

Provincial Officer's Order

Environmental Protection Act, R.S.O. 1990, c. E.19 (EPA)
Ontario Water Resources Act, R.S.O. 1990, c. O.40 (OWRA)
Pesticides Act, R.S.O. 1990, c. P.11 (PA)
Safe Drinking Water Act, 2002, S.O. 2002, c.32 (SDWA)
Nutrient Management Act, 2002, S.O. 2002, c.4 (NMA)

Order Number
1356-A4LJSA

Incident Report No.
0673-9DER2V

To: Canadian National Railway Company
1 Administration Rd
Vaughan, Ontario, L4K 1B9
Canada

Site: Hornepayne Yard
Hornepayne, District of Algoma

Pursuant to my authority under EPA Section 157, I order you to do the following:

Work Ordered

Item No. 1	Compliance Date	2016/06/03
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By June 3, 2016, Canadian National Railway Company shall submit a completed Environmental Compliance Approval Application for the impacted soil processing/treatment waste disposal facility located at this site. This application must be completed and submitted in accordance with the Ministry of Environment and Climate Change publication entitled "Guide to Applying for an Environmental Compliance Approval". The application is to be made to the Director of the Environmental Assessment and Approvals Branch, 2 St.Clair Avenue West, Floor 12A, Toronto, Ontario, M4V 1L7. This Application for Approval shall be completed and submitted with the appropriate fee and a copy of this Order.

Item No. 2	Compliance Date	2016/06/07
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By June 3, 2016, Canadian National Railway Company shall provide the undersigned Provincial Officer (70 Foster Drive, Suite 110, Sault Ste. Marie, Ontario P6A 6V4) with a copy of the completed application, as outlined in Work Item #1.

- A. While this Order is in effect, a copy or copies of this order shall be posted in a conspicuous place.

- B. While this Order is in effect, report in writing, to the District or Area office, any significant changes of operation, emission, ownership, tenancy or other legal status of the facility or operation.
- C. Unless otherwise specified, all requirements of this Order are effective upon service of this Order.

This Order is being issued for the reasons set out in the annexed Provincial Officers Report which forms part of this Order.

Issued at Sault Ste. Marie this 25th day of November, 2015.



Kirk Crosson
Badge No: 253
Sault Ste. Marie Area Office
Tel: (705) 942-6392

REQUEST FOR REVIEW

You may request that this Order be reviewed by a Director.

Your request must be made (i) in writing (or if made orally, with written confirmation) and (ii) served on the Director at the address below within seven (7) calendar days after being served with a copy of this Order.

In the written request or written confirmation of an oral request, you must include:

- (a) the portions of the Order in respect of which the review is requested;
- (b) any submissions that you wish the Director to consider; and
- (c) an address for service to be used by the Director.

In response to your request for review, the Director may confirm, alter or revoke this Order and will serve you with a copy of the Director's decision or Order.

A request for review does not automatically stay this Order. If you wish to have the Director stay the Order you must also include this in your request and the Order is not stayed unless the Director makes an order granting a stay.

DEEMED CONFIRMATION OF THIS ORDER

If you do not receive oral or written notice of the Director's decision on your request for review within (7) calendar days of receipt of your request, and the Director has not stayed the Order, this Order shall be deemed to be confirmed by order of the Director and deemed to be served upon you.

In the case of a deemed confirmation, you may require a hearing before the Environmental Review Tribunal (Tribunal), if, within fifteen (15) calendar days from the deemed date of service of the Director's order, you serve written notice of your appeal on the Tribunal and the Director. Your notice must state:

- (a) the portion(s) of the Order in respect of which the hearing is required; and
- (b) the grounds on which you intend to rely at the hearing.

Except with leave of the Tribunal, you are not entitled to appeal a portion of the Order or to rely on a ground that is not stated in the notice requiring the hearing. Unless stayed by the Tribunal, the Order remains in effect from the date of service.

Written notice requiring a hearing can be served upon:

The Secretary
Environmental Review Tribunal
655 Bay Street, 15th Floor
Toronto ON
M5G 1E5
Fax: (416) 326-5370
Email: ERTTribunalsecretary@ontario.ca

and

Director
Ministry of the Environment and Climate Change
Sudbury District Office
1201-199 Larch St
Sudbury ON P3E 5P9
Fax: (705) 564-4180
Tel: (705)564-3237

Further information on the Tribunal and requirements for an appeal can be obtained directly from the Tribunal by:

Tel: (416) 212-6349 or 1(866) 448-2248
TTY 1-800-855-1155 via Bell Relay

Fax: (416) 326-5370 or 1(844) 213-3474
Web: www.ert.gov.on.ca

FOR YOUR INFORMATION

The following is for your information:

Service of the documentation referred to above can be made personally, by mail, by fax, by commercial courier or by email in accordance with the legislation under which the Order is made and any corresponding Service Regulation. Further information can be obtained from e-Laws at www.e-laws.gov.on.ca. Please note that choosing service by mail does not extend any of the above mentioned timelines.

