



Juwairia Obaid
Ministry of the Environment, Conservation and Parks
Environmental Assessment Branch
135 St. Clair Avenue West
Toronto Ontario, M4V 1P5

December 9th, 2021

Re: Conservation Ontario's comments on the "Amendments to exempt low risk sewage works from requiring an Environmental Compliance Approval" (ERO#019-4456)

Thank you for the opportunity to comment on the "Amendments to exempt low risk sewage works from requiring an Environmental Compliance Approval" (ERO#019-4456). Conservation Ontario (CO) represents Ontario's 36 Conservation Authorities (CAs), which are local watershed management agencies, whose mandatory programs and services includes a variety of responsibilities and functions related to water resources and natural hazard management, as well as Drinking Water Source Protection.

It is understood that the Province is proposing regulatory changes to O. Reg. 525/96 (Approval Exemptions) under the *Ontario Water Resources Act* to exempt certain additional low risk sewage works from the requirement of obtaining an Environmental Compliance Approval (ECA). Specifically, the proposed amendments would remove the requirement to obtain an ECA for: low impact development works located on single private residences; foundation drainage works; ultraviolet treatment to control zebra and quagga mussels in water pipes; and, construction site dewatering. Certain aspects of these works may continue to require an ECA, or would continue to be regulated under other municipal or provincial permissions frameworks (e.g., requiring a permit to take water). Despite the proposal to remove the requirement to obtain an ECA for these works, the Ministry would maintain the authority to inspect the sewage works and ensure compliance with all legislative and regulatory requirements, and to ensure that the works do not cause adverse impacts.

Conservation Ontario offers the following comments on the proposed exemptions, specifically, those proposed for low impact development works and construction site dewatering.

Low impact development works located on single private residences

As part of the proposed regulatory amendments, it is understood that the Province is proposing to remove the need for proponents to obtain an ECA for Low Impact Development (LID) works located on single private residences. Remaining stormwater management works located at the housing development site would continue to require an ECA.

Conservation Ontario generally supports the proposed exemption in most cases. In line with MECP, CAS promote a treatment train approach in the design of stormwater management (SWM) controls that includes source control on private properties as part of treatment. For reference, the LID Treatment Train Tool focusses on the use of Best Management Practices and LID techniques to analyze annual and event-based runoff volumes and provide estimates of water quality improvements. The tool has been designed to assist developers, consultants, municipalities and landowners to understand and implement more sustainable SWM planning and design practices. As mentioned, Conservation Ontario generally supports the proposed exemption in most cases, however, if LID works on private properties are not part of the ECA, we would request additional details on how the treatment train approach will work, including who / how the treatment train approach will be maintained. There is concern that the proposed exemption may discourage the implementation of LID works and focus on end of pipe controls only.

Further, it is recommended additional language be included to delineate single independent LID works on single private residences from combined LID works on multiple “single private residences” (e.g., LID works on multiple lots within a subdivision), which would contribute to larger cumulative impacts, such as a larger quantity control (stormwater volume reduction effort) as part of a treatment train approach. The cumulating impact of LID works on multiple single private residences would represent a larger runoff volume control (reduction) and quality control concept. Given the potential for increased cumulative impacts, it is more appropriate that LID works on multiple single private residences continue to require an ECA, along with established longer term operating and maintenance requirements to ensure the LID feature is properly functioning.

Proper maintenance of any LID feature is directly linked to its performance. While the implementation of LID works on single private residences is supported, there needs to be assurance that proper ongoing maintenance will take place to achieve optimal outcomes and provide for long-term operation (e.g., continuity of operation, providing credit(s) for peak flows, phosphorus reduction, water balance and volume control and prevention of flooding, erosion and pollution issues). In lieu of the requirement for an ECA (which would include operation and maintenance responsibilities for the LID feature), it is recommended that measures be put in place to ensure proper operation and maintenance of the LID feature over time. One potential solution could be to require agreements between municipalities and landowners to ensure a specified party is accountable for the operation and maintenance of the LID feature. Without measures in place to ensure ongoing maintenance and proper operation, it is possible that this proposed exemption could result in a gradual degradation of the efficacy of the LID feature.

