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Conservation Authorities, Conservation Ontario: Redundant & Grasping for Power

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“Angers, pro Regina and The Queen Insurance Co., Held by Superior Court, Montreal, Torraine, J., affirmed by Queen’s Bench, Montreal, and confirmed by the Jud. Com. Of the Privy Council (21 L. C. J. 77; 22 L. C. J. 307; 16 C. L. J. 198; 3 L.R. App. Cases 1090).”¹

“It is an evasion of the Act from which the Local Legislature derives its power. The Local Legislature cannot, no more than private individuals, act as it were in fraud of the law, that is, do by indirect means what it cannot effect directly...”²

¹ Constitution of Canada. The B.N.A. Act, 1867; Its Interpretation, etc., p. 207

² Constitution of Canada. The B.N.A. Act, 1867; Its Interpretation, etc., p. 209

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Conservation Authorities, Conservation Ontario Introduction

When the Conservation Authorities were introduced, they were meant to be an advisory body that provided specific areas of Ontario, as creatures of the municipalities and the Ministry of Public Works, information and an ability to eliminate flooding and erosion. As with a number of different agencies, such as Ontario Society for the Prevention of Cruelty to Animals (OSPCA) inspectors, Ministry of the Environment (MOE) inspectors, By-Law Inspectors, to name a few, the Conservations Authorities are not, lawfully, to expand beyond their legislative authority, and yet they frequently do.

Then came Conservation Ontario. And what or who is Conservation Ontario?

"3.6. Conservation Ontario, ..., is a non-profit, non-governmental organization ... On behalf of its members, Conservation Ontario builds strategic partnerships, develops programs and champions collective issues/concerns....

Conservation Ontario seeks to influence policy that affects conservation authorities and to provide collective services to the authorities including corporate communications, policy and program development, government relations, partnership development, research and information, evaluation and reporting, education and training, and the provision of insurance and benefits for conservation authority employees.

Conservation Ontario is funded by dues from each conservation authority supplemented by project funding and contract work.

Conservation Ontario is not established through the Conservation Authorities Act, nor is it governed by the Act. The structure, roles and responsibilities and funding of Conservation Ontario are not part of this review."³

Is this entity needed? No. It is interfering with the democratic process as well as the Conservation Authorities original mandate. Not to mention that "policy" is not law,⁴ therefore there is no mandate for the C.A.s to implement policy beyond their legislative authority.

³ Discussion Paper , Conservation Authorities Act, *A review of the roles, responsibilities, funding and governance of conservation authorities under the Conservation Authorities Act, 2015*, p. 11.

⁴ [47]... Provincial and NVCA policy statements (which do not have force of law)... CITATION: Gilmor et al. v. Nottawasaga Valley and The Township of Amaranth, 2015 ONSC 5327.

"..., that policy or guideline is not prescribed by law. It is simply that; it is MNR guidelines for enforcing the Act and, as such, it cannot be relied upon as the law." Ministry of Natural Resources v. Janssen, Reasons for Judgment - February 12, 2015.

In this brief report it will be shown that:

- i. That the Conservation Authorities, in conjunction with Conservation Ontario, are wasting tax-payer's money and have created a conflict between the C.A.'s and other superior governmental entities, making the C.A.'s and Conservation Ontario redundant;
- ii. There is already a legislated mandate, preamble and object/purpose to the Conservation Authorities;
- iii. That Municipal Councils need to re-establish their authority over the Conservation Authorities;
- iv. That the Conservation Authorities do not need any new or extra authority or ability to implement any new regulation or policies;
- v. That Conservation Authorities are not using actualities through science, but are merely guessing at what is or is not going to or is happening. Best estimates and simulations are not fact.

It is hoped with this report that the Conservation Authorities will be placed, either, back to their original mandate/objects/intent or they and Conservation Ontario be discontinued.

(i) Conservation Ontario – A Waste of Tax-payer's money and a conflict.

"They also express concerns about duplication, or redundancy between authorities and municipalities. Why pay conservation authorities for work which municipalities are already expected to undertake? Why inflict another layer upon the taxpayer?"⁵

Firstly we need to look to the history of The Association of Conservation Authorities of Ontario/Conservation Ontario and then to what it has become. In the 1950's the Associated Conservation Authorities of Ontario existed. It didn't last long, but then in the 1960's it regained its status known as the Chairman's Committee which included the use of one of the larger conservation authorities to provide secretarial and accounting services.⁶ It was viewed as an organization:

"...through which information could be exchanged, matters of Policy discussed and a common front presented to Provincial Government Departments interested in conservation activities" (Jackson,1980).⁷

According to Canadian Water Resources Journal Vol. 17, No.3, during the time of the late 60's - early 70's the conservation authorities were placed under the control of the Ministry of Natural Resources and Forestry (MNR). During this time employees were civil servants and government employees and known as resource managers. In an extension beyond the mandate of their parent Ministry, the C.A.'s hired out-side employees to gain more power by trying to obtain greater autonomy. This led to the solidification of Conservation Ontario.

The "objects" established for the Chairmen's Committee, was to provide advice, support and assistance to the C.A.s, and was to be a liaison between the C.A.s and government. In the mid 70's a formal secretariat was established with a part time secretary being hired, and separate offices were implemented. It was merely to serve the staff of the C.A.s by promoting the staff, assisting the staff and representing the C.A.s. In the early 80's a fulltime Executive Director was appointed and the Chairman's Committee was incorporated and constituted by the Conservation Authorities as the Association of Conservation Authorities.

At the time of the formal incorporation the Goals and Objects of this entity were:

⁵ Canadian Water Resources Journal Vol. 17, No.3, 2013, p. 270 – 276.

⁶ Canadian Water Resources Journal Vol. 17, No.3, 2013, p. 270 – 276.

⁷ Canadian Water Resources Journal Vol. 17, No.3, 2013, p. 270 – 276.

- (i) To act as a coordinating body on matters of common interest for the conservation authorities in Ontario, by preparing briefs, position papers and reports, and by reviewing pertinent government programs.
- (ii) To assess and propose changes in government policy and programs and to review and comment on pending legislation affecting conservation authorities and the management of natural resources.
- (iii) To provide liaison between the Authorities and appropriate agencies.
- (iv) To assist Authorities with administrative, financial and technical matters by collecting and disseminating information.
- (v) To promote the conservation authorities in Ontario by organizing meetings, tours and seminars and encouraging publications, maps and files of the work of conservation authorities.⁸

And there was the formation of ACAO objectives, being:

1. Coordination between and among conservation authorities: In general this includes the identification of issues and concerns and the development of common policies regarding their resolution. In recent years a policy was negotiated, through the efforts of the ACAO, where revenue realized from the sale of land, for which the original purchase had been cost-shared with the Province could be reallocated to other projects of the authority. The association also coordinated the standardization of signage and logos pertaining to conservation areas (parks) across the province. The ACAO has also worked toward the establishment of standardized criteria for conservation authority enforcement officers involved in park security.

Under statement 1 of the ACAO objectives it states that "where revenue realized from the sale of land, for which the original purchase had been cost-shared with the Province could be reallocated to other projects of the authority," seems to be an abuse of tax-payers because the province, on behalf of the tax-payers, had originally paid for this land.

June 3, 1980

The House met at 2 p.m.

Prayers.

5:20 p.m.

Mr. Makarchuk: For my friends over there who are interested in the bridge at Elora, I must point out that I had a lawyer, Eddie Goodman, a person of some renown, and this matter did not go to the Ontario Municipal Board. It was not a matter in which we were dealing with the Ontario Municipal Board. To clarify that situation for those who are interested, the fact is we were trying to get the right to appear before the Supreme Court of Canada to say that the Grand River Conservation Authority did not have the right to transfer property that had been given to it for recreational purposes.

⁸ Canadian Water Resources Journal Vol. 17, No.3, 2013, p. 270 – 276.

As for the projects, these projects were to be under the original mandate of the Conservation Authorities; the stopping of flooding; the creation of reservoirs in case of drought; and, with the consent of a private property owner, the planting of trees. Of course this would cost money, but to sell off land acquired for building dams, parks, in support of an ever growing bureaucracy was not the mandate of the C.A.s

2. Resource (i.e. advice of information and facilitation) support to authorities: This includes staff training and development, group benefits and insurance, workshops, conferences and tours, technical, administrative and financial information and advice as well as review of legislation.

Under statement 2 of the ACAO objectives it states "staff training and development, group benefits and insurance, workshops, conferences and tours, technical, administrative and financial information and advice as well as review of legislation." Firstly the C.A.s are in operation under the co-operation of the province (MNR) and the participating municipalities. They are employees of government, as in civil servants, therefore why would there be a need for ACAO/Conservation Ontario to provide staff training and development, group benefits or insurance? Also why would ACAO need to provide workshops, conferences, tours, technical information, administrative or financial information or even to review legislation? The employees are to be working to assist municipalities regarding information and labour involving bridges, dams, erosion, and tree planting – not to become another over-laden bureaucracy.

3. Liaison with Provincial agencies, special-interest groups and the public in order to represent the best interests of conservation authorities and maintain their public profile and support for them. During the inter-ministerial review (Burgar Report) ongoing advice and consultation was provided through the Association office. Subsequent to this the ACAO Executive Director served as a committee member in drafting a follow-up report and recommendation to the Minister of Natural Resources on the role and mandate of conservation authorities. During this time, he also acted as an interface between authorities and the Provincial government.

Statement 3 of the ACAO/Conservation Ontario (C.O.) objectives is the most telling. As stated, ACAO/C.O. was created to promote the best interests of the Conservation Authorities – not to protect the best interest of the people; not to maintain the objects of the C.A.s; not to protect the municipalities or for the protection of provincial resource interests through the MNR, under section 109⁹ of the British North America Act. In other words the ACAO/C.O. encouraged the

⁹ Property in Lands, Mines, etc.

109. All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same. Constitution Act, 1867/British North America Act, 1867.

C.A.s to go beyond their legislative authority in violation of their original mandate as enacted by the province and the municipalities. As an example of "*the best interests of conservation authorities*" is, as expressed in the Nottawasaga Valley Conservation Authority, Conservation Protection and Acquisition Policy through Ontario's Land Use Planning Process, May 2002, the C.A.s are prepared to do indirectly what they cannot do directly and have changed the intent of the legislator regarding the entire reason for the C.A.s creation and existence.¹⁰

5.0 Policy

Acquisition

Through the land use planning process, the NVCA will pursue the acquisition of conservation lands eligible for the Conservation Land Tax Incentive Program (CLTIP).

6.0 Implementation

In addition, this Policy will be implemented through the NVCA's permit approval process under Section 28 of the Conservation Authorities Act.

To fully understand the implications of this policy one only has to look at the 2007 Nottawasaga Valley Conservation Authority (NVCA) Land Securement Strategy, page 14, section 5 – Alternatives to Land Securement, 5.1 – The Planning Process:

"As part of NVCA's involvement in the planning process under the *Planning Act*, (i.e., Official Plan Amendments, Draft Plans of Subdivision, re-zoning and land severance applications) environmentally significant areas may be identified through supporting studies and where appropriate designated open space, environmental protection or other designation that would restrict future development. The opportunity to acquire some of these lands may arise from time to time. NVCA staff will review these opportunities when they arise. NVCA has a policy for this which came into effect on May 10, 2002 and it is described in their publication titled "Conservation Land Protection and Acquisition Policy – Through Ontario's Land Use Planning Process."

This process is reactionary as it only occurs once a landowner makes an application. In order to receive approvals, the proponent must convey land or an easement for conservation or parkland.

This is a corporation, as is all conservation authorities, "extorting" property and there is nothing in the Conservation Authorities Act that allows for this action, even under section 28, as section 28 pertains to the implementation of the obligations in the flooding easements/covenants, not before and not during the planning process.

¹⁰ "This Land Securement Strategy furthers the NVCA's mission and goals by securing interests in land both through purchase and holding rights to property thereby removing ecological areas from potential future development and incompatible uses (e.g. agriculture)." Page 6, NVCA Land Securement Strategy, 2007

What ACAO/Conservation Ontario fails to understand is that the Conservation Authorities are merely employees of government. They are not to be involved with lobbying for additional funds or to have outside interference between themselves and their employer, the government. This action, by the Conservation Authorities, has been caused by the growth of Conservation Ontario. This is why Conservation Ontario and the Conservation Authorities have become redundant and why they are continuing to grasp for power. They know they are redundant because the Municipalities can (i) remove/dissolve them; (ii) take over the functions of the C.A.s; (iii) and there is no future need for the C.A.s or Conservation Ontario.¹¹ This report continues with the statement that:

"Financial Concerns

Many conservation authorities have been actively involved in capital projects such as flood control works and recreation development. Such projects have become less common in recent years. The structural approach to flood control has been implemented for most of the damage centres where it could be economically justified. ... The problem is further compounded all conservation authorities have had to bear with respect to such things as payroll, benefits, support costs and overhead.

The current grant system (as well as any prospective ones) inhibits program innovation."¹²

Innovation¹³ can, in some cases, be a good thing, but in a number of cases, including in the case of Conservation Ontario and the Conservation Authorities, it

¹¹ Political Issues

...The idea of amalgamation of many of the smaller authorities was suggested in the inter-ministerial report and perhaps because of this has met with a great deal of resistance from some quarters. In some ways the issue of amalgamation has led to more perceptual challenges than tangible ones. It has been argued that probably the biggest problem newly amalgamated authorities will encounter will be that of what colour to paint their trucks.

An Association for the Future

Clearly the Association is faced with the same choices that authorities must contend with. Either by choice or by default the status quo can be followed, with the danger that other organizations, groups or government agencies can surpass and possibly replace the role of the authorities and consequently the Association.

