



**NIAGARA PENINSULA CONSERVATION AUTHORITY
FULL AUTHORITY**

WELLAND

AGENDA

May 18, 2011 – 7:00 P.M.

ROLL CALL

DECLARATION OF CONFLICT OF INTEREST

BUSINESS:

(1) MINUTES

(a) FULL AUTHORITY MEETING – April 13, 2011

Attached are the Minutes of the Full Authority Meeting held April 13, 2011.

(a) NIAGARA REGION TREE AND FOREST CONSERVATION BY-LAW ADVISORY COMMITTEE MEETING – April 21, 2011

Attached are the Minutes of the Niagara Region Tree and Forest Conservation By-law Advisory Committee Meeting held April 21, 2011.

(2) BUSINESS ARISING FROM MINUTES

(3) CHAIRMAN'S REMARKS

(4) CAO'S REPORT

(5) DELEGATION

Representatives of the Harmony Residents Group will be in attendance to make a presentation regarding the Niagara-on-the-Lake Department of National Defence property.

(6) CONSERVATION FOUNDATION APPOINTMENT – REPORT NO. 24-11

Attached is Report No. 24-11 regarding an appointment to the Foundation Board.

(7) BUDGET STATUS REPORT – REPORT NO. 25-11

Attached is Report No. 25-11 regarding the budget to date.

(8) PFOS COMPUNDS AT BINBROOK C.A (UPDATE) – REPORT NO. 26-11

Attached is Report No. 26-11 regarding this matter.

(9) LAKE ERIE ACCESS SITE MANAGEMENT - REPORT NO. 27-11

Attached is Report No. 27-11 with respect to this matter.

(10) NPCA GUIDELINES – SECTION 28 ENFORCEMENT – REPORT NO. 28-11

Attached is Report No. 28-11 together with a copy of the Enforcement Guidelines.

(11) PROJECT/PROGRAM STATUS REPORT – REPORT NO. 29-11

Attached is Report No. 29-11 outlining the status of Authority Projects/Programs to date.

(12) OTHER BUSINESS

(13) IN-CAMERA

- (a) Complaint and Violation Status Report - Report No. CR-07-11
- (b) Tree By-Law Status Report – Report No. CR-08-11
- (c) Proposed Land Acquisition – Report No. CR-09-11

ADJOURNMENT



TO: Chairman and Members of the Authority

DATE: May 16, 2011

RE: CONSERVATION FOUNDATION APPOINTMENT - Report No. 24-11

The Board of Directors for the Niagara Peninsula Conservation Foundation recommend the appointment of Ms. Gail Meyer to the Foundation Board of Directors for a term expiring December 31, 2013. Ms. Meyer is a resident of St. Catharines, has been employed with the CIBC for ten years and is currently the Financial Advisor and Retirement Specialist at their branch at the Fairview Mall, St. Catharines. Ms. Meyer has been looking to become more active in the community, specifically in the area of conservation and the environment. The Board believes she will be an asset to the organization and assist the Foundation in meeting its objectives.

Recommendation:

That Ms. Gail Meyer be appointed to the Niagara Peninsula Conservation Foundation for a term to expire December 31, 2013.

Prepared by: Terry McDougall, Executive Director, Niagara Peninsula Conservation Foundation

Respectfully Submitted by: _____

Tony D'Amario, P.Eng.
Chief Administrative Officer/Secretary-Treasurer



TO: The Chairman and Members of the Authority

DATE: May 11, 2011

SUBJECT: Budget Status Report - Report No. 25-11

Attached is the budget status report for the period ending April 30, 2011.

Expenditures in the operating budget are generally in line with the approved budget for 2011 with the exception that while many projects have been initiated, funds have not been expended at this time.

Revenue projections for the planning and regulations programs are consistent with the approved budget. Conservation Area revenues will be closer to projected once the areas are open for the season. Staff will continually monitor revenues and make appropriate adjustments for any significant variances.

RECOMMENDATION:

That the Budget Status Report for the period ending April 30, 2011 be received.

Respectfully Submitted By: _____
Tony D'Amario, P. Eng. CAO/ Secretary-Treasurer

TO: The Chairman and Members of the Authority

DATE: May 9, 2011

SUBJECT: PFOS COMPOUNDS AT BINBROOK C.A.(update)– Report No. 26-11

On April 21st, Authority staff attended a meeting with the Ministry of the Environment (MOE) and Hamilton Public Health Services to discuss the issue of Perfluorooctanesulphonate (PFOS) and Propylene glycol in the Welland River. The Ministry of the Environment had scheduled a study to trackdown the source of the PFOS contamination. In addition, Hamilton City Council directed staff to conduct samples of drinking water wells and irrigation ponds in the vicinity of the Airport and the Binbrook Conservation Area. The meeting provided an opportunity for all parties to coordinate their work and public communication plans.

The meeting concluded with the MOE conducting a trackdown study involving water and sediment samples from the Welland River watershed upstream of the Binbrook Reservoir. The City of Hamilton identified several wells and ponds for testing including the well and reservoir at Binbrook Conservation Area. One valuable piece of information came from the MOE who confirmed that the airport was in compliance with previous orders related to a Propylene glycol release.

On April 27th Hamilton Public Health Services issued a letter to residents surrounding the Binbrook Reservoir, (see attached). The letter provided information on PFOS and Propylene glycol. It identified risks and outlined the testing program being conducted by the City.

On April 28th, the NPCA issued a media-release aimed at Conservation Area users, assuring them that the NPCA was maintaining a safe environment and would continue to monitor the situation. It was accompanied by a list of frequently asked questions regarding PFOS. Both of these documents are attached, and posted on the website www.npca.ca

On May 2nd, the MOE began the trackdown study by sampling the water and sediment at several locations in the Welland River watershed upstream of the Binbrook Reservoir. Results from these samples are not expected until mid-summer. MOE is planning to conduct additional testing in July.

Authority staff will continue working with the MOE and Hamilton Public Health to research information on contamination levels, guidelines for drinking water and exposure risks for swimming. There are no local “experts” on the compound, however the MOE researched guidelines from other jurisdictions and consulted with human health toxicologists at the MOE.

Health Canada developed an emergency drinking water quality guideline in order to suitably assess the potential impact of PFOS contamination. A draft health-based drinking water guidance value of 300 ng/L was established by Health Canada for PFOS in drinking water, based on a lifetime exposure.

Authority staff will continue to monitor the progress of testing throughout the next several months. If new information suggests PFOS levels in the ground water or reservoir are significantly higher than expected, we will re-assess the situation.

RECOMMENDATION:

That Report No. 26-11 regarding PFOS Compounds at the Binbrook Reservoir be received for information purposes.

Prepared by: Darcy B. Baker, Director-Land Management

Respectfully Submitted by: _____
Tony D'Amario, CAO/Secretary-Treasurer



MEDIA RELEASE

NPCA Aims to Provide Safe and Healthy Recreational Space for all to Enjoy

FOR IMMEDIATE RELEASE: April 28, 2011

Binbrook Conservation Area in the southern outskirts of Hamilton offers visitors a tranquil natural setting in which to relax and enjoy nature to its fullest in a setting spanning almost 1,000 acres. The Conservation Authority's objective is to provide a safe and healthy recreational space for our visitors.

Recently, the Ministry of Environment advised the Conservation Authority that PFOS (Perfluorooctanesulfonic acid) has been detected in turtles, fish and sediment in the Binbrook Conservation Area Lake Niapenco. As a result, the Ministry of the Environment updated the *Guide to Eating Ontario Sport Fish* to include recommendations concerning consumption of fish caught in Lake Niapenco especially for sensitive population including women of child bearing age and children less than 15 years of age. Tony D'Amario, CAO of the Niagara Peninsula Conservation Authority states that "It is still safe to consume fish caught in the lake; however persons should follow the recommendations in the guide."

While there are restrictions concerning fish consumption, the Hamilton Public Health Services believes that the levels of PFOS found to date do not represent a public health risk of exposure to swimmers or boaters. The Conservation Authority is committed to the health and well being of visitors and will continue to work with Hamilton Public Health Services and the Ministry of Environment to monitor the situation and keep visitors updated.

More information including FAQ's and any updates are available on the NPCA web site at www.npca.ca

Binbrook Conservation Area is open for visitors to enjoy its many amenities including hiking trails, picnic facilities, BBQ areas, boat launch ramps, playground, beach volleyball courts and the beautiful sandy beach. The children's splash pad is a re-circulating system which uses water that is tested and treated on a regular basis. The site provides an ideal setting for any special occasion and conservation area staff looks forward to making your visit a pleasurable experience.

We invite you to get up, get out, and join us for a breath of fresh air at Binbrook.

