

November 19, 2020

Ontario Ministry of the Environment, Conservation and Parks  
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Toronto, ON  
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Attn: Juwairia Obaid, P.Eng., MASC  
Senior Program Advisor

Re: Proposed amendments to regulations made under the Environmental Protection and Ontario Water Resources Act to make modifications to Environmental Activity and Sector Registry requirements and exemptions for low risk short-term water taking activities.  
Environmental Registry of Ontario Posting No. 019-2525

Dear Ms. Obaid,

On October 6, 2020, the Ontario Ministry of the Environment, Conservation and Parks (MECP) posted a regulatory proposal on the Environmental Registry of Ontario (ERO) entitled: Proposed amendments to regulations made under the Environmental Protection and Ontario Water Resources Act to make modifications to Environmental Activity and Sector Registry requirements and exemptions for low-risk short-term water taking activities. The project number is 019-2525 and the public comment period is for 45 days from October 6, 2020, until November 20, 2020.

This proposal recommends altering the Environmental Activity and Sector Registry (EASR) to include low risk short-term water taking activities (i.e., pump tests) that may be associated with long-term water taking. The proposed amendments would reduce the regulatory burden for applicants while ensuring that human health and the environment are protected.

EASR water-taking activities registration is currently limited to water taking for road construction and water taking for construction site dewatering that are both low-risk and short-term water-taking activities.

My concerns with the proposed approach are:

- A. Any water-taking that exceeds 50,000 litres per day requires a Permit to Take Water (PTTW). This proposal recommends pumping tests in the range of 50,000 litres per day to 3,000,000 litres per day in 7 days or less within a single 30-day period register with the EASR.

Any pump test that exceeds 50,000 litres per day or is associated with a PTTW request should remain under a PTTW unless an EASR provides the same stringent criteria and oversight of a PTTW, as well as the municipal right to veto.

- B. Reviewing current PTTW requirements versus an EASR, why would one assign a pump test for long-term water usage under a short-term water usage registry? The two uses are fundamentally different and require separate treatment, significantly if the water taking equals or exceeds the PTTW minimum water taking. Whereas a PTTW involves

the submission of "an application and appropriate scientific evaluation/studies (for Category 3 applications hydrogeological and/or surface water studies are required), among other documents"<sup>1</sup>; an EASR requires a "water taking plan and discharge plan where applicable" along with other documents<sup>2</sup>. The criteria for an EASR pale in comparison to those of a PTTW.

- C. The public expects any long-term water-taking application that exceeds 50,000 litres per day to follow a prescribed process adhering to PTTW criteria. This proposal deviates from that expected path by diverting the pump test to the EASR that requires only public notification as opposed to the PTTW's additional requirements for public consultation as well as public and municipal input. This decision appears a serious disregard of the public's interest.
- D. How does one justify "*low-risk pumping tests with well understood impacts*"<sup>3</sup> as the acceptance criteria for moving a pump test to an EASR? What are the requirements for determining low risk? How was that achieved? Explain what is meant by "*well understood impacts*" if scientific evaluation /studies are not required or because the purpose of a pump test is to identify the impacts.
- E. A PTTW sets a high standard for scientific scrutiny to address long-term water-taking given the seriousness of ensuring the sustainability of the Province's water supply fit-to-drink. Therefore, why recommend diverting PTTW pump tests to a less rigorous EASR process?
- F. A PTTW requires consideration of TIER 3 and WSMP studies, whereas the expectations of an EASR are not known. Should pump tests be allowed within vulnerable areas identified at significant risk or having consumptive water taking regarded as a significant threat? All water taking above 50,000 litres/day needs to be considered holistically as to the overall impact on a local aquifer's sustainability. It is best practice to track all tests under one registry rather than two. It is also best practice to ensure affected municipalities have full notification of and access to the test data and results that are not available through the EASR registry.
- G. The proposed course of action appears to be at odds with the following statement taken from the Provincial Policy Statement, 2020 (PPS, 2020). Wherein, the Province states it will encourage the wise use and management of these resources, water being one. Is diverting pump tests that may eventually be part of a PTTW, following PPS, 2020's expectations?

*"The Provinces natural heritage resources, water resources, including the Great Lakes, agricultural resources, mineral resources, and cultural heritage and archaeological resources provide important environmental, economic and social benefits. The wise use and management of these resources over the long term is a key provincial interest. The Province must ensure that its resources are managed in a sustainable way to conserve*

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<sup>1</sup> <https://www.ontario.ca/page/water-taking-user-guide-environmental-activity-and-sector-registry>

<sup>2</sup> <https://www.ontario.ca/page/water-taking-user-guide-environmental-activity-and-sector-registry>

<sup>3</sup> *Proposed Amendments to Regulations under the Environmental Protection Act and the Ontario Water Resources Act to make modifications to Environmental Activity and Sector Registry requirements and exemptions for low risk short-term water taking activities. October 2020.*

*biodiversity, protect essential ecological processes and public health and safety, provide for the production of food and fibre, minimize environmental and social impacts, provide for recreational opportunities (e.g., fishing, hunting and hiking) and meet its long-term needs."*<sup>4</sup>

- H. The following statement from the PPS, 2020 states, *"Planning authorities shall protect, improve or restore the quality and quantity of water by ... implementing necessary restrictions on development and site alteration to: protect all municipal drinking water supplies and designated vulnerable areas."*<sup>5</sup> Moving pump tests to the EASR appears at odds with this statement. A reasonable person would expect the Province to promote the more rigorous PTTW standard for water exploration, especially where a municipality's water supply may be at significant risk.
- I. *"Higher risk and more complex water taking activities, including long-term water taking activities, will continue to be subject to ministry review and require ministry approval to ensure that human health and the environment are protected. This statement ensures that the level of ministry oversight is proportionate with the potential environmental and human health risks associated with water taking activities"*<sup>6</sup>. Assigning any pumping test above 50,000 litres per day to the EASR registry rather than a PTTW is a contradiction to this statement. It raises questions of integrity as to the ability of the government to follow through on this commitment.
- J. Perhaps pump tests unassociated with a PTTW and long-term water taking below the 50,000 litres per day threshold are manageable under an EASR.

In summary, the more responsible approach to pump tests, especially those involving the equivalent of 50,000 litres or more per day, is to keep them under the more rigorous PTTW process. Water is a precious resource as we are discovering through the mistakes and challenges faced by other countries. We cannot afford to follow their path.

Thank you for allowing me to share my views on the proposed regulatory amendments and for your consideration of my thoughts.

Should you have any questions regarding my comments, please do not hesitate to contact me.

Yours truly,

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<sup>4</sup> *Provincial Policy Statement, 2020 page 6.*

<sup>5</sup> *Provincial Policy Statement, 2020 page 25.*

<sup>6</sup> <https://ero.ontario.ca/notice/019-2525>