



**ONTARIO
RIVERS
ALLIANCE**

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Honourable Catherine McKenna
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Re: Review of Environmental and Regulatory Processes

Dear Madam/Sirs:

Ontario Rivers Alliance (ORA) is a Not-for-Profit grassroots organization acting as a voice for many stewardships, associations, and private and First Nations citizens who have come together to protect, conserve and restore healthy river ecosystems.

Over the last year, ORA has made submissions and presented to the Standing Committees regarding the reviews of the federal environmental assessment processes, modernizing the National Energy Board and restoring lost protections and incorporating modern safeguards under the *Navigation Protection Act*.

We are pleased to see that these proposed changes and Guiding Principles are geared towards regaining public trust, protecting the environment, advancing reconciliation with Indigenous peoples, and ensuring only good projects move ahead; however, we feel the recommendations fall short in several areas as follows:

“A World of Healthy River Ecosystems”



Rebuilding Trust in the Project Assessment System

There is little in this Discussion Paper that would rebuild trust in the federal environmental assessment or project approvals process. This proposal would leave the National Energy Board (NEB) in charge of hearing reviews and project approvals, when it clearly has lost the confidence of the public, stakeholders and Indigenous peoples. The *Canadian Environmental Assessment Act* (CEAA) and the *National Energy Board Act* (NEBA) have failed to serve the public interest in sustainability and environmental protection, and should therefore be repealed and replaced.

What will qualify as a “non-designated project” is central to our concerns, as it is proposed to forego the federal impact assessment and only go through a regulatory review. Any project that could impact on the environment, especially on our water and/or air, should not be included in this designation.

Recommendation:

1. The CEAA and the NEBA have failed to serve the public interest in sustainability and environmental protection and should therefore be repealed and replaced.
2. Any project that could impact on the environment, especially on our air and/or water, should be considered a Designated Project.

Cumulative Effects

There must be a national environmental framework that requires proponents to plan for and mitigate cumulative effects associated with a project in a watershed and region.

There are currently major legislative and policy gaps between provincial and federal requirements for environmental and science data and reporting, and it is important that one federal database is available to access key environmental data.

Recommendation:

There must be a publicly available online **Federal Database that ties together all federal and provincial watershed and water quality data, spill incidents, and other environmental infractions, as well as monitoring and compliance data and statistics, to ensure data quality and reliance.** This will allow for

- a. A project and regional assessment of cumulative effects and impacts
- b. An open and transparent accounting of environmental incidents that will build trust and confidence in the regulatory process
- c. An integrated open science and data platform to inform environmental framework and regional assessments

Engagement and Planning

There should be early consultation engagement, led by proponents with clear direction from government. There should also be early engagement of stakeholders and the public, and direct engagement between the Crown and Indigenous peoples of any project proposal that will impact on the environment. The purpose of this early engagement should also include the question of whether the project is required or if it could have undue or unreasonable effects on the environment, individuals or a community.



Recommendation:

The purpose of early engagement should also include whether the project is necessary or would have undue impacts on a community.

Transparency and Public Participation

As stated above, ORA believes that open on-line access to project information and meaningful participation are key to building trust in the regulatory process. There should be no “standing” test for those wishing to participate in environmental assessments, and online participant funding applications should be streamlined, funding increased, and eligibility expanded.

Currently, applications are broken up into hundreds/thousands of individual pdf documents that cannot be searched efficiently. This is a powerful way to slow down and even block effective and timely stakeholder review of a project.

One key to rebuilding trust in project assessment is to ensure meaningful engagement of the public, stakeholders and Indigenous communities. The current practice of Public Information Centers is not working when the public is merely informed of the project, and individuals are kept isolated so questions are generally not heard by other stakeholders. It is essential to provide for an open, transparent and inclusive dialogue where concerns can be expressed and questions asked in an open forum, and where consultation actually shapes the project.

Recommendation:

1. There should be no “standing” test for those wishing to participate in environmental assessments, and online participant funding applications should be streamlined, funding increased, and eligibility expanded.
2. Application documents must be consolidated into larger single document Volumes for more user-friendly access to project information.
3. It is essential to provide for an open and transparent dialogue where concerns can be expressed and questions asked in an open forum, and where consultation actually shapes the project.