-30-

For Information Contact: Darcy Baker, Director, Land Management 905-788-3135 ext. 248; email: dbaker@npca.ca or visit www.npca.ca



TO: The Chairman and Members of the Authority

DATE: May 9, 2011

SUBJECT: LAKE ERIE ACCESS SITE MANAGEMENT – Report No. 27-11

Background

In November 2010, the Region of Niagara officially opened a Lake Erie Access on Lakeshore Road in the Township of Wainfleet. This site was developed by the Region to provide greater public access to the beach and waterfront.

The new facility provides parking, beach access, observation points, naturalized buffers, garbage receptacles and washrooms. Local residents hope the new access will reduce the conflicts between property owners and those wishing to use the beach.

Throughout 2010, Authority staff were consulted for input on the design and proposed operation of the facility. In early 2011, Regional staff requested a cost estimate for the NPCA to manage operations on behalf of the Region.

The proposal is similar to current agreements with the Region to manage three naturalized park facilities, located on former landfill sites in St. Catharines, Port Colborne and Wainfleet. Although the Region of Niagara has significant resources for managing properties, they do not have experience operating park facilities such as this. The Lake Erie Access requires several visits a day to ensure that garbage is collected, washrooms are clean and the site is secured during evening hours. Long Beach Conservation Area is a 24-hour operation, located a short distance from the site. Given the close proximity to the Lake Erie Access, our staff would be able to respond to complaints and maintenance requirements in a timely manner. Authority staff believe that the Long Beach site would be able to oversee the operations with the addition of one summer student position.

Authority staff propose that the NPCA enter into a management agreement for the Lake Erie Access Site for the 2011 Operating Season (May 20 – October 10). The agreement would be modeled on existing Management Agreements, where NPCA costs are invoiced to the Region, along with a 10% administration fee. This is consistent with most fee for service agreements between the Region and the NPCA.

RECOMMENDATION:

That Report No. 27-11 be received; and,

That staff be authorized to enter into a management agreement for Lake Erie Access Site for the 2011 operating season.

Prepared by: Darcy B. Baker - Director, Land Management

Respectfully Submitted By: _____
Tony D'Amario, CAO/ Secretary-Treasurer



NIAGARA PENINSULA
CONSERVATION
AUTHORITY

TO: The Chairman and Members of the Authority

DATE: May 18, 2011

SUBJECT: NPCA Guidelines –Section 28 Enforcement – Report No. 28-11

In late 2009, Conservation Ontario's (CO) Regulatory Compliance Committee formed a sub Committee to develop standard procedures in relation to regulation enforcement. The timing of this initiative was fortuitous for NPCA, as the Regional Solicitor that prosecutes cases on behalf of NPCA, had previously indicated that NPCA staff should develop this type of document in order to preclude potential allegations that the NPCA is acting arbitrarily when laying an information or charges.

In October 2010, Conservation Ontario released its final draft titled: Conservation Authority Guidelines; Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation; Section 28. NPCA staff has reviewed the final template and are not entirely supportive of the document. In terms of content, we believe it mixes two interrelated yet separate topics, these being: i) how staff are to conduct investigations; ii) how the agency goes about proceeding with court action. Most importantly, NPCA staff has some concerns with respect to the approach to enforcement that is implicit in the document.

The document outlines an approach that can be described as much more scripted and formal than NPCA currently practices. To illustrate, the Conservation Ontario manual specifies that Regulation Enforcement Officers should read a suspect (i.e. typically the landowner) their rights pursuant to the Canadian Charter of Rights and Freedom, in a similar fashion as a Peace Officer (i.e. you have the right to not speak with me, if you do choose to speak, anything you say can be used against you.....") The NPCA has struggled with this issue for a number of years. In the 1990's we did implement the use of a formal caution, however, we found it not to be helpful in reaching our ultimate objective, which we believe is restoration of the natural environment, not convictions. Accordingly, the CO standard document has been revised to eliminate the use of a caution statement. Nonetheless, the Board must be mindful that should it endorse this past practice, there is a risk that evidence and/or charges could ultimately be dismissed by a Justice or Judge based on NPCA's failure to read suspects their charter rights.

Another significant change that NPCA staff are proposing is the addition of a requirement to "post" a Notice of Violation on a work site. This practice was used in the 1990's, but has not been recently, largely as it was expected that the recent revisions to the Conservation Authorities Act were to include "stop work orders". The posting of a Notice of Violation in no way replicates a "stop work order" however, when a landowner or contractor is not readily available, it does serve a useful purpose. Contractors and landowners often proceed on the assumption that the other party has obtained all required approvals. Any action that attempts to immediately inform either party that an approval is lacking, will reduce costs to revise and/or remediate works, assuming the notice is acted upon.

Finally, staff felt the draft Conservation Ontario manual did not provide enough clarity with respect to reasonable timelines for negotiating and implementing a restoration, before legal action is commenced. In this regard, the document has been revised to clearly specify that restoration of "minor" works as defined by Authority policy can be negotiated by the Regulation Officer in a fairly informal manner. Proponents that wish to resolve more major works will fall into one of two processes. For more major activities that the NPCA policies clearly prohibit (i.e.

fill in a Provincially Significant Wetland), the Regulation Officer can negotiate up to three(3) months (adjusted for a time of year with suitable weather) to effect remediation before commencing court action. For works constructed without a permit that NPCA policies can allow (either with or without modification), the Regulation Officer will advise the proponent that they are to submit a full permit application package within one(1) month. Any modifications and/or restoration required will form part of the new permit approval. In this way both parties will have clarity with respect to timelines and what is expected.

Attachments:

1. NPCA Section 28 Enforcement Guidelines - Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation;

RECOMMENDATION:

That Report No. 28-11 be received for information

That NPCA adopt the appended Policy Document – NPCA Section 28 Enforcement Guidelines, dated May 18, 2011.

Prepared by: John Kukalis; Director, Water Management

Respectfully Submitted By: _____

Tony D’Amario, P. Eng.
Chief Administrative Officer/Secretary-Treasurer



NIAGARA PENINSULA CONSERVATION AUTHORITY

**DEVELOPMENT, INTERFERENCE WITH WETLANDS AND ALTERATIONS TO
SHORELINES AND WATERCOURSES REGULATION**

SECTION 28 COMPLIANCE GUIDELINES

MAY, 2011

ADOPTED BY NPCA BOARD: _____

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NIAGARA PENINSULA CONSERVATION AUTHORITY

DEVELOPMENT, INTERFERENCE WITH WETLANDS AND ALTERATIONS TO SHORELINES AND WATERCOURSES REGULATION

SECTION 28 COMPLIANCE GUIDELINES

The Conservation Authority's objective with respect to compliance and enforcement activities is to ensure the requirements of Ontario Regulation 155/06, and NPCA's Development Policies are adhered to; and to assist other agencies in obtaining compliance with other regulatory requirements including Federal and Provincial Statutes and Municipal Bylaws.

The response of enforcement staff to any incident should be proportionate to the risk presented by the incident, compliance history, and the response of the violator. Compliance tools can include education and outreach, warnings, notice of violations and prosecution.

Objective of Compliance and Enforcement

- To obtain compliance with the Regulation and NPCA's related policies
- To prevent risk to person and property respecting development on hazard lands
- To prevent damage and/or destruction of natural heritage features afforded protection under the Regulation and NPCA's related policies
- To ensure restoration of the natural environment at any site where a violation occurs
- To ensure works subject to the Regulation do not have a negative impact on neighboring lands
- To remove any economic advantage or savings realized by non-compliance.
- To seek escalation of penalty for recurrent violations or repeat violators.
- To ensure that letters of permission/permits issued by the CA are complied with.

The Conservation Authority has written policies against which applications are reviewed by CA staff to determine the impact on the control of flooding, erosion, dynamic beaches, pollution and the conservation of land, as mandated by the Conservation Authorities Act.

The specific policies of the NPCA are contained in a document entitled Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Document.

Legislative Background

The *Conservation Authorities Act* provides a broad mandate for the Conservation Authority and the specific programs of the CA are established by the Board of Directors which is made up of the municipalities within the CA's watershed. (Section 20 of the Act)

Section 28 of the *Conservation Authorities Act*, provides for Conservation Authorities to make Regulations in the area under its jurisdiction which includes the "regulation" of development and alteration, on, in and around hazard lands such as floodplains and wetlands and along all waterways and natural stream systems within the watershed.

Section 28, of the Conservation Authorities Act., specifically states:

Regulations by authority re area under its jurisdiction

28 (16) Subject to the approval of the Minister, an authority may make regulations applicable in the area under its jurisdiction,

- (a) restricting and regulating the use of water in or from rivers, streams, inland lakes, ponds, wetlands and natural or artificially constructed depressions in rivers or streams; (NOTE: this subsection was not enacted under Ontario Regulation 97/04)
- (b) prohibiting, regulating or requiring the permission of the authority for straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- (c) prohibiting, regulating or requiring the permission of the authority for development if, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development;
- (d) providing for the appointment of officers to enforce any regulation made under this section or section 29;
- (e) providing for the appointment of persons to act as officers with all of the powers and duties of officers to enforce any regulation made under this section. 1998, c. 18, Sched. I, s. 12.

