

Ministry of Transportation

Windsor Border Initiatives  
Implementation Group  
(Windsor BIIG)

Planning Office  
659 Exeter Road  
1<sup>st</sup> Floor  
London, Ontario N6E 1L3  
Tel.: (519) 873-4559  
Fax: (519) 873-4789

Ministère des Transports

Groupe de mise en oeuvre des  
initiatives frontalières de Windsor  
(GMOIF de Windsor)

Bureau de l'aménagement  
659 Exeter Road  
1<sup>er</sup> étage  
London (Ontario) N6E 1L3  
Tél. : (519) 873-4559  
Télec. : (519) 873-4789



June 22, 2009

Ms Catherine McLennon  
Special Project Officer  
Environmental Assessment and Approvals Branch  
Ministry of the Environment  
2 St. Clair Avenue West, Floor 12A  
Toronto, Ontario, M4V 1L5

Dear Ms. McLennon:

**Re: Detroit River International Crossing Study - Response to Submission from  
Gowling Lafleur Henderson on behalf of City of Windsor - May 29, 2009**

The following comments are provided in response to issues raised in the submission from Gowling Lafleur Henderson sent to you on May 29, 2009. Some issues fall within the direct responsibility of the Ministry of the Environment, so we have not addressed those issues in this response.

### **Ministerial Powers to Direct Mitigation**

The Gowlings submission asserts that MOE should impose further tunnelling as a condition of approval. The DRIC study team rejects this assertion.

The DRIC study team found no significant overall differences between the Windsor-Essex Parkway and alternatives with longer tunnel sections, particularly related to health-based contaminant criteria. It is important to note that longer tunnels do not change the overall loading of the quantities of the contaminants to the airshed, they simply change the locations of that loading. The tunnels in the Windsor-Essex Parkway plan have been strategically located to provide community connections and wildlife linkages, as the data provided by the DRIC study team demonstrates that tunnels do not improve air quality sufficiently to warrant their inclusion or lengthening for this purpose.

The MOE has had the opportunity to review the EA Report, the technical reports related to Air Quality, as well as the supplementary information that was prepared by the DRIC study team in recent months, in response to comments received during the EA review period. The DRIC study team submits that the documentation provided to date is more than sufficient to support the selection of the Windsor-Essex Parkway as the preferred access road, and that no additional tunnelling is required, as there is essentially no difference in air quality with either a full end-to-end tunnel or The Windsor-Essex Parkway.

## **Process Concerns with MOE Review**

The Gowlings submission asserts that the DRIC EA changed after December 31, 2008, and is somehow not a suitable basis for a decision by the Minister of the Environment. The DRIC study team rejects this assertion.

During the review of the DRIC EA report stakeholders asked questions about the EA and the Supporting Documents. In response to requests from the MOE, the DRIC study team provided responses to the questions that were raised by stakeholders including agencies of the provincial and federal government, municipalities, property owners, and the general public. These responses were provided to the MOE. In addition, the responses were made available for all stakeholders to review through the study website, [www.partnershipborderstudy.com](http://www.partnershipborderstudy.com).

The responses provide additional clarity in support of the overall conclusions of the EA, and were provided to assist the review agencies in their consideration of the EA and the supporting documents. There is nothing in the responses that would change the results of the evaluation process.

The Gowlings submission asserts that the undertaking discussed in the MOE review “is a completely different iteration than the one presented to stakeholders for input.” The DRIC study team rejects this assertion. The undertaking has not changed, and the environmental effects and mitigating measures have not changed. A minor refinement to the service road alignment between Huron Church Line and Geraedts Drive (St. Clair College) was introduced during the review period, and was posted on the study website. This refinement does not change the impacts to the environment, and does not change the property requirements. This is the only adjustment to the undertaking that could be remotely construed as a change from the EA report.

## **Technical Deficiencies Have Not Been Remedied**

The Gowlings submission asserts that technical deficiencies identified in the City’s February 27, 2009, submission have not been remedied. The DRIC study team does not accept this assertion. SENES has reviewed Appendices A and B to the Gowlings submission of May 29. Additional clarification is provided in memoranda from SENES, which are attached to this letter.