The alternative is for the Association to build on its already strong base and respond to the issues and opportunities as outlined above. Its three principal roles (coordination, resource support and external liaison) will be needed more than ever. The Association will have to take the lead in playing a motivating role with all the thirty-eight authorities in order to promote and achieve the concept of integrated program delivery. These problems can be solved. However they require political will and public support. The ACAO must coordinate the efforts of its thirty-eight member conservation authorities to develop that support and will.

Canadian Water Resources Journal Vol. 17, No.3, 2013, p. 270 – 276.

¹² Canadian Water Resources Journal Vol. 17, No.3, 2013, p. 270 – 276.

¹³ To legislators. – Yet farther: most gentlemen of considerable property, at some period or other in their lives, are ambitious of representing their country in parliament; and those, who are ambitious of receiving so high a trust, would also do well to remember its nature and importance. They are not thus honourably distinguished from the rest of their fellow-subjects, merely that they may privilege their persons, their estates, or their domestics; that they may list under party banners; may grant or withhold supplies; may vote with or vote against a popular or unpopular administration; but upon considerations far more interesting and important. They are the guardians of the English constitution; the makers, repealers and interpreters of the English law; delegated to watch, to check, and to avert every dangerous innovation, to propose, to adopt,

is merely to extend beyond their legislative authority and to create a revenue stream, which again, is beyond their legislated mandate. The report explains that *"The bulk of Provincial funding to conservation authorities has been funnelled through the Ministry of Natural Resources. Recently the Minister responsible has announced new funding formulas, as well as the concept of "core" and "non-core" programs. Authorities will be encouraged to seek partnerships for non-core programs, as direct funding will not be available. Often authorities find themselves in competition among themselves, with other special purpose bodies, or indeed with the Ministry of Natural Resources for this sort of funding."*¹⁴

Firstly, funding would have to come through MNRF as it is 1 of the 2 over-seeing bodies. Secondly, the non-core programs include recreation and therefore are the C.A.s over-reaching and violating their original mandate, objects/purpose. The report continues to support that the C.A.s and Conservation Ontario are redundant.

"Operational Role

As a result of the 1941 Guelph Conference, Professor A. F. Coventry published a pamphlet which, among other points, stated that:

"...Natural Resources form a delicate balanced system in which all parts are interdependent and they cannot be successfully handled, piecemeal" (as quoted in Richardson , 1974).

This is one of the fundamental concepts which underlay the subsequent formation of conservation authorities and their organization on a watershed basis. At the outset of their formation, there were attempts made at undertaking projects and addressing issues in an integrated fashion, or to use Coventry's term recognizing "... a delicate balanced system".

As the number and size of conservation authorities grew, all the operational problems of traditional bureaucracies began to appear. Any attempt at an integrated approach usually became diluted. Foresters planted trees while planners from the same authority approved subdivisions which led to the removal of these trees. Conservation areas were established around water management areas without taking into account the purpose and objectives of these areas.

The individual landowner in Ontario can potentially deal with at least three different agencies with respect to tree planting on private land. Only one of these is a conservation authority. An individual developer must go through up to fifteen different approvals, many of them with regard to similar issues (e.g. protection of wetlands). Only one of these approvals is with the conservation authority. The image and the role of the conservation authority

and to cherish any solid and well-weighed improvement; bound by every tie of nature, of honor and religion, to transmit that constitution and those laws to their posterity, amended if possible, at least without any derogation. And how unbecoming must it appear in a member of the legislature to vote for a new law, who is utterly ignorant of the old! What kind of interpretation can he be enabled to give, who is a stranger to the text upon which he comments! Blackstone V. 2, p. 9-10

¹⁴ Canadian Water Resources Journal Vol. 17, No.3, 2013, p. 270 – 276.

is not clear to the public, nor is it in many cases a particularly positive image...

Not only is there redundancy between authorities and other agencies. There is redundancy in terms of operational capacity among authorities. " ¹⁵

"At the same time, municipalities are becoming increasingly reluctant to bear any greater proportion of the funding load for conservation authorities. They, too, are being faced with the same sharp increases in administrative costs as are the authorities. Often they look to the authorities for assistance on capital projects. They also express concerns about duplication, or redundancy between authorities and municipalities. Why pay conservation authorities for work which municipalities are already expected to undertake? Why inflict another layer upon the taxpayer?"¹⁶

There is little or no confusion, on the part of the people, as to what C.A.s functions are to be. Based on duplicity and multiple governmental entities the C.A.s are merely another expense to the people and have become redundant.

"... Very few of the authorities have any data or evidence as to what their role or their potential role is with regard to resource management. The public often regards conservation authorities either as parks agencies or regulatory agencies. In the case of the Grand River Conservation Authority it was commonly referred to for many years as the organization that caused the 1974 flood. This singular view on the part of the public is often coupled with little recognition on the part of municipalities or the provincial government of the potential role of authorities as delivery agents of integrated resource management. Without an effective profile and credible image within the communities that it serves, the conservation authority becomes in danger of being overlooked and even eclipsed by municipal governments, provincial agencies and public interest groups. This leads to redundancy in services with obvious implications for the long-term viability of authorities.

Redundancy is a political issue in itself. Conservation authorities often find themselves in direct competition with the Ministry of Natural Resources at the local level. It is ironic that this is the same provincial agency which is charged with administering the bulk of provincial grants to conservation authorities. Conservation authorities and the Ministry of Natural Resources often comment on the same issues with regard to plans of subdivision (and not always consistently with each other), undertake duplicate programs in forestry, run parks, and do fisheries and stream rehabilitation work. At the same time "upper tier" municipalities have been delegated certain responsibilities under the Planning Act which are also covered under the Conservation Authorities Act. Thomson (1990) identified 10 provincial agencies and over 40 pieces of legislation within the Province of Ontario which have relevance to water planning and management. Water planning

¹⁵ Canadian Water Resources Journal Vol. 17, No.3, 2013, p. 270 – 276.

¹⁶ Canadian Water Resources Journal Vol. 17, No.3, 2013, p. 270 – 276.

and management has commonly been regarded as a prime function of authorities, but with this level of redundancy the problems in terms of institutional efficiency and confusion among the public and industry can only serve to call into question the continued role of conservation authorities in this area."¹⁷

As it is the Ministry of Public Works and then the MNRF in conjunction with participating Municipalities which had/have created the Conservation Authorities, it is the C.A.s that have become redundant – not MNRF or the Municipalities. It is Conservation Ontario trying to build a pyramid of bureaucracy which has attempted to extend the unlawful authority of the Conservation Authorities into a mandate unsupported by legislation or their lawfully governing bodies, being MNRF and the Municipalities.

When it comes to forestry, parks and fishing – this is all covered under the MNRF and not to be under the administration of the C.A.s. The Department of Fisheries is both Federal and Provincial therefore the C.A.s, as subservient entities, are not to interfere with a Federal or Provincial Ministry's mandates. As for the function of water planning and management the mandate of the C.A.s is to stop flooding, create reservoirs and upon entering into an agreement, or with the consent of the private property owner, to do the manual labour of planting trees.

In 1997, the Association of Conservation Authorities of Ontario changed its name to Conservation Ontario.¹⁸ As expressed in the introduction, Conservation Ontario is:

"3.6. Conservation Ontario, formally the Association of Conservation Authorities of Ontario, is a non-profit, non-governmental organization ... On behalf of its members, Conservation Ontario builds strategic partnerships, develops programs and champions collective issues/concerns....

Conservation Ontario seeks to influence policy that affects conservation authorities and to provide collective services to the authorities including corporate communications, policy and program development, government relations, partnership development, research and information, evaluation and reporting, education and training, and the provision of insurance and benefits for conservation authority employees.

Conservation Ontario is funded by dues from each conservation authority supplemented by project funding and contract work.

Conservation Ontario is not established through the Conservation Authorities Act, nor is it governed by the Act. The structure, roles and

¹⁷ Canadian Water Resources Journal Vol. 17, No.3, 2013, p. 270 – 276.

¹⁸ International Journal of Water Resources Development, p. 471

responsibilities and funding of Conservation Ontario are not part of this review."¹⁹

And who actually pays for Conservation Ontario? The tax-payers of Ontario. From the 2015 budget of Conservation Ontario.

Revenue

CA Levy	\$1,113,000.00
CA Partnerships (Media Monitoring)	\$ 20,000.00
Interest Earned	\$ 8,000.00
Administration Fees	<u>\$ 5,000.00</u>
Total Revenue	<u>\$1,151,000.00</u>

Expenditures

Salaries & Benefits

Salaries & Benefits	\$ 860,000.00
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Council Expenses

Chair & Vice Chair Expenses	\$ 18,000.00
Council Meeting Expenses	<u>\$ 12,000.00</u>
	\$ 30,000.00

Travel & Expenses

Auto Expenses	\$ 15,500.00
Staff Expenses	\$ 21,000.00
Meeting Expenses	\$ 14,500.00
Training & Conferences	<u>\$ 9,000.00</u>
	\$ 60,000.00

Office Expenses

Computer Service & Support	\$ 4,500.00
Equipment Purchase & Leasing	\$ 12,000.00
Office Supplies, Printing & Photocopy	\$ 18,000.00
Rent & Utilities	\$ 26,000.00
Subscriptions & Memberships	\$ 4,500.00
Telephone & Fax	<u>\$ 10,000.00</u>
	\$ 75,000.00

General Expenses

Insurance Committee Expenses	\$ 0.00
Consulting Fees	\$ 0.00
Accounting, Audit & Legal	<u>\$ 21,000.00</u>
	\$ 21,000.00

¹⁹ Discussion Paper , Conservation Authorities Act, *A review of the roles, responsibilities, funding and governance of conservation authorities under the Conservation Authorities Act, 2015*, p. 11.

Marketing & Communications	
Provincial Communications Programs	\$ 95,000.00
Annual Statistical Survey	\$ 5,000.00
Strategic Planning	\$ 20,000.00
Media Monitoring	\$ 20,000.00
	<u>\$ 140,000.00</u>
Total Expenditures	<u>\$1,186,000.00</u>
Net Surplus	<u>\$ - 35,000.00</u>
Transfer To/(From Reserves)	\$ 35,000.00²⁰

Under Section 3 (4) of the *Conservation Authorities Act* it states:

Establishment and jurisdiction of authority

3.

Corporate body

(4) Every authority is a body corporate. R.S.O. 1990, c. C.27, s. 3 (4).

Therefore each Conservation Authority is a body corporate or corporation. Under Section 1 of the Act "administration costs" are defined as salaries and travelling expenses of members and employees of an authority, office rent, maintenance and purchase of office equipment, expenses connected with exhibits, visual equipment and printed matter for educational purposes, and all expenditures necessary for carrying out the objects of an authority other than capital expenses and maintenance costs of projects. And under section 27 is maintenance and administration costs which establishes that in 1997 section 27 (1) was repealed. It had originally stated:

Definition

27.—(1) In subsection (3), "equalized assessment" means the assessment upon which taxes are levied in the year preceding the year in which the proportion will be payable as adjusted by the application of the equalization factor based on the assessment provided by the Ministry of Revenue.
R.S.O. 1980, c. 85, s. 27.

Section 27 (2) in regards to "maintenance costs," which under section 1 is defined as:

"maintenance costs" means all expenditures required specifically in relation to the operation or maintenance of a project

Apportionment of maintenance costs

27. (2) Subject to the regulations made under subsection (16 – The Lieutenant Governor in Council may make regulations), after determining the approximate maintenance costs for the succeeding year, the authority shall apportion the costs to the participating municipalities according to the

²⁰ *Conservation Ontario* Approved 2015 Operating Budget .

benefit derived or to be derived by each municipality, and the amount apportioned to each such municipality shall be levied against the municipality. R.S.O. 1990, c. C.27, s. 27 (2); 1996, c. 1, Sched. M, s. 47 (1).

Apportionment of administration costs

27. (3) Subject to the regulations made under subsection (16), after determining the approximate administration costs for the succeeding year, the authority shall apportion the costs to the participating municipalities and the amount apportioned to each such municipality shall be levied against the municipality. 1997, c. 29, s. 54 (2).

Minimum levy for administration costs

27. (4) Subject to the regulations made under subsection (16), an authority may establish a minimum sum that may be levied for administration costs by the authority against a participating municipality, and, where the amount apportioned to any municipality under subsection (3) is less than the minimum sum, the authority may levy the minimum sum against the municipality. R.S.O. 1990, c. C.27, s. 27 (4); 1996, c. 1, Sched. M, s. 47 (3).

Levy where only part of municipality in area

27. (6) Where only a part of a participating municipality is situated in the area over which the authority has jurisdiction, the amount apportioned to that municipality may be charged only against the rateable property in that part of the municipality and shall be collected in the same manner as municipal taxes for general purposes. R.S.O. 1990, c. C.27, s. 27 (6).

The question is – how are the Conservation Authorities justifying the levies being paid to Conservation Ontario? Are these payments through administration costs or maintenance costs? Also with the construction of Conservation Ontario, it would seem that certain members of the Conservation Authorities are being double paid by the tax-payers of Ontario, considering "*Conservation Ontario is overseen by a General Manager and directed by a Council made up of two appointed representatives from each conservation authority that elects a six member Board of Directors from among the council members to oversee the association.*"²¹ In 2016 the Board of Directors for Conservation Ontario consisted of:

Richard (Dick) Hibma - Chair
Grey Sauble Conservation Authority
Lin Gibson – Vice Chair
Conservation Sudbury
Mark Burnham – Vice Chair
Mississippi Valley Conservation Authority
Cliff Evanitski – Director
Long Point Conservation Authority
Steve Knechtel – Director

²¹ Discussion Paper , Conservation Authorities Act, *A review of the roles, responsibilities, funding and governance of conservation authorities under the Conservation Authorities Act, 2015*, p. 11.

