



The Ontario Headwaters Institute

May 21, 2018

To: Ministers Rod Phillips of MECP, John Yakabuski of MNRF, and Steve Clark of MMAH
CCs: Premier Ford, Selected MPPs and others

Additional copies to

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RE: Supplementary Comments on ERO 013-5018, ERO 013-4992, and Schedule 2 of Bill 108

The Ontario Headwaters Institute, a registered charity working to protect Ontario's headwaters, natural heritage, watersheds, and receiving waters such as the Great Lakes, is a co-signatory to the joint submission led by the Canadian Environmental Law Association (CELA) and Environmental Defence Canada (EDC) on ERO 013-5018, ERO 013-4992, and Schedule 2 of Bill 108.

We re-iterate our support for that well-articulated analysis and its recommendations.

Given extraordinary times, however, we also offer these supplementary comments directly to the lead ministers for the three initiatives, with copies to staff for the two posting on the ERO, the Premier, selected MPPs, and others.

Over the last year, the Government of Ontario has made significant efforts to champion various business sectors and help improve Ontario's competitiveness.

Unfortunately, several aspects of how it has acted to champion business have been based on reducing environmental protection, in a cavalier manner with little evidence to demonstrate any such need.

This submission attempts to document our concerns in this area and provides recommendations on how the Government can better address the roles played by conservation authorities while embarking on a needed transition to Integrated Watershed Management.

Introduction and Expression of Concern: Ministries Neglecting Statements of Environmental Values

While this letter will focus on the three initiatives referred to above with respect to potential changes to Ontario's conservation authorities, we think it important to note that several previous efforts within or across your three ministries appear to indicate that you have been neglecting or working at odds with your Statements of Environmental Values (SEVs).

These efforts have included:

- Frequently referring to environmental regulation and/or agency work as costly, red tape, or duplicative, usually without proving any evidence. If that is the case, then SEVs require good-faith efforts to correct problems, not trash protection;
- Seeking to suspend the Clean Water Act, as well as other environmental protections, in Bill 66, since withdrawn. While some emergencies might suggest certain protections could be suspended for the short-term, out-right cancellation of core environmental and health protections in designated areas without an emergency probably violate the intent of ministry SEVs;
- Ignoring suggestions at public consultations on the housing strategy that the strategy might benefit from a sustainability lens, and in some instances not even capturing and reflecting those suggestions in oral and written notes summarizing discussion. Ignoring the need to consider sustainable development in massive housing plans surely violates the highest intent of SEVs;
- Aspects of the Aggregate Review which positioned economic growth over environmental protection and staging an aggregate summit that essentially excluded civil society. The former again violates the intent of SEVs while the latter ignores fulsome public engagement; and,
- Turning the Endangered Species Act on its head in ERO 013-5033 by suggesting a payment-in-lieu system under which a proponent would be allowed pay a fee that would be “within the range of costs that a client would have otherwise incurred through meeting the species-based conditions of an authorization”. Again, this may be a clear violation of the intent of SEVs, and would surely be a most cynical effort in that regard.

The OHI has no problem with efforts to reduce red tape and support sustainable development, but in each of the examples above it appears that the Government is championing business interests at the expense of environmental protection.

Finding the right balance between the environment and the economy will always be challenging, but in the examples above and with respect to these three initiatives each of your ministries appears to be paying lip-service to your duty under your Statements of Environmental Values, to protect, conserve, and restore the natural environment for the benefit of present and future generations.

Recommendation 1: We urge the three ministers to whom this letter is addressed reinforce the requirement to apply the Statements of Environmental Values in their ministries.

Proposed Amendments with respect to Conservation Authorities

Sadly, proposed amendments to conservation authorities go beyond the abrogations mentioned above and demonstrate grievous oversight, confused direction, and a lack of vision.

In terms of grievous oversight, the proposed changes to the role of conservation authorities suggest a desire to return conservation authorities to their original purpose or core mandate when in fact, the Government has as overlooked the watershed aspects of the genesis of conservation authorities.

We urge you to familiarize yourselves with the history leading up to and following the 1941 Guelph Conference, which led to the establishment of conservation authorities to manage natural resources on a watershed basis. One excellent history can be found at <http://www.trca.on.ca/dotAsset/37526.pdf>

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This grievous oversight is perpetuated in at least two disingenuous points made in MECP / MNR slide decks that we understand may have been provided to cabinet. These are:

a.

- Under the *Conservation Authorities Act (CAA)*, Ontario's 36 CAs were created at the request of municipalities and are governed by municipally appointed representatives to deliver local resource management programs at a watershed scale for both provincial and municipal interests.

As described in the <http://www.trca.on.ca/dotAsset/37526.pdf>, this is at least partially untrue.

Municipalities may have echoed the need for CAs, but the call for watershed-based conservation authorities came from civil society and those interested in natural heritage and conservation. And,

b.

- Regulatory scope has increased overtime since regulations first established in the 1950s to prevent filling in flood plains. Changes have led to the inclusion of broader environmental considerations in permit decisions, creating overlap and duplication, inconsistency, and increased costs for proponents and conservation authorities

This is an outrageous misrepresentation. It further misstates the mandate of conservation authorities; it repeats the un-documented mantra about duplication, inconsistency, and costs; and it suggests a steady-state universe in which mandates don't change, which is both absurd on face value and in outright contradiction of the Government's own efforts to re-focus conservation authorities on the prospect of increased flooding due to climate change.

