



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

SCOT DAVIDSON

Member of Parliament
York—Simcoe

February 16, 2023

Hon. Omar Alghabra, PC MP
Minister of Transportation
Transport Canada
330 Sparks St
Ottawa, Ontario
K1A 0N5

Re: Justification for a Ministerial Order Prohibiting the Baldwin East Aerodrome

Dear Minister,

As you are aware, a general aviation aerodrome is set to be built in Georgina, Ontario in the coming months. The legislated consultation process has now concluded, as has Transport Canada's direct involvement under the Canadian Aviation Regulations (CARs).

Despite this, there remains significant concerns that the proponents of this aerodrome – 'New Aerodrome Ontario 2021' or the 'Baldwin East Aerodrome' – are using the federally-regulated process as a means to soon dump significant amounts of soil and fill on the properties at 7818 and 7486 Old Homestead Road. According to the proponent's own disclosures, they plan to dump 1.2 million cubic metres of fill (or 120,000 truckloads) on the site, generating \$12-18 million in revenue.

This practice has already taken place in other communities, including Greenbank Airport, and aerodromes in Scugog, Tottenham, and Burlington. In 2014, media reports revealed that federally regulated aerodromes such as the Greenbank Airport were being used as dumping grounds for contaminated dirt. In these cases, federal jurisdiction over aerodrome land was being used to circumvent municipal soil rules.

At that time, requirements for aerodromes (under Part III of the CARs) related only to registered aerodromes or licensed airports: aerodromes that did not meet the requirements would not be included in Transport Canada publications, but they would not cease to be aerodromes and consequently remained exclusively within federal jurisdiction. There was also no mechanism for Transport Canada to disallow the establishment of an aerodrome.

In such instances, the dumping of soil occurs under the pretence of expanding or developing an aerodrome – but once that fill is deposited on the site (something that is financially lucrative for the proponents), no further work is undertaken related to the aerodrome itself. The properties are usually abandoned, and municipalities discover that much of the tonnes of dumped soil is contaminated – which requires significant remediation at a great cost to taxpayers and to the environment.

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In response to the Greenbank Airport incident, Parliament approved section 143 of the *Economic Action Plan 2014 Act, No. 2*, which amended the Aeronautics Act to require consultations, and to allow the Minister of Transport to make an order prohibiting an aerodrome activity or development if it is unsafe or not in the public interest. This was done so that these sorts of incidents can not happen again.

While the consultation process for the Baldwin East aerodrome may have been concluded to the satisfaction of Transport Canada, significant concerns like those that were relevant at the Greenbank Airport remain unaddressed.

The aforementioned dumping of soil is of foremost concern. One of the proponents, Wilf Goldlust, also owns Triwaste Services and Trillium Recovery, which was subject to a Director's Order in 2015 and proceedings from Ontario's Ministry of Environment related to illegal fill dumping on a former rail line in Haldimand County. Goldlust was represented by the main proponent contact, Maurizio Marchioni during those proceedings.

Despite being built on provincially significant wetlands, a groundwater recharge area, and highly-vulnerable aquifers and woodlands within the Lake Simcoe watershed, the aerodrome has been designed to specifically avoid a required assessment by the Impact Assessment Agency of Canada. The proposed runway lengths are 991m (3,250 ft), but the agency only considers projects relating to the construction of an aerodrome with a runway length of 1000m or more. Both the construction and operation of an aerodrome at this location will have serious implications for the local environment.

In addition, the distinct lack of business case for an aerodrome in this area reinforces the impression that the proponents don't actually intend to operate one once the dumping of fill has concluded.

Prospective pilots already have access to numerous local and regional airports and aerodromes in the area, even if Buttonville Airport closes. Moreover, the proposed length of the two paved runways is too short for commercial traffic; larger aircraft that utilize instrument landing systems will not be able to do so, meaning that only small aircraft will be able to make use of this aerodrome – significantly limiting its economic viability.

It is also notable that the direction of the runways do not favour northwest prevailing winds, and therefore will lead to unfavourable landing conditions for most pilots, who will consequently look to land elsewhere. As such, the proposed aerodrome lacks sufficient demand or capabilities to be suitable for recreational or commercial air traffic

The site of the proposed aerodrome is situated in a rural area with limited or non-existent access to the required services or infrastructure. Both of the nearby roads – Morning Glory and Stony Batter – are insufficient for increased, heavy traffic, particularly during the prolonged construction process.

