

Closing Remarks to the Review Panel on the Milton Intermodal

Shipping and Chamber of Commerce arguments on the economic benefits of the Intermodal

Various shipping companies and Chamber of Commerce organizations who have presented, have shared the same message to the Review Panel, which can be summarized simply as the positive economic benefits of the intermodal hub. However, I believe that the benefits of the intermodal should only be considered if we also consider CN's profit-driven business needs, the revenue it generates, the resources at its disposal, and most importantly the option of CN to request approval for more intermodals at other locations throughout Ontario that can still meet their business needs.

The economic benefits that both shipping companies and chamber of commerce explain in their presentation would still be applicable for each additional intermodal that CN manages to get approval from the federal government. But this is true for any other business. For example, now that Cannabis is legal in Ontario, each Cannabis store that opens up would be economically beneficial to the company who is trying to open up as much stores as they are approved for across Ontario. However, when approving such a store, the economic benefits are not relevant when assessing its appropriateness at each location it requests approval for. I would hope that the applicable Review board/authority would agree that a Cannabis store should not be approved to be located right beside an elementary school and that the economic benefit of that store is not relevant because that store can exist elsewhere and still grant that same economic benefit but at a more suitable location.

Therefore, the economic benefit is tied to having an intermodal, but not directly tied to the specific location in South Milton. For this reason, the Review Panel should not see the rejection of the intermodal at the Milton location as a negative outcome that would weigh heavily in their decision because this economic benefit would still exist if CN were to be approved for an intermodal in another location, whether it be west of the Milton site, or even just east of Toronto to service the demand that appears to exist more heavily in that area. When assessing the amount of revenue and capital at their disposal, it's not unreasonable to assume that they likely possess unused land, and are capable of acquiring more land to further their business needs, be it intermodal, railway switching stations, yards, or storage stations, which they have successfully been doing and presumably continue to do.

In addition, the Review Panel is tasked to consider not about having an intermodal but an intermodal at this specific location. Therefore, the argument on the economic benefits are not relevant, because we are not talking about whether CN are allowed to have an Intermodal anywhere vs. none at all. If this was the case, then the economic argument would apply. However, it's about having an intermodal at this specific location, but this does not stop CN from gaining economic benefit from obtaining approval for more intermodals elsewhere, regardless of the success or failure to get approval at this location.

CN's argument on the environmental benefits of the Intermodal

The other benefit often touted by CN is the environmental benefits of having an intermodal. However, once again this argument is less relevant because this same environmental benefit would exist if the intermodal was located, for example between Milton and Guelph, or if it was located at Pickering, Oshawa, etc. Using a similar reasoning described above, this is not about having an intermodal or none at all, it's about having an intermodal at South Milton.

CN touts removing many trucks from the road with an intermodal at Milton, but those trucks would also be removed if it was located west or east of Milton. In addition, if trucks are going to idle inside Milton due to traffic congestion on local arterial roads before even getting into the highway, then the emissions generated would minimize the benefit if the hub would just be built farther away. For example, if it takes 50 min for trucks to get out of Milton due to traffic, vs. an intermodal located right beside the 401 highway but 50 min west, then there is very little difference on the amount of total emissions produced. However, the greater difference would be the negative impact of those diesel particulate matter on the community due to the Milton location compared to the lower impact if it was farther away from communities and near a highway.

Also, CN claims that trucks have little impact to Milton communities, however, based on this line of reasoning, those same trucks should also have little impact if intermodal built elsewhere, or not built at all.

CN's argument on the urgency of the Intermodal at Milton

One argument made was the urgency of building the hub at this location as soon as possible because the Brampton Intermodal is at full capacity.

There should be no weight placed on this argument when arriving at a decision to approve or reject the intermodal in Milton. As a profit-driven business, CN should be responsible for effectively planning their business needs to acquire suitable land ahead of time, and having contingency plans in case their original plans fail, to handle their operations. The Town of Milton and surrounding communities should not shoulder the negative risks that result from CN's inability to plan ahead of time to secure an intermodal location. If having an intermodal is so important to CN, then they should take actions to meet those goals by acquiring land in other places and seeking approval in those places, rather than relying on approval for an intermodal at a location which is not suitable. If the intermodal is so crucial to their business, then I would expect that they would have numerous applications for approval but why is there only one application for an intermodal? As an analogy, a person desperate for money should send out multiple resumes for jobs, attempt to acquire more skill, rather than just sending out a single resume and pushing that business to hire them.

