

February 18, 2020

Ms. Sara Peckford
Food Safety and Environmental Policy Branch
Ministry of Agriculture, Food and Rural Affairs
1 Stone Road West
2ND Floor Southwest
Guelph, Ontario N1G 4Y2

Dear Ms. Peckford;

RE: Environmental Registry of Ontario posting 019-1187 Drainage Act Discussion Paper

The Ontario Federation of Agriculture (OFA) is Canada's largest voluntary general farm organization, representing more than 38,000 farm family businesses across Ontario. These farm businesses form the backbone of a robust food system and rural communities with the potential to drive the Ontario economy forward.

OFA welcomes this opportunity to provide its comments and perspective on the Drainage Act Discussion Paper. Ontario's municipal drains contribute positively to crop yields. Initiatives that streamline Drainage Act processes and improve drain performance are welcomed by Ontario farmers.

Changes to Drain Design during Construction:

We definitely see value for all parties to Ontario's drainage processes from implementing a simplified process to update the engineer's report to account for changes to drain design made during construction. Such a process would facilitate future maintenance and repairs by updating the engineer's report to reflect the drain "as built". Drainage superintendents, property owners and host municipalities would be better served by a means to account for changes to drain design made during construction. OFA supports a simplified process to update the engineer's report to account for changes to drain design made during construction.

1. Beyond the DART Protocol, what additional protocols could be established to help streamline approvals?

The current DART protocol is limited to specific activities related to the maintenance and repair of existing municipal drains. It is further limited because compliance with it is voluntary. Before suggesting additional protocols, OFA believes there is a need to update the current DART protocol in light of recent amendments to the Conservation Authorities Act related to Section 28 and the forthcoming definitions of terms such as "development activity", "watercourse" and "wetland". Defining these terms will have a bearing on the current DART protocol, as well as on

potential future protocols. The provincial government needs to initiate the development of these terms as soon as possible.

Looking ahead, OFA sees a need to develop two additional protocols documents; one dealing with new municipal drains constructed by petition under sections 4 – 10 of the Drainage Act and a second one to deal with improvements to existing municipal drains under section 78 of the Drainage Act. Both are needed. The Ontario government should reconstitute the groups that collaborated on the original DART protocol and task them with developing Drainage Act and Conservation Authorities Act protocols for new municipal drains constructed under sections 4 – 10 and a second one to deal with improvements to existing municipal drains under section 78 of the Drainage Act.

OFA fully supports the adoption of technical protocols such as the Drainage Act and Conservation Authorities Act (DART) Protocol. As the Discussion Paper notes, OFA was one of the stakeholder groups that developed the DART protocol. We thought it struck a balance between the priorities of the Drainage Act and Conservation Authorities Act for the maintenance and repair of existing municipal drains. Even though the DART protocol was a collaborative effort, including representatives from conservation authorities and Conservation Ontario, its voluntary status has defeated province-wide acceptance by all conservation authorities and municipalities. OFA is hopeful that providing the Minister with the legislative authority to develop and sign off on drainage-related protocols will lead to their province-wide adoption by both conservation authorities and municipalities.

2. What projects should be included in the definition of minor improvements? What else would you like a minor process to achieve?

OFA had envisioned a range of projects that could be included under a definition of minor improvements, both activities that would enhance the environmental performance of a municipal drain as well as ones that would address the changing needs of individual property owners. However, based on the February 7th webinar, we see the opportunity to utilize this tool limited. Ministry staff indicated during the webinar that the following criteria could be used;

- i) improvements initiated by the property owner,
- ii) improvement projects restricted to a single property,
- iii) property owner pays the full cost of the improvements, including engineering,
- iv) projects would be eligible for an Agricultural Drainage Infrastructure Program (ADIP) grant, and
- v) future maintenance and/or repairs would be bourn by the property owner.

We see a limited number of minor improvements fitting under these criteria, such as creating a new crossing, widening an existing crossing or relocating a drain on an individual property. Projects like this would clearly be “minor”, and the criteria listed above would be reasonable for these projects. We do have concerns over allocating 100% of the engineering costs to the property owner applying for a minor improvement. Allocating the engineering costs in addition to the project costs and future maintenance and/or repair costs to the property owner could serve as a disincentive to applying for a minor improvement.

The second part of question to asks, “what else would you like a minor process to achieve?”. We would like to see the minor improvements process also apply to minor improvements that would enhance the environmental performance of a municipal drain. While these drains were not constructed for the purposes of fish habitat, these environmental improvements could include sediment traps with the drain, deep water refugia to preserve fish populations through low water periods and grassed buffer strips at the top of the banks to reduce sediments and nutrients flowing

into the drain. Additionally, minor improvements could enhance the drainage channel to reduce erosion, improve water quality, reduce nutrient transport and improve fish and wildlife habitat. Environmental improvements like sediment traps, deep water refugia and grassed buffer strips could reduce the frequency of maintenance and/or repairs; benefits that deliver both economic savings from reduced maintenance as well as enhancing the drain's environmental performance. From our perspective, environmental improvements must be considered under different criteria; environment enhancements could be initiated by the property owner, engineer or Drainage Superintendent. Environment enhancements should not be limited to a single property. All upstream property owners should be assessed for their initial cost as well as future maintenance and/or repairs. Lastly, environmental enhancements must be eligible for an ADIP grant.

3. Do you have any specific concerns with any of the items discussed in the paper?

OFA has no specific concerns with any of the items discussed in the paper, beyond those noted elsewhere in our comments.

4. Do you have any additional suggestions to reduce the burden or contribute to additional opportunities for your business?

Perhaps another use of a simplified process to update the engineer's report could be to address the often-substantial changes to the lot fabric in a portion of a drainage area arising from urban settlements expanding onto neighbouring agricultural lands. Where once there might have been one or two farms, there are now subdivisions with homes, parks, streets and shops. All these new land uses will be assessed for future maintenance and repairs. It is not fair to assess farmers for addressing the accelerated runoff from urban development. Adjusting the assessment schedule to reflect these changes would, in our eyes, be a substantial improvement.

Routine municipal drain maintenance is a very important to ensure for adequate water flow. Poor maintenance of a drainage system combined with a severe weather event can lead to flooding damage. Many rural property owners are unaware of their rights and responsibilities and how to initiate necessary maintenance and repairs to a municipal drain. While the Ministry does have excellent factsheets on a wide range of drainage related topics, OFA encourages OMAFRA increase its efforts to raise awareness of drainage related rights and responsibilities, as well as guide property owners on how to address drainage related concerns.

OFA welcomes this opportunity to provide its perspective on the Ministry of Agriculture, Food and Rural Affairs' Drainage Act Discussion Paper.

Sincerely,



Keith Currie
President

KC/pj

cc: The Honourable Ernie Hardeman, Minister of Agriculture, Food and Rural Affairs
OFA Board of Directors