



# The Ontario Headwaters Institute

Working to preserve the foundation of Ontario's watersheds

October 29, 2015

Rebecca Zeran  
Policy Division, Natural Resources Conservation Policy Branch  
Ministry of Natural Resources and Forestry  
PDF via e-mail

**RE: ER 012-4464: Wetland Conservation in Ontario**

The Ontario Headwaters Institute, a registered charity that works to preserve the province's headwaters, most wetlands, and their watersheds through research, education, and best practices, writes to share our comments on the Ministry of Natural Resources and Forestry's (MNRF) discussion paper on Wetland Conservation in Ontario.

Fundamentally, as can be seen in the attached letter, we believe that Ontario needs a more comprehensive vision for Ontario's policy and implementation framework on natural heritage protection, watershed management, and land use planning, and have suggested seven over-arching areas that we believe are falling between the cracks or may not be addressed as much as they should be, nor integrated, in this and other current, affiliated reviews.

Nowhere are vision and integration more needed than with respect to wetlands, which have been devastated in the development of the province and which continue to suffer from contradictory regulatory mandates, multiple definitions, uneven and undelivered guidelines, and the lack of a ministerial champion.

The latter include:

- The fractures and stresses between the Drainage Act and the Conservation Authorities Act, etc;
- The existence of at least 16 definitions of a wetland - just by various agencies on the Greenbelt;
- The absence of common provincial protocols for development, interference with wetlands, and alterations to shorelines and watercourses, amplified by the essentially volunteer application of the standards in Ontario's Natural Heritage Reference Manual; and,
- The primacy of the Provincial Policy Statement, and the position of MNRF as a junior partner to MMAH in the One Window Approach for the protection of Ontario's wetlands.

Given these challenges, we find the discussion paper uninspiring and we hope that the Province and MNRF will be more assertive in the development of a new framework to protect, conserve, and restore Ontario's wetlands, which are essential to our biodiversity and future ecological integrity.

We offer the comments below.

## A. General Observations

A1 Anthropocentric Perspective - In spite of the presence of some wording in the discussion paper on the role wetlands play for other species and biodiversity, we find that the paper has over-looked the provisioning roles that wetlands provide and instead stresses the ecosystem services that wetlands contribute to humanity, such as flood control.

While the OHI harbours no misanthropy, we find this self-serving and short-sighted. Ontario's future ecological integrity, economic vitality, and public health will benefit from the services listed, but depend on the fulsomeness of its biodiversity, much of which is strongly rooted in wetlands. We urge MNRF to more fully acknowledge the provisioning role of wetlands.

A2 Factual Error – The last box on page 7 cites an error that was rooted in the first two efforts to pass a Great Lakes Protection Act, but was finally corrected in the third version of the bill: the Great Lakes are not the largest system of surface freshwater on Earth. They are not even the largest in Canada. Please stop the precipitation of this false information.

A3 Superficial Tables in Place of a Gap Analysis – It is hard to imagine why the discussion paper includes tables 1A and 1B. The issue is not what “protections” we have, but how these failed given the losses acknowledged in the paper. The Government and the public would have been better served with a gap analysis of agency mandates, policies, programs, guidelines, and resources vis-à-vis the goal of protecting, conserving, and restoring wetlands.

A4 The Mitigation/Compensation Hierarchy – The OHI finds the preliminary description of No Net Loss in item 4.2, page 18, fully within context. However, we think that the extensive description on page 22, which has no numbered reference in the paper, has no place in the paper and foreshadows a pre-determined direction on compensation that we consider objectionable.

While we will list detailed concerns about including compensation at this time in the consultation in item 6 below, we register our strongest possible reservations that:

- The statement that adopting the hierarchy “could help stop wetland loss” is the only such wording on any future policy direction in the paper, and as such appears to be biased and inappropriate; and,
- There is no discussion nor even any acknowledgement of the fact that compensation for wetland creation may represent not just direct pecuniary benefits to some land owners but also open the door to various credits, including carbon sequestration credits. These may in the long term prove to be illusory should a changing climate cause the drying out of wetlands in Ontario, even temporarily, thus both eliminating the created habitat as well as emitting the carbon back into the atmosphere.

