Brief

on the

Moncton – Fredericton Highway Project

Presented to the
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Minister of Transportation

by

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Local 1190

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Introduction

The construction of a toll-highway between Fredericton and Moncton on a distance of 195 kilometres has been a topic of discussion in many circles. Opposition to the toll has been evident in the Moncton Petitcodiac area. The toll is certainly double taxation for the citizens of New Brunswick who will be using the road. It is also discriminatory for the population of the area of the highway who will be using it. For its part, local 1190 of the Canadian Union of Public Employees (CUPE) has focussed more on the financial aspects of the project and the loss of jobs for its members.

On the other side, the past liberal government was arguing that it will be a safer road and they were arguing that it is a good deal for the province. On the first argument, everybody agrees that a four lane highway with limited access is safer than two lanes with unlimited access like we have now. Already, the government has built many sections of four lanes roads that are not toll highway. There is the section of the Trans-Canada from Moncton to the Nova Scotia border, many sections between Saint John and Moncton, the road from Shediac to Moncton and a new section between Edmundston and Saint Leonard. Nobody is opposed to a four-lane highway to link two of the most important urban centres in New Brunswick.

Some background

Bill 6 and 7 were introduced in the Legislative Assembly in the fall session of 1997 and adopted in a hurry by the Liberal government. We have to understand that these two bills are only a tiny portion of the bigger picture, that is the building and operating of the private highway from Fredericton to Moncton.

To understand Bill 6 and 7, we have to look back at when this issue of a private highway all started. In 1994, a report entitle *Feasibility Study for Toll Highways and Private Sector Involvement for Highway Development in New Brunswick* was done for the government of New Brunswick by three companies (Price Waterhouse, Trans Route Consultants, and ADI Limited). This study sets the tone for the idea of a toll highway and a public-private partnership. In 1995, the government passed the New Brunswick Highway Corporation Act, which was an Act that set up a crown corporation that had the power to "plan, design, finance, construct, improve, operate, maintain, acquire, hold, own or lease highways, or a portion of highways". It was generally an act that transferred the authority of building a highway from the department of Transportation to this crown corporation. In 1996, there was an environment impact assessment done by the Department of the Environment on the upgrade of the Trans-Canada Highway from Fredericton to Salisbury. It made some recommendations of measures to be taken during construction but it did not conclude that any portion of the highway should pass somewhere else (different route). It was already clear in that study where the road would pass. In June of 1996, the Department of Transportation announced that it would spend $1.4 billion in the next four years for highway construction in the province. It included the Fredericton-Moncton highway in this plan, and there was a 600 million dollars for this project. They also indicated in that release that they would be looking at other source of financing such as: “public-private partnership, tolls, and gasoline and diesel fuel taxes”. In September of 1996, the Department of Transportation announced that several steps were being taken in moving towards the building of the new highway. These included a financial feasibility study, nineteen firms from New Brunswick doing land surveying and engineering aspects of the project, two firms to assist in environment and archeological aspects of the project, a study on traffic, test drilling in the rivers of the project, and surveying.

In December of 1996, the government announced that it was officially looking for a private sector partner for the 195-km highway. On April 4, of 1997, the government announced that they were asking three proponents for proposals for the Fredericton-Moncton highway. They also announced the toll fees. In the meantime a study was done by RBC Dominion Securities on the financing, and on the way the project should be organized. The report with the title *Feasibility of a Public-Private Partnership Approach to the Fredericton-Moncton Highway Project 1996/1997* is dated June 25, 1997. This report was followed to the letter by the government, in order to make the final arrangement with MRDC. In November of 1997, it was announced that Maritimes Road Development Corporation (MRDC) had the lowest cost proposal for building the highway with a price of $584 million. Between November of 1997 and January of 1998, secret negotiations took place where a series of agreements were negotiated between the government and MRDC. Finally, on January 22, 1998 they announced that the

Maritime Road Development Corporation (MRDC) had been chosen as the private partner to build the highway. The main companies involved in that consortium were Miller Paving, one of Canada's largest highway builders; Dragados FCC Internacional de Constuccion, S.A. of Spain, a leading designer/builder/operator of toll highways and bridges in the world; and GTMI (Canada) a partner on the Confederation Bridge project. They said the price would be $584.4 million.

