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Valerie Quioc Lim, Clerk
The Standing Committee on Finance and Economic Affairs
Room 1405, Whitney Block
Queen's Park, Toronto, ON M7A 1A2
E-mail: valerie_quioc@ontla.ola.org

Dear Ms. Quioc Lim:

Re: ORA Submission – Strong Action for Ontario Act, 2012 - Budget Bill 55

Ontario Rivers Alliance (ORA) is a registered Not-for-Profit grassroots coalition with a focus on healthy river ecosystems all across Ontario. ORA members represent numerous organizations such as the French River Delta Association, Vermilion River Stewardship, CPAWS-Ottawa Valley, Council of Canadians, Friends of Temagami, Paddle Canada, Whitewater Ontario, Mississippi Mills Riverkeepers, along with many other stewardships, associations, and private and First Nations citizens who have come together to support healthy riverine ecosystems in Ontario, and to ensure watershed development is environmentally, ecologically and socially sustainable.

ORA wishes to express its concerns and make recommendations regarding the Amendments to 70 Acts included in Budget Bill 55 – 11 of which are administered under our Environmental Bill of Rights (EBR).

Recommendation:

ORA requests that the Standing Committee on Finance and Economic Affairs make recommendation to Amend Budget Bill 55 as follows:

1. All references to Amendments to Acts that do not directly pertain to the Budget be removed; or
2. All Amendments to Acts administered under the EBR, especially Schedules 15, 19, 23, 34, 58 and 59, be removed;
3. Schedule 28, Privatization Act, be removed; and
4. Any plans to move further into a self-regulating, proponent led process be posted on the EBR Registry for public consultation and input.

ORA fully supports the recommendations of Ecojustice and the Canadian Environmental Law Association.

Summary:

The Strong Action for Ontario Act, 2012 - Budget Bill 55 will amend numerous statutes, including 11 environmental or related laws. As Gord Miller recently reported, "This budget bill is effectively the mother-of-all pieces of omnibus legislation." Since a budget bill is exempt from public input and comment, this move conveniently circumvents the normal scrutiny of a public consultation process. This is an obvious attempt to exempt public participation in amendments to legislation administered under our Environmental Bill of Rights, 1993 (EBR, section 33).

ORA is deeply concerned that this government is not respecting its citizens' rights, which are guaranteed under the EBR, and it is especially troubling when some of these proposed amendments have the potential to cause significant environmental impacts. This is in clear violation of our Environmental Bill of Rights!

It is very difficult to decipher or predict the full intent and ramifications of the 70 Acts being amended under this Budget Bill 55, so it is vital that all amendments not directly pertaining to this budget bill be removed. It is clear that these changes are moving towards a self-regulated, privatized system that would enable a more streamlined and user friendly approvals and development process. These changes will be to the detriment and expense of our natural environment, endangered species, and the health and safety of the citizens of Ontario.

Proposed Changes:

- 1. Increased Ministerial Discretion:**
 - a. Schedule 15, Crown Forest Sustainability Act, 1994**
 - b. Schedule 19, Endangered Species Act, 2007**
 - c. Schedule 23, Fish and Wildlife Conservation Act, 1997**
 - d. Schedule 59, Public Lands Act**

ORA is very concerned about the increase in Ministerial and/or regulatory discretion. This would mean even less openness, transparency, certainty, accountability and predictability to permits, approvals, licences and development. The public and stakeholders must be provided with an opportunity to comment and have input on these amendments.

- 2. Exceptions, Exemptions and Extensions to the Requirements:**

a. Schedule 15, Crown Forest Sustainability Act, 1994

Proposed amendments would **dispense with**

- i. Requirement of a Forest Management Plan (FMP)
- ii. Harvesting limits
- iii. Requirement that forest operations be in accordance with a FMP and an approved work schedule.

