



Ontario Federation of Agriculture

Ontario AgriCentre

100 Stone Road West, Suite 206, Guelph, Ontario N1G 5L3
Tel: (519) 821-8883 • Fax: (519) 821-8810 • www.ofa.on.ca

October 19, 2015

Ms. Julia Holder
Ministry of Natural Resources and Forestry
Natural Resources Conservation Policy Branch
300 Water Street
Peterborough, ON
K9J 8M5

Dear Ms. Holder;

RE: EBR Registry Number 012-4509 Conservation Authorities Act Review 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.

The majority of Ontario's family farms are located in the same areas of Ontario where Conservation Authorities operate, making the outcomes of this review important for them.

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 recognition 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 habitats.

There is also the additional expectation, at least from the province, that Southern Ontario in general, and the Greater Golden Horseshoe in particular, will also accommodate substantial future population and job growth, and the infrastructure necessary to support this projected growth.

Furthermore, it must be emphasized that the principle resource-based land use within the area of Southern Ontario where Conservation Authorities operate is agriculture. Provincially, the

protection of Ontario's prime agricultural areas for their long-term agricultural use is a key objective. Ontario farmers have been challenged by the Premier to double their annual growth and add 120,000 jobs by 2020. To facilitate this, Conservation Authorities must adopt policies and programs that compliment this goal.

Lastly, a one landscape approach does not view agriculture and agricultural uses in a negative light, as was the case in a 2009 Halton Region Conservation Authority letter which stated, "*the enhanced linkages and the full Centres of Biodiversity will not be realized as long as the existing agricultural uses remain in the rural areas.*" Statements such as this are antagonistic, and demonstrate an unwillingness to accept the role, and presence of agriculture on the landscape of Ontario.

Question 1: In your view, how well is the current governance model as provided in the Conservation Authorities Act working?

a) What aspects of the current governance model are working well?

The current governance model does serve as a means to deliver programs and services at the watershed level. We cannot envision another structure for watershed-based program delivery.

b) What aspects of the current governance model are in need of improvement?

There are a number of aspects of the current Conservation Authorities governance model that OFA believe need to be improved.

The term of Board members should be changed to match the current 4-year term of municipal councilors and mayors.

Across Southern Ontario, the majority of lands are dedicated to agricultural land uses, and the production of food, fibre and fuel. What is lacking, in our view, is dedicated farmer representation on Conservation Authority Boards, to better reflect the reality that farmers own and manage the majority of lands under Conservation Authority jurisdiction. As currently structured, Conservation Authority Boards lack representatives to advocate on behalf of farmers who own and manage the majority of lands under Conservation Authority jurisdiction. To that end, municipalities with agricultural lands should ensure that their nominees represent a rural and agricultural perspective over an urban one.

The functioning of Conservation Authority Boards can be improved through training for Board appointees, particularly new appointees. The Board should be focused on the watershed as a whole, not on an individual municipality within that watershed. Board training should include agriculture's role in the watershed, including the broad suite of environmental and ecological services that agricultural lands provide, in addition to providing clean, safe and affordable food.

Conservation Authorities have been contracted or delegated to perform addition work beyond their statutory mandate as set out in the Conservation Authorities Act, or have taken on added responsibilities for municipalities. We are not advocating that Conservation Authorities drop these responsibilities. Nevertheless, we believe that these additional responsibilities lead to confusion on the part of Authority staff as well as the general public, as to roles and responsibilities when dealing with farmers and other rural property owners.

With 36 Conservation Authorities across Ontario, our members see too much variance in service delivery and the treatment of farmers; some Authorities are respectful of the farmers in

their area and work collaboratively with them, while others are downright hostile and dictatorial. The Ministry of Natural Resources and Forestry and Conservation Ontario should collaborate on the development of best management practices to guide individual Authorities in dealing with owners of private property.

c) In terms of governance, what should be expected of:

a. The board and its members?

Authority Boards and their members must improve their accountability to municipal governments and municipal residents. Improved Board training will assist in this goal.

The Conservation Authority Board needs to recognize and appreciate the role of agriculture in its area.