## **Wetland Issue**

The Gowlings submission asserts that the DRIC EA is deficient because it does not include the Ojibway Prairie Wetland Complex. The DRIC study team rejects this assertion.

First, it is important to note that consultation with agencies, including MNR and ERCA was an important part of the DRIC EA process. Indeed, the DRIC team provided MNR with species lists and detailed information about vegetation communities. Representatives of LGL Limited (part of the DRIC consultant team) spent several days in the field assisting MNR with the wetland evaluation.

The DRIC EA was submitted in December 2008. The MNR decision to designate the Ojibway Prairie Wetland Complex had not occurred at that time, so there was no formal designation to identify in the EA report. The DRIC team acknowledged the expectation that a formal wetland designation would be forthcoming, by including reference in Section 10.4.6 of the EA report to "potential Provincially Significant Wetlands (PSWs) to be determined." Furthermore, the DRIC EA makes specific commitments in Section 10.4.6 to mitigation, follow-up and monitoring actions for natural features, including the potentially designated wetlands which had not been defined at the time of EA submission.

Now that the wetland has been formally identified by MNR, it is clear that only a small portion of the Ojibway Prairie Wetland Complex falls within the footprint of The Windsor-Essex Parkway. In any event, MTO remains committed to the mitigation, follow-up and monitoring actions identified in the EA report, and quoted below.

*Mitigation measures for the loss of area or ecological function of designated natural areas are similar to the mitigation measures identified for vegetation and wildlife. In addition, MTO will discuss the dedication of protected, enhanced or restored lands with appropriate agencies to ensure permanent protection and conservation.*

*Further discussions with conservation organizations including local municipalities, ERCA, MNR, as well as further consultation with First Nations will occur during future design stages. Once the geographical extent and functions of PSWs are identified, measures will be investigated to mitigate potential impacts on these designated natural areas.*

*The landscape plan prepared for the Recommended Plan identifies up to 120 ha of MTO-owned lands that are available for protection, enhancement and restoration. Opportunities to dedicate portions of these lands to appropriate parties for protection will be discussed at later design stages. Lands will be available to be dedicated for protection including provincially rare vegetation communities, habitat for species at risk, wildlife corridors and other ecological functions.*

The Detroit River International Crossing EA was undertaken consistent with the requirements of the Environmental Assessment Act, not the Planning Act. The approved ToR outlined the process to be employed to facilitate the identification of relative advantages and disadvantages of alternatives, including the range of natural, socio-economic, cultural and technical factors to be considered.

The Provincial Policy Statement, 2005 (PPS) provides policy direction on matters of provincial interest related to land use planning and development under the authority of and requiring approval under the Planning Act. Although the PPS policies relate to development under the Planning Act, they were considered in developing the evaluation process for the DRIC EA.

The Provincial Policy Statement does not preclude the development of transportation and infrastructure corridors where need and justification are demonstrated through preparation of an Environmental Assessment. Compensation for loss of area or function of the PSW will be the goal of the study team. A wetland compensation plan, consisting of wetland creation and enhancement measures, will be developed during later design stages to demonstrate no net loss. This plan will be developed in consultation with appropriate agencies including MNR and the Essex Region Conservation Authority (ERCA).

## **Conclusion**

The DRIC study team rejects the assertions summarized in the conclusion of the Gowlings submission.

The DRIC study team is confident that the EA report, together with the supplementary information provided in response to requests from the MOE is more than sufficient to support the selection of the Windsor-Essex Parkway as the preferred access road. The DRIC study team identified reasonable alternatives through a thorough and systematic process, consistent with the commitments made in the ToR. Through analysis of these alternatives, and consultation with stakeholders, including Windsor, the DRIC study team identified its Recommended Plan, the Windsor-Essex Parkway. Additional tunnelling is not required.

Yours truly,



Dave Wake  
Manager, Planning Office

### Attachments:

- Memorandum (June 4, 2009) from Sandy Willis, SENES Consultants Limited
- Memorandum (June 12, 2009) from Harriet Phillips, SENES Consultants Limited