

**Comments on the City of Ottawa (the City) Submission (15 November 2018)  
in Response to Moose Consortium Inc.'s Petition Under Section 40 of the Canada  
Transportation Act, requesting that the Governor in Council Vary Determination  
No. R-2018-23 of the Canadian Transportation Agency (CTA)**

I, Wojciech Remisz, M.Sc., P.Eng., FCSCE, President of REMISZ Consulting Engineers located at 57 Auriga Drive, Suite 102, Ottawa, ON, K2E 8B2, have read the entire City of Ottawa Submission concerning LET-R-2018-23 of the Canadian Transportation Agency, and I make the following comments, in good faith.

I'm one of five directors of Moose Consortium and I am familiar with all other documents and procedures. I have attended meetings at CTA, Transport Canada, City of Ottawa, and have direct knowledge of facts stated herewith.

Numbers below refer to paragraph numbers in the City's submission.

- 4 The Minister and the CTA should place the interest of all Canadians and the requirements of Acts of Parliament ahead of any frivolous and unlawful actions of the City administration.
- 7 The City does not have, and did not produce any plans to realign the dismantled track. Their statement in this paragraph is contradictory to many other statements made later on in this document.
- 8 The issue is not with the whole ORL line, but the dismantling of a section of it, which makes the whole line inoperable.
- 13 It is irrelevant to speculate on future use of the railway, which is not an issue now. The city must restore this federally regulated track first. The fact that the City "has never received a request by another railway company" simply demonstrates that they removed these tracks without any consultation and notices or due process, and did not have any plans regarding when, where, and how to restore this connection, intentionally misleading the courts and the public.
- 15 There is no excuse regarding the costs of replacing the connection. The City damaged it; the City has to fix it. They cannot blame others now for their own actions.
- 16, 17 These paragraphs are totally irrelevant to the case at hand. They refer to different sections of railway.
- 19 Here the City states that they have no plans, nor funding, nor timeline for this federally regulated track, yet they undertook to dismantle and permanently obstruct it. This statement contradicts paragraph 7.

- 25 The fencing was placed across the track instead of alongside it, and only after MOOSE submitted a detailed report of safety violations to the Railway Safety Branch of Transport Canada, and to CTA. (A copy is provided here.) It was not the City's initiative to start with; rather it was reacting to instructions from Railway Safety Branch. This demonstrates negligence and inaction to that point in time.
- 27 It is understood that "Any decision must be made by Council". Therefore who, under what authority, made the decision and approved removal of these tracks, and relocation of the station to the west to block the north-south corridor, contrary to public presentations?
- 28 The change was not to the entrance; rather the whole station was moved west. The last statement is not true at all. Reference 17, Tab 7, map was done in 2013, (date printed at the left side of the frame) and shows only property lines and road alignments. The track is shown here as it was before being dismantled, and it does not indicate that any track would be removed or blocked. Therefore this image is misleading in any present legal discussion. Also the yellow boundary lines make it perfectly clear that the railway corridor which is subject to federal regulation widens at this location around the City Centre building, comprising about half of the land which is referred to in other sources today as "900 Albert Street". The process of removing this land from federal railway designation requires CTA approval.
- 29 This is a straightforward admission that the City removed track and blocked the corridor without any intention or plan to re-connect the railway. It looks forward to when conceptual plans are further developed. But the simple fact is, there aren't any plans so far. They have not produced even one reasonable option to re-establish railway connectivity between the Ontario and Quebec sides of the river.
- 30 Needs to be corrected, in that Joseph Potvin is not the sole registered director of Moose. They relied on an old record. There are five directors presently.
- 31 Moose Consortium has not imagined a speculative project, rather it has developed an actual action plan and project design involving many partners.
- 36 This is totally irrelevant to the city actions of removing the tracks and blocking the bridge.
- 38 The "Lemieux Island Spur" is a completely different section of track. This arises from false reporting by the City in its 2012-2015 Three-Year Plan to the CTA, which claimed that the entire section of track between Bayview Station and the Lachute Sub in Quebec was called the "Lemieux Island Spur". In fact, the Lemieux Island Spur is a short spur off of the main line, providing freight train access to the City of Ottawa's water filtration plant. This is mentioned on page 2, paragraph 6, under Tab 13 of the City's submission, which provides a copy of Moose Consortium's letter dated 15 August 2016. The City states now that "Agency's Decision No. 210-R-2012 dated June 6, 2012, the Agency found that the City had not discontinued the Lemieux Island Spur (since

