



Ontario Federation of Agriculture

Ontario AgriCentre

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October 30, 2015

Ms. Rebecca Zeran
Program Advisor
Natural Resources Conservation Policy Branch
Ministry of Natural Resources and Forestry
300 Water Street
Peterborough, ON
K9J 8M5

Dear Ms. Zeran;

RE: EBR Registry Number 012-4464 Wetland Conservation in Ontario: A Discussion Paper

The Ontario Federation of Agriculture (OFA) is Canada's largest voluntary general farm organization, representing more than 36,000 family farm businesses across Ontario. These farm businesses form the backbone of our robust food system and rural communities with the potential to drive the Ontario economy forward.

Before addressing the discussion questions, there is only one Ontario landscape, meaning that the full range of landscapes and land uses found across Ontario; urban, rural, agricultural, natural heritage, cultural heritage and mineral extraction must learn how to share that one landscape. Inherent in this perspective is that our agricultural areas not only provide food, fibre and fuel, but also a broad range of environmental and ecological goods and services that benefit all land uses and by extension, all Ontarians. These environmental and ecological goods and services, in alphabetical order, include;

- aesthetic and recreational space,
- air quality (oxygen production, carbon sequestration, climate regulation),
- biodiversity,
- nutrient cycling,
- pollination services,
- soil erosion control,
- water cycling (purification, retention, flood mitigation, groundwater recharge), and
- wildlife and endangered species habitat.

Furthermore, there is the added expectation, at least from the province, that Southern Ontario will also accommodate significant future population and job growth, and the infrastructure necessary to support this projected growth.

From our perspective, too many in government confuse wetlands (one word) describing the four types; swamps, marshes, bogs and fens with *wet land* (two words) describing lands that are

slow to dry up after heavy rains or quick spring melting. The two terms are not interchangeable. The OFA recognizes and acknowledges the role of wetlands in the overall hydrologic cycle, and their role in flood attenuation, groundwater recharge, carbon sequestration and climate mitigation. *Wet land* is different; temporarily wet due to heavy rains or quick spring melting; best described as temporarily wet crop lands. *Wet land* will not become a wetland.

All too often, *wet land* is mistaken in air photos as a wetland, and without on-the-ground verification, can become designated on an Official Plan as a wetland. Too often, upland forests, man-made ditches, drains as well as irrigation ponds have somehow been “identified” as wetlands! Once designated in an Official Plan, it is very hard for an individual to have the designation reversed, even when it is erroneous. This underscores our request for a no-cost process for property owners who believe the wetland designation on their property has been assigned to them in error.

Title searches often do not reveal the presence of a wetland or other natural heritage feature on a property. As the presence of these features on a property, along with their buffers and adjacent areas, can limit the use of the property for the full range of agricultural uses, the OFA recommends that the presence of wetlands and other natural heritage features be added to land titles so that potential buyers are fully aware before closing that the property they are buying has a designated wetland or other natural heritage feature on it.

1. Do you think there are current challenges related to wetland conservation in Ontario? If so, what are the challenges?

The OFA sees numerous challenges to wetland conservation in Ontario; some we see as structural and others that are attitudinal.

STRUCTURAL:

There is no single, uniform definition of a wetland. It varies across the Provincial Policy Statement, the Conservation Authorities Act, the Greenbelt Plan, the Oak Ridges Moraine Conservation Plan, the Niagara Escarpment Plan, Lake Simcoe Protection Plan, plus both Wetland Evaluation Manuals. Wetland conservation is not well served by a multitude of definitions. It's possible that the existence of multiple definitions has in fact facilitated wetland losses. The OFA strongly recommends that the province adopt a single, universal definition of wetlands, and that the current Provincial Policy Statement definition be that single wetland definition.

The table on page 10 highlights the number of policies, and by extension, the multiple jurisdictions and agencies involved in wetlands. The OFA recommends reducing the number of agencies, authorities or regulatory bodies involved in wetland conservation, from the perspective that fewer agencies will deliver more effective wetland conservation.

The table omits any reference to the extraction of aggregates under the Aggregate Resources Act. A number of current pits and quarries, as well as proposed pits and quarries, are based on aggregate extraction below the water table. Nowhere in the discussion paper is the impact on wetlands from aggregate extraction below the water table even considered. This oversight is unacceptable. Going forward, below water table extraction of aggregates must be a key consideration.

