



May 6th, 2024



Conservation Authorities and Natural Hazards Section
Ministry of Natural Resources and Forestry - RPDPB
300 Water Street
2nd Floor South Tower
Peterborough, ON K9J 3C7

Re: South Nation Conservation comments on “Regulation detailing new Minister’s Permit and Review powers under the *Conservation Authorities Act*” (ERO 019-8320)

To whom it may concern:

Thank you for the opportunity to provide comments on “Regulation detailing new Minister’s Permit and Review powers under the *Conservation Authorities Act*”.

South Nation Conservation (SNC) – one of Ontario’s 36 conservation authorities (CAs) – is a committed partner of its member municipalities, the province, and the development sector; sharing the goal of increasing housing supply in Ontario. We have been supporting sustainable growth in our jurisdiction since 1947.

SNC provides mandatory programs and services that manage risks related to natural hazards, including preventing or mitigating those risks. Certain prohibited activities under the *Conservation Authorities Act* (the “Act”) require permits from SNC where the activity takes place in or adjacent to specified hazardous features.

SNC works with its member municipalities, the development community, consultants, and watershed residents to protect people and property from natural hazards by ensuring its permitting process and decisions are transparent, apolitical, and technically sound. SNC’s permit decisions are consistent with the Act, its regulations, and board-approved policies. When making permitting decisions, SNC applies an integrated watershed management perspective to consider local conditions, potential impacts to upstream and downstream communities, and future management challenges.

SNC supports the Province’s goal to increase housing without jeopardizing public health and safety, or the environment. In 2019, Ontario’s Special Advisor on Flooding strongly supported the coordinated, scientific, and hazard/risk-based approach integrated in the current CA permitting process. This process holds the protection of people and property in the highest regard. SNC offers the following comments to ensure this approach is maintained and that use of the Minister’s powers will not have unintended consequences for Ontario’s development approvals processes.



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Recommendation #1: THAT the MNRF pause implementing the regulation and engage with Conservation Ontario and Conservation Authorities to discuss proposed requirements, implementation details, and public guidance.

The proposed regulation currently scopes the Minister's ability to intervene in the CA permitting process where the development activity pertains to a "specified provincial interest". The list of provincial interests is extensive and captures a broad scope of development applications submitted to CAs.

SNC recommends the Ministry of Natural Resources and Forestry (MNRF) pause the finalization of the regulation and meet with Conservation Ontario, CAs, and municipal representatives to discuss the circumstances for the use of the new Minister's powers. The determination of implementation and procedural details will be essential. Appropriate scoping of these details can ensure the process remains transparent and procedurally fair, extinguishes requests/petitions made to circumvent locally established processes, and continues to apply a watershed lens to natural hazard management.

Recommendation #2: THAT the MNRF establish a multi-disciplinary technical advisory committee to provide decision recommendations to the Minister.

The proposal does not provide details as to how the Minister will assess requests for review and petitions for orders and, if applicable, what information and criteria will be applied to make an order or a decision on a permitting matter.

CAs must make their permitting policies, procedures, and regulation mapping available to the public. CA permitting decisions must be consistent with board-approved policies and are informed by natural hazard mapping, modelling, and knowledge of local watershed conditions. These tools allow CAs to transparently assess permit applications to 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. The proposal does not speak to whether the MNRF will adopt and publish similar policies and procedures documents regarding Minister's permits.

SNC recommends the MNRF establish a multi-disciplinary Minister's technical advisory committee to provide recommendations to the Minister when issuing permits or reviewing CA permitting decisions. The committee should bring together technical experts from CAs, Municipalities, the private sector, and applicable provincial ministries to prepare recommendations for the Minister on permit applications. A balance of expertise is essential to ensure bias is not introduced, allowing the Minister to make decisions based on the same criteria concerning natural hazards and public safety that are considered by CAs. Careful consideration of these applications is required to avoid unintended risks to people and property and the exacerbation of natural hazards.



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Recommendation #3: THAT the MNR assume liability for any losses or damages arising from Minister's permits or reviews.

The Minister has the power to issue permits pursuant to the Act when undertaking a review of a CA permitting decision or overtaking the CA permitting process further to an order.

Where the Minister's decisions are inconsistent with CA Board-approved policies or CA natural hazard mapping and modelling, the liability for such decisions should remain with the issuing body. CAs should not be liable for decisions made under the Act by another body where such decisions may result in losses or damages. Liabilities and risks are one of the major drivers impacting exponentially increasing insurance costs and premiums. CAs cannot serve as the insurer of last resort.

The amended Act and regulatory proposal purports to have CAs undertake compliance and enforcement activities regarding permits issued by the Minister. CAs will have difficulty anticipating enforcement and compliance resourcing needs if they are not involved in the review and approval process for a Minister's permit. Unexpected enforcement and compliance activities may require additional time and staffing resources that lead to increase costs associated with this program and service area. Due care must be applied when the Minister is reviewing and issuing permits to ensure appropriate conditions are assigned to minimize potential enforcement concerns.

Conclusion

Thank you for the opportunity to provide comments on the "Regulation detailing new Minister's Permit and Review powers under the Conservation Authorities Act" (ERO#019-8320).

The regulation detailing the Minister's powers must be carefully developed to ensure Minister's decision making on permits remains technical, apolitical, and integrates a watershed perspective of natural hazard management for the protection of people and property. SNC would be pleased to meet with Ministry staff to further discuss the regulatory requirements and implementation details.

Sincerely,

Carl Bickerdike
Chief Administrative Officer
cbickerdike@nation.on.ca