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Highway 35 Construction Project

Federal Environmental Assessment Scoping Document

1.0 INTRODUCTION

Transport Quebec (MTQ, the proponent) is proposing a construction project for the stretch of Highway 35 between the U.S. border and St-Jean-sur-Richelieu in Quebec. A federal environmental assessment is required for this project pursuant to the *Canadian Environmental Assessment Act* (the Act) because the federal government may provide financial assistance for the project, issue an approval under the *Fisheries Act* and issue a permit or licence under the *Navigable Waters Protection Act*.

The project is also subject to a provincial environmental assessment process, to be overseen by the Quebec Department of Sustainable Development, Environment and Parks, pursuant to the Quebec *Environment Quality Act*.

1.1 Purpose of scoping document

This scoping document provides a summary of the federal environmental assessment process, the opportunities given to the public to participate in the process and the scope of the federal environmental assessment of the project. “The scope of the [federal] environmental assessment” means the scope of the project subject to the environmental assessment, the proposed factors under study as part of the environmental assessment, and the proposed scope given to the factors.

This document will undergo a public consultation, in accordance with the environmental assessment process outlined in the Act and as discussed in the following chapter, and more specifically in Section 2.4.

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2.0 PROCESS PURSUANT TO THE CANADIAN ENVIRONMENTAL ASSESSMENT ACT

2.1 Regulatory background

In accordance with subsection 5(1) of the Act, an environmental assessment of a project is required if a federal authority:

- is the proponent of the project;
- provides financial assistance to the proponent;
- administers lands and has the authority to dispose of those lands through sale or lease;
- issues a permit or licence or grants an approval under the provisions of the Regulations.

These functions are known as triggers under the Act. In accordance with subsection 5(1) of the Act, an environmental assessment is required before a federal authority exercises its duties or functions in respect to a project. In the case of the Highway 35 construction project, these duties and functions are:

- a possible financial contribution under the Canada Strategic Infrastructure Fund and the Border Infrastructure Fund, administered by Infrastructure Canada and Transport Canada to enable the project;
- issuance of an approval by Fisheries and Oceans Canada under the *Fisheries Act*;
- issuance of a permit or licence by Transport Canada under the *Navigable Waters Protection Act*.

As such, Transport Canada (TC), Infrastructure Canada and Fisheries and Oceans Canada (DFO) are the authorities responsible for ensuring the conduct of the environmental assessment for the project.

To ensure that the responsible authorities make an informed decision about the significance of the project's environmental effects before exercising their duties and functions, Health Canada, Environment Canada and Natural Resources Canada specialists will provide advice on issues relating to the project in their area of expertise.

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2.2 Type of environmental assessment

Because a portion of the public highway construction project (Highway 35) is in the Philipsburg Migratory Bird Sanctuary, a comprehensive study is required under the Act, in accordance with paragraph 2 (i) of the *Comprehensive Study List Regulations*, which reads:

2 (i) The proposed construction, decommissioning or abandonment, in a wildlife area or migratory bird sanctuary of a railway line or public highway.

2.3 Environmental assessment process

In accordance with subsection 21(2) of the Act, after the public consultation on this scoping document, TC, Infrastructure Canada and DFO will report to the federal Minister of the Environment on the scope of the environmental assessment, public concerns, the potential of the project to cause adverse environmental effects, and the ability of the comprehensive study to address issues relating to the project. The responsible authorities will also recommend to the federal Minister of the Environment whether the environmental assessment should continue as a comprehensive study, or whether the project should be referred to a mediator or review panel.

After reviewing the report and the recommendation of the responsible authorities, the federal Minister of the Environment will, as appropriate, refer the project to the responsible authorities so they can continue with the comprehensive study, or refer the project to mediation or to a review panel.

If the federal Minister of the Environment decides that the environmental assessment should continue as a comprehensive study, the Quebec Regional Office of the Canadian Environmental Assessment Agency (the Agency) will continue to act as the Federal Environmental Assessment Coordinator for the project. The Agency's mandate will be to coordinate the participation of federal authorities in the environmental assessment process and facilitate communication and cooperation between federal authorities and the other participants. The responsible authorities will encourage ongoing public participation in the comprehensive study. TC, Infrastructure Canada and DFO will submit a comprehensive study report to the Agency and the federal Minister of the Environment. The Agency will then invite the public to comment on the comprehensive study report. The federal Minister of the Environment will analyse the comments gathered and the findings of the comprehensive study report. Finally, in accordance with section 23 of the Act, the Minister will issue an environmental assessment decision statement and refer the project back to the responsible authorities for action.

