to the Councils of Windsor, LaSalle, Tecumseh, Essex and Amherstburg, and Public Information Open Houses, the Canada-U.S.-Ontario-Michigan Border Transportation Partnership received formal requests for an extension to the deadline for providing comments on the draft Terms of Reference document.</p> <p>The Partnership has given careful consideration to this request, taking a number of relevant issues into account. The Partnership recognizes that there are important benefits in providing adequate opportunity for public, agency and municipal input to the planning process. At the same time, the Partnership must take all reasonable steps to provide for timely implementation of major transportation improvements. In this regard, the Partnership is committed to accelerating the study process, wherever possible.</p> <p>Another important consideration is the fact that the Draft TOR does not scope the work to be completed within the environmental assessment process. Rather, it identifies a framework for conducting the environmental studies once the environmental assessment is initiated. During the environmental assessment stage, additional opportunities for public and agency input will be provided.</p> <p>In considering all of these issues, the Partnership has concluded that it would be appropriate to extend the review period for two weeks, to April 30, 2004. Notice of the extension was provided to those who had requested an extension, and by newspaper notices, published between April 6 and April 9, 2004.</p>
	Political (or other) interference with process (how will this be dealt with?)	<p>The Partnership remains committed to working with agencies, municipalities and members of the general public throughout the environmental study process.</p> <p>The Partnership has a responsibility to conduct studies in a manner that will satisfy the requirements for approval under the Ontario Environmental Assessment Act (OEAA), the Canadian Environmental Assessment Act (CEAA) and the U.S. National Environmental Policy Act (NEPA).</p>
	How will public input to TOR be incorporated	Comments received will be considered in the development of the final Environmental Assessment Terms of Reference document. The final TOR submitted to the Minister of the Environment will include a record of comments received and the action/responses of the Partnership. The Minister of the Environment will also consider public input in deciding whether or not to approve the final TOR.
	TOR is too complex	Thank you for your comments on the draft TOR. In future, the Partnership will strive to provide materials that are more readable.
	Making TOR comments public/ providing copies	The Final TOR will include a consultation record, which will include comments received on the draft TOR. The Final TOR will be available for viewing on the project website at www.partnershipborderstudy.com and at designated locations in the Windsor/Essex County area.

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PIOH-specific	Good/informative display materials on draft TOR; lots of information provided	Comment noted.
	Can see how well governments are working together	Comment noted.
	Nothing new presented at this meeting	The purpose of this round of consultation is to allow the public to review the draft Terms of Reference.
	Increase handouts/availability of reports	Your comment regarding increasing the availability of handouts and reports has been noted. Project documents can be viewed on the project web site at www.PartnershipBorderStudy.com . As well, hard copies of the P/NF Study Report and the TOR were placed several locations, including: <ul style="list-style-type: none"> • City of Windsor Clerk's Office and Windsor Public Library – Main Branch • Town of LaSalle Clerk's Office and LaSalle Public Library • Town of Amherstburg Clerk's Office and Amherstburg Library • Town of Tecumseh Clerk's Office and Tecumseh Public Library • Essex County Clerk's Office and Essex Library Other suggestions as to how to make reports and other documents more available are welcome.
Problem Statement	Agree/disagree with problem statement	<i>If agree, comment noted.</i> <i>If disagree, prepare individual response.</i>
Integrated Study Process	What is the Purpose & Need Statement	A Purpose and Need Statement is a requirement under NEPA. The statement describes why the project is needed and what problem(s) the project is intended to address. The Purpose of the Undertaking discussion in the OEA TOR is comparable to the NEPA Purpose and Need Statement. The Purpose and Need Statement is circulated to U.S. federal agencies with responsibility for approvals and permits related to the project. The agencies are requested to indicate any concerns regarding the purpose of the project or the process to be followed in completing the EIS. The Partnership will consider any concerns in finalizing the Purpose and Need Statement. Once the Purpose and Need Statement is finalized, scoping of the project can begin.
Documents	Request copy of project report	<i>Send reports with document transmittal.</i>
	Improve readability of text and maps	Thank you for your comments on the materials we provided. The Partnership strives to provide materials that are as readable as possible. We would be pleased to consider any specific suggestions you may have.
Cost/Ownership	What is the cost of new crossing/cost of tunnel vs. bridge	No detailed cost estimates have been developed by the Partnership for new or expanded border crossings. Other corporate and private interests have publicly identified cost estimates for proposals they have developed for a new or expanded crossing and/or connecting roadway improvements. The Partnership will develop detailed cost estimates during the next stages of the study. Generally speaking, tunneling is a more expensive method of construction than surface construction. The actual cost will vary, depending on the length of construction, geotechnical conditions in the region and the mitigation measures required to address impacts. However, the options of tunneling and bridge building will be considered during the EA/EIS studies.
	Tolling of new crossing	The aspect of tolling the new or improved approach roadways and/or new/expanded border crossings has not been resolved. As the project moves forward, this issue will be addressed by the four governments sponsoring the study.
	Ownership of new crossing (private/public)	No decisions have been made regarding the responsibility and cost of constructing and operating a new or expanded crossing. Whether a new crossing would be public, private or some combination, is an issue that is being considered by the four governments sponsoring the study.
	Cost of study; who paid/is paying	The cost to undertake the P/NF Study, prepare a Terms of Reference in accordance with OEAA, and prepare the NEPA Purpose and Need Statement, was \$4.5 million (CDN). The cost was equally shared by the Bi-National Partnership agencies – the Ministry of Transportation of Ontario (MTO), Transport Canada, Michigan Department of Transportation (MDOT) and the U.S. Federal Highway Administration (FHWA).
	High cost of EA study	Your comment in regard to the cost of the study has been noted. The planning and approvals of cross-border transportation improvements is a complex undertaking involving several government agencies. As well, the legislative requirements in both the U.S. and Canada require that such projects follow a thorough process and provide a detailed assessment of issues and alternatives. Consultation with the general public is encouraged. All of these factors contribute to the costs of a project like this. It should be noted that planning costs typically represent only 2 to 3% of the total project cost.

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	Potential loss of jobs with new/ expanded crossing	Your specific comment regarding the potential loss of jobs with the addition of a new crossing/ expansion of an existing crossing are noted and appreciated. These issues are important in our evaluation process as we identify and analyze potential border crossing strategies. Impacts, such as loss of jobs, will be considered in the development and assessment of alternatives.
Security/Customs	Is there an increase/decrease in cross-border traffic	<p>The need for additional infrastructure capacity is not based on short-term trends in traffic volumes.</p> <p>Traffic volumes are expected to exceed the capacity of the existing border crossings within the next 30 years. Significant growth in truck traffic associated with growing trade between Canada and the U.S. and continued modest growth in passenger car traffic will lead to increased traffic volumes at the existing border crossings.</p> <p>As a result of the terrorist attacks on the U.S. on September 11, 2001, and of ongoing national security concerns, heightened border security is a new reality facing all border crossings. Security priorities will affect border-crossing operations; periods of rigorous inspection of all passengers and goods using border crossings will effectively reduce border crossing capacity, and lead to congestion on the road network in the vicinity of the border crossings.</p> <p>Additional staffing, improvements to facilities and implementation of border crossing programs are all being pursued by border processing agencies. However, it is unlikely that any individual or collective improvements made will provide sufficient capacity to meet the medium- to long-term travel demand or the demand during periods of heightened security.</p> <p>The potential impacts resulting from disruption of the movement of people and goods across the Detroit River due to major traffic incidents, security concerns or maintenance operations are a significant concern to the Partnership. The existing roadway crossings of the Detroit River, namely the Ambassador Bridge and the Detroit-Windsor Tunnel, are more than 70 years old. Significant maintenance activities often have the potential to partially or completely close such structures to traffic. Given the importance of this trade corridor and the substantial number of people and economic activity dependent upon safe, reliable access across the Detroit River on a daily basis, governments have an important role to safeguard the public interest in the event of disruption in the corridor.</p>
	Security, customs & immigration, inspections	<p>Additional staffing, improvements to facilities and implementation of border crossing programs are all being pursued by border processing agencies and progress is being made in all these areas. However, it is unlikely that any individual or collective improvements made will provide sufficient capacity to meet the medium- to long-term travel demand or during periods of heightened security.</p> <p>As a result of the terrorist attacks on the U.S. on September 11, 2001, and of ongoing national security concerns, heightened border security is a new reality facing all border crossings. Security priorities will affect border-crossing operations; periods of rigorous inspection of all passengers and goods using border crossings will effectively reduce border crossing capacity, and lead to congestion on the road network in the vicinity of the border crossings.</p> <p>The Partnership will consider these issues as it develops solutions to accommodate the capacity requirements of international traffic, while recognizing security concerns must also be addressed.</p>
Evaluation Criteria/Method	Effects of diesel fumes	<p>Impacts to air quality is one of many environmental factors that will be considered during the forthcoming environmental studies. In assessing the possible air quality impacts, consideration will be given to the ability to mitigate impacts.</p> <p>The Project Team will identify and compare all possible impacts and benefits to identify the alternative that results in the best balance between environmental impacts and transportation engineering considerations.</p>
	Impacts to natural features	<p>Impacts to natural features are one of several environmental factors that will be evaluated during the forthcoming environmental studies. In assessing the possible impacts on natural features, consideration will be given to the ability to mitigate impacts.</p> <p>The Project Team will identify and compare all possible impacts and benefits to identify the alternative that results in the best balance between environmental impacts and transportation engineering considerations.</p>
	Impacts to air quality	<p>Impacts to air quality is one of many environmental factors that will be considered during the forthcoming environmental studies. In assessing the possible air quality impacts, consideration will be given to the ability to mitigate impacts.</p> <p>The Project Team will identify and compare all possible impacts and benefits to identify the alternative that results in the best balance between environmental impacts and transportation engineering considerations.</p>
	Impacts to socio-economic features (neighbourhoods/properties)	<p>Impacts to socio-economic features are one of several factors that will be evaluated during the forthcoming environmental studies. In assessing the possible impacts on neighborhoods and properties, consideration will be given to the ability to mitigate impacts.</p> <p>The Project Team will identify and compare all possible impacts and benefits to identify the alternative that results in the best balance between environmental impacts and transportation engineering considerations.</p>
	Impacts to cultural features	<p>Impacts to cultural features are one of several factors that will be evaluated during the forthcoming environmental studies. In assessing the possible impacts on cultural features, consideration will be given to the ability to mitigate impacts.</p> <p>The Project Team will identify and compare all possible impacts and benefits to identify the alternative that results in the best balance between environmental impacts and transportation engineering</p>

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		considerations.
	Impacts to human health	In developing and assessing alternatives, factors influencing human health will be important considerations. These factors include impacts to air quality and drinking water as well as noise, illumination and vibration impacts. Consideration will also be given to the ability to mitigate impacts. The Project Team will identify and compare all possible net impacts and benefits to identify the alternative that results in the best balance between environmental impacts and transportation engineering considerations.
	Weighting of evaluation factors	As discussed in the TOR, in general, more weight is assigned to those features which are felt to be more important in assessing impacts generated by alternatives, and less weight is given to those features which are considered to be less important. Consultation with agencies, municipalities and the public will help the Project Team to determine appropriate weighting for the environmental factors.
	Include detailed traffic assessment	During the Planning/Need and Feasibility Study (P/NF), the Partnership carried out several traffic studies identifying both short-term and long-term deficiencies relative to local and regional travel, freight traffic, transit service, rail and ferry services, travel demand management (such as ridesharing) and traffic management (NEXUS, FAST, Intelligent Transportation Systems). In the forthcoming EA/EIS Study, a more detailed traffic analysis will be completed in evaluating alternatives, along with other more rigorous studies related to the natural, social, cultural and economic impacts of each alternative. The alternatives will then be assessed as to their impacts and benefits to Ontario and Michigan, in order to find the best balance between environmental impacts and transportation engineering considerations.
	Explain reconciliation of two evaluation methods	The commitment in the TOR is that the Reasoned Argument (trade-off) method will be the primary evaluation tool to select a preferred alternative, while the Arithmetic approach will be used to substantiate the findings of the Reasoned Argument (trade-off) evaluation. The results of the Reasoned Argument (trade-off) evaluation component will be compared to the results from the Arithmetic Evaluation component. If the two components result in the identification of different preferred alternatives, the differences between the two alternatives will be identified. The results of the Arithmetic Method will be analyzed to determine the key weight-score combinations in the Arithmetic Evaluation. Similarly, the rationale for each trade-off decision will be revisited, to determine if the Project Team decision was appropriate. If the rationale supporting the trade-off decisions is valid and appropriate, the preferred alternative identified by the Reasoned Argument (trade-off) method will stand. However, if the results of the Arithmetic Evaluation lead to modifications to the trade-off decision rationale, the Reasoned Argument (trade-off) method preferred alternative may be revised. The decision making process will be clearly documented and presented for stakeholder comment.
	What is U.S. influence in decision-making	This is a bi-national study, and each alternative will be assessed as to impacts and benefits to Ontario and Michigan, in order to find a solution that provides the best balance between environmental impacts and transportation engineering considerations. The Partnership has a responsibility to conduct studies in a manner that will satisfy the requirements for approval under the Ontario Environmental Assessment Act (OEAA), the Canadian Environmental Assessment Act (CEAA) and the National Environmental Policy Act (NEPA).
	Impacts to property value	The Partnership is studying improvements to meet the long-term needs of the transportation network; property costs will be determined for those properties that are directly affected by the recommended improvements in accordance with Ministry practices. During the environmental studies, more information on the property acquisition process will be available. When a recommended solution is identified, information on impacts to specific properties will be available. However, the Ontario Ministry of Transportation does not generally consider changes to property values in the assessment of route alternatives.
Planning Alternatives	Support new/expanded int'l crossing	Comment noted. No specific crossing alternatives have been assessed by the Project Team. The impacts and benefits of the range of alternatives will be considered in determining the recommended plan.
	Oppose new/expanded int'l crossing	Comment noted. No specific crossing alternatives have been assessed by the Project Team. The impacts and benefits of the range of alternatives will be considered in determining the recommended plan. <i>[If need is questioned:]</i> The P/NF Study identified that the existing transportation network requires improvements to meet the long-term needs of Southwestern Ontario – Southeastern Michigan. The P/NF Study also identified the significant impacts to the region's economy and employment if improvements were not implemented. Given the traffic and trade characteristics of the region, a new/expanded border crossing was identified as an essential component of a multi-modal strategy to address these needs.
	Support border processing improvements	Comment noted. The Planning/Need and Feasibility Study identified improved border processing and a new crossing to be among the potential elements of a multi-modal strategy to address the area's transportation needs for the next 30 years. The Partnership will review this aspect of the strategy in more detail as alternatives are developed during the next phase of study (EIS/EA).

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	Identify/implement improvements to rail & ferry service	The P/NF Study identified greater use of the ferry and rail services and improvements to marine vessel services and rail corridors as elements of the proposed 30-year strategy for improving the transportation network. While increased use of other modes may improve utilization of the transportation network as a whole, it will not reduce the need for a new or expanded road-based crossing in the Detroit River area. Nevertheless, the Partnership is studying these elements of the strategy and will identify actions/policies for non-roadway alternatives in the near future.
	Encourage use of ferry	Comment noted. The Planning/Need and Feasibility Study identified increased ferry service as one of the potential elements of a multi-modal strategy to address the area's transportation needs for the next 30 years. Even with the increased use of ferry services, improvements to the transportation network are required in the Windsor/Essex County – Detroit/Wayne County area. The Partnership will review this aspect of the strategy in more detail as alternatives are developed during the formal environmental studies (EIS/EA) and through other government initiatives.
	Oppose use of ferry	Comment noted. The Planning/Need and Feasibility Study identified increased ferry service as one of the potential elements of a multi-modal strategy to address the area's transportation needs for the next 30 years. While increased use of other modes may improve utilization of the transportation network as a whole, it will not reduce the need for a new or expanded road-based crossing in the Detroit River area. The Partnership will review this aspect of the strategy in more detail as alternatives are developed during the formal environmental studies (EIS/EA) and through other government initiatives.
	Encourage use of rail	Comment noted. The Planning/Need and Feasibility Study identified increased freight rail service and/or improved passenger rail service as potential elements of a multi-modal strategy to address the area's transportation needs for the next 30 years. While increased use of other modes may improve utilization of the transportation network as a whole, it will not reduce the need for a new or expanded road-based crossing in the Detroit River area. The Partnership will review this aspect of the strategy in more detail as alternatives are developed during the formal environmental studies (EIS/EA) and through other government initiatives.
	Oppose use of rail	Comment noted. The Planning/Need and Feasibility Study identified increased freight rail service and/or improved passenger rail service as potential elements of a multi-modal strategy to address the area's transportation needs for the next 30 years. While increased use of other modes may improve utilization of the transportation network as a whole, it will not reduce the need for a new or expanded road-based crossing in the Detroit River area. The Partnership will review this aspect of the strategy in more detail as alternatives are developed during the formal environmental studies (EIS/EA) and through other government initiatives.
	Encourage use of Blue Water Bridge	Comment noted. The Planning/Need and Feasibility Study identified diverting some traffic to the Blue Water Bridge as one of the potential elements of a multi-modal strategy to address the area's transportation needs for the next 30 years. Even with the diversion of long-distance traffic, improvements to the transportation network are required in the Windsor/Essex County – Detroit/Wayne County area. The Partnership will review this aspect of the strategy in more detail as alternatives are developed during the formal environmental studies (EIS/EA).
	Oppose 'doing nothing'	Comment noted.
	Encourage alternative to the south/outside city/ neighbourhood	<p>Comment noted. During the formal environmental study process, study area limits will be developed, and a range of alternative corridors will be devised, analyzed and evaluated. It is anticipated that the corridors identified during the P/NF study will be brought forward into the EA/EIS study, but additional corridors may also be considered. Under the environmental study processes in both Canada and the U.S., it is not possible to rule out any corridors at this time. Alternative solutions will be evaluated, and mitigation will be developed, considering a wide range of factors including the impact on social, cultural, economic and natural features, as well as transportation benefits, technical considerations and cost.</p> <p>The Partnership will seek a final recommendation that provides the best balance between environmental impacts and transportation engineering considerations.</p>
	Oppose corridor through city/neighbourhood	<p>Comment noted. During the formal environmental study process, study area limits will be developed, and a range of alternative corridors will be devised, analyzed and evaluated. It is anticipated that the corridors identified during the P/NF study will be brought forward into the EA/EIS study, but additional corridors may also be considered. Under the environmental study processes in both Canada and the U.S., it is not possible to rule out any corridors at this time. Alternative solutions will be evaluated, and mitigation will be developed, considering a wide range of factors including the impact on social, cultural, economic and natural features, as well as transportation benefits, technical considerations and cost.</p> <p>The Partnership will seek a final recommendation that provides the best balance between environmental impacts and transportation engineering considerations.</p>
	Oppose corridor through hydro corridor	<p>Comment noted. During the formal environmental study process, study area limits will be developed, and a range of alternative corridors will be devised, analyzed and evaluated. It is anticipated that the corridors identified during the P/NF study will be brought forward into the EA/EIS study, but additional corridors may also be considered. Under the environmental study processes in both Canada and the U.S., it is not possible to rule out any corridors at this time. Alternative solutions will be evaluated, and mitigation will be developed, considering a wide range of factors including the impact on social, cultural, economic and natural features, as well as transportation benefits, technical considerations and cost.</p> <p>The Partnership will seek a final recommendation that provides the best balance between environmental impacts and transportation engineering considerations.</p>
	Encourage use of existing corridors	Comment noted. During the formal environmental study process, study area limits will be developed, and a range of alternative corridors will be devised, analyzed and evaluated. It is anticipated that the corridors identified during the P/NF study will be brought forward into the EA/EIS study, but additional corridors may also be considered. Under the environmental study processes in both Canada

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		<p>and the U.S., it is not possible to rule out any corridors at this time. Alternative solutions will be evaluated, and mitigation will be developed, considering a wide range of factors including the impact on social, cultural, economic and natural features, as well as transportation benefits, technical considerations and cost.</p> <p>The Partnership will seek a final recommendation that provides the best balance between environmental impacts and transportation engineering considerations.</p>
	Tunnel/cover all or portions of new crossing	<p>The feasibility of tunneling or covering any portions of any new or improved road connections will be considered during the formal environmental studies. Alternative solutions will be evaluated, and mitigation will be developed, using a wide range of factors and indicators. The indicators will represent natural, cultural, social, economic and engineering factors.</p> <p>The Partnership will seek a final recommendation that provides the best balance between environmental impacts and transportation engineering considerations.</p>
	Provides another route option	<p>Your suggestions for route alternatives will be considered in the next stage of the project.</p> <p>During the environmental assessment process, formal study area limits will be developed, and a range of alternative corridors will be developed, analyzed and evaluated. It is anticipated that the corridors identified during the P/NF study will be brought forward into the formal environmental study, but additional corridors may also be considered. Under the environmental study processes in both Canada and the U.S., it is not possible to rule out any corridors at this time.</p> <p>This is a bi-national study, and each alternative will be assessed as to its impacts and benefits to Ontario and Michigan, in order to find a solution that provides the best balance between environmental impacts and transportation engineering considerations. The impacts to local communities on both sides of the Detroit River will be incorporated in the evaluation of alternatives in the environmental studies.</p>
	Designate alternatives for truck and auto traffic	<p>During the next stage of the project, route alternatives and options for designating facilities for use by certain types of traffic will be considered.</p>
	Supports CVPC	<p>Your support for a Commercial Vehicle Processing Centre or staging area away from the border crossings has been forwarded to the Ontario Ministry of Transportation and Transport Canada for their consideration. CVPC's may be considered as part of the short to medium term improvements at the border.</p>
	Joint Customs facility	<p>Joint Customs facilities and other border processing improvements will be considered by the Project Team during the environmental assessment. The governments of Canada and the U.S. are reviewing the issues associated with joint customs facilities. Currently, there are no provisions for operating such a facility at existing or future border crossings in the Windsor-Detroit area.</p>
	Transport of hazardous waste	<p>Trucks carrying hazardous waste are permitted to cross the border at the Blue Water Bridge, or via the Detroit River Truck Ferry. In studying new/expanded border crossings, the Partnership would consider provisions for transporting hazardous waste.</p>

APPENDIX C -

Responses to Municipal / Agency / Interest Group Comments During Pre-submission Review of the Terms of Reference

ToR Section	Comment	Reviewer	Responses
EA Terms of Reference			
General/ Overall	<p>The assumptions regarding corridor transportation opportunities appear to be based on the accompanying Transportation Problems and Opportunities Report. This study was not reviewed by this office as its subject matter is not within the Region's area of competence or jurisdiction.</p> <p>TOR's stated aim is to consider the development of a multi-modal strategy for a balanced transportation system that provides more transportation choices. That being said, it appears that the TOR's focus is on vehicular traffic. Alternatives involving corridor improvements or the establishment of new corridors should be assessed for their impact on local and regional air quality. This office recently completed a preliminary air quality assessment of traffic congestion at the Ambassador Bridge. Public interest and concern over vehicular emissions and their impact on public health and land use should be anticipated.</p> <p>Modelling of potential emissions impacts should be available at an early stage in the public consultation process. Air quality modelling is not referenced in the discussion of Illustrative Alternatives (Table 3.3). It is not clear whether the process for the generation and evaluation of alternatives will result in modelling studies that are of sufficient detail to address public concerns regarding the potential environmental impact from specific air emissions (e.g. particulates, PAH, noise, etc.) for the various predicted traffic volumes.</p> <p>Reference is made on Page 28 of the draft TOR to "secondary sources." Given the importance of air quality to the process, we feel it would be advisable for the TOR to define in more detail the methods by which air emissions will be assessed by the scientific community. The public - and participating agencies such as MOE - may find it difficult to assess the impact of the alternatives over time without reference to predicted air quality measures that reflect those in common usage. The Region's air quality analyst, Dr. Gerald Diamond, has indicated that there seems to be some debate among air quality professionals involved in discussions on the Detroit Crossing as to whether the air quality impacts of the alternatives and traffic volume scenarios should be represented by an index (an index of "1" being better than "2"). This may be too far removed from the public's expectations for a "best effort" toward actual contaminant impact.</p> <p>Given the long horizon of this undertaking, any model should consider the potential influence of:</p> <ul style="list-style-type: none"> a) border and security processing measures and their impact on congestion and idling b) the introduction of new vehicle propulsion technology (e.g. PEM) that may lessen the impact on the corridor in the local area (new technology that may become economically feasible by increases in fossil fuel prices or a decline in availability) c) the potential impact of financial and other incentives to favour the greater use of new technology by trucking carriers (incentives that reduce the proportion of older diesel trucks transiting the corridor) 	MOE APEP	Comment noted.
		MOE APEP	<p>The TOR outlines the framework for conducting an environmental assessment study for a Detroit River International Crossing. The need to undertake this study is based on the technical transportation work undertaken as part of the P N/F study. The EA provides the opportunity to identify a multi-modal transportation strategy. Elements of this strategy (once defined), can be pursued by the appropriate proponents.</p> <p>The transportation problems identified outlined in the TOR (which will be re-examined during the EA) are primarily related to deficiencies in the roadway network. A full range of alternatives (alternatives to the undertaking and alternative methods) will be examined during the EA.</p> <p>The Partnership is cognizant of public concerns regarding air quality. Air Quality was noted as a key concern during Public information Open Houses previously conducted for the PN/F Study and in preparation of the EA Terms of Reference.</p> <p>An Air Quality Work Plan will be develop during the early stages of the EA, and will be circulated for review. The Work Plan will provide a discussion of assessment approaches / scope of assessment at each stage of the integrated study process. We should clarify that Table 3.3 represents environmental considerations during the generation of alternatives (i.e. key features to be avoided). Air quality criteria are included in Table 3.4 of the ToR (Criteria for Evaluating Illustrative and Practical Alternatives). The criteria listed in Table 3.4 represent the minimum criteria to be considered during the evaluation of alternatives and can be refined / modified based on consultation input during the EA.</p>
1.1. Background	References to "Individual Environmental Assessment" should be replaced with "Environmental Assessment"	MOE EA Branch/ Southwestern Region/Windsor District Office	Comment noted, TOR revised accordingly.
1.3.1 OEA Requirements	Replace reference to "with conditions" with "amendments".	MOE EA Branch/ Southwestern Region/Windsor District Office	Section revised accordingly.
1.3.3 U.S. NEPA Requirements	Consider removing the term "scoping" unless this is terminology specific to NEPA.	MOE EA Branch/ Southwestern Region/Windsor District Office	"Scoping" is a key step under the U.S. NEPA process and as such the reference is appropriate.
1.5. Submission Statement	This paragraph should be revised to state that an EA prepared in accordance with this TOR will meet the requirements of Section 6(2)(a) of the EA Act.	MOE EA Branch/ Southwestern Region/Windsor District Office	Section revised accordingly.

ToR Section	Comment	Reviewer	Responses
2.1. Overview and Outlook	Much of the information in this section can be moved to the supporting documentation. Only a summary of the discussion of purpose/need and problems and opportunities is required for the TOR.	MOE EA Branch/ Southwestern Region/Windsor District Office	The level of detail provided in this section is required to provide context concerning the nature of transportation problems and to support the rationale for examining linear transportation facilities during the Alternative Methods stage of the EA.
2.2. Summary of Transportation Problems	This section should state that the EA will further define the problems and opportunities	MOE EA Branch/ Southwestern Region/Windsor District Office	Section revised appropriately.
3. Assessment & Evaluation	The discussion of alternatives in this section is confusing and uses several different terms to describe alternatives to be evaluated in the EA. The TOR should clearly describe how "alternatives to" and "alternative methods" will be addressed in the EA, as per requirements of Section 6(2)(a) of the EA Act. A figure showing the relationship of the various alternatives and in the order in which they will be assessed would be helpful to the reader.	MOE EA Branch/ Southwestern Region/Windsor District Office	Section appropriately revised for clarity. A figure depicting the various stages of alternative methods phase of the EA has been added to the TOR.
3.1 Table 3.1	The table refers to "consistency with established objectives", however it does not define what these objectives are. There should be a reference in the TOR to a discussion of this in the supporting documentation. How are environmental constraint areas defined and how will they be determined as party of the EA?	MOE EA Branch/ Southwestern Region/Windsor District Office	Table 3.1 appropriately revised for clarity. Section 3.1 outlines the inputs for assessing transportation planning alternatives. Table 3.1 appropriately revised for clarity.
3.3 Process for the Generation and Evaluation of Alternatives	Footnote #3 – reference to road alignments needs to be corrected.	MOE EA Branch/ Southwestern Region/Windsor District Office	Section revised accordingly.
3.2 Process for Generating a Study Area	The first sentence contains a typo ("...can be addressed will reflect..."). The first section refers to "future" land uses. Does this refer to land uses that are planned but are not implemented (i.e. planned future land uses)? Please clarify. The first bullet refers to the width of the water body between Canada and the U.S. as beyond the proposed limits. What are the proposed limits? If these are to be determined as part of the EA, then this statement should reflect that. The process for generating a study area should also recognize the potential environmental effects of the alternatives, not just the physical limits of the alternatives.	MOE EA Branch/ Southwestern Region/Windsor District Office	Section appropriately revised for clarity. Section appropriately revised for clarity. Section appropriately revised for clarity. The process for generating alternative occurs prior to identifying alternative methods, and is intended to focus the generation of alternatives. It is premature to develop an understanding of potential environmental effects of alternatives at the study area development stage. The TOR notes that the study area can be refined to accommodate any reasonable alternatives that may be developed and for assessing impacts.
3.3 Process for the Generation and Evaluation of Alternatives	The fourth and fifth bullets refer to the "best practical alternative" and the "preferred practical alternative", respectively. If these represent the same alternative, using the same terminology to define them is suggested.	MOE EA Branch/ Southwestern Region/Windsor District Office	Section appropriately revised for clarity.
3.3.1. a) Opportunity Corridors	Step 2 requires that constraint areas in the study area be established. However, was this work not done earlier in the process as part of the identification of transportation planning alternatives.	MOE EA Branch/ Southwestern Region/Windsor District Office	Section appropriately revised for clarity.
3.3.1 d) Evaluation Methods	Please remove reference to the ministry's interim guideline.	MOE EA Branch/ Southwestern Region/Windsor District Office	Section revised accordingly.

ToR Section	Comment	Reviewer	Responses
3.3.1 Weighting	This section refers to weighting scenarios that will be developed by the Partnership Project Team and by the general public. How will the results among the two groups be compared to one another in order to draw conclusions from the comparison. How will the weighting scenarios be used to develop the final weighting scenario to be carried forward in the arithmetic evaluation?	MOE EA Branch/ Southwestern Region/Windsor District Office	The Partnership will consider all weighting scenarios developed in selecting a preferred alternative(s). No "final" weighting is anticipated, rather all scenarios will be used to compare the results of the Reasoned Argument Evaluation Method (which will be the primary evaluation approach). Input received on relative level of significance of evaluating factors/criteria will be used in both evaluation approaches. This section of the TOR has been revised to clarify how weighting input / scenarios will be utilized.
3.3.1 Table 3.4	Please explain what is meant by criterion #6 – effects on community activity. For community effects, additional criteria to be considered could be other nuisance impacts such as lighting and visual. Criteria #9 and #21 refer to State Parks and NEPA 4(f) lands. Will impacts on the U.S. side of the international border be considered in the Ontario EA? If so, please describe. Criterion #16 says that impacts to wetlands will be assessed to the extent possible – clarify. Criterion #24 – how will significant forest stands and woodlots be determined? How is significance defined?	MOE EA Branch/ Southwestern Region/Windsor District Office	The purpose of this criterion is to reflect how an alternative impacts the mobility of residents within a community. Additional text has been included to provide clarity. Table 3.4 has been revised to reflect comments concerning community effects criteria. The TOR has been revised in the appropriate sections to note that all pertinent aspects of the EA study on both sides of the border will be addressed and included in study documentation. Wetland criteria has been appropriately revised. Significance of features will be determined based on information provided in available secondary sources, field reconnaissance and consultation with ministries, agencies, municipalities etc.
3.3.1 b) Evaluation of Practical Alternatives	Please clarify if the two-step process "may" or "will" be used in the evaluation process.	MOE EA Branch/ Southwestern Region/Windsor District Office	Section appropriately revised.
4.1 Project Technical Monitoring	This section should be revised to clarify how monitoring will be developed as part of the EA. At a minimum, the EA should include effects monitoring and compliance monitoring. The TOR should state that a comprehensive list will be included in the EA listing all the commitments made in the EA.	MOE EA Branch/ Southwestern Region/Windsor District Office	Section revised accordingly.
5.2.5 First Nations	It is not clear how the potential issues for First Nations have been incorporated into the TOR or how they will be incorporated in the EA. For example, how will the potential issues listed in this section be addressed by the criteria in Table 3.3 and 3.4.	MOE EA Branch/ Southwestern Region/Windsor District Office	Specific issues will be identified during the EA in consultation with First Nations. The list of possible issues presented in the TOR is based on project team experience and consultation with First Nations on other similar projects in other areas. Additional text has been included in the TOR to illustrate how First Nations issues will be considered in the generation and evaluation of alternatives.
5.4 Submission of the EA/EIS/CEA Screening Report	This section should commit to including the approved TOR and the Minister's Notice of Approval of the TOR in the appendices of the EA.	MOE EA Branch/ Southwestern Region/Windsor District Office	Section revised accordingly.
5.5 Consultation in Preparation of the OEA TOR	This section should be moved to the supporting documentation (consultation record).	MOE EA Branch/ Southwestern Region/Windsor District Office	Section revised accordingly. A Consultation record will be included in the supporting documentation.



Robert.Nadolny@ene.g
ov.on.ca

05/04/04 03:36 PM

To: Len_Kozachuk@URSCorp.com
cc: Tyler_Drygas@URSCorp.com
Subject: MOE comments on Draft ToR - Detroit River International Crossing

Len:

Please find below and attached our comments on the draft Terms of Reference. Please call me if you have any questions.

Rob

>>> Bob Aggerholm 05/04/04 02:50pm >>>

Re: SW APEP Comments: Detroit River International Crossing EA Draft TOR (February 2004)

RE: Detroit River International Crossing EA Draft TOR (February 2004)

Robert:

This is further to your e-mail of March 4, 2004 concerning the draft (February 2004) Terms of Reference for the Detroit River International Crossing.

You had requested comments from the Region's Windsor Air Office, Water Resources Assessment Unit, and APEP Unit.

The following represents APEP's comments on the air quality side. I assume that the Area Office and Regional Water Resources Assessment Unit will contact you directly.

I have not been involved in any of the initial meetings regarding this project. Consequently, my review is based on a cursory review of the February draft TOR. I understand that the deadline for comments to your office was April 30.

My comments are as follows:

1. The assumptions regarding corridor transportation opportunities appear to be based on the accompanying Transportation Problems and Opportunities Report. This study was not reviewed by this office as its subject matter is not within the Region's area of competence or jurisdiction.
2. The TOR's stated aim is to consider the development of a multi-modal strategy for a balanced transportation system that provides more transportation choices. That being said, it appears that the TOR's focus is on vehicular traffic. Alternatives involving corridor improvements or the establishment of new corridors should be assessed for their impact on local and regional air quality. This office recently completed a preliminary air quality assessment of traffic congestion at the Ambassador Bridge. Public interest and concern over vehicular emissions and their impact on public health and land use should be anticipated.

Modelling of potential emissions impacts should be available at an early stage in the public consultation process. Air quality modelling is not referenced in the discussion of Illustrative Alternatives (Table 3.3). It is not clear whether the process for the generation and evaluation of alternatives will result in modelling studies that are of sufficient detail

to address public concerns regarding the potential environmental impact from specific air emissions (e.g. particulates, PAH, noise, etc.) for the various predicted traffic volumes.

Reference is made on Page 28 of the draft TOR to "secondary sources." Given the importance of air quality to the process, we feel it would be advisable for the TOR to define in more detail the methods by which air emissions will be assessed by the scientific community. The public - and participating agencies such as MOE - may find it difficult to assess the impact of the alternatives over time without reference to predicted air quality measures that reflect those in common usage. The Region's air quality analyst, Dr. Gerald Diamond, has indicated that there seems to be some debate among air quality professionals involved in discussions on the Detroit Crossing as to whether the air quality impacts of the alternatives and traffic volume scenarios should be represented by an index (an index of "1" being better than "2"). This may be too far removed from the public's expectations for a "best effort" toward actual contaminant impact.

