



VISION 2016 – 2020

Conservation Ontario will be the leader in engaging Conservation Authorities in matters of common interest and in shaping effective policy related to Conservation Authorities

Conservation Ontario Council Report

From: Leslie Rich, Policy and Planning Officer (CO)
Jessica Chan, Policy and Planning Assistant (CO)

Date: November 23, 2016

Subject: Conservation Ontario's comments on the "Amendments to the Technical Guide to Renewable Energy Approvals" (EBR # 012-7600)

Summary

Conservation Ontario coordinated and submitted the attached comments to the EBR (MOECC) on the *"Amendments to the Technical Guide to Renewable Energy Approvals"* on October 31, 2016. CO is supportive of the amendments to the Technical Guide which recognize the regulatory authority of Conservation Authorities including their role in managing development in natural hazard areas. This Guide also notes the role that some CAs play in natural heritage planning. CO is supportive of the Technical Guide's amendments for proponents to consult CAs at an early stage in the REA application process. It was recommended that proponents must have written confirmation from the local CA to obtain an amendment to a REA. CO's letter also recommended that Stormwater Management Plans and Erosion and Sediment Plans should address both surface and groundwater impacts.

Recommendation

THAT the comments on the "Amendments to the Technical Guide to Renewable Energy Approvals" (EBR# 012-7600) submitted to the Ministry of the Environment and Climate Change on October 31, 2016 be endorsed

Background

On April 2, 2012, the Ministry of the Environment and Climate Change (MOECC) proposed minor updates and revisions to the Technical Guide to Renewable Energy Approvals (Technical Guide). The Technical Guide provides an explanation of the requirements to complete an application for a REA in accordance with O. Reg 359-09 under the *Environmental Protection Act*. Conservation Ontario (CO) submitted comments to the Province on May 15, 2012.

On September 1, 2016, the MOECC posted amendments to the Technical Guide to the Environmental Registry for public review and comment. The proposed minor amendments to the Technical Guide aim to provide additional guidance in support of the regulatory amendments which came into effect on May 1, 2016. CO staff circulated a request for comments on the amendments to the Technical Guide to CA Section 28 Regulations contacts, CA Aquatics Contacts, and CAOs.

Current Status

Comments on the “Amendments to the Technical Guide to Renewable Energy Approvals” (EBR# 012-7600) were received from Conservation Halton, Essex Region, Grand River, St. Clair Region, and Toronto and Region Conservation Authorities, and Source Water Protection comments were provided through Chitra Gowda (CO).

CO’s letter (see attached) supports the proposed amendments to the Technical Guide which recognizes the regulatory authority of CAs and encourages early consultation. CO’s letter also expresses support of the proposed amendments which outline CAs’ and MNRF’s role in managing development in areas prone to or associated with natural hazards. It was encouraged that an amendment to the Technical Guide be made to require proponents of REAs to submit all confirmed natural heritage features identified and approved by the MNRF to both the Natural Heritage Information Centre and the local MNRF District offices so the data can be used to inform future *Planning Act* and *Environmental Assessment Act* processes. Another recommendation was that exemptions for having to obtain an amendment to a REA must have written confirmation from the local CA that the proposed changes will not impact CA regulated lands.

Conservation Authorities are supportive of the clarification of CAs’ role in natural heritage planning and it was recommended that the MOECC considers a complementary section on natural hazards.

Due to interactions among surface water, groundwater and features (e.g., wetlands and watercourses), CO’s letter recommends that the Technical Guide be amended to require Stormwater Management Plans and Erosion and Sediment Plans to address both surface and groundwater impacts. This amendment would address water management for natural heritage as well as for source water.

Finally, it was recommended that proponents should also be directed to speak with the local Conservation Authority in addition to Ministries. If the project is located in or adjacent to a CA regulated area, the change to the project may require permission from the CA as the permit only applies to the works as approved.

Conclusion

CO staff submitted the attached letter of comments on the “Amendments to the Technical Guide to Renewable Energy Approvals” to MOECC on October 31, 2016. CO staff will continue to monitor the Environmental Registry for CAs to participate in future related postings.