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Unless stayed, this Order is effective from the date of service. Non-compliance with the requirements of this Order constitutes an offence.

The requirements of this Order are minimum requirements only and do not relieve you from complying with the following:

- (a) any applicable federal legislation,
- (b) any applicable provincial legislation or requirements that are not addressed in this Order, and
- (c) any applicable municipal law.

The requirements of this Order are severable. If any requirement of this Order or the application of any requirement to any circumstances is held invalid, the application of such requirement to other circumstances and the remainder of the Order are not affected.

Further orders may be issued in accordance with the legislation as circumstances require.

The procedures and other information provided above are intended as a guide. The legislation and or regulations should be consulted for additional details and accurate reference.

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Provincial Officer's Report

Order Number
1356-A4LJSA

Canadian National Railway Company
1 Administration Rd
Vaughan, Ontario, L4K 1B9
Canada

Site

Hornepayne Yard
Hornepayne, District of Algoma

Observations

On 2013/09/10, I visited the above site(s) and made the following observations:
During this site inspection, it was noted that a hydrocarbon impacted soil processing/treatment area has been established beyond the east end industrial sewage treatment works of the CN Hornepayne yard. It was noted that the soil treatment area consisted of a non-permeable liner and had a holding capacity of 13,600 m³. This waste processing/treatment facility did not have an Environmental Compliance Approval (ECA).

On December 31, 2013, the Inspection Report, the lab results for the industrial sewage works, the EASR and well fact sheet information were mailed to the site owner and the consultant. Within this report the company was requested to submit an ECA application for the soil processing/treatment waste disposal site by July 29, 2014. On March 20, 2014, the consultant requested an extension for the date of submission and a new date of October 20, 2014, was identified. On December 1, 2014, the company and the consultant were emailed requesting an update on the applications for this site. On December 2, 2014, the consultant provided an update on actions taken in preparation for the applications. On February 18, 2015, the consultant was contacted and requested to provide estimated submission dates, by March 4, 2015. At this time, it was noted that CN staff were very involved in a major spill event. On August 13, 2015, company staff provided a general update on several outstanding issues at the site, which included a comment in which they did not think they needed an approval for this waste site. On August 14, 2015, it was requested that the impacted soil waste treatment/processing site Approval Application be submitted by October 22, 2015. As the application has not been submitted as

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requested. this order is being issued to the company.

Offence(s)

Suspected Violation(s)/Offence(s):

Act - Regulation - Section,
Description

{General Offence}

1) EPA - 27 (1).

No person shall use, operate, establish, alter, enlarge or extend a waste management system or a waste disposal site except under and in accordance with an environmental compliance approval
{186 (1)}



Kirk Crosson
Provincial Officer
Badge Number: 253
Date: 2015/11/25
District Office: Sault Ste. Marie Area Office

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Provincial Officer's Order

Environmental Protection Act, R.S.O. 1990, c. E.19 (EPA)
Ontario Water Resources Act, R.S.O. 1990, c. O.40 (OWRA)
Pesticides Act, R.S.O. 1990, c. P.11 (PA)
Safe Drinking Water Act, 2002, S.O. 2002, c.32 (SDWA)
Nutrient Management Act, 2002, S.O. 2002, c.4 (NMA)

Order Number
7178-A4LLDN

Incident Report No.
0673-9DER2V

To: Canadian National Railway Company
1 Administration Rd
Vaughan, Ontario, L4K 1B9
Canada

Site: Hornepayne Yard
Hornepayne, District of Algoma

Pursuant to my authority under EPA Section 157, I order you to do the following:

Work Ordered

Item No. 1	Compliance Date	2016/04/11
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By April 11, 2016, Canadian National Railway Company shall complete an Environmental Activity and Sector Registry for the stand-by power system that has been installed at the Hornepayne bunkhouse facility. This submission shall be completed as outlined in the Ministry document "How to register on the Environmental Activity and Sector Registry (EASR)", which is currently located on the following web link:

<https://www.ontario.ca/document/how-register-environmental-activity-and-sector-registry-casr>

Item No. 2	Compliance Date	2016/04/13
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By April 13, 2016, Canadian National Railway Company shall submit to the undersigned Provincial Officer (70 Foster Drive, Suite 110, Sault Ste. Marie, Ontario, P6A 6V4), confirmation that this stand-by power system is registered within EASR.

