

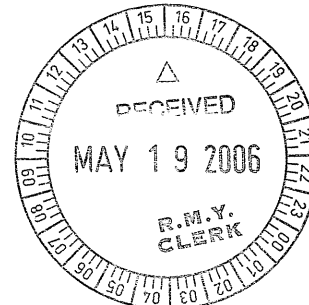


May 11, 2006

Mr. Denis Kelly
Regional Clerk
Regional Municipality of York
PO Box 147, 17250 Yonge Street
Newmarket, ON L3Y 6Z1

Dear Mr. Kelly:

**Re: Request for Support Regarding the
Decision of the Ministry of Natural Resources
to No Longer Issue Approvals Under the
Lakes and Rivers Improvement Act**

FILE No. - P19
P07

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120 Bayview Parkway
Box 282
Newmarket, Ontario
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The Lake Simcoe Region Conservation Authority's Board of Directors, at their meeting held on Friday, April 28, 2006, passed the following resolution:

Moved by: T. Taylor
Seconded by: V. Hackson

BOD-06-73

**THAT Staff Report No. 21-06-BOD be received for information; and
THAT the Authority object to this change in MNR policy as it will result in additional costs being borne by the Conservation Authority without any additional funding being provided by the Province; and
FURTHER THAT watershed municipalities be requested to support the Authority's resolution in this regard.**

CARRIED

The LSRCA is respectfully requesting that your municipality send a letter supporting the Authority's position in this regard to the Ministry of Natural Resources. A copy of Staff Report No. 21-06-BOD pertaining to this matter is attached.

A

Yours truly,

Watershed

D. Gayle Wood, CMM III
Chief Administrative Officer

For

c: M. Walters, Director, Watershed Management, LSRCA

Life



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Agenda Item No. 6 BOD-04-06

TO : Board of Directors

FROM : Tom Hogenbirk, P.Eng., CMM
Manager, Engineering and Technical Services

DATE : April 6, 2006

SUBJECT: Proposed Policy and Procedural Directive by
the Ministry of Natural Resources to its Staff
with respect to the decision to not issue
approvals under the Lakes and Rivers
Improvement Act

RECOMMENDATION: THAT Staff Report No. 21-06-BOD be received
for information; and
FURTHER THAT the Authority object to this
change in MNR policy as it will result in
additional costs being borne by the
Conservation Authority without any
additional funding being provided by the
Province.

Purpose of Staff Report:

The purpose of this Staff Report is to present to the Board of Directors with a description of the proposal by the Ministry of Natural Resources (MNR) to eliminate specified *Lakes and Rivers Improvement Act* (LRIA) permitting requirements in areas under the jurisdiction of the LSRCA and the impact this will have on Authority policies and finances.

Background:

The *Lakes and Rivers Improvement Act* (LRIA) was first passed in 1927 and brought together six previous acts governing dam construction and other works on lakes and rivers. The main purpose of the Act at that time was the protection of public interest in rivers, timber-driving, timber slide companies, and waterpower privileges. When the LRIA was passed, most dams were constructed for log driving, water supply, and waterpower purposes. Between the period 1927 to 1950, very few dams were constructed for private recreation.

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Many of the industrial mill dams were built prior to the 1940's. The legislation, technology, and standards that existed did not adequately address the protection of persons and property and did not recognize the need to protect the aquatic natural resources to the standards of today. The LRIA has been amended a number of times, including the following:

- 1) In 1996 the province approved major amendments to the LRIA. Reference to timber driving and the protection of interests of timber slide companies were repealed. The purposes of the Act were strengthened through the recognition of Engineers and Inspectors and their powers were defined. In addition, the enforcement and penalty provisions were updated.
- 2) In 1998, section 15 of the LRIA was amended to allow the Minister to delegate authority for reviews and approvals to external agencies.
- 3) In 2001, section 3 of the LRIA was amended to provide the Minister with additional powers to make regulations respecting dam safety.
- 4) In 2000, section 23.1 of the LRIA was added and in 2002 it was amended to establish the statutory authority for the Minister to order the preparation of water management plans and to establish a new process for the preparation and amendment of water management plans.
- 5) In 2002, section 17 of the LRIA was amended to provide the Minister with the statutory authority to issue specific orders to a dam owner where the location or the plans and specifications have not been approved.

The current proposal, which is posted on the Environmental Bill of Rights (EBR) registry, can be summarized as follows:

That LRIA permits will no longer be required for the following activities for areas that are within the jurisdiction of a Conservation Authority which has passed regulations under Section 28 of the *Conservation Authorities Act*.

- construct a water crossing,
- channelize a river or stream that may harmfully alter fish habitat or impede the movement of fish in a river, stream or lake,
- enclose or cover a length of river or stream,
- install, a cable or pipeline into the bed of a river, stream or lake (ref. O. Reg. 454/96, s. 2).

This also means that MNR staff will not be involved with any enforcement duties pertaining to illegal actions related to the above noted activities.

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Relevance to Authority Policy:

The proposed MNR policy change will help to streamline the review process and avoid duplication by eliminating the need for a proponent to obtain a LRIA permit. The activities that would no longer need an LRIA permit would still require a Conservation Authority (CA) permit with the exception of underground pipes in the bed of Lake Simcoe. Activities in Lake Simcoe below the average annual highwater mark of 219.15 metres above sea level do not need a CA permit although these works would still require *Fisheries Act* review and approval.

A negative impact on the implementation of Authority policy is the complete lack of enforcement support from MNR which will occur as a result of the MNR policy change. MNR Conservation Officers have been extremely supportive over the years in working with Authority staff to resolve violation issues under their legislation which is stronger than that afforded under the *Conservation Authorities Act*. The MNR has taken a number of the worst violators to court and has been successful in obtaining convictions. This will no longer occur once the new Policy is adopted and will place an even greater burden on the already stressed resources of the Authority's existing enforcement activities.

Impact on Authority Finances:

The lack of enforcement and legal assistance will result in more enforcement costs and especially more legal costs being borne directly by the Conservation Authority. The Authority has not budgeted for this additional cost in 2006. As a result, it is recommended that the Authority should not support the downloading of the LRIA responsibility unless it is adequately compensated for the costs associated with program delivery by the province.

Summary & Recommendations:

- 1) The proposed MNR policy change will help to streamline the review process and avoid duplication by eliminating the need for a proponent to obtain a LRIA permit. Most of the activities that would no longer need an LRIA permit would still require a CA permit.
- 2) A negative impact on the implementation of Authority policy is the lack of enforcement support from MNR which will occur as a result of the MNR policy change and the additional legal cost that will result.

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- 3) It is recommended that the Authority object to this change in policy as it will result in additional costs being borne by the CA without any additional funding being provided by the Province.

It is therefore recommended that Staff Report No. 21-06-BOD be received for information; and

FURTHER THAT the Authority object to this change in MNR policy as it will result in additional costs being borne by the Conservation Authority without any additional funding being provided by the Province.

original signed by:

Prepared by: _____

**Tom Hogenbirk, P.Eng., CMM
Manager, Engineering and Technical
Services**

original signed by:

Recommended by: _____

**D. Gayle Wood, CMM III
Chief Administrative Officer**