FISHERIES ACT VIOLATION - STATEMENT OF EVENTS

Offence Summary

1. In the fall of 2017, the Town of Trenton received a complaint of a significant sewage odour from the owner of a residence located on Bruce Street in Trenton. Behind the residence there was a sewage outfall pipe. As a result, the Town of Trenton conducted a video inspection of the sewer pipe running from the Park Road manhole on October 12, 2017, and located a significant blockage in the pipe. The blockage caused the backup of untreated sewage into the Park Road manhole, which then over-flowed through the outfall pipe before discharging into the discharge path leading to Lowden Brook. However, the Town of Trenton did not take any action to remove the blockage in the Park Road sewage pipe or to stop the deposit of the untreated sewage effluent into the discharge path leading to Lowden Brook. The Chief Administrative Officer for the Town of Trenton at the time created a plan to replace the entire sewer pipe in the Park Road area. However, that plan was never implemented.

2. On October 30, 2019, *Environment and Climate Change Canada* ("ECCC") received a complaint from a local property owner of a strong sewage odour in the area of Lowden Brook, where untreated sewage from the discharge path deposits into the Brook. Subsequent interviews with local residents indicated that there had been a noticeable sewage odour in that area for years.

3. In response to the complaint, ECCC Enforcement Officers conducted an onsite inspection on November 20, 2019. During the inspection, Enforcement Officers observed that the outfall pipe was continuously discharging a significant volume of what appeared to be untreated sewage effluent. That effluent then flowed along the discharge path before depositing directly into Lowden Brook.

4. At the time of the initial inspection on November 20, 2019, Enforcement Officers notified the Chief Administrative Officer ("CAO") for the Town of Trenton of the discharge of untreated sewage from the outfall pipe. The CAO indicated he would meet with the Trenton Public Works staff to try and determine a response to the problem.

5. During the approximately two-year time period between the above-referenced inspection of the Park Road sewer pipe by the Town of Trenton in October 2017 and the initial onsite ECCC inspection on November 20, 2019, the Town of Trenton failed to report the ongoing deposit of

untreated sewage effluent to *Environment and Climate Change Canada* as required by s.38(5) of the *Fisheries Act*.

6. During the November 20, 2019, inspection, ECCC Enforcement Officers collected samples of the sewage effluent flowing from the outfall pipe, as well as from the point at which the effluent deposited directly into Lowden Brook from the culvert at the end of the discharge path. The samples were collected for the purpose of chemistry and microbiology analysis. Enforcement Officers noted a distinct sewage odour at the time of collecting the effluent samples.

7. Subsequent lab analysis determined that the effluent discharging from the outfall pipe and depositing into Lowden Brook contained high levels of total Coliforms and Escherichia Coli (E. Coli), which is indicative of untreated sewage. Untreated sewage has been determined to be a "deleterious substance" as defined in s.34(1) of the *Fisheries Act.*

8. As a result, ECCC Enforcement Officers conducted a follow up inspection on December 2, 2019. On that date, Enforcement Officers again observed a significant volume of untreated sewage effluent flowing continuously from the outfall pipe and then along the discharge path before depositing directly into Lowden Brook.

9. The Enforcement Officers proceeded to collect additional samples of the sewage effluent flowing from the outfall pipe. Those effluent samples were then submitted to Environment Canada's accredited Atlantic Laboratory for Environmental Testing ("ALET") for toxicity analysis. At the time of collecting the effluent samples on December 2, 2019, the Officers noted the distinct smell of sewage from the effluent, as well as grey masses of what appeared to be used toilet paper where the outfall pipe discharged into the discharge path leading to Lowden Brook. Enforcement Officers had made similar observations at the time of the initial onsite inspection on November 20, 2019.

Deleterious Substance

10. On December 12, 2019, ALET provided a report of the results of the analysis of the effluent samples collected on December 2, 2019, from the outfall pipe. The results of a rainbow trout acute lethality test confirmed that the effluent discharged from the outfall pipe was acutely lethal to fish. The results of the acute lethality test demonstrated that the concentration of the collected sewage effluent that would be lethal to 50% of the fish exposed to it was 70.7%. All of the fish used in the

conduct of the acute lethality test died within 24 hours of exposure to the 100% concentration of the effluent.