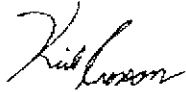
- A. While this Order is in effect, a copy or copies of this order shall be posted in a conspicuous place.
- B. While this Order is in effect, report in writing, to the District or Area office, any significant changes of operation, emission, ownership, tenancy or other legal status of the

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- facility or operation.
- C. Unless otherwise specified, all requirements of this Order are effective upon service of this Order.

This Order is being issued for the reasons set out in the annexed Provincial Officers Report which forms part of this Order.

Issued at Sault Ste. Marie this 27th day of November, 2015.



Kirk Crosson
Badge No: 253
Sault Ste. Marie Area Office
Tel: (705) 942-6392

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Provincial Officer's Report

Order Number
7178-A4LLDN

Canadian National Railway Company
1 Administration Rd
Vaughan, Ontario, L4K 1B9
Canada

Site

Hornepayne Yard
Hornepayne, District of Algoma

Observations

On 2013/09/10, I visited the above site(s) and made the following observations:
The company had established a bunkhouse on Front Street, located opposite to the CN yard, in the Township of Hornepayne, District of Algoma. As part of this 30-room bunkhouse, a stand-by power system was installed. At the time of the inspection, it was indicated to the staff that an Environmental Activity and Sector Registry (EASR) would be required for this installation. During a declared emergency the equipment may be exempt, but for times other than declared emergencies, maintenance and inspections would be required to be registered. On December 31, 2013, an inspection report and EASR fact sheet was sent to the company, requesting this equipment be registered in EASR by April 30, 2014. In an update on March 20, 2014, the consultant indicated that they were working on the issues identified in the inspection report, which included the EASR registration. On May 14, 2014, the update indicated that the company was working on the EASR registration. On December 1, 2014, an update on the requested submission was made to the company and the consultant. On December 2, 2014, it was noted that the EASR was currently on hold as they were locating some information. On February 18, 2015, the consultant was contacted to determine when the submission would be made; but at that time CN staff were in the field working on a spill event. On March 2, 2015, the consultant provided an update informing the Ministry that they were working on the action items, but that the Canadian Revenue Agency number was not working in the EASR registration system. In an email from August 13, 2015, the company indicated that the generator was being used for emergencies only and therefore they would not be registering it. On August 14, 2015, the company was sent a reminder via email, indicating that mostly the stand-by power system would

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be operated outside of declared emergencies (Emergency Management and Civil Protection Act), such as power outages, testing and equipment servicing. The company was requested to make a submission for the stand-by power system, by September 24, 2015. Also included in the email was a telephone number and a help sheet for the registration. The stand-by power system has not been registered in the EASR to date and therefore this order is being issued to the company.

Offence(s)

Suspected Violation(s)/Offence(s):

Act - Regulation - Section,
Description

{General Offence}

1) EPA - 20.21 (1).

Subject to subsections (2) (3) and (4), no person shall engage in an activity at a site if the activity has been prescribed by the regulations for the purposes of this subsection unless: (a) the person has registered the activity in the Registry in accordance with the regulations; (b) the Director has provided the person with a confirmation of registration in respect of the activity; (c) the person engages in the activity in accordance with the regulations; and (d) the registration is not suspended and has not been removed from the Registry.
{186 (1)}



Kirk Crosson
Provincial Officer
Badge Number: 253
Date: 2015/11/27
District Office: Sault Ste. Marie Area Office

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Provincial Officer's Order

Environmental Protection Act, R.S.O. 1990, c.E 19 (EPA)
Ontario Water Resources Act, R.S.O. 1990, c. O. 40 (OWRA)
Pesticides Act, R.S.O. 1990, c. P11 (PA)
Safe Drinking Water Act, S.O. 2002, c.32 (SDWA)
Nutrient Management Act, 2002, S.O. 2002, c.4

Order Number
2607-7PNRQ9

Incident Report No.
0580-7L3MKA

To: Canadian National Railway Company
Post Office Box 1000
1 Administration Rd
Concord, Ontario, L4K 1B9
Canada

Site: Hornepayne Yard
Hornepayne, District of Algoma

Pursuant to my authority under OWRA Section 16, I order you to do the following:

Work Ordered

Item No. 1	Compliance Date	2009/04/17
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By April 17, 2009, the Canadian National Railway Company shall retain the services of a qualified person to prepare a completed application for approval of an Industrial Sewage Works, and submit written notification to the Ministry of the Environment, Sault Ste. Marie Area Office indicating that a qualified person has been retained.

