



May 6, 2024

**BY EMAIL ONLY**  
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Ministry of Natural Resources and Forestry - RPDPB  
Conservation Authorities and Natural Hazards Section  
300 Water Street, 2<sup>nd</sup> Floor South Tower  
Peterborough, ON K9J 3C7

**Re: ERO# 019-8320 Regulation detailing new Minister's Permit and Review powers under the Conservation Authorities Act**

Thank you for the opportunity to comment on the Ministry of Natural Resources and Forestry (MNRF) Environmental Registry of Ontario (ERO) posting regarding a proposed regulation detailing new Minister's permit and review powers under the Conservation Authorities Act.

**Government Proposal**

Recently proclaimed provisions in the Conservation Authorities Act (CA Act) and associated regulations came into effect on April 1, 2024, including new powers for the Minister to:

1. Issue an order to prevent a conservation authority (CA) from issuing a permit and to take over the permitting process in the place of a CA; and
2. review a CA permit decision at the request of the applicant.

The Ministry is proposing a regulation which would set out the circumstances under which these powers could be used. If the regulation is approved, public guidance would be made available on the criteria and processes outlined in the regulation.

The ERO posting does not include a draft regulation but provides a summary of the relevant CA Act provisions and some detailed requirements that would be set out in the regulation.

The posting states that by clearly communicating the circumstances under which the Minister would consider whether to issue an order or review a CA permitting decision, the regulation would ensure that development proponents pursue the appropriate permitting channel and that "efficiently navigating the permitting process is expected to help save proponents time and resources".

**General Comments**

With the most highly urbanized and urbanizing watersheds in the province, Toronto and Region Conservation Authority (TRCA) recognizes the importance of efficiency, certainty, transparency and accountability in planning and permitting review processes so that development and infrastructure projects can occur in a timely manner. TRCA works in collaboration with our regional and local municipalities, the building industry, provincial

ministries, agencies, and stakeholders to advance a coordinated review and approval process, while fulfilling its mandatory responsibilities to protect people and property from the risks of natural hazards within its jurisdiction.

Many of the legislative and regulatory changes and requirements that came into effect on April 1, 2024 are consistent with current TRCA practices including pre-consultation and complete application requirements, annual updates to regulation mapping and annual reporting to the Board of Directors on permit service delivery statistics. Permit applications are reviewed by staff with specialized technical expertise and decisions are based on the most current technical information, watershed and subwatershed conditions, and local planning context. An integrated view is taken to identify and protect regulated features and functions important for natural hazard management, avoid, minimize and mitigate impacts upstream and downstream, cumulative impacts, and risks to people and property. Permit decisions are transparent and consistent with Board approved policies that align with provincial policies and conform to the requirements of the CA Act and associated regulations.

In 2023, TRCA issued 1,382 permits, of which 632 were “major permits” including complex permits related to mandatory permits associated with a Minister’s Zoning Order (MZO) development project. There were no appeals to TRCA’s Hearing Board in 2023 and 90% (1,237 permits) met the Conservation Ontario Client Services Standards. It should also be noted that to date, since 2021, TRCA has issued 20 permits associated with MZO developments. TRCA meets regularly with the Building Industry and Land Development Association (BILD) and has received positive feedback on TRCA’s commitment to excellence in service delivery. TRCA is also implementing land use planning, permitting and enforcement software this year that will result in more streamlined and transparent permit review and project timeline tracking.

### **Detailed Comments and Recommendations**

Based on TRCA’s local expertise and permitting experience noted above, the following comments and recommendations are provided.

TRCA supports that when making a permitting decision, the proposed regulation will include that the Minister is required to satisfy the same criteria (‘the tests’) concerning natural hazards and public safety as those set out in the CA Act and considered by CAs.

The ERO posting indicates that the proposed regulation would establish the following requirement:

- The Minister may (1) make an order to prevent a conservation authority from making a permitting decision and take over the permitting process or (2) conduct a review of a conservation authority permit decision only if the development activity pertains to, or supports, a development of specified provincial interest, including:
  - Housing (community, affordable and market-based)
  - Community services (health, long-term care, education, recreation socio-cultural, security and safety, environment)
  - Transportation infrastructure
  - Buildings that facilitate economic development or employment
  - Mixed use development

It is noted that some of the development activities listed as being a specified provincial interest (e.g., community services – health, long-term care, education) are considered ‘institutional uses’ in the Provincial Policy Statement (PPS) and are not permitted in hazardous lands and hazardous sites.

**TRCA Recommends: Given the potential risk to public health and safety or property from natural hazards and the growing risks from climate change and extreme weather events, that the proposed regulation require permit decisions to be consistent with the provincial interest related to public health and safety as set out in the PPS 2020, Draft Provincial Planning Statement 2024, the Conservation Authorities Act and associated regulations including the relevant sections and objectives of Ontario Regulation 686/21: Mandatory Programs and Services related to the risks of natural hazards.**

It has been TRCA’s experience that major and complex development and infrastructure permit applications, such as the proposed specified development activities, are generally projects associated with municipally led comprehensive planning processes that incorporate integrated watershed management through a suite of technical studies and analysis to protect new and intensifying communities. These permits require close coordination with municipalities as well as various ministries (Ministry of Municipal Affairs and Housing (MMAH), Ministry of Natural Resources and Forestry (MNRF), Ministry of Environment, Conservation and Parks (MECP) and Ministry of Transportation (MTO), to ensure CA regulatory interests are addressed and to avoid any potential conflict or delay with various approval processes.

Furthermore, through this process, TRCA ensures that appropriate conditions related to the tests of the CA Act are attached to the permit approval for compliance purposes. An order to approve permits, on a site-by-site basis, outside the normal planning and permitting approvals framework, can limit opportunities to identify cumulative impacts, improve resilience, effectively avoid and mitigate impacts to flooding and erosion, and may cause adverse impacts on adjacent properties.

**TRCA recommends that where the Minister considers the issuance of a permit under Section 28.1.1 of the CA Act, that the proposed regulation require the following:**

- a complete application that is consistent with the requirements as set out in Ontario Regulation 41/24
- consultation with the relevant conservation authority for local expertise, watershed context, and current technical information (e.g. floodplain mapping/modelling) to inform decision making that is consistent with the relevant CA Board approved policies and to ensure no unintended consequences to public health and safety
- consultation with the relevant conservation authority regarding enforcement and compliance matters as the provisions of Part VII of the CA Act apply to permits issued by the Minister
- confirmation of all related municipal, ministry or agency approvals to facilitate coordination to avoid any conflict with various approval processes (e.g., a multi-ministry/agency/stakeholder working group would facilitate a streamlined process)

Finally, **TRCA recommends that the Ministry engage with conservation authorities** to discuss the proposed regulation requirements, implementation details, and public guidance to achieve the desired outcome of the ERO proposal. This would allow a forum to answer further questions and address any concerns regarding the proposal and ensure a streamlined, effective and transparent decision-making process.

Should you have any questions, require clarification, or wish to meet to discuss any of the above remarks, please contact the undersigned at (437) 880-2282 or at [laurie.nelson@trca.ca](mailto:laurie.nelson@trca.ca).

Sincerely,

< Original signed by >

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