Given the long horizon of this undertaking, any model should consider the potential influence of:

- a) border and security processing measures and their impact on congestion and idling
- b) the introduction of new vehicle propulsion technology (e.g. PEM) that may lessen the impact on the corridor in the local area (new technology that may become economically feasible by increases in fossil fuel prices or a decline in availability)
- c) the potential impact of financial and other incentives to favour the greater use of new technology by trucking carriers (incentives that reduce the proportion of older diesel trucks transiting the corridor)

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Environmental Assessment and Approvals Branch

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May 4, 2004

Mr. Len Kozachuk
URS Canada Inc.
75 Commerce Valley Drive East
Markham ON L3T 7N9

SENT BY EMAIL ONLY

Dear Mr. Kozachuk:

RE: Ministry of the Environment Comments on Draft Terms of Reference

On February 24, 2004, the Ministry of the Environment (MOE) received an email notice that a draft proposed Terms of Reference (ToR) for the *Detroit River International Crossing Environmental Assessment* had been prepared for review.

For your consideration, attached are comments from the MOE's Environmental Assessment and Approvals Branch, Southwest Region, and the Windsor District Office.

Comments which you have solicited and received from agencies other than the MOE should also be considered when preparing the formal ToR submission.

As you are aware, about two weeks prior to formal submission of the ToR, information required to complete a "Terms of Reference Summary Form" should be submitted to MOE. This information is essentially a summary of the ToR that will be posted on the EA Activities portion of the ministry's Environmental Bill of Rights web site.

This review and the comments forwarded to you do not guarantee approval of the Terms of Reference. Additional comments may arise during formal review of the ToR after submission for approval. The proponent has ultimate responsibility to ensure that the requirements of the *Environmental Assessment Act* are met.

Thank you for providing the ministry with the opportunity to review this draft proposed Terms of Reference. If you have any questions concerning the foregoing comments, please contact me at (416) 314-7106.

Yours sincerely,

Robert D. Nadolny
Special Project Officer
EA Project Coordination

Attachment

**MOE (PC SECTION, EAAB) KEY COMMENTS ON DETROIT RIVER INTERNATIONAL CROSSING
DRAFT PROPOSED TERMS OF REFERENCE**

The Project Coordination Section of the Environmental Assessment & Approvals Branch of the Ministry of the Environment has reviewed the Terms of Reference (ToR) document dated February 2004.

Comments based on this review are set out below.

Comments

1. Section 1.1, Background: For consistency with the Environmental Assessment Act, references to "Individual Environmental Assessment" should be replaced with "Environmental Assessment". This comment applies throughout the ToR and other project documentation.
2. Section 1.3.1, Ontario Environmental Assessment Act Requirements: The Minister can approve, reject or approve the TOR with **amendments** (see Section 6(4) of the EA Act). Please delete the reference to "with **conditions**".
3. Section 1.3.3, U.S. National Environmental Policy Act (NEPA) Requirements: In the last paragraph, there is reference to "scoping" of the project. If this is not specific terminology of NEPA, I suggest replacing this term with another suitable term because it could cause confusion for the reader.
4. Section 1.5, Submission Statement: This paragraph should be revised to state that an EA prepared in accordance with this TOR will meet the requirements of Section 6(2)(a) of the EA Act.
5. Section 2.1, Overview and Outlook: Much of the information in this section can be moved to the supporting documentation. Only a summary of the discussion of purpose/need and problems and opportunities is required for the TOR document.
6. Section 2.2, Summary of Transportation Problems: This section should state that the EA will further define the problems and opportunities.
7. Section 3, Assessment and Evaluation: The discussion of alternatives in the section is confusing and uses several different terms to describe the alternatives to be evaluated in the EA (e.g. transportation planning alternatives, illustrative alternatives, practical alternatives, and preferred practical alternatives). The TOR should very clearly described how "alternatives to" and "alternative methods" will addressed in the EA, as per requirements of Section 6(2)(a) of the EA Act.

A figure showing the relationship of the various alternatives and the order in which they will be assessed would be helpful for the reader.

8. Section 3.1, Table 3.1: The table refers to “consistency with established objectives” however it does not define what these objectives are. There should be a reference in the TOR to a discussion of these in the supporting documentation.

How are “environmental constraint areas” defined and how will they be determined as part of the EA?

9. Section 3.3, Process for the Generation and Evaluation of Alternatives: Footnote #3 refers to road alignments. This should be removed from the TOR as it will be determined as part of the EA.
10. Section 3.2, Process for Generating a Study Area: the first sentence contains a typo (“...can be addressed will reflect...”).

The first bullet in this section refers to “future” land uses. Does this refer to land uses that are planned but not yet implemented (i.e., planned future land uses)? Please clarify.

The first bullet refers to the width of the water body between Canada and the U.S. as beyond the proposed limits. What are the proposed limits? If these are to be determined as part of the EA, then this statement should reflect that.

The process for generating a study area should also recognize the potential environmental effects of the alternatives, not just the physical limits of the alternatives.

11. Section 3.3, Process for the Generation and Evaluation of Alternatives: The fourth and fifth bullets refer to the “best practical alternative” and the “preferred practical alternative”, respectively. If these represent the same alternative, I suggest using the same terminology to define them.
12. Section 3.3.1 a), Opportunity Corridors: Step 2 requires that constraint areas in the study area be established. However, was this work not done earlier in the process as part of the identification of transportation planning alternatives (see Section 3.1, Table 3.1)?
13. Section 3.3.1, d) Evaluation Methods: Please remove reference to the ministry’s interim guideline.
14. Section 3.3.1, Weighting (level of importance): This section refers to weighting scenarios that will be developed by the Partnership Project Team and by the general public. How will the results among the two groups be compared to one another in order to draw conclusions from the comparison? How will the weighting scenarios be used to develop the final weighting scenario to be carried forward in the arithmetic evaluation?

15. Section 3.3.1, Table 3.4: Please explain what is meant by criterion #6, effects on community activity.

For community effects, additional criteria to be considered could be other nuisance impacts such as lighting and visual.

Criteria #9 and #21 refer to State parks and NEPA 4(f) lands. Will impacts on the U.S. side of the international border be considered in the Ontario EA? If so, please describe.

Criterion #16 says that impacts to wetlands will be assessed to the extent possible. What is meant by using the term “to the extent possible” here?

For Criterion #24, how will significant forest stands and woodlots be determined? How is “significance” defined?

16. Section 3.3.1, b) Evaluation of Practical Alternatives: This section says in the opening sentence that the two-step process “may” be used. However the seventh paragraph says that the two-step process “will” be used. Please clarify the process to be used.
17. Section 4.1, Project Technical Monitoring: This section refers to a “monitoring strategy”, “monitoring program”, “monitoring schedule” and “follow-up programs”. This section should be revised to clarify how monitoring will be developed as part of the EA. At minimum, the EA should include effects monitoring and compliance monitoring. The ToR should state that a comprehensive list will be included in the EA listing all the commitments made in the EA.
18. Section 5.2.5, First Nations: It is not clear how the potential issues for First Nations have been incorporated into the ToR or how they will be incorporated into the EA. For example, how will the potential issues listed in this section be addressed by the criteria in Table 3.3 and 3.4?
19. Section 5.4, Submission of the EA/EIS/CEA Screening Report: This section should commit to including the approved ToR and the Minister’s Notice of Approval of the ToR in the appendices of the EA.
20. Section 5.5, Consultation in Preparation of the OEA Terms of Reference: This section should be moved to the supporting documentation (consultation record).

ToR Section	Comment	Responses
EA Terms of Reference		
Preface	The final paragraph indicates that "MTO is committed to meeting the requirements of the OEAA as it conducts the Individual EA". This should also indicate the commitment to meet <i>Canadian Environmental Assessment Act (CEAA)</i> requirements where they apply, and to coordinate the provincial and federal EA (and U.S. EA requirements) processes. It is advised to update CEAA terminology throughout the draft ToR.	The intention of this section of the Preface was to outline the general contents of the TOR and context concerning submission under 6(2)(a) of the Ontario EA Act. Details of CEAA requirements and coordination with the provincial EA process are discussed in Chapter 1 of the TOR. Comment regarding CEAA terminology is noted and the TOR has been appropriately revised.
1.1. Introduction & Background	Subsection 1.1 (f) states "To use a single integrated planning and environmental study process". If this is the case, then there should be some discussion within this section on how these processes will be integrated. It is also advised that the process of co-ordination be described in further detail in a companion document. For this purpose, the most up to date schematic on federal-provincial co-ordination being discussed between MTO, MOE and the Canadian Environmental Assessment Agency (the Agency) has been attached....The following should be included in the ToR: "It is recognized by both the Canadian Environmental Assessment Agency (on behalf of the federal authorities) and MTO, that ongoing dialogue on the information requirements is required throughout the EA process as more is learned about the specifics of the project."	The integrated study process is discussed in Section 1.3.4 of the TOR. The details provided concerning federal-provincial EA process coordination will be included in the supporting documentation. Section 1.3.2 of the TOR has been updated to note cooperation between the CEAA and the Partnership during the EA.
	One additional item to be considered in the process is the possibility that a third party proposal(s) could potentially become the preferred alternative. The ToR should outline what process will be followed for "transferring" the process to the third party (if applicable) and if this does occur, how the third party proponent will be bound to the terms and conditions of the EAs/approvals underway.	The EA will examine a full range of alternatives during the EA in selecting a preferred alternative. No decisions have been made concerning governance issues (ownership and operation mechanisms / arrangements). The partnership is committed to undertaking the EA study. Private parties who wish to pursue alternatives considered as part of the EA would be responsible for conducting their own study process and for obtaining the necessary approvals.
1.3.2 Canadian Environmental Assessment Act (CEAA) Requirements	<p>The first paragraph should read "CEAA applies to <u>certain</u> projects..."</p> <p>This section should recognize that federal authorities have adopted an "in-until-out" policy for transportation related projects....</p> <p>This section should note that after much discussion MTO recognizes the value and has committed to provide "concept design" information during the individual environmental assessment phase, which is to say, prior to approval of the environmental assessment by the provincial Minister of the Environment. The provision of this information will ensure federal and provincial environmental assessment processes move forward in a timely and cost effective manner. Information about the project or projects at this level of detail is recognized as necessary before federal authorities will be able to reach their conclusions under CEAA.</p> <p>The draft Terms of Reference state that "It is anticipated that work to be carried out during the EA/EIS will provide sufficient information to support a decision to trigger the federal EA process." It is suggested that this sentence be strengthened to simply read: "Work to be carried out during the EA/EIS should provide sufficient information to make a determination of significance under CEAA".</p> <p>The proponent is reminded that the <i>CEA Act</i> makes a determination of the likely significance of adverse environmental effects, and is not an approval for the project to proceed. Approvals are subsequent duties to be carried out by RAs.</p> <p>The next paragraph mentions the identification of a "lead responsible authority". The concept of "lead responsible authority" no longer has meaning as a result of the creation of the role of the "Federal Environmental Assessment Coordinator". Project descriptions can take many forms and are used by federal authorities to determine all responsible authorities and expert federal authorities. Either the Canadian Environmental Assessment Agency (the Agency) or one of the RAs then becomes the Federal Environmental Assessment Coordinator (FEAC) which has a number of duties and powers under the Act. For further discussion on powers and duties of the FEAC versus powers and duties of</p>	<p>Text revised accordingly.</p> <p>Text revised as appropriate.</p> <p>Text revised as appropriate.</p> <p>Text revised as appropriate.</p> <p>Comment noted.</p> <p>Comment noted. Text revised accordingly.</p>

ToR Section	Comment	Responses
	<p>RAs please contact the Agency.</p> <p>It has been identified that a project description has been prepared for the Detroit River International Crossing Project and that Transport Canada has been identified as "the RA". To the knowledge of the federal authorities involved with this project, information provided to date on this study does not conform with what is expected in a project description (see CEAA Agency operational policy statement on project descriptions). This section should note that once a project description has been prepared and circulated to federal authorities those RAs/FAs, potential RAs/FAs and the FEAC will be identified and they will together determine how to carry out their duties. To date, there are no known RAs that have triggered a federal EA (including Transport Canada).</p> <p>Since there are multiple jurisdictions involved in a potential project under this proposal a dispute resolution process should be considered. According to 63(2)(f) of CEAA, the Agency is available to assist parties in building consensus and resolving disputes.</p>	<p>This section has been revised to reflect that a Project Description report will be prepared during the EA once a study area has been defined.</p> <p>The Partnership is committed to identifying and addressing project issues proactively and cooperatively through the consultation process. The Partnership recognizes that a variety of consultative tools can be adopted during the EA to identify and address project issues. Should the need for dispute resolution processes be identified, the Partnership will contact CEAA for guidance / assistance as appropriate.</p>
1.3.4 Integrated Environmental Study Process	It is indicated that "certain unique requirements among Canadian, Ontario and U.S. planning processes have been identified by the Partnership, which cannot be directly incorporated". Since these requirements have already been identified by the Partnership, it would be useful to provide the list here and any discrepancies can be commented on by the various jurisdictions.	The Partnership will seek to coordinate any process inconsistencies as they arise during the EA. The Partnership will employ the most rigorous study process where inconsistencies are identified. This section has been revised appropriately.
Exhibit 1.3	<p>While it has been previously identified that a project description has been prepared, this exhibit identifies that it is yet to be prepared. This discrepancy should be corrected.</p> <p>This document does not identify the involvement of federal authorities associated with the OEA Terms of Reference submission. Federal authorities <u>are</u> involved at this early stage and are providing CEAA related advice, albeit in a conceptual nature. This should be reflected in the schematic.</p> <p>The schematic mentions the identification of a Lead Agency. As noted earlier, this is no longer correct. RAs, FAs and a FEAC are identified at this stage. It should also be noted that the FEAC may or may not be an RA. The final CEAA related "box" identifies a decision by the lead authority. As per previously discussed, there is no longer a "lead authority". <u>Each</u> RA must make a decision with respect to significance.</p>	<p>Text revised to reflect that a Project Description will be prepared during the EA.</p> <p>The involvement of federal authorities in preparation of the Terms of Reference will be outlined in the Consultation Record prepared under separate cover. The purpose of Exhibit 1.3 is to illustrate the relationships between the key OEAA, CEAA and NEPA process steps.</p> <p>Exhibit 1.3 has been revised appropriately.</p>
2.1.1 - Footnote Page 11	"Unless otherwise indicated, a currency conversion rate of 1.6:1 Canadian to U.S., is used throughout this document". Perhaps an up-dated, more realistic rate should be used.	The currency conversion rate presented in the TOR is based on that quoted in background documentation prepared for this study (as part of the Purpose Need / Feasibility study). The 1.6:1 rate has been maintained in the TOR for consistency purposes. During the EA, the Partnership will determine a conversion rate that reflects market conditions over the course of the study.
2.1.3(c) Other Crossings	<p>The brief description of DRTP is not in keeping with the more extensive descriptions presented for the bridge and tunnel corridors. The ToR should state that DRTP is a privately sponsored project presently being considered by the Canadian Transportation Agency (CTA) after having received a project description September 24, 2002 and being triggered under CEAA. The CTA has formed and chairs an 18 member interdepartmental screening committee for the project and has already begun drafting a scoping document.</p> <p>Considering that federal policy calls for one project/one assessment, how will the partnership coordinate with the EA being led by the CTA for this project? This same question could be asked about other private proposals that have been brought forward.</p>	<p>The purpose of this section of the TOR is to provide contextual information concerning existing crossing facilities and transportation problems to be further examined during the EA. Information concerning status of the DRTP proposal is background information and not appropriate for inclusion in the TOR.</p> <p>The EA will examine a full range of alternatives during the EA in selecting a preferred alternative. The Partnership will consult with stakeholders concerning the status of and potential implications of private projects (as well as other government plans and projects) during the EA. The EA for the Detroit River International Crossing and EA studies being pursued by private parties are separate initiatives and as such, private proponents would be responsible for undertaking their own study process and for obtaining the necessary approvals.</p>

ToR Section	Comment	Responses
2.1.4 Border Crossing	It is recognized that the Partnership has been working with border processing agencies to identify issues and concerns related to border processing should they be affected through this coordinated process. It should be noted that this information may be required by RAs/FAs to assist in the determination of significance. It may also identify other projects in the area that will need to be evaluated through the cumulative effects assessment under CEAA.	Information collected during the EA will be made available to RA's / FAs in support of reviews under CEAA. The cumulative effects assessment will be undertaken during the EA in consultation with CEA Agency and Federal departments so that the scope of the assessment is appropriate and meets CEAA requirements.
2.2 Summary of Transportation Problems	Noise and air quality should be included on the list. MTO's recently-released report, Preliminary AQ Assessment Related to Traffic Congestion at Windsor's Ambassador Bridge stemmed from strong public concern about air quality along the Huron-Church Road approach to the bridge. The executive summary of the report noted that "long traffic queues raised concerns on the part of residents about the impact of truck emissions on local air quality".	The purpose of this section of the TOR is to outline the <u>transportation</u> problems to be addressed, which will be further defined during the EA. Section 2.3 recognizes that this study presents the opportunity to reduce impacts and enhance benefits to the border region. Noise and air quality issues will be addressed during the evaluation of alternatives.
3. Assessment and Evaluation	"Where two or more processes specify different requirements in conducting the study, the Partnership will seek to integrate the most rigorous requirement as much as possible". It should also be noted that requirements of all pieces of legislation must be met and any applicable government policies and agreements be fully taken into consideration.	Text revised as appropriate.
3.2 Process for Generating a Study Area	Will there be an attempt to identify environmental effects that may pose a constraint? Would this include effects of the environment on the project?	During the EA, a study area, which can accommodate the full set of reasonable alternatives and the assessment of impacts, will be established. Environmental features / constraints that preclude the development of feasible alternatives will be considered in establishing a study area. An assessment of environmental effects and effects of the environment on the project will be undertaken during the evaluation phase of the study and documented in the Screenings under CEAA.
3.3 Process for the Generation and Evaluation of Alternatives	How does the proponent plan to involve other proponents (e.g. Ambassador Bridge, DRTP, Mich-Can) in the evaluation of alternatives? "During the EA, MTO will provide opportunity to review and comment on...." There should be an opportunity for interested party feedback and discussion. Consider the following consultation continuum: Inform, Consult, Involve, Collaborate, Empower.	The EA Consultation plan is outlined in Chapter 5 of the TOR. As outlined in Section 5.1.3, a Private Sector Advisory group (which includes such stakeholders as the Ambassador Bridge Authority, DRTP and Mich-Can) will be established (based on that established for the P/NF and TOR stages of the study) and consulted with at key study stages. During the evaluation of alternatives, weighting scenarios may be developed by the Private Sector Advisory Group. Refer to Section 3.3.1 d) of the TOR for additional details concerning the proposed evaluation methods. Comment noted, the proposed consultation program will facilitate stakeholder feedback and discussions through meetings, Public Information Centre Open Houses, follow-up activities etc.
Table 3.2 Proposed Factors and Criteria to Assess Feasibility Of The Opportunity Corridors	While the goal may be to "avoid as much as possible impacts to constraint areas" it should be noted that impacts to constraint areas may result in significant adverse environmental effects. This reinforces the need to coordinate with federal authorities to ensure that the project does not cause likely significant adverse environmental effects.	Comment noted. The purpose of Opportunity Corridors is to define broad geographic areas that can accommodate a range of practical/illustrative alternatives. Opportunity Corridors will be assessed at a feasibility level. Detailed impact assessment will be undertaken for practical/illustrative alternatives. Federal authorities will be consulted at key stages of the integrated study process. Details concerning cooperation with Federal Authorities during the EA are outlined in Section 5.2.2.
Table 3.3 Environmental Components ... During The Generation Of Alternatives	Noise impacts should be considered. Air quality impacts should be considered in the generation of alternatives. Route alternative generation and selection influence the relative distribution of cars and trucks and the total vehicle kilometres traveled. These in turn will affect highway operating emissions and associated air quality impacts upon sensitive receptors. This addition would also be reflected in Supporting Document 5 – Environmental Components to be Considered During the Generation of Alternatives.	Noise and air quality issues are more appropriately considered when comparing the effects of alternatives during the evaluation phase of the EA. Information (i.e. design / location specific) necessary for undertaking noise and air quality assessments is typically not available during the generation phase. The focus of the generation phase is to identify natural and built features that can be avoided (to the extent possible). Recognizing environmental impacts cannot be completely avoided, the evaluation stage will address the assessment of net impacts.
3.3.1(c) Evaluation of Illustrative Alternatives	The third paragraph states "The first step entails an assessment of the impacts of the various alternatives under consideration." It should be noted that under CEAA there will also be a need to evaluate significance.	Text revised as appropriate.

ToR Section	Comment	Responses
3.3.1 (d) Evaluation Methods	It is noted that evaluation approaches are to include "Reasoned Argument" and "Arithmetic" methods. Significance of effects should also be considered in conjunction with the above-mentioned methodologies in keeping with CEAA considerations and coordination. RA and FA input on the various alternatives need to be considered in order to ensure that an alternative that is a no-go option is not brought forward. This will occur by including all parties in this coordinated process.	Reference to significance of effects addressed in Section 3.3.1c). Federal Agencies will be consulted concerning the generation and evaluation of alternatives.
Table 3.3 Environmental Components ... During Generation of Alternatives	Under 'Natural Environment' we note that only 'Endangered Species' are included. Species listed under the federal <i>Species at Risk Act</i> (SARA) also include threatened and vulnerable species.	Table revised as appropriate.
3.3.1 e) Factor Specific Environmental Inputs to the Evaluation of Illustrative Alternatives	Please note that Technical Requirements /Considerations would be constraints to the selection of an alternative, and therefore should not be included under 'Environmental components'.	Text revised as appropriate.
Table 3.4 Criteria For Evaluating Illustrative And Practical Alternatives	<p>The table does not identify species at risk listed under SARA as required under CEAA. All federal EAs must always consider adverse effects on listed wildlife species, its critical habitat or the residences of individuals of that species. Species at risk considerations could be important and should be included in this table and considered. In regard to the Natural Environment factor 'Woodlands' the criteria 'Effect on <i>interior forest habitat</i> in forest stands and woodlots' should also be added. Interior forest habitat may be important habitat for species at risk.</p> <p>In regard to the Natural Environment factor 'Aquatic Habitat, Fisheries, and Surface Water', additional criteria should be added to recognize potential effects of alternatives that could limit the attainment of objectives established under the Remedial Action Plan for the Detroit River Area of Concern; and, also recognize targets set for water quality and restoration of any sensitive aquatic ecosystems in the study area.</p> <p>As the current format of the EA TOR does not include detailed environmental work plans for the EA, it should identify opportunities for comment by federal departments on any draft work plans prepared in support of the EA.</p>	<p>Table revised to note Species at Risk and Effect on interior forest habitat.</p> <p>Additional criteria concerning consistency federal, provincial and local plans/policies has been added to Table 3.4. Consistency with the Remedial Action Plan for the Detroit River Area of Concern would be addressed under this evaluation criterion.</p> <p>Given that the nature of the undertaking will be defined during the EA, work plans cannot be developed at this time. As noted in the Preface and reiterated in Chapter 3 of the TOR, work plans to provide additional details concerning the scope of data collection and impact assessment will be developed during the EA in consultation with review agencies.</p>
3.4.1 Development of the Concept Design	<p>The second bullet refers to "A decision under CEAA by the lead Federal Agency...". As mentioned previously, this should be revised. There is no "lead" Agency under CEAA and each RA will make a decision on significance, not just one Agency.</p> <p>We understand that the concept design alternatives (i.e., routes) will be selected based on natural environment impacts and the ability to address technical considerations, and that concept design drawings will be prepared for all of practical alternatives, including the preferred alternative. These drawings should be included in the EA report for the preferred alternative, superimposing the concept design of all facilities and any areas to be disturbed during site access and construction, with the natural heritage features/constraints in the area. This type of presentation would provide a clear picture of the natural environment features that may be impacted by the project (either through displacement or disturbance effects). We agree that these drawings should be at a scale of at least 1:10,000 (as indicated in supporting document 7).</p>	<p>Text revised as appropriate.</p> <p>We should clarify that Concept Design will be prepared only for the preferred practical alternative (to further understand particular implications to the recommended plan). The Partnership will seek to clearly present the known details and impacts of the preferred alternative in the EA Report.</p>

ToR Section	Comment	Responses
3.4.2 Factor Specific Environmental Inputs to the Generation and Assessment of Concept Design Alternatives	<p>"Minimize design-related impacts caused where significant environmental constraints cannot be avoided". The use of the term significance should be re-considered in the ToR given that a finding of likely significant adverse environmental effects would prohibit federal authorities from taking any action that would allow the project to proceed in whole or in part.</p>	<p>Text revised as appropriate.</p>
5 Consultation for the Integrated Environmental Study Process	<p>Once CEAA is triggered, responsible authorities will specify the intervals at which they would like to be consulted by the proponent, and will make a determination regarding consultation with interested parties.</p>	<p>Comment noted.</p>
Exhibit 5.1 Proposed Public Consultation During Integrated Environmental Study Process	<p>This Exhibit should identify CEAA and federal Agency consultation points.</p>	<p>The purpose of Exhibit 5.1 is to outline public consultation during the integrated study process. The approach for consulting with federal agencies is discussed in Section 5.2.2 and 5.4. of the TOR.</p>
5.2.2 Federal Agencies	<p>The Canadian Transportation Agency and the Windsor Port Authority should also be recognized in this section. . Please note that Foreign Affairs Canada should also be contacted in addition to the International Joint Commission. Foreign Affairs Canada (FAC) is the primary contact on transboundary issues as that department has responsibility for administration of the <i>International Boundary Waters Treaty Act</i> (IBWTA).....</p> <p>"Further detail regarding coordination with the Canadian Environmental Assessment Agency is provided in supporting documentation". It would be useful to indicate the name of the supporting documentation and where it is found in that document(s).</p>	<p>Text revised to note additional federal agencies to be consult during the EA.</p> <p>Section revised. Details and federal / provincial EA cooperation will be included in the supporting documentation.</p>
5.4 Submission of the EA/EIS/CEA Screening Report	<p>Perhaps it could be clarified here that the information on environmental effects will all be in one body of documentation submitted to the Ontario Ministry of the Environment and to federal authorities.</p> <p>...Therefore, the third paragraph, cited below, is incorrect. The third paragraph states:</p> <p>"Under CEAA, a Screening Report is prepared and circulated to the Screening Committee. The Screening Report is then circulated to all pertinent government agencies for review, and will also be made available for public review." By "Screening Committee" it is assumed that this means the federal government review team. It should be noted that the preparation of the screening report, if delegated by the RAs, may be carried out by the proponent or their consultants with direction provided by the RAs in consultation with FAs.</p> <p>The assumption that the screening report will be made available for public review is not correct. RAs must make a determination under section 18(3) of CEAA regarding whether or not public participation is appropriate in the circumstances. Therefore, this is a determination of the responsible authorities and should not be assumed in the ToR.</p> <p>It further states: "Upon consideration of comments received, the responsible authority (Transport Canada) will decide whether to exercise any power or perform any duty or function that would permit the project to proceed." As mentioned previously, there will likely be multiple RAs for this project. Each must make its own determination pursuant to section 20 of CEAA, not just a single determination made by Transport Canada. Additionally, Transport Canada while likely to be an RA has not yet made that determination. Therefore, once RAs have made a determination of significance under CEAA (and if it is determined that the project is not likely to cause significant</p>	<p>One body of work will be conducted during the EA, however, it is recognized that the information / details of the study may be presented in different formats to suit the needs of review / approval agencies. For example, the OEA report may be prepared as an attachment to the Screening Report(s). Section 5.4 has been revised to note the relationship between provincial and federal EA documentation.</p> <p>Text revised as appropriate.</p> <p>Text revised as appropriate.</p> <p>Text revised as appropriate.</p>

ToR Section	Comment	Responses
	adverse environmental effects) they will decide whether to exercise any power or perform any duty or function that would permit the project to proceed.	
6 Other Approvals Required	<p>The third bullet states that <i>Canadian Environmental Assessment Act</i> approval is required. There is no approval under CEAA. A determination of likely significance of adverse environmental effects must be made pursuant to section 20 of CEAA. This is not an approval to proceed with the project, but opens the door for RAs to proceed to their own approvals for projects.</p> <p>Foreign Affairs Canada (and International Trade Canada) may also have approvals depending on EA and project timelines.</p>	<p>Text revised as appropriate.</p> <p>Text revised as appropriate. The Partnership recognizes that there may be other required approvals/authorization/permits to be sought during the study.</p>
Post-Approval Considerations	Does MTO intend to use the design-build process for construction? If so, there should be a clear description of the process that is to be followed for re-evaluation of design changes and whether there will be a need to review or revise the EA as a result of significant design changes. Responsible authorities may have to make a new determination as to whether the new project has been previously assessed.	No decisions have been made concerning construction, operation and maintenance issues. Various implementation models will be considered during subsequent study stages, as details of the "project" are known.
Supporting Documentation		
3) Preliminary Description of Existing Environment and Potential Effects	The Remedial Action Plan for the Detroit River Area of Concern should be included as a consideration, notably in regard to Canada's interest in this initiative and any associated objectives linked to the 'Heritage River' designation of the Detroit River.	Reference to the Remedial Action Plan for the Detroit River Area of Concern added.
6) Criteria for Evaluating Illustrative and Practical Alternatives	<p>Aquatic Habitat, Fisheries, and Surface Water (page 4) - Criteria 13 should be expanded to include 'Impacts of encroachments into riparian zones adjacent to waterbodies and wetlands.' The rationale for this addition is that the project may have the potential to discharge untreated stormwater runoff to that waterbody if sufficient space is not allowed for inclusion of stormwater management treatment facilities.</p> <p>Wildlife (page 5) - The rationale for criteria 16 should be expanded to reference species listed under the federal <i>Species at Risk Act</i> and their residences. Criteria 17 should also be expanded to indicate that avoidance of wildlife travel corridors (such as valley lands, riparian zones, wetlands, forests, etc.) may decrease the risk of wildlife mortality during project operation.</p> <p>Woodlots (page 6) - The rationale on significance should be expanded to include areas that may be identified as important habitat for wildlife species requiring larger habitat blocks (e.g. <i>interior forest habitat, Important Bird Areas</i>), or <i>specialized habitat</i>.</p> <p>Air quality is addressed on page 6 of this section. Criteria 21/22 are reasonable. There are two important additional reasons to consider air quality in the practical assessment of alternatives:</p> <ul style="list-style-type: none"> • alternatives will affect the relative distribution of cars and trucks using the various crossings • alternatives will also affect total vehicle kilometers traveled <p>The list of data sources for this criterion does not actually include any specific air quality data or information. Important sources ...include:</p> <ul style="list-style-type: none"> • air quality monitoring data • dispersion analysis • systemwide and corridor pollutant burden analyses. 	<p>Text revised as appropriate.</p> <p>Species listed under the Species at Risk Act will be examined during the EA. The Rationale for Criterion: <i>Effects on ecologically functional areas such as connective corridors or travel ways</i> has been appropriately revised.</p> <p>Text revised as appropriate.</p> <p>Comment noted. It is premature to discuss affects of alternatives as they will be examined during the EA.</p> <p>Additional data sources added to air quality criteria.</p>

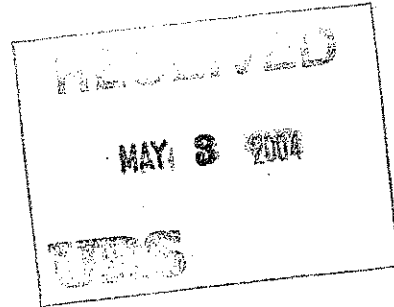


Canadian Environmental
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Mr. Len Kozachuk
URS Canada Inc.
75 Commerce Valley Drive East,
Markham, ON Canada
L3T 7N9

Dear Mr. Kozachuk:

**Re: Detroit River International Crossing, Federal Comments on
Draft Environmental Assessment Terms of Reference Submission,
February 2004**

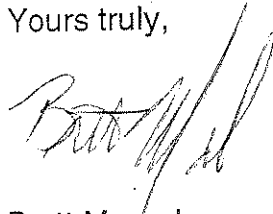
I am pleased to enclose comments on the draft Terms of Reference for the above-named project on behalf of the Canadian Environmental Assessment Agency and five other federal authorities: Fisheries and Oceans Canada (DFO), Transport Canada (TC), Environment Canada (EC) and the Canadian Transportation Agency (CTA).

These comments include information that we believe should be captured in the documentation that forms and accompanies the finalized Terms of Reference, in order to represent the proper role we see for federal authorities, and in order to ensure their information needs are known as early as is practical.

You will notice that the attached document is composed of three sections. The first section pertains to Canadian Environmental Assessment Act requirements in general and should be used as a guide for all environmental assessments (EA) that are subject to the EA requirements of both jurisdictions. The second section outlines federal comments specific to the above noted terms of reference while the final section (Appendix A) specifies the nature of the interests of various federal authorities likely to be involved in this process.



Yours truly,

A handwritten signature in black ink, appearing to read "Brett Maracle", written in a cursive style.

Brett Maracle
Senior Program Officer

cc: federal review team
Rob Nadolny, Ontario Ministry of the Environment EA and Approvals
Branch

**Advice to the Ontario Ministry of Transportation
Proponent for the
Detroit River International Crossing
Draft Terms of Reference Input**

General Canadian Environmental Assessment Act Requirements

1.0 Purpose of Document

The Ontario Ministry of Transportation (MTO) as a member to the Canada-U.S.-Ontario-Michigan Border Transportation Partnership is currently in the process of developing Terms of Reference for the Detroit River International Crossing. The Terms of Reference will outline the process to be followed during the individual environmental assessment (EA) and the content of that EA. The Ministry of Transportation has requested input from applicable federal agencies on this EA.

The purpose of this document is to respond to MTO's request, providing information with respect to EA requirements under the *Canadian Environmental Assessment Act* (CEAA). It describes how federal authorities may become involved in an EA and to some extent the nature of federal interests. This information is intended to assist in the development of Provincial Terms of Reference.

In order to facilitate co-ordination of provincial and federal EA processes, the CEA Agency will provide general advice on federal involvement, given the conceptual-level understanding of the proposed undertaking. More detailed information on federal interests and information needs will be provided as more specific project information becomes available and federal authorities believe they have enough information to formally initiate their assessment activities.

The first section of this document is organized into five subsequent sections.

Definitions: Provides some key definitions that are useful in assisting in understanding CEAA requirements and assisting in the review of this document.

CEAA Requirements: Provides background on the requirements of CEAA and comments on federal expectations related to CEAA.

Federal Authority (FA) Interests: Provides preliminary policy level advice on FA interests in an EA.

Next Steps: Outlines the next steps that are envisioned for the federal authorities' participation in the EA process.

Federal Comments on Draft Terms of Reference: Provides comments specific to the review of the Detroit River International Crossing draft Terms of Reference.

2.0 Definitions

The following definitions are drawn from the *Canadian Environmental Assessment Act*. When these terms are used in this document their meaning is as defined here.

"Environment" means the components of the Earth, and includes:

- a) land, water and air, including all layers of the atmosphere;
- b) all organic and inorganic matter and living organisms; and
- c) the interacting natural systems that include components referred to in paragraphs (a) and (b).

"Environmental effect" means, in respect of a project:

- a) any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(1) of the Species at Risk Act,
- b) any effect of any such change referred to in paragraph (a) on
 - (i) health and socioeconomic conditions,
 - (ii) physical and cultural heritage,
 - (iii) the current use of lands and resources for traditional purposes by aboriginal persons, or
 - (iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or
- c) any change to the project that may be caused by the environment,

whether any such change or effect occurs within or outside Canada;

"Project" means:

- a) in relation to a physical work, any proposed construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work, or,
- b) any proposed physical activity not relating to a physical work that is prescribed or is within a class of physical activities that is prescribed pursuant to regulations made under the inclusion list regulation of CEAA.

"Federal Authority" means:

- a) a Minister of the Crown in right of Canada,
- b) an agency or other body of the federal government ultimately accountable to Parliament through a federal Minister of the Crown
- c) any department or departmental corporation set out in Schedule I or II of the Financial Administration Act, and

d) any other body that is prescribed pursuant to regulation under CEAA.

“Responsible Authority” means:

in relation to a project, a federal authority that is required to ensure that an environmental assessment of the project is conducted.

“Expert Federal Authority” means:

a federal authority that has specialist or expert information or knowledge with respect to a project that can be provided to a Responsible Authority, mediator or panel during the conduct of an environmental assessment, including expertise to the implementation of mitigation measures and any follow-up program.

3.0 Canadian Environmental Assessment Act (CEAA) Requirements

3.1 *When CEAA Applies*

Under subsection 5(1) of the CEAA, a federal environmental assessment may be required when, in respect of a project, a federal authority:

- Is the proponent;
- Makes or authorizes payment or any other form of financial assistance to the proponent;
- Sells, leases or otherwise disposes of lands; or
- Issues a permit, or license or other form of approval pursuant to a statutory or regulatory provision referred to in the *Law List Regulations*.

These planned actions of federal authorities are commonly called “triggers”.

In order for the CEAA to apply, there must be a project, there must be a federal authority and there must be a trigger under section 5(1) of the Act.

Table 1 provides information on potential CEAA triggers. This table is not all inclusive and proponents are encouraged to refer to *the Canadian Environmental Assessment Act* and associated regulations to identify all possible triggers for their project.

