

Attachment 2: TRCA Submission on ERO#019-2017

February 4, 2021

Mr. Brent Taylor
Ministry of the Environment, Conservation and Parks
Water Policy Branch
40 St. Clair Avenue West
Toronto, ON M4V 1M2

BY E-MAIL ONLY (waterpolicy@ontario.ca)

Dear Mr. Taylor:

Re: Proposed Implementation of Updates to Ontario's Water Quantity Management Framework (ERO #019-2017)

Thank you for the opportunity to comment on the Ministry of Environment, Conservation and Parks (MECP) Environmental Registry (ERO) posting on proposed implementation of updates to Ontario's water quantity management framework. We understand that MECP is seeking input on draft guidance to help manage water taking in areas where water quantity is a concern and where there are competing demands for water. We also understand that MECP is proposing to remove Ontario's interim guidance on bottled water, which was implemented in 2017 as a temporary measure for renewals of existing bottled water permits during the moratorium for new and increasing bottled water takings, and will be in place until April 1, 2021.

The Toronto and Region Conservation Authority (TRCA) conducts itself in accordance with the objects, powers, roles and responsibilities set out for conservation authorities (CAs) under the *Conservation Authorities Act* (CA Act) and the MNRF Procedural Manual chapter on CA policies and procedures for plan review and permitting activities. TRCA is:

- A public commenting body under the *Planning Act* and *Environmental Assessment Act*;
- An agency delegated the responsibility to represent the provincial interest on natural hazards under Section 3.1 of the Provincial Policy Statement;
- A regulatory authority under Section 28 of the CA Act;
- A service provider to municipal partners and other public agencies;
- A Source Protection Authority under the *Clean Water Act*;
- A resource management agency; and
- A major landowner in the Greater Toronto Area.

In these roles, and as stated in the *Made-In-Ontario Environment Plan*, TRCA works in collaboration with municipalities and stakeholders to protect people and property from flooding and other natural hazards, and to conserve natural resources. TRCA provides technical support to its municipal partners through Memorandums of Understanding and Service Level Agreements in implementing the natural heritage, natural hazard and water resource policies of municipal and provincial plans. In addition, as a

conservation land manager, TRCA undertakes planning, design and construction of natural heritage restoration projects and flood and/or erosion remediation projects in coordination with public or private landowners, to protect life, property, and infrastructure and to improve environmental conditions.

Proposal

We understand the government's proposed Draft Water Quality Implementation Guidance would support implementation of recently proposed updates to the Water Taking and Transfer Regulation (Ontario Regulation 387/04) to enable area-based water quantity management and priorities of water use.

In June 2020, MECP proposed enhancements to Ontario's water taking program, including:

- requiring water bottling companies to have the support of their host municipalities for new and increasing bottled water takings;
- establishing priorities of water use in the province that can guide water taking decisions;
- assessing and managing multiple water takings together in areas of the province where water sustainability is a concern; and
- making water taking data available to the public to increase transparency of how Ontario manages water resources.

Information on the proposed enhancements, the results of the ministry's water quantity management review, and the assessments completed by independent experts as part of the review, were included in a previous related ERO posting [#019-1340](#), Updating Ontario's Water Quantity Management Framework, for which TRCA submitted comments in our letter to the Water Policy Branch dated July 31, 2020.

We understand the current proposal would enable MECP to assess and manage water resources and the impact of multiple water users to guide management actions more effectively in areas experiencing water quantity stress. While applying to permitted water takers, it is expected to provide broader benefits by promoting the sustainability of water resources and water security for all water users in an area. Additionally, it would set out priorities of water use to be taken into account when MECP considers whether to renew, cancel, or amend existing permits; this would be in instances where there are competing demands for water among established users that cannot be resolved through other means.

General Comments

With TRCA's roles, responsibilities, and experience in mind, we offer the following comments on MECP's Draft Water Quantity Implementation Guidance and the proposed regulatory amendments. Key points are in **bolded text**.

TRCA supports the proposed Implementation Guidance as it would enable area-based water quantity management strategies and appropriate priorities of water use. TRCA believes this comprehensive approach is preferable to the previous approach, which focused on a single industry (i.e., water bottling) and effectively represented a cap on the overall management of the water taking permitting process. TRCA agrees that the province's water quantity management framework needs to be more robust and capture the holistic impact of multiple water uses and takings to properly assess

sustainability. Having this direction implemented through regulation and a provincial guidance document is a positive step towards advancing this shared goal and will improve transparency and certainty for all stakeholders.

