

STRENGTH
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Mohawk Council of Kahnawake

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



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SENT BY REGISTERED MAIL & EMAIL: p-p.routhier@ville.chateauguay.qc.ca

31 Enniskó:wa/March 2021

Mayor Pierre-Paul Routhier
Ville de Châteauguay
5, boulevard D'Youville
Châteauguay, QC
J6J 2P8

Wa'tkwanonhwera:ton (Greetings) Mayor Routhier,

On behalf of the Mohawk Council of Kahnawà:ke, I would like to thank you for meeting with the Council of Chiefs on February 23, 2021 regarding the proposed residential development project on lands that border Kahnawà:ke. This meeting was an opportunity for us to elaborate on concerns we expressed in our initial response letter regarding this project, dated May 28, 2020¹. At our meeting we advised that we would be issuing to your attention a letter constituting our formal notice that we are opposed to this project moving forward based on the project's location, scope and our Seigneurie of Sault St Louis (SSSL) land grievance rights.

We also agreed at our meeting that we would keep the channels of communication open and that you would continue to share project information with the MCK, as well as information regarding any actions that may be taken to advance the project despite our stated position. Also, in accordance with your commitment to share information, we since received from your office an informal notice that the City Council of Chateauguay has indeed proceeded with approving the re-zoning of the proposed location for the project.

To this effect, you will also find some information requests in this letter.

MCK opposition to the project based on SSSL land grievance rights

As you are aware, the SSSL land grievance is a large pre-confederation claim that pertains to the illegal dispossession of Seigneurial lands and includes the failure to add lands promised for addition to Kahnawà:ke; lands that are within the boundaries of your municipality. Canada offered to negotiate a settlement of this grievance by letter dated June 16, 2003. The residential development project that was presented to us is within the western boundary that has been established for negotiation of the SSSL land grievance.

¹ MCK letter dated May 28, 2020 sent in response to your letter of May 1, 2020.

The Quebec Superior Court has confirmed that Kahnawà:ke's interests in the SSSL trigger the Crown's consultation and accommodation obligations associated with any developments within the SSSL². Furthermore, as part of an agreement allowing the construction of Highway 30 on SSSL lands, the government of Quebec still owes over 200 acres of land to the Mohawks of Kahnawà:ke. The acceptance of our grievance for negotiation, this established land debt, and the decision of the Quebec Superior Court, means that any development of land within or in proximity to the SSSL requires Kahnawà:ke's consent *prior* to moving forward.

The vast majority of our SSSL land grievance lands have been developed and compromised for the sole benefit of Non-Indigenous governments and people. Non-Indigenous land use and development of our territory has resulted in significant negative socio-economic impacts, a decrease of traditional land use opportunities and access to sites of cultural and spiritual importance. The development of undeveloped SSSL lands for this residential project would undoubtedly exacerbate adverse impacts on the integrity of SSSL lands and will also adversely impact the ability of the Crown to fulfill its outstanding debts and duties pertaining to the resolution of the SSSL land grievance.

The recovery of lands, including privately held lands, within and in proximity to the SSSL has always been one of the options for compensation identified by the Mohawks of Kahnawà:ke. The fact that these lands are contiguous to the current Mohawk Territory of Kahnawà:ke also make them well suited for recovery.

Therefore, given that we hold existing interests in the lands we are principally opposed to the project and, more generally, to the development of the lands slated for this residential development project. We will be notifying the provincial and federal governments of our position and expect them to act within their respective spheres of jurisdiction and responsibility, and in accordance with their respective obligations.

Additional concerns based on project location and scope

In addition to our opposition to the project based on our land rights, we also have concerns with this project based on its location and scope.

As we indicated in our May 28, 2020 letter, the MCK has not solidified a plan for the use of adjacent "Parcel E" lands. It is possible that future land uses within Kahnawà:ke may be incompatible with proximity to a residential development.

Furthermore, we also notified you in the same letter that we were not agreeable to the extension of Maple street into our Territory. Regardless of whether Maple Street is extended, the housing development project would generate increased traffic on the Old Chateaugay Road (OCR). We are already facing challenges with non-resident use of the OCR and anticipate that our local roads will become more congested, deteriorated and dangerous for our community members if this project were to proceed.

² Municipalité régionale de comté de Roussillon c. Ministère des Ressources naturelles, 2017 QCCS 3744, at para.

We have also experienced many negative impacts stemming from previous residential and industrial development that has occurred at our boundary line without consideration of impacts on our community and its residents. These include problems associated with landfilling and discharge of wetland waters, odours and uncontrolled discharges from the wastewater treatment plant, and with contractors and new residents dumping garbage and debris and trespassing on private lands on the Territory.

The proposed project would be located in a forested area containing two wetlands. The MCK is deeply concerned about environmental impacts stemming from development of these areas, including potential direct impacts to the wetlands but also impacts on the regional hydrogeology and water quality, an increase in human activity in forested land within and adjacent to Kahnawà:ke and impacts to wildlife, including species at risk in the area.

Given the project's location, we are also concerned that cultural heritage property could be impacted (i.e. archaeological resources). We know that this project is in close proximity to important archaeological sites for our community.

Information Request

To further our understanding of this project, its current status, and plans, we request you provide the MCK with the following information:

- A general description of the status of the project and timeline of future activities/steps;
- A description of current land ownership (private, municipal or provincial) and confirmation of the current zoning, and any anticipated future re-zoning, of the lands;
- A copy of any government actions that have already been taken with respect to the project, including any municipal or provincial authorizations or resolutions;
- Any studies or additional information that is currently available in relation to concerns pertaining to project location and scope, including environmental concerns, traffic, archaeology and boundary line issues;
- A list of any federal or provincial government authorizations that may be required in the future for the realization of the project and a timeline for these.

If you have any questions pertaining to these information requests, please do not hesitate to contact us.

Conclusion

Since the decision taken by the City Council of Chateauguay to proceed with the re-zoning of the lands, we are witnessing strong concerns being voiced by members of our community, the presence of which seems to be steadily growing. While we understand your City Council is under pressure to proceed, we must express and inform you that we simply cannot abandon our responsibility to protect our interests and must maintain a position of remaining strongly opposed to the project.

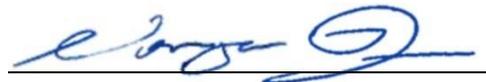
Given the content of this letter, we request that the City of Chateaugay respect our opposition to this project and not move forward with its development.

We hope that you understand that this issue is of utmost importance to our community and that we can count on your support as we move towards resolving our land grievances. Should you intend to proceed with the project, we require that you send us the information we have requested above and we will continue to advance our position at all levels of government to ensure that our rights are respected.

I trust this information is satisfactory; should you have any questions or require further information please feel free to contact our office.

In Peace and Friendship,

**ON BEHALF OF THE OFFICE OF THE COUNCIL OF CHIEFS
MOHAWK COUNCIL OF KAHNAWÀ:KE**



Chief Tonya Perron, Chairperson

Chief Tonya Perron/wpl/bm/03312021/MayorPPRouthier

Cc: Chiefs
Carolyn Bennett, Minister of Crown-Indigenous Relations
Ian Lafreniere, Minister of Indigenous Affairs
Robert Burr, Kahnawà:ke – Canada Relations Federal Representative
Florent Gagne, Quebec – Kahnawà:ke Relations Negotiator
Brenda Shanahan, Member of Parliament – Chateaugay – Lacolle
Marie-Chantal Chasse, Member of National Assembly – Chateaugay

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SENT BY COURIER & EMAIL (maa@mce.gouv.qc.ca)

06, Onerahtókha/April 2021

The Honourable Ian Lafrenière
Minister Responsible for Indigenous Affairs
Secrétariat aux affaires autochtones
900, place D'Youville, 5e étage
Québec (Quebec) G1R 3P7

Wa'tkwanonhwera:ton (Greetings) Minister Lafrenière,

On February 23, 2021, the Mohawk Council of Kahnawà:ke met with the City of Chateauguay regarding a potential residential development project that is being planned in Chateauguay on lands that border Kahnawà:ke. This meeting was an opportunity for us to elaborate on the concerns we expressed in our initial response letter to the City regarding this project on May 28, 2020¹.