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October 31, 2016

Mr. Vandervecht:

Re: Conservation Ontario's Comments on "Amendments to the Technical Guide to Renewable Energy Approvals" (EBR# 012-7600)

Thank you for the opportunity to provide comments on the "Amendments to the Technical Guide to Renewable Energy Approvals" (Technical Guide). Conservation Ontario is the network of Ontario's 36 Conservation Authorities (CAs). Conservation Ontario welcomes an opportunity to provide comments on the minor revisions to the Technical Guide required as a result of the regulatory amendments which came into effect on May 1, 2016. Conservation Ontario provided detailed comments on the Technical Guide in May, 2012 and appreciates this occasion to further clarify the requirements of a complete application for renewable energy projects from a Conservation Authority perspective.

Conservation Ontario's comments follow the chart of the proposed revisions to the Technical Guide which was attached to the Environmental Registry posting.

Chapter 1: Overview of the Renewable Energy Approval (REA) application process and the requirements for submitting a complete application

5. Meeting with Key Agencies and Commencing Additional Approvals

Conservation Ontario appreciates the acknowledgement that Conservation Authorities should be invited to launch meetings to discuss projects at an early stage in the process. This proposed change will be beneficial both to the applicant and to the Conservation Authority who may be reviewing the project.

It is noted that the link to the "Location and Siting Consideration Checklist" does not work.

5.1 Determining if Additional Permits are Required
- Conservation Authorities Act Permits

Conservation Ontario is supportive of the proposed amendments to the Technical Guide which recognizes the regulatory authority of the Conservation Authorities and encourages early consultation. As was the case with previous versions of the Technical Guide, proponents should be encouraged to

consult with CAs to streamline Environmental Impact Study requirements, particularly if they will also be undertaking a Natural Heritage Assessment.

5.1 Determining if Additional Permits are Required: “In addition to this list...”

Conservation Ontario is supportive of the proposed amendments which outline CAs’ and MNR’s role in managing development in areas prone to or associated with natural hazards. In addition to these amendments, MOECC may wish to consider explicitly outlining CAs’ delegated Provincial Interest in Plan Review for natural hazards.

6.2 Natural Heritage Assessment

Conservation Ontario would be supportive of an amendment to the Technical Guide requiring that proponents of Renewable Energy Approvals be required to submit all confirmed natural heritage features identified and approved by the MNR to both the Natural Heritage Information Centre and the local MNR District offices. Currently critical pieces of information are being collected on the landscape, but are not being fed into Provincially-held data sets. The data collected through the Natural Heritage Assessment could then be used to inform future *Planning Act* and *Environmental Assessment Act* processes.

9.1 Specific Activities Exempt from REA Amendments

It is recommended that one of the conditions that should apply to an exemption for having to obtain an amendment to a REA is written confirmation from the local Conservation Authority that the proposed changes will not impact CA regulated lands. In specifying the conditions that apply, MOECC should also clarify what type of “heritage” they are referring to (natural, cultural, etc.). Additionally, there is a typographical error, “The person must obtain, where a heritage assessment report was required, the opinion of the persons who prepared the report that the proposed change would alter the recommendations set out in the report that was prepared and would not result in any new or increased impacts to heritage attributes that are subject to evaluation.”

Chapter 2: Consultation Requirements and Guidance for preparing a Consultation Report

3.3 Distribution of Notices: “The above list...”

It is recommended that this section be amended to note that “applicants **should** distribute copies of notices” rather than “applicants may wish to...”.

Chapter 4: Guidance for preparing a Project Description Report

2.1 Use of the PDR as a Draft Document

Rather than stating “it may be useful to provide the draft PDR to other interested parties for the purposes of informing decisions on additional permits or approvals as required”, it would be more appropriate to indicate that “a draft PDR should be provided to other parties...”.

