

May 16, 2019

Carolyn O'Neill  
Ministry of the Environment, Conservation and Parks  
Land and Water Division  
Great Lakes and Inland Waters Branch  
Great Lakes Office  
40 St Clair Avenue West, Floor 10  
Toronto, ON M4V 1M2

Dear Ms. O'Neil

**RE: Modernizing Conservation Authority Operations – CA Act ERO # 013-5018**

Thank you for the opportunity to provide comment on the Ministry of the Environment Conservation and Parks' proposal to amend the *Conservation Authorities Act* (CA Act). It is understood that the anticipated amendments presented in the ERO Posting were to inform amendments to improve the ability of conservation authorities (CAs) to modernize and improve delivery of their core programs and services – consistent with the government of Ontario's 'Made-in-Ontario Environment Plan.'

It is also understood that on May 2, 2019 *Bill 108 the More Homes, More Choice Act, 2019* was released with its first reading in the legislature that enacts the proposed changes to the CA Act without the benefit of the consultation input of this ERO posting.

KCCA was not afforded the time to review this ERO posting in relations to Bill 108's Schedule 2, in a wholesome and meaningful way either with its member municipalities or board members.

The Board of Directors met on May 15, 2019 and resolved to provide these comments as information for modifications to the Act and associated regulations. However, it should be noted that further comments, concerns may be forthcoming after a more comprehensive review of Bill 108 is undertaken.

At its May 15, 2019 meeting the Board of Directors also endorsed by motion, Conservation Ontario's Key Recommendations for Modernization of Conservation Authority Operations and Schedule 2 of Bill 108 dated May 10, 2019 and would encourage the Province's consideration of these recommendations.

The Province is proposing to make amendments to the Conservation Authorities Act (CA Act) to help conservation authorities focus and deliver on their core mandate and improve governance. The summary of the proposed changes in the ERO posting include five points:

1. *Clearly define the core mandatory programs and services provided by conservation authorities to be: Natural Hazard Protection and Management; conservation and management of conservation authority lands; drinking water source protection (as prescribed under the Clean Water Act); and protection of the Lake Simcoe watershed (as prescribed under the Lake Simcoe Protection Act)*

**KCCA Response:**

- While KCCA respects and supports the province's continued efforts to more clearly define conservation authority core mandatory programs and services, the Authority strongly believes that all of its current programs and services support the purpose statement of the Conservation Authority Act being, "to provide for the organization and delivery of programs and services that further the conservation, restoration, development and management of natural resources" in the area over which it has jurisdiction. All of the programs and services that KCCA currently provides support delivery of hazard management, natural resource management and conservation and management of CA lands.
- Reference to terms, natural resources, watershed and monitoring are missing from the core mandatory programs and services and should be included. To handle flood control, monitoring and warning in a complete and rationale manner programs and services such as tree planting and restoration programs, environmental monitoring and data collection, land acquisition and protection are all necessary on a watershed-scale. These are in keeping with the objects of an Authority as stated in the CA Act.
- KCCA supports the management of conservation authority land being identified as a core mandate. KCCA operates two campgrounds, manages three day-use facilities, 25 km of hiking trails and currently owns 528 hectares of land. Staff members from the conservation areas assist with core program areas such as the maintenance and operation of the flood forecasting and warning resulting in increased efficiencies. With population growth in the watershed and a mounting interest in healthy-active living, there is additional pressures on KCCA's landholdings. Health and Safety concerns, increased and more diverse access requests and user conflicts are more prevalent. Resources are required to manage these landholdings.
- Administration of the authority operations is also a core program and service and should be added. Currently, the Policies and Procedures for Determining Eligibility for Provincial Grant Funding to Conservation Authorities includes the overhead and support costs of the Conservation Authority which are not directly related to the delivery of a specific program and which typically include general management, clerical, financial and board staffing and expenses; office equipment and supplies; main office occupancy costs; etc. are listed as eligible expenses. These functions need to be adequately resourced to ensure accountability, good governance and compliance with health and safety requirements.
- The inclusion of Drinking Water Source Protection (as prescribed under the Clean Water Act) may be warranted as CAs have been engaged with this program since 2006.

However, it is anticipated that this area is being added as a core mandated program so that costs associated with the program can be shifted to municipalities.

