



A Healthy Watershed for Everyone

May 3, 2024

By email – ca.office@ontario.ca

Ministry of Natural Resources and Forestry
Resources Planning and Development Policy Branch
Conservation Authorities and Natural Hazards Section
2nd Floor, South Tower
300 Water Street
Peterborough, Ontario
K9J 3C7

Dear Sir/Madam:

**Re: Regulation detailing new Minister's permit and review powers under the *Conservation Authorities Act*
Environmental Registry of Ontario Number 019-8320**

Introduction

The Hamilton Conservation Authority (HCA) is a local community-based environmental organization established under the *Conservation Authorities Act*. We utilize our expertise and knowledge and an integrated and ecologically sound environmental approach to manage natural resources on a watershed basis. We protect communities from flooding and erosion, provide flood forecasting and warning services, operate 3 dams for flood control purposes, provide planning review and permitting services, conserve and restore local ecosystems, manage over 11,000 acres of natural hazard and natural heritage lands and contribute to the quality of life in our communities.

The HCA enjoys positive working relationships with our partner municipalities, local developers, consultants and others involved in the development application review and permitting process. HCA works collaboratively and effectively with these groups to provide watershed knowledge and expertise on natural hazard matters, and to ensure efficient permit review processes and a high level of client service.

Recently proclaimed provisions in the *Conservation Authorities Act* and associated regulations that came into effect on April 1, 2024, including new powers for Minister's permits and reviews as further contemplated through the subject proposed regulation, have the potential to impact local working relationships and established review processes, as described further below.

ERO 019-28320 Comments

In reviewing the information provided in the ERO notice regarding the proposed regulation, HCA staff note the identified list of development activities and provincial interests for when the Minister may intervene in the Conservation Authority (CA) permitting process is broad and encompassing. While smaller-scale types of development would appear to be excluded (e.g. accessory structures, minor additions, etc.), the proposal would seem to provide the Minister with broad scope to intervene in CA permitting.

HCA notes there are existing review and appeal provisions already in place under the *Conservation Authorities Act* which provide applicants with process certainty and appropriate recourse options should a CA determine a permit cannot be issued. This includes provisions to support application pre-consultation, to require the determination of complete applications within 21-days, and for the issuance of permit decisions within 90-days. Further, where permits are not supported, there are existing opportunities for an authority Hearing, appeal to the OLT, as well as the newly proclaimed provisions for Minister's review of authority decisions. Conservation Authorities are also required to issue a permit(s) where a Minister's zoning order is in place (mandatory permits). In HCA's opinion, allowing an applicant to circumvent the normal established permit application and review process through a petition for Ministerial intervention and/or issuance of a Minister's order under Section 28.1.1 and the proposed regulation is unnecessary given the review mechanisms and provisions already in place.

With respect to permit reviews and decision making, HCA notes that most Conservation Authorities have existing policies in place to assess permit applications and determine if an activity may affect the control of flooding, erosion, etc., or jeopardize the health and safety of persons or result in property damage. From the ERO notice it is not clear how the Minister would review and assess applications, and on what basis the determination of any impacts on hazards or public safety would be made and a permit issued or denied. HCA is concerned this has the potential to introduce questions and concerns related to consistency in permitting decisions and the setting of precedents. Additionally, clarity around enforcement and compliance with the permit is requested if issued by the Minister, as it is assumed it would reside with the Ministry.

The proposed regulation indicates that where a proponent wishes to petition the Minister to issue an order, the proponent must submit supporting information to the Minister, including indication of whether the local municipality has endorsed the project and request for Minister's involvement. HCA notes that municipalities are responsible for implementing the provincial interest in land use planning matters and making decisions consistent with the Provincial Policy Statement. It is therefore suggested that as part of the information to be provided by proponents when requesting Minister intervention, that this include confirmation that all required approvals under the *Planning Act* (OPA, ZBA, etc.) are in place in order to demonstrate land use compatibility, appropriate zoning, etc.

In reviewing the provisions outlined in the *Conservation Authorities Act* and proposed regulation related to Minister's permits, HCA suggests the process to be established would not be expected to provide for any further permitting efficiencies or savings to applicants as suggested in the ERO notice.

Thank you for the opportunity to comment on ERO 019-8320. Should you have any questions regarding HCA's comments, please do not hesitate to contact the undersigned at mike.stone@conservationhamilton.ca or at (905) 525-2181, ext.133.

Yours truly,



Mike Stone, MCIP, RPP
Acting Director, Watershed Management Services