

CANADIAN TRANSPORTATION AGENCY

IN THE MATTER OF AN APPLICATION BY

CANADIAN NATIONAL RAILWAY COMPANY (CN)

PURSUANT TO SECTION 98 OF THE *CANADA TRANSPORTATION ACT*
FOR AN ORDER AUTHORIZING THE RELOCATION OF A RAIL LINE IN ORDER
TO SUPPORT THE ONTARIO MINISTRY OF TRANSPORTATION'S HIGHWAY 69 FOUR-LANING FROM NORTH OF
MAGNETAWAN RIVER TO NORTH OF HIGHWAY 522
IN THE TOWNSHIP OF MOWAT AND THE MUNICIPALITY OF KILLARNEY, IN THE PROVINCE OF ONTARIO

A. APPLICATION OVERVIEW

1. Canadian National Railway Company ("CN") hereby applies to the Canadian Transportation Agency ("Agency") pursuant to Section 98 of the *Canada Transportation Act* ("CTA") for an order authorizing the relocation of a rail line between mile 204.1 and mile 205.6 of CN's Bala Subdivision.
2. The rail line relocation is required in order to accommodate the Ontario Ministry of Transportation's ("MTO") Highway 69 expansion project between Parry Sound and Sudbury. CN's existing track must be realigned to the south of the existing alignment as CN's current track configuration conflicts with MTO's expansion project.
3. Section 98 of the CTA provides as follows:

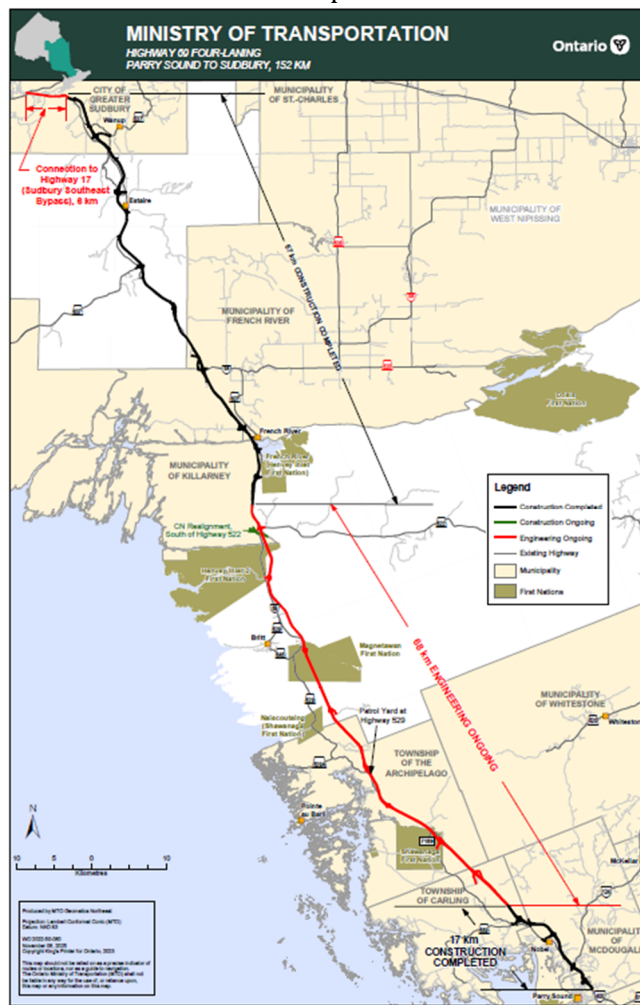
"Railway lines
98 (1) A railway company shall not construct a railway line without the approval of the Agency.

(2) The Agency may, on application by the railway company, grant the approval if it considers that the location of the railway line is reasonable, taking into consideration requirements for railway operations and services and the interests of the localities that will be affected by the line.

(3) No approval is needed for the construction of a railway line
(a) within the right of way of an existing railway line; or
(b) within 100 m of the center line of an existing railway line for a distance of no more than 3 km."
4. The Agency has previously decided that the scope of its mandate under Section 98 of the CTA is to determine whether the location of the line is reasonable and that such mandate does not include a determination of whether the existence of the proposed line or its construction is reasonable.
5. For the reasons set out below, CN submits that the location selected for the relocation of the railway line is reasonable taking into consideration the requirements outlined in Section 98 of the CTA.