The counter-argument of CN not currently having other suitable land for an intermodal is not valid, because we do not know how hard they tried to acquire those lands, how far they looked, and how willing they are to spend appropriately for those lands. Halton should not have to make a sacrifice of having this intermodal in this unacceptable location in South Milton just because CN may not have done their job adequately to acquire those lands in the past, or

willing to pay the necessary amount to acquire lands elsewhere, or make proper plans to seek other locations.

As Greg Gormick has suggested in his article submitted to the Review Panel, CN should investigate acquiring land to operate two intermodals: one in the east of the GTA to service east, other further west of the GTA to service west and Brampton to service central.

CN Intermodal Lands originally planned for Non-intermodal activity in Milton

There had been a discussion during the Public Hearing that the land proposed for the intermodal were initially intended by the Region/Town to have businesses which will result in the same amount of trucks. Therefore, it sounds like CN was implying that since there are plans for such activities, intermodal and its trucks should also be suitable for this location.

I believe this argument is flawed for a variety of reasons. It is my understanding that the Halton region/Town of Milton would have the jurisdictional capability to enforce its by-laws for non-rail business activities, which would require each business to undergo a Municipal approval process to determine the characteristics of the business and what needs to change for them to be approved. This is in contrast to an intermodal where the intermodal's approval is dependent on the approval of the Minister of Environment and the Canadian Transport Agency (CTA), even if their final conclusions are not the same as the Municipality. Therefore the town can control the amount and growth of the number of trucks on the road through the approval, regulation and enforcement of those businesses. The town does not have this same powers of regulation and control if the Intermodal is in that location instead.

Secondly, even though such plans may have been considered by the Town/Region, it is my guess that they are only tentative and are not yet final nor approved. Through consultation with councillors and voiced opposition from residents, the size and scale of these business operations may be reduced to an acceptable level before it would be approved to proceed. So, it may not be 800 trucks in and out, but may likely will be less.

Finally, if such business facilities were approved at the location, their ongoing operation would be subject to municipal bylaws, and thus can be controlled to prevent harm or disruption to the community for whatever issue that arises. This is once again in contrast to an intermodal where any ongoing issue would need to go through the CTA, whose enforcement is subject only to federal laws and regulations. However, as suggested by the Region of Halton, there are many laws and regulations covered in Municipal and Provincial jurisdiction but not in Federal jurisdiction, and these gaps can result in issues not being resolved to the satisfaction of the community facing these intermodal generated problems. In comparison, if the intermodal is located far away from communities, in more suitable locations right beside a highway, such issues would not even arise, and therefore, enforcement solely through CTA may be sufficient.

CN trucks vs. Cars

In the Public Hearing on July 11, the Review Panel asked Milton Says No about comparing two hypothetical futures: One future was with CN's 1600 trucks in and out of an intermodal, and the other with 3000 cars in and out, of what I assume to be generated by their hypothetical scenario that the space would be occupied by businesses, or residential, or commercial activity which would hypothetically exist in replacement of the intermodal. The Review Panel asked what the difference is and what *Milton Says No* would prefer.

In my view, car activity generated by office workers/residential and/or commercial activity is far better than a CN intermodal with truck activity.

One big reason deals with jurisdictional powers and enforceability. If the intermodal is only under federal jurisdiction, then municipal bylaws that currently exist or will be created to protect and safeguard the community will not be enforceable onto CN's operation. Businesses, commercial operations, on the other hand, will be subject to municipal bylaws and enforcement. Therefore the municipality can control any nuisance or other adverse effects such as noise, or pollution coming from the businesses/residential/commercial that would replace the intermodal. However, due to federal jurisdiction, they lose that control and enforceability when dealing with an intermodal facility. In addition, there are many regulations that the town and region rely on but do not exist in federal regulations. These gaps will result in the intermodal operating in a manner that the town and region cannot control for the benefit of the community.

