

STRENGTH

PEACE

UNITY

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July 22, 2021

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RE: MCK Review of Project for Construction of an industrial building to produce nonwoven fabric for surgical masks at YUL Montreal-Trudeau International Airport

Greetings,

Introduction

The Mohawk Council of Kahnawà:ke (MCK) has become aware of a request for input from the Montreal Airport Authority (MAA) concerning a proposed development by Meltech Innovation Canada on federal lands leased to the MAA through a posting on the Impact Assessment Agency of Canada's web portal (Reference number 81724). The development is proposed to be located on fallow lands (formerly a golf course) in proximity to a wetland that was recently designated for protection. While surrounded by industrial development and the airport, the remaining lands within this sector, including those under development consideration, have become an oasis of biodiversity and together are known as the Technoparc Lands.

MCK held an introductory meeting with the MAA to gather details about the proposed project and what investigations have been completed to ensure the proposed development does not degrade this important habitat complex. Unfortunately, beyond reassurances that the development would have no impact, MAA was unwilling to share field studies and documentation to support these claims to the MCK. In addition, the views shared by MAA are contrary to information that the MCK has received in discussions with concerned citizens and NGO's. It should also be noted that no consultation or information sharing from Innovation, Science and Economic Development Canada (ISED), the other federal "Authority" for this project, took place.

Rights and Interests of the Mohawks of Kahnawà:ke

The Mohawks of Kahnawà:ke assert aboriginal title and rights to our traditional territory and bodies of water, which overlap with the footprint of the proposed project. Furthermore, we assert stewardship rights and responsibilities as inherent and aboriginal rights, including over the land and water resources on our traditional territory. Furthermore, the Mohawks of Kahnawà:ke assert other rights, including, but not limited to: fishing, hunting, gathering and commercial trading rights as inherent and s. 35(1) rights under the *Constitution Act (1982)*.

In the case of the proposed project, the MCK is concerned that further development within the federal lands leased by Transport Canada to the MAA within the Technoparc and surrounding green space, which includes the current development proposal, may have detrimental impacts the Mohawk of Kahnawà:ke waterfowl hunting rights. Stopover areas for waterfowl are limited within southern Quebec, particularly on Montreal Island, and the Technoparc wetlands and surrounding green space are an important resting area for these birds. Reduction and fragmentation of this habitat may result in a reduction in waterfowl numbers overall and specifically within the local region. Waterfowl harvesting in and around the area (e.g. along the riverbanks of the St. Lawrence River) is important for sustenance and the preservation of culture for the Mohawks of Kahnawà:ke.

Additionally, MCK is concerned that development in this region will impact the ability of the Mohawks of Kahnawà:ke to practice stewardship rights, as the further loss of fallow grounds adjacent to a significant wetland habitat will eliminate habitat and reduce the overall quality of the area. Already the site is surrounded by industrial development and it is clear to MCK that further development on federal lands outside of the designated 22 ha protected wetland will significantly impact the quality of any remaining remnant habitat. A rationale for the existing boundary of the protected area was not provided to MCK when requested however it appears to have been arbitrarily selected and not supported by the needs of the wetlands and wildlife using the area.

Given that the MAA and ISED have failed to provide adequate information to MCK regarding this project, we reserve our right to identify additional potential impacts and raise any other concerns related to the project as more information becomes available.

Requirements under the Impact Assessment Act, 2019

The MCK contends that the MAA and ISED, the designated “authorities” for this project have not fulfilled their obligations under the Impact Assessment Act (IAA) and therefore cannot make determinations of the impact of the proposed project. Under Section 82 of the Act, to carry out a project on federal lands, an authority must determine that the project will not cause significant adverse environmental effects or receive a decision from the Governor in Council that the effects are justified.¹

As per Section 84 (1) of the IAA, a determination that a project will not cause significant adverse effects must be based on an assessment of:

- a) any adverse impact that the project may have on the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the Constitution Act, 1982;
- b) Indigenous knowledge provided with respect to the project;
- c) community knowledge provided with respect to the project;
- d) comments received from the public under subsection 86(1); and
- e) the mitigation measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project that the authority is satisfied will be implemented²

As noted above, the Mohawks of Kahnawà:ke have rights protected by Section 35 of the *Constitution Act, 1982* that are potentially impacted by the project, however the authorities have not consulted with the MCK in a meaningful way. More specifically, the MAA has refused to share documentation on the extent of project impacts or details of the proposed development (only a yellow square on an aerial photograph was provided) and failed

¹ Impact Assessment Act: <https://laws.justice.gc.ca/PDF/I-2.75.pdf> section 82

² Ibid. Sect. 84 (1)

to solicit our views and consider impacts identified by the MCK. The authorities cannot make the required determination of impacts to rights without consultation and MCK is unable to make this determination without supporting documentation and dialogue. Therefore, any determination made by the authorities concerning the environmental impacts of the project based on the current consultation record would be invalid.

The MCK currently opposes the proposed project due to the lack of sufficient information concerning project impacts and MAA's refusal to consider the views of the Mohawks of Kahnawà:ke.

Despite this lack of information, MCK has identified several potential impacts resulting from the project including:

- a) The direct loss of meadow habitat providing important habitat for monarch butterflies and other wildlife.
- b) The potential impacts of development in this sector on the adjacent protected wetland including an alteration of the local water balance that may impact the quantity and quality of water in the wetland.
- c) The loss of a natural buffer zone around the protected wetlands that provides important wildlife habitat and ecosystem diversity for the plants and animals in the sector and protects against intrusions from invasive species and pollutants.
- d) The impacts of this habitat degradation on migrating waterfowl and the hunting rights of the Mohawks of Kahnawà:ke.

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.

The MCK is willing to engage in a meaningful dialogue to further assess this proposal however we will not accept a unilateral determination by the authorities of project impacts. The MCK is currently opposed to this project and shall oppose any determinations made by the authorities based on the current consultation record. To schedule a meeting, please contact Brittany Diabo at Brittany.Diabo@mck.ca.

Sincerely,

<Original signed by>

Ross Montour
Consultation Portfolio Chief

cc.

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