



May 28, 2010

Adam Leus
Project Manager
Program Planning and Implementation Branch
Ministry of the Environment
135 St. Clair Avenue West
Toronto, Ontario M4V 1P5

RE: Renewable Energy Approval Technical Guidance Bulletins (EBR #010-9235)

Dear Mr. Leus,

Thank you for the opportunity to provide comments to inform the development of technical guidance bulletins that will provide more detailed guidance around O.Reg 359/09 (Renewable Energy Approvals under Part V.0.1) under the *Environmental Protection Act* to support the implementation of the *Green Energy Act*. The following comments are submitted on behalf of Conservation Ontario, which is the network of Ontario's 36 Conservation Authorities (CAs).

General Comments

- Currently Conservation Ontario is working with the Ministry of Natural Resources (MNR) and the Ministry of the Environment (MOE) to develop a Memorandum of Understanding (MOU) for coordinating service delivery for renewable energy project approvals. It is recommended that the technical bulletins be revised to align with the final direction provided within the MOU, and the MOU be referenced in the bulletins where appropriate. Although the MOU is currently only draft for discussion, the following is an example of where the direction within the technical bulletins differs from that proposed in the MOU: In Technical Bulletin #1, Section 4.7.3 (Natural Heritage Resources) states that a Natural Heritage Assessment study should be submitted to MNR for comment, and MNR will submit their comments to MOE. In the May 14/10 draft MOU, MNR would circulate their comments to the local CA as well.
- 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 proponents be directed to consult with CAs as early in their planning process as possible. In Technical Bulletin #5, page 1, paragraph 3, the document includes a statement that "strongly encourages" applicants to consult with other agencies that may have an interest in their project, including CAs. It is strongly recommended that this message be repeated in all of the Technical Bulletins.

Technical Bulletin #1: Guidance for preparing the Project Description Report

1.0 (Purpose of this Technical Bulletin)

- Page 1, paragraph 2: The document states that a Project Description Report (PDR) is part of an application for a Renewable Energy Approval from MOE, but may also be reviewed in

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relation to other permits and approvals required from MNR, Ministry of Tourism and Culture and Ministry of Transportation. It is recommended that CAs should also be included in this list as they would be issuing permits for the proposed works within areas regulated under their individual Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation (made under Section 28 of the *Conservation Authorities Act*). As noted above, currently Conservation Ontario is working with MNR and MOE to develop an MOU for coordinating service delivery for renewable energy project approvals, and the final direction provided in this MOU should be reflected in this and the other technical bulletins.

- Page 2, paragraph 1: As the *Conservation Authorities Act* is administered by MNR, it is recommended that the local CA be referenced in the list of agencies proponents are encouraged to contact. The following edit is proposed: *“It is highly recommended that at the early stages of the process, applicants contact MOE, Ministry of Energy and Infrastructure – Renewable Energy Facilitation Office, MNR, MTO and/or MTC and the local Conservation Authority, where one exists, for information and guidance on the requirements...”*. This recommendation would be consistent with the guidance provided in Section 3.3 of this document.
- Contact List (Appendix 2): Given the comments above, it is recommended that contact information for Conservation Authorities be included in the agency contact list found in Appendix 2. Conservation Ontario has added a direct link from its homepage for green energy proponents, that will provide them with the relevant information about CA permits and direct them to maps that will assist them in identifying the CA with jurisdiction over their proposed project location. The link to information for green energy proponents is http://www.conservationontario.ca/planning_regulations/green_energy_proponents.html. For users of the bulletin located in areas without internet access, Conservation Ontario’s office can be contacted for assistance. Therefore, the following addition is proposed to Appendix 2:

Conservation Authorities

To identify the local Conservation Authority and for contact information go to:

http://www.conservationontario.ca/planning_regulations/green_energy_proponents.html

Those without internet access who require assistance may contact:

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4.7 (Description of Environmental Effects)

- Page 5, paragraph 5: Because CA permits may be required, and recognizing that CAs are not considered “municipal authorities”, the following edit is requested: *“Applicants are encouraged to consult with relevant federal and provincial agencies, ~~and~~ municipal authorities, and other approval agencies (e.g. conservation authorities), qualified persons...”*.

4.7.2 (Natural Heritage Resources)

- It is recommended that proponents be made aware in this section that some natural heritage features (e.g. wetlands, valleylands) are also regulated under the *Conservation Authorities Act* due to the association with possible natural hazards (e.g. unstable soils and slopes), and therefore the local CA (where one exists) should be contacted to determine if more restrictive requirements than those of MOE or MNR have to be met.

