

NOTE : This is a translation of the original affidavit of Yvon Morin submitted to the federal court.

This translation is NOT a certified translation. For all legal interpretations of the information in this document, please refer to the original French text.

No: T-452-06
COUR FÉDÉRALE
ENTRE:

LES AMIS DE LA RIVIÈRE KIPAWA,
incorporated as 1162209036 QUEBEC INC.
Plaintiff
and

THE ATTORNEY GENERAL OF CANADA and THE MINISTER OF PUBLIC
WORKS AND GOVERNMENT SERVICES CANADA, THE MINISTER OF
FISHERIES AND OCEANS, THE MINISTER OF TRANSPORT, and
DAVID S. LAFLAMME CONSTRUCTION INC.
Defendant

YVON MORIN AFFIDAVIT

I, the undersigned, Yvon Morin, administrator for Public Works and Government Services Canada ("PWGS") in the field of Coastal and port engineering, and having a place of business at 11 Laurier Street, Gatineau, Quebec, Canada, K1A 0S5, solemnly declare the following:

1. As administrator in the field of coastal and port engineering, it is my responsibility to operate and maintain the dams that are owned by PWGS in the Outaouais catchment;
2. The « operational » portion is made up of the physical operation of the dams and of their structure appurtenances as well as the management of water reservoirs upstream from the dams;
3. To safely operate the dams that are under my supervision, I am further responsible for the supervision of the collection of various data, such as those pertaining to other Quebec dam operations, water levels and discharge, rainfall as well as weather conditions and predictions;
4. This data is collected at least once a day by a member of my team, and this, for each dam under my responsibility;

5. Once this data is collected, I supervise its analysis in order to plan the physical operation of each dam under my jurisdiction;
6. In practical terms, the physical operation of the dams includes in operating the machinery in order to control water levels, ensuring the security of users of the reservoir and preserving the physical installations of the riparians;
7. Namely, I see to the installation and removal of security booms which are systematically set up at a secure distance from the dams under my responsibility;

The location of the Laniel dam and of lake Kipawa

8. The Laniel dam is one of the dams under my responsibility as it is located in the Municipality of Laniel, in Témiscamingue, more precisely at the head of the Kipawa river, which links Lake Kipawa upstream to Lake Témiscamingue downstream; a map of this sector of Québec showing the exact geographical location of these water bodies is attached as exhibit YM-1;
9. As appears from this map, exhibit YM-1, the Laniel dam is more specifically located between the Route 101 bridge and abandoned railroad company;
10. Lake Kipawa, also know as « Kipawa reservoir », is a water basin of approximately 6,265 square km;
11. This reservoir, meant to regulate the discharge from the Outaouais River and to ease navigation and electricity production, was created during construction of the Laniel dam in 1911;
12. At the time, as is still the case today, good management of Lake Kipawa water reserves and its evacuation through Laniel dam played an important role in regulating Outaouais river water flow;
13. Indeed, although Lake Kipawa has two discharges (Kipawa River via Laniel dam and Gordon Brook), over 95% of Lake Kipawa's drainage capacity comes from Laniel dam;
14. Thus, Kipawa River, through Laniel dam, constitutes the nearly entire means of water evacuation from Lake Kipawa;
15. The Kipawa River flows into Lake Témiscamingue at about forty (40) kilometres North of the town of Témiscamingue;
16. As noted by the two (2) affiants of les Amis de la rivière Kipawa (« les Amis ») in their respective affidavits, this river is approximately sixteen (16) kilometres long and counts eighteen (18) rapids;

