

ONTARIO FEDERATION OF ANGLERS & HUNTERS



Ontario Conservation Centre

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E-MAILED
07/31/17

Mr. Finn MacDonald
Policy Officer
Ministry of Natural Resources and Forestry
Policy Division
Natural Resources Conservation Policy Branch
300 Water Street
Peterborough Ontario
K9J 8M5

Dear Mr. MacDonald:

Subject: EBR Registry Number 013-0561: Proposed amendments to the Conservation Authorities Act as part of Bill (139), the Building Better Communities and Conserving Watersheds Act, 2017

On behalf of the Ontario Federation of Anglers and Hunters (OFAH), its 100,000 members, subscribers and supporters, and 740 member clubs, we have reviewed the *Proposed Amendments to the Conservation Authorities Act as part of Bill (139), the Building Better Communities and Conserving Watersheds Act, 2017* (Schedule 4) and have the following questions, concerns, and comments.

General Comments

We recognize the valuable work of Conservation Authorities (CAs) and the OFAH has had many successful partnerships as a result. We support the objective of the proposed changes to the Conservation Authorities Act, which is to improve the legislative, regulatory, and policy framework that currently governs CAs and the programs and services they deliver. The proposed changes build on the priority areas of the previous stage. Below are general comments around the themes of the proposed changes to the Conservation Authorities Act (Act), with more specific comments, questions, and recommendations about specific sections of Schedule 4.

Strengthening Oversight and Accountability in Conservation Authority Decision-Making

The OFAH in general supports the sections and subsections to the Act that provide direction and requirements for consultation from the establishment of CAs, to their modification, to development of bylaws, agreements, policies, and programs. Some proposed sections do not provide detail on consultation, nor do they indicate how or when consultation is to occur, and while other sections provide for regulations to be made by the minister around consultation requirements, stakeholders will need to be included during the development of these regulations. The OFAH supports the numerous sections of the Schedule that increase notification requirements and believe these changes are an important factor in increasing transparency of CA activities. However, having transparency with no appeal or challenging mechanisms in place for resident and stakeholders impacted by a CA's actions, bylaws, or programs fails to provide tangible and effective oversight and accountability to the public and stakeholders.

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Increasing Clarity and Consistency in Programs and Services

The OFAH supports the proposed changes that help clarify the different types of programs and services that CAs may undertake. Providing direction on the process and requirements of programs and services that CAs perform on behalf of municipalities, programs required through regulation by the Minister of the Ministry of Natural Resources and Forestry (MNRF), as well as providing a system for the development of programs and services that may be in other ministries' jurisdiction, through the Lieutenant Governor, is necessary to ensure some consistency with development and delivery. While CAs are in a position, on a watershed scale, to be able to deliver on initiatives and programs from the MNRF and other ministries, any further responsibilities should be consulted on, and any further programs and services require adequate resources (funding and expertise) from the province to be able to perform those activities.

Increasing Clarity and Consistency in Regulatory Requirements

The OFAH believes the establishment of a purpose statement will provide clarity to those who are unfamiliar with the reason for the development of CAs. While there is a guiding theme, the Act and proposed amendments, provides for a very wide array of purposes and values beyond the initial purpose statement including natural resource management, environmental services, wildlife habitat and management, and many other values. The regulation writing capabilities of the MNRF and the Lieutenant Governor allow modification of jurisdictional responsibilities and regulatory roles of CAs around these other purposes and values. While the advantages of using CAs for increased regulatory roles is similar to the benefits seen in using CAs for programs and services any further jurisdictional/regulatory roles or responsibilities require adequate resources to ensure they are performed appropriately.

The compliance tools proposed will give CAs the ability to better perform their responsibilities under the Act. They propose an alternative punitive process (allowing fines as opposed to needing to pursue non-compliant individuals or groups through court), have proposed fines that are in line with similar contraventions in other acts, and are in line with the powers granted officers in other resource/landscape-based legislation.

