

ENVIRONMENTAL ASSESSMENT ACT

SECTION 9

NOTICE OF APPROVAL TO PROCEED WITH THE UNDERTAKING

(AND ORDER UNDER SUBSECTION 12.4(3))

RE: An Environmental Assessment for Highway 6: Freelon Northerly 16.9 kilometres to Guelph

Proponent: Ministry of Transportation

EA File No.: TC-CE-02

TAKE NOTICE that the period for requiring a hearing, provided for in the Notice of Completion of the Review for the above-noted undertaking, expired on July 30, 2007. I received one request for a hearing before the expiration date. The public had been advised that the Minister was considering applying section 9 of the *Environmental Assessment Act* with respect to the Environmental Assessment (which has the effect of eliminating the acceptance decision which was necessary prior to January 1, 1997) and were invited to make submissions on that proposal. None did.

Pursuant to subsection 12.4(3) of the amended *Environmental Assessment Act*, I order that the provisions of section 9 (other than paragraph 9(2)2 and other than the reference to subsection 6.4(2) in paragraph 9(2)(5) and 9.3 apply with respect to the Environmental Assessment.

I do not consider it advisable or necessary to hold a hearing. Having considered the purpose of the Act, the Environmental Assessment, the Review and submissions received, I hereby give approval to proceed with the undertaking, subject to conditions set out below.

REASONS

My reasons for giving approval are:

- (1) On the basis of the proponent's Environmental Assessment and the ministry Review, the proponent's conclusion that, on balance, the advantages of this undertaking outweigh its disadvantages appears to be valid.
- (2) No other beneficial alternative method of implementing the undertaking was identified.
- (3) Issues raised during the review of the Environmental Assessment have been resolved or are best addressed by conditions of approval.
- (4) On the basis of the proponent's Environmental Assessment, the ministry Review and the conditions of approval, the construction, operation and maintenance of the undertaking will be consistent with the purpose of the *Environmental Assessment Act* (section 2).

- (5) The Government Review Team has indicated no outstanding concerns that cannot be addressed through conditions of approval. The public review of the EA did not identify any outstanding concerns which cannot be addressed through conditions of approval.
- (6) The submissions received after the Notice of Completion of the Review was published are being dealt with through conditions where appropriate. I am not aware of any outstanding issues with respect to this undertaking which suggest that a hearing should be required.

CONDITIONS

The approval is subject to the following conditions:

1. Definitions

For the purposes of these conditions:

"Director" means the Director of the Environmental Assessment and Approvals Branch.

"EAAB" means the Environmental Assessment and Approvals Branch of the Ministry of the Environment.

"Environmental Assessment (EA)" means the document entitled "Environmental Assessment for Highway 6, Freelon Northerly 16.9 km to Guelph", dated September 1995, the Addendum issued November 1997, and the document entitled Highway 6 North – Freelon to Guelph (W.P. 65-76-05): *Connection Road at Morriston, - Stakeholder Consultation Process (Technical Paper, May 2004)*.

"MOE" means the Ministry of the Environment.

"Natural Heritage System" has the same meaning as in the Greenbelt Plan, 2005.

"program" means compliance monitoring program.

"proponent" means the Ontario Ministry of Transportation.

"Regional Director" means the Director of the MOE's West Central Regional Office.

2. General Requirements

2.1 The proponent shall comply with the provisions in the Environmental Assessment which are hereby incorporated in this approval by reference except as provided in these conditions and as provided in any other approval or permit that may be issued.

2.2 These conditions do not prevent more restrictive conditions being imposed under other statutes.

3. Public Record

- 3.1 Where a document is required for the public record, the proponent shall provide two copies of the document to the Director: a copy for filing within the specific public record file maintained for the undertaking and a copy for staff use.
- 3.2 The proponent shall provide additional copies of the documents described in Condition 3.1 to the:
 - a) Regional Director (as required); and
 - b) Clerk's offices of the City of Guelph, City of Hamilton, County of Wellington, and the Township of Puslinch.
- 3.3 The EAAB file number TC-CE-02 shall be quoted on the documents.
- 3.4 These documents may also be provided through other means as considered appropriate by the proponent.

