

**Project to complete Highway 35
between the United States of America
border and
Saint-Jean-sur-Richelieu**

*Track Report to the Minister of the
Environment on the environmental
assessment process*

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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, Quebec. A federal environmental assessment is required for this project pursuant to the *Canadian Environmental Assessment 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, the Environment and Parks, pursuant to the Quebec *Environment Quality Act*.

2.0 Environmental Assessment Process

2.1 Regulatory background

In accordance with subsection 5(1) of the *Canadian Environmental Assessment 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;
- has the administration of 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, and in accordance with subsection 5(1) of the *Canadian Environmental Assessment Act*, an environmental assessment is required before a federal authority exercises its duties or functions in respect of 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.

Therefore, Transport Canada (TC), Infrastructure Canada (INFC) and Fisheries and Oceans Canada (DFO) are the Responsible Authorities (RA's) for ensuring that an environmental assessment of the project is completed.

Environment Canada, Natural Resources Canada and Health Canada are providing expertise as Federal Authorities (FA's).

The Quebec Regional Office of the Canadian Environmental Assessment Agency (the Agency) is the federal environmental assessment coordinator for the project. Its mandate is to coordinate the work of the federal authorities within the environmental assessment process and to facilitate communication and cooperation among the authorities and other participants in the process.

3.0 Purpose of the Track Report on the environmental assessment process

In accordance with subsection 21(2) of the *Canadian Environmental Assessment Act*, following the public consultation on the scoping document, the responsible authorities submitted this track report to the federal Minister of the Environment regarding the scope of the environmental assessment (see section 6), public concerns, and the possibility of adverse environmental effects. The report also contains the recommendations of the responsible authorities as to whether the environmental assessment of the project to complete Highway 35 should proceed through a comprehensive study, or be referred to a mediator or a review panel.

4.0 Public consultation

The public consultation under subsection 21(1) of the Act sought public comments on the environmental assessment scoping document for the completion of Highway 35, to be followed by a change in the scope if appropriate. A draft scoping document was prepared that included information on the purpose of the document, the environmental assessment process, opportunities for the public to make comments and other opportunities for public participation. The document was posted in English and French at the Internet site of the Canadian Environmental Assessment Registry. A copy was also placed at the Adélarde Berger library in Saint-Jean-sur-Richelieu. In addition, four newspapers, including two English-language newspapers, published a notice announcing the dates of the consultation period. This notice was also posted on the Internet site of the Canadian Environmental Assessment Registry.

The public was invited to comment on the following specific points during the consultation period which ran from August 30 to September 21, 2005:

- the scope of the project for purposes of environmental assessment, the factors to consider in the assessment, and the scope of the factors;
- whether the type of environmental assessment to be undertaken in this case, a comprehensive study, provides a sufficient and acceptable means for the public to set forth its concerns regarding the project to complete Highway 35.

5.0 Public concerns

The responsible authorities received no letters containing comments during the consultation period. Three individuals sent emails. Two of them asked for a map of the proposed routing. The third commented on the consultation process and the scope of the environmental assessment. The concerns raised by this individual are presented in the table below, followed by an interpretation.

Table 1: Citizen's comments

Scope of environmental assessment:	
Scope of project	<i>No comment</i>
Factors to be added to EA	<ul style="list-style-type: none"> • Effects on the public's quality of life • Socio-economic effects (depopulation)
Other comments	<ul style="list-style-type: none"> • Length of consultation insufficient • Bad timing of consultation, during harvest and just before municipal elections
Type of EA preferred	<i>No comment</i>
<p><i>Interpretation by responsible authorities of factors to be added to the scope of the EA</i></p> <ul style="list-style-type: none"> • At this stage, the responsible authorities have not identified any CEAA-related depopulation issue arising from a change in the environment as a result of the project. • The responsible authorities maintain their decision to not include these factors in the scope, based on the relevance of these factors to each authority's area of responsibility 	

6.0 Scope of environmental assessment

“Scope of the environmental assessment” is defined as the scope of the project for the purposes of environmental assessment, the factors which are to be examined as part of the environmental assessment, and the scope of these factors.

Having reviewed the public comments received on the scoping document, the responsible authorities, in consultation with the departments providing expertise, have decided to leave unchanged the scope of the environmental assessment and the factors to be considered. The concerns raised by the public will be taken into account during the comprehensive study, as will any concerns raised during a further consultation to take

place while the study is under way. The responsible authorities will also be attentive to public comments expressed during the provincial public hearings which will begin on November 14, 2005.