Improving Collaboration and Engagement

The OFAH supports the ability to regulate and clearly develop consultation, outreach, and notification requirements to ensure the collaboration and engagement of residents and stakeholders within a CA. The inclusion of potential mandatory advisory boards and consultation helps keep residents, stakeholders, and experts engaged. Several proposed amendments also indicate potential for provincial development of regulations around requirements related to CA board composition and board member qualifications. The MNRF's development of regulations around required advisory boards, consultation requirements, board structure, and qualifications should include input from of numerous groups, organizations and demographics to ensure the adequate representation of stakeholders. Inclusion of landowners, indigenous communities, the agricultural community, anglers and hunters, and conservation organizations will ensure these key stakeholders are engaged with both CAs boards and staff.

One area the proposed changes do not address is the ability to improve collaboration between CAs. This was a common theme and problem identified in engagement sessions and further described in multiple submissions during the previous phases of the Act's modernization. Many of the operational issues that resulted in the need for the modernization of the Act stem from capacity differences between CAs. For example, CAs with a large population and tax-base may be able to afford to keep required technical expertise to protect/manage water resources in-house or on retainer, while a rural CA with a small population may not, and would greatly benefit from collaboration with larger CAs.

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Modernizing Funding Mechanisms to Support CA Operations

Many of the changes under this theme could also be viewed as increasing oversight and accountability around funding mechanisms. Proposed changes explain how and when CAs develop fees, ensure transparency for residents and stakeholders, and establish consistency between CAs with the province providing many fee structures. The OFAH supports the changes that will increase consistency and accountability; however, the proposed methods for challenging fees charged (i.e. by going to the CA board) does not provide an objective third party review.

Fees developed by CAs for programs and services are not subject to public consultation requirements and there is no mechanism in the proposed changes to allow a person to appeal CA fee structures to an objective third party (e.g. Ontario Municipal Board, Mining and Lands Commissioner, MNR Minister). Fees are also developed related to use of and access to CA lands, and it is not clear whether access to these lands would constitute a program or service. Would the development and reasoning behind usage fees on CA properties also have the publication and distribution requirements?

The aforementioned disparities in operational capacity can often be directly linked to differences between tax bases within CAs. In order to address this systemic issue, mechanisms (e.g. equalization payments between CAs or from the MNR) should be considered within the Act or in regulation that would ensure more equitable funding. This would promote more consistent and effective operational capacity in areas with significant conservation needs but limited population.

Schedule 4 Section 12(2)

The OFAH is in full support of ensuring board members meet requirements, as well as ensuring the board has compositional requirements. It is imperative that the development of these regulations involves consultation with numerous stakeholders to ensure that representation on the board is appropriate for the CA and the landscape. A lack of agricultural representation has been a major issue identified during engagement sessions and described in written submissions, as well as a lack of representation of resource users (e.g. anglers and hunters). Ensuring these stakeholders are included on the board will help to encourage community involvement and relieve some of the perceived alienation/distrust between CAs and members of those stakeholder groups.

Schedule 4 Section 16

The amendments proposed in this section, in conjunction with others, change a CA board's ability to create regulations related to their own operations into the ability to create bylaws. This enables the MNR and the government in general to have a stronger oversight of CAs, especially the proposed section 19.1(6) of the Act which allows direction by the MNR minister. While the notification and public availability of the bylaws increases transparency, the proposed changes do not indicate any mechanism available to residents who wish to challenge/appeal bylaws. Any process must include an objective third party in either one of the regulatory bodies (e.g. Ontario Municipal Board) or through the proposed section 19.1(6) of the Act.

The proposed adoption of Conflict of Interest (COI) is an important step to ensuring integrity and accountability of CA boards. Due to the broad area of jurisdiction, roles, responsibilities, programs, and services of CAs traditional COI definitions (e.g. financial or political benefit) may not completely cover all issues/areas where conflict could occur. While these issues may be addressed through some of the other accountability measures proposed, adopting a broad definition of COI would help minimize these situations.

Schedule 4 Section 20

The OFAH supports the clarification of types of services and establishing a standard process for the creation of programs and services provided by CAs. It is imperative that any services and programs, based on legislative requirements, done on behalf of municipalities, or created to further CA objectives, meet and are in line with provincial and regional initiatives and goals.

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Schedule 4 Section 25

The OFAH has contributed to the consultation during the modernization of the Aggregate Resources Act and the modernization of the Conservation Authorities Act, and we continue to describe our concern about the lack of involvement of CAs in the regulation of aggregate resources. Given the key roles that gravel and sand strata play in the recharge of aquifers, filtration of water, groundwater reservoirs, and as discharge areas for surface springs and stream headwaters and the role of CAs in the management of water resources, CAs should have greater involvement in aggregate management.