Also, pursuant to Section 28(13.1) of the *Conservation Authorities Act*, which was an amendment to the legislation made through the *Green Energy Act, 2009*, the control of "conservation of land" is not a consideration for approvals of renewable energy projects.

Development prohibited without written permission in the Regulation includes:

- ✓ Adjacent or close to the shoreline of inland lakes that may be affected by flooding, erosion or dynamic beaches, to the extent of the 100 year flood level, the predicted long term stable slope projected from the existing stable toe of slope or 15 metres inland whichever ever is greater.
- ✓ River or stream valleys with depressional features associated with a river or stream whether or not they contain a watercourse the limits of which are determined by apparent and non apparent valley slopes.
- ✓ Hazardous lands
- ✓ Wetlands
- ✓ Other areas where development could interfere with the hydrologic function of a wetland including areas up to 120 metres from the limit of all provincially significant wetlands and within 30 metres from the limit of all other wetlands

AND the Regulation also prohibits without written permission:

- ✓ **The alteration** for the straightening, changing diversion or interference in any way with the **existing channel or a river, creek, stream or watercourse** of change or **interference in any way with a wetland.**

The prohibition is not the work or the result of the work but the issue that the work was completed without the written permission of the Conservation Authority.

Exceptions under the Conservation Authorities Act

Section 28 of the *Conservation Authorities Act* includes the following sections dealing with exceptions:

(10) No regulation made under subsection (1),

(a) shall limit the use of water for domestic or livestock purposes;

(b) shall interfere with any rights or powers conferred upon a municipality in respect of the use of water for municipal purposes;

(c) shall interfere with any rights or powers of any board or commission that is performing its functions for or on behalf of the Government of Ontario; or

(d) shall interfere with any rights or powers under the *Electricity Act*, 1998 or the *Public Utilities Act*, 1998.

(11) A requirement for permission of an authority in a regulation made under clause (1) (b) or (c) does not apply to an activity approved under the *Aggregate Resources Act* after the *Red Tape Reduction Act*, 1998 received Royal Assent.

While Section 28 (11) provides an exemption to the requirement for a CA's permission, Section 28 (10) does not. As such, a proponent is still required to obtain permission from a CA for any development within a regulated area or interference to a wetland or watercourse associated with the items listed in Section 28 (10). However, a CA must ensure their Regulation and policies do not limit the uses or interfere with the rights or powers listed in Section 28 (10). This allows a CA to ensure that there is no interference with a wetland or watercourse or is minimized to the extent possible and that the control of flooding, erosion, dynamic beaches or pollution or the conservation of land are either not affected by the development or the impacts are minimized to the extent possible.

Additionally, it is noted that the *Conservation Authorities Act* does not contain a subsection that specifically “binds the Crown”. Therefore activities of Provincial Ministries, Federal Departments and Crown Agencies or “Crown Corporations” are not bound by the Act and these entities are not legally required to obtain permission under the *Conservation Authorities Act*.

Voluntary compliance with the review process requirement is always a possibility for the Crowns and their Agencies. Through their policies, the CAs may invite them to voluntarily submit proposals for works through the permit review process. Although best practice would suggest that they comply to ensure a sufficient technical review of their activity, they are within their legal rights to refuse to participate in the voluntary review process.

REGULATION ENFORCEMENT PROCEDURES

Permit Inspection

Where time, manpower and resources allow, each permit (which is the letter of permission referenced in the legislation) issued by the Authority should be inspected by a member of NPCA staff, as deemed appropriate by the Coordinator, Watershed Regulation, at the following stages:

- (a) for all works; including grading/fill placement, construction and alterations, upon commencement and completion of the development.
- (b) for buildings and other structures; just prior to foundation and/or footings being poured
- (c) for all works; upon completion of those components or aspects of the work that are of concern to the Authority (*i.e. foundation openings, outfall structure*)

Field Inspection Procedures

- (a) Procedure:
 - i) make a listing of permit items to be inspected in notebook prior to arrival;
 - ii) note whether or not property owner/contractor was contacted prior to inspection;¹
 - iii) record date, time and location of inspection;
 - iv) introduce yourself and anyone else with you to everyone present, provide rationale for your inspection and offer your business card;
 - v) note whether or not property owner/contractor was present during inspection;
 - vi) note findings on field inspection sheet and include in file application upon completion;
 - vii) note findings in notebook for future reference;
 - viii) based on the inspection, begin considering future actions if necessary (*i.e. violation notice, closure of file*);
 - ix) provide closure to the inspection by offering appropriate verbal feedback to people who are present.

¹ Note: Reasonable notice of entry may be given to the landowner prior to conducting a site inspection for compliance. However, all permits should be conditional upon site inspections being permitted at any time to ensure time efficiencies for the inspectors.

b) Equipment and materials:

- i) a copy of the permit and plans;
- ii) may take a level and rod to check the elevation of minimum openings and/or the basement floor, where applicable;
- iii) a camera to photograph work site where applicable;
- iv) bring measuring device to measure work site where applicable (record all measurements in notebook);
- v) bring field notebook for recording pertinent information and making sketches.

(c) Follow-up:

- i) advise applicant, municipal building inspector and others in writing of any outstanding issues, concerns or violations as necessary.
- ii) if there are major discrepancies between the Approved Permit and the project undertaken in the field, a Notice of Violation must be sent.
- iii) if the discrepancies are minor in nature and do not affect the approval of the project or impact the development policies the discrepancies should be noted for the file.
- iv) if the work undertaken can be corrected, advise the applicant of the discrepancies and request compliance. This direction should be sent to the property owner in writing including a deadline for compliance. Print a copy of this correspondence and include in the file.

Inspection vs. Investigation

Inspections involve monitoring for regulatory compliance and include the collection of evidence to support regulatory requirements. Investigations involve the collection of evidence and the evaluation of non-compliance with a view to resolution and potential prosecution. Investigations are typically undertaken when there are reasonable grounds to suspect a non-compliance has occurred.

Excerpt;

Powers of entry

(20) An authority or an officer appointed under a regulation made under clause (1) (d) or (e) may enter private property, other than a dwelling or building, without the consent of the owner or occupier and without a warrant, if,

(a) the entry is for the purpose of considering a request related to the property for permission that is required by a regulation made under clause (1) (b) or (c); or

(b) the entry is for the purpose of enforcing a regulation made under clause (1) (a), (b) or (c) and the authority or officer has reasonable grounds to believe that a contravention of the regulation is causing or is likely to cause significant environmental damage and that the entry is required to prevent or reduce the damage. 1998, c. 18, Sched. I, s. 12.

Time of entry

(21) Subject to subsection (22), the power to enter property under subsection (20) may be exercised at any reasonable time. 1998, c. 18, Sched. I, s. 12.

Notice of entry

(22) The power to enter property under subsection (20) shall not be exercised unless,

(a) the authority or officer has given reasonable notice of the entry to the owner of the property and, if the occupier of the property is not the owner, to the occupier of the property; or

(b) the authority or officer has reasonable grounds to believe that significant environmental damage is likely to be caused during the time that would be required to give notice under clause (a). 1998, c. 18, Sched. I, s. 12.

VIOLATIONS

All reported violations will be investigated by the NPCA's Regulation Enforcement Officer , with the intent of ensuring compliance with NPCA's Regulation and Policies. **The Regulation Enforcement Officer will be the lead contact on all violation matters** and will involve/consult with other NPCA staff (i.e. biologist, engineer, technician) as deemed necessary.

Other NPCA staff will not deal directly with a violation matter unless requested to do so by the Regulation Enforcement Officer. This approach is necessary to protect the rights of the alleged violator and the interests of the NPCA.

A violation of the Authority's regulations generally occurs in two ways:

- i) when development or interference activities have taken place in an area regulated by the Authority without written approval;
- ii) when development or interference activities have been undertaken contrary to the conditions stipulated in a permit issued by the Authority.

Investigative Procedures

- i) equipment and materials to be taken to site should always include: a camera, measuring device, notebook and map/schedule of area under investigation and/or the permit and plans when violation relates to an approval under the Conservation Authorities Act.
- ii) when a violation is discovered during an inspection, that inspection can still continue on the grounds on which it was started and the violation can be investigated at the same time.

