

## Certificate of Service

Environmental Protection Act s.175(1)(b)  
Ontario Water Resources Act s. 115(1)(b)  
Pesticides Act s.51(1)(b)  
Safe Drinking Water Act, 2002 s.159(3)  
Nutrient Management Act, 2002, S.O. 2002, c.4

I, David Dominelli, a designated Provincial Officer under the Environmental Protection Act, Ontario Water Resources Act, Pesticides Act, Safe Drinking Water Act, and the Nutrient Management Act, certify that I served a true copy of this Provincial Officer's Order, order number: 3412-796PY2 on the following person(s) or company ordered in the manner indicated.

### SERVICE DECLARATION

**Person/Company**

Canadian National Railway Company

**Address**

Post Office Box 1000  
1 Administration Rd  
Concord Ontario  
Canada  
L4K 1B9

**Left With**

Mailed to the attention of David  
Sutherland

**Position**

Environmental Officer

**Date of Service**

2007/11/23

**Method of Service**

- By Hand  
 Mail  
 Fax

November 23, 2007



David Dominelli  
Provincial Officer  
Badge No. 1119  
Sault Ste. Marie Area Office



Ministry of  
the Environment  
Ministère de  
l'Environnement

Ontario

# 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

TRANSMISSION VERIFICATION REPORT

TIME : 01/31/2008 11:35  
NAME : MIN OF ENV SSMARIE  
FAX : 7059426327  
TEL : 7059426354  
SER. # : 000000008174

DATE, TIME	01/31 11:35
FAX NO. /NAME	919057603406
DURATION	00:00:28
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM



Ministry of the Environment/Ministère de  
l'environnement  
Sault Ste. Marie Area Office/Bureau du secteur de Sault  
Ste. Marie  
289 Bay Street, 3<sup>rd</sup> Floor/289, rue Bay, 3<sup>ème</sup> étage  
Sault Ste. Marie ON  
P6A 1W7



**SAULT STE. MARIE**

**AREA OFFICE -**

**TELECOPIER TRANSMITTAL**

TO: NAME: GORDON P. ACTON FAX# 705-949-2465  
ALEX BORGES 905-760-3406  
COMPANY:

FROM: NAME: DAVID DOMINELLI FAX# 705-942-6327

SUBJECT: DECEMBER 21, 2007 LETTER FROM  
MR. ACTON;

DATE: JANUARY 31/08 # PAGES: 3  
(including cover page)

MESSAGE:

002048

TRANSMISSION VERIFICATION REPORT

TIME : 01/31/2008 11:34  
NAME : MIN OF ENV SSMARIE  
FAX : 7059426327  
TEL : 7059426354  
SER. # : 000000008174

DATE, TIME	01/31 11:31
FAX NO./NAME	99492465
DURATION	00:02:30
PAGE(S)	03
RESULT	OK
MODE	STANDARD



Ministry of the Environment/Ministère de  
l'environnement  
Sault Ste. Marie Area Office/Bureau du secteur de Sault  
Ste. Marie  
289 Bay Street, 3<sup>rd</sup> Floor/289, rue Bay, 3<sup>ème</sup> étage  
Sault Ste. Marie ON  
P6A 1W7



**SAULT STE. MARIE**

**AREA OFFICE -**

**TELECOPIER TRANSMITTAL**

TO: NAME: GORDON P. ACTON FAX# 705-949-2465  
ALEX BORGES 905-760-3406  
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FROM: NAME: DAVID DOMINELLI FAX# 705-942-6327

SUBJECT: DECEMBER 21, 2007 LETTER FROM

MR. ACTON;  
DATE: JANUARY 31/08 # PAGES: 3  
(including cover page)

MESSAGE:

PLEASE FIND THE ATTACHED LETTER



**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", written over a horizontal line.

David Dominelli

Enviromental 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  
3412-796PY2

Incident Report No.  
4338-795 S5Z

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

<b>Item No. 1</b>	<b>Compliance Date</b>	2007/12/15 (YYYY/MM/DD)
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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.

<b>Item No. 2</b>	<b>Compliance Date</b>	2008/01/31 (YYYY/MM/DD)
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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 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 22nd day of November, 2007.



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

## APPEAL/REVIEW INFORMATION

### REQUEST FOR REVIEW

You may request that this order be reviewed by the Director . Your request must be made in writing (or orally with written confirmation) within seven days of service of this order and sent by mail or fax to the Director at the address below . In the written request or written confirmation you must ,

- specify the portions of this order that you wish to be reviewed ;
- include any submissions to be considered by the Director with respect to issuance of the order to you or any other person and with respect to the contents of the order ;
- apply for a stay of this order, if necessary; and provide an address for service by one of the following means :
  1. mail
  2. fax

The Director may confirm, alter or revoke this order . If this order is revoked by the Director , you will be notified in writing . If this order is confirmed or amended by order of the Director , the Director's order will be served upon you . The Director's order will include instructions for requiring a hearing before the Environmental Review Tribunal .

### DEEMED CONFIRMATION OF THIS ORDER

If you do not receive oral or written notice of the Director 's decision within seven days of receipt of your request , this order is deemed to be confirmed by order of the Director and deemed to be served upon you .

You may require a hearing before the Environmental Review Tribunal if , within 15 days of service of the confirming order deemed to have been made by the Director , you serve written notice of your appeal on the Environmental Review Tribunal and the Director. Your notice must state the portions of the order for which a hearing is required and the grounds on which you intend to rely at the hearing . Except by leave of the Environmental Review Tribunal , you are not entitled to appeal a portion of the order or to rely on grounds of appeal that are not stated in the notice requiring the hearing . Unless stayed by the Environmental Review Tribunal , the order is effective from the date of service .

Written notice requiring a hearing must be served personally or by mail upon :

The Secretary	and	Director (Provincial Officer Orders)
Environmental Review Tribunal		Ministry of the Environment
P.O. Box 2382		Sudbury District Office
2300 Yonge Street, Suite 1700		1201-199 Larch St
Toronto, ON M4P 1E4		Sudbury ON P3E 5P9
		Fax: (705)564-4180
		Tel: (705)564-3237

Where service is made by mail, it is deemed to be made on the fifth day after the date of mailing and the time for requiring a hearing is not extended by choosing service by mail .

Further information on the Environmental Review Tribunal 's requirements for an appeal can be obtained directly from the Tribunal by:

Tel: (416) 314-4600

Fax: (416) 314-4506

[www.crt.gov.on.ca](http://www.crt.gov.on.ca)

### FOR YOUR INFORMATION

- Unless stayed by the Director or the Environmental Review Tribunal , 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 :
  - any applicable federal legislation ;
  - any applicable provincial requirements that are not addressed in the order ; and
  - 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 circumstance 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 to request a review by the Director and other information provided above are intended as a guide . The legislation should be consulted for additional details and accurate reference .