We consider the issue of compensation one that requires a detailed and separate consultation from the current effort, and list in item 6 below numerous issues that require serious discussion.

## B. Responses to Questions

1. *Do you think there are current challenges related to wetland conservation in Ontario? If so, what are the challenges?*

The biggest current challenges are the fact that MMAH drives the bus on development and that MNRF is a junior partner in protecting wetlands. The OHI suggests that MNRF articulate meaningful policies and programs to protect, conserve, and restore wetlands and, if necessary, withdraw from the One Window Approach should the ministry's vision and mandate be compromised in that forum.

2. *Three priority areas of focus for wetland conservation in Ontario are proposed: strengthen policy, encourage partnership and improve knowledge. What do you think of these three focus areas? Do you have other ideas for additional focus areas?*

The OHI believes that:

- Future policy direction must be informed by a gap analysis, which must be made publicly available and form the basis for further consultation;
- The standards in Ontario's Natural Heritage Reference Manual should be made mandatory minimums for development, interference with wetlands, and alterations to shorelines and watercourses across Ontario;
- OWES should be streamlined for the more rapid evaluation of PSWs;
- Ontario should create Regional Water Boards, as recommended by the OHI, one duty of which would be to identify and designate Regionally Significant Wetlands, especially in areas having less than 50% of their original wetlands;
- Public education on wetlands should focus as much as on provisioning services as on ecosystem services to people; and,
- Budgets for remote sensing, mapping, natural heritage assessments of wetland health, and reporting must be increased substantially.

3. *Considering the three priority areas of focus, what are some actions and activities that government, organizations, and individuals could take to improve wetland conservation in Ontario? What partnerships should the Ontario government explore to stop wetland loss?*

Partnerships should be about education, stewardship, and land trusts for existing wetlands: protecting, conserving, and restoring wetlands must be the object of the next policy framework.

4. *What do you think about Ontario's current wetland policy framework? Can it be improved? Can it be made more effective? If so, how?*

See comments under 1 and 2 above.

5. *Should targets be considered to help achieve wetland conservation in Ontario? If so, what form should these targets take?*

Targets for wetland preservation should be established in a provincial vision similar to *How Much Habitat is Enough* and must be based on all wetlands, not just PSWs.

Targets for wetland restoration, and the selection of specific wetlands to be restored, should be set by Regional Water Boards, as proposed by the OHI.

6. *The Ontario government is considering approaches to achieve no net loss of wetlands.*
- a. *What do you think of the establishment of a mitigation/compensation hierarchy to achieve no net loss? Are there other approaches?*
  - b. *What tools (e.g., policy) could be used to implement approaches to achieve no net loss?*
  - c. *What might the role of government, partners, private landowners and others be if no net loss approaches are implemented?*
  - d. *Should no net loss approaches be applied uniformly across Ontario? Or, only where the risk of wetland loss is greatest?*

The OHI supports Avoidance, Minimization, and Mitigation.

We are opposed to the inclusion of Compensation in a new policy framework, as we believe it:

- Should only be discussed once the regime responsible for the current situation has been revamped;
- must be an absolutely last resort, which we do not consider the perceived intention of the Province from the biases evident in the discussion paper;
- Should only be applicable for infrastructure and not other kinds of development;
- May need to be ruled out for certain types of wetlands;
- May have significantly different aspects in different parts of the province;
- Must exclude cash-in-lieu;
- Must include discussions on replacement ratios. For example, we think discussion is warranted on a any proponent paying for at least the 1:1 (ie No Net Loss) and the Province potentially contributing to above the ratio negotiated (ie Net Gain) with the proponent and other parties;
- Must be informed by public discussion on any biodiversity or GHG credits, how and to whom they might accrue, and what happens to them should a wetland dry out due to a changed climate or from future development; and,
- May benefit from a role to be played by the OHI's proposed Regional Water Boards.

Given the weaknesses of the current regime, we urge MNR to lay down a solid new framework for wetland protection, conservation, and restoration, and to pursue discussions on compensation **ONLY** once a system of Avoidance, Minimization, and Mitigation has been in place and its efficacy can be evaluated.

7 *Do you have any additional suggestions for improving wetland conservation?* None

In conclusion, we firmly support the need for an improved framework to protect, conserve, and restore Ontario's wetlands.