**Table 1
Potential CEAA triggers for Projects**

Potential Project Trigger	Provisions of Act	Responsible Authority	Comments
A CEAA SCREENING IS LIKELY TRIGGERED IF THE PROJECT:			
- is being funded with federal money	<i>CEAA</i> s.s. 5(1)b	the funding department	- Act is triggered where federal money is being provided (e.g., Transport Canada Strategic Highway Infrastructure Program)
2. is on federal land	<i>CEAA</i> s.s.5(1)c	Federal department responsible for the implicated lands	- this would affect projects crossing federal lands such as national parks (Heritage Canada), Indian reserves (Department of Indian Affairs and Northern Development) or national defence bases (Department of National Defence)
3. is likely to affect a line or property, regulated by the NEB, that is used for the transmission of oil or gas	<i>National Energy Board Act</i>	National Energy Board	- may apply to highway projects requiring the re-location of a pipeline that is regulated by the NEB
4. is likely to affect the operation of a railway company or property	<i>Canadian Transportation Act</i>	Transport Canada, Canadian Transportation Agency	- generally will apply to projects where a rail line crossing is contemplated
5. involves the temporary storage of explosives on-site	<i>Explosives Act</i> , par. 7(1)a	Natural Resources Canada	- projects which involve blasting and will store the explosives on-site require a permit under the Explosives Act
6. involves the federal government in the acquisition, administration or disposal of real property for which a license for any use or occupation of real property is required	Federal Real Property Regulations, par. 4(2)a	Various – the Federal Department providing the licence	- would apply to projects which propose to use or occupy federal real property
7. is likely to harmfully affect fish or fish habitat	<i>Fisheries Act</i> , s.s. 22(1), 22(2), 22(3), 32, 35(2) and 37(2)	Fisheries and Oceans Canada – Fish Habitat Management	<ul style="list-style-type: none"> • applies to any work in or near water • provision of sufficient water flow • passage of fish around barriers • screening of water intakes • destruction of fish by means other than fishing (e.g., blasting) • authorization is required to harmfully alter, disrupt or destroy fish habitat
8. is likely to substantially interfere with the public right to navigation	<i>Navigable Waters Protection Act</i> , s.s. 5(1)(a), 6(4), 16 and 20	Transport Canada	<ul style="list-style-type: none"> • applies to any work in, on, over, under, through or across navigable water • approval is required for a

Potential Project Trigger	Provisions of Act	Responsible Authority	Comments
			<ul style="list-style-type: none"> new bridge, boom, dam or causeway (incl. culverts) other works that cause changes to flows, water levels or navigation clearances may require approval
8. is likely to take place in, involve dredge and fill operations, draw water from or discharge to a historic canal operated by Parks Canada	I.A. and N.D. Canal Land Regulations Public Lands Licensing Order Heritage Canal Regulations	Heritage Canada – Parks Canada	- potentially triggered by projects crossing the Trent Severn Waterway and Rideau Canal. The Canal Land Regulations and Public Lands Licensing Order address drainage into a canal (e.g., stormwater drains) and the Heritage Canal Regulations address dredge and fill activities (e.g., construction of bridge piers)
8. is likely to affect Indian reserve lands	<i>Indian Act</i> , s.s. 28(2), 35(1), 35(2) and 39	Department of Indian Affairs and Northern Development	- would only apply to projects that are located on, or require access through, Indian reserves

3.2 Coordination with Provincial EA

It is anticipated that this project will trigger an Environmental Assessment (EA) under the *Canadian Environmental Assessment Act* (CEAA). The MTO intends to work in a coordinated way with provincial and federal governments, both governments having informally agreed to coordinate.

For the CEA Agency co-ordination has four key goals:

- to identify how the proposal affects the interest of all relevant federal and provincial agencies to ensure those are addressed;
- to identify, early in the planning process, all the tasks the proponent might be required to carry out in order to provide agencies with what they need to meet their requirements;
- to enable federal and provincial agencies to reach their conclusions on the EA within roughly the same time frame; and,
- to ensure that the information on environmental effects is contained within a single body of documentation.

The first of these goals identifies how the proposed undertaking may affect federal interests. The second contributes to the quality and efficiency of EAs.

The third relates to the timeliness of carrying out the assessments and the fourth contributes to the accessibility of information to the public, proponent and agencies.

Informal coordination procedures are in use in Ontario for projects that trigger both the provincial and federal EA legislation. The purpose of the procedures is to outline general steps in a process whereby a single assessment is done for the project. This assessment would meet the requirements of both the provincial and federal EA legislation.

Federal authorities require information about the proposed project to determine whether they have a trigger under paragraphs 5(1)(b), (c) or (d) of CEAA. For example, federal authorities need to know what funding or federal land is being sought. They may need to understand construction methods and location of works in order to determine whether they will be asked to issue a permit or authorization. Such information is generally not available at the Terms of Reference stage.

The submission of a project description¹ is an important first step in the initiation of a federal EA. The project description can be embedded in the Terms of Reference document or it can be provided separately. The provision of a project description by the proponent initiates a process whereby federal departments can evaluate their interests and potential participation in the project. Where the project information is too conceptual, the development of a federal project description may have to wait until later in the provincial EA process.

Should a federal authority determine that it is likely to have a trigger for the proposed project and a CEAA environmental assessment is required, formal commencement of the process will be signaled by an entry on the Canadian Environmental Assessment Registry at the appropriate time, and communicated to the proponent.

Federal authorities recognize the value of identifying information needs early in the environmental assessment process. However, the current conceptual level of project information limits their ability to do so. Accordingly, comments in this document are provided to assist the proponent to the extent possible at this time with the intent of producing a single EA body of documentation to meet all of the information needs of both levels of government. To further reduce uncertainty, the CEA Agency recommends that the proponent validate any assumptions being made about information needs on a regular basis through discussions with federal authorities as they become engaged in the process. The CEA Agency would be pleased to facilitate such discussions.

¹ refer to the Canadian Environmental Assessment Agency's Operational Policy Statement on Preparing Project Descriptions under the *Canadian Environmental Assessment Act*
http://www.ceaa-acee.gc.ca/013/0002/ops_ppd_e.htm

Once an RA has determined it has a trigger under CEAA, the RAs in consultation with the expert FAs will determine the scope of the environmental assessment from their perspective and to meet requirements pursuant to sections 15 and 16 of CEAA. In the case of a co-operative EA, these formal determinations are very likely to re-iterate the information requirements already identified in the Terms of Reference.

3.3 Environmental Assessment Requirements Under CEAA

In the administration of CEAA, federal authorities shall exercise their powers in a manner that protects the environment and human health and applies the precautionary principle. Under CEAA, the Responsible Authority is required to consider factors specified in section 16, keeping in mind the definitions of environment, environmental effect and project, prior to making a decision about whether to take action (e.g. provide funding, issue *Fisheries Act* authorization) in support of the project.

For transportation sector projects, federal authorities tend to wait until a preferred planning alternative has been selected and its type and location known before triggering CEAA. If this approach prevails, then the information required will pertain to the preferred planning alternative or the portions of it in relation to which FA(s) are triggered. Not all alternatives will necessarily form part of the project under CEAA.

Under CEAA, the following information needs to be provided in an environmental assessment conducted as a screening (paraphrasing):

- a description of the existing environment;
- any change the project may cause in the environment including: land, water, air, organic and inorganic matter, living organisms, and the interaction of natural systems;
- any changes to a listed wildlife species, its critical habitat or residences of individuals of that species;
- the effects of a project-related environmental change on: health and socio-economic conditions; physical and cultural heritage; the current use of lands and resources for traditional purposes by aboriginal persons; and any structure, site or thing that is of historical, archeological, paleontological or architectural significance;
- any such project change or effect occurring both within or outside Canada;
- all environmental effects that may result from the various phases of the project (construction, operation, modification, abandonment and decommissioning);
- the environmental effects of accidents and malfunctions;
- the effects of the environment on the project;

- the cumulative environmental effects of this project that are likely to result from the project in combination with other projects or activities that have been or will be carried out²;
- the significance of the environmental effects;
- the need for and requirements of a follow-up program;
- comments from the public obtained in accordance with CEAA;
- any measures to be taken that would mitigate identified environmental effects;
- any other matter that the responsible authority deems to be necessary including those required for a comprehensive study, mediation or panel.

Additional factors to be considered for a comprehensive study, mediation or panel include:

- the purpose of the project;
- alternatives means of carrying out the project;
- design of a follow up program;
- the capacity of renewable resources affected by the project to meet the needs of the present and those of the future.

If the decommissioning and abandonment phases are not currently part of the proposed project (as is often the case for a new highway proposal) the proponent may explain this in its EA document, and the responsible authority under CEAA may decide not to require further analysis on these phases of the project as part of the current assessment.

Nothing in this document will limit the prerogative of federal authorities to seek additional information as more is learned about the specifics of the projects and its potential effects. Responsible authorities will be making a judgment about the likelihood of significant adverse environmental effects after mitigation, and they have the discretion to determine what information they require before making such a judgment.

3.4 Key Differences between the *Canadian Environmental Assessment Act* and the *Ontario Environmental Assessment Act*

Table 2 highlights the key differences between the *Canadian Environmental Assessment Act* and the *Ontario Environmental Assessment Act*. It should be noted that this Table is not all inclusive. It is presented for information only and should not be used by practitioners as a means of “filling in” the blanks of their provincial EA report in order to meet the requirements of CEAA. If a project is subject to CEAA, responsible authorities must be consulted regarding its requirements for meeting CEAA.

² For more information on cumulative effects assessment please refer to the Canadian Environmental Assessment Agency's operational policy statement on cumulative effects, http://www.ceaa-acee.gc.ca/013/0002/cea_ops_e.htm

Table 2

Key Differences between the *Canadian Environmental Assessment Act* (CEAA) and the *Ontario Environmental Assessment Act* (OEAA)

Key Difference	CEAA	OEAA
Application	Triggers require an assessment of a project where a federal authority(paraphrasing): <ul style="list-style-type: none"> • Is the proponent; • Provides financial assistance; • Disposes of an interest in land; or • Exercises a regulatory duty, power or function identified on the Law List Regulations 	Automatically applies to provincial public sector projects unless Declaration order is granted by the Minister. Can apply to private sector projects if designated by the Minister
Decision-making responsibilities	Self-assessment process for RAs. For screenings, RAs decide if significant adverse environmental effects are likely and then whether to take action enabling the project to proceed in whole or in part. For comprehensive studies, the RAs and the Minister of the Environment decide if significant adverse environmental effects are likely, and then the RA makes a subsequent decision on whether to take action enabling the project to proceed in whole or in part.	Minister of Environment (with the concurrence of the Lieutenant Governor in Council) makes decision on Individual EAs. Proponents make the decision on Class EAs.
Public consultation requirements	For screenings, public consultation is at the discretion of the RA. For other types of assessments (comprehensive study and panel review), public consultation is mandatory.	Mandatory to undertake public consultation as well as report on the results of the consultation.
Scoping	Requirement for RA to establish scope of project, factors to be considered and the scope of those factors as part of the assessment. Scope may differ from the Provincial EA.	Proponents must prepare Terms of Reference for an Individual EA, which is approved by the Minister. Terms of Reference are not required for a Class EA.
Alternatives	For screenings, the examination of "alternatives to" and "alternative means" is at the discretion of the RA. For comprehensive studies and panel reviews, the RA must consider "alternative means" and may consider "alternatives to."	Proponents are required to examine "alternatives to" and "alternative means". Also required to evaluate the advantages and disadvantages of the alternatives.
Significance of environmental effects	RAs are required to reach conclusions on the significance of the adverse environmental effects of the project.	No requirement for evaluating the significance of environmental effects.

Key Difference	CEAA	OEAA
Cumulative effects	RAs are required to evaluate the cumulative effects of the project in combination with the effects of other projects, past, present, future.	No requirement for consideration of cumulative effects.
Effects from accidents and malfunctions	RAs are required to evaluate the effects of accidents and malfunctions in relation to the project.	No requirement for the consideration of accidents and malfunctions.
Regulated time line requirements	No regulated time line beyond the Federal Coordination Regulations	Regulated time lines for province in review and approval of the Terms of Reference and Environmental Assessment Report.
Follow up program	RAs are required to consider a follow up program for a screening. RAs must design and implement a follow up program for a comprehensive study, mediation or panel.	Follow up program is not addressed.

4.0 Federal Authority Interests

A number of federal authorities may have an interest in the proposed undertaking. Their interests will become clearer as more is known about the preferred planning alternative. A general listing of potential FA areas of expertise is provided in Table 3. A preliminary list of environmental components against which project effects may be assessed is provided in Table 4.

To date, CEAA has not been triggered on the Detroit River International Crossing project. Based on a conceptual understanding of a new international crossing and associated works, the following potential RAs and FAs can be anticipated.

- Transport Canada – federal land or funding
- Transport Canada – regulatory duty navigable waters
- Canadian Transportation Agency – regulatory duty for rail crossings
- National Energy Board – regulatory duty for pipeline approvals
- Fisheries and Oceans Canada – regulatory duty for water crossings
- Environment Canada – expert knowledge
- Health Canada – expert knowledge
- Natural Resources Canada – expert knowledge
- Foreign Affairs Canada (and International Trade Canada) – expert knowledge
- Canadian Border Services Agency – expert knowledge
- Citizenship and Immigration Canada – expert knowledge
- Indian and Northern Affairs Canada – expert knowledge

**Table 3
Identifying Expert Federal Authorities**

ENVIRONMENTAL ISSUES	EXPERT FEDERAL AUTHORITY
Environmental Effects	
Changes in the environment:	
general	Environment Canada
air	Environment Canada
land	Environment Canada Natural Resources Canada
water	Environment Canada Fisheries and Oceans Canada Natural Resources Canada
soil	Agriculture Canada
fish and fish habitat	Fisheries and Oceans Canada
forest resources	Natural Resources Canada
humans	Health Canada
wildlife	Environment Canada
Related changes in:	
sustainable use	Environment Canada
human health conditions	Health Canada
socio-economic conditions	Agriculture Canada Environment Canada Fisheries and Oceans Canada Health Canada Indian and Northern Affairs Canada Industry, Science and Technology Canada Natural Resources Canada
cultural resources	Canadian Heritage Indian and Northern Affairs Canada
aboriginal resource use	Indian and Northern Affairs Canada
aboriginal land use	Health Canada
historical, archaeological, paleontological and architectural resources	Canadian Heritage Natural Resources Canada Public Works Canada
management of protected areas – national parks, national historic sites, historic rivers and heritage canals	Canadian Heritage
CEAA Process and Procedures	Canadian Environmental Assessment Agency Environment Canada
International Environmental Issues	Foreign Affairs Canada International Trade Canada Canadian International Development Agency
International Crossings and Projects	Canada Border Services Agency Citizenship and Immigration Canada Foreign Affairs Canada International Trade Canada

Table 4
Preliminary List of Valued Ecosystem Components

Components	Attributes
Water	Groundwater groundwater quality groundwater quantity groundwater flow drinking water
	Surface water surface water quality surface water quantity surface water flow patterns
Atmosphere	Air quality Noise Vibration
Land	Soil conditions, including contaminated areas Geology Geomorphology Landscape
Species and Populations	Terrestrial terrestrial vegetation wetlands ecologically important areas, (ANSI's, ESA's, PSW's) birds (numbers and health) other terrestrial wildlife wildlife species at risk (terrestrial)
	Aquatic aquatic vegetation & sediments fish (finfish, crustaceans, shellfish) invertebrates amphibians wildlife species at risk (aquatic)
Habitats and Communities	Terrestrial habitat Terrestrial communities Aquatic habitat Aquatic communities
Human Health & Safety	Health risks and effects on health Safety risks
Social & Economic	Existing and anticipated future land uses Local economy Transportation & navigation Quality of life Economical/commercial opportunities Employment Recreational opportunities or amenities
Physical and cultural heritage	Archaeological resources Paleontological resources Architectural resources Cultural resources Aesthetic Adjacent land uses
Aboriginal	First Nation reserve lands Aboriginal use of traditional lands and resources

5.0 Next Steps

The information contained in this Advice to the Proponent will assist in the preparation of the Terms of Reference for the EA.

The CEA Agency, with input from potential RAs and FAs, has reviewed the draft Terms of Reference provided by the proponent to:

- see how interests have been reflected;
- provide comments if appropriate; and
- provide additional detail on federal interests and information needs.

As more detail on the undertaking becomes available and in particular when enough information is available to select a preferred planning alternative and a study area is known, it should be possible to develop a project description that can be circulated by the CEA Agency to federal authorities who may potentially have a trigger under CEAA or provide expert advice.

It is recognized that ongoing dialogue on the information requirements is required through the EA process as more is learned about the specifics of the project. The federal information requirements will be refined and further clarified as the EA process proceeds. As soon as the RA(s) believe they are in a position to do so, CEAA will be triggered.

The federal departments do not approve the final ToR; rather they provide general direction on federal information requirements to be addressed in a coordinated process. Following federal input and provincial approval of the ToR, the EA phase will be initiated. Input and advice from both the federal and provincial participants will be solicited and received as required. By addressing the CEAA information needs early in the EA process, federal authorities can be provided with sufficient information to allow them to reach a decision on the likelihood of significant adverse environmental effects. This supports a coordinated EA approach that addresses the requirements of both the provincial and federal EA Acts and provides the basis for more expedient and effective EA process for the proposed project or projects.

Federal Comments on Draft Terms of Reference

Federal Comments

The following comments result from the review of the draft ToR for the proposed Detroit River International Crossing Environmental Assessment. These are specific comments directly related to the content of the draft ToR as provided. For ease of use, the comments are in order as found in the draft ToR and identified by section.

Preface

The final paragraph indicates that "MTO is committed to meeting the requirements of the OEAA as it conducts the Individual EA". This should also indicate the commitment to meet *Canadian Environmental Assessment Act (CEAA)* requirements where they apply, and to coordinate the provincial and federal EA (and U.S. EA requirements) processes. It is advised to update CEAA terminology throughout the draft ToR.

Introduction and Background

Subsection 1.1 (f) states "To use a single integrated planning and environmental study process". If this is the case, then there should be some discussion within this section on how these processes will be integrated. It is also advised that the process of co-ordination be described in further detail in a companion document. For this purpose, the most up to date schematic on federal-provincial co-ordination being discussed between MTO, MOE and the Canadian Environmental Assessment Agency (the Agency) has been attached. This proposed approach is designed to address the information requirements of both the federal and provincial environmental assessment Acts. The following should be included in the ToR: "It is recognized by both the Canadian Environmental Assessment Agency (on behalf of the federal authorities) and MTO, that ongoing dialogue on the information requirements is required throughout the EA process as more is learned about the specifics of the project."

One additional item to be considered in the process is the possibility that a third party proposal(s) could potentially become the preferred alternative. The ToR should outline what process will be followed for "transferring" the process to the third party (if applicable) and if this does occur, how the third party proponent will be bound to the terms and conditions of the EAs/approvals underway.

1.3.2 Canadian Environmental Assessment Act (CEAA) Requirements

The first paragraph should read "CEAA applies to certain projects..."

This section should recognize that federal authorities have adopted an "in-until-out" policy for transportation related projects. This means that where project information is not specific enough for a federal authority to know, as yet, whether it has a responsibility to conduct an environmental assessment, the federal authority will participate until the uncertainty is resolved. This policy allows the proponent to get input from potential responsible authorities and expert federal authorities on their likely information requirements in advance of a formal trigger. This allows information needs to be satisfied throughout the EA process.

MTO typically knows whether there will be a requirement for a federal EA early in their planning process. Additionally, where it is known there will be a federal EA (e.g. water crossings), MTO has some familiarity with the basic information that will be required by federal authorities. This draft ToR states:

"For transportation projects, such information has generally not been available until the end of the provincial EA study or even into preliminary or detail design. This has resulted in proponents having to go through a second EA process to meet federal EA requirements, which has had program delivery implications (i.e. timing and cost) for MTO."

The provision of information related to areas of federal interest should be part of MTO's planning process. This section should note that after much discussion MTO recognizes the value and has committed to provide "concept design" information during the individual environmental assessment phase, which is to say, prior to approval of the environmental assessment by the provincial Minister of the Environment. The provision of this information will ensure federal and provincial environmental assessment processes move forward in a timely and cost effective manner. Information about the project or projects at this level of detail is recognized as necessary before federal authorities will be able to reach their conclusions under CEAA.

The draft Terms of Reference state that "It is anticipated that work to be carried out during the EA/EIS will provide sufficient information to support a decision to trigger the federal EA process." It is suggested that this sentence be strengthened to simply read: "Work to be carried out during the EA/EIS should provide sufficient information to make a determination of significance under CEAA".

The proponent is reminded that the *CEA Act* makes a determination of the likely significance of adverse environmental effects, and is not an approval for the project to proceed. Approvals are subsequent duties to be carried out by RAs.

The next paragraph mentions the identification of a "lead responsible authority". The concept of "lead responsible authority" no longer has meaning as a result of the creation of the role of the "Federal Environmental Assessment Coordinator". Project descriptions can take many forms and are used by federal authorities to determine all responsible authorities and expert federal authorities. Either the Canadian Environmental Assessment Agency (the Agency) or one of the RAs then becomes the Federal Environmental Assessment Coordinator (FEAC) which has a number of duties and powers under the Act. For further discussion on powers and duties of the FEAC versus powers and duties of RAs please contact the Agency.

It has been identified that a project description has been prepared for the Detroit River International Crossing Project and that Transport Canada has been identified as "the RA". To the knowledge of the federal authorities involved with this project, information provided to date on this study does not conform with what is expected in a project description (see CEAA Agency operational policy statement on project descriptions). This section should note that once a project description has been prepared and circulated to federal authorities those RAs/FAs, potential RAs/FAs and the FEAC will be identified and they will together determine how to carry out their duties. To date, there are no known RAs that have triggered a federal EA (including Transport Canada).

The Canadian Environmental Assessment Act has recently gone through revisions as a result of Bill C-9 and proclamation as of October 30, 2003. As such, it is recognized that some of the above items are new, and familiarity with them will come with time. The Agency welcomes questions from MTO and their consultant team with respect to the Act and changes as a result of Bill C-9.

Since there are multiple jurisdictions involved in a potential project under this proposal a dispute resolution process should be considered. According to 63(2)(f) of CEAA, the Agency is available to assist parties in building consensus and resolving disputes.

1.3.4 Integrated Environmental Study Process

It is indicated that "certain unique requirements among Canadian, Ontario and U.S. planning processes have been identified by the Partnership, which cannot be directly incorporated". Since these requirements have already been identified by the Partnership, it would be useful to provide the list here and any discrepancies can be commented on by the various jurisdictions.

Exhibit 1.3

While it has been previously identified that a project description has been prepared, this exhibit identifies that it is yet to be prepared. This discrepancy should be corrected.

This document does not identify the involvement of federal authorities associated with the OEA Terms of Reference submission. Federal authorities are involved at this early stage and are providing *CEAA* related advice, albeit in a conceptual nature. This should be reflected in the schematic.

The schematic mentions the identification of a Lead Agency. As noted earlier, this is no longer correct. RAs, FAs and a FEAC are identified at this stage. It should also be noted that the FEAC may or may not be an RA. The final *CEAA* related "box" identifies a decision by the lead authority. As per previously discussed, there is no longer a "lead authority". Each RA must make a decision with respect to significance.

Footnote Page 11

"Unless otherwise indicated, a currency conversion rate of 1.6:1 Canadian to U.S., is used throughout this document". Perhaps an up-dated, more realistic rate should be used.

2.1.3 (c) Other Crossings

The brief description of DRTP is not in keeping with the more extensive descriptions presented for the bridge and tunnel corridors. The ToR should state that DRTP is a privately sponsored project presently being considered by the Canadian Transportation Agency (CTA) after having received a project description September 24, 2002 and being triggered under *CEAA*. The CTA has formed and chairs an 18 member interdepartmental screening committee for the project and has already begun drafting a scoping document.

Considering that federal policy calls for one project/one assessment, how will the partnership coordinate with the EA being led by the CTA for this project? This same question could be asked about other private proposals that have been brought forward.

2.1.4 Border Crossing

It is recognized that the Partnership has been working with border processing agencies to identify issues and concerns related to border processing should they be affected through this coordinated process. It should be noted that this

information may be required by RAs/FAs to assist in the determination of significance. It may also identify other projects in the area that will need to be evaluated through the cumulative effects assessment under *CEAA*.

2.2 Summary of Transportation Problems

Noise and air quality should be included on the list. MTO's recently-released report, Preliminary AQ Assessment Related to Traffic Congestion at Windsor's Ambassador Bridge stemmed from strong public concern about air quality along the Huron-Church Road approach to the bridge. The executive summary of the report noted that "long traffic queues raised concerns on the part of residents about the impact of truck emissions on local air quality".

3 Assessment and Evaluation

"Where two or more processes specify different requirements in conducting the study, the Partnership will seek to integrate the most rigorous requirement as much as possible". It should also be noted that requirements of all pieces of legislation must be met and any applicable government policies and agreements be fully taken into consideration.

3.2 Process for Generating a Study Area

Will there be an attempt to identify environmental effects that may pose a constraint? Would this include effects of the environment on the project?

3.3 Process for the Generation and Evaluation of Alternatives

How does the proponent plan to involve other proponents (e.g. Ambassador Bridge, DRTP, Mich-Can) in the evaluation of alternatives?

"During the EA, MTO will provide opportunity to review and comment on...." There should be an opportunity for interested party feedback and discussion. Consider the following consultation continuum: Inform, Consult, Involve, Collaborate, Empower.

Table 3.2 Proposed Factors And Criteria To Assess Feasibility Of The Opportunity Corridors

"Environmental Feasibility: Avoid as much as possible impacts to constraint areas associated with natural, social, cultural and economic features in the study areas."

While the goal may be to “avoid as much as possible impacts to constraint areas” it should be noted that impacts to constraint areas may result in significant adverse environmental effects. This reinforces the need to coordinate with federal authorities to ensure that the project does not cause likely significant adverse environmental effects.

Table 3.3 Environmental Components and Features To Be Considered During The Generation Of Alternatives

Noise impacts should be considered.

Air quality impacts should be considered in the generation of alternatives. Route alternative generation and selection influence the relative distribution of cars and trucks and the total vehicle kilometres traveled. These in turn will affect highway operating emissions and associated air quality impacts upon sensitive receptors. This addition would also be reflected in Supporting Document 5 – Environmental Components to be Considered During the Generation of Alternatives.

3.3.1(c) Evaluation of Illustrative Alternatives

The third paragraph states “The first step entails an assessment of the impacts of the various alternatives under consideration.” It should be noted that under CEAA there will also be a need to evaluate significance.

3.3.1 (d) Evaluation Methods

It is noted that evaluation approaches are to include “Reasoned Argument” and “Arithmetic” methods. Significance of effects should also be considered in conjunction with the above mentioned methodologies in keeping with CEAA considerations and coordination.

RA and FA input on the various alternatives need to be considered in order to ensure that an alternative that is a no-go option is not brought forward. This will occur by including all parties in this coordinated process.

Table 3.3 Environmental Components and Features to be Considered During Generation of Alternatives

Under ‘Natural Environment’ we note that only ‘Endangered Species’ are included. Species listed under the federal *Species at Risk Act* (SARA) also include threatened and vulnerable species.

3.3.1 e) Factor Specific Environmental Inputs to the Evaluation of Illustrative Alternatives

Please note that Technical Requirements /Considerations would be constraints to the selection of an alternative, and therefore should not be included under 'Environmental components'.

Table 3.4 Criteria For Evaluating Illustrative And Practical Alternatives

The table does not identify species at risk listed under SARA as required under CEAA. All federal EAs must always consider adverse effects on listed wildlife species, its critical habitat or the residences of individuals of that species. Species at risk considerations could be important and should be included in this table and considered. In regard to the Natural Environment factor 'Woodlands' the criteria 'Effect on *interior forest habitat* in forest stands and woodlots' should also be added. Interior forest habitat may be important habitat for species at risk.

In regard to the Natural Environment factor 'Aquatic Habitat, Fisheries, and Surface Water', additional criteria should be added to recognize potential effects of alternatives that could limit the attainment of objectives established under the Remedial Action Plan for the Detroit River Area of Concern; and, also recognize targets set for water quality and restoration of any sensitive aquatic ecosystems in the study area.

As the current format of the EA TOR does not include detailed environmental work plans for the EA, it should identify opportunities for comment by federal departments on any draft work plans prepared in support of the EA.

3.4.1 Development of the Concept Design

The second bullet refers to "A decision under CEAA by the lead Federal Agency...". As mentioned previously, this should be revised. There is no "lead" Agency under CEAA and each RA will make a decision on significance, not just one Agency.

We understand that the concept design alternatives (i.e., routes) will be selected based on natural environment impacts and the ability to address technical considerations, and that concept design drawings will be prepared for all of practical alternatives, including the preferred alternative. These drawings should be included in the EA report for the preferred alternative, superimposing the concept design of all facilities and any areas to be disturbed during site access and construction, with the natural heritage features/constraints in the area. This type of presentation would provide a clear picture of the natural environment features that may be impacted by the project (either through displacement or

disturbance effects). We agree that these drawings should be at a scale of at least 1:10,000 (as indicated in supporting document 7).

3.4.2 Factor Specific Environmental Inputs to the Generation and Assessment of Concept Design Alternatives

"Minimize design-related impacts caused where significant environmental constraints cannot be avoided". The use of the term significance should be re-considered in the ToR given that a finding of likely significant adverse environmental effects would prohibit federal authorities from taking any action that would allow the project to proceed in whole or in part.

5 Consultation for the Integrated Environmental Study Process

Once CEAA is triggered, responsible authorities will specify the intervals at which they would like to be consulted by the proponent, and will make a determination regarding consultation with interested parties.

Exhibit 5.1 Proposed Public Consultation During Integrated Environmental Study Process

This Exhibit should identify CEAA and federal Agency consultation points.

5.2.2 Federal Agencies

The Canadian Transportation Agency and the Windsor Port Authority should also be recognized in this section. Please note that Foreign Affairs Canada should also be contacted in addition to the International Joint Commission. Foreign Affairs Canada (FAC) is the primary contact on transboundary issues as that department has responsibility for administration of the *International Boundary Waters Treaty Act* (IBWTA). Regulations under the IBWTA govern any works in the Detroit River (i.e., bridge piers or infilling) having the potential to impact water levels and flows. Environment Canada typically reviews technical submissions characterizing effects on levels and flows for these works and provides advice to assist FAC in determining whether an authorization under the IBWTA Regulations would be required (for more info on these regulations please refer to:

<http://laws.justice.gc.ca/en/l-17/SOR-2002-445/142106.html>).

"Further detail regarding coordination with the Canadian Environmental Assessment Agency is provided in supporting documentation". It would be

useful to indicate the name of the supporting documentation and where it is found in that document(s).

5.4 Submission of the EA/EIS/CEA Screening Report

Perhaps it could be clarified here that the information on environmental effects will all be in one body of documentation submitted to the Ontario Ministry of the Environment and to federal authorities.

It is not expected that this body of documentation will necessarily contain statements by each RA explaining its own thought process and determinations under CEAA. These may be documented in a separate screening report (or reports) which refer back to the main body of documentation and then add to it. This will depend on what each RA sees as the best manner of preparing documentation. It remains for each RA to determine whether it will consult with the public on its screening report. Therefore, the third paragraph, cited below, is incorrect.

The third paragraph states:

“Under CEAA, a Screening Report is prepared and circulated to the Screening Committee. The Screening Report is then circulated to all pertinent government agencies for review, and will also be made available for public review.”

By “Screening Committee” it is assumed that this means the federal government review team. It should be noted that the preparation of the screening report, if delegated by the RAs, may be carried out by the proponent or their consultants with direction provided by the RAs in consultation with FAs.

The assumption that the screening report will be made available for public review is not correct. RAs must make a determination under section 18(3) of CEAA regarding whether or not public participation is appropriate in the circumstances. Therefore, this is a determination of the responsible authorities and should not be assumed in the ToR.

It further states:

“Upon consideration of comments received, the responsible authority (Transport Canada) will decide whether to exercise any power or perform any duty or function that would permit the project to proceed.”

As mentioned previously, there will likely be multiple RAs for this project. Each must make its own determination pursuant to section 20 of CEAA, not just a

single determination made by Transport Canada. Additionally, Transport Canada while likely to be an RA has not yet made that determination. Therefore, once RAs have made a determination of significance under *CEAA* (and if it is determined that the project is not likely to cause significant adverse environmental effects) they will decide whether to exercise any power or perform any duty or function that would permit the project to proceed.

6 Other Approvals Required

The third bullet states that *Canadian Environmental Assessment Act* approval is required. There is no approval under *CEAA*. A determination of likely significance of adverse environmental effects must be made pursuant to section 20 of *CEAA*. This is not an approval to proceed with the project, but opens the door for RAs to proceed to their own approvals for projects.

Foreign Affairs Canada (and International Trade Canada) may also have approvals depending on EA and project timelines.

Post-Approval Considerations

Does MTO intend to use the design-build process for construction? If so, there should be a clear description of the process that is to be followed for re-evaluation of design changes and whether there will be a need to review or revise the EA as a result of significant design changes. Responsible authorities may have to make a new determination as to whether the new project has been previously assessed.

Supporting Documentation

3) Preliminary Description of Existing Environment and Potential Effects

The Remedial Action Plan for the Detroit River Area of Concern should be included as a consideration, notably in regard to Canada's interest in this initiative and any associated objectives linked to the 'Heritage River' designation of the Detroit River.

6) Criteria for Evaluating Illustrative and Practical Alternatives

Aquatic Habitat, Fisheries, and Surface Water (page 4) - Criteria 13 should be expanded to include 'Impacts of encroachments into riparian zones adjacent to waterbodies and wetlands.' The rationale for this addition is that the project may have the potential to discharge untreated stormwater runoff to that waterbody if sufficient space is not allowed for inclusion of stormwater management treatment facilities.

Wildlife (page 5) - The rationale for criteria 16 should be expanded to reference species listed under the federal *Species at Risk Act* and their residences. Criteria 17 should also be expanded to indicate that avoidance of wildlife travel corridors (such as valley lands, riparian zones, wetlands, forests, etc.) may decrease the risk of wildlife mortality during project operation.

Woodlots (page 6) - The rationale on significance should be expanded to include areas that may be identified as important habitat for wildlife species requiring larger habitat blocks (e.g. *interior forest habitat, Important Bird Areas*), or *specialized habitat*.

Air quality is addressed on page 6 of this section. Criteria 21/22 are reasonable. There are two important additional reasons to consider air quality in the practical assessment of alternatives:

- alternatives will affect the relative distribution of cars and trucks using the various crossings
- alternatives will also affect total vehicle kilometers traveled

The list of data sources for this criterion does not actually include any specific air quality data or information. Important sources that were identified in the Transportation Partnership Air Quality Assessment Work Plan include:

- air quality monitoring data
- dispersion analysis
- systemwide and corridor pollutant burden analyses

Conclusion

Federal authorities regard it as very important for the proponent to make corrections to the Terms of Reference as indicated here, particularly where the information is incorrect. For example, the requirement for all responsible authorities to reach conclusions on the likely significance of adverse environmental effects is fundamental to CEAA, and needs to be correctly reflected in the ToR. With the appropriate revisions, issues can be dealt with early and also through ongoing coordination with the potential RAs, expert FAs and the Canadian Environmental Assessment Agency. In revising the ToR, MTO should ensure CEAA, s.c. 1992 c.37 as amended is accurately reflected. In this regard, the revised ToR should be provided to the Agency to review.

The federal team looks forward to working collaboratively with the provincial Ministry of the Environment, the proponent and their consultant team to ensure the environmental effects of the undertaking and ultimately the "project" under CEAA is clearly understood.

Appendix A

Federal Authority Interests

The following section identifies a number of FAs that may have an interest in the proposed undertaking, and outlines the nature of their interests. This information is intended to assist the proponent in defining the issues to be addressed within the provincial terms of reference and EA. For a list of the environmental assessment requirements that are identifiable based on the information available to date, please refer to Table 1 in the main document to which this is appended. As well, a list of the environmental components against which project effects should be assessed is provided in Table 2.

1 Fisheries and Oceans Canada (DFO)

Please note that the federal government has initiated the transfer of responsibility in relation to navigable waters from DFO to Transport Canada (TC). This information will remain in this section until the finalization and details with respect to the transfer are complete. Regardless of which department will be administering authority over this area, the provided information will likely be required. As such, it is recommended that the proponent keep both DFO and TC involved with respect to any information required in relation to permits under the Navigable Waters Protection Act.