Proposed amendments would change the term and provide for an extension of forest resource licences that are intended to be short-term and temporary.

b. Schedule 23, Fish and Wildlife Conservation Act, 1997

Numerous changes with the theme of “**delegation of powers**” to licence and authorize exemptions, with very little information to know the impacts on protection for fish and wildlife. Increased regulatory discretion will result in less transparency, certainty and predictability.

Under Section 7 (2), the proposed amendment will replace the current requirement for an authorization, with one that gives discretion to either require a Minister’s authorization or prescribe circumstances in which an exemption applies within a regulation.

c. Schedule 19, Endangered Species Act, 2007

Several deadlines have been extended, and some indefinitely. Delays in producing recovery strategies will only place species survival and recovery at further risk. Also provides discretion to extend the term of a license.

d. Schedule 59, Public Lands Act

These amendments are designed to provide Ministerial authority to develop regulations to make exceptions, exemptions and extensions to the requirements of the legislation. The public and stakeholders must be provided with an opportunity to comment and have input on these amendments.

5. Removal of Time Limits:

a. Schedule 58, Provincial Parks and Conservation Reserves Act, 2006

This amendment would weaken management planning directives, and could lead to outdated or no management directives. The public and stakeholders must be provided with an opportunity to comment and have input on these amendments.

6. New Land Use Permits:

a. Schedule 58, Provincial parks and Conservation Reserves Act, 2006

New land use permits for private non-commercial land use. The assurance that the Minister will not be able to delegate the authority to approve new access roads must be maintained for this amendment to minimize the risk to the ecological integrity of protected areas. The public and stakeholders must be provided with an opportunity to comment and have input on these amendments.

7. Delegation of Authority:

a. Schedule 23, Fish and Wildlife Conservation Act, 1997

b. Schedule 34, Lakes and Rivers Improvement Act,

- i. The Minister is authorized to make regulations regarding the design, construction, operation and maintenance of dams. Building a dam is prohibited, without Ministerial authorization. The Minister can delegate the authority to approve the construction, repair and use of dams (LRIA, subsection 15(1)).

Note: Of all the Act amendments, this one is of greatest concern. Dams have numerous negative impacts associated with them, including public health and safety issues – **a big red flag here.**

- ii. Under Section 23.1, the Minister may order the owner of an existing or new dam to prepare or amend the management plan for the operation and maintenance of a dam, in accordance with the regulations and with guidelines approved by the Minister.

Note: A proposed amendment would remove the requirement that the management plan be prepared in accordance with regulations and guidelines. This is another major area of concern as many rivers have multiple dams, operators and operating strategies on a single river – a management plan is imperative, both for water quality and quantity, endangered species, and public safety issues.

c. Schedule 59, Public Lands Act

- i. Discretion to delegate authority and remove Crown liability.

Allows the Minister discretion to delegate any powers or authority to approve, authorize, issue licences, and impose conditions. Under the Act/s, the delegate will be read as the Minister and has the authority to cancel or refuse a licence. The Crown is explicitly made non liable for actions of the delegate.

In making these provisions, it appears the government is planning massive changes to MNR staff and responsibilities, perhaps positioning this Ministry for privatization of its responsibilities, and likely even intending to give developers the power of self-regulation – perhaps through the Ontario Waterpower Association. If this is true, it does not bode well for our environment and natural resources' oversight and protection, and would not be in the best interests of Ontarians or the environment. And again, Ontarians would be deprived of the opportunity to be consulted and to provide comments on such a major and important move. The public and stakeholders must be provided with an opportunity to comment and have input on these amendments.

8. Privatization of our Government Services

a. Schedule 28, Privatization Act

- i. calls for a new Privatization Minister who will have the authority to override all other Ministers to choose what services – health care, water, hydro, education, and others – will be contracted out, sold or folded into public-private partnerships.

ORA is very concerned that there will be no public or legislative debate when these services are privatized. Even the ministers in charge of these portfolios will not have a say. The public and stakeholders must be provided with an opportunity to comment and have input on these amendments.