B. LOCATION OF THE RAILWAY LINE

6. The MTO is responsible for providing a safe and efficient provincial transportation system in Ontario. Highway 69 is an important route that connects rural communities, urban areas, Indigenous communities and recreational areas within Northern Ontario. As part of the Trans-Canada Highway System, Highway 69 is one of the two vital highway links between Northern Ontario/Western Canada and Southern Ontario via connection with Highway 400. As such, the construction of a new four-lane Highway 69 between Parry Sound and Sudbury is of major significance for the MTO as it will improve traffic flow and safety and support economic growth in Northern Ontario. The map below outlines the MTO's expansion project.



7. The MTO's preferred alignment for Highway 69 was identified through a Route Planning Study and documented in Route Planning and Environmental Assessment reports. During the planning and preliminary design phase, highway corridor alternatives were generated and evaluated toward identifying the preferred corridor. Route alternatives were then generated and evaluated to determine the preferred route.

8. Wetlands were generally considered by the MTO to be a high constraint and were avoided or encroachment minimized where possible through the corridor and route selection processes.
9. The MTO's new alignment was selected during route planning in consultation with Chief, Council and residents.
10. The MTO's expansion of Highway 69 requires relocating CN's existing track to the south of the current alignment, as shown in **Appendix 1**. The relocation is necessary because the existing track conflicts with the preferred route and interchange alternative for MTO's expansion project, which is constrained by wetlands and poor soil conditions. The MTO determined that relocating the railway was preferred.
11. The track relocation will allow for the MTO to proceed with the construction of a new interchange at Highway 522 and the new, four-laned Highway 69.
12. The proposed rail relocation will consist of realigning 1.5 miles of track to the south of the existing alignment from Mile 204.1 to Mile 205.6 of CN's Bala subdivision. The CN mainline in the project area runs in a north-westerly direction roughly parallel to the existing Highway 522 and is located within the Municipality of Killarney.
13. Attached as **Appendix 2** is a plan and profile of the proposed relocation of the railway line, including the following:
 - i. location and alignment
 - ii. right of way
 - iii. profile in relation to the existing ground
 - iv. topography
 - v. grade separated crossings (as detailed in paragraph 23 of this application)
 - vi. road allowances
 - vii. culverts (existing culverts)

Of note, there will be no level crossings as such, there will be no crossing protection systems required.
14. Attached as **Appendix 3** is a plan showing the following:
 - i. utility crossings (as detailed in paragraph 24 of this application)
15. Attached as **Appendix 4** is a plan showing the localities in proximity to the rail relocation, including the following:
 - i. property lines and names of the owners of the land that the railway line will cross
 - ii. existing and future land-use and zoning around the site of the proposed rail realignment
16. Attached as **Appendix 5** is the Highway 69 Four-laning Route Planning and Environmental Assessment Report, dated February 2008, outlining the route selection and design alternatives that were considered. The province owns the lands on which the relocated railway line will be situated and will convey those lands to CN.

17. CN's works with respect to the railway line relocation will be limited to grading to ballast level, ground alterations as detailed in paragraph 21 of this application, laying of new tracks, installation of signals and train operations on the relocated railway line.
18. CN will be decommissioning and removing the existing rail alignment once the rail relocation is completed.
19. CN will be connecting the existing track to the new track and will transfer the rail operations to the new corridor.
20. The proposed location for the rail relocation has been selected given the proximity to CN's existing rail corridor. Specifically, the alignment was selected as the best fit to the existing railway, while minimizing the required length of new track and complying with railway design standards. The selected alignment also avoids physical constraints, including an adjacent landfill site, waterbodies, wetlands, and areas of poor soil conditions. Additionally, the proposed rail relocation is located in a rural area with very few residences in proximity and the land in question is owned by the province, which will be conveyed to CN.

