



**ONTARIO
RIVERS
ALLIANCE**

379 Ronka Road
Worthington, ON P0M3H0
LindaH@OntarioRiversAlliance.ca
OntarioRiversAlliance.ca

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SPEAKING NOTES:

PRESENTATION TO THE STANDING COMMITTEE ON GENERAL GOVERNMENT

Re: ERO-019-0774 – Bill 132, Better for People, Smarter for Business Act, 2019

ERO-019-0545 - Waterpower Exemption from Permits to Take Water

ERO-019-0732 – Proposal to Amend the Lakes and Rivers Improvement Act to Give Authority to the Minister to make a Regulation to Assess and Monitor Methylmercury

Presentation by: **Linda Heron, Chair**
Ontario Rivers Alliance
379 Ronka Road
Worthington, ON
P0M 3H0
(705) 866-1677
LindaH@OntarioRiversAlliance.ca
<http://OntarioRiversAlliance.ca>



Good afternoon! My name is Linda Heron, and I Chair the Ontario Rivers Alliance (ORA). The ORA is a Not-for-Profit grassroots organization with a mission to protect, conserve and restore Ontario riverine ecosystems. ORA collaborates with members, supporters and other like-minded organizations all across the Province to speak up for Ontario rivers.

Thank you for this opportunity to speak to the Committee regarding Bill 132, *Better for People, Smarter for Business Act, 2019*, the Waterpower exemption from the Permit to Take Water (PTTW) under the *Ontario Water Resources Act (OWRA)*, and the associated proposal by the Ministry of Natural Resources and Forestry (MNR) to amend the *Lakes and Rivers Improvement Act (LRIA)* to make a regulation to assess and monitor methylmercury.

ORA submitted comments on these ERO postings last Friday, with endorsements from several environmental organizations such as the Canadian Environmental Law Association, Canadian Wildlife Federation, Freshwater Future Canada, Trout Unlimited Canada and several others. ORA also submitted comments in early November on the proposed amendments to the *Aggregate Resources Act* – also under Bill 132.

Bill 132 proposes sweeping cuts and amendments to 14 different Acts, reflecting legislation across several Ministries. The changes proposed in this Bill are complex and far reaching, and its full impact on Ontario riverine ecosystems and communities are beyond anyone's ability to fully calculate.



A 30-day comment period is too short for meaningful public participation and, given this overly brief comment period, with so little information on so many different pieces of legislation, ORA will focus today on the amendments to the *OWRA* and the *LRIA*.

ORA Recommends that the Committee vote against these proposed amendments to the *OWRA* and the *LRIA* and withdraw them in their entirety. We also recommend that because of the short timeline provided for the review of Bill 132, that recommendations by all organizations and individuals be meaningfully considered.

Now I will provide the rationale behind ORA's recommendations.

1. Overview of the Proposed Regulatory Amendments

The Ministry of the Environment Conservation and Parks (MECP) is an independent agency administering the PTTW to ensure the fair sharing of water - that there is enough water available for the aquatic ecosystem and for other water users, it requires annual monitoring and reporting to ensure water quality and water quantity, proper mitigation of any impacts, and a review is required every 10 years. A PTTW also provides an appeal process, proper engagement opportunities for stakeholders and a Duty to Consult with Indigenous peoples.

The PTTW program considers Waterpower generation to be a Category 3 water taking, because it has "*a greater potential to cause adverse environmental impact or interference*"¹, and requires scientific studies and technical screening and evaluation



carried out by the MECPP. The scientific studies are used to determine the potential impact of the proposed water taking on the aquatic ecosystem and other established in-stream uses and how the proposed taking should be designed and controlled to prevent or minimize the impact.

On the other hand, the likely instrument to be used if responsibility for methylmercury is transferred over to the MNRF would be a Water Management Plan (WMP) under the *LRIA*.

A WMP is prepared by the industry for the industry. The facility owner prepares it, but it's not regularly reviewed by the MNRF, there is no public engagement or appeal process after it's developed, and not all waterpower facilities are required to have one. Most WMPs that have been approved are now 10 years or older and balances environmental concerns with the economic concerns of the Industry. As a result, they vary significantly in objectivity, data/information and the consideration of environmental matters, which are key issues of interest in the PTTW. In addition, MNRF has since directed that no new WMPs need to be prepared.

