

From: [Ken McRae](#)

Sent: Friday, October 30, 2015 9:22 PM

To: [Rebecca Zeran OMNRF](#)

Subject: Comments on "Wetland Conservation in Ontario: A Discussion Paper"; EBRR No. 012-4464

Rebecca Zeran

Conservation Programs Advisor

Ontario Ministry of Natural Resources and Forestry (OMNRF)

Subject: Comments on "Wetland Conservation in Ontario: A Discussion Paper"; EBRR No. 012-4464

Hello Ms. Zeran,

It was just brought to my attention today that in addition to the EBRR "Proposal" posting No. 012-4509 "Conservation Authorities Act Review Discussion Paper", which I submitted comments on, there's also EBRR "Proposal" posting No. 012-4464 "Wetland Conservation in Ontario: A Discussion Paper". The latter EBRR posting doesn't come up when one puts "Conservation Authorities" in the EBRR website search box. Given the EBRR posting for "Wetland Conservation in Ontario: A Discussion Paper", for which you are indicated as being the "Contact" person to send comments to, I've copied and pasted below the two emails of comments I submitted on the Conservation Authorities Act Review for your information and consideration in regard to wetland conservation in Ontario. I also have a few additional comments on wetland conservation which are directly below.

Wetlands are "carbon sinks" and as such they play a very important role in regard to "Global Warming" and "Climate Change". Given that the present Ontario government changed the name of the Ontario "Ministry of the Environment" to "Ministry of the Environment and Climate Change" the Ontario government should take this wetlands carbon sink "Climate Change" role seriously and do all that it can to protect wetlands so that they can continue to play their important carbon sink role. I cite a specific example below of a wetland's carbon sink role, with the first 4 paragraphs below providing background lead-up to that example.

In 2003 I was appointed by the City of Ottawa to be on their Public Advisory Committee (PAC) for their Class C "Country Club Village and Highway 7 Service Road Access Environmental Assessment Study". I was a Director with the local environmental group "Friends of the Jock River" (FOJR) at that time and very active in protection of local Provincially Significant Wetlands (PSWs). I left the FOJR during the process of the aforementioned Class C EA., but was asked to stay on its PAC by the City, which I did.

A number of options were considered for providing additional road access to the Country Club Village (CCV) subdivision and the Canadian Golf & Country Club (CGCC) when their direct then existing access to Highway 7 was going to be severed due to expansion of that highway from a 2 lanes highway to a divided limited access 4 lanes highway. I don't have the time to go into all of the politics and other matters regarding that EA. study here. In the end the EA. study recommended extending a service road parallel to the west side of Highway 7 through a kilometre of the Provincially Significant Huntley Wetlands Complex to connect with another service road. Myself and another member of the PAC, Selena Walker, who was representing the "Goulbourn Wetlands Group" (which I was also a former member of), opposed this option throughout the EA. process. In our opinions the proposed road through the PSW was unnecessary given there being two access roads already from the CCV and CGCC to a nearby road that has direct access to Highway 7, given that the EA. study had many serious flaws, errors and omissions, and given that the negative environmental impacts of putting a road through the PSW would outweigh the benefits of such a road. As such we submitted a joint Request for a Bump-up Environmental Assessment to a full EA., under the Ontario "Environmental Assessment Act" to the then Minister of the Environment, in 2006. The City's consultant for the EA. submitted a response to our Bump-up request, which we were provided a copy of. Their response revealed many more serious flaws, errors and omissions which we pointed out back to the MOE, the City and their consultant.

The result of our comments was the MOE Minister issuing an order to the City of Ottawa to carry out significant additional work in an Addendum to the original EA. study. Ms. Walker and I reviewed that Addendum, found many serious flaws, errors, and omissions in it, and we submitted a Request for a Bump-up to a full environmental assessment regarding it. The MOE required the City to do more work. During the course of our requesting Bump-ups, which I sent to the two local Conservation Authorities whose watersheds take in parts of the PSW that would be affected by the proposed new City road, the Rideau Valley Conservation Authority (RVCA) and Mississippi Valley Conservation Authority (MVCA) they also expressed opposition to the proposed road through the PSW.