When comparing just CN's truck activity vs. car activity from people going to work or shopping, car activity is still better from an enforceability standpoint. With careful planning, the town and region can ensure through their bylaws and powers of enforcement to only allow a certain density, mix and configuration of businesses/residential/commercial activity, and all these would go through their approval process. These can be phased in such that development of business and commercial buildings is in-step with expansion and creation of Milton roads. Municipal by-laws and regional planning can prevent 3000 cars from appearing on the roads overnight, but rather can enforce the control of growth of businesses and residential when roads have expanded, interchanges built, and new roads created. Multiple access and exit points can be created all around the site, not just one entry/exit in Britannia, preventing bottlenecks. Office spaces and places of business would then combine positively with residential neighbourhoods nearby to attract people to live close to their workplace. This would actually reduce traffic congestion in the region since people are getting to work faster, and reduce time spent on roads, as people live close to their workplace. As a result, the car congestion can be managed by the town and region. Therefore, those 3000 new cars will only appear when the town and region has developed to carry that capacity.

Let's now compare this to the second scenario where the intermodal is in the location instead. Municipal by-laws, town and region planning, would no longer be enforceable upon the business needs of the intermodal. Those 1600 trucks in and out may appear almost immediately, congesting roads not capable of handling those trucks so early in the growth of

the town and region, where roads and infrastructure have not yet caught up. As the intermodal business grows, those 1600 trucks may start to increase incrementally, slow enough not to require a whole new federal review process for approval, but large and fast enough that traffic becomes a problem for the town to manage. The intermodal would then start attracting compatible business such as distribution warehouses, which further add more trucks to the road. All these trucks start damaging the roads at a much faster rate than just cars, causing property taxes to rise in the town. As cost of living rises due to impact of the intermodal, single family dwelling units become harder to afford, resulting in less demand, and as such, higher density high rises become predominant, further adding more traffic to the roads. These residents living in these condos will commute to places far outside of Milton, creating further traffic, as majority of the land near residential areas of Milton has been taken up by CN and similar businesses with low workforce density. The intermodal generated workforce (truck drivers) is literally on the roads, making matters worse. Meanwhile, the town is receiving less money (or no money according to Halton) from taxes/development charges with the intermodal (compared with office workplaces, commercial buildings which provide much more revenue for the town), further leading to the town's inability to fund road expansions and improvements, and not able to keep up to pace with the traffic congestion created by the intermodal truck traffic.

Even if we unfairly compare 1600 trucks and 3000 cars in a vacuum, or roughly 1 truck to 2 car comparison, without any context nor consideration of the negative impact of the intermodal associated with trucks nor beneficial impact of businesses/offices/restaurants/malls/residential that are associated with cars, cars are still far better than trucks when it evaluating negative adverse effects. Many of the information here is based on my understanding of the information provided by Halton's experts and my own personal opinion:

1. Pollutants released by single truck is more harmful than 2 cars due to particulate matter emission from its large diesel engines.
2. Noise generated by a single truck, including starting, engine break, and noise created by its container when it goes over a bump or pothole, is much worse than 2 cars on the roads
3. Since CN is operating 24/7, noise from these more plentiful trucks at night will be a nuisance when people are sleeping
4. A single CN truck damages the road much more than 2 cars, based on Halton's information
5. The risk of injury or even death is much higher from accidents when driving near one truck compared to 2 cars
6. The traffic congestion generated by one truck is much worse than 2 cars since they are often slower, including accelerating up and slowing down.
7. It is much more difficult and dangerous to drive/cycle on a roudabout/traffic circle near one intermodal truck compared to 2 cars
8. Property values would be lower in areas with trucks travelling through compared to cars because high truck traffic implies being near industrial areas (which is the case with a CN intermodal), whereas high car traffic means an attractive neighbourhood with high

activity, either due to plentiful work opportunities or active entertainment/restaurant/mall destinations, or desirable residential neighbourhoods.

Remarks to statements made by Wendy Roberts

Ms. Roberts made a public hearing presentation on July 12, 2019 to the Review Panel. She had the experience of dealing with Town of Milton and Conservation Halton to be “challenging and disappointing”, whereas her experience with CN had been “very positive”.

