

February 5, 2021

Brent Taylor
waterpolicy@ontario.ca

Dear Mr. Taylor,

RE: ERO 019-2017: Proposed Implementation of Updates to Ontario's Water Quantity Management Framework

The Ontario Federation of Agriculture (OFA) is the largest general farm organization in Ontario, proudly representing more than 38,000 farm family members across the province. OFA has a strong voice for our members and the agri-food industry on issues, legislation and regulations governed by all levels of government. We are passionate and dedicated to ensuring the agri-food sector and our rural communities are included, consulted and considered in any new and changing legislation that impacts the sustainability and growth of our farm businesses.

Ontario's diverse and innovative agri-food sector is a powerhouse for the province – growing and producing more than 200 farm and food products, fuelling our rural communities and driving the provincial economy by generating more than 860,000 jobs and contributing over \$47 billion to Ontario's annual GDP. We are the leading agricultural advocate for Ontario farmers, their businesses and their communities.

The OFA is pleased to have this opportunity to provide comments on **ERO 019-2017: Proposed Implementation of Updates to Ontario's Water Quantity Management Framework**. An agricultural perspective is integral to the success of water quantity management in Ontario particularly through the Permit to Take Water (PTTW) program. While agricultural water use in Ontario is small, the agricultural sector holds the largest number of water-taking permits.

Farmers are integral partners in managing the natural environment. They rely on the air, soil, and water to conduct their business, and as such, have a vested interest in the sustainability of these resources. Because of the nature of agriculture in Ontario, and the fact that farmers interact intimately with the natural environment on a daily basis, an agricultural perspective to water resources management is critical.

Draft Water Quantity Management Implementation Guidance

a) Area-based Water Quantity Management

Figure 1 outlines the proposed process for developing an area-based water taking management strategy. The first step is the Preliminary Assessment. OFA believes that OMAFRA must be included as partner for the preparation of the strategy. Similarly, agricultural water users in the

area should also be involved with the preparation of the strategy, along with input from local and provincial agricultural organizations.

Step two is the decision. OFA believes that in addition to posting on the Environmental Registry, there is a need to directly notify water users within the defined geographical area. While this may not include individual residential municipal water users, it should include all other permitted water users, along with non-regulated water users such as livestock/poultry and aquaculture farmers, along with residents using private domestic wells. This change must also be made in the Proposed Amendments to Regulation 387/04 (as discussed later). Similar arguments are also made for the “Engage” stage of the process with direct notification to water users in addition to the proposed posting on the environmental registry. It will be essential that engagement throughout this entire process is aware and accommodating of the timing constraints for participation by farmers. OFA recommends that the suggestion that “the ministry *may* create a collaborative group, such as a committee of local water users, to provide advice during the development of the strategy” be changed to “the ministry **MUST** create a collaborative group...”.

The Preliminary Assessment speaks to possibly gathering information from non-regulated water users in the area. The process of how this happens and what information is collected will be critical. Current non-regulated water users such as farmers engaged in farm animal production or private and farm domestic water must be approached outside of the current PTTW process. They should not be required or expected to complete a PTTW application. MECP needs to work directly with OFA, livestock, poultry and aquaculture organizations and OMAFRA to determine how best to approach this. There are also significant concerns around the public open access to data for livestock, poultry and aquaculture agriculture (see below for additional details). OFA also recommends that this process includes the ability to incorporate industrial/commercial (I/C) water users on municipal water sources (see below for additional information).

Preparation of the Water Taking Management Strategy must include direct input from local stakeholders and OMAFRA; it cannot be done unilaterally by MECP. It is essential that the agricultural community be directly consulted regarding potential management measures. This proposed document references that one measure may be “updating existing permits to reflect actual water needs to enable the development of accurate water budgets.” However, recognition must be given to the realities of agricultural irrigation and the varying amounts of water required year-to-year or even day to day. The current PTTW process means that farmers must plan for the absolute worst-case scenario and hold permits for the absolute maximum water they may ever require – or face potentially being out of compliance in the most extreme circumstances. Agricultural permits must not be changed; however a process for completing water budgets should be developed that recognizes the difference between “usual” agricultural water use vs what is required by agriculture in extreme situations.

