

Joint Submission
to the Honorable Ontario Minister of the Environment John Gerretsen
from
Transport 2000 (Ontario)
Transport 2000 (Canada)
Citizens Environment Alliance (Windsor, ON)
Michigan Environmental Council
Transportation Riders United (Detroit, MI)
Michigan Association of Railroad Passengers, Inc.***

regarding
**Detroit River International Crossing (DRIC) Project
Environmental Assessment**
prepared by Ontario Ministry of Transportation

29 May 2009

submitted via:
Catherine McLennon, Special Project Officer
Environmental Assessment and Approvals Branch
Ontario Ministry of the Environment (MOE)
416 – 314 – 8452 (fax)
Catherine.McLennon@ontario.ca

Dear Mr. Gerretsen:

We are a coalition of three Canadian and three Michigan non-governmental organizations*** which have a common viewpoint regarding the environmental reviews done in both Ontario and Michigan for the DRIC highway project proposed by the Ontario Ministry of Transportation (OMOT) and the Michigan Department of Transportation (MDOT).

We believe that the DRIC Environmental Assessment (EA) prepared by the OMOT during January 2009 and the DRIC Final Environmental Impact Statement (FEIS) prepared by MDOT and the US government's Federal Highway Administration (FHWA) in December 2008 fail to meet the respective Canadian and US standards for such reviews. We consequently also disagree with the April 2009 Ontario MOE staff review which "...concludes that the EA was prepared in accordance with the approved Terms of Reference and the Environmental Assessment Act." [p1 of their report].

Some of us already have submitted specific comments to OMOT, MDOT, and the Ontario OMOE regarding the DRIC EA and the DRIC EIS completed in Ontario and Michigan respectively. Most of the detailed comments are included in the Canadian and

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***As of 30 July 2009, the following additional organizations have endorsed this statement: Ontario Smart Growth Network; Sierra Club Michigan Chapter and its Southeast Michigan Group, on behalf of the Sierra Club (US); Sierra Club Ontario Chapter; Michigan Land Use Institute. Their endorsements are attached.

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US reports sections of the DRIC project website, <http://www.partnershipborderstudy.com/> . Many of those comments are enumerated at the end of this submission to assist you in locating them in the event you wish to read them in detail. The prior comments are included within this submission by reference.

The purpose of this submission is to enumerate several important facts and to summarize the major deficiencies which justify both your rejection of the DRIC EA, as well as the US federal government's rescission of the DRIC EIS Record of Decision approval granted by the FHWA on 14 January 2009 (only 9 days after the 05 January 2009 deadline for submission of comments regarding the DRIC FEIS and only 6 days before the change in leadership of the US government).

We note that a number of groups on 14 May 2009 filed suit in the US District Court for the District of Columbia to overturn the DRIC EIS Record of Decision prepared and approved by the FHWA.

(1) The DRIC Project's Canadian and US Proponents Advertised the Project as Mode-Neutral and Transformed it into a Highway Project.

The DRIC EA's review of non-highway options to relieve border crossing congestion is minimal and is not analytical, notwithstanding the fact that the DRIC project was advertised as a mode neutral project in which all reasonable alternatives were to be evaluated.

For example, the Terms of Reference [TOR] approved by the Ontario MOE during 2004 specifically states the following:

"As such, 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..." [TOR p i [pdf 2]]

In the US, the Executive Office of the President - Council on Environmental Quality regulations require the rigorous exploration and objective evaluation of all reasonable alternatives, including reasonable alternatives not within the jurisdiction of the lead agency [ref: 40 CFR 1502; see also ref (6), pp 3, 4, & 5] Accordingly, the scoping statement published during July 2005, reviewed at a meeting held on 31 August 2005, and approved by the US Environmental Protection Agency by letter dated 29 September 2005, similarly did not limit the options to highway alternatives.

Later, on 21 August 2007, Prime Minister Harper and President Bush in a Joint Statement stated that *"Canada and the US will maintain a high priority on the development of enhanced capacity of the border crossing infrastructure in the Detroit-Windsor region, the world's busiest land crossing."* The direction from the Prime

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Minister and the President was mode neutral. At no time have our national leaders mandated that the DRIC project study focus only on highway alternatives.

Notwithstanding all of the existing policies and representations made by MDOT and OMOT regarding a mode-neutral analysis, highway options were the only options seriously considered. Railroad and non-highway public transportation options for border crossing improvements between southeastern Michigan and southwestern Ontario were summarily disregarded without justification or were not even considered.

(2) Investment Required to Build the Proposed DRIC Highway Project

Knowledge of the investment required for the proposed DRIC highway project is important in determining what alternatives to that project constitute reasonable alternatives.

