



The Regional Municipality of Halton

Report To:	Regional Chair and Members of Regional Council
From:	Art Zuidema, Commissioner, Legislative and Planning Services
Date:	May 22, 2019
Report No. - Re:	LPS69-19 - Proposed CN Milton Logistics Hub

RECOMMENDATION

1. THAT Halton Regional staff attend and make submissions to the Review Panel as requested by the Review Panel and as further outlined in Report No. LPS69-19 re: "Proposed CN Milton Logistics Hub".
2. THAT the Regional Clerk forward a copy of Report No. LPS69-19 to the City of Burlington, the Town of Halton Hills, the Town of Milton, the Town of Oakville and Conservation Halton, Halton's MPs and MPPs, the Federation of Canadian Municipalities, and the Ontario Ministry of Municipal Affairs and Housing for their information.

REPORT

Executive Summary

- The Canadian National Railway Company ("CN") owns approximately 500 hectares of land in south Milton.
- CN has made several proposals with regard to developing these lands, beginning in 2001 with a proposal to develop an intermodal road to rail facility for containers.
- CN has changed the nature and scope of its intended development with representations made during the Sustainable Halton Official Plan for the development of a rail-serviced industrial park and not an intermodal facility.
- In early 2015 CN made its current proposal for an intermodal facility.
- In 2015 the Canadian Environmental Assessment Agency triggered a Federal Environmental Assessment resulting in the appointment of a Federal Canadian Environmental Assessment Act Review Panel.

- In April 2019 the Review Panel determined that the information it has received to date contains sufficient information to proceed to a public hearing.
- The Review Panel’s public hearing is presently scheduled to take place over an approximate one-month period beginning on June 19, 2019.
- The deadline to provide the Review Panel with a position on the merits of the CN Project is May 29, 2019.
- To address the merits of the Project under Federal Environmental Assessment, the Halton Municipalities must address two fundamental issues at the Review Panel:
 - Is the Project likely to cause any significant adverse environmental effects, taking into account mitigation and cumulative effects?
 - If the Project is likely to cause any significant adverse environmental effects are they justified in the circumstances?
- The Halton Municipalities must also address CN’s requirement for railway line approval under the Canadian Transportation Agency that requires consideration of the “interests of the localities that will be affected by the new railway line.” The CTA approval expands the scope of the “environmental effects” that must be considered and assessed for “significance” under the Federal EA process.
- The Halton Municipalities’ staff and experts are reviewing all of the material submitted to the Review Panel to date and are analyzing the likelihood of any significant adverse environmental effects, taking into account mitigation and cumulative effects of the Project. This work is ongoing and will be complete by the end of May Review Panel deadline.
- The impact of the Project is likely to be exacerbated as the ultimate capacity of the Project has not been put forward by CN to the Review Panel. The Halton Municipalities have, through an international expert in intermodal design, provided the Review Panel with information that demonstrates that the footprint of the Project could handle more than 1 million containers annually, compared to the 450,000 that CN has proposed as an annual volume.
- This report provides an update on the Project, the Review Panel process and the Halton Municipalities’ participation to date, including information about next steps.

Prior Council Reports

Regional Council has received reports about the various activities proposed by CN on property it owns in south Milton on several occasions over the years, including through the following public reports:

- Report PPW-49-01, dated March 8, 2001;
- Report CA-21-02, dated May 8, 2002;
- Report CA-63-03, dated November 4, 2003;
- Report LPS68-15, dated May 27, 2015;
- Report LPS75-15, dated June 17, 2015;
- Report LPS54-17, dated May 17, 2017.

In addition, Council has received several confidential briefings throughout this time.

CN's 2001 and 2008 Proposals

CN has assembled approximately 500 hectares of land in south Milton. The first proposal made by CN to develop this land holding was in 2001, with a proposal to develop an intermodal road to rail facility for containers. Halton addressed this proposal through a series of confidential reports but the proposal was ultimately abandoned by CN.