We have given notice to the City that we are formally opposed to this project moving forward based on the project's location, scope and our SSSL land grievance rights (see attached letters to the City of Chateauguay and government of Canada). This letter outlines the provincial Crown action that is required to meet the Honour of the Crown and work towards the resolution of this issue.

MCK opposition to the project based on SSSL land grievance rights

As you are aware, the SSSL land grievance is a large pre-confederation claim that pertains to the illegal dispossession of seigneurial lands and includes the failure to add lands promised for addition to Kahnawà:ke that are within the boundaries of Chateauguay. Canada offered to negotiate a settlement of this grievance by letter dated June 16, 2003. The residential development project that was presented to us is within the western boundary that has been established for negotiation of the SSSL land grievance because of an unfulfilled promise to return these lands.

¹ MCK letter dated May 28, 2020 sent in response to City of Chateauguay's letter of May 1, 2020 (see attached letters, along with a map indicating how the SSSL western boundary overlaps with this proposed project).

The Quebec Superior Court has confirmed that Kahnawà:ke's interests in the SSSL trigger the Crown's consultation and accommodation obligations associated with any developments within the SSSL².

Furthermore, as part of an agreement allowing the construction of Highway 30 on SSSL lands, the government of Quebec still owes over 200 acres of land to the Mohawks of Kahnawà:ke. The acceptance of our grievance for negotiation and this established land debt means that any development of land within or in proximity to the SSSL requires Kahnawà:ke consent prior to moving forward.

The vast majority of our SSSL land grievance lands has been developed and compromised for the sole benefit of Non-Indigenous governments and people. This development has continued unabated since the SSSL land grievance has been accepted for negotiation. Non-Indigenous land use and development of our territory has resulted in significant negative socio-economic impacts, a decrease of traditional land use opportunities and access to sites of cultural and spiritual importance. The development of undeveloped SSSL lands for this residential project would undoubtedly exacerbate adverse impacts on the integrity of SSSL lands and will also adversely impact the ability of the Crown to fulfill its outstanding debts and duties pertaining to the resolution of the SSSL land grievance.

In addition to our opposition to the project based on our land rights, we also have concerns with this project based on its location and scope. These concerns include harmonization with potential land uses for Parcel E lands, and issues associated with increased traffic/access to our territory as a result of residential development, additional encroachment, environmental concerns (including impacts on wetlands and forested areas) and archaeology (as described more fully in the attached letter to Chateauguay).

Therefore, we are opposed to the project and, more generally, to the development of the lands slated for this residential development project.

Interim measures and immediate action are required to preserve Kahnawà:ke's rights to these lands

Within the context of the SSSL land grievance, Quebec and MCK agreed that the province would return to the MCK the equivalent amount of land removed from the SSSL land grievance for the purpose of the Highway 30 construction. Though some land was returned, there remains a 211-acre debt owed by the Government of Quebec, as previously recognized by *Decree 1107-2018 Authorizing the signature of a Financial Settlement Agreement allowing for an expenditure to MCK to purchase land to fulfill the outstanding debt*.

² Municipalité régionale de comté de Roussillon c. Ministère des Ressources naturelles, 2017 QCCS 3744, at para.

To summarize, the lands to be developed are:

- Currently undeveloped.
- Directly within the SSSL land grievance boundaries that have been accepted for negotiations by both Canada and the MCK;
- Contiguous to two sides of the current Mohawk Territory of Kahnawà:ke and to newly added parcel E; and,
- Are proposed for development despite the government of Quebec's established 211-acre land debt to the Mohawks of Kahnawà:ke.

These factors mean that the Crown has an obligation to recover these lands for the use and benefit of the Mohawks of Kahnawà:ke. In this context, monetary compensation would be incapable of compensating the damages that our community will suffer if these lands are developed and lost forever. The unique *sui generis* relationship between our community and these lands would be permanently altered and the opportunity to use these lands for the exercise of our governance, socio-economic, traditional land use and cultural rights would be lost. In other words, the level of infringement to our rights stemming from this project would be at the highest end of the spectrum since it would result in irreversible impacts to established rights.

Our right to control the development of these lands and our right to recover these lands is also mandated by the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP"). UNDRIP outlines, as a minimum standard, that Indigenous peoples have the right to the lands that have been taken without consent, including the right to control, develop and obtain restitution of those lands (articles 26(1); 26(2) and 28).

Under these circumstances, to preserve the Honour of the Crown, Canada and Quebec must take immediate action to stop this project and prevent the development of these lands. If Canada and Quebec are unable to stop this project through political or legal means, then Canada and Quebec must explore the possibility of purchasing these lands from the promoter of the project. Sincere, concrete actions to stop the project and/or purchase the lands to preserve the rights and interests of the Mohawks of Kahnawà:ke are immediately required.

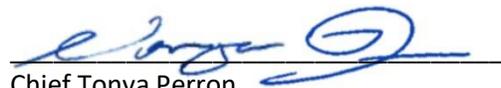
Conclusion

We trust that you understand that this issue is of utmost importance to our community and that we can count on your Government to fulfill its outstanding obligations by supporting and facilitating the recovery of these lands as we move towards resolving our land grievances. The MCK requires an immediate meeting with your Ministry to discuss the provincial actions that will be taken to ensure that our rights to these lands are preserved.

We understand that collaboration with the federal government and the City of Chateauguay may be required to achieve this objective, and we have already reached out to Minister Bennett's office and are looking forward to working with all parties to ensure that our rights are respected.

I trust this information is satisfactory; should you have any questions or require further information please feel free to contact our office.

**ON BEHALF OF THE OFFICE OF THE COUNCIL OF CHIEFS
MOHAWK COUNCIL OF KAHNAWÀ:KE**



Chief Tonya Perron
Chairperson

TP/SMC/04012021/MinisterLafreniere

CC: Council of Chiefs
The Honourable François Legault, Premier of Québec (Fax 1-418-643-3924)
Marie Chantal Chassé, MNA for Chateauguay (MarieChantal.Chasse.CHAT@assnat.qc.ca)
Chantal Rouleau, Minister for the Metropolis and the Montreal Region (ministre.deleguee@transports.gouv.qc.ca)
File

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SENT VIA EMAIL & REGISTERED MAIL (carolyn.bennett@parl.qc.ca)

01, Ohiarikhó:wa/July 2021

The Honourable Carolyn Bennett, Minister
Crown-Indigenous Relations and Northern Affairs Canada
HOUSE OF COMMONS
Ottawa, Ontario
K1A 0A6

Wa'tkwanonhwera:ton (Greetings) Minister Bennett,

We are writing to you to express our extreme frustration over the dismissiveness that you have concerning issues that affect Kahnawà:ke and the lack of any concrete progress with respect to our land grievances or any matters of substance that we are dealing with. Since 2015 Canada's Prime Minister and Government leaders have stated *ad nauseam* that Canada is working with Indigenous peoples to build Nation-to-Nation Relationships. It has become evident during this time, and even more in recent weeks, that this is just lip-service to placate the growing unrest over the treatment of Indigenous people historically and continuously. While we sincerely want to believe otherwise, the continued failure of the Government of Canada to work towards any real progress has cultivated an even more fractured relationship.

For the Mohawks of Kahnawà:ke (MCK), a Nation-to-Nation relationship must include to the willingness of Canada to negotiate in fairness and good faith on the Seigneurie of Sault St. Louis (SSSL) Land Grievance. The Land grievance was originally by Canada for negotiations in 2003, yet we are going backwards in discussions. The Mohawks of Kahnawà:ke (MCK) wrote to the Prime Minister (see July 1, 2021 letter attached) because the MCK is angry with the lack of progress by Canada to renew the SSSL Land Recovery Negotiation Protocol based on MCK approach to SSSL since 2017. Now 4 years have passed of joint drafting of the SSSL Negotiation Protocol, and 18 years since the SSSL Land Grievance was accepted for negotiation. To make progress on SSSL, MCK needs Canada to work with MCK on a Nation-to-Nation level, led by elected leaders, not just technicians to complete the SSSL Negotiation Protocol and obtain a mandate to negotiate SSSL land recovery with a Chief Federal Negotiator and a supporting federal negotiations team.

