



**ONTARIO
RIVERS
ALLIANCE**

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20 November 2020

Noreen Tope
Senior Policy Coordinator, Water Policy
Ministry of Environment, Conservation and Parks

By email: WaterPolicy@Ontario.ca

Re: ERO-019-2517 – Exempting dams from requiring a Permit to Take Water

Dear Ms. Tope:

The Ontario Rivers Alliance (ORA) is a not-for-profit grassroots organization with a mission to protect, conserve, and restore riverine ecosystems.

The Ministry of Environment, Conservation and Parks (MECP) is proposing to remove the need for certain types of dams to obtain a Permit to Take Water (PTTW). Additionally, in the latter part of 2019, in order to cut “Red Tape” for dam owners, through Bill 66, the MECP exempted the waterpower industry from having to obtain a PTTW under the Ontario Water Resources Act, R.S.O. 1990, of which ORA expressed its strong opposition. Since then, there has been a continuous undermining/streamlining of the Environmental Assessment Act (EAA), major proposed amendments to the Waterpower Class Environmental Assessment, and amendments to several other key environmental policies and legislation through omnibus bills. ORA is extremely concerned at these swift, massive and all-encompassing cuts to so many key environmental protections that have taken decades of hard lessons learned to develop, and only a matter of months to tear it all down.

ORA submits that the MECP’s priority must be the pursuit of its Statement of Environmental Values (SEV), and its vision and mandate of “*an Ontario with clean and safe air, land and water that contributes to healthy communities, ecological protection, and environmentally sustainable development for present and future generations*”¹. There is nothing in the MECP’s SEV that promises to “*remove the regulatory burden*” from industry or “*provide some cost savings for dam owners and operators*”. It is not the MECP’s duty to save dam owners and operators money or ease their regulatory burden. Its duty is to fulfill its Mandate to protect the environment and to follow its promise of environmentally sustainable development for our present and future generations. Certainly, MECP’s priority should not be to cut regulatory burden at the expense of our air, land and water. It is a tragedy that today’s cost savings for dam owners and operators will be borne on the backs of our children and grandchildren.

In MECP’s application of its SEV it also commits to applying the purposes of the Environmental Bill of Rights when making decisions that might significantly affect the environment. Principles such as adopting an ecosystem approach, sustainable development, using a precautionary and



science-based approach, addressing cumulative effects and, importantly, stakeholder consultation and input.

Again, instead of abiding by its SEV, the MECP is catering to the waterpower industry which is vying to convert water control structures into hydroelectric dams without “the burden” of having to go through the Environmental Assessment (EA) process. Again, this not only goes against MECP’s SEV, but it prioritizes the advancement of the waterpower industry ahead of the interests of the environment and communities. In effect, the MECP is exempting itself from responsibilities for key environmental considerations it has committed to in its SEV.

Why is the Ontario government undermining Ontario’s key environmental protection legislation meant to protect the interests of Ontarians and, instead, trusting and supporting the interests of an industry lobbyist group whose actions are only in the best interests of the waterpower industry? As evidenced in the Ontario Waterpower Association’s website, it reads, “*Since 2001 the Ontario Waterpower Association has been representing the common and collective interests of the waterpower industry in Ontario.*”²

The Lakes and Rivers Improvement Act (LRIA)

As far as ORA is aware, compared to the total number of dams in Ontario, there are relatively few control dams that have required a PTTW. It was primarily hydroelectric dams that were required to obtain a PTTW, until last fall when Bill 66 exempted hydroelectric from the requirements of a PTTW.

ORA is concerned that the details of the Environmental Registry posting are very scant and leaves many unanswered questions.

For instance, under LRIA a Dam Operating Plan (DOP) is required for hydroelectric facilities, but as far as ORA is aware, most non-waterpower dams do not have a DOP. Even though Sections 14 and 16 of LRIA require that “*no person shall construct, alter, improve or repair a dam in any lake or river in the circumstances set out in Ontario Regulation 454/96 without prior approval for: location of a dam and/or the dam’s plans and specifications*”, it isn’t clear whether older (50 to over 100-year-old) dams have an operating plan regulating how water levels and flows will be managed throughout the year. **How many control dams in Ontario actually have an Operating Plan? How many don’t have an Operating Plan? Are these DOPs available to the public for review? If not, why not?** Nothing about this is transparent.

The Ontario government website claims that “*flooding is the costliest natural hazard for property damage in Ontario*”. In fact, extreme rain has been the cause of several control dams failing in Ontario over the last few years, such as the Gorrie Dam and Melville Dam in 2017 and the Quinte West Dam in 2019. With Climate Change and the predicted increasing frequency and intensity of extreme rain and melt events, the regulation of dams becomes increasingly important. There are many control dams that are privately owned, that are 75 to 100 or more years old, and ripe for failing. **Yet, there are no requirements for older dams to go through a Dam Safety Review to assess their risk to the public or the environment, or requiring repair, replacement or decommissioning.** This is a huge failing that should be corrected. Additionally, removing dams and naturalizing riverine ecosystems would improve the health and resilience of Ontario lakes and rivers, its fisheries and the economy, and help the Ontario government achieve its goals as set out in its Made-in Ontario Environment Plan. Encouraging



and/or incentivizing dam removal projects, where appropriate, would be an excellent way to improve water quality and fisheries, and would eliminate the need for dam regulation and monitoring.

As water impounded behind a dam is held longer than water flowing in a stream, modifications to water quality and flow regimes will occur. Drought conditions exacerbate warming and can result in toxic blue-green algae, placing upstream and downstream communities at risk.

The MECP is responsible for the PTTW and has the staff to assess, monitor and ensure compliance with water quality, flow and water level agreements, whereas the MNRF is responsible for the health and wealth of the province's natural resources, and not as geared towards the environmental side. **Does the MNRF plan to hire additional environmental staff with the expertise to assess, monitor and ensure water quality and water quantity compliance?**

Many Ontario dams aren't required to have a PTTW anyway, but if for example an existing control dam was to undergo construction or modifications to convert it to a hydroelectric dam it would not require a PTTW, or a Class EA for Waterpower if the current major amendment ORA recently commented on is passed. **So, where in the process would stakeholders be consulted or have an opportunity to provide input regarding their concerns?**

Our environmental safeguards are quickly being gutted at a time when swift action is required to build climate resilience into Ontario rivers and lakes to protect water quality and freshwater biodiversity. Our health, food and security depend on biodiversity – from medical treatments to food production.

A PTTW application is usually posted on the Environmental Registry for public comment; however, it is unclear whether Sections 14 and 16 of LRIA would provide a public consultation process. As far as ORA is aware, there is no public consultation in the permitting phase of LRIA.

The ORA strongly objects to this proposal to exempt certain types of dams from the requirement to obtain a PTTW, as:

- the opportunity for stakeholder and public consultation and input for problematic or controversial dams would not occur under LRIA; and
- water quality, water flows and water level assessment, monitoring and compliance must be improved - not exempted.

Therefore, ORA recommends this proposed dam exemption to the PTTW be rejected.

Thank you for this opportunity to comment.

Respectfully,

Linda Heron
Chair, Ontario Rivers Alliance
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¹ *Statement of Environmental Values: Ministry of the Environment and Climate Change*

² <https://www.linkedin.com/company/ontario-waterpower-association/?originalSubdomain=sg>