We urge MNR to become Ontario's wetlands champion; conduct and make a gap analysis public; propose meaningful policy and program reform including Avoidance, Minimization, and Mitigation; secure appropriate resources; support the establishment of the OHI's proposed Regional Water Boards in order to address gaps relating to wetlands and other aspects of our hydrologic systems; and to withdraw from the One Window Approach, if necessary, should the ministry's vision and mandate be compromised in that forum.

Please feel free to contact the undersigned for any clarifications at your convenience.

Sincerely,

*Andrew McCammon*

Executive Director

cc's Broad distribution to elected officials, agency staff, community organizations, etc

October 19, 2015

**NOTE:** The copy of this letter is provided for information purposes only. The 25 co-signatories are omitted as they have not seen and are not associated with this OHI submission on the Wetland Conservation Discussion Paper.

Premier Wynne and Ministers Leal, Mauro, McMeekin, and Murray  
PDF via e-mail

**RE: The Co-ordinated Land Use Planning Review; the Conservation Authorities Act Review; & the Wetland Conservation in Ontario: A Discussion Paper**

~ and ~

**The opportunity to identify and deliver a more fully integrated system of natural heritage protection, watershed management, and land use planning in Ontario**

The Ontario Headwaters Institute and the 25 signatories to this letter encourage the Ontario government to seize the opportunity represented by the simultaneous consideration of the three initiatives cited above - as well as the implementation of the Great Lakes Protection Act (GLPA) and other initiatives - in order to identify and deliver a more fully integrated system of natural heritage protection, watershed management, and land use planning in Ontario.

We suggest that the following actions are needed to provide a more comprehensive vision for Ontario's policy and implementation framework on these issues, and which may otherwise fall between the cracks or not be addressed as much as might be needed, nor integrated, in the current reviews:

1. **Establish Provincial Targets to Protect Natural Heritage** – Ontario's commitments to biodiversity, natural heritage, resilient ecosystems, and ecological integrity would benefit from a provincial document similar to Environment Canada's *How Much Habitat is Enough*, which suggests minimums for forested land, wetlands, planted riparian edge, and other significant features on a watershed basis. Clearly, healthy eco-zones, such as the Great Lakes Basin, are made of the sum of their parts, and overall health is protected when the natural heritage of each portion of our eco-zones is maintained above a precautionary threshold.

We urge the Province to protect Ontario's ecological integrity, economic vitality, and public health by establishing watershed-based targets to protect regional natural heritage and hydrologic systems.

2. **Commit to Integrated Watershed Management (IWM)** - Ontario's current framework for watershed management, *Water Management on a Watershed Basis*, is more than 20 years old and is significantly outdated. For several years, many voices, including those of the Environmental Commissioner of Ontario and Conservation Ontario, have been calling for the province to shift to and provide appropriate funding for Integrated Watershed Management.

We urge the Province to make IWM both a cornerstone of and a key implementation tool for the current initiatives, as well as for the GLPA and other initiatives, and for the Province's commitments on biodiversity and climate change.

3. **Require Watershed Plans under the Provincial Policy Statement (PPS)** – Regardless of the timing of its scheduled review as may be affected by Bill 73, we urge the Province to urgently address the most significant undelivered directive in the PPS by amending a voluntary commitment to watershed management in section 2.2.1 a) to a mandatory one, as follows:

2.2.1 Planning authorities shall protect, improve or restore the quality and quantity of water by:

- a) ~~using the requiring watershed and/or sub-watershed plans~~ as the ecologically meaningful scale for integrated and long-term planning, which can be a foundation for considering cumulative impacts of development.

This is particularly urgent so that Ontario’s current expanding development and the targets of the Growth Plan do not overwhelm the ecological integrity of our natural heritage and aquatic systems.

4. **Harmonize Directives & Definitions and Fill Some Gaps** - A legion of provincial, regional, and municipal initiatives offers competing directives; multiple definitions for features such as a watercourse, a waterway, or a wetland, and varying or absent protocols for tree, small stream, wetland, soil retention, and commercial fill. Key initiatives include the Conservation Authorities Act, the Drainage Act, the Aggregate Resources Act, the PPS, the Green Energy Act, the Clean Water Act, the Lake Simcoe Protection Act, the Province’s support for sustainable agriculture, and the Greenbelt, Moraine, and Growth plan initiatives. There are also conflicting approaches to headwater protection; limited definitions and guidelines around the use of natural channel design, and highly varied regulations for development, interference with wetlands, and alterations to shorelines and watercourses across Ontario.

