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File No.: 8400067

April 21, 2021

Cheryl Davis
Team Leader
Ontario Ministry of Transportation
Environmental Policy Office
cheryl.davis@ontario.ca

Dear Ms. Davis,

Re: ERO 019-3422 – Ministry of Transportation Statement of Environmental Values

I am writing on behalf of Ecojustice in relation to the proposal to update the Ministry of Transportation (MTO) Statement of Environmental Values (SEV).

Ecojustice is a national environmental law organization with offices across Canada. For more than 25 years we have gone to court to protect wilderness and wildlife, challenge industrial projects, and keep harmful chemicals out of the air, water, and ecosystems we all depend on. We represent community groups, non-profits, Indigenous communities and individual Canadians in the frontlines of the fight for environmental justice. This submission is made on behalf of Ecojustice and not on behalf of any client organization.

Our central comment is that the Ministry of Transportation SEV appears to resist, limit and obfuscate environmental protection principles at a fundamental level. We urge the Ministry of Transportation to shift its focus from justifying highway and roadway improvements and towards climate-friendly and environmentally sustainable transportation solutions.

In addition to this overarching comment we have several concerns. The revisions to MTO's SEV appear to limit its application to "environmentally significant decisions" instead of the language in section 11 of the *Environmental Bill of Rights* (EBR) which refers to decisions that "might significantly affect" the environment. This attempt to limit the application of the SEV to a narrower set of decisions than is required under the EBR is inappropriate.

Further, under the section "application of the SEV" and again under "monitoring the use of the SEV" the Ministry commits only to applying the SEV (and documenting that compliance) when it considers policies or Acts. This too attempts to circumvent the requirements of the EBR, which apply to all potentially environmentally significant decisions, of any type, inclusive of

regulations, instrument decisions and any other decisions. Further, even a very basic application of the SEV for the purposes of the public consultation provisions of the EBR requires it to be applied to decisions on regulations. This language must be amended to refer to all potentially environmentally significant decisions, consistent with section 11 of the EBR.

We are disappointed to see qualified language remains in the SEV for environmental protection and sustainability, particularly with respect to biodiversity and habitat loss. For example the proposed SEV limits the commitment to protect natural habitat and biodiversity to situations where it is “possible and practical.” Elsewhere in the SEV the Ministry only commits to “encouraging” habitat preservation. In the past MTO has found that is not practical to do so in many cases, making this commitment of little benefit. We note that MTO is responsible for a vast number of endangered species permitting requests under the Ontario *Endangered Species Act* particularly for vulnerable species such as Redside Dace. The Ministry can clearly do more to reduce its impacts on such species.

We ask that the qualifications on the Ministry’s biodiversity and habitat commitments be removed and that they be replaced with clear language evidencing a strong commitment to habitat and biodiversity protection. Further the Ministry should commit to submitting its projects to voluntary reviews by conservation authorities to ensure that these goals are met and that the Ministry has adequate expertise to protect habitat.

We are disappointed that the Ministry’s vision, priorities and strategies, the word “sustainably” is removed and the commitment to encourage all modes of transportation in an environmentally responsible way is removed. This language should be restored and put in stronger terms.

On public consultation, the MTO sets a low bar of providing opportunities for awareness, and encouraging the public to participate in transportation planning and design. Currently MTO’s focus is almost entirely on design consultations for major projects and not planning and alternatives. A clear commitment to public engagement, not just awareness, in the selection of alternatives and planning for major infrastructure decisions is badly needed.

The Ministry also appears to be failing to take climate change seriously in its SEV. We acknowledge that a new section on climate change has been added. However this section focuses on climate resilience and not on preventing and significantly reducing greenhouse gas emissions. Ontario’s greenhouse gas emissions largely stem from transportation and this is the fastest growing area of greenhouse gas emissions in the province. Yet, the Ministry fails to commit to integrating climate change considerations into its decision-making, saying only that it will work with other ministries to support this. Further, there is no commitment to actually reducing greenhouse gas emissions through sustainable transportation planning.

The Ministry continues to fail to acknowledge or address many environmentally significant and scientifically well-established phenomena such as induced demand which leads to increased emissions and both local and regional air quality issues adjacent to major transportation infrastructure. Further, the Ministry typically brushes off alternatives such as local road network improvements, transportation demand management, alternate road fee structures and other

important alternatives when engaging in transportation planning. The SEV should include meaningful commitments to conducting these analyses and involving the public in them.

A meaningful commitment to transit, demand management and active transportation as alternatives to roads is also notably absent from the SEV. There are some references to these in the SEV but they are not tied to any identifiable outcomes. A clear commitment to moving away from a road-based transportation network is required.

We are pleased to see that the Ministry is remaining committed to reducing transportation related air emissions. However it is unclear that the Ministry is serious about this commitment as it does not conduct health impact assessments in relation to the effects of road infrastructure, and Ontario has failed to update its air quality standards to reflect current public health information. Under the heading “integration with other considerations” this commitment is not consistent, as the language only refers to “mitigating pollution” instead of reducing transportation emissions. A clear commitment to construction related emissions is also required.

We are also pleased to see that the Ministry remains committed to “better assess alternatives and provide more evidence-based recommendations.” However, it is our view that the Ministry does not currently live up to these commitments, nor does it consult the public on alternatives for many large infrastructure projects. Analyses of alternatives to roads need to be comprehensive and evidence-based.

In sum, the proposed revisions to the MTO SEV are lacking in ambition. We request that MTO overhaul its SEV so that it:

1. Complies with the language in s.11 of the EBR and with Part II of the EBR as a whole by applying and requiring documentation of all potentially environmentally significant decisions;
2. Makes meaningful commitments to avoiding the destruction of habitat and enhancing and restoring habitat and biodiversity using an ecosystem approach, including no net loss principles;
3. Makes meaningful commitments to engaging the public in the consideration of alternatives to roads and engages in full analysis of transportation demand management, fee structures, active transportation and transit whenever planning decisions are made.
4. Makes meaningful commitments to reducing greenhouse gas emissions and other forms of pollution by pursuing transit and active transportation infrastructure alternatives in priority over single occupant vehicle modes and reducing construction emissions;
5. Commits to assessing the cumulative effects of air and water pollution, vibration and noise on health before decisions on infrastructure planning are made (not just at the design phase) through evidence-based health impact assessments;
6. Commits to assessing the cumulative effects of air and water pollution, wildlife collisions, noise and vibration on surrounding habitats whenever infrastructure planning decisions are made, with public consultation and prior to the design phase;
7. Commits to ensuring the long-term health and sustainability of Ontarians by prioritizing the least destructive, and least polluting forms of transportation;

8. Commits to public consultation on, and documentation of the application of the SEV in operational decision-making including changes to policies concerning maintenance, construction practices, road salting, and similar issues which can be environmentally significant.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'L.B.', with a long, sweeping horizontal stroke extending to the right.

Laura Bowman
Staff Lawyer