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12 April 2018

Kristina Rudzki
Supervisor
Ministry of the Environment and Climate Change
Environmental Assessment and Permissions Division
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135 St Clair Avenue West, Floor 1
Toronto, ON
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By email: kristina.rudzki@ontario.ca

Re: EBR Registry Number: 013-2099
Updating the Part II Order request process under the Environmental Assessment Act

Dear Ms. Rudzki:

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

ORA has been grateful for the opportunity to exercise our rights under the Environmental Assessment Act to make a Part II Order request, to ensure a project meets the highest standards of mitigation when significant issues have not been adequately addressed during the Class Environmental Assessment process.

Since ORA has used this process extensively in the past, it is puzzling that we were not part of the consultation process before this policy/guidance document was posted to the Environmental Registry. Please register the Ontario Rivers Alliance as an interested and invested stakeholder in all future iterations of the Part II Order process review.

The Proposal Summary described as "*Updating the Part II Order request process under the Environmental Assessment Act*" states, "*we have developed a draft guide for the public to provide clarity and direction on how to request a Part II Order under the Environmental Assessment Act*"; however, ORA submits that this draft guide is very vague, confusing and unclear regarding key components of the process, and in its wording. In contrast, the old guidance "How to Make a Part II Order Request", March 2011, PIBS# 8263e01, was very clear, informative and straight forward. One wonders why it was necessary to introduce a new guide that is so vague, confusing and lacking.



The title of this proposed document, “*Operational Policy on Submission of Part II Order Requests under the Environmental Assessment Act*”, is in itself confusing as it leads one to believe it is operational policy, rather than a requester’s guidance document. The EBR Policy Proposal clearly sets this draft out as guidance for the public to provide clarity and direction on how to request a Part II Order; however, the actual draft reads more like a policy document and even bears that title. So, ORA is puzzled, is it “*operational policy*” or is it “*a guide for the public*”? An operational policy document should stand apart from a how to guide for the public and should be set out in two separate and distinct documents.

Many individuals and groups embarking on the Part II Order process are new to it, have no legal assistance or background, and are unfamiliar with the terminology and rules; therefore, if we are truly aiming to provide help to the public it is extremely important that clear, succinct and concise instructions be provided in this policy/guidance document.

The EBR posting also clearly states “*if any person has outstanding concerns that were not addressed as part of the Class Environmental Assessment process, they may request that the Minister of the Environment and Climate Change issue a Part II Order. A Part II Order would require the proponent to complete a more comprehensive review process (Individual Environmental Assessment)*”, this is simple and straight forward. However, in the draft, there are three different options to choose from when requesting a Part II Order and directs the reader “*to clearly state that a Part II Order is being requested and whether:*

- 1. An Individual Environmental Assessment under Part II of the Environmental Assessment Act is being requested;*
- 2. an order imposing additional conditions is being requested; and*
- 3. a referral of the matter to mediation before making a decision is being requested.”*

Again, this is confusing – is there one option or are there three when making a Part II Order request?

A Part II Order request has always been made purely to request a higher level of assessment; however, it now appears a requester may also request that an order be issued imposing additional conditions, or referral of the matter to mediation. ORA submits that the Minister is in the best position to determine the correct course of action; and, as mentioned previously, a novice to this process may not understand the significance or ramifications of the different choices. These are options that have always been left up to the Minister to decide, as is appropriate, and should remain with the Minister.

There are also key questions someone not familiar with the process would need to know but are not addressed in this draft:

1. At what point in the process can a Part II Order Request be made?
2. How much time does a requester have to make the Part II Order request?
3. What is a Notice of Completion?



This document is so lacking that it is difficult to know where to begin; however, in addition to our previous comments, ORA's key recommendations are:

1. The new guidelines are far too vague and unclear; therefore, the 2011 document, "How to Make a Part II Order Request", March 2011, PIBS# 8263e0, should remain in place (it is a much more informative, clear, concise and helpful guidance document).
2. Include a broad overview of the EA process and how the public can engage and participate in it.
3. In the event this draft moves forward, the title and content of the proposed guidance document should be straight forward and to the point - if it is a guidance document for the public, it should read, 'Guidance to the Public on Part II Order Requests', and then read like a guidance document with clear, succinct and detailed instructions.
4. The new guidelines should clearly state at what point and under what conditions a Part II Order request can be made:

A Part II Order request may be submitted in writing to the Minister of the Environment within the 30-day review period after the proponent has issued a Notice of Completion of the process or the assessment report which is commonly referred to as an Environmental Report.

A request should be made only when there are outstanding significant environmental issues that cannot be resolved through the class environmental process, discussions with the proponent or mediation.

A Part II Order request is considered to be premature when it is received before the proponent issues the Notice of Completion. If the request is premature, the requestor will be advised to bring the issues to the attention of the proponent.

5. Include a definition of what a Notice of Completion is, and at what stage of the process it is issued.
6. Under the definition of a Part II Order, include "a request to the Minister of Environment and Climate Change to elevate the Class Environmental Assessment to an Individual Environmental Assessment".

As previously stated, ORA is an interested and invested stakeholder; and respectfully request that we be consulted in all future iterations of the Part II Order process.

Thank you for this opportunity to comment!

Respectfully,

Linda Heron
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Cc: Dianne Saxe, Environmental Commissioner of Ontario – Commissioner@ECO.on.ca