

STRENGTH

PEACE

UNITY

# Mohawk Council of Kahnawake

P.O. Box 720  
Kahnawake Mohawk Territory J0L 1B0  
OFFICE OF THE COUNCIL OF CHIEFS



Tel.: (450)632-7500  
Fax: (450)638-5958  
Website: [www.kahnawake.com](http://www.kahnawake.com)

Sent via E-Mail

Monday, August 23rd, 2021

Public Affairs  
ADM Aéroports de Montréal  
800 Place Leigh-Capreol  
Office 1000  
Dorval, Quebec H4Y 0A5  
Email: [consultation-projets@admtl.com](mailto:consultation-projets@admtl.com)  
Talia Mascioli  
Innovation, Science and Economic Development Canada  
Email: [Talia.Mascioli@canada.ca](mailto:Talia.Mascioli@canada.ca)

**RE: MCK review of ecological study posted by the Aéroports de Montréal (ADM) in support of the proposal to construct an industrial building to produce nonwoven fabric for surgical masks on ADM controlled lands and the email response received from Martin Massé to MCK's letter of July 22, 2021 (IAAC Reference Number 81724)**

---

## Introduction

The Mohawk Council of Kahnawà:ke (MCK) submitted a letter dated July 22, 2021 to the Aéroports de Montréal (ADM) and Innovation, Science and Economic Development Canada (ISED) (collectively the project "Authorities"), for a proposed development of an industrial development on ADM lands. In the letter, MCK noted that the Authorities had failed to properly consult with the MCK on the project, thus preventing a determination of possible adverse effects to Indigenous people as required by Section 84(1) of the Impact Assessment Act<sup>1</sup>. The consultation period for the project was originally scheduled to be complete on July 24, 2021. Several new events including the extension of the consultation timeline until August 24, 2021, the release of an ecological report completed to support the proposal that was originally withheld by ADM and the receipt by MCK of an email response to our letter from Catherine Seguin on behalf of Martin Massé dated August 2, 2021, compel MCK to submit a follow-up response expanding on our previous submission.

---

<sup>1</sup> Impact Assessment Act 2019: <https://laws.justice.gc.ca/PDF/I-2.75.pdf> section 84(1)

## Consultation with Mohawk Council of Kahnawà:ke

In his August 2, 2021 e-mail, Mr. Massé states that:

*We are of the view that the Project does not give rise to a duty to consult the Mohawks of Kahnawà:ke because it does not have any adverse impact on the ability of the Mohawks of Kahnawà:ke to exercise the Aboriginal rights that they assert. Indeed, the Mohawks of Kahnawà:ke do not exercise any such right on the land where the Project is located. In any case, whether or not the Project has triggered a duty to consult the Mohawks of Kahnawà:ke, in our view, the latter have been duly informed of the Project and have had ample opportunity to express their concerns regarding the impact of the Project on the exercise of their asserted Aboriginal rights. In this latter regard, we note that the only such concern expressed in your letter of July 22, 2021 is the one related to the waterfowl hunting rights asserted by the Mohawks of Kahnawà:ke. After consideration, we believe that the Project has no adverse impact on the waterfowl hunting rights asserted by the Mohawks of Kahnawà:ke since the latter do not exercise any such right on the land where the Project is located or close to this area. In addition, as you will note from the Ecological study to which ADM has requested, the Project has no adverse effects on waterfowl.*

There are numerous problematic statements in this communication that must be corrected:

1. The duty to consult and accommodate is triggered when there are potential adverse effects on established and asserted Aboriginal and treaty rights. Contrary to what is implied in the response, interference with the precise location where rights are exercised is not a requirement to trigger the duty to consult nor is it required for there to be a substantial duty. Projects that can have potential impacts to resources harvested by the Mohawks of Kahnawà:ke at other locations will also trigger the Crown's duty;
2. The duty to inform is part of the duty to consult and accommodate, but it is not the whole duty. Further, at the time that the MCK drafted its July 22, 2021 letter, the ADM was still withholding basic project information, so even the duty to inform was not met at that time and the initial refusal to share this information cannot be defended. Further, invoking or relying on "publicly accessible" information is irrelevant to Indigenous consultation requirements. It should also be noted that no communication or information sharing from the other project Authority has occurred as of the writing of this communication and remains outstanding despite numerous attempts by MCK to contact ISED;
3. It is incorrect to state that Mohawks only identified impacts to waterfowl hunting rights in our July 22, 2021 letter. We also asserted Aboriginal title rights and stewardship rights and responsibilities to the project lands. These have not been responded to in any way. It is well outside the competence and purview of the ADM to question the validity or strength of these rights assertions. If the ADM wishes to have a discussion regarding Mohawk rights assertions, we invite the ADM to invite appropriate Crown representatives to a follow-up meeting;
4. The ecological study that was completed did not assess potential project impacts to rights. In any case, and for reasons that will be expanded upon in the next section of this letter, the ecological study completed is so inadequate that it cannot be relied upon as a tool to help assess potential impacts to rights.