C. RAILWAY OPERATIONS AND SERVICES

21. The infrastructure and ground alterations are detailed in the table below.

Infrastructure and ground alterations	
communication systems, signal systems and related facilities	Installation of utilities to support CN Signals infrastructure. This includes any excavating, trenching and backfilling of granular materials. It is anticipated that this work will be completed by open-cut methods.
bridges, tunnels and other infrastructure	3 grade separations (road carrying structure over the rail line)
compressors and testing equipment	Not applicable
storm water drainage systems	2 box culverts 3 concrete pipe culvert crossings
spill and drop collections systems for fueling and oiling stations	Not Applicable
Track configuration including curves, wyes and connections, branch lines, extensions, sidings, stations and other things connected with the railway line	New track alignment will be installed with track speed for 45mph passenger and 45mph freight. This alignment including M-C1 (3°07'48"), M-C2 (2°00'00), B-C1 (7°06'09"), and M-C3 (3°30'00"). A proposed backtrack is located from Station 329+318.994 to Station 4329+589.991.
switches, frogs and other cross-overs	One new #10 Lefthand turnout will be installed for the backtrack at Station 329+318.994.
track materials, including ballast, ties, rail weight, continuous welded rail or jointed, fastening system, tie plates, high	Track materials including timber ties, 136lb rail, CWR rail, Tie plates as per CN standards, and ballast and sub-ballast as per CN standards will be installed to facilitate the track alignment.

quality ballast and other required track materials	
embankments, aqueducts, roads, conduits, drains, piers and arches	Access roads are required to access the proposed condo pad north of the proposed corridor and the corridor from south of the proposed corridor.
noise and vibration mitigation infrastructure and measures	Construction mitigation measures include limiting construction to during daytime (07:00 – 23:00) when possible; installing muffling devices on construction equipment; including applicable NPC guidelines and OPSS in tender specifications for construction equipment and blasting activity (as per the 2014 MTO Noise Assessment). Mitigation during operational phase is not applicable.
infrastructure necessary to allow the construction of a railway line across another railway line	Not applicable
infrastructure necessary to allow the construction of a railway line across a road that passes across, over or under a railway line, and includes a structure supporting or protecting that part of the road or facilitating the crossing	Bridges are required for the grade separation of Old Highway 69 (Future Highway 522) around Station 329+650 and two bridges are required for the New Highway 69 divided lanes between Station 329+209 to Station 329+267
infrastructure necessary to allow the construction of a railway line across a utility line that passes over or under a railway line, and includes a structure supporting or protecting that part of the utility line or facilitating the crossing	No changes to occur in this area. All utilities meet the required clearances

22. The modifications to lands, waterbodies and existing utilities are detailed in the table below.

cuts, fills, berms, ponds, channels, channel realignments, watercourses, canals or roads that adjoin or intersect the railway line	See details in paragraph 26
alterations to roads	See details in paragraph 23
drains or conduits into, through or under land adjoining the railway line	Not applicable
alterations to the position of a water pipe, gas pipe, sewer, drain, telegraph, telephone, electric line, wire or pole across or along the railway line	See details in paragraph 24

23. The proposed track relocation will cross three (3) public roads. These will be grade separated and will cross at the following locations:

TABLE OF GRADE SEPARATIONS

Mile Point/Subdivision	Road Name
204.57 Bala (Sta. 329+220)	HWY 69 NBL
204.59 Bala (Sta. 329+255)	HWY 69 SBL
204.77 Bala (Sta. 329+650)	Existing Hwy 69 / Future Hwy 522

24. The proposed track relocation will cross four (4) utilities. The utility crossing will meet Transport Canada requirements. These will cross at the following locations:

TABLE OF UTILITY CROSSINGS

Mile Point/Subdivision	Type of Utility
sta. 329+625	Overhead wire crossing
Sta. 329+309	Proposed FOC / Signals Cables Crossing
STA. 329+680	Proposed FOC / Signals Cables Crossing
STA. 329+995	Existing Underground cable