In the end the MOE Minister gave approval to the City's final EA. study, but with conditions which the City could not fulfill. One of those conditions was that the City get approval and permits for their proposed road through the PSW from the RVCA, which was handling the matter on behalf of both it and the MVCA. RVCA staff have thus far refused to give any approvals or permits for the City's proposed road. Therefore, the City's proposed road remains in limbo.

One of the many issues Ms. Walker and I raised in our concerns about the City's proposed road through the PSW was that it would result in the release of a significant amount of greenhouse gases from the peat that would have to be excavated from the PSW to facilitate the building of the road and result in the loss of some future carbon dioxide absorption or sequestration by the lost part of the wetland to the proposed road. In support of our comments on the PSWs carbon sink role I approached and asked Mr. Charles Tarnocai, Research Scientist, Agriculture and Agri-Food Canada, for his comments on impacts of peat removal from the wetland if the City's proposed road was built. Mr. Tarnocai has carried out extensive work in this field for numerous years. His name is also mentioned as a contributor in one of the earlier versions of the OMNRF's Ontario Wetland Evaluation Manuals. He estimated that the removal of peat for the City's proposed service road

would result in the release of 1,340,000 kg of organic carbon (carbon dioxide) into the atmosphere. Unfortunately neither the City staff report nor the EA. study's Technical Advisory Committee and PAC evaluation of alternative road routes considered the release of carbon dioxide into the atmosphere when evaluating road route alternatives. Mr. Charles Tarnocai also estimated the rate of lost carbon dioxide absorption or sequestration at 1.29 kg per day. Mr. Tarnocai's May 12, 2005 email to me on this matter is copied and pasted below. The science in making such calculations may have improved since 2005.

----- Original Message -----

From: Tarnocai, Charles

To: kmcrae0525@rogers.com

Sent: Thursday, May 12, 2005 9:05 AM

Subject: Peat

Hi Ken:

Here is my quick calculation of the organic carbon mass in a peat volume of 1000 x 20 x 1 m and the amount of carbon this 1000 x 20 m peatland would sequester during 100 years.

1. The carbon mass in the 1000 x 20 x 1 m peat volume:

Based on our data, the southern Ontario treed swamps have 67 kg/m³ organic carbon content. Using this data, a 20,000 m² peatland area would contain 1,340,000 kg of organic carbon.

2. Carbon sequestration:

The rate of peat accumulation in southern Ontario treed swamps is 3–4 cm/100 yr (see Wetlands of Canada book, page 226). Using a peat accumulation rate of 3.5 cm/100 yr, an average peat carbon content of 45%, and a 0.15 g/cm³ bulk density, the 20,000 m² peatland would sequester (accumulate) 47,200 kg carbon from the atmosphere during 100 years.

These calculations are based on average figures, but I hope you find the information useful.

Charles

Charles Tarnocai

Research Scientist

Agriculture and Agri-Food Canada

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With Fortitude,
Ken McRae
Apt. 609,
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From: Ken McRae
Sent: Sunday, October 18, 2015 11:02 PM
To: mnrwaterpolicy@ontario.ca ; Julia Holder OMNRF
Cc: Ellen Schwartzel ECO (Acting)
Subject: Conservation Authorities Act Review; EBR Registry Number 012-4509

Julia Holder
Policy Analyst
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Subject: Conservation Authorities Act Review; EBR Registry Number 012-4509.

