



PORT COLBORNE

MAYOR'S OFFICE

Report 2023-102
Appendix C

Municipal Offices: 66 Charlotte Street
Port Colborne, Ontario L3K 3C8 • www.portcolborne.ca

T 905-835-2900 ext 301 F 905-835-2969

Sent via email to: jeanjacques.ruest@cn.ca

February 24, 2022

Mr. Jean-Jacques Ruest
President and Chief Executive Officer
CN Rail
935 de la Gauchetière Street West
Montreal, QC H3B 2M9

Dear Mr. Ruest:

The framework through Ontario's *Drainage Act* supports agricultural productivity by reducing nutrient loss and soil on farmlands. It also provides environmental and economic benefits such as reducing flooding and increasing crop productivity and enhances natural habitats.

More than 45,000 km of municipal drains service nearly 2 million hectares of cropland in Ontario. As a result, drainage of agricultural land is critical as it removes excess water collected by roadside ditches, residential lots, schools, industrial and commercial lands, and any other properties in the surrounding areas.

The Ontario's *Drainage Act* establishes the process of how public utilities, including railways, participate in drainage. Railways along with other landowners benefit from and have participated in the *Drainage Act* process for decades.

That is why we are writing to amplify our support of the Ontario Minister of Agriculture, Food and Rural Affairs (OMAFRA)'s dated December 23, 2021. As Minister Thompson states in her letter, "Given that federally regulated railways are indeed subject to the *Drainage Act*, we expect CN Rail to pay its costs as assessed under the *Drainage Act* and not to hinder the progress of these projects or others in the future."

Municipal governments across Ontario are experiencing significant issues with drainage maintenance work, construction of new drains, and the collection of assessed costs to Railways for the *Drainage Act*. It is our hope that CN Rail will comply with the *Drainage Act* so that municipalities and our taxpayers are not left carrying the costs of these works that should be borne by railways.

Sincerely,

William C. Steele
Mayor

cc. Jamie McGarvey, President of the Association of Municipalities of Ontario (AMO), Mayor of the Town of Parry Sound
Robin Jones, Rural Ontario Municipal Association (ROMA) Chair, Mayor of the Village of Westport
Hon. Omar Alghabra, Minister of Transport
Hon. Marie-Claude Bibeau, Minister of Agriculture and Agri-Food Canada
Hon. Lisa Thompson, Minister of Agriculture, Food and Rural Affairs
Hon. Caroline Mulroney, Minister of Transportation
Hon. Steve Clark, Minister of Municipal Affairs and Housing
MPP Jeff Burch, Niagara Centre
MP Vance Badawey, Niagara Centre



PORT COLBORNE

Corporate Services Department
Clerk's Division

Municipal Offices: 66 Charlotte Street
Port Colborne, Ontario L3K 3C8 • www.portcolborne.ca

T 905.835.2900 ext 106 F 905.834.5746

E amber.lapointe@portcolborne.ca

February 24, 2022

Lisa M. Thompson
Office of the Minister
Ministry of Agriculture, Food and Rural Affairs
77 Grenville Street, 11th Floor
Toronto, ON M7A 1B3

Dear Ms. Thompson:

Re: City of Port Colborne – Resolution Regarding: OMAFRA, The Drainage Superintendents Association of Ontario and AMO – Call to Action – CN Rail and Drainage

Please be advised that, at its meeting of January 25, 2022, the Council of The Corporation of the City of Port Colborne resolved as follows:

That the correspondence from OMAFRA, the Drainage Superintendents Association of Ontario, and AMO regarding a Call to Action for CN Rail and Drainage, be supported.

A copy of the above noted correspondence is enclosed for your reference.

Sincerely,

Amber LaPointe
City Clerk

cc: Jamie McGarvey, President of the Association of Municipalities of Ontario (AMO), Mayor of the Town of Parry Sound
Robin Jones, Rural Ontario Municipal Association (ROMA) Chair, Mayor of the Village of Westport
Hon. Omar Alghabra, Minister of Transport
Hon. Marie-Claude Bibeau, Minister of Agriculture and Agri-Food Canada
Hon. Lisa Thompson, Minister of Agriculture, Food and Rural Affairs
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Hon. Steve Clark, Minister of Municipal Affairs and Housing
MPP Jeff Burch, Niagara Centre
MP Vance Badawey, Niagara Centre

Ministry of Agriculture,
Food and Rural Affairs

Ministère de l'Agriculture, de
l'Alimentation et des Affaires rurales

Office of the Minister

Bureau du ministre

77 Grenville Street, 11th Floor
Toronto, Ontario M7A 1B3
Tel: 416-326-3074
www.ontario.ca/OMAFRA

77, rue Grenville, 11^e étage
Toronto (Ontario) M7A 1B3
Tél. : 416 326-3074
www.ontario.ca/MAARO

December 23, 2021

Jean-Jacques Ruest
President and CEO
CN Rail
jeanjacques.ruest@cn.ca

Dear Mr. Ruest:

I am writing to you with regards to drainage in Ontario.

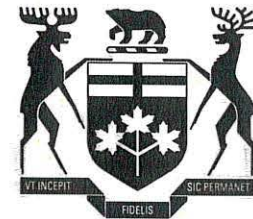
Drainage infrastructure is critical to support agriculture and food production in rural Ontario. Ontario's Drainage Act is a very important piece of legislation to meet the drainage needs of a variety of stakeholders including individual farmers, landowners, municipalities and, of course, railways. As resolving drainage issues can be complex and represent a significant financial impact for ratepayers, the Drainage Act was enacted to promote a fair and efficient process.

