

# Ontario cabinet stalls Cayuga bridge project, says no to HCCC



By Lynda Powless  
Editor

Work on the Cayuga Bridge project could be facing longer delays after the Ministry of Transportation (MTO) said it will not sign an engagement agreement with the Haudenosaunee.

Greg Tokarz, MTO director of Aboriginal Relations told a meeting Monday with the Haudenosaunee Development Institute (HDI) and chiefs and clan mothers that "it's direction from the Ontario cabinet. We will not sign an engagement agreement."

He refused to answer why Ontario was refusing to work with the Haudenosaunee. "I don't question the government on its decisions."

And in a surprise move he told the meeting Ontario already considers the informal discussions it has had with the HCCC representatives as engagement.

HDI legal adviser Aaron Detlor quickly told the MTO representatives, "we have made it clear, that we will have these informal discussions but this is not to be considered engagement or consultation."

A barrage of seven MTO representatives including three Aboriginal Relations reps, the MTO manager of Operations, an MTO area engineer MTO Regional Director Jennifer Graham Harkness and MTO environmental officer attended the session that came quickly to an end Monday when MTO said it would not sign any agreement saying they only wanted to hold discussions.

Legal adviser Aaron Detlor said he was surprised to

learn the decisions being made by "cabinet" were not being given to bureaucrats and the connections being made by the Minister of Aboriginal Affairs and Ministry of Transportation.

"I was surprised by Mr. Tokarz comment that decisions being made at that level weren't being communicated to the people actually making the decision and it was unfair to send a regional district manager and other mid level ministry people to try to explain a position they themselves didn't understand," said Detlor.

He said it was disturbing to learn that MTO may be taking orders from MAA.

"I do believe it was disturbing to hear that the MTO may be taking direction with respect to this issue from the MAA. We were advised by Greg Tokarz of the MTO that they were receiving advice from the MAA and at one point suggested it was the MAA that was making the decisions not to undertake an engagement process with the HCCC rather than the MTO."

He said HDI will be contacting MAA in "an effort to determine who exactly is making the decision with respect to this matter."

The Cayuga Bridge replacement project has been at a standstill since November of 2014 after members of the HCCC halted work amid concerns over archaeology, environmental impacts, and a lack of consultation.

HCCC environmental monitors were refused access to the site with both the company and MTO officials claiming the moni-

tors had not undergone safety training to be on the site but also refused to provide the training.

The bridge is located on Haudenosaunee tow path lands and the bed of the Grand River.

The tow path lands consist of land 66 feet in width along both sides of the Grand River from the original Welland Canal Feeder Dam in Dunnville to the City of Brantford. The lands were set aside for the Grand River Navigation Company and is one of 29 official land grievances filed in court by Six Nations Band Council.

Six Nations Band Council says those lands were never surrendered and Six Nations still maintains an interest in them.

Mohawk Chief Allen MacNaughton told the MTO Monday "we own the Grand River Navigation Company and all its assets. Our money was the only money used to create that company and now we own it and we know they have assets."

Legal adviser Detlor reminded the MTO the Haudenosaunee hold treaty rights to the land.

"The treaty rights exist as part of the Haudenosaunee title. Both the treaties of Fort Stanwix of 1768 and 1701 of Fort Albany confirm it was the Crown's understanding that the Haudenosaunee held title to the lands which provided them with exclusive use occupation and possession to lands that are contemplated by the Mitchell map of 1755 which encompasses if not all, most of Ontario."

Detlor said looking at the

history of the area, "concerning the Haldimand Joseph Brant was aware of these other instruments (treaties) and he confirmed quite clearly that the Haldimand was recognizing that primarily six miles on each side of the Grand River was where no settlement or incursion by settlers was to occur. It wasn't a grant because the Haudenosaunee already had ownership of that land."

He said the Cayuga bridge falls within all of the Haudenosaunee treaty areas "and we have made a number of presentations over five years to the MTO with respect to all of the history, and to date we have received nothing back from MTO other than their position that somehow the land was surrendered but they have provided no documents that would set out how they came to this opinion that Haudenosaunee rights were surrendered or are minimal."

Detlor said the fate of the bridge is now in MTO's hands.

"The advice from the Roy-anni and clan mothers to the Ministry officials was no further construction on the bridge is to take place without obtaining the permission of the Haudenosaunee to proceed."

He said it was clear in Mohawk Chief Allen MacNaughton's comments, that the same opinion applies to the Caledonia Bridge which is in the process of expropriating lands for bridge construction.

"I think he (Chief MacNaughton) was clear in his

opinion that the same would reflect upon their plans for the Caledonia bridge."

He said MTO has been provided with notification that their proposal to proceed with the Cayuga Bridge will interfere with Haudenosaunee rights and that "specifically a full deep engagement is required with respect to their proposal to expropriate lands owned by the Grand River Navigation Company and we have not had a response."

He said an engagement agreement also protects confidentiality, provides for workplans and budgets to assess the Cayuga Bridge project and provide for both archeological and environmental assessments.

"The MTO has advised it will not enter into an engagement process and we have asked why but MTO says it is not necessary and refused to advise why it was not necessary."

He said MTO needs to work with the HCCC on all of its projects within Haudenosaunee treaty territories that are impairing and infringing upon rights and interests of the Haudenosaunee. "We asked for an engagement process on those projects and operations and they refused."

"We suggested mediation and they refused."

During MTO discussions Detlor reminded MTO they were trespassing with the Cayuga Bridge construction.

"In most cases when someone trespasses you tell them to pack up and leave."

Haldimand MPP Toby Barrett sent out a press re-

lease last week bemoaning the work stoppage during question period at Queen's Park, calling the shutdown an act of "intimidation." During the legislature's first week back, Barrett asked Minister of Transportation Steven Del Duca for an update on the project.

"The temporary bridge is a problem for farm machinery and for large trucks," Barrett said. "It's an eyesore. I regularly receive calls from Cayuga wanting to know when the newer bridge will be completed." The original bridge was built in 1924.

Del Duca said he "will continue to endeavour to reach a resolution."

"We are approaching one year since construction has been shut down on the Cayuga Bridge on provincial Highway 3 because of intimidation," Barrett told the legislature.

"When will construction workers be allowed back on the bridge?" Barrett asked. "The Minister of Transportation's letter in August noted a date for resumption of work has not been scheduled. Can he now tell (us) if a date for start-up has been set?"

Del Duca told the legislature a week ago his ministry is "keen to progress" on the issue. "We know it's important to this particular part of the province," Del Duca said. "We are in consultation on a regular basis not only with our partners and stakeholders in the community but also the Ministry of Aboriginal Affairs (MAA) to make sure that we are successfully fulfilling our responsi-

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