



Juwairia Obaid  
Ministry of the Environment and Climate Change  
Environmental Assessment and Permissions Division  
Client Services and Permissions Branch  
135 St. Clair Avenue West  
Toronto Ontario, M4V 1P5

November 20, 2020

**Re:** Conservation Ontario's comments on the "Proposed amendments to regulations made under the *Environmental Protection Act* 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 (ERO#019-2525)

Thank you for the opportunity to comment on the "Proposed amendments to regulations made under the Environmental Protection Act 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" (ERO#019-2525). Conservation Ontario (CO) represents Ontario's 36 Conservation Authorities (CAs), which are local watershed management agencies, whose mandate includes a variety of responsibilities and functions related to water resources and natural hazard management, as well as Drinking Water Source Water Protection.

The following comments are submitted for your consideration based upon a review by CAs, and have been organized to respond to the proposals outlined in the discussion paper. These comments are not intended to limit consideration of comments shared individually by CAs.

### **General Comments**

Conservation Ontario is supportive in principle of the proposed amendments under the *Environmental Protection Act* and the *Ontario Water Resources Act* to streamline permissions for certain low risk short-term water taking activities. However, we note that a number of the proposed amendments would remove current requirements for proponents to notify the municipality and conservation authority for water taking activities. Specifically, the Ministry is proposing to remove the requirement for proponents

to notify the local conservation authority for groundwater takings associated with construction site dewatering and surface water takings associated with road construction activities, unless the water taking would occur over a duration of 365 days. The proposal further removes the requirement for proponents to provide prior notification to conservation authorities if the discharge associated with the water taking activity is within 30 meters of a water body. To ensure that proponents are made aware of additional approvals which may be necessary (e.g. Section 28 permits under the *Conservation Authorities Act* re: control of erosion), as well as local considerations for surface and groundwater resources for these undertakings, it is strongly recommended that the current notification requirements to conservation authorities and municipalities be maintained.

Additionally, as drought and low-water declarations are becoming more frequent, particularly due to impacts of climate change, the need for additional guidance/protocols for managing water takings in drought conditions or water quantity stressed areas is increasingly important. To ensure that the activities included in this proposal do not further put pressures on water resources in drought/low water conditions, Conservation Ontario recommends that the regulatory requirements for each activity be amended to state that water takings, which are proposed during low-water conditions per the Ministry of Natural Resources and Forestry's Low Water Response Program, be postponed until low-water conditions have been lifted.

It is strongly recommended that Source Water Protection considerations continue to be included in the eligibility criteria making process. There should be a sound process for flagging vulnerable areas, which include: Wellhead Protection Areas (WHPA), Intake Protection Zones (IPZ), Issue Contributing Areas (ICA), vulnerable aquifers and significant ground water recharges areas.

### **Proposed Regulatory Requirements for New Prescribed Activity: Pumping Tests**

It is our understanding that the Ministry is proposing to introduce pumping tests that take more than 50,000 L/day and up to 3,000,000 L/day in a period of 7 days or less within a single 30-day period as a new prescribed activity for registration on the Environmental Activity and Sector Registry (EASR). To be eligible for registration on the EASR, these tests would need to meet a number of criteria, as well as activity-specific requirements, which would include the completion of a pumping test design report by a Qualified Person prior to registration on the EASR.

Additionally, we would strongly recommend that for any proposed pumping tests within source water protection areas, proponents be required to consult with the local risk management and source water protection official.

One of the proposed prescribed requirements for inclusion in the pumping test design report is, "If the method of discharge is overland to a water body or to a storm sewer, the Qualified Person would be required to include treatment or control measures to ensure that the discharge to the natural environment does not result in:

- a) scouring, erosion or the physical alteration of stream channels or banks
- b) does not cause or worsen any flooding in the receiving area."

We note that any discharge to a storm sewer or directly to a water body would require approvals from either the local municipality or conservation authority. Therefore, Conservation Ontario strongly recommends that notification requirements to conservation authorities and municipalities be

maintained. Further to the proposed requirements which would ensure that discharged water does not cause scouring, erosion or the physical alteration of stream channels or banks, it is recommended to require that discharged water does not cause the alteration of natural features in general. It is recommended that the discharge plan further consider water quality issues in order to protect the discharge location.

