



**Credit Valley
Conservation**
inspired by nature

May 17, 2019

Alex McLeod
Ministry of Natural Resources and Forestry
Policy Division
Natural Resources Conservation Policy Branch
300 Water Street
Peterborough, ON K9J 8M5

Dear Mr. McLeod

**RE: Focusing Conservation Authority Development Permits on the Protection of
People and Property
ERO # 013-4992**

Thank you for the opportunity to provide comment on the Ministry of Natural Resources and Forestry's (MNRF) proposal to create an updated regulation further defining the ability of Conservation Authorities (CAs) to regulate prohibited development and other activities for impacts to flooding and other natural hazards. It is understood the intention of the anticipated regulation will be to make rules for development in hazardous areas more consistent across Ontario, to support faster, more predictable and less costly approvals. These comments were unanimously endorsed by the CVC board of Directors at their meeting of May 10, 2019 by resolution #56/19.

Credit Valley Conservation (CVC) supports the government of Ontario's effort in continuing to provide modernized support for CAs in focusing and delivering their core mandate, as well as improvements to our regulatory role in fulfilling our core mandatory programs and services.

CVC protects people, property and infrastructure from natural hazards through management of the natural environment, given our roles and responsibilities as outlined in the MNRF Policies and Procedures Manual for conservation authorities:

- Regulators under Section 28 of the CAA;
- Public commenting body under the *Planning Act* and *Environmental Assessment Act*;
- Representing the provincial interest in natural hazards for planning and development related matters (as per MOU with province, dated 2001);
- Service providers to municipal partners; and
- Landowners.

CVC proudly has a long history of partnerships with the province, municipalities, watershed residents, development and consulting industries, and other agencies and watershed stakeholders. Together, we will continue to deliver on working collaboratively to protect people and property from flooding and other natural hazards, and to conserve natural resources.

Please consider the following comments on the proposed amendments – recognizing the ERO posting does not yet include the detailed proposed amendments to the regulation or associated legislation:

PROPOSED CHANGE 1 - Consolidate and Harmonize Existing CA Regulations

The Minister is proposing to consolidate and harmonize the existing 36 individual conservation authority approved regulations into one Minister of Natural Resources and Forestry approved regulation to ensure consistency in requirements while still allowing for local flexibility.

Response: CVC supports the consolidation and harmonization of the existing 36 individual CA regulations into one regulation. However, it should be recognized that each CA should continue to have the ability to establish individual, CA Board approved implementation policies that reflect local conditions.

To assist in improved coordination and consistency with managing development in areas containing natural hazards, it would be beneficial for the province to modernize and update guidelines provided by the province – in particular the technical guidelines in support of the province's 'Understanding Natural Hazards' (2001) publication. These regulations and guidance documents need to give CAs the tools to incorporate climate change into our future proofing of communities.

PROPOSED CHANGE 2 – Update Definitions

The Minister is proposing to update definitions for key regulatory terms to better align with other provincial policy, including: wetland, watercourse and pollution.

Response: CVC supports updating key definitions to better align with other provincial policy – particularly the terms wetlands, watercourse and pollution. To achieve a consistent interpretation of these terms it would be helpful to replace with existing definitions (e.g. wetlands as defined in the Provincial Policy Statement) as well as provide and/or update existing support materials (e.g. fact sheets, technical guidelines etc.). Working with existing definitions and guidance materials rather than creating new definitions will allow a more rapid incorporation into review and permitting processes. CVC will have additional more detailed comments upon receipt of draft definition(s).

PROPOSED CHANGE 3 – Define Undefined Terms

The Minister is proposing to define undefined terms including interferences, conservation of land.

Response: CVC supports defining key undefined terms to address not only the role CAs have in protecting life and property from natural hazards, but also in conserving natural resources to support natural hazard management and to ensure resilience on the landscape to mitigate the effects of climate change. It is recommended the definitions of Interference and Conservation of Land be consistent with the previous 1994 Mining and Lands Commission decision as well as existing guidance from Conservation Ontario – prepared in consultation with provincial staff (Guidelines to Support Conservation Authority Administration of the *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation*, Conservation Ontario, 2008).

PROPOSED CHANGE 4 – Reduce Regulatory Restrictions

The Minister is proposing to reduce regulatory restrictions between 30m and 120m of a wetland and where a hydrological connection has been severed.

Response: CVC supports reducing regulatory restrictions in areas between 30m and 120m of a wetland in instances where:

- It has been demonstrated a reduction in the regulated area is warranted through a technical report;
- A constructed barrier or divide (e.g. linear infrastructure) exists between the wetland and proposed development with no wetland attributes on the 'development' side (i.e. hydrologically disconnected or severed); or

- The proposed development activity presents a 'low-risk' to impacting the hydrologic function of the wetland or public safety. Development that may present a higher risk to the wetland and its functions should maintain their regulatory restrictions.

It should be noted that existing CVC regulation mapping currently includes this approach for areas where there is a road or significant infrastructure between 30m and 120m of a wetland for the limit of the regulated area (i.e. regulated area map clipping).

Clarity will be required on the condition *'where a hydrological connection has been severed'*. Not all hydrologic connections are immediately visible, such as wetlands that recharge groundwater.