In 2008, through CN's participation in the Sustainable Halton official plan exercise, CN made representations to Council that it planned to develop a rail-served industrial park - employment lands that are directly accessible by rail, not an intermodal facility. Council relied on these representations to bring these CN lands into Halton's planning vision set out in Regional Official Plan Amendment 38 (Sustainable Halton).

CN's 2015 Proposal – Commencement of the CEEA/CTA Process

In 2015 CN made its current proposal to develop a logistics hub on approximately 160 hectares of land around its existing mainline rail east of Tremaine Road and South of Britannia Road in the Town of Milton. The Project includes a new mainline rail to double track the existing line and adds over 20 km of new rail yard track. The project also includes truck cargo loading and unloading and is projected to generate up to 1600 truck trips per day. As noted, this proposal was for an intermodal facility, not a rail-served industrial park.

Initially, CN proposes annual container throughput of 350,000 containers per year, with plans to grow this annual throughput to 450,000 containers. This compares with CN's much smaller site in Brampton that has an annual throughput of approximately 1 million containers annually.

Since the CN proposal was made in 2015, the Halton Municipalities have been engaged in providing comments on the proposed project to the Federal Minister of the Environment. In early 2015 the Halton Municipalities urged the Canadian Environmental

Assessment Agency and the Federal Minister of the Environment to agree that an environmental review process should be undertaken and that a joint federal municipal review panel should be appointed. This was in contrast to CN's position which was that no approvals whatsoever were required for this project.

Following the submission of the Halton Municipalities, the Federal Minister of the Environment referred the environmental assessment of the proposed Milton Logistics Hub Project to a review panel under section 38 of the *Canadian Environmental Assessment Act, 2012* (the "CEAA").

The final Environmental Impact Statement was issued by the Federal Minister of the Environment to CN on July 20, 2015 and identifies Valued Components of the biophysical and human environment. The term "Valued Components" refers to the environmental features that could be affected by the Project and includes their role in the ecosystem as well as the value people place on them.

As part of its mandate, and pursuant to the CEAA, the Review Panel is to assess potential significant adverse environmental effects of the proposal, taking into account mitigation and cumulative effects.

On December 6, 2016, a three member panel was appointed jointly by the Federal Minister of the Environment and Climate Change and the Chair of the CTA Agency to review the proposed Milton Logistics Hub Project (the "Review Panel"). The Review Panel has a comprehensive website, found at <https://www.ceaa-acee.gc.ca/050/evaluations/proj/80100?culture=en-CA>.

The Review Panel was established by a joint agreement between the Federal Minister of Environment and Climate Change and the Chair of the CTA Agency that contains terms of reference including "the interests of the localities that will be affected by the line" and its mandate is to:

1. Review the Project in a manner consistent with the CEAA; and
2. Allow the CTA Agency to gather information and views concerning the location of the new railway lines, to support an eventual determination under section 98 of the CTA.

Of note, on April 25, 2019 the Review Panel wrote to invite the Halton Municipalities to attend the public hearing and to present views and analysis to the Review Panel in relation to the Project, including a technical review of the potential environmental effects, proposed mitigation measures and follow-up programs and other relevant information and recommendations, particularly in the areas of municipal interests and standards in water, natural heritage, transportation, agriculture, residential and employment matters.

The Halton Municipalities' Participation in the CEAA/CTA Process to Date

As noted, there have been several updates provided to Council with the latest being in LPS54-17 re: "Update on CEAA Panel for the CN Milton Logistics Hub" that was considered by Regional Council in May 2017. Over the past 2 years the Halton Municipalities have been focused on analyzing whether CN has submitted sufficient information as noted below.

In order to carry out this work, experts in the following areas are engaged:

- Transportation Facility Engineering (intermodal facility design & operation);
- Road Safety;
- Road Servicing & Design;
- Geotechnical Issues;
- Financial Impacts – Transportation;
- Transportation Planning;
- Municipal Finance;
- Growth Management and Economic & Demographic Forecasting;
- Land Use Planning;
- Water and Wastewater Servicing;
- Water Impacts;
- Ecology;
- Natural Heritage;
- Archeology;
- Cultural Heritage;
- Air Quality Impacts;
- Air & Human Health;
- Light;
- Noise Impact & Vibration;
- Risk Assessment; and
- Agriculture.