Please note that under the Environmental Assessment Protocol Between Transport Canada and Fisheries and Oceans Canada Respecting the Transfer of Responsibility for the Navigable Waters Protection Act, Fisheries and Oceans Canada (DFO), Habitat Management Program (HMP) will continue conducting environmental assessments for projects triggered by the Navigable Waters Protection Act (NWPA) during the six month transition period of March 30, 2004 to October 1, 2004. After this date, Transport Canada will assume this responsibility.

Fisheries and Oceans Canada (responsibility soon to be transferred to Transport Canada) is likely to be a RA in relation to the undertaking with respect to approvals required through the Navigable Waters Protection Act for any bridge or bridges to be installed. This will likely trigger CEAA under paragraph 5(1)(d).

Fisheries and Oceans Canada (DFO) through the Fish Habitat Management program will have an interest as there will likely be area(s) where the Detroit River will be crossed such that the crossing cannot be designed to avoid the harmful alteration, disruption or destruction of fish habitat (HADD). This HADD can be authorized, assuming it is acceptable, under Subsection 35(2) of the Fisheries Act. Once a decision is made to consider the issuance of this authorization, CEAA is triggered under paragraph 5(1)(d) of CEAA.

Furthermore, the Ontario Ministry of Natural Resources will undertake reviews of potential impacts to fish habitat arising from work on provincial highways on behalf of the Ontario Ministry of Transportation through the MNR/MTO Protocol. By means of this Protocol, MNR will identify means of mitigating impacts thereby avoiding the harmful alteration, disruption or destruction of fish habitat and will refer any not being mitigated (thereby resulting in a HADD) to DFO for authorization under Subsection 35(2) of the Fisheries Act.

If the highway leading to the International Crossing crosses any water course, an approval may be required from the Navigable Waters Protection program (now with Transport Canada) depending on whether it is navigable or not. In addition, such crossings would also be of interest to DFO (Fish Habitat Management) as authorizations may be required. DFO is interested in the construction, operation, maintenance and any modifications associated with any works built or placed in, on, over, under, through or across these waters and what the associated impacts might be on navigation (former DFO program, now with Transport Canada) and fish habitat. DFO is also interested in any of the ancillary works or undertakings likely to be carried out in relation to these crossings (e.g., impact on fish migrations). Decommissioning will not likely be considered as this will likely not be a consideration with this project.

DFO through the fish habitat management program is concerned with the loss of fish habitat when an authorization is issued under Subsection 35(2) of the Fisheries Act. In accordance with direction provided in DFO's Policy for the Management of Fish Habitat (Objective of "Net Gain" and Guiding Principle of "No Net Loss" of the productive capacity of fish habitat), DFO requires lost habitat to be compensated for (i.e., replaced). Information requirements for DFO interests are available on the DFO web sites (<http://www.dfo-mpo.gc.ca/habitat/>).

2 Transport Canada (TC)

TC could be a potential funding agency of the project if MTO were to apply for federal funds. If TC were to consider contributing such funding, this would trigger CEAA under paragraph 5(1)(b). TC would have an interest in the construction, operation and maintenance of any physical work including a highway and right-of-way, intersections, structures and access roads; as well as temporary structures and construction roads; and other planned associated infrastructure (e.g., weigh scales, services stations, rest stops, etc.).

TC could potentially also be a RA with respect to the provision of Ministerial approval of a railway work under subsection 10(1) of the *Railway Safety Act*. The potential for this trigger is unknown at this time, and will only be known at a later date, as it would only occur under one of the following circumstances:

- (a) the proposed railway work departs from any applicable engineering standard; or
- (b) the proposed railway work is one for which notice is required to be given under subsection 8(1) of the *Railway Safety Act* (i.e., the work is prescribed under the *Railway Works Regulations*), and an objection is filed by a party to whom a notice was issued on the basis that the proposed railway work would prejudice their safety or the safety of their property. Such an objection must remain outstanding at the expiration of the period specified in the notice, and must not be considered frivolous or vexatious by the Minister of Transportation.

In either case the department would trigger CEAA under paragraph 5(1)(c) and would have an interest in the railway work (i.e., railway crossing (s) subject to approval.

3 The Canadian Transportation Agency (CTA)

The CTA could potentially be a RA if a highway or other work crosses railway tracks, and if there is no agreement reached between the rail company and the proponent. In such cases, the CTA must approve the construction of the rail crossing. This will trigger an environmental assessment under CEAA (paragraph 5(1)(d)). The CTA is interested in the construction, operation and maintenance of the railway crossing.

4 The National Energy Board (NEB)

In certain circumstances, an application pursuant to the *National Energy Board Act* (NEB Act) may be required if a proposed work crosses or is located in close proximity to a NEB-regulated pipeline or power line. An application under the NEB Act would trigger CEAA (paragraph 5(1)(d)), and as such, the NEB would be a RA.

Information requirements for applications under the NEB Act are described in the NEB's Guidelines for Filing Requirements, which are available on its web site at www.neb-one.gc.ca.

Upon receipt of further project information or an application pursuant to the NEB Act, the Board would determine its interest in the proposed project and CEAA responsibilities. In order for the NEB to make this determination, the following information would be required:

- a) maps of each location the proposed project would cross, or be located within 30 metres of, a federally regulated pipeline transporting oil, natural gas or a commodity, or an international power line;
- b) The name of the facilities identified in a);
- c) the name of the company owning the facilities identified in a); and

- d) any proposed relocation, change in depth of burial or change in class location for the facilities identified in a) related to the proposed project.

5 Natural Resources Canada (NRCan)

NRCan could potentially be a RA. NRCan's involvement in this environmental assessment results from the potential application of the *Explosives Act* which regulates the manufacturing, testing, sale, storage, transportation and importation of explosives as well as the use of fireworks. By virtue of this Act, NRCan could become a RA by issuing, if required, a licence for the storage and/or manufacture of explosives. Consideration of issuing the license is a CEEA trigger under paragraph 5(1)(d).

In order to determine if it will be a RA, NRCan requires the following information:

- types of explosives to be used;
- location of the proposed magazines or factory;
- will an Ammonium Nitrate Fuel Oil (ANFO) Permission be required?
- will an Explosives Factory License be required?

If the proponent requires an ANFO Permission for the blending of explosives; the following information must be provided:

- is it intended to blend for immediate discharge down the borehole?
- is it intended to blend with powered equipment for interim storage prior to use?
- is there any storage or sale foreseen?
- does the proponent intend to subcontract the ANFO production to a manufacturer?

If NRCan is a RA because the proponent requires a licence for the storage and/or manufacturing of explosives, the proponent should ensure that the following information is contained in the environmental assessment:

Location:

- a legal description of the project location (section, township, concession, address);
- latitude and longitude;
- proximity to populated areas.

Waste, Effluents and Emissions:

- a brief discussion of plans for their storage, treatment and disposal;
- the expected volume of water required for the operation;
- the water source, availability, intended use and disposal.

Plans and Audits:

- draft operational procedures for the use of explosives;
- provide emergency procedures to mitigate the environmental effects of malfunction or accident caused by the use of explosives;
- prepare decommissioning plans been for the manufacture and/or magazine;
- prepare an environmental audit.

Contacts and Permits with respect to explosives:

- proponent should include its operational and environmental contacts for this project;
- provide contacts for any provincial or municipal environmental authorities dealt with regarding this operation (provide name, position, address and telephone number);
- Indicate if environmental permits have been received for this operation.

6 Environment Canada (EC)

EC does not expect to have any obligations under section 5(1) of CEAA in relation to the undertaking and so would not be a RA. EC will participate as an expert FA. In its expert advisory role, it will provide advice to RAs regarding information requirements and the environmental effects of the project as they relate to their interests. These include surface and groundwater quality and quantity, transboundary water management, biodiversity, wetlands, migratory birds, species at risk, air quality, climate change and the effects of the environment on the project. EC also has expertise on hydrology, climatology, meteorology, ecology, environmental management, environmental planning and sustainable development.

Under the Department of the Environment Act, EC has general responsibility for environmental management and protection, extending to all matters over which Parliament has jurisdiction, and have not by law been assigned to any other federal department, board or agency. This includes aspects related to:

- Preservation and enhancement of the quality of the natural environment (e.g., air, water, soil);
- Renewable resources including migratory birds and other non-domestic flora and fauna;
- Water;
- Meteorology; and
- Coordination of policies and programs respecting preservation and enhancement of the quality of the natural environment.

In providing advice on EAs, EC does so in a manner that advocates the interests, which fall from numerous federal legislation, policies and programs, which are described in the following paragraphs.

EC has determined that the proposed undertaking affects its interests related to migratory birds, wildlife habitat, species at risk, biodiversity, wetlands, water quality, and air quality. EC has a regulatory interest in migratory birds and water quality as administrators of the *Migratory Birds Convention Act*, *Canadian Environmental Protection Act* and section 36 of the *Fisheries Act*. Considerations related to its interests and the related policy contexts are detailed below.

.1.1.1 Migratory Birds

The “incidental take” of migratory birds and the disturbance, destruction or taking of the nest of a migratory bird are prohibited under section 6 of the *Migratory Bird Regulations* (MBR's), under the authority of the *Migratory Birds Convention Act, 1994*. “Incidental take” is the killing or harming of migratory birds due to actions, such as economic development, which are not primarily focused on taking migratory birds. No permit can be issued for the incidental take of migratory birds or their nests as a result of economic activities.

- Project construction activities, operation or maintenance activities such as vegetation clearing, site grubbing and removal/modification of any existing bridges could result in the incidental take of migratory birds or their nests if conducted in migratory bird habitat during the breeding season (migratory birds such as swallows and eastern phoebes commonly nest on bridges). Additionally, construction, operation or maintenance activities could disturb nearby breeding birds and disrupt breeding.
- EC recommends that the EA consider impacts on migratory birds and their habitat and propose measures to mitigate adverse environmental effects. To avoid incidental take, the project works and activities that may affect migratory bird habitat should be timed to occur outside of the breeding season. Information on proposed works and activities, habitats to be altered/removed and birds using the project site will allow EC to provide recommendations for timing of works to avoid significant environmental effects on migratory birds.
- If it is anticipated that planned work in breeding habitat cannot occur outside the breeding season, specific surveys for breeding birds should be conducted as part of the EA in order to identify species and breeding sites. The significance of any environmental effects should be assessed and appropriate mitigation measures developed as needed.

Wildlife Habitat

A *Wildlife Policy for Canada* was adopted by Wildlife Ministers Council of Canada in 1990 and establishes a framework for the conservation of all Canada's wild organisms.

- The EA should identify any sensitive or ecologically significant areas (such as wildlife linkage systems, interior forest habitats, etc.) and areas specifically designated as Environmentally Significant Areas, Provincially Significant Wetlands, Areas of Natural and Scientific Interest, Carolinian Canada sites, Important Bird Areas, etc.
- The assessment should include adverse effects on wildlife habitat (both terrestrial and aquatic) and related ecological functions. This may include impacts on breeding, staging or wintering habitat, impacts on forested areas and their ecological functions (such as interior bird habitat), impacts on wildlife corridors, increases in edge effects, etc.
- Corridor functions should be specifically addressed in the EA, particularly with respect to the crossings of valleylands. Wildlife corridors should be maintained to the greatest extent possible and enhanced where there are opportunities. The EA should consider the need to compensate for any loss in corridor function, including the possible use of wildlife bridges or underpasses to maintain the continuity of the identified linkage systems.
- Large, contiguous forest habitats are of great importance in this part of Ontario, and the cumulative effects on forest habitats are of particular concern. The route selection process should seek to avoid any woodlots with forest interior habitat.

Species at Risk

The EA should consider adverse effects on species of local, regional, provincial or federal concern, including wildlife species listed under the *federal Species at Risk Act (SARA)*. The Act applies to all listed migratory bird and aquatic species on all lands/waters in Canada, and to all listed species of animals and plants on federal lands. The species currently listed under SARA can be found at the following web site:

http://www.sararegistry.gc.ca/species/default_e.cfm

The *Species at Risk Act* was proclaimed on June 5, 2003 and is intended to provide protection for individuals of listed wildlife species at risk under Schedule 1,

Parts 1-3 of the Act, their residences (dwelling places, such as a den or nest or other similar area that is occupied or habitually occupied by one or more individual during part or all of its life cycle) and critical habitat (that part of areas used or formerly used by the species to carry out their life processes that is deemed essential for survival or recovery). Critical habitat will be identified for each listed species in Recovery Strategies or Action Plans. Please note that the prohibitions under SARA will only come into force on June 1, 2004.

Under the *Accord for the Protection of Species at Risk*, federal, provincial and territorial governments have agreed to recognize the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) as the source of independent advice on the status of species at risk nationally and to work together to protect these species.

- Existing background information should be collected to determine whether any species of concern are known or expected to use the study area or adjacent lands (including habitats identified as sensitive or ecologically significant – see previous comments on “Wildlife Habitat”). The proponent might find it useful to consult with the Natural Heritage Information Centre (NHIC) database maintained by the Ontario Ministry of Natural Resources in Peterborough. Environment Canada’s Species at Risk web site should also be consulted (<http://www.speciesatrisk.gc.ca/English/>) to determine if the ranges of any COSEWIC listed Species at Risk overlap with the site.
- A qualified biologist should conduct a thorough biological inventory of all areas of natural habitat that may be affected by the project and are expected to support Species at Risk or have been identified as significant/important. Species lists should then be compared against the COSEWIC and provincial lists of species at risk as well as regional lists of species of conservation concern. A strategy should be developed to protect any identified species at risk.

Biodiversity

The *Canadian Biodiversity Strategy* was developed by the government of Canada in response to the United Nations Convention on Biological Diversity, which was signed on to by Canada and over 160 other countries in 1992. According to the Strategy, federal, provincial and territorial governments are to implement a number of goals, including the conservation of biodiversity.

- In keeping with the Strategy, the assessment should include potential adverse effects on biodiversity, such as the potential for the establishment of exotic invasive plant species and possible effects on genetic and species diversity.
- The EA should describe ecological restoration efforts along the Right-Of-Ways, with particular attention to important habitat areas.

4 Wetlands

It is the responsibility of all federal departments to implement the strategies of the *Federal Policy on Wetlands Conservation* since it applies to the delivery of all federal programs, services and expenditures. All federal departments have committed to the goal of no net loss of wetland functions on federal lands and waters and in areas where wetland loss has reached critical levels (such as in Ontario south and west of the Canadian Shield).

Project works and activities affecting wetlands should respect the Policy, which promotes the sustainability of Canada's wetlands by ensuring there is no net loss of wetland functions as a result of socio-economic development and other related activities.

- The proponent should identify functions of all wetlands that may be affected by the project through site access, staging, construction, decommissioning and maintenance and provide mitigation or compensation measures to ensure no net loss of function, and this should be fully documented in the project EA.
- All wetlands that may be affected by the project should be surveyed and classified. Classification documentation for evaluated wetlands should be incorporated into the assessment.
- Wetland loss has been extensive in this part of Ontario, and the cumulative effects of further wetland loss and degradation are of particular concern. The route selection process should seek to avoid wetlands.

.1.1.1.1.1 Water Quality

The construction, operation and maintenance of the project must meet the requirements of subsection 36(3) of the federal *Fisheries Act*. Subsection 36(3) of the *Fisheries Act* specifies that, unless authorized by federal regulation, no person shall deposit or permit the deposit of deleterious substances of any type in water frequented by fish, or in any place under any conditions where the deleterious substance, or any other deleterious substance that results from the deposit of the deleterious substance, may enter any such water.

Substances (such as sediment) that smother nesting areas or spawning grounds, or interfere with reproduction, feeding or respiration of fish, may be considered deleterious. Runoff from roads and bridges typically contains sediment as well as PAH's, oil, grease, and heavy metals and de-icing chemicals that, in elevated levels, may be harmful to aquatic biota. In general, any substance with a potentially harmful chemical, physical or biological effect on fish or fish habitat may be considered deleterious. Under the *Canadian Environmental Protection Act (CEPA)* PAH's, benzene and lead (commonly found in roads in winter months) have recently been identified as a "toxic substance" and proposed for addition to Schedule 1 of the CEPA. For more information on substances designated as "toxic" under CEPA and pertinent Guidelines and Codes of Practice developed for some of these substances, please see EC's web site at:

http://www.ec.gc.ca/CEPARRegistry/subs_list/Toxicupdate.cfm

Watercourse crossings, stormwater management along entire highway lengths and work within wetland areas have the potential to impact water quality as there is the potential for the release of deleterious substances into watercourses and wetlands. Depending on historical land use, work in the water crossings could even disturb contaminants and release them into the water column. Bridge deck drains could release road contaminants (including toxic spills and de-icing chemicals applied for winter maintenance) directly into a watercourse, providing little opportunity for emergency personnel to block off all of the drains in the event of a vehicular accident/tanker truck spill on the bridge.

Water quality impacts due to stormwater runoff, snow clearing, application of de-icing chemicals, and accidental spills during construction and operation of the project (as appropriate), and mitigation and monitoring should be included in the EA.

Based on the above considerations, we recommend that the following be included in the EA:

- Evaluation of potential water quality impacts due to suspended sediment, stormwater runoff, snow clearing, application of de-icing chemicals, and accidental spills during construction and operation of the project (as appropriate), and development of any associated mitigation and monitoring. This would include the following:
 - an erosion and sediment control plan developed to mitigate potential effects on water quality due to suspended sediment, with particular attention to areas where contaminated soils or sediments are identified.
 - appropriate measures, including contingency plans, to minimize impacts of accidental spills during construction, operation and maintenance.

- to the maximum extent possible, a stormwater management system designed in accordance with the guidelines provided in the Ontario Ministry of Environment's Stormwater Management (SWM) Planning and Design Manual (March 2003) for design and operation of stormwater drainage and treatment facilities - to improve water quality of runoff from the project that discharge to Canadian Fishery Waters, to enhance spills containment and ease of clean-up, and to prevent cumulative water quality impacts (<http://www.ene.gov.on.ca/envision/gp/4329eindex.htm>).
- measures to minimize discharges of 'road salts' to waterbodies to the maximum extent possible - pending the formal designation of 'road salts' as "toxic substances" under CEPA, and the subsequent development of management options related to their use .
- monitoring and follow up to ensure that mitigation measures in place are functioning as expected in the EA - to minimize adverse environmental effects due to the project.

As indicated above, we have an interest in these issues due to our responsibilities under S.36(3) of the *Fisheries Act* and the *Canadian Environmental Protection Act*.

.1.1.1.1.2 Air Quality

Environment Canada expects that the Detroit River International Crossing EA Terms of Reference would be supported by a series of issue-specific work plans, including one focused on air quality. Air quality work plans for previous highway project TORs were structured to address:

- Generation of Route Alternatives (including specifying air quality objectives for the analysis)
- Analysis and Evaluation of Route Alternatives
- Concept Design (including ambient AQ data, predictive modelling, determination of significance, assessment of impacts as well as environmental protection/mitigation)
- AQ Work in Subsequent Stages of the EA

For the Detroit River International Crossing, the Canada-US-Ontario-Michigan Border Transportation Partnership struck a working group to develop a unified air quality assessment work plan to meet the impact assessment needs of the various jurisdictions. Environment Canada expects that the EA TOR air quality work plan will closely follow and build upon the air quality impact methodology outlined in the Transportation Partnership multi-jurisdictional work plan.

This project could have an impact on local air quality during the construction phase and on local, regional and transboundary air quality during the

construction and operation phase. Higher dust and particulate concentrations are associated with highway construction activities. There is also the potential for the highway to contribute to regional concentrations and transboundary flows of ground level ozone and particulates. In addition, the project may impact on the microclimate in the vicinity of the highway.

Section 54 of the *Canadian Environmental Protection Act* (CEPA) sets environmental quality guidelines and objectives for air quality via the Canada Wide Standards and National Ambient Air Quality Objectives. The Canada Wide Standards should be used to establish safe thresholds for project related air emissions, both during construction and operation, with respect to particulate matter (PM) and ozone. EC has an interest in this issue due to its responsibilities under CEPA, as PM (PM₁₀ & PM_{2.5}) is identified as a toxic substance under CEPA. For more info on this issue please see EC's web site at:

http://www.ec.gc.ca/air/p-matter_e.shtml

Based on the above comments on air quality, EC recommends the EA include the following:

- Outline monitoring and abatement plans for dust/particulate emissions/formation from construction activities and construction vehicle movements;
- During highway/bridge operation, quantify estimated highway traffic emissions of NO_x, CO and suspended particles and undertake dispersion modeling to evaluate worst-case pollutant concentrations in the vicinity of the highway. Compare concentrations against ambient standards (Canada-Wide Standards, Ontario Ambient Air Quality Criteria are the related National Ambient AQ Objectives);
- Present detailed information on assumptions and policies incorporated into highway emission estimates;
- Undertake a 'corridor analysis' for PM and toxics as outlined in the Transportation Partnership AQ Assessment Work Plan to assist in route selection. Comparable links near sensitive receptors would be chosen and pollutant burdens aggregated for the selected links for each alternative. This section will also include a qualitative discussion of particulate matter, toxics and health effects.
- Prepare a systemwide emissions burden analysis for each alternative for the years 2002, 2012, 2020 and 2030. The pollutants of interest include CO, NO_x, VOCs, SO₂, greenhouse gases (CO₂ and methane), PM_{2.5} and PM₁₀. Speciated toxics will also be included in this analysis if possible, as outlined in the Transportation Partnership Air Quality Assessment Work Plan.

- Discuss if the project is likely to have an impact on transboundary flows of ground level ozone or any of its precursors, resulting in significant adverse environmental effects outside Canada;

Climate and Climate Change

Examine any potential impacts of the project on the microclimate in the vicinity of the highway.

The Ontario volume of the Canada Country Study identified a potential increase in the intensity and frequency of heavy precipitation events as a climate change concern of relevance to highway design and construction in Southern Ontario. The report recommended increased highway drainage capacity to accommodate the potential increase in the intensity and frequency of heavy precipitation events. As a result, EC recommends that the EA include the following consideration:

- Demonstrate that the heavy precipitation and flood design values used for the project design are robust enough to withstand the potential increase anticipated due to climate change over the lifetime of the project.

Great Lakes Water Quality Agreement: Lakewide Management Plans and Remedial Action Plans

The study area falls within the Great Lakes basin, specifically in the watersheds of Lake St. Clair and the Detroit River draining into Lake Erie. The *Great Lakes Water Quality Agreement* (GLWQA) between the U.S. and Canada commits both countries, the province of Ontario, and certain U.S. states, notable Michigan to address water quality issues in a coordinated fashion, and proposes to restore and maintain the chemical, physical and biological integrity of the waters of the Great Lakes basin ecosystem.

Under the GLWQA, the Parties have agreed to develop and implement Lakewide Management Plans (LaMPs), which are intended to designate critical pollutants, identify remedial measures to restore identified beneficial uses, and define threats to human health and aquatic life from critical pollutants. The Detroit River and St. Clair River have specifically been identified as Areas of Concern (AOC) under the GLWQA.

The Lake St. Clair and Lake Erie LaMPs are binational frameworks for coordinating environmental efforts on these great lakes as called for under the U.S. – Canada Great Lakes Water Quality Agreement. The main purpose of the

LaMPs is to reduce the amount of contaminants entering these lakes and address causes of lakewide problems. However, the GLWQA also requires an ecosystem approach to the protection and restoration of beneficial uses of the Great Lakes. Beneficial uses may not be restored or protected until stressors other than critical pollutants are considered as well.

- It is currently accepted that loss of habitat and the invasion of exotic species are important stressors to the ecosystems of these lakes. It is for this reason that the LaMPs include objectives for the protection and restoration of fish and wildlife habitats, and encourage changes in land use that benefit the environment and reduce nutrient loadings, sediments, and contaminants in aquatic systems.

The GLWQA has also committed the Government of Canada to develop and implement Remedial Action Plans (RAPs) to restore beneficial use impairments in each of 17 specific AOC locations within the Great Lakes, including the Detroit River and St. Clair River. Implementation of the RAP process in Canada is facilitated in part through commitments in the Canada-Ontario Agreement (COA) Respecting the Great Lakes Basin Ecosystem. The 2002 COA outlines how the two governments will continue to coordinate the restoration, protection and conservation of the Great Lakes Basin ecosystem. The first step of the RAP process is to identify the mechanisms responsible for the loss of ecological integrity in areas of concern. Plans of action are then designed to systematically rejuvenate these areas to a level, which meets both government and public expectations. These restorative measures use an "ecosystem approach" which considers not only land, air and water degradation, but also the loss or restriction of human uses in the Great Lakes Basin.

Additional information on the RAPs and LaMPs can be found at:

http://www.on.ec.gc.ca/water/raps/intro_e.html

http://www.on.ec.gc.ca/water/greatlakes/intro_e.html

- EC recommends that the MTO consider mechanisms to ensure that the project is conducted in a manner consistent with the objectives of the relevant Remedial Action Plans and Lakewide Management Plans discussed above. The project should ensure that Ontario's commitments under and the objectives of the GLWQA are not compromised by this project via adequate consideration through the EA process and through project implementation.

Transboundary Water Management

The Detroit River is a boundary water governed by the Boundary Waters Treaty (1909) (BWT) that is administered under the *Boundary Waters Treaty Act*

(*BWTA*). Any works conducted in this river would be subject to Regulations under the *BWTA* as there would be a potential for impacts on water levels and flows. The *BWT* specifies that the natural level and flow of boundary and transboundary waters should not be significantly altered (Article III) and that waters should not be detrimentally polluted (Article IV). The Foreign Affairs Canada (FAC) is the administrator of the *BWTA* established to implement the provisions under the *BWT* (1909). In regard to this, EC is responsible for providing advice to the DFAIT with respect to projects potentially having implications under the terms of the *Boundary Waters Treaty* and subject to Regulations developed under the Act. EC will review documentation submitted for individual projects, which must include impact predictions, proposed mitigation/compensation measures and technical analyses to support any conclusions and final designs.

EC recommends that the TOR indicate that:

- the MTO advise FAC of any bridge crossings or other works proposed in international boundary waters and conform to any regulatory requirements under the *Boundary Waters Treaty Act*, and,
- pertinent information must be provided to allow EC to evaluate transboundary impacts of any works proposed in the Detroit River on levels, flows, and water quality.

7 Health Canada (HC)

Health Canada does not expect to trigger the Canadian Environmental Assessment Act (CEAA). In the event that CEAA is triggered by another federal department or agency, the Responsible Authority can, under section 12(3) of CEAA, request information and knowledge from the federal authorities, which could include Health Canada.

Irrespective of a CEAA trigger, it is advisable to include human health in the environmental assessment. The best way to conduct human health assessment would be to discuss biophysical as well as socio-economic aspects of health, as per the Health Canada and World Health Organization definition.³

Finally, if a Responsible Authority, under section 12(3) of CEAA, requests assistance from Health Canada as a federal authority, Health Canada has scientific health information and knowledge in a number of areas that could possibly be of

³ The World Health Organization defines human health as "state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity" (World Health Organization, 1984). Therefore, when assessing human health, all aspects of well-being need to be considered, including physical, social, emotional, spiritual and environmental impacts on health. Human health is influenced by a range of factors, such as the physical environment (including environmental contaminants), heredity, lifestyle (smoking, drinking, diet and exercise), occupation, the social and economic environment the person lives in, or combinations of these factors. Exposure to environmental contaminants is one among many factors that contribute to the state of our health (Health Canada, 1997).

assistance in the environmental assessment being conducted. Examples of the areas of expertise available include:

- air, water and soil quality guidelines/standards;
- impacts of noise on human health;
- toxicology (multimedia - air, water, soil, food);
- drinking water and sewage management;
- community health (First Nations);
- environmental and occupational toxicology;
- health risk assessment and risk management; and,
- radiation protection (ionizing and non-ionizing).

This list should not be considered an exhaustive one, but rather a sample of Health Canada's areas of expertise. The responsibility for health lies primarily with the Ontario Ministry of Health and Long Term Care, and therefore, we trust that the appropriate provincial authorities will be involved in addressing any related issues and concerns. Health Canada is primarily responsible for the health of First Nation and has an interest in the health and well-being of all Canadians and it is in this spirit in which we may be of assistance.

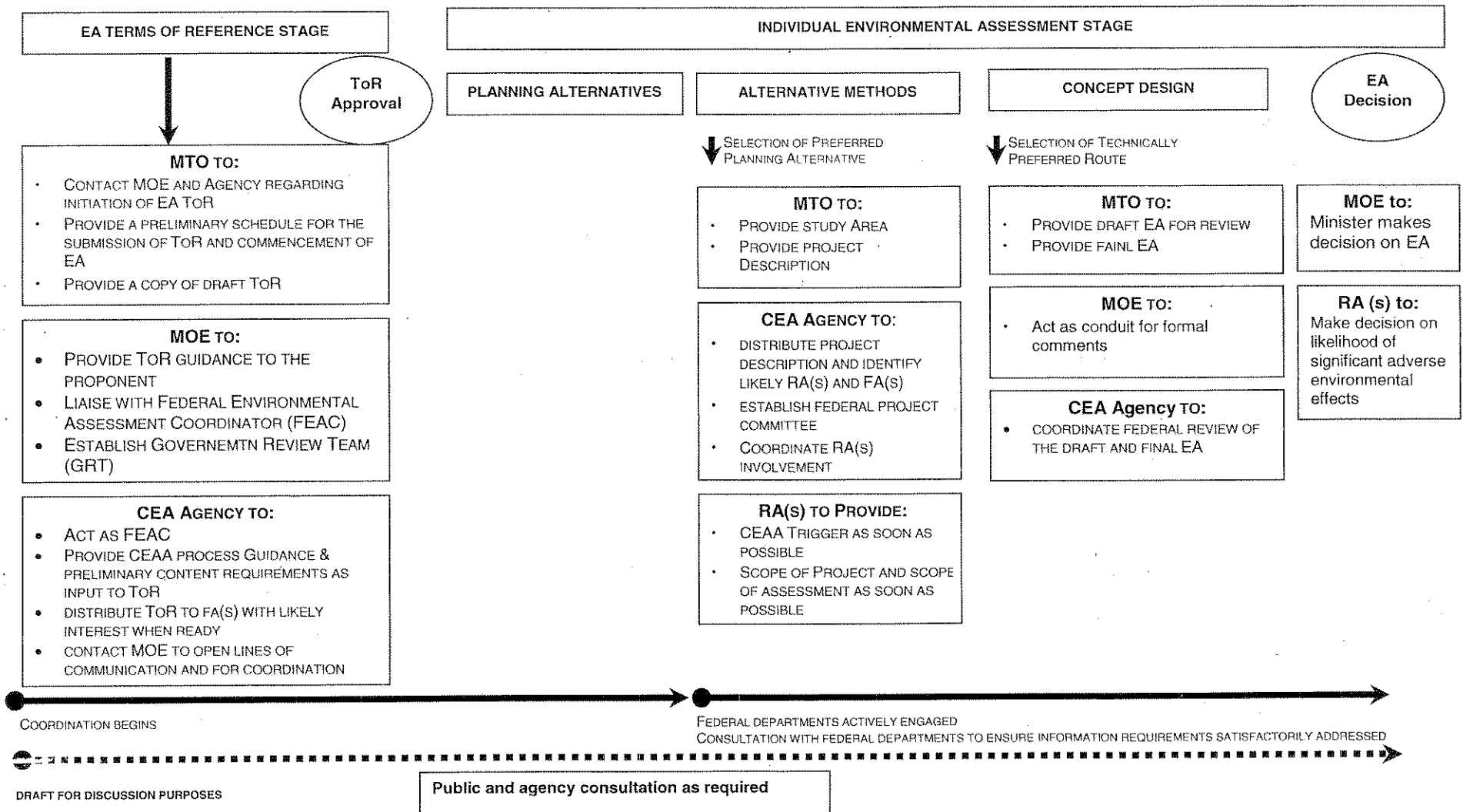
8 Indian and Northern Affairs Canada (INAC)

INAC is not likely to require an environmental assessment for this proposal. However, there are First Nations in the vicinity of the study area. INAC recommends that the proponent evaluate the environmental effects of the project and consult with potentially affected First Nations' reserves.

9 Other

Other RA or expert advice may come forward as determined by project information down the road. Agencies that may be involved include but are not limited to the Department of Foreign Affairs and International Trade (International Boundary Waters Treaty Act), the Canada Border Services Agency (expert advice related to customs plazas, access) and Canadian Heritage.

FEDERAL/PROVINCIAL COORDINATION PROCESS: MTO INDIVIDUAL ENVIRONMENTAL ASSESSMENT PROCESS KEY STEPS OF MTO, MOE, CEA AGENCY AND RAS





"Maracle,Brett [CEAA]"
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To: <Jacquie_Hurd@URSCorp.com>
cc:
Subject: Wording change

05/05/2004 12:25 PM

Hi Jacquie. I was notified of an error in the document that I sent to you. It is just a minor wording change. Rather than worry about changing the electronic document which is the same as the hard copy, consider this as a minor amendment for the public record.

"Under the Canadian Environmental Protection Act (CEPA) PAH's, benzene and lead (commonly found in roads in winter months) have recently been identified as a "toxic substance" and proposed for addition to Schedule 1 of the CEPA."

Should read:

"Under the Canadian Environmental Protection Act (CEPA) PAH's, benzene, lead (commonly found in highway runoff), are designated as "toxic substances". Also, 'road salts' used on roads in winter months have recently been identified as a "toxic substance" and proposed for addition to Schedule 1 of the CEPA."

Thanks and have a great day.

Brett Maracle

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Government of Canada | Gouvernement du Canada

Reviewer	Issue	Response
Town of LaSalle/ County of Essex	Need for Comprehensive Analysis of Transportation Problems and Solutions	The Planning/Need and Feasibility (P/NF) Study provides an overview and assessment of transportation problems and solutions across the U.S. and Canadian border within Southeast Michigan and Southwestern Ontario. This study identified a strategy for addressing the long-term needs of the border transportation network including: improvements to border processing; a new or expanded international crossing or crossings connecting the interstate freeway system in Michigan to the highway system in Ontario; optimizing use of the existing transportation network and travel demand measures/use of other modes to reduce demand on the network. The Partnership, in consultation with other government ministries, departments and agencies, is examining methods of responding to the elements of that strategy. One of the elements of the strategy is the planning and implementation of a new/expanded border crossing. The preparation of a TOR for an environmental assessment for the Detroit River International Crossing is consistent with the broader objectives of the Partnership and meets the requirements of the Ontario Environmental Assessment Act.
	Need to Match Partnership and Proponency to Capacity for Implementation	The Partnership recognizes the important roles that border processing and national security agencies share with transportation agencies in providing for the safe, secure and efficient movement of people and goods across the U.S.-Canada border. Improvements to border processing is an element of the strategy identified in the P/NF Study. The Partnership has, and will continue to engage border processing and national security agencies in the identification, recommendation and implementation of solutions to cross-border travel and security issues. The U.S. Federal Highway Administration (FHWA) and Michigan Department of Transportation (MDOT) are working with U.S. General Services Administration and border agencies on the improvements to the plaza and freeway connections on the U.S. side of the Ambassador Bridge (FHWA served as the 'proponent' for the project under U.S. NEPA). While a number of border processing initiatives have been identified and are currently being implemented at the border crossings, these improvements alone are not sufficient to address the needs of the transportation network. The Partnership will continue to work with and coordinate the efforts of border processing agencies to implement improvements to border processing to address current deficiencies.
	Draft TOR Fails to Address Sustainability Goals of the Government	All four members of the Partnership have included in their visions/mandates, objectives supporting sustainable development. The Detroit River International Crossing Project is consistent with those objectives, in that the project is intended to improve the efficiency of the transportation network serving the U.S./Canada border in the Detroit River area. An efficient transportation network is a key component of sustainable development. In developing and assessing transportation alternatives, the Partnership will consider sustainability issues such as those identified by LaSalle/Essex, including impacts to air quality, communities, natural features and neighbourhoods. The TOR identifies how such issues will be addressed during the EA. The Partnership also identifies that factors and criteria identified in the TOR for the development and assessment of alternatives represent the minimum consideration and will be refined and modified based on input received and study findings.
	Need for Peer Review Support	As indicated previously, the Partnership is committed to working with all stakeholders to ensure effective participation in the process. The Partnership will incorporate consultation in the preparation of various interim project reports and working papers and any project decisions; these interim reports and working papers and any decision-making by the Partnership will be made available for public review; the Partnership will be available to discuss project issues and findings; and the Partnership will document the rationale for any decision-making for review and input by others. It is the Partnership's intent that this approach to consultation on project issues and a commitment to working cooperatively with all stakeholders will provide the support necessary for effective participation in the project.
	Timeframe for Long-Term Decisions – Need to Separate Short and Long Term Solutions	The comments by LaSalle/Essex regarding the need for distinguishing between the short-term and long-term initiatives are noted and appreciated. The text of the TOR has been modified to incorporate a discussion of short-term initiatives planned and/or underway for the existing border transportation network in the Windsor/Essex County – Detroit/Wayne County area.
	Traffic Projections	The development of the forecasting methodology and review of the forecasts included significant involvement from transportation forecasting experts from MDOT, MTO, Transport Canada, Canadian Customs and Revenue Agency, FHWA and SEMCOG. The study's base case forecasts were prepared using Government of Canada trade projections prepared after 9/11, which reflects a weakened economy in the near to mid term, but strong growth over the next 30 years. The longer lasting effects on future trade and traffic of 9/11, higher alert levels and other recent events/conditions (e.g. Iraq War, SARS, terrorism alerts, increased documentation requirements, etc.) are not known, although they have significantly impacted traffic in recent years. Throughout the bi-national planning process, the Partnership will continue to monitor changes in traffic levels and revise the long-range forecasts, as appropriate, to reflect updates to the long-term economic and trade forecasts for Canada and the United States and other social, political and environmental factors affecting cross-border traffic. The growth rates applied to project Work Trips and Other Same-Day Trips result in future traffic forecasts lower than the 25-year trend. While the growth rates are indeed marginally higher than the population and employment growth in the Windsor and Detroit areas, the growth rates also consider other causal factors affecting cross-border traffic levels such as the increasing integration between the Canadian and U.S. economies and efforts to increase the convenience of cross-border travel for frequent, low risk travellers through initiatives such as the NEXUS program. However, as noted above, the long lasting effects of 9/11, increased security and alert levels at the border on passenger car traffic will need to be monitored. As noted above, the commercial vehicle forecasts were prepared using Government of Canada trade projections prepared after 9/11. Projections were made by commodity type, including the Automotive and Machinery and Electronics categories and adopted to develop the commercial vehicle forecasts. A passenger car equivalent (PCE) factor of 3.0 for commercial vehicles is higher than the PCE of 2.0 typically used in urban areas, given the high proportion of tractor trailer vehicles (>90%), stop and go traffic conditions and the major grade on the Ambassador Bridge. Traffic data and forecasting assumptions will be reviewed and updated by transportation forecasting experts from the Partnership and other agencies during the EA.