Recommendation 2: We urge the Government to acknowledge and retain the original mandate of conservation authorities to manage nature resources on a watershed basis.

Recently, inconsistent and confused direction has flooded from the Government of Ontario. Four of these elements include that the Government:

- Pledged in its draft environmental plan to support conservation authorities;
- Emphasized in 013-5018 a future potentially expanded mandate to address the potential of increased flooding impacts on people and property due to climate change;
- Cut the funding for such; and,
- Announced a special "internal task force ... to improve the province's resilience to flooding."

We understand that the Province can create any special task force it wants, at any time, but it certainly looks like you are making it up as you go along; that one day's announcements have nothing to do with those of the previous days; and that you think you can address big issues internally instead of through the meaningful engagement of both external experts and the public.

At a departmental level, public service staff are unable to provide answers to many questions, as many details appear to reside in cabinet, if they exist at this time at all.

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One such example was a question about if when where and how the Province might proceed on a standardized provincial regulation to address and potentially replace individual CA polices required under O. Reg 97/04 to deal with “Development, Interference with Wetlands and Alterations to Shorelines and Watercourses”. While this is a fundamental aspect of the government’s proposed changes, staff had no answers on this issue.

Overall, we find the confusing signals and lack of clarity about future direction most disturbing.

Recommendation 3: We urge the Government to develop a set of clear, detailed, and consistent directions for how the existing mandate for watershed management in conservation authorities will be delivered in Ontario, and to submit those directions to extensive expert and public consultation.

Governmental lack of vision on this file manifests itself in a selective blindness to the fact that, over the last three generations, watershed management has emerged as a key global framework to address ecosystem health, drinking water protection, both aquatic & terrestrial biodiversity, hazard identification, land use planning, and natural heritage protection and restoration.

Ontarians have been in the forefront of this evolution since the 1940s.

In addition to having created conservation authorities to address natural resources on a watershed basis, Ontario established one of the world’s first natural heritage planning areas, the Niagara Escarpment; crafted an award-winning Provincial Policy Statement that seeks to balance natural protection with responsible development; and created the Greenbelt, one of the largest such areas in the world and the rain barrel of south-central Ontario.

Other significant milestones are legion. The author of one of the first university text books on Integrated Watershed Management lives in Ontario. Environmental Farm Plans are a world-leading sectoral initiative that helps protect our water. Universities provide excellent research and policy analysis on a wide range of water issues, from wetlands and the Great Lakes through fish and aquatic invasive species to an array of issues focused on surface water, ground water, sewage, storm water, and more.

For their part, Ontario conservation authorities pioneered natural heritage systems in Canada and champion Low Impact Development. They deliver targeted stewardship programs. Many embrace the philosophy of Integrated Watershed Management, while almost all practice adaptive management. Some have even refined adaptive management into a science-to-stewardship approach to remediation.

While the Government appears to view Ontario’s watershed management framework as un-necessary, duplicative, and an extravagant cost, most people see watershed management’s value to society as a means of safeguarding ecological goods and services while avoiding tragic costs to people and property.

In fact, recent positions from Conservation Ontario, the Environmental Commissioner of Ontario, and numerous science and policy researchers and organizations suggest not that Ontario should reduce its commitment to watershed management, but that it should embrace the challenge of transitioning the province to Integrated Watershed Management (IWM).

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For our part, the OHI has been calling upon the Province since about 2012 to update its seminal 1993 publication *Managing Water on a Watershed Basis* and launch Ontario into the transition toward IWM.

Instead of building on that document and the last 26 years of the evolution and innovation in systems management for healthy watersheds and biodiversity, the Ontario Government appears to want to willingly ignore the existing conservation authority mandate for watershed management and deal with complex issues in what may become a piece-meal approach.

This is not the effective management, transparency, and accountability upon which your government campaigned.

Recommendation 4: We urge the Government to launch a study, form a select multi-stakeholder committee, and develop a roadmap to transition the Province toward a collective, comprehensive system of Integrated Watershed Management.

Conclusion

The OHI perceives that your three ministries are neglecting their Statements of Environmental Values; inventing complaints about the ineffectiveness of environmental safeguards without providing evidence; seeking to abolish environmental safeguards rather than address any un-documented ineffectiveness; misrepresenting the original mandate of conservation authorities; sending signals of confused direction; and that you seek to abandon a systems-based approach to watershed management in favour of an ill-defined piecemeal with executive authority resting in yourselves.

As per our recommendations, we urge you to:

- 1. Reinforce the requirement to apply the Statements of Environmental Values in your ministries;**
- 2. Acknowledge and retain the original mandate of conservation authorities to manage nature resources on a watershed basis;**
- 3. Develop a set of clear, detailed, and consistent directions for how the existing mandate for watershed management in conservation authorities will be delivered in Ontario, and to submit those directions to extensive expert and public consultation.**
- 4. Launch a study, form a select multi-stakeholder committee, and develop a roadmap to transition the Province toward a collective, comprehensive system of Integrated Watershed Management.**

Sincerely,

Andrew McCammon

Executive Director