17. The first of these rapids, which is at the heart of the current litigation, is located at the head of the Kipawa river, at the height of the Laniel dam;
18. The Laniel dam is located in its entirety on federal government property, as appears from the letters patent, exhibit **YM-2**;
19. Since its construction in 1911, the Laniel dam holds a concrete evacuator approximately fourteen (14) meters long as well as a fill dike forty-two point seven (42.7) meters made up of wood caissons filled with encroachments, photos of this dam are attached as exhibit **YM-3**;
20. The evacuator holds two (2) dewatering outlets of a net length of six point one (6.1) meters separated by a pillar, these dewatering outlets are mechanically activated from bottom to top following a directive from the dam operator;
21. This evacuator had originally been conceived to hold three (3) dewatering outlets; however, in view of logistics and technological limits of the time, the third one could not be built, which is why we were never able to take out more than 2/3 of the original anticipated evacuation capacity for this dam;

Reason for being of the Laniel dam

22. As noted above, the Laniel dam was built to assist in water flow regulation of the Outaouais river in a manner to ease navigation and energy production;
23. Regarding navigation, one must understand that, at the turn of the XXth century, forestry was carried out at a large scale in this part of Quebec; as Lake Kipawa holds many bays and covers over 6,000 square kilometres, safe navigation was considered essential by the State for the wood transport from cutting site to Kipawa river mouth and from there towards Lake Témiscamingue;
24. As years went by, many outfitters emerged in the Lake Kipawa region that made their profit from this territory's fish richness and diversity;
25. Finally, Lake Kipawa is an important holiday setting such that many people practice fishing and other water activities there;
26. As for electricity production, I know that in the 20th century, many power plants were built along the Outaouais River that partly depended on the good working order of the Laniel dam and Lake Kipawa water reserves as it is the next-to-last large reservoir along the Outaouais River before large urban areas;

Dam operators since 1911 and security measures prohibiting navigation

27. The dam was operated by PWGS from 1911 to 1918 and from March 1986 to this date;

28. As I understand, the federal government agreed to an Emphyteutic lease with the provincial government, entrusting the reservoir operation to pulp and paper companies, the Gatineau electrical company and Hydro-Quebec, from 1918 to 1986;
29. When the federal government took over the control of the Laniel dam operation in 1986, a wood boom upstream for the dam had been previously set up by Hydro-Québec to inform yachtsmen of the presence of the dam and to establish an upstream perimeter from the dam;
30. This wood boom stayed in place until PWGS installed a boom with security floats in 1988 (« the security floats ») en 1988;
31. These security floats are still in place today and offer a visible sign for Lake Kipawa yachtsmen to know that a security perimeter is in place to restrict access to the dam from Lake Kipawa; copy of a photo of Lake Kipawa showing the security floats as exhibit **YM-4**;
32. Further the Laniel dam is equipped with signs indicating to the "yachtsmen" that swimming and navigation is forbidden near the dam, these signs have been erected 2 years ago when TPSGC became aware, as we will see here-after, that paddlers went through the dam's spillways – which at that time, was **unknown** to TPSGC- ; pictures of these signs are attached to Richard Jones' affidavit;

Water evacuation from Lake Kipawa into the Kipawa river

33. In the scope of my functions, I see to it that an officer under my supervision (at least on a daily basis) collects water level and flow data for Lake Kipawa, Kipawa river and Lake Témiscamingue;
34. This data collection is done electronically for the most part since PWGS saw to the installation of gauges to take stock of water levels and flows at one point of Kipawa River as well as on Lake Kipawa;
35. Also, I make sure that a public server under my supervision collects daily the weather conditions of the last hours as well as the local, regional and national weather reports for the short and middle terms;
36. Finally, I occasionally receive calls from people living in Laniel or Kipawa in Temiscaming, who inform me of their observations regarding water levels and flows;
37. We analyse all this information and data at our office located on Place du Portage in Gatineau, Québec in order to plan the physical operation of the Laniel dam;
38. In practice, the aim of these planning is to ensure that the water level of the Kipawa Lake is kept between 269,50 and 269,75 meters over see level for the