Site Investigation

- i) Verify that the activity under investigation is located in an area regulated by the Authority under Ontario Regulation 155/06 and whether any permit from the CA has been issued;
- ii) Determine and identify the type of offence that has occurred; (*ie: fill placement, construction or alteration to a watercourse, wetland, etc.*)
- iii) Assess whether the activity conforms with Authority policy (this may require discussion and additional information from others);
- iv) Determine who owns the property, and attempt to determine who authorized the work, and who completed the work.
- v) If a violation is detected and work is currently taking place, recommend to the site supervisor or property owner that the work stop until approvals can be obtained. There is no authority to issue a Stop Work Order² under the *Conservation Authorities Act*, 1990. However, if they have to make changes to the work or remedial measures stopping the work can save the Property Owner money for the short and long term. If the landowner is not performing the work, attempt to contact them to inform them that they are committing a violation by allowing the work to proceed (See 5.0 Landowner Contact). Record as much detail as possible in your notebook including the names of the people, contractor on the property, take photographs, and draw sketches of the work site and note the machinery on site.
- vi) If during the attendance of a site it becomes clear that a violation of the Regulation has or is occurring, and the landowner is not present to advise of such, prior to leaving the site, the Regulation Enforcement Officer shall post a "Notice of Violation – Short Form" (see Appendix II) in a prominent location on the property.
- vii)** If during the completion of the investigation the proponent and/or agent becomes agitated or aggressive towards staff and appropriate conflict resolution approaches fail, personal safety is paramount and the staff person should leave the scene and provide follow-up at a later date

Evidence Gathering

Once it is determined that an offence under Section 28 of the Act has been committed, the next step is to gather as much evidence as possible while at the site. Consult the legislation and remember to deal with all of the facts in issue of the offence.

- i) Witnesses: question any witnesses; take their addresses, telephone number and name; if possible, record exact words used relating to the offence used by your self when asking questions and by the witness when answering. Record this information in your notebook.
- ii) Statements: In those instances where the violation is of a significant nature and court prosecution is likely, statements should be taken in a formal manner as follows:
 - a) Take statements from the witnesses if possible. Record the time at which the interview begins and ends. Have the witness write down their version of the events, including the who, what, where, when and how questions. You can then ask

² Stop work Order, Order to Comply or other directive may be able to be issued by others under other Legislation, *ie: Ontario Building Code Act.*

questions to fill in any blanks or clarify missing information you must record your questions and their answers. If possible, have the witness read over the statement, sign and date it. Record the time at which the interview was concluded and add your signature at the end.

b) In those instances where the violation is considered minor works in accordance with NPCA policy and where the Regulation Enforcement Officer is of the impression that the violation will be remediated by the owner and/or contractor, evidence may be taken in a comprehensive, but relatively informal manner and statements recorded to protect any commencement of proceedings at a later date should compliance not be completed.

- iii) **Photographs:** using a camera, take a series of pictures of the violation. Attach a copy of photos including date, time stamp, location, person who took the photos, their signature and a brief description of the photograph to the file.
- iv) **Vehicles and Machinery:** try and obtain the licence plate number. Note the make, colour, and record any lettering or decals on the vehicle and record this detail in your notebook. (*i.e.: company name*) Speak to any employees if available and willing to speak to you.
- v) **Property Ownership:** once the on site inspection has been completed, the local municipality, Assessment Office or Registry office should be contacted to determine the ownership of the property. Should the matter proceed to Trial a Certified True Copy of the Deed will be required from the Registry Office.

Landowner Contact

Through this process it is important to make effort to educate the landowner about the Regulation and related environmental issues and to work co-operatively to resolve the violation through removal/amendment of the completed works or site restoration.

The Regulation Enforcement Officer should contact the property owner to determine if the activity is taking place with their knowledge and permission and whether the works comply with Authority policy. Staff should then advise the landowner and/or person undertaking the work of the need for a permit (letter of permission) from the Authority. The rationale behind the regulations (flood control, pollution prevention, erosion control, etc.) should also be explained.

The Coordinator, Watershed Regulation should also be advised of the situation. **A formal Notice of Violation should be sent to the landowner and/or contractor via Courier and among other things, confirm any verbal discussions regarding the violation.**

Notice of Violation (Appendix 2)

The NPCA may issue two types of "Notice of Violations as follows:

1) Notice of Violation – short form; This form is issued and posted “on site, at the discretion of the Regulation Enforcement Officer. A sample form is included in the Appendix. This format will not replace the “formal Notice of Violation” described below, but rather is intended to notify the landowner of the offence when they are not readily available or on site. It is also useful to alert landowners that have assumed contractor’s working on their behalf have secured all necessary approvals.

2) Notice of Violation – formal; this will be issued for all violations.

The Notice of Violation is not a legal document but it is and can be used as evidence in any court proceeding. It is a notice from the Authority advising the person(s)/corporation(s) who have committed the offence that they are in violation of the Conservation Authority’s Regulation. It also advises the owner of the property that they are responsible for the work undertaken on their property without permission.

The notice should:

- 1) indicate the date of the Authority’s visit,
- 2) indicate the work undertaken and the violation of the Regulation;
- 3) indicate the Authority’s concerns with the activity
- 4) include the options available to the property owner;
 - i) voluntary restoration
 - ii) make an application for work including any needed modifications to meet Development Policies
 - iii) do nothing and risk prosecution to remedy issue(s)
- 5) include a date by which the recipient must respond and may include a date by which emergency measures such as sediment control should be installed.
- 6) be signed by the NPCA’s Regulation Enforcement Officer.
- 7) **allow the recipient 2 weeks from the time of issuance to respond.** Violation notices should be sent or copied to all parties involved (i.e. landowner, occupier, and contractor).
- 8) be sent by **Courier** to verify receipt. Copies of all correspondence should be included in the file and copied to the municipality and other agencies as required.

Compliance with Conditional Permits

Ontario Regulation 155/06 s. 8.(1) allows for the Authority to cancel permission if “*it is of the opinion that the conditions of the permission have not been met*”. Before cancelling permission, the Authority shall give a “notice of intent” to cancel to the holder of the permission indicating that the permission will be cancelled unless the holder shows cause at a hearing of the N.P.C.A. Board, why the permission should not be cancelled. The hearing can be held a minimum of 5 days after the notice.

Should a hearing of the applicant result in the cancellation of the permission a Notice of Violation can also be sent to the person(s) concerned and the matter will become an Enforcement Issue with either Compliance or Court Action resulting.

In some cases a violation of the Regulation may be at a property where a permit letter has been issued for other works. In which case the process of cancellation of the permission and the notice of violation can run parallel.

Violation Resolution

NPCA's Regulation Enforcement Officer will first attempt to resolve all violations through negotiation, with the goal of obtaining compliance by removal, remediation and restoration of the property, or through the permit process so that the Authority has some written assurance that the activity will be rectified in accordance with staff recommendations. The Regulation Enforcement Officer will receive input from appropriate Conservation Authority staff (i.e. biologist, engineer, technician) and may also request that the proponent provide expert reports, etc. to support their proposed works (i.e. coastal engineer, geomorphologist).

i) Minor Violation Remediation:

For violations involving minor works as defined by NPCA Policies; removal and restoration/remediation can be negotiated by the Regulation Enforcement Officer without the need for a formal permit application.

ii) Major Violation Remediation:

For all other violations, where the works are allowed or can be brought into compliance with Authority policy would normally require a permit under O. Reg 155/06 or where removal and/or restoration will take more than three(3) months (allowing for appropriate weather and other environmental restrictions), a permit application process must be followed, to provide assurance to both parties with respect to what is required to be completed and by when. A proponent will be allowed one (1) month from the contact deadline specified in the Notice of Violation to submit a completed permit application.

Staff will attempt to work with the landowner and/or contractor to ensure the activity/work is either modified or completed so that it complies with the Authority's policies.

If a landowner and/or any other person issued a Notice of Violation does not respond by the deadline specified in the Notice of Violation or responds and indicates that they do not wish to pursue resolve, or if in the process of negotiating resolution, an impasse is reached, the Regulation Enforcement Officer will proceed to initiate legal action including swearing of an "Information" before the Court. The NPCA Solicitor and Coordinator, Watershed Regulation are to be advised accordingly.

For significant violations, follow-up action will be reported to the Board through the regular reporting framework.

COURT ACTION

The CA may prosecute all persons responsible for an offence(s) under the Conservation Authorities Act., 1990 as amended. This will normally refer to the property owner and any contractors responsible for the work.

The CA will also consider any part played in the offence by officers of any Numbered Company including any and all Directors, or other signing Officers where it can be shown that the offence was committed with their consent or was due to their negligence and/or other appropriate circumstances.

Penalties available under *the Conservation Authorities Act*, are identified under Section 28 (16) which states “*Every person who contravenes a regulation made under subsection (11) is guilty of an offence and on conviction is liable to a fine or not more than \$10,000 or to a term of imprisonment of not more than three months*”.

Every day the offence continues can constitute an offence.

The Conservation Authorities Act also allows for orders, Section 28(17) that “*In addition to any other remedy or penalty provided by law, the court, upon making a conviction under subsection (16), may order the person convicted to ,*

a) Remove, at the person’s expense, any development within such reasonable time as the court orders; and

b) Rehabilitate any watercourse or wetland in the manner and within the time the court specifies.”