Lastly, Conservation Ontario recommends that prior to finalizing the regulatory amendments, the Ministry clarify the definitions and/or criteria used to determine what constitutes “contaminated areas”, “low risk” activities and “well understood impacts”.

### **Proposed Modifications to Regulatory Requirements for Construction Site Dewatering**

It is our understanding that the Ministry is proposing to modify existing eligibility criteria for construction site dewatering activities. While Conservation Ontario agrees with the proposal to cap the water takings at 400,000 L/day where there is overlap between the areas of influence, a rationale should be provided to explain the proposed change in the groundwater taking limit from 400,000 L/day for the entire construction site to 400,000 L/day for each individual pit on a construction site.

Conservation Ontario further recommends that the requirements for construction site dewatering (as outlined in O. Reg. 63/16) are amended so that water takings proposed in known water-quantity stressed areas are screened to consider potential cumulative impacts, including those outside of the overlapping areas of influence.

We note that the requirements for the discharge report are proposed to be modified considerably, and at a minimum, Conservation Ontario recommends that the discharge plan be required to ensure that the discharge will not result in any adverse impacts to the environment. Consideration to significant groundwater recharge areas should also be given to avoid potential impacts on ground water quality via discharge.

Lastly, as noted in our general comments, the amendments would remove current requirements for proponents to notify the local conservation authority for groundwater takings associated with construction site dewatering, including removing the requirement for proponents to provide prior notification to conservation authorities if the discharge associated with the water taking is within 30 meters of a water body. Conservation Ontario strongly recommends that notification to conservation authorities for these activities be maintained, particularly for activities where the discharge point is within 30 meters of a water body due to potential public inquiries/concerns and flooding and/or erosion issues.

### **Modifications to Regulatory Requirements for Road Construction**

It is our understanding that the Ministry is proposing to expand the eligibility criteria for surface water takings associated with road construction projects to include surface water takings associated with additional public transit projects (such as Light Rail Transit) as eligible for registration on the EASR, in addition to water takings related to the construction, maintenance or repair of “highways”, as defined in the *Highway Traffic Act*. The expansion of eligibility criteria could result in an overall increase of water takings associated with public transit projects, with the potential to adversely impact surface water

resources and aquatic habitat, particularly in areas subject to drought or water quantity stressed areas. The withdrawal and discharge of surface water may impact surface water quality and quantity.

Additionally, as noted in our general comments, the amendments would remove current requirements for proponents to notify the local conservation authority for surface water takings associated with road construction activities, unless the water taking would occur over a duration of 365 days. This amendment includes removing the requirement for proponents to provide prior notification to conservation authorities if the discharge associated with the water taking is within 30 meters of a water body. Conservation Ontario strongly recommends that notification to conservation authorities for these activities be maintained, particularly for activities where the discharge point is within 30 meters of a water body due to potential public inquiries/concerns and flooding and/or erosion issues.

### **Proposed Amendments to Regulations made under the *Ontario Water Resources Act***

It is our understanding that the Ministry is proposing amendments to O. Reg. 387/04 – *Water Taking and Transfer* to exempt low risk short-term water taking activities from the requirement to obtain a permit to take water. As part of these proposed amendments, the Ministry is proposing a new exemption which would apply to the taking of water during well development, with no additional eligibility criteria proposed for the exemption. While Conservation Ontario does not oppose this proposed exemption, it is recommended that criteria be included to require the discharge water quality to be addressed to ensure the discharge does not result in adverse impacts to water quality. Consideration to significant groundwater recharge areas should also be given to avoid potential impacts on ground water quality via discharge.

Thank you for the opportunity to provide comment on the “Proposed amendments to regulations made under the *Environmental Protection Act* 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 (ERO#019-2525). Should you have any questions regarding the above comments please contact myself at [nfischer@conservationontario.ca](mailto:nfischer@conservationontario.ca), Ext. 229, or Deborah Balika (Source Water Protection Lead) at [dbalika@conservationontario.ca](mailto:dbalika@conservationontario.ca) or Ext. 225.

Sincerely,



Nicholas Fischer  
Policy and Planning Officer

c.c. All CAOs/GMs