

April 9, 2019

Milton Logistics Hub Project Review Panel (MiltonHubPanel@ceaa.gc.ca)
c/o Canadian Environmental Assessment Agency
160 Elgin Street
Ottawa, ON K1A 0H3

Attention: Ms. Leslie Griffiths, Panel Chair

Dear Ms. Griffiths,

Re: Environmental Assessment - Milton Logistics Hub Project (the "Project")
Conservation Halton Response to Panel Sufficiency Request
Information Requests 6 through 8
CEAA Reference No. 80100
CH File No.: MPR 208

The following submission responds to the Information Request packages (IR) 6 through 8 and the associated Canadian National Railway Company (CN) responses. These comments are provided within the Appendices of this letter.

With this letter, we are also taking the opportunity to summarize the overall position of CH on the sufficiency of the EIS and other supporting materials submitted by CN thus far in the Panel's review process. Based on the expertise and experience of CH staff, it is CH's position that the sufficiency test has not been met. Specifically, in CH's view, a hearing on the EIS should not proceed until insufficiencies noted in CH's comments on responses to IRs 1- 8 and in our letter dated March 13, 2017 are addressed.

In particular, three areas of insufficiency, fundamental to the CH mandate and regulatory responsibility, should be addressed by CN before a hearing can proceed:

- 1) A **Slope stability assessment** for valley corridors (all slopes greater than 2m in height) within the Project Development Area (PDA) and valley slopes to be directly affected by proposed works;
- 2) A **Geomorphic analysis** to evaluate stream meander under existing and proposed conditions within the PDA; and,
- 3) An **evaluation of Wetlands** within the PDA, including wetlands which are proposed to be directly impacted by the Project.

In CH's view, completion of this work is essential for the Panel to make a determination regarding potential impacts to the valued components (VCs) as a result of the Project.

CH requests that the Panel review the totality of the outstanding information items that have not yet been addressed, as identified by CH in its comments on IRs 1-8 and the March 13, 2017 submission, before making a determination with respect to the sufficiency of the EIS.

CH would be pleased to respond to any follow-up questions or information needs that the Panel may have regarding the attached comments.

On behalf of Conservation Halton, thank you for the opportunity to provide input to the Panel on these matters. We look forward to providing additional comments consistent with our agency role, knowledge and expertise as the assessment process progresses.

Yours truly,

<Original signed by>

Jonathan Pounder
Coordinator, Environmental Planning
Planning & Regulations

Encl: Appendix A, B and C: CH comments on CN Responses to IRs 6, 7 and 8

cc: William McMurray, Review Panel Member (c/o Review Panel secretariat)
Isobel Heathcote, Review Panel Member (c/o Review Panel secretariat)
Normand Pellerin, CN Railway Company, Assistant VP Environment & Sustainability (email)
Curt Benson, Director of Planning Services and Chief Planning Official, Halton Region (email)
Barbara Koopmans, Commissioner, Planning and Development, Town of Milton (email)
Peter Pickfield, Counsel, Conservation Halton, Garrod Pickfield LLP (email)
Rodney Northey, Counsel, Halton Municipalities, Gowlings LLP (email)
Barbara Veale, Director, Planning and Watershed Management, Conservation Halton (email)

Appendix A: Conservation Halton Comments
CN Response to Information Request Package 6

IR6.1 Applicability of regulations and voluntary compliance

Panel Request:

- a) *Identify which targets or standards set by provincial or municipal regulations, if any, CN commits to voluntarily meet with respect to construction and operation of the Project.*

Sufficiency of CN Response: The CN response includes no commitment to meet any of the targets or standards established pursuant to the statutory, regulatory and policy regime in place under the *Conservation Authorities Act* for the protection of wetlands, watercourses and floodplains, and for the control of flooding and natural hazard protection with respect to the construction and operation of the Project. The absence of this commitment presents a significant insufficiency in the EIS.

Additional Information Requirements: CN should provide a commitment that it will ensure that the Project complies with and follows the legislative, regulatory and policy framework, as well as the approval/permitting process in Ontario established under the *Planning Act* and *Conservation Authorities Act* for the protection of wetlands, watercourse and floodplains, and for the control of flooding and natural hazard protection. In the absence of this commitment, as requested in CH's comments on IR 2.3, CN should present a detailed analysis of areas that CN considers to be an encroachment of Provincial or local legislation on its core areas together with its rationale related to each area of potential encroachment. This response should also include an identification of the areas in which there is no equivalent Federal legislation, and in which Provincial or local laws should apply.