We have had difficulty in ascertaining from the DRIC EA documentation the investment for the Canadian portion of the DRIC project.

The April 2009 Ontario MOE staff review of the DRIC EA is limited to the access road only and states that "...the estimated cost is approximately "\$1.86 billion (2011 Canadian dollars) [p. 5 last line + p. 6, line 1]. However, on 28 May 2009 Ontario MOE staff advised that the cost quoted in the Ontario MOE staff review is in error, that the correct cost estimate should have been reported as being \$1.6 billion, and that the cost is for the access road only.¹

A draft DRIC working paper dated May 2008 states that the cost of the plaza at the Canadian end of the proposed bridge will be \$180 million. This working paper does not give any estimate for the cost of building the Canadian portion of the proposed Detroit River bridge.²

The FEIS published in December 2008 for the US portion of the DRIC highway project states that the US share of the DRIC highway project cost is \$1.81 billion (2008 US dollars, with inflation added assuming project completion in 2013). [p. ES-60] Of this amount approximately \$0.4 billion is for the bridge, excluding design costs. [p. ES-60].

Assuming that the Canadian share of the cost to construct the bridge over the Detroit River is identical to the US share, ignoring differences between the years for which the cost estimates apply, and assuming for the moment parity between the Canadian and US currencies, it appears the total cost of the project to the Canadian and US economies combined is approximately \$4 billion. Given that the project

¹ Email dated 28 May 2009 from Catherine McLennon of Ontario MOE to Dietrich R. Bergmann, PhD, PE.

² The May 2008 report entitled "Preliminary Construction Cost Estimate Report for Practical Alternatives (Access Road and Inspection Plaza) -- available in the "Canadian Reports" section of the DRIC website and marked "DRAFT" states on page 17 (pdf 19) that type B Plaza cost is \$180 million (as of 2011).

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involves a six lane trans-border highway, the cost for each traffic lane is approximately \$670 million.

Note that the \$4 billion estimate does not include the costs of widening connecting highway in Canada and the US (eg, 401, I-75, and I-94).

(3) The Traffic Demand Forecasts Report

After the DRIC Study "Terms of Reference" were approved [during 2004] in Ontario and after the US "Scoping Statement" was presented and discussed, the DRIC project team released a "Working Paper" dated September 2005 and entitled "***Detroit River International Crossing Study Travel Demand Forecasts***". This report, referred to hereinafter as the "TDF" is notable for the reason that it gives credibility for considering at least two non-highway alternatives to building a new Detroit River highway crossing.

The first non-highway alternative suggested by data in the TDF is enhanced public transportation between the Cities of Windsor and Detroit. The specific statistic cited in the TDF which gives credibility to enhanced public transportation being a reasonable alternative is the report's observation that 79% of the automobile crossings of the Detroit River during 2004 were for traffic that is local to the region encompassing Essex County in Ontario and the Detroit metro area in Michigan. [TDF, p29, Exhibit 3.13]. One such option could be a public transportation tunnel under the Detroit River that extends to Ouellette Avenue in Windsor and Woodward Avenue in Detroit. Although some might argue that a new tunnel exclusively for public transportation might be very costly, the cost of that tunnel very likely could be a very small fraction of the total cost of the highway option for the DRIC project, as described above.

The second non-highway alternative suggested by data in the TDF is enhanced intermodal service between Detroit or other points west and south of Detroit at the US end and the Greater Toronto Area (GTA) or other points east of the GTA at the Canadian end. The TDF reveals that 44% of the total truck traffic using the Ambassador Bridge is divertible to intermodal rail. [ref: TDF, pp 122 and 123].

The DRIC study traffic forecasts for the planning horizon year, 2035, suggest that 200 trucks will leave GTA every hour for a trip to Detroit, and vice versa. If that traffic volume is correct, it would fill a freight train with space for 100 trailers leaving each end of the route every 30 minutes around the clock.

The January 2003 issue of Railway Age contained an article which stated that the Canadian Pacific Railroad "...has proposed a \$2 billion public/private partnership with the Canadian and Ontario governments to double-track the entire Montreal-Detroit corridor and replace CP's former New York Central Detroit River Tunnel."

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Toronto is approximately 370 km (230 miles) from Detroit and approximately 550 km (340 miles) from Montreal. It appears that approximately \$1 billion of the investment proposed by CP would be for the segment between Toronto and Detroit.

