



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

April 20, 2023

Clem W. Schimikowski
HazMat & Emergency Response Officer
Canadian Pacific Kansas City
55 Glenham Road
Saratoga, NY 12866

Re: Canadian Pacific Train Derailment Clean-Up Efforts

Dear Mr. Schimikowski:

On April 15, 2023, a Canadian Pacific (CPKC) freight train derailed in Rockwood, Maine resulting in the discharge of fuel, hydraulic fluid, and engine oil from train cars to the environment and to nearby surface waters. The discharge was reported to the Department of Environmental Protection (Department); and following the initial emergency response to address immediate public safety concerns, remediation and clean-up efforts of the discharged oil commenced.

According to Maine’s *Oil Discharge Prevention and Pollution Control law*, 38 M.R.S. §§ 541-560, any unlicensed discharge of oil, oil additives, petroleum products and their by-products of any kind and in any form are prohibited. Additionally, any person who discharges oil shall immediately remove that discharge to the Department Commissioner's satisfaction. This requirement remains even if the discharge occurs in the process of recovering, containing, cleaning up, or removing an oil spill to surface waters.

CPKC accepted responsibility for managing the clean-up of the site to the standards established by the Department. In this case, the Department retains the responsibility and authority of review and approval of all work conducted on site for purposes of the clean-up. Department representatives have been onsite to oversee and approve CPKC’s and their contractor’s oil recovery and remediation efforts. To date, CPKC and/or their contractors have failed to meet Department expectations regarding timing and response of clean-up activities in order to effectively mitigate impacts to the environment and public health; directives that the Department has issued in order to meet the Commissioner’s satisfaction have not been attended to or completed. These include:

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143

- Emptying the saddle tanks prior to moving the locomotive causing further release of petroleum product; and
- Removal of the two rail cars containing hazardous material from the site in a timely manner.

The Department's Commissioner may choose to directly manage the removal or clean-up of a prohibited discharge in order to effectively mitigate damages and provide adequate protection of the environment and public health. The Department is prepared to assume responsibility of this clean-up effort given CPKC's failure to meet the clean-up requirements put forth by the Department, however the Department would prefer at this juncture to continue to work with CPKC in addressing the cleanup in a prompt, efficient, and coordinated manner. If the Department were to assume responsibility of the clean-up effort, any expenses incurred by the Department that are not considered eligible expenses from the Ground and Surface Waters Clean Up and Response Fund will be CPKC's responsibility.

The Department evaluates the facts of each site and exercises its discretion to determine the most appropriate method of protecting the environment and human health. In this instance the Department expects that CPKC will meet the Department's requests in a timely manner and ensure clean-up activities are conducted to the satisfaction of the Commissioner to avoid any need for enforcement action. The Department appreciates the good faith of CPKC and appreciates your attention to this urgent matter.

Thank you and we look forward to enhanced cooperation during this response clean-up effort.

Sincerely,

A handwritten signature in blue ink, appearing to read "Melanie Loyzim", with a stylized flourish at the end.

Melanie Loyzim, Commissioner
Maine Department of Environmental Protection