Appendix B: Conservation Halton Comments

CN Response to Information Request Package 7: Referenced Documents, Air Quality, Water, Physical and Cultural Heritage, and Socio-economic

IR7.4 – Water quality and selection of contaminants of concern

Panel Request:

- a) Describe how certain contaminants were selected as “contaminants of concern” for the purpose of Table IR3.37-1 and for the stormwater management monitoring plan. Include a rationale as to why contaminants with concentrations that are currently higher than their respective CCME CWQG-FAL values would not be monitored.*
- b) Clarify whether hydrocarbons would be monitored individually or as a group (i.e., Total Hydrocarbons).*

Sufficiency of CN Response: While CN has indicated that a number of contaminants will be monitored on site, CH in conjunction with the Town of Milton, has a list of water quality parameters (from the Boyne FSEMS, 2015) that require monitoring for stormwater management ponds in upstream developments. Most of those parameters were not included by CN. In order to obtain an ample picture of the water quality of the watercourse system, these parameters should also be measured on the CN property.

Additional Information Required: CN should commit to a stormwater management monitoring plan for the Project that includes the following parameters:

- | | |
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| - Anions (Nitrate, Nitrite, Chloride) | - Total Coliforms |
| - Ammonia | - Faecal Coliforms |
| - Total Kjeldahl Nitrogen (TKN) | - PAH |
| - Conductivity | - Metals (Al, Sb, As, Ba, Be, B, Cd, Ca, Co, |
| - Total Solids (TS) | Mg, Mn, Mo, Ni, P, K, Se, Si, Ag, Na, Sr, |
| - Biological Oxygen Demand (BOD ₅) | Tl, Sn, Ti, W, U, V, Zr) |
| - pH/alkalinity | |

IR7.6 – Flows and velocities in realignments and stormwater management ponds

Panel Request:

- a) Provide location(s) for the predicted hydrographs presented in Graphs IR3.32.1 through IR3.32.6. Provide additional hydrographs showing predicted flows during single and consecutive storm events below the discharge points of both ponds, if required.*
- b) Describe how potential additional flows from the high-flow outlet and overflow spillways have been taken into account in developing flow and flood predictions for the channel realignments downstream from the ponds. Provide a quantitative estimate of the confidence intervals for these predictions. Describe the results of any statistical analyses conducted to support these conclusions.*

Sufficiency of CN Response: CH has previously identified concerns with the hydrologic modelling conducted for the CN site as follows:

- The report text states that flows will be partially diverted from Tributary A and that stormwater management controls will also be implemented. The table summarizing the model indicates that proposed flows will exceed existing levels. This is contradictory.

- The analysis partially utilized the Tessman and Tennant methods. A study by Long Point Region Conservation Authority for Big Creek (2004) determined that these methods are not appropriate for Ontario streams. A commonly accepted methodology within Ontario should be used.
- There are discrepancies between the drainage area figures provided to support the hydrologic model and CH data. For example, the drainage areas for Tributaries C and D do not correspond to CH mapping. CH mapping shows Tributary C having a drainage area of 158 ha versus the 78 ha provided in the report (almost half of CH values) and Tributary D has a drainage area of 178 ha versus the 208 ha in the report.

IR7.6 utilizes some information generated through the CH hydrologic modelling but fails to address any of the above deficiencies. Further, the stormwater management ponds proposed for the site only consider quantity control for the 2 year through 100 year storms; however, the Subwatershed Update Study for Areas 2 and 7 indicated that quantity control for the Regional storm event should also be provided.

Additional Information Required: CN should provide an electronic copy of the hydrologic model, which addresses the above described deficiencies and incorporates the proposed channel design modifications to ensure there are not impacts to updates or downstream lands.

IR7.13 – Lower Base Line Road grade separation

Panel Request:

- a) *Provide an update on the status of any discussions between the Town of Milton and CN concerning the proposed grade separation at Lower Base Line and whether any updated information on the design of the grade separation is available.*

Sufficiency of CN response: CH has previously raised concerns about the realignment of Tributary C to facilitate works on the CN site. These concerns are still valid as the information provided does not address these concerns. A complete assessment of Tributary C (the feature and its functions) including an evaluation of the cumulative loss of headwater drainage feature functions has not been completed. This work is required to ensure that the ultimate developed condition is properly designed to replicate headwater channel conditions.