4. Consultation During Detailed Design Phase

- 4.1 The proponent shall consult with Six Nations of the Grand River Territory during the detailed design phase, as outlined in its December 14, 2006 letter to Six Nations of the Grand River Territory Elected Council. The proponent shall also make reasonable efforts to develop a work plan in consultation with Six Nations of the Grand River Territory during the detailed design phase of the undertaking..
- 4.2 The proponent shall make reasonable efforts to consult with other Aboriginal communities that express an interest in participating in the detailed design phase.
- 4.3 In addition to other interested stakeholders the proponent considers appropriate, the proponent shall ensure the following ministries/agencies are consulted during the detailed design phase:
 - The MOE's West Central Regional Office;
 - Ministry of Natural Resources;
 - Ministry of Agriculture and Rural Affairs;
 - Ministry of Municipal Affairs and Housing;
 - All affected utilities, including Hydro One;
 - Grand River Conservation Authority;
 - Morriston Tract Conservation Association;
 - Fisheries and Oceans Canada;
 - Environment Canada; and,
 - Transport Canada.

5. Henslow's Sparrow

- 5.1 The proponent shall update and verify the Henslow's Sparrow habitat investigations documented in the Addendum issued November 1997 to confirm that the proposed highway right-of-way continues to have no potential impacts on the habitat for Henslow's Sparrow.
- 5.2 The proponent shall update the investigations described in Condition 5.1 by conducting additional investigations within appropriate time periods (i.e., during nesting and breeding season) during the detailed design phase. If the above investigation is undertaken within one year of construction, an additional investigation would not be required immediately prior to construction.
- 5.3 In the event that the investigations do demonstrate potential impacts, the proponent shall notify the Ministry of Natural Resources and Environment Canada and consider all direction provided by the Ministry of Natural Resources and Environment Canada.

6. Stormwater Management

Preparation of Conceptual Stormwater Management Plan:

- 6.1 During the detailed design phase of the undertaking, the proponent shall prepare a Conceptual Stormwater Management Plan.

Submission of Conceptual Stormwater Management Plan:

- 6.2 The proponent shall submit the Conceptual Stormwater Management Plan to the Regional Director for review at least nine months prior to tendering. The proponent shall consider all comments resulting from the MOE's review.

Requirements of Conceptual Stormwater Management Plan

- 6.3 The Conceptual Stormwater Management Plan shall, at a minimum, include the following:
 - a) Achieve the treatment levels for soluble pollutants required as per Ministry of Natural Resources and MOE policy and practice, using methods advocated by the MOE and Ministry of Transportation in their respective manuals on stormwater management;
 - b) An assessment of water quality controls where possible (i.e. sequenced and/or combined linear facilities) for the protection of sensitive receivers, in addition to grassed ditches for quality control purposes;
 - c) An assessment of the long term life, efficiency and effectiveness of any proposed infiltration basins;
 - d) An evaluation of the depth between the bottom of the stormwater facilities and the seasonally high water table;
 - e) A general assessment of the need for an overflow weir/channel for the stormwater management facilities. The proponent shall submit the details of

this assessment to EAAB technical staff for their review prior to submitting the Conceptual Stormwater Management Plan;

- f) An assessment of the feasibility of wetland vegetative plantings within the roadside ditches/ponds;
- g) A maintenance program for the stormwater management facilities;
- h) An assessment of the potential measures to respond to accidental/spill releases; and,
- i) An erosion and sedimentation control plan to protect sensitive receivers during construction.

