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March 15th, 2024

EA Modernization Project Team
Environmental Assessment Modernization Branch
135 St Clair Ave West, 4th Floor
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To whom it may concern,

RE: SON Objection to Proposal, *New regulation to focus municipal environmental assessment requirements* (ERO 019-7891)

I am writing to you on behalf of the Saugeen Ojibway Nation Environment Office, which is responsible for assessing the impacts of existing and proposed development projects within the Territory of the Saugeen First Nation and the Chippewas of Nawash Unceded First Nation (together known as the Saugeen Ojibway Nation or "SON"; please see the Appendix for a map of our Territory). We have concerns about the proposed revocation of the Municipal Class Environmental Assessment (EA) process and the introduction of a new Municipal Project Assessment Process (MPAP) Regulation for streamlined EA for municipal infrastructure for higher-risk projects (ERO 019-7891). We believe that the proposed changes will adversely impact our constitutionally-protected rights, and would like to emphasize the need for stronger environmental oversight in Ontario.

Over the past few decades, SON's Territory has seen a decline in biodiversity and an erosion of healthy ecosystems, resulting in the undermining of SON's rights, culture and way of life. The individual and cumulative impacts of projects on SON's Territory are ongoing concerns for us, as we strive to maintain our relationships with the land and waters, which we have used and protected for time immemorial.

SON's Territory includes Bruce County and Grey County. We have positive relationships with the counties and have mutually agreed upon consultation processes in relation to development projects. As part of the consultation, the SON Environment Office often reviews technical studies conducted by proponents and submitted as part of their development applications. Occasionally, the SON Environment Office participates or conducts its own technical studies, if it deems it is necessary for the nature of the project. We also require proponents to agree to certain terms and conditions, aimed at avoiding or mitigating adverse impacts as much as possible in respect of their projects in SON's Territory.

Broadly, we have two concerns about ERO 019-7891 and the introduction of the proposed MPAP Regulation: first, the rigid timelines in the Regulation is not conducive to meaningful consultation nor does it respect the consultation process developed by SON; and second, the inclusion of shoreline/in-water works as part of the streamlined project list poses a risk to SON's constitutionally protected fishing rights.

The MPAP Timelines do not provide for adequate consultation

The proposed MPAP timelines are not long enough for adequate consultation with SON, and will overburden SON. As described above, the SON Environment Office conducts assessments on how the projects will impact SON in the long-term. We do not set a timeline to these assessments, as it is an iterative process.

The proposed MPAP, however, sets out that Indigenous communities impacted by a project will be consulted for up to 120 days, in preparation of the Environmental Project Report (“EPR”). 120 days is an insufficient amount of time for the SON Environment Office to review an EPR and the accompanying technical studies, identify potential impacts and make recommendations to how these impacts can be mitigated. This is especially relevant in archaeological studies, which can take months to complete or review. In light of SON’s existing consultation process with the Bruce and Grey counties, SON would not be able to conduct meaningful reviews of projects to ensure adequate protection for our rights.

The MPAP is also problematic because it only allows 30 days for review of the EPR. Within those 30 days, Indigenous communities would likely not be able to provide adequate feedback on the EPR, nor would the proponent be able to implement the feedback. This is especially concerning, since the proposal notes that “grounds other than potential adverse impacts to constitutionally protected Aboriginal or treaty rights...will not be considered when reviewing a Minister’s Order request.” In effect, if SON has issues related to archaeological studies conducted for the municipal project, which is crucial for SON’s sovereign governance but may not be considered an Aboriginal or treaty right, it would be required to resolve it within the 30-day window, with no other recourse available.

Lastly, the requirement of needing to file a Minister’s order to express that the EPR is an administrative burden to SON. The SON Environment Office will not have capacity to file Minister’s Orders on every occasion that it objects to a proponent’s EPR. These resources would be better spent in negotiating mitigation terms with the proponent, and proposing recommendations to the EPR.

The inclusion of shoreline/in-water works to the streamline project list threatens SON’s constitutionally protected rights

SON’s Territory includes the surrounding waters of Lake Huron and Georgian Bay, and SON has a claim for Aboriginal title to parts of Lake Huron and Georgian Bay that is currently before the courts. SON also has a court-recognized commercial fishing right in its Territory.¹ SON is concerned with any projects that have potential impacts to its water territory and its fishing rights, and so SON is concerned about the inclusion of shoreline/in-water works to the streamline project list.

Shorelines are key areas in which Lake Whitefish and other larval fish that play an important role in SON’s exercise of its fishing rights spend their early life stages. The cumulative impacts of new

¹ [R. v. Jones, 1993 CanLII 8684 \(ON SC\)](#)

shoreline development can have detrimental impacts to fish and fish habitat, resulting in disturbance and shoreline hardening.

Within the rigid and short timeline of the MPAP, SON will not be able to adequately assess the impacts of the shoreline works on SON's rights. The proposed changes could have permanent negative impacts on these ecosystems and fundamentally undermine SON's ability to exercise its fishing rights.

Conclusion

Based on the above, SON opposes the proposed changes to EA process. The MPAP regulation should have more built-in flexibility to allow for meaningful consultation on a case-by-case basis. It is our responsibility to care for and maintain our relationships with the land and waters, and ensure that there is continuity in SON's rights, culture and way of life for future generations. We request that Ontario respects the consultation process that we have developed and enables us to do so.

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Manager, Resources and Infrastructure

Environment Office of the Saugeen Ojibway Nation

Appendix - Territory and Treaty Map

Saukiing Anishnaabekiing Saugeen Ojibway Nation Treaties



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|---|---|---|
|  Aboriginal Title Claim Area |  Treaty 72 Area (1854) |  Current SON Reserve Lands |
|  Treaty 45 1/2 Area (1836) |  Treaty 82 Area (1857) |  The islands around the Peninsula were subject to various treaties, but many small islands on the Lake Huron side were returned to the Saukiing Anishnaabe in 1980 |
|  Treaty 67 Area (1851) |  Treaty 93 Area (1861) | |