Item No. 2	Compliance Date	2009/06/26
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By June 26, 2009, the Canadian National Railway Company shall submit a completed application for approval of an Industrial Sewage Works, the appropriate fee, and all supporting documentation to the Director of the Environmental Assessment and Approvals Branch, 2 St. Clair Avenue West, Floor 12A, Toronto, Ontario, M4V 1L5 and provide a copy to the undersigned Provincial Officer, all in accordance with the documents entitled:

- a) "Guide for Applying for Approval of Industrial Sewage Works, Section 53, Ontario Water Resources Act R.S.O. 1990, November 1999" Publication 3070e01.
- b) "Application for Approval of Industrial Sewage Works" Publication 3070e03.

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c) "Costs for Ontario Water Resources Act s.53 Applications - Supplement to Application for Approval (November 2004)" Publication 4107e

d) "Guide: Application Costs for Sewage Works. s.53 OWRA" Publication 4180e.

- A. While this Order is in effect, a copy or copies of this order shall be posted in a conspicuous place.
- B. While this Order is in effect, report in writing, to the District or Area office, any significant changes of operation, emission, ownership, tenancy or other legal status of the facility or operation.

This Order is being issued for the reasons set out in the annexed Provincial Officers Report which forms part of this Order.

Issued at Sault Ste. Marie this 20th day of March, 2009.

Blair McLaughlin
Badge No:
Sault Ste. Marie Area Office
Tel: (705) 942-6306

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Provincial Officer's Report

Order Number
2607-7PNRQ9

Canadian National Railway Company
Post Office Box 1000
1 Administration Rd
Concord, Ontario, L4K 1B9
Canada

Site

Hornepayne Yard
Hornepayne, District of Algoma

Observations

On 2008/10/30, I visited the above site(s) and made the following observations:
The purpose of the site visit at the Canadian National Railway (CN), Hornepayne Yard was to inspect two on-site industrial sewage works in order to assess compliance with the Ontario Water Resources Act. The Hornepayne Yard has two separate industrial sewage works in operation, the West End Sewage Works (CoIA #5146-7F2H6J) and the East End Sewage Works, which does not have a certificate of approval. Both systems are for the collection and treatment of diesel contaminated groundwater.

1. Authority to Issue Order

This Order is being issued pursuant to my authority under section 16. (1) (a) of the OWRA which states in part:

16.(1)(a) *A provincial officer may issue an order to any person that the provincial officer reasonably believes is contravening or has contravened,*

(a) a provision of this Act or the regulations;

2. Site Description

Canadian National Railways operates a railyard in Hornepayne, ON. The official site address is 58 Front St. Hornepayne, ON. The railyard is bordered by the Little Jackfish River to the East.

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The east end industrial sewage works was constructed to treat hydrocarbon contaminated groundwater at the yard and once treated, final effluent is discharged into the Little Jackfish River.

3. Summary Of Events Leading To The Order

The sewage works at the East end of the Hornepayne Yard consists of ten groundwater recovery wells, one groundwater interception trench, an oil/water separator discharging to the East end lagoon, which in turn discharges via gravity to the Little Jackfish River. Diesel contaminated groundwater is diverted from the interception trench and recovery wells to the oil water separator. Recovered diesel is diverted to storage tanks and the remaining effluent is diverted to the lagoon for final disposal to the Little Jackfish River. The system is operated seasonally from May to November as weather permits.

Section 53.(1) of the Ontario Water Resources Act (OWRA) states: *"No person shall establish, alter, extend or replace new or existing sewage works except under and in accordance with an approval granted by a Director"*.

The establishment and operation of the sewage works at the East end of the CN Hornepayne Yard is non-compliant with the OWRA Section 53. (1). The establishment of the sewage works undertaken at this facility are subject to the requirement for approval by a Director. To ensure compliance with Section 53. (1) of the OWRA, I believe the requirements of this Order are reasonable and necessary.

Offence(s)

Suspected Violation(s)/Offence(s):

Act - Regulation - Section,

Description

{General Offence}

1) OWRA - 53 (1).

No person shall establish, alter, extend or replace new or existing sewage works except under an approval granted by a Director.