In my own personal experience, and the experience I have heard from many other residents in Milton, I found the opposite to be true. I have contacted the Town of Milton numerous times as a resident of Milton with concerns, and each time they had been very receptive and helpful. However, my experience with CN from their information sessions to be very dismissive and unhelpful. I find that the questions I have towards CN through this CEAA process do not go answered unless the Review Panel demands a response from them.

Ms. Roberts also believes that “removing approximately two million trucks from our highways annually and reducing greenhouse gas emissions by over 9,000 tonnes annually... is of significant benefit”. However, I believe this benefit can still be acquired even with the rejection of the intermodal at this location because it would drive CN to meet its business-needs to find a new and more suitable location of its intermodal near highways, and still reap the environmental benefits it claims in that new location. However, having the intermodal at this location, surrounded by residential and far from the highway most heavily used, causes truck generated pollution to be pushed onto the residential community it is traversing.

Community Working Group (Community Advisory Committee)

Ms. Roberts and Ms. Mott had proposed a citizens advisory committee to CN, if the intermodal is approved. I will explain further below that using community working groups is not an adequate mitigation measure because it is not an enforceable condition. There are other reasons I believe that Community Working Groups are not an adequate mitigation measure, and ultimately a useless endeavor, especially with CN. Resolving the complaints of the Community working group is completely at the mercy of CN, as this community group does not have any enforcement powers to compel CN to comply with its requests. During this process, we have already witnessed CN not comply with the Town and Region’s request to adhere to its Regional planning requirements and approval process. Milton Says No and Milton Rail, two of the largest community led organizations on rail activity in Milton, have already expressed the difficulty they faced when interacting with CN, and obtaining any sort of help or information from CN. Based on this evidence, I believe that relying on a Community Working Group will not be effective as a mitigation measure in dealing with the rail/intermodal related issues that arise in this community.

Conflicting Results from Technical Expert Testimonies

On June 26, 2019 during the Public Hearing presentations on Traffic and Road Safety Session, the Chairperson asked CN and Halton, what to do with conflicting information when she said:

“I don’t know what to make of this. We had two competing analysis”

There are obviously two main camps of technical experts involved. One group which is hired by CN and the other group composed of non-CN hired technical experts, including those brought forward by Halton, Milton Says No, Conservation Halton, Health Canada, etc.

Throughout this hearing, the Review Panel is faced with two competing and conflicting results. Often times they may be difficult to reconcile due to their differing viewpoints on the acceptable standard, assumptions, or acceptable methodology when deriving these results, or even the interpretation of the results.

I recommend that the Review Panel always rely on the worst-case scenario presented from all the technical experts when making a conclusion/determination/recommendation for their report. Often times, I find that technical testimonies from Halton, Conservation Halton, Rubidium and even Health Canada to be the most conservative with respect to assessing negative adverse effects, but this should not dissuade the Panel from selecting their findings as the best to make a determination about the project.

As an analogy, say you were to ride on a plane and the profit-driven airline’s experts suggests that based on the standards they believe are acceptable, and the studies they have conducted, that the plane is safe to ride in. However, another technical expert hired by the pilot does not believe it is safe, and an independent technical expert hired by fellow passengers also have safety concerns on that plane, would you still be comfortable riding that plane? Or would you prefer that the worst-case, and most conservative findings be ultimately chosen as to whether the plane you ride in is safe for travel?

If there are thousands of technical experts brought forward by thousands of different sources for each topic, then it can be reasonable to take the mean or median of their testimonies when arriving at a conclusion for each topic. However, there is only two major camps when it comes to technical expert testimonies. As a resident of Milton, I request that when faced with competing testimonies, that the Review Panel not take the optimistic (and potentially biased) results of CN but rather more heavily weigh in favor of the more conservative findings of Halton and Milton Says No’s technical experts. We do not want to suffer the negative effects of CN’s technical experts being wrong due to potentially faulty assumptions or accidentally incorrect methodology they employed.

Mitigation Measures

Since measuring the effectiveness of all proposed mitigation measures can only be done when the project is either in construction or in operation, it is very difficult to accurately predict whether these measures will be successful in real life, when assigning a mitigation proposal that is tied to each Significant Adverse Environmental Effect (SAEE).