6.4 In preparing the Conceptual Stormwater Management Plan the proponent shall consider the policies in section 4.2.3 of the Greenbelt Plan (2005), where applicable, to avoid, minimize and/or mitigate stormwater volume, contaminant loads and impacts to receiving water courses in order to:

- Maintain groundwater quality and flow and stream baseflow;
- Protect water quality;
- Minimize the disruption of pre-existing natural drainage patterns wherever possible;
- Prevent increases in stream channel erosion;
- Prevent any increase in flood risk; and
- Protect aquatic species and their habitat.

7. Hydrogeological Studies

Preparation of Hydrogeological Studies:

- 7.1 During the detailed design phase of the undertaking, the proponent shall conduct additional hydrogeological studies.

Submission of Hydrogeological Studies:

- 7.2 The proponent shall submit the hydrogeological studies described in Condition 7.3 to the Regional Director for review at least 150 days prior to tendering. The proponent shall consider all comments resulting from the MOE's review.

Hydrogeological Studies Required:

- 7.3 The proponent shall, at a minimum, prepare the following hydrogeological studies:
- a) One hydrogeological cross-section along the entire length of the recommended route, and shorter cross-sections placed perpendicular to the recommended route at sensitive areas (e.g. recharge/discharge zones). The

cross-sections should show depth to bedrock, stratification within the overburden, water table and/or potentiometric surface, and referenced wells;

- b) On the basis of a pre-construction well owner field survey, a map identifying the location of the wells within 300 metres (m) of the highway right of way will be prepared. Based on the owner survey and a review of the MOE Water Well Record database information wells should be categorized as overburden or bedrock wells, and the owners and status of the wells should be identified;
- c) After having completed the studies described in Conditions 7.3 (a) and (b), the proponent shall assess the potential impact of road salt and other contaminants on the identified wells and identify possible mitigation measures that could be implemented in the event that those impacts occur;
- d) A pre-construction survey of all potable water wells with 300 m of the highway right of way, to serve as a baseline for comparison to future monitoring data;
- e) An assessment of seasonal variation of water level. Boreholes should be drilled at proposed stormwater management facilities to determine the site-specific stratigraphy to the bedrock. Alternative best management practices should be considered if a direct hydraulic connection to bedrock aquifer is identified upon drilling;
- f) An explanation of the expected temporary and long-term implications of deep road cuts defined in this project as from 75 m north of Crieff Road northerly for 350 m and from 350 m south of Calfass Rd., northerly for 1 kilometre, to 250 m north of the Connection Road at Morriston on surface water and groundwater interaction;
- g) A map identifying the location of the deep road cuts described in Condition 7.3(f);
- h) An identification of mitigation options for the impacts of the deep road cuts described in Condition 7.3(f);
- i) An assessment of the dewatering impacts of the preferred alternative;
- j) Achieve the treatment levels for soluble pollutants required as per current Ministry of Natural Resources and MOE policy and practice, using methods advocated by the MOE and the Ministry of Transportation in their respective manuals on hydrogeology;
- k) An assessment of the potential groundwater impacts on lands having existing development rights, and which are located adjacent to the highway project.

Water Quality Monitoring Program:

- 7.4 The proponent shall conduct a Water Quality Monitoring Program using wells established in or immediately adjacent to the highway construction zone. The Water Quality Monitoring Program shall use as baseline data the data obtained pursuant to Condition 7.3(d).

Provision of Missing Pages in the EA

- 7.5 The proponent shall provide Figures 5.2 and 5.3 in Appendix M of the EA to the West Central Regional Office along with the submission of the hydrogeological studies described in Condition 7.2.

8. Noise Assessment

Preparation of Noise Assessment

- 8.1 During the detailed design phase of the undertaking, the proponent shall reassess the noise impacts and the potential for mitigation at all noise sensitive locations along the recommended route which may be subject to increases in noise levels of greater than 5 decibels. The new report will follow the study methods and policy described in the new Environmental Guide for Noise, Ministry of Transportation, October 2006.

Submission of Noise Assessment

- 8.2 The proponent shall submit a report containing the results of the Noise Assessment to the Director for review and shall consider all comments resulting from the Director's review. The report shall be submitted at least 90 days prior to construction.