KCCA is part of the Lake Erie Source Protection Region consisting of four conservation authorities with the lead CA being the Grand River Conservation Authority (GRCA). Since 2006, GRCA has conducted work on behalf of the Kettle Creek Source Protection Authority and the rest of the region. This work has been fully funded by the Province. This funding arrangement recognizes the cross boundary benefits of such work. The Province should maintain the current funding to the lead CA to avoid increases to municipal taxes and continue to benefit from cross boundary program development and capacity.

- Protection of the Lake Simcoe Watershed (as prescribed under the Lake Simcoe Protection Act) does not impact KCCA.

2. *Increase transparency in how conservation authorities levy municipalities for mandatory and non-mandatory programs and services. Update the Conservation Authorities Act, and Act introduced in 1946, to conform with modern transparency standards by ensuring municipalities and conservation authorities review levies for non-core programs after a certain period (e.g. 4 to 8 years).*

**KCCA Response:**

- Increasing transparency and clarity in how conservation authorities levy municipalities for programs and services is an important step in ensuring a continuing collaborative working relationship between conservation authorities and municipalities.
- It should be noted that KCCA's current levy is reviewed on an annual basis, a process that is led by each member municipality with a final budget approval by the KCCA Board of Directors. KCCA's full budget, levy apportionment and audited financial statements are available publicly.

3. *Establish a transition period (e.g. 18 to 24 months) and process for conservation authorities and municipalities to enter into agreements for the delivery of non-mandatory programs and services and meet these transparency standards.*

**KCCA response:**

- While the accepted timeline for implementation of 18 to 24 months is acceptable, it would be advantageous to align the transition period to align with the municipal term of council (December 2022).
- Modern transparency standards such as levy review and service agreements/memorandum of understandings for programs and services that the CA is undertaking on behalf of a municipality are supported. However, KCCA is concerned that the effort to increase transparency may unintentionally lead to financial inefficiencies and poor management of watershed resources.

As mentioned above, KCCA's program areas often share staff and resources for cost and program efficiencies. In 2018 municipal levy accounted for 34% of the overall revenue of

the Authority with the majority, 61% being self-generated (i.e. user fees, grants). As proposed in Bill 108 Appendix 2, KCCA would not be able to undertake non mandated programs and services with municipal levy in the absence of a service agreement with a member municipality. This could mean that programs and services that benefit the entire watershed are only available within certain areas of the watershed – possibly, resulting in one or two member municipalities bearing a greater expense, or some watershed residents not being serviced while others are.

4. *Enable the Minister to appoint an investigator to investigate or undertake and audit and report on a conservation authority.*

**KCCA response:**

- KCCA is not opposed with the province’s proposal to amend the CA Act to appoint an investigator to undertake audit of CAs. However, it should be noted that KCCA currently prepares annual audited financial statement that are shared publicly. Additionally, KCCA’s Board of Directors retain their right to request additional audits or investigations as deemed necessary in accordance with their fiduciary duties to the organization.
- It is hoped that because the costs of such audits are to be borne by the Authority that some measures would be established to determine the reasons why an audit may be initiated and whether or not concerns can be first addressed through a Board process.

5. *Clarify that the duty of conservation authority board members is to act in the best interest of the conservation authority, similar to not-for-profit organizations.*

**KCCA response:**

- KCCA supports the province’s proposal to amend the CA Act to clarify the duty of CA Board members – particularly to act in the best interest of the CA.

6. *We (the ‘Province’) are also proposing to proclaim un-proclaimed provisions of the Conservation Authorities Act related to: fees for programs and services; transparency and accountability; approval of projects with provincial grants; recovery of capital costs and operating expenses for municipalities (municipal levies); regulation of areas over which conservation authorities have jurisdiction (e.g. development permitting); enforcement and offences; and additional regulations.*

**KCCA response:**

- KCCA generally supports the initiative of the province to proclaim previously unproclaimed provisions in the CA Act. However, some of the unproclaimed provisions lack sufficient detail to comment. Of particular concern is detail around fee programs and services, entering into agreements with member municipalities for non-mandatory programs, definition of capital versus operating and maintenance costs and apportionment of levy among municipalities. More detail and consultation on these items is requested.

In conclusion, KCCA generally supports the province's initiatives to increase the ability of conservation authorities (CAs) to modernize and improve delivery of their core programs and services. However, the timing of the ERO posting and corresponding Bill 108 has severely limited the Authority's ability to communicate and consult on the proposed changes with member municipalities. These comments are respectfully submitted in that context.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Harvey", written in a cursive style.

Stephen Harvey  
Chair

Digitally Signed

cc: Conservation Ontario