



Maw-lukutijik **Saqmaq**  
Assembly of Nova Scotia  
**Mi'kmaw Chiefs**

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The Honourable Jonathan Wilkinson  
Minister of Environment and Climate Change  
House of Commons  
Ottawa, ON K1A 0A6  
Via Email: [ec.ministre-minister.ec@canada.ca](mailto:ec.ministre-minister.ec@canada.ca)

Minister Jonathan Wilkinson,

On behalf of the Assembly of Nova Scotia Mi'kmaw Chiefs, I am requesting to designate the Highway 101 Twinning Three Mile Plains to Falmouth Phase 2: Aboiteau and Bridge Construction project under the *Impact Assessment Act*. The proponent is the Province of Nova Scotia, specifically the Nova Scotia Department of Transportation and Active Transit (NSTAT and formerly the NS Department of Transportation and Infrastructure Renewal), with the primary point of contact as Dr. Bob Pett, NSTAT.

As part of the ongoing twinning of Highway 101, the Province of Nova Scotia has proposed to construct highway bridges over the Avon River and a new gated structure (what the proponent refers to as an aboiteau) downstream of these bridges to control tidal flow. The Government of Canada has also proposed the southern bight as a network site and is being considered for identification as critical marine habitat. A Community Liaison Committee (CLC) was established for this project and their website contains an overview of the project: <https://hwy101windsor.ca/>.

We are requesting this project be designated under the *Impact Assessment Act* as the initial environmental assessment described the project as upgrading the existing aboiteau structure: “the causeway at the Avon River will be widened and elevated in conjunction with upgrading of the aboiteau; therefore, a bridge structure is not required at this location”. The province now intends to construct a completely new gated structure downstream of the existing gated structure and leave the existing structure in place. These two structures would inhibit fish passage to varying degrees and as a result of the expanded footprint of the proposed river crossing infrastructure and the addition of a second barrier to fish passage, we believe this project is being carried out beyond the scope of its initial environmental assessment.

Further, the initial environmental assessment was conducted under gate operations that provided natural river state for an extended period of time, yet the proponent's first submission to the Department of Fisheries and Oceans (DFO), which has yet to be approved, for Phase 2 of this project was to maintain a freshwater reservoir. A joint study carried out since 2017 clearly shows that maintaining a reservoir is an inherent barrier to fish passage. Our requirements for this project have been clear from the onset - any new structure must not be human operated and must provide unimpeded fish passage for all species 365 days a year. Our preferred option has always been the removal of the existing causeway and rebuilding of the necessary dykes and barriers to permit full tidal flow.

The project, as currently proposed, would establish two barriers to fish passage on the Avon River. These barriers would diminish the rivers contribution to the productivity of various fisheries, increase the cumulative effects caused by the barriers to fish passage in this area (such as the barrier built across the mouth of the Halfway River in 2019) and impede the ability to maintain the characteristics of the water and the water flow downstream of the proposed project. The project is also located within the Southern Bight-Minas Basin, which is a RAMSAR designated wetland of international importance and a Western Hemisphere Shorebird Reserve

Both an expert panel, and ongoing multi-year joint study, at the Windsor causeway between the Mi'kmaq, commercial fishers and academia has shown that saltwater entry is required to pass all species. A similar study on the recently installed Halfway River barrier is showing that under the powerful tidal forces within the Bay of Fundy, structures designed to restrict tidal flow as a primary objective followed by fish passage as a secondary objective fail to provide efficient fish passage and result in death and damage to fish. We are concerned about the potential effects on aquatic species, as defined in subsection 2(1) of the *Species at Risk Act*, could have changes to the environment beyond where the project is taking place, specifically.

DFO's 2010 Recovery Strategy for the inner Bay of Fundy Atlantic Salmon states that barriers exist on at least 25 major rivers around the Bay of Fundy, specifically listing the Avon causeway-dam type barrier as among the most substantial. The strategy further states that these barriers have caused, or are thought to have caused, a wide range of ecological effects on the rivers and their estuaries.

The Avon River was historically well known as an important salmon river but the latest crash in its iBoF salmon population has been attributed to the construction of various dams in the area, including the Windsor causeway. If this project is approved, it will perpetuate a severe limitation on salmon recruitment within the Avon River, negatively impacting the persistence of the overall designated unit, including in neighboring provinces and would result in additional cumulative effects, for example a continued reduction in upstream and inland nutrient transfer via salmon migrations, and could have effects on effects on migratory birds.

At low tide in the Minas Basin, expansive mudflats are exposed, which enable migratory birds to feed on a rich abundance of invertebrates such as corophium. The construction of the Windsor causeway, and current operations of the existing gated structure, eliminated tidal flow to a considerable portion of the Avon, which both reduced habitat for these invertebrates, and eliminated a substantial area of productive feeding grounds for these birds. This project, as proposed, would secure this loss of these feeding grounds for the foreseeable future and perpetuate this negative impact to migratory birds.

The proposed project would establish a second barrier to fish passage thus amplifying the infringement of Mi'kmaw Rights that was initiated with the construction of the original causeway in 1968. In the initial environmental assessment in 2017 it states, "it is anticipated that areas for fishing and gathering are available for Mi'kmaq use outside of the Project Development Area. It is therefore expected that these resources can be readily accessed by the Mi'kmaq for traditional use in adjacent areas." There is currently zero effective or efficient fish passage provided at any of the numerous existing aboideaux and dams in the surrounding area and as such, access to fish habitat for spawning, nurseries, foraging, etc. is increasingly being reduced in this region. These cumulative effects have impacted the ability for the Mi'kmaq to exercise our Treaty and Aboriginal Rights, specifically, our ability to fish for food, social, ceremonial or moderate livelihood purposes, thus negatively impacting the social and economic conditions of the Indigenous peoples of Canada.

While consultation on this project is ongoing with the province through the *Terms of Reference for a Mi'kmaq-Nova Scotia-Canada Consultation Process*, it has become clear that there needs to be a broader discussion which involves the Federal Government and the *Impact Assessment Act* on this matter.

We look forward to future discussions on our concerns with the Highway 101 Twinning project.

Yours in Recognition of Mi'kmaw Rights and Title,

<Original signed by>

Chief Gerald Toney  
Fisheries Lead  
Assembly of Nova Scotia Mi'kmaw Chiefs

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