Cataraqui Region Conservation Authority
Doug Thompson – Director
South Nation Conservation Authority²²
General Manager – Kim Gavine²³

And what is the back-ground of the Board of Directors for Conservation Ontario?

Richard (Dick) Hibma – Chair

Dick Hibma is a long time conservationist, having served on the Board of Directors of the Grey Sauble Conservation Authority since December of 1994, as a representative of the City of Owen Sound where he served as a municipal councilor for three terms from 1994 through 2002. He has served as Chair of the Authority since January of 1998.

He has been a member of Conservation Ontario Council since 1998, and following 5 years as a Vice-Chair has served since 2006 as its Chair.

He has been a member of the Advisory Committee for the State of Aggregate Resource of Ontario Study (SAROS) undertaken by the MNR under Minister Donna Cansfield.

Current Director with the Cornerstone Standards Council – a non-profit agency which has developed a standards certification and audit program for siting and operation of aggregates operations (similar to Forest Stewardship Certification) He was appointed by the IJC to serve on the Public Interest Advisory Group (PIAG) associated with the International Upper Great Lakes Study (IUGLS) from 2007 through 2013 and subsequently appointed to serve for a further year plus on the Adaptive Management Task Team as a follow-up to one of the recommendations from the IUGLS.

Retired from a 23 year career in the nuclear generation industry at Bruce Power (and its' predecessors), with experience in Planning, Scheduling, Program Coordination, Union Leadership, and Labour Contract Negotiations.

Certified in Management (Honours) by the Canadian Institute of Management.^{24/25}

Could Dick Hibma, or any of the Board of Directors for Conservation Ontario, not be considered in an extreme conflict of interest considering their resumes?

Mark Burnham – Vice Chair

Mississippi Valley Conservation Authority

Mark Burnham, Councillor, Tay Valley Township, Sherbrooke Ward Council, ..., Mississippi Valley Conservation Authority

Cliff Evanitski – Director

²² Conservation Ontario, 120 Bayview Parkway, Newmarket, ON, L3Y 3W3, 1-905-895-0716.

<http://conservationontario.ca/about-us/conservation-ontario/board-of-directors>

²³ Conservation Ontario Annual Report 2015 Conservation Authorities Partners of Choice.

²⁴ <http://www.cornerstonestandards.ca/about/who-is-csc/dick-hibma-chair-conservation-ontario/>

²⁵ <http://glc.org/projects/water-econ/blue-accounting/blue-accounting-advisory-committee/>

Long Point Conservation Authority

L.P.R.C.A. - Staff Directory - Long Point Region Conservation Authority

www.lprca.on.ca/pages/1349793836/Staff-Directory

Long Point Region Conservation Authority Administration. **Cliff Evanitski**,
General Manager/Secretary Treasurer, Ext 225. Corporate Services.

Evanitski wins in Bayham by-election

By Kristine Jean, Mitchell Advocate

Monday, March 25, 2013 11:53:32 EDT PM

The numbers speak for themselves.

With 732 votes, constituents in the Municipality of Bayham elected Cliff Evanitski the new deputy mayor in a by-election Monday night.

Since amalgamation in Bayham, there have been just two by-elections for the position of deputy mayor – one Monday night, and the first back in July 1998. Evanitski has won both.

Not only is Mr. Evanitski the General Manager of the Long Point C.A. he is also the Deputy Mayor. Could one not consider this a conflict, considering provincial civil servants/staff²⁶ are not to be in office, and vice-versa?

Steve Knechtel – Director

Cataraqui Region Conservation Authority

Staff – CRCA

crca.ca/who-we-are/staff/

CATARAQUI REGION CONSERVATION AUTHORITY PO Box 160 ... *Stephen Knechtel*, General Manager/Secretary-Treasurer, 239, sknechtel. Stana Luxford ...

Again another staff member of the C.A.

Doug Thompson – Director

South Nation Conservation Authority²⁷

Veteran Ottawa politician new South Nation Chairman, 23- Feb- 2015

Long-time municipal politician, Doug Thompson, is the new chairman of South Nation Conservation (SNC). The term is for two years.

Thompson pledged to work to the best of his abilities to ensure "our organization continues to meet the goals we all aspire to attain."

His nomination was uncontested during an SNC Board of Directors meeting February 19.

The new chairman outlined several goals, including: continuing strong representation with provincial umbrella group Conservation Ontario; meet on a regular basis with municipal council partners and chairs of other Eastern Ontario Conservation Authorities; participate with staff at presentations and outreach

²⁶ Public Service of Ontario Act, 2006

²⁷ Conservation Ontario, 120 Bayview Parkway, Newmarket, ON, L3Y 3W3, 1-905-895-0716.
<http://conservationontario.ca/about-us/conservation-ontario/board-of-directors>

activities, and promote staff social interaction; and ensure continuation of the "outstanding" work of SNC's volunteer committees.

Thompson recently retired from municipal politics after serving 17 years as councillor and mayor of former Osgoode Township, and 14 years as councilor, of what became Ottawa's Osgoode Ward. He's a past chairman of the Rural Ontario Municipal Association, and past chair of Ottawa's Agriculture and Rural Affairs Committee.²⁸

This could be yet another conflict of interest would one conceive, considering the promotion of Conservation Ontario in conjunction with this Conservation Authority? The other concern is that he refers to Municipal Council as "partners." The municipalities are not "partners" with the C.A.s, they are partners with the MNR and therefore superior to the C.A.s.

Kim Gavine, Moderator: *General Manager, Conservation Ontario*

Kim Gavine is the General Manager with Conservation Ontario. Kim graduated from Brock University with a degree in Human Geography. For over 25 years, Kim has been working in the natural heritage field with positions in both government and non-government including, the MNR, the Ontario Heritage Trust, Ontario Nature, Severn Sound Remedial Action Plan, and the Oak Ridges Moraine Foundation. Kim has also been involved with many Boards and Committees including the A.D. Latonell Conservation Symposium Steering Committee, Couchiching Conservancy Carolinian Canada Coalition, Natural Spaces Alliance and the Ontario Land Trust Alliance.²⁹

In 2015 Conservation Ontario did a report titled: *Conservation Ontario Annual Report 2015 Conservation Authorities Partners of Choice*. This report is a report which should have been done by the MNR and not a third-party corporation. Therefore there is no over-sight of the Conservation Authorities by the Minister if the annual report is done by a non-government third party corporation. Historically the information contained in this document³⁰ was to be done by the Minister, so why is Conservation Ontario doing the Minister's work? This is an added cost to the tax-payer because it is paid for through Ontarian's taxes, fees, fines, and the like. Based on this information, Conservation Ontario is redundant and does not qualify for the Conservation Authorities to pay, by means of levies, for its continuation.

²⁸ FOR MORE INFORMATION: Ronda Boutz, Team Lead, Communications and Outreach, 877-984-2948. rboutz@nation.on.ca

²⁹ <http://www.ontariobiodiversitysummit.ca/html/speakers.html>

³⁰ Critical Infrastructure: Protecting People and Property from Natural Hazards
The Ministry of Natural Resources and Forestry (MNR) Water and Erosion Control Infrastructure (WECI) funding program is designed to ensure that major maintenance projects are undertaken on aging infrastructure. This infrastructure was built to protect lives and property from natural hazards such as flooding, erosion and unstable slopes and is managed by Ontario's Conservation Authorities. In 2015, 157 funding applications were submitted by 28 Conservation Authorities which were valued at a total cost of \$14.1 million. With only \$10 million available (50% provincial/50% local) to invest into protection of life and property, a total of 103 projects from 23 Conservation Authorities were funded in 2015/2016. Conservation Ontario Annual Report 2015 Conservation Authorities Partners of Choice.

There is also the issue that MNRF is funding Conservation Ontario as an Intervener in a 2016 court appeal. It is not the tax-payer's duty to pay, through our taxes, for a third party corporation to be represented during a court appeal.

On October 2, 2015 there was an emergency meeting by the board of Directors of the Nottawasaga Valley Conservation Authority regarding the Gilmor case.³¹ This was, when one reads the Minutes, a meeting of strategy and attack as they allowed Mr. John Olah, Solicitor, Beard Winter LLP., to be a guest. In section 5 of the Minutes it states:

5) CHIEF ADMINISTRATIVE OFFICER UPDATE

5.1 Conservation Ontario Resolution regarding Gilmor et al vs. Nottawasaga Valley Conservation Authority.

The Chair, Vice Chair and Chief Administrative Officer will provide an overview this report to Conservation Ontario on September 28, 2015.

RES: #4 Moved by: B. Coutanche Seconded by: F. Nix

RESOLVED THAT: the NVCA Board of Directors receive Conservation Ontario's Resolution C.W. #22/15, approved on September 28, 2015 as follows:

Moved by: Doug Lougheed Seconded by: Jane McKelvie

THAT Conservation Ontario be prepared to take on intervenor status in the case of Gilmor et al vs. Nottawasaga Valley Conservation Authority, pending a positive response from the Ministry of Natural Resources and Forestry providing financial assistance.

Carried.

Meaning that the Board of Directors, and staff of the N.V.C.A., are conspiring to have a non-profit, non-government corporation apply for intervenor status at the added cost of all tax-payers in Ontario, through the MNRF. In other words they are setting precedent that a non-government corporation can have its legal counsel and expenses paid for by a Ministry so that this corporation can assist government to stack the deck against a private property owner. To me this is an abuse of power and the Board of Directors of the N.V.C.A. and Conservation Ontario, as well as all involved, should be removed for this indiscretion and abuse. This also, to me, could be considered a breach of trust by those on the Board as they are elected officials from various Municipalities. When one considers that MNRF is also an intervenor. 3 against 1...quite the unreasonable abuse wouldn't one think?

The Minutes continues with:

6) DIRECTOR OF PLANNING SERVICES PRESENTATION

³¹ CITATION: Gilmor et al. v. Nottawasaga Valley and The Township of Amaranth, 2015 ONSC 5327.

6.1 The Director, Planning Services will present a verbal report on the costs associated with the Gilmore et al vs. NVCA decision including a brief slide deck.

RES:#5 Moved by: F. Nix Seconded by: B. Coutanche

RESOLVED THAT: the Planning Services Director's verbal report on the costs associated with the Gilmore et al vs. NVCA decision be received.

Carried;

7) CLOSED SESSION

RES: #6 Moved by: B. Coutanche Seconded by: F. Nix

RESOLVED THAT: this meeting of the Board of Directors No. BOD-09-15 move to closed session at 10:06 a.m. to address matters pertaining to:

- Litigation or potential litigation, including matters before administrative tribunals, affecting the Authority.

- Superior Court of Justice decision Gilmore et al Nottawasaga Valley Conservation Authority and;

THAT: John Olah, Solicitor with Beard Winter LLP and the following staff be in attendance, D. Gayle Wood, Chief Administrative Officer, Chris Hibberd, Director, Planning Services, Glenn Switzer, Director, Engineering and Technical Services, Sheryl Flannagan, Director, Corporate Services, Barb Perreault, Manager, Regulations and Enforcement and Laurie Barron, Coordinator, CAO and Corporate Services.

RES:#7 Moved by: C. Leishman Seconded by: W. Benotto

RESOLVED THAT: this meeting of the Board of Directors No. BOD-09-15 move out of closed session at and report progress.

Carried;

RES:#8 Moved by: W. Benotto Seconded by: B. Meadows

RESOLVED THAT: the NVCA Board of Directors direct Beard Winter LLP to proceed with the leave application and the appeal if leave is granted.

Unanimously Carried;

This action was **UNANIMOUSLY** passed to abuse, not only one of their residents, but all Ontarians. These are the people who are using the entire force of tax-payer's money against one family who have, according to the Courts, done absolutely nothing wrong. All these people wanted to do is build a home and these conjunctive bureaucracies attacked them

As for the staff involved in this meeting, they are: D. Gayle Wood, Chief Administrative Officer, Sheryl Flannagan, Director of Corporate Services, Chris Hibberd, Director of Planning Services, Glenn Switzer, Director of Engineering and Technical Services, Byron Wesson, Director of Land, Education and Stewardship Services, Barb Perreault, Manager, Regulations and Enforcement and Laurie Barron, Coordinator, CAO and Corporate Services.

Why would a Conservation Authority need a CAO, a director of Corporate Services, a Manager, and another CAO and Coordinator of Corporate Services? This is supposed to be subservient entity to residents and Municipalities – merely

an advisory entity which is to ensure there is no flooding, no erosion from flooding, so the private property owner can use, operate and enjoy their property. Note that the majority of the staff members of the N.V.C.A. are involved with money issues instead of what the Conservation Authorities are to be set up for. And is this part of the levy paid to Conservation Ontario? These are questions which need to be asked of the Minister of Natural Resources and Forestry as the Minister is allowing a third party, non-governmental corporation do its work at an added expense to the tax-payers.