- entire period of time where Lake Kipawa's borderers practise aquatic activities, that is from beginning of June to beginning of November each year; on the other hand, between the spring flood and the beginning of June, we try to do our best to discharge through the Laniel Dam the excess of water mostly due to precipitations; finally we empty the reservoir from December to March, anticipating the next spring flood;
39. The water levels mentioned above were established at the beginning of the 20th century by a decree [or order in council?] of the governor in council and have always remained the same since then; it is my understanding that these levels were established on the one hand to ensure safe navigation on Lake Kipawa and on the other hand to prevent flooding of the neighbouring lands;
 40. Besides, I very well know that when the weather prevents PWGSC from maintaining the water levels within the targeted levels, either the safety of the boaters on Lake Kipawa is compromised or persons are liable to incur damages to their property, among others waterside property owners;
 41. I attach **exhibit YM-5** which is a copy of a chart titled « operation curve of Lake Kipawa », which was drawn by PWGSC in the light of the maximum levels of operation and minimum levels of navigation mentioned above;
 42. In spite of the fact that the maximum operation level is 269,75 meters in altitude for the Summer time, we usually try not to go beyond a level of 269.60 meters since some waterside property owners could incur damages to their property when the lake reaches that level;
 43. I attach **exhibit YM-6** consisting of the annual reports from 1929 to 2005 which show the water levels of Lake Kipawa as well as the water flows passing through the Laniel dam; for the years 2001-2005, the annual reports also provide data showing the water input into the lake, which come for the most part from the rain, snow [precipitations] and thawing in the Spring, since no waterway of any importance flows into Lake Kipawa;
 44. As one can understand from the above explanations, the decisions that I take with my team members concerning the operation of the Laniel dam aim essentially at respecting [following? conforming to?], as much as possible, the operation curve established for Lake Kipawa;
 45. Thus, we decide to evacuate water from the Lake through the Laniel dam when the weather report anticipates rain or snow in the region and the level of the Lake is high; conversely, we decide to close the dam when the water level is close to the navigation level;

Consequence of the evacuation of water from Lake Kipawa through the Laniel dam

46. As mentioned above, Lake Kipawa is one of the main reservoirs of the Ottawa River; thus, if the water level in Lake Kipawa is too high or too low that could have major economic and social consequences on the life of the citizens of several regions;
47. Indeed, if the water level is too high, there could follow floods at the lowest point around the Lake, i.e. in Kipawa;
48. And flooding in this location would bring water into the center of the town of Temiscamingue following the Gordon stream;
49. As well, if the water level is too high in Lake Kipawa, my team could be incapable of acting in case of an additional water input, with consequences in Ottawa and Montreal if the water levels there are already high as well;
50. On the other hand, if the water level is too low in Lake Kipawa, my team could be incapable of acting should a draught occur, which could impact in turn other waterways, notably in the Montréal region;
51. In addition, if the water level is too low, we could be forced not to maintain a minimum flow in the Kipawa River, which in turn could compromise the quality of the water in this river with consequences on aquatic wildlife;
52. In view of the potentially disastrous effects of an inadequate [deficient?] operation of Laniel dam, my team and I take the decision to manoeuvre the gate bay of the dam only as to conform to the appropriate water levels in accordance with the operational needs of the moment;
53. Under such circumstance, it no need to say that we never decided to release water from the Kipawa Lake to the Kipawa River under the pressure of any member of les Amis or whatever person who wanted to practise a aquatic sport on the Kipawa River;
54. Further, the members of my team and myself have never negotiated any water release from the Laniel Dam with les Amis as they seam to affirm in their claim;
55. Rather, I just received some requests from les Amis few weeks before their festival in the last past years;
56. These requests were intended to let me know the coming festival, the days it took place and to ask me to maintain the dam release to a level of plus minus 125 cms;
57. I systematically answered these requests explaining to les Amis that I will decide the water releases depending on Lake Kipawa water level and on climatic conditions and weather forecasts by the time of the festival, which may be a time where the precipitations are favourable to a water release through the Laniel dam.