Since the consideration of LPS54-17, the Review Panel has continued its Information Requests that began in the spring of 2017 and as CN responded to the IRs, the Halton Municipalities, with assistance from its technical experts, provided comment to the Review Panel on the sufficiency of CN's responses to the IRs and made recommendations about additional information the Review Panel should require from CN in the form of Sufficiency Briefs. There have been at least 4 such submissions by the Halton Municipalities between May 2018 and April 2019. The Review Panel has engaged and has asked CN for further information.

In addition to the Sufficiency Briefs, the Halton Municipalities provided the Review Panel with comments it requested in regard to CN's responses on the topic of the ultimate/maximum capacity of the proposed logistics hub. The most recent comments on

this topic are contained in a report dated April 8, 2019 by John Vickerman of Vickerman & Associates, an international expert in intermodal facility design, which is posted on the Review Panel website.

Using a methodology applied to more than 200 port and intermodal facilities in North America and overseas, the Vickerman Report conservatively calculates the capacity of the proposed CN Milton Logistics Hub under different scenarios. Each scenario applies progressive adjustments to CN's proposed planning design and operations and concludes that the capacity of the Project could be readily increased within the same terminal footprint and without major changes in yard equipment from the proposed volume of 450,000 containers annually to a volume of approximately 1 million container lifts annually. The Vickerman Report also concludes that within its 160 hectare footprint, a re-design of the Project to include current technologies could allow the facility to reach an annual capacity of considerably more than 1 million containers. It is notable that CN has provided information that its Brampton intermodal terminal is approximately 50% smaller in area than the footprint of the Project and it handles approximately 1 million containers a year.

The conclusions in the Vickerman Report are important as CN has based all of its predictions about cumulative effects on 450,000 containers annually and has not provided any information on predicted effects, project or cumulative, using the ultimate/maximum capacity as requested by the Review Panel. The Halton Municipalities' experts are currently carrying out such analysis.

Next Steps – the Review Panel Report

The Review Panel public hearing is scheduled to begin June 19, 2019 for an approximate one-month period at the Holiday Inn Express & Suites at 2750 High Point Drive in Milton.

Written submissions to support technical presentations at the Review Panel hearing must be submitted to the Review Panel by May 29, 2019. It is anticipated that these submissions by the Halton Municipalities will take the form of a written submission on the merits of the project within the context of the Review Panel's work, focusing in on significant adverse environmental effects, considering both mitigation and cumulative effects. A further report will be brought forward to Council in June to provide an update about the work done and conclusions reached by the technical experts and the contents of the technical submissions provided to the Review Panel.

The presentations by the technical experts may also be supported by electronic presentations and visual aids, which must be submitted to the Review Panel by June 16, 2019.

In addition to the written submissions to support the technical presentations, it is anticipated that a written legal submission brief will also be submitted to the Review Panel on behalf of the Halton Municipalities.

Once the public hearings are complete, the Review Panel will prepare a report of its rationale, conclusions and recommendations, including any mitigation measures and follow-up programs and will submit the report to the federal Minister of the Environment.

The Minister will make the report public and make a determination about whether or not the Project is likely to cause significant environmental effects. Any such decision is required to take into account all mitigation within the authority of the Federal government to implement. If the Minister concludes that even with effective and enforceable mitigation, the Project is likely to cause any significant adverse environmental effects, the Minister must refer the EA to the federal cabinet for a decision on whether they are justified in the circumstances.

The CEAA process concludes when the Minister issues a decision statement on the project consistent with any cabinet decision.

FINANCIAL/PROGRAM IMPLICATIONS

The approved budget for project T5215B includes sufficient finding for participation in the Review Panel process.

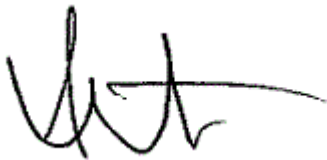
Respectfully submitted,



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Art Zuidema
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Approved by



Jane MacCaskill
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If you have any questions on the content of this report,
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Attachments: None