Regrettably, the TDF states that intermodal rail will not achieve its potential for the following three reasons: *“low margins; a lack of capacity on the mainline through Southwestern Ontario (a single track line); and problems with US immigration with respect to Canadian drivers delivering trailers from the Detroit yard.”* [TDF, p. 41]

It appears to us that the three reasons stated within the TDF for disregarding the intermodal rail option are unjustified, for the reason that the total investment required to rectify the problems specified in the TDF very likely is a small fraction of the anticipated budget for the proposed DRIC highway project.

Because the DRIC EA did not objectively evaluate reasonable public transportation alternatives and intermodal rail alternatives as described above, the EA does not meet the standard required of it by the Ontario Environmental Assessment Act and also by the Terms of Reference.

We consequently believe you are required to “...refuse to give approval to proceed with the undertaking.”, per Section 9(1)(c) of the Province’s Environmental Assessment Act.

(4) There is no Need to Construct the DRIC Highway Project Now

Your refusal to give approval to proceed with the undertaking will not wreak havoc on the trans-border crossings in Sarnia and Windsor. There are two reasons for this assertion.

First, trans-border traffic growth as anticipated by the DRIC project team in 2005 has failed to materialize. In prior submittals some of us have noted that fact and have faulted OMOT and MDOT for having failed to adjust their forecasts of traffic. We shall not elaborate on those points here.

The second reason is that the DRIC project’s TDF report described above notes that the public has a bias in favor of crossing the international border at Windsor/Detroit rather than at Sarnia/Port Huron. The TDF report notes that the date a new highway crossing at Windsor/Detroit is needed will be delayed by **six years** if a way is found to eliminate the bias in favor of using the Windsor/Detroit crossings.. [TDF, p. 124]

The public’s bias in favor of using crossings at Windsor is understandable inasmuch as until recently little or no information has been presented to westbound motorists traveling from London or Toronto on 401 of the advantages of using 402 to enter the US. Also, on the US side of the border no information regarding the Blue Water Bridge is given to travelers approaching Detroit on I-75 and I-94 from the south

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and west respectively. The public simply does not recognize that the incremental travel distance for a trip from downtown Detroit to London or the GTA is only 20 km (12.5 miles) longer if one travels via the Blue Water Bridge rather than the Windsor-Detroit Tunnel or the Ambassador Bridge. Because travel through the Windsor-Detroit Tunnel or the Ambassador Bridge requires travel in city traffic once one arrives in Windsor, a trip from downtown Detroit to London or Toronto via the Blue Water Bridge can be only about 5 minutes longer than making the same trip via either highway crossing in Detroit.]

The cure for eliminating the bias is to market the use of the Blue Water Bridge. One step for doing that is to improve and increase information signs along westbound 401 as travelers approach the 402 interchange, and along northbound I-75 and eastbound I-94 as travelers approach Detroit.

(5) The Proposed Scope for Your Review of the DRIC EA is too Narrow

The April 2009 Ontario MOE staff review of the DRIC EA states that you will be reviewing the EA as it applies only to “the proposed undertaking defined as the Windsor-Essex Parkway portion of the Detroit River International Crossing (DRIC) Project” [p.1; Section entitled “What”].

That limitation of your review seems unfortunate for the simple reason that the lion’s share [\$1.6 billion] of the part of the DRIC project located in Canada is a provincial project and the smaller share [\$0.58 billion] is a federal project.

Are you to assume that the major increases in traffic from the border to Highway 401 are a given? We think you should not accept that traffic as a given, for a variety of reasons. For example, the additional traffic stands to have major impacts on 401 along the entire distance between Windsor and the GTA. Those impacts include all of the following, if not now, certainly at some time in the future before the year 2035 planning horizon: increased noise emissions, increased air pollution, increased global warming emissions and pavement widenings. As noted above, much or most of the adverse environmental consequences of the proposed DRIC highway project can be avoided by diverting to intermodal rail the truck traffic having a trip end in or east of the GTA.

Ontario’s Environmental Assessment Act requires in Section 6.1(2) that the EA evaluate “...*alternative methods of carrying out the undertaking and the alternatives to the undertaking*”. Regrettably, OMOT reviewed only alternative highways to their proposed highway undertaking, and did not review alternative methods (i.e., non-highway options) to the proposed highway undertaking. It is appropriate for you to insist that the shortcoming of OMOT’s review be corrected.

In the case of freight transport, the DRIC project team’s traffic forecasts appear to imply a truck traffic volume between Detroit and the GTA of 200 trucks per hour per direction every day during year 2035. Noise and exhaust emissions along the entire route will increase considerably from what they would be were traffic to remain at

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present levels. Transferring the truck traffic having a trip end in or east of Toronto to intermodal rail has the potential of reducing by 75 to 90% all of the following for the truck traffic transferred to intermodal rail: fuel consumption, exhaust emissions, global warming emissions. It is in the Province of Ontario's interest to evaluate the intermodal rail option.

