

ONTARIO FEDERATION OF ANGLERS & HUNTERS



Ontario Conservation Centre

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Mr. Michael Helfinger
Strategic and Corporate Policy Branch
56 Wellesley Street West
Toronto, Ontario
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Dear Michael:

Subject: ERO# 019-0774 and 019-0732 related to Bill 132, *Better for People, Smarter for Business Act, 2019*

The Ontario Federation of Anglers and Hunters (OFAH) is Ontario's largest non-profit conservation-based organization, representing 100,000 members, supporters, and subscribers, and 740 member clubs. We have reviewed *Bill 132, Better for People, Smarter for Business Act, 2019* and offer the following comments for consideration. In general, we support the government's plan to reduce unnecessary administrative and regulatory burdens on Ontario businesses; however, we are compelled to point out potential unintended consequences of certain changes proposed in Bill 132.

Fish and Wildlife Conservation Act

The OFAH fully supports the proposed amendments to the Fish and Wildlife Conservation Act (FWCA) to grant order-making powers to the Minister of Natural Resources and Forestry in order to address the risk of wildlife disease to the ecological, social, and economical well-being of the province. Historically, Ontario has been very fortunate and has been spared many of the significant wildlife diseases that are present in neighbouring jurisdictions. For example, both chronic wasting disease (CWD) and bovine tuberculosis are present in Michigan's white-tailed deer population. But our past history is no guarantee that Ontario will be spared in the future - we are living in an increasingly interconnected and changing world, which further increases the risk of new diseases being introduced into the province.

The proposed amendments grant the MNRF the power to act swiftly in response to a disease outbreak or the risk of an outbreak, even in the face of public opposition. This ability is especially relevant in the case of CWD, where a rapid and aggressive response to the first detection is absolutely necessary if there is to be any chance of eradicating the disease. Based on the experiences of New York State, the only jurisdiction to date that has eradicated CWD, the rapid depopulation and testing of the wild deer population is a critical component of a successful response. This is a drastic measure, but one that is justified given the dire consequences of CWD becoming established. However, these depopulation efforts are frequently opposed by landowners and members of the public, often due to a lack of knowledge or misinformation about CWD. This opposition can hinder response measures, as occurred during Quebec's 2018 response. In some cases, opposition has resulted in control measures being abandoned entirely, as occurred in Alberta where CWD is now endemic.

We applaud the government for proposing changes that will enable the MNRF to respond quickly and decisively. This is a necessary step and something the OFAH has been seeking for many years. We hope these provisions are a recognition of the severity of risk that wildlife diseases like CWD pose to Ontario and that they will be fully utilized if necessary. We also hope this recognition will translate into full enforcement of existing regulations to further reduce the risk of wildlife disease in Ontario. We need to do everything we can to minimize risk.

The MNRF already has multiple enabling pieces of legislation that give them the ability to address threats to Ontario's wildlife, both in the FWCA and in separate legislation such as the Invasive Species Act (ISA). Despite the powers provided in both the FWCA and the ISA, the MNRF has failed to take the necessary action on two of the most significant wildlife disease threats Ontario currently faces - CWD and African Swine Fever (ASF). In both cases, decisions made by the MNRF have allowed potential reservoirs for these diseases to persist on the landscape. By neglecting to follow the provisions of the FWCA and their own internal policies, the MNRF has allowed feral herds of red deer, a non-native cervid from Eurasia, to become established in both eastern and northeastern Ontario. Due to inadequate regulation of the deer farming industry, the CWD status of these animals is unknown, yet they have been allowed to persist on the landscape for over a decade in close proximity to one of Ontario's restored elk herds. Through a similar process, the MNRF continues to ignore the threat posed by wild pigs, to the point where wild pigs have now been reported in thirty-seven wildlife management units across southern and central Ontario, and are reproducing in the wild. Given the potential for wild pigs to act as reservoirs for ASF, these animals represent a major ongoing threat to Ontario's pork industry. In both cases, we already know everything we need to know and have many of the tools needed - now we need government willingness to use every possible prevention tool at their disposal.

While the ability to respond quickly and effectively to any cases of wildlife disease is important and must be part of Ontario's larger strategy to safeguard the health of our wildlife, the OFAH continues to maintain that the province must have a "**prevention-first**" focus. The experience of other North American jurisdictions with CWD highlights this importance. Only one of the 26 states where CWD has been detected has been successful in eradicating it. The detection of CWD is an indication that prevention has failed and requires wildlife agencies to be reactive. Proactive measures to address the pathways for disease entry into the province will ultimately be more successful and less expensive than responding to a disease outbreak. In our recent letters to the government on the proposed update to Ontario's Chronic Wasting Disease Surveillance and Response Plan and on wild pigs, we make numerous recommendations on proactive, preventative steps that must be taken. A subset of key recommendations is provided below.

