



Ontario Federation of Agriculture

Ontario AgriCentre

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Ministry of Natural Resources
Policy Division
Modernizing Approvals
300 Water Street
5th Floor
Peterborough, Ontario
K9J 8M5

To Whom it may concern;

RE: EBR Registry #011-6751 - Modernization of Approvals - A Policy Framework for Modernizing Approvals for Ontario's Natural Resources

The Ontario Federation of Agriculture (OFA), Ontario's largest general farm organization, advocates on behalf of its 37,000 individual farm family members, for prosperous and sustainable farms.

The Ministry of Natural Resources (MNR) is to be congratulated for recognizing the need to review and update the approval processes that have been in place for many years. It is also positive that MNR has investigated the approval processes used in other jurisdictions in an effort to become familiar with ways to reduce any unnecessary burden associated with regulatory compliance.

Clearly, MNR has a mandate to manage the natural resources of the province on behalf of Ontario citizens. Regulatory instruments are an essential component of any management strategy overseen by a government agency. The OFA has no objection to regulations that are enabled by legislation and specifically address a legislative objective in a manner that is effective and efficient from the perspective of both the regulator and the regulated sector.

A key component of regulatory modernization is to involve affected regulated sectors. Given that agriculture is a land-based economic activity, and that MNR manages natural resources that are a component of most farm landscapes, Minister Gravelle's quest to develop a "transformative plan for MNR" is of particular interest to the OFA.

The proposed policy framework is a good start. It speaks to the principle of proportionality, thus ensuring that MNR financial resources are expended on approval activities that will have a meaningful and measurable impact on the natural resources they are managing. The use of a standardized regulatory impact analysis (RIA) tool will assist in this endeavour. Another useful element of the proposed policy framework is the commitment to customer service. Timely processing of requests for MNR approvals is of the utmost importance, as illustrated in one of the

examples below. Reducing the number of approval requirements by subjecting approvals to a RIA, and by ensuring that all approvals line up with legislative objectives, will provide MNR staff with more time to devote to processing the remaining approvals that better fit MNR's mandate.

Perhaps the most critical aspect of regulatory reform is the involvement of the regulated sector in exercises such as this, and, subsequently, in the development of regulations. It is unreasonable to expect MNR staff to appreciate the full impact proposed regulations will have on those whose livelihoods may be adversely affected by policy decisions. The remedy, of course, is to fully engage the regulated sectors in meaningful dialogue at the earliest possible stage and continue with that dialogue through the entire regulatory development process.

The OFA is ideally positioned to assist MNR in their modernization of approvals exercise by making available farm leaders who have been elected by their peers to represent the interests of agriculture to government. In addition, the OFA has well-qualified staff accustomed to working closely with farmers and government staff at the municipal provincial and federal levels on the development of policy.

Regulatory modernization is a goal of governments throughout the world. The OFA supports the efforts being made by MNR in this regard and is prepared to assist in the process.

The OFA will take this opportunity to focus on two specific issues pertaining to approvals issued by the Ministry of Natural Resources; authorizations issued to farmers under the Policy for Protecting Agricultural Property from Elk (WilPo.3.2.6) and the Niagara Escarpment Planning and Development Act.

Between 1998 and 2001, the Ministry of Natural Resources released a total of 443 elk, obtained from Elk Island National Park, at four locations in Ontario; Lake Huron North Shore, Haliburton Highlands, Nipissing French River and Lake-of-the-Woods. In two of the release areas, increasing herds of elk came into conflict with pre-existing farm operations. They damaged farm fences, stored feed and standing crops. Finally, in 2011, the Ministry of Natural Resources implemented its Policy for Protecting Agricultural Property from Elk, whereby farmers can obtain authorization to harass or kill "problem" elk, in defense of property. Although largely modeled on the Ministry's Issuance of deer removal/harassment authorizations for agricultural damage (WilPp.3.2.3), there are a couple of key differences that disadvantage farmers facing elk damage in comparison to farmers facing deer damage.

Firstly, the elk authorizations are currently issued by the Minister of Natural Resources. In contrast, the deer authorizations are issued by the local Area Supervisor. Turn-around on applications for elk authorizations, according to Ministry staff, is 6-8 weeks. The OFA views this as excessively long. Farmers tend to apply for these authorizations only when the degree of damage and loss becomes unacceptable. Taking 6-8 weeks to process one's application could easily result in receipt of the authorization long after it was of any use. The excessive time lapse in approving and issuing elk authorizations could be significantly reduced if their approval was delegated to the local Area Supervisor. The OFA recommends that approval for elk authorizations be delegated to the Area Supervisor.