The OFAH is also concerned with the continually lowered standards and requirements associated with green energy infrastructure. Many of these installments pose considerable risk to the health and quality of habitat, can impact ecological services, and can negatively impact multiple values that CAs are mandated to consider when reviewing development and its impact to the watershed. These are far beyond the narrowed scope that are currently in the Act or in the proposed amendment of the Act. Changes to proposed section 28.1(6) of the Act should be considered to ensure ecological and social sustainability of green energy development.

Schedule 4 Section 27(1)

The proposed change to section 29(1) of the Act provides ministry oversight of how CAs use, allow use, or restrict use on CA properties. The OFAH supports this change due to the fact many properties owned by CAs were either public lands or Crown lands in the past, and many properties purchased by CAs are often funded (at least in part) with provincial money.

Fishing, hunting, and trapping are safe and compatible conservation activities in multi-use areas. CAs have an opportunity to recognize, celebrate, and benefit from these traditional heritage activities on CA properties. CAs should explore ways to enhance fishing, hunting, and trapping opportunities to offer more diverse activities, better engage local residents, protect ecological integrity, and generate a multitude of socio-economic benefits. Yet there are many CA lands where angling, hunting, and training/trialing opportunities for dogs have been restricted on CA properties without the providing compelling evidence as to why these activities are not compatible in these multi-use areas. With many examples of areas that safely and respectfully allow multiple uses including angling, hunting, and training and trialing of dogs in Ontario there are many options available to continue these opportunities with other uses. Will there be any mechanism available through proposed Section 29 of the Act to address where traditional and long-standing uses have been restricted? How will unnecessary restrictions be prevented in the future?

The OFAH looks forward to working with the ministry and CAs to ensure that the important cultural and heritage activities of angling and hunting can continue to contribute to the sustainable management of natural and ecological resources on CA properties.

Other Areas of Concern

While small alterations may not show evidence of impacting a system, there is a potential for a “death by a thousand cuts” scenario. While the Act may not be the appropriate level to tackle this issue, the OFAH would suggest that regulation or policy under the Act increases environmental monitoring within individual watersheds and across watersheds to look at cumulative impacts.

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Conclusion

There is general support for the proposed changes in the schedule. We believe that significant progress has been made to address issues and concerns presented through the first two phases of the Act modernization, but there is still more work to be done. It should be emphasized that the purpose of amending the Act should not be to download provincial responsibilities to other groups. We are encouraged by the proposed sections that clarify roles and responsibilities and provide for greater consistency in approaches towards implementing provincial programs. The proposed sections indicating board member qualifications and board structure will help alleviate many issues that currently exist in CAs, and the OFAH looks forward to working with the ministry and CAs on these requirements/qualifications.

The OFAH supports improvements to oversight for both the province and residents, but additional oversight mechanisms and avenues for residents and stakeholders to hold CAs accountable would be beneficial. CAs are responsible for the implementation of provincially-mandated programs and appropriate/adequate funding is necessary to ensure the responsibilities can be performed to an acceptable standard; however, the proposed amendments have not fully addressed funding and resource disparity issues that negatively impact the ability of some CAs to meet these standards. Further consideration on how to make funding more equitable and based on projects and land requirements (rather than being based entirely on population within a CA) needs to be addressed. We strongly believe that stewardship is essential for conservation, and believe that CAs can help facilitate and support local stewardship efforts. CA lands provide important opportunities for fishing, hunting, and trapping activities in Ontario, and we would like to see a more evidence-based system used to determine what recreational activities are permitted.

The OFAH appreciates the opportunity to participate in the review and development of the amendments to the *Conservation Authorities Act*, and help develop a sustainable healthy Ontario now and for future generations. We have participated in the engagement sessions, commented on the Environmental Registry postings, and look forward to working with the province in future opportunities around the mandate and management of Conservation Authorities.

Yours in Conservation,



Robert Cole
Land Use Policy and Habitat Specialist

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cc: OFAH Board of Directors
OFAH Land Use/Access/Trails Advisory Committee
Angelo Lombardo, OFAH Executive Director
Matt DeMille, OFAH Manager, Fish & Wildlife Services
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