- renamed the ORL.” This represents a continued misrepresentation of tangible and legal facts. The “Lemieux Island Spur” was not renamed the “Ottawa River Line” -- to the contrary the Lemieux Island Spur still exists on Lemieux Island. For full documentation, I attach the 25 October 2012 letter from Moose to the CTA requesting enforcement of Decision No. 210-R-2012, after the City had twice failed to fulfill the Agency’s Order.
- 39 Same comments as above. The Three-Year Plan provided under Tab 10 is the adjusted version, supplied only after the CTA instructed the City to correct the misrepresentation. For reference, I attach the original Three-Year Plan 2012-2015, as it was submitted late by the City (after the 90-days specified in the Order of Decision No. 210-R-2012), but prior to the correction of its misrepresentation.
- 42 The City is under the mistaken belief that some special standing is required under the Act to initiate a complaint or application with the Agency. In any case, Joseph Potvin represented Moose Consortium Inc, a Federal Corporation, and hence had the standing under the Act, as the City itself stated under 69. Any interested person can make such a complaint.
- 71 (a) The scope is defined: the City must just put the track back.  
(b) The problem is due to the city’s own actions. There is no cause to blame it on Moose.  
(c) The City is making contradictory statements. How can there be no future value to Ottawa taxpayers if the city itself wants to use this bridge crossing as stated elsewhere?  
(d) The city bought the bridge for its continued railway operations. The city damaged it and the track. They cannot shift the cost of fixing it now to anyone else.  
(e) The City is obliged to fix it to at least its pre-damaged state; improvements are separate. They broke it, they have to fix it. Responsible owners will also bring it up to the present Code requirements. This is normal requirement and practice for all infrastructure and building owners.
- 72 Similar to 71, these are moot statements and questions.
- 73 The city does not even show good faith, constantly looking for a way out, without addressing the issue straight in the face.
- 74 Same comment as 73.
- 77 The City must be a good steward of public resources...yet they recklessly damaged the very same public resources, without the benefit of due process and adherence to federal laws and statues, and with lack of respect to federal agencies.
- 80 The option 2 applies if the city does not comply with the law and order stipulated under the Act. The city still can fix the issue and restore the track. And option 2 would require that they offer the infrastructure for sale “for continued railway operations”.

- 81 This is not a relevant excuse at all. Nobody forced the city to damage the bridge crossing and to remove the tracks, so the city cannot seek relief from its own malicious acts.
- 83 The City refers to unbudgeted funds. But they did budget for damaging and dismantling of the tracks. This is a very immature position and excuse.
- 86 This is not relevant. The public has demanded many times to use the bridge, keep it open, do something with it, and do not block it.
- D The title of this section is nothing short of absurd. The city willfully damaged and obstructed the track, and has failed to maintain its own valuable bridge, and now purports to require that someone else ought to pay for fixing its failings? The whole section is irrelevant, and should be thrown out.
- 93 To claim that the city has not obstructed or dismantled the bridge...is false and manipulative wording, because in fact the city obstructed access to the bridge, and dismantled tracks leading to this bridge. So is it not a constructive damage, discontinuance, blocking any use, when the physical tracks disappeared and the remainder was barricaded off by the Bayview Station? If the section of track that existed was under the Act, so can it be said that the section that does not exist now, plain grass, is hence not under the Act? So the rail line was broken into two distinct rail sections, creating new rail lines-and CTA was not informed about it? Minister of Transport was not informed about it? Maps were altered, but rail line records may show it as an 'active line' that a train, even one locomotive can pass through? At what point may one fairly and reasonably conclude that the City is simply misleading the Minister and CTA, by showing contempt to regulatory authorities?
- 101 Yes, Moose complained to CTA, under Division V of the Act, activating CTA powers to investigate
- 108 Moose relied on plans available to the public that show that the line does exist, is passable and operable under the Act and records, and yet facts on ground prove that the track disappeared without CTAs knowledge.
- 109 The requirement to file a Three-Year Plan is premised upon the plan being a true statement. The city's Three-Year Plans since 2012 have contained demonstrably misleading statements.
- 115 A temporary obstruction must still be authorized. The permanent nature of this obstruction is an undisputable fact that has already happened, regardless of what decision the city may make in the far future.
- 118 It is a further misrepresentation for the City to claim "no advance notice". There has been a steady stream of communications stretching back to 2010. Rather it was the City that gave no advance notice to the Agency, or to the public, before "temporarily"