Reviewer	Issue	Response
Town of LaSalle/ County of Essex con't	Traffic Projections con't	<p>The hourly distribution of truck traffic was reviewed as part of the P/NF Study, as well as the temporal distribution of passenger vehicles. The cross-border road capacity requirement was then determined by the peak hour condition based on the total vehicular volumes (with trucks expressed in passenger car equivalency). The distribution of truck traffic was found to be relatively uniform throughout the day compared to passenger vehicle traffic, indicating that commercial travel was being adjusted to avoid the peak crossing times. Based on these observations, the potential benefits to encouraging a shift in truck traffic to non-peak periods is not expected to be significant and would not substantially alter the timing for additional capacity needs in the Ambassador Bridge corridor. Nevertheless, the Partnership will consult with stakeholders on the implementation of this travel demand management measure.</p> <p>The Partnership acknowledges comments from stakeholders that scenarios can be developed that would suggest the need for additional capacity on the border transportation network in the Detroit River area can be either deferred beyond 2030, or indeed should be addressed immediately. The Partnership is satisfied that the range of scenarios framed by the high and low growth estimates represent a reasonable projection of what is most likely to occur, based on the best available information, considering a variety of economic and transportation factors.</p>
	Need to Recognize Approved Community Form and Infrastructure Investments	The comments made by LaSalle/Essex in this regard are noted. The P/NF Study identified that the Windsor/Essex County-Detroit/Wayne County area is extensively developed, such that it is not possible to generate alternatives for major transportation improvements that would avoid all impacts. The TOR identifies that the Partnership is committed to planning, designing, implementing and maintaining a transportation solution in an environmentally sensitive manner. Further, the TOR identifies that the integrated study process has been developed to aid in developing alternatives that minimize adverse environmental impacts and address the identified transportation problems. Through on-going consultation with LaSalle/Essex and other municipalities and stakeholders, the Partnership will identify project issues and concerns, which will be considered in the development and assessment of alternatives.
	Harmonization of Ontario, Federal and U.S. EA Processes	Section 1.3 of the draft TOR, together with Exhibit 1.3, identify that the Partnership is coordinating and concurrently undertaking the CEAA, NEPA and OEAA processes. Any conditions/conclusions or process implications resulting from reviews by Canadian or U.S. agencies will be incorporated in the bi-national process, as appropriate. The Partnership will consider the input from all stakeholders, including LaSalle/Essex, in any decision-making on the project. As noted in the draft TOR, the basis for any decisions by the Partnership will be clearly documented in support of a traceable process.
	Comments on Proposed Consultation Process	Throughout the draft TOR, the Partnership has expressed its commitment to effective consultation with stakeholders. The views of LaSalle/Essex County Councils, as conveyed by themselves directly to the Partnership or through their representatives on the Municipal Advisory Group, will be sought by the Partnership and considered in any decision-making. Your suggestion of engaging locally elected representatives in the decision-making on alternatives is noted. As stated in the TOR, the format for consultation activities can be established during the EA to reflect the type of Project Team-stakeholder interaction required.
City of Windsor	The Terms of Reference, when finalized, should recognize and appropriately acknowledge that current truck-traffic transportation congestion within the City of Windsor is unacceptable, and that there may be actions and projects required to deal with the problem which cannot await the outcome of the Bi-National Study process timetable.	<p>The Partnership acknowledges and appreciates your comments regarding the current border traffic congestion in the City of Windsor. The members of the Partnership, together with other government agencies and local municipalities have initiated infrastructure and operational improvements in both Canada and the U.S. that address the frequent and extended truck traffic delays and current congestion on approaches to existing border crossings. These include improvements to border processing, improvements to the U.S. plaza of the Ambassador Bridge and the Let's Get Windsor-Essex Moving Strategy. The text of the TOR has been modified to reflect these actions and projects, which are being carried out in addition to the Detroit River International Crossing Project.</p> <p>As well, the Partnership Planning/Need and Feasibility Study identified a strategy for addressing the long-term needs of the border transportation network including: improvements to border processing; a new or expanded international crossing or crossings connecting the interstate freeway system in Michigan to the highway system in Ontario; optimizing the use of the existing transportation network and travel demand measures/use of other modes to reduce demand on the network. The Partnership, in consultation with other government ministries, departments and agencies, is examining methods of responding to these elements of the strategy. The Partnership is committed to working with the City of Windsor in developing and implementing solutions to the border transportation issues in the Windsor/Essex County – Detroit/Wayne County area.</p>
	We ask that the Terms of Reference acknowledge that the inhabitants of the City of Windsor have a special interest in ensuring that an appropriate and early solution is found to cross-border truck transportation impacts occurring within the City.	<p>It is recognized that the governments of Canada and Ontario have been working with the City to identify and prioritize appropriate solutions for the short-term. The Partnership understands the City's historic, economic and geographic connections to the border, and encourages the City's participation on all aspects of the project. The bi-national environmental assessment process will include consultation with the Detroit River area municipalities, counties and regions as the Partnership works towards a long-term solution.</p> <p>The Consultation Plan identified in the TOR identifies the activities proposed for the Detroit River International Crossing Project. The Partnership will incorporate consultation in the preparation of various interim project reports and working papers and any project decisions; these interim reports and working papers and any decision-making by the Partnership will be made available for public review; the Partnership will be available to discuss project issues and findings; and the Partnership will document the rationale for any decision-making for review and input by others. The Partnership is prepared to provide additional consultation opportunities to the City as the Partnership is identifying and prioritizing appropriate solutions. As stated in the TOR, the format for consultation activities can be established during the EA to reflect the type of Project Team-stakeholder interaction required. Consistent with an open public process, the Partnership will extend the same courtesy to all municipalities</p>
	More consideration of the factors and criteria for the generation and evaluation of alternatives is required.	The factors and criteria presented in the draft TOR are preliminary and represent the minimum considerations. The Partnership has undertaken provisional modifications to the factors and criteria presented in the draft TOR to reflect comments received during the review. Evaluation factors will be finalized during the appropriate phases of the EA. More detailed listings of factors, criteria, indicators and measures will be developed and presented for consultation.
	As weighting and scoring can clearly drive the output of the EA process, it is appropriate that the Terms of Reference commit to adequate and appropriate consultation on these key evaluation components prior to their being finalized.	The TOR identifies that, as part of the generation and evaluation of alternatives, the Partnership will consult with the Detroit River area municipalities and others to obtain input on the evaluation components. The City of Windsor is encouraged to participate in the consultation process to provide its views to the Partnership. This consultation will provide the Project Team with an understanding of the level of importance of the features, issues and inputs associated with the project. This information will be considered by the Partnership in any decision-making. The rationale for the decision made by the Partnership will be presented for comment.
Town of Amherstburg	Comments in support of study.	Thank you for your comments. The Partnership looks forward to continuing its consultations with the Town on this important issue.

**Corporation of the
Town of LaSalle**

5950 Malden Road, LaSalle, Ontario N9H 1S4



**Corporation of the
County of Essex**

360 Fairview Avenue West, Essex, Ontario N8M 1Y6



VIA PUROLATOR

Thursday, April 29, 2004

Mr. Dave Wake, Interim Partnership Coordinator
Ministry of Transportation Environmental Unit
Southwestern Region
659 Exeter Road,
London, ON N6E 1L3

- and -

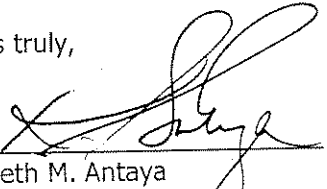
Mr. Len Kozachuk,
Consultant Team Coordinator
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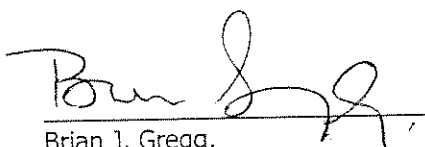
Dear Sirs:

RE: DETROIT RIVER INTERNATIONAL CROSSING EA TERMS OF REFERENCE

Enclosed please find the Town of LaSalle/County of Essex joint submissions, detailing our comments to the Detroit River International Crossing draft Terms of Reference.

Yours truly,


Kenneth M. Antaya
Chief Administrative Officer,
Town of LaSalle


Brian J. Gregg,
Chief Administrative Officer,
County of Essex

:cs
Encs.

cc: Mayor and Members of the Town of LaSalle Council

Warden and Members of County Council

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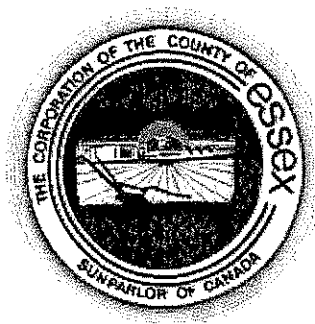
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Town of LaSalle and the County of Essex

Review of MTO's Draft EA Terms of Reference Detroit River International Crossing



April 28, 2004

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EXECUTIVE SUMMARY

This is a summary of the key concerns of the Town of LaSalle and County of Essex (Essex) identified during our review of the Ministry of Transportation's Draft Terms of Reference (TOR) for the Detroit River International Crossing Environmental Assessment project. This review is not intended to be a comprehensive critique of the complete contents of the Draft TOR and Supporting Documents. Failure to comment on any issues and concerns should not be interpreted as acceptance nor deemed to be a waiver of LaSalle/Essex's right to raise these issues and concerns in the future.

Our key concerns can be summarized as follows:

1. Need for Comprehensive Analysis of Transportation Problems and Solutions.
2. Need to Match Partnership and Proponency to Capacity for Implementation.
3. Draft TOR Fails to Address Sustainability Goals of the Government.
4. Need For Peer Review Support.
5. Timeframe for Long-Term Decisions – Need to Separate Short and Long Term Solutions.
6. Traffic Projections.
7. Need to Recognize Approved Community Form and Infrastructure Investments.
8. Harmonization of Ontario, Federal and US EA Processes.
9. Comments on Proposed Consultation Process.

The specifics of these concerns are outlined in the following text.

1. Need for Comprehensive Analysis of Transportation Problems and Solutions

A key criticism of the Draft TOR for the Detroit River Crossing is that the TOR does not recommend undertaking a comprehensive analysis of the transportation problems and solutions for Southeast Michigan and Southwest Ontario. Based on work completed to date, including the Partnership's Planning/Need and Feasibility Study Report, January 2004 (P/NF Report), it is clear that a range of actions are going to be necessary to improve the movement of people, goods and services across the US/Canada border (i.e. border processing changes, policy changes, operational changes, management changes, multi-modal infrastructure improvements).

These actions are interrelated and need to be considered in concert in the EA process to identify the specific role each plays in overall short and long-term solutions. Instead, the focus of the TOR is on one aspect of the solution only – a road-based linear/bridge project without adequately defining the residual “piece of the problem” this action is intended to resolve.

Multiple precedents for a comprehensive analysis or master planning approach exist on both sides of the border including Transportation Master Planning processes for most major municipalities in Ontario (e.g. Halton, Hamilton, Ottawa, Kingston) and similar programs in the USA such as the South East Michigan Council of Government's Master

Planning program to establish eligibility for infrastructure funding. Many jurisdictions are now moving towards this approach in cities and regions throughout the United States.

2. Need to Match Partnership and Proponency to Capacity for Implementation

LaSalle/Essex are concerned that the Partnership/Proponent cannot adequately address at least two driving issues affecting the transportation problems. These issues are national security and border processing. Consideration must be given in the TOR to how these issues will be analyzed and addressed in the recommended strategy. Border processing alone has been the key cause of existing congestion problems in the Windsor area. It is essential that the TOR focus adequate analysis and resources on these two issues including a systematic and thorough analysis of national security issues and options and realistic long and short-term opportunities for Canada to influence the border-processing backlog. If necessary, the management structure for the planning process should be expanded to include security and/or revenue departments with authority to implement change.

3. Draft TOR Fails to Address Sustainability Goals of the Government

The Government of Canada has clearly articulated its commitment to sustainable infrastructure development. The Draft TOR does not adequately address sustainability in either the evaluation of strategic alternatives, nor in the proposed approach to assessment of the effects of proposed infrastructure projects.

Key sustainability issues that LaSalle/Essex request be addressed in the EA process include detailed consideration of air quality effects and other health issues, changes in greenhouse gases/effects on the natural environment, energy conservation, recognition of the importance of community structure and cohesion, protection and support for vibrant residential neighbourhoods (and consequently, location of new transportation corridors outside such areas and optimizing existing corridors), consideration of visual intrusion and aesthetic effects, protection of the sparse remaining natural heritage features in southwestern Ontario and consideration of the evolving and changing needs of the transportation system including Homeland Security issues.

4. Need For Peer Review Support

The TOR emphasizes the principle of full and complete consultation and participation throughout the project (see for example section 1.3.4). LaSalle/Essex have requested funding support for peer review and have been turned down. We continue to insist that funding support is necessary for municipalities such as the Town of LaSalle and the County of Essex to participate effectively in this complex and multi-jurisdictional EA process.

5. Timeframe for Long-Term Decisions – Need to Separate Short and Long Term Solutions

LaSalle/Essex recognize the urgent need for short-term solutions to address the acute transportation problems in the Windsor area caused by border processing and perhaps capacity restrictions. We support the recent agreement to select and fund a series of infrastructure improvements directed at these short-term urgent issues through “Lets Get Windsor/Essex Moving” program.

The TOR needs to specifically recognize these short-term initiatives (Phase 1 and Phase 2 projects) and identify those projects that may have a direct effect on long-term decision-making. It is essential that a nimble, traceable, environmentally sound and transparent decision-making process be identified for these short-term actions. LaSalle/Essex support a Committee structure involving locally elected representatives including representation from each directly affected municipality, working together with representatives from the Federal and Provincial governments.

There is a critical need to identify the role and responsibilities of the short-term process as well as its relationship to the bi-national study and long-term decision-making. Given that the Partnership TOR is directed at long-term transportation solutions, the TOR must define how the short term actions (that are being defined outside the TOR/EA process) and long term actions will be integrated in the proposed EA process to be undertaken by the Partnership and MTO specifically.

Given that the short-term strategies are well underway, and that a separate process and funding mechanism have been established to address the acute short-term issues, time can be taken to establish a fully supported TOR and to undertake the required analyses needed for comprehensive long-term decision-making.

6. Traffic Projections

The Draft TOR supporting documents provide a significant amount of detail as the basis of the demand forecasts for the Base Case scenario. For the most part, this scenario is based on data and trends leading up to the year 2000 and before the events of September 11, 2001 (9/11). Are there social, political, environmental and economic factors that have changed since 9/11 that will influence the results? There is certainly evidence to suggest that the answer, at least in part, is yes.

In addition to the above, the growth component of some elements of the demand that went into forecasting the Base Case do not appear to be supported by the data presented. In particular the growth rates applied to the Work Trip growth and Other Same-Day Trip growth on the passenger side seem high. The data used as a basis for the increase is lower than the adopted growth rates and the subjective rationale supporting the higher growth is not well substantiated.

The forecasts incorporate a significant amount of commercial traffic growth and this has a big impact on the forecast increase in demand. Here again, the data presented and the growth rates adopted for some components of the growth appear high, particularly for the Automotive and Machinery and Electronics. Given the higher processing times and greater impacts on capacity (one truck equals three cars), the conclusions regarding the need for or at least the timing of additional capacity are sensitive to the assumptions used to generate the commercial traffic growth forecasts.

The Low Case forecast estimates are an attempt to capture some of the uncertainty associated with the growth forecasts, but this is factored from the Base Case and only affects the first decade of the forecasting period (2000 to 2010). If the Base Case should be lower based on the evidence, then so too will the Low Case forecast.

The supply side or the capacity of the system also needs additional supporting information to validate the assumptions used and some sensitivity testing of some of the key assumptions. Assumptions about the impacts of new technology (ITS), preferred treatment of frequent users and the Passenger Car Equivalent (PCE) truck factor of 3.0 are all issues that could potentially affect the capacity as expressed.

Is there capacity outside of the peak hour that can handle some of the commercial truck demand (i.e., peak spreading)? Can we be proactive to work with industry to encourage this? What about the one-third of the trips that are work related? Can we work with the major employers to shift some of this travel outside the peak hour? Can we do things to encourage the use of rail for freight?

The sensitivity tests done certainly suggest that shifts in the timing of the need for additional capacity are possible (diversion of commercial vehicle traffic to rail and the Blue Water Bridge) that would significantly delay the need for additional capacity beyond the 10 to 15 year period to as much as 22 years out. What if this is combined with low growth and other increases in capacity noted above? What if new capacity is added by other proponents for road based travel or other modes? Is the need still within the planning period?

7. Need to Recognize Approved Community Form and Infrastructure Investments

The Town of LaSalle has completed a comprehensive Master Plan process considering urban growth and infrastructure planning in a comprehensive and integrated forum. The principles of the process were to establish a compact urban form that makes efficient use of existing infrastructure and supports a mixed-use community where people can work, live and enjoy recreational amenities.

This process resulted in an approved urban structure and supported significant investments in water and wastewater infrastructure. It is essential that this provincially approved community planning work and investment not be threatened by proposed infrastructure through the area. All new highways must avoid existing and approved

residential neighbourhoods and greenway systems. These neighbourhoods and greenways will simply not function if a major new surface transportation facility bisects these important community/neighbourhood elements. The TOR must outline precisely how the work will recognize and support existing and planned community form and specifically state that the urban area of LaSalle will be excluded from any consideration for new linear facilities.

8. Harmonization of Ontario, Federal and US EA Processes

We recommend that the CEAA, NEPA and Provincial EA processes be coordinated and undertaken concurrently from the beginning and not in a staged manner as proposed in Exhibit 1.3. To do otherwise risks unforeseen delays and the need to loop back in the decision-making process causing confusion/extra work for stakeholders. Given that the Federal Government is part of the Partnership, design of a fully harmonized EA process should be possible. The governments of Canada and Ontario have reached a draft agreement on EA cooperation that sets out a process for environmental assessment of projects subject to both federal and provincial EA processes (April 14, 2004). We request that the EA TOR document describe how this draft agreement will impact the work that is being carried out by the Bi-National study.

Similarly, greater clarity is needed on the NEPA/Canadian harmonization process. For example, the U.S. federal government's review of the Purpose and Need Statement and Draft Environmental Impact Statement are critical process steps under NEPA without comparable requirements under OEAA or CEAA. These U.S. reviews could result in the imposition of significant conditions/conclusions or have process implications to the overall project on both sides of the border. Recognition of this should be incorporated into the OEA TOR with a discussion of how the overall process will harmonize these, and other milestone reviews.

A key issue for LaSalle/Essex is to identify how final decisions by the governments will be made. What is the process for decision-making, who makes decisions, and what are the mechanisms for resolution of disputes? The role LaSalle/Essex will play in this process is of concern.

9. Comments on Proposed Consultation Process

LaSalle/Essex are concerned that the process, as described, does not give local stakeholders and elected representatives a meaningful and substantive role in decision-making. LaSalle and Essex County Councils request to be "at the table" with other government stakeholders as decisions are made that affect our residents.

It may be appropriate to define a point in the decision-making process when alternatives are narrowed to a specific geographic area. At that point, local elected representatives for the host municipalities can be brought to the table to participate in decision-making. A

model for this approach is the partnership arrangement established for the Peace Bridge Expansion Project as part of their Bi-National Integrated Environmental Process.

The TOR, as a minimum, must define the role of the Municipal Advisory Group more explicitly and particularly define how input from this Group will be regarded in the overall decision-making.

The TOR must define how municipal and local stakeholder input will be coordinated, funded and communicated to avoid creating conflicts and misunderstandings among parties representing the same geographic area. Examples of such conflicts have occurred in other major EA processes in Ontario.

1.0 Introduction

This report is the result of a review of Ontario Ministry of Transportation's Detroit River International Crossing, Draft For Consultation, Environmental Assessment Terms of Reference, February 2004 (Draft TOR) document. It has been prepared by the Town of LaSalle and the County of Essex, with assistance from Dillon Consulting Limited, Bondy Riley Koski Barristers and Solicitors and Alan D. Levy, LLB. The goal of this report is to provide constructive comments and direction that can be incorporated into the upcoming work program for this important project. This review is not intended to be a comprehensive critique of the complete contents of the Draft TOR and Supporting Documents. Failure to comment on any issues and concerns should not be interpreted as acceptance and is not deemed to be a waiver of the right of LaSalle/Essex to raise these issues and concerns in the future.

We have organized this submission into four basic sections:

Overview of Transportation EA Context in Canada (Section 2.0)

This section contains an overview of the environmental assessment and transportation planning context in Canada. This provides a perspective to our review and indicates the principles and assessment guidelines that we feel should be recognized in carrying out the Environmental Assessment and incorporated into the approved Terms of Reference.

General Comments on the Terms of Reference (Section 3.0)

This section contains a discussion of four general areas of comment that we feel are important to emphasize, representing recurring issues for us throughout our review of the Draft TOR.

Detailed Comments on the Terms of Reference (Section 4.0)

This section contains a page-by-page summary of the main comments and suggestions that we have with the Draft TOR.

General Conclusions (Section 5.0)

This section contains a summary of our conclusions with respect to the Draft TOR.

2.0 Overview of Transportation EA Context in Canada

The following provides an overview of the Environmental Assessment and transportation planning context for the Detroit River International Crossing TOR in Canada.

1. The purpose of the Ontario Environmental Assessment (EA) process as defined by the Environmental Assessment Act (EAA) is the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment.
2. The purpose of the Environmental Assessment process as defined by the Canadian Environmental Assessment Act (CEAA) is to ensure that the environmental effects of projects receive careful consideration before responsible authorities take actions in connection with them, to encourage sustainable development and a healthy environment and economy, to ensure that adverse environmental effects are not caused outside the jurisdictions in which the projects are carried out and to ensure that there be an opportunity for public participation in the EA process.
3. In Ontario, there are four operational contexts for transportation EA projects: 1) the Federal EA process under CEAA; 2) the Provincial EA process under the EAA; 3) the Ministry of Transportation (MTO) Provincial Transportation Facilities Class EA process (also under the EAA) that includes most Provincial transportation facilities (MTO Class EA, 2000); and 4) Municipal EA processes comparable to the Provincial processes also under the EAA.
4. In addition to these project based EAs, the EA process is applied at a strategic level in many planning exercises. These processes may seek approval for their recommended strategies under EA legislation and use the principles and procedures of EA for environmentally sound decision-making. These strategic EAs may include infrastructure Master Plans (e.g. for transportation, water, wastewater, solid waste and stormwater) and policy identification and evaluation (strategic EAs) under the Planning Act or other administrative or legal frameworks. In addition, although municipal master planning processes may not necessarily seek approvals, strategic level EA's (plans and programs) under EAA have done so in the past (e.g. in the Hydro Demand Supply Study EA and the Timber Management EA the proponents were seeking EA approval).
5. All of these EA processes share some core characteristics. These features include both principles and common procedural steps.
6. Key principles of EA's have been identified in guidance documents and a wide range of literature and typically include the following:
 - Basis for environmentally sound decision-making that weighs the advantages and disadvantages of a wide range of options;

- Clear purpose, specific requirements and prescribed responsibilities to ensure consistency and clarity of process;
- Defined level of assessment, scope and schedules for completion to ensure an adequate depth and breadth of analysis and explicit reasons for decisions;
- Incentives for public involvement in decision-making;
- Problem solving and decision orientation to ensure efficient schedules and practical results;
- Follow-up and feedback capability including compliance and effects monitoring, impact management and audit and evaluation;
- Application to all projects or activities likely to cause significant impacts; and
- Applied beginning as early as possible in the concept design phase to allow for consideration of a broad range of options.

7. Common procedural steps include:

- Screening to determine if an EA is required/appropriate;
- Scoping to identify the main issues;
- Collection and analysis of information including baseline environmental information, selection of alternatives, impact prediction, evaluation of alternatives, identification of mitigation measures;
- Present findings;
- Review; and
- Post-project analysis.

8. Each step includes public involvement to establish views and concerns.

9. These general principles and steps are further defined and elaborated for each of the processes operating in Ontario. For example, the Class EA for Provincial Transportation Facilities (2000) defines various principles for MTO projects including principles for Transportation Engineering, Environmental Protection, Evaluation, Consultation and for Organizing and Combining Stages and Phases. It also prescribes the steps for all MTO EAs. The Ministry of Environment has also released various guidance documents from time to time including Interim Guidelines on EA Planning and Approvals (1989), A Guide to Preparing Terms of Reference for EAs (2000) and Guideline on Consultation in the EA Process (2000). Municipal infrastructure Master Plans are guided by the Municipal Class EA document (June 2000, Section A.2.7).

10. The MOE Interim Guidelines define the following key features of EAs:

- Consult with affected parties;
- Consider reasonable alternatives;
- Consider all aspects of the environment (defined in the EAA);
- Systematically evaluate net environmental effects; and
- Provide clear, complete documentation;

11. The MTO Class EA defines the following principles for the evaluation process:

- Evaluation process must be traceable, replicable and must be understandable by those who may be affected by the decisions;
- All relevant factors including transportation engineering and environmental protection, will be given due consideration;
- The evaluation may be subjective (based on reasoned argument) or objective (using quantifiable data);
- For Group A projects (including new highways) the proposed evaluation process in planning will be established through consultation with external stakeholders; and
- Factors may be refined from one stage of a project to the next.

12. Transportation planning has evolved over the past decades in Ontario. Project based transportation planning has given way to planning based on regional scale Master Plans incorporating the principles/steps of an EA in a strategic EA framework. Most recently, even this format is being questioned to consider a more pro-active vision-based approach reflecting regional and community scale priorities such as “smart growth”. For transportation, these more visionary priorities might include aggressive support for (and investment in) transit-based community planning, encouragement of other modes (walking, cycling), managing demand, transportation solutions to support live-work relationships and transportation solutions that support confinement of urban boundaries to protect the environment and countryside and to promote infill and intensification (over urban sprawl).

13. Master Plans for transportation are undertaken on a regular basis by municipalities in Ontario to identify problems and direct transportation investment. These strategic EA processes improve on project based planning because they allow for a comprehensive analysis of regionally based transportation solutions that considers implications of different solutions on the environment and community form (“smart growth”) as well as providing essential short and long-term full cost and investment information. They allow for the cumulative effects of multiple projects and types of growth and infrastructure to be accounted for in decision-making. In some municipalities (Halton, Ottawa, and Hamilton for example) they are combined with updating the Official Plan so that growth decisions are informed by implications for costly and highly impacting infrastructure such as roads and transit. Some municipalities undertake multiple infrastructure Master Plans while updating their Official Plan to address the full implications of growth (e.g. Halton, Ottawa, Hamilton).

Provincial roadways/transit under the jurisdiction of MTO are not addressed utilizing Master Plans. Instead, MTO undertakes Transportation Needs Assessments (TNA) “as part of the ongoing management and administration of the transportation system by the province and others” (MTO Class EA Section 4.4). The “transportation needs assessment process is considered “research” and/or “feasibility study” work under the EA Act and therefore is not subject to the EA process/public consultation requirements of the EA Act

at the time it is conducted.” (MTO Class EA Section 4.4). Unlike municipal Master Plans, there is no commitment to undertake the MTO TNA in a way that adheres to the principles and steps of the EAA. Rather, the EA process, for any subsequent projects, is intended to begin with a formal review of the TNA.

It would seem reasonable that the needs assessment and evaluation of strategic alternatives step of the EA should be undertaken to reflect past practices. This would be a pro-active vision based approach reflecting regional and provincial scale priorities such as sustainability of “Smart Growth”.

14. The TOR should commit to examine the compatibility of the undertaking and EA process with both the PPS (Provincial Policy Statement) and MTO’s SEV (Statement of Environmental Values). The PPS calls for transportation systems which are environmentally sensitive and energy efficient (section 1.3.2.1). The SEV is reproduced at Appendix 4 of MTO’s Class EA for Provincial Transportation Facilities. It is full of useful, pro-active, vision-based goals and approaches.
15. One model to consider is to treat the Bi-National Study EA as a Master Plan (Plan/Program EA). A typical municipal Master Plan process such as that undertaken for the Regional Municipality of Ottawa-Carleton (1996), Oakville (1996), Niagara Falls (1996), Kingston or Halton Region (on-going) includes the following characteristics:
 - Strategic evaluation to define strategic directions and set policy priorities. This step might establish mode-split targets/policy, direction(s) for community form and transit supportiveness and key problems and issues to be resolved.
 - Iterative analysis of a range of transportation solutions including for example, transportation demand management (TDM), walking, cycling, transportation system management (TSM), auto-based solutions. Based on the priorities and issues established in the strategic phase, the Master Plan optimizes non-auto based options to establish the residual auto deficiencies that must be resolved through auto-based solutions. The process is iterative and relies on localized problem identification and evaluations to build an overall community transportation network.
 - The outcome of the Master Plan is a recommended set of actions to be pursued including auto and transit solutions, TDM, TSM, walking, cycling and other non-auto projects. These are typically prioritized and costed for use by municipalities in planning and setting budget priorities. The recommendations may go to the extent of listing short and long-term priorities for specific road links, corridors and capacities. Some of these actions may require subsequent EA approvals. These subsequent approvals may refer to the work completed in the Master Plan.
 - The municipal Master Plan process is undertaken to meet all of the principles and steps of the Provincial EA process including multi-criteria evaluations addressing the full scope of the environment defined in the EAA, clear and complete documentation, consultation and notice that meets EA requirements. These

expectations are clearly outlined in the Municipal Class EA document in Sections A.2.7 and A1.1. Although the Master Plans are not approved under EA legislation, they are frequently referred to and relied upon in the first steps of subsequent, project specific, EA processes. The first step of these project EAs is to review, update and confirm the validity of the conclusions of the Master Plan. In many cases, if the Master Plan is recent, the EA compatible work conducted in the Master Plan can be adopted directly into the project specific EA documentation. Examples of where this process is in place and project EAs have been completed relying on Master Plans are Ottawa, Oakville and Niagara Falls. The project specific EAs begin with a review, update and documentation of the Master Plan sections pertaining to identification of need and evaluation of alternatives for the project (e.g. Trimm Road and Terry Fox Drive Class EAs and the Light Rail Pilot Project individual EA in Ottawa).

- There are precedents for Master Plan (plan or program) EAs in Ontario such as the MNR Timber Management EA that laid the groundwork for a full range of future MNR policies, plans, programs and projects.

3.0 General Comments on the TOR

This section contains a discussion of four general areas of comment that we feel are important to emphasize, representing recurring issues for us throughout our review of the Draft TOR.

1. Need for Comprehensive Analysis of Transportation Problems and Solutions

A key criticism of the Draft TOR for the Detroit River Crossing is that the TOR does not recommend undertaking a comprehensive analysis of the transportation problems and solutions for Southeast Michigan and Southwest Ontario. Based on work completed to date, including the Partnership's Planning/Need and Feasibility Study Report, it is clear that a range of actions are going to be necessary to improve the movement of people, goods and services across the US/Canada border at both the Windsor and Sarnia Gateways (i.e. policy changes, operational changes, management changes, multi-modal infrastructure improvements).

These actions are interrelated and need to be considered in concert in the EA process to identify the specific role each plays in the overall short and long-term solution. Instead, the TOR focuses-in on one aspect of the solution – a road-based linear/bridge project at the Windsor Gateway without adequately defining the “piece of the problem” this action is intended to resolve.

The purpose of the Partnership as described on page 1 of the Draft TOR clearly envisions that the role of the group is to complete a plan or program for transportation in Southeast Michigan and Southwest Ontario. The EA process as described in the Draft TOR does not fulfill this purpose. Rather, the TOR is highly weighted towards preparing an EA for one component of the overall solution – a road-based linear/bridge project. In fact, the Draft TOR states that MTO may not be the proponent for other types of solutions. In addition, the St. Clair River portion has been dropped from further consideration.

MTO's Intelligent Transportation System Study (currently being undertaken for all border crossings in Ontario) will have impacts to all border crossings in the Province, including crossings of the Detroit River and the Sarnia River. How will the results of this study (and any corresponding infrastructure improvement recommendations) be incorporated within the subject Bi-National Study? The EA TOR document needs to address this matter, and explain how these two studies will be coordinated.

The Draft TOR was prepared to address linear transportation facilities to the almost total exclusion of other transportation system elements (e.g. border processing, demand management). Without knowing the general role and effectiveness of all elements of the system in combination, the residual needs component (problem identification) to be addressed by one element (i.e. linear facilities) cannot be adequately defined.

2. Need to Meet Sustainability Goals of the Government

The Government has articulated its commitment to sustainable development in a number of documents including Transport Canada's *Sustainable Development Strategy 2001-2003* and the Canadian Environmental Assessment Agency's *Sustainable Development Strategy 2004-2006*. The Transport Canada document recognizes the significant impacts transportation, and especially roads and highways have on the environment and communities.

To this end Transport Canada claims it will “work to ensure that transportation needs are met in a way that avoids or minimizes the creation of pollutants and waste, and that reduces the overall risk to human health and the environment; will apply sound environmental protection and conservation practices. It will support transportation systems that make efficient use of land and natural resources, preserve vital habitats and maintain biodiversity; continually refine its environmental management system so that its internal operations support sustainable development. As both custodian and landlord, it will consider the potential environmental impacts of new initiatives, and will apply risk management and due diligence practices consistently to its real property assets”.¹

Particularly on point, Transport Canada states that “Land use, especially for roads and highways, and rights of way through sensitive areas, consumes or alters valuable agricultural land, green spaces and wildlife habitat. Suburban sprawl, which consumes land and creates inefficient travel patterns and congestion, is leading to increased costs and a lower quality of life for many Canadians. In addition, spills and leaks of fuels, oils, and solid and hazardous waste byproducts, can contaminate land, surface water and groundwater. They can also pollute lakes, rivers and harbours. Spills and illegal discharges of oil and oily waste by ships traveling along Canada's coast contaminate beaches and fishing areas, and result in death and sickness for a variety of wildlife, especially sea birds...Transportation also affects Canadians' well-being, in terms of both their safety and overall health. Motor vehicle accidents account for nearly half the accidental deaths in Canada each year, while smog contributes to a wide range of health effects, including impaired lung function, respiratory infection, asthma attacks and premature death”.²

With respect to the assessment of strategic transportation alternatives, changes to the TOR are needed to focus the analysis (as well as future actions/resources of all three governments) on actions that meet the sustainability goals of the Government of Canada. In order to meet these sustainability goals, non-infrastructure solutions and those that reduce energy consumption, should be emphasized and given highest priority. Diesel based transportation solutions should be minimized. Unfortunately the Draft TOR focuses on one component of the suite of actions necessary – i.e. a road-based linear/bridge facility. This component is guaranteed to have significant impacts on the

¹ Transport Canada, *Sustainable Development Strategy*, 2001-2003, pg.12.

² *supra*. pg.24

natural environment, energy consumption, air quality, human health, agriculture and communities of southwestern Ontario.