Closure

In conclusion, the Governments of Ontario and Michigan have before them an opportunity to do their environmental reviews for the DRIC project properly. Doing the reviews properly would involve a rigorous evaluation of both enhanced Windsor-Detroit public transportation services and also enhanced transborder intermodal rail services between the GTA and Detroit. The combined cost of these two non-highway alternatives stands to be far less than the cost to the Canadian and US taxpayers and toll-road payers to build and operate the proposed DRIC highway project. And the environmental benefits of the two non-highway alternatives stand to be much greater than for the proposed DRIC highway project.

A new dedicated public transport tunnel between the Windsor and Detroit central business districts stands to increase the vitality of both city centers and could well become a tourist attraction in itself. Further, a new public transportation tunnel stands to benefit the highway mode by removing peak hour commuters from especially the Ambassador Bridge.

An expanded intermodal service across southwestern Ontario which connects the US with GTA and points east could emulate and expand on what already is in place on various routes in west Europe and in the State of Virginia's. A southwestern Ontario intermodal service could become the premier short-haul intermodal route in the world.

The citizens of Ontario and Michigan deserve far better than what the Ontario and Michigan transportation agencies have given them in an unnecessarily long and costly process that has been more of a promotion effort than an analytical environmental review. It is time that the Ontario and Michigan transportation agencies begin to adapt to the circumstances in which Ontario and Michigan find themselves and to cease foisting on the public sprawl-inducing megahighway projects with minimal justification.

Respectfully,

Natalie Litwin, President
Transport 2000 (Ontario)
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David Jeanes, President_
Transport 2000 (Canada)
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Frank Butler, President
Citizens Environment Alliance
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Tim Fischer, Deputy Policy Director
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John D. DeLora, Chair
Mich Assoc of Railroad Passengers, Inc.
idelora@wowway.com
phone: 313-575-6608

Selected References:

- (1) Transport 2000 (Ontario) comments submitted to Ontario MOE on 03 March 2009
[not shown on DRIC website, but included in Ontario MOE record for DRIC EA]
- (2) Citizens Environment Alliance comments submitted to MDOT on 29 May 2008
http://www.partnershipborderstudy.com/pdf/DRIC_DEIS_Written_Comments_by_Advocacy_Groups_Churches_& Non-Profit_Agencies.pdf (p. 16)
- (3) Michigan Environmental Council comments submitted to MDOT on 28 May 2008
http://www.partnershipborderstudy.com/pdf/DRIC_DEIS_Written_Comments_by_Federal-State-Local_Public_Agencies.pdf (pp 38-41)
- (4) Transportation Riders United comments submitted to MDOT on 92 May 2008
http://www.partnershipborderstudy.com/pdf/DRIC_DEIS_Written_Comments_by_Advocacy_Groups_Churches_& Non-Profit_Agencies.pdf (pp 19-20)
- (5) Michigan Association of Railroad Passengers comments submitted to MDOT on 29 May 2008
http://www.partnershipborderstudy.com/pdf/DRIC_DEIS_Written_Comments_by_Advocacy_Groups_Churches_& Non-Profit_Agencies.pdf (pp 1-8)
- (6) Dietrich R. Bergmann comments submitted to MDOT on 29 April 2008
http://www.partnershipborderstudy.com/pdf/DRIC_DEIS_Written_Comments_by_Individuals.pdf (pp 40-54)
- (7) Dietrich R. Bergmann comments submitted to MDOT on 29 May 2008
http://www.partnershipborderstudy.com/pdf/DRIC_DEIS_Written_Comments_by_Individuals.pdf (pp 2-6)
- (8) Dietrich R. Bergmann comments submitted to OMOT on 12 Dec 2008
http://www.partnershipborderstudy.com/pdf/EA-Report/EA_AppendixD.pdf . (pp 91-102)
- (9) Dietrich R. Bergmann comments submitted to MDOT on 05 Jan 2009.0528
[attached to reference (10)]
- (10) Dietrich R. Bergmann comments submitted to Ontario MOE on 27 Feb 2009
[not shown on DRIC website, but included in Ontario MOE record for DRIC EA]

DRIC Environmental Assessment

1 message

Janet May <janet@smartgrowth.on.ca>

Mon, Jun 1, 2009 at 10:52 AM

Reply-To: janet@smartgrowth.on.ca

Dear Ms. McLennon:

The Ontario Smart Growth Network, a network consisting of 64 member organizations, joins OSGN member Transport 2000 (Ontario) and five other organizations in the comments dated May 29, 2009 on the DRIC Environmental Assessment. I have attached a copy of those comments.

