

David Piccini
Minister, MECP, Ontario
PDF via minister.mecp@ontario.ca



March 10, 2022

RE: ERO # 019-4978 - - Proposed Subwatershed Planning Guide

Dear Minister Piccini,

We take the unusual step of writing you on matters associated with this posting to the Environmental Registry of Ontario.

We do so not because the draft is especially bad or good, although we are concerned about substantial deficiencies, but because it occupies a vacuum absent a strategic vision for watershed management.

This focus has been further distorted by the privileged input to the draft Guide by two vested interests, as per the proposal summary on the ERO: the Conservation Authorities Working Group and developers.

Recommendation 1: MECP should withdraw the draft Subwatershed Planning Guide from the ERO, launch consultation on a second draft of the Guide based on our comments and those of others, and pursue a larger vision.

About the OHI

Incorporated in Ontario in 2002, the Ontario Headwaters Institute is a federally registered charity. Originally focused on protecting headwater areas, where our watersheds start, supplementary letters patent expanded our mandate to full watersheds, their natural heritage, and receiving waters such as Lake Simcoe and the Great Lakes.

This was a natural evolution, keeping pace with the development of or changes in Ontario's environmental planning and protection regimes over the last twenty years.

As such, we frequently participate in discussions and consultations on issues relating to the long-term protection of Ontario's environmental, economic, and social well-being, including those related to conservation authorities (Cas), protecting natural heritage, and land use planning.

Examples of our past efforts in these areas include input on the numerous sequential changes related to CAs, engagement in the consultation on growing the size of the Greenbelt, ERO 019-3136, and being invited to participate on the draft Watershed planning guidance, ERO 013-1817.

Indeed, the expression of our concerns at the final stakeholder meeting on the original, truly underwhelming draft of that document led to a consensus that resulted in significant re-direction on that effort.

We offer further comments on a larger vision to protect water and deliver watershed management below.

The Need for a Strategic Vision for Watershed Management

Ontario has a very complex and poorly understood framework to protect for water and deliver watershed management, most of which are described in the draft Guide. Unfortunately, the draft Guide speaks to a truth: much of how we protect water is affected by regulations and policies pertaining to land use planning.

These efforts could be said to be led by s 2.2 of the Provincial Policy Statement, which states that “Planning authorities shall protect, improve or restore the quality and quantity of water”, are welcome.

Unfortunately, since June of 2018, your government has dismantled many of the historic environmental protections in the province in order to make development easier. In this process, it has created huge gaps in environmental policy and implementation, rather than seeking to build upon and enhance the existing frameworks and augment them where needed to address Ontario’s emerging challenges of the 21st century: access to clean fresh water, climate change, the loss of natural heritage, and food security.

We suggest that the Province address these challenges by taking action to provide a strategic context for the draft Guide.

- A. Establish Provincial Watershed Targets: Section 2.1 of the draft Guide suggests that municipal authorities “Establish goals and objectives for the management of the subwatershed to protect long-term environmental health.” Ironically, the Province itself has no such goals and objectives, which would be helpful at a watershed scale, with benefits to natural heritage protection, water quantity & quality, flood prevention, climate change, and biodiversity.

We believe that overall watershed protection in Ontario would be strengthened with such provincial goals, which could be applied to both proposed development, including in the Ring of Fire, and could contain regeneration targets in already developed areas such as the GTA where needed and as possible. In addition, we suggest that without provincial goals and targets, the sub-watershed goals and targets called for in the draft Guide may lead to inconsistencies and uneven implementation across various jurisdictions – for which the draft is silent on oversight.

Recommendation 2: Ontario should develop provincial goals and targets, perhaps informed by the federal guideline “How Much Habitat is Enough”.

- B. Commit to Integrated Watershed Management and Sustainable Development: Rather than continue to cut environmental red tape while in fact creating gaping holes in Ontario’s environmental protection regime (eg -- environmental assessment, species at risk, aggregate operations, the mandate for conservation authorities, and more), the Government should work with conservation authorities, municipalities, Source Protection Committees, the Ontario Biodiversity Council, First Nations, civil society, the private sector, and the public to embrace Integrated Watershed Management and sustainable land use planning.

Recommendation 3: Ontario should amend the draft Made-in-Ontario Environment Plan to address both Integrated Watershed Management and sustainable land use planning, then re-open Environmental Registry of Ontario posting 013-4208, which has been there for more than three years with no decision notice.

- C. Finalize the Watershed Planning Guide – ERO 013-1817: This draft guide has languished on the ERO since February 2018 – more than four years. Similar to the draft made-in-Ontario Environment Plan, it is marked closed and there is no decision notice, but is also “still under active review”. Given the direct relationship between the draft watershed guide and this proposal for a Subwatershed Planning Guide, we are disappointed that the Government has not sought the obvious opportunity to nest the latter under the former.