Recommendations

1. All wildlife disease plans should adopt a "prevention-first" approach.
2. Communication by the government is crucial in combating misinformation, increasing compliance with regulations, and securing the public support required for measures to address wildlife disease.
3. Take decisive action to identify and address potential pathways of disease introduction and spread, recognizing the immense ecological, social, and economic benefit that healthy wildlife populations provide to Ontario.
4. Collaborate across ministries and levels of government to ensure that all aspects of wildlife disease are addressed, not only those that fall under the purview of the MNRF.
5. Increase funding to disease prevention, surveillance, response and research programs to ensure that the resources are available to fully realize the capabilities enabled in legislation.

Aggregate Resources Act

While the OFAH recognizes the importance and value of the aggregate industry to the province, aggregate extraction activities can have significant deleterious effects on the environment. Moreover, aggregates are non-renewable resources and, therefore, require sound policies and operational scrutiny to ensure environmental impacts are minimized/mitigated to the fullest extent possible. The OFAH is concerned with the implication that environmental protections are being characterized as “red tape” for the aggregate industry. Aggregate extraction operations involve largescale removal of habitat for extended periods of time with no real assurances that the sites will be successfully remediated and returned to their original condition. This issue is compounded by the potential impacts and alterations to the water table. As such, the cumulative effects of aggregate extraction sites should be reviewed in conjunction with other development that might impact habitat and hydrology. In 2018, the Environmental Commissioner of Ontario stated that “the prioritization of aggregate extraction above other land uses is one reason why we continue to lose biodiversity in the province of Ontario.” The changes proposed in Bill 132 to the Aggregate Resources Act (ARA) continues to prioritize aggregates over natural resources and potentially weakens the few environmental protections that are in place.

The Schedule proposes to remove the ability for municipalities to create by-laws that restrict the depth of extraction, effectively preventing municipalities from protecting their water resources. Interference with the water table could have impacts on headwater wetlands and recharge for local rivers and streams. The alteration of these natural features could result in significant localized impacts that may get overlooked if the regulation of aggregate extraction depth is held solely by the province.

The OFAH is also concerned with the proposed ability for proponents to expand site boundaries by applying to the minister for a site plan amendment. The proposed wording does not specify what information will be required to qualify for an amendment. Would proponents need to show that an expansion of operations would not cause an increase in environmental damages? Would environmental impacts be evaluated for the amendment with the same degree of rigour as the original site plan? Would the remediation plan need to reflect the expansion? Any proposed amendments should be subjected to the same rigorous evaluation and assessment as the original site plan. Additionally, this Schedule proposes to expand the ability to create regulations under the ARA to permit site plan amendments that can be made without the minister’s approval. Previously the ARA provided this ability for minor site plan amendments, but the Schedule would potentially allow proponents to make major changes without the minister’s approval.

The OFAH is concerned about the ability of the province to administer and enforce the ARA to ensure compliance with environmental protections. We recommend that the government maintain an appropriate number of staff and resources to audit and enforce environmental infractions, and to apply appropriate administrative penalties that reflect the severity of any environmental disruption and damage. These staff should also be responsible for auditing the self-reporting by aggregate proponents to ensure accuracy and transparency.

Crown Forest Sustainability Act

Ontario’s Crown forests provide significant social, economic, and environmental benefits to the province. Ontario’s sustainable forest management policies help to create healthy, productive ecosystems, contribute to biodiversity conservation, enhance wildlife habitat, and provide jobs and recreational opportunities (such as hunting and fishing). This is all made possible by the legal framework laid out in the Crown Forest Sustainability Act (CFSA). The OFAH is concerned about the proposed changes to the CFSA laid out in Schedule 16, specifically the addition of *Part III.1 Permits*. These permits would allow for the removal of forest resources from Crown forests without having to follow the CFSA, the Forest Management Planning Manual, or the annual work schedule. Our primary concern is the potential cumulative impacts of forests being harvested with no regard for the elements of sustainability that are front and center in other planning documents. These impacts apply not only to timber, but to all of the other natural resources that rely on healthy forest ecosystems. If several of these permits are issued in a particular area, it could severely impact the habitat quality and ecological services in those areas. There is a reason why forest harvest is regulated so closely to ensure the conservation of wildlife habitat and biodiversity, and these requirements should not be skirted.

