



September 25, 2009

Brenda Koenig
Aquatic Ecologist
Fisheries Section, Fish and Wildlife Branch
Ministry of Natural Resources
300 Water Street
5th Floor, North Tower
Peterborough, Ontario
K9J 8M5

RE: Draft Watershed-based Fisheries Management Plan (WBFiMP) Guideline

Dear Ms. Koenig,

Thank you for the opportunity to comment on the Ministry of Natural Resources' (MNR) draft **Watershed based Fisheries Management Plan (WBFiMP) Guideline**. Conservation Ontario represents Ontario's 36 Conservation Authorities (CAs).

The following comments are submitted for your consideration based upon a review of the proposed draft by staff from Toronto and Region Conservation Authority, Upper Thames River Conservation Authority and Conservation Ontario.

It is noted that this fifth draft version of the WBFiMP Guideline has not changed significantly from previous drafts. Additional information that has been added to this version, particularly that covering "Consultation with Aboriginal Peoples" and "Appendix 9: Meeting Ontario Environmental Assessment Act Requirements", is considered to be quite useful. It is recognized that many of the comments that Conservation Ontario submitted to MNR in a letter dated February 9, 2006 regarding the previous draft were incorporated into the current draft. Comments submitted previously that were not addressed in the latest draft have been reiterated here.

General Comments

It is recommended that the document be edited for spelling and grammar.

WBFiMP Funding

Funding for the development of a WBFiMP may be an issue for many CAs. It is believed that a long-term funding commitment from MNR and Fisheries and Oceans Canada (DFO) is required in order to ensure the completion or updating of WBFiMPs across the province.

As financial resources to fund WBFiMPs may be limited, it is recommended that guidance be included regarding how to prioritize what plans should be developed.

Integration of the Plan

One of the issues regarding the development of fisheries management plans is integration with terrestrial strategies, water management strategies, or existing watershed plans. This document does not provide direction on how that integration might occur. On page 2, fourth paragraph, the Guideline states: *“The WBFiMP must consider and incorporate, where applicable, legislation and other fisheries-related policy documents and planning frameworks (Appendix 1). For example, a WBFiMP should be closely linked to a Great Lakes fisheries management plan, recovery strategy and/or watershed management strategy in instances where these policies exist.”* On page 3, the second bullet suggests that the use of the Guideline will ensure that Fisheries Management Plans:

“assimilate a broader strategic approach where:

- *management and implementation are shared across jurisdictional agencies,*
- *water management strategies, including source water protection, flow management and water quality/quantity management are addressed,*
- *land management strategies (including Official Plans) are addressed in the context of their potential impacts on aquatic and riparian resources*
- *a continuous improvement in environmental performance is promoted,”*

Many CAs are developing comprehensive watershed management strategies, which include a section on aquatic habitat and communities, but deal with all aspects of the ecology and function of a watershed. It is recommended that the Guideline include additional wording to suggest that in the situation where a watershed management strategy is either in preparation or already completed, the WBFiMP should be closely linked to the watershed management strategy (e.g. in ‘Step 5 – Defining Key Elements of the Plan’). It would not be necessary to provide as much detailed information on such aspects as the geology, hydrogeology, water budget and hydrology, and terrestrial habitat in the WBFiMP, but simply to refer to the watershed management strategy document for this information. If the watershed management strategy has detailed strategies for dealing with impacts from land development, and these strategies are already incorporated into Official Plan documents, the WBFiMP would confirm and reinforce these strategies, but would not need to include these strategies as part of the implementation plan. In this case, the WBFiMP would be more focused on actual fisheries management tactics, such as species partitioning, special regulations or stocking.

It is also recommended that integration with Natural Heritage Systems be encouraged in the Guideline. The guidance provided regarding Natural Heritage Systems should include additional information about buffers, which should be multifunctional and not just for fish, which is now being better addressed through Natural Heritage Planning.

The degree of protection provided by the WBFiMP is only as strong as the will to use and implement the document. It is suggested that the Guideline recommend an approach to incorporating the management direction developed in each plan into the municipal planning process, such as is being done, for example, through natural heritage planning.