Where the CA and other Regulatory Agencies (DFO, Municipality, Province of Ontario) have the power to prosecute, the CA will liaise and facilitate effective coordination to avoid inconsistencies and miscommunication noting that compliance with the requirements of the CA Development Policies is the primary objective.

The Authority's solicitor should be notified of all cases to be pursued through court action unless directed otherwise by senior staff. The Authority's solicitor may handle the court case with respect to presenting the case, evidence, witnesses, examination, etc. The CA solicitor is not necessarily an expert in this field and, therefore, all relevant information must be provided to explain important pieces of evidence and to provide input on how you would like the evidence to be brought out during court proceedings.

5.1. Laying a Charge

In Ontario, there are 3 main streams for laying charges concerning Provincial Legislation such as the *Conservation Authorities Act*. The 3 streams are distinguished by the charging document, Part I, (ticket), Part II (parking), Part III Information (more serious). All charges under Section 28 (16) of the Conservation Authorities Act, 1990 must currently proceed by way of Part III Information under the Provincial Offences Act, 1990 as amended.

The *Provincial Offences Act* outlines the rules of court action for all Provincial Statutes. All regulators should familiarize themselves with the Provincial Offences Act. www.elaws@ontario.ca

5.1.1 Information

An *Information* is a “form” under the *Provincial Offences Act* which initiates a court action, proceeding or charge for a Provincial Offence. “*Any person who believes on reasonable and probable grounds*”, that an offence has been committed may lay an information before a Justice of the Peace. Typically, a CA staff member will swear the

information at the municipal court house in the presence of a Justice of the Peace (intake court).³ See Appendix # 3

You should be prepared to explain in some detail the particulars of the offence and that you are reasonably confident that the information is the truth.

Definition of an Information: An Information is an allegation before a Judge or Justice of the Peace that a certain person or persons have committed an offence.

Contents:

1. the informant's name, address, organization, occupation and signature;
2. the defendant's name or description and address;
3. what the defendant should be charged with;
(ie: *filling, grading, construction of building or structure, alteration to a watercourse or shoreline or interference with a wetland as well as where the offence occurred*) In court, the Authority must prove that the defendant undertake the action in the area regulated by the Authority without a permit or contrary to the conditions of their permit.
4. the date and location of the offence;⁴
5. signature of the informant (do not sign until Justice of the Peace/Judge is present);
6. signature of the Justice of the Peace/Judge;
7. court date and location.

Information forms can be obtained at the court office or as online forms. If online forms are used prepare two copies of the information on yellow paper. One will stay with the court signed by the Justice of the Peace. The other will go into the case file. Information can be sworn by anyone. The summons which is the notification form to notify the offender that a charge has been laid in Provincial Court must be served by a Provincial Offences Officer. See Appendix 2

Example of wording for after “did commit an offence” on the information form:

undertaking a development, being the construction of a structure at _____ which is described in Ont. Reg. /06 as prohibited without the written permission of the Conservation Authority contrary to Section 28(1)(c) of the Conservation Authorities Act., R.S.O., 1990, Chapter 27, as amended contrary to Section 28 (16) of the Act.

interfering with a watercourse which is described in Ontario Regulation /06, R. O., as prohibited without the written permission of the Conservation Authority contrary to Section 28(1) (b) of the Conservation Authorities Act, R.S.O., 1990, chapter 27, as amended and did thereby commit an offence under section 28 (16) of the Act.

³ Must contact the municipal court office responsible for provincial offence matters to determine times of “intake court”. Appendix

⁴ Each Court Office has a pre-determined date and time for issues such as Cons. Authority Act charges. You must check with Provincial Court Office for 1st Appearance date and times. For example: The City of Ottawa Provincial Offences Court considers Cons. Authority charges every Thursday at 1:30 pm in Court Rom 101.

5.1.2 Summons⁵

If the Judge or Justice of the Peace is satisfied that the Information is valid, then at the same time a summons prepared by the CA can be issued by the court. A summons must be served by a Provincial Offences Officer which can either be CA staff or arrangements for service by a private process server will be required.

Definition: A summons is an order to a person to whom it is addressed to appear before a court at the time therein specified, to answer to the charge as set out on the summons.

Contents:

1. charge or offence set out;
2. name and address of the defendant;
3. date and location of the offence;
4. court date, time and location;⁶
5. proof of service (do not sign until the Justice of the Peace is present).

Prepare two copies of the summons and have them both signed by a Justice of the Peace. Do not sign either until the Justice of the Peace is present. Once signed, put a photocopy in the file. One of the originals is then delivered to the defendant. The other is returned to the court, where service of the Summons must be sworn before a Justice of the Peace. This remains with the court.

The summons must be served by a Provincial Offences Officer.

5.1.3 Summons to a Witness

A summons to a witness is issued if you wish to have any witnesses appear in court including CA staff members. In consultation with the CA solicitor required witnesses will be identified and the appropriate forms filed with the court office and service to the witnesses completed.

Definition: a court order requiring a person to attend at a stated place and give evidence.

Contents:

1. name of witness;
2. name of defendant and particulars of offence;
3. where to attend;
4. time and location;
5. what to bring;
6. proof of service (do not sign until the Justice of the Peace is present).

⁵ There are SnapSet forms available which provide the Information and Summons in one form. These forms are also available electronically.

⁶ Each Court Office has a pre-determined date and time for issues such as Cons. Authority Act charges. You must check with Provincial Court Office for 1st Appearance date and times. For example: The City of Ottawa Provincial Offences Court considers Cons. Authority charges every Thursday at 1:30 pm in Court Rom 101.

5.1.4 Crown Brief (see appendix 5)

A crown brief is a synopsis of the case which should be prepared which details the entire case, including court dates, witnesses, notes, pictures, reports, etc. A copy of the Crown Brief complete with Guilty Plea recommendations should be provided to the Crown as soon as possible. The following documentation should be compiled into a crown brief and is required for the court case:

- cover page including defendant's name, investigating officer's name, court date and location;
- Index (Crown Brief should be tabbed for easy navigation);
- A case synopsis. This is a brief summary of the facts of the case (not the facts of the investigation) to be used in the event of a guilty plea;
- Penalty submission (included only in prosecutor's Brief, **NOT IN** defendant's or Justice of the Peace's);
- Facts in issue checklist (included in prosecutors and Justice of the Peace's Brief, **NOT IN** defendant's);
- Will Say statement for all officers, witnesses and experts (i.e. other CA staff members);
- a copy of the Conservation Authorities Act with appropriate sections highlighted and tabbed;
- a copy of the Ontario Regulation with appropriate sections highlighted and tabbed;
- a certified copy of the land ownership;
- a certified copy of the Regulation map;
- all documents served to date. (*ie: violation notice, Information, Summons, staff report on violation, etc.*)
- photocopies of all officer's notes (signed and dated)
- any other evidence collected, whether inculpatory or exculpatory (i.e. photographs, statements, measurements).

5.2 Search Warrants

If reasonable grounds exist to believe a violation has been committed and staff is entering into the investigative phase with a view to prosecution, a search warrant may be required to be obtained to gather evidence as part of the investigation process. Discussion with legal counsel may be required.

5.3 Witnesses

All witnesses which are to testify on behalf of the CA should be identified and a list provided to the Authority's solicitor complete with a "will say"⁷. Authority staff should be prepared to testify regarding the impacts of the violation if the structure and/or fill is allowed to remain. (Remember that the Crown Brief must include all witnesses, regardless of whether you intend for them to testify or not.)

⁷ A will say is a synopsis of the testimony the witness will give in court relating to the events of the charge.

5.4 Testimony

When giving testimony, the importance of appearance goes beyond your dress. Stand straight, speak in a clear voice and do not fidget.

Be sure to make eye contact with the Justice of the Peace when you speak, even if they are not asking the question. Ultimately, this is the person who will weigh the evidence so you want to make sure that you acknowledge them.

When answering a question, wait for the entire question to be asked. Pause a moment before beginning your answer. This gives you time to consider your response to ensure that you give it appropriately. Be sure to answer the question that was asked. Avoid getting side tracked.

If you have made a mistake during the investigation or testimony and this is brought up, do not try to cover it over or make excuses. Admit your mistake and move on. Similarly, if you do not know an answer, say so. Do not be confrontational or show excess emotion.

5.5 Penalties and Orders (Appendix # 4)

Penalties available under *the Conservation Authorities Act*, are identified under Section 28 (16) which states “*Every person who contravenes a regulation made under subsection (11) is guilty of an offence and on conviction is liable to a fine or not more than \$10,000 or to a term of imprisonment of not more than three months*”.

Every day the offence continues can constitute an offence.

