

POLICY BRIEFING - TRANSPORTATION

# House Transport Committee set to redefine navigable waters under Navigable Waters Act

The committee recently completed a report on rail safety in Canada, and is now studying Canada's infrastructure program and the navigation and protection of Canadian waterways, and plans to examine Canadian content in public transit projects.

By JAMES RILEY THOMPSON

The House Standing Committee on Transportation Infrastructure and Communities is preparing to table a report on the Navigable Waters Act, which is expected to redefine navigable waters and facilitate the construction of bridges and roads, say members of the committee.

Liberal MP and transport critic Joe Volpe (Eglinton-Lawrence, Ont.) deputy chair of the House Transportation Committee, said the report on the Navigable Waters Act is "supposed to be dealing with navigable waters, and essentially define what the navigable waters are in today's context. People think in terms of large rivers and ports, etc. But really what it's dealt with [in history] in many parts of the country was when waterways are generated by winter runoffs."

Conservative MP Merv Tweed (Brandon-Souris, Man.), chair of the House Transport Committee, said when the act was written in 1896, the definition of navigable was, "you can float a canoe in it" and it needs to change. "Well we know that that has expanded to include ditches. Anytime that there is water laying or moving in any area, it can be termed a navigable water. And that impedes the ability, particularly of municipalities and provinces, from doing certain types of work that they deem necessary and important to their communities, just simply because of the delays it actually takes to get to a process of approval," Mr. Tweed said.

The committee is now in the process of finishing the report, and was asked by Transport Minister Lawrence Cannon (Pontiac, Que.) to finish the study by June 17. The committee is hearing from

officials from the Department of Transport, the Canadian Environmental Assessment Agency, and Infrastructure Canada on June 3, and plans to report no later than June 20, when the House is scheduled to rise for the summer.

Mr. Volpe explained that the issue involves multiple departments and agencies. "So somebody dumps their goldfish into these streams, and an environmental assessment is done; that becomes a fish habitat, and so you have to deal with the Department of Fisheries and Oceans, even though the Department of Fisheries and Oceans has nothing to do with the centre of the continent."

He pointed out the departments of Environment and Natural Resources are also involved, along with the provinces, local communities and conservation authorities. "So you've got so many departments coming in. To do what? To take the most ridiculous situation: it's a farmer that needs to build a bridge on his property and there is one of these temporary streams, and he can't do it. He can do it, but he will be in contravention of the law," Mr. Volpe said.

"The idea is to say, 'Look, in some places we need to build bridges, we need to build roads. What we want to do is to make sure we don't run afoul of the law for things that are constantly being repeated.' So we're trying to take a look at the repetitions that represent precedence that have been dealt with in more or less the same way, put them in our legislations, and say, 'Let's exempt these, from the more rigorous approach for environmental or navigable water assessments.'"

The committee also recently completed a

report on rail safety in Canada, and is now studying Canada's infrastructure program and the navigation and protection of Canadian waterways.

The report on rail safety in Canada, which the committee began studying before the government began its review of the Railway Safety Act in 2006, was completed last Thursday, and will be considered by the Transport Department over the summer before the government responds to the committee's recommendations.

"The recommendations are essentially pretty basic from our perspective," said Mr. Volpe. He explained that they include more oversight from the department on the way that the railway companies deal with security and safety, and ensuring that safety management systems are audited more rigorously with a punitive approach to non-compliance.

The report also recommends better staff training. "We assume, always, that a company is looking out for its own interest and its own interest is resident in a well-trained work force, and it didn't seem to us that certain stances associated with the rail accident and derailments suggested that they were being very rigorous in their training," Mr. Volpe said. "Now, taking into consideration that there is a generational change in some of the workforce, you could say we are not being completely fair to them, but there is not a company that wants to stay in business that won't make the investment in making sure they have first class staff."

The committee also focused on management issues "that compound problems," which are different from other sectors. "If you can only work 10 hours, the train just keeps going, it doesn't quit work, the worker doesn't go home, so you have to have some downtime for that individual for safety reasons. And some of that, in our view, hasn't been addressed appropriately, and so we made those recommendations."

