

MEMORANDUM

To: Environmental Registry of Ontario

From: Jason Culp – Niagara Peninsula Conservation Authority

Date: February 2, 2021

Re: **Drainage Act Regulatory Proposal Comments**

The Niagara Peninsula Conservation Authority (NPCA) has completed a review of the proposed changes to the Drainage Act and associated regulations, specifically in relation to the completion of engineering reports and provisions for streamlining the process of approvals required for minor improvements of existing municipal drains in Ontario.

At this time, no detailed criteria defining what would constitute a minor improvement or a requirement for a new engineering report has been provided. Similar to recent changes to the Conservation Authorities Act, the proposed changes address process, with a subsequent Minister's Regulation(s) to be developed specific to defining additional details. Input into the development of the new regulation with regards to process and specific activities to be included in the new Minister's Regulation was requested by Conservation Ontario for submission to the Province. Due to the large number of municipal drains in the NPCA watershed, the NPCA also felt it appropriate to post their own comments.

Within the NPCA area of jurisdiction, every municipality with the exception of the City of St. Catharines has and is responsible for municipal drains. Each of these municipalities has a qualified professional, trained, and designated as a Drainage Superintendent by the Ontario Ministry of Agriculture, Food and Rural Affairs, and appointed by a municipal bylaw, whose responsibility is to maintain existing drains as well as coordinate the process for the construction of new municipal drains should they be requested or required by residents or in some cases the municipality itself. Under the Drainage Act, and through the Drainage Act and Conservation Authorities Act Protocol, the NPCA works with the local Drainage Superintendents and their municipalities to review and approve the maintenance and repair of municipal drains.

A significant number of municipal drains in Ontario are also considered regulated watercourses under the Conservation Authorities Act, and may include other regulated features such as flood plain, wetlands, terrestrial and aquatic species at risk occurrences and habitat and in-water works which require additional approvals not only from the local Conservation Authority but also the Department of Fisheries and Oceans (DFO), the Ministry of Environment, Conservation and Parks and the Ministry of Natural Resources and Forestry. Improved coordination in addition to enhanced agency and municipal awareness of all legislative requirements which may impact these processes is the general intent of the Province's review of the Drainage Act and associated reviews and approvals.

Additional Discussion Questions and Answers

The NPCA has provided below a table of additional questions and responses in relation to the regulatory proposal.

Drainage Act Regulatory Proposal Discussion Paper Discussion Questions	
Discussion Questions	CA Comments
1. Do you agree with the proposed minor improvement criteria?	Yes
2. What types of improvements do you foresee fitting under the minor improvement process?	1. New access crossings 2. Localized bank stabilization 3. Construction and implementation of permanent offsetting measure e.g., Low flow channels, sediment traps, as per current DART protocol
3. What potential pre-approved designs do you foresee for being possible under a protocol for minor improvements?	Given the nature of what would be considered a minor improvement and the engineering requirement for implementing them, each type of improvement could be supported by a pre-approved design standard similar to the existing Ontario Provincial Standards Specifications and Drawings for Roads and Public Works.
4. Are there other opportunities to further reduce burden for minor improvements?	It would be very helpful if the MNRF would provide additional clarification to OMAFRA, municipalities and Conservation Authorities as to their guidelines/expectations in relation to municipal drain projects and Provincially Significant Wetlands.
5. Are the proposed criteria for updating an Engineer's Report appropriate?	Yes
6. What new protocols would you prioritize?	1. Adoption of existing DART protocol by all Cas 2. Standardized approval submission guidelines for applications submitted through DART protocol 3. Pre-approved Design Protocol and associated specifications/drawings

General Comments	
	CA Comments
Drainage Act Regulatory Proposal (ERO#019-2814)	NPCA staff experienced in Municipal Drains (former Drainage Superintendents) appreciate that these changes are long overdue and will, if properly implemented, continue to protect, and enhance the environmental integrity of



	Ontario's Municipal Drain network while assisting in clarifying approval roles and processes and reducing financial burden to the municipalities and affected landowners.
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Overall, the proposed changes and revisions appear positive. Many Conservation Authorities and the other regulatory agencies such as DFO have already been working with partner municipalities on the development of review and approval processes which aim to streamline and compliment existing legislative requirements for municipal drain maintenance and improvement projects.

Regards,

A handwritten signature in red ink that reads "Jason Culp".

Jason Culp, *C. Tech., EP*
Supervisor, Compliance & Enforcement
Niagara Peninsula Conservation Authority