11. The untreated sewage effluent flowing from the outfall pipe and subsequently deposited directly into Lowden Brook therefore constituted a "deleterious substance" as defined in s. 34(1) of the *Fisheries Act*.

12. The volume of untreated sewage effluent deposited into Lowden Brook during the offence period cannot be established with precision. However, during the ECCC inspection on November 20, 2019, and again during the follow-up inspection on December 2, 2019, enforcement officers observed the outfall pipe to be flowing at at least 15% to 20% capacity. At that rate, the amount of untreated sewage effluent being deposited from the outfall pipe on those dates would range between 213,400 liters per day (when flowing at 15% capacity) and 384,500 liters per day (when flowing at 20% capacity).

Water Frequented by Fish

13. Lowden Brook is a tributary to the East River. The point at which the sewage effluent entered Lowden Brook is approximately 270 meters upstream of the point at which Lowden Brook converges with the East River.

14. The East River begins in the interior of Nova Scotia and flows northwards through several municipalities (including the Town of Trenton) before entering Pictou Harbour and the Northumberland Strait, which forms part of the Gulf of St. Lawrence. The East River system contains populations of a number of fish species, including speckled trout, brown trout, Atlantic salmon, and striped bass, amongst other fish species. Atlantic salmon use the East River and its upstream tributaries to spawn. Atlantic salmon in the Gaspe-Southern Gulf of St. Lawrence population, which includes those present in the East River system, have seen a population decline of 20% over three generations of fish and are listed as a "species of special concern" by the Committee on the Status of Endangered Wildlife in Canada - "species of special concern" meaning that the population may become threatened or endangered because of a combination of biological characteristics and identified threats.

15. The Lowden Brook and East River system into which the untreated sewage effluent was deposited, therefore constitute "water frequented by fish" as defined in s. 34(1) of the *Fisheries Act*.

16. In the present case, there was no overt indication of environmental harm to the impacted fish habitat as a result of the deposit of the untreated sewage effluent into the Lowden Brook and East River and no dead fish were observed.

Town of Trenton Response to the Deposit

17. Following receipt of the ALET toxicity analysis report confirming that the untreated sewage effluent being deposited into Lowden Brook was acutely lethal to fish, ECCC issued an *Inspector's Direction* pursuant to s. 38(7.1) of the *Fisheries Act* (on December 20, 2019) requiring the Town of Trenton to take all reasonable measures to prevent the ongoing deposit of the deleterious sewage effluent into Lowden Brook.

18. In response, in early January of 2020, the Town of Trenton replaced approximately 200 feet of sewage pipe connected to the Park Road manhole from which the outfall pipe was depositing the untreated sewage effluent into Lowden Brook. During the replacement, a substantial blockage of the sewer pipe being replaced was discovered. That blockage was causing raw sewage to back up and accumulate in the Park Road manhole before discharging through the outfall pipe. This was the same sewer pipe that was subject to the previously referenced inspection by the Town of Trenton in October 2017, during which a similar blockage in the pipe was observed.

19. The sewage pipe replacement was completed on January 3, 2020. The replacement was done over two days at a cost to the Town of Trenton of approximately $20,000. The sewer pipe replacement appeared to correct the overflow of raw sewage into the outfall pipe and the consequent deposit into the Lowden Brook. In addition, the Town of Trenton undertook to regularly inspect the outfall pipe to ensure there were no further discharges of untreated sewage.

20. The Town of Trenton was cooperative with the ECCC investigation of the offence.

21. The Town of Trenton pled guilty to one count of violating subsection 36(3) of the *Fisheries Act*. On February 15, 2024, the Town of Trenton was sentenced and given a penalty of $100,000 to be paid within three years along with a series of court orders.

22. Failure to comply with the *Fisheries Act* can cause death to fish, destruction of fish habitat, non-lethal impacts on fish such as small size and reduced spawning success, and a risk to human health through water contamination. The Town of Trenton would like to use this as an opportunity to impress upon all citizens as well as other municipalities that compliance with the *Fisheries Act* is mandatory and is vital to safeguard the environment.

23. The Town of Trenton recognizes the importance of complying with the *Fisheries Act* in order to protect fish and fish habitat. The Town of Trenton takes full responsibility for this violation of the *Fisheries Act*. We are committed to making sure this does not happen again, through further work on our wastewater and storm water systems.