The federal authorities should show deference to the Mohawks of Kahnawà:ke's assessment of potential impacts to rights. Given the nature of the response- which was based on the refusal to recognize rights assertions and a denial of any potential impacts to these rights- our position remains that the federal authorities are not currently able to assess potential project impacts to rights as required by the *Impact Assessment Act*. The duty to inform (which arguably still has not been met) is insufficient to meet the Honour of the Crown for this project. An iterative consultation process must be completed, and meaningful consideration of the potential project impacts we have identified is required.

### **Ecological Report and Ecosystem based considerations**

In the MCK letter of July 22, 2021, preliminary environmental concerns raised included direct impacts to the meadow habitat present, the impact of development on the surrounding ecosystem including important wetland complexes nearby and the impact of a reduced buffer around environmental sensitive features on waterfowl and other birds. Since this time, MCK consultation portfolio Chief Ross Montour and a representative from the Kahnawà:ke Environment Protection Office (KEPO) have had the opportunity to visit the site. Additionally, an Ecological Study has now been provided to the public to further assist with the evaluation of potential environmental impacts associated with the project.

This study, titled "Update on the Ecological Study Chemin de L'aviation Development (Dorval)" produced for DIVCO and completed by Évolution Environnement Inc. dated June 30, 2021 had the stated mandate of validating the presence of environmental constraints on development as part of an assessment of the impacts under the Impact Assessment Act. MCK has reviewed this document and offers the following.

The ecological study does not adequately consider surrounding land use. Inventories and observations were generally limited to within the boundaries of the site itself. This approach prevents the consideration of how the project site is integrated with the surrounding terrain and the potential impacts of the development project not only on the site itself but the surrounding habitat. The report fails to note that the site is part of a 215 ha complex of wetlands, forests and meadows that are home to a huge diversity of birds and other wildlife. Given the location of this habitat within the urban boundaries of the City of Montreal, these "Technoparc" lands are clearly an extremely important refuge for migratory and resident birds and other wildlife on the island of Montreal. This fact is highlighted by the work of "Technoparc Oiseaux", a citizen group that has been undertaking inventories and observations within the project area and surrounding lands. The wide diversity of species, including many species at risk, that were identified through their work, stands in stark contrast to the narrowly defined fieldwork completed by Évolution Environnement. The MCK supports the work of Technoparc Oiseaux and their conclusions concerning the importance of this site, as outlined in their submitted consultation brief accessed through their website.<sup>2</sup> Indeed, during the site visit conducted by MCK, numerous raptors and song birds were spotted in and around the project site. Many of these birds are uncommon within the Montreal region and their abundance in this location was striking. Additionally, the wetlands in proximity to the site support the presence of large numbers of waterfowl, including during migratory periods. The project site offers feeding habitat for geese and ducks in proximity to these roosting and nesting sites. Stopover locations are necessary for many migratory waterfowl. The presence of the Technoparc wetlands and surrounding grasslands support these populations, which in turn enable the exercise of hunting rights by the Mohawks of Kahnawà:ke less than 5 km away.

---

<sup>2</sup> <https://www.technoparcoiseaux.org/documentation> - Accessed on August 20, 2021.

The level of impact that this loss of habitat; which provides numerous feeding and nesting opportunities, as well as a buffering effect from surrounding industry; will have on the wildlife populations in the area is unknown but certainly detrimental. The concern is magnified in light of the stated intentions of the ADM to develop the entirety of the lands under their control outside of a 22 ha area that is currently a ponded wetland. Without access to other habitat types, feeding grounds, inputs of clean water etc., the wildlife currently present in the wetland area, including many species at risk, will be lost.