It is also curious that there are donations made by Bruce Nuclear to both the Grey Sauble and Saugeen Valley Conservation Authorities, when one has documentation that Bruce Nuclear is petitioning to have a Deep Geologic Repository for Low and Intermediate Level Radioactive Waste put into these areas. According to reports it would seem Grey Sauble received over \$18,000.00 and Saugeen Valley received in April 2015 "43 thousand dollars for the Lockerby Dam decommissioning initiative in the northern Saugeen River"³² and January 2016 "Bruce Power's Environment and Sustainability Fund recently donated \$25,000 to the Saugeen Valley Conservation Authority's (SVCA) aquatic habitat restoration and rehabilitation program."³³ The rivers involved with this DGR include the Saugeen and Sauble rivers and yet it states in "Joint Review Panel Environmental Assessment Report, Deep Geologic Repository for Low and Intermediate Level Radioactive Waste Project, CEAA Reference No. 17520, May 6, 2015," by Stella Swanson, Joint Review Panel Chair, James F. Archibald Joint Review Panel Member and Gunter Muecke, Joint Review Panel Member:

"OPG noted that while it is not subject to a Saugeen Valley Conservation Authority permit under Ontario regulation *O. Reg. 169/06 (Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation)* for construction of the crossing of the South Railway Ditch, it has been its past practice to proceed through the Saugeen Valley Conservation Authority permitting process. The Saugeen Valley Conservation Authority suggested that OPG should proceed with this process for any works at or near the South Railway Ditch. The Panel supports this suggestion."³⁴

In conclusion Conservation Ontario is redundant and is a waste of taxpayer's money as are the Conservation Authorities. These entities are also interfering with the authority of Municipalities and is an obstruction to the democratic rights of Ontarians because they are making decisions, policy, and

³² Bruce Power creates environmental fund to assist with local projects
<http://923thedock.com/bruce-power-creates-environmental-fund-to-assist-with-local-projects/>
Tuesday, April 21st 2015.

³³ 22January 2016Bruce Power donates \$25,000 to Saugeen Valley Conservation Authority projects
<http://www.brucepower.com/25000-svca-projects/>

³⁴ Joint Review Panel Environmental Assessment Report, Deep Geologic Repository for Low and Intermediate Level Radioactive Waste Project, CEAA Reference No. 17520, May 6, 2015," by Stella Swanson, Joint Review Panel Chair, James F. Archibald, Joint Review Panel Member and Gunter Muecke, Joint Review Panel Member p. 171.

recommendations for actions that the C.A.s have no legislative authority to implement. Conservation Ontario, it would seem, is a lobby³⁵ group operated by government affiliated directors/employees lobbying government on behalf of government and has run amok. As for the Conservation Authorities there is little or no confusion, on the part of the people, as to what C.A.s functions are to be. Based on duplicity and multiple governmental entities the C.A.s are merely another expense to the people and have become redundant.

(ii) There is already a legislated mandate, preamble and purpose to the Conservation Authorities

In section (i) *Conservation Ontario – A Waste of Tax-payer's Money and Conflict*, it is recommended that Conservation Ontario's funding be discontinued as it is a non-profit, non-governmental corporation and is redundant. Conservation Ontario is also the entity making recommendations to the MNRF and government for amendments to the *Conservation Authorities Act*. Such recommendations include:

1.1 Preamble and/or Purpose Statement (new Sections)³⁶

And what does C.O.'s purposed "Purpose Clause" state:

Purpose Statement:

The purpose of this Act is for the Government of Ontario to provide for the conservation, restoration, development and management of natural resources by supporting participating municipalities to collaborate on a watershed basis through Conservation Authorities' programs and services, working with government bodies and other stakeholders.³⁷

And C.O.'s Rational for this is:

This statement is to confirm the mandate of the Conservation Authorities in order to specifically address stakeholder confusion about this. This statement reiterates the Objects and Powers of Authority under the Act, and is aligned with an integrated watershed management approach by reiterating the importance of managing natural resources and human activities together on a watershed basis. It acknowledges the role of member municipalities while speaking to the overall collaborative partnership approach. It supports our ability to address unique and local

³⁵ "Conservation Ontario, a not-for-profit lobby group that represents all 36 of Ontario's conservation authorities, was approved as intervener by the court and a leave for appeal from the NVCA and Conservation Ontario was granted in February 2016, sending the matter back to the courts." Gilmor vs. Goliath: Conservation groups seek to overturn precedent-setting court decision allowing family to build home. Aug. 12, 2016 by Graeme Frisque .

³⁶ Conservation Ontario Comments on MNRF Proposed Priorities for Renewal of the CA Act (July 28, 2016)

³⁷ Conservation Ontario Comments on MNRF Proposed Priorities for Renewal of the CA Act (July 28, 2016)

*natural resources issues, as well as emerging and unforeseen natural resources challenges*³⁸.

It would seem the only confusion regarding the Conservation Authorities has been implemented through the Conservation Authorities and Conservation Ontario. They have gone beyond their legislative authority and have precipitated an on-going abuse of their power.

A "Purpose Statement" or purpose clause is the objects³⁹ of the entity. The factual objects of the Conservation Authorities are not as described in the Conservation Ontario's document. The objects of the C.A.'s, and the legislature's intent, are:

Objects

20. (1) The objects of an authority are to establish and undertake, in the area over which it has jurisdiction⁴⁰, a program designed to further the conservation⁴¹, restoration, development and management of natural resources⁴² other than gas, oil, coal and minerals. R.S.O. 1990, c. C.27, s. 20.

³⁸ Conservation Ontario Comments on MNR Proposed Priorities for Renewal of the CA Act (July 28, 2016)

³⁹ 14. Basic rules for interpreting legislation

Other things worth remembering before starting to read legislation (say an Act) are these important basic rules—

- the Act has to be read as a whole; and

- the Act has to be interpreted in such a way as to give effect to its purpose or object. How to read legislation, a beginner's guide, Parliamentary Counsel's Office, May 2011

⁴⁰ Public land is viewed by the Ministry as a non-renewable resource and a platform that with wise management will support the long term health of ecosystems (e.g. aquatic resources, forest and wildlife resources as well as their biological foundations). PL 4.02.01, Application Review and Land Disposition Process, July 24, 2008, p. 2

⁴¹ Under the concept of sustainable development, Ontario's natural resources constitute natural "capital". Resources over and above those essential for long-term sustainability requirements become available over time as "interest" for use, enjoyment and development. Application Review and Land Disposition Process, July 24, 2008, p. 1

Development which maintains the natural capital and allows for the accumulation of this natural interest is sustainable. .. Approximately 87% of Ontario's land base is public land administered by the Ministry of Natural Resources. PL 4.02.01, Application Review and Land Disposition Process, July 24, 2008

⁴² And whereas by an Order in Council adopted upon a report from the Right Honourable W.L. Mackenzie King, Prime Minister of Canada, and approved by His Excellency the Governor General on the first day of August, 1928, it was provided, pursuant to an agreement in that behalf entered into with representatives of the Government of the Province that the Province would be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources as from its entrance into Confederation in 1870, ..., following consideration of the report of the Commission, a transfer would be made by Canada to the Province of the unalienated natural resources within the boundaries of the Province subject to any trust existing in respect thereof and without prejudice to any interest other than that of the Crown in the same.

Transfer of Public Lands Generally

1. In order that the Province may be in the same position as the original Provinces of Confederation are in virtue of section one hundred and nine of the Constitution Act, 1867, the interest of the Crown in all Crown lands, mines, minerals (precious and base) and royalties derived therefrom within the Provinces, and all sums due or payable for such lands, mines, minerals or royalties, shall, from and after the coming into force of this agreement, and subject as therein otherwise provided, belong to the Province, subject to any trusts existing in respect thereof, and to any interest other than that of the Crown in the same, and the said lands, mines, minerals and royalties shall be administered by the Province for the purposes thereof, subject, until

And yet in 1946 the objects were clearly laid out in the following.

Section 13⁴³ is the objects of the conservation authority and it states that the authority shall decide which schemes⁴⁴ it will effect in the watershed of which the authority has been established.

Section 14⁴⁵ explains that before the authority initiates any project/scheme it must file a plan with, and obtain permission from, the Ministers of Lands and Forests, Planning and Development, and Minister of Public Works.

Section 15 involves the "powers of the authority". It states that the authority, to fulfill its objects by means of its "schemes"/projects, it may research/study/ investigate (any investigation must be under warrant) through its own staff or by its engineers or other employees or representatives to determine what projects would conserve, restore and/or develop the "natural resources" in the watershed and to control the waters in order to prevent floods and pollution.⁴⁶ To eliminate pollution, recreation is not viable and recreation is not a "natural resource", based on emissions from pleasure boating, travelling to and from recreational sites, etc.

To continue, the authorities are subject⁴⁷ to the *Lakes and Rivers Improvement Act* when erecting works and structures or creating reservoirs by the construction of dams or otherwise⁴⁸. The authorities must purchase, acquire, or expropriate any property that does not belong to it before the implementation of any plans/designations, schemes or projects. This also includes property that

the Legislature of the Province otherwise provides, to the provisions of any Act of the Parliament of Canada relating to such administration; any payment received by Canada in respect of any such lands, mines, minerals or royalties before the coming into force of this agreement shall continue to belong to Canada whether paid in advance or otherwise, it being the intention that, except as herein otherwise specially provided, Canada shall not be liable to account to the Province for any payment made in respect of any of the said lands, mines, minerals or royalties before the coming into force of this agreement and that the Province shall not be liable to account to Canada for any such payment made thereafter. Constitution Act, 1930, 20-21 George V, c. 26 (U.K.)

⁴³ Objects 13. The objects of an authority shall be to undertake and effect such scheme or schemes in respect of the watershed or part thereof for which it is established as the authority may determine. 1946, c. 11, s. 11.

⁴⁴ 1. (j) "scheme" means scheme undertaken by an authority for the purposes of the conservation, restoration and development of natural resources, other than gas, oil, coal and minerals, and the control of water in order to prevent floods and pollution, or for any of such purposes;

⁴⁵ Filing of plans 14. Before proceeding with a scheme an authority shall file plans and a description thereof with and obtain the approval in writing of the Minister of Lands and Forests, the Minister of Planning and Development and the Minister of Public Works. 1946, c. 11, s. 12.

⁴⁶ Power of authorities 15. For the purposes of carrying out a scheme an authority shall have power, (a) to study and investigate the watershed itself or by its engineers or other employees or representatives, and to determine a scheme whereby the natural resources of the watershed may be conserved, restored and developed and the waters controlled in order to prevent floods and pollution or any of such matters; (j) to cause research to be done;

(k) generally to do all such acts as are necessary for the due carrying out of any scheme. 1946, c. 11, s. 13.

⁴⁷ SUBJECT – 1. Under the rule of another. 2. Liable. 3. Dependent upon, as our decision is subject to your wishes. Webster's Illustrated Dictionary, 1958, p. 659

⁴⁸ (b) subject to (Rev. Stat., c. 195.) The Lakes and Rivers Improvement Act, to erect works and structures and create reservoirs by the construction of dams or otherwise;

it may need for its purposes. It may also enter into agreements for materials, labour, etc., for the due carrying out of any scheme.⁴⁹ It also must use the property/land it has acquired/has control over, for such purposes, not inconsistent with its objects, as it deems proper.⁵⁰ It must determine the benefit it will be supplying to the participating municipalities and it must collaborate with other departments and agencies of government, municipal councils and local boards and other organizations.⁵¹ In regards to re-forestation, it must obtain permission to plant and produce trees on public lands from the Minister of Lands and Forests and to plant trees on private property they must have the consent of the private property owner.⁵²

Therefore there is no need for a "Purpose Statement" or purpose clause to be added and the recommendation of Conservation Ontario is beyond the legislated authority of the C.A.s.

In regards to a Preamble - It is unfortunate that Conservation Ontario had not done proper research into the Conservation Authorities to know that there is a Preamble created under the Grand River Commission in 1932, which extends to the Conservation Authorities Act, today. The Preamble for the Conservation Authorities Act is:

"...and whereas it is deemed expedient that legislation be enacted which will provide the authority for the creation of a commission to investigate and report on and to carry out the necessary works whereby the waters ... and its tributaries may be controlled in times of flood, and conserved to more effectively afford a sufficient supply of water for municipal, domestic and manufacturing purposes throughout the said drainage basin during periods of water shortage;"⁵³

In 1938 the 1932 Act was repealed and a more formal Act was implemented. It was entitled: *An Act to provide for the Conservation of Water in the Grand River Valley*. Again it was to create a Commission which had the duty to create dams and reservoirs after it had purchased or expropriated land. And again it involved participating municipalities, and it also brought in the "referee" from *The Municipal Drainage Act*. It states in the Explanatory Notes that this Act was

⁴⁹ (c) to purchase or acquire and without the consent of the owner enter upon, take and expropriate any land which it may require and sell or otherwise deal with such land or other property;

(d) to purchase or acquire any personal property which it may require and sell or otherwise deal therewith;

(e) to enter into such agreements for the purchase of materials, employment of labour and such other purposes as may be necessary for the due carrying out of any scheme;

⁵⁰ (g) to use lands which are owned or controlled by the authority for such purposes, not inconsistent with its objects, as it deems proper;

⁵¹ (f) to determine the proportion of the total benefit afforded to all the participating municipalities which is afforded to each of them;

(h) to collaborate with departments and agencies of government, municipal councils and local boards and other organizations;

⁵² (i) to plant and produce trees on public lands with the consent of the Minister of Lands and Forests, and on private lands with the consent of the owner, for any purpose;

⁵³ An Act to establish the Grand River Conservation Commission, 1932, Preamble

created to afford sufficient supply of water for the municipal, domestic and manufacturing purposes of urban municipalities situate in the valley which, at present, encounter difficulties in the matter of sewage disposal and water supply at certain periods of the year because of an insufficient flow of water and to control the waters of the Grand River Valley in times of flood.

The Commission, under section 3⁵⁴ was a corporation. The Commissioners were to be appointed by the councils of the participating municipalities. It also stated that any municipality that did not benefit, from the "scheme"⁵⁵/ "project"⁵⁶ of the Commission, was not required to pay any part of the expenses of the Commission, and that municipality shall not be entitled to representation on the Commission and shall cease to be a participating municipality. And in section subsection 4 it is the Minister of Public Works that is to call the first meeting.⁵⁷ It is also expressed in section 11, of the 1938 Act, after the acquisition of land, it is the Minister of Public Works that must grant approval for any works undertaken, including the Commission's authority to *"survey and take levels of the same and make such borings, or sink such trial pits as it may deem necessary ..., for the purposes of any scheme."*

Section 8 of the Act explains the "powers of the Commission"

"Powers of Commission.