With respect to assessing effects of alternatives, key sustainability issues that LaSalle/Essex request be addressed in the EA process include detailed consideration of air quality effects and other health issues, changes in greenhouse gases/effects on the natural environment, energy conservation, recognition of the importance of community structure and cohesion, protection and support for vibrant residential neighbourhoods (and consequently, location of new transportation corridors outside such areas and optimizing existing corridors), consideration of visual intrusion and aesthetic effects, protection of the sparse remaining natural heritage features in southwestern Ontario and consideration of the evolving and changing needs of the transportation system including Homeland Security issues. Rigorous scientific analysis/quantification of these issues will be needed to satisfy stakeholders of the veracity of the decisions. It will be helpful to build on the experiences of other border crossing projects such as for the Peace Bridge in Buffalo/Fort Erie, where public health and safety issues have been key issues driving the decision-making process.

3. Need For Peer Review Support

The TOR emphasizes the principle of full and complete consultation and participation throughout the project (see for example section 1.3.4). LaSalle/Essex have requested funding support for peer review and have been turned down. We continue to insist that funding support is necessary for municipalities to participate effectively in the EA process. We request that the TOR address the issue of intervenor funding including our previous requests and the corresponding position of the Partnership to deny those requests.

4. Precautionary Approach

In the summer of 2003 the Canadian government released A Framework for the Application of Precaution in Science-Based Decision Making About Risk. The introduction states; *“This framework outlines guiding principles for the application of precaution to science-based decision making in areas of federal regulatory activity for the protection of health and safety and the environment and the conservation of natural resources.”* (section 1.0, page 2). The TOR should acknowledge this document, and state that the proponent’s EA planning process will take a precautionary approach in all studies which are undertaken and decisions which are made, and will fully document where and how the precautionary approach was applied.

4.0 Detailed Comments of the Terms of Reference

The balance of this document provides comments on a section-by-section basis matched to the Detroit River International Crossing Environmental Assessment Terms of Reference, February 2004.

Preface

The Partnership states in the Preface that: “*the Detroit River TOR is distinguished from previous TOR's in that it does not identify the undertaking or the study area, nor does it provide work plans to guide the activities to be undertaken during the OEA.*”

The first stated overall objective of the Partnership is indicated as being “*To improve the movement of people, goods and services in a safe and efficient manner across the United States and Canadian border at the Detroit and St. Clair Rivers to connect with existing national, provincial and regional transportation systems, such as I-75 and Highway 401.*” [refer to page 1 of the TOR]

The St. Clair River portion of the border has been excluded from consideration in the TOR document. How is the decision to exclude the northern crossings rationalized by the Partnership given their statement that the study area is not defined? Any narrowing of the study area should only occur within the OEA context.

1: Introduction and Background

1.1 Background

In Section 1.1, it states the purpose of the Partnership is to improve the movement of people, goods and services across the U.S./Canada Border “within the region of Southeast Michigan and Southwest Ontario”, and specifically refers to the border “at the Detroit and St. Clair Rivers”. However, in Section 2, it states that the purpose of the Undertaking is to provide for the safe, efficient and secure movement of people and goods across the US/Canada Border “in the Detroit River area”. This undertaking does not appear to comply with the purpose of the partnership, as it now seems to eliminate any reference to the Sarnia Border Crossing, and any ability that crossing may have to alleviate congestion in Windsor-Detroit.

Page 1:

Why were rail facilities not included as part of purpose a) as examples?

Page 1:

Purpose statements a) to i) do not mention environmental responsibility. Is this an oversight?

Page 2:

How did the Partnership “affirm” that the P/NF study may be used to initiate EA studies? We suggest that work conducted under P/NF study will require modifications, additions, deletions to be made to reflect formal EA process/inputs and to reflect further studies/analyses that will need to be undertaken.

1.2 Purpose of the OEAA Terms of Reference

Mapping throughout the TOR must be updated to accurately show the existing and planned urban areas in LaSalle and other Essex County municipalities.

Page 5, second last paragraph:

The statement that “the TOR is consistent with and will be enhanced in accordance with the requirements of NEPA and CEAA processes, as appropriate” needs to be clarified.

1.3 Ontario, Canadian and U.S. Planning and Environmental Assessment

Page 5 and page 6:

This section needs more explanation of how CEAA and OMOE requirements will be harmonized. It is important that timing, scope of study, coordination of documentation and review and consultation be harmonized to reduce the potential for confusion with stakeholders and the need to retrace steps to complete CEAA/NEPA. Municipalities expect and need one clear and coordinated decision process in order to plan effectively for future land use, economic development and quality community form. Figure 1.3 is helpful, however further clarity on how differences or disputes that may arise among the processes will be handled and particularly how municipalities will be involved and informed of the harmonized processes is needed.

It appears that consultation will be simultaneous for all processes. Will documentation also be integrated? Will reviews of document(s) occur concurrently? How will review comments be handled? Will comments from stakeholders on all processes be shared?

The TOR should explain how the model of Canada-Ontario harmonization identified in the just-released Draft Canada-Ontario Agreement on Environmental Assessment Cooperation, is being followed in this Bi-National Study.

A key issue for both LaSalle/Essex is to identify how final decisions among the governments will be made. What is the process for decision-making, who makes decisions, and what are the mechanisms for resolution of disputes? The role LaSalle/Essex will play in this process is of concern.

LaSalle/Essex are also interested in the land use implications on both sides of the border. We are also interested in following the US process to ensure that decisions are moving according to schedule and to flag any disputes that may arise as early as possible to ensure effective communication to LaSalle/Essex Councils and stakeholders on progress and issues of the study.

With respect to CEAA, it appears that a screening is expected. What aspects of the provincial EA/EIS will “provide sufficient information to support a decision to trigger the federal EA process”? How is this known without a federal Scope of Project and Scope of Assessment documents being prepared?

We recommend that the CEAA and Provincial EA processes be scoped and undertaken concurrently from the beginning and not in a staged manner as proposed on Exhibit 1.3. To do otherwise risks unforeseen delays and the need to loop back in the decision-making process causing confusion/extra work for stakeholders. Given that the Federal Government is part of the Partnership, design of a fully harmonized EA process should be possible.

Page 5:

The Ontario EA process requirements also include:

- Recommend impact management measures for the alternatives and the preferred option
- Suggest on-going monitoring and management requirements

Page 6, Sec. 1.3.1:

OEA described process stops at the TOR. This section should describe the whole EA process to ensure that it is clear how the TOR relates to the full EA study.

Page 7:

Similar issues as for comments on the CEAA process. The municipality needs clarity on the process, decision authority and expected outcome in seeking US approvals to ensure one clear and coordinated decision process.

Page 7:

The TOR states that “*The preparation of a draft Purpose and Need Statement for the Detroit River International Crossing is being carried out in parallel to the preparation of the OEA TOR. Consultation with federal environmental and cooperating agencies on the draft Purpose and Need Statement to initiate discussions on the project will take place during the preparation and review of the OEA TOR. Upon approval of the OEA TOR and finalizing the Purpose and Need Statement, the Partnership will move forward together in scoping the Detroit River International Crossing project.*”

How will the Partnership incorporate the process and results of the U.S. side Purpose and Need Statement reviews into the final OEA TOR in light of their objective of achieving an integrated planning and environmental study process?

Page 8:

The Partnership states that “*However, certain unique requirements among Canadian, Ontario and U.S. planning processes have been identified by the Partnership (e.g. environmental justice), which cannot be directly incorporated.*” Environmental Justice can generally be defined as the fair treatment and meaningful involvement of all people regardless of race, colour, national

origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment refers to the principal that no group of people, including a racial, ethnic, or socio-economic group, should bear a disproportionate share of the negative environmental consequences. Unique assessment requirements, such as the consideration of environmental justice, could have significant implications to the viability of an overall alternative that could preclude that alternative from further consideration or greatly affect the alternative's overall desirability, and perhaps eliminate the need to assess its extension across the border. Factors such as environmental justice should be incorporated into an overall integrated evaluation process. What other unique requirements have been identified that are not to be directly incorporated into the OEA TOR?

How will the U.S. requirement to address Environmental Justice be dealt with in Canada?

LaSalle/Essex request copies of all important documents and correspondence with respect to the CEAA and NEPA processes. We would like to receive the Project Description for CEAA referenced at the bottom of page 6. All CEAA Scoping documentation is also requested. Similarly, copies of the draft NEPA Purpose and Need Statement for the DRIC referenced on page 7 is requested.

2. *Purpose of the Undertaking*

This section of the Draft TOR (and the P/NF Study) contains references to items such as border crossing security, service disruptions, the lack of reasonable options in cases of major incidents etc. that suggest that the issues of crossing redundancy and susceptibility to terrorism will be considerations in the evaluation of alternatives. The TOR should commit to undertake a study with respect to these issues to resolve the role that crossing redundancy should play in the overall security strategy for this crossing area. It is possible that experts might prefer significantly enhancing the security of existing border-crossings (physical improvements, constant surveillance, heavy police presence, etc.) to better address this issue. It may be more feasible and productive to concentrate these efforts on fewer crossings.

The Draft TOR supporting documents provide a significant amount of detail as the basis of the demand forecasts for the Base Case scenario. For the most part, this scenario is based on data and trends leading up to the year 2000 and before the events of September 11, 2001 (9/11). Are there social, political, environmental and economic factors that have changed since 9/11 that will influence the results? There is certainly evidence to suggest that the answer, at least in part, is yes.

In addition to the above, the growth component of some elements of the demand that went into forecasting the Base Case do not appear to be supported by the data presented. In particular the growth rates applied to the Work Trip growth and Other Same-Day Trip growth on the passenger side seem high. The data used as a basis for the increase is lower than the adopted growth rates and the subjective rationale supporting the higher growth is not well substantiated.

The forecasts incorporate a significant amount of commercial traffic growth and this has a big impact on the forecast increase in demand. Here again, the data presented and the growth rates adopted for some components of the growth appear high, particularly for the Automotive and Machinery and Electronics. Given the higher processing times and greater impacts on capacity (one truck equals three cars), the conclusions regarding the need for or at least the timing of additional capacity are sensitive to the assumptions used to generate the commercial traffic growth forecasts.

The Base Case assumption that growth will essentially resume at pre-decline or pre 9/11 levels is certainly questionable and does not appear to be supported by the more recent evidence. What are the regional, national and global factors that will affect traffic forecasts at the crossing? This needs to be better understood and, where relevant, factored into the forecast.

The Low Case forecast estimates are an attempt to capture some of the uncertainty associated with the growth forecasts, but this is factored from the Base Case and only affects the first decade of the forecasting period (2000 to 2010). If the Base Case should be lower based on the evidence, then so too will the Low Case forecast.

The supply side or the capacity of the system also needs additional supporting information to validate the assumptions used and some sensitivity testing of some of the key assumptions. Assumptions about the impacts of new technology (ITS), preferred treatment of frequent users and the Passenger Car Equivalent (PCE) truck factor of 3.0 are all issues that could potentially affect the capacity as expressed. What if processing times could be brought down lower than that assumed? And while PCE values of 2.0 used in standard Highway Capacity calculations may be viewed to be too low, what if it was 2.5 or 2.75 instead of 3.0. These could potentially have big impacts.

Is there capacity outside of the peak hour that can handle some of the commercial truck demand (i.e., peak spreading)? Can we be proactive to work with industry to encourage this? What about the one-third of the trips that are work related? Can we work with the major employers to shift some of this travel outside the peak hour? Can we do things to encourage the use of rail for freight?

The sensitivity tests done certainly suggest that shifts in the timing of the need for additional capacity are possible (diversion of commercial vehicle traffic to rail and the Blue Water Bridge) that would significantly delay the need for additional capacity beyond the 10 to 15 year period to as much as 22 years out. What if this is combined with low growth and other increases in capacity noted above? What if new capacity is added by other proponents for road based travel or other modes? Is the need still within the planning period?

Even without any adjustments or further sensitivity analysis to the data, there is a huge range in when this facility is needed. It can be as soon as 2005 under LOS D High Growth to 2025 at LOS E and Low Growth. Given the three-year decline from 2000 to 2002 it does not seem reasonable to adopt a high growth scenario where traffic has to increase by 25% from 2002 to 2005. Does the 2003 and early 2004 data support this growth? Some review of the more recent

data may point us more to the Low Case scenario, particularly since it is only the decade leading up to 2010 that is affected and we are almost half way through that period (2000 to 2010).

Section 2.1.3 Existing Windsor-Detroit Border Crossings

This section reviews the existing border crossings for Detroit-Windsor. The comments are clear in referring to both the Ambassador Bridge and the Detroit-Windsor Tunnel that many of the existing delays “are related to border processing issues (e.g. staffing, facilities and processing requirements)”. However, as expected, the TOR goes on to dismiss the border processing problems as a long term solution, stating that the processing would be at or near capacity within 5 years. This topic is also discussed in Section 2.1.4 (see below).

Page 19:

It is recognized by the Partnership that the owners of the Detroit River Rail Tunnel have a proposal for a new rail tunnel with a plan to convert the two existing rail tunnels to carry trucks. How will this private initiative (and others) be recognized and incorporated into the work of the Partnership’s OEA? As independent proposals being carried forward by a separate proponent how will the two studies be integrated and how will any differences in study findings, recommendations and conclusions be resolved? Other public and private sector proposals³ exist in the study area regarding improvements to or the introduction of new border facilities. How does the Partnership propose to rationalize these concurrent studies within the OEA?

The EA needs to be flexible to address changes that will occur on both sides of the border over the next couple of years.

Section 2.1.4 Border Processing (page 20):

A major cost of operating border-crossing facilities is the establishment and staffing of government customs and border security operations. A new crossing, as compared with a more efficient and expanded existing facility would likely result in the need to commit additional resources by the agencies responsible. The capital and ongoing operating costs of these additional resources would be substantial and should be included in the analysis. The TOR should commit the EA Study to undertaking a comprehensive costing of the establishment and staffing of a reasonable level of government customs and border security operations on both sides of the border, including that for existing and new facilities.

Section 2.2 Summary of Transportation Problems (page 21):

The Draft TOR and P/NF Study maintain that a new crossing is also needed because the existing ones are old and in constant need of repair and maintenance. There is no study or data to demonstrate the accuracy of this concern or the extent of the problem. Since it appears to be an important part of the proponent’s rationale, the TOR should commit the proponent to undertaking a detailed study of the repair and maintenance records of the existing crossings, and the frequency and extent of lane closings required to accommodate periodic repairs and maintenance. Similarly, the TOR should commit the EA study to undertake a comprehensive

³MTO’s Intelligent Transportation Systems Study, DRTP etc.

costing of establishing, maintaining and operating adequate access roads and plazas (for crossings) on both sides of the border, including that for existing and new crossings.

Section 2.3 looks at transportation opportunities, and clearly states that consideration of these opportunities “will not be restricted to roadway improvements”, and will look “to divert excess demand to under-utilized crossings”. It is important to ensure this theme is maintained throughout the entire process and that the measures to ensure this occurs are identified through the EA process.

3. Assessment and Evaluation

3.1 Process for Identifying and Assessing Transportation Planning Alternatives

Page 24:

The TOR states “A unique feature of the international transportation network to be considered in the assessment of planning alternatives is border processing, which, as discussed in Chapter 2 of this document, can significantly impact the overall capacity of the network, but is not under the direct control of the Partnership.” It is not clear, given the recognized significant impact that border processing can have on overall border capacity, how the proponent can rationalize placing this consideration outside of the OEA. With an uncertainty regarding the role and effects of border processing facilities in the overall transportation network, how will the Partnership determine the need, justification and effectiveness of the particular network component that they are proposing (i.e. road-based linear facility), in isolation from such crucial elements?

The approach adopted should be in keeping with a more master plan style of approach that emphasizes non-infrastructure elements first, with the details of how to implement them and then identifying residual problems.

Given that key alternatives/issues include national security and processing at the border, LaSalle/Essex recommends that the Partnership be expanded to include Homeland Security and Revenue Canada to effectively design a comprehensive and effective solution.

Page 25:

Key issues with alternatives identification include:

- Combinations of the alternatives to the undertaking will most certainly be the outcome of the analysis of transportation planning alternatives. The key is to determine what contribution each can reasonably make to the solution/problems identified in the purpose/needs assessment. Ranges can be used where uncertainty exists.
- The listing of alternatives on page 25 is too simplistic:
 - Tunnel and rail based corridors need to be clearly identified as alternatives.
 - Other alternatives include multi-modal options, improved border processing programs and tax incentives for environmentally sustainable modes of transportation;

- Maximizing the use of existing corridors needs to be explicitly identified as a priority;
- The potential for multiple new or modified linear facilities/bridges/tunnels may be an outcome (including altering the function of existing infrastructure). These systems options need to be explicitly considered in the evaluation and as possible outcomes of the process.

Key issues with alternatives evaluation include:

- The TOR needs to propose a plan to analyze, evaluate and maximize non-infrastructure elements first and then identify the nature, size and character of the residual problem to be solved through infrastructure.
- Suggest the process begin with agreed upon principles that the new system aims to meet. Examples of principles LaSalle/Essex would support include:
 - Provide safe and efficient movement of people, goods and services across the US/Canadian border at the Detroit and St. Clair Rivers to connect with existing multi-modal national, provincial and regional transportation systems;
 - Maximize protection and improvements to human health through air emission reductions, reduction in global warming and greenhouse gases;
 - Protect and enhance communities through minimizing new highway transportation corridors and avoiding existing or approved future residential neighbourhoods;
 - Protect and enhance natural and cultural heritage features by avoiding new infrastructure construction where other viable alternatives exist;
 - Maximize flexibility of the system to adapt to changes in transportation demand and character as well as supporting homeland security issues;
- The TOR must include a process to identify the residual problem (if any exists) that cannot be dealt with through non-infrastructure means. The residual problem must be characterized specifically with respect to the origin-destination and vehicle type, goods, people requirements. Once this is done, it is reasonable to focus on alternative methods to respond to this problem (e.g. linear facilities, road, rail, tunnel and bridge crossings).
- The criteria listed on page 26 are not appropriate for a transportation system assessment and must be completely revised (e.g. missing are “solutions which are acceptable to local communities” in, for example, Table 3.1). The process must not pit one alternative against another but rather define the role each can best play in the transportation system.
- The transportation planning alternatives assessment must consider US information, policies and initiatives.
- The TOR must outline what research and secondary source data will be used more specifically to supplement the P/NF study.

Page 26:

On page 26 it is stated that the rest of the TOR only deals with a linear facility. We can appreciate that large new linear facilities are one type of facility requiring an individual EA in Ontario. We can also appreciate that it is reasonable to assume that at least one new infrastructure project is likely to be identified through the transportation planning and alternatives assessment phase. The linear facility may be one of several modes/structures – road, tunnel, rail, all vehicle, trucks only, etc. Some of these fall within the MTO mandate. It is thus, reasonable for the proponent to cover this element of the EA process in the TOR while acknowledging clearly that various scenarios can emerge as noted on page 26.

It must also be very clearly emphasized that the linear facility(ies) will only contribute a portion of the transportation requirements identified in the problem assessment. It should be acknowledged that linear facilities may be identified that are outside the proponent's mandate (e.g. rail) and that these will be pursued through other parallel approval processes. It must be emphasized that other important non-structural elements will be identified that deserve equal importance, resources, vigor of analysis and priority of governments. However, the TOR only moves on with those elements that are subject to the EAA and CEAA and within the proponent's mandate.

Scenario 1 must be amended to note that one or more linear facilities within the proponent's mandate may be recommended as the outcome of the system assessment (in combination with other non-infrastructure elements that will also go forward). Scenario 2 must be amended because there will not be "one" single planning alternative recommended but rather a system of elements of which some may or may not be linear facilities within the proponent's mandate. Scenario 3 should be deleted, as combinations will certainly be the outcome of the transportation problem and alternatives analysis.

3.2 Process for Generating a Study Area (for a linear facility)

Page 27:

Identification of the study area will be driven by the transportation systems assessment which will identify the residual problem (after all non-structural elements are pursued) to be addressed by linear facilities. Principles for study area identification can be included but no geographic mapping can be included, as this would pre-judge the outcome of the EA. Exhibit 1.2 should be deleted.

Why has the St. Clair River portion of the overall area under consideration by the Partnership been excluded at this stage? The rationale for its exclusion should be part of the work carried out within the OEA.

The Partnership has indicated three "processes" for generating a study area which include the identification of significant physical constraints as well as sensitive land uses (current and future), width sufficient to generate a range of linear transportation facilities, and that the study area must be able to contain alternatives that can reasonably address the stated problems and take advantage of opportunities. Given the importance of this initial step in an environmental

assessment study, we feel that more specific information should be provided regarding the criteria and methodology to be used to exclude areas from the study area and how the selected study area limits will be precisely established. This should include listing proposed factors to define significant physical constraints and sensitive land uses, widths required to generate alternatives as well as how land tracts within the potential study areas will be tested to give evidence that any alternatives within them can reasonably address the stated problems and take advantage of opportunities.

3.3 Process for the Generation and Evaluation of Alternatives

We request that the TOR include the commitment for completing social impact assessments (SIA's) within the municipalities where Opportunity Corridors have been identified. The planning and development of these SIA studies should be a collaborative effort involving representatives of the respective municipalities.

3.3.1 – Illustrative Alternatives

This section is confusing and should be edited and perhaps a simple flow diagram showing spatial relationship among types of corridors. In particular use of “illustrative alternatives” in title for 3.3.1 and 3.3.1 b) is confusing.

Identification of Opportunity Corridors, Page 29:

There is a need to establish the characteristics of corridors in more detail – width, purpose, etc. Add a new Step 1 or add to proposed Step 1– “Establish traffic, user, origin/destination targets, type of facility targeted (road, tunnel, rail) and objectives for linear facility(ies)”. It might be most reasonable to identify two types of corridors/routes. The first is existing roadways that can be widened. The second is Greenfield corridors. There is no point in identifying wide corridors if the intention is to only use existing roadways in these corridors. Only the Greenfield linkage corridors should be identified where two roadways are to be connected.

Regarding Step 2, the EA process must be traceable with criteria clearly identified, mapped and linked to the selected Opportunity Corridors. There is a need to outline in the TOR what the proposed constraint areas/criteria are. Are the criteria exclusionary? If not, how are they to be applied systematically? If the constraint features are those from the P/NF study then say so. It is our observation that it is impossible to trace/link the constraints used in the P/NF Figures 8.1 and 8.2 to the selected five corridors. This must be corrected in the EA. The Environmental Overview Report also does not provide the needed linkage between the constraints and the Opportunity Corridors.

The criteria of specific interest to LaSalle/Essex at this Step include the following:

- Avoids key existing and/or future approved residential neighborhoods and community linkages including all existing and provincially approved residential neighbourhoods and greenways;
- Existing infrastructure corridors as opportunity criteria;
- Avoid all provincially and regionally significant natural or cultural heritage features;
- Geology, hydrogeology, geotech criteria for tunnel options;
- Minimize potential for health impacts from air emissions;

For Step 3 – Are these principles or criteria? Add an overriding principle/criterion that indicates that each Corridor must be able to address the required transportation targets and objectives for the linear facility (i.e. it can solve the identified problem). Also, list the criteria proposed to meet each principle with proposed definitions in the TOR

Step 4, we suggest, is unnecessary. If Corridors have been identified in a defensible way, they will all be feasible and a further evaluation is not needed. Table 3. should be deleted.

3.3.1a – Opportunity Corridors, page 29:

A multi-step process for the development of practical alternatives is proposed after the Study Area has been established. This is to include generating Opportunity Corridors and identifying preferred corridors (a four step process), the generation of Illustrative Alternatives, assessing the illustrative alternatives to determine practical alternatives and determining the best practical alternative. The preferred practical alternative will be then assessed to determine the best Concept Design.

With respect to the generation of Opportunity Corridors, the methodology does not clearly outline how these will be generated and evaluated. Although additional information is provided in the Supporting Documentation (Table 4 – Proposed Factors to Assess the Feasibility of the Opportunity Corridors) regarding the intended assessment rationale and measures to be considered, a specific procedure to generate, evaluate and select preferred Opportunity Corridors is not provided. Trade-offs will inevitably exist between the impacts and performance levels of the various Opportunity Corridors and if only some are to be carried forward and developed as Illustrative Alternatives (as indicated on page 31) how will these decisions be made? Specific information should be provided that outlines the evaluation procedure to be carried out to select preferred Opportunity Corridors. This is particularly important recognizing the fact that the Partnership is proposing to exclude transportation and border processing factors from the subsequent evaluation of the Illustrative Alternatives (refer to Table 3.3) and to concentrate only on the natural, cultural and social environmental components only. Once the Opportunity Corridors are selected, how will their varying abilities to service the traffic demands be incorporated into future evaluations?

The area under assessment will include greatly varying crossing requirements of the Detroit River. How will these be handled in the generation of Opportunity Corridors?

Generation of Illustrative Alternatives, pages 31 and 32:

The text mentions that a GIS was completed for the TOR. Is all available mapping included in the TOR?

Regarding Opportunity Corridors, it will be important to identify the characteristics of the linear facilities being sited (tunnel, road, rail) and identify if they are Greenfield or widenings of existing corridors.

On Table 3.3 we suggest the listed features to be avoided be supplemented to include a listing of land use and community criteria. Suggestions might include such things as “avoid bisecting all existing or approved future communities/neighbourhoods, avoid creating new urban/expanded pressure for urban boundaries, avoid significant impacts to community character and urban form, minimize noise impacts, minimize air emission impacts, avoid archaeological and cultural resources, avoid impacts to native communities”. We also suggest the table be expanded to include opportunity criteria (existing roadways) and to add criteria for tunnel options (geology, geotechnical, hydrogeologic criteria).

The second last paragraph on page 32 talks about “preferred illustrated alternatives” that are then “deemed the practical alternatives”. However, the process to generate and evaluate alternatives that is discussed on page 28 talks about identifying “preferred corridors” to then get “illustrative alternatives” which then lead to “practical alternatives” which will eventually lead to the “preferred practical alternative”. Does this paragraph on page 32 contradict or is it inconsistent with the process set out on page 28?

It is not clear how the factors (components and features) will be used to generate the Illustrative Alternatives. Will areas of planned residential/community development be included in assessment? Will some of the features used be exclusionary (i.e. to be avoided) such as residential/commercial /institutional development or environmentally sensitive areas?

Evaluation of Illustrative Alternatives

Page 34:

LaSalle/Essex would like greater clarity on the proposed opportunity for input to the weighting and scoring of alternatives and for monitoring the process as it unfolds.

Page 37 - Table 3.4:

Socio-Economic criteria must be expanded to address our issues and concerns (e.g. community character impacts, local economic development impacts, access effects, local traffic impacts, aesthetics effects, protection of a cohesive urban form, pressure on urban boundaries, human health concerns including air emissions, noise impacts, etc.). Criteria must address all aspects of the environment as defined by the EAA including gas, odour, sound, vibration and interrelationships among effects.

3.3.1 c - Evaluation of Illustrative Alternatives, Pages 33 to 36

Will municipalities, the public and agencies participate in the scoring of the alternatives during the arithmetic component?

The Illustrative Alternatives will include greatly varying crossing requirements of the Detroit River. How will these be handled in the evaluation?

Air quality and health issues will be a critical evaluation factor. How will sensitive receptors be identified? Will existing health statistics be utilized in the existing crossing and plaza areas to assist in the evaluation of public health issues? Will air quality monitoring be carried out during this phase of the work?

3.3. 2 Practical Alternatives

a) Development of Alternatives, page 38:

Can practical alternatives be in more than one corridor – i.e. several Illustrative and Opportunity Corridors? We think the range should not be limited in the TOR. As for Opportunity corridors, it will be important to identify the characteristics of the linear facilities being sited (tunnel, road, rail) and identify if they are Greenfield or widenings of existing corridors. Criteria need to be more comprehensive at this stage and should not repeat Table 3.4. They should advance in detail for this evaluation. This section has similar comments on the interests of LaSalle/Essex as for Table 3.4, but with greater detailed investigations and data gathering. Specific measures to be used might be provided.

b) Evaluation of Practical Alternatives, page 39:

The assessment of practical alternatives needs to address the difference in issues between urban and rural areas. For urban areas (if any remain at this stage), there will not be a conventional assessment of “areas” of impact and numbers of houses etc. Rather the analysis needs to focus on community scale effects and effects on the communities. Transportation connections between Canadian and US municipalities will be key to the decision. The proponent needs to consult with the communities about the urban impacts of the roadways and connections (as well as construction). The process for tying the American and Canadian decision-making needs to be defined carefully. Similarly, the evaluation method needs to match this scale and focus of analysis.

Key environmental, economic and cultural trade-offs also need to be carefully considered.

How are municipalities going to be consulted specifically at this stage?

It is not clear how the U.S. NEPA review of the Draft EIS will be incorporated into the OEA process. Is a separate Draft EIS document proposed covering the work on both sides of the border? Will the NEPA document be circulated for comment in Canada? How will the results and conclusions from the U.S. NEPA review of the Draft EIS be recognized in the OEA?

At this stage of the process, as evidenced in other cross border studies, bridge design, form and aesthetics will be important criteria in evaluating alternatives that involve a new international bridge. These considerations should be included in the criteria.

3.4 Process for Assessing and Evaluating Concept Design Alternative(s)

3.4.1 Development of the Concept Design, page 40:

Open houses do not seem like the appropriate vehicle for obtaining information on the concept designs. Targeted stakeholder meetings with affected residents/businesses and other stakeholders have proven to be more effective. In many EAs, Concept designs have been improved through consultation and ideas generated by the affected stakeholders.

4. Monitoring Strategy and Schedule

Page 42:

Monitoring strategy should also be for performance of the project (technical, environmental, community, social, cultural). The TOR should outline how stakeholders will be involved in and informed of outcomes of monitoring programs. The TOR should outline how communities will be “guaranteed” of performance. In addition, the process for registering complaints or concerns needs to be outlined. Will base line monitoring be implemented prior to construction to establish existing conditions related to air quality, noise and other environmental factors?

5. Consultation, pages 43-51:

We suggest that the consultation program needs to include an exchange of documented information across the border in terms of comments received and issues of interest (as well as proponent responses). In addition, we suggest techniques for consultation other than Open Houses are needed: targeted stakeholder involvement, technical advisory committee, public advisory committees, workshops, mall displays, etc. can all be used effectively. We suggest that the purpose and objectives of consultation at each step need to be defined and then the appropriate techniques can be chosen. The TOR should reference the EAAB’s draft guide on public consultation (December 2000) and indicate whether it will be followed during the EA process.

We suggest local meetings and information sources for affected communities and neighbourhoods are necessary to obtain most informed input from stakeholders. In addition, the Final TOR must include a complete summary of consultation undertaken, comments received and responses as per the *Draft Guide to Preparing Terms of Reference*, MOE, 2000.

How are comments from the three processes to be communicated?

LaSalle/Essex will not support the use of non-mathematically significant consultation input, survey or questionnaire data. Samples must be statistically valid for ranking, weighting of data or preferences for options.

The proposed consultation activities do not include consultation on the development of the Study Area or the establishment of Opportunity Corridors prior to the development of Illustrative Alternatives. These earlier steps in the EA process are important enough to warrant review and comment.

Under the Ontario EAA the Minister can order mediation, and similarly under CEAA. The TOR should commit to utilizing mediation throughout the EA process, whenever it is necessary, to resolve disputes and reach consensus on significant issues involving municipalities such as LaSalle/Essex. It should reference the draft mediation guideline released by the EAAB (December 2000).

Section 5.4 Submission of the EA/EIS/CEA Screening Report, page 51:

The TOR should state why the proponent believes that the CEAA process will involve only a Screening Report, rather than a higher-level Comprehensive Study.

5.0 General Conclusions

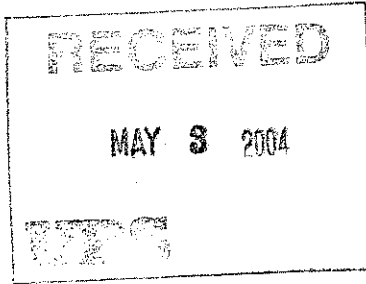
The general themes that should be taken from our review, conclusions and comments are that the Town of LaSalle and County of Essex wish to play a meaningful and involved part in the identification and assessment of solutions for the cross-border transportation problems and be involved in the planning and implementation of any infrastructure that results from this work.

Most important to everyone is a healthy environment. Clean air and protection/enhancement of our natural environment are shared community values that need to be recognized and respected throughout the Bi-National Study process.

We believe that a master planning approach to the cross-border problems would be a more appropriate type of study to carry out at this time rather than an environmental assessment of just one component of the overall system. Given the considerable attention that short term solutions to the cross-border problems by both the public and private sectors is currently getting and the recent drop in border traffic, we believe that time is available to more carefully and thoroughly address the longer term needs and overall system requirements. Other jurisdictions involved in other components of the long-term system (e.g. border processing, security) should be brought into the study to address in more detail the issues and needs of the future cross border transportation system and the role that each component should address.

Our key concerns can be summarized as follows:

- Need for Comprehensive Analysis of Transportation Problems and Solutions;
- Need to Match Partnership and Proponency to Capacity for Implementation;
- Draft TOR Fails to Address Sustainability Goals of the Government;
- Need For Peer Review Support;
- Timeframe for Long-Term Decisions – Need to Separate Short and Long Term Solutions;
- Traffic Projections need to be realistic and sensitive to multiple policy, economic, social and environmental changes that will occur during 30 year planning horizon;
- Need to Recognize and Respect Approved Community Form, Residential Neighbourhoods and Infrastructure Investments;
- Harmonization of Ontario, Federal and US EA Processes.



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April 30, 2004

David Estrin
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david.estrin@gowlings.com
File No. T930619

VIA FACSIMILE AND MAIL

Canada-U.S.-Ontario-Michigan Border
Transportation Partnership
Ontario Ministry of Transportation
Environmental Unit
South Western Region
659 Exeter Road
LONDON, Ontario
N6E 1L3

COPY

Attention: Mr. Dave Wake, Acting Partnership Co-ordinator

Dear Sir:

Re: Draft Terms of Reference – Detroit River International Crossing,
Environmental Assessment (February 2004)

INTRODUCTION

We are writing on behalf of our client, the Corporation of the City of Windsor, to provide some preliminary comments with respect to the draft Terms of Reference for the above-referenced Environmental Assessment.

These comments are of a preliminary nature. The City reserves its rights to provide supplementary comments after it has had a more adequate opportunity to consider the issues raised by the draft TOR and after reviewing further drafts of certain aspects of the TOR discussed below.

GENERAL COMMENT

The Terms of Reference, when finalized, should recognize and appropriately acknowledge that current truck-traffic transportation congestion within the City of Windsor is unacceptable, and that there may be actions and projects required to deal with the problem which cannot await the outcome of the Bi-National Study process timetable.

These draft Terms of Reference presume that the various "opportunity corridors" to be considered and evaluated by the EA will await the outcome of the Bi-National EA Study. However, in reality, quite the opposite is likely, as there is no constraint on a private sector proponent (or indeed certain public sector proponents) from proceeding with their own Detroit River crossing infrastructure proposal outside of and without regard for the Bi-National Study EA. For example, as you are aware, the DRTP proposal has already been the subject of an application before the CTA which has triggered CEAA and we assume they would take the position that there is no legal requirement that they, or others such as Mich-Can, need await the outcome of the Bi-National EA Study before proceeding.

This comment is not to be taken as an endorsement of any particular proponent who may now be in a position to move forward with its proposal. It should, however, be understood to reflect on the fact that, from the perspective of public officials and the public concerned that the present truck transportation system within the City of Windsor is causing unacceptable impacts to the City and its residents, there is a more immediate need for an appropriate solution to be identified and implemented than the timetable envisioned by these draft Terms of Reference, which calls for the EA study to be completed in a best case scenario by 2007 and construction of the preferred undertaking to be completed by approximately 2013.

For that reason, the three scenarios that are postulated which would emerge at the end of the assessment of the transportation planning alternatives (found at page 26 of the February 2004 Draft for Consultation) may well not be the only scenarios that would then be "on the table".

In short, the Terms of Reference ought to recognize that, pending the outcome of the Bi-National Study, proponents may move forward with their own projects, and that in turn could affect the Bi-National process. That outcome should not be viewed as a negative by the Bi-National process.

Rather, the Terms of Reference when finalized, ought to recognize this reality and appropriately acknowledge that current truck-traffic transportation congestion within the City of Windsor is unacceptable and may need to be solved by actions and projects which can not await the outcome of the Bi-National Study process timetable.

We ask that the Terms of Reference acknowledge that the inhabitants of the City of Windsor have a special interest in ensuring that an appropriate and early solution is found to cross-border truck transportation impacts occurring within the City, whether or not that solution comes about through the B-National Process.

THE CITY OF WINDSOR HAS A PRIMARY ROLE IN IDENTIFYING APPROPRIATE SOLUTIONS TO BORDER TRANSPORTATION ISSUES

The Terms of Reference for the Bi-National EA process should include appropriate acknowledgment of the special interest of the City of Windsor in identifying and prioritizing appropriate solutions to border infrastructure issues.