General Concerns:

1. An Erosion of our Democratic and Environmental Bill of Rights.

ORA is deeply concerned that this government is not respecting its citizens' rights, which are guaranteed under the EBR, and it is especially troubling when some of these proposed amendments have the potential to cause significant environmental impacts. This is in clear violation of our democratic rights and our rights under the Environmental Bill of Rights!

2. Downloading of Environmental & Fisheries Responsibilities.

The Federal government, with Bill C38, intends to download its environmental and fisheries responsibilities to the provincial government, while the provincial government now appears about to download its responsibilities to private corporations and developers, and this is an area of grave concern.

3. Privatization and the Proponent Led Process.

There have already been enough challenges with the current proponent led process, without indulging for-profit corporations in an even more streamlined, user-friendly, check-box style, privatized, self-regulating system where there are few to no barriers to getting these proposals up and running quickly. Streamlining the process even further will only serve to undermine our already compromised environmental protection, and lead to an unbalanced and unequal application of the law.

As a stakeholder, and in my role as Chair of an organization addressing numerous hydroelectric proposals throughout the Province, it has been my experience that the proponent led process currently in place is clearly not working to protect the environment from the well-known and widely documented highly cumulative negative impacts of hydroelectric dams. Our riverine ecosystems and citizens of Ontario will have to live with these dam effects for many decades.

We have had first-hand evidence of this in the first three Environmental Reports (ER) issued under the new streamlined approvals process, where a developer was sent back to do more studies on one ER and has since voluntarily withdrawn the other two. In dealing with these proposals ORA has experienced a lack of transparency, openness and accountability, and public and First Nation consultation has been sadly lacking. This has undermined stakeholder confidence in the entire process.

One of ORA's main requests of our Ministers is to remove the proponent led process and to fully place MNR and MOE back into the business of ensuring the safety and protection of our environment, aquatic life and natural resources. This current EA and approvals process has placed the fox in charge of the chicken coop already, and it appears likely to go to the next level if these amendments are allowed. MNR and MOE must be placed back in the lead, and the proponent made liable for the cost.

4. The delegation of powers by the Minister

ORA has studied Bill 55, and a recurring statement throughout many of these amendments is "The Minister is permitted to delegate any or all of his or her duties and powers under this Act to any other person." These same amendments also stipulate, "The Minister may impose any conditions that the Minister deems appropriate on the exercise of the powers by the delegate. **Crown not liable for delegate's acts.**" So then who will be liable – and responsible to Ontario taxpayers?

Under Schedule 34, Lakes and Rivers Improvement Act, "**the Minister can delegate the authority to approve the construction, repair and use of dams**". Of all the amendments, this one is of the greatest concern. This authority must not be left to an unelected official. Downloading this authority would be a grievous error as the types of dams encouraged by the FIT Program have numerous negative impacts associated with them, including public health and safety issues, and could have serious repercussions.

In making these provisions, it appears the government is planning massive changes to MOE and MNR staff and roles, perhaps positioning these Ministries for privatization of responsibilities, and likely even intending to give developers the power of self-regulation. If this is true, it will undoubtedly be to the detriment and expense of our natural environment, endangered species, and the citizens of Ontario. And again, Ontarians would be deprived of the opportunity to be consulted and to provide valuable input into such a major and important move.

These ill-thought measures will only encourage more substandard business and environmental plans by developers, and perhaps create a few short-lived jobs on the backs of our future generations.

In Conclusion:

The FIT Program and Green Energy plan march forward unscathed, and yet the agencies responsible for overseeing and regulating our applications and approvals process, and best suited for safeguarding our endangered species, environment and natural resources, are due to be relegated to “more regional concerns”.

This Budget Bill lines the government up to download its responsibilities at the expense of its citizens and the future ecological viability of Ontario, and only serves to support corporate agendas at the expense of our future generations. If a budget bill is called a “Budget Bill” it should only be about the budget.

Thank you for this opportunity to make recommendations to The Standing Committee on Finance and Economic Affairs!

Respectfully,



Linda Heron
Chair, Ontario Rivers Alliance

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