

ONTARIO FEDERATION OF ANGLERS & HUNTERS



Ontario Conservation Centre

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March 8, 2016

Ms. Karen Passmore, Forest EA Implementation Coordinator
Ministry of Natural Resources and Forestry
Policy Division
Crown Forests and Lands Policy Branch
Forest Legislation and Planning Section
70 Foster Drive, Suite 400
Sault Ste. Marie, Ontario
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Dear Ms. Passmore:

Subject: EBR Registry Number 012-5974: Revised MNRF/DFO Protocol for the Review of Water Crossings
Proposed Through the Forest Management Planning Process

On behalf of the Ontario Federation of Anglers and Hunters (OFAH), its 100,000 members, subscribers and supporters, and 725 member clubs, we have considered the Review of Water Crossings Proposed through the Forest Management Planning Process. While many of the revisions are modeled after the largely unpopular amendments to the Fisheries Act (2012), it is apparent that there has been some progress towards the actual implementation of a proponent-driven, self-assessment approach from a fisheries protection perspective. However, there are some inherent limitations that require caution, which we will detail below.

The establishment of approved water crossing standards can be an effective way to manage low-risk watercourse crossing construction. To ensure the integrity of the construction and policy of a proponent driven “construct-to-rule” process for water crossings, a fair, provincially consistent system of auditing and verification needs to be in place. The current forestry compliance program effort, targets, and many other factors are determined regionally, and there is no provincially consistent audit program established. Therefore, the current compliance program is not equipped to enforce a standardized “construct-to-rule” policy. With the development of approved water crossing standards, will there also be a provincially consistent audit program, based on a statistically significant subset of total or new approved water crossings, developed to ensure compliance to the standards? Is there going to be a reporting system in place to track the number of water crossings installed under the new standard?

The added provision requiring the proponent to identify any water crossing that would be included in a Forest Management Plan regardless of the outcome of the self-assessment is a critical component of this process and is highly supported by the OFAH. Not only will this provision allow for the aforementioned auditing process to be enacted throughout the life of the FMP, it also provides an understanding of the potential cumulative impacts of forestry activities on a waterbody or watershed. To further the significance of this data, the OFAH recommends that this information be considered beyond the scope of forestry operations, and be combined with any other activities that may have an impact on the water quality or quantity of a watershed (e.g. mining, aggregate removals, agriculture) from a cumulative impact assessment perspective.

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Regarding the self-assessment, there needs to be some consideration related to critical aquatic habitat. Because the Fisheries Act deals entirely with the avoidance of serious harm to fisheries, there is little consideration to habitat that may be considered critical to downstream fisheries, but does not sustain a fishery in its immediate area (i.e. springs, seeps, etc.). Because of the sensitive nature of some of these features, destruction could have significant downstream effects and the features are often irreplaceable, and must be adequately considered by the proponent.

The "duty to notify" clause puts the responsibility on the proponent should there be an instance where serious harm to commercial, recreational, or Aboriginal fisheries occurs or is imminent. However, to be effective, the associated fines need to be significant enough to promote compliance to this clause.

Thank you for the opportunity to participate in this review process. We appreciate that the protocol is in need of modernising and agree that this format may suffice should certain measures be taken to ensure that the approach has complete oversight by the MNRF from a regulatory and enforcement perspective. We will look forward to receiving feedback related to our contribution.

Yours in Conservation,

A handwritten signature in blue ink, appearing to read 'Tom C. Brooke', with a stylized flourish at the end.

Tom C. Brooke, M.Sc.
Fisheries Biologist

TB/gh

cc: Angelo Lombardo, OFAH Executive Director
Matt DeMille, OFAH Manager, Fish & Wildlife Services
OFAH Fish & Wildlife Staff