We further note how insulted the MCK is with your May 14, 2021 letter of response. The fact that you advised Kahnawake to have discussions with Quebec and Chateauguay while ignoring our

concerns regarding the potential residential development project that is being planned on Chateauguay lands that border Kahnawà:ke was dismissive and callous. These lands are within the disputed western boundary of the Seigneurie of Sault St. Louis (SSSL) land grievance. A land grievance that is over 300 years old. How much longer do you want our community to wait? The delay in reaching a settlement on the SSSL Land Grievance means lands within the SSSL Grievance area are being developed and will be much more difficult to recover post settlement. If your intention is to work toward reconciliation, you must first listen to Indigenous nations as we clearly state these issues of concern.

MCK believes that CIRNAC on behalf of Canada must work with MCK to stop the residential development project within the grievance land and not just refer us to Quebec and Chateauguay to deal with our rights and interests in these lands. Federal Crown action is required to meet the Honour of the Crown and to work toward resolution.

As we noted in our previous correspondence, the residential development project that was presented to us is within the disputed western boundary that we have established for negotiation of the SSSL land grievance. Therefore, we are opposed to the project and, more generally, to the development of the lands slated for this residential development project that will have an environmental impact on the reserve lands near the proposed project.

MCK has also raised in joint SSSL discussions the need for interim measures such as surplus federal lands and the recovery of lands, including privately held lands, within and in proximity to the SSSL. To summarize the Chateauguay project lands to be developed are:

- Currently undeveloped;
- Directly within the SSSL land grievance boundaries that have been accepted for negotiations by both Canada and the MCK;
- Contiguous to the current Mohawk Territory of Kahnawà:ke; and,
- Are proposed for development despite the government of Quebec's established 200-acre land debt to the Mohawks of Kahnawà:ke.

These factors mean that the Crown has an obligation to recover these lands for the use and benefit of the Mohawks of Kahnawà:ke. In this context, monetary compensation is insufficient to compensate the damages that our community will suffer if these lands are developed and lost forever. The unique *sui generis* relationship between our community and these lands would be permanently altered and the opportunity to use these lands for the exercise of our governance, socio-economic, traditional land use and cultural rights would be lost. In other words, the level of infringement to our rights stemming from this project would be at the highest end of the spectrum since it would result in irreversible impacts to established rights.

Under these circumstances, to preserve the Honour of the Crown, Canada and Quebec must take immediate action to stop this project and prevent the development of these lands. If Canada and Quebec are unable to stop this project through political or legal means, then Canada and Quebec must explore the possibility of purchasing these lands from the promoter of the project. Sincere, concrete actions to stop the project and/or purchase the lands to preserve the rights and interests of the Mohawks of Kahnawà:ke is immediately required. We understand that collaboration with the

provincial government and the City of Chateaugay may be required to achieve this objective, and we are looking forward to working with all parties to ensure that our rights are respected.

Further to your May 14 letter that there has been progress at the SSSL Table, the MCK does not see that progress has been made at the SSSL Table to complete the draft SSSL Negotiation Protocol and obtain a mandate to negotiate SSSL land recovery. There is an offer of federal surplus lands in St. Remi/St. Isidore, just outside of the SSSL grievance that needs negotiation on the rate of the acreage to be recovered, but this negotiation should be undertaken when the rules for negotiations has been accepted by both parties. So, MCK believes that we need as soon as possible the approved SSSL mandate and Negotiation Protocol and a Chief Federal Negotiator with a supporting federal team to negotiate with MCK the resolution on the SSSL land grievance, including the rate of return of acreage for replacement lands outside of SSSL.

MCK SSSL Portfolio Chief informed the Federal SSSL Team on June 4, 2021 that the MCK will not be meeting jointly with the Federal Team until we can work with Canada on a better joint negotiations process for the SSSL Land Grievance.

As we stated in the letter to the Prime Minister, we require that the parties:

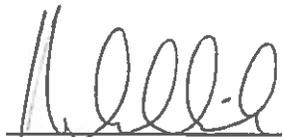
1-Jointly work to appoint a Special Ministerial Representative to develop the new Federal engagement process on SSSL Land Recovery.

2- Jointly develop the Mandate for a Special Ministerial Representative which includes the above as well as an action plan to stop the Chateaugay residential development project and exploring the possibility of Canada purchasing the project and surplus lands.

The level of urgency in these requests cannot be overlooked. Our community, along with all other Indigenous communities in Canada, are experiencing extreme sadness, frustration, and anger. We understand our community's profound trauma and know that things must change – and quickly – in order to move towards mending the relationship with Canada. If Canada sincerely wants to move towards a new relationship, action is essential.

Should you have any questions or require further information please feel free to contact our office.

**ON BEHALF OF THE OFFICE OF THE COUNCIL OF CHIEFS
MOHAWK COUNCIL OF KAHNAWÀ:KE**



Michael A. Delisle
SSSL Portfolio Chief

Cc. Minister Marc Miller, Indigenous Services Canada

Attach: July 1, 2021 Letter to Prime Minister

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SENT VIA FACSIMILE: (613-941-6900)

01, Ohiarikhó:wa/July 2021

The Right Honourable Justin Trudeau
Prime Minister of Canada
HOUSE OF COMMONS
Ottawa, Ontario
K1A 0A2

Wa'tkwanonhwera:ton (Greetings) Prime Minister Justin Trudeau,

We are writing this letter to you with sincere urgency with regard to the lack of progress and continued dismissal concerning Kahnawà:ke's land grievance. We want to ensure that you understand the importance of this situation to our community.

The Mohawk Council of Kahnawà:ke (MCK) has written to Minister Bennett, Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) many times in recent years, bringing forth concerns that are of an urgent and critical nature to the Mohawks of Kahnawà:ke. Rather than addressing these issues, Minister Bennett has either failed to respond or, has unreasonably delayed responses which has continually undermined the relationship. We are requesting that our land grievance concerns below are immediately addressed and will not continue to be brushed aside, only being considered if, or when, there is a national crisis.

Seigneurie of Sault St. Louis (SSSL) Land Grievance

The MCK is completely disgusted by the lack of progress and absence of any political will demonstrated on the part of Canada, as represented by CIRNAC, to reach a new Seigneurie of Sault St. Louis Negotiation Protocol. This particular land grievance has been on-going for centuries as the SSSL is based on the French King 1680 Grants for the Iroquois of the Sault that included provisions for no settlers on SSSL. The Jesuits, as the Seigneur began to be deed land to settlers from early 1700s, making our claim to SSSL lands more than 300 years old. During this time, continued development and "progress" has been occurring by settlers on our lands but, we have continually been made to wait as Canada, again and again has kept changing the rules and the game.

In 2017, Canada kicked off a new process whereby there would be a new Negotiation Protocol (up to Draft #12) and a MOU. In May 2021, the CIRNAC Team wrote to MCK about next steps required to finalize the SSSL Negotiation Protocol that would set back years of joint development and would

significantly alter the unique approach developed over the years. We want to stress that it has been four (4) years since we began jointly drafting on the Negotiation Protocol, and eighteen (18) years since the SSSL Land Grievance was accepted for negotiation in 2003. Our community wants resolution, not to continue playing an unending waiting game.

Chateauguay Residential Development Project in SSSL

A further indication of the continued dismissiveness of Canada concerning Kahnawà:ke's land grievances is evidenced by the flippant response dated May 14, 2021 from Minister Bennett concerning the MCK's request for CIRNAC to assist with stopping the potential residential development project that is being planned in Chateauguay. The lands in question border Kahnawà:ke and are within disputed territory over the western boundary of the Seigneurie of Sault St. Louis land grievance. Minister Bennett's response simply directed Kahnawake to Quebec and Chateauguay for discussions and ignored our community's vested interest in protecting (from the devastating environmental impact the project would have) and recovering our SSSL lands. We are deeply concerned that if Canada and the MCK cannot find a way to resolve these very old and unsettled land grievances, community members may take their own actions to protect (or reclaim) these outstanding lands. Canada should want to avoid seeing another land dispute over a residential development project in our neighboring community. Canada and MCK do not want to deal with the consequences of such issues like the dispute in Caledonia. It should not need to come to that. It is our intention and preference that we work together with Canada to find a way to resolve these historic land grievances.