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If the federal Minister of the Environment decides instead to refer the project to a mediator or review panel, pursuant to section 29 of the Act, the project ceases to be subject to the provisions of the Act governing comprehensive studies. After consulting the responsible authorities and the other parties concerned, the federal Minister of the Environment will determine the appropriate mandate for the public review and appoint the mediator or the chair and members of the review panel, as appropriate.

2.4 Public consultation and scoping document comments

The purpose of the consultation is to obtain comments from the public on the environmental assessment scoping documents so the report for the federal Minister of the Environment can be prepared (see section 2.3) and the scope of the environmental assessment can be finalized. More specifically, during the consultation, the public is invited to comment on the following points:

- the scope of the project in respect of the environmental assessment (Section 4.1), the factors to be considered in the assessment (Section 4.2) and the scope of the factors (Section 4.3);
- whether the type of environmental assessment, a comprehensive study, addresses the issues relating to the project.

Public comments should be sent by September 19, 2005 to:

Claire Michaud
Project Manager
Surface Programs
Transport Canada
901 Cap Diamant, 4th Floor
Quebec City, Quebec G1K 4K1

Comments may also be made via fax at (613) 990-9639 (Attn: Claire Michaud) or via e-mail to auto35@tc.gc.ca.

2.5 Opportunities for public participation

Public participation is critical to the environmental assessment process. Giving the public the opportunity to participate fully in the process will improve the quality and increase the credibility of the environmental assessment.

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Besides the consultation on the scope of the assessment, the public will be given other opportunities to participate in the environmental assessment and to present its point of view. If the project is subject to a comprehensive study, the responsible authorities will be required to ensure that the public can participate. Once the comprehensive study report has been submitted to the Agency by TC, Infrastructure Canada and DFO, the public will have the opportunity to review and comment on the report during the period set out by the Agency, prior to a final recommendation being made to the federal Minister of the Environment. The Minister will consider all comments on and findings of the comprehensive study report. Pursuant to section 23 of the Act, the Minister will then issue an environmental assessment decision statement and refer the project back to the responsible authorities for action.

If the federal Minister of the Environment refers the environmental assessment to a mediator or review panel, the public will be given the opportunity to participate at the various stages of the assessment process, including public hearings. Mechanisms for public participation will be communicated at the appropriate time, if necessary.

To support public participation in comprehensive studies, review panels and mediation, the Agency administers the Participant Funding Program. For information on the program, visit the Agency's Web site at www.ceaa-acee.gc.ca.

3.0 PROJECT OVERVIEW

The Highway 35 construction project consists in building two double-lane roadways between the U.S. border and St-Jean-sur-Richelieu, in an undeveloped right-of-way. The 38-kilometre segment is entirely in an agricultural area and includes two existing roadways in the municipality of St-Armand.

3.1 Construction activities

The construction project extends from the existing termination of Highway 35 in Iberville to the U.S. border, and includes the divided segment of Highway 133. Several interchanges are planned to provide access to cities and towns in the corridor, including one in the Philipsburg Migratory Bird Sanctuary. Secondary roads without interchanges will terminate in cul-de-sacs, except for Highway 202. The project also involves construction of a bridge over the Brochets River.

A highway inspection station and a wayside park close to the U.S. border are also planned. The project also includes repairs to national, regional, collector and local roads.

During the construction phase, existing aboveground and underground utilities that intersect or run alongside the proposed Highway 35 will have to be relocated.

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During construction, the following activities will need to be carried out:

- access road construction;
- site facilities development;
- handling construction traffic;
- tree felling;
- excavation and earthworks;
- boring and blasting;
- highway and related infrastructure construction;
- relocation of utilities infrastructure;
- shore and aquatic environment interventions;
- redevelopment and cleaning up of work areas;
- production and management of excavation spoils;
- production and management of waste and residual materials.

3.2 Maintenance activities

Maintenance activities essentially involve road de-icing and snow removal, vegetation control on rights-of-way, and bridge, viaduct and roadway maintenance.

