



May 21, 2019

Mr. Alex McLeod  
Ministry of Natural Resources and Forestry  
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**RE: ERO 013-4992 Focusing conservation authority development permits on the protection of people and property**

Dear Mr. McLeod,

We are writing on behalf of the Ontario Fruit and Vegetable Growers' Association (OFVGA) to comment on the focusing conservation authority development permits on the protection of people and property regulatory proposal. The OFVGA represents the interests of over 3,500 fruit and vegetable farmers in Ontario. The organization's primary objective is to work with government to facilitate a business environment that is supportive of fruit and vegetable farmers and their competitiveness.

### **Regulation of Development**

The OFVGA supports regulating development in areas subject to natural hazards such as floodplains, shorelines, wetlands and hazardous lands, as set out in the Provincial Policy Statement (PPS). Widespread flooding this spring has emphasized the need to distance new urban settlement expansions and buildings from high risk areas.

It will be important to apply a reasonable measurement when it comes to determining the extent of a regulated area. Using the 100-year flood for determining the regulated area and subsequent mapping may be a reasonable approach. In this case, development activities within the 100-year flood limit would require conservation authority permission. Alternatively, development activities beyond these limits should be exempt from conservation authority purview.

The OFVGA believes that constructed features such as grassed waterways, municipal drains, tile drains and private ditches should be exempt from conservation authority review and permitting. These anthropogenic features are intended to control erosion, or to facilitate crop production by removing excess water from fields.



### **Wetlands Definition**

The 2014 PPS contains an excellent, comprehensive definition of “wetlands,” which has remained consistent throughout two PPS reviews. The definition is replicated in the Greenbelt Plan, the Growth Plan for the Greater Golden Horseshoe and the Niagara Escarpment Plan. The OFVGA recommends that the PPS definition of wetlands be adopted in the amended Conservation Authorities Act’s definitions regulation to ensure consistency.

In addition, any definition of a wetland for conservation authority regulation purposes should clearly exempt constructed ditches and drains, along with irrigation/stormwater ponds and constructed wetlands. These constructed features are routinely misidentified as wetlands. Protecting them as “wetlands” defeats the purpose they were constructed to serve, which include water retention or treating runoff. Furthermore, the benefits provided by these features will be lost, and the construction of new ones would be disincentivised.

### **Watercourse Definition**

The current definition for “watercourse” within the *Conservation Authorities Act* is extremely vague, making it susceptible to misinterpretation and deviation from the original intent.

The definition of a watercourse should be rewritten to incorporate the following principles to capture the elements of a natural watercourse:

- i. that there be reference to a “defined channel, with a bed and banks”,
- ii. that intermittent streams are natural watercourses, and
- iii. that the definition of a watercourse categorically excludes man-made drains, roadside ditches, grassed waterways, agricultural swales as well as drains constructed under the Drainage Act.

### **Development Definition**

The current definition of “development” in the *Conservation Authorities Act* creates confusion as it is defined differently in the PPS, Greenbelt Plan, Growth Plan for the Greater Golden Horseshoe and the Oak Ridges Moraine Conservation Plan. The *Conservation Authorities Act* definition of “development” addresses critical activities that need regulation, however using the same word so differently is problematic.

To prevent confusion, it is proposed that the term be renamed “development activity” and defined as:

- a) *the construction, reconstruction, erection or placing of a building or structure of any kind in a regulated area, or*



- b) *any change to a building or structure that would increase the size of the building or structure or increase the number of dwelling units in the building or structure in a regulated area.*

### **Defining Undefined Terms**

The terms “interference” and “conservation of land” are not currently defined, although they appear in the *Conservation Authorities Act*. Definition is necessary given the interrelationship between interference and conservation of land and each conservation authority’s core role in the protection of people and property from natural hazards.

The following definitions of “interference” and “conservation of land” are recommended:

*“conservation of land” means the protection, management, or restoration of lands within the watershed for natural hazard management, and may include maintaining or enhancing the vegetative cover of non-agricultural lands*

*“interference” means any anthropogenic act which hinders, disrupts or impedes in any way the hydrologic function of a wetland or watercourse*

### **Low-Risk Development**

The OFVGA supports this in the context of the Drainage Act, particularly with the reference to the Drainage Act and Conservation Authorities Act Protocol. We note that the Protocol only addresses 12 activities related to the maintenance and repair of existing municipal drains, constructed under the Drainage Act. Other Drainage Act-related activities, including extensions to and improvements of existing municipal drains, new drains constructed under the Drainage Act need to be addressed.

In addition, we support allowing conservation authorities to further exempt additional low-risk activities. Enabling conservation authorities to further exempt additional low-risk activities allows them to focus their primary efforts and activities on proposed development activities that are not low-risk.

### **Notification of Changes to Regulated Areas**

Transparency of changes to regulated areas is important for farmers and rural land owners. It is important that this notification comes before the changes are finalized to allow for consultation, and that the individual owners are notified directly. The OFVGA supports the concept of an appeal mechanism so that property owners can challenge changes in designation that cannot be justified by the body (province, municipality or conservation authority) proposing to change the designation.



### **Service Standards**

The OFVGA believes in established, monitored and reported service delivery standards. To ensure consistency across Ontario, these standards should be provincially-determined. Included in these service delivery standards would be standardized turn-around times for permits and authorizations and pre-determined application requirements, including information requirements, possible studies to support the application. Any possible studies in support of an application should be coordinated with local municipal requirements to avoid duplication and unnecessary costs for applicants. Lastly, fees charged for permits, authorizations, etc. must be based on the actual costs incurred to review an application and issue any subsequent permit or authorization, and not be relied upon as a revenue stream for conservation authorities.

Thank you for the opportunity to comment on the Ontario proposal on modernizing conservation authority operations. The OFVGA appreciates the province for taking on this important work and we are committed to working with government to ensure conservation authorities remain strong and focused on their core mandates.

Please feel free to contact the OFVGA should you wish to discuss our comments.

Sincerely,

A handwritten signature in black ink that reads 'Bill George Jr.'.

Bill George Jr.  
Chair, OFVGA Board

A handwritten signature in black ink that reads 'Mike Chromczak'.

Mike Chromczak  
Chair, OFVGA Environment and  
Conservation Section

cc: Hon. Rod Phillips, Minister of Environment, Conservation and Parks  
Hon. Ernie Hardeman, Minister of Agriculture, Food and Rural Affairs

### **About the OFVGA:**

The OFVGA is the leading voice for Ontario's fruit and vegetable farmers. Our sector includes more than 3,500 family run farms that employ over 30,000 people directly on-farm. For every on-farm job, it is estimated there are 2.2 jobs created downstream, or approximately 96,000 jobs combined. Fruit and vegetable production drives Ontario's rural and urban economies by generating more than \$4.2 billion in economic activity annually, along with \$600 million in combined tax revenues for all levels of government. Ontario fruit and vegetable farmers compete with global producers for domestic and export markets that demand low cost quality produce. Fruit and vegetable exports from Ontario total over \$1.6 billion, almost half of which originates from the greenhouse vegetable sector.