Under the lens of source water protection, there is a recent decision from the Province on changes to the Director Technical Rules made under section 107 of the Clean Water Act (ERO #019-2219), which relates to the *Amendments to exempt low risk sewage works from requiring an Environmental Compliance Approval* (ERO#019-4456). While the Circumstances proposed for residential land uses (e.g., serving an area of more than 200 m² of impervious surfaces [excluding roofs] in an area with a vulnerability score of 10) would rarely occur on single private residences, such occurrences would not be

impossible. It is suggested that the Province revise their current proposal to exempt low impact development works located on single private residences, where it would **not** be a Significant Drinking Water Threat or, perhaps more simply, as explained in the paragraph below, where the single private residence is within a Source Water Protection vulnerable area.

If LID works, which may be a significant threat to drinking water, were exempted from the need for an ECA as proposed by MECP, Source Protection Committees would need to assess other ways of addressing any such threat, including the development of Risk Management Plan policies (under section 58 of the *Clean Water Act*). In that case, the Ministry may need to add Risk Management Measures appropriate for residential LID works to the Risk Management Measures Catalogue, and may wish to add content specific to LID works to the Risk Management Official training (including how to recognize the difference between a residential LID feature and an aesthetic feature, and how to properly maintain LID features to mitigate risks to drinking water). If the private LID works are within a Source Water Protection vulnerable area, perhaps this could be presented as a condition that would **disallow** the single private residence LID scenario from being 'exempt'. Most likely, the development will be out of these areas anyway, unless it is an older private residence that has a site alteration and LID works are a component of the revised Storm Water Management Plan (SWM) plan. However, protecting municipal drinking water sources must be of the utmost importance and responsibility of all Branches of the Ministry of Environment of Conservation and Parks in a cohesive and complementary manner.

Construction site dewatering

It is understood that the Province is proposing to remove the requirement for proponents to obtain an ECA for sewage works that collect, transmit, treat and dispose of stormwater and ground water taken during the dewatering of construction sites. Currently, proponents are required to either self-register on the Environmental Activity and Sector Registry (EASR) or obtain a permit to take water (PTTW) for dewatering of construction sites. Construction site dewatering activities which are eligible for self-registration on the EASR do not require a separate ECA for sewage works, however, an ECA is required for those activities which require a PTTW.

Conservation Ontario acknowledges that for construction site dewatering, requirements under O. Reg. 387/04 (Water Taking and Transfer) would remain in place for proponents, including taking all necessary measures to ensure that water quantity and quality are not affected upstream or downstream of the work area, and that discharges associated with the water taking do not cause adverse impacts. It is recommended that water takings proposed in water-quantity stressed areas are appropriately screened to consider potential cumulative impacts, including those outside of the overlapping areas of influence. When proposing to undertake such activities, it is recommended that the location of sensitive features and watershed boundaries be considered. Further, for discharge associated with these activities, it is recommended that discharge location should be in proximity to water taking locations (within the same watershed) to ensure that sensitive features that rely on the water are not affected by the water taking. Consideration to significant groundwater recharge areas should also be given to avoid potential impacts on ground water quality via discharge.

Thank you for the opportunity to provide comments on the "Amendments to exempt low risk sewage works from requiring an Environmental Compliance Approval" (ERO#019-4456). Should you have any questions regarding the above comments please contact myself at nfischer@conservationontario.ca,

Ext. 229, or Deborah Balika (Source Water Protection Lead) at dbalika@conservationontario.ca or Ext. 225.

Sincerely,

A handwritten signature in black ink that reads "Nicholas Fischer". The signature is written in a cursive style with a large initial 'N'.

Nicholas Fischer
Policy and Planning Officer

c.c. All CAOs/GMs