Public Lands Act

Crown land roads provide essential access for outdoor enthusiasts to participate in their activities. Hunters rely on these roads to get to hunt camps, and the ability to use forestry roads often saves trappers significant time and effort in cutting trails to get to their traplines. Many of Ontario's lakes would be inaccessible if anglers were limited to using provincial and municipal roads. Due to the potential impact on the angling and hunting community, the OFAH has been involved in discussions about decommissioning of forest roads for many years. Conflict arises when roads that have a long history of use by anglers, hunters, and trappers (sometimes decades) are removed with little to no warning. The changes proposed in Schedule 16 seem like they will exacerbate this issue and cause more conflict.

The Schedule amends Subsection 52 (2) of the Public Lands Act, which outlines the applicable methods that district managers can use to close roads, by adding "publishing notice on the Internet" as a method of road closure. While we fully support increased online communication about planned road closures, online notification alone is insufficient and instead should be done in conjunction with posted signs. Under the proposed wording, road users could be unknowingly in contravention of the law if they do not have access to the internet. The ministry must do its due diligence to ensure road users are made aware of closures. The OFAH would like to see greater use of signs and online postings to communicate the approximate life span of a road and planned decommissioning activities. As soon as the MNRF is aware of the intention to decommission a road, signs should be posted with its proposed end date. This can be followed up by internet postings closer to the decommissioning, but adequate lead time to find alternate routes must to be provided.

The Schedule proposes to remove the requirement to have lights on barricades that are used to close a road; this seems like an unnecessary and unsafe change. If these barricades are erected while individuals are actively using the road (e.g. during hunting season), it could cause an accident. This, coupled with the strengthened wording of Subsection 50 (1) to decrease liability of the Crown when closing and decommissioning roads, makes it appear that the government is minimizing their role in keeping recreational users safe. We encourage the MNRF to not erect barricades or physically decommission roads, but instead allow users to continue to use roads at their own risk and allow them to naturally deteriorate.

Lakes and Rivers Improvement Act

The amendments proposed for the Lakes and Rivers Improvement Act are largely positive. For example, the changes include further elaboration on regulations for governing the assessment and management of impacts on "fish, wildlife, and other natural resources" resulting from various operational aspects of dams associated with the production of electricity. However, it may be important to cast a wider net to include all dams, not just those related to power generation (if and where feasible).

Additional subsections (i.e. (2)(b)(i-vii)) provide greater clarity and certainty for dam management plans and other additional operational requirements, as well as providing better direction and transparency for proponents. We appreciate specific reference to the monitoring and reporting of impacts on fish and other organisms. Using general wording (i.e. "other organisms") is critical to help ensure that resources other than fish, but that fish depend on, are given adequate attention.

Though federal legislation (the Fisheries Act) protects fish habitat, it may be necessary to include additional wording on the habitats that fish and other organisms depend on directly or indirectly. The OFAH would also like to identify priorities for government and operators that should be taken into consideration with respect to the management and operation of dams. All plans should address negative environmental effects including, but not limited to, the obstruction of fish movements, alteration or loss of aquatic habitat, increases in water temperature, and the dewatering of habitat. The operating plans should include a schedule of inspections of structures and equipment by qualified government staff (not operator-led). This will require adequate resourcing and investment to enhance capacity and ensure compliance.

The OFAH believes that fishways should be mandatory for any new dams on riverine systems that support migrating fish that would otherwise be impeded. There should also be adequate offsetting and consideration of turbine-induced fish mortality. Mitigation measures should include the installation of spawning beds in the swift-flowing waters immediately below dams to partially offset the loss of upstream spawning grounds that are no longer accessible. Flows must also be maintained to ensure stream functionality and to satisfy the requirements of aquatic biota.

The OFAH would like to remind the government that numerous obsolete dams exist across the provincial landscape that should be removed with the costs shared on a negotiated basis by the province and the owner. Furthermore, for dams that continue to serve a purpose the province and operators should examine the potential for adding fishways where benefits of such expenditures are warranted/can be demonstrated.

Thank you for considering these comments.

Yours in Conservation,



Mark Ryckman
Manager of Policy

MR/jb

cc: Honourable John Yakabuski, Minister of Natural Resources and Forestry
OFAH Board of Directors
OFAH Big Game Advisory Committee
OFAH Land Use/Access/Trails Advisory Committee
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