58. As for les Amis' allegations that I could have release water through the Laniel dam for days before the festival in June 2005 for the purpose of harming the festival, I attach as evidence the document **YM-7** which is a chart showing the water levels, flow and precipitations for the months June and July 2005;
59. As shown on this chart (YM-7), my decision to increase the flows from June 16th to June 19th 2005 is the direct consequence of an increase of water running into the lake due to considerable precipitations; I would never have made such decision in consideration of les Amis and/ or their festival;

La navigation sur la rivière Kipawa et sur le lac Kipawa
Navigation on the Kipawa River and on the Lake Kipawa

60. I know that a great number of people practise aquatic sports/activities on the Kipawa Lake for many decades; further I know that a significantly lower number of people practise rafting and/or kayak on the Kipawa River, particularly for the last 10 years;
61. In the case of the Kipawa Lake, I understood until recently, that aquatic sports/activities were practised on the entire lake, with the exception of the security area which is defined by the security cable-buoys near the Laniel dam;
62. As for the Kipawa River, I understood until recently, that rafting and/or kayak were practised for few days every year for about 10 years on the places where the water level made it possible;
63. During the last 2 years, I understood that members of les Amis didn't only practise kayaking and rafting on the Kipawa River itself, but also passed through the Laniel dam sluices – which was unknown to us when they believed it was possible to navigate it;
64. Although I never saw anyone pass through the Laniel dam sluices and such practise is forbidden as stated by the presence of the security cable-buoys – that we installed in 1988, replacing a wooden boom- on the Kipawa Lake in order to keep the "yachtsmen" at a secure distance of the Laniel dam, I must admit that les Amis dare to publicize that practice;
65. In fact, in the paper « J » of Doug Skeggs' affidavit dated from May 27th, 2006, a folder apparently made by Mr. Skeggs himself indicates that navigation through the Laniel dam should be possible when the flow is higher than 120 cms;
66. The same document says that the dam has been passed – which was unknown to TPSGC – by levels less than 100 cms, but that in such conditions, the drop may be too steep and therefore, not recommended;

67. In the french version of that same document, attached to the present as paper **YM-8**, Mr. Skeggs even says that *«with less than 100 cms, the run should be avoid at any price. »*;
68. I join as paper **YM-9** a chart issued by TPSGC that shows the days each month where the flows were higher than 120 cms and 90 cms since the year 2000;
69. As it appears on this chart, paper YM-9, the number of days where Mr. Skeggs considers the run of the dam as advisable amounts in average to 112 a year, and these days take almost exclusively located between the months of November to May, by times where les Amis barely run the Kipawa River;
70. Hence I understand M. Skeggs' assertions saying that the Laniel dam is secure few days a year, and as such, as one must believe, for kayaks and rafts exclusively;
71. But TPSGC being the owner and the operator of numerous dams throughout the country, has always considered that passing through his dams is a source of security risks and therefore this practice is forbidden;
72. **TPSGC**, and as far as I know, **like all other dam operators in this country**, has always considered that no one, even with considerable experience, should be allowed to pass through the sluices of a dam designed to control water levels or to produce electricity;
73. Our security cable-buoys and the signs forbidding swimming are intended to keep the "yachtmen" at a secure distance of our dams;
74. Being a engineer specialized in the operation and the maintenance of dams, **I share** this position with TPSGC since the Laniel dam, as any other dam designed to control water levels or to produce electricity, is not designed to ensure secure passing through for individuals and crafts;
75. Further, it is worth to notice that the **Tecresult** company, which has been chosen as consultant for the design of the new dam in centre of the present controversy, entirely **shares** this point of view as it appears in the opinion expressed in the letter sent by Pierre-R. Tremblay to Robert Laporte on June 15th 2005 that I attach to the present affidavit as paper **YM-10**;
76. Anyway, even if one assumes that certain people were qualified to pass through a water control dam without being injured, it is not TPSGC role to verify that only qualified people will do it, and TPSGC doesn't have the human and material resources to ensure it;
77. Further, I know that the Canadian Dam Association guidelines, as well the Quebec regulation, put the responsibility of the public safety near their structure to the owner's side;

