



July 12, 2023

Ministry of Natural Resources and Forestry

Submitted via the Environmental Registry of Ontario (ERO#019-6767)

Re: Conservation Ontario's Comments on the "Proposed changes to the Aggregate Resources Act, Ontario Regulation 244/97 to expand self-filing activities and a new policy regarding amendments to existing aggregate approvals" (ERO #019-6767)

Thank you for the opportunity to provide comments on the "Proposed changes to the Aggregate Resources Act, Ontario Regulation 244/97 to expand self-filing activities and a new policy regarding amendments to existing aggregate approvals". Conservation Ontario is the network for Ontario's 36 Conservation Authorities (CAs). These comments are not intended to limit the comments submitted by individual CAs.

Conservation Authorities may become involved with reviewing applications submitted pursuant to the *Aggregate Resources Act (ARA)* in several ways. Through Ontario Regulation 686/21, CAs may review proposals under the *ARA* for the purpose of commenting on risks related to natural hazards (e.g., floodplains, river valley slopes, etc.) arising from the proposal. When carrying out its duties, functions, and responsibilities as a source protection authority under the provisions of the *Clean Water Act, 2006*, a CA may further review and comment on applications for the purpose of determining whether the proposal relates to a significant drinking water threat, as well as the potential impact to drinking water sources protected by the source protection plan. Upon notification from municipalities, source protection authorities may also assess whether certain activities such as aggregate extractions are considered transport pathways under the *Clean Water Act* and advise on the application of policies.

Proposed Amendments to Ontario Regulation 244/97

It is understood that the Ministry of Natural Resources and Forestry (MNRF) is proposing to amend Ontario Regulation 244/97 to expand the list of site plan amendments which can be made without ministry approval where conditions and criteria are met. As the Ministry

considers expanding this list, consideration must be given to ensure these activities would not aggravate existing or create new natural hazards, nor negatively impact sources of drinking water. O. Reg. 287/07 (General) under the *Clean Water Act* provides that site plans included in applications or licences under the *ARA* are “prescribed instruments” for the purposes of the *Clean Water Act* and are required to conform with the significant threat policies or designated Great Lakes policies within local source protection plans. Conservation Ontario acknowledges the proposed conditions for select activities which would help minimize negative impacts, such as establishing setbacks from natural features and protecting sources of drinking water (e.g., ensuring recyclable materials are not stored within 30m of a water body, no storage of fuel tanks in vulnerable areas for the protection of drinking water sources, etc.).

Drinking Water Source Protection

As noted above, the Ministry has proposed eligibility criteria and conditions for the self-filing approach for select activities to protect sources of drinking water. For instance, adding, re-locating or removing above ground fuel storage tanks would not be permitted within a vulnerable area for the protection of drinking water sources where the handling and storage of fuel would be a significant drinking water threat. While these conditions are appreciated, Conservation Ontario is concerned that other significant threats, such as handling and storage of road salt or snow storage, may be associated with a number of activities proposed for the self-filing approach. As such, it is recommended that the Ministry establish criteria or conditions to ensure a clear linkage with the *Clean Water Act* and site plan amendments.

To ensure strong protection for drinking water sources, it is recommended that proposed site plan amendments involving activities that are prescribed drinking water threats be reviewed by the implementing body of the local source protection plan policy. When undertaking site plan amendments, licensees should ensure consistency with applicable legislation and policy, including that outlined in local source protection plans, along with proactive measures to protect both municipal and private drinking water sources and designated vulnerable areas. This approach would be consistent with direction provided in the proposed Provincial Planning Statement that requires planning authorities to implement necessary restrictions on development and site alteration to protect drinking water sources and designated vulnerable areas. To assist licensees with identifying local vulnerable drinking water zones / areas and the applicable Source Protection Authority, licensees should be directed to the [Source Protection Information Atlas](#) prepared by the Ministry of the Environment, Conservation and Parks.

Natural Hazards

Proposed amendments to the list in section 7.2 of O. Reg. 244/97 include the ability for licensees to add or re-locate site entrances or exits without Ministry approval. As part of the self-filing approach, licensees would be required to ensure works do not harm or negatively impact natural or cultural heritage features. Conservation Ontario strongly

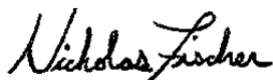
recommends an additional condition be included to ensure that adding or re-locating site entrances or exits does not aggravate existing or create new natural hazards. Conservation Ontario acknowledges that initial applications for licences and permits are circulated to CAs to determine if the proposed site is within a regulated area under the *Conservation Authorities Act* and to review for potential negative impacts to natural hazards. However, use of the self-filing approach may result in new site entrances or exits being located within regulated areas under *Conservation Authorities Act* on the site. To ensure that site plan amendments do not negatively impact flooding, erosion, or other natural hazards, it is recommended that licensees circulate proposed changes to site entrances or exits to the local Conservation Authority for review prior to finalizing site plan amendments.

Proposed Policy “Applications to amend licences, permits, and site plans under the Aggregate Resources Act”

In addition to the regulatory changes, the Ministry is proposing a new policy to clarify public consultation and notification requirements for amendments to authorizations requiring Ministry approval. The proposed policy would replace 12 existing provincial aggregate policies and procedures, many of which direct Ministry staff to advise operators/licensees to circulate notices and copies of the licences, site plans or permits to the local CA, as applicable. Conservation Ontario is pleased to note that the proposed policy continues to identify CAs as agencies which may require notification at the direction of the Ministry. It is noted that the Table in section 4.2 of the proposed policy provides that notification to a CA may be required for “significant amendments that may have potential to create negative impacts related to flooding, erosion or other natural hazards”. Conservation Ontario recommends an amendment to the Table be made to clarify that notification to a CA may also be required where a proposed amendment is taking place within a source protection plan area to determine whether the proposal relates to a significant drinking water threat and/or would impact drinking water sources protected by the Plan.

Once again, thank you for the opportunity to provide comments on “the “Proposed changes to the Aggregate Resources Act, Ontario Regulation 244/97 to expand self-filing activities and a new policy regarding amendments to existing aggregate approvals”. Please contact the undersigned should you have any questions regarding these comments.

Sincerely,



Nicholas Fischer
Policy and Planning Coordinator

c.c.: All CA CAOs/GMs