Coming back to Bill 6 and 7, first of all, they are directly linked to this public-private partnership with Maritime Road Development Corp. Bill 6 is an amendment to the Highway Act. In Bill 6 it added to a list of things the Minister may authorize to do or may contract-out, or have supervision over. They added the words "holdings, owning, using, planning, expansion and rehabilitation". It establishes a toll under section 34.1(1), 34.1(2), and 34.1(3). So Bill 6 sets the table for the ownership and payment of tolls by MRDC. Bill 7 is an amendment of the New Brunswick Highway Corporation Act. Again, it sets the parameter for the deal with MRDC and the agreement that was signed in January of 1998, but it also makes it legal for the New Brunswick Highway Corporation to "sell and dispose of lands and highways", a power that it did not have before. In fact, Bill 6 and 7 do adjust the Highway Act and the New Brunswick Highway Corporation Act to the agreement that the government signed with MRDC.

On January 1998, the government and MRDC announced that they had a deal. This major shift in policy using public-private partnership to build highways was never debated in the Legislative Assembly, and in the election of 1995 there was never a political party that proposed such a concept in their platform. This project that will cost millions of dollars to the taxpayers was never debated or approved by the Legislative Assembly of this province. Cabinet approved it, and then the opposition parties and the population were faced with a deal that was signed, sealed and delivered on January 22, 1998. Because of the secret nature of negotiations between the government and corporations, public-private partnerships are a breach in our democratic system of government.

The price for construction

When the deal was finally signed in January of 1998, the government of the time made much noise to the effect that it was the best deal for the province. It said that the price for the construction of MRDC, which was then $584 million, was the best price available. In all the propaganda, they said they had done an internal study showing that the real cost of construction would have been $758 million.[1] By using this figure with the press, it made it sound like the government was saving close to $200 million on the construction cost. In reality, that figure of $758 million is a smokescreen. Back in 1996, the government announced that the price for construction would be $600 million. [2] In a study done for the government of New Brunswick in 1997 by RBC Dominion Securities, this company stated that the price of construction was going to be $547.2 million in 1996 dollars.[3] Why are there such discrepancies between those figures?

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[1] *Report of the Auditor General, 1998*, p.171.

[2] Press Release Department of Transportation, Province of New Brunswick, June 14, 1996, NB 847.

[3] RBC Dominion Securities: Feasibility *of a Public-Private Partnership Approach to the Fredericton-Moncton Highway Project, 1996-1997*, section K.

Why is the Department of Transportation saying it will cost $600 million in 1996 and $758 in 1998? Now the real construction cost has been reduced to $578,770,288.00 with an amendment to the Development and Design-Built Agreement. This amendment was signed on November 12, 1998.

Federal government funding

Because the government of New Brunswick went to a public-private partnership it will not get any subsidies from the Federal government for this project. When you look back at the amount of money the Federal government spent on road construction in New Brunswick you can see that it is not a negligible amount. Between the fiscal year of 1980-81 and 1997-98 this province received an average of $35,722,222.22 per year or 19.18% of capital spending on roads in New Brunswick. If you look at the last five years from 1993-94 to 1997-98 this province received an average of $72,080,000.00 per year or 27.91% of capital spending on roads in New Brunswick.[4] If you were to get the same percentage of 19.18 that would mean $111,008,141.24 recovery from the Federal government on the agreed construction cost of $578,770,288.00. It would then reduce your construction cost paid by the province to $467,762,146.76. If you were using the last five years average of 27.91% that would mean $132,596,272.98 recovery from the Federal government on the agreed construction cost of $578,770,288.00. It would then reduce your construction cost paid by the province to $446,174,015.02.

