

Submitted to the Canadian Transportation Agency (Form submission)

Subject: Consultation on the Application for Authorization of the Lac-Mégantic Rail Bypass Project

Name: Jenny Caccamo

Date: 2026-01-30

This submission addresses fundamental inconsistencies in the applicant's corporate representations that undermine the Agency's jurisdiction under section 98 of the Canada Transportation Act (S.C. 1996, c. 10) ("CTA"). The application fails to clearly identify a single railway company responsible for constructing and operating the Lac-Mégantic bypass. These ambiguities are substantive and jurisdictional, not clerical.

The Agency may only approve a section 98 application if the applicant is a certified railway company that will construct and operate the line. The current record does not satisfy this requirement. As the consultation period closes today (January 30, 2026), these issues remain unresolved despite multiple applicant response sheets.

CMQR Is Not a Railway Company and Cannot Be the Applicant

The application repeatedly positions Central Maine & Québec Railway Canada Inc. ("CMQR") as the central entity: the intended owner, designer, constructor, and "the Applicant" (e.g., Definitions, p. 5: "Application" means the application filed... by CPKC on behalf of CMQR"; p. 5: "Applicant" cross-references Section II.A.42). However, Agency Determination No. R-2021-36 (March 2021):

- Cancelled CMQR's Certificate of Fitness (No. 14001-2);
- Confirmed CMQR's operations were integrated into Canadian Pacific Railway Company ("CPRC"); and
- Varied CPRC's Certificate of Fitness (No. 96001-5) to include former CMQR lines.

Under CTA sections 87(1) ("railway company" definition), 92 (certificate requirement), and 98 (construction approval):

- CMQR is no longer a railway company;
- CMQR cannot construct or operate a railway line; and
- CMQR cannot apply under section 98.

The application's reliance on CMQR as "the Applicant" violates these provisions and contradicts the Agency's prior ruling.

Internal Contradictions in the Application's Corporate Structure

The application defines (p. 5):

- "CPKC" as CPRC doing business as CPKC;
- "CPRC" as Canadian Pacific Railway Company; and
- "CMQR" as Central Maine & Québec Railway Canada Inc.

Yet it states (cover page): the application is "by CANADIAN PACIFIC RAILWAY COMPANY (doing business as CPKC) as the operating railway company and on behalf of CENTRAL MAINE AND QUEBEC CANADA RAILWAY INC." This creates irreconcilable contradictions: CPRC/CPKC is the submitting and operating railway company, but CMQR is "the Applicant" and owner.

Section 98 requires a single railway company applicant. It does not permit dual applicants or filings "on behalf of" a non-railway entity.

Section 98 Does Not Permit the Described Structure

Section 98 mandates that the applying railway company be the entity constructing and operating the line. The application outlines a fragmented structure: Transport Canada ("TC") as the substantive proponent and funder; CPRC/CPKC as the certificate holder and operator; CMQR as a non-railway subsidiary labeled "the Applicant"; and "CPKC" used interchangeably as a trade name.

This division of roles—construction, ownership, operation, safety, insurance, and compliance—among entities is incompatible with section 98. The Agency must identify one accountable railway company.

Land-Transfer Structure Is Incompatible With the CTA

The application indicates (e.g., Executive Summary, p. 8): expropriated lands will be transferred to CMQR post-construction, with CMQR transferring the existing corridor to the federal government (see also p. 24 for land transfer details). This raises concerns:

- CMQR lacks a Certificate of Fitness;
- CMQR is not the operating entity (operations are under CPRC/CPKC);
- CMQR is not registered as a Québec railway company.

Transferring federal lands to a dormant subsidiary creates ambiguity in ownership, liability, and regulatory compliance under the CTA.

The Application Confirms TC Is the Real Proponent

The application states (e.g., p. 8): “At the request of Transport Canada, CPRC has submitted this Application on behalf of CMQR”; and repeatedly attributes key studies and commitments to TC (e.g., Appendices prepared by TC, monitoring plans led by TC). This reveals:

- TC as the driving force;
- CPRC/CPKC as the nominal railway company;
- CMQR as a placeholder without independent status;
- “CPKC” as a post-merger trade name.

Section 98 does not authorize a federal department to direct a railway company to apply “on behalf of” a non-railway subsidiary.

Applicant’s Responses to Public Comments Deepen the Confusion

In response sheets (e.g., January 14, 2026, p. 1): “Canadian Pacific Railway Company, doing business as Canadian Pacific Kansas City (‘CPKC’), as the operating railway company and on behalf of Central Maine and Quebec Canada Railway Inc. (the ‘Applicant’), submits the following responses...” This echoes the application’s ambiguities without resolution, contradicting its own definitions and Determination R-2021-36. Similar phrasing appears in the January 7, 2026 response sheet. Despite opportunities across 12 batches of responses (up to January 14, 2026), no clarification on corporate structure has been provided.

Potential Legal Consequences

Proceeding without resolution risks:

- Approving an application from a non-railway entity;
- A jurisdictionally defective decision;
- Unenforceable conditions due to unclear accountability;

- Uncertainty in liability, insurance, and land title;
- Vulnerability to judicial review under the Federal Courts Act.

Applicant identity is foundational to section 98 compliance.

Requested Agency Action

Before approval, I request the Agency require the applicant to amend the record with unambiguous answers to:

1. Which single legal entity is the railway company under section 98?
2. How can CMQR be the Applicant given its non-railway status?
3. Why is CPRC/CPKC applying “on behalf of” CMQR?
4. Why transfer expropriated lands to CMQR instead of CPRC/CPKC?
5. Which entity will construct, own, operate, insure, and bear liability for the bypass?
6. What does “CPKC” refer to in each context (legal entity or trade name)?

These are essential for jurisdictional validity.

Conclusion

The application fails CTA section 98 requirements due to unresolved corporate ambiguities. The Agency must demand clarifications to ensure a legally sound record. As of the consultation close, these defects persist.

Respectfully submitted,

Jenny Caccamo

January 30, 2026

Attachement N°1 –

SUBMISSION TO THE CANADIAN TRANSPORTATION AGENCY

Re: Application by Canadian Pacific Railway Company (CPRC), doing business as CPKC, to Construct the Lac-Mégantic Bypass (Case No. 20-08580).

Subject: Legal Sufficiency of the Application – Corporate Identity, Applicant Status, and Section 98 Compliance.

Introduction

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