The Act also allows for orders which states in Section 28(17) that “*In addition to any other remedy or penalty provided by law, the court, upon making a conviction under subsection (16), may order the person convicted to,*

- a) Remove, at the person’s expense, any development within such reasonable time as the court orders; and*
- b) Rehabilitate any watercourse or wetland in the manner and within the time the court specifies.”*

The CA may at the advice of their Solicitor, also seek to recover the full cost of the investigation, detection and prosecution of the offence and/or any appeals to the Minister of Natural Resources where circumstances permit.

5.6 Court Decisions

All decisions will be reported to the Board of Directors.

A decision on whether to appeal a case that is lost by the Authority will be made by the Board of Directors upon receiving advice from the Authority's solicitor.

The policies in this document are intended solely for the guidance of employees of the CA. The policies are not intended to, nor do they constitute rulemaking by the CA, and they may not be relied upon to create a right or a benefit, substantive or procedural,

enforceable at law or in equity, by any person. The CA may take an action that is at variance with the policies or procedures contained if appropriate in a specific case.

5.7 Working with Regulators

Where the CA and other enforcement bodies have the power to prosecute, the CA will liaise and facilitate effective coordination to avoid inconsistencies and miscommunication, noting that compliance with the requirements of the CA Regulation Policies is paramount.

6 REFERENCES

Conservation Authorities Act, 1990. http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90c27_e.htm. Accessed January 20, 2010.

Freedom of Information and Protection of Privacy Act, 1990. http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90f31_e.htm. Accessed January 20, 2010.

Inspections, Investigations and Enforcement Secretariat - Compliance Foundations Training - Training Documents, 2007.

http://www.elaws.gov.on.ca/html/statutes/english/elaws_statutes_90p33_e.htm. Accessed January 20, 2010.

7 APPENDIX 1 - General Conduct of Employees

Employees of the Authority shall:

1. Observe and comply with the laws of Canada and Ontario and the Rules and Regulations of the Authority.
2. Treat other employees and the general public courteously and respectfully.
3. Perform all duties in an efficient manner.
4. Not, unless legally required, disclose or give to any person, any information or document of a confidential nature. Information's are not subject to the Freedom of Information and Protection of Privacy Act Section 14 (1).
5. Not undertake any outside activity or employment that has a significant impact with the performance of duties or in which personal interest conflicts with the best interest of the Authority.
6. Ensure that the use of Authority equipment, goods and materials is only for the purposes of the Conservation Authority or member municipalities and ensure proper care and protection of such equipment, goods and materials.

APPENDIX 2 – Examples of P.O.A Forms

ONTARIO COURT

INFORMATION/DÉNONCIATION

Form/Formule 105

ONTARIO COURT
OF JUSTICE
COUR DE JUSTICE
DE L'ONTARIO

**SUMMONS TO WITNESS
ASSIGNATION DE TÉMOIN**
Under Section 39 of the Provincial Offences Act
Aux termes de l'article 39 de la Loi sur
les infractions provinciales

Form/Formule 109
Courts of Justice Act
Loi sur les tribunaux judiciaires
R.R.O. 1990, Reg. 200
L.R.O. 1990, Régl. 200

..... at/à/au
(Police Officer's Name)/(Nom de l'agent de police)

.....
(Address/Adresse)

telephone/téléphone

To/À:

NOTE: If you move from the address indicated, or are unable to attend Court, you must inform the above-named Police Officer, prior to the date commanded to attend.

NOTA: Si vous changez d'adresse ou si vous ne pouvez vous rendre à la Cour, vous devez en informer l'agent de police susmentionné avant la date de comparution.

Whereas

Attendu qu'é

.....
(defendant/défendeur)

..... has been charged that the defendant on or about the
a été inculpé d'avoir le ou vers le

..... day of
..... jour de

, 20.....

at

à

.....
(municipality /municipalité)

..... did commit the offence of
..... commis l'infraction suivante

..... contrary to
..... par dérogation à

..... section
..... article

and I am satisfied that you are able to give material evidence in a proceeding in respect to the above-mentioned charge.
THEREFORE YOU ARE COMMANDED TO ATTEND BEFORE THE ONTARIO COURT OF JUSTICE AT

et que me je suis assuré que vous êtes en mesure de présenter un témoignage important dans une poursuite qui a trait à cette accusation.
À CES CAUSES, VOUS ÊTES SOMMÉ DE COMPARAÎTRE DEVANT LA COUR DE JUSTICE DE L'ONTARIO À

.....
(address/adresse)

.....
(courtroom/salle d'audience)

on the day of
le jour de

, 20.....

at

à

(strike out inapplicable part)

TO GIVE EVIDENCE CONCERNING THE ABOVE-MENTIONED CHARGE AND to remain in attendance during the hearing and the hearing as resumed after adjournment from time to time and to bring with you and produce any writing or other thing in your possession or under your control relating to the subject matter of the proceedings, more particularly the following:

AFIN DE DONNER VOTRE TÉMOIGNAGE AU SUJET DE L'ACCUSATION DONT IL EST QUESTION ICI et de demeurer à la disposition du tribunal tout au cours de l'audience et à chacune des séances du tribunal après les ajournements qui peuvent avoir lieu de temps à autre. Vous êtes aussi sommé d'apporter et de produire tout écrit ou objet en votre possession ou sous votre contrôle concernant ce sur quoi porte la poursuite et particulièrement ce qui suit:

Issued at
Fait à

this day of
le jour de

20.....

.....
Judge or Justice of the Peace in and for the Province of Ontario
Juge de la Cour ou juge de paix dans et pour la province de l'Ontario

NOTE: Subsection 42(1) of The Provincial Offences Act is as follows:

NOTA: Le paragraphe 42(1) de la Loi sur infractions provinciales se lit comme suit:

Every person who, being required by law to attend or remain in attendance at a hearing, fails without lawful excuse to attend or remain in attendance accordingly is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than thirty days, or to both.

Quiconque est tenu, aux termes de la loi, de se présenter ou de demeurer présent à une audience et omet, sans excuse légitime, d'être présent ou de le demeurer est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 2000 \$ ou d'une peine d'emprisonnement d'au plus trente jours, ou des deux.

SUMMONS/SOMMATION

Under Section 24 of the Provincial Offences Act.
Aux termes de l'article 24 de la Loi sur les infractions provinciales

Form/Formule 108
Courts of Justice Act
Loi sur les tribunaux judiciaires
R.R.O. 1990, Reg. 200
L.R.O. 1990, Règl. 200

[]

Whereas you have been charged
Attendu que vous avez été accusé
before me that you, on or about the
devant moi d'avoir le ou vers le

..... day of yr at
jour de an à location/lieu

..... did commit the offence of
commis l'infraction suivante

contrary to
en violation de
section
article
Issued at
Émis à
this day of yr
ce jour de an

THEREFORE you are commanded in her Majesty's name to
À ces causes, au nom de Sa Majesté, vous êtes sommé de
appear before the Ontario Court (Provincial Division)
comparaître devant la Cour de l'Ontario (Division provinciale)

AT
A

On the day of yr at M,
Le jour de an à h

A Judge or Justice of the Peace in and for the Province of Ontario
Juge ou juge de paix dans et pour la province de l'Ontario

At/A
Courtroom/salle d'audience

AND TO APPEAR THEREAFTER AS REQUIRED BY THE COURT TO BE DEALT WITH ACCORDING TO LAW
ET DE COMPARAÎTRE PAR LA SUITE CHAQUE FOIS QUE LE TRIBUNAL L'EXIGERA DE FAÇON À CE QUE VOUS SOYEZ JUGÉ SELON LA LOI

NOTE TO DEFENDANT:
Appear personally, by agent or counsel.

REMARQUE AU DÉFENDEUR :
Vous pouvez comparaître personnellement, par mandataire, ou par un avocat.

If you do not appear:
a) the court may issue a warrant for your arrest; or
b) the trial may proceed, and the evidence may be taken in your absence

Si vous ne comparez pas :
a) le tribunal peut émettre un mandat d'arrêt contre vous; ou
b) le procès peut être tenu sans que vous y soyez et preuve peut être recueillie en votre absence.

If you do appear:
a) the trial may proceed; or
b) you, or the prosecutor, may ask the court to adjourn your case to another date. The court may grant or refuse such a request.

Si vous comparez :
a) le procès peut être tenu ; ou
b) vous pouvez vous, ou le poursuivant, demander au tribunal un ajournement. Le tribunal peut accorder ou refuser cette demande.



