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24 May 2019

Client Services and Permissions Branch
135 St. Clair Avenue West, 1st Floor
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By Email: EAModernization.MECP@Ontario.ca

Re: ERO-013-5101 – Discussion Paper: Modernizing Ontario's environmental assessment program
ERO-013-5102 – Modernizing Ontario's environmental assessment program – Environmental
Assessment Act

Dear Sirs:

The Ontario Rivers Alliance (ORA) is a Not-for-Profit grassroots organization acting as a voice for several stewardships, organizations, private and Indigenous members who have come together to protect, conserve and restore healthy riverine ecosystems.

The ORA is opposed to this proposal that would gut the *Environmental Assessment Act (EAA)* and the Environmental Assessment (EA) program. Since the *EAA* was amended in 1996 there have been many official calls for an improved *EAA* and EA program, amongst those calls were the Environmental Commissioner for Ontario and the Auditor General of Ontario. Over this time, the EA program and *EAA* have become more and more streamlined, and this has led to increasing uncertainty for stakeholders and proponents.

These streamlining measures have already taken environmental protection backwards, from what was a rigorous and effective *EAA* and EA program, to what we have now - a streamlined proponent led screening process where, in the end, stakeholder concerns and key mitigation recommendations can be ignored and bypassed through ministerial discretion. It is absolutely necessary that social, economic, cultural, health, **safety** and environmental factors are seriously considered and regulated.

This Discussion Paper proposes sweeping changes with very little detail and offers measures that would undermine environmental and public safety measures, exempt projects, impose time limits, and would further streamline and perhaps eliminate essential components of the EA program. Its laser focus is on removing barriers to development rather than protecting the environment and communities. These proposed measures would dial back environmental protection even further, creating more environmental and procedural uncertainty, and place the environment and communities at risk

An EA is not red tape and its purpose is not to ensure development. The purpose of the *EAA* is “*the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment.*” The Discussion Paper proposes to further streamline and exempt numerous processes and types of projects, which would primarily



benefit corporations and undermine the betterment of the people of Ontario and place our children's future at further risk.

Feedback is requested on a number of high-level questions when there is very little detail. The EA program is meant to screen out projects that are unsuitable or risky, and to ensure that only suitable, safe and environmentally sustainable projects are allowed to proceed, subject to effective and enforceable approvals which safeguard the public interests.

Part II Order Requests:

The ability for a stakeholder or organization to make a Part II Order request on an Environmental Report (ER) is essential to ensure adequate mitigation efforts have been included to protect the environment, as well as stakeholder and First Nation communities.

From our experience, proponents are primarily focused on getting the project up and running and have been known to skip important processes and mitigation measures due to costs and time. Stakeholders ensure that public interests are addressed, and the project is often improved.

Many individuals and groups embarking on the EA or Part II Order processes are new to it, have no legal background or assistance, and are unfamiliar with the terminology, rules and policies.

An ER is usually made up of thousands of pages of technical documents, studies and reports and it is a daunting task for anyone unfamiliar with the process or not having a technical background to tackle such a challenge.

There are already guidelines regarding deadlines for bump-up requests that are strictly enforced, and the norm is a 30-day comment period, which in our opinion is far too short in consideration of the size of an ER.

The decision-making process is much more arbitrary and uncertain and can take anywhere from 30 days to several years for a decision to be made. The Discussion Paper's suggestion to speed up Ministerial decision-making, restrict who may file a Part II Order request, and limit the grounds for such requests will not solve the problem, but will instill a lack of confidence in the entire process.

It is imperative that stakeholders have confidence in a rigorous and thorough EA process that ensures environmental protection, sustainability and public safety.

For this reason, ORA recommends the following:

- Instead of a 30-day comment period, that 60 days be the minimum requirement for a Part II Order request.
- All ER documents are made available by the proponent in a digital format providing the ability to use tools to search, highlight, and make notations.
- All efforts are made to ensure stakeholders can access either a digital or hard copy of the ER for review and comment.
- Any stakeholder, individual or organization with an Ontario address should be allowed to comment or make a Part II Order request. Some organizations have acquired a wealth of experience and can be of great assistance to the public and stakeholders in this regard.
- A Part II Order request should be adjudicated in writing by an independent decision-maker – not by the Minister.



Types of Projects that should require an Environmental Assessment:

ORA objects to the idea of a “project list” - rather it should apply to any project that could be a risk to the environment or the public and Indigenous communities, either during construction, while in operation, or if were to fail.

Eliminating “duplication” between the *EAA* and other provincial or municipal planning and approvals processes:

The assertion in the Discussion Paper that there is “duplication” between the *EAA* and other provincial planning and environmental approval regimes is incorrect. No other provincial statute requires proponents to demonstrate the need/purpose of the undertaking, consider “alternative methods”, and systematically evaluate and consult upon potential environmental, socio-economic or cultural impacts.

Only the *EAA* requires an upfront and comprehensive evaluation of the broad environmental effects of the undertaking, and individual EAs often address big-picture policy questions that do not get examined under regulatory statutes or the *Planning Act*. We already have a one project, one assessment approach where the provincial and federal regulators work together to facilitate a project through the Class EA for Waterpower process. DFO, MNRF and MEPC and other federal agencies have worked well together to help a proponent through the EA process. There is very little duplication as the processes have been perfected and fine-tuned over the years. Why change something that is already working well?

Creating a “sectoral” terms of reference for Individual EAs:

Given that the *EAA* already allows the Minister to approve terms of reference that “focus” (or scope) EA content requirements, and given that this scoping power has been extensively used by the Minister since the 1996 amendments, there appears to be no demonstrable need for “sectoral” (or one-size-fits-all) terms of reference for major undertakings that are significant enough to warrant individual EAs.

Electronic submission of EA documentation:

In principle it would be helpful to create an electronic registry that allows the uploading and retention of digital copies of EA documentation submitted by proponents. However, not everyone interested in taking part in the EA process has access or the ability to use a computer or has broadband service, and language can also be a barrier.

Therefore, the creation of an electronic registry must not be a substitute for other traditional forms of consultation during the EA consultation process. Meaningful public and Indigenous participation in the EA program require an open, transparent and accessible process.

Conclusion:

In conclusion, this Discussion Paper does not really address the changes that would instill confidence in the EA program, instead the proposal would further undermine an already streamlined and lacking process.

Consequently, the ORA is opposed to the Discussion Paper’s proposal and recommends it be withdrawn. Instead, we recommend the government propose measures that would strengthen and



improve the integrity of environmental protection, public safety and public and Indigenous consultation.

The ORA fully supports the Canadian Environmental Law Association's submission.

Thank you for this opportunity to comment!

Respectfully,

Linda Heron
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