In this case, the Honour of the Crown demands that Canada take immediate actions to stop this project and prevent the development of these lands. Be assured that MCK also wrote to Quebec and Chateauguay to stop this project however, the Honour of the Crown requires you to act Canada.

Nation-to-Nation Relationships

As Prime Minister, you and your Ministers have been stating publicly since your election in 2015 that Canada's priority is its Nation-to-Nation relationships with Indigenous peoples. For the Mohawk Council of Kahnawà:ke and the community of Kahnawà:ke, the pillar to rebuilding such a relationship with Canada is for Canada to negotiate in fairness and good faith the Seigneurie of Sault St. Louis Land Grievance.

Minister Carolyn Bennett has recently stated, in the context of work with Indigenous peoples on Residential Schools unmarked burials, that Canada will work with Indigenous peoples in a manner that is Indigenous led, culturally sensitive, and meets the communities' needs. This same approach should be applied to resolving the Mohawk Territory of Kahnawà:ke's three hundred (300) year plus land grievance, a land grievance that was also, in large part, created by the Catholic missionaries and fostered by the state. To make progress on the SSSL grievance, to right the injustices of the past, Canada must engage with MCK on a Nation-to-Nation level.

New SSSL Engagement Process

We are proposing that Canada appoint a Special Ministerial Representative for the purposes of the SSSL and to resolve our land grievances. A Special Ministerial Representative who can engage with Kahnawà:ke representatives to jointly develop a negotiation protocol for the SSSL Land Grievance based on a Nation-to-Nation approach and to support serious, concrete and successful negotiations. Such a Representative must draw on the history of the SSSL and must respect Mohawk culture to develop a new negotiation process. The Special Ministerial Representative also needs to be able to engage federal officials to think

outside of the box in order to resolve a 300 year plus land grievance that does not fit within federal claims policies. This is the only way that reconciliation will ultimately be reached.

When the SSSL was accepted for negotiations in 2003 by Minister Nault, Marc Lalonde was appointed as Special Ministerial Representative to bring the parties together to jointly develop the SSSL Negotiation Protocol. Mr. Lalonde was subsequently appointed as Chief Federal Negotiator after the first Negotiation Protocol was finalized in 2005. MCK needs Canada to choose a representative of that stature and quality to be able to bring the SSSL Negotiation Protocol to completion. The Representative must be able provide direction for a Cabinet mandate to negotiate SSSL Land Recovery, that will include a mandate for a Chief Federal Negotiator and a supporting SSSL federal negotiations team of experienced/skilled negotiators.

The MCK proposes that the Special Ministerial Representative have the mandate to engage in joint discussions with the MCK on SSSL interim measures, such as stopping the Chateaugay residential development project and exploring the possibility of Canada purchasing these lands.

The mandate should also include the SSSL interim measures on the St. Remi/St. Isidore Federal Surplus Lands. While MCK has expressed an interest in these lands, our community needs to have a clear understanding of the requirements, commitments, and procedures for land recovery, as well as the expectation that these items should be negotiated under the proposed SSSL Land Recovery Negotiation Protocol, which, as previously mentioned, is yet to be finalized. The federal proposed draft MOU would set a precedent for how land outside of SSSL would be recovered against the acreage owed to Kahnawà:ke.

If Canada refuses to collaborate on a new SSSL engagement process or there are no further discussions on SSSL interim measures at a Joint SSSL Table, the Honour of the Crown still requires Canada to engage in halting the Chateaugay residential development project and to preserve the rights and interests of the Mohawks of Kahnawà:ke.. Please be aware that, in order to avoid a potential crisis, Canada needs to take actions immediately and respond to the MCK with proposed action items with respect to the Chateaugay residential project issue. We understand that collaboration with the provincial government and the City of Chateaugay will be required to achieve this objective to have our rights respected.

Closing Remarks

We stress that these issues mentioned above are extremely critical. As of June 4th, 2021 the MCK's SSSL Portfolio Chiefs informed the Federal SSSL Team that we will not be meeting jointly with the Federal Team until we have confirmation of a new Federal commitment. We see this as the only way to move forward in the interest of mutual respect and reconciliation.

We ask that the parties:

1-Jointly work to appoint a Special Ministerial Representative to develop the new Federal engagement process on SSSL Land Recovery.

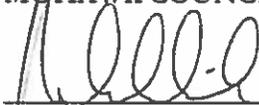
2- Jointly develop the Mandate for a Special Ministerial Representative which includes the above as well as an action plan to stop the Chateaugay residential development project and exploring the possibility of Canada purchasing the project and surplus lands.

The level of urgency in these requests cannot be overlooked. Our community, along with all other Indigenous communities in Canada, are experiencing extreme sadness, frustration, and anger. We understand our community's profound trauma and know that things must change – and quickly – in order

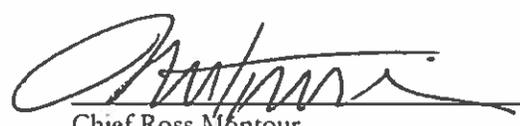
to move towards mending the relationship with Canada. If Canada sincerely wants to move towards a new relationship, action is essential.

In closing, the MCK calls on you to take decisive action and to provide clear direction to CIRNAC to take the appropriate actions required to address and resolve the concerns of Kahnawà:ke. We await your response and will respond to any questions or requests for further information you may have.

**ON BEHALF OF THE OFFICE OF THE COUNCIL OF CHIEFS
MOHAWK COUNCIL OF KAHNAWÀ:KE**



Chief Michael A. Delisle
Seigneurie of Sault St. Louis
Portfolio Chief



Chief Ross Montour
Indigenous Rights and Research
Portfolio Chief

c.c. Minister Carolyn Bennett, CIRNAC
Minister Marc Miller, ISC

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Website: www.kahnawake.com**

SENT VIA FACSIMILE: (613-941-6900)

01, Ohiarikhó:wa/July 2021

The Right Honourable Justin Trudeau
Prime Minister of Canada
HOUSE OF COMMONS
Ottawa, Ontario
K1A 0A2

Wa'tkwanonhwera:ton (Greetings) Prime Minister Justin Trudeau,

We are writing this letter to you with sincere urgency with regard to the lack of progress and continued dismissal concerning Kahnawà:ke's land grievance. We want to ensure that you understand the importance of this situation to our community.

The Mohawk Council of Kahnawà:ke (MCK) has written to Minister Bennett, Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) many times in recent years, bringing forth concerns that are of an urgent and critical nature to the Mohawks of Kahnawà:ke. Rather than addressing these issues, Minister Bennett has either failed to respond or, has unreasonably delayed responses which has continually undermined the relationship. We are requesting that our land grievance concerns below are immediately addressed and will not continue to be brushed aside, only being considered if, or when, there is a national crisis.

Seigneurie of Sault St. Louis (SSSL) Land Grievance

The MCK is completely disgusted by the lack of progress and absence of any political will demonstrated on the part of Canada, as represented by CIRNAC, to reach a new Seigneurie of Sault St. Louis Negotiation Protocol. This particular land grievance has been on-going for centuries as the SSSL is based on the French King 1680 Grants for the Iroquois of the Sault that included provisions for no settlers on SSSL. The Jesuits, as the Seigneur began to be deed land to settlers from early 1700s, making our claim to SSSL lands more than 300 years old. During this time, continued development and "progress" has been occurring by settlers on our lands but, we have continually been made to wait as Canada, again and again has kept changing the rules and the game.

In 2017, Canada kicked off a new process whereby there would be a new Negotiation Protocol (up to Draft #12) and a MOU. In May 2021, the CIRNAC Team wrote to MCK about next steps required to finalize the SSSL Negotiation Protocol that would set back years of joint development and would

significantly alter the unique approach developed over the years. We want to stress that it has been four (4) years since we began jointly drafting on the Negotiation Protocol, and eighteen (18) years since the SSSL Land Grievance was accepted for negotiation in 2003. Our community wants resolution, not to continue playing an unending waiting game.

