

July 6, 2007
Petitcodiac Riverkeeper

RIVERKEEPER FILES LEGAL ACTION IN FEDERAL COURT OVER CAUSEWAY

Press release

Moncton (July 6, 2007) — Today, Petitcodiac Riverkeeper filed an application in Federal Court demanding that the Federal Minister of Fisheries and Oceans take all necessary measures to force the owner of the Petitcodiac causeway, the Province of New Brunswick, to allow for the unimpeded passage of fish in accordance with Article 20 of the Fisheries Act.

“Our patience has finally run out. We wanted to file by June 10th, but there were rumors that the Province had chosen one of the options and was in negotiation with the federal government, we decided to give them a little leeway. Well today the hourglass is empty and their time is up,” announced Petitcodiac Riverkeeper Chairman, Michel Desjardins.

Timeline

Almost two years after the publication of the EIA, the Province of New Brunswick has still not made public its plans to restore the river. “We still don’t know if the provincial government has chosen one of the options for restoration, nor whether a timeframe has been set for the completion of the project,” said Desjardins.

On March 28th, Petitcodiac Riverkeeper sent a letter of notice of impending legal action to Fisheries Minister Honorable Loyola Hearn and never received a response. With no official announcements made concerning the causeway and the restoration of the Petitcodiac, Riverkeeper has interpreted this as the Minister’s refusal to act and has no choice but to go to court and demand action on the Petitcodiac causeway.

Not a lawsuit

“This action is not a lawsuit, and by no means should be used as an excuse by the government to delay any impending announcement,” said Université de Moncton law Professor Michel Doucet, legal counsel for Riverkeeper. He explained that his client is not suing the government and that the action filed in court today is a *mandamus*. A mandamus is a writ, requiring a public body or government official to do something that it has an existing legal duty to do, that it has not done, or has unreasonably delayed doing. Under the *Fisheries Act*, the Minister of Fisheries and Oceans has the power to require that the owners of structures that impede

fish passage to include a fishway that will allow the safe and unimpeded movement of fish.

This said, Petitcodiac Riverkeeper finally opted to name the province of New Brunswick in the legal action. “After examining all circumstances, we recommended to our client that the province should be a defending party in the case,” said Michel Doucet. According to Mr. Doucet, the rules and procedure of the Federal Court are such that, as the owner of the causeway, the Province of New Brunswick needed to be included in the case.

Riverkeeper Chairman Michel Desjardins made it clear that the legal procedure should not slow down any decision-making process currently underway. “The river has been choking to death for 40 years and we can’t afford any more delays. With every passing month, the river and its ecosystem keep deteriorating. It’s time for the governments to take their responsibility and fix this once and for all. They’ve pushed us to the edge and this is our last resort, but we will pull back if the restoration project is announced,” he said.

— 30 —

Further information: Michel Desjardins, Chairman

Petitcodiac Riverkeeper

michel.desjardins@petitcodiac.org

Tel: 389-8221

Cell: 381-1580