Yours sincerely,

Janet May
Executive Director
Ontario Smart Growth Network
215 Spadina Avenue, Suite 132
Toronto, Ontario
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416 533-1635 ext 3

www.smartgrowth.on.ca



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MICHIGAN CHAPTER

June 29, 2009

Catherine McLennon, Special Projects Officer
Environmental Assessment and Approvals Branch
Ontario Ministry of the Environment (MOE)
VIA Fax: 416-314-8452

RE: Detroit River International Crossing (DRIC) Project Environmental Assessment

Dear Ms McLennon:

The Sierra Club Michigan Chapter and Southeast Michigan Group, on behalf of the Sierra Club (US), join with the Michigan Environmental Council and several other organizations in submitting the attached comments regarding Detroit River International Crossing (DRIC) Project Environmental Assessment. The comments were originally submitted by our colleagues on May 29th, and we join them in their comments.

Please let me know if there are any questions about our submission. Thank you.

Sincerely,

Anne Woiwode
State Director



SIERRA CLUB ONTARIO

July 1, 2009

To: Honorable Ontario Minister of the Environment, John Gerretsen
via Catherine McLennon, Special Project Officer, EA Project Coordination Section
Environmental Assessment and Approvals Branch
Ministry of the Environment
2 St. Clair Avenue West, Floor 12A, Toronto ON M4V 1L5
Tel: 416-314-7222 800-461-6290
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Re: Detroit River International Crossing (DRIC) Environmental Assessment (EA) prepared by the Ontario Ministry of Transportation (OMOT)

Ontario MOE File #: 05087

http://www.ene.gov.on.ca/en/eaab/projects/detroit_river.htm#

Dear Minister Gerretsen:

On May 29, 2009 six non-governmental organizations submitted to you a joint statement requesting that you not approve the DRIC highway undertaking proposed in the EA identified above. The six organizations who issued the statement are as follows:

- Transport 2000 (Ontario)
- Transport 2000 (Canada)
- Citizens Environment Alliance (Windsor, ON)
- Michigan Environmental Council
- Transportation Riders United (Detroit, MI), and
- Michigan Association of Railroad Passengers, Inc.

We understand that on Monday, June 1, 2009 the following organization endorsed the joint statement:

- Ontario Smart Growth Network (OSGN)

We also understand that on Monday, June 29, 2009 our sister organization in Michigan endorsed the joint statement...

- Sierra Club Michigan Chapter

This is to advise you that the Sierra Club Ontario also endorses the May 29, 2009 statement.

Respectfully,

Dan McDermott, Director
Sierra Club Ontario

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July 29, 2009

Honorable Ontario Minister of the Environment John Gerretsen
c/o Catherine McLennon, Special Projects Officer
Environmental Assessment and Approvals Branch
Ontario Ministry of the Environment (MOE)
VIA e-mail: Catherine.McLennon@ontario.ca

Dear Mr. Gerretsen,

The Michigan Land Use Institute is a statewide, member-based citizen organization dedicated to advancing sustainable, prosperity-building solutions for land use, agricultural, transportation, and energy challenges of the 21st century.

The Institute has reviewed the comments to your office regarding the proposed Detroit River International Crossing Project that were jointly submitted on May 29 by Transport 2000 (Ontario), Transport 2000 (Canada), Citizens Environment Alliance (Windsor, ON), Michigan Environmental Council, Transportation Riders United, and Michigan Association of Railroad Passengers Inc., and since endorsed by Ontario Smart Growth Network and Sierra Club Michigan. We wholeheartedly endorse those comments.

Given our focus on transportation, community design, and energy policy, we are particularly interested in the public transit and intermodal transportation options that the comments underline, and that your department ignores in a rush to build more highways and bridges.

These rail-based options present a powerful opportunity for investing taxpayer dollars to lessen, rather than increase, oil consumption and air pollution, including greenhouse gas emissions; facilitate transportation strategies and investments that look to the future, not the past; and encourage new development and economic growth in city centers, rather than outlying areas.

Enhanced tunnel public transit and intermodal transportation would also facilitate increased citizen-driven economic activity on both sides of the border by reducing the heavy truck traffic that currently causes long delays at the Detroit border crossing in both directions.

The Institute urges your department to take a closer, critical look at its proposal from economic and environmental perspectives. Canada and Ontario have often been leaders in these regards; many U.S. citizens often look to your region and country for inspiration on such issues. It would be ashamed to harm that tradition now, when forward-looking leadership is so badly needed.

Sincerely,

Hans Voss
Executive Director