PROPOSED CHANGE 5 – Exempt Low Risk Activities Drainage Act

The Minister is proposing to exempt low risk development activities from requiring a permit including certain alterations and repairs to existing municipal drains subject to the Drainage Act provided they are undertaken in accordance with the Drainage Act and Conservation Authorities Act protocol.

Response: CVC does not have any municipal drains within our jurisdiction and have no comment on that aspect of this item.

PROPOSED CHANGE 6 – Allow CAs to Exempt Low Risk Development Activities

The Minister is proposing to allow conservation authorities to further exempt low risk development activities from requiring a permit provided in accordance with conservation authority policies.

Response: CVC supports including a provision in the regulation to allow CAs to exempt low risk activities from permitting. Currently, it is unclear if the proposed regulation is to outright exempt specific low risk activities (i.e. provide a list of activities exempt from requiring a permit) or implement a 'permit by rule' system (i.e. list activities that if a set of rules are followed are exempt from requiring a permit). In either case, CVC would be pleased to work with the province and other stakeholders to review activities that may be included for exemption.

It should be noted that current CVC policies recognize that under certain circumstances minor low risk development may meet 'exceptions' (e.g. minor landscaping, structures exempt from requiring building permits due to their size) and/or fall under an 'expedited' permit process (minor works permits) – this includes an 'emergency works' protocol for infrastructure works, as needed.

PROPOSED CHANGE 7 – Transparency of CA Regulatory Policy

The Minister is proposing to require conservation authorities to develop, consult on, make publicly available and periodically review internal policies that guide permitting decisions.

Response: CVC supports this initiative to require transparency and accountability of CA regulatory policy. Currently CVC's Board of Directors approved policy document (CVC's 'Watershed Planning and Regulation Policies', April 2010) is available on CVC's website and was developed through a comprehensive public consultation process (see 'Watershed Planning and Regulation Policies Companion Document: Stakeholder Engagement and Co-Creative Planning for Credit Valley Conservation', April 2010). Updates to our policies have been awaiting completion of the CAA process.

PROPOSED CHANGE 8 – Require Public Notification of Mapping Changes

The Minister is proposing to require conservation authorities to notify the public of changes to mapped regulated areas such as floodplains or wetland boundaries.

Response: CVC supports the province's proposal to include a provision in the regulation that the public must be notified of changes to mapped regulated areas.

CVC currently follows Conservation Ontario's updated 'Procedure for Updating Section 28 Mapping: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation', (April 2018) which requires a range of public consultation to be undertaken for regulated area mapping changes. CVC also provides information to the public on changes to floodplain and wetland mapping through various other forums including through public consultation for watershed plans and subwatershed studies, Public Information Centres for floodplain mapping updates undertaken in partnership with affected municipalities, and consultation requirements undertaken through updates or amendments to municipal Official Plans (including Secondary Plans, Tertiary Plans and site specific Official Plan Amendments).

In the same vein, CVC suggests the province require a more consistent and transparent public notification process for the provincial wetland evaluation system – particularly when wetlands are evaluated on private lands and are to be designated Provincially Significant Wetlands.

PROPOSED CHANGE 9 – Require Reporting on Service Delivery

The Minister is proposing to require conservation authorities to establish, monitor and report on service delivery standards including requirements and timelines for determination of complete applications and timelines for permit decisions.

Response: CVC supports the province's update to the regulation to require CAs to monitor and report on service delivery standards – based on standardized timelines. CVC currently monitors and has reported on regulatory service delivery standards, consistent with provincial standards set by the province's Conservation Authority Liaison Committee ('Policies and Procedures for Conservation Authority Plan Review and Permitting Activities', 2010).

It should be noted CVC and other CAs are currently working in partnership with Conservation Ontario to develop a client-centric customer service training program – targeted on further improving CA client-service and accountability; increasing the speed of approvals; and reduce red tape and regulatory burden. CVC's Board approved a set of actions for streamlining conservation authority activities at its meeting in March of 2019 in response to Government interests. CVC would be pleased to assist the province in developing monitoring and service standards.

PROPOSED CHANGE 10 - Once the regulation is established, the Province is also proposing to bring into force un-proclaimed sections of the CA Act associated with CA permitting decisions and regulatory enforcement

CVC supports proclaiming un-proclaimed sections of the Act related to non-compliance with Section 28 Regulations. During the 2017 CA Act review and amendments, substantial amendments were made to the Act to enhance enforcement mechanisms, i.e., the ability to stop work, the ability to enter privately-owned land (for the purposes of ensuring compliance with permit approvals and conditions and with reasonable grounds to believe an offence has occurred), and the ability to charge significantly higher (offence) penalties than those currently identified within the Act. These are important tools to allow CAs to enforce the conditions placed on permits and the address non-permitted activities.

Thank you again for the opportunity to provide input on this important provincial initiative. Note that CVC will have additional more detailed comments upon the release and review of the draft amended regulation. If you have any questions or wish to meet to discuss further, please feel free to contact the undersigned at your convenience.

Regards,



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Chair, Credit Valley Conservation



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