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[4] *New Brunswick Department of Transportation Capital Expenditures ($ Millions)*, July 1999.

More ways to reduce the construction cost

Because they used the public-private partnership formula, the government of New Brunswick used many consultants firm in the preparation stages of the project. These outside consultants are never used when roads are built under the normal process. Those consultants were used before the project started and were paid directly by the government. It should be added to the total construction cost that will be paid by the province. In the case of the Fredericton-Moncton project the following consultant firms were used: RBC Dominion Securities (financing), KPMG (process), Delcan (engineering), Goodman Phillips & Vineberg (legal), Washburn & Gillis (environmental), ADI/Wilbur Smith/IBI (traffic forecasting), Eddy Young Hoyt & Downs (legal), Lambton-Thomson (insurance), Tardif Murray (bonding) and McCarthy Tétrault (environmental law). We are not sure of the total cost for using all those consultants. It is certain that the cost is in the millions of dollars. In their propaganda the previous government never said a word about those costs.

The other aspect that is not mentioned as an expense for this project is the fact that many government people, especially in the Department of Transportation, were involved in the evaluation process. When the request for proposals were received in 1997, seventeen evaluation teams were set up to review submissions. Members of these teams included forty-five provincial employees, two federal employees, and twenty-seven individuals from consulting firms. The Auditor General of New Brunswick stated in his report that more than 18,000 person hours were spent evaluating the request for proposals. [5] If you give a value of $20.00 an hour (which is very low for this type of work) for those hours spent for this evaluation it would give you a figure of $360,000.00. Again this extra money would not have been spent if this project were not a public-private partnership.

The government has hired other consultants (mainly the company Delcan) to do the inspection during the construction period. This will cost another $10,000,000.00. Personnel of the Department of Transportation normally do this work when it is normal highway construction.

Because it is a toll highway, part of the total construction includes $17,205,140.00 for building the toll facilities. This extra money is going to be spent if the highway remains a toll highway. It is part of the total cost of construction of $578,770,288.00.

Then the government pays for the operation and maintenance of the toll at an estimated cost of $126.7 million for 30 years. If it was not a toll highway those costs could be avoided for other savings.

Another aspect that could have saved money, is the fact that it was not necessary to build the whole length of the highway in four years. Because of past neglect it is true that highway

[5] *Report of the Auditor General 1998*, Province of New Brunswick, p.168

building is important in New Brunswick. But an extra two or three years would not have been the end of the world, and would have been better for the budget of the Province. It was not necessary to build the highway four lanes in four years. As a matter of fact, other sections of the Trans Canada between Longs Creek and Saint Leonard are going to be two lanes for quite a long time. In Nova Scotia there is still a big section of the Trans Canada between New Glasgow and the Canso causeway that is two lanes and the remaining section of the Trans Canada in Cape Breton is two lanes. In Newfoundland and Labrador the Trans Canada is for the most part a two lanes highway. When you look at a map of New Brunswick you can see that from Sussex to Salisbury there will be two parallel four lanes highway. For example the section from Longs Creek to Coles Island could have been built within four, five or six years. Then, trucks would still be forced to use the remaining 23 kilometres of existing highway # 2 to Sussex as they presently do and then link to the existing four lanes going east to Moncton and the Nova Scotia border. You would have saved construction cost of part of section # 9, section # 10, and section # 11 of this new highway. The saving for section # 9 would have been around $6,454,073.50 (only taking part of construction cost from Coles Island going east), the saving for section 10 would have been $36,457,446.00, the saving for section 11 would have been $25,290,697.00. The total saving would have been $68,202,216.50.