On page 11 of the Discussion Paper, we learn that 460,000 ha (1,136,683 ac) or 43% of wetlands in the Mixedwood Plains, which encompasses agricultural Southern Ontario, have not been evaluated. This is a critical failure on the part of the Ministry of Natural Resources and Forestry. Ontario adopted a comprehensive Wetland Policy Statement in 1992. Why do so many wetlands remain unevaluated today? What role has the failure to complete evaluations in a timely manner contributed to wetland loss?

We have noted that too often, upland forests, man-made ditches and drains as well as irrigation ponds have somehow been “identified” as wetlands. Wetlands are routinely identified through air photos, but follow up “ground-truthing” is lacking. A commitment for on-the-ground verification that the observed feature is actually a wetland is required.

Along with this on-the-ground verification, the OFA strongly recommends that the provincial government implement a no-cost appeal mechanism for property owners who believe the wetland designation on their property is incorrect. This appeal mechanism shouldn’t be necessary for Provincially Significant Wetlands (PSWs), but may be more applicable to regionally or locally significant wetlands.

Urban planners and developers show little apparent concern for the consequences of wetland loss. Municipalities seem willing to permit wetland loss through development for urban purposes, leaving the “burden” of wetland protection on rural property owners.

ATTITUDINAL:

There is too much finger-pointing by government and ENGOs. Today’s farmers are being blamed for actions taken long ago and encouraged by government that contributed to wetland losses. But there is much less blame on the role of urban growth and development, including infrastructure and highways, in wetland loss. Highway 401 was built through the Dorchester Swamp, for example.

All sectors share in the loss of wetlands since European settlement. To pointedly attribute much of wetland loss to agriculture is counterproductive. Where have the losses occurred since Ontario adopted a comprehensive Wetland Policy Statement in 1992? A stewardship-first approach, where property owners are recognized and encouraged to protect the wetlands on their property will achieve much greater results.

Compounding the problem is misinformation, including the Ministry of Natural Resources and Forestry handout at recent “listening sessions”, linking the Drainage Act to the drainage of wetlands. The Drainage Act established a mechanism to obtain outlets for tile drainage systems, which serve to remove excess water from fields, benefitting crop growth. Administrative policies for the Drainage Act require adherence to applicable law, including wetland protection, and specifically exempt from provincial grants the construction of new drains, or drainage system improvements through or from provincially significant wetlands.

Page 5 of the Discussion Paper lists a number of “Threats to Wetlands“, namely land conversion, alterations to natural water levels, invasive species and pollution.

Again, today’s farmers being blamed for actions undertaken long ago, and under different circumstances, with little or no blame on urban growth and development. In the past, Ontarians viewed wetlands negatively. But so did people all across the world. Today we recognize the valuable role wetlands play in our hydrologic system.

The paragraph on alterations to natural water levels contains no acknowledgment of the role played by changing rainfall patterns. A series of dry years, perhaps the result of climate change, could significantly alter wetland form and function.

The OFA supports Ontario's Invasive Species Strategy, and the proposed *Invasive Species Act*. Ontario needs a range of tools to address invasive plants, such as phragmites, which can degrade wetlands.

The OFA categorically objects to including "pesticides", "erosion" and "fertilizer" as examples of pollution. Firstly, farmers must be licensed in order to buy and apply pesticides and chemical fertilizers. If not, they must hire a licensed applicator to apply these products on their behalf. Secondly, failure to apply the product in accordance with the label directions constitutes a violation of legislation. The label sets out the application rate, as well as the required air temperature and wind speed. Thirdly, there is no agronomic benefit from applying at rates in excess of label directions; products are too costly to waste through excessive application. Furthermore, over application simply doesn't result in increased yields. There is no acknowledgement of 4Rs of nutrient stewardship; right source, right rate, right time and right place. Fourthly, preserving the farm's soil is the farmer's paramount goal. Every effort is made to ensure that soil fertility is enhanced, compaction and rutting are avoided and erosion is minimized, through no-till cultivation, cover crops, grassed waterways and tile drainage.

2. Three priority areas of focus for wetland conservation in Ontario are proposed: strengthen policy, encourage partnership and improve knowledge. What do you think of these three focus areas? Do you have other ideas for additional focus areas?

While the three priority areas are appropriate, the OFA firmly believes that the order they are presented is, in our opinion, wrong. It should be first improve knowledge, second encourage partnerships and third strengthen policy. To use the order provided in Q2 will result in failure. Success in wetland conservation is based on public and stakeholder buy-in of the value of wetland conservation. The OFA strongly recommends that the three priority areas be listed in order as improve knowledge, encourage partnership and strengthen policy.