This uncertainty on the success of the mitigation measure is only made worse when such mitigating measures have not been employed in other intermodals, as real-life examples that it works. Based on what I had read in the submitted information to the Review Panel, this project appears to rely on more mitigation measures than any CN intermodals to date. Some of these mitigation measures may even be new and unique to this project.

Conflicting results of the effectiveness of these mitigation measures between CN-hired experts and all other experts not hired by CN exacerbate the already unacceptably high uncertainty on the success of these mitigation measures. When using the worst case results from experts, many of these mitigation measures proposed by CN cannot be considered because these experts believe that the measures are inadequate.

The failure of each mitigation measure, its negative adverse impact due to failing, and the consequence of not being able to develop a modified/new mitigation measure, should also be considered. For example, after a year of monitoring, it was found that mitigation measures failed to keep the air particulate matter at a low enough level, then the damage has already been done over that year to each person in the community who has inhaled it. Also, the longer that a new mitigation plan can be developed to solve the issue, the longer the SAE that was supposed to be addressed by this failed mitigating measure causes damage to the community and the environment. If an enforceable mitigating measure cannot be developed to replace the failed original measure, then the impact of the non-prevented SAE will be devastating to the community and environment.

The best mitigation measure against negative adverse impact that provides no uncertainty, assures the best results, provides no risk, cannot fail, and is clearly enforceable, is the rejection of the proposed project at this location. **When assessing each mitigation measure, rejection of the project at this location as a mitigation measure is the ultimate benchmark of success.** When selecting which mitigation measure to endorse for each SAE, the mitigation measure of rejecting the project should always be included as an option, but more ideally should be viewed as the best option.

Recommendation to the Review Panel:

- Highlight the uncertainty of the success of each mitigation measure and reject the proposed mitigation measure as a solution to solve SAE if the uncertainty is too high. Instead select the mitigation measure of rejecting the project as the best choice for that particular SAE.
- Utilize the most conservative results from the findings of all the technical experts when evaluating which mitigation measure to use and if the proposed mitigating measure is adequate. If that conservative result deems that the proposed mitigating measure has a high chance of failure or is inadequate, then select the rejection of the project at the proposed location as the mitigation measure to utilize to solve that particular SAE.
- Evaluate the scenario where the approved mitigation fails and highlight the impacts of the negative adverse effects during the period it is un-mitigated. Recommend that such

negative impacts are unacceptable and instead endorse the rejection of the project as a better choice since no risk of failure can occur.

- Evaluate the scenario that the approved mitigation measure fails but is later found to be non-mitigatable. Highlight the outcome of such a scenario and its detrimental effects, considering that once built and operational the damage it had caused is irreversible and permanent to the environment and community that it harms. If such a scenario is not palatable, consider selecting the rejection of the project at the proposed location as a better mitigation measure option.

Enforceable Conditions

The Canadian Environmental Assessment Agency (CEAA) has provided the Review Panel with information on what constitutes an enforceable condition in the Minister's Decision Statement. It also identified what mitigation measures can be recommended for inclusion as a condition in the Minister's decision statement.

A condition included is "7. changes to the environment that are directly linked to or necessarily incidental to a federal decision about a project", which includes (s.5(2) of CEAA 2012):

- (b)(i) health and socio-economic conditions
- (b)(ii) physical and cultural heritage...

Enforceable Conditions, according to CEAA must also have the following traits: Clarity, Certainty and Level of Detail. Based on my understanding of CEAA's presentation, some of CN's proposed mitigation measures are not enforceable and cannot be recommended to address some of the identified SAEs for inclusion in the Minister's decision statement:

- **Any mitigation measure which is not under the complete care and control of the proponent.**
 - If 80% of trucks entering and leaving the intermodal are not owned and controlled by CN, then mitigation measures that serve to resolve SAEs that arise from their operation may not be enforceable by CEAA and a Condition may not be able to be developed.
 - Mitigation measures that require participation of Halton, Town of Milton or other organization/entities that are not part of CN. If there is a derailment, fire, or leak, and the mitigation measure requires the participation of the town or Region, such as evacuation or the use of the region's fire department, then this measure is no longer solely under the care and control of the proponent. Other examples include widening of roadways, new highway interchange, or even signalized intersection, which are not under the care and control of CN, but rather are under the care and control of the municipality and province. Such mitigation measures may not be enforceable by CEAA and a Condition may not be able to be developed.
 - Mitigation measures that rely on the community to bring up concerns and CN to acknowledge those concerns at their discretion, such as a Community working group or Community Advisory Committee that bring up their concerns to CN, may not be enforceable by CEAA and a Condition may not be able to be developed.