Other possible savings

Another aspect of the deal that is very troublesome is the fact that the New Brunswick Highway Corporation is paying the expenses of the Project Company. The Project is set up as non profit company, and has two directors named by the New Brunswick Highway Corporation, two named by MRDC, and a fifth person agreed by the two parties. In the *Concession Agreement* it states that the New Brunswick Highway Corporation has to pay the Lease Based Debt Service, the aggregate of all the Project Company Costs, all taxes payable until the thirtieth (30th) anniversary of the effective date, all sale taxes paid by the project company, and the Total OMM Costs.[6] The bottom line of this is that the government through the New Brunswick Highway Corporation is paying all of these expenses. It is our understanding that there are presently staff of the Department of Transportation that are working for the Project Company, and are being paid by the government. This whole deal was supposed to be a partnership. How come it is the government that has to pay for all the expenses of a third party. On the expenses of the Project Company, RBC Dominion Securities estimated that it would cost $500,000.00[7] or half a million dollars for the Project Company overheads. If you calculate for 30 years it means another $15,000,000.00. On the tax front, it was estimated by RBC Dominion Securities that the government through the New Brunswick Highway Corporation would have to pay $20 millions in taxes of the Project Company.[8] Eight per cent (8%) would be coming back to the provincial

6 *Concession agreement between New Brunswick Highway Corporation and New Brunswick (F-M) Project Company Inc.,* article 6.2.

7 *RBC Dominion Securities: Feasibility of a Public-Private Partnership Approach to the Fredericton-Moncton Highway Project, 1996-1997,* Section E, p.21.

8 *RBC Dominion Securities: Feasibility of a Public-Private Partnership Approach to the Fredericton-Moncton*

government but the seven per cent (7%) GST or $9,333,333.33 will have to be paid to the Federal government. Under the traditional approach you never hear of the government paying any form of sales tax to a contractor or for a contractor. Again, all of this money would have been saved if this was not a public private partnership.

Highway Project, 1996-1997, Section I, p.22.

The financing aspect of the project

When the announcement was made on January 22, 1998, and after, to defend the project, the government of the day made much noise about how great are public-private partnerships like the toll highway. But the reality is very different. The construction cost that MRDC will get will be $578,770,288.00 during the four years of construction. To pay for that they are going to raise money through what they call the Leased Based Debt. They plan on raising $716.3 million as the Leased Based Debt. Then, starting on November 30 in year 2003 the province will start to pay semi-annual sub-lease payment of $30.9 million for twenty-six (26) years. This will amount to around $58 million a year. The total of those payments will be equal to $1,514 billion. [9]

We think it would have been a lot less costly if the province had kept the control of the construction and of the financing in their own hands. Let assume that the construction cost is still $578,770,288.00 and you maintain the four years of construction period. If you use the traditional model of building and you assume that you want to spread your work and your cost equally over the four years. It means that your cost per year would be $144,692,572.00 a year, and that you would have to raise that amount of money every year of the four years. One has to be clear from the beginning. Government does not operate like corporation. They don't have to borrow all the money of a capital project. For example the New Brunswick would not have to borrow all of the $144,692,572.00 a year. This is because government finance is based on a revenue system. Also because capital project are for the most part tender out to company, governments don't have to pay the total amount in one day. Lets assume that you just have $58 million (lease base debt payment) a year to pay on that capital project and you assume that you have to borrow the money for the remaining $86,692,572.00 ($144,692,572.00 minus $58,000,000.00). Lets now assume that the province borrows that money. The Auditor General said that the borrowing rate of the province in January of 1998 was 6.14%.[10] It would then cost the province $5,322,923.92 to finance that $86,692,572.00. If you add the two ($5,322,923.92 +$86,692,572.00) you get a total of $92,015,495.92. If you do the same thing every year for four years you get a total cost of $368,061,983.68 for your loans. Then to build the same highway it would cost the province the $58 million times 4 years which equals $232,000,000.00 plus the $368,061,983.68 for your loans. This would amount to a total of $600,061,983.68 for the total cost. Compare to the $1,514 billion this model would bring a saving a $913,938,016.32 for the province for construction cost.

