

*For ADDITION Commissioner
INFO: L. Bourget
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MAY 07 2004 U.S. Section*

Minister
of Foreign Affairs



Ministre
des Affaires étrangères

Ottawa, Canada K1A 0G2

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The Honourable L'honorable
Graham P.C., Q.C., M.P., c.p., c.r., député

MAY 7 2004

The Right Honourable Herb Gray, P.C., C.C., Q.C.
and the Honourable Dennis L. Schornack
International Joint Commission
234 Laurier Avenue West
Ottawa, Ontario
K1P 6K6

Dear Messrs. Gray and Schornack:

Thank you for your letter of May 30, 2003, to U.S. Secretary of State Powell and myself concerning Vermont's Alburg-Swanton Bridge and Missisquoi Bay. I know you have already received a reply from the United States and regret the delay in my own reply.

As requested in your letter, the Department of Foreign Affairs and International Trade undertook a review of files and archives but was unable to find any evidence of an agreement to authorize the existing bridge and causeway. It is likely, therefore, that a determination was made that authorizations from the governments of Canada and the United States and the International Joint Commission were not required under the *Boundary Waters Treaty*, for these governmental works, wholly in the State of Vermont.

As Vermont is currently proposing to modernize the bridge, involving the partial removal of the existing causeway, and pursuant to Article IX of the Boundary Waters Treaty (BWT), I would propose that the Commission review reports (Environmental Assessment, Endangered and Threatened Species Taking Permit, VANR Water Quality Assessment, Hydrodynamic Model by Applied Sciences Associates, etc.) produced by the state of Vermont, in order to provide advice to governments as to whether this complies with the BWT as concerns causing pollution to the injury of health or property in Canada. While further discussion between the IJC and the governments will refine these issues, the review should include: 1) whether the original causeway affects water levels/flows in Canada; 2) whether the original causeway in the U.S. causes pollution to the injury of health or property in Canada; 3) whether the removal of the original causeway in the U.S. might cause pollution to the injury of health or property in the United States; and 4) whether the proposed project in the U.S. will cause pollution to the injury of health or property in Canada.

Canada

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This review should, ideally, be completed by the end of the summer and funded out of the IJC's current budget. I would propose that the Commission review the environmental assessment conducted by Vermont, in order to provide an independent assessment to governments as to whether this new project complies with the *Boundary Waters Treaty*. This review would provide the necessary record of decision regarding compliance with the Treaty and should, ideally, be completed by the end of the summer. The Government of Canada would be pleased to provide technical advice to assist in your assessment.

Residents in the region have serious concerns about their water quality and I am confident that the IJC's review will be an important contribution to efforts to improve conditions in Missisquoi Bay.

Sincerely,



Bill Graham

c.c.: The Honourable David Anderson, P.C., M.P.
The Honourable Denis Paradis, P.C., M.P.