- Mitigation measures where CN relies on residential builders to mitigate noise, may not be enforceable by CEAA and a Condition may not be able to be developed.
- Mitigation measures which rely on future collaboration between CN and other groups or entities. For example, a Memorandum of Understanding between CN and Conservation Halton to collaborate in the future to address the concerns of Conservation Halton is not under the complete care and control of CN, because it involves the participation of others. Another example is anytime CN uses “working with..”, such as ‘working with local farmers to mitigate loss of agricultural land’. These types of mitigation measures may not be enforceable by CEAA and a Condition may not be able to be developed.
- **Any mitigation measure which is not well defined and specific**
 - CN often defers providing the solution of many negative issues and SAEs until after they get approval, during the “detailed design” phase. However, from CEAA’s presentation “*conditions referring to plans cannot be used to defer the identification of mitigation measures to after the EA decisions*”. Therefore, each time CN promises to look at the potential SAE during the “detailed design” stage should be rejected, and this should be seen as their inability to provide a proper mitigation measure.
 - Any mitigation measure where CN assumes the occurrence of something in the future, but is not certain, cannot be recommended for inclusion as a condition. For example, CN assumes that the road will be widened and that the town and region have the funding to carry out these changes in the future. However, the region has stated that this is not certain, and yet CN relies on this for their mitigation measures.
 - Mitigation measures that involve Community working groups or Community Advisory committee can be seen as “plans” since the future concerns/complaints of the community is not known and CN’s measures to address these concerns, and their willingness/commitment to address those concerns, are also not known. Therefore, they may not be enforceable by CEAA and Conditions would not be able to be developed.
 - Mitigation measures which rely on collaboration in the future, and Memorandum of Understandings, such as between CN and Conservation Halton, or anytime CN uses “working with..”, such as ‘working with local farmers to mitigate loss of agricultural land’ should be considered as “plans”, which do not provide clarity, certainty or any level of detail.
 - Mitigation measures that include the words “if possible”, “as much as possible”, “when feasible”, “if able”, or similar, do not have certainty, nor level of detail, two of the traits required for an enforceable condition.
 - Mitigation measures that CN has provided that are not specific, and leave too many ambiguities and generalities in its mitigation plans. These mitigation measures may not be enforceable by CEAA and a Condition would not be able to be developed.
- **Any mitigation measure that is not related to an effect on a component of the environment under section 5 of CEAA 2012.** From CEAA’s presentation these “conditions must address potential environmental effects within areas of **federal**

jurisdiction, as set out in s. 5 of CEAA 2012”. However, at the same time, the Review panel is tasked with the following:

As required by the Minister pursuant to paragraph 19(1)0 of CEAA 2012, the Review Panel must also take into account the following matters that are relevant to section 98 of the CTA:

- the interests of the localities that will be affected by the line.

The “interest of the localities” should not solely be addressed only by areas of federal jurisdiction, but also should encompass matters under municipal and provincial jurisdiction. The negative effects of the intermodal on Halton’s Regional plans and violation of its acts and bylaws are directly detrimental to the interest of the localities, in this case, the Halton region, Town of Milton, and the community. A specific example include traffic congestion brought about by the presence of the intermodal, whereby any mitigation measure may not be enforceable by CEAA, even on CN owned trucks, because movement of trucks on roads is not under federal jurisdiction, and therefore a condition for inclusion into the Minister’s decision statement cannot be developed. Therefore mitigation measures that attempt to address adverse effects stemming from the “interests of localities” and that are not under federal jurisdiction, cannot be translated into enforceable conditions, and therefore should be viewed as un-mitigatable from the point of view of the development of the decision statement.