We feel that the previous provincial government is really putting the future of this province in jeopardy with these types of project. What they did not tell the taxpayers of New Brunswick is that the $58 million a year that will have to be paid back in a twenty-six (26) year period is not the only project of that type. The province will have to pay thousands of dollars a year for the Greenarm school in Moncton, thousands of dollars a year for the jail for youth built by Wackenhut in Miramichi, and an amount of money that we don't know for the Centracare facility in Saint John, and a yet undisclosed amount of money for the new high school in

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[9] *Report of the Auditor General 1998*, Province of New Brunswick, p.169.

[10] *Report of the Auditor General 1998*, Province of New Brunswick, p.176.

Fredericton North. Those are the public-private partnerships in the province that future generation of taxpayers will be stuck to pay.

A project not feasible

As we have just seen going with a public-private partnership was not the most feasible way of building this highway. Savings could have been made on consultant's fee before the project started, on the evaluation of the request for proposals and on the number of hour spent to study the request for proposals. Not having the tolls would save $17,205,140.00 for building the toll facilities. Having used the traditional method could have brought subsidies from the Federal government of between $111,008,141.24 and $132,596,272.98. Another $68,202,216.50 could have been save if the section between Coles Island and Salisbury was not built right away. The last three items would have meant savings of over $220 million for the construction cost of the project. On a construction cost of $578,770,288.00 that would be a saving of 38%. On the financing, other options were possible and it would have saved millions of dollars over 30 years.

The maintenance and operation of the highway

The government is going to pay an estimated cost of $298,643,658.00 for 30 years for operation maintenance and rehabilitation of the highway. Normally when work is contracted out, the government will claim that it is less costly to do so. In this case it is quite the contrary. Just for the regular maintenance, the government will pay MRDC an amount of $5,327,297.00 a year that will be paid to MRDC for 195 km of highway.[11] This average excludes periodic maintenance, rehabilitation, weight enforcement, and policing enforcement that are all part of the total OMM price the government will pay. We feel that it is a lot more than what it would cost if the same work were done by CUPE 1190. There is 21,417.536 kilometre of highway maintained by the province and mainly by CUPE 1190 (there are a few contracted out agreements). If you compare the price for maintenance that will be paid by the government to MRDC (an average of a year) for 390 Km of highway (195 Km times 2, because the 21,417.536 km is double lane highway) and the amount paid in the last year (1997) for the same maintenance (no capital spending and no periodic maintenance, rehabilitation, weight enforcement, and policing enforcement cost) you get an amount of $110,238,825.00 per year spent by the government on maintenance.[12] The average cost per km (2 lanes) is then $5,142.33 for 1997. Then, for 390 Km it would mean an expense of $2,005,507.62 a year if the government and CUPE 1190 were doing it. Even if you take into account inflation and the fact that four lanes

[11] OMM agreement, schedule 3, part 9 in volume 9.

[12] *Department of Transportation Annual Report, 1996-97*, p.128.

highway need more maintenance (like more plowing and salting in the winter because of higher standards) it is still mean a difference of $3,321,789.38 a year that it is costing more to the government. It is quite evident from this that MRDC is going to make profit from this part of the agreement. It is also evident that it is quite a waste to see that MRDC will be buying new equipment. For example MRDC will have to purchase 21 trucks to plow the highway in the winter. For summer operation they plan on buying 5 half ton pick-up, 2 one ton crew cab truck, 2 two ton dump truck, 2 tandem 3way dump truck, 2 three yard loader/backhoe, 2 Bobcat loader/sweeper, 2 tag-a-long trailer, 4 grass mowers, 2 graders, and other minor equipment. They will have to build buildings (four new depots) when the government has already most of that equipment and buildings. They plan on employing 15 people in summer operation and 58 in the winter operation. [13] We feel that most of those jobs should be with CUPE 1190. The Department of Transportation has already much of the equipment listed above and has the buildings.