25. CN will enter into an agreement for all the proposed crossings. If CN is unsuccessful in reaching an agreement for any of the proposed crossings, CN will make the necessary application to the Agency for their approval.
26. The proposed track relocation intersects several existing culverts that will require remediation, replacement and new installation. Three of the culverts to be replaced are on watercourses with indirect fish habitat, and one is on a watercourse with direct fish habitat. Flow conditions will be maintained for the indirect habitat, and the culvert replacement in direct habitat will retain the existing footprint, therefore avoiding fish habitat loss. Overall, no Harmful Alteration, Disruption or Destruction (HADD) of fish habitat is anticipated. The project has been submitted to Fisheries and Oceans Canada (“DFO”) for review to confirm that a Fisheries Act authorization is not required. DFO issued a Letter of Advice on March 12, 2026, a copy of which is attached hereto as **Appendix 6**.
27. CN will issue Section 8 Notices of Work pursuant to the *Railway Safety Act*. As required by the *Notice of Railway Works Regulations*, the notices will be served directly on applicable parties, with a copy to Transport Canada. The notice sets out a 60-day period during which objections pursuant to subsection 8(2) of the *Railway Safety Act* may be filed.
28. CN does not anticipate any change in operations and services. This is a main line operation with approximately 11 freight trains per day. VIA operates on this segment of track as well.
29. The purpose of proposed rail relocation is intended to eliminate all inherent conflicts with the construction of MTO’s new interchange at Highway 522 and MTO’s expansion of Highway 69. The rail relocation is necessary for MTO’s four-laning of Highway 69 and improve MTO’s network connecting southern and northern Ontario.
30. Attached as **Appendix 7** is a letter of support from the MTO.

31. The proposed construction activities for the rail relocation are detailed and scheduled as follows:

Schedule of Construction

Phase	Description	Expected start date	Expected completion date
1	Remove and Replace the Culverts	Fall 2026	Spring 2027
2	Grading to subballast level, including remaining rock blasting works	Fall 2026	Spring 2027
3	Laying of new tracks	Spring 2027	Summer 2027
4	Installation of signals , IT, and fibre infrastructure	Spring 2027	Summer 2027
5	Connecting the existing track to the new track and will transfer the rail operations to the new corridor	Fall 2027	Fall 2027
6	Decommissioning and removing the existing rail alignment	Fall 2027	Winter 2028

32. The construction activities include:
- Contractor to mobilize on site and set up facilities for construction crews, including offices, washrooms, lunchrooms, and parking;
 - Removal of existing culverts and replacement. This includes excavation, installation of culverts, and backfilling. It is anticipated that this work will be completed by open-cut methods and may require temporary shoring, pending the contractor's means and methods. Excavated materials in excess will be transported offsite to designated soil disposal sites;
 - Complete subgrade and sub-ballast layers, utilizing heavy machinery and stockpiling granular materials at the on-site laydown. This work includes rock blasting as identified on the drawings;
 - Installation of utilities to support CN Signals infrastructure. This includes any excavating, trenching and backfilling of granular materials. It is anticipated that this work will be completed by open-cut methods;
 - Complete track construction for the laying of new tracks, including stockpiling of ballast and track materials at the one-site laydown;
 - Track to be cut over to transfer the train operations to the new corridor;
 - Old track to be decommissioned and removed from site;
 - Decommissioning;
 - Construction of fencing and access gate(s) required for site security and to prevent trespassing;
 - Audible warning devices;
 - Truck haul routes; and
 - Blasting activities.
33. Facilities for construction crews will be determined by the selected contractor once the project is tendered.
34. Preliminary works, including clearing and grubbing, rock blasting, and some drainage work, were conducted by MTO in 2017. All other on-site and off-site staging, equipment, and phasing will be determined by the selected contractor once the project is tendered.

35. The following items will be determined by the selected contractor after the project is tendered:
- off-site disposal facilities or containment areas for excavated materials;
 - temporary works (dykes, berms, pumps, shoring, etc.);
 - security facilities, including security systems and construction fencing required for site security and to prevent trespassing;
 - audible warning devices;
 - traffic diversion / management plans;
 - truck haul routes;
 - pile driving; and
 - blasting activities.

