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OFAH Ontario Federation
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Joseph Kokou
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Transport Canada
330 Sparks Street
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RE: Canadian Navigable Waters Act Legislative Review - Discussion Paper (2024)

The Ontario Federation of Anglers and Hunters (OFAH) is Ontario's largest, non-profit, fish and wildlife conservation-based organization, representing 100,000 members, subscribers and supporters, and 725 member clubs. We appreciate the opportunity to provide feedback on Transport Canada's Discussion Paper on the Canadian Navigable Waters Act (CNWA) Legislative Review. Our input does not specifically reflect the questions provided in the discussion paper, rather, it is intended to be high-level with a focus on removing obsolete dams (i.e., dams that no longer serve a significant function). This could be an ecological function such as acting as a barrier to aquatic invasive species (e.g., Sea Lamprey) or societal function such as an impoundment that provides important recreational opportunities.

Because anglers and hunters rely on waterways to participate in their respective outdoor pursuits, maintaining public access and travel of waterways is critically important for these communities. Without this important piece of legislation, there is a serious threat to losing not only fishing and hunting opportunities, but further reaching impacts to the nutritional needs, and the social, cultural, and economic well-being of individuals and communities across Canada.

From our understanding, the *Act* can apply to anyone who is interfering with navigation in Canadian navigable waters and includes major works such as hydroelectric dams and water control structures. To date, the legislation has been limited to reactive approaches to dams and barriers involving applications, approvals, and authorizations through Transport Canada. However, the OFAH and our conservation partners see value in developing more proactive measures for removing obsolete dams to improve and facilitate navigation of waterways by the public and Indigenous peoples.

Many dams were built in the early to mid-1900s without adequate consultation and engagement with Canadians and Indigenous peoples but are nonoperational today including some that are in disrepair. Not only would the removal of these barriers enhance public access and navigation but would provide significant ecological benefits to fisheries by returning aquatic connectivity across many parts of Canada. Transport Canada could leverage the Canadian Aquatic Barriers Database to help in the identification of candidate dams for removal as it already contains over 30,000 dams and is continually being updated.

The first phase of this process could involve a desktop exercise investigating priority watersheds where people and communities have been significantly impacted. Further research and data collection could be conducted on, for example, the year the dam was constructed, owner(s) and contact information, operational status, and other details. The information collected could be ground-truthed by staff, reported on, and evaluated in terms of the overall impact the dam has on navigation. Eventually, this information could be brought forward to the public and Indigenous peoples to initiate consultation and engagement, gather perspectives, and initiate planning and next steps for removal. To support this process, the Government of Canada could also seek out incentives for dam removal through funding and grant mechanisms.

A navigable water is also one that Indigenous peoples have a right to use for travel or transport while exercising constitutional rights. As Transport Canada advances reconciliation and is seeking out ways to create new opportunities for Indigenous peoples, *how is Indigenous knowledge and traditional use of waters that have been interfered with by obsolete dams being considered within this space?* Through generations, Indigenous people have depended on water resources for survival and their way of life. Therefore, it is critically important to engage people and communities on their rights and interests in this regard, return aquatic connectivity within waterways and, subsequently, peoples' connection to the water as well. While the removal of dams should be a shared and negotiated cost between the government and owner(s), there is an opportunity for Transport Canada to empower Indigenous people and communities to proactively participate in the process of returning waterways to a more natural state.

Major advancements were made to the CNWA in 2019 that strengthened the legislation, but we feel strongly that there are opportunities to progress the *Act* even further by addressing and removing obsolete dams. This will only have positive impacts on people and the environment. While we are familiar with public reporting of obstructions on navigable waterways through the Navigation Protection Program, we question the overall awareness Canadians have concerning this program. Moreover, we hear reports from the outdoors community concerning people/private landowners who may not be physically obstructing waterways but are interfering with lawful navigation by others. A "tips hotline" would go a long way in addressing these situations as well as having routine follow up by officers.

Thank you for your consideration of our feedback and the opportunity to provide comments on this important piece of legislation.

Yours in Conservation,



Adam Weir
Fisheries Biologist

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