*8. The Commission shall have authority,--
(a) to study and investigate, itself or by its engineers or other employees or representatives, the Grand River Valley and to determine a scheme whereby the waters of the said Grand River Valley may be conserved to afford a sufficient supply of water for the municipal, domestic and*

⁵⁴ Commission – establishment of

3. — (1) There shall be a commission known as the "Grand River Conservation Commission" which shall be a body corporate,

Appointment of commissioners

(2) The members of the Commission may be appointed by the councils of the participating municipalities as follows: the City of Brantford, three commissioners; the Cities of Gait and Kitchener, two commissioners each; the Towns of Paris, Preston and Waterloo and the Villages of Elora and Fergus, one commissioner each; any municipalities declared to be participating municipalities by the Lieutenant-Governor in Council, one commissioner each, and each commissioner shall hold office during the pleasure of the council appointing him.

Where municipality does not benefit.

(3) In the event that the Commission determines that any participating municipality does not benefit by any scheme and is not required to pay any part of the expenses of the Commission, such municipality shall not be entitled to representation on the Commission and shall cease to be a participating municipality.

⁵⁵ "Scheme" shall mean scheme undertaken by the Commission for the purpose of conserving the waters of the Grand River Valley to afford a sufficient supply of water for the municipal, domestic and manufacturing purposes of the participating municipalities during periods of water shortage and of controlling such waters in times of flood. An Act to provide for the Conservation of Water in the Grand River Valley, 1938.

⁵⁶ "project" means a work undertaken by an authority for the furtherance of its objects. Conservation Authorities Act, R.S.O. 1990, CHAPTER C.27, Consolidation Period: From June 6, 2011

⁵⁷ First meeting.

(4) The first meeting of the Commission shall be held at a place and time to be named by the Minister of Public Works for Ontario.

manufacturing purposes of the participating municipalities during periods of water shortage and controlled in times of flood, and to undertake such scheme;

(b) to erect works and create reservoirs by the construction of dams or otherwise;

(c) to acquire land and other property, real and personal for such purposes as the Commission may deem necessary for the carrying out of any scheme and sell or otherwise deal with such land or other property;

(d) to enter into such agreements for the purchase of materials, employment of labour and such other purposes as may be necessary for the due carrying out of any scheme;

(e) to determine the proportion of the total benefit afforded to all the participating municipalities which is afforded to each of them; and

(f) generally to do all such acts as are necessary for the due carrying out of any scheme."

Under section 9⁵⁸, of the 1938 Act, is, the criteria for payment by the municipalities to the Commission based on any benefit that the municipality may gain from the Commission. Under subsection 2⁵⁹ if the municipality is dissatisfied by the amount claimed by the Commission, it has 10 days to appeal to the Ontario Municipal Board (OMB). It is up to the OMB to determine if there is any variation to the amount presented by the Commission.

Section 10 of the Act regards regulations that the Commission can create, with the approval of the Lieutenant Governor. Those regulations consist of:

(a) providing for the calling of meetings of the Commission and prescribing the procedure at such meetings;

(b) prescribing the powers and duties of the chief engineer and secretary-treasurer;

(c) delegating all or any of its powers to the executive committee except the following:

⁵⁸ Notice of apportionment.

9.—(1) When the Commission has determined the proportion of the total benefit afforded to all the participating municipalities which is afforded to each of them, it shall cause a notice containing a statement of such apportionment to be sent to the council of each participating municipality by prepaid registered mail.

⁵⁹ Review of apportionment by Municipal Board

(2) Any municipal council which is dissatisfied with any such apportionment may, upon ten days notice in writing to the Commission, apply to the Ontario Municipal Board to have such apportionment reviewed.

Hearing.

(3) Upon such application the Ontario Municipal Board shall fix a date for the hearing of all interested parties and shall give all necessary directions for the hearing.

Powers of Board on hearing

(4) The Ontario Municipal Board shall have authority to take evidence, to confirm or vary the apportionment of the Commission and to fix and award costs, and its decision shall be final and conclusive and shall not be open to appeal.

Variation of apportionment

(5) In the event of the Commission varying any apportionment made by it, the provisions of this section shall apply *mutatis mutandis*.

- (i) the termination of the services of the chief engineer and secretary-treasurer;
- (ii) the power to raise money; and
- (iii) the power to enter into contracts or agreements other than such contracts or agreements as are necessarily incidental to the erection of works approved by the Commission.

In conjunction with section 8, section 11 of the 1938 Act sets out that during the process of the purchase, lease, agreements, expropriation the Commission may:

survey and take levels of the same and make such borings, or sink such trial pits as it may deem necessary and subject to the approval of the Minister of Public Works for Ontario, may, for the purposes of any scheme,—

(a) alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, road, street, or way, or raise or sink the level of the same in order to carry it over or under, on the level of or by the side of any work built or to be built by the Commission ; and

(b) divert or alter the position of any water-pipe, gas pipe, sewer, drain or any telegraph, telephone or electric wire or pole.

Subsection 2⁶⁰ of 11 states that the costs of any works, undertaken under this section is to be paid for by the Commission and that there must be compensation for any damage done as expressed in section 18⁶¹ of this Act.

Sections 12⁶² and 13 involve the purchase, entry and expropriation of private property by the Commission. Section 12 states that the Commission may "*purchase or acquire and without the consent of the owner enter upon, take and expropriate any land which it may require for the carrying out of any scheme.*" The "enter upon" referred to is part of the expropriation and has nothing to do with "physical warrantless entry" and not to do with creating regulation to be implemented on "private property" as in claims for application for permission to do or not do something on said private property by the owner. The "entry/trespass" involved is part of the process of purchase/selling of "real property" and should not be confused with a physical trespass. Section 12 flows

⁶⁰ Cost of work. 11. (2) The cost of any work undertaken by the Commission under this section shall be borne by the Commission and compensation for any damage occasioned thereby may be claimed in accordance with the provisions of section 18.

⁶¹ 18.—(1) Where the carrying out or completion of any scheme injuriously affects any land whether by interfering with any work which has been constructed under (Rev. Stat., cc. 278, 350.) *The Municipal Drainage Act* or *The Ditches and Watercourses Act* or otherwise, the owner of such land may apply, in writing, to the Commission for compensation and every such application shall contain a statement of the nature of the plaintiff's claim and the amount of compensation claimed.

⁶² Power to purchase and acquire. 12. The Commission may purchase or acquire and without the consent of the owner enter upon, take and expropriate any land which it may require for the carrying out of any scheme.

into section 13⁶³ and involves the expropriation of the entire individual plot/parcel of the land and not only part of parcel of the land, and that is only if the Chairman determines that it is more advantageous to do so.

Only after, as expressed in section 14⁶⁴, the decision to expropriate the Commission may create a plan for the land described. This plan must be deposited in the land registry and at that time the land becomes vested in the Commission.

Section 15⁶⁵ explains the procedure for the expropriation and that notice must be sent by "prepaid registered mail to every owner of land" and "published

⁶³ Expropriation of land. 13. If the chairman of the Commission is of opinion that it can obtain the whole of any lot or parcel of land of which any part may be expropriated by it at a more reasonable price, or to greater advantage than by acquiring such part only, it may expropriate the whole of such lot or parcel and may afterwards sell and convey any part thereof as it deems expedient.

⁶⁴ Plan to be deposited in registry office.

14.—(1) Where the Commission desires to expropriate land, it shall cause a plan and description of such land, signed by the chairman or vice-chairman and by the chief engineer, to be deposited in the proper registry office and such land shall thereupon be vested in the Commission.

Where land required for limited time,

(2) Where the land is required for a limited time only, or only a limited estate, right or interest therein is required, the plan and description so deposited shall indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate, right or interest therein is taken, and by the deposit in such case, the right of possession for such limited time, or such limited estate, right or interest, shall become and be vested in the Commission.

Correcting plan or description.

(3) In case of any omission, misstatement or erroneous description in any plan or description, a correct plan and description may be deposited with like effect.

Deposit of plan.

(4) In all cases, when any such plan and description, purporting to be signed by the chairman or vice-chairman and the chief engineer, is so deposited, they shall be deemed to have been deposited by the direction and authority of the Commission and as indicating that such land is required for the carrying out of a scheme, and the plan and description shall not be called in question except by the Commission.

⁶⁵ Notice where land expropriated.

15.—(1) Where land is expropriated, the Commission shall within one month of the deposit of the plan and description in the registry office, send a notice by prepaid registered mail to every owner of land included in such plan and description and cause a similar notice to be published once a week for at least three weeks in a newspaper having a general circulation in the locality where the land is located.

Notice, what to state. (2) Such notice shall state,—

(a) that such land has been expropriated by the Commission;

(b) the purpose for which the land is to be used;

(c) that the owner of any of such land is required to file a statement of any claim for compensation in respect of the expropriation of such land in the office of the Commission not later than one month after the mailing or third publication of the notice, whichever is the later date.

Determination of amount of compensation. (3) Upon the expiration of the time indicated in the notice a board of engineers shall consider and determine the amount of compensation payable.

Filing of statement. (4) The board of engineers shall in every case where it is called upon to determine the amount of compensation payable, file with the Commission a statement of the amount of compensation it finds to be payable, together with written reasons for such finding.

Notice to person claiming. (5) Within one month of the filing of such statement and reasons the Commission shall cause a notice to be sent by prepaid registered mail to the person claiming compensation advising him of the amount of compensation determined by the board of engineers.

Notice of appeal. (6) Any person who is dissatisfied with the amount of compensation found to be owing to him by the board of engineers, may within one month of the mailing of such notice, notify the Commission in writing that he is dissatisfied with such finding and desires to appeal to the Ontario Municipal Board.

Copy of notice of dissatisfaction to be sent to Municipal Board. (7) Upon receipt of a notice of dissatisfaction, the Commission shall forward to the Ontario Municipal Board a copy of such notice together

once a week for at least three weeks in a newspaper having a general circulation in the locality where the land is located". Subsection 2 of 15 states what must be included in the registered letter/notice to the owner of the property, which includes notice that "*the owner of any of such land is required to file a statement of any claim for compensation in respect of the expropriation of such land in the office of the Commission not later than one month after the mailing or third publication of the notice, whichever is the later date.*" If the owner is not satisfied with the amount of compensation allotted by the Commission he/she may appeal to the OMB within one month of receipt of the notice of expropriation.

If under section 17⁶⁶ the Commission decides to abandon the expropriation or claim for the land, the land must revert back to the owner which it was taken from and compensation must be paid to that owner for damages.

Under section 18⁶⁷ there must be compensation for any damages that have injuriously affected land or works done under *The Municipal Drainage Act* or *The*

with the statement and written reasons of the board of engineers and a copy of the plan and description certified by the chief engineer.

Hearing of appeal. (8) The secretary of the Ontario Municipal Board shall advise the Commission of the time and place when such appeal will be heard and the Commission shall cause a notice of the time and place of such hearing to be sent to the appellant by prepaid registered mail at least two full weeks prior to the time fixed for such hearing.

Power of Municipal Board. (9) The Ontario Municipal Board shall have authority to review the finding of the board of engineers and to increase, decrease, otherwise vary or confirm such finding, or may refer the matter back to the board of engineers for further consideration and the decision of the Board shall be final and conclusive and shall not be open to any appeal.

⁶⁶ Right of Commission to abandon land taken. 17.—(1) Where at any time before the compensation has been actually ascertained or determined, land expropriated, or any part thereof, is found not to be required, or if it is found that a more limited estate or interest therein only is required, the Commission may register in the proper registry office, a notice to the effect that the land or such part thereof is not required and is abandoned by the Commission, or that it is intended to retain only such limited estate or interest as is mentioned in such notice, and thereupon,—

(a) the land declared to be abandoned shall revert in the person from whom it was expropriated or in those entitled to claim under him; or

(b) in the event of a limited estate or interest therein being retained by the Commission, the land shall so revert subject to the estate or interest so retained.

Effect on compensation. (2) Where part only of the land or all of it but a limited estate or interest therein is abandoned, the fact of such abandonment, and the damage, if any, sustained in consequence of that which is abandoned having been taken, and all the other circumstances of the case shall be taken into account in determining the amount to be paid to any person claiming compensation.

Damages where abandonment complete. (3) Where the whole of the land taken is abandoned, the person from whom it was taken shall be entitled to compensation for the damage sustained and costs incurred by him in consequence of the taking and abandonment, and the amount of such compensation shall be determined in the same manner, *mutatis mutandis* as is provided by section 15, provided that if the amount of compensation for the expropriation of such land is being determined by the board of engineers or the Ontario Municipal Board at the time of such abandonment, such board shall proceed forthwith to determine the compensation payable in consequence of the taking and abandonment.

⁶⁷ Damage to other lands. 18.—(1) Where the carrying out or completion of any scheme injuriously affects any land whether by interfering with any work which has been constructed under (Rev. Stat., cc. 278, 350.) *The Municipal Drainage Act* or *The Ditches and Watercourses Act* or otherwise, the owner of such land may apply, in writing, to the Commission for compensation and every such application shall contain a statement of the nature of the plaintiff's claim and the amount of compensation claimed.

Report of board of engineers. (2) Upon receipt of an application for compensation under subsection 1, the Commission shall direct a board of engineers to investigate such claim and upon the completion of such investigation the board of engineers shall report to the Commission whether the land of the applicant has

Ditches and Watercourses Act or otherwise and the owner, in writing to the Commission, may demand compensation after detailing the owner's claim. If the claimant is not satisfied with the amount offered he/she may appeal to the "referee" under the *Municipal Drainage Act* and the referee may determine the amount of compensation and will also enforce the payment of such compensation.