D. ENGAGEMENT ACTIVITIES

I. INDIGENOUS ENGAGEMENT

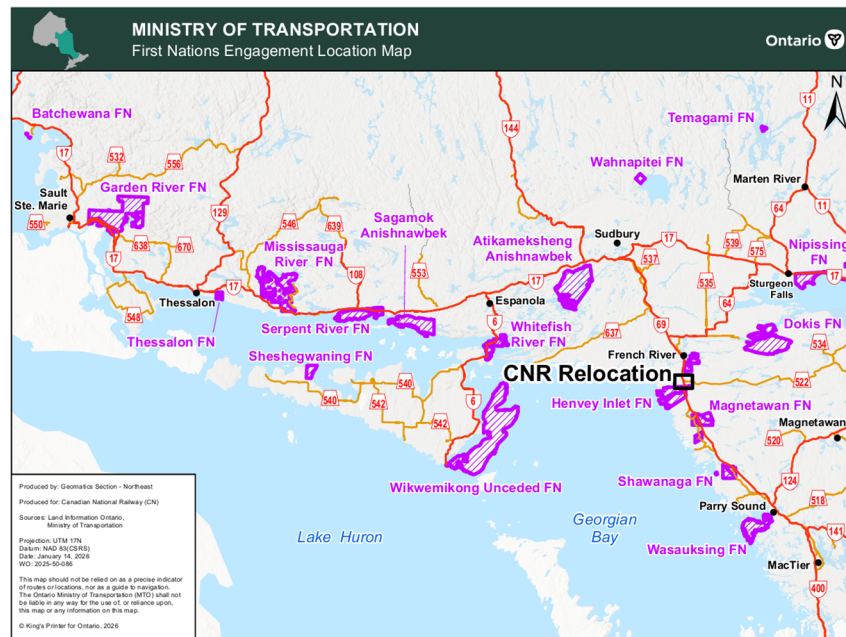
36. The MTO conducted extensive Indigenous engagement as part of the Highway 69 Four-Laning Project (Project 4: North of Magnetawan River to North of Highway 607). The engagement activities spanned from 2003 through 2015 and involved multiple Indigenous communities. MTO's consultation included:
- Distribution of notification materials to all potentially affected communities
 - Meetings with community leaders
 - Community Information Sessions at the discretion of Chief and Council
 - Notices of study commencement, public information centers, and study completion
 - Opportunities to review EA reports and updates on the Highway 69 website
37. MTO's Environmental Assessments, which includes the rail relocation, and First Nation consultation process included notification and engagement with 20 First Nations communities, including:
- Henvey Inlet First Nation
Magnetawan First Nation
Shawanaga First Nation
Batchewana First Nation
Dokis First Nation
Garden River First Nation
Nipissing First Nation
Sagamok Anishnawbek
Serpent River First Nation
Temagami First Nation
Thessalon First Nation
Wasauksing First Nation
Whitefish Lake First Nation (Atikameksheng Anishnawbek)
Whitefish River First Nation
Wikwemikong Unceded First Nation

Additional groups consulted included the Anishinabek Nation Union of Ontario Indians, Métis Nation of Ontario, Waabnoong-Bemjiwang Association of First Nations, Ontario Native Affairs

Secretariat (now Indigenous Affairs and First Nation Economic Reconciliation), and Aboriginal Affairs and Northern Development Canada.