I have been an unpaid concerned citizen environmental protection advocate in Ontario for over the past 26 years, residing in Ottawa. I have been founder and or co-founder and member of several environmental/conservation groups in the past, including Friends of the Jock River, The Goulbourn Wetlands Group, and Canontos and District Wildlife Conservation Association. These groups no longer exist. As an individual citizen and at times as a director or member of the aforementioned groups I have reviewed and commented on various development applications (house subdivisions, new or expanded quarries, new roads), EBRR Proposal postings for Permits To Take Water (for golf courses, quarries, house subdivisions, and road construction), Certificates of Approval for Industrial Sewage Works, now called Environmental Compliance Approvals (ECAs), mainly for dewatering quarries, ECAs for Noise and Air approvals for quarries, Class Environmental Assessments for a 1988 OMNR 5 Year Timber Management Plan for the former OMNR Tweed District, and more recently two Class EAs by the City of Ottawa for new roads. In a number of cases I have made appeals to the Ontario Municipal Board. I have also made several Bump-up Requests for full, individual Environmental Assessments under the Ontario Environmental Assessment Act. The most recent request, submitted with one other person, has stopped the City of Ottawa from putting an unnecessary new road through a kilometre of the Provincially Significant Huntley Wetlands Complex. I have also reviewed and commented on several proposed new or expanded Municipal Drains within the City of Ottawa. Most of the aforementioned cases have involved issues pertaining to protection of Provincially Significant Wetlands (PSWs) and habitat for fish and other wildlife species, including Species At Risk. I have also reported numerous cases of water taking without a required PTTW, and or violations of conditions in a PTTW; landowners altering streams without a permit; landowners bulldozing, clear-cutting, and or excavating drainage ditches within PSWs.

There are a number of environmental protection problems that need to be addressed in the CAs Act Review. Ontario Regulation 97/04 looks fairly good on paper, but implementation of the 2006 individual regulations flowing from that 2004 regulation adopted by the three CAs in Ottawa has been weak and failed to protect PSWs and streams in a number of cases, due in large part to a lack of clarity in the wording of those regulations.

I've copied and pasted below in red section 28. (1) (a) and (b). Despite subsection (b) stating "...or for changing or interfering in any way with a wetland" the RVCA and MVCA have not, or have not been allowed by the Ontario government, to consider removal of wetland vegetation from a wetland to be interfering with a wetland. I was told by the now retired former Director of Planning and Regulations for the RVCA, Don Maciver, that in some cases they might be able to do something if the wetland's hydraulic function was being negatively impacted by vegetation removal. This is grossly vague and insufficient. Numerous landowners have clear-cut or bulldozed vegetation from many parts of the Provincially Significant Goulbourn Wetlands Complex in the west end of Ottawa in efforts to get the OMNRF to remove their determination of PSW from the wetlands on their properties. The main criteria in the Ontario Wetlands Evaluation Manuals for determining whether an area is wetland is whether an area's vegetation is over 50% wetland plant species. Landowners are removing wetland plant species and then getting their properties re-evaluated to show that their properties no longer meet the criteria required for an OMNRF wetland determination to then get municipalities Official Plans and Zoning By-laws amended to remove designations for PSWs. The CAs regulations need to be amended to specifically state that any vegetation removal from within wetlands requires a permit

from the CA. Such permits should only be issued for vegetation removal, such as for cutting a limited amount of firewood for personal use, where applied for vegetation removal will not change a wetland determination.

Regulations by authority re area under its jurisdiction

28. (1) Subject to the approval of the Minister, an authority may make regulations applicable in the area under its jurisdiction,

(a) restricting and regulating the use of water in or from rivers, streams, inland lakes, ponds, wetlands and natural or artificially constructed depressions in rivers or streams;

(b) prohibiting, regulating or requiring the permission of the authority for straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;