Chateauguay Residential Development Project in SSSL

A further indication of the continued dismissiveness of Canada concerning Kahnawà:ke's land grievances is evidenced by the flippant response dated May 14, 2021 from Minister Bennett concerning the MCK's request for CIRNAC to assist with stopping the potential residential development project that is being planned in Chateauguay. The lands in question border Kahnawà:ke and are within disputed territory over the western boundary of the Seigneurie of Sault St. Louis land grievance. Minister Bennett's response simply directed Kahnawake to Quebec and Chateauguay for discussions and ignored our community's vested interest in protecting (from the devastating environmental impact the project would have) and recovering our SSSL lands. We are deeply concerned that if Canada and the MCK cannot find a way to resolve these very old and unsettled land grievances, community members may take their own actions to protect (or reclaim) these outstanding lands. Canada should want to avoid seeing another land dispute over a residential development project in our neighboring community. Canada and MCK do not want to deal with the consequences of such issues like the dispute in Caledonia. It should not need to come to that. It is our intention and preference that we work together with Canada to find a way to resolve these historic land grievances.

In this case, the Honour of the Crown demands that Canada take immediate actions to stop this project and prevent the development of these lands. Be assured that MCK also wrote to Quebec and Chateauguay to stop this project however, the Honour of the Crown requires you to act Canada.

Nation-to-Nation Relationships

As Prime Minister, you and your Ministers have been stating publicly since your election in 2015 that Canada's priority is its Nation-to-Nation relationships with Indigenous peoples. For the Mohawk Council of Kahnawà:ke and the community of Kahnawà:ke, the pillar rebuilding such a relationship with Canada is for Canada to negotiate in fairness and good faith the Seigneurie of Sault St. Louis Land Grievance.

Minister Carolyn Bennett has recently stated, in the context of work with Indigenous peoples on Residential Schools unmarked burials, that Canada will work with Indigenous peoples in a manner that is Indigenous led, culturally sensitive, and meets the communities' needs. This same approach should be applied to resolving the Mohawk Territory of Kahnawà:ke's three hundred (300) year plus land grievance, a land grievance that was also, in large part, created by the Catholic missionaries and fostered by the state. To make progress on the SSSL grievance, to right the injustices of the past, Canada must engage with MCK on a Nation-to-Nation level.

New SSSL Engagement Process

We are proposing that Canada appoint a Special Ministerial Representative for the purposes of the SSSL and to resolve our land grievances. A Special Ministerial Representative who can engage with Kahnawà:ke representatives to jointly develop a negotiation protocol for the SSSL Land Grievance based on a Nation-to-Nation approach and to support serious, concrete and successful negotiations. Such a Representative must draw on the history of the SSSL and must respect Mohawk culture to develop a new negotiation process. The Special Ministerial Representative also needs to be able to engage federal officials to think

outside of the box in order to resolve a 300 year plus land grievance that does not fit within federal claims policies. This is the only way that reconciliation will ultimately be reached.

When the SSSL was accepted for negotiations in 2003 by Minister Nault, Marc Lalonde was appointed as Special Ministerial Representative to bring the parties together to jointly develop the SSSL Negotiation Protocol. Mr. Lalonde was subsequently appointed as Chief Federal Negotiator after the first Negotiation Protocol was finalized in 2005. MCK needs Canada to choose a representative of that stature and quality to be able to bring the SSSL Negotiation Protocol to completion. The Representative must be able provide direction for a Cabinet mandate to negotiate SSSL Land Recovery, that will include a mandate for a Chief Federal Negotiator and a supporting SSSL federal negotiations team of experienced/skilled negotiators.

The MCK proposes that the Special Ministerial Representative have the mandate to engage in joint discussions with the MCK on SSSL interim measures, such as stopping the Chateauguy residential development project and exploring the possibility of Canada purchasing these lands.

The mandate should also include the SSSL interim measures on the St. Remi/St. Isidore Federal Surplus Lands. While MCK has expressed an interest in these lands, our community needs to have a clear understanding of the requirements, commitments, and procedures for land recovery, as well as the expectation that these items should be negotiated under the proposed SSSL Land Recovery Negotiation Protocol, which, as previously mentioned, is yet to be finalized. The federal proposed draft MOU would set a precedent for how land outside of SSSL would be recovered against the acreage owed to Kahnawà:ke.

If Canada refuses to collaborate on a new SSSL engagement process or there are no further discussions on SSSL interim measures at a Joint SSSL Table, the Honour of the Crown still requires Canada to engage in halting the Chateauguy residential development project and to preserve the rights and interests of the Mohawks of Kahnawà:ke.. Please be aware that, in order to avoid a potential crisis, Canada needs to take actions immediately and respond to the MCK with proposed action items with respect to the Chateauguy residential project issue. We understand that collaboration with the provincial government and the City of Chateauguy will be required to achieve this objective to have our rights respected.

Closing Remarks

We stress that these issues mentioned above are extremely critical. As of June 4th, 2021 the MCK's SSSL Portfolio Chiefs informed the Federal SSSL Team that we will not be meeting jointly with the Federal Team until we have confirmation of a new Federal commitment. We see this as the only way to move forward in the interest of mutual respect and reconciliation.

We ask that the parties:

1-Jointly work to appoint a Special Ministerial Representative to develop the new Federal engagement process on SSSL Land Recovery.

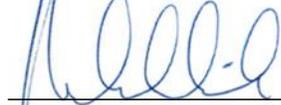
2- Jointly develop the Mandate for a Special Ministerial Representative which includes the above as well as an action plan to stop the Chateauguy residential development project and exploring the possibility of Canada purchasing the project and surplus lands.

The level of urgency in these requests cannot be overlooked. Our community, along with all other Indigenous communities in Canada, are experiencing extreme sadness, frustration, and anger. We understand our community's profound trauma and know that things must change – and quickly – in order

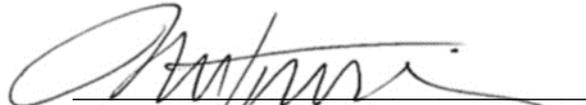
to move towards mending the relationship with Canada. If Canada sincerely wants to move towards a new relationship, action is essential.

In closing, the MCK calls on you to take decisive action and to provide clear direction to CIRNAC to take the appropriate actions required to address and resolve the concerns of Kahnawà:ke. We await your response and will respond to any questions or requests for further information you may have.

**ON BEHALF OF THE OFFICE OF THE COUNCIL OF CHIEFS
MOHAWK COUNCIL OF KAHNAWÀ:KE**



Chief Michael A. Delisle
Seigneurie of Sault St. Louis
Portfolio Chief



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SENT VIA FACSIMILE: (418) 646-1854 & REGISTERED MAIL

02, Ohiarikhó:wa/July 2021

The Honourable François Legault

Conseil exécutif
Édifice Honoré-Mercier
835, boulevard René-Lévesque Est
3e étage
Québec (Quebec) G1A 1B4

Subject: Intervention in Châteauguay Residential Development file

Premier Legault,

Last spring, in a letter dated April 6, 2021, the Mohawk Council of Kahnawà:ke (MCK) wrote to Minister Lafrenière to inform him of our opposition to a residential development project that is being planned in Châteauguay, on lands that border Kahnawà:ke. The MCK has given notice to the City of Châteauguay that we are formally opposed to this project moving forward based on the project's location, scope and our Seigneurie of Sault St.Louis (SSSL) land grievance rights. Our SSSL land grievance rights are currently under negotiation, as detailed in enclosed letters to the City of Châteauguay, and the Government of Canada.

Our April 6, 2021 letter outlined the Kanien'kehá:ka (Mohawks) of Kahnawà:ke's rights and interests at stake, MCK concerns with respect to various impacts of the project, as well as required provincial Crown action to meet the Honour of the Crown and work towards resolving this issue. Actions outlined included interim measures and immediate actions to protect Kahnawà:ke's rights to these lands. This matter is of grave concern to our entire community, as evidenced by an official statement of opposition to the project issued by representatives of traditional bodies in Kahnawà:ke. We are sincerely concerned that if Québec and the MCK cannot find a way to resolve these unsettled land grievances, community members may take actions of their own to protect and reclaim these lands. The MCK wants to avoid seeing another land dispute over a residential development project in our neighboring community, such as the longstanding dispute we are seeing in Caledonia. Our community is united in its opposition to the project; it is in Québec's best interest to act now, and to deploy every effort to ensure that a just resolution is reached. It is our intention and preference to work together with Québec and Canada to find a way to resolve these historic land grievances.