There is also a distinct lack of servicing for water, sewage, or power in that area, which would be required should the aerodrome be approved and begin operations. When asked about the business case for this proposal, the proponents refused to answer, saying that it was not the community's business how they planned to operate.

Finally, the widespread opposition to this proposal across the community needs to be acknowledged. To be clear, the vast majority of this opposition is not from individuals opposed

to an aerodrome in and of itself (after all, there are many in the area already) – but from community members who have deeply-held concerns about the legitimacy of the project, the suitability of the site chosen, and the environmental impact.

As an indication of how widespread this opposition is: more than 97% of those who participated in the consultation process were against it. Presently, e-petition 4213 calling for this project to be denied has almost 1600 signatures and continues to collect more.

The Town of Georgina, the Lake Simcoe Region Conservation Authority, and the Regional Municipality of York have expressed opposition or concerns with the project, and the Federation of Canadian Municipalities has issued a resolution expressing concerns with aerodromes being approved just so developers can dump contaminated fill, and the inability of municipalities to act and enforce their bylaws.

The local First Nations band, the Chippewas of Georgina Island, has also issued a band council resolution on this topic, formally expressing opposition to the project and denouncing the proponents for their failure to consult with them, or acknowledge their rights and impacts on their traditional lands.

Since the CARs were amended in 2014, there have been two usages of the powers granted to you to deny the establishment of an aerodrome from proceeding. In 2020, the Minister of Transport issued an order prohibiting the development of an aerodrome in the municipality of Saint-Roch-de-l'Achigan. In that instance, the proponent was sent a letter from your predecessor which outlined serious shortcomings in the demonstration of the economic benefits of the project, while noting the strong opposition from residents.

The other usage of this power was in 2016, when a proposed aerodrome in Mascouche and Terrebonne was initially approved following the Transport Canada consultation process. The municipalities and the Government of Quebec both argued against its approval, citing the incompatibility of the project with Ministry of Environment guidelines, and the minister prohibited the development thereafter.

Given the previous usages of the ministerial order, it is clearly not sufficient to say that Transport Canada can only look at the aeronautic legitimacy of the proposal – the regulations have been written to enable the Minister to account for other considerations, including the viability of the project, local opposition, the background of the proponents, and the likelihood of this being a soil dumping endeavour.

The circumstances around this proposal should make it evident that this aerodrome is not in the public interest, especially as it appears that it is only a pretense to dump soil with no actual plans to construct an aerodrome. Even if it were to be built, the construction and operation of an aerodrome at this site will have significant environmental impacts. As the consultation process has concluded, your intervention is now required to stop it from proceeding.

For all of these reasons, **the undersigned formally request that you utilize Section 4.32(1) of the Aeronautics Act and make an order prohibiting this aerodrome development** as it is unsafe for the environment and not in the public interest, and we ask for your timely response to this request.

Sincerely,
<Original signed by>

<Original signed by>

Scot Davidson
Member of Parliament for York-Simcoe

Caroline Mulroney
Member of Provincial Parliament for York-Simcoe

<Original signed by>

<Original signed by>

Margaret Quirk
Mayor, Town of Georgina

Donna Big Canoe
Chief, Chippewas of Georgina Island First Nation

<Original signed by>

Karen Wolfe,
Advocacy Chair, Pefferlaw Area Ratepayers Association

Enclosures (3):

Chippewas of Georgina Island Band Council Resolution – 02-02-23-1036

Federation of Canadian Municipalities Resolution MIT-2022-01 – Aerodrome Approvals Changes

Resolution from the Town of Georgina

cc:

Wayne Emmerson, Chair, Regional Municipality of York
Rob Baldwin, CAO, Lake Simcoe Region Conservation Authority



BAND COUNCIL RESOLUTION
RESOLUTION DE CONSEIL DE BAND

Note: The words "from our Band Funds" "capital" or "revenue", whichever is the case must appear in all resolutions requesting expenditures from Band Fund
 NOTA: Les mots "des fonds de notre bande" "capital" ou "revenue" selon le cas doivent paraître dans toutes les résolutions portant sur des dépenses à même les fonds des bandes.