Under section 19⁶⁸ "Future drainage works" all drainage works undertaken in the Grand River Area are subject to the "schemes" of the Commission and the plans of the Commission must be filed with the "referee" under *The Municipal Drainage Act*. These plans must be kept at the office of the Commission for inspection by anyone who is interested in any drainage work in the Grand River Valley.

Section 25⁶⁹ of the act pertains to implementation of schemes on Crown Lands. If the Commission wishes to implement a "scheme" on Crown Lands it

been injuriously affected by reason of the carrying out or completion of the scheme, and if damage has been so occasioned, what amount of money the board deems to be reasonable compensation therefor, and the Commission shall cause a true copy of such report to be sent to the applicant by prepaid registered mail. Amount of compensation. (3) In determining what amount of money is fair compensation for damage occasioned, the board of engineers, and on an appeal, the referee, shall include in such amount reasonable compensation for such damage as may reasonably be expected to be suffered by the land by reason of the carrying out or completion of the scheme.

Where no appeal. (4) If within one month of the mailing of the copy of the report as provided in subsection 2, the applicant does not serve the Commission with a notice of appeal in accordance with subsection 5, the board may pay to the applicant the amount deemed by the board of engineers to be reasonable compensation and thereafter no further claim shall be made against the Commission in respect of such land.

Appeal to referee. (5) Any applicant who is dissatisfied with the report of the board of engineers may within one month of the mailing of a copy of the report, appeal to the referee by sending a notice in writing of his desire to appeal to the Commission by prepaid registered mail.

Arrangements for appeal. (6) Upon receipt of such notice of appeal the Commission shall cause all necessary arrangements to be made for the hearing of the appeal by the referee and shall cause a notice of the time and place of such hearing to be sent to the appellant by prepaid registered mail at least two full weeks prior to the time fixed for such hearing.

Hearing of appeal. (7) The referee may hear and determine the appeal in a summary manner either on his own view of the premises and after hearing the parties and if he sees fit, their witnesses, or upon the report of an independent engineer appointed by the referee, or he may direct the parties to proceed under the provisions of (Rev. Stat. c. 278.) *The Municipal Drainage Act*, and the order of the referee as to the method of procedure shall be final.

Rev. Stat. c. 278 to apply. (8) Upon an appeal taken to the referee under the provisions of this section, the provisions of *The Municipal Drainage Act* shall apply *mutatis mutandis* but the powers of the referee shall be limited to fixing the amount of compensation and enforcing payment thereof.

⁶⁸ Future drainage works.

19.—(1) Any drainage works undertaken in the Grand River Valley after the coming force of this Act shall be undertaken subject to any scheme of the Commission.

Scheme defined. (2) For the purposes of this section a scheme of the Commission shall include all dams, reservoirs and works which are indicated in any plan or described in any description filed by the Commission with the referee.

Inspection of plans. (3) A true copy of all plans and descriptions filed with the referee under subsection 2 shall be kept in the office of the Commission and may be inspected by any person interested in any drainage work or proposed drainage work in the Grand River Valley.

⁶⁹ Affecting Crown lands.

25.—(1) Where any lands required for the carrying out of a scheme or part thereof are Crown Lands, a duplicate of the plan and description shall be deposited with the Minister of Lands and Forests and such

must deposit a copy of the plan and description of said plan with the Minister of Lands and Forests and such scheme or part thereof shall not be proceeded with until the Commission has received the approval in writing of such Minister. If the "scheme" interferes with any public works, the scheme or such part thereof shall not be proceeded with until the Commission has received the approval in writing of the Minister of Public Works. If the "scheme", under section 25, is deemed to interfere with any highway, road, street, etc., the Commission will file the plan of the scheme with the Minister of Highways. The plan must detail the interference with any public road or highway which will occur and a statement of the manner in which the Commission proposes to remedy such interference, and such scheme or part thereof shall not be proceeded with until the approval in writing of such Minister has been obtained. It is the responsibility of the Commission to pay for any repairs or new roads, highways, bridges or public works which is interfered with during the implementation of its scheme/project unless there is an agreement providing for payment entered into with the Crown in right of Ontario.

Section 26⁷⁰ refers to consent needed from the Commission, by other ministries, municipalities, sub-contractors of these entities, that wish to build, erect or construct any building, bridge, structure on public property, adjacent to or over the various rivers included in the Grand River Valley. Section 26 states:

Consent to erection of structure. 26. No person shall build, erect or construct any building, bridge or other structure adjacent to or over the Grand, Conestoga, Nith or Speed Rivers or any tributary of any of such rivers without the consent in writing of the Commission.

Section 27⁷¹ regards property tax assessment of the Commission and that the Land which is acquired by the Commission by expropriation or otherwise

scheme or part thereof shall not be proceeded with until the Commission has received the approval in writing of such Minister.

Interference with public work. (2) Where any scheme, or any part thereof, may interfere with any public work of Ontario, such scheme or such part thereof shall not be proceeded with until the Commission has received the approval in writing of the Minister of Public Works for Ontario.

Interference with highway. (3) Where any scheme undertaken by the Commission, or any part thereof, will interfere with any public road or highway, the Commission shall file with the Minister of Highways for Ontario a plan and description of such scheme or part thereof together with a statement of the interference with any public road or highway which will occur and a statement of the manner in which the Commission proposes to remedy such interference, and such scheme or part thereof shall not be proceeded with until the approval in writing of such Minister has been obtained.

Costs, how to be borne. (4) The cost of rebuilding any road, highway, bridge or public work or any part thereof and the cost of any other work which any of the Ministers of the Crown may require to be done under this section, shall be borne by the Commission, except where an agreement providing for payment thereof in some other manner has been entered into with the Crown in right of Ontario.

⁷⁰ Consent to erection of structure. 26. No person shall build, erect or construct any building, bridge or other structure adjacent to or over the Grand, Conestoga, Nith or Speed Rivers or any tributary of any of such rivers without the consent in writing of the Commission.

⁷¹ Assessment of lands of Commission. 27.—(1) Land which is acquired by the Commission by expropriation or otherwise may be assessed for municipal purposes at an amount not in excess of its assessed value immediately prior to such acquisition.

Works exempt from taxation. (2) Works erected by the Commission for the purposes of any scheme shall be exempt from municipal taxation.

(purchase or agreement) may be assessed for municipal purposes at an amount not in excess of its assessed value immediately prior to such acquisition, and that works erected by the Commission for the purposes of any scheme shall be exempt from municipal taxation.

Section 28⁷² of the 1938 Act involves Cemetery Lands and that if the Commission needs the Cemetery lands for a scheme it must provide other lands for interment, must notify plot owners, publish notices for three weeks in newspapers, re-inter bodies that have been moved, as well as move the headstones. The Commission must also convey the lands to the owner of the cemetery that was the previous owner of the land taken by the Commission to implement its scheme.

Section 29⁷³ involves the creation, use and negotiation of hydroelectric power. The Commission may create electricity and may use said electricity for

⁷² Cemetery lands. 28.—(1) Where the carrying out of any scheme will require the use of any cemetery or other place of interment of human remains, the Commission shall acquire other suitable lands for the interment of the bodies contained in such cemetery or other place of interment.

Notice to plot owners. (2) The Commission shall forward a notice to the owner of each lot in such cemetery or other place of interment, provided that if such owner or his whereabouts is unknown, such notice shall, wherever possible, be forwarded to some other person having an interest in such plot through relationship or otherwise to any deceased person buried therein.

Publication of notice. (3) The Commission shall also cause a notice to be published once a week for at least three weeks in a newspaper having a general circulation in the locality where the cemetery or other place of interment is located, which notice shall state,—

(a) that the cemetery or other place of interment has been acquired for the purposes of the Commission;

(b) that other land, describing it, has been acquired by the Commission for the purpose of reintering the bodies;

(c) that the Commission will at its own expense proceed to remove the bodies from the cemetery or other place of interment to the lands acquired for reinterment at a time not less than one month after the forwarding or third publication of the notice, whichever is the later date; and

(d) that the owner of any plot in the cemetery or other place of interment, or any other person with the approval of the Commission, may cause any body interred in such cemetery or other place of interment to be removed to any other place of interment at his own expense providing he obtains permission from the Commission and effects such removal within one month from the forwarding or insertion of the notice, whichever is the later date, or before such later date as the Commission may determine.

Authority to remove bodies. (4) The Commission shall have full authority to cause the removal of any body from any such cemetery or place of interment to any lands acquired under subsection 1 notwithstanding the provisions of any other Act of this Legislature and to authorize the removal by any other person of any such body for reinterment in any other cemetery or place of interment.

Removal of headstones. (5) Where any body is removed and reinterred any headstones and other stones shall be removed and re-erected at the place of reinterment.

Conveyance of land for reinterment. (6) The Commission shall render lands, including fences and buildings, acquired for the reinterment of bodies, in a fit and proper condition and shall convey such land to the owner of the cemetery or other place of interment from which the bodies were removed.

⁷³ Use of water power. 29.—(1) Subject to the right of the Commission to use any water power created upon lands vested in the Commission for its own uses which shall not include the marketing or sale of power, The Hydro-Electric Power Commission of Ontario shall have the sole right to use such water power, provided that The Hydro-Electric Power Commission of Ontario may consent to the use of any such water power by any person on such terms and conditions as are satisfactory to it and to the Commission.

Compensation for water power. (2) The Hydro-Electric Power Commission of Ontario shall pay to the Commission an annual, reasonable compensation for the use of any such water power used by it.

Determination of compensation. (3) Where the Commission and The Hydro-Electric Power Commission of Ontario are unable to agree upon the amount of compensation payable, such amount shall be determined by a committee of three members comprising the chief engineer of each commission and an engineer to be agreed upon by both chief engineers, or in the event of the chief engineers being unable to agree, appointed

its own use but may not market or sell the power to any other entity other than The Hydro-Electric Power Commission of Ontario, providing The Hydro-Electric Power Commission of Ontario consents to the use of any such water power by any person on such terms and conditions as are satisfactory to it and to the Commission. The Hydro-Electric Power Commission of Ontario will pay to the Commission annual compensation that is satisfactory to both. If there is disagreement regarding the amount of compensation there shall be a committee of three created to determine the amount.

Subject to the OMB⁷⁴ the Commission may determine what payment for Capital Expenditures, must be made to it by the participating municipalities. Each participating municipality, to pay for the determined schemes of the Commission, shall raise the moneys for capital expenditures by the issue of debentures, etc. There are also the maintenance costs of which the participating municipalities must cover. These maintenance costs include maintenance of the works included in any scheme, office expenses and salaries. Section 31⁷⁵ goes on to explain how the process works for determining the maintenance costs and subsection 3⁷⁶ is the *enforcement of payment* by the Commission on the participating municipalities. Section 32⁷⁷ lays out that the assent of the electors

by the Lieutenant-Governor in Council, who shall act as chairman of the committee, and there shall be no appeal from such committee; provided, however, that after ten annual payments of compensation the amount of compensation shall be redetermined by a like committee at the request of either commission. Charge for additional power. (4) Subject to review by The Hydro-Electric Powder Commission of Ontario the Commission shall charge the present or future users of power derived from the use of the waters of the Grand River Valley for any additional power, generated from increased head or flow due to the works undertaken by the Commission.

⁷⁴ Determination of capital expenditure. 30.—(1) The Commission may from time to time determine what moneys will be required for capital expenditure in connection with any scheme. Portion to be raised by participating municipalities. (2) The portion of the moneys so required which each participating municipality shall raise shall be in the same proportion as the benefit derived by each such municipality bears to the total benefit derived by all participating municipalities. How money to be raised. (3) Upon notice in writing of the amount required to be raised, signed by the chairman and secretary-treasurer of the Commission, each participating municipality shall raise by the issue of debentures or otherwise, such moneys as may be required by the Commission for capital expenditure, subject only to such conditions as the Ontario Municipal Board may impose as to the time and manner of the raising of such moneys.

⁷⁵ Assessment For of municipalities for maintenance. 31.—(1) Assessment for the purpose of paying costs of maintenance including maintenance of the works included in any scheme, office expenses and salaries, a sum may annually be levied by the Commission against each of the participating municipalities. Apportionment of costs. (2) After determining the approximate total cost of maintenance for the succeeding calendar year, the Commission shall apportion such cost to the participating municipalities according to the benefit derived by each such municipality, and the amount apportioned to each municipality shall be levied against each such municipality, and the secretary-treasurer of the Commission shall forthwith certify to the clerk of each participating municipality the total amount which has been so levied, and the clerk of the municipality shall calculate and insert the same in the collectors' roll for the current year, and such amount shall be collected in the same manner as municipal taxes for general purposes and paid over to the Commission.

⁷⁶ Enforcement of payment. (3) The Commission may enforce payment against any participating municipality of any portion of the cost of maintenance apportioned and assessed to such municipality as a debt due by such municipality to the Commission.

⁷⁷ Consent of electors not necessary. 32. Where by this Act any power is conferred or duty, imposed upon a municipality, or the council of a municipality, including a power or duty to raise money, such power may be exercised and such duty shall be performed by the council of the municipality without the consent of the electors.

is not necessary and section 33⁷⁸ explains that all moneys raised under this act must be paid to the Commission and that the Commission may spend said money as it deems proper. Section 34⁷⁹ of the 1938 Act repeals the 1932 act.

As expressed by Mr. Welsh and supported by Mr. McEwing in the March 14, 1949 Hansard:

"MR. WELSH: Well, I think both the Federal Government and ourselves would be very glad if the original commission was dissolved."