We have yet to get an acknowledgement of receipt for our April 6th, 2021 correspondence, let alone a substantial and serious response from your government on this issue, despite the fact that it directly impacts our community's clearly established rights and interests, as well as its future prospects. Your government's lack of response and action is completely unacceptable.

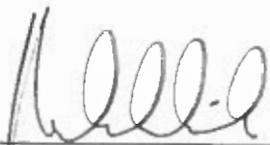
This, in the context of a still unfulfilled promise from your government, within the context of the SSSL land grievance, to return the equivalent amount of land removed from the SSSL land grievance for the purpose of the expansion of Highway 30 to Kahnawà:ke. Although some lands were returned, there remains a 211-acre debt owed to Kahnawà:ke by the Government of Québec, as previously recognized by *Decree 1107-2018 Authorizing the signature of a Financial Settlement Agreement allowing for an expenditure to MCK to purchase land to fulfill the outstanding debt*. Our SSSL land grievance rights, ongoing negotiations and this established land debt means that any development of land within or in proximity to the SSSL requires Kahnawà:ke consent prior to moving forward.

The vast majority of our SSSL land grievance lands have been developed and compromised for the sole benefit of non-Indigenous governments and people, with significant negative socio-economic impacts on our community, including a decrease of traditional land use opportunities and access to sites of cultural and spiritual importance. The lands slated for residential development are currently undeveloped; they are directly within the SSSL land grievance boundaries that have been accepted for negotiations by both Canada and the MCK; they are contiguous to two sides of the current Mohawk Territory of Kahnawà:ke and to the newly added parcel E. In other words, they are a logical choice to fulfill part of Québec's outstanding and established 211-acre land debt to the Kanien'kehà:ka of Kahnawà:ke.

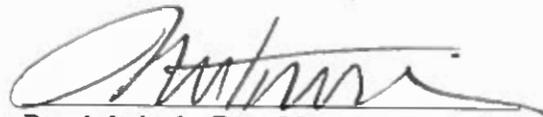
At this critical juncture, you must exercise clear and decisive moral and political leadership to ensure that Indigenous communities' rights and prospects are not, yet again, sacrificed for the sole benefit of non-Indigenous communities. We urge you to direct your government to take immediate action to stop this project and prevent the development of these lands, and to facilitate the recovery of these lands to fulfill your government's outstanding obligations. Failure to do so is likely to result in an unnecessarily difficult situation. The MCK requires an immediate meeting with Minister Lafrenière on this matter to discuss specific provincial actions and timetables to achieve this goal, as well as collaboration with the federal government and the City of Châteauguay as required.

We trust that you will take action and do what is right, in partnership with our community, to reach a just resolution in this file.

**ON BEHALF OF THE OFFICE OF THE COUNCIL OF CHIEFS
MOHAWK COUNCIL OF KAHNAWÀ:KE**



Ratsénhaïenhs Mike Delisle
Portfolio Chief
Seigneurie of Sault St. Louis Land Grievance
Negotiations



Ratsénhaïenhs Ross Montour
Portfolio Chief, External Government Relations
Québec-Kahnawà:ke Relations

cc. The Honourable Ian Lafrenière, Minister Responsible for Indigenous Affairs
Marie-Chantal Chassé, MNA for Châteauguay
Chantal Rouleau, Minister for the Metropolis and the Montreal Region
Geoffrey Kelley, negotiator

Encl. Letter to Minister Ian Lafrenière, dated April 6, 2021
Letter to Minister Carolyn Bennett, dated April 6, 2021
Letter to Mayor Pierre-Paul Routhier, dated March 31st, 2021

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SENT BY COURIER & EMAIL (maa@mce.gouv.qc.ca)

06, Onerahtókha/April 2021

The Honourable Ian Lafrenière
Minister Responsible for Indigenous Affairs
Secrétariat aux affaires autochtones
900, place D'Youville, 5e étage
Québec (Quebec) G1R 3P7

Wa'tkwanonhwera:ton (Greetings) Minister Lafrenière,

On February 23, 2021, the Mohawk Council of Kahnawà:ke met with the City of Chateauguay regarding a potential residential development project that is being planned in Chateauguay on lands that border Kahnawà:ke. This meeting was an opportunity for us to elaborate on the concerns we expressed in our initial response letter to the City regarding this project on May 28, 2020¹.

We have given notice to the City that we are formally opposed to this project moving forward based on the project's location, scope and our SSSL land grievance rights (see attached letters to the City of Chateauguay and government of Canada). This letter outlines the provincial Crown action that is required to meet the Honour of the Crown and work towards the resolution of this issue.

MCK opposition to the project based on SSSL land grievance rights

As you are aware, the SSSL land grievance is a large pre-confederation claim that pertains to the illegal dispossession of seigneurial lands and includes the failure to add lands promised for addition to Kahnawà:ke that are within the boundaries of Chateauguay. Canada offered to negotiate a settlement of this grievance by letter dated June 16, 2003. The residential development project that was presented to us is within the western boundary that has been established for negotiation of the SSSL land grievance because of an unfulfilled promise to return these lands.

¹ MCK letter dated May 28, 2020 sent in response to City of Chateauguay's letter of May 1, 2020 (see attached letters, along with a map indicating how the SSSL western boundary overlaps with this proposed project).

The Quebec Superior Court has confirmed that Kahnawà:ke's interests in the SSSL trigger the Crown's consultation and accommodation obligations associated with any developments within the SSSL².

Furthermore, as part of an agreement allowing the construction of Highway 30 on SSSL lands, the government of Quebec still owes over 200 acres of land to the Mohawks of Kahnawà:ke. The acceptance of our grievance for negotiation and this established land debt means that any development of land within or in proximity to the SSSL requires Kahnawà:ke consent prior to moving forward.

The vast majority of our SSSL land grievance lands has been developed and compromised for the sole benefit of Non-Indigenous governments and people. This development has continued unabated since the SSSL land grievance has been accepted for negotiation. Non-Indigenous land use and development of our territory has resulted in significant negative socio-economic impacts, a decrease of traditional land use opportunities and access to sites of cultural and spiritual importance. The development of undeveloped SSSL lands for this residential project would undoubtedly exacerbate adverse impacts on the integrity of SSSL lands and will also adversely impact the ability of the Crown to fulfill its outstanding debts and duties pertaining to the resolution of the SSSL land grievance.

In addition to our opposition to the project based on our land rights, we also have concerns with this project based on its location and scope. These concerns include harmonization with potential land uses for Parcel E lands, and issues associated with increased traffic/access to our territory as a result of residential development, additional encroachment, environmental concerns (including impacts on wetlands and forested areas) and archaeology (as described more fully in the attached letter to Chateauguay).

Therefore, we are opposed to the project and, more generally, to the development of the lands slated for this residential development project.

Interim measures and immediate action are required to preserve Kahnawà:ke's rights to these lands

Within the context of the SSSL land grievance, Quebec and MCK agreed that the province would return to the MCK the equivalent amount of land removed from the SSSL land grievance for the purpose of the Highway 30 construction. Though some land was returned, there remains a 211-acre debt owed by the Government of Quebec, as previously recognized by *Decree 1107-2018 Authorizing the signature of a Financial Settlement Agreement allowing for an expenditure to MCK to purchase land to fulfill the outstanding debt*.

² Municipalité régionale de comté de Roussillon c. Ministère des Ressources naturelles, 2017 QCCS 3744, at para. 21

To summarize, the lands to be developed are:

- Currently undeveloped.
- Directly within the SSSL land grievance boundaries that have been accepted for negotiations by both Canada and the MCK;
- Contiguous to two sides of the current Mohawk Territory of Kahnawà:ke and to newly added parcel E; and,
- Are proposed for development despite the government of Quebec's established 211-acre land debt to the Mohawks of Kahnawà:ke.

These factors mean that the Crown has an obligation to recover these lands for the use and benefit of the Mohawks of Kahnawà:ke. In this context, monetary compensation would be incapable of compensating the damages that our community will suffer if these lands are developed and lost forever. The unique *sui generis* relationship between our community and these lands would be permanently altered and the opportunity to use these lands for the exercise of our governance, socio-economic, traditional land use and cultural rights would be lost. In other words, the level of infringement to our rights stemming from this project would be at the highest end of the spectrum since it would result in irreversible impacts to established rights.