{107 (1)}

Blair McLaughlin
Provincial Officer
Badge Number:
Date: 2009/03/20
District Office: Sault Ste. Marie Area Office

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Ministry of the Environment

Northern Region
Sudbury District Office
Sault Ste Marie Area Office
289 Bay Street, 3rd floor
Sault Ste Marie ON P6A 1W7
Fax: (705)942-6327
Tel: (705) 942-6306

Ministère de l'Environnement

Direction régionale du Nord
Bureau du district de Toronto
289 Bay Street, 3e étage
Sault Ste Marie ON P6A 1W7
Télécopieur: (705)942-6327
Tel:(705) 942-6306



March 20, 2009

Alex Borges
Canadian National Railway Company
1 Administration Rd
Concord, Ontario, L4K 1B9
Canada

Dear Mr. Borges

RE: Provincial Officer's Order # 2607-7PNRQ9
Reference Number 7047-7PNQJK

Enclosed is Provincial Officer's Order # 2607-7PNRQ9. This order has been issued as a result of the industrial sewage inspection that was conducted on October 30th, 2008. The reasons for the order are outlined in the Provincial Officer's Report. Please see page three of the order as it outlines the company's options for an appeal or review of the order.

If you have any questions regarding this order please feel free to contact me via phone (705-942-6306) or e-mail (blair.mclaughlin@ontario.ca)

Yours truly,

Blair McLaughlin
Senior Environmental Officer
Sault Ste. Marie Area Office

File Storage Number: SI AL HP RA 100

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Ministry of the Environment

Ministère de l'Environnement

Ontario

Provincial Officer's Order

Environmental Protection Act, R.S.O. 1990, c.E 19 (EPA)
Ontario Water Resources Act, R.S.O. 1990, c. O. 40 (OWRA)
Pesticides Act, R.S.O. 1990, c. P11 (PA)
Safe Drinking Water Act, S.O. 2002, c.32 (SDWA)
Nutrient Management Act, 2002, S.O. 2002, c.4

Order Number
3412-796PY2

Incident Report No.
4338-795S5Z

To: Canadian National Railway Company
Post Office Box 1000
1 Administration Rd
Concord, Ontario, L4K 1B9
Canada

Site: Hornepayne Yard
Hornepayne, District of Algoma

Pursuant to my authority under OWRA Section 16, I order you to do the following:

Work Ordered

Item No. 1	Compliance Date	2007/12/15
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By December 15, 2007, retain a qualified person to prepare a completed application for approval of an Industrial Sewage Works, and submit written notification to the Ministry of the Environment, Sault Ste. Marie Area Office indicating that a qualified person has been retained.

Item No. 2	Compliance Date	2008/01/31
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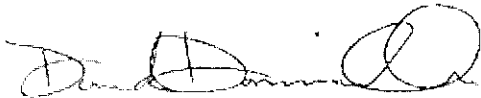
By January 31, 2008, submit a completed application for approval of an Industrial Sewage Works, the appropriate fee, and all supporting documentation to the Director of the Environmental Assessment and Approvals Branch of the Ministry of the Environment, all in accordance with the documents entitled:

- a) "Guide for Applying for Approval of Industrial Sewage Works, Section 53, Ontario Water Resources Act R.S.O. 1990, November 1999" Publication 3070e01.
- b) "Application for Approval of Industrial Sewage Works" Publication 3070e03.
- c) "Costs for Ontario Water Resources Act s.53 Applications - Supplement to Application for Approval (November 2004)" Publication 4107c
- d) "Guide: Application Costs for Sewage Works, s.53 OWRA" Publication 4180e.

- A. While this Order is in effect, a copy or copies of this order shall be posted in a conspicuous place.
- B. While this Order is in effect, report in writing, to the District or Area office, any significant changes of operation, emission, ownership, tenancy or other legal status of the facility or operation.

This Order is being issued for the reasons set out in the annexed Provincial Officers Report which forms part of this Order.

Issued at Sault Ste. Marie this 22nd day of November, 2007.



David Dominelli
Badge No: 1119
Sault Ste. Marie Area Office
Tel: (705) 942-6306

Provincial Officer's Report

Order Number
3412-796PY2

Canadian National Railway Company
Post Office Box 1000
1 Administration Rd
Concord, Ontario, L4K 1B9
Canada

Site

Hornepayne Yard
Hornepayne, District of Algoma

Observations

On 2007/11/14, I visited the above site(s) and made the following observations:
I conducted an inspection at the Canadian National Railway (CN), Hornepayne Yard on November 14, 2007. David Sutherland with CN's Environmental Department, and Tony Gallo, consultant to CN with KGS Group, accompanied me during the inspection. The purpose of the inspection was to observe a sewage works that was constructed, and is operated, at the East end of the Hornepayne Yard for the collection and treatment of diesel contaminated groundwater, in order to assess compliance with the Ontario Water Resources Act.

