



January 16, 2013

Ministry of Natural Resources - Policy Division
Natural Heritage, Lands and Protected Spaces Branch
Lands and Non-Renewable Resources Section
300 Water Street
Peterborough Ontario K9J 8M5

Re: EBR Registry Number: 011-7669

Attention: Jennifer McKay

FOCA respectfully provides the following input to the public consultation considered on EBR Notice 011-7669, entitled *“Modernization of Approvals – Proposed Regulatory Amendments to Work Permits issued under the Public Lands Act.”*

The “Modernization of Approvals” Initiative is clearly intended to reduce overall oversight spending within the Ministry. In general, FOCA is not averse to MNR practicing fiscal restraint, but not at the expense of deserting the key role the MNR plays in educating, regulating, and enforcing sound natural resource management in rural and waterfront Ontario. The role of MNR has become increasingly important in an era where municipal levels of government in Ontario have increased obligations and require technical support for issues that lie within the realm of MNR’s expertise and regulatory regime. FOCA remains skeptical about the proposed approach from MNR that would, “remove regulatory control, including eliminating the need for approvals from MNR, where for example, an activity will have little or no potential impact since another organization now regulates the activity.” In reality, no other organization exists to direct or manage these activities, especially when, for instance, the Federal Navigable Waters, and Fisheries Acts have been significantly curtailed and defunded.

It is important for MNR to reinforce that all persons undertaking an activity according to the rules in regulation would be responsible for complying with all other federal, provincial or municipal requirements.

As a matter of principle we believe it is important to clarify that the standards set in MNR regulations are the minimum standards for any given undertaking, and that where there are local or other bylaws, rules, or regulations that are applicable, the standard that is most protective of the resource will apply.

There needs to be better clarity With respect to activities including but not limited to dredging, moving rocks, or shoreline stabilization where the physical location specifies the location of the activity, “be in front of the person’s waterfront property.” In many shoreline areas waterfront lot lines are not perpendicular to a linear shoreline. The definition of what is truly “in front” of one’s waterfront property needs to clearly represent that area. This area could be delineated by a description which

would be contiguous to the property along “an extension of existing lot lines” – or some such description. No undertaking should be allowed in an area in front of a neighbouring property.

It is imperative that, as MNR “modernizes,” there remains the commitment and the capacity to achieve the goals of:

- a commitment to protect and sustainably manage natural resources
- provide improved services and reduce the burden on individuals, business and government

While FOCA appreciates the need for prudent and reasonable approaches to oversight and management, our paramount concern is that MNR does not relinquish or diminish the resource management role it is obliged to provide.

We believe that most people want to behave responsibly. FOCA realizes many do not understand the relationship between activities undertaken on or beside the water, and the related impacts on fish, wildlife and water quality. The existing process which requires prior approval provides an important opportunity for MNR to discuss these connections, to improve the outcomes from the activities, and to strengthen the broader understanding of ecological function. In the absence of the opportunity for proactive discussions, the need for clarity in the regulations becomes even more critical. To provide this clarity, the language and direction in regulation should be clear to any resident and not require the services of a technical expert to understand.

For proponents who are unable or unwilling to follow the rules as set out in regulation, there needs to be a mechanism to monitor, respond to and enforce these rules.

FOCA believes that it is imperative that as MNR “modernizes” while fulfilling their obligations to protect and manage natural resources, there needs to be significantly better education and awareness among proponents. The rules that remain in place, while mostly sound and reasonable, are already a challenge to uphold and will be more difficult to uphold when the approach is a combination of a) removing the requirement for prior approvals, and the opportunity this presents for dialogue and proponent education; and b) when the governing rules remain arcane and unclear, even for the most diligent and responsible individual.

FOCA has reviewed the proposed changes, but remains skeptical that the outcome will be positive. Without the opportunity for prior consultation, and without better education, FOCA are concerned that the result may be total disregard for the regulations.

Respectfully,



Ted Spence, President



Terry Rees, Executive Director