



THE PEACE BRIDGE  
CROSSING PATHS ★ BUILDING FUTURES

<b>IJC / CMI OTTAWA</b>
<b>ACTION:</b> TM
<b>INFO.:</b> MC, MV, RK
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<b>FILE / DOSSIER</b>
3-1-2-1 (115)

9 November 2000

Mr. Murray Clamen  
Secretary, Canadian Section  
International Joint Commission  
100 Metcalfe Street, 18<sup>th</sup> Floor  
Ottawa, Ontario K1P 5M1

Mr. Gerald E. Galloway  
Secretary, U.S. Section  
International Joint Commission  
1250 23<sup>rd</sup> St. N.W., Suite 100  
Washington, D.C. 20440

Re: Orders of Approval  
Peace Bridge Capacity Expansion Project

Dear Gentlemen:

We refer to Orders of Approval which you issued on 30 April, 1999 applicable to the construction of the Second Peace Bridge across the Black Rock Canal/Niagara River at Buffalo, New York and Town of Fort Erie, Ontario. The Buffalo and Fort Erie Public Bridge Authority (PBA) has been unable to commence construction of this project due to litigation, the City of Buffalo's post tender decision to withhold easements needed for construction, and public controversy.

The status of the related litigation is as follows:

1. In the matter of Olmsted Parks Conservancy and Episcopal Home vs. the PBA and New York State Department of Environmental Conservation (NYSDEC) in the State of New York Supreme Court, Judge Fahey in May 2000:
  - a. Annulled Permit No. 9-1402-00415/00005 issued by NYSDEC to the PBA for the Second Peace Bridge Project
  - b. Annulled the Negative Declaration dated 22 December 1998 of NYSDEC
  - c. Permanently enjoined the Bridge Authority from proceeding with bridge construction until PBA complied with the New York State Environmental Quality Review Act (SEQRA)
  - d. Ordered PBA and NYSDEC to reconsider the cumulative impact of the bridge and related plaza/connecting roads, consideration of alternatives thereto, and before proceeding, for the preparation of an EIS with respect thereto
2. In the matter of City of Buffalo vs. the PBA and NYSDEC in the State of New York Supreme Court, Judge Fahey in May 2000 ordered and adjudged 1a, 1c, and 1d exactly as defined above.
3. In the matter of the PBA vs. the City of Buffalo, Judge Fahey in May 2000:
  - a. Dismissed PBA's application claiming entitlement to easements from the City of Buffalo

The Peace Bridge Authority has filed Notice of Appeal with respect to the judgements of cases 1 and 2 above.



BUFFALO AND FORT ERIE PUBLIC BRIDGE AUTHORITY ■ PEACE BRIDGE PLAZA  
BUFFALO, NY 14213-2494 ■ (716) 884-6744 / (905) 871-1608 ■ FAX (716) 884-2089

4. On 28 July 2000 Buffalo West Side Environmental Defense Fund, Inc. filed a complaint vs. US Secretary of Transportation, US Secretary of the Army, US Secretary of State and the PBA petitioning the US District Court to order:
  - a. USDOT to rescind the Bridge FONSI
  - b. Secretary of State to rescind permission to build an additional bridge
  - c. Corps of Engineers to rescind the Clean Water Act Permits
  - d. preparation of an EIS for the combined Bridge / Plaza to include consideration of attracting additional commercial traffic
  - e. the EIS to consider a new independent bridge at the same or another location
  - f. preparation of a 4(f) Statement
  - g. that PBA comply with SEQRA as an "agency"
  - h. that Executive Order 12898 (Environmental Justice) be complied with in considering the project

PBA's attorneys have obtained an extension of time to respond to this complaint until 28 November 2000.

**The PBA has decided that the quickest and most productive path to expand capacity and relieve congestion is to fully comply with Judge Fahey's ruling. Accordingly the PBA is planning to combine the proposed actions involving the bridge, US plaza and connecting roads into a single EIS by supplementing the open U.S. Plaza EIS process.**

**This supplemental EIS process will be combined with SEQRA, the City of Buffalo Review Ordinance and the Canadian Environmental Assessment Act (CEAA) to produce an integrated Bi-National environmental process.**

**In conjunction with this decision, the PBA will not proceed with its pending appeal of Judge Fahey's decisions in the three cases described above.**

**Moreover, the PBA hereby requests that reference Orders of Approval that you issued for the Second Peace Bridge be withdrawn. It is anticipated that such action will provide the necessary basis for the Buffalo West Side Environmental Defense Fund, Inc. plaintiffs to withdraw their Complaint and dismiss the federal court action (case 4 described above).**

PBA will keep you advised of our plans as further details are developed. Please contact us if you desire additional information at this time.

We ask that you send us written confirmation of receipt of this letter.

Very truly yours,

BUFFALO AND FORT ERIE  
PUBLIC BRIDGE AUTHORITY



Earl Rowe  
General Manager, Corporate Services