"MR. McEWING: Oh yes."⁸⁰

The intent and "principle"⁸¹ for the creation of the Conservation Authorities (C.A.s) was to purchase or expropriate land/property for the implementation of its schemes/projects to fulfill its objects of eliminating flooding, with fair compensation for and to the private property owner,⁸² not what it has become today.

iii. That Municipal Councils need to re-establish their authority over the Conservation Authorities

Under the Conservation Authorities Act it clearly states that the C.A.s are created by, and are to answer to, participating Municipalities. It also states that it is the Municipalities, in conjunction with MNRF, which are to fund the C.A.s. Then under section 13.1 the Act grants the Municipalities the authority to dissolve the C.A.s, which considering the Federal Report, should be done as the C.A.'s have become redundant.

Dissolution of authority

13.1 (1) *An authority shall call a meeting of the members of the authority to consider the dissolution of the authority if, by resolution, the councils of two or more participating municipalities request the meeting.*
1996, c. 1, Sched. M, s. 41.

Quorum

⁷⁸ Moneys to be paid to Commission. 33. All moneys required by this Act to be raised for the purposes of the Commission shall be paid to the Commission, and the Commission may spend such moneys as it deems proper.

⁷⁹ 1932, c. 53. Repealed. 34. The Grand River Conservation Commission Act, 1932, being chapter 55 of the Statutes of Ontario, 1932, is repealed.

⁸⁰ MARCH 14, 1949 - CONSERVATION AUTHORITIES ACT, p. 843.

⁸¹ PRINCIPLE (Black's Law Dictionary, 9th Edition, 2009, p. 1313) – A basic rule, law, or doctrine.

⁸² 1. (g) "owner" includes a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested. CHAPTER 62 - The Conservation Authorities Act, 1946.

(2) Despite subsection 16 (2)⁸³, a quorum at a meeting called under this section consists of two-thirds of the members of the authority who were appointed by participating municipalities. 1996, c. 1, Sched. M, s. 41.

Members not entitled to vote

(3) Despite subsection 16 (1),⁸⁴ members of the authority who were appointed by the Lieutenant Governor in Council before section 42 of Schedule M of the Savings and Restructuring Act, 1996⁸⁵ came into force are not entitled to vote at a meeting held under this section. 1996, c. 1, Sched. M, s. 41.

(4) The authority shall ensure that notice of the meeting is published in a newspaper having general circulation in each participating municipality at least 14 days before the meeting. 1996, c. 1, Sched. M, s. 41.

Public representations

(5) No vote shall be taken on a resolution requesting dissolution of the authority unless members of the public have been given an opportunity at the meeting to make representations on the issue. 1996, c. 1, Sched. M, s. 41.

Criteria for dissolution

(6) The Lieutenant Governor in Council may dissolve the authority, on such terms and conditions as the Lieutenant Governor in Council considers appropriate, if,

(a) the Minister receives a resolution requesting the dissolution passed by at least two-thirds of the members of the authority present and entitled to vote at a meeting held under this section and at which a quorum was present;

(b) the Minister is satisfied that acceptable provision has been made for future flood control and watershed interests and for the disposition of all assets and liabilities of the authority; and

(c) the Minister of the Environment is satisfied that acceptable provision has been made for future protection of drinking water sources. 1996, c. 1, Sched. M, s. 41; 2006, c. 22, s. 113 (1).

Authority continued by s. 5, 6 or 7

⁸³ **Quorum 16. (2)** At any meeting of an authority, a quorum consists of one-half of the members appointed by the participating municipalities, except where there are fewer than six such members, in which case three such members constitute a quorum. R.S.O. 1990, c. C.27, s. 16 (2); 2006, c. 22, s. 113 (2).

⁸⁴ **Decision-making at meetings 16. (1)** Each member of an authority is entitled to one vote. 1998, c. 18, Sched. I, s. 8.

⁸⁵ *Savings and Restructuring Act, 1996 SCHEDULE M - PART III, CONSERVATION AUTHORITIES ACT* Part III amends the *Conservation Authorities Act*. The amendments provide a mechanism for voluntary dissolution of a conservation authority, remove the Lieutenant Governor in Council's power to appoint members to conservation authorities and give the Minister of Natural Resources power to require flood control operations to be carried out by conservation authorities or municipalities. The amendments also remove requirements for provincial approval of conservation authority projects and land dispositions if the project or land does not involve provincial funding. Other amendments revise the system for levying conservation authority administrative costs and maintenance costs against municipalities by authorizing regulations governing the levies, by providing for appeals and, after a date to be named by proclamation, by restricting the levies to maintenance costs relating to flood control.

(7) If an authority continued by section 5⁸⁶, 6⁸⁷ or 7⁸⁸ is dissolved under subsection (6), the Lieutenant Governor may, by proclamation, repeal that section on a day named in the proclamation. 1996, c. 1, Sched. M, s. 41.

Based on: duplication of functions between the Municipalities, MNRF and the C.A.s; the costs to the tax-payers (both municipal property taxes, fees, fines, and the MNRF) and the obstructions being created; as well as Conservation Ontario's attempts to expand the authority of the C.A.s, the Municipalities should dissolve the C.A.s. There has also been the statement that the C.A.s have fulfilled their mandate and objectives as the infrastructure in dams and reservoirs has been completed and it is only maintenance which is needed. This maintenance can be continued through the Municipalities. As for any parks, these can be administered by MNRF or local non-profit charitable organizations such as the Lion's Club, Kinsmen Clubs and the like.

iv. That the Conservation Authorities do not need any new or extra authority or ability to implement any new regulation or policies

Throughout Ontario the Conservation Authorities had expanded not only an unlawful mandate⁸⁹ but have added to the costs of administration, construction of new office towers, etc. To fund their capital expenses, it would seem the C.A.'s must continue to engage in unlawful permitting practices as well as employ more enforcement staff than are necessary if they had been contained their mandate and to their legislated lawful objectives. Below are a few examples of unreasonable and unnecessary over expenditures.

⁸⁶ Definition

5.—(1) In this section, "Metropolitan Conservation Authority" means The Metropolitan Toronto and Region Conservation Authority. R.S.O. 1980, c. 85, s. 5 (1).

⁸⁷ Hamilton Region Conservation Authority continued

6.—(1) The Hamilton Region Conservation Authority is continued under the name Hamilton Region Conservation Authority in English and Office de protection de la nature de la région de Hamilton in French, and has jurisdiction in all matters provided for in this Act over the area under its jurisdiction on the 31st day of December, 1990, as it may be altered under this Act. R.S.O. 1980, c. 85, s. 6 (1), revised.

⁸⁸ Grand River Conservation Authority continued

7.—(1) The Grand River Conservation Authority is continued under the name Grand River Conservation Authority in English and Office de protection de la nature de la rivière Grand in French as a conservation authority under this Act.

⁸⁹ [54] Placing the NVCA Regulation in the context of the CAA demonstrates that there is no statutory foundation for a presumed general prohibition on development. The other listed criteria not being relevant here, it is only developments that affect the control of flooding that may be prohibited, regulated or subject to a requirement for prior permission. A general prohibition on developments without consideration of the impact, if any, of such developments on flood control in the particular circumstances of each case, would have been beyond the jurisdiction of the NVCA to enact pursuant to s. 28(1)(c) and it cannot acquire such jurisdiction by misinterpreting its own regulation. CITATION: Gilmor et al. v. Nottawasaga Valley and The Township of Amaranth, 2015 ONSC 5327



Credit Valley Conservation Authority Office.



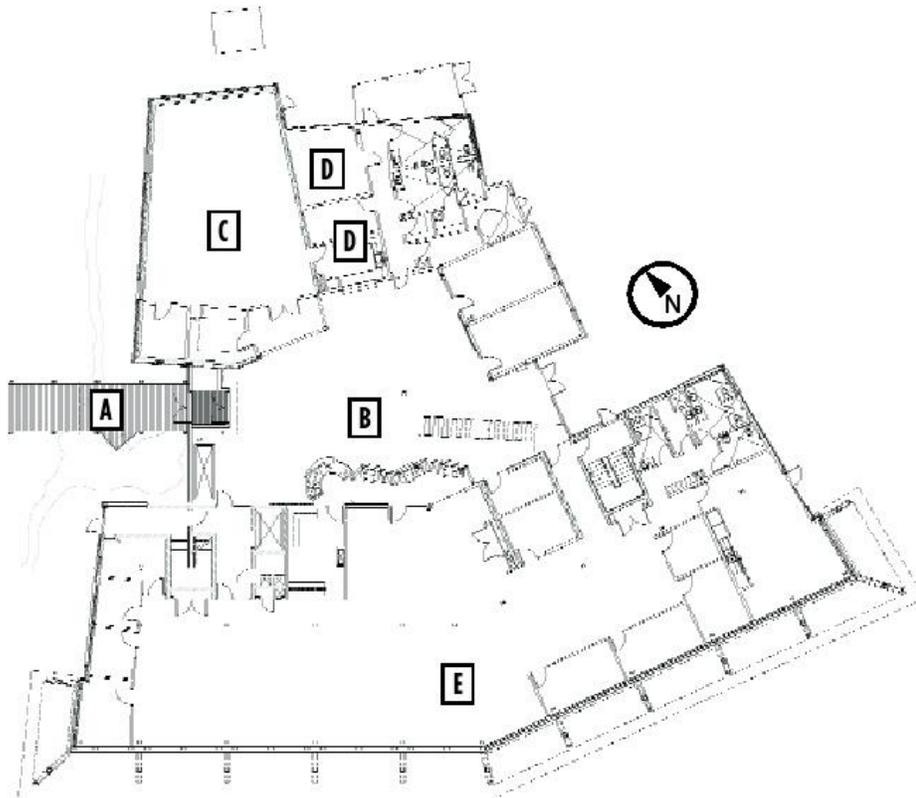
Rideau Valley Conservation Authority.



Rideau Valley Conservation Authority.



Inside Rideau Valley Conservation Authority Board room.



Ground floor plan

A Public entrance

B Lobby/Atrium

C Boardroom

D Mechanical

E Offices

Floor Plan for Rideau Valley Conservation Authority building.



Mississippi Valley Conservation Authority building.

These are merely a few examples of wasted tax-payers money. There is no justification for these types of facilities. Obviously if there isn't the control over

the administrative staff involved with the Conservation Authorities than they are financially redundant in conjunction with the duplication of their mandate.

v. That Conservation Authorities are not using actualities through science, but are merely guessing at what is or is not going to happen.

During the Budget Debates in May of 1980 the C.A.'s must purchase/acquire land before they can even implement any program⁹⁰ be it for flood control projects/schemes or for revenue/resort support. Fast forward to 2013 and the flooding issues which had impacted various areas throughout Ontario.

Since April, 2013, there seems to be a systemic problem of flooding, so much so that in the CTV Toronto publication of April 22, 2013 it stated;

"Several communities, including the City of Kawartha Lakes and the towns of Huntsville, Bracebridge and Bancroft remain under states of emergency after heavy rains on Thursday and Friday washed out roads in the area and forced several home evacuations...

Ministry of Natural Resources spokesperson Jolanta Kowalski said Monday. "My understanding is that this is record levels in a number of locations," she said. "They're calling it the one-in-a-100-years-type flood."

...John Sisson, the town's (Bracebridge) chief administrative officer.

"These are just anecdotally exceeding anything that people have seen over the past number of years," he said.

Earlier, Bracebridge emergency officials said they were anticipating water levels to "significantly" exceed flooding levels previously recorded in 1985, 1998 and 2008.

Water levels in the town of Bancroft, located around 250 km northeast of Toronto, had stabilized by Monday and officials were not anticipating a surge, the town's website reported.

Water levels on the Gull River and the Trent-Severn Waterway are expected to continue to rise over the next 24 hours within the town of Minden, the city said in a statement released Monday evening. As well, a

⁹⁰ Mr. Bounsall: I say to the Minister of Natural Resources (Mr. Auld) he will have received or is about to receive a detailed submission from the Essex Region Conservation Authority about the funding it will so very badly need if its conservation programs are to continue. This authority was established only three or four years ago and is well behind many other conservation authorities which have been established 15 and 20 years ago and more.

We do not have much recreational land in Essex county in comparison to other areas. There is a very desperate need for these lands to be purchased now and for a parkway, which is one of the authority's proposals to be established starting at Lake St. Clair and running through Windsor and down to the Detroit River and the Lake Erie sector. A parkway should be established there linking the various parks which it hopes to acquire and develop. I will be talking to the minister and to this House about the very real need for the provision of funds to sustain the Essex Region Conservation Authority in its plans for acquisition and building that parkway. Budget Debate - May 15, 1980, The House resumed at 8:01 p.m. at 10:10 p.m.

flood warning has been issued for the shoreline areas of Balsam, Cameron, Sturgeon and Pigeon Lakes."

April 30, 2013 from the Minden Times

Many Minden residents have been displaced, their streets impassable by vehicle. Some have been getting to and from their homes by boat. The downtown has been barricaded to traffic and will likely remain that way for some time.

"You're not an easy crowd to stand in front of," Cunningham (Jewel Cunningham, Parks Canada) told a sea of red, exasperated, angry faces.

"I'll try to be honest and frank about what we've done to date."

Cunningham said it was a "rain event" during April 18 and 19, timed with the spring thaw that had created the situation.

Residents started yelling that the spring had not been exceptional in any way.

One woman asked Cunningham if the TSW was going to take public responsibility for the flooding.

"No, we are not," she said. "It's not in our ability to mitigate flooding."⁹¹

During a meeting at the Rideau Valley Conservation Authority building, on June 20, 2013, regarding the flooding out of 20 to 25 farmers, causing hundreds of thousands of dollars in damage, representatives of the Rideau Valley Conservation Authority seemed to show very little support or consideration for their part or the problems that faced the private property owners.