Additional Information Required: A complete assessment of Tributary C (the feature and its functions) including an evaluation of the cumulative loss of headwater drainage feature functions should be provided.

Appendix C: Conservation Halton Comments

CN Response to Information Request Package 8: Referenced Documents, Air Quality, Human Health, Truck Traffic, Light, Noise and Vibration, Socio-economic, and Wildlife

IR8.1 – Boyne Survey Secondary Plan and relevant sub-plans

Panel Request:

- a) Describe to what degree, if any, the Project could affect the ability of the Town of Milton and Conservation Halton to achieve planned enhancements to the Tributary A and Indian Creek systems, as described in the Boyne Survey Secondary Plan and its relevant sub-plans.*
- b) Provide the Review Panel with relevant information from the Boyne Survey Secondary Plan, including updated watercourse rankings, planned or ongoing upstream enhancements to*
- c) Tributary A upstream of the project development area, stormwater management strategies, conceptual fisheries compensation plans and monitoring strategies and restoration frameworks. As appropriate, provide information contained in sub-plans such as the Functional Stormwater and Environmental Management Strategy, Conceptual Fisheries Compensation Plan, and Restoration Framework, including details on specialized habitat features.*

Sufficiency of CN response: The CN response indicates that information from the Boyne Survey Secondary Plan was used as the basis for the works as part of the Project. While some consideration was given to SWM targets for quantity and quality control, the design for Tributary A through the subject lands does not consider: 1) the Criteria for Watercourse Design located within Section C.10.5.8.5 of the Boyne Secondary Plan, or 2) the enhancement/restoration policies of the Secondary Plan that direct corridor design to follow the Restoration Framework (Dougan and Associates, 2015). There is insufficient information provided to determine if the channel design sufficiently incorporates geomorphological and ecological considerations to ensure a functioning ecological connection through the PDA (e.g. is the corridor designed appropriately to contain flood and erosion hazards, does it provide adequate wildlife and aquatic passage and habitat?).

The Natural Heritage System being established within the Boyne Survey is likely to become isolated and fragmented if the relocated Tributary A does not follow proper design principles to ensure a connected natural heritage system through the subject lands. This is of particular concern as the Project includes a proposal to pipe large sections of Tributary A across most of the intermodal site.

Additional Information Required: Updated design concepts for Tributary A should be provided, which adheres to the criteria for watercourse design and enhancement/restoration policies of the Boyne Secondary Plan and which is supported by adequate information to determine if the channel design sufficiently incorporates geomorphological and ecological considerations, to ensure a functioning ecological connection through the PDA and to ensure natural hazards are contained within appropriate corridors and are not exacerbated upstream or downstream.

IR8.20 – Consideration of potential species at risk at the South Milton site

Panel Request:

- a) *Clarify whether and how CN considered the Town of Milton's 2014 and 2016 data that documented the presence of Western Chorus Frog near the existing CN mainline tracks. If CN has not yet considered this information, discuss whether the information changes any of the effects predictions in the EIS or whether additional mitigation would be necessary for Western Chorus Frog.*

Sufficiency of CN response:

Further to our response on IR 1.3, CH continues to have concerns with the methodologies used to determine the presence of Chorus Frog within the study area. Given this and the confirmed presence of Chorus Frog within the LAA (by the Town of Milton), it is possible that this species may be present within or immediately adjacent to the PDA.

Given this species' specific habitat requirements, including the need for interconnected habitat patches, specific approaches should be considered to protecting/preserving a suitable mosaic of flooded field/meadow, meadow marsh and/or shallow marsh units. Breeding, non-breeding and over-wintering habitat should be considered. In addition to the mitigation measures already described, habitat restoration/enhancement opportunities and commitments should be included.

Additional Information Needed:

Additional field work as outlined in our response to IR 1.3 or an alternative method supported by Environment and Climate Change Canada (ECC) should be provided. Based on this, a revised mitigation strategy (during and post-construction) that accounts for the presence of Chorus Frog within the LAA and potential presence within or immediately adjacent to the PDA should be presented.