There is the criticism that the Conservation Authority Board is simply a “rubber stamp” for staff initiatives, and that local Authority staff run the show. If so the culture at these Authorities must change, to restore the Board’s rightful oversight role.

b. The general manager or chief administrative officer?

The general manager or chief administrative officer must ensure that staff treat property owners respectfully, and work collaboratively with them, not in a hostile and dictatorial manner.

The general manager should work to foster cooperation between the Conservation Authority and the local agriculture community.

c. Municipalities?

Municipalities need to improve the process used to select individuals nominated to serve on the Conservation Authority Board. Ideally, those individuals will advocate for the municipality and its residents and better represent the rural and agricultural areas of municipalities where Conservation Authority land-based programs and policies apply.

Conservation Authorities need to be more accountable to municipal governments and to the municipal residents they serve, recognizing that these municipal governments and their residents provide the largest share of the Authority’s funding.

d. The Ministry of Natural Resources and Forestry?

We have no comments on the specific role of the Ministry of Natural Resources and Forestry with respect to Conservation Authority governance. Please note our comments related to the role of other provincial Ministries in 1e.

e. Other provincial ministries?

As noted in the discussion document, Conservation Authorities deliver programs and services on behalf of a number of provincial Ministries in addition to the Ministry of Natural Resources and Forestry; (e.g. Ministry of Environment and Climate Change, Ministry of Agriculture Food and Rural Affairs, Ministry of Municipal Affairs and Housing, Ministry of Northern Development and Mines, Ministry of Infrastructure, Ministry of Education and the Ministry of Tourism, Culture

and Sport). These ministries should provide individual Conservation Authorities with funding, in relation to the services and/or functions provided by the Authorities on their behalf, in addition to funding already provided by the Ministry of Natural Resources and Forestry.

f. Others?

Where Conservation Authorities are providing services on behalf of other government agencies, such as the federal Department of Fisheries and Oceans, or municipal governments, they too must fund individual Conservation Authorities for the specific services and/or functions provided by the Authorities on their behalf.

d) How should the responsibility for oversight of conservation authorities be shared between the province and municipalities?

Perhaps there should be a non-voting provincial representative on each Conservation Authority Board, to provide a link back to the provincial government.

e) Are there other governance practices or tools that could be used to enhance the existing governance model?

As previously noted, Conservation Authorities have roles and responsibilities as described in the Conservation Authorities Act, as well roles and responsibilities delegated to them by other provincial Ministries or governments. While the OFA is not advocating that Conservation Authorities drop these roles, we believe that clarifying these added roles and responsibilities would improve their interactions with private property owners as well as with the municipal governments where they serve.

In addition, the OFA proposes that the duplicate regulatory and enforcement roles of Conservation Authorities be limited to those set out under the Conservation Authorities Act. Conservation Authorities should not be responsible for enforcing other provincial statutes, municipal by-laws, etc.

Lastly, we propose that governance Best Management Practices (BMPs) be developed for Conservation Authorities, through collaboration between the Ministry of Natural Resources and Forestry and Conservation Ontario. Public comments on a draft would come from posting it on the Environmental Bill of Rights (EBR) Registry.

Question 2: In your view, how are the programs and services delivered by conservation authorities best financed?

a) How well are the existing funding mechanisms outlined within the Act working?

Given the extreme fiscal disparity between individual Conservation Authorities, the current funding mechanisms simply are not working. The Ontario government needs to develop a funding mechanism that accounts for these disparities and ensures that all Conservation Authorities, regardless of population base and/or geographic area, are equally able to fund and deliver core programs and services to residents and property owners.

b) What changes to funding mechanisms would you like to see if any?

To address the fiscal imbalance between Conservation Authorities with a small population base/property tax base vs. those Authorities with a large, urban population and a “richer”

property tax base, the OFA recommends that all Ontario government ministries that utilize Conservation Authorities to deliver programs and services provide individual Authorities with funding sufficient to offset the costs to deliver these programs and services.

Furthermore, Conservation Authorities should be empowered to bill federal government departments of municipalities for any programs and services delivered on their behalf.

c) Which funding mechanisms, or combination of funding mechanisms, are best able to support the long term sustainability of conservation authorities?

The OFA has no comments on this question.

d) Are there other revenue generation tools that should be considered?

The OFA has no comments on this question.