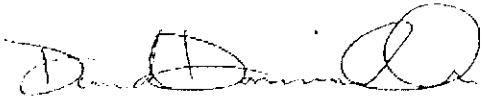
The sewage works at the East end of the Hornepayne Yard consists of ten groundwater recovery wells, one groundwater interception trench, an oil/water separator discharging to the East end lagoon, which in turn discharges via gravity to the Little Jackfish River. Diesel contaminated groundwater is diverted from the interception trench and recovery wells to the oil water separator. Recovered diesel is diverted to storage tanks and the remaining effluent is diverted to the lagoon for final disposal to the Little Jackfish River. Mr. Sutherland indicated that the system is operated seasonally from May to November as weather permits. While the system is operational the Company has the system inspected on a weekly basis and collects samples from both the oil/water separator and lagoon effluent on a monthly basis (when flow present). Samples are analysed for benzene, toluene, ethylbenzene, xylene, total purgeable hydrocarbons, total extractable hydrocarbons, and oil and grease. Logs are maintained onsite of inspections and sample results. A summary of monthly effluent quality from the lagoon and oil/water separator were provided at the time of inspection. Mr. Sutherland indicated that the system was initially established and operational in 1998. The sample analysis and inspection records maintained onsite by CN confirm that the sewage works is operational.

Section 53.(1) of the Ontario Water Resources Act (OWRA) states that "No person shall establish, alter, extend or replace new or existing sewage works except under and in accordance with an approval granted by a Director". Section 53. (5) of the OWRA states that "No person shall use or operate sewage works for which an approval is required under subsection (1) unless the required approval has been granted and complied with". The establishment and operation of the sewage works at the East end of the CN Hornepayne Yard is non-compliant with the OWRA Section 53. (1) and Section 53. (5). The establishment of the sewage works undertaken at this facility are subject to the requirement for approval by a Director. To ensure compliance with Section 53. (1) and Section 53. (5) of the OWRA. I believe the requirements of this Order are reasonable and necessary.

Offence(s)

Suspected Violation(s)/Offence(s):

Act - Regulation - Section,
Description
{General Offence}



David Dominelli
Provincial Officer
Badge Number: 1119
Date: 2007/11/22
District Office: Sault Ste. Marie Area Office

Ministry of the Environment

Northern Region
Sudbury District Office
Sault Ste Marie Area Office
289 Bay Street, 3rd floor
Sault Ste Marie ON P6A 1W7
Fax: (705)942-6327
Tel: (705) 942-6306

Ministère de l'Environnement

Direction régionale du Nord
Bureau du district de Sudbury
Bureau du secteur de Sault Ste Marie
289 Bay Street, 3e étage
Sault Ste Marie ON P6A 1W7
Télécopieur: (705)942-6327
Tél:(705) 942-6306



January 31, 2008

Gordon P. Acton
Wishhart Law Firm
390 Bay Street Suite 500
Sault Ste. Marie. ON P6A 1X2

Alex Borges
Canadian National Railway Company
1 Administration Road
P.O Box 1000
Concord. ON. L4K 1B9
RE: Provincial Officers Order Reference Number 8405-795SRF
Reference Number 8405-795SRF

Dear Mr. Acton.

In letter from yourself dated December 21, 2007, submitted on behalf of Canadian National Railway Company, a commitment was made to address Work Ordered Item 1 from Provincial Officers Order reference number 8405-795SRF, by January 31, 2008. I am writing to inform Canadian National Railway Company and yourself that the Ministry has not yet received confirmation of the retention of a qualified person to prepare a completed application for approval of an Industrial Sewage Works.

As today is January 31, 2008 the Ministry is anticipating confirmation that the Company has followed through with its commitment to retain a qualified person to prepare a completed application for approval of an Industrial Sewage Works. Confirmation can be sent to my attention by fax to 705-942-6327, or by email to david.dominelli@ontario.ca.

If you have any further questions you may contact me by telephone at 705-942-6306.
Yours truly,

A handwritten signature in black ink, appearing to read "David Dominelli".