Another significant problem is that some landowners are now using the Drainage Act to get Municipal Drains established through PSWs, so as to drain PSWs. Their thinking is that if they can get the PSWs on their properties drained then the vegetation will eventually change from wetland vegetation species to upland vegetation species, and then they can get the wetland evaluations re-evaluated and get the OMNRF PSW determination for their properties removed, leading to getting municipalities to remove PSW designations for their properties from the municipality's Official Plans and Zoning By-laws. An example of this is the Hazeldean Road Municipal Drain which runs through a large part of the PS Goulbourn Wetlands Complex. This municipal drain was approved by the City of Ottawa in 2011 and has had significant negative impacts on the PSGWC. Myself and many others have complained about this to the City and to the MVCA. These negative impacts caused the MVCA Board of Directors in February, 2014 to approve a policy that they will not approve creation of any further new municipal drains within PSWs. Whether that policy has legal precedence over landowners filing for a Petition Municipal Drain under the Drainage Act has yet to be determined. The CA Act should be amended to clearly state that CAs cannot approve or issue permits for the creation of new municipal drains within PSWs. The Drainage Act should also be amended to state that no new municipal drains are allowed within PSWs. There should also be a mechanism for getting municipal drains removed from PSWs, or at least modified, so as to ensure that they do not reduce the size of PSWs as determined within OMNRF approved wetland evaluations.

Another problem has been to which wetlands CAs apply their regulations to. Up until very recently the RVCA, MVCA, and SNCA have only been allowed by the municipalities within their jurisdictions to apply their regulations to PSWs. The section of the CA Act copied and pasted above states "a wetland". This indicates that the Act and its regulations are to apply to all wetlands, not just PSWs. I've been told in the past by CAs' staff that they don't have the mapping for non-PSWs required to be able to apply their regulations to those. This is false. The OMNRF has had mapping for many years for many non-PSWs (formerly referred to as Class 4, 5, 6 or 7 wetlands). All of the CAs should be required at a minimum to apply their regulations to all OMNRF mapped wetlands, regardless of what their partner municipalities might think. There are still many unevaluated and unmapped wetlands. The OMNRF should be taking steps to ensure that all wetlands within areas where they are under threat of destruction are evaluated and mapped so that CAs can apply their regulations to protecting them. On

a positive note I've been informed that recently the MVCA has decided to apply its regulations to non-PSWs for which mapping is available.

Another problem is in section 28. (16) of the CA Act where it states that fines are limited to not more than \$10,000. This amount is way too low given the millions of dollars that landowners with PSWs on their properties, such as with the PSGWC, are getting when selling their lands to housing subdivision developers. When landowners and developers have the potential to make millions of dollars by destroying PSWs a \$10,000 fine becomes just a very acceptable cost of doing business. The fine should be increased to up to \$500,000. Then depending upon the circumstances of each individual case a judge can order a fine, upon conviction, of anywhere from several hundred dollars up to the maximum of \$500,000.

Another problem is in section 28. (17) (b) of the CA Act which states "(b) rehabilitate any watercourse or wetland in the manner and within the time the court orders. 1998, c. 18, Sched. I, s. 12." I've seen a number of watercourses and wetlands where a judge has ordered rehabilitation and that rehabilitation has not resulted in returning them significantly enough to their original condition before illegal alteration. The subsection should be changed to read "rehabilitate any watercourse or wetland back to its condition prior to illegal alteration and within the time the court orders." If landowners carrying out destructive alterations to wetlands and watercourses can be ordered to rehabilitate them back to their original condition then prior to illegal alteration then landowners should be less likely to illegally alter them in the first place.

Another problem is that not all municipalities within Southern Ontario are members of a CA. Several years ago I complained about construction going on in a wetland within the City of Rockland. I was told by the RVCA that they don't have any jurisdiction within that municipality because that municipality decided not to become a member municipality of the RVCA. A few months ago I complained to the SNCA about filling going on in a wetland on the north side of the 401 within the Town of Prescott, which is within the SNCA watershed. I was recently informed by their Regulations Officer that Prescott is outside of their jurisdiction. See his email copied and pasted below and his attached letter. In his attached letter he wrote "The appropriate authority for this location is the Ministry of Natural Resources and Forestry, Kemptville District Office (613-258-8204)." Does the OMNRF have any authority to do anything about filling occurring in this wetland? Not according to what OMNRF Kemptville District staff told me years ago before the 2006 CAs regulations came into effect. Has that changed? If not, are municipalities that are not a member of a CA required, say perhaps under the Planning Act, to have site alteration, or cut and fill by-laws in place to address such situations, or are such cases all too often allowed to fall into the proverbial cracks in legislation?

