

May 8, 2015

Without Prejudice

## Memo

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Further to our recent conversation this week regarding additional information for the CTA Review process as to what my needs and goals may consist of pertaining to:

**OVERVIEW OF THE REVIEW** -- On June 25, 2014, the Honourable Lisa Raitt, the Minister of Transport, launched the Review of the *Canada Transportation Act* (CTA). As mandated by the legislation, the Review will be completed before the end of 2015 and a report submitted to the Minister for tabling in Parliament.

### Problem

1. Reference to CTA Decision 142-R-2014, File No. R8050/672-012.47 regarding CN Rail farm crossing at 12.47 Sussex Sub whereas I was unfairly treated (denied a suitable crossing) when requesting the reinstatement of the farm crossing that had previously been approved and installed by CN Rail and pertied to by the CTA. Reinstatement was necessary because CN Rail arbitrarily removed the crossing without notifying the landowner.

This situation is a typical one occurring in many places in Canada and requires fixing (Railways to provide a suitable crossing to meet landowner's needs) so the landowners can enjoy their property severed by the construction of the railway and for the benefit of the railway companies to earn revenue and achieve profits.

2. The Railway Act of 1888 provided a number of measures and regulations that protected many parties including landowners who required a crossing or crossings to have access to their severed land resulting from the construction of a railway. This type of crossing was provided for by the railways at their expense and costs for over 100 years when required by the landowner.

About 1995 the railways apparently coerce, bully and intimidated the CTA or the CTA process until they force a change in regulations that allowed them to dictate to the landowners the conditions for providing a crossing and requiring the landowners to pay for the crossing on the railway's terms. Obviously this new process to provide crossings was being implemented to enhance the railway's revenue stream to increase profits by extorting money from landowners. The railway companies knew or ought to have known of the adverse impacts they would inflict on parties such as

landowners. It was primarily a process by the railways to skim additional money from landowners and other parties to boost profits for the purpose of having executives and managers qualify for bonuses. The CTA knew or ought to have known that the railways were trying to boost profits at the expense of the landowners and other parties and they provided assistance to achieve this objective for the railways – that is wrong and inappropriate and outside of the CTA mandate.

The landowners were not party to the implementation of this new process for providing crossings and that is wrong and inappropriate.

In this process of change initiated by the railways, they have effectively muzzled the CTA and interfering with the CTA process to eliminate reviews, limit reviews and or prevent meaningful reviews on behalf of other parties. This muzzling and interfering affect appears to be occurring in all aspects to matters pertaining to railway operations including safety issues.

3. The landowner is responsible for the care and management of his land pertaining to environmental concerns, wildlife, stream protection and fire control as well as other situations that may cause damage to the land. At the time of the construction of the railway that severed the landowner's land railway crossings were provided by the railroad at their cost so landowners could still enjoy his land.

The CTA has no legal right to change regulations or allow changes to regulations or practices to eliminate access to landowners land. The landowner never expected other parties to take action to eliminate their crossings provided by the railway. These parties have no legal right to eliminate these types of crossings leaving the landowner without access to his land. The landowner is entitled to due process and this did not occur. The CTA allowed or was party to undue influence by the railways to eliminate crossings to the detriment of the landowners; this is also not right or appropriate and outside the mandate of the CTA.

## **Solution**

1. Fix the situation by restoring railway crossings in Canada that were unjustly eliminated by the railways including the one at mile 12.47 on Sussex Sub.
2. Fix the problem and or problems by restoring the previous role of the CTA and the CTA process to protect the Canadian public including land owners.
3. Restore the The Railway Act of 1888 and the provisions to protect the public including landowners from the heavy hands and ignorant behaviour of the railway companies.
4. Demand that the railway provide at their cost retroactively all crossings previously denied.

5. Ensure the railways do not have undue influence over the operation and function of the CTA and CTA processes.
  
6. Allow the CTA to have suitable power and control to protect the Canadian public from big corporations who desire to exert their power on smaller parties who have limited ability and resources to defend themselves. The CTA should not be party to or working with the railways to short cut a due process deserved and entitled to by the public or landowners.

*B. A. Joseph*

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