Question 3: In your view, what should be the role of conservation authorities in Ontario?

a) What resource management programs and activities may be best delivered at the watershed scale?

Protecting people, properties and communities from water-related hazards (floods, erosion and drought) are programs and activities best delivered at the watershed level.

b) Are current roles and responsibilities authorized by the *Conservation Authorities Act* appropriate? Why or why not? What changes, if any, would you like to see?

There are several changes to the current roles and responsibilities authorized by the Conservation Authorities Act that the OFA recommends be implemented.

From the perspective of the owners and managers of private lands, we believe that the requirement to obtain duplicate permits or authorizations from one's municipality and one's Conservation Authority is an unnecessary duplication and leads to costly. We are not advocating for the termination of a Conservation Authority's role as a commenting agency, but simply that the Authority's comments be provided to the municipality. The municipality then either issues the permit, or provides the applicant with written reasons why it will not be issued.

Related to this, the OFA firmly believe that Conservation Authorities must be held to a reasonable timeline in responding to requests for comments on an application. The Drainage Act and Conservation Authorities Act Protocol (2012) dealing with municipal drain maintenance and repairs activities establishes 15 working days after receipt of a completed maintenance and repair notification form as the service standard. The OFA proposes that Conservation Authorities be held to 15 working days for comments on any permit or authorization they are required to comments on. Failure to comply with this 15 day requirement would enable to application to proceed with municipal approval only.

We are also aware of situations where individuals have checked with their municipal office to determine if their property is subject to Conservation Authority regulations related to "development, interference with wetlands and alterations to shorelines and watercourses", before undertaking tile drainage of farm fields, or the construction of buildings, only to discover

after starting work that they were in a regulated area that was not reflected in municipal zoning maps. This lack of coordination is unacceptable in the 21st century. Conservation Authorities must provide every municipality within their area of operations with up-to-date mapping of these regulated areas, so that property owners definitively know before embarking on a project if they are or are not within a regulated area. If some or all of a project is within a regulated area, the municipality would withhold issuance of any necessary permit or authorization until the Conservation Authority signs off. In instances where the Conservation Authority hasn't provided the municipality with up to date mapping of regulated areas, then the Authority cannot stop these municipality approved activities.

Some Conservation Authorities refuse to permit maintenance and repairs to municipal drains constructed under the Drainage Act that pass through Conservation Authority- owned lands. The lack of necessary maintenance and repairs results in increased flooding and crop losses for upstream farmers as well as road authorities and other rural property owners. Once constructed, municipal drains have legal status and the municipality is obligated to repair and maintain this municipal infrastructure. Conservation Authorities must comply with routine drain maintenance and repair activities on drains that pass through Authority-owned lands.

Conservation Authority staff must also recognize and adhere to agricultural biosecurity needs and protocols applicable to **both** livestock/poultry and crop operations. These protocols are used by farmers to maintain herd or crop health, and to minimize the spread of diseases, blights, etc. that attack livestock, poultry and crops.

c) How may the impacts of climate change affect the programs and activities delivered by conservation authorities? Are conservation authorities equipped to deal with these effects?

Conservation Authorities could deliver provincially-initiated climate change programming at the watershed level, but they have little to no direct ability to do more; the problem is at minimum a provincial-scale issue, if not a national or global one.

d) Is the variability in conservation authorities' capacity and resourcing to offer a range of programs and services a concern? Should there be a standard program for all authorities to deliver? Why or why not?

The variability of Conservation Authorities capacity and resourcing to offer a range of programs and services to property owners within an individual Authority's jurisdiction is a concern. There should be a suite of standard programs and services offered by Conservation Authorities, based on their principle mandate of protecting people, properties and communities from water-related hazards, augmented by local Authority-specific programs and services that address specific local concerns.

e) What are some of the challenges facing conservation authorities in balancing their various roles and responsibilities? Are there tools or other changes that would help with this?

There is a definite need for the Ontario government to clarify the difference between an Authority's statutory powers under the Conservation Authorities Act and roles and

responsibilities assigned to or contracted on behalf of other agencies and governments. Enhanced training and governance BMPs would help staff to understand and accept these differences.