Having regard to the vital role and impacts of border transportation issues to the City of Windsor, we ask that the finalized Terms of Reference appropriately respect the environmental, planning, cultural and economic interests of the City, and recognize that the Corporation of the City of Windsor has a particular and unique interest in the procedures and outcome associated with the Bi-National process.

The finalized Terms of Reference should provide for appropriate consultation and evaluation criteria to reflect the fact that, in Canada, the City of Windsor has the largest number of residents and economic relationships affected by the current traffic issues, and provide that the City will have the appropriate status in the further workings of the Bi-National EA process.

The same City concerns arise in respect of the draft Terms of Reference discussion in Section 5.2.3 "Municipalities" and in heading 5.2.4 "Municipal Councils". Neither section recognizes the primary role of the City of Windsor. On behalf of the City we repeat the need for appropriate status to be given to the City in any process involving consultation with municipalities.

In that regard we ask that you act on the following resolution of the Special Meeting In Camera which was adopted by City Council at its meeting held March 8, 2004 (M46-2004):

1. That the Corporation of the City of Windsor **REQUEST** the Canada-U.S.-Ontario-Canada Border Transportation Partnership (Bi-National Environmental Assessment (EA) Team) to accord Windsor the appropriate status in the Bi-national EA process, which is beyond the "consultation" proposed for all municipalities as members of the Municipal Advisory Group as stated in the draft Terms of Reference (TOR) for the "Detroit River International Crossing" Environmental Assessment, since the economy, residents and the environment of Windsor will be most directly and significantly affected by decision concerning new crossings;
That David Estrin **BE AUTHORIZED** to coordinate and advance Windsor's objectives in achieving an appropriate role in the Bi-national EA process and the City's comments and input into this Bi-national EA process.

We therefore ask that the final version of the Terms of Reference for the Bi-National EA process accord the City of Windsor the appropriate status in the further workings of the Bi-National EA process. We would be glad to discuss this particular aspect further with you at your convenience.

PROPOSED FACTORS AND CRITERIA TO ASSESS FEASIBILITY OF THE OPPORTUNITY CORRIDORS, AND CRITERIA FOR EVALUATING ALTERNATIVES

Factors and criteria for the generation and evaluation of alternatives are vital to the merits and output of the EA. Those identified to date are, in some cases, too general, and others lack criteria for differentiation or dis-aggregation. More consideration of these matters is required. We ask that a revised component of these factors and criteria be circulated prior to any finalization of this aspect of the Terms of Reference.

As weighting and scoring can clearly drive the output of the EA process, it is appropriate that the Terms of Reference commit to adequate and appropriate consultation on these key evaluation components prior to their being finalized. Further, the appropriate role of City of Windsor representatives in weighting and ranking must be recognized.

We have concerns with respect to criteria and factors.

For example, Table 3.3 “Environmental Components and Features to be Considered During the Generation of Alternatives” under the component heading “Social Environment” ranks “areas of residential/commercial/institutional development” all in the same category.

Clearly areas of existing and planned residential development are the most sensitive to both existing truck traffic and any new routes for truck traffic. It does not appear appropriate to simply lump in “residential” with other land use categories such as commercial, which may benefit from new truck routes, or institutional, which may not be as sensitive as residential.

Moreover, not enough consideration has been given to “features” with respect to the component “social environment” or “cultural environment”. For example, community cohesion, existing patterns of cross-city movement, business/commercial relationships, existing transportation networks, new features of development as found in approved Official Plans and development policies are all “features” which ought to be considered, and the manner and weighting for their consideration appropriately specified.

We would urge that significantly more work be done to generate appropriate “components and features to be considered during the generation of alternatives” and that a revised proposal be circulated prior to any finalization of this aspect of the Terms of Reference.

Similarly, we have significant concerns with respect to “evaluation approaches” whether they are the “reasoned argument (trade-off) method” or the “arithmetic evaluation component”.

We are also concerned that the reasoned argument (trade-off) method will involve only "Project Team expertise" as stated on page 35. This is a role in which City of Windsor representatives must have the opportunity to participate, having regard to the position of the City as set out above.

With respect to the arithmetic evaluation component and weighting and scoring proposal, there is nothing in the documents thus far available which indicate weighting values that would be assigned. Although it is postulated that "weighting scenarios will be developed by the general public" and that "additional weighting scenarios can be developed in consultation with regulatory agencies and municipalities", there is no commitment in that regard in the Terms of Reference – which there clearly ought to be. Moreover, there is no commitment in the draft Terms of Reference to ensuring that the weighting that will end up being actually used reflects the comments received from the public, agencies and municipalities.

As weighting and scoring can clearly drive the output of the EA process, it is appropriate that the Terms of Reference commit to adequate and appropriate consultation on these key evaluation components prior to their being finalized. The finalized Terms of Reference should adequately reflect that commitment. In the case of the City of Windsor, the City, as indicated above, wishes to ensure it has an appropriate role in the weighting and scoring processes and asks for a commitment in that regard in the finalized Terms of Reference.

With respect to Table 3.4 "Criteria for Evaluating Illustrative and Practical Alternatives", it is not appropriate that this Table be finalized without more appropriate, in-depth consultation with the City of Windsor. There are clearly "criteria" which need to be further considered e.g., there is at this point in time no mention under Criteria 4 of "Vibrations", despite the fact that clearly some of the infrastructure proposals would create vibrations for neighbouring properties both in their construction and in their operation.

Similarly, under the factor of "socio-economic environment" there appears to be no criteria for taking into consideration both existing land uses as well as planned land uses (eg. in Official Plans) or in provincial planning documents which may be applicable.

It is obvious that the factors and criteria for evaluating alternatives is a critical component for driving the output of such a study and further consideration of appropriate factors and criteria is clearly required.

The City of Windsor requests that a suitable opportunity to meet with Bi-National Process Study Team members in order to work through these issues prior to finalization of the Terms of Reference and asks for a commitment in that regard from the proponent.

CLOSING

We trust that the above comments are not only helpful but convey some key issues which need to be appropriately further considered and made the subject of further consultation before finalization of the Terms of Reference.

On behalf of the City of Windsor, we invite you to contact us to arrange for further discussion of these issues.

Yours sincerely,

GOWLING LAFLEUR HENDERSON LLP

"D. ESTRIN"

David Estrin

Certified as a Specialist in Environmental
Law by the Law Society of Upper Canada

DE:tp

cc: Len Kozachuk, P. Eng.
Consultant Team Coordinator
URS Canada Inc.
75 Commerce Valley Drive East
Markham, Ontario
L3T 7N9

cc: Mayor and Members of Council
City of Windsor

TOR_LAW 571601511



"Payne, Hilary"
<hpayne@amherstbur
g.ca>

To: <detroit.river@mto.gov.on.ca>, <Len_Kozachuk@urscorp.com>
cc:
Subject: FW: Canada-US Border Transportation Partnership

03/10/2004 01:37 PM

-----Original Message-----

From: Payne, Hilary
Sent: Wednesday, March 10, 2004 1:14 PM
To: 'detroit.river@mto.gov.on.ca'; 'Len_Kozachuk@urscorp.com'
Subject: FW: Canada-US Border Transportation Partnership

Len and Dave, following are brief comments from our planning consultant on the TOR with which I concur.
Good presentation this a.m!!!
Hilary

-----Original Message-----

From: Steve Langlois [mailto:slanglois@mbpc.ca]
Sent: Wednesday, March 10, 2004 11:33 AM
To: Payne, Hilary
Cc: Bratt, Lory
Subject: RE: Canada-US Border Transportation Partnership

Hilary/Lory: I am resending this e-mail (sent on March 4) as it appears to have not been delivered when it was originally sent. Lory, could you confirm that both you and Hilary received this. Thanks

-----Original Message-----

From: Steve Langlois [SMTP:slanglois@mbpc.ca]
Sent: Thursday, March 04, 2004 1:37 PM
To: Hillary Payne (E-mail)
Cc: Jean Monteith (E-mail); Lory Bratt (E-mail)
Subject: Canada-US Border Transportation Partnership

Hilary:

RE: Canada-US-Ontario Border Transportation Partnership

As requested, we have reviewed the Draft Terms of Reference for the above-noted project. As you are likely aware, the purpose of the Terms of Reference is to provide a framework through which all of the transportation route alternatives will be evaluated in terms of the Environmental Assessment. The proposed process is consistent with the Canadian and provincial environmental assessment legislation and the environmental and land use criteria by which they propose to evaluate the alternatives are appropriate.

The Environmental Assessment process is expected to take three years to complete. There will be numerous opportunities for public consultation and it would appear that Town Council can request briefings and meetings at any

point in the process (not unlike the upcoming meeting this month).

The timing of this study is different from that of the Town's Official Plan update, which is expected to be completed before a final decision is made on a preferred bridge route (if one is recommended in the first place). This should not be a big problem, however, it will be important that the transportation study is aware of the OP update (and vice versa) and that

some form of consultation occur at appropriate points in the process. Also

of note, the transportation study proponents may be requesting information on land use policies, landowner record, etc. from the Town as it pertains to the study area. In this regard, there may be some synergies between the two projects relating to the collection of land use and environmental data.

If you require any additional information regarding this issue, please do not hesitate to ask.

Regards,
Steve Langlois, B.E.S.
Intermediate Planner

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**Detroit River International Crossing EA Terms of Reference
Response to Municipality Comments**

The following list of interest groups submitted comments on the draft Terms of Reference document:

- Automotive Parts Manufacturers' Association
- Citizens in Support of DRTP
- Concerned Citizens of LaSalle
- Corktown Citizens District Council
- Hennepin Pt. Crossing, Inc.
- Oneida Nation of the Thames
- Saving Lives of Our Families (SLOOF)
- South/West Windsor Ratepayers Corp.
- Windsor West Community Truck Watch Coalition (WWCTWC)

Issue	Response
Need for Comprehensive Analysis of Transportation Problems and Solutions	The Planning/Need and Feasibility (P/NF) Study provides an overview and assessment of transportation problems and solutions across the U.S. and Canadian border within Southeast Michigan and Southwestern Ontario. This study identified a strategy for addressing the long-term needs of the border transportation network including: improvements to border processing; a new or expanded international crossing or crossings connecting the interstate freeway system in Michigan to the highway system in Ontario; optimizing use of the existing transportation network and travel demand measures/use of other modes to reduce demand on the network. The Partnership, in consultation with other government ministries, departments and agencies, is examining methods of responding to the elements of that strategy. One of the elements of the strategy is the planning and implementation of a new/expanded border crossing. The preparation of a TOR for an environmental assessment for the Detroit River International Crossing is consistent with the broader objectives of the Partnership and meets the requirements of the Ontario Environmental Assessment Act.
Need to Match Partnership and Proponency to Capacity for Implementation	The Partnership recognizes the important roles that border processing and national security agencies share with transportation agencies in providing for the safe, secure and efficient movement of people and goods across the U.S.-Canada border. Improvements to border processing is an element of the strategy identified in the P/NF Study. The Partnership has, and will continue to engage border processing and national security agencies in the identification, recommendation and implementation of solutions to cross-border travel and security issues. The U.S. Federal Highway Administration (FHWA) and Michigan Department of Transportation (MDOT) are working with U.S. General Services Administration and border agencies on the improvements to the plaza and freeway connections on the U.S. side of the Ambassador Bridge (FHWA served as the 'proponent' for the project under U.S. NEPA). While a number of border processing initiatives have been identified and are currently being implemented at the border crossings, these improvements alone are not sufficient to address the needs of the transportation network. The Partnership will continue to work with and coordinate the efforts of border processing agencies to implement improvements to border processing to address current deficiencies.
Draft TOR Fails to Address Sustainability Goals of the Government	All four members of the Partnership have included in their visions/mandates, objectives supporting sustainable development. The Detroit River International Crossing Project is consistent with those objectives, in that the project is intended to improve the efficiency of the transportation network serving the U.S./Canada border in the Detroit River area. An efficient transportation network is a key component of sustainable development. In developing and assessing transportation alternatives, the Partnership will consider sustainability issues such as those identified by LaSalle/Essex, including impacts to air quality, communities, natural features and neighbourhoods. The TOR identifies how such issues will be addressed during the EA. The Partnership also identifies that factors and criteria identified in the TOR for the development and assessment of alternatives represent the minimum consideration and will be refined and modified based on input received and study findings.
Need for Peer Review Support	As indicated previously, the Partnership is committed to working with all stakeholders to ensure effective participation in the process. The Partnership will incorporate consultation in the preparation of various interim project reports and working papers and any project decisions; these interim reports and working papers and any decision-making by the Partnership will be made available for public review; the Partnership will be available to discuss project issues and findings; and the Partnership will document the rationale for any decision-making for review and input by others. It is the Partnership's intent that this approach to consultation on project issues and a commitment to working cooperatively with all stakeholders will provide the support necessary for effective participation in the project.
Timeframe for Long-Term Decisions – Need to Separate Short and Long Term Solutions	The comments by LaSalle/Essex regarding the need for distinguishing between the short-term and long-term initiatives are noted and appreciated. The text of the TOR has been modified to incorporate a discussion of short-term initiatives planned and/or underway for the existing border transportation network in the Windsor/Essex County – Detroit/Wayne County area.
Traffic Projections	The development of the forecasting methodology and review of the forecasts included significant involvement from transportation forecasting experts from MDOT, MTO, Transport Canada, Canadian Customs and Revenue Agency, FHWA and SEMCOG. The study's base case forecasts were prepared using Government of Canada trade projections prepared after 9/11, which reflects a weakened economy in the near to mid term, but strong growth over the next 30 years. The longer lasting effects on future trade and traffic of 9/11, higher alert levels and other recent events/conditions (e.g. Iraq War, SARS, terrorism alerts, increased documentation requirements, etc.) are not known, although they have significantly impacted traffic in recent years. Throughout the bi-national planning process, the Partnership will continue to monitor changes in traffic levels and revise the long-range forecasts, as appropriate, to reflect updates to the long-term economic and trade forecasts for Canada and the United States and other social, political and environmental factors affecting cross-border traffic. The growth rates applied to project Work Trips and Other Same-Day Trips result in future traffic forecasts lower than the 25-year trend. While the growth rates are indeed marginally higher than the population and employment growth in the Windsor and Detroit areas, the growth rates also consider other causal factors affecting cross-border traffic levels such as the increasing integration between the Canadian and U.S. economies and efforts to increase the convenience of cross-border travel for frequent, low risk travellers through initiatives such as the NEXUS program. However, as noted above, the long lasting effects of 9/11, increased security and alert levels at the border on passenger car traffic will need to be monitored. As noted above, the commercial vehicle forecasts were prepared using Government of Canada trade projections prepared after 9/11. Projections were made by commodity type, including the Automotive and Machinery and Electronics categories and adopted to develop the commercial vehicle forecasts. A passenger car equivalent (PCE) factor of 3.0 for commercial vehicles is higher than the PCE of 2.0 typically used in urban areas, given the high proportion of tractor trailer vehicles (>90%), stop and go traffic conditions and the major grade on the Ambassador Bridge. Traffic data and forecasting assumptions will be reviewed and updated by transportation forecasting experts from the Partnership and other agencies during the EA.
Traffic Projections con't	The hourly distribution of truck traffic was reviewed as part of the P/NF Study, as well as the temporal distribution of passenger vehicles. The cross-border road capacity requirement was then determined by the peak hour condition based on the total vehicular volumes (with trucks expressed in passenger car equivalency). The distribution of truck traffic was found to be relatively uniform throughout the day compared to passenger vehicle traffic, indicating that commercial travel was being adjusted to avoid the peak crossing times. Based on these observations, the potential benefits to encouraging a shift in truck traffic to non-peak periods is not expected to be significant and would not substantially alter the timing for additional capacity needs in the Ambassador Bridge corridor. Nevertheless, the Partnership will consult with stakeholders on the implementation of this travel demand management measure. The Partnership acknowledges comments from stakeholders that scenarios can be developed that would suggest the need for additional capacity on the border transportation network in the Detroit River area can be either deferred beyond 2030, or indeed should be addressed immediately. The Partnership is satisfied that the range of scenarios framed by the high and low growth estimates represent a reasonable projection of what is most likely to occur, based on the best available information, considering a variety of economic and transportation factors.
Need to Recognize Approved Community Form and Infrastructure Investments	The comments made by LaSalle/Essex in this regard are noted. The P/NF Study identified that the Windsor/Essex County-Detroit/Wayne County area is extensively developed, such that it is not possible to generate alternatives for major transportation improvements that would avoid all impacts. The TOR identifies that the Partnership is committed to planning, designing, implementing and maintaining a transportation solution in an environmentally sensitive manner. Further, the TOR identifies that the integrated study process has been developed to aid in developing alternatives that minimize adverse environmental impacts and address the identified transportation problems. Through on-going consultation with LaSalle/Essex and other municipalities and stakeholders, the Partnership will identify project issues and concerns, which will be considered in the development and assessment of alternatives.

Issue	Response
Harmonization of Ontario, Federal and U.S. EA Processes	Section 1.3 of the draft TOR, together with Exhibit 1.3, identify that the Partnership is coordinating and concurrently undertaking the CEAA, NEPA and OEAA processes. Any conditions/conclusions or process implications resulting from reviews by Canadian or U.S. agencies will be incorporated in the bi-national process, as appropriate. The Partnership will consider the input from all stakeholders, including LaSalle/Essex, in any decision-making on the project. As noted in the draft TOR, the basis for any decisions by the Partnership will be clearly documented in support of a traceable process.
Comments on Proposed Consultation Process	Throughout the draft TOR, the Partnership has expressed its commitment to effective consultation with stakeholders. The views of LaSalle/Essex County Councils, as conveyed by themselves directly to the Partnership or through their representatives on the Municipal Advisory Group, will be sought by the Partnership and considered in any decision-making. Your suggestion of engaging locally elected representatives in the decision-making on alternatives is noted. As stated in the TOR, the format for consultation activities can be established during the EA to reflect the type of Project Team-stakeholder interaction required.
The Terms of Reference, when finalized, should recognize and appropriately acknowledge that current truck-traffic transportation congestion within the City of Windsor is unacceptable, and that there may be actions and projects required to deal with the problem which cannot await the outcome of the Bi-National Study process timetable.	<p>The Partnership acknowledges and appreciates your comments regarding the current border traffic congestion in the City of Windsor. The members of the Partnership, together with other government agencies and local municipalities have initiated infrastructure and operational improvements in both Canada and the U.S. that address the frequent and extended truck traffic delays and current congestion on approaches to existing border crossings. These include improvements to border processing, improvements to the U.S. plaza of the Ambassador Bridge and the Let's Get Windsor-Essex Moving Strategy. The text of the TOR has been modified to reflect these actions and projects, which are being carried out in addition to the Detroit River International Crossing Project.</p> <p>As well, the Partnership Planning/Need and Feasibility Study identified a strategy for addressing the long-term needs of the border transportation network including: improvements to border processing; a new or expanded international crossing or crossings connecting the interstate freeway system in Michigan to the highway system in Ontario; optimizing the use of the existing transportation network and travel demand measures/use of other modes to reduce demand on the network. The Partnership, in consultation with other government ministries, departments and agencies, is examining methods of responding to these elements of the strategy.</p> <p>The Partnership is committed to working with the City of Windsor in developing and implementing solutions to the border transportation issues in the Windsor/Essex County – Detroit/Wayne County area.</p>
We ask that the Terms of Reference acknowledge that the inhabitants of the City of Windsor have a special interest in ensuring that an appropriate and early solution is found to cross-border truck transportation impacts occurring within the City.	<p>It is recognized that the governments of Canada and Ontario have been working with the City to identify and prioritize appropriate solutions for the short-term.</p> <p>The Partnership understands the City's historic, economic and geographic connections to the border, and encourages the City's participation on all aspects of the project. The bi-national environmental assessment process will include consultation with the Detroit River area municipalities, counties and regions as the Partnership works towards a long-term solution.</p> <p>The Consultation Plan identified in the TOR identifies the activities proposed for the Detroit River International Crossing Project. The Partnership will incorporate consultation in the preparation of various interim project reports and working papers and any project decisions; these interim reports and working papers and any decision-making by the Partnership will be made available for public review; the Partnership will be available to discuss project issues and findings; and the Partnership will document the rationale for any decision-making for review and input by others. The Partnership is prepared to provide additional consultation opportunities to the City as the Partnership is identifying and prioritizing appropriate solutions. As stated in the TOR, the format for consultation activities can be established during the EA to reflect the type of Project Team-stakeholder interaction required. Consistent with an open public process, the Partnership will extend the same courtesy to all municipalities</p>
More consideration of the factors and criteria for the generation and evaluation of alternatives is required.	The factors and criteria presented in the draft TOR are preliminary and represent the minimum considerations. The Partnership has undertaken provisional modifications to the factors and criteria presented in the draft TOR to reflect comments received during the review. Evaluation factors will be finalized during the appropriate phases of the EA. More detailed listings of factors, criteria, indicators and measures will be developed and presented for consultation.
As weighting and scoring can clearly drive the output of the EA process, it is appropriate that the Terms of Reference commit to adequate and appropriate consultation on these key evaluation components prior to their being finalized.	The TOR identifies that, as part of the generation and evaluation of alternatives, the Partnership will consult with the Detroit River area municipalities and others to obtain input on the evaluation components. The City of Windsor is encouraged to participate in the consultation process to provide its views to the Partnership. This consultation will provide the Project Team with an understanding of the level of importance of the features, issues and inputs associated with the project. This information will be considered by the Partnership in any decision-making. The rationale for the decision made by the Partnership will be presented for comment.
Comments in support of study.	Thank you for your comments. The Partnership looks forward to continuing its consultations with the Town on this important issue.

APPENDIX D -

Public Information Open House Summary Report

Table of Contents

1.0	INTRODUCTION	1
2.0	PURPOSE	2
3.0	PUBLIC NOTIFICATION	2
4.0	PRE-PIOH MEETINGS.....	3
5.0	DISPLAY MATERIAL.....	3
6.0	ATTENDANCE / SUMMARY OF COMMENTS.....	4

APPENDIX A – NEWSPAPER ADVERTISEMENTS

APPENDIX B – DISPLAYS / INFORMATION HANDOUT PACKAGE

1.0 Introduction

The Partnership of Transport Canada, the U.S. Federal Highway Administration, Ontario Ministry of Transportation and Michigan Department of Transportation, developed a six-stage process to identify and implement effective solutions to current and future cross-border transportation problems. The first stage was completed with the publishing of the Planning/Need and Feasibility Study in January 2004. The study identifies a 30-year strategy for cross-border transportation in the Detroit River area.

As part of the second of six stages leading to the implementation of major transportation improvements, the Partners are proceeding with the formal environmental study processes on both sides of the border, namely, the U.S. National Environmental Policy Act (NEPA), the Ontario Environmental Assessment Act (OEAA), and a study that meets the requirements of the Canadian Environmental Assessment Act (CEAA).

Prior to preparing an Individual Environmental Assessment (EA), the Ontario Environmental Assessment Act requires that a proponent prepare a Terms of Reference (TOR). The TOR is a document that provides the framework the Partnership must follow in completing the environmental study, and requires approval by the Minister of the Environment (MOE). The subsequent individual EA is then prepared in accordance with the approved TOR.

Public Information Open Houses (PIOHs) were held to provide the opportunity to allow the public to review the draft TOR. The open houses were held as follows:

Monday, March 22, 2004 2:00 p.m. – 9:00 p.m. Cleary International Centre Canadian Club Room B 201 Riverside Drive West Windsor, Ontario	Tuesday, March 23, 2004 4:00p.m. – 9:00p.m. Sandwich West Public School 2055 Wyoming Avenue LaSalle, Ontario	Wednesday, March 24, 2004 4:00 p.m. – 9:00 p.m. Verdi Club 689 Texas Road, R.R. 3 Amherstburg, Ontario
Thursday, March 25, 2004 4:00 p.m. – 9:00 p.m. Ciociaro Club 3745 North Talbot Road Tecumseh, Ontario	Saturday, March 27, 2004 10:00 a.m. – 3:00 p.m. Radisson Riverfront Club Room Radisson Hotel 277 Riverside Drive West Windsor, Ontario	

Representatives from Transport Canada, Ontario Ministry of Transportation, U.S. Federal Highway Administration, Michigan Department of Transportation, URS Canada Inc., Corradino Group, and IBI Group staffed the open houses. The format for the PIOHs was a presentation of display panels that contained information about the TOR process and contents, as well as study findings to date. Representatives of the Partnership were available to answer questions and listen to comments from the public.

Comment sheets were made available at the Open House for attendees to submit questions and/or comments to the Partnership for consideration in this study.

2.0 Purpose

The purpose of the PIOHs was to present the TOR process and contents and to obtain public input and comments on the draft TOR. The information presented in the draft TOR includes:

- Purpose of the project;
- Integrated process for conducting the EA;
- Framework for generating and assessing alternatives;
- Framework for defining study area;
- Proposed generation and evaluation criteria;
- Proposed evaluation methodology; and
- Proposed consultation plan.

3.0 Public Notification

Prior to the PIOH, the following measures were carried out in order to make details of the Open Houses known to study area residents and interested members of the public:

1. 1. An Ontario Government Notice (Public Notice - Public Information Open House) was placed in the following newspapers on the specified dates to notify the public of the PIOH meetings and also to provide a listing of viewing locations for the draft TOR (see Appendix A):

Windsor Star	March 6 and March 20
Kingsville Reporter	March 9 and March 23
Amherstburg Echo	March 9 and March 23
Leamington Post	March 9 and March 23
Harrow News	March 9 and March 23
Le Rempart	March 10 and March 23
LaSalle Post	March 10 and March 23
Essex Free Press	March 10 and March 23
LaSalle Silhouette	March 12 and March 23
2. Notices were sent to Ontario elected officials in the project study area, as well as to the City/Town/County Clerks in Windsor, LaSalle, Amherstburg, Essex and Tecumseh.
3. Notices were directly to those on the Project Team's external mailing list, including representatives of the Private and Public Consultation Groups.
4. Details of the PIOHs were posted on the project website at www.PartnershipBorderStudy.com.
5. An additional Ontario Government Notice (Public Notice - Review Period Extension) was published following the PIOHs to announce the extension of the review period for providing comments on the draft TOR. This notice was placed in the following newspapers on the specified dates (see Appendix A):

Kingsville Reporter.....	April 6
Amherstburg Echo	April 6
Leamington Post.....	April 6
Windsor Star	April 7
Harrow News	April 7
Le Rempart	April 7
LaSalle Post.....	April 7
Essex Free Press.....	April 7
LaSalle Silhouette	April 9

4.0 Pre-PIOH Meetings

Municipal Council Meetings

Separate presentations were made by Project Team representatives to local municipal councils. The purpose of the meetings was to discuss the draft TOR. The dates of the council presentations were as follows:

Windsor City Council.....	March 9
LaSalle Town Council	March 9
Tecumseh Town Council	March 9
Essex County Council.....	March 10
Amherstburg Council	March 15

Private and Public Sector Consultation Group Meetings

Public and Private Sector Consultation Groups were formed to provide input and advice to the Project Team at key points during the study. The Private Sector Consultation Group is comprised of user groups, area businesses, and crossing operators and proponents of new crossings. The Public Sector Consultation Group is comprised of representatives from government agencies and staff of local and regional municipalities within the study area.

Public and Private Sector Consultation Group meetings were held in Windsor, Ontario on March 10, 2004. Separate sessions were held for each respective group. The purpose of these meetings was to discuss the overall study process and to introduce the draft TOR.

5.0 Display Material

The following display material was presented at the Public Information Open Houses (see Appendix B):

- Purpose of this Public Information Open House;
- Project Background and Progress;
- Key Plan;
- What is an EA Terms of Reference;
- Draft Terms of Reference for Public and Agency Review;
- Proposed Integrated Study Process;
- Preliminary Purpose and Need;

- Identifying and Assessing Transportation Planning Alternatives;
- Process for Generating a Study Area;
- Generation and Assessment of Alternatives;
- Environmental Considerations for Generating Practical and Illustrative Alternatives;
- Proposed Evaluation Criteria;
- Air Quality Impact Assessment;
- Proposed Evaluation Method;
- Public Consultation During the EA;
- Supporting Documents to the TOR;
- Submission to the Ontario Minister of the Environment (MOE);
- NEPA Purpose and Need; and
- Next Steps.

The attendees were provided with an information package that contained all of the presentation boards (see Appendix B), a Project Team Contact Information sheet, a Study Update sheet and a comment sheet.

6.0 Attendance/Summary of Comments

A total of 474 members of the public chose to sign the visitor's register for the five Public Information Open Houses.

In addition to verbal comments, the Project Team encouraged visitors to express, in writing, all comments they had regarding the information presented. In total 101 written comments were received at the PIOHs. In addition, 11 comments were received via mail and 62 comments were submitted via the project team website since March 4, 2004. A breakdown of attendance and comments by PIOH date/venue is provided as follows:

Date / Venue	Total Attendance	Written Comments Received
March 22, 2004 – Windsor, ON	87	25
March 23, 2004 – LaSalle, ON	318	59
March 24, 2004 – Amherstburg, ON	44	10
March 25, 2004 – Tecumseh, ON	15	3
March 27, 2004 – Windsor, ON	10	4
Total Comments received via fax / mail		11
Total Comments received via e-mail		62 (via e-mail and project website March 4/04 to April 30/04)
Total	474	174

The following summarizes the key comments, issues and concerns raised at each of the PIOHs:

March 22, 2004 – Windsor, Ontario

- Support for a new/expanded international crossing; "Doing Nothing" is not an option;
- Study process is too slow; time for EA study is too long;
- Take trucks off city streets, out of neighbourhoods;

- Concerned no specific corridors shown on maps;
- Public participation in the planning process; concern with political agendas;
- Concern about impacts to natural environment, air quality, property, health, community, safety;
- Support for short-term solutions and use of existing corridors;
- Support tunneling; support/oppose use of hydro corridor; support/oppose rail corridor; support/oppose using E.C. Row Expressway; support for combined truck and rail corridor;
- Support/oppose DRTP proposal; support/oppose Ambassador Bridge proposal;
- Request for copies of project documents;
- Good display material provided at meeting.

March 23, 2004 – LaSalle, Ontario

- Study process is too slow; EA process is too long and costly; speed up the process;
- Support for a new/expanded international crossing outside LaSalle;
- Concern regarding impacts to natural features, air quality, schools, businesses, residences, economy;
- Concern for increased noise level, increased traffic (especially truck traffic);
- Support tunneling; encourage use of rail; encourage “trucks only” crossing;
- Support for DRTP proposal; support for Mich-Can proposal; support new crossing/truck diversion to Samia;
- Concerned no specific corridors shown on maps;
- Concern for processing capacity and understaffing of customs facilities on U.S. side;
- Support automated processing system at border; support pre-processing centre;
- Question weighting of evaluation factors (how and when this will be undertaken);
- Request for copies of project documents; request simpler content in handouts;
- Support a thorough study process.

March 24, 2004 – Amherstburg, Ontario

- Support for a new/expanded international crossing;
- Study process is too slow; concerned with timeframe with no short-term solutions identified;
- Public participation in the planning process;
- Opposed to south corridor; support/oppose DRTP proposal;
- Concern for protection of wildlife and natural features; concern for impacts to neighbourhoods;
- Suggest soliciting “citizens at large” for views.

March 25, 2004 – Tecumseh, Ontario

- Support for a new/expanded international crossing;
- Support for a thorough study process; concerned public pressure to speed up process will compromise quality of study.
- Oppose DRTP proposal; support “contained” new crossing;
- Request for copies of project documents.

March 27, 2004 – Windsor, Ontario

- Support for a new/expanded international crossing;
- Study process is too slow; study appears thorough and complete;
- Support truck tunnel for fast and safe delivery for “just in time” factories;
- Need better emission controls; encourage use of cleaner burning fuels;
- Support pre-processing area outside city;
- Concern for health, future generations, schools, security, environment, natural features;
- Encourage use of rail; support DRTP.

APPENDIX A -
Newspaper Advertisements

PUBLIC NOTICE
PUBLIC INFORMATION OPEN HOUSE

Detroit River International Crossing
Environmental Assessment Terms of Reference

THE STUDY:

Transport Canada and the Ontario Ministry of Transportation in partnership with the U.S. Federal Highway Administration and the Michigan Department of Transportation, are working to provide for safe, efficient and secure movement of people and goods at the Canada-U.S. border in Southeastern Michigan – Southwestern Ontario.

The Partnership has developed a six-stage process to identify and implement effective solutions to current and future cross-border transportation problems. The first stage was completed with the publishing of the Planning/Need and Feasibility Study in January 2004. The study identifies a 30-year strategy for cross-border transportation in the Detroit River area.

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THE PROCESS:

Prior to preparing an Individual Environmental Assessment (EA), the Ontario Environmental Assessment Act requires that a proponent prepare a Terms of Reference (TOR). The Terms of Reference is a document that provides the framework the Partnership must follow in completing the environmental study. The TOR requires approval by the Minister of the Environment (MOE), and the subsequent Individual EA is then prepared in accordance with the approved TOR. The intention is to submit the TOR to the Minister of the Environment for review in April of 2004. Comments on the draft TOR are to be submitted to the Project Team by April 16, 2004.

DRAFT TERMS OF REFERENCE:

The Draft TOR and Supporting Documents are currently available for review. Information provided in the TOR includes:

- Purpose of the project
- Integrated process for conducting the EA
- Framework for generating & assessing alternatives
- Framework for defining study area
- Proposed generation and evaluation criteria
- Proposed evaluation methodology
- Proposed consultation plan

You are encouraged to review the documents on the project website (www.PartnershipBorderStudy.com) and provide comments directly to the Project Team or through the Public Information Open Houses. The document is also available at the following viewing locations:

<i>City of Windsor Clerk's Office</i> 350 City Hall Square West <i>Windsor Public Library</i> 850 Ouellette Avenue	<i>Town of LaSalle Clerk's Office</i> 5950 Malden Road <i>LaSalle Public Library</i> 5940 Malden Road	<i>Town of Amherstburg Clerk's Office</i> 271 Sandwich Street South <i>Amherstburg Library</i> 232 Sandwich Street South
<i>Town of Tecumseh Clerk's Office</i> 917 Lesperance Road <i>Tecumseh Public Library</i> 13675 St. Gregory's Road	<i>Essex County Clerk's Office</i> 360 Fairview Avenue West <i>Essex Library</i> 18 Gordon Avenue	

PUBLIC INFORMATION OPEN HOUSES:

The Project Team is also seeking public input and comments through Public Information Open Houses. The purpose of this round of consultation is to allow the public to review the draft Terms of Reference. You are encouraged to attend and provide your comments and suggestions.

The open houses will be held as follows:

Monday, March 22, 2004 2:00 p.m. – 9:00 p.m. Cleary International Centre Canadian Club Room B 201 Riverside Drive West Windsor, Ontario	Tuesday, March 23, 2004 4:00p.m. – 9:00p.m. Sandwich West Public School 2055 Wyoming Avenue LaSalle, Ontario
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Comments received during this round of open houses will be considered in the development of the final Environmental Assessment Terms of Reference document. Comments on the draft TOR are to be submitted to the Project Team by April 16, 2004. The final TOR will be prepared and submitted to the Minister of the Environment for approval. The Minister of the Environment will provide an opportunity for public and agency input when making a decision.

COMMENTS:

Comments and information regarding this project will be collected to assist the Partnership and the Project Team. This material will be maintained on file for use during the project and may be included in project documentation. Information collected will be used in accordance with the Freedom of Information and Protection of Privacy Act and the Access to Information Act. With the exception of personal information, all comments will become part of the public record.

For further information, or to be added to the mailing list, please contact the following Project Team representatives or visit our web site at www.PartnershipBorderStudy.com:

<p>Mr. Dave Wake Interim Partnership Coordinator Ministry of Transportation Environmental Unit Southwestern Region, 659 Exeter Road London, Ontario N6E 1L3 Tel: (519) 873-4559 Fax: (519) 873-4388 e-mail: detroit.river@mto.gov.on.ca</p>	<p>Mr. Len Kozachuk Consultant Team Coordinator URS Canada Inc. 75 Commerce Valley Drive East Markham, Ontario L3T 7N9 Tel: (905) 882-3540 Fax: (905) 882-4399 e-mail: len_kozachuk@urscorp.com</p>
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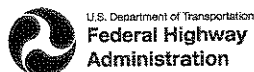
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COMMENTS:

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<p>Mr. Dave Wake Interim Partnership Coordinator Ministry of Transportation Environmental Unit Southwestern Region, 659 Exeter Road London, Ontario N6E 1L3 Tel: (519) 873-4559 Fax: (519) 873-4388 e-mail: detroit.river@mto.gov.on.ca</p>	<p>Mr. Len Kozachuk Consultant Team Coordinator URS Canada Inc. 75 Commerce Valley Drive East Markham, Ontario L3T 7N9 Tel: (905) 882-3540 Fax: (905) 882-4399 e-mail: len_kozachuk@urscorp.com</p>
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PUBLIC NOTICE

REVIEW PERIOD EXTENSION

Detroit River International Crossing Environmental Assessment Terms of Reference

The review period for providing comments on the draft Terms of Reference has been extended.

