



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 Liaison

Date: May 29, 2018

Subject: Conservation Ontario's Comments on "Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence".

Summary

On February 6, 2018, Fisheries and Oceans Canada (DFO) introduced Bill C-68, which proposes amendments to the *Fisheries Act* with the aim to better protect fish and fish habitat. Conservation Ontario is supportive of the proposed changes found within Bill C-68. In its letter sent to the Standing Committee on Fisheries and Oceans dated May 10, 2018, Conservation Ontario reiterated its concerns with letters of credit required for offsetting projects as part of a project authorization. While not directly related to the Bill as the origins of the letters of credit are found in regulations supporting the implementation of the *Fisheries Act* it is understood that DFO is currently developing a regulatory and policy development workplan moving forward. In the May 10th letter, Conservation Ontario included a request to be engaged in regulatory and policy development discussions following the passage of Bill C-68.

Recommendation

THAT Conservation Ontario's comments on "Bill C-68 An Act to amend the Fisheries Act and other Acts in consequence" sent to the Standing Committee on Fisheries and Oceans on May 10, 2018 be endorsed.

Background

On February 6, 2018, Fisheries and Oceans Canada (DFO) introduced Bill C-68, which proposes amendments to the *Fisheries Act* with the aim to better protect fish and fish habitat. This proposed legislation follows Fisheries and Oceans Canada's two year consultation with experts and the public to drive the review of the *Fisheries Act*. The review involved two phases. In phase one of the review, the Standing Committee on Fisheries and Oceans was charged with consulting with experts and the public. Public feedback was received through a workbook from October 18, 2016 until November 25, 2016. At the December 2016 meeting, Council endorsed a submission to the province to be shared as part of the

phase one review of the *Fisheries Act*. From the analysis of the recommendations provided by the Standing Committee, it appears as though CO's comments were incorporated into the final report.

In phase two of the review, the public provided feedback on the "Environmental and Regulatory Reviews Discussion Paper" from July 26 until September 11, 2017. Conservation Ontario Council endorsed comments at their September, 2017 meeting. The comments recommended early engagement in the planning process whenever possible. Additionally, it was recommended that the government should also examine the process and criteria by which DFO assesses impacts to fish and fish habitat as well as DFO's current human resourcing limitations.

Throughout the two phases of the *Fisheries Act* review Conservation Ontario asked CAs to identify any significant concerns related to the current implementation of the *Fisheries Act*. Building on comments submitted through previous stages of the review, Conservation Ontario submitted its comments on Bill C-68 to the Standing Committee on May 10, 2018.

Current Status

Conservation Ontario staff have participated in briefings on the proposed Bill C-68 at both the provincial and federal level. The proposed legislation includes provisions to restore the prohibition against the harmful alteration, disruption or destruction of fish habitat (HADD); reconciliation with Indigenous peoples; increased enforcement provisions; and a modernization of the legislation, including a new purpose statement and the ability to consider cumulative effects. The Bill has passed second reading and has been amended by committee. It is anticipated that the Bill will be passed prior to the end of the fall term of Parliament.

Conservation Ontario is supportive of the proposed changes found within Bill C-68. While not directly related to Bill C-68, as it is part of the regulations for implementation, letters of credit for offsetting projects required as part of an authorization has had significant implications on the work conducted by Conservation Authorities and other public agencies. With the understanding that DFO is currently developing a regulatory and policy development workplan moving forward, Conservation Ontario took the opportunity to submit a letter to the Standing Committee on Fisheries and Oceans outlining our request for an exemption on securities for habitat enhancement projects.

Conclusion

Bill C-68 has now passed second reading and has been amended by committee. It is expected that the regulatory and policy framework to implement the updated *Fisheries Act* will be developed over the next 1-2 years. Conservation Ontario will continue to seek opportunity to influence the development of these frameworks moving forward.