David Dominelli
Environmental Officer
Sault Ste. Marie Area Office

File Storage Number: SI-AL-HP-RA-410



Ministry of the Environment
Ministère de l'Environnement

Ontario

Provincial Officer's Order

Environmental Protection Act, R.S.O. 1990, c.E. 19 (EPA)
Ontario Water Resources Act, R.S.O. 1990, c. O. 40 (OWRA)
Pesticides Act, R.S.O. 1990, c. P11 (PA)
Safe Drinking Water Act, S.O. 2002, c.32 (SDWA)
Nutrient Management Act, 2002, S.O. 2002, c.4

Order Number
3157-6Q3GGZ

Incident Report No.
3138-6PVDJY

To: Canadian National Railway Company
503 - 277 Front Street West
Toronto, Ontario, M5V 2X7
Canada

Site: 58 Front Street
Hornepayne, District of Algoma

Work Ordered

Item No. 1	Compliance Date	2006/09/01
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This Provincial Officer's Order is issued to Canadian National Railway pursuant to the provisions set out in Section 16 of the Ontario Water Resources Act. I hereby order Canadian National Railway to take all the necessary steps to do or cause to be done the following. By September 1, 2006, submit a completed Application for Approval of Industrial Sewage Works. This application must be completed and submitted in accordance with the Ministry of Environment publication entitled Guide for Applying for Approval of Industrial Sewage Works, as prepared by Environmental Assessment and Approvals Branch and dated November 1999. The application is to be made to the Director of the Environmental Assessment and Approvals Branch. This application shall be for Industrial Sewage Works at the East end of the Hornepayne Canadian National Railway Yard.

- A. While this Order is in effect, a copy or copies of this order shall be posted in a conspicuous place.
- B. While this Order is in effect, report in writing, to the District or Area office, any significant changes of operation, emission, ownership, tenancy or other legal status of the facility or operation.

This Order is being issued for the reasons set out in the annexed Provincial Officers Report which forms part of this Order.

Issued at this day of . .

Badge No:

Tel:

Ministry of the Environment

Northern Region
Sudbury District Office
Sault Ste Marie Area Office
289 Bay Street, 3rd floor
Sault Ste Marie ON P6A 1W7
Fax: (705)942-6327
Telephone: (705)942-6392

Ministère de l'Environnement

Direction régionale du Nord
Bureau du district de Sudbury
Bureau du secteur de Sudbury
289 Bay Street, 3e étage
Sault Ste Marie ON P6A 1W7
Télécopieur: (705)942-6327
Téléphone : (705)942-6392



May 23, 2006

Canadian National Railway Company
503 - 277 Front Street West
Toronto, Ontario, M5V 2X7
Canada

RE: 58 Front Street
Hornepayne, District of Algoma

Reference Number 8713-6Q3GDD
Information faxed to (905)760-3406

Dear Mr. David Sutherland

I am sending you a draft of the Provincial Officer's Order for the Industrial Sewage Works on the East End of the Hornepayne Canadian National Railway Yard. Please review this draft and supply comments, if any, by June 19, 2006.

Yours truly,

Kirk Crosson
Senior Environmental Officer
Sault Ste. Marie Area Office

File Storage Number: ALHIP RA 230



Ministry of
the Environment
Ministère de
l'Environnement

Ontario

Provincial Officer's Report

Order Number
3157-6Q3GGZ

Canadian National Railway Company
503 - 277 Front Street West
Toronto, Ontario, M5V 2X7
Canada

Site

58 Front Street
Hornepayne, District of Algoma

Observations

On 2006/04/20, I visited the above site(s) and made the following observations:

I was on site in response to a complaint of a diesel fuel sheen on the Jackfish River. I observed a sheen in a boomed off area in front of Lagoon #2 in the Jackfish River. In a file review I did not find a Certificate of Approval for this Industrial Sewage Works at the East End of this yard. In conversation with CN staff, they have indicated that there is no Certificate of Approval for this Industrial Sewage Works at the East End of the yard..

I noted that in 1998 a Certificate of Approval (4-0052-98-006) was issued for an Industrial Sewage Works at the west end of the yard relating to Lagoon #5 and an oil/water separator system.

Offence(s)

Suspected Violation(s)/Offence(s):

Act - Regulation - Section,
Description

{General Offence}

1) OWRA - 53 (1).