Recommendation 4: Ontario should seek to harmonize the draft Watershed and Subwatershed planning guides, re-posting new drafts to the ERO and ensuring broad and meaningful consultation.

- D. Establish Minimum Standards under O. Reg. 097/04 and the ONHRM: For its part, this regulation relates to the Content of Conservation Authority Regulations Under Subsection 28 (1) of the Act: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses, while the ONHRM refers to the Ontario Natural Heritage Reference Manual. For several years, since the harmonization of conservation authority fees for permit applications around eight years ago, provincial representatives have stated that the Province is aware of the wide variety of standards across different conservation authorities, and have indicated that Ontario would like to harmonize them, perhaps through action that would replace the 36 existing regulations with one provincial standard. During both informal discussions on this and in submissions, the Headwaters Institute has suggested that the Province consider harmonizing these standards not just across conservation authorities but also to the Ontario Natural Heritage Reference Manual, which serves as a guideline for areas without conservation authorities.

Recommendation 5: Ontario should seek to harmonize the standards related to O. Reg 097/04 for our 36 conservation authorities, as well as with respect to guidelines and standards in the Ontario Natural Heritage Reference Manual.

Recommendation 6: Ontario should update its Conservation Wetland Strategy, in confluence with efforts to harmonize standards under O. Reg. 097/04 with respect to the interference with wetlands, and bring it out of the archived section on its website.

- E. Establish Thresholds for Action under the PWQOs: Currently, to the Provincial Water Quality Objectives establish safe limits for the concentration of numerous substances in water. Unfortunately, there are no requirements for any action when one or more of these substances exceed safe limits, even if those safe limits are exceeded significantly and/or year after year. This is an unacceptable situation for the environment and public health.

Recommendation 7: Ontario should develop a range of required actions to address exceedances under the Provincial Water Quality Objectives.

- F. Reduce and Alter the Administration of MZO's: Over the last few years, the Ontario government's priority to support development has resulted in a substantial increase in the use of Minister's Zoning Orders, special orders that fast-track development without the usual planning studies, and often without public consultation. These orders have attracted the ire of the Auditor General in her “Value-for-Money Audit: Land-Use Planning in the Greater Golden Horseshoe.” The audit gives proof to concerns that the provincial government has severely altered the vision for environmental

protection by amending the Growth Plan, as well as other core land-use planning instruments effecting the Greater Golden Horseshoe. In perhaps its most important sentence, the audit found that “numerous changes to land-use planning policies, insufficient collaboration between the ministry and other entities responsible for infrastructure planning, and the province’s intervention in municipalities Minister’s Zoning Orders have undermined the goals of the Growth Plan.” In addition, MZO’s reduce the public trust in normal planning and community engagement, have no public transparency nor accountability, and are almost impossible to challenge. In particular, with respect to watershed management, new regulations allow the Province to force a conservation authority to issue a permit even when normal process would preclude such rash action, such as to allow the destruction of a Provincially Significant Wetland. Finally, MZO’s also appear to have created an uneven playing field for the business community, something that should be anathema to your government.

Recommendation 8: Ontario should establish clear rules for when, where, and how an MZO would be issued, which must include a defined level of input from natural resource agencies; post draft MZO’s on the Environmental Registry of Ontario or something similar for an appropriate period of public input; and must establish a fair appeal process.

G. Restoring Trust and Transparency: A guiding principle of the draft Made-in-Ontario Environment Plan is Trust and Transparency. This is described on page 8 of the draft plan as follow: “We will provide Ontarians with the information and tools required – with a particular focus on realtime monitoring – to understand the current environmental challenges we face and how these challenges impact individuals, businesses and communities across the province.” In practice, the government has not performed up to its promises, from closed meetings and omnibus bills with virtually no opportunity for serious discussion to refusing to provide background studies on key issues and even refusing the normal courtesy of issuing track-changes copies of proposed legislation. In the face of the global challenges of climate change and threats to fresh water, natural heritage, and food security, Ontario considers environmental protection red tape and has not issued any public education and engagement initiatives of any significant breadth on these issues. Meanwhile, it champions an economic strategy focused primarily on the expansion of urban boundaries and highways. All of this is at odds with trust and transparency, and seeds division between the environment, the economy, and social equity.

Recommendation 9: Ontario should cease castigating environmental protection as red tape and pursue fulsome consultation to maintain Ontario’s enviable triple bottom line of a healthy environment, robust economy, and social vitality.

We thank you for the opportunity of commenting. Please feel free to contact me at your convenience for further discussion.

Sincerely,

Andrew McCammon

Executive Director

cc: Sister organizations and others