Our right to control the development of these lands and our right to recover these lands is also mandated by the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP"). UNDRIP outlines, as a minimum standard, that Indigenous peoples have the right to the lands that have been taken without consent, including the right to control, develop and obtain restitution of those lands (articles 26(1); 26(2) and 28).

Under these circumstances, to preserve the Honour of the Crown, Canada and Quebec must take immediate action to stop this project and prevent the development of these lands. If Canada and Quebec are unable to stop this project through political or legal means, then Canada and Quebec must explore the possibility of purchasing these lands from the promoter of the project. Sincere, concrete actions to stop the project and/or purchase the lands to preserve the rights and interests of the Mohawks of Kahnawà:ke are immediately required.

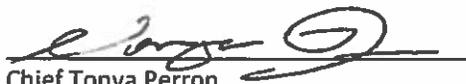
Conclusion

We trust that you understand that this issue is of utmost importance to our community and that we can count on your Government to fulfill its outstanding obligations by supporting and facilitating the recovery of these lands as we move towards resolving our land grievances. The MCK requires an immediate meeting with your Ministry to discuss the provincial actions that will be taken to ensure that our rights to these lands are preserved.

We understand that collaboration with the federal government and the City of Chateauguay may be required to achieve this objective, and we have already reached out to Minister Bennett's office and are looking forward to working with all parties to ensure that our rights are respected.

I trust this information is satisfactory; should you have any questions or require further information please feel free to contact our office.

**ON BEHALF OF THE OFFICE OF THE COUNCIL OF CHIEFS
MOHAWK COUNCIL OF KAHNAWÀ:KE**



Chief Tonya Perron
Chairperson

TP/SMC/04012021/MinisterLafreniere

CC: Council of Chiefs
The Honourable François Legault, Premier of Québec (Fax 1-418-643-3924)
Marie Chantal Chassé, MNA for Chateauguay (MarieChantal.Chasse.CHAT@assnat.qc.ca)
Chantal Rouleau, Minister for the Metropolis and the Montreal Region (ministre.deleguee@transports.gouv.qc.ca)
File

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SENT BY EMAIL & COURIER (Carolyn.Bennett@parl.gc.ca)

06, Onerahtókha/April 2021

The Honourable Carolyn Bennett
Minister of Crown-Indigenous Relations
House of Commons
Ottawa Ontario K1A 0A6

Wa'tkwanonhweraton (Greetings) Minister Bennett,

At the December 18, 2020 Joint SSSL meeting between the Mohawk Council of Kahnawà:ke ("MCK") and the Federal SSSL Team pertaining to Seigneurie of Sault St. Louis land grievance, we alerted Canada to our concerns with a potential residential development project that is being planned on lands in Chateauguay that border Kahnawà:ke. At this meeting, we shared with you a letter outlining the initial concerns we expressed to the City of Chateauguay regarding this project¹. CIRNAC undertook to review this letter and consider our concerns.

We have given notice to the City that we are formally opposed to this project moving forward based on the project's location, scope and our SSSL land grievance rights (see attached letters to the City of Chateauguay and province of Quebec). This letter outlines the federal Crown action that is required to meet the Honour of the Crown and to work toward the resolution of this issue.

MCK opposition to the project based on SSSL land grievance rights

As you are aware, the SSSL land grievance is a large pre-confederation claim that pertains to the illegal dispossession of Seigneurial lands and includes the failure to add lands promised for addition to Kahnawà:ke that are within the boundaries of Chateauguay. Canada offered to negotiate a settlement of this grievance by letter dated June 16, 2003. The residential development project that was presented to us is within the western boundary that we have established for negotiation of the SSSL land grievance.

The Quebec Superior Court has confirmed that Kahnawà:ke's interests in the SSSL trigger the Crown's consultation and accommodation obligations associated with any developments within the SSSL². Furthermore, as part of an agreement allowing the construction of Highway 30 on SSSL lands, the government of Quebec transferred five parcels of land to Kahnawà:ke, including a parcel "E" that was

¹ MCK letter dated May 28, 2020 sent in response to City of Chateauguay's letter of May 1, 2020 (see attached letters, along with a map indicating how the SSSL western boundary overlaps with this proposed project).

² *Municipalité régionale de comté de Roussillon c. Ministère des Ressources naturelles*, 2017 QCCS 3744, at para.

previously in Chateaugay. However, the government of Quebec currently still owes over 200 acres of land to the Mohawks of Kahnawà:ke pursuant to this agreement. The acceptance of our grievance for negotiation and this established land debt means that any development of land within or in proximity to the SSSL requires Kahnawà:ke consent prior to moving forward.

The vast majority of our SSSL land grievance lands has been developed and compromised for the sole benefit of Non-Indigenous governments and people. This development has continued unabated since the SSSL land grievance has been accepted for negotiation. Non-Indigenous land use and development of our territory has resulted in significant negative socio-economic impacts, a decrease of traditional land use opportunities and access to sites of cultural and spiritual importance. The development of undeveloped SSSL lands for this residential project would undoubtedly exacerbate adverse impacts on the integrity of SSSL lands and will also adversely impact the ability of the Crown to fulfill its outstanding debts and duties pertaining to the resolution of the SSSL land grievance.

In addition to our opposition to the project based on our land rights, we also have concerns with this project based on its location and scope. These concerns include harmonization with potential MCK land uses for Parcel E lands, and issues associated with increased traffic/access to our territory, additional encroachment on the Territory, environmental concerns (including impacts to wetlands and forested areas) and archaeology (as described more fully in the attached letter to Chateaugay).

Therefore, we are opposed to the project and, more generally, to the development of the lands slated for this residential development project.

Interim measures and immediate action are required to preserve Kahnawà:ke's rights to these lands

At our December 18, 2020 meeting, the need for interim measures was discussed. While the focus of the discussion was on the use of surplus federal lands, the recovery of lands, including privately held lands, within and in proximity to the SSSL has always been one of the options for compensation identified by the Mohawks of Kahnawà:ke. The lands to be developed are:

- Currently undeveloped;
- Directly within the SSSL land grievance boundaries that have been accepted for negotiations by both Canada and the MCK;
- Contiguous to two sides of the current Mohawk Territory of Kahnawà:ke and to newly added parcel E; and,
- Are proposed for development despite the government of Quebec's established 211-acre land debt to the Mohawks of Kahnawà:ke.

These factors mean that the Crown has an obligation to recover these lands for the use and benefit of the Mohawks of Kahnawà:ke. In this context, monetary compensation would be incapable of compensating the damages that our community will suffer if these lands are developed and lost forever. The unique *sui generis* relationship between our community and these lands would be permanently altered and the opportunity to use these lands for the exercise of our governance, socio-economic, traditional land use and cultural rights would be lost. In other words, the level of infringement to our

rights stemming from this project would be at the highest end of the spectrum since it would result in irreversible impacts to established rights.

Our right to control the development of these lands and to the recovery of these lands is also mandated by the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP"). UNDRIP outlines, as a minimum standard, that Indigenous peoples have the right to the lands that have been taken without consent, including the right to control, develop and obtain restitution of those lands (articles 26(1); 26(2) and 28).

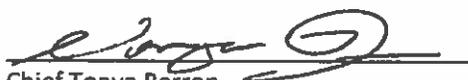
Under these circumstances, to preserve the Honour of the Crown, Canada and Quebec must take immediate action to stop this project and prevent the development of these lands. If Canada and Quebec are unable to stop this project through political or legal means, then Canada and Quebec must explore the possibility of purchasing these lands from the promoter of the project. Sincere, concrete actions to stop the project and/or purchase the lands to preserve the rights and interests of the Mohawks of Kahnawà:ke are immediately required.

Conclusion

We trust that you understand that this issue is of utmost importance to our community and that we can count on your Government to work towards fulfilling its outstanding obligations by facilitating and supporting the recovery of these lands as we move towards resolving our land grievances. The MCK requires an immediate meeting with your Ministry to discuss the federal actions that will be taken to ensure that our rights to these lands are preserved. We understand that collaboration with the provincial government and the City of Chateauguay may be required to achieve this objective, and we have already reached out to Minister Lafrenière's office and are looking forward to working with all parties to ensure that our rights are respected.