Questions arise for ‘Measures to improve water security through more efficient water use.’ Specifically, who pays for these water audits? Agricultural operations must be provided with cost-share opportunities for making changes to their equipment and/or practices. The regulatory process must also be amended to ensure the process does not penalize water users for adopting more sustainable or environmentally beneficial practices. The current process can be too onerous and expensive for farmers to adopt new practices.

“Measures to improve the sustainability of the water resource” provides examples that include scheduling of water takings. Irrigators on Innisfil Creek are an excellent example of how this can be a successful approach – but only if the stakeholders are directly involved. Timing of water application is a critical consideration for irrigators; they do not have the luxury scheduling a plants’ water needs. It is because of this that OFA also recommends that I/C water users that are on

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municipal water systems be included in this process at times of water quantity stress. This proposed guidance remains silent with regards to these water users. However, they could have a very important role to play in managing water resources during times of water quantity stress. At these times, these I/C water users should be treated as Priority 3 users with the other industrial and commercial users that are not on municipal services.

OFA is strongly in favour with aligning a Water Taking Management Strategy with other Provincial policies and programs. It is essential that farmers are able to navigate their water use seamlessly, without confusion over competing or contradictory rules and regulations.

b) Draft Guidance to Support Priorities of Water Use

It is our understanding that the water use priorities will only be used at times of water shortages and as a last resort after other means of managing the water uses during these times, have been exhausted.

OFA is very appreciative of the continued recognition of the water needs of livestock, poultry, and aquaculture, and their placement within Priority 1 Water Use. However, we do have concerns regarding industrial and commercial water users on municipal water systems also being considered a Priority 1 during these extreme times while other I/C users are a Priority 3. We believe that a system that proposes including currently non-regulated water users can definitely find a means of including I/C users on municipal water and treat them as a Priority 3 user at these times.

“Other considerations for Applying Priorities of Water Use” includes considerations such as “reducing takings from a source at certain times of year or during drought”. This poses considerable concern for all agricultural water users. The water requirements of livestock and poultry do not change in response to water availability; this is an animal health concern. Similarly, plants require specific amounts of water during critical stages during their growth. While it may be possible to schedule water takings (with these critical stages in mind), reducing the amount of water that plants need at these times is not an option. Also, food processors that handle perishable goods also need to be considered as part of our food security needs.

As previously mentioned, both cost-share initiatives and support through the regulatory process are both required for agricultural water users that endeavour to attain a reliable source, such as “changing how a water resource is accessed... changing the source of water takings... or developing back-up water supplies”.

Proposed Amendments to Regulation 387/04

OFA appreciates the opportunity to comment directly on the proposed wording changes to the regulation, however we do have concerns regarding the proposed changes. Additional information regarding a number of these concerns have been addressed above, under the Draft Water Quantity Management Implementation Guidance. While OFA is appreciative of the prioritization of water use, we respectfully suggest that the regulation change the order of the Highest priority category of water use to be in the following order:

- i. water used to supply water for one or more drinking water systems within the meaning of Section 2 of the *Safe Drinking Water Act, 2002*,
- ii. water used to support farm animal production and aquaculture, and
- iii. water used to protect the natural functions of the ecosystem as described in paragraph 1 of subsection (2).

While this is a seemingly inconsequential rearrangement given that all three are given equal priority, we believe it is necessary to begin with the systems that prioritize the well-being, health and safety of people and their necessities for life.

The second priority category reads:

- i. water used for the irrigation of agricultural crops, and
- ii. water used for on-farm washing activities.

Does this wording allow for critical agricultural water use such as frost protection, as is stated in draft implementation guide? Also, does this regulatory wording around priority of use explicitly allow for the Ministry to ensure “regardless of priority level, the ministry would consider the need to maintain water use for emergency purposes, to protect health and safety, or to maintain food security”?