CAs apply a science-based approach when considering the cumulative impacts of water takings on areas experiencing water stress, including through the issuance of permits under the CA Act, development of watershed plans, and in our roles as source protection authorities. We are pleased to see that the Guidance document makes distinct reference and connection to watershed planning (pages 6 and 11) as it aligns with this science-based, local watershed perspective on water resources. TRCA would welcome the opportunity to share our watershed planning data, expertise, and experience to assist the Province in determining the need for and preparing area-based water taking strategies to better assess and manage water quantity within TRCA's jurisdiction. To this end, we note that the draft Guidance states that CAs *may* have a collaborative role (pages 5, 6 and 10) and as local stakeholders could be consulted to help shape the contents of a water taking management strategy (i.e., monitoring and assessment). Nonetheless, it is not clear what would trigger CA engagement and to what extent CAs may be involved. For instance, would CAs be engaged on work related to water quantity risk evaluation under the *Clean Water Act* that we have been involved in the past? What sort of data and application-specific information would be provided to CAs?

In TRCA's review of Permits to Take Water (PTTW), the accompanying information is typically very limited. CAs' expertise in watershed planning and local watershed conditions and management warrants our engagement in the development of area-based water taking management strategies within the respective CAs' jurisdictions. On page 11, the guidance says, "During the development of a strategy, engagement with affected water users, local stakeholders (e.g., conservation authorities) . . . would be needed." **Accordingly, we recommend that the draft Guidance more specifically direct and enable pre-consultation with the respective CA for Permits to Take Water and the development of area-based water taking strategies.** This would contribute to streamlining and better inform cumulative impact assessment in instances where a PTTW and/or an area-based assessment and a CA permit were all required for the same project.

TRCA is also pleased to see in the proposed regulation amendments and the draft Guidance that environment and drinking water continue to be categorized as the first and highest priority for water use to resolve competing demands for water among established water takers due to a shortage of water in an area.

The following comments are organized by the ERO proposal's areas of change we have selected for input. As above, **bolded text** indicates key suggestions and recommendations for MECP's consideration.

Draft Implementation Guidance	
Section	Comments
Draft Guidance to support area-based water quantity management	
Area-based water taking management strategy	TRCA supports MECP's approach of an area-based water taking management strategy. This action addresses our previously stated concern that the assessment of cumulative effects represents an existing gap in the overall management of the water taking permitting process.
Considerations for initiating a water taking management strategy	MECP should solicit feedback from Source Protection programs as a valuable foundation of background information to support the Ministry's decision-making process.
Preliminary assessment	The preliminary assessment should include insight from the Provincial Groundwater Monitoring Program, the Drinking Water Source Protection Program and regional monitoring information from CAs' monitoring data.
Preparing a water taking management strategy	TRCA supports the proposed process.
Engaging water users, local stakeholders, and Indigenous communities on a water taking management strategy	TRCA supports the proposed process.
Aligning a water taking management strategy with other provincial policies and programs	The strategy should consider policies included in Source Protection Plans, such as the Credit Valley, Toronto and Region and Central Lake Ontario (CTC) Policy DEM-6, which proposes a regional groundwater management system.
Draft guidance to support priorities of water use	
What are the priorities of water use?	TRCA supports the proposed process.
Priority 1 – Environment and drinking water (equally)	Priority 1 discusses the water balance requirements for natural functions of an ecosystem being one of the highest priorities. However, one of the terms used in Priority 4 (the lowest priority) is "natural features" and landscaping. Please consider revising the term "natural features" to better indicate its form, e.g., "landscaped feature". The current term is

Draft Implementation Guidance	
Section	Comments
	similar to natural ecological features, such as wetlands, and therefore, it may be misconstrued that wetlands could be considered a Priority 4 “natural feature.”
Priority 4 – Other	See comment on Priority 1
When do the priorities of water use apply?	TRCA supports the process for determining when to implement water use priorities.
How do the priorities of water use apply?	TRCA supports the process for determining when to implement water use priorities.
Other considerations for applying priorities of water use	TRCA supports the considerations put forward by MECP.

Thank you once again for the opportunity to provide comments on proposed implementation of updates to Ontario’s water quantity management framework. Should you have any questions, require clarification on any of the above, or wish to meet to discuss our remarks, please contact the undersigned at 416.667.6290 or at john.mackenzie@trca.ca.

Sincerely,

<Original Signed by>

John MacKenzie, M.Sc.(PI), MCIP, RPP
Chief Executive Officer

BY E-MAIL

cc:

TRCA: Laurie Nelson, Director, Policy Planning
Sameer Dhalla, Director, Development and Engineering Services
Don Ford, Senior Manager, Hydrogeology and Source Water Protection