4.0 SCOPE OF ASSESSMENT

The responsible authorities will ensure that the comprehensive study, if required by the Minister, is carried out in line with the scope of the project as defined in Section 4.1 below. During their review, the responsible authorities will consider the factors in Section 4.2 in relation to environmental components and within the spatial and temporal boundaries set out in Section 4.3.

4.1 Project scope

The scope of the project includes building, operating and maintaining infrastructure built or modified as part of the project (38-kilometre stretch of new highway between St-Jean-sur-Richelieu and the U.S. border at St-Armand). More specifically, the scope of the project includes the following work and activities:

- the highway (including rights-of-way, foundations, etc.) and service roads;
- interchanges, connectors and modifications to existing highways for merging into the new highway, and waterway support structures and bridges;
- rest areas, weighing check points and border crossings, as needed;
- modifications to or removal or disposal of existing structures;
- operation, closure and restoration of borrow pits, dumping grounds, storage areas, developments and temporary structures required to complete the project (e.g. tree felling,

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- coffer dams, riprap, embankments, bank naturalization, revegetation, etc.);
- snow removal and use of de-icing abrasives and salt (or other ice melters);
- any other structures or activities that could impact one or more of the components in the table below.

4.2 Factors to review

The environmental assessment includes a study of the following factors in sub-paragraphs 16(1) (a) to (e) and in subsection 16(2) of the Act:

- the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;
- the significance of the effects referred to in paragraph (a);
- comments from the public that are received in accordance with this Act and the regulations;
- measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project;
- the purpose of the project;
- alternative means of carrying out the project that are technically and economically feasible and the environmental effects of any such alternative means;
- the need for, and the requirements of, any follow-up program in respect of the project; and
- the capacity of renewable resources that are likely to be significantly affected by the project to meet the needs of the present and those of the future.

According to subsection 2(1) of the Act, “environmental effect” means 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*, any effect of any change referred to in paragraph (a) on health and socio-economic conditions, physical and cultural heritage, the current use of lands and resources for traditional purposes by aboriginal persons, or any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or any change to the project that may be caused by the environment.

4.3 Scope of factors to review

The environmental assess will consider the possible effects of the project within spatial and temporal boundaries which encompass the periods and areas during and within which the project

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may potentially interact with, or have an effect on components of the environment. These boundaries may vary with the issues and factors considered and must take into account:

- construction, operation, change in utilization, site clean up and cessation of operations or other activities proposed by the proponent or that will likely be carried out jointly with other work proposed by the proponent, including mitigation measures and replacement habitat;
- the natural variation of a population or ecological component;
- the timing of sensitive life cycle phases of wildlife species in relation to the scheduling of the project;
- the time required for an effect to become evident;
- the time required for a population or ecological component to recover from an effect and return to a pre-effect condition;
- the area affected by the project; and
- the area within which a population or ecological component functions and within which a project effect may be felt.

With regard to the possible cumulative environmental effects of the project, the environmental assessment should identify other projects or activities that were or will be carried out in the areas under study, including projects that are reasonably foreseeable, that is, projects that have already been approved or are in the process of receiving regulatory approval, and indicate how the environmental effects of these other projects or activities could, in time and space, be added to those of the project under study.

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The environmental assessment should consider, but should not be limited to, the following subjects:

	Subject
Physical environment	<ul style="list-style-type: none">• hydrology (including navigation) and streambed substrate, including sediments;• amount and quality of surface and ground water (drainage, rainwater management, and water consumption);• geology, geomorphology, soil characteristics, soil productivity and seismology, including soil and contaminated sediment management, if necessary;• extreme meteorological events, specific climate conditions, climate change;• noise and vibrations, including sensitive sites, ambient noise, expected changes and mitigation measures;• air quality, including odours, air emissions, particles and greenhouse gas emissions.
Biological environment	<ul style="list-style-type: none">• land and aquatic vegetation;• wetlands and protected areas;• species at risk or special-status species and their habitat (animal and plant species);• wildlife and wildlife habitat, more specifically fish and migratory birds and their respective habitats.
Human environment (human occupation and use of land-based and aquatic resources)	<ul style="list-style-type: none">• public safety and constraints on managing protected areas;• use of land and resources (for traditional purposes by aboriginal persons);• fishing- and avifauna-related activities;• aesthetics and landscaping;• heritage, cultural, historic, archaeological and paleontological resources.