May 10, 2018

Standing committee on Fisheries and Oceans
Sixth Floor, 131 Queen Street
House of Commons
Ottawa, ON K1A 0A6
fopo@parl.gc.ca

Re: Conservation Ontario's Comments on "Bill C-68 An Act to amend the Fisheries Act and other Acts in consequence"

Madam Chairperson:

Thank you for the opportunity to provide feedback on "Bill C-68 An Act to amend the Fisheries Act and other Acts in consequence". Conservation Ontario (CO) is the network of Ontario's 36 Conservation Authorities (CAs), which are community-based watershed management agencies dedicated to conserving, restoring and managing Ontario's natural resources on a watershed basis. CAs have extensive knowledge of the *Fisheries Act* as prior to the amendments to the Act in 2013 all 36 CAs had partnership agreements with Fisheries and Oceans Canada (DFO) to review proposed projects in their watershed under Section 35 on their behalf. Since the amendments to the *Fisheries Act* many CAs continue to have at their disposal extensive fish habitat information and may have prepared fisheries/fish habitat management plans, which continue to benefit fish and fish habitat in their watersheds.

CO and DFO continue to have a MOU which recognizes our respective responsibilities for regulatory reviews and approvals and aquatic resource protection, and we continue to develop a collaborative approach to fisheries and aquatic resource protection in Ontario. Conservation Ontario is highly supportive of effective partnerships which streamline approvals and contribute to better environmental outcomes.

Aquatic systems, including fish and fish habitat, are an important barometer of the overall health of a watershed. As watershed managers, CAs undertake many activities designed to protect and restore aquatic systems. Conservation Ontario is supportive of the proposed changes found within Bill C-68 which aim to better protect fish and fish habitat. It has been our experience that DFO *policy* and human/financial *resources* equally directs how DFO manages fish habitat, as evidenced by the changing thresholds for authorizations under the previous version of the Act and the current reliance on the self-assessment process. Given our strong history as aquatic managers, our previous partnership agreements with DFO and our current MOU, it is Conservation Ontario's expectation that CAs will continue to be engaged in regulatory and policy development discussions directly and through the Canada Gazette process moving forward.

While not directly related to Bill C-68, since the *Fisheries Act* was amended in 2012 letters of credit have been required for offsetting projects as part of an authorization. This change in regulation has had a significant implication on the work conducted by Conservation Authorities and other public agencies,

and may impede opportunities for fisheries habitat restoration in Ontario. For example, the Lakeview Waterfront Connection (LWC) is a joint effort of the Region of Peel and Credit Valley Conservation with Toronto and Region Conservation Authority providing technical expertise. The Environmental Assessment was approved for this project in May, 2015 with construction beginning in November, 2016. The LWC will see the creation of a new 26 hectare conservation area which will provide public access to the waterfront and improve fish and wildlife habitat. This includes the creation of three rocky islands to be built offshore and several coastal wetlands, which will provide much-needed habitat for fish.

Although the identified goal of the LWC Project is “to create a new waterfront park that will establish ecological habitat and public linkages on the eastern Mississauga waterfront”, it nonetheless required an authorization under the *Fisheries Act*. The application includes the required submission of a plan to undertake offsetting measures to counterbalance the unavoidable residual serious harm to fish in addition to a letter of credit. The letter of credit was required to be sufficient to complete the offsetting plan and monitoring program, including administration. The letter of credit associated with LWC was issued for \$8.4 million. Additional bank and administration fees associated with the letter of credit were \$230,000 in 2016, representing a *permanent loss of public funds*.

It is agreed that there is a need for securities in some cases where there is a risk that the work may not be undertaken. For conservation projects undertaken by public agencies; there is no anticipation of insolvency and thus there is an extremely low risk that the projects will not be completed as proposed. Further, where projects are designed to enhance fish habitat then a letter of credit is redundant. The issue of securities for offsetting measures is of serious concern because of its financial and administrative implications for Conservation Authorities and other public agencies undertaking initiatives aimed at restoring degraded fish habitats. Without the support of their Regional partner, Credit Valley Conservation would not have been able to guarantee the letter of credit and the project may have been terminated.

Given that these letters of credit are creating an unacceptable loss of taxpayer money and potentially preventing other organizations from undertaking significant restoration projects, Conservation Ontario respectfully requests that the Standing Committee recommends the removal of the requirement for public agencies undertaking conservation work to get a letter of credit as part of any authorization under the *Fisheries Act*.

Thank you for the opportunity to provide input on “Bill C-68 An Act to amend the Fisheries Act and other Acts in consequence”. Should you have any questions about this letter, or require any additional details, please do not hesitate to contact me at extensive 226.

Sincerely,



Leslie Rich, MES RPP
Policy and Planning Liaison

Conservation Ontario
120 Bayview Parkway, Newmarket ON L3Y 3W3
Tel: 905.895.0716 Email: info@conservationontario.ca
www.conservationontario.ca