78. In this context, and in absence of a federal legislation granting an immunity to the Canadian Government in case of damages due to the operation of its dams, the Canadian Government could be prosecuted if incidents would occur when trespassing on of its dams;
79. Further, I know that the operator of Sherbrooke Power dams is currently prosecuted by a "yachtsman" as a result of an incident that occurred on one of its dams;

Le remplacement du barrage
The replacement of the dam

80. TPSGC performed many maintenance repairs during the years it operated the Laniel Dam;
81. However, those repairs couldn't prevent major seepage problem through the embankment dam, and by the end of the 80th we stated that the dam was in bad condition, lacked of draining capacity and had to be replaced;
82. At the begining in 2001, TPSGC ordered the company SNC Lavallin (« SNC ») to analyse the hydraulic risks resulting of the Laniel dam condition as well as the options allowing to increase the draining capacity of the Kipawa lake, in order to prevent the flooding risks that could resulting of an extreme flood and to comply to enforced norms;
83. I understand that SNC came to the conclusion that the draining capacity of the Laniel dam was very insufficient to handle an extreme flood and considered several potential solutions, and particularly the rebufishment of the existing dam and the construction of a new dam with 2, 3, 4 or 5 gates;
84. SNC produced a report in May 2003, that presents its statements and its recommendation, that is to replace the existing dam with a new dam with 4 sluices and a release capacity of 530 cms; a copy of the relevant excerpts of this report is attached to the present affidavit as paper **YM-11**;
85. After the mandate was granted to SNC, Mr. Robert Laporte was named project manager of the construction of the new dam, and since I collaborate with him;
86. In this context, I know that Mr. Laporte worked for few months in Fall 2003 on a request for preliminary approval of the project, that was completed in December 2003; I attach this request, that I approved in December 2003, as paper **YM-12**;
87. As it appears in this request, paper YM-12, Mr. Laporte explains (i) the reasons why the construction of a dam with 4 sluices is the more sustainable option for durability, safety and finances; (ii) the needed funds to complete this construction; (iii) the reasons why the by that time coming EA was to be completed in the

- same time that the dam design, to ensure that the mitigations that might be needed could be included in the construction project;
88. Based on these explanations, Mr. Laporte requested the approval of his directors in TPSGC to carry on the recommended scenario the construction, approval that was granted in Winter 2004;
 89. After that, Mr. Laporte made a request for proposal in order to choose an engineering consultant company specialized in dam design;
 90. The company that was to choose would be in charge of the design of a new dam that complies to the general specifications that SNC recommended to us, that is a dam with 4 gates with draining capacity of 530 cms on the site of the existing Laniel dam;
 91. Several companies made a proposal on this project, and after the analysis of the selection comity, the proposal of the Tecslut Company has been chosen on October 4th 2004;
 92. In his mandate, Tecslut has always been in communication on a regular basis with all the participants of TPSGC who were involved in this construction project; those communications allowed Tecslut to be constantly up to date as for the progresses of the EA that was concurrently conducted, and to include the environmental mitigation measures in its concept;
 93. À titre d'exemple, je sais que Jacques Whitford a préparé un projet de rapport d'examen préalable dans le cadre du processus d'évaluation environnemental qui a été remis à TPSGC afin d'aiguiller Tecslut sur les exigences environnementales à considérer dans le contexte de la conception du nouveau barrage; ce document est joint en annexe à l'affidavit de Kim Turnbull;
 94. I know, further, that during its mandate, Tecslut analysed several scenarios of mechanical features; in fact, Tecslut examined the advantages, disadvantages and costs associated to 8 scenarios, of which one scenario included components similar to those of the existing dam; the design report prepared by Tecslut in January 2005, that I attach to the present affidavit as paper **YM-13**, shows the advantages, disadvantages and costs associated to 8 scenarios;
 95. After this analysis, Tecslut proposed us to replace the dam built in 1911 – that was equipped as we have seen before with a release structure consisting in 2 sluices with beams opening from the top to the bottom – with a new concrete dam consisting of 4 water gates equipped with heated groves and separated winches opening from the bottom to the top;
 96. I understand that during its performance, Tecslut never considered a spillway with 2 gates with beams opening from the top to bottom like the dam that was built in 1911, as this solution like the existing one, couldn't allow to increase the draining