The council of the Le conseil de CHIPPEWAS OF GEORGINA ISLAND FIRST NATION				Capital account Compte Capital \$ _____
Date of duly convened meeting Date de l'assemblée dument convoquée	D-J 26	M 01	Y-A 2023	Revenue account Compte Revenue \$ _____
Cash free balance - Solde disponible				

DO HEREBY RESOLVE:
DECIDE, PAR LES PRESENTES:

- WHEREAS THE CONSTRUCTION OF A GENERAL AVIATION AERODROME 'BALDWIN EAST' HAS BEEN PROPOSED FOR THE PROPERTY AT 7818 AND 7486 OLD HOMESTEAD RD. AND RECEIVED APPROVAL FROM TRANSPORT CANADA;
- AND WHEREAS THE PROVISIONS OF CANADIAN AVIATION REGULATIONS PART 111, SUBPART 307 REQUIRE THAT ANY NEW AERODROME PROPOSAL ENGAGE IN A CONSULTATION PROCESS WITH THE LOCAL COMMUNITY, BUT DO NOT REQUIRE A DUTY TO CONSULT IMPACTED FIRST NATIONS; WE INSIST CONSULTATION IS ADDRESSED WITH IMPACTED FIRST NATIONS;
- AND WHEREAS IT IS RECOMMENDED THAT ANY PROPONENT SEEKING A NEW AERODROME ENGAGE IN A NON-MANDATORY PRE-CONSULTATION PROCESS WITH THE KEY STAKEHOLDERS, INCLUDING LOCAL MUNICIPALITIES, IN ADVANCE OF THE REQUIRED CONSULTATION PROCESS; AND WHEREAS, TRANSPORT CANADA HAS A CONSTITUTIONAL DUTY TO CONSULT FIRST NATIONS WHEN THEIR PROPOSED CONDUCT HAVE POTENTIAL TO ADVERSELY IMPACT THE FIRST NATIONS RIGHTS.
- AND WHEREAS THE AERODROME'S PROPONENTS DID NOT ENGAGE WITH THE CHIPPEWAS OF GEORGINA ISLAND IN ANY MEANINGFUL OR RECOMMENDED NON-MANDATORY PRE-CONSULTATION PROCESS IN ADVANCE OF THE REQUIRED CONSULTATION PROCESS;
- AND WHEREAS NUMEROUS ENVIRONMENTAL CONCERNS HAVE BEEN RAISED ABOUT THE IMPACT OF THE AERODROME AND RELATED FILL DUMPING WILL HAVE, INCLUDING ON THE LAKE SIMCOE ECOSYSTEM;
- AND WHEREAS THE PROPOSED AERODROME IS ON THE TRADITIONAL LANDS OF THE CHIPPEWAS OF GEORGINA ISLAND, AND WHEREAS THE PROPOSED AERODROME HAVE THE POTENTIAL TO ADVERSELY IMPACT THE GEORGINA ISLAND FIRST NATIONS ABORIGINAL AND TREATY RIGHTS.

THEREFORE LET IT BE RESOLVED THAT THE CHIPPEWAS OF GEORGINA ISLAND FIRST NATION OPPOSE THE AERODROME PROJECT MOVING FORWARD. AND DEMAND THAT TRANSPORT CANADA CONSULT WITH THEM ON ANY PROPOSED AERODROME PROJECT THAT MAY have AN ADVERSE IMPACT ON OUR RIGHTS

Quorum -3-

<Original signed by> _____
(Chief - Chef)

<Original signed by> _____
(Councill or-Conseiller)

<Original signed by> _____
(Councill or-Conseiller)

_____ (Councill or-Conseiller)

_____ (Councill or-Conseiller)

_____ (Councill or-Conseiller)

_____ (Councill or-Conseiller)

FOR DEPARTMENTAL USE ONLY -- RESERVE AU MINISTERE					
Expenditure - Dépenses	Authority (Indian Act Section/Article de la Loi sur les Indiens)	Source of funds / Source des fonds		Expenditure - Dépenses	Authority (Indian Act Section/Article de la Loi sur les Indiens)
		Capital	Revenue / Revenu		
Recommending officer - Recommande par			Recommending officer - Recommande par		
Signature		Date		Signature	
Date		Date		Date	
Approving officer - Recommande par			Approving officer - Recommande par		
Signature		Date		Signature	
Date		Date		Date	

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Cheffe de la direction

Carole Saab
Ottawa, ON

January 11 2023

The Honourable Minister Alhabra, P.C., M.P.
Minister of Transport
House of Commons
Ottawa, ON
K1A 0A6

Dear Minister:

On behalf of the Federation of Canadian Municipalities (FCM), thank you once again for your ongoing and productive partnership with local governments. As you know, FCM has been the national voice of municipal government since 1901. Our members include more than 2,000 municipalities of all sizes, from Canada's biggest cities and small rural communities, to northern communities and 20 provincial and territorial municipal associations. Together, they represent more than 90 percent of all Canadians from coast to coast to coast.