- disabling the only interprovincial railway connection between Ottawa and Gatineau which must be planned and budgeted for years in advance. Or, this demonstrates that when the city ordered and authorized dismantling of tracks, it did not have any plans, any budgets, to restore it, placing it, for the indefinite future, in limbo.
- 120 Similarly to 118, this clearly indicates that the city did not do any due diligence planning and budgeting for tracks realignment when it decided to move the station and remove the tracks while at the same time saying publicly that it wants to use bridge and tracks. Option 1 is not forcing the expenditure of public money to build traction for a private venture; that is completely false statement in bad faith, and is manipulative. The City has to restore track continuity. Moose offered on record to the city to pay for any upgrades, and Moose is not looking for any subsidies from the city.
- 124 Moose wants the city to be treated by the Agency the same way as the city is treating outside contractors: to show good will supported by securities, like performance and labour and material bonds. If the city will not perform, the bonds would be used to do the required work by others.
- 125 The city has admitted that it has obligations as a federally licensed railway company under the Act and Railway Act. Yet, it violated the very same Acts and now does not want to comply with them.
- 126 This demonstrates another aspect of the city acting before getting approvals. What if the Committee of Adjustment will not approve of bypass? Suppose it will not approve of moving the station? That is why Moose wants to have city designs validated, approved, be feasible, and guaranteed doable. The Minister and CTA should clearly demand it. This is not a hypothetical exercise.
- 127 The city's suggested extension of a new railway line from the main platform at the new Bayview station would require a complete rebuild of the Parkway and the bridge at the location shown in their illustration. Both are under NCC jurisdictions, they are not city's properties, and there is no evidence that the NCC has yet been consulted about this.
- 129 A demo run is like a load test on a newly completed or rehabilitated bridge, to prove that it is safe and fit for service. We ask that be City be ordered to restore the bridge to capacities it had when the city purchased it, and at that time it was used for cargo/freight trains, and the city purchased it for 'continuing train operation'. Hence the same load criteria should apply. This seems to be a very fair and 'neutral' criterion.
- Tab 1 This Certificate of Fitness clearly states that the Capital Railway is authorized by the CTA to operate in the Provinces of Ontario and Quebec. Let it be perfectly clear then, that when the City dismantled and obstructed the very track that it requires to operate the O-Train through to Quebec, it materially violated Capital Railway's Certificate of Fitness. The most recent update to its Certificate of Fitness, given in Decision No. 283-R-2007 says: "The City of Ottawa submits that it will continue to operate the light rail commuter service, also known as the O-Train, in the provinces of Ontario and Quebec,

serving five stations from Greenboro Station in the south to Bayview Station in the north. A certificate of insurance was filed as part of its application. Paragraph 93(1)(c) of the CTA provides that the Agency may, on application, vary a certificate of fitness to reflect a change in railway operations or circumstances relating to those operations. Although Bayview Station remains the northernmost terminus, surely the elimination of the railway connection to Quebec is a material change of circumstances.

Tab 3 Page 126, 4<sup>th</sup> paragraph—the steel structure of the bridge is in very good condition...and the city purchased it as such.

Tab 5 This MOU has nothing in particular to do with train tracks at Bayview and the Prince of Wales bridge-it is all about bus transit. This document and Schedule A are out of place.

Tab 7 This Google map was printed in 2013, shows road alignment and traffic directions, property lines, and the rail line running on full continuous tracks. There is nothing, absolutely nothing on this plan to indicate any studies, and new alignments of the tracks-since that issue did not exist then at all. Including this map as a proof of any studies mentioned on page 7, under sec 28, the last sentence, reference to Bayview<sup>17</sup> is highly unprofessional and unethical, misleading to the office of the Minister and CTA.

Signed,



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