



BY E-MAIL ONLY

January 16, 2023

Honourable Omar Alghabra, Minister of Transport
omar.alghabra@parl.gc.ca

Dear Honourable Omar Alghabra:

On December 22nd, 2022, Mayors and Staff from the Township of Warwick, and the Town of Plympton-Wyoming, met with MP Peter Fragiskatos, to discuss the ongoing dispute between railway companies and Ontario municipalities, regarding the Drainage Act (the 'Act')¹. The Canadian National Railway (CNR) corridor passes through both municipalities, and each municipality has been deeply affected by CNR's refusal to comply with the Act.

The existence, and execution, including the honest interpretation, of this legislation, is vital to maintaining the sustainability of Ontario's roads, highways, railways, utilities, urban-area stormwater discharge systems, as well as agricultural lands essential to food production. This essential infrastructure, Ontario's drainage systems, supports sensible transportation, healthy-food security, as well as the health and wellness of all of Ontario's diverse communities. Good drainage also provides vital and environmentally impactful flood-control measures for all municipal stakeholders. Its improvement, maintenance, and repair are necessary, now more than ever, in our ever-changing climate.

Land development, increased housing pressures, as well as transitioning into a new green economy, in order to combat climate change, can only be addressed with a consensus around drainage. This requires a grounded, regulatory space, where all our various partners can engage in a mutual dialogue. We are indeed all in this together.

The Act itself was originally enacted in Ontario, in 1894. This important piece of legislation has been used to meet the drainage needs of a variety of diverse stakeholders, including farmers, agri-business, and other food suppliers. In these modern times, good drainage ensures essential food production, as well as other, basic, agricultural products, that support families, multicultural neighborhoods, and diverse communities of every kind.

¹ Drainage Act, RSO 1990

The Act itself sets out a fair, inclusive, and equitable process, to provide for sustainable drainage across the province, for all citizens, and, in fact, for anyone who is living and working in Ontario. Municipal governments and railroads have worked together in the past, under the Act, in order to provide drainage for all. We feel that we can all still work together towards these common goals that would provide equity across all municipal boundaries.

Over the past five years railway companies, and especially CNR, have become less cooperative on matters pertaining to the Act. Recently, CNR officials have formally communicated CNR's interpretation (on 'the Act') that railways are a federally regulated entity, or activity, under Canadian Transportation Act guidelines, as such, are not governed by provincial regulations.

This lack of mutual, beneficial cooperation, and refusal to follow provincial law, is delaying scores of projects under the Act across the province. CNR's refusal to pay for completed projects is withholding millions of much-needed dollars from helping develop rural Ontario municipalities.

Recently, the Association of Municipalities of Ontario (AMO) surveyed members across the province on this very important issue. Over 60 municipalities responded to their survey. All these municipalities were affected by railways. Some highlights of their survey include:

- Approximately 48% have over 10 drains which include railway lands in their watersheds
- Amounts for unpaid maintenance are nearing \$500,000
- Amounts for unpaid capital construction projects is approximately \$1 million
- Approximately \$2.7 million dollars of critical capital construction projects, in-line with Canada's commitment to environmental, social, and governance goals (ESG), are currently being delayed due to non-cooperation by the railroad.

The Township of Warwick, the Town of Plympton-Wyoming, and many other rural municipalities and AMO have expressed concerns over this CN Rail position to the Minister of Agriculture and Rural Affairs consistently over the past four years. Minister Thompson has confirmed it remains the Provincial government's position that the Drainage Act does apply to all federally regulated railways.

Small, rural municipalities have limited resources. They should not have to incur legal costs or unnecessarily use resources to ensure costs under the Drainage Act are paid by CN Rail. We ask that the Minister of Transport call upon all railways to act as a partner to municipalities and agriculture in Ontario as they have in the past and as the Act had intended.

With respect to the aforementioned, we respectfully ask,

1. That our federal partners, including the Minister of Transport, call upon all federally controlled railways, including CNR, to engage with local municipalities, farmers, and other stakeholders, to reach all of our collective goals. This includes improved commute times for Canadians, lower costs for property-owners, as well as the ever important, and on-going goals to reduce carbon emissions, towards a greener transportation future for all Canadians. Local municipalities depend on legal instruments such as the Drainage Act to help deliver these goals.
2. That the Minister call upon CNR to expedite its response timelines to the numerous drainage projects which are currently on hold in Ontario, so that the projects impacting the agricultural sector can proceed, and be dealt with in a timely manner after years of delay caused directly by CNR.
3. We ask that the Minister arrange a meeting with ourselves, AMO and Tracy Robinson, President and CEO of CN Rail to discuss the current issues and work together to find common goals and solutions to the current impasse.

Thank you for your time.

On behalf of,

Gary Atkinson
Mayor, Town of Plympton-Wyoming
546 Niagara St, PO Box 250
Wyoming, ON
N0N 1T0
gatkinson@plympton-wyoming.ca

Todd Case
Mayor, Township of Warwick
5280 Nauvoo Rd, PO Box 10
Watford, ON
N0M 2S0
tcase@warwicktownship.ca

Cc:

Peter Fragiskatos, MP, London North
Lisa Thompson, Minister of Agriculture, Food and Rural Affairs
Marilyn Gladu, MP
Lianne Rood, MP
Bob Bailey, MPP
Monte McNaughton, MPP
Colin Best, AMO President
Robin Jones, ROMA Chair
Peggy Brekvel, OFA President
Drainage Superintendents Association of Ontario