38. In 2013, Henvey Inlet First Nation (HIFN) completed a comprehensive Traditional Land Use Study with technical support from URS Canada. On April 30, 2013, HIFN Chief and Council issued a Band Council Resolution accepting the study and its content as a framework for ongoing discussion and negotiation with MTO.
39. MTO conducted archaeological assessments with Indigenous involvement. Specific mitigation measures were developed to address Indigenous concerns, including:
 - Wildlife passages under bridges to maintain wildlife movement
 - Exclusion fencing to direct deer and moose to crossing locations
 - Adjustment of trap line locations to maintain viability
 - Access roads under bridges to maintain reserve land connectivity
 - Gateway features at interchanges to identify the Henvey Inlet community
 - Protection of species at risk habitat
 - Best management practices for surface and groundwater protection
40. The HIFN Traditional Land Use Study concluded that the effects of the proposed undertaking were "low to moderate" and that the overall effect was considered "positive with no significant residual effects". The overarching community view of constructing a four-lane Highway 69 on a new alignment was positive, with the new highway perceived as providing enhanced travel safety and economic prosperity to the area.
41. Additionally, the MTO organized a dedicated Community Consultation Session with HIFN for the proposed rail relocation on July 21, 2011, at the former Band Office on Pickerel River Road. Notification to HIFN residents included posting a notice at the HIFN Administration Office and delivering brochures to each residential property. Fourteen residents attended the consultation, including the Chief and four of six Councillors. The session included a formal presentation of display boards and plans by the MTO. A summary of the comments and questions raised along with the answers provided can be found at **Appendix 8**.

42. The following map shows the location of these Indigenous communities relative to the proposed rail relocation:



43. With respect to the project segment involving the rail relocation, CN reached out directly to the Indigenous communities that had comments or showed an interest in the MTO's Environmental Assessments (either federal or provincial), which are listed below. For the Anishinabek Nation (Union of Ontario Indians) and the Métis Nation of Ontario, these communities were contacted further to pre-engagement discussions with the Agency on CN's Section 98 application.
- Whitefish Lake
 - Henvey Inlet First Nation
 - Magnetawan First Nation
 - Serpent River First Nation
 - Shawanaga First Nation
 - Temagami First Nation
 - Thessalon First Nation
 - Wasauksing First Nation
44. The March 10, 2026, open house details were shared by email with a broader range of Indigenous communities than those listed in paragraph 43 above, to all Indigenous communities receiving MTO project updates. The Indigenous communities who received the open house details are listed in Section 2 and Appendix A5 of the Public Open House Summary Report found at **Appendix 9-A**. The MTO also followed up directly with Henvey Inlet, Magnetawan, and Shawanaga, offering support should they choose to post the notice on their social media channels and/or websites, as appropriate.
45. A detailed log of CN's engagement activities with Indigenous communities can be found at **Appendix 10-A**. In summary, CN's engagement consisted of three phases: (1) preliminary direct engagement with the communities identified in paragraph 43; (2) distribution of the

open house invitation, as detailed in paragraph 44 and direct engagement during the open house session with Indigenous communities that attended ; and (3) follow-up letters on the rail relocation issued to the communities listed in Section 2 of the Public Open House Summary Report found at **Appendix 9-A** and follow up discussions at the request of the Indigenous communities outlined in **Appendix 10-B**. Copies of these follow-up letters can be found at **Appendix 10-C**.

II. PUBLIC CONSULTATION

46. Since 1985, the MTO has hosted over 100 public information sessions for the various Highway 69 four-laning project, both locally along the Highway 69 corridor and in Toronto, to present project updates and receive public feedback.
47. CN held an open house on March 10, 2026, in the Town of Alban. MTO representatives were also present to answer questions. The open house was advertised in the local newspapers of Parry Sound (online publication) and Anishinabek News on February 24, 2026, and mailed through Canada Post on February 24, 2026 to approximately 438 addresses, as detailed in Section 2 and Appendix A3 of the Public Open House Summary Report found at **Appendix 9-A**. Copies of the newspaper advertisement (Parry Sound publication mentions Toronto Start because they belong to the same company) can be found in Appendix A2 of the Public Open House Summary Report found at **Appendix 9-A**. In addition, the public open house information was shared with the communities and individuals detailed in Appendix B of the Public Open House Summary Report found at **Appendix 9-A**. The open house was also advertised on MTO's social media platforms, including, Facebook, Instagram and X. Captures of these social media posts are attached as Appendix A4 of the Public Open House Summary Report found at **Appendix 9-A**.
48. The stakeholder contact list for the CN open house was developed from the Highway 69 four-laning project contact list, which was compiled over the years as stakeholders and members of the public contacted the MTO project team and asked to be included on the list. This is in addition to the bulk mailings that were distributed to a geographical area, as well as targeted mailings to cottage owners in the area that were identified through a property search. A stakeholder engagement report summarizing all consultations completed to date can be found at **Appendix 9-B**.
49. Comments received between the open house advertisement and the March 10, 2026, open house can be found in Section 5.1 of the Public Open House Summary Report found at **Appendix 9-A**.
50. The March 10, 2026 open house was attended by 9 people. The open house format included an overview of the proposed project, the application process of the CTA, maps, and a fulsome question-and-answer period. The material presented at the open house is detailed in Section 3 of the Public Open House Summary Report found at **Appendix 9-A**.
51. Comments received during the open house can be found at Section 5.2 of the Public Open House Summary Report found at **Appendix 9-A**.
52. A dedicated webpage with project information and project contact information is available at <https://www.ontario.ca/page/rail-line-relocation-highway-69-expansion>. A print screen of