3.5 Other Approvals Required

This section should be revised again for clarity. It is the understanding of CA reviewers that this section is indicating that the proponent should determine what additional information may be required for approvals from other agencies over top of what is required for the REA. The requirements of all agencies should be integrated by the proponent, so that when the studies are submitted they address the interests of all approval agencies for efficiency purposes.

The present version of this section is unclear.

4.3 Project Location Map

It is recommended that an addition to the list be made to require the mapping of natural hazard features (e.g. flood line, slope, etc.).

5.0 Description of Environmental Effects

Please note that if the project is affecting a wetland in a CA regulated area, the Stormwater Management Report may require a hydrological study to demonstrate how the pre-development water balance supporting the wetland is maintained in the post-development condition.

5.2 Natural Heritage: "Applications may also..."

Conservation Authorities are supportive of the clarification of CAs' role in natural heritage planning. The MOECC may wish to consider a complementary section on natural hazards.

5.3 Impacts on Surface Water and Ground Water

Due to interactions among surface water, groundwater and features (e.g., wetlands and watercourses), the Technical Guide should be amended to require that Stormwater Management Plans and Erosion and Sediment Plans should address both surface and groundwater impacts. Consider revising the "at minimum" requirement for surface water to: address both surface and groundwater impacts of the project and their implications for natural features and for groundwater recharge. This amendment would address water management for natural heritage as well as for source water protection/drinking water. Additionally, it should be noted in the Technical Guide that it is important to consider local source protection plans developed under the *Clean Water Act*, which contain legally binding policies to protect municipal sources of drinking water.

Chapter 7: Guidance for preparing the Decommissioning Plan Report

2. Determining the Probable Future Use for the Facility

This section should be augmented by recognizing that plans for decommissioning should be assessed by all approval agencies, including CAs, to identify any concerns related to or additional approvals required for the decommissioning.

3. Content Overview

In addition to the details requested for a decommissioning plan in the event that the project is abandoned during construction, there should also be a requirement for mitigation of any impacts due to sedimentation and erosion, restoration of vegetation on the site, and correction of any grading or drainage that was not completed.

Chapter 10: Making Changes to Renewable Energy Approval (REA) Projects

1.3.1 Specific Activities Exempt from REA Amendments (Exemptions, ss. 47.3 (1) and 186 (3) of the Act)

It is recommended that one of the conditions that should apply to an exemption for having to obtain an amendment to a REA is written confirmation from the local Conservation Authority that the proposed changes will not impact CA regulated lands. In specifying the conditions that apply, MOECC should also clarify what type of “heritage” they are referring to (natural, cultural, etc). Additionally, there is a typographical error, “The person must obtain, where a heritage assessment report was required, the opinion of the persons who prepared the report that the proposed change would alter the recommendations set out in the report that was prepared and would not result in any new or increased impacts to heritage attributes that are subject to evaluation.”

2. Categories of Project Changes

It is recommended that in addition to the Ministries that the proponents are encouraged to speak with they should also be directed to speak with the local Conservation Authority. If the project is located in or adjacent to a CA regulated area, the change to the project may require permission from the CA as the permit only applies to the works as approved.

2.2 Technical Change

Equally, technical changes to the project may also require the proponent to apply for a CA permit or a revision to the existing permit. It is recommended that a bullet point be added which requires that correspondence be circulated to reviewing agencies, including Conservation Authorities, to notify them of the technical changes occurring within the project.

Chapter 11: A good neighbour approach: tips for applicants

1. Being a Good Neighbour:

It is recommended that this section be amended as follows: “Engaging the public, municipalities, **Conservation Authorities** and Aboriginal communities – early and often”.

Appendix 2: Contact List

Please note that the Technical Guide contains outdated contact information for the Conservation Authorities. The most up-to-date contact information can be accessed on Conservation Ontario's website: http://conservationontario.ca/images/CA_contact_list.pdf

Thank you for the opportunity to provide input into the proposed "Amendments to the Technical Guide to Renewable Energy Approvals" (EBR# 012-7600). Should you have any questions about these comments, please contact me at extension 226.

Sincerely,



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