4.7.3 (Water Bodies)

- 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

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bodies and adjacent lands are also regulated under the *Conservation Authorities Act*, and therefore more restrictive setbacks from water bodies may apply to their project. 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.

4.7.9 (Areas Protected under Provincial Plans and Policies)

- Page 8: For correct referencing the following edit is recommended: "*Lake Simcoe Watershed Protection Plan Area*".

Appendix 5 (Definitions and Setback Distances for Natural Features and Water Bodies under O.Reg 359/09)

- Page 26, re. "Setbacks from Water Bodies": As stated in the comment regarding Section 4.7.3 (Water Bodies), it is recommended that proponents be made aware 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.

Technical Bulletin #2: Guidance for preparing the Design and Operations Reports

General

- There is no direction in the document about designing for flood or erosion hazards that may be in or around the site. Although it is understood that the Renewable Energy Approval regulation does not address natural hazards, it is suggested that reference to the Ministry of Natural Resources Technical Guides for Natural Hazards be included in this bulletin and applicants be referred to the local CA for site specific information.

10.2 (Lake Simcoe Watershed)

- Page 20: It is recommended that this section note that permits issued under the Lake Simcoe Region Conservation Authority's Development, Interference with Wetlands and Alteration to Shorelines and Watercourse Regulation (O.Reg 179/06) are prescribed instruments under the *Lake Simcoe Protection Act* and Plan. This further emphasizes the importance of pre-consultation with the LSRCA.

11.4 (Hydrogeological Assessment Report)

- Page 24: It is recommended that applicants be directed to contact the local CA for any watershed plans or studies that may have a bearing on impacts to natural water supplies (surface or groundwater).

11.8 (Surface Water Assessment)

- Page 27: It is recommended that applicants be directed to contact the local CA for any watershed plans or studies that may relate to potential impacts to surface water.
- Page 27: This section states that the Surface Water Assessment Report must be completed by a licensed professional engineer or geoscientist (or by someone under the supervision of such professionals) and that the report should include a description of the aquatic habitat and aquatic community in the nearest viable habitat upstream and downstream. It is recommended that it would be more appropriate for this information to be gathered by a qualified biologist or ecologist.

Technical Bulletin #3: Guidance for preparing the Construction Plan Report

General

- It is recommended that the scope of the document be broadened to address risks that could affect mitigation measures (for example, storm events that affect the function of sediment and erosion controls).

2.1 (Description of Construction and Installation Activities)

- Page 2: It is recommended that this section state that proposed construction activities and mitigation techniques need to reflect the local site soil and drainage conditions.
- Pages 2-3: It is recommended that the applicant pre-consult with Conservation Authorities for their input into timing and operational plans, temporary uses of land, negative environmental effects, mitigation measures and environmental monitoring as these aspects may be impacted by permit conditions for the proposed works within areas regulated under the Conservation Authorities' individual Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation (made under Section 28 of the *Conservation Authorities Act*).

Technical Bulletin #4: Guidance for preparing the Decommissioning Plan Report

General

- It is recommended that the applicant pre-consult with the local CA to determine if permits are required for the rehabilitation measures associated with the decommissioning of a site.
- It is recommended that a requirement be included for the applicant to identify measures and monitoring plans post-decommissioning to evaluate the success of the restoration.

Technical Bulletin #5: Guidance for preparing the Consultation Report

1.0 (Purpose of this Technical Bulletin)

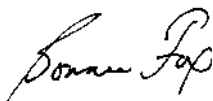
- Page 1, paragraph 3: While the messaging of the following comment is strongly endorsed, for accuracy the following minor edit is suggested: "...*applicants are strongly encouraged to consult with other regulatory agencies that may have an interest in their projects, including... (MTC), local Conservation Authorities (CAs) and the federal government agencies.*"

Technical Bulletin #6: Required Setbacks for Wind Turbines

No comments.

Thank you again for the opportunity to provide input to inform the development of the Renewable Energy Approval Technical Guidance Bulletins. If you have any questions regarding these comments please contact me at (905) 895-0716 ext. 223 or Natasha Leahy at ext. 228.

Sincerely,



Bonnie Fox
Manager, Policy and Planning

c.c. All Conservation Authority GMs/CAOs
CA Section 28 Regulations Contacts
Liz Mikel, Ministry of Natural Resources

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