the webpage can be found in Appendix D of the Public Open House Summary Report found at **Appendix 9-A**. The webpage was also advertised on MTO's social media platforms, including, Facebook, Instagram and X. Captures of these social media posts are attached as **Appendix 11**.

53. The public continues to have access to the project webpage, and the CN Public Inquiry Line remains open by email and telephone for anyone who wishes to provide comments or needs information. Contact details are also available on the project webpage for any questions or comments on the project or during construction. A copy of this application is available to the public on the following project webpage:
hwy69railrelocation.ca.
54. CN's proposed commitments and mitigation for this project are detailed in **Appendix 12**.

E. ENVIRONMENTAL ASSESSMENT (EA)

55. MTO's Highway 69 four-laning project met the requirements for a Group "A" project as outline in the Class Environmental Assessment for Provincial Transportation Facilities (MTO, 2000).
56. The project was also subject to a screening-level environmental impact assessment under the *Canadian Environmental Assessment Act*, SC 1992, c 37 and was assessed as five separate phases of the project proposed by the MTO. Notice to proceed with Project 4, which includes the rail relocation within its scope, was filed on December 14, 2011. The screening level environmental impact assessment was continued pursuant to the transitional provisions of the *Canadian Environmental Impact Assessment Act* (2012). The Screening Report is attached as **Appendix 13**. The rail relocation for which authorization under Section 98 of the CTA is sought hereunder remains unchanged from the description included in the Screening Report.
57. On February 4, 2015, Transport Canada and the Agency confirmed that after completing the screening assessment process, they were of the opinion that that the project is not likely to cause significant adverse environmental effects.

F. NOISE

58. MTO mandated and received a noise impact assessment specifically with regards to the proposed rail realignment. While the assessment was completed in 2014, its conclusions remain valid because the project scope, alignment and surrounding conditions have not materially changed. It is noteworthy to note that there are a limited number of receivers that fall within 1km of the existing CN rail corridor and the realigned CN rail corridor, as shown in **Appendix 14**.
59. The existing receivers, #32 is a cottage and #33 is the Key Marina Resort, which offer cottage rentals. These receivers remain in proximity to both the current and realigned rail corridor.
60. The modeling results indicate a minor change (increase) of less than 0.5% in the percent highly annoyed (%HA) which is substantially below the 6.5%HA threshold identified in Health Canada guidelines (Health Canada 2010) for considering mitigation measures.

61. Since completion of the Noise Impact Assessment, one new cottage structure has been identified at coordinates (45.903667, -80.559306). However, given that rail traffic volumes and alignment assumptions have not changed, and considering the conservative nature of the original noise modelling—which did not account for natural noise attenuation from intervening forested areas—noise impacts at this location are not anticipated to be significant. Accordingly, the conclusions of the Noise Impact Assessment remain valid.

CONCLUSION

62. In summary, it is CN's submission that the location of the proposed rail relocation is reasonable given:

- the necessity for MTO to expand Highway 69;
- the requirement for railway operations at this location;
- the absence of significant impact to the localities affected by the project.

CN therefore respectfully requests that its Application, pursuant to Section 98 of the CTA, be granted and that the Agency approves the relocation of the existing railway line as shown on Appendix 1.

Respectfully submitted this 9th day of June 2026



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