Science, Evidence and Indigenous Knowledge

ORA agrees that science, evidence and Indigenous knowledge should inform project planning, assessment and decision making, and that the process must be open, accessible, transparent and meaningful. Science, evidence and data/information must not be ignored, and impacts effectively mitigated.

Decisions must be backed up by evidence and science, instead of a leap of faith, as is the present practice.

Recommendation:

Any decision made by the regulator must be transparent and backed-up with rigorous science, evidence, and Indigenous traditional knowledge.

Impact Assessment

ORA submits that the environmental, social and health effects associated with a project must not be sacrificed for the economics of a private corporation.



In 2012, the Harper government's mantra was “*one project, one review*”, with the aim of ending the “duplication and overlap” in provincial and federal environmental assessments, which was allegedly holding back economically important resource projects.¹ In 2017, this government is proposing “*one project – one assessment*”.

Under the revised CEAA 2012, environmental assessments for hundreds of different types of risky projects were suddenly dropped as they were no longer subject to a federal review; including hundreds of hydroelectric projects all across the country.

ORA strongly urges the government to discard the current CEAA 2012 threshold criteria for defining waterpower projects, which was the loss or destruction of fish habitat. It is imperative that we return to the former legislative framework, as these types of risky projects are known to have numerous and ongoing negative impacts on both upstream and downstream riverine ecosystems.

Dams and [associated waterpower facilities] harm the environment² and, when headponds or reservoirs are flooded, can produce carbon dioxide and methane for decades, and possibly centuries.^{3,4}

In contrast to the widespread assumption (e.g., in Intergovernmental Panel on Climate Change scenarios) that GHGs emitted from reservoirs are negligible, measurements made in boreal and tropical regions indicate they can be substantial^{5,6,7}

Whether the impoundment is large or small, flooding can destroy or significantly alter some of the most ecologically sensitive areas along the river, including wetlands, riparian zones, and spawning beds.

The construction of a dam on a free-flowing stream changes the basic hydrological characteristics of the watercourse.⁸ The velocity of the stream is reduced and subsequent changes occur in temperature, turbidity, and water quality. These modifications affect fish and other aquatic fauna directly and indirectly to varying degrees, depending upon the species. As water impounded by a reservoir or headpond is necessarily held longer than water flowing in a stream, modifications to water quality and flow regimes will occur. The period of storage will, to some degree, modify temperature, dissolved gases and suspended solids in the water. In short, dams and waterpower facilities destroy the ecology of rivers by changing the volume, quality and timing of downstream water flows.⁹

A very high environmental and socio-economic price has been paid in the past in terms of losses to other valued natural resources due to the installation of dams and waterpower facilities. The socio-economic costs of these losses are generally ignored^{10,11}, and rarely reported to the public.

The collateral environmental damage caused by dams and waterpower facilities has been well documented for decades¹², including the loss or serious decline in migratory fish species (waterpower facilities are key factors in the listing of some iconic fish species as species at risk in Ontario and elsewhere); declining biodiversity^{13,14,15,16,17}, impaired water quality (including elevation of mercury concentrations in fish tissue); and are key threats to imperiled aquatic species.^{18,19} Significant ecological damage from waterpower has been ongoing for many decades in Ontario^{20,21,22} and in other locations throughout the world.²³ In the past, attempts to effectively mitigate many of these impacts have been sporadic to non-existent.

One of the most famous cases in North America involves the devastating cumulative impacts of waterpower on Pacific Salmon in the Columbia and Snake Rivers.²⁴ Similar examples occur here in Ontario where dams are considered to be a major factor in the extirpation of Ontario's Atlantic



Salmon stock²⁵, one of the important causes of significant anthropogenic mortalities and decline of Ontario's American Eel²⁶, and a key threat to Ontario's declining Lake Sturgeon populations.^{27,28,29}

A simple trade-off of valued ecosystem components for the benefits of waterpower is no longer appropriate if broader biodiversity, ecological, cultural and societal benefits are to be protected.³⁰ Energy is not clean or green when it induces significant and ongoing damage.³¹

Recommendation:

1. All hydroelectric, oil and gas, pipeline, transmission, and mining projects must be included in a CEEA Project List to undergo a single integrated federal environmental impact assessment.
2. ORA agrees that a single government agency should be responsible for guiding and conducting federal assessments and coordinating Crown consultations, and it should be Environment and Climate Change Canada – not the National Energy Board.
3. The most effective way to improve cooperation across jurisdictions is to create a legislative and policy framework to require it.