- capacity of the Kipawa lake, that was essential for TPSGC to prevent the risks bound to an extreme flood and to comply to the enforced norms;
97. On the other hand, I know that the costs bound to the purchase and the installation of a lifting fixture that would allow to open the gates from the top to the bottom as it was the case for the 1911's dam, are absolutely unbearable in 2006; in fact, I made succinct verifications, and I found out that the opening of the gates from top to bottom cannot be considered without increasing the construction budget with an amount of at least \$750.000 [Details in YM 14];
 98. After handing over the Tecresult report in January 2005, Mr. Laporte finalized on February 9th, 2005 a detailed investment plan, that was approved by the Conseil du Trésor on June 20th, 2005;
 99. The process of contract awarding was then initiated, which concluded with the signature of a 13,500,000.00\$ contract with David S. Laflamme Construction Inc. (« Laflamme Inc. ») November 4th, 2005;
 100. By the terms of this contract, Laflamme Inc. was committed to obtain all the required permits to complete the project;
 101. Actually, it is understood that by the day of the signature of the contract, many permits that were required according to different laws, were not yet obtained, among them, the permits resulting from the EA process that we will examine here-after;

Le processus d'évaluation environnemental

The EA procedure

102. Given the potential of environmental implications of the construction of the new dam, I know that the project manager, Robert Laporte, has communicated with Kim Turnbull, environmental agent by TPSGC, about 2 years before the awarding of the contract to Laflamme Inc., that is in December 2003;
103. At that time, I understand that Mr. Laporte gave all the explanations needed by Ms. Turnbull so that she could understand the nature of the construction project and its potential environmental effects;
104. During the following months, I understand that Ms. Turnbull has been nominated federal coordinator for the EA of this project;
105. I also know that Ms. Turnbull concluded that this project was subject to a preliminary environmental assessment according to the *Canadian Law of the Environmental Assessment*;
106. A mandate was granted to Jacques Whitford at the beginning of 2004 to evaluate the impacts this project may cause to the environment, the magnitude of these

- impacts and the technically and economically feasible mitigation measures, taking account of the nature of these impacts and the comments about these impacts given by the public;
107. In December 2004, Mr. Whitford presented a draft report of the preliminary assessment to TPSGC, that purpose was to make the TECSULT company aware of the environmental requirements to be considered in the context of the design of the new dam and to serve as reference document in the coming requests for proposal during the environmental assessment process; this document is attached to Kim Turbull's affidavit;
 108. Given the potential impact of the project on the fish habitat and the verbal and written concerns expressed by les Amis, TPSGC as well as Pêches et océans Canada (« POC ») and Transport Canada (« TC ») have been identified as the authorities responsible for the environmental assessment process;
 109. In this context, public consultation meetings took place, in particular in March 2005 in Kipawa and Laniel with attendance of representatives of native communities ant of les Amis, who were informed previously to this meeting.
 110. Jacques Whitford as well as representatives of TPSGC, Gilles Brasseur and Robert Laporte attended this consultation, and presented the project and explained its potential consequences;
 111. I understand that during this process of consultation, different comments from the public have been taken in account and that, those comments were related to different concerns, and were all addressed in a way that satisfied the public, except the question of trespassing the Laniel dam;
 112. Actually, given the fact that the new dam is designed in place of the current dam and that it is designed to release the amounts of water in normal conditions of flow, the members of the public soon understood that this project brought only advantages for the most of them;
 113. As for les Amis, their members wrote tens of letters/emails and other in which they noticed that the dam design, as proposed by Tecult, will prevent them from trespassing the dam;
 114. In those letters, the members of les Amis claimed that they have trespassed this dam since a certain time when, according to them, the water flows allowed them to do so, and consequently asked Tecult, TPSGC and TC to modify the design of the dam in order to allow them to trespass the new dam when the construction will be completed;
 115. Mr. Whitford proceeded the analysis of the impacts the project will have on the navigation and on the environment in general, taking in account these comments and statements he made during his investigations, notably the Tecult, TPSGC