Large-Scale vs. Small-Scale

As this document is focused primarily on the watershed scale, it is recommended that a section be included discussing how the WBFiMP could be applied to a more local level (e.g., subwatershed scale) where the physiography and hydrology driving the fish community may be unique OR land use affecting stream health is distinct from the rest of the watershed (rural vs. urban). Although ‘Step 5 – Defining Key Elements of the Plan’ does discuss approaches that use subwatersheds as the management zone (under the heading ‘Delineation of Management Zones’), it is recommended that technical information, or other considerations, used for delineating local management zones be provided in the Guideline (e.g. what ecological metrics should be considered, should barriers be used as break points). This level of detail could be provided as an Appendix. To that end, it is recommended that the Guideline also include

definitions of scale (e.g., what is considered a subwatershed). Information that recognizes the potential importance for managing at different scales, and helps define and develop such management areas, can provide the basis for choosing the most appropriate FMP framework.

Role of Non-Aquatic Disciplines

The role of non-aquatic disciplines in the development of WBFiMPs should be emphasized as many of the recommendations focus on development-related issues such as sediment and water quantity. The roles of water engineers, planners, terrestrial ecologists, and others in the development of each plan should be considered.

Headwater Drainage Features

It is recommended that the document provide guidance around headwater drainage features that do not sustain fish directly but are very important in contributing to and forming suitable habitat. Credit Valley Conservation and the Toronto and Region Conservation Authority (TRCA) have developed “Evaluation, Classification and Management of Headwater Drainage Features: Interim Guidelines” (updated March 2009) that the WBFiMP Guideline could draw upon for information. Christine Tu, Supervisor, Aquatic Management, Ecology Division, TRCA ((416) 661-6600 ext. 5707, CTu@trca.on.ca) has offered to work with MNR staff to draft wording for inclusion in the Guideline around headwater drainage features and will provide MNR with a copy of the interim headwater drainage features guidelines.

Specific Comments

Introduction

- Page 2, last paragraph: This paragraph introduces the direction that a WBFiMP should be subject to an annual review and an in-depth review will occur within five years. It is recommended that the Guideline include information regarding what these annual and five-year reviews should include, what resources they will require and how they will be supported. For example, guidance is sought regarding what consultation, notification and approval requirements are associated with changes to the plans based on these reviews.

Guiding Principle #7, Habitat Protection.

- It is recommended that ‘Habitat Protection’ include a reference to compliance, as compliance programs are effective tools with which to protect habitat.

WBFiMP Preparation – What is the Process (8 Steps)

- It is recommended that more process details be included in the Guideline as to how the WBFiMP will be funded. That is, it is recommended that resources required to complete the watershed WBFiMP be identified and the management team prepare detailed budget early in the planning process.

8 Steps for Preparing a WBFiMP (Flow Chart)

- The guidance provided under the ‘Identifying Strategies and Actions’ subsection of Step 5 states that strategies should be developed through public consultation. The description of Step 6 states that two or three public engagement/consultation periods may be necessary. Therefore it is recommended that arrows be added to the flow chart to link Stages 5 and 6 back to Stage 4, as the steps suggest that engaging the public is an iterative part of the WBFiMP preparation process.

Step 2 – Developing a Management Team, Management Team Leadership and Composition

- This section states that the team should contain at least one rep from each of MNR, DFO and CAs, but recognizes that CAs may not be able to commit a representative because of resource constraints, but that in these instances the local CA should be kept informed of fisheries management planning progress. It is recommended that this section also outline what would occur if DFO or MNR lacks the resources or staff capacity to commit to the team to the level the Guideline requires.
- It is recommended that this section be clear that DFO, MNR and CAs must be able to commit the resources and time necessary in order to proceed with the development of the WBFiMP.
- It is recommended that a governance model be outlined for the management team, which would be included in the principles of operation/terms of reference.
- It is recommended that Provincial government representatives listed should also include the Ministry of Transportation (MTO). Additionally it is suggested that the Building Industry and Land Development Association be listed as a potential partner agency.
- It is recommended that the group name “Stakeholders and Anglers”, which is found in the Representatives Table, be replaced with the title “Recreation and Business Associations”.
- It is recommended that guidance be included as to how to ensure continuity of the management team in the event that there is a high turnover rate among its members. For example, it may be important that records be kept that outline context that will explain why certain decisions that were made.