Modern Energy Regulation

ORA agrees that major project assessment and approval must go through an open, transparent, inclusive and thorough environmental, social and economic assessment process; however, the NEB abused its power to objectively assess and approve pipeline projects, as was demonstrated in the Energy East Pipeline review. Consequently, the NEB has eroded public trust and confidence in the independence of the NEB, and especially given that most of its staff, including those at the highest levels, have been drawn from the oil and gas industry.

For this reason, the NEB's responsibilities should be restricted to energy statistics, energy markets, assessing Canadian energy requirements and identifying trends in energy systems.

Recommendation:

An open, transparent, inclusive and comprehensive hearing and environmental assessment process is key to energy projects moving ahead; consequently, Environment and Climate Change Canada is best positioned to handle all hearing and environmental impact assessments for all energy projects.

Restoring Lost Protections to the Navigation Protection Act

The *Navigable Waters Protection Act* was one of Canada's oldest laws, and was a reflection of the importance of protecting waterways for Canadians. However, the *Navigation Protection Act* (NPA) brought in by the Harper government in 2012, removed key protections for 99% of Canada's waterways.

While this government committed to restoring protection for all navigable waters, it is not following through with its promise. Ensuring a strong NPA will ensure healthy and accessible waterways for communities, and recreational and leisure enthusiasts.

Aquatic ecosystems are under great stress across Canada due to large development projects involving hydroelectric dams and reservoirs, oil and gas pipelines, power lines, mining and tailings ponds, and pollution associated with a variety of sources including agriculture, industry and residential and cottage development. As a result, aquatic ecosystems have been degraded and in some cases destroyed, many aquatic wildlife species are in steep decline or threatened with



extinction, sources of drinking water have been contaminated, and climate change threatens to greatly magnify these problems.

Recommendation:

The protection of aquatic ecosystems is of prime importance to Canadians; therefore, ORA requests that the revised NPA fully reinstate the environmental protection to all of Canada's navigable waterways.

Enhanced Protection for Canada's Fish and Fish Habitat

ORA agrees with the Standing Committee's report on the review of the Fisheries Act for recognizing the importance of supporting habitat protection for all fish; however, the report falls short on other important issues such as fish farms and environmental flows.

Recommendation:

1. Alteration or impacts on fish habitat or fisheries must automatically trigger a federal review.
2. A revised Fisheries Act should address concerns over:
 - Aquaculture Activities Regulations exempting fish farms from fish habitat protection and pollution prevention provisions, and
 - The need to enhance protection for environmental flows.

"Climate change is the critical issue of our time."³² Healthy rivers are the key to successful adaptation to the extremes of climate change. There is an urgent need to integrate climate change into all environmental and water protection strategies and policies.

ORA thanks you for this opportunity to comment!

Respectfully,

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¹ The language has been used since 2009, ranging from CEEA amendments in the 2010 budget, 2011 seven-year review, 2012 standing committee, and CEEAct, 2012.

² PEW Environment Group. 2011. *A Forest of Blue: Canada's Boreal*. Online: <http://www.pewtrusts.org/~media/legacy/uploadedfiles/peg/publications/report/PEGBorealWaterReport11March2011.pdf.pdf>

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⁴ Maeck, A., DelSontro, T., McGinnis, D.F., Fischer, H., Flury, S., Schmidt, M., Fietzek, P. and Lorke, A., 2013. *Sediment Trapping by Dams Creates Methane Emission Hot Spots*, *Environmental Science and Technology*, 8130-8137, Online: <http://www.dx.doi.org/10.1021/es4003907>

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