Historically, there has been infrequent and minimal conflict between municipalities and the railways around drainage. Railways have generally complied with their obligations under the Drainage Act. However, recently I have received a significant amount of correspondence from stakeholders and municipalities in Ontario – including by delegations at both the Rural Ontario Municipal Association and the Association of Municipalities of Ontario conferences – expressing concerns about difficulties they are having in their dealings with CN Rail on drainage issues and projects under the Drainage Act. It appears that CN Rail is now of the view that, as it is federally regulated, it is not required to comply with this provincial legislation.

Consequently, a variety of issues have emerged, including:

- non-payment by CN Rail of statutory cost assessments and/or advising municipalities that all costs are the responsibility of the municipality;
- project delays related to administrative barriers created by CN;
- insistence that the municipalities enter into crossing agreements that shift costs to the municipalities, contrary to the provisions of Ontario's Drainage Act.

.../2



Ontario

SUPPORTED
**RECEIVED BY
COUNCIL**

JAN 25 2022

CITY CLERK
CITY OF PORT COLBORNE

To give you an indication of the severity of the issue at hand, there are at least 55 municipal drain projects currently being impacted by CN Rail's actions with more anticipated. If these works do not proceed and CN Rail uses the municipalities to carry its costs, it will take an unnecessary and unfair toll on those communities. This is a concern to our government as landowners within these drain watersheds count on a reliable, functional drainage system to support their businesses and agricultural operations thereby supporting their families, neighbours, and thriving communities.

Given that federally regulated railways are indeed subject to the Drainage Act, we expect CN Rail to pay its costs as assessed under the Drainage Act and not to hinder the progress of these projects or others in the future. To that end, I have recently written to my federal colleagues, the Honourable Omar Alghabra, Minister of Transport and the Honourable Marie-Claude Bibeau, Minister of Agriculture and Agri-food about the issue and I have asked for their support to resolve this issue.

I am sure that you would agree with me that having a multitude of projects brought forward for adjudication does not represent an effective use of CN time or money. I welcome an opportunity to meet with you to discuss this matter further as finding a resolution is critical.

I look forward to your response.

Sincerely,



Lisa M. Thompson

Minister of Agriculture, Food and Rural Affairs

- c: Mayor Jamie McGarvey, AMO President, Mayor of the Town of Bracebridge
Mayor Robin Jones, ROMA Chair, Village of Westport
Fiona Murray, CN, Vice-President, Public and Government Affairs
Daniel Salvatore, CN, Manager Public Affairs Ontario
Hon. Omar Alghabra, Minister of Transport
Hon. Marie-Claude Bibeau, Minister of Agriculture and Agri-Food Canada
Hon. Caroline Mulroney, Minister of Transportation
Hon. Steve Clark, Minister of Municipal Affairs and Housing

COVID-19 Reminders

- For vaccination booking details visit: <https://covid-19.ontario.ca/book-vaccine/>
- Follow your local public health/safety measures: <https://covid-19.ontario.ca/zones-and-restrictions>
- Practice physical distancing – stay 2 metres away from others in public
Get the facts - www.ontario.ca/page/covid-19-stop-spread



DRAINAGE SUPERINTENDENTS ASSOCIATION OF ONTARIO

President – Lu-Ann Marentette
Municipality of Leamington
Phone: 519-326-5761 Ext 1309
Email: lmarentette@leamington.ca

Past President – Greg Nancekivell
R.J. Burnside & Associates, Woodstock
Phone: 519-340-2000
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Vice-President – Elizabeth Cummings
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Phone: 519-882-0032
Email: david@dobbineng.com

Director – Paul MacIntyre, L.E.L. C.E.T.
R. J. Burnside & Associates, Woodstock
Phone: 519-340-2009
Email: pmacintyre@rjburnside.com

Secretary
Wray Wilson
P.O. Box 167
Fordwich, ON N0G 1V0
Email: dsao@dsao.net

January 8, 2022

To: All Drainage Superintendents Association Members

From: DSAO Board of Directors

Just in, great news!!

Dear members,

Please see attached AMO Call to Action – CN Rail and Drainage

DSAO applauds AMO and Minister Lisa M. Thompson for taking a stand and defending the Drainage Act with regards to railroads and drainage in Ontario.

Please read the article below and we encourage all municipalities to send letters as AMO suggests. They have even provided a template letter for ease of use.

This is a positive step in the ongoing railroad issue that has impacted so many of our members.

Sincerely,

Your DSAO Executive

If anyone has any comments or suggestions, please advise asap to your chapter director or to the DSAO secretary.

Call to Action – CN Rail and Drainage

AMO has prepared a template letter (also available for download in .docx format) for municipal Councils that are experiencing issues with drainage maintenance work, construction of new drains, and the collection of assessed costs to Railways for the *Drainage Act*. The template letter, which can be modified by each municipal Council, is intended to amplify support of the Ontario Minister of Agriculture, Food and Rural Affairs (OMAFRA)'s letter dated December 23, 2021. As the Minister states in her letter, "Given that federally regulated railways are indeed subject to the *Drainage Act*, we expect CN Rail to pay its costs as assessed under the *Drainage Act* and not to hinder the progress of these projects or others in the future."

Municipal Councils are encouraged to send the letter to each of the recipients copied in the letter and forward a copy to policy@amo.on.ca.

Template Letter for Municipal Councils

Sent via email to: jeanjacques.ruest@cn.ca

[Date]

Jean-Jacques Ruest
President and Chief Executive Officer
CN Rail
935 de la Gauchetière Street West
Montreal, Quebec, Canada
H3B 2M9

Dear Mr. Ruest,

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Sincerely,

[Head of Council]

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[Hon. Caroline Mulroney](#), Minister of Transportation
[Hon. Steve Clark](#), Minister of Municipal Affairs and Housing

[Local MPP]

[Local MP]