Step 4 – The Public Process – Engaging the Community Groups

- Step 3 of the consultation process outlined in this sections states that “*The final version of the WBFiMP should be presented to the public for fine-tuning and endorsement, before the formal endorsement process...is initiated.*” The section then states that the formal endorsement process is obtained via the posting of a proposal notice on the Environmental Registry. It is understood that at the Step 4 stage the committee is to provide opportunities for public engagement and consultation rather than formal endorsement. Therefore, it is suggested that the above statement be revised in such as way as follows: “*The final version of the WBFiMP should be presented to the public **to provide opportunities for comment to fine-tune it prior to posting on the Environmental Registry for a final public review** ~~for fine-tuning and endorsement~~, before the formal **endorsement approval** process...is initiated*”. It is believed this amendment would respect the fact that the process should encourage public input but reduce the challenges and culpability associated with “endorsement” per se.

Step 5 – Defining Key Elements of the Plan:

- The section on ‘Baseline Information’, under the heading ‘Delineation of Management Zones’, states that “*This information should be presented so that the management team and public understand at a basic level how their watershed works (contextual) and how various decisions affect their system...*”. It is suggested that the document expand on this direction by stating that baseline information should be gathered and prepared in a format suitable for public consumption and the management/legislation framework described prior to stakeholder and public engagement. The management/legislation framework can be edited once the stakeholders are added to the management team, and public input will supplement the background information. It is believed that having these items in place prior to public engagement will aid the process and assist with completing the project in a timely fashion.

- Regarding the section on 'Setting Direction – Developing Goals, Objectives, Strategies and Actions', it is recommended that the Guideline be clear that MNR has the final decision in Ontario concerning fish stock management, as there is a concern that interpretation of the Goals and Objectives section may lead to false expectations from stakeholders.

Step 6 – Reviewing Drafts and Attaining Endorsement

It is recommended that the term “endorsement” be changed to “final approval”, as this section outlines the process to have the plan reviewed so it may be finalized for approval. It is also recommended that this section clearly state who must approve the plan in order for it to be finalized, as it is unclear whether the committee members would have the authority to finalize the plan or whether approval would be required by agency staff at certain levels of authority.

Step 7 – Implementation

- Similar to the comments included under the 'Use of Watershed Management Strategies' heading above, it is recommended a bullet be added here that suggests the Implementation Committee integrate the actions recommended in the WBFiMP with any existing watershed management strategies.
- It is recommended that the Guideline indicate that implementation can occur during the process of completing a WBFiMP.
- It is recommended direction regarding promotion and education around the WBFiMP should be added to this section.
- It is recommended that this section state that in some cases an implementation plan will be required, and provide guidance on how to develop an implementation plan.

Generic Framework for a WBFiMP; Tools

- It is suggested that these sections be included as appendices to the Guideline, rather than included in the body of the document.

Appendix 1: Summaries of Federal and Provincial Legislation Relating to Fisheries Management

- It is recommended that the description of the *Conservation Authorities Act* be expanded upon to include a reference to CA Section 28 regulations, which in general apply to activities in and around water. The suggested addition is found below, in bolded text.

Conservation Authorities Act

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90c27_e.htm

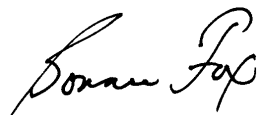
The mandate of a conservation authority (**CA**) under this *Act* is to “establish and undertake, in the area over which it has jurisdiction, a program designed to further the conservation, restoration, development and management of natural resources other than gas, oil, coal and minerals”. Authorities have the power to undertake research, acquire land, raise municipal levies, construct works, control surface water flows, create regulations, and prescribe fees and permits. A recent addition to CA responsibilities is groundwater monitoring, in partnership with the Ontario Ministry of the Environment. Conservation authorities also partner with local municipalities to conduct watershed and subwatershed studies and plans. Additional programs include reforestation and sustainable woodlot management, watershed strategies and management, ecosystem regeneration, environmental education and information programming, land acquisition, outdoor recreation, water quality and quantity, soil conservation, environmental land use

planning, habitat protection, agricultural and rural landowner assistance, and sensitive wetlands, flood plains, valley lands protection.

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; and, other areas where, in the opinion of the Minister, development should be prohibited or regulated or should require the permission of the CA. These regulations complement municipal implementation of provincial policies under the *Planning Act* such as hazardous lands and wetlands.

Thank you once again for the opportunity to comment on the draft WBFiMP Guideline. If you have any questions or concerns with these comments please contact myself at (905) 895-0716 ext. 223, or Natasha Leahy at ext. 228.

Sincerely,



Bonnie Fox
Manager, Policy & Planning

c.c. All Conservation Authorities CAOs/GMs
CA Aquatics Group