

## Memorandum

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To: Mayor and Council  
From: Councillor Douglas W. Judson  
Date: June 24, 2021  
Re: **Update on International Bridge Concerns**

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### 1. Overview

This memorandum is intended to summarize new information which has come to light surrounding the Fort Frances—International Falls International Bridge [**“International Bridge”**] and to recommend and focus further advocacy by the Town of Fort Frances related to this priority file for our community and the region. It is intended for discussion at Council’s meeting of June 28, 2021.

### 2. Background

Earlier this spring, it was reported in the media that the owner of the Canadian side of the International Bridge was looking to sell-off their ownership interest. The current owner of the Canadian side of the bridge is understood to be Resolute Forest Products, through a subsidiary corporation [together, **“Resolute”**].

At Council’s meeting of June 14, 2021, it adopted a detailed resolution setting out the history and some of the legal instruments governing the bridge. The resolution called for the Government of Canada and the Government of Ontario to work with their U.S. counterparts and intervene in any sale of the International Bridge. Our resolution called on these levels of government to ensure that the interests of Fort Frances and the surrounding region were protected in any sale of the bridge, and ideally, that they take action to make the International Bridge a public asset, without tolls.

The legislation governing the International Bridge includes the following key provisions:<sup>1</sup>

- Section 6 of the *Customs Act*, under which the federal government requires the owner of the bridge to provide a facility for the Canada Border Services Agency on the Canadian side of the border;
- Section 23 of the *International Bridges and Tunnels Act* [**“IBTA”**], under which the federal government prohibits the purchase, acquisition, or change in the operator of an international bridge without its approval;

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<sup>1</sup> Of note, in the early 1970s, Parliament enacted the *Fort-Falls Bridge Authority Act*, which contemplated the construction of a new international bridge between Fort Frances and International Falls. The legislation remains in place, but required that construction begin before December 31, 1979 in order to take effect.

- Section 5 of the *Toll Bridges Act*, under which the provincial government may enter into agreements with any Canadian or foreign entity for the financing or operation of an international bridge; and
- Section 4 of the *Toll Bridges Act*, under which the provincial government may regulate the tolls charged on bridges.

### 3. **New Information**

The office of Marcus Powlowski, MP for Thunder Bay—Rainy River, has engaged with officials at Transport Canada about our concerns. Their inquiries resulted in the following new information:

- Transport Canada acknowledged that under the *IBTA*, an application must be submitted to the Minister of Transport to request approval of a change of operator or ownership of an international bridge. Transport Canada stated that “on the recommendation of the Minister, the Governor in Council may approve the application subject to any conditions that the Governor in Council considers appropriate.”
- In May 2021, following media reports concerning the potential sale of the Canadian side of the International Bridge, Transport Canada notified Resolute of the *IBTA* requirement to seek federal approval of any change of ownership or operation. Resolute was also provided with guidelines for making such an application. Transport Canada indicated to Mr. Powlowski’s office that Resolute has not replied to acknowledge this direction.
- Transport Canada indicates that it was only recently informed that the U.S. side of the International Bridge has been sold by the Minnesota, Dakota and Western Railway [“**MDWR**”] to Aazhogan US LP [“**Aazhogan**”]. Aazhogan is assumed to be a business entity associated with Rainy River First Nations, given that its Canadian joint venture related to former Resolute properties bears the same name. The ownership structure of Aazhogan should be confirmed.
- Transport Canada learned that the sale of the U.S. side of the International Bridge was completed effective as of May 13, 2021, apparently without notice to the Government of Canada. Transport Canada also learned that Aazhogan subsequently assumed all of MDWR’s responsibilities for the inspection and maintenance of the *Canadian* portion of the International Bridge as well.
- Transport Canada is now in the process of determining whether Aazhogan is considered to be the “operator” of the International Bridge, within the meaning of the *IBTA*. If so, MDWR, Resolute, and/or Aazhogan are delinquent in securing the necessary approvals from the federal government under section 23 of the legislation. If they are determined to be non-compliant, Aazhogan will be required to submit an application to the Minister of Transport requesting a change of operator as soon as possible. Transport Canada advised Mr. Powlowski’s office that letters have been sent to Resolute and Aazhogan about this concern.

Mr. Powlowski’s office also confirmed that Transport Canada is in receipt of Council’s request to meet to discuss the creation of an international bridge authority to take over the ownership and

operation of the International Bridge. Federal officials are gathering information and will update Mr. Powlowski's office.<sup>2</sup>

#### 4. Key Takeaways

The takeaways from the above information which should inform Council's next steps are as follows:

- First, it is apparent that the sale of the American side of the bridge may trigger legal obligations for the new U.S.-side owner in Canada which have not been met. This is presumed to be a result of the operating responsibilities of the U.S. owner in Canada.
- Second, even if the U.S.-side sale did not trigger obligations under the *IBTA*, it appears that the looming sale of the Canadian side of the International Bridge will.
- Third, it is apparent that even if the Minister of Transport recommends federal approval of the change of ownership or operation of the International Bridge, the approval can be made subject to appropriate conditions. In that case (i.e., a scenario where the bridge continues to be privately operated), Council should insist upon conditions which control or eliminate tolls and secure the necessary ongoing investments in facilities, maintenance, and capital improvement. Mr. Powlowski (and other Northwestern Ontario MPs) could be called on to assist us in bringing our concerns to the Minister of Transport's attention.
- Fourth, in the absence of federal support (or in addition to federal support), there remain levers available to the province for investment in international bridges and the regulation of tolls. These levers could be used to support the interests of Fort Frances and the region. Of concern, the bridge owners may have strategically placed their toll collection on the U.S. side of the bridge to evade Ontario's jurisdiction over bridge tolls.

#### 5. Recommendation

My recommendation is that municipal administration prepare an open letter to the federal Minister of Transport (Hon. Omar Alghabra) and the provincial Minister of Transportation (Hon. Caroline Mulroney). This letter should be copied to the region's MPs and MPPs listed in paragraph 15 of our June 14, 2021 resolution and shared with the other stakeholders so listed.

The letter should outline the above considerations and insist that federal and provincial officials consider the full suite of options available to make this International Bridge a public asset, or to ensure that any approvals of its sale to private hands includes conditions and terms which protect the interests of Fort Frances and Northwestern Ontario. The letter should demand a meeting as soon as possible and that no approvals of any change in ownership or operation of the International Bridge be granted prior to a meeting with our region's federal and provincial representatives and Council.

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<sup>2</sup> As per the previous footnote, the existing bridge authority legislation could be a useful vehicle for this purpose.