250 Thorold Road West, 3rd Floor, Welland, Ontario L3C 3W2
Telephone 905.788.3135 | Facsimile 905.788.1121 | www.npca.ca

**NOTICE
OF
VIOLATION**

NO. _____

COPY POSTED: YES NO

ISSUED TO: _____ Owner: YES NO

IF NO, SPECIFY: _____

LOCATION OF SITE: _____

DESCRIPTION OF WORK: _____

PLEASE BE ADVISED THAT THE AUTHORITY HAS NOT ISSUED A PERMIT FOR THE ABOVE NOTED WORK. AS SUCH, THE WORKS ARE IN VIOLATION OF THIS AUTHORITY'S REGULATION OF DEVELOPMENT, INTERFERENCE WITH WETLANDS AND ALTERATIONS TO SHORELINES AND WATERCOURSES (ONTARIO REGULATION 155/06). YOU ARE HEREBY REQUESTED TO HALT ANY FURTHER WORKS AND TO CONTACT THIS AUTHORITY AT 905-788-3135 WITHIN 48 HOURS OF ISSUANCE OF THIS NOTICE IN ORDER TO DISCUSS OPTIONS THAT MAY BE AVAILABLE TO YOU.

FAILURE TO COMPLY MAY RESULT IN LEGAL ACTION.

ISSUED BY: _____
SIGNATURE

PRINT

DATE: _____

TIME: _____

APPENDIX 3 - EXAMPLE OF ORDER under section 28 (17) of CA Act.

ONTARIO COURT (Provincial Division)

Court file #:

IN THE MATTER OF s. 28 of the *Conservation Authorities Act*, R.S.O., 1990,
Chapter 27, as amended.

JUSTICE OF THE PEACE

) the ___ day of _____, 20__

BETWEEN

Prosecutor(s)

And

Defendant

ORDER

Upon charges, _____ in part of Lot _____, Concession _____, the former Township of _____, the Defendant did commit the offence of undertaking work without a permit, which is in an area described in Schedules Ont. Reg. _____, R.R.O., 1990, Section _____ in which the interference and alteration of a waterway is prohibited without the permission in writing of the _____ Conservation Authority, contrary to section 28(16) of the said Act.

Upon entering a conviction of the Defendant and hearing counsel for the Plaintiff and Defendant,

1. THIS COURT orders the _____.
2. THIS COURT FURTHER ORDERS that such removal shall be done on or before _____.

(Signature of Justice of the Peace)

APPENDIX 4 - Crown Brief and/or Disclosure

DISCLOSURE FOR John Doe CONCERNING 9999 Floodable Lane

Particulars of Accused:

John Doe
9999 Floodable Lane
Anywhere, Ontario

Charge:

Did unlawfully permit the undertaking of a development, being the construction of a structure, at 9999 Floodable Lane, which is described in Ontario Regulation /06, as prohibited without the written permission of the Conservation Authority contrary to Section 28(1) (c) of the Conservation Authorities Act, R.S.O., 1990, chapter 27, as amended and did thereby commit an offence under section 28 (16) of the Act.

Particulars of Offence:

A 30 foot x 40 foot gazebo type structure at the shoreline of the Yoyo River without the benefit of a letter of permission from the Conservation Authority. The property is located entirely within the 100 year floodplain of the Yoyo River. **No permit was issued by the for the works undertaken.**

JURISDICTION:

- ◆ Ontario Regulation /06 made pursuant to the Conservation Authorities Act indicates that any "Development" activities on this property requires the prior written permission of the Conservation Authority.
- ◆ Section 28(1) c) of the Conservation Authorities Act states that an authority may make regulations applicable in the area under its jurisdiction prohibiting, regulating or requiring the permission of the authority for development if, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.
- ◆ Section 28(16) states that Every person who contravenes a regulation made under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to a term of imprisonment of not more than three months.
- ◆ Section 28 (17) in addition to any other remedy or penalty provided by law, the court, upon making a conviction under subsection (16) may order the person convicted to a) remove, at that person's expense, any development within such reasonable time as the court orders;

Evidence

- 1) pictures taken by Gladys Cravets, Regulations Officer, in June 2006.
- 2) Conservation Authorities Act
- 3) Ontario Regulation /06
- 4) Regulation Mapping as prepared for Regulation

- 5) Application received in 2003 for a boat slip and the subsequent conditional approval respecting the proposal.
- 6) Correspondence from the Conservation Authority dated June 6, 2006 and June 26, 2006 respecting the construction of the gazebo.
- 7) WillSay Statement from Gladys, Regulations Planner CA
- 8) WillSay Statement from Hal Itosis, Inspector, CA.
- 9) Copy of Deed of property indicating ownership of property to Mr. John Doe.
- 10) Copy of Floodplain Map indicating flood hazard as per the Regulation mapping and jurisdiction of property to the Conservation Authority under Ontario Regulation /06.

Potential Witnesses

- 1) Gladys, CA, Regulations Officer
- 2) Hal, CA, Inspector

Will say

Gladys , Regulations Officer, Rideau Valley Conservation Authority will say that she first attended the Johnny property for a site visit on June 14, 2006 to discuss the development which had resulted on the property in the way of a new gazebo and a boat port cover along the shoreline. She attended the property with Mr. Hal from the CA and had discussions with both Mr. and Mrs. John Doe.

She indicated that the Authority's policies did not permit structures within 30 metres of the shoreline but in some circumstances a lesser setback could be considered, however, not one at the shoreline. She suggested moving the structure back 15 metres from the shoreline and replanting the shoreline as indicated as a condition of approval for the shoreline approval given under the 2003 application.

She will also introduce a Notice of Violation dated June 6, 2006 to the property owner by registered mail.

She sent a letter dated June 25, 2006 to the property owner by registered mail. It was signed for and no further correspondence was received.

She will also describe and introduce photographs taken by her of the site and the gazebo.

Will say

Hal, Inspector , Conservation Authority will describe his dealings with Mr. Johnny through the 2003 application, including the letter of permission issued with conditions and introduce photographs taken by him.



TO: Chairman and Members of the Authority

DATE: May 16, 2011

RE: PROJECT STATUS REPORT - REPORT NO. 29-11

WATER MANAGEMENT

I. Watershed Regulation Division

1) Monitoring

i) Staff continue to monitor the water levels at the Binbrook reservoir on a regular basis and adjust the valve settings as required based on forecast weather. Staff also continue to monitor the water levels at our 13 gauge stations on a daily basis as part of the NPCA's routine flood forecasting/warning duties. The public is able to access this real-time information through the NPCA's website.

ii) The large amount of rainfall in late April led to the NPCA issuing a 'Flood Safety Bulletin'. The NPCA observed that, while high water levels were noted within the watercourses and localized nuisance flooding did occur in typical flood-prone areas, the flood waters remained below critical levels. No structural flood damage was observed or reported.

iii) Staff has been working on quantifying the accuracy of weather RADAR data in comparison to tipping bucket rain gauges to assess its application in Flood Forecasting. Rain events are being subdivided into weak vs. intense storms, fast-moving or slow-moving storms to determine which scenarios of NexRAD data can be relied upon for NPCA use.

2) NPCA 'Regulation of Development, Interference with Wetlands, and Alteration to Shorelines and Watercourses'

i) Permits

To date, the NPCA has approved 31 permit applications for the 2011 calendar year pursuant to the NPCA's 'Regulation of Development, Interference with Wetlands, and Alteration to Shorelines and Watercourses' regulation (Ontario Regulation 155/06).

ii) Violations

Please refer to the associated Report under "in camera" section of agenda.

iii) NPCA-DFO Partnership Agreement

The NPCA is under agreement with the Department of Fisheries and Oceans (DFO) to review works in or near water to determine whether the work is likely to result in the harmful alteration, disruption or destruction of fish habitat (HADD). As part of the NPCA-DFO Partnership Agreement, NPCA staff work as a liaison between DFO Assessors and proponents to recommend appropriate fish habitat compensation projects. During the current calendar year NPCA staff has reviewed 25 applications under this agreement.

iv) Municipal Drain Maintenance Review

The NPCA continues to represent Conservation Authorities located in Central Ontario on the DART Committee with representatives of the Ontario Federation of Agriculture, Drainage Superintendents Association of Ontario, Ontario Society of Professional Engineers (Land Drainage Committee), Association of Municipalities of Ontario – Rural Caucus, OMAFRA, MNR and Conservation Ontario. The purpose of the DART is to develop a consistent approach and technical direction with regard to municipal drainage project review under Conservation Authority Regulations. NPCA staff has reviewed 8 municipal drain projects during the current calendar year.

3) Floodplain Mapping

i) Lyon's Creek & Tee Creek – City of Niagara Falls

The NPCA has revised the Lyon's Creek and Tee Creek floodplain mapping in an effort to incorporate updated information.

ii) Upper Welland River & Tributaries – Hamilton and Haldimand

The NPCA is presently reviewing the Upper Welland River hydraulic floodplain model by Aquafor Beech Limited as submitted as part of the Upper Welland River Watershed Plan.

iii) Singers Drain – City of Thorold

The NPCA is awaiting the finalization of the Singers Drain Floodplain Mapping Report by AMEC Engineering as submitted as part of the Port Robinson West Subwatershed Plan.

iv) Wignall Drain – City of Port Colborne

The NPCA is presently undertaking the necessary calculations, field work, and map analysis to accurately determine the extent of the 100 year flood elevations for the Wignall Drain located in the City of Port Colborne.