From: Geoff Owens

Sent: Friday, October 09, 2015 11:53 AM

To: Ken McRae

Cc: McLaurin, Tanya (MNR) (tanya.mclaurin@ontario.ca)

Subject: Wetland near Prescott

Good morning Mr. McRae,

This item was brought to my attention recently. I have gone out to the site and drafted a letter of response (attached) along with other relevant information which by way of this email is being provided to MNRF Kemptville.

Regards,

Geoff Owens | Regulations Officer

38 Victoria Street, P. O. Box 29, Finch, ON K0C 1K0

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With Fortitude,

Ken McRae

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From: Ken McRae

Sent: Monday, October 19, 2015 11:58 PM

To: mnrwaterpolicy@ontario.ca ; Julia Holder OMNRF

Cc: Ellen Schwartzel ECO (Acting)

Subject: Re: Conservation Authorities Act Review; EBR Registry Number 012-4509

Julia Holder
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Subject: Conservation Authorities Act Review; EBR Registry Number 012-4509.

I have a few additional comments. One is regarding the very important issue of Conservation Authorities (CAs) seriously lacking sufficient funding to enforce their regulations and take violators to court. CAs should be awarded their court costs when they win a conviction. If possible that should be put in the CA Act. Fines ordered by the courts for convictions of violations of CAs regulations should go to the CA involved to help fund improved enforcement rather than just go into general government coffers. The 3 local CAs have only one Regulations Enforcement Office each, which is grossly insufficient given the size of their watersheds. In my opinion they should each have 3 such officers. The funds that local CAs have for going to court are also so small that they often just issue a Notice of Violation to violators and then try to get landowners to voluntarily undo whatever illegal alteration was done to watercourses or wetlands without the CA laying any charges and taking violators to court. I'm not aware of any "undo" carried out by any landowners that resulted in returning a watercourse or wetland back to its condition before illegal alteration. This is the result of CAs all too often just requiring landowners to let wetlands and banks of watercourses where vegetation was removed be left alone to naturally re-vegetate with no replacement planting or just token replacement planting. The Rideau Valley Conservation Authority's (RVCA) handling of Thomas Cavanagh Construction Ltd.'s 2007-2008 clear-cutting of large parts of the Provincially Significant Huntley Wetlands Complex and its 120 metres adjacent lands, including on several hundred metres of a City of Ottawa unopened road allowance in that wetland without the knowledge and permission of the City, is an example where no replacement planting was required by the RVCA. In that case the RVCA also didn't lay any charges, and only required Cavanagh to remove several hundred metres of road they put on the City's unopened road allowance in the wetland, and required Cavanagh to fill in the drainage ditches the company had excavated on each side of that illegal road. Cavanagh still has part of their illegal road within the City's unopened road allowance. I reported those violations.

An example of just token replanting being required, and a small fine issued, is a few hundred metres of stream that R.W. Tomlinson Ltd. illegally altered without a permit from the RVCA. I reported that violation. In that case Tomlinson also removed all of the vegetation along both sides of that part of that stream which runs between two parts of the PS Goulbourn Wetlands Complex. Roughly a dozen evergreens and a dozen maple trees were planted along the banks of the altered creek as part of the rehabilitation. The stream previously ran through a forest. When I was last on that site I noticed that several of the planted maple trees had died. I informed the RVCA of that and indicated that Tomlinson should be required to replace those dead trees with new ones. I don't know if that was done.

The 3 local Ottawa CAs funds available for going to court are so small that none of them have in-house legal counsel to carry out prosecutions when charges are laid. They have to pay lawyers from outside private law firms to carry out their prosecutions. I don't know for certain, but suspect this is the case for the vast majority of other CAs, if not all of them. The 3 local CAs should at least have enough funds to have one legal counsel on staff for the 3 of them to handle their prosecutions. Hopefully then they wouldn't be so timid in laying charges and going to court.

With Fortitude,

Ken McRae

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