In addition to these impacts on wildlife, development of the project site (and the stated intent for future development on these lands) will have impacts on the sensitive wetland habitat that is proposed to be 'protected'. Based on information received to date from ADM and others, it does not appear that any credible rationale was used to delineate the boundary of the area set aside by ADM as a no-development zone. Wetlands are complex systems that rely on groundwater and surface water supplies that are often quite distant from the visibly ponded water or defined wetland area. A hydrogeological study is required to understand flow patterns and interconnections, and appropriate buffers established around wetland features to ensure that development will not ultimately result in their drying up or suffering from significantly reduced water quality (e.g. from urban runoff or the removal of a groundwater source of cold water).

The ecological study also makes numerous dubious claims about the various 'wastelands' that exist on the site including the absence of wetlands (but the presence of 'hollows' confirmed through MCK's site visit to contain cattails and other wetland obligative and facultative species); the absence of sensitive species despite a lack of targeted inventories (vegetation surveys focused on plant communities only, no bird or mammal inventories completed beyond a bird nest survey); the presence of 'a few' milkweed plants despite thousands being identified by others<sup>3</sup> and visible in abundance on-site; and the negation of the importance of Quebec writ large as a home to the monarch butterfly. The tone and approach used throughout the ecological study make clear that the authors were given one directive, that being to downplay the significance of this site.

The MCK recognizes the significance of the Technoparc lands for wildlife frequenting the island of Montreal. It is clear that the approach sought by ADM is to chip away at these lands, parcel by parcel, with each new development, considered within the narrow boundaries of the parcel envelope as in the case of this ecological study, resulting in a finding of "no sensitive species, habitats or protected areas [] present in the work area"<sup>4</sup>. With each new development, the overall integrity of the area will be reduced until eventually, the entire area will no longer be suitable for wildlife.

#### **Conclusion and MCK requirements**

The ADM's response and approach is based on the refusal to acknowledge rights, the denial of any potential impacts and founded on an inadequate Ecological Study. Therefore, it remains our position that the project Authorities cannot make the required determination of impacts to rights at this time. Since all potential impacts have been denied by the ADM, the MCK has not received any information from the Authorities demonstrating that the apprehended impacts can be avoided and mitigated. In addition, no accommodation measures for potential residual impacts to our rights have been presented or discussed. We reiterate our offer to engage in meaningful dialogue to further assess this proposal however we will not accept a unilateral determination by the Authorities of project impacts.

---

<sup>3</sup> <https://www.technoparcoiseaux.org/documentation> - Accessed on August 20, 2021.

<sup>4</sup> Évolution Environnement, Update of the Ecological Study Chemin de L'aviation Development (Dorval) June 30, 2021. p. 17.

Further, the ADM has stated their intention to develop a significant portion of natural lands under their control in the Technoparc. Narrowly scoped ecological studies limited to specific developments are inadequate to fully understand the scope of the impacts of ultimate development plans on the habitats and wildlife of the area. MCK calls on ADM to commit to a comprehensive Impact Assessment, following that of a “designated project” under the Impact Assessment Act, 2019<sup>5</sup> that would address the impacts of ADM’s ultimate development plans on the Technoparc. This investigation should consider the wildlife within Technoparc and how they use different areas within this area for feeding and rearing young; the hydrology and hydrogeology of the area and the impact that development would have on existing features on the landscape; impacts of noise and air pollution associated with industrial manufacturing; impacts on the Rights and Interests of Indigenous communities; and social and cultural impacts to the public at large.

As a non-profit organization responsible for the stewardship of federal lands, ADM must recognize the public value of these lands beyond their corporate financial benefit. Any proposed development should be put on hold until such time as this process is complete.

Sincerely,

<Original signed by>

---

Chief Ross Montour  
Consultation Portfolio  
Mohawk Council of Kahnawà:ke

cc. Mélanie Sanschagrin – Impact Assessment Agency of Canada – [melanie.sanschagrin2@canada.ca](mailto:melanie.sanschagrin2@canada.ca)  
Louise Alaire – Transport Canada – [louise.alarie@tc.gc.ca](mailto:louise.alarie@tc.gc.ca)  
Gayle Padvaiskas – VP Marketing – Medicom – [gpadvaiskas@medicom.ca](mailto:gpadvaiskas@medicom.ca)  
Gopinath Jeyabalaratnam – Sr Manager, Government Relations and Communications –  
Medicom – [gjeyabalaratnam@medicom.ca](mailto:gjeyabalaratnam@medicom.ca)

---

<sup>5</sup> Impact Assessment Act 2019: <https://laws.justice.gc.ca/PDF/I-2.75.pdf> definitions