

Submitted via EBR, and in hard copy to the contact person(s) listed below



May 17, 2017

Jamie Fligg
Ministry of Natural Resources and Forestry
300 Water Street
Peterborough Ontario
K9J 8M5

Re: Reference: EBR Registry Number 013-0211

To Whom it May Concern,

On behalf of Ontario's waterfront landowners the Federation of Ontario Cottagers' Associations (FOCA) respectfully provides the following input to the proposed amendments to work permit requirements in Ontario Regulation 239/13 (Activities on Public Land and Shore Lands – Work Permits and Exemptions) under the Public Lands Act.

The Federation of Ontario Cottagers' Associations (FOCA) is an incorporated non-profit organization that represents over 500 waterfront property owners' groups, with over 50,000 member families. Waterfront property owners represent one of the single largest rural constituencies – over 250,000 families located in nearly 200 Ontario municipalities, who collectively own and steward 15,000 kilometres of the Provinces shorelines, and over 50,000 hectares of economically and environmentally important lands.

Background:

Recent MNRF management of private landowners' work on and around lakes and rivers has been troubling for Ontario's waterfront residents, and many of our local member associations have expressed concern for the lack of certainty/clarity over the past year or so, both about the rules for occupancy, and the process for obtaining approvals. Providing a more clear definition of "Free Use" as described in this posting will alleviate much of this confusion.

A separate, long-time concern relates to what appears to be a chronic lack of enforcement of existing limits to shoreline building or occupancies. For those instances where there may be a lack of adherence to the regulations – either strictly, or in spirit - FOCA feels it is important that the MNRF retain sufficient latitude and authority to enforce compliance – while exercising such powers judiciously.

Occupational Authority Regulation

FOCA generally supports this proposal, in particular the provision that occupation authority would not be required for docks or single-story boathouses.

With respect to the "enforcement" aspect mentioned above, FOCA suggests that there may be an appropriate surface area limit above which private docks and boathouses WOULD require occupational authority. For example, a dock or boathouse with a built surface area (dock area plus roof) of say over 150 square meters should be required to possess occupational authority, regardless of its footprint on the

lake bottom. This is a large surface area (10 by 15 meters or 33 by 50 feet) and land occupancies of this size should be subject to MNRF review/approval. Notwithstanding the authority of municipal government to regulate built structures, we believe such an occupation is a matter of provincial and public interest.

Additionally, while FOCA understands and appreciates the “free use” aspects of camping on Crown lands and shorelines, the unmanaged use and occasional abuse of the “21 days” provisions or fire bans (admittedly by a small number of abusers) has led to conflict and a lack of confidence and credibility in the intent and the spirit of this regulation on numerous occasions in numerous locations over the years. Though PLA Section 21.1 considers a Notice to Vacate, it is unclear what would trigger or authorize a notice to vacate, or the grounds under which such a notice would be issued. A clearly defined process defining how such a request to vacate could be initiated by a member of the public would be beneficial.

Regarding Erosion Control Structures: FOCA believes these features (breakwalls and particularly groynes) represent a different class of “structure or thing”, and have concerns that their construction and placement is subject to little oversight, or considerations related to timing of construction, size or suitability. It is not clear to the average homeowner that there is a distinction between needing the authorization to BUILD a groyne or breakwall, versus needing no permission to occupy public lands with such structures. Controls for erosion historically made reference to “above the high water mark” however the proposed allowed distance from shore is a vague “minimum distance from the property boundary to prevent erosion”. It needs to be made abundantly clear that new structures require a permit, and that replacements and repairs of existing structures require MNRF notice and input.

Given the well-understood concerns with siltation and foreign material deposition on fish and other aquatics, the displacement of habitat, and the importation of invasives species or their seeds – we expect that work permits would continue to be required for new or expanded erosion control structures, as they may have significant environmental impacts and may affect neighboring properties. Groynes are only defined as being parallel to the extended property lines – there needs to be authority in regulation to specify limits to the size, shape, length or setback from side lots, and the amount or type or origin of fill used.

While FOCA is generally in agreement with the regulation’s intent, the guidance buried in O.Reg. 239/13 is still confusing. FOCA encourages MNRF to undertake some public education through and with partners such as FOCA to enlighten homeowners about significant concerns related to riparian areas and to any works on related public lands, and to clearly articulate the roles and responsibilities of the homeowner, the MNRF, and municipalities.

Respectfully,



Terry Rees, Executive Director
on behalf of Federation of Ontario Cottagers' Associations, Inc.
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cc: Kathryn McGarry, Minister of Natural Resources and Forestry