FCM's Board of Directors convenes municipal leaders from across Canada to set FCM policy on key issues. At the March and September Board meetings, FCM's Board considers resolutions submitted by its membership. Resolutions adopted by FCM's Board of Directors help inform FCM's policy and advocacy priorities with the Government of Canada. Adopted resolutions represent municipal issues of national significance that fall within federal jurisdiction and therefore require a strong federal partner to help find a solution:

The attached resolution, **Aerodrome Approvals Changes**, was adopted at the September 2022 Board of Directors.

Municipalities are concerned about the environmental impact of aerodrome approvals on the environment. Aerodromes are being approved, but not built, and developers are using these sites to dump contaminated fill harming the surrounding watershed. Based on legislation and regulations, the Transport Canada process for approving aerodromes does not need to adhere to local land use planning, and the department does not need to consult directly with the local municipality. The lack of direct consultation and adherence to local land use planning is putting the environment at risk.

Aeronautics is an area of exclusive federal jurisdiction, and provincial and municipal measures that are otherwise valid (such as a zoning bylaw) and influence aeronautics cannot impair the core of the federal jurisdiction. Sections 307.01 to 307.10 of the *Canadian Aviation Regulations* set out the consultations the proponent of a new aerodrome must undertake as part of the application process. These requirements are purely consultative in nature. There is no decision-making authority conferred upon the municipality or anyone else other than the Minister. Under section 4.32(1) of the *Aeronautics Act*, the Minister can refuse the application, but the refusal must be justified as being "in the public interest". There is therefore an onus on the Minister to establish

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grounds for the refusal. By default, if the Minister does not react within 30 days of the report, the proponent is free to proceed.

Changes to the *Canadian Aviation Regulations* could be adopted by Cabinet to explicitly incorporate an obligation for the Minister to have regard for local land-use policies when assessing whether a proposal is in the public interest, for example, or set out specific assessment criteria. Transport Canada's Advisory Circular No. 307-001 indicates, at point 6.0, that "factors including but not limited to economic, social, and environmental are taken into consideration as long as it relates to aviation." This is an administrative practice that is not explicitly reflected in the Act or the Regulation.

We urge the Minister to review and update the *Canadian Aviation Regulations* for the purpose of **ensuring municipalities are consulted directly by Transport Canada during the process of approving or expanding aerodromes**, and that departmental staff give regard to local land-use policies and environmental protections, when assessing whether a proposal is in the public interest.

We also urge the Minister to **ensure that Transport Canada's approval process for the location of commercial aerodromes include a proactive public consultation process** to weigh public and financial impact of locating new commercial and private airports, aerodromes and helicopter pads and hangars.

FCM looks forward to working with you and your government in deepening the federal-municipal partnership to improve consultation with municipalities and protect the environment. If you or your staff have any questions, please feel free to contact Margot Cragg, Manager of Government Relations, at mcragg@fcm.ca or 613-907-6246.

Yours sincerely,

<Original signed by>

Taneen Rudyk
Councillor Town of Vegreville, Alberta
FCM President

CC:

The Honourable Minister Guilbeault
Minister of Environment and Climate Change
House of Commons
Ottawa, ON
K1A 0A6

MIT-2022-01 – Aerodrome Approvals Changes

WHEREAS, Sutton Airport Development Inc. has made an application to Transport Canada for the construction of an aerodrome (Baldwin East Aerodrome) at 7818 and 7486 Old Homestead Road in the Town of Georgina; and

WHEREAS, The Baldwin East Aerodrome proposed by Sutton Airport Development Inc. includes two paved, all weather marked and lighted runways, supporting taxiways and aircraft parking aprons, aircraft hangar and supporting use development lots and access roads and utilities; and

WHEREAS, The Baldwin East Aerodrome proposed by Sutton Airport Development Inc. is located close proximity to Lake Simcoe; and

