



July 24, 2009

Marcia Wallace
Manager, Renewable Energy Project
Ministry of the Environment
7th Floor, 55 St. Clair Avenue West
Toronto, Ontario M4V 2Y7

RE: Proposed Ministry of the Environment Regulations to Implement the Green Energy and Green Economy Act, 2009 (EBR #010-6516)

Dear Ms. Wallace,

Thank you for the opportunity to comment on the Ministry of Environment's **Proposed Regulations to Implement the Green Energy and Green Economy Act, 2009**, which was posted for public comment on the Environmental Registry (EBR #[010-6516](#)). Conservation Ontario represents Ontario's 36 Conservation Authorities. Working in conjunction with Ontario municipalities, Conservation Authorities (CAs) deliver programs and services that protect the province's land and water resources on a watershed basis.

Conservation Ontario acknowledges the importance of renewable energy for sustainable growth, to combat climate change and to protect, maintain and restore the health of our watersheds. Conservation Ontario supports the Province's intent to develop legislation, regulations and other policies that facilitate renewable energy projects and streamline the application process for these projects.

The following comments are provided for your consideration based upon a review of the **Proposed Content for the Renewable Energy Approval Regulation under the Environmental Protection Act** by staff from Conservation Halton, the Toronto and Region Conservation Authority and Conservation Ontario.

General

CAs are created under the *Conservation Authorities Act*, which is administered by the Ministry of Natural Resources (MNR). In 2006, the Minister of Natural Resources approved the Development, Interference and Alteration Regulations for all Conservation Authorities (Ontario Regulations 42/06 and 146/06 to 182/06) consistent with Ontario Regulation 97/04 under Section 28 of the *Conservation Authorities Act*. Through these regulations CAs are empowered to regulate development in river or stream valleys, wetlands, shorelines and hazardous lands and associated allowances; the straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream, watercourse or for changing or interfering in any way with a wetland.

It is recognized that the Province is creating a streamlined approvals process for renewable energy projects that will be informed both by MOE's Renewable Energy Approval Regulation under the *Environmental Protection Act* and MNR's Approval and Permitting Requirements Document for Renewable Energy Projects. It is a concern that neither of these policy documents provide sufficient

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information or guidance to proponents of renewable energy projects about the potential need to obtain CA permits for projects taking place in regulated areas, or the process for doing so. As stated above, CAs support green energy generation and do not want to hinder the commencement of these projects. To ensure that proponents are fully aware of all the requirements they will have to meet prior to commencing work, and to facilitate timely permits, it is strongly recommended that one or both of these approval and permitting documents direct proponents to consult with CAs as early in their planning process as possible.

Below are specific comments regarding MOE's Proposed Content for the Renewable Energy Approval Regulation under the *Environmental Protection Act*.

Part II – Renewable Energy Approval Requirements

1. Under 'General – Supporting Documentation': Failing to obtain the necessary CA permits could result in project delays (for example, due to previously unidentified natural hazards); and in cases where a permit could not be approved, the project could not proceed. Conservation Ontario feels it is necessary to ensure that applicants are made aware of that fact before they invest a great deal of time or money into the application. Therefore, it is recommended that applications for a Renewable Energy Approval include supporting documentation from the local CA in the form of a letter that states that the CA has been consulted with and whether CA permits will be required for the project.
2. Under 'Application Process': The proposal states that "*Should a project be approved, notice of the decision will be given to the municipality where the project is located and to any aboriginal community that was consulted.*" The Ministry is asked to also send notice of the decision to the local CA.

Part III – Explanation of General Comments

1) Public Notice and Community Consultation

3. Part III(1) (Public Notice and Community Consultation) of MOE's regulation proposal states that "*...proponents would be required to hold a community consultation meeting at this stage, so that local residents and interested parties can be consulted in the early stages of project development. The proponent will then be required to commence any required studies and project design work.*" MOE's proposed Renewable Energy Approval Regulation recognizes that early in the project planning process proponents should be aware of all the parties who will have an interest in their project. As a watershed-based agency representing the watershed community, CAs should be specifically referenced as requiring notification and consultation.

5) Natural Heritage

4. This section sets out requirements of the proponent with regard to "setbacks" from natural heritage features. It is strongly recommended that proponents be made aware in this section that some natural features (e.g. wetlands, valleylands) are also regulated under the *Conservation Authorities Act*, and therefore more restrictive requirements may have to be met. It is recommended that proponents be directed to contact the local CA (where one exists) for advice as early in their planning process as possible.

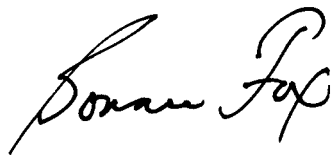
6) Water Bodies

5. This section sets out requirements of the proponent with regard to "setbacks" from water bodies. It is strongly recommended that proponents be made aware in this section that water bodies and adjacent lands are also regulated under the *Conservation Authorities Act*, and therefore more restrictive requirements may have to be met. It is recommended that proponents be directed to contact the local CA (where one exists) for advice as early in their planning process as possible.

6. This section states that “*All water crossings, bridges, culverts and causeways are exempt from this requirement as they are subject to the Ministry of Natural Resources’ Lakes and Rivers Improvement Act*”. Additionally, it is recommended that this section state that they are regulated under the Development, Interference and Alteration Regulations for all Conservation Authorities and as such the local CA should be contacted for advice.
7. It is recommended that this section make reference to reviews that may be required under Section 35 of the *Fisheries Act* (which have been delegated to CAs by Fisheries and Oceans Canada).

Thank you again for the opportunity to provide comments on the Ministry of Environment’s Proposed Ministry of the Environment Regulations to Implement the Green Energy and Green Economy Act, 2009. If you have any questions regarding these comments please contact myself at (905) 895-0716 ext. 223, or Natasha Leahy at ext. 228.

Sincerely,



Bonnie Fox
Manager, Policy and Planning

- c.c. All Conservation Authorities, CAOs/GMs
Jennifer Keyes, Manager, Renewable Energy Section, Ministry of Natural Resources
Charlene Vantghem, A/Coordinator Conservation Authorities and Watershed Management Unit,
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