Recommendation to the Review Panel:

- Identify all mitigation measures proposed by CN that are not under their complete care and control, and thus cannot produce an enforceable condition. Highlight each adverse effect associated with the proposed non-enforceable mitigation measure in the report to demonstrate that the project has components and scenarios that are un-mitigated and therefore supports the conclusion that the Intermodal is not suitable at this proposed location.
- Identify all mitigation measures proposed by CN that are not well defined and specific, and in particular, those mitigation measures that are dependent upon a “plan” or that will be addressed in the “detailed design” stage in the future, or addressed through future collaboration or Memorandum of Understandings. Determine that these cannot produce enforceable conditions and report the adverse effects associated with these proposed mitigation measures to be un-mitigated, which supports the conclusion that the Intermodal should not be approved at this proposed location.
- Identify all mitigation measures proposed by CN that are not related to an effect on a component of the environment under section 5 of CEAA 2012, which includes effects not under federal jurisdiction. Determine that these cannot produce enforceable conditions and report the adverse effects associated with these mitigation measures to be un-mitigated, which supports the conclusion that the “interests of the localities” will be negatively affected because of the intermodal to the extent that this project should be rejected at this location.

Conclusion

I believe that there are too many mitigation measures that cannot produce an enforceable condition, as per CEAA's requirements, leaving many negative adverse effects and issues unmitigated. Those mitigation measures that do produce enforceable conditions suffer from high uncertainty in their effectiveness.

I encourage the Review Panel to view the approval of this Intermodal in a broader context. If this Intermodal is approved, and the mitigation measures fails and the adverse effects found to be un-mitigatable, the devastating impact to Milton will be severe. There is no second chances for Milton once this Intermodal is approved and built because the damage is irreversible. Residents most concerned about this Intermodal will leave once an approval has been granted before even waiting to see if those mitigation measures are adequate, and some even leaving before the Intermodal's construction has been completed, dropping the housing market in Milton immediately. If this Intermodal is rejected, CN still has the opportunity to re-submit a request for approval on the same location when they have further explored their "detailed design" and further developed their mitigation measures to be enforceable conditions, or acquire land and request approval at a different location if they come to the realization that the current location is not ideal. Therefore, CN has multiple chances and opportunities to meet their business needs of an intermodal provided they have conducted due diligence in acquiring a suitable location of land and made appropriate mitigation measures that can be converted to enforceable conditions.

The Town of Milton, Region of Halton and the communities bear all the risk and negative effects from this Intermodal, to please a for-profit company who will economically benefit greatly by its approval, even though it is CN who should bear the cost of purchasing land to relocate this Intermodal in a more suitable location near a highway and far from existing communities.

The Review Panel should consider that the residents have chosen to live in this area before CN had even brought forward their application to have this Intermodal in South Milton. As such, the concerns and desires of the residents who oppose this Intermodal at this location, and the Town and Region's concerns about the negative impacts, should weigh more heavily in the Review Panel's report and recommendation.

Finally, the Review Panel should consider that recommending approval of the Intermodal at this location may likely be a "lose-lose situation" for both CN and Milton. It is quite evident to see why it's a "lose" situation for Milton. It's also detrimental for CN because of what may occur after the responsibilities of the Review Panel are completed. If CN gets approval to build the Intermodal, then it may be likely that the "stay" granted by the Ontario Superior Court on the legal court challenge concerning jurisdiction, between Halton and CN will be lifted, and court proceedings would resume. If this occurs, I am guessing that it may likely continue on to the Ontario Court of Appeals, and then to the Supreme Court of Canada. This lengthy legal process may result in the courts awarding the Halton region with their jurisdictional rights over the non-

rail aspects of the Intermodal, namely the truck aspects of the project. If such an event occurs, then this may require CN to go through another lengthy approval process conducted by Milton and the Region of Halton. If they get rejected through this process, then CN would have wasted a lot of time and effort at getting approval at this location. In my opinion, it would have been better if they were rejected much earlier in the process so that they can spend their effort in securing a more appropriate location for their intermodal, where it's far away from communities or be located in regions that welcome or desire to have that intermodal. This is further reason why the Review Panel should heavily consider the recommendations and conclusions of the Region of Halton.

Finally, I would like to thank all the members of the Review Panel for their efforts and for receiving this written closing remark from a concerned Milton resident.