It is clear that the functions and effectiveness of a PTTW are in no way similar or equal to a WMP. We consider any significant impact of hydroelectric operations on water quality, water quantity and aquatic life should be subject to the same obligations as all other water users under the PTTW.



The MECP has the specific expertise and mandate to manage water quality and water quantity as set out in its Statement of Environmental Values under the *Environmental Bill of Rights*. Having more than one ministry responsible for this important oversight is not efficient, would be cause for confusion, and would not meet the purposes of the OWRA.

2. Impacts of Waterpower

With approximately 224 hydroelectric facilities in Ontario, and many more associated control dams, the environmental, social, cultural and economic impacts of these proposals would be widespread and significant.

While hydroelectric facilities have contributed to our power grid for over 100 years, a very high environmental and socio-economic price has been paid in terms of losses to valued natural resources. In the past, narrow one-off approaches to approvals have ignored waterpower's potentially significant cumulative effects on the environment, ecology and biodiversity. Unless carefully identified and mitigated, significant cumulative and ongoing effects from waterpower will occur at the watershed, regional and provincial scale.

In Ontario, hydroelectric schemes are offered lucrative peaking bonuses to produce more power during peak demand hours. This encourages operators to hold water back in headponds during off-peak hours so they can generate maximum power and profits



during peak hours. The temptation is great to sacrifice fish, habitat and healthy waters for increased profits.

There must be meaningful consequences when hydroelectric operators disregard the fair sharing of water for aquatic ecosystems and for communities dependent upon these resources. Maintaining adequate flow levels and variability in rivers is essential to ecosystem health, and the PTTW program is best positioned to achieve this. This must be the foundation for responsible and sustainable waterpower generation.

3. The Benefits of Healthy Rivers

Those proposing these “red tape” cuts are not considering the value and essential benefits that healthy rivers bring to the people of this Province, versus the extent of the environmental costs if this waterpower exemption is approved. The effects of waterpower facilities on fish populations and fisheries have been well documented over the past century and include the loss or serious decline of many iconic fish species, which are resources of importance to Ontario's economy, biodiversity, and natural and cultural heritage.

Ontario fisheries are a valuable and ecologically sensitive resource that contributes substantially to Ontario's economy, with recreational and commercial fishing valued at more than \$2.5 billion, with 41,000 person years of employment and more than 1.2 million residents and non-resident anglers who contribute \$2.2 billion annually to the Ontario economy.



A PTTW functions to protect healthy freshwater ecosystems which are the foundation for a lucrative recreation and tourism industry, provides healthy drinking water and abundant fisheries.

4. Conclusion

With the warming temperatures and extreme rain and drought events that climate change is predicted to bring with increasing frequency and intensity as time passes, decision makers and legislators bear a responsibility to strengthen freshwater protection and resiliency – not weaken it. If this proposal moves forward it will be a precipitous turning point for our future with freshwater in Ontario and beyond.

Reducing regulations to provide “*some cost savings for facilities*”² so the Waterpower Industry can reap higher profits at the expense of the environment, our children and grandchildren’s future with water and valued resources, will prove to be a mistake in hindsight. The PTTW under the *OWRA* has proven to be effective in ensuring the checks and balances for the protection of the environment, balanced with the interests of the Waterpower Industry.

The Waterpower Industry writes its own WMPs, wrote its own Class Environmental Assessment for Waterpower, and its own Best Management Practices for Species at Risk, such as the American Eel and Lake Sturgeon - all written to serve the Industry’s own best interests. However, the Industry’s track record has been pretty dismal with only 3 fishways at hydroelectric facilities in all of Ontario; WMPs are dubious at best



with no transparency on their status; and now the Industry is pushing to exempt waterpower from the PTTW program, which has been the best impartial oversight tool that operates in the interests of the environment, the public and the Industry.

Will the government allow the Waterpower Industry's interests to dominate over the interests of the environment, Ontario communities, stakeholders and Indigenous rights?

ORA recommends that the Committee vote against these proposed amendments to the OWRA and the LRIA and withdraw them in their entirety.

Thank you for this opportunity to provide comments!

Respectfully,

Linda Heron
Chair, Ontario Rivers Alliance
(705) 866-1677

¹ *Permit to Take Water Manual, April 2005, Ministry of the Environment, PIBS 4932e. P7-8*
² *ERO-019-0545, Waterpower Exemption from Permits to Take Water.*