WHEREAS, 7818 and 7486 Old Homestead Road are within a rural area and contain environmentally sensitive lands; and

WHEREAS, Ontario Municipalities are required to review proposed land development within a comprehensive legislative framework governed by the Ontario Planning Act and associated legislation and policies to ensure land use compatibility and environmental protection, including the protection of significant watersheds, like the Lake Simcoe Watershed; and

WHEREAS, Ontario Municipalities are required to put in place comprehensive Official Plans and Zoning By-laws, with extensive public and stakeholder engagement, in order to guide responsible development and to implement a long term vision for the municipality; and

WHEREAS, The Town of Georgina has put in place a comprehensive Official Plan and Zoning By-law, based on extensive public and stakeholder engagement, in order to guide responsible development and to implement a long term vision for the municipality; and

WHEREAS, The current Federal legislation governing aerodrome development precludes Ontario Municipalities from reviewing proposed land development within a comprehensive legislative framework governed by the Ontario Planning Act and associated legislation and policies to ensure land use compatibility and environmental protection, including the protection of significant watersheds, like the Lake Simcoe Watershed, thus leaving Ontario Municipalities with no decision-making authority with respect to proposed land development involving new or expanded aerodromes; and

WHEREAS, The result of the current Federal legislation governing aerodrome development proposals means that such aerodrome development proposals can essentially by-pass all comprehensive Official Plans and Zoning By-laws, and the planning and development review processes involved therein, and can be approved even if such aerodrome development proposals are not in conformity with Provincial and Municipal legislation and policy, rendering as useless the efforts of Ontario Municipalities have made to protect their local environment from adverse impacts; therefore be it

Resolved, That FCM urge to federal government to review and update the *Canadian Aviation Regulations* for the purpose of ensuring municipalities are

consulted directly by Transport Canada during the process of approving or expanding aerodromes, and that departmental staff give regard to local land-use policies and environmental protections, when assessing whether a proposal is "in the public interest".

Town of Georgina, ON

Town of Georgina | Council resolution on proposed general aviation aerodrome

A Special Council meeting was held on Dec. 15 to discuss the proposed general aviation aerodrome. Council received a briefing note on the proposed aerodrome planned for 7818 and 7486 Old Homestead Rd.

Council endorsed the following resolution:

Whereas the construction of a general aviation aerodrome has been proposed by “New Aerodrome Ontario 2021” for the property at 7818 and 7486 Old Homestead Rd.;

And Whereas the Town is not a decision-making body under federal legislation in this proposal;

And Whereas the provisions of Canadian Aviation Regulations Part III, Subpart 307 require that any new aerodrome proposal engage in a consultation process with the local community;

And Whereas it is recommended that any proponent seeking a new aerodrome engage in a non-mandatory pre-consultation process with the key stakeholders, including local municipalities, in advance of the required consultation process;

And Whereas “New Aerodrome Ontario 2021” did not engage with the Town in any recommended non-mandatory pre-consultation process in advance of the required consultation process;

And Whereas Town Council convened a Special meeting of Council during the consultation process, the purpose of which was to receive information from representatives of “New Aerodrome Ontario 2021”, Town staff and members of the community so as to enable Town Council to determine its position in respect of the proposed aerodrome;

And Whereas Town Council has received and considered presentations from representatives of “New Aerodrome Ontario 2021”, Town staff and members of the community;

And Whereas Town Council is now in a position to consider and determine its position in respect of the general aviation aerodrome proposed by “New Aerodrome Ontario 2021” for the property at 7818 and 7486 Old Homestead Rd.;

Now be it resolved that:

1. Town Council oppose the construction of the general aviation aerodrome proposed by “New Aerodrome Ontario 2021” for the property at 7818 and 7486 Old Homestead Rd.
2. The Chief Administrative Officer of the Town be authorized to make submissions within the prescribed time in opposition to the general aviation aerodrome that has been proposed by “New Aerodrome Ontario 2021” for the property at 7818 and 7486 Old Homestead Rd.
3. The opposition to the general aviation aerodrome proposed by “New Aerodrome Ontario 2021” for the property at 7818 and 7486 Old Homestead Rd. be based upon:
 - a. Land use planning concerns;
 - b. Environmental concerns;
 - c. Traffic concerns;
 - d. Noise concerns;
 - e. Such other concerns as Town staff identify as appropriate for consideration in the consultation process.