



NATION
huronne-wendat

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RÉMY VINCENT

GRAND CHEF DE LA NATION HURONNE-WENDAT
GRAND CHIEF HURON WENDAT NATION

Wendake, March 4, 2021

Email: Anjala.Puvananathan@Canada.ca

Anjala Puvananathan
Director, Ontario Region
Impact Assessment Agency of Canada
600-55 York St.
Toronto, ON M5J 1R7

Subject: Designation Request for Proposed Bradford Bypass Project

Dear Ms. Puvananathan,


Kwe,

Thank you for your correspondence dated February 12, 2021 regarding the designation request related to the proposed Bradford Bypass Project under subsection 9(1) of the Impact Assessment Act ("IAA").

As you are likely aware, the Huron-Wendat Nation ("HWN") has a sacred obligation to ensure respect for and protection of our archaeological and burial sites. We are therefore very concerned regarding the proposed Bradford Bypass Project ("Project"), as it poses real risks to the integrity and protection of such sites, and, most worryingly, poses real risks to the undisturbed repose of our ancestors' remains. We welcome Ecojustice's request that the Project be designated under the IAA and the opportunity to provide information to your agency in support of that request.

Background

The HWN's traditional lands in Ontario border the Great Lakes and span from Lake Nipissing in the north to Lake Ontario in the south, and from Owen Sound in the west to the Quebec border in the east. We call this area Wendake South. Historically, these lands were occupied by more than 100,000 members of the HWN, and the imprints of these lives and our Nation's culture, traditions and heritage are present across this territory. To date, over 800 archaeological sites associated with the HWN have been documented in Wendake South, and the number of sites continues to grow every year.



As noted above, the HWN has a sacred obligation to ensure respect for and protection of our archaeological and burial sites in Ontario. This obligation is especially strong in relation to protecting our ancestors' burial sites, which are deeply sacred to us, as we believe that the spirits of our ancestors continue to reside with their remains.

My Nation's Council adopted a Resolution on June 15, 2015 describing the rights of the HWN in Ontario and the HWN's sacred obligation to protect its archaeological and burial sites in Ontario (the "Resolution"). The Resolution states that all necessary measures must be taken to ensure the respect and protection of Huron-Wendat cultural and archaeological sites. As Grand Chief, it is my duty to ensure that our Council resolution is respected.

HWN Rights

The HWN is a signatory to a treaty with the Crown concluded in 1760 which recognizes and protects, *inter alia*, the HWN's cultural and spiritual practices. This treaty has been recognized by the Supreme Court of Canada (see *R. v Sioui*, [1990] 1SCR 1025).

The HWN also has inherent rights protected by section 35 of the *Constitution Act, 1982*. These rights include, but are not limited to, the right to the integrity of the Nation's archaeological and burial sites.

The importance to my Nation of its right to the integrity of our archaeological and burial sites and asserting and protecting that right cannot be overstated.

Proposed Project

As stated above, the HWN has serious concerns with the proposed Project and its potential impacts on the integrity of the Nation's archaeological and burial sites. The proposed Project will run through rich lands and over waterways just south of Lake Simcoe in the area now known as Holland Marsh. These areas would have been used and occupied by the HWN, and as such are areas of high archaeological potential. As noted above, there are many documented archaeological sites in the vicinity of the proposed Project. We have attached to this letter a map depicting documented sites. Note that since this map was developed in 2015, many more sites have been disturbed in the course of development in Wendake South.

We therefore welcome Ecojustice's request on its clients' behalf to have the Project designated under the IAA, as the IAA process will require greater accountability and protection from MTO than the limited, dated review undertaken in 1997 under provincial legislation.

With respect to the questions posed in your letter, please see the following questions and answers:

1. Confirm whether your community was consulted as part of the provincial assessment process.

Yes, the Ministry of Transportation ("MTO") has conducted very limited consultation with the HWN. That said, the HWN is not satisfied with the level of consultation and has limited confidence that it will be meaningfully consulted and accommodated regarding the Project on a go-forward basis.

2. Please describe the proponent's consultation with your community on the project to date.

MTO has provided basic information to the HWN regarding the proposed Project, such as the proposed route, as well as sharing some reports.

We have asked MTO multiple times for confirmation that the HWN will be consulted and engaged with during any remaining archaeological fieldwork and assessments. Our requests have gone unanswered to this point.

3. Indicate whether the proponent has worked with you to address any concerns identified by your community.

It has not.

HWN has repeatedly advised the MTO of the need for the HWN to be meaningfully involved in the MTO projects with a potential to disturb HWN archaeological and burial sites, including by involving the HWN during archaeological assessment work and during construction of projects. MTO consistently disregards its obligations to the HWN and ignores the HWN's requests for meaningful consultation and involvement. That pattern has repeated itself with respect to the Project.

4. Please describe whether and how the Project may impact your community's rights as protected under section 35 of the Constitution Act, 1982.

As outlined above, the HWN has the right to the integrity of the Nation's archaeological and burial sites.

All construction and development projects in Wendake South have the potential to negatively impact these rights. The present Project poses a heightened risk, because of its location in a fertile land area with waterways that would have been used by HWN ancestors.

Conclusion

The HWN has not been adequately consulted and accommodated by MTO regarding this Project, and has serious concerns about its potential impacts on the HWN's s. 35 rights. The likelihood that Huron-Wendat archaeological or burial sites will be disturbed and damaged by the proposed Project is significant. The HWN has not to date been adequately consulted and accommodated by MTO regarding these impacts and does not have confidence that it will be adequately consulted and accommodated by MTO going forward.

Yours truly,

<Original signed by>


Remy Vincent
Grand Chief

Encl.

c.c. Conor Anderson, Project Manager (by email: Conor.Anderson@canada.ca)
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