A future wetland conservation policy must contain a clear delineation between a wetland and *wet land*. In part, this will come through improved public education and awareness of wetland functions in the overall hydrologic system.

Private land stewardship is missing. Adoption of a robust, well-funded private land stewardship program for wetlands is necessary. A key component of this would be public recognition and appreciation for private property owners who undertake voluntary actions to preserve and enhance a range of natural features, including wetlands.

The current wetlands policy includes a 120 metre (400') adjacent area. OFA understands that this is not a "no go zone". Unfortunately, that perspective is not universally accepted. The OFA recommends that any new wetlands conservation policy contains clear language describing what can/cannot be done, from an agricultural perspective, within the adjacent lands.

Created wetlands are being promoted as a treatment solution for barnyard runoff, milk house wash water and as outlets for tile drains. However, creation of these features may have unintended consequences. Do adjacent lands areas apply? How are these wetlands treated if endangered species occupy them? These questions, and no doubt other, must be addressed.

The OFA recommends that wetlands created on farms, to treat barnyard runoff, milk house wash water or for tile drain outlets, be fully exempt from wetland conservation policies.

3. Considering the three priority areas of focus, what are some actions and activities that government, organizations and individuals could take to improve wetland conservation in Ontario? What partnerships should the Ontario government explore to stop wetland loss?

It is critical to the success of a wetland conservation policy that the provincial government commits to reordering the three priority areas as improve knowledge, encourage partnerships and lastly strengthen policy.

The provincial government should also commit to develop clear, consistently-applied wetland conservation policies, including “adjacent lands”.

Develop a robust Environmental Goods & Services (EG&S) program, to reward farmers and other rural property owners, who maintain or enhance wetlands and other natural heritage features on their property.

4. What do you think about Ontario’s current wetland policy framework? Can it be improved? Can it be made more effective? If so, how?

The OFA believes that the basic policy, as enunciated in the Provincial Policy Statement is good. It already requires identification and protection of wetlands, among other natural heritage features. However, the OFA does have several specific recommendations related to the wetland designation process.

Before wetlands are designated as such in an Official Plan and/or Zoning By-law, there must be a requirement for on-the-ground verification, followed by notification to affected property owners, by letter, informing them of the potential change, including the option of a no-cost appeal of any proposed new wetland designation. Direct notification of property owners, combined with a no-cost appeal will bring new rigour and buy-in to the designation process.

The Provincial Policy Statement does recognize the ecological diversity of Ontario, and sets different policy objectives for different ecoregions; Southern Ontario vs. Northern Ontario.

The policy framework can be improved through universal use of the Provincial Policy Statement definition of a wetland. Different wetland definitions in the Greenbelt Plan, the Oak Ridges Moraine Conservation Plan, the Niagara Escarpment Plan, the Lake Simcoe Protection Plan, the Conservation Authorities Act and in both Ontario Wetland Evaluation Manuals. As previously noted, multiple definitions, regardless of how similar they are, serve no beneficial purpose. Instead they only serve to confuse, and perhaps even have contributed to wetland losses.

The table on page 10 highlights a significant policy problem; namely the confusing mix of statutes, and therefor agencies that deal with wetlands. Five statues/policies purport to protect wetlands.

The Conservation Authorities Act empowers Conservation Authorities to regulate development in and around wetlands, in addition to watercourses. Clarifying roles and responsibilities for wetland conservation, perhaps through consolidation of these roles and responsibilities in fewer hands, will, we believe, enhance overall wetland conservation.

5. Should targets be considered to help achieve wetland conservation in Ontario? If so, what form should these targets take?

The provincial government must first decide what they're focusing on through these targets; no net loss of wetland acreage or no net loss of wetland function. From the Discussion Paper it is not clear.

If protection of wetlands from damage/destruction is a desirable provincial goal, then goals or targets simply facilitate loss.

Provincial Policy Statement policy 2.1.4 **prohibits** development and site alteration in significant wetlands in Ecoregions 5E, 6E & 7E as well as significant coastal wetlands. Policy 2.1.5 sets the bar at "no negative impacts on features or functions" for wetlands north of Ecoregions 5E, 6E & 7E, where population is low, wetlands are much more abundant and much of the land is Crown Land.

6. The Ontario government is considering approaches to achieve no net loss of wetlands.

What is meant by "no net loss of wetlands"? Is it wetland acreage? Is it wetland function? If function, how do we measure that?

a) What do you think of the establishment of a mitigation/compensation hierarchy to achieve no net loss? Are there other approaches?