International corporations controlling our infrastructure

The other disturbing aspect of this project is that the government is giving away our public services to foreign multinational companies. Maritimes Road Development Corporation is only a name with the word Maritimes in it. It is made up of Miller Paving Ltd, an Ontario company that specialises in road construction. The other companies are GTM, which is subsidiary of the

[13] OMM schedule 3, part1, vol. 9.

giant corporation Suez Lyonnaise des Eaux. GTM changed is social reason to Janin, which is another subsidiary of Suez Lyonnaise des Eaux. This corporation is involved in the privatization of drinking water around the world. Their latest coup is to have privatized the water system of the City of Amman in Kuweit and the city of Atlanta in the U.S.A. They own 50% of Strait Crossing Inc. who built and operate the Confederation Bridge between NB and PEI. They are involved in Trigent, a company that operates an incineration plant in Charlottetown, PEI. They are also involved in the Hibernia project in Newfoundland. Suez Lyonnaise des Eaux also controls Tractebel who has made some proposals to the provincial government of New Brunswick to built a power plant in northern New Brunswick. The two other companies are Spanish companies. Dragados Construccionnes, S.A has built more than 2,600 km of toll highways and are active in 47 countries. Fomento de Construccionnes y Contratas S.A. has 37,000 employees around the globe and is involved in construction. Their common denominator is that they all make money in the privatization of public sector services.

In 1995, a French court confirmed that the water contracts awarded Suez Lyonnaise des Eaux in Grenoble in 1989 involved corrupt dealings, and this resulted in the mayor of the city receiving a 5 year prison sentence for taking bribes from the company. Also sentenced were high level managers of Suez Lyonnaise des Eaux. All sentences are currently under appeal. As a result of the renegotiation of the contract, Suez Lyonnaise des Eaux will now stop levying extra user charges and will also surrender majority control of the water concession back to Grenoble. Another scandal also involved Suez Lyonnaise des Eaux in France in 1998. The newspaper *Le Monde* described the scandal as an “agreed system of misappropriation of public funds”. The system also involved political corruption: a levy of 2% on all contracts was paid to finance the major political parties in the region (RPR, PR, PS, PC). Jacques Durand, commercial director of GTM was indicted on October 22, 1998 for corruption, bribery, favouritism and anti-competitive practices.[14]

[14] *Le Monde, 10 décembre 1998.*

Conclusion

From everything that we have shown so far in this brief, it is clear that the Fredericton to Moncton highway project is a very bad deal for New Brunswick taxpayers. As we have shown, there are numerous alternatives to the way this project was designed and agreed to. Most of the alternatives meant a lot of savings for the province.

The first point is that highway construction and ownership should remain the responsibility of the Government of New Brunswick and the Department of Transportation. The traditional approach of asking for bids for every part of a project should be continued.

To accomplish that for the Fredericton to Moncton highway project it means that the <u>New Brunswick Highway Corporation Act</u> and the amendment to the <u>Highway Act</u> have to be repealed by the Legislative Assembly of New Brunswick. The people of New Brunswick have elected a new government. This new government has the right and the obligation to set the course and establish policies that are favourable to the taxpayers of this province. After those piece of legislation have been taken care of, it means that the responsibility of highway construction and ownership is back in the hands of the Province of New Brunswick. MRDC should be compensated for the work they have already done and if they want to do future work in this project they should be compensated accordingly. The tolls should be abandoned and the construction related to it also. The whole project should be reviewed in terms of which sections are really a priority. Special attention should be given to the section between. Coles Island

and Salisbury to see if it is really necessary to built those sections within four years.

As for the operation, maintenance and rehabilitation of the highway it should be reverted back to the Department of Transportation. They are the one with the necessary expertise and know how. Again there would be cost savings associated with this and more efficiency in terms of the spending for buildings and equipment with this move.

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