This notice follows previous notices published the weeks of March 8-12 and March 22-26, 2004, and Public Information Open Houses held March 22-26 and 27, 2004. Below is background information on the draft Terms of Reference.

THE STUDY:

Transport Canada and the Ontario Ministry of Transportation in partnership with the U.S. Federal Highway Administration and the Michigan Department of Transportation, are working to provide for safe, efficient and secure movement of people and goods at the Canada-U.S. border in Southeastern Michigan – Southwestern Ontario.

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Essex Library
18 Gordon Avenue

EXTENSION OF REVIEW PERIOD:

The review period for providing comments on the draft TOR has been extended.
Please submit comments to the Project Team by **April 30, 2004**.

Comments received will be considered in the development of the final Environmental Assessment Terms of Reference document. The final TOR will be prepared and submitted to the Minister of the Environment for approval. The Minister of the Environment will provide an opportunity for public and agency input when making a decision.

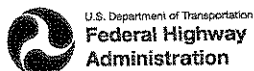
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Mr. Dave Wake
Interim Partnership Coordinator
Ministry of Transportation Environmental Unit
Southwestern Region, 659 Exeter Road
London, Ontario N6E 1L3
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Fax: (519) 873-4388
e-mail: detroit.river@mto.gov.on.ca

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URS Canada Inc.
75 Commerce Valley Drive East
Markham, Ontario L3T 7N9
Tel: (905) 882-3540
Fax: (905) 882-4399
e-mail: len_kozachuk@urscorp.com



APPENDIX B -
*Displays / Information
Handout Package*





Canada-U.S.-Ontario-Michigan
Border Transportation Partnership

Detroit River International Crossing

Environmental Assessment Terms of Reference

Welcome to the
Public Information Open House
March 2004

~ Please Sign In ~
Members of the Project Team are available to discuss any questions that you may have.

Project Background and Progress (cont.)





The P/NF Study identified a long-term strategy to meet the needs of the transportation network serving the border between Southeastern Michigan – Southwestern Ontario.

Elements of the strategy, presented as advice to the Partnership governments, include:

- improvements to border processing
- optimizing the use of the existing transportation network
- travel demand measures
- encouraging the use of other travel modes, and
- major infrastructure projects to address border crossing deficiencies

On the basis of the findings of the P/NF Study, the Partnership is proceeding with formal environmental studies on both sides of the border.

As a member of the Partnership, the Ontario Ministry of Transportation is moving forward with the development of a Terms of Reference (TOR) for the preparation of the individual environmental assessment.










Purpose of this Public Information Open House

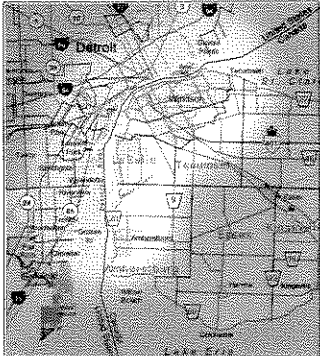
- Provide an update on the progress of the project.
- Present key components of the draft Ontario Environmental Assessment Terms of Reference (TOR).
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



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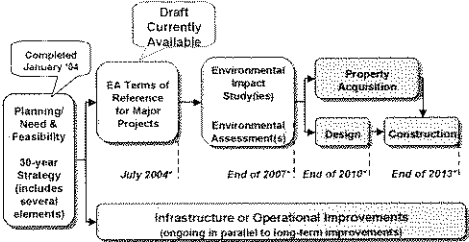
Key Plan












Project Background and Progress

In January 2004, the Canada-United States-Ontario-Michigan Border Transportation Partnership produced a final Planning/Need and Feasibility (P/NF) Study Report. The P/NF Study was the first of a multi-stage process leading to the implementation of transportation improvements.



*Timeframes are approximate

What is an EA Terms of Reference?





Major transportation improvements require individual approval under Ontario's Environmental Assessment Act.

A Terms of Reference (TOR) is:

- the first step in completing the Environmental Assessment (EA).
- a document which outlines the study process for an EA.
- a document which outlines how interested parties will be consulted during the EA.

A draft TOR is now available for public and agency review (refer to the following display panel for details).

Comments on the draft TOR will be considered in the preparation of the formal TOR, which is submitted to the Ontario Minister of the Environment for approval. After the review period is complete, the Minister can approve (with or without conditions) or reject the TOR. Following approval, the EA can proceed in accordance with the TOR.

Draft Terms of Reference for Public and Agency Review

A draft of the EA Terms of Reference and Supporting Documents has been prepared and can be reviewed at the following locations:

- | | |
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| Town of Tecumseh Clerk's Office | Tecumseh Public Library |
| Essex County Clerk's Office | Essex Library |

The documents can also be viewed at www.PartnershipBorderStudy.com

The contents of the draft TOR are summarized in the following display panels



Identifying & Assessing Transportation Planning Alternatives

Transportation planning alternatives are fundamentally different ways of solving the problem.

Planning Alternatives to be considered in this project will include, but are not limited to:

- Doing nothing;
- Improvements to border processing;
- Travel demand management;
- New and/or improved rail alternatives with new and/or expanded international rail crossing;
- New and/or improved transit services;
- New and/or improved marine services;
- New and/or improved road alternatives with new or expanded international road crossing; and
- Combinations of the above.

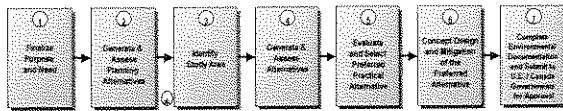
Do you agree with this list of planning alternatives to be considered in the EA?



Proposed Integrated Study Process

The proposed study process for the development, assessment and evaluation of alternatives for the Detroit River International Crossing Project is illustrated below.

A key objective of the Partnership is to develop an integrated environmental study process, which complies with the requirements of the governments of Canada and the U.S.



The appropriateness of the study process identified in the Terms of Reference will be verified with the Ontario Ministry of the Environment after the assessment of planning alternatives.



Identifying & Assessing Transportation Planning Alternatives

In assessing the suitability and effectiveness of planning alternatives, the following factors/criteria are proposed to be considered:

FACTORS	CRITERIA
Transportation Network Improvement	Ability to enhance congestion on the transportation network by improving travel time and reducing the environmental footprint and height footprint
Transportation Opportunities	Ability to optimize use of existing transportation corridors or planned network improvements.
Government, Land Use, Transportation Planning and Tourism Objectives	Consistency with established objectives
Border Processing	Ability to meet the long-term needs of border processing, migration
Environmental Feasibility	Potential impacts to environmental constraints (e.g. include consideration of Natural Environment, Biodiversity, Wetlands and Cultural/E Environmental features)
Technical Feasibility	Ability to achieve minimum technical requirements at a reasonable construction/implementation cost

Do you agree with this list of factors/criteria proposed to assess planning alternatives?



Preliminary Purpose and Need

The purpose of the Detroit River International Crossing Project is to maintain and improve the safe, secure and efficient movement of people and goods across the Canadian-U.S. border in the Detroit River area.

Do you have any comments on the stated purpose of the project?

The transportation problems to be addressed are:

- Lack of reasonable options for maintaining the movement of people and goods in cases of major incidents, maintenance operations, congestion or other disruptions;
- Lack of sufficient capacity to meet the long-term (i.e. 30-year) travel demand; and
- Increased security requirements creating impacts on the movement of people and goods at border crossings.

In addressing these transportation problems, the EA will consider opportunities to reduce impacts and enhance benefits to the border region.



Process for Generating a Study Area

After the assessment of planning alternatives, a study area will be generated.

The study area will be established based on the following considerations:

- Constraint areas and features; and
- The ability of route/corridor alternatives to address the problems and opportunities.

Should other inputs be considered in generating a study area for the project?



Generation and Assessment of Alternatives

The process for generating alternatives discussed in the draft TOR is applicable to linear transportation facilities (i.e. road and/or rail rights-of-way). The appropriateness of this process will be reviewed during the EA study.

The proposed process for generating alternatives is as follows:

- Review constraint areas/features to identify opportunity corridors.
- Within the opportunity corridors, develop long list of route alternatives (referred to as *illustrative alternatives*).
- Assess the illustrative alternatives and identify those to be carried forward for further consideration (referred to as *practical alternatives*).
- Assess the practical alternatives and identify the preferred alternative(s).

Canada Federal Infrastructure Administration Ontario MINDOT

Environmental Considerations for Generating Practical and Illustrative Alternatives

In generating route/corridor alternatives, the following environmental components and features will be considered:

COMPONENT	FEATURE
Social Environment	<ul style="list-style-type: none"> Areas of Residential, Commercial - Institutional Development Landfills and Hazardous Waste Sites
Cultural Environment	<ul style="list-style-type: none"> Historical, Archeological and Cultural Sites National, State and Provincial Parks, and Conservation Areas
Natural Environment	<ul style="list-style-type: none"> Geographical Corridors and Diversity Surface Water Quality and Quantity Agricultural Lands Wetlands Areas of Natural and Scientific Interest (ANSIS) Environmentally Sensitive Areas (ESA's) Watersheds Wildlife Preserves Endangered Species

Are there any other environmental components and features that should be considered in generating alternatives?

Canada Federal Infrastructure Administration Ontario MINDOT

Generation and Assessment of Alternatives

In generating route/corridor alternatives, consideration is given to the following factor areas:

- Social Environment;
- Economic Environment;
- Cultural Environment;
- Natural Environment;
- Technical Considerations ; and
- Cost

Significant features will be identified using secondary sources, such as aerial photography, and large-scale constraint mapping and will be supplemented with field visits and meetings with stakeholders.

Alternative route / corridors will be developed and efforts will be made to avoid or minimize impacts to the extent possible.

Canada Federal Infrastructure Administration Ontario MINDOT

Proposed Evaluation Criteria

Impacts associated with the illustrative / practical alternatives will be identified according to the following factors/criteria:

ENVIRONMENTAL FACTOR	CRITERIA
Socio-Economic Environment	
Property and Access	<ul style="list-style-type: none"> Impacts to residential areas (i.e. property access impacts) Impacts to commercial/industrial areas (i.e. property access impacts) Impacts to industrial operations
Community Effects	<ul style="list-style-type: none"> Noise impacts Impacts to businesses, schools, places of worship Impacts on community activities
Priority Route & Corridor	<ul style="list-style-type: none"> Effect on operating and future waste disposal sites Impacts to other known transportation sites
Cultural Environment	
Archaeology	<ul style="list-style-type: none"> Impacts to historically-significant sites
Heritage and Recreation	<ul style="list-style-type: none"> Impacts to both heritage features and cultural heritage sites Impacts to National, State/Provincial and local parks/recreation sites
Natural Environment	
Groundwater	<ul style="list-style-type: none"> Impacts to groundwater and discharge areas, as well as identified wetlands and source protection areas set aside pursuant to applicable legislation
Aquatic Habitat, Fisheries and Surface Water	<ul style="list-style-type: none"> Impacts to surface fish habitat features (flowing, healthy, natural, riparian, or watercourse channels, wetlands) Impacts to water courses, including channel realignments and fill
Agricultural	<ul style="list-style-type: none"> Impacts to prime agricultural soils

*All factors/criteria will be reviewed during the EA study.

Canada Federal Infrastructure Administration Ontario MINDOT

Generation and Assessment of Alternatives

In assessing the feasibility of opportunity corridors, the following factors/criteria will be considered:

FACTOR	CRITERIA
Transportation Network Improvement	<ul style="list-style-type: none"> Support local intermodal traffic Support long distance freight travel Support long distance passenger travel Limit negative impacts to access and mobility on local road networks (address intermodal truck and vehicle congestion)
Transportation Opportunities	<ul style="list-style-type: none"> Optimize use of the existing infrastructure
Government, Land Use, Transportation Planning and Tourism Objectives	<ul style="list-style-type: none"> Support existing land use and future plans Support the transportation system Improve security and protect against factors vulnerability
Border Processing	<ul style="list-style-type: none"> Meet the border needs for inspection and processing of commercial and passenger traffic
Environmental Feasibility	<ul style="list-style-type: none"> Avoid as much as possible impacts to sensitive areas associated with natural, social, cultural and economic features in the study area
Technical Feasibility	<ul style="list-style-type: none"> Technical considerations (i.e. length of corridor, length of river crossing, geotechnical conditions) Constructability and related impacts

*All factors/criteria will be reviewed during the EA study.

Do you agree with this list of factors/criteria proposed to assess the feasibility of the opportunity corridors?

Canada Federal Infrastructure Administration Ontario MINDOT

Proposed Evaluation Criteria (cont.)

ENVIRONMENTAL FACTOR	CRITERIA
Natural Environment Cont.	
Wetlands	<ul style="list-style-type: none"> Impacts to Provincially Significant Wetlands and Wetland Function Impacts to wetlands and riparian wetlands to the extent possible
Wetlands	<ul style="list-style-type: none"> Impacts on wildlife (habitat, food and shelter) Impacts on ecological functional areas such as sensitive corridors or zones
Social Issues	<ul style="list-style-type: none"> Impacts to important wildlife areas such as deeryards, historic, wetlands areas and riparian areas (RA's). Other areas to be considered are any identified wildlife management, riparian and research program sites Impacts to environmentally important features such as Environmentally Sensitive Areas (ESA's), Areas of Natural and Scientific Interest (ANSIS) or other areas of provincial, regional or local significance are the function of these features Impacts to special species including the Downy Woodpecker, Great Horned Owl, Canada Lynx and M.P.E. All birds including the Golden Plover, Sharp-shinned Hawk
Air Quality	<ul style="list-style-type: none"> Effects on sensitive receptors to air quality Air quality and EMS objectives
Watersheds	<ul style="list-style-type: none"> Impacts to significant forest zones and watersheds
Resources	<ul style="list-style-type: none"> Impacts to mineral, petroleum and mineral aggregate resources
Priority Route & Corridor	<ul style="list-style-type: none"> Effect on operating and future waste disposal sites Impacts to other known transportation sites
Technical Considerations	
Transportation	<ul style="list-style-type: none"> Transportation Operations Network Compatibility
Cost	<ul style="list-style-type: none"> Cost

*All factors/criteria will be reviewed during the EA study.

Are there any other factors/criteria which should be considered in assessing and evaluating alternatives?

Canada Federal Infrastructure Administration Ontario MINDOT

Air Quality Impact Assessment

Air Quality has been identified as an important issue to be addressed in the generation, analysis and evaluation of alternatives for this project.

The Partnership is developing a strategy to address impacts to air quality in a manner that meets the requirements of the governments of Canada, the U.S., Ontario and Michigan.

Several preliminary discussions with the government agencies responsible for assessing and reviewing impacts to air quality associated with this project have been held. These agencies include:

- Health Canada
- Environment Canada
- Transport Canada
- U.S. Environmental Protection Agency
- Federal Highways Administration
- Ontario Ministry of the Environment
- Ontario Ministry of Transportation
- Michigan Department of Environmental Quality
- Michigan Department of Transportation
- Southeast Michigan Council of Governments

As the project proceeds, the Partnership will continue to work with these agencies to develop the appropriate bi-national air quality impact assessment strategy for the Detroit River International Crossing Project.

Public Consultation During the EA

Public consultation is an essential part of the EA process. The Public will be invited to provide input to the environmental studies (natural, social, economic and cultural) and the evaluation process.

Public Information Open Houses (PIOH) and Workshops for the public and concerned agencies will coincide with each stage of the study process. Consultation inputs to each study stage is illustrated schematically in the following display.

External agencies provide valuable support by identifying compliance issues (laws, regulations, policies and programs) and other areas of concern within their jurisdiction as well as professional expertise and local knowledge.

External Agencies to be consulted throughout the EA study include Provincial Ministries/Agencies, State Departments/Agencies, U.S. and Canadian Federal Agencies, Municipalities and First Nation Groups.

Proposed Evaluation Method

The evaluation is based upon the assessment of impacts and involves a comparative analysis of the advantages and disadvantages of the alternatives considered. This leads to the selection of a 'Preferred Alternative'.

A Reasoned Argument (or Trade-off) method will be the primary evaluation method and an Arithmetic (weighting-scoring) method will be undertaken to verify the results.

The highlights of these evaluation methodologies are outlined as follows:

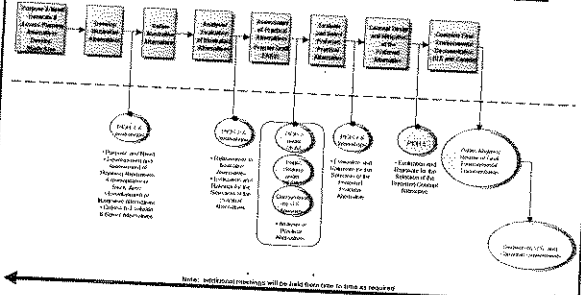
Reasoned Argument (Trade-off) Method

- Highlights the differences in net impacts (impacts after mitigation has been applied) of the various alternatives
- Identifies the advantages and disadvantages of each alternative
- Relative significance of impacts are considered

The rationale that favours the selection of one alternative will be derived from:

- Issues and concerns identified during public consultation;
- Government legislation, policies and guidelines;
- Municipal policy (i.e., Official Plans); and
- Project Team expertise.

Public Consultation During the EA



Note: Additional meetings will be held from time to time as required

Do you agree with the proposed Consultation Plan?

Proposed Evaluation Method (con't)

Arithmetic Method

- The level of importance of each environmental attribute is assigned a *weight*.
- The magnitude of the impact/benefit is assigned a *score*.
- The weight is multiplied by the score to obtain a *weighted score*.
- The weighted scores are compared in selecting a preferred alternative.

The general public, municipalities and agencies can participate in establishing the weights of the environmental attributes.

Comparison of Evaluation Results

In developing a preferred alternative, the results of both evaluation methods will be considered.

Do you agree with the proposed Evaluation Method to guide the evaluation and selection of a preferred alternative?

Supporting Documents to the ToR

The following supporting documents have been prepared to provide background information regarding this study:

- Canada-U.S.-Ontario-Michigan Border Transportation Partnership Transportation Problems and Opportunities Report (January 2004);
- The FHWA/NEPA Planning and Approval Process;
- Preliminary Description of Existing Environment and Potential Effects;
- Alternatives Generation Criteria;
- Proposed Factors to Assess Feasibility of the Opportunity Corridors;
- Typical Elements of Concept Design;
- Activities Following Approval of the EA, and
- Proposed schedule for conducting the OEA.

The supporting documents are not subject to an approval decision by the Minister of the Environment.

Submission to the Ontario Minister of the Environment (MOE)

- A draft Environmental Assessment Terms of Reference (TOR) is now available for review. Comments on the draft TOR are to be submitted directly to the Ministry of Transportation (MTO) no later than **April 16th, 2004**.
- MTO will consider all comments received on the draft TOR in preparing the formal document for submission to the Minister of the Environment in Spring 2004.
- Once the formal TOR is submitted, members of the public and government reviewers have a 30-day period to provide comments to the Minister. The Minister will consider all comments received in evaluating the TOR. Within 12 weeks of submission, the Minister will make a decision whether or not to approve the TOR.
- The following measures will be taken to elicit comments on the formal TOR:
 - Post a summary of the TOR and contact information for sending comments on its Environmental Assessment Activities Website;
 - Place an advertisement in local newspapers;
 - Send letters to all individuals on its project mailing list;
 - Post the complete TOR document on the project website: www.PartnershipBorderStudy.com; and
 - Provide copies of the TOR to libraries and municipal offices that have been used in the past for this project.

Canada

Environment Canada
Ministry of the Environment

Ontario

MDOT

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Your Input is IMPORTANT to this Study!

Please leave us your comments or contact us via:

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Interim Partnership Coordinator
Ministry of Transportation, Environmental Unit
Southwestern Region, 659 Exeter Road
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Tel. (519) 873-4559
Fax (519) 873-4388
detroit.river@mto.gov.on.ca

Mr. Len Kozachuk
Consultant Team Coordinator
URS Canada Inc.
75 Commerce Valley Drive East
Markham, Ontario L3T 7N9
Tel. (905) 882-3540
Fax (905) 882-4399
len_kozachuk@urscorp.com

Project Web Site: www.partnershipborderstudy.com

Toll Free Hotline: 1-800-900-2649

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Environment Canada
Ministry of the Environment

Ontario

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NEPA Purpose and Need

A Purpose and Need Statement is currently being drafted in accordance with the requirements of the U.S. National Environmental Policy Act (NEPA).

The Purpose and Need Statement is a brief statement circulated to U.S. federal agencies with responsibility for approvals and permits related to the project.

Agencies are requested to indicate any concerns re: the purpose or process for the EIS; FHWA considers these concerns in finalizing the Purpose and Need Statement.

Once the Purpose and Need Statement is finalized, scoping of the project can begin.

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Ontario

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Next Steps

After this Public Information Open House (PIOH), the Partnership will:

- Review the comments received and respond to any questions.
- Finalize the EA Terms of Reference.
- Submit the EA Terms of Reference to MOE for approval*.

* The Minister of the Environment will conduct a 30-day public and government review of the EA Terms of Reference prior to making a decision.

Thank you for attending!

Canada

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Ministry of the Environment

Ontario

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



Canada-U.S.-Ontario-Michigan
Border Transportation Partnership

Detroit River International Crossing

**Environmental Assessment
Terms of Reference**

Public Information Open House
March 2004

Information Package










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- Provide an update on the progress of the project.
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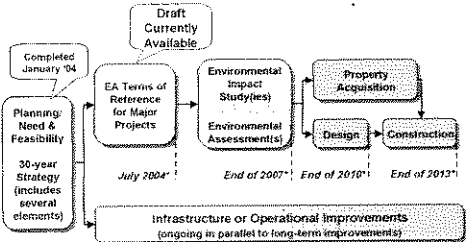
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








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



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Elements of the strategy, presented as advice to the Partnership governments, include:

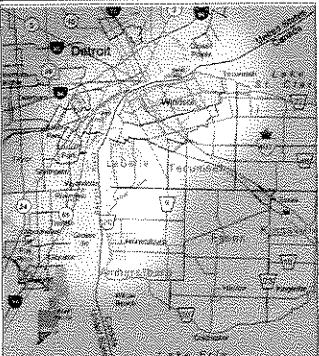
- improvements to border processing
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



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As a member of the Partnership, the Ontario Ministry of Transportation is moving forward with the development of a Terms of Reference (TOR) for the preparation of the individual environmental assessment.

Key Plan



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



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


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Essex County Clerk's Office	Essex Library

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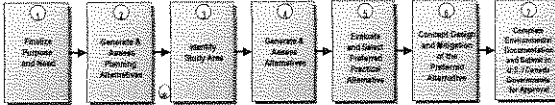
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



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Preliminary Purpose and Need





The purpose of the Detroit River International Crossing Project is to maintain and improve the safe, secure and efficient movement of people and goods across the Canadian-U.S. border in the Detroit River area.

Do you have any comments on the stated purpose of the project?

The transportation problems to be addressed are:

- Lack of reasonable options for maintaining the movement of people and goods in cases of major incidents, maintenance operations, congestion or other disruptions;
- Lack of sufficient capacity to meet the long-term (i.e. 30-year) travel demand; and
- Increased security requirements creating impacts on the movement of people and goods at border crossings.

In addressing these transportation problems, the EA will consider opportunities to reduce impacts and enhance benefits to the border region.





Identifying & Assessing Transportation Planning Alternatives

Transportation planning alternatives are fundamentally different ways of solving the problem.

Planning Alternatives to be considered in this project will include, but are not limited to:

- Doing nothing;
- Improvements to border processing;
- Travel demand management;
- New and/or improved rail alternatives with new and/or expanded international rail crossing;
- New and/or improved transit services;
- New and/or improved marine services;
- New and/or improved road alternatives with new or expanded international road crossing; and
- Combinations of the above.

Do you agree with this list of planning alternatives to be considered in the EA?










Identifying & Assessing Transportation Planning Alternatives

In assessing the suitability and effectiveness of planning alternatives, the following factors/criteria are proposed to be considered.

FACTORS	CRITERIA
Transportation Network Improvement	Ability to address congestion on the transportation network by expanding travel time and reliability for international passenger and freight movement
Transportation Opportunities	Ability to optimize use of existing transportation corridors or planned capacity utilization
Government Land Use, Transportation Planning and Funding Objectives	Consistency with jurisdictional objectives
Border Processing	Ability to meet the long-term needs of border processing agencies
Environmental Feasibility	Potential impacts to environmental constraint areas (includes consideration of Natural Environment, Socio-economic Environment and Cultural Environment features)
Technical Feasibility	Ability to achieve minimum technical requirements at a reasonable construction/implementation cost

Do you agree with this list of factors/criteria proposed to assess planning alternatives?





Process for Generating a Study Area

After the assessment of planning alternatives, a study area will be generated.

The study area will be established based on the following considerations:

- Constraint areas and features; and
- The ability of route/corridor alternatives to address the problems and opportunities.

Should other inputs be considered in generating a study area for the project?

Generation and Assessment of Alternatives

The process for generating alternatives discussed in the draft TOR is applicable to linear transportation facilities (i.e. road and/or rail rights-of-way). The appropriateness of this process will be reviewed during the EA study.

The proposed process for generating alternatives is as follows:

- Review constraint areas/features to identify opportunity corridors.
- Within the opportunity corridors, develop long list of route alternatives (referred to as *illustrative alternatives*).
- Assess the illustrative alternatives and identify those to be carried forward for further consideration (referred to as *practical alternatives*).
- Assess the practical alternatives and identify the preferred alternative(s).

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Generation and Assessment of Alternatives

In generating route/corridor alternatives, consideration is given to the following factor areas:

- Social Environment
- Economic Environment
- Cultural Environment
- Natural Environment
- Technical Considerations, and
- Cost

Significant features will be identified using secondary sources, such as aerial photography, and large-scale constraint mapping and will be supplemented with field visits and meetings with stakeholders.

Alternative route / corridors will be developed and efforts will be made to avoid or minimize impacts to the extent possible.

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Generation and Assessment of Alternatives

In assessing the feasibility of opportunity corridors, the following factors/criteria will be considered:

FACTOR*	CRITERIA*
Transportation Network In-Province:	<ul style="list-style-type: none"> Support local transportation needs Support long distance freight travel Support long distance passenger travel Minimize impacts to access and abilities on local road networks (especially international truck and/or vehicle connection)
Transportation Organization:	<ul style="list-style-type: none"> Optimize use of the existing infrastructure
Government, Land Use Transportation Planning and Technical Objectives:	<ul style="list-style-type: none"> Support existing land use and future plans Support the transportation system Maintain flexibility and protect against system vulnerability
Route Processing:	<ul style="list-style-type: none"> Meet law enforcement needs for enforcement and processing of commercial and passenger traffic
Environmental Feasibility:	<ul style="list-style-type: none"> Assess as much as possible impacts to constraint areas associated with natural, social, cultural and economic features in the study area
Technical Feasibility:	<ul style="list-style-type: none"> Construction and Existing Impacts

*All factors/criteria will be reviewed during the EA study

Do you agree with this list of factors/criteria proposed to assess the feasibility of the opportunity corridors?

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Environmental Considerations for Generating Practical and Illustrative Alternatives

In generating route/corridor alternatives, the following environmental components and features will be considered:

COMPONENT	FEATURE
Social Environment	<ul style="list-style-type: none"> Awards of Residences, Commercial / Institutional Development Wildlife and Migratory Waterfowl Sites
Cultural Environment	<ul style="list-style-type: none"> Historical, Archaeological and Cultural Sites National, State and Provincial Parks, and Conservation Areas
Natural Environment	<ul style="list-style-type: none"> Groundwater Quality and Quantity Surface Water Quality and Quantity Agricultural Lands Wetlands Areas of Natural and Scientific Interest (ANSI's) Environmentally Sensitive Areas (ESA's) Woodlands Wildlife Provinces Endangered Species

Are there any other environmental components and features that should be considered in generating alternatives?

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Proposed Evaluation Criteria

Impacts associated with the illustrative / practical alternatives will be identified according to the following factors/criteria:

ENVIRONMENTAL FACTOR*	CRITERIA*
Socio-Economic Environment	
Property Use Access	<ul style="list-style-type: none"> Impacts to residential areas (i.e. property access impacts) Impacts to commercial/industrial areas (i.e. property access impacts) Impacts to public/private operations
Community Effects	<ul style="list-style-type: none"> Noise impacts Impacts to recreational, cultural, places of worship Impacts to emergency services
Property Access & Circulation	<ul style="list-style-type: none"> Impacts on existing and future water disposal uses Impacts to other water consumption uses
Cultural Environment	
Archaeology	<ul style="list-style-type: none"> Impacts to historical/archaeological sites
Heritage and Recreation	<ul style="list-style-type: none"> Impacts to built heritage features and cultural landscape uses Impacts to National, State/Provincial and local parks/recreation sites
Natural Environment	
Groundwater	<ul style="list-style-type: none"> Impacts to groundwater and discharge areas, as well as identified wetlands and source protection areas and areas susceptible to groundwater contamination
Aquatic Habitat, Fisheries and Surface Water	<ul style="list-style-type: none"> Impacts to critical fish habitat, wetlands (downing, leaving, burying) Impacts to riparian habitat (erosion, siltation) Impacts to water bodies, including physical requirements and use
Agriculture	<ul style="list-style-type: none"> Impacts to prime agricultural areas

*All factors/criteria will be reviewed during the EA study.

Are there any other factors / criteria which should be considered in assessing and evaluating alternatives?

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Proposed Evaluation Criteria (cont.)

ENVIRONMENTAL FACTOR*	CRITERIA*
Natural Environment Cont.	
Wetlands	<ul style="list-style-type: none"> Impacts to provincially significant wetlands and wetland buffers Impacts to regulated and unregulated wetlands to the extent possible
Wetlands	<ul style="list-style-type: none"> Wetlands on species at risk (sensitive) fish and wildlife Wetlands on ecologically functional areas such as shoreline protection, or water yield
Social Area	<ul style="list-style-type: none"> Impacts to provincially significant areas such as wetlands, historical areas, and important wet areas (IBA). Other areas to be considered for on-site wildlife management, rehabilitation and research program uses Impacts to environmentally significant features such as Environmentally Sensitive Areas (ESA's), Areas of Natural and Scientific Interest (ANSI's) or other areas of provincial, regional or local significance and the handling of these features Impacts to special species including the Great River Conservation Authority Lands and BSA's AVI, both including the Section of these features
Air Quality	<ul style="list-style-type: none"> Impacts on sensitive receptors to air quality Impacts on sensitive receptors to noise
Wetlands	<ul style="list-style-type: none"> Impacts to provincially significant wetlands and wetland buffers
Wetlands	<ul style="list-style-type: none"> Impacts to regulated, unregulated and ecologically sensitive wetlands
Property Access & Circulation	<ul style="list-style-type: none"> Impacts on existing and future water disposal uses Impacts to other water consumption uses
Technical Considerations	
Transportation	<ul style="list-style-type: none"> Proposed operations Network connectivity
Cost	<ul style="list-style-type: none"> Cost

*All factors/criteria will be reviewed during the EA study.

Are there any other factors / criteria which should be considered in assessing and evaluating alternatives?

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Air Quality Impact Assessment

Air Quality has been identified as an important issue to be addressed in the generation, analysis and evaluation of alternatives for this project.

The Partnership is developing a strategy to address impacts to air quality in a manner that meets the requirements of the governments of Canada, the U.S., Ontario and Michigan.

Several preliminary discussions with the government agencies responsible for assessing and reviewing impacts to air quality associated with this project have been held. These agencies include:

- Health Canada
- Environment Canada
- Transport Canada
- U.S. Environmental Protection Agency
- Federal Highways Administration
- Ontario Ministry of the Environment
- Ontario Ministry of Transportation
- Michigan Department of Environmental Quality
- Michigan Department of Transportation
- Southeast Michigan Council of Governments

As the project proceeds, the Partnership will continue to work with these agencies to develop the appropriate bi-national air quality impact assessment strategy for the Detroit River International Crossing Project.

Proposed Evaluation Method

The evaluation is based upon the assessment of impacts and involves a comparative analysis of the advantages and disadvantages of the alternatives considered. This leads to the selection of a "Preferred Alternative".

A Reasoned Argument (or Trade-off) method will be the primary evaluation method and an Arithmetic (weighting-scoring) method will be undertaken to verify the results.

The highlights of these evaluation methodologies are outlined as follows:

Reasoned Argument (Trade-off) Method

- Highlights the differences in net impacts (impacts after mitigation has been applied) of the various alternatives
- Identifies the advantages and disadvantages of each alternative
- Relative significance of impacts are considered

The rationale that favours the selection of one alternative will be derived from:

- Issues and concerns identified during public consultation;
- Government legislation, policies and guidelines;
- Municipal policy (i.e., Official Plans); and
- Project Team expertise

Proposed Evaluation Method (cont)

Arithmetic Method

- The level of importance of each environmental attribute is assigned a *weight*.
- The magnitude of the impact/benefit is assigned a *score*.
- The weight is multiplied by the score to obtain a *weighted score*
- The weighted scores are compared in selecting a preferred alternative.

The general public, municipalities and agencies can participate in establishing the weights of the environmental attributes.

Comparison of Evaluation Results

In developing a preferred alternative, the results of both evaluation methods will be considered.

Do you agree with the proposed Evaluation Method to guide the evaluation and selection of a preferred alternative?

Public Consultation During the EA

Public consultation is an essential part of the EA process. The Public will be invited to provide input to the environmental studies (natural, social, economic and cultural) and the evaluation process.

Public Information Open Houses (PIOH) and Workshops for the public and concerned agencies will coincide with each stage of the study process. Consultation inputs to each study stage is illustrated schematically in the following display.

External agencies provide valuable support by identifying compliance issues (laws, regulations, policies and programs) and other areas of concern within their jurisdiction as well as professional expertise and local knowledge.

External Agencies to be consulted throughout the EA study include Provincial Ministries/Agencies, State Departments/Agencies, U.S. and Canadian Federal Agencies, Municipalities and First Nation Groups.

Public Consultation During the EA

Do you agree with the proposed Consultation Plan?

*A public hearing on the analysis of potential alternatives is mandatory under NEPA

Supporting Documents to the ToR

The following supporting documents have been prepared to provide background information regarding this study:

- Canada-U.S.-Ontario-Michigan Border Transportation Partnership Transportation Problems and Opportunities Report (January 2004);
- The FHWA/NEPA Planning and Approval Process;
- Preliminary Description of Existing Environment and Potential Effects;
- Alternatives Generation Criteria;
- Proposed Factors to Assess Feasibility of the Opportunity Corridors;
- Typical Elements of Concept Design;
- Activities Following Approval of the EA; and
- Proposed schedule for conducting the OEA.

The supporting documents are not subject to an approval decision by the Minister of the Environment.

Submission to the Ontario Minister of the Environment (MOE)

- A draft Environmental Assessment Terms of Reference (TOR) is now available for review. Comments on the draft TOR are to be submitted directly to the Ministry of Transportation (MTO) no later than **April 16th, 2004**.
- MTO will consider all comments received on the draft TOR in preparing the formal document for submission to the Minister of the Environment in Spring 2004.
- Once the formal TOR is submitted, members of the public and government reviewers have a 30-day period to provide comments to the Minister. The Minister will consider all comments received in evaluating the TOR. Within 12 weeks of submission, the Minister will make a decision whether or not to approve the TOR.
- The following measures will be taken to elicit comments on the formal TOR:
 - Post a summary of the TOR and contact information for sending comments on its Environmental Assessment Activities Website;
 - Place an advertisement in local newspapers;
 - Send letters to all individuals on its project mailing list;
 - Post the complete TOR document on the project website: www.PartnershipBorderStudy.com; and
 - Provide copies of the TOR to libraries and municipal offices that have been used in the past for this project.

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NEPA Purpose and Need

A Purpose and Need Statement is currently being drafted in accordance with the requirements of the U.S. National Environmental Policy Act (NEPA).

The Purpose and Need Statement is a brief statement circulated to U.S. federal agencies with responsibility for approvals and permits related to the project.

Agencies are requested to indicate any concerns re: the purpose or process for the EIS; FHWA considers these concerns in finalizing the Purpose and Need Statement.

Once the Purpose and Need Statement is finalized, scoping of the project can begin.

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Next Steps

After this Public Information Open House (PIOH), the Partnership will:

- Review the comments received and respond to any questions.
- Finalize the EA Terms of Reference.
- Submit the EA Terms of Reference to MOE for approval*.

* The Minister of the Environment will conduct a 30-day public and government review of the EA Terms of Reference prior to making a decision.

Thank you for attending!

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Your input is IMPORTANT to this Study!

Please leave us your comments or contact us via:

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