No person shall establish, alter, extend or replace new or existing sewage works except under an approval granted by a Director.
{107 (1)}

Provincial Officer
Badge Number: Not Determined

Date:
District Office:

ALHPRA 230
110
East o/w/s



Operations

Great Lakes

P.O Box 1000
Concord, Ontario
L4K 1B9

Date/date : June 19, 2006

To: Kirk Crosson. MOE Northern
Destinataire : Ontario

From: David Sutherland, CN Rail
Expéditeur :

Fax No.: 705-942-6327
Télécopieur :

Fax No.:
Télécopieur:

Tel.:
Téléphone :

Tel.: 905-669-3377
Téléphone :

Number of pages, including this one: 5
Nombre de pages, couverture comprise :

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Kirk

If the email does not arrive, here is a fax copy

David

Memorandum



June 16, 2006

Kirk Crosson
Senior Environmental Officer
Ministry of the Environment
Northern Region
Sudbury District Office
289 Bay St., 3rd Floor
Sault Ste. Marie, ON P6A 1W7

Dear Mr. Crosson:

**Subject: Reply to draft Provincial Officer's Order – CN Rail
 Yard, Hornepayne**
Reference No. 8713-6Q3GDD
File Storage No.: AL HP RA230

Thank you for your letter of May 23, 2006, enclosing a draft of your Provincial Officer's Order for the Industrial Sewage Works on the East End of the Hornepayne Canadian National Railway Yard. On the face of your Report and draft Order there is reference No. 3157-6Q3GGZ; in the text of your report you refer to a 1998 issuance of a Certificate of Approval (4-0052-98-006) issued for distinct Industrial Sewage Works at the west end of the yard relating to Lagoon #5 and oil/water separator system. The focus of your present Report and the proposed or draft Order, however, is in respect of Lagoon #2, and what you have described as the related Industrial Sewage Works at the east end of the rail yard actively operated by the Canadian National Railway Company as a part of its federally governed integrated railway operations.

CN has a recovery system in respect of the east end which discharges water to Lagoon #2, wholly located on CN lands and property, which in turn discharges into the Jackfish River. The construction of this lagoon predated the provincial regulations requiring any Certificate of Approval. The discharge systems do not discharge directly off CN's land or property, but, as noted, into the lagoon on CN property.

This is different from the system associated with the west end recovery and discharges, which west end system discharges directly off CN property. Therefore a Certificate of Approval was obtained in that case, but the east end recovery system is different. Nonetheless, the same conditions outlined in the Certificate of Approval for the west end recovery system are being complied with at the east end system.

You have asserted that there has been an alteration to the discharge from the Lagoon #2 at the east end by including further clean discharge from the recovery system, that is, treated groundwater.

We do not believe that adding treated groundwater to the water in Lagoon #2 constitutes an alteration of an existing sewage works. This treated water is not being further treated in the existing Lagoon #2 prior to discharge off CN's lands and property, and into the river; the addition of "clean" water to the lagoon is no more an alteration than if a rain event happens or there is added surface water runoff into the lagoon.

Your draft letter makes reference to a sheen noticed on the Jackfish River this year; as you know this is not from the recovery system in question, and is not pertinent to the matters reported or discussed in your draft Order.

It is clear that there are no exceedances in relation to CN's discharge from Lagoon #2, and there is ongoing monthly monitoring of this.

The weir system of the lagoon is unchanged. The diesel shop use has ended. All that is in question, it appears, is some additional volume of treated water flowing into the lagoon. As we say, this does not warrant or require application for a Certificate of Approval as there has been no alteration of the system. There has been no material change to the existing system, and no identifiable change in risk to the environment and there has been consistent co-operation with your Ministry as to the sharing of information and observance of monitoring arrangements.

In this context, therefore, and upon reflection, we vigorously suggest to you that there should be no draft Order issued.

Your draft Order anticipates various steps to be taken to fill in an application, and there is a request for a report, in the interim, of "any significant changes of operation, emission, ownership, tenancy or other legal status of the facility or operation". There is no reason to believe that our current co-operation in respect of all of these matters would not continue, and no Order is necessary for that.

CN is planning to upgrade the east end system this year. Estimates are being considered for the change of the discharge of the cleaned, treated groundwaters back into groundwater in the yard within the confines of CN's own property, instead of discharging it into the lagoon, although this may be a less attractive option in some respects; nonetheless, it is clear that such an alteration of the system internal to the yard, and not involving discharge beyond CN's property, would not be within the scope of your jurisdiction, and would not require application for a Certificate of Approval.

We encourage you, accordingly, to reconsider your position and that of the Ministry, and request that no Order issue as you propose. On reflection, I believe that you will find that the circumstances of the present operation of the systems associated with Lagoon #2 and the discharge from Lagoon #2, do not offend or bring into question the application of the OWRA – Section 53(1) General Offence reference that you have cited in your Report, which you have anticipated shall form part of your draft Order. CN denies that it is in breach of its legal obligations.

This writer invites you to further discuss the matter with the undersigned.

Yours truly,

David Sutherland
Environment Officer – Great Lakes
Canadian National
905-669-3377