Sections 4 (5), (6), (7) and (8) all have components of notice that OFA does not believe goes far enough to ensure impacted landowners and water users will be aware of potential changes that may impact them. This draft regulation proposes that “the Director shall post an information notice to that effect on the environmental registry...”. We are supportive of this posting, however, given that these sections include delineating a specific geographic area, water users within this area should also be provided with direct notice of the stressed nature of the water sources and also be made aware of the opportunity to provide input of the strategy. Expecting Ontario’s farmers to regularly check the environmental registry is unreasonable.

OFA is opposed to section 9 and the publication of “any data” collected and “otherwise make available to the public” before or after coming into force...” Our concern about public access to this data, as discussed below, relates to the potential threat to Ontario’s food safety and security.

Accessibility of Water Taking Data

OFA is appreciative that the MECP is taking our concerns regarding the publicly accessible geographical detail of agricultural permit holders through the open data portals, seriously. We would like to reinforce our position at this time, particularly given the proposed changes to the Water Taking and Transfer regulation.

OFA has grave concerns regarding information both currently available through open access data, specifically dealing with Permits to Take Water (PTTW) along with the proposed expansion of data available to the public under this consultation. It is our belief that the information currently posted by the MECP jeopardizes Ontario’s food security and food safety.

The current existing open access data for water taking permits – with GPS/UTM locations pinpointing exact water source locations on a map, permitted water volumes, intended water use (i.e., agricultural), and the name and address of the person/business on the permit, proves to be extremely problematic and even dangerous. Having this explicit information available on an open data platform accessible to anyone poses a substantial risk to Ontario’s food security and food safety. “Unfortunately, the agricultural and food industries are vulnerable to disruption, and the capabilities that terrorists would need for such an attack are not considerable.”¹ The World Health Organization confirms this vulnerability, stating “Agricultural production areas can be vulnerable to deliberate contamination...Irrigation water can be easily contaminated with chemical and

¹ Peter Chalk. [Agroterrorism: What Is the Threat and What Can Be Done About It?](#) Rand Corporation. 2004.

biological agents". The risk to fruits and vegetables is enhanced given that these products are often consumed directly, without processing and therefore more susceptible to contamination being undetected².

Justice O'Connor expressed similar concerns in his final report on the Walkerton Inquiry regarding Ontario's municipal drinking water systems. "The only caveat I make, which also relates to public safety, is that the operators and the government must be mindful of the possibility of terrorist attacks on and the vandalism of water systems³." While Justice O'Connor was specifically addressing our drinking water systems, the same public safety concerns exist regarding our food supply.

There is precedent within the provincial government (Ministry of Natural Resources and Forestry) of removing sensitive information from publicly available datasets. They use a "Sensitive Data Use Licence" for data users that can demonstrate a need to know and take data sensitivity training. We believe that water managers, other ministries such as OMAFRA and MNRF, and consultants preparing PTTW applications would data users that could demonstrate a need to know under this approach. This may work to mitigate the threats to Ontario's food safety and security, while maintaining information still useful for the intended purpose of managing our water resources. Information not needed for water management purposes, such as permit holder names and addresses, should be removed or redacted.

The World Health Organization states that "Controlling access to and the surveillance of agricultural production areas should be considered."⁴ The current system of providing accurate maps that identify agricultural water sources is directly contradictory of this advice from the WHO.

I trust our opinions and recommendations will be given due consideration in this consultation and look forward to ongoing consultation and discussion regarding water quantity management in Ontario.

Sincerely,



Peggy Brekveld
President

cc: OFA Board of Directors

² World Health Organization. Public health response to biological and chemical weapons: WHO guidance, 2nd edition. Geneva. 2004.

³ Justice O'Connor. Part Two Report of the Walkerton Inquiry: A Strategy for Safe Drinking Water. Ontario Ministry of the Attorney General. 2002.

⁴ World Health Organization. Public health response to biological and chemical weapons: WHO guidance, 2nd edition. Geneva. 2004.