

May 6, 2024

The Honourable Graydon Smith
Minister of Natural Resources and Forestry
Whitney Block
5th Floor
99 Wellesley St.
Toronto, ON
M7A 1W3

Dear Minister Smith,

Re: [ERO No. 019-8320](#): New Minister's Permit and Review powers under the *Conservation Authorities Act*

We, the 61 undersigned organizations, strongly oppose the proposed regulation regarding the Minister's new permit and review powers under the *Conservation Authorities Act*. The proposed regulation, if passed, would enable the Minister of Natural Resources and Forestry to override a very broad suite of permitting decisions issued by conservation authorities for activities prohibited without a permit. In such cases, rather than having permitting decisions informed by the deep local knowledge, technical expertise and watershed-health mandate of conservation authorities, they will be politically driven at the request of development proponents seeking to reduce their cost burden and proceed with otherwise prohibited activities regardless of risks.

We urge you not to proceed with the proposed regulation for the reasons outlined below.

New ministerial powers

Recent changes to the *Conservation Authorities Act* came into effect on April 1, 2024. These include new ministerial powers to take over conservation authority permitting decisions for development activities requiring a permit, such as changing or interfering with watercourses and wetlands or undertaking development activities in areas under a conservation authority's jurisdiction (e.g., hazard lands, wetlands, river valleys, shorelines and inland lakes).

Specifically, these new powers (section 28.1.1) enable the Minister to:

- prevent a conservation authority from issuing a permit for a specified activity or class of activity;

- take over the permitting process in the place of a conservation authority (e.g., if a decision is pending);
- review conservation authority permitting decisions at the request of development proponents;
- override a conservation authority's decision; and
- issue a permit in the place of a conservation authority.

The proposed regulation sets out the circumstances under which the Minister would be able to use these new powers.

Primary concerns about proposed regulation

1. **Breadth of application:** The Minister's new powers would apply to permits for a broad suite of activities pertaining to or supporting provincial interests (e.g., housing, community services, transportation, economic development, employment, mixed use developments), setting the stage for widespread application to most if not all development activities requiring a conservation authority permit.
2. **Necessary expertise lies with conservation authorities, not the ministry:** According to the proposed regulation, the same criteria for permitting decisions are to be applied to decisions made by the Minister. However, the expertise to make such decisions lies with Ontario's 36 conservation authorities, not the Ministry of Natural Resources and Forestry (MNRF). Conservation authorities are uniquely positioned to arrive at non-partisan, technically-sound, watershed-appropriate permitting decisions based on their ability to model and map flood hazards and their understanding of local conditions and the local planning context. For example, conservation authorities keep regularly updated flood modeling and can input natural hazards and permits into the model to understand watershed-wide implications of decisions. The ministry could only begin to replicate this expertise at enormous expense, borne, of course, by taxpayers. Further, according to the proposed regulation, the Minister "may" ask the relevant conservation authority to provide information but is not required to do so. In other words, the on-the-ground experts at conservation authorities may be shut out of the Minister's decision altogether. In arriving at a decision, the Minister may only be hearing from the development proponent.
3. **Potential risk to life and property:** Conservation Authorities bring a watershed perspective to planning and development decisions so that development does not put communities at risk from flooding and other climate change impacts through loss of wetlands, woodlands and farmland. In the absence of such local

knowledge, technical expertise and seasoned judgement, decisions made by the Minister could result in cumulative adverse impacts and increased risk to public safety and property.

4. **Compliance and enforcement:** The proposed regulation is silent on MNR's planned approach to inspecting and enforcing compliance with its decisions, necessary to understand and address the negative impacts of development. The ministry could only properly undertake this role by increasing the number of inspectors, at taxpayers' expense.
5. **Confusion and delays:** According to the ERO posting, MNR anticipates that the proposed regulation will "save proponents time and resources." However, given the ministry's lack of experience and expertise, a more likely outcome is confusion, inconsistent decision-making and time delays.

Concluding remarks

Mandated to manage the impacts of development from a watershed perspective, conservation authorities play a critical role in reducing flood risk and impacts, controlling interference with wetlands and waterways, and preventing cumulative adverse impacts. As noted by Ontario's Advisor on Flooding in their 2019 report, the regulatory power of conservation authorities with respect to permitting is a "critical component" of Ontario's broader natural hazard management framework, designed to prevent loss of life, minimize property damage, reduce public and private expenditures and control development impacts. The people of Ontario cannot afford to have this role undermined or circumvented at the behest of development proponents.

We urge you not to proceed with the proposed regulation.

Yours sincerely,

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Four Seasons Conservancy

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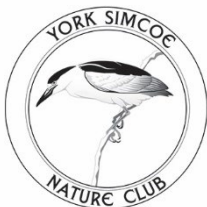
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Cc.

Tyler Schulz, Ontario's Commissioner of the Environment

Marit Stiles, Leader of the Official Opposition of Ontario

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