I trust this information is satisfactory; should you have any questions or require further information please feel free to contact our office.

**ON BEHALF OF THE OFFICE OF THE COUNCIL OF CHIEFS
MOHAWK COUNCIL OF KAHNAWÀ:KE**



Chief Tonya Perron
Chairperson

TP/SMC/04062021/MinisterBennett

CC: Council of Chiefs
Brenda Shanahan, MP for Chateauguay-Lacolle (Brenda.Shanahan@parl.gc.ca)
File

STRENGTH
PEACE
UNITY

Mohawk Council of Kahnawake

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SENT BY REGISTERED MAIL & EMAIL: p-p.routhier@ville.chateauguay.qc.ca

31 Enniskó:wa/March 2021

Mayor Pierre-Paul Routhier
Ville de Châteauguay
5, boulevard D'Youville
Châteauguay, QC
J6J 2P8

Wa'tkwanonhwera:ton (Greetings) Mayor Routhier,

On behalf of the Mohawk Council of Kahnawà:ke, I would like to thank you for meeting with the Council of Chiefs on February 23, 2021 regarding the proposed residential development project on lands that border Kahnawà:ke. This meeting was an opportunity for us to elaborate on concerns we expressed in our initial response letter regarding this project, dated May 28, 2020¹. At our meeting we advised that we would be issuing to your attention a letter constituting our formal notice that we are opposed to this project moving forward based on the project's location, scope and our Seigneurie of Sault St Louis (SSSL) land grievance rights.

We also agreed at our meeting that we would keep the channels of communication open and that you would continue to share project information with the MCK, as well as information regarding any actions that may be taken to advance the project despite our stated position. Also, in accordance with your commitment to share information, we since received from your office an informal notice that the City Council of Chateauguay has indeed proceeded with approving the re-zoning of the proposed location for the project.

To this effect, you will also find some information requests in this letter.

MCK opposition to the project based on SSSL land grievance rights

As you are aware, the SSSL land grievance is a large pre-confederation claim that pertains to the illegal dispossession of Seigneurial lands and includes the failure to add lands promised for addition to Kahnawà:ke; lands that are within the boundaries of your municipality. Canada offered to negotiate a settlement of this grievance by letter dated June 16, 2003. The residential development project that was presented to us is within the western boundary that has been established for negotiation of the SSSL land grievance.

¹ MCK letter dated May 28, 2020 sent in response to your letter of May 1, 2020.

The Quebec Superior Court has confirmed that Kahnawà:ke's interests in the SSSL trigger the Crown's consultation and accommodation obligations associated with any developments within the SSSL². Furthermore, as part of an agreement allowing the construction of Highway 30 on SSSL lands, the government of Quebec still owes over 200 acres of land to the Mohawks of Kahnawà:ke. The acceptance of our grievance for negotiation, this established land debt, and the decision of the Quebec Superior Court, means that any development of land within or in proximity to the SSSL requires Kahnawà:ke's consent *prior* to moving forward.

The vast majority of our SSSL land grievance lands have been developed and compromised for the sole benefit of Non-Indigenous governments and people. Non-Indigenous land use and development of our territory has resulted in significant negative socio-economic impacts, a decrease of traditional land use opportunities and access to sites of cultural and spiritual importance. The development of undeveloped SSSL lands for this residential project would undoubtedly exacerbate adverse impacts on the integrity of SSSL lands and will also adversely impact the ability of the Crown to fulfill its outstanding debts and duties pertaining to the resolution of the SSSL land grievance.

The recovery of lands, including privately held lands, within and in proximity to the SSSL has always been one of the options for compensation identified by the Mohawks of Kahnawà:ke. The fact that these lands are contiguous to the current Mohawk Territory of Kahnawà:ke also make them well suited for recovery.

Therefore, given that we hold existing interests in the lands we are principally opposed to the project and, more generally, to the development of the lands slated for this residential development project. We will be notifying the provincial and federal governments of our position and expect them to act within their respective spheres of jurisdiction and responsibility, and in accordance with their respective obligations.

Additional concerns based on project location and scope

In addition to our opposition to the project based on our land rights, we also have concerns with this project based on its location and scope.

As we indicated in our May 28, 2020 letter, the MCK has not solidified a plan for the use of adjacent "Parcel E" lands. It is possible that future land uses within Kahnawà:ke may be incompatible with proximity to a residential development.

Furthermore, we also notified you in the same letter that we were not agreeable to the extension of Maple street into our Territory. Regardless of whether Maple Street is extended, the housing development project would generate increased traffic on the Old Chateaugay Road (OCR). We are already facing challenges with non-resident use of the OCR and anticipate that our local roads will become more congested, deteriorated and dangerous for our community members if this project were to proceed.

² Municipalité régionale de comté de Roussillon c. Ministère des Ressources naturelles, 2017 QCCS 3744, at para. 21

We have also experienced many negative impacts stemming from previous residential and industrial development that has occurred at our boundary line without consideration of impacts on our community and its residents. These include problems associated with landfilling and discharge of wetland waters, odours and uncontrolled discharges from the wastewater treatment plant, and with contractors and new residents dumping garbage and debris and trespassing on private lands on the Territory.

The proposed project would be located in a forested area containing two wetlands. The MCK is deeply concerned about environmental impacts stemming from development of these areas, including potential direct impacts to the wetlands but also impacts on the regional hydrogeology and water quality, an increase in human activity in forested land within and adjacent to Kahnawà:ke and impacts to wildlife, including species at risk in the area.

Given the project's location, we are also concerned that cultural heritage property could be impacted (i.e. archaeological resources). We know that this project is in close proximity to important archaeological sites for our community.

Information Request

To further our understanding of this project, its current status, and plans, we request you provide the MCK with the following information:

- A general description of the status of the project and timeline of future activities/steps;
- A description of current land ownership (private, municipal or provincial) and confirmation of the current zoning, and any anticipated future re-zoning, of the lands;
- A copy of any government actions that have already been taken with respect to the project, including any municipal or provincial authorizations or resolutions;
- Any studies or additional information that is currently available in relation to concerns pertaining to project location and scope, including environmental concerns, traffic, archaeology and boundary line issues;
- A list of any federal or provincial government authorizations that may be required in the future for the realization of the project and a timeline for these.

If you have any questions pertaining to these information requests, please do not hesitate to contact us.

Conclusion

Since the decision taken by the City Council of Chateauguay to proceed with the re-zoning of the lands, we are witnessing strong concerns being voiced by members of our community, the presence of which seems to be steadily growing. While we understand your City Council is under pressure to proceed, we must express and inform you that we simply cannot abandon our responsibility to protect our interests and must maintain a position of remaining strongly opposed to the project.

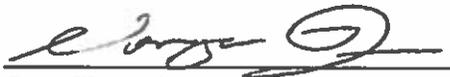
Given the content of this letter, we request that the City of Chateaugay respect our opposition to this project and not move forward with its development.

We hope that you understand that this issue is of utmost importance to our community and that we can count on your support as we move towards resolving our land grievances. Should you intend to proceed with the project, we require that you send us the information we have requested above and we will continue to advance our position at all levels of government to ensure that our rights are respected.

I trust this information is satisfactory; should you have any questions or require further information please feel free to contact our office.

In Peace and Friendship,

**ON BEHALF OF THE OFFICE OF THE COUNCIL OF CHIEFS
MOHAWK COUNCIL OF KAHNAWÀ:KE**



Chief Tonya Perron, Chairperson

Chief Tonya Perron/wpl/bm/03312021/MayorPPRouthier

Cc: Chiefs
Carolyn Bennett, Minister of Crown-Indigenous Relations
Ian Lafreniere, Minister of Indigenous Affairs
Robert Burr, Kahnawà:ke – Canada Relations Federal Representative
Florent Gagne, Quebec – Kahnawà:ke Relations Negotiator
Brenda Shanahan, Member of Parliament – Chateaugay – Lacolle
Marie-Chantal Chasse, Member of National Assembly – Chateaugay