The committee also studied the independent panel that reviewed the Railway Safety Act. The panel, appointed by Mr. Cannon in February 2007, was part of a wider review of the Canadian Railway Safety Act ini-

ated in December of 2006. The panel was chaired by Doug Lewis and was active between April and August of 2007, and served as Mr. Cannon's primary independent source of information on railway safety for the government's review of the Railway Safety Act.

The Transport Committee met with members of the independent panel and questioned them about the work that they did during their review of the Railway Safety Act.

The committee is also planning to study the federal government's \$33-billion Building Canada infrastructure fund. The committee held a meeting on Dec. 13, and has not had another meeting exclusively on the issue since. At that time Mr. Cannon was invited to return to the next committee meeting on the infrastructure program.

"We do have a priority in our committee. We decided earlier that legislation would be our first

focus, and then studies of issues that are brought forward," said Mr. Tweed. As to why the committee chose to deal with legislation before returning their focus to the infrastructure program, Mr. Tweed cited the fluid nature of the fund, saying, "because some provinces haven't signed on to it, presents some challenges as even being able to comment on it ..."

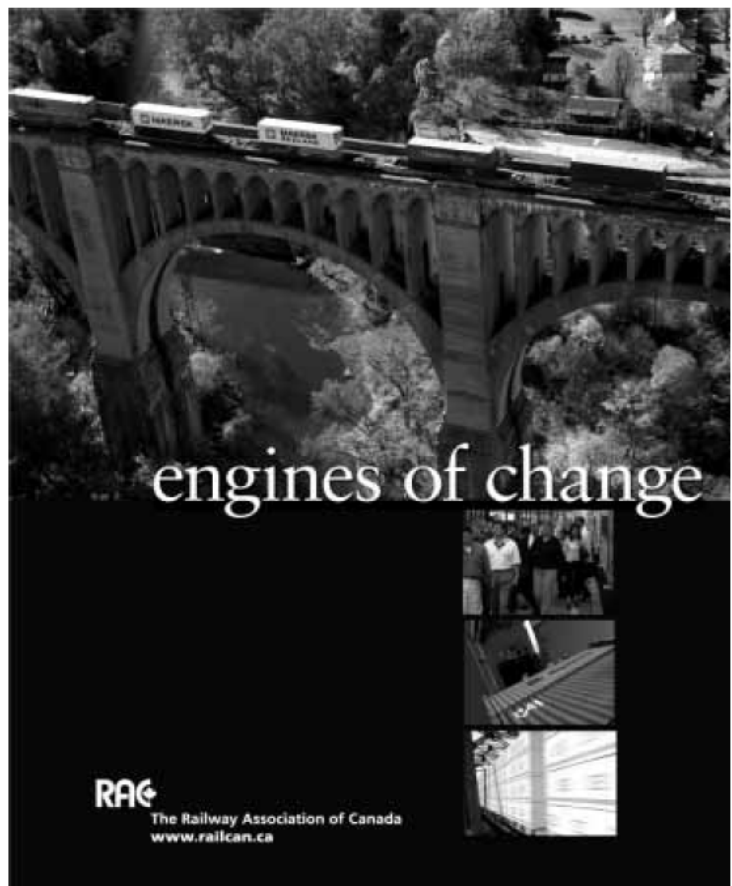
"You meet people from British Columbia who have signed on and they seem to think it is moving forward and starting to do the things that it was intended to do, and then you have other provinces that haven't signed on, and those communities are starting to get a little anxious, because we are into the construction seasons, we are into the development season as far as weather, and to not have even the application for some provinces because they haven't signed on, it does delay the process and

we could lose an entire season."

Up next on the committee's agenda is plans to study Canadian content in public transit projects. The report will focus on the level of domestic content, including buses, trams, and other products, within current and recently publicly funded transit projects. The study could possibly result in a recommendation to adopt laws dictating the amount of Canadian content that must be invested in public works projects dealing with public transit. Similar laws are already in place in Europe, the United States, and Japan.

Liberal MP Ken Boshcoff (Thunder Bay-Rainy River, Ont.) proposed in March that there be a required level of investment in Canadian content for public transit projects before the House. The committee will begin its study when it returns in the fall.

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