Shortly before the flooding in the Ottawa area there was also flooding in the Holland Marsh area, so much so that the Mayor of Bradford declared a state of emergency. The Mayor had concerns because "*the entire marsh could flood because water levels in Lake Simcoe and the Holland River are even higher now than when the dyke first let go.*"⁹² "Jamie Reaume is the executive director of the Holland Marsh Growers' Association.... "*The levels need to come down,*" Reaume says, calling for "*an acknowledgement from the federal side of this equation that we do have high escalated water levels in this part of the watershed and it needs to come down immediately.*"

But what of the Conservation Authorities/ the MNRF, the Ministry of Heritage, the Ministry of Environment, the Department of Fisheries, Ministry of Municipal Affairs, and other Ministries involvement? They all seem to have something to do with this situation and other situations across the province in 2013, pertaining to flooding.

⁹¹ *Tempers boil at flood forum* By Chad Ingram Tuesday, April 30, 2013, <http://www.mindentimes.ca/2013/04/30/tempers-boil-at-flood-forum>

⁹² Bradford declares state of emergency over farm floods, <http://barrie.ctvnews.ca/bradford-ont-declares-state-of-emergency-over-flooded-farms-1.1322798>, Roger Klein, CTV Barrie, Published Wednesday, June 12, 2013

The Conservation Authorities and the MNRF have a duty under the Conservation Authorities Act section 23 (1) (a) to "*require an authority to carry out flood control operations in a manner specified by the Minister*". It is determined in the Regulation 98/04, Table 1 that there must be a rainfall of 73mm in the first 36 hours to be equivalent to "The Hurricane Hazel Flood Event Standard" of a storm that produces over a 48-hour period 86mm of rain.

The report done by the Rideau Valley Conservation Authority - Technical Memorandum, February 20, 2013 states:

" The project has been done in accordance with the technical guidelines set out under the Canada-Ontario Flood Damage Reduction Program (FDRP) (MNR, 1986), and the technical guide for the flood hazard delineation in Ontario (MNR, 2002) as laid out by the Ontario Ministry of Natural Resources....

And again from this report:

"This actually caused the lake water level to be (artificially) higher by up to 0.8 m during flood events; but lacking good record of log operation, we are unable to improve the model at this time... somewhat distorts the flow released through the dam... Tests showed that the effect of fully opening the... Dam results in approximately a 12% reduction in the 1:100 year design flood..."

Continuing with the same report...

"...watershed model, built using the Mike11 program of the Danish Hydraulic Institute (DHI, 2003, 2004) and originally developed in 2007 (RVCA, 2007), was updated and refined in 2008 with new data on cross-sections, bridges and culverts. **Estimated discharges associated with flood** ...The resulting flood lines were adopted by the RVCA Board of Directors on December 16, 2010 as the **best available estimate of the extent of flooding under regulatory flood conditions**"⁹³

Not only are the regulations based on "estimates" but is there any real science to the 1 in 100 year flood plans? How did the Conservation Authorities even determine that there was a 1% chance in any given year of a 100 year flood event? This seems to be a very high percentage of chance, given any real historical information and considering Hurricane Hazel was in 1954. Is this the only event that the numbers are based on? If so then the cost of all of this lack of science, the lack of due diligence and now, what could be seen as, the intentional flooding, is reason enough for the Conservation Authorities to be dissolved. As for the events of 2013, the staff of the Conservation Authorities, it

⁹³ Rideau Valley Conservation Authority - Technical Memorandum, February 20, 2013

would seem, have created multi-million dollar incidents that should never have happened.

CONCLUSION

As laid out in the Introduction, there were 5 points to be proven. These points consisted of:

- i. That the Conservation Authorities, in conjunction with Conservation Ontario, are wasting tax-payer's money and have created a conflict between the C.A.'s and other superior governmental entities, making the C.A.'s and Conservation Ontario redundant;
- ii. There is already a legislated mandate, preamble and object/purpose to the Conservation Authorities;
- iii. That Municipal Councils need to re-establish their authority over the Conservation Authorities;
- iv. That the Conservation Authorities do not need any new or extra authority or ability to implement any new regulation or policies;
- v. That Conservation Authorities are not using actualities through science, but are merely guessing at what is or is not going to or is happening. Best estimates and simulations are not fact.

(i) That the Conservation Authorities, in conjunction with Conservation Ontario, are wasting tax-payer's money and have created a conflict between the C.A.'s and other superior governmental entities, making the C.A.'s and Conservation Ontario redundant.

What ACAO/Conservation Ontario fails to understand is that the Conservation Authorities are merely employees of government. They are not to be involved with lobbying for additional funds or to have outside interference between themselves and government. This action, by the Conservation Authorities, has been caused by the growth of Conservation Ontario. This is why Conservation Ontario and the Conservation Authorities have become redundant and why they are continuing to grasp for power. They know they are redundant because the Municipalities can (i) remove/dissolve them, (ii) take over the functions of the C.A.s, (iii) and have no future need for the C.A.s or Conservation Ontario.⁹⁴

⁹⁴ Political Issues

...The idea of amalgamation of many of the smaller authorities was suggested in the inter-ministerial report and perhaps because of this has met with a great deal of resistance from some quarters. In some ways the issue of amalgamation has led to more perceptual challenges than tangible ones. It has been argued that probably the biggest problem newly amalgamated authorities will encounter will be that of what colour to paint their trucks.

An Association for the Future

Clearly the Association is faced with the same choices that authorities must contend with. Either by choice or by default the status quo can be followed, with the danger that other organizations, groups or

"...Why pay conservation authorities for work which municipalities are already expected to undertake? Why inflict another layer upon the taxpayer?"⁹⁵

(ii) There is already a legislated mandate, preamble and object/purpose to the Conservation Authorities.

In regards to a Preamble - It is unfortunate that Conservation Ontario had not done proper research into the Conservation Authorities to know that there is a Preamble created under the Grand River Commission in 1932, which extends to the Conservation Authorities Act, today. The Preamble for the Conservation Authorities Act is:

"...and whereas it is deemed expedient that legislation be enacted which will provide the authority for the creation of a commission to investigate and report on and to carry out the necessary works whereby the waters ... and its tributaries may be controlled in times of flood, and conserved to more effectively afford a sufficient supply of water for municipal, domestic and manufacturing purposes throughout the said drainage basin during periods of water shortage;"⁹⁶

A "Purpose Statement" or purpose clause is the objects⁹⁷ of the entity. The factual objects of the Conservation Authorities are, and the legislatures' intent, are:

Objects

20. (1) The objects of an authority are to establish and undertake, in the area over which it has jurisdiction⁹⁸, a program designed to further the

government agencies can surpass and possibly replace the role of the authorities and consequently the Association.

The alternative is for the Association to build on its already strong base and respond to the issues and opportunities as outlined above. Its three principal roles (coordination, resource support and external liaison) will be needed more than ever. The Association will have to take the lead in playing a motivating role with all the thirty-eight authorities in order to promote and achieve the concept of integrated program delivery. These problems can be solved. However they require political will and public support. The ACAO must coordinate the efforts of its thirty-eight member conservation authorities to develop that support and will. Canadian Water Resources Journal Vol. 17, No.3, 2013, p. 270 – 276.

⁹⁵ Canadian Water Resources Journal Vol. 17, No.3, 2013, p. 270 – 276.

⁹⁶ An Act to establish the Grand River Conservation Commission, 1932, Preamble

⁹⁷ 14. Basic rules for interpreting legislation

Other things worth remembering before starting to read legislation (say an Act) are these important basic rules—

- the Act has to be read as a whole; and

- the Act has to be interpreted in such a way as to give effect to its purpose or object. How to read legislation, a beginner's guide, Parliamentary Counsel's Office, May 2011

⁹⁸ Public land is viewed by the Ministry as a non-renewable resource and a platform that with wise management will support the long term health of ecosystems (e.g. aquatic resources, forest and wildlife resources as well as their biological foundations). PL 4.02.01, Application Review and Land Disposition Process, July 24, 2008, p. 2

conservation⁹⁹, restoration, development and management of natural resources¹⁰⁰ other than gas, oil, coal and minerals. R.S.O. 1990, c. C.27, s. 20.

And according to the Superior Court of Ontario:

[54] Placing the NVCA Regulation in the context of the CAA demonstrates that there is no statutory foundation for a presumed general prohibition on development. The other listed criteria not being relevant here, it is only developments that affect the control of flooding that may be prohibited, regulated or subject to a requirement for prior permission. A general prohibition on developments without consideration of the impact, if any, of such developments on flood control in the particular circumstances of each case, would have been beyond the jurisdiction of the NVCA to enact pursuant to s. 28(1)(c) and it cannot acquire such jurisdiction by misinterpreting its own regulation.¹⁰¹

Therefor the Conservation Authorities have gone beyond their intended and legislated mandate, objects and what the preamble has stated.

⁹⁹ Under the concept of sustainable development, Ontario's natural resources constitute natural "capital". Resources over and above those essential for long-term sustainability requirements become available over time as "interest" for use, enjoyment and development. Application Review and Land Disposition Process, July 24, 2008, p. 1

Development which maintains the natural capital and allows for the accumulation of this natural interest is sustainable. . . Approximately 87% of Ontario's land base is public land administered by the Ministry of Natural Resources. PL 4.02.01, Application Review and Land Disposition Process, July 24, 2008

¹⁰⁰ And whereas by an Order in Council adopted upon a report from the Right Honourable W.L. Mackenzie King, Prime Minister of Canada, and approved by His Excellency the Governor General on the first day of August, 1928, it was provided, pursuant to an agreement in that behalf entered into with representatives of the Government of the Province that the Province would be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources as from its entrance into Confederation in 1870, . . ., following consideration of the report of the Commission, a transfer would be made by Canada to the Province of the unalienated natural resources within the boundaries of the Province subject to any trust existing in respect thereof and without prejudice to any interest other than that of the Crown in the same.

Transfer of Public Lands Generally

1. In order that the Province may be in the same position as the original Provinces of Confederation are in virtue of section one hundred and nine of the Constitution Act, 1867, the interest of the Crown in all Crown lands, mines, minerals (precious and base) and royalties derived therefrom within the Provinces, and all sums due or payable for such lands, mines, minerals or royalties, shall, from and after the coming into force of this agreement, and subject as therein otherwise provided, belong to the Province, subject to any trusts existing in respect thereof, and to any interest other than that of the Crown in the same, and the said lands, mines, minerals and royalties shall be administered by the Province for the purposes thereof, subject, until the Legislature of the Province otherwise provides, to the provisions of any Act of the Parliament of Canada relating to such administration; any payment received by Canada in respect of any such lands, mines, minerals or royalties before the coming into force of this agreement shall continue to belong to Canada whether paid in advance or otherwise, it being the intention that, except as herein otherwise specially provided, Canada shall not be liable to account to the Province for any payment made in respect of any of the said lands, mines, minerals or royalties before the coming into force of this agreement and that the Province shall not be liable to account to Canada for any such payment made thereafter. Constitution Act, 1930, 20-21 George V, c. 26 (U.K.)

¹⁰¹ CITATION: Gilmor et al. v. Nottawasaga Valley and The Township of Amaranth, 2015 ONSC 5327.

(iii) That Municipal Councils need to re-establish their authority over the Conservation Authorities.

The Municipalities are the creators of the conservation authorities and have the authority to dissolve these entities. As it took participating municipalities to establish a conservation authority they have the authority to dissolve the C.A.s. Under section 13.1 of the Conservation Authorities Act it is laid out that the Municipalities can remove the C.A.s and in conjunction with the removal of the C.A.s remove Conservation Ontario. If there are no Conservation Authorities there is no Conservation Ontario which leads to a conflict based on funding and continued operation of both entities for their own gain. This would explain the continued "grasping for power" and the recommendations to expand beyond the intent of the C.A.s, interfering in Municipalities' authority.

(iv) That the Conservation Authorities do not need any new or extra authority or ability to implement any new regulation or policies.

If the C.A.s wish to continue they should only be involved with their original mandate as they have become onerous on municipalities, onerous on MNRF, onerous on the tax-payers and onerous on the individual property owner. Any extension will continue to erode Municipal Authority, the Minister's authority and continue to enlarge the debt of Ontario.

(v) That Conservation Authorities are not using actualities through science, but are merely guessing at what is or is not going to or is happening.

Based on the Rideau Conservation Authorities report from 2013 and that the C.A.s are not using science but merely best estimates to determine "flooding" and or "flood plains" the C.A.s are effectively misleading Municipalities and the people of Ontario. For this reason alone they should be discontinued as they are presenting misinformation as fact to their governing boards, who are the representatives of the Municipalities. This is the C.A.s doing indirectly what they cannot lawfully do directly.

"It is an evasion of the Act from which the Local Legislature derives its power. The Local Legislature cannot, no more than private individuals, act as it were in fraud of the law, that is, do by indirect means what it cannot effect directly..."¹⁰²

The Conservation Authorities have, based on fact, become redundant and should be dissolved to allow the MNRF and the Municipalities to exercise their authority as constitutionally and lawfully allowed. The Conservation Authorities have, based on fact, become redundant because of the amount of tax-payers money which has been wasted on such things as new facilities which are repugnant to the tax-payers abilities, considering the recessionary practices

¹⁰² Constitution of Canada. The B.N.A. Act, 1867; Its Interpretation, etc., p. 209

dictated to the people of Ontario and the amount of debt the province is weighed down by. In conjunction with the dissolution of the C.A.s, Conservation Ontario has also become redundant. It is hoped with the aforementioned information and proof the Ministry of Natural Resources and Forestry will dissolve the Conservation Authorities and remove Conservation Ontario because it is doing indirectly what the Conservation Authorities cannot do directly and that is government¹⁰³ lobbying government on behalf of government.

¹⁰³ See Conservation Ontario board of Directors.