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Honourable Caroline Mulroney
Minister of Transportation
777 Bay St, 5th Floor
Toronto, ON M7A 2J3
Minister.mto@ontario.ca

Dear Minister Mulroney,

Re: Bradford Bypass – Construction Timing/Exemption

I represent Simcoe County Greenbelt Coalition and the Rescue Lake Simcoe Coalition with respect to the environmental assessment of the Bradford Bypass. As you are likely aware, my clients along with numerous other organizations and individuals have requested a federal environmental assessment for the Bradford Bypass due to the alarming adverse environmental impacts that are predicted by the provincial assessment for this project.¹

I am writing to express my clients' concerns about [Ontario's Action Plan](#) (March 2021) Ontario's 2021 budget. Page 105 of that document states that regarding the Bradford Bypass: "Ontario is advancing engineering and environmental assessment work, which will allow early works to begin **as early as fall 2021.**"

The Bradford Bypass received a notice of approval under the *Environmental Assessment Act* (EAA) in 2002. That notice of approval required various studies to be undertaken to address serious gaps in the 1997 environmental assessment that was conducted by your Ministry, including predictions of severe groundwater and stormwater contamination, objections to the project based on archaeological resources, as well as noise issues raised by Health Canada. These studies were generally to be undertaken as part of the Class Assessment that is required under the notice of approval.

Last year, the Ministry of Transportation (MTO) posted a proposal to exempt the Bradford Bypass from the requirements of the EAA. The proposed exemption would remove rights of appeal for any flaws in the Class Assessment studies, would exempt the project from all of its 2002 conditions of approval and would permit "early works" such as bridges and utility

¹ Request for Federal Environmental Assessment

relocation, and possibly other undefined works, to proceed prior to the completion of the Class EA assessment studies.²

The environmental registry continues to list this proposed exemption as a “proposal” with no decision having been made. No regulation has been passed approving the proposed exemption. No regulatory text has been provided for consultation under the Environmental Registry as is required by law. Yet, to my clients surprise the government’s budget document indicates a proposed start date for early works for the Bradford Bypass of fall 2021.

In addition to the request made by my clients to the federal Minister of Environment and Climate change we note that your Ministry requires permits from the Federal Department of Fisheries and Oceans for bridges and water crossings which it has failed to seek or obtain. It would therefore be unlawful for bridges to commence construction this year in the absence of these further federal permits. Your Ministry must also be aware that some aspects of the construction of early works, inclusive of bridges, in the fall of 2021 would be prohibited if the project is designated under the federal *Impact Assessment Act*.

From a public consultation perspective this timeline for construction is indeed shocking since no new public consultations of residents in your riding have occurred since the late 1990s. Some of these residents are in close proximity to the project or may be expropriated without a hearing of necessity and are directly affected by your decision to move up construction timing to a date that precedes preliminary design. The environmental study updates are not complete and there are no provincial environmental compliance approvals for the project, dealing with key issues like stormwater and groundwater contamination.

The statement in your government’s budget on the project’s timing also contradicts the timeline your own Ministry’s project team presented to York Region Council as recently as March 17th-18th. The letter to York Region dated March 17, 2021 from your Ministry’s staff states:

Through this **Preliminary Design/EA Update Study**, further design refinements will be considered and evaluated and a preferred design alternative selected. Environmental technical updates will be undertaken to inform the Preliminary Design, all of which will conform to current provincial and federal environmental legislation. **This is anticipated to be completed in late 2022.** (Emphasis added)

The Ministry website for the Bradford Bypass states that the preliminary design would not be completed until even later, in 2023.³ The budget says early works will commence in 2021. Accordingly the Ontario budget document implies that early works would be commenced without even a preliminary design for the highway, and before the environmental assessment studies are completed, and likely before public consultations on key decisions on the route for the project.

² <https://ero.ontario.ca/notice/019-1883>

³ <https://www.bradfordbypass.ca/schedule/>

Your Ministry staff indicated at the March 18 York Region Council meeting and in correspondence dated March 17th that the proposed exemption would not impact the studies your Ministry planned to conduct. York Region relied on this to respond to the federal Impact Assessment Agency that it supported the provincial EA process.

However it appears from your government's budget that the MTO project team misled the York Region Council when it suggested it would complete all 15 Class EA studies prior to starting construction. Your budget document clearly anticipates that construction of early works would precede the completion of environmental studies by at least a year, if not longer. Therefore, York Region Council relied on misleading statements by the MTO project team to respond to the federal impact assessment agency.

Further, it appears from the budget document that your government has decided to approve the regulatory exemption posted on the *Environmental Bill of Rights* registry prior to the fall of 2021 but the Ministry has not posted any regulatory language nor any decision on the Environmental Registry, in violation of the right of Ontarians, including my clients, to be consulted and have their comments considered under the *Environmental Bill of Rights*.

Please provide my clients with the text of the proposed regulatory exemption and an explanation why the approval of this exemption is in the budget document rather than posted as a decision on the environmental registry. Please also explain why the budget document contradicts statements by MTO's project team to York Region Council made only days earlier.

The legal requirement to consult Ontarians and to consider their comments under the *Environmental Bill of Rights* before deciding to proceed with the proposed exemption is clear. Despite this the actual scope of the exemption has not been provided to the public. Further, there are existing consultation requirements under the *Environmental Assessment Act* and the 2002 notice of approval, including consultation requirements under the Class Environmental Assessment that must be met before construction can commence.

Your Ministry's project team asserted on March 17th that it would engage in a "comprehensive consultation program" that would allow the public "to provide input and participate in a meaningful way." Please explain how this is going to be undertaken when even the minimum consultation requirements under the *Environmental Bill of Rights* and requirements to consult the public under existing approvals are not being, and have not been met. The Ministry has provided no substantive response to the concerns raised in my clients' request for a Federal Impact Assessment from February, or the concerns raised in their comments under the *Environmental Bill of Rights* last summer.

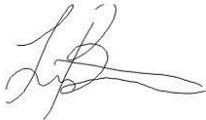
Finally, the MTO project team made claims about projected reductions in travel time at the March 18 York Region Council meeting. Specifically they stated in their March 17 letter that "Motorists and trucks are anticipated to save up to 66 per cent in travel time compared to existing routes, resulting in 10 to 35 minutes of travel time saved each way." This estimated time savings appears unrealistic on its face given the length of the highway and existing travel times.

We immediately requested substantiation of these claims from the MTO project team. It is over a week later we have received no substantive response from the project team or the Ministry. Please provide us with the underlying data and studies supporting the travel reduction time claims made by your Ministry's team on the public record at the March 18 York Region Council meeting.

A credible environmental assessment process is transparent. The process being undertaken by your Ministry for the Bradford Bypass is anything but transparent. Specifics of the proposed exemption have been obfuscated and hidden from public scrutiny, EA studies and consultations have been promised but not undertaken or provided for the public, decisions about key steps in the project schedule are buried in lengthy budget documents instead of posted on the Environmental Registry or the project website for public view, and statements made just days apart are contradictory about the process and timing of environmental study, design, consultation and construction.

Thousands of Ontarians have now raised objections to this flawed process and demanded a federal environmental assessment because your Ministry has failed to include the public in this process. Your Ministry can do better. Please provide us with the requested clarifications. I would be pleased to meet with your office at any time.

Sincerely,



Laura Bowman
Staff Lawyer
Ecojustice

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