- and TC position about the dangers and the interdiction of trespassing the dam through the sluices;
116. In this context, Mr. Whitford finalized his preliminary environmental assessment report on January 25th, 2006, a copy of it is attached to the affidavit of Kim Turnbull;
 117. In this report, Mr. Whitford concludes that the environmental impacts of the construction project, after considering the mitigation measures, are in the whole, of little significance;
 118. With regards to the impacts on the navigation, that is the only real matter of this legal dispute, Mr. Whitford came to the conclusion that the realisation of the project will not have important negative environmental impacts, when taking in account the mitigation measures;
 119. As for the mitigation measures specifically related to the navigation, Mr. Whitford actually proposes the construction of a portage trail on the left bank in order to allow the craft owners to move securely between the reservoir and the Kipawa river once the construction is completed, as well a sleep;
 120. As the portage trail between the reservoir and the Kipawa river would not be secure for the craft owners to move during the construction works, because they would have to cross the road 101, which is risky, Mr. Whitford recommends to put a shuttle in place between the parking lot and the river;
 121. With the proposed mitigation measures, I understand that les Amis will continue to practise their aquatic sports along the 16 km of the Kipawa river, included the 18 rapids that it has;
 122. Particularly, they can still use the parking space located at few steps from the Laniel dam; from there they can take a shuttle and will be able to cross directly and safely on the dam on foot; after that, or having used the shuttle, they can take a portage trail equipped with a slip designed for light crafts, that will be located upstream on the left bank of the dam;
 123. From this point of view, even if les Amis were right when they claimed that they had until recently, the navigation right through the TPSGC dam, which is denied since the existing Laniel dam already validly restricted the navigation, the impact of the new dam on the navigation is in effect negligible as les Amis have, actually, a restriction of a few quadratic meters compared to a river of 16 km;
 124. In this context, when I read the final report of Mr. Whitford at the end of January 2006, I considered it as consistent with the reality;
 125. As it appears from the pages 128 and next of the report of Mr. Whitford, the nominated representatives of TPSGC, POC and TC have read this report, and with

regards to its conclusions, have approved the realisation of the project at the beginning of February 2006 in respect of the clause 20(1)a) of the *Loi canadienne sur l'évaluation environnementale*;

126. Few days after having approved the realisation of the project in respect of the clause 20(1)a) of the *Loi canadienne sur l'évaluation environnementale*, a person duly empowered by the Ministre des Transports, approved the project according to the terms of the clause 5(1) of the *Loi sur la protection des eaux navigable*, after consideration of the impact of the project on the navigation; a copy of this authorization made in February 10th 2006, is attached to the affidavit of Richard Jones;
127. Finally, on February 14th 2006, a person duly nominated by the Ministre des Pêches et océans Canada approved the project according to the terms of the clause 35(2) of the *Loi sur les pêches*; a copy of this authorization is attached to the affidavit of Mélisa Vachon;
128. The next day, that is February 15th 2006, Laflamme Inc. began the construction works on the Laniel dam, these works will theoretically be completed by November 2007;
129. These works are currently progressing at the foreseen pace, and at the best I know, the shuttle service offered to the people who practise rafting and kayak on the Kipawa river, satisfies those people;
130. All the facts mentioned in the present affidavit are true.

The original French version of this document is signed by Yvon Morin.

ET J'AI SIGNÉ

YVON MORIN

DÉCLARÉ SOLENNELLEMENT DEVANT MOI
Ce ième jour d'août 2006

COMMISSAIRE À L'ASSERMENTATION