Furthermore, although one can request reconsideration of denial of a "deer removal authorization", no similar review option is offered to applicants denied an elk authorization. From our perspective,

there is no justification for the difference. The OFA recommends that the Policy for Protecting Agricultural Property from Elk (WilPo.3.2.6) include the option to request a review.

It has been reported that farmers in the Lake Huron North Shore area, who applied for an elk authorization received neither an authorization nor an explanation why their application was denied. To not be provided with the reason or reasons why one's application has been denied is unacceptable. The OFA demands that when an application for an elk authorization is denied, that the applicant receive written notification of the reason or reasons.

Over the past few years, the provincial government has developed and implemented several land use plans that apply to specific, defined areas of the province. Those place-based land use plans are the Oak Ridges Moraine Conservation Plan, the Greenbelt Plan and the Growth Plan for the Greater Golden Horseshoe. In all three cases, the unique place-based provisions of each land use plan are implemented at the local level by the responsible municipal government, by imbedding each plan's provisions in the municipality's own Official Plan.

In the case of the Niagara Escarpment Plan, under the Niagara Escarpment Planning and Development Act, Ontario residents who live and work in the area subject to the Niagara Escarpment Plan, face a duplicate planning regime. Approvals for a wide range of land use applications must be obtained not only from one's municipality, but also from the Niagara Escarpment Commission, an approvals body totally separate and distinct from the local municipality. In addition to the time delays brought on by two separate and distinct approval processes, application to the Niagara Escarpment Commission, despite seeming to comply with the Niagara Escarpment Plan, is not so clear cut. The language in the Plan is vague and highly subjective. A few examples;

- in section 2.2 10, we find the phrase, "to the satisfaction of the implementing authority",
- section 2.2 1(f) arbitrarily excludes a number of traditional agricultural uses,
- section, 2.10 1. contains the phrase, "considered incompatible",
- on the subject of Dwelling Units Accessory to Agriculture, dwelling units required for farm help must be portable, and the permit for them must be renewed every three years, "subject to adequate justification that the farm-help continues to be necessary".

Compounding this is similarly vague language in the Niagara Escarpment Planning and Development Act, and Regulation 828, Development Within the Development Control Area.

In the Act, "development" is defined as "a change in the use of any land, building or structure". Development in the Provincial Policy Statement, Greenbelt Plan and Oak Ridges Moraine Conservation Plan are more focused. The OFA requests that the definition of development in the Act parallel those in the Provincial Policy Statement, Greenbelt Plan and Oak Ridges Moraine Conservation Plan.

In Regulation 828, we find the following definitions;

general agricultural development" means a class of development whereby land, buildings or structures are used for the purpose of forestry, field crops, fruit farming, market gardening, dairying, animal husbandry, poultry raising, beekeeping, the operation of glass or plastic covered greenhouses, and such uses as are customarily and normally related to agriculture, but does not include special agricultural development;

"special agricultural development" means a class of development whereby land, buildings

or structures are used for the purpose of intensive livestock, poultry, cattle or other farm operations and includes use as a piggery, a turkey, a game bird or chicken farm or hatchery, a fur farm, a mushroom farm, an animal kennel and a feed lot area or manure storage area;

It is unclear what is meant by either "general agricultural development" or "special agricultural development" when similar language is found in both, or key phrases are undefined. "Dairying" and "animal husbandry" are deemed general agricultural development, but "intensive livestock" and "cattle" are special agricultural development. Why, apparently, is dairying general agriculture, but the raising of beef cattle special agriculture? Poultry is general agriculture but raising turkeys, chickens or operating a hatchery are special agriculture? From our perspective, there is no justification for these differences. The OFA requests that the regulations under the Niagara Escarpment Planning and Development Act be reviewed to remove any and all vague and subjective language.

These are but a very few examples of the vague and highly subjective language within the Niagara Escarpment Plan. The OFA requests that all vague and highly subjective language be removed from the Niagara Escarpment Plan. We further request that the requisite land protection policies in the Niagara Escarpment Plan be imbedded within the applicable local official plans.

Thank you for your consideration of our recommendations and advice.

Yours truly,



Mark Wales
President

MW/pj

cc: OFA Board of Directors
The Honourable Ted McMeekin, Minister of Agriculture, Food and Rural Affairs
The Honourable Michael Gravelle, Minister of Natural Resources