We urge the Government to harmonize directives and definitions and to fill gaps in provincial, regional, and municipal initiatives and to declare, as soon as possible, the standards in Ontario’s Natural Heritage Reference Manual as mandatory minimums for development, interference with wetlands, and alterations to shorelines and watercourses across Ontario.

5. **Increase Funding for MNR and MOECC** - A few years ago the Environmental Commissioner of Ontario recommended the tripling of the budgets of what was then MOE and MNR. More recently, a suggestion based on this recommendation was voted number 1 on the Government website for input to the 2015 budget. While the Government is seeking improved performance in these ministries through re-organization and the adoption of new technologies, we perceive that adequate environmental protection is not possible without significant budgetary increases, especially as both ministries will be involved in delivering new initiatives such as the Great Lakes Protection Act and need to improve in the delivery of their mandates, as below.

We urge the Province to allocate appropriate levels of funding to secure a safe environment and resilient ecosystem services for future generations.

6. **Improve / Innovate on the delivery of Ministerial Mandates** – Further to the item above, the delivery of ministry, cross-ministry, and multi-agency collaboration must be enhanced.

Three suggestions for improvement on watershed management that warrant consideration include:

- A suggestion from Conservation Ontario for a “type of provincial watershed governance body (e.g. one ministry, or a lead agency, or a multi-ministry Secretariat or Steering Committee or even a standing agenda item for existing multi-ministry initiatives...)” in order to improve inter-agency cooperation;

- A concept from the OHI, floated in submissions on both the GLPA and the Co-ordinated Land Use Planning Review, to create Regional Water Boards. These Boards could be built on the model of goodwill in Source Protection Committees and could address under-resourced issues such as: local initiatives to conserve water; how to meet watershed targets under item 1 above; and the development of sectoral quotas and their implementation with respect to Level 3 advisories under Ontario's Low Water Response Plan; and,
- The formalization of mandates and the provision of funding for research and multi-agency collaboration. Candidate initiatives include: SMART, Ontario's Stream Monitoring and Research Team; the Provincial Water Quality Monitoring Network; and the informal Headwaters Steering Committee. Each has amazing potential but is essentially volunteer in nature, and would benefit from increased ministerial and financial support.

These and other suggestions to improve the implementation of mandates and encourage innovation might benefit from further discussion with stakeholders.

We urge the province to be brave in ensuring that ministerial mandates get implemented in a **more** collaborative, practical, and effective manner.

7. **Engage Stakeholders in Monitoring and Reporting (M&R)** – M&R has become the contentious domain of agencies. Much of the promised data for both the PPS and the Co-ordinated Land Use Planning Review did not materialize, or was not made available when promised, while other data can be outdated (forest and wetland cover); hard to find (stage 3 science criteria for low water); or massaged (watershed report cards). In addition, stakeholders have not been engaged in crafting the template for watershed report cards from Conservation Ontario; data submitted under permits is not incorporated into agency reports; and reporting on the Provincial Water Quality Objectives is not tied to any form of action, even if a water body exceeds the objectives for one or more criteria year after year.

We urge the Province to engage stakeholders to evaluate current monitoring regimes, identify areas of monitoring and reporting that need improvement, and ensure the public availability of current and meaningful natural heritage and watershed reports.

In conclusion, while the Province has made strides in recent years in many areas – such as with the Greenbelt, the PPS, the Natural Heritage Reference Manual, and the Great Lakes Protection Act - serious challenges remain, in particular with respect to the need to better integrate synergistic visions across strategic documents and in the implementation of their regulations, guidelines, and programs.

We urge the Government to provide the direction necessary to ensure that the three initiatives cited above, as well as others including the GLPA, become part of a new, integrated approach to natural heritage protection, watershed management, and land use planning, and we express our willingness to discuss the challenges and opportunities with you.

Sincerely,

*Andrew McCammon*

Executive Director