There is also a definite need to refine and clarify Conservation Authority's role in land use planning. For example, municipalities have a statutory responsibility to develop, implement and update their Official Plan and zoning by-laws. Conservation Authorities provide technical services to municipalities through service agreements for Natural Heritage or local administration of a municipal tree by-law.

f) Are there opportunities to improve consistency in service standards, timelines and fee structures? What are the means by which consistency can be improved? What are some of the challenges in achieving greater consistency in these areas?

The OFA believes there are opportunities to improve consistency in service standards, timelines and fee structures. There is unnecessary duplication between Conservation Authorities and municipalities regarding permit applications. From our perspective, the requirement for duplicate permits seems unnecessarily costly, time consuming and bureaucratic. Co-ordination with local municipalities to develop and deliver a one-window approach to permits and approvals must be developed and implemented across all Authorities.

Question 4: Are there any other areas, questions or concerns regarding the Conservation Authorities Act or conservation authorities in general that you feel should be considered as part of the review?

The OFA firmly believes amendments must be made to the Conservation Authorities Act. Without these amendments, Conservation Authorities will continue to struggle to define their role, and, regrettably, continue to operate without the support of the farmers within their watershed. The absence of this support will condemn valuable watershed programs and activities to failure, and maintain the unfortunate adversarial status, too often existing between farmers and their Conservation Authority.

The definition of "development" in the Conservation Authorities Act differs vastly from that found in the Provincial Policy Statement, leading to confusion between both Authority staff and property owners needing an approval or permit. The Conservation Authorities Act applies to many more day-to-day activities than would the Provincial Policy Statement definition.

The OFA recommends the following changes to the "development" definition in the Conservation Authorities Act;

1. The definition should clearly state that it only apply to "interference with wetlands and alterations to shorelines and watercourses", i.e. certain activities within the 100 year flood level,
2. Subsection 25 (b) should exempt changes in use or interior changes that **do not** increase the building's size (footprint),
3. The definition should exempt all activities related to the maintenance and repair of municipal drains, constructed under the Drainage Act or predecessor.

The Conservation Authorities Act employs a very broad definition of a watercourse, namely, "an identifiable depression in the ground in which a flow of water regularly or continuously occurs".

This language is too vague to be truly useable. Does this include a furrow in a ploughed field? Surely not, but it isn't clear. A Ministry of Agriculture, Food and Rural Affairs factsheet, "Grassed Waterways", defines these features as "broad, shallow and typically saucer-shaped channels designed to move surface water across farmland without causing erosion". Were they intended to be subject to Conservation Authority jurisdiction and regulation? We think not.

The OFA recommends that the definition of a "watercourse" be amended to add "flowing within defined bed and banks" after "occurs" and to exempt municipal drains, constructed under the Drainage Act or predecessor as well as man-made ditches from being a watercourse.

The definition of a "wetland" in the Conservation Authorities Act differs from the definition used in the Provincial Policy Statement, the Greenbelt Plan, the Oak Ridges Moraine Conservation Plan or the Niagara Escarpment Plan. It also differs from the one used in both of the Province's Wetland Evaluation Manuals! This lack of a consistent definition is at the root of the challenges faced in conserving and protecting wetlands. The OFA recommends that the Provincial Policy Statement's definition of "wetlands" be used in lieu of a definition in the Conservation Authorities Act.

The OFA will include this recommendation in its comments on the Wetland Conservation in Ontario discussion paper, along with the need to clarify the status of the 120 metre "adjacent lands". It is neither a buffer nor a "no go zone"; rather property owners proposing buildings or structures within this area need to talk with their Conservation Authority before proceeding. Better collaboration between Conservation Authorities and their municipal partners on mapping of hazard lands would facilitate this.

Two terms, "interfering or interference with a wetland" and "conservation of land" are repeatedly used in the Conservation Authorities Act and regulations. Nowhere are they defined. The OFA recommends that amendments to either the Conservation Authorities Act or regulations include clear, easily understood definitions for both of these terms.

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 the Conservation Authorities Act Review Discussion Paper. We look forward to the incorporation of our recommendations and advice in changes to the relevant legislation, regulations of the day-to-day operations of Ontario's Conservation Authorities.

Sincerely,



Don McCabe
President

DM/pj

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