9. Conservation Halton

- 9.1 The proponent shall ensure that the limits of Conservation Halton's fill regulated areas are identified on all relevant design drawings.
- 9.2 During the detailed design phase of the undertaking, the proponent shall provide any additional details regarding runoff calculations and supporting documentation to Conservation Halton for review.

10. Compliance Monitoring Program

Purpose of Program:

- 10.1 The proponent shall prepare an EA compliance monitoring program. The program shall be prepared for the monitoring of the proponent's fulfilment of the provisions of the EA for mitigation measures, public consultation, and additional studies and work to be carried out, and of all other commitments made during the preparation of the EA and the subsequent review of the EA for mitigation measures, public consultation, and additional studies and work to be carried out.

Submission of Program:

- 10.2 The proponent shall submit the program to the Director for placement on the public record at least 60 days before the commencement of construction.

Requirements of Program:

- 10.3 The program must contain an implementation schedule.
- 10.4 A statement must accompany the program when submitted to the Director, indicating that the program is intended to fulfil this condition.
- 10.5 The proponent shall carry out the program, as reasonably amended by the Director.
- 10.6 The proponent shall make the program documentation available to the MOE or its designate upon request in a timely manner when so requested by the MOE during an on-site inspection, audit, or response to a pollution incident report or when information concerning compliance is requested by the MOE.

11. Compliance Reporting

- 11.1 The proponent shall prepare an annual compliance report which describes compliance with the conditions of approval set out in this notice and which describes the results of the proponent's program.
- 11.2 The proponent shall issue the first compliance report no later than one year following the commencement of the detailed design phase, and on the date that is the anniversary of this commencement thereafter, for which the compliance report shall cover the previous year to that date.
- 11.3 The proponent shall submit the annual compliance report to the Director for placement on the public record.
- 11.4 The proponent shall submit annual compliance reports until all conditions are satisfied.
- 11.5 When all conditions have been satisfied, the proponent shall indicate in the annual compliance report that this is its final submission.
- 11.6 The proponent shall retain either on site or in another location approved by the Director, copies of the annual compliance reports for each reporting year and any associated documentation of compliance monitoring activities.
- 11.7 The proponent shall make the documentation available to the MOE or its designate upon request in a timely manner when so requested by the MOE during an on-site inspection, audit, or in response to a pollution incident report or when information concerning compliance is requested by the MOE.

12. Greenbelt Lands

- 12.1 The proponent shall consider the policies in section 4.2.1 of the Greenbelt Plan (2005), where applicable, with respect to detailed design and construction activities, including:

- Construction practices shall minimize, wherever possible, the amount of Greenbelt lands, and particularly Natural Heritage Systems, traversed and/or occupied by infrastructure;
- Construction practices shall minimize, wherever possible, the negative impacts and disturbance of the existing landscape, including, but not limited to, impacts caused by light intrusion, noise and road salt; and
- Where the undertaking does cross a Natural Heritage System or intrude into or result in the loss of a key natural heritage feature or key hydrologic feature, including related landform features, construction practices shall minimize negative impacts and disturbance on the features or their related functions, and where reasonable, maintain or improve connectivity.

13. Agricultural Lands

- 13.1 For prime agricultural lands which are not permanently required for the undertaking, the proponent shall ensure that any work required for the undertaking is conducted according to appropriate construction standards so that the lands can be returned to productive agricultural uses.
- 13.2 The proponent shall construct the undertaking in such a way as to avoid disruptions to agricultural infrastructure such as field tiles, drainage ditches, culverts, and field entrances. Should such disruptions be unavoidable, the proponent shall minimize and repair the disruptions to the greatest extent possible.

Dated the 19th day of December 2008 at TORONTO.


 Minister of the Environment
 135 St. Clair Avenue West, 12th Floor
 Toronto, Ontario
 M4V 1P5

Approved by O.C. No. 13/2007

Date O.C. Approved Jan 22 2007