The scope of the environmental assessment is set out in Appendix I.

7.0 Possibility of adverse environmental effects

Based in part on the impact study conducted during the provincial environmental assessment process, which was provided to the responsible authorities by the project proponent, it appears that the possible adverse environmental effects are related to factors that include those set out in section 4.3 of the scoping document (see Appendix I). The comprehensive study will provide a more thorough coverage of these environmental effects (as defined in the CEA Act) and their significance. The responsible authorities, supported by expert departments, will if necessary call for mitigation and compensatory measures in addition to those proposed by the project proponent in its own impact study. The responsible authorities will require programs to monitor the mitigation measures, their effectiveness, and the accuracy of the environmental impact forecasts. The cumulative effects of the project will also be considered in the report on the comprehensive study; as a result, greater adverse effects may be identified, necessitating additional mitigation or compensation.

8.0 Will a comprehensive study make it possible to address the issues raised by the project?

The responsible authorities reviewed the results of the public consultation on the scoping document for the environmental assessment of the Highway 35 project. The public comments did not touch on the matter of whether a comprehensive study or a panel review would be the best way to make the assessment. The responsible authorities therefore recommend continuing with a comprehensive study, which they believe will make it possible to address the environmental issues related to the project.

Completion of Highway 35

Scope of federal environmental assessment

1.0 SCOPE OF ASSESSMENT

The responsible authorities will ensure that the comprehensive study is carried out in line with the scope of the project as defined in section 1.1. During their review, they will consider the factors in section 1.2, within the spatial and temporal limits set out in section 1.3.

1.1 Project scope

The scope of the project includes building, operating and maintaining infrastructure built or modified as part of the project (a 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 works and activities:

- the highway (including rights-of-way, foundations, etc.) and service roads;
- interchanges, connectors and modifications to existing highways necessary for integration with the new highway, and water crossings;
- rest areas, weighing check-points and border posts, as needed;
- modifications to existing structures, or their moving or removal;
- operation, closure or restoration of borrow pits, dumping grounds or storage areas, and the activities and temporary structures required to complete the project (e.g. tree felling, coffer dams, riprap, embankments, bank naturalization, revegetation, etc.);
- snow removal and use of abrasives and de-icing salt (or other ice melters);
- any other structures or activities that could impact one or more of the components in the table below entitled “Summary of factors to review”.

1.2 Factors to review

The environmental assessment includes the study of the following factors set out in subparagraphs 16(1) *a*) to *e*) and in subsection 16(2) of the *Canadian Environmental Assessment 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 the *Canadian Environmental Assessment Act* and its 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 *Canadian Environmental Assessment Act*, “environmental effect” is defined as 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 such changes 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.

1.3 Scope of factors to review

The environmental assessment will consider the possible effects of the project within certain spatial and temporal limits, namely the periods of time and the geographical areas within which the project may potentially interact with or have an effect on components of the environment. The limits may vary with the issues and factors considered and will be based on:

- the construction, operation, decommissioning, clean up of sites and cessation of operations, or other activities proposed by the proponent or that will likely be carried out jointly with work proposed by the proponent, including mitigation measures and habitat replacement;
- the natural variation of a population component 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 component or ecological component to recover from an effect and the estimated degree of such recovery;
- the area affected by the project; and
- the area within which a population component 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 area 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 be added to those of the project under study.

The environmental assessment should include but not be limited to the following factors:

Table: Summary of factors to review

<p>Physical environment</p>	<ul style="list-style-type: none"> • hydrology (including navigation) and the substrates of watercourses, including sediments; • quantity and quality of surface and groundwater (drainage, rainwater management, consumption-directed uses); • geology, geomorphology, nature of soil, productivity of soils and seismology (including management of any contaminated soil and sediment); • extreme weather events, special climatic conditions, climate changes; • noise and vibrations (including sensitive sites, ambient noise, expected changes, and measures to reduce); • air quality (including odours, emissions, dust and greenhouse gases).
<p>Biological environment</p>	<ul style="list-style-type: none"> • terrestrial and aquatic vegetation; • wetlands and protected areas; • species at risk and species of special status (animals and plants); • wildlife and their habitats, in particular fish and migratory birds and their habitats.
<p>Human environment (human occupation and use of land and aquatic resources)</p>	<ul style="list-style-type: none"> • public safety and limitations on managing protected areas; • utilization of lands and resources (by Aboriginals for traditional purposes); • activities related to fishing and birds; • aesthetics and landscape; • heritage, cultural, historical, archaeological and paleontological resources.