The OFA supports the first three; avoid, minimize and mitigate in the mitigation/compensation hierarchy, but we oppose compensation. Compensation for wetland loss will take productive agricultural land out of production to satisfy the compensation component. Proponents of compensation for wetland losses "green" aggregates or endangered species habitat fail to recognize where the requisite land to provide this compensation comes from. Furthermore, there is no assurance that these created wetlands are capable of providing anything close to the wetland function of the lost wetland.

A key part of the mitigation/compensation hierarchy must be consideration of the role of invasive species (purple loosestrife, phragmites) in degrading wetlands, or in outright loss of wetlands. If unchecked, invasive species can destroy both form and function of our wetlands. All efforts must be made to eradicate invasive species from our wetlands.

Unanswered in all this is the impact of climate change predictions (overall 2°C temperature increase) on wetlands, particularly the Hudson Bay Lowlands Ecozone. If temperature projections play out as noted in the Environmental Commission of Ontario's recent report, "Feeling the Heat: Greenhouse Gas Progress Report 2015", will Ontario even be able to maintain its current wetlands?

Any policy that proposes a mitigation/compensation hierarchy also needs to clearly address all of the possible consequences for created wetlands; *i.e.* do wetland buffers and adjacent lands provisions apply to these features too? What will be the "status" of created wetlands that become the unintended habitat of endangered species?

b) What tools (e.g. policy) could be used to implement approaches to achieve no net loss?

We have the wetland protection policies in the Provincial Policy Statement, which do set the minimum standard to be applied in Official Plans and Zoning By-laws province-wide.

If Official Plans and Zoning By-laws are not reflecting the wetland protection policies in the Provincial Policy Statement, then the provincial government must address non-compliance. Simply writing stricter policies, without any commitment to ensure compliance, is an abdication of provincial responsibilities.

c) What might be the role of government, partners, private landowners and others be if no net loss approaches are implemented?

Government, partners, private landowners and others must collaborate on the development of a robust Environmental and Ecological Goods & Services (EG&S) program, to reward farmers and other rural property owners, who maintain or enhance wetlands and other natural heritage features on their property. Without first a robust private land stewardship, supported by education on the benefits of wetlands and their role in the hydrologic cycle, efforts will fail.

Government, partners, private landowners and others must also develop separate policies for created wetlands that include no buffer and no adjacent land provisions, along with absolute exemption from the application of Endangered Species Act to these specific features.

d) Should no net loss approaches be applied uniformly across Ontario? Or, only where the risk of wetland loss is greatest?

The OFA opposes uniform application across Ontario of a no net loss approach. The Provincial Policy Statement already differentiates between Northern Ontario & Southern Ontario in terms of wetlands. The OFA believes that it is appropriate to continue this practice. The abundance of Crown Land in Northern Ontario and wetland acreage, combined with much lower population argues in favour of differing wetland protection policies between Northern Ontario & Southern Ontario.

7. Do you have any additional suggestions for improving wetland conservation?

A commitment to improving overall public, stakeholder and agency knowledge about wetlands, followed by encouraging partnerships and only then strengthen the policy will, in our view, improve wetland conservation.


Secondly, the OFA recommends the Ministry of Natural Resources and Forestry form an Advisory Panel, representing agriculture and other environmental organizations, to assess the full suite of wetlands conservation policy options and to provide its advice on the government's next steps.

Lastly, the Ministry of Natural Resources and Forestry needs to recognize that the Conservation Land Tax Incentive Program (CLTIP) has limited appeal to farmers as they already receive a reduced property tax rate on their land and outbuildings. The Ministry of Natural Resources and Forestry, in consultation with agricultural groups, should explore other incentives targeted towards wetland conservation on farms.

We reemphasize that in our view, there is only one Ontario landscape. It must be able, through integrated land use policies, to accommodate the full range of landscapes and land uses found across Ontario; urban, rural, agricultural, natural heritage, cultural heritage and mineral extraction, not only providing food, fibre and fuel, but also a broad range of environmental and ecological goods and services that benefit all Ontarians.

On behalf of OFA's more than 36,000 family farm businesses, I thank you for this opportunity to express the Ontario Federation of Agriculture's perspectives on Wetland Conservation in Ontario: A Discussion Paper. We look forward to the incorporation of our recommendations and advice in any new Wetlands Conservation Policy.

Sincerely,



Don McCabe
President

DM/pj

cc: The Honourable Bill Mauro, Minister of Natural Resources and Forestry
The Honourable Jeff Leal, Minister of Agriculture, Food and Rural Affairs
OFA Board of Directors