4) Gauge Station Expansion

In 2010, the NPCA received funding from the Niagara Water Strategy to undertake gauge station network improvements/expansion to both rainfall and water quality monitoring. By the end of 2011;

- nine (9) rainfall stations will be integrated into NPCA system (6 RMON & 3 new);
- three(3) permanent water quality monitoring units will be installed;
- an abandoned gauge station on Big Forks Creek will be recommissioned;
- a new “state of the art” flow and water quality station will be built on the Welland River adjacent to E.C. Brown.

i) Precipitation Station Update: Welland Waste Water Treatment Plant (WWTP) station installation is being finalized March 14, 2011; Crystal Beach WWTP station equipment is installed, programmed and ready, but is awaiting Bell phone line; Kalar Road station has a new phone line installed and is scheduled to be completed March 16.

ii) Gauge Stations Update: The proposed E.C. Brown station is currently in the planning stages. NPCA staff have met with the GRCA and TRCA staff for assistance on this project; Internal upgrades to the Big Forks Station will be completed once hydro and bell installations occur in the spring.

II. Watershed Planning Division

1) Municipal and Development Plan Input and Review

Staff continue to respond to a steady stream of planning and building permit applications. A significant amount of work continues on the review of locally adopted Official Plans that are currently before the Region of Niagara for approval.

2) Watershed Plan Preparation

a) Lake Erie North Shore Watershed Plan

The Lake Erie North Shore Watershed Plan is complete, was submitted to the Board in February and is pending approval.

b) Central Welland River Watershed Plan

This Central Welland River Watershed Plan is complete, was submitted to the Board in February and is pending approval.

c) Beaverdams and Shriners Creek Watershed Plan

Final updates to the Phase One Report are currently being made.

d) Upper Welland River Watershed Plan

The Final public open house for the DRAFT Upper Welland River Watershed Plan was held May 3, 2011 in Abingdon. The open house was very successful with a lot of positive feedback. Attendance at the event was nearly 20 people. The Watershed Plan is in the public commenting phase until June 1. At this time remaining edits will be made and the Watershed Plan will be submitted to the Board of Directors in June for approval.

e) Lower Welland River Watershed Plan

Research and writing of the Lower Welland River Characterization report is underway.

3) Natural Areas Inventory/Heritage System

The Scenario Development Team (SDT) has completed the two target setting meetings related to Hydrologic Function and Ecological Function at a Course Scale for the Natural Heritage System. On May 5th an introduction of the target setting information required to complete the Ecological Function Analysis at a Course Scale and a fine Scale was held. The SDT will be wrapping up its portion of the project by the end of June.

The Outreach and Education Committee has met to draft the communications strategy for the project. This draft was presented to the Steering Committee in April and has undergone many revisions. It will be presented to the Scenario Development Team in June.

III. Source Water Protection Division

1) Source Water Protection Plan

Source protection staff continue to work on developing the Source Protection Plan (SPP), with assistance from Niagara Region, and key Source Protection Committee (SPC) members. The SPP working group meets about twice per month. As policies for the SPP are developed over the spring and summer of this year, we will be engaging municipal planning staff for comments.

As required under the Clean Water Act, letters were recently sent to key stakeholders to inform them the SPC has started preparation of the Source Protection Plan and to invite them to participate in the plan development. These notification letters were sent out to all municipalities, Niagara Escarpment Commission, OPG, and St. Lawrence Seaway Management Corporation, as well as landowners who could be engaged in significant drinking water threat activities within the Intake Protection Zones for the municipal water treatment plants.

The *Amended Proposed Assessment Report* was posted on NPCA's source protection website (<http://www.sourceprotection-niagara.ca/>) on March 18, 2011 at the start of the 30-day public commenting period. Open house public meetings were held in the afternoon and evening on March 29, 2011. The SPC reviewed comments from the public consultation, and agreed that no further revisions were needed to the report. The *Amended Proposed Assessment Report* will be presented to the Source Protection Authority on May 18, 2011, and then submitted to the Ministry of Environment by May 20, 2011.

2) Water Quality Monitoring Program:

a) Routine Water Quality Work

Water Quality Monitoring staff have initiated sampling for the 2011 field season. Funding has been confirmed and surface water quality monitoring commenced at 72 stations.

NPCA staff are conducting biological monitoring at 25 stations in the spring field season. Biological monitoring has been conducted for the annual Hamilton Airport project in April.

The NPCA continues to collect groundwater level data at 15 monitoring wells as part of the Provincial Groundwater Monitoring Network (PGMN). Water quality sampling at 13 PGMN stations has been conducted for spring.

Water quality staff are analysing the 2010 water quality data for the annual water quality report.

b) Special Projects

- Water quality staff are continuing to work on the Final Report of the Welland River Eutrophication Study. Staff are working through the comments from Technical Working study partners. The deadline for the final report has been delayed to accommodate this reviewing period.
- Water quality staff have completed the Glanbrook Landfill and will be presenting the results at a Landfill Committee Meeting in late May. The results of this study show the Glanbrook Landfill operations are not affecting the water quality of the Welland River and Buckhorn Creek.
- Water quality staff have completed the Hamilton Airport Biological Assessment which monitors the effects airport activities on the water quality of two small Welland River headwater tributaries that drain from the Hamilton Airport property. As with previous years, the results show Hamilton Airport operations are still impacting the water quality of these tributaries.
- Water quality staff are assisting with the water quality monitoring requirements for the Balls Falls Centre for Conservation. All spring groundwater and surface water monitoring has been completed.
- NPCA Water Well Decommissioning Grant Program: Requests for application continue to be received for this program.

- St. David's Well Decommissioning: NPCA staff continue to provide technical assistance to Niagara Region for abandoning the former St. David's municipal well field and reservoirs.

Hydrogeology and water resources work in the last month included:

- 5 private servicing study reviews/consultation for Watershed Planning.
- 1 Niagara Escarpment Commission review for Watershed Planning.
- 1 Permit to Take Water review for Watershed Planning.
- 1 development application and 1 permit to take water review adjacent to provincially significant wetlands.
- Niagara College and Brock University Intern Rural Water Use projects; and
- Technical assistance for the Upper Welland and Lower Welland River watershed plans.

IV. Geographic Information Systems (GIS) Division

1) Source Water Protection Support Activities

- Managed lands and some other statistics were rerun base on the refined IPZ boundary for the Decew Intake.

2) Watershed Planning Support Activities

- The updates to the Authority's plan review and regulations screening mapping were distributed to the municipalities in the beginning of April. The updates reflect the result of several significant floodplain and shoreline mapping technical studies. The updates have also been posted to the NPCA Niagara Navigator public web mapping tool/site.
- Spatial analyses for several natural habitat statistics were generated for the Watershed Planning program.
- Analytic support for the Natural Heritage System project has been extensive over the last two months as the Scenario Development Team has worked its way through the Hydrologic Function, Course and Fine Scale Habitat ecological objectives. It is now moving into setting objectives around Biodiversity representation which will require a similar level of technical analysis support.

3) Corporate GIS and Information Management Support Activities

- The Large Scale Hydrology Mapping Maintenance pilot project has also been a significant focus since the last status report. The technical tasks around the research and development of the data maintenance methodology are largely complete and effort has shifted to the documentation and reporting phase. The Authority is completing this project in partnership with the Water Resources Information Program from the Ministry of Natural Resources with the objective of determining how to keep the critical large scale surface water inventory that drives both our hydrologic and hydraulic analysis capabilities current, and of optimal value in so far as operational use when it comes to regulations. It is hoped we will be able prioritize the application of the methodology to the entire jurisdiction after the pilot project.
- Throughout March NPCA GIS Services also performed (under contract with Environment Canada) a complete suite of spatial analyses and developed an intensive presentation to communicate the results in support the Niagara River RAP Habitat Delisting Workshop.
- Staff is attending the annual 'Conservation Authority Collaborative Information Sessions' event this month which will be featuring a workshop on writing GIS and information management strategic plans. The workshop is largely in response to recommendations endorsed by Conservation Ontario council last December that CA's develop these kinds of

documents based on the guiding principles that information management is critical to CA business and therefore needs to be adequately sustained. This is timely as it ideally should be complimentary to the Authority's current corporate strategic planning process.

- A Niagara Atlas training session was prepared and held for Authority staff. This is the internal (not public) web based application staff uses daily for their mapping needs.

V. Watershed Restoration Division

1) Project Implementation

The Watershed Restoration Program is responsible for improving water quality, water quantity and biodiversity within the NPCA Watershed. The Restoration Program advances these areas through the implementation of a comprehensive cost-sharing program that offers local landowners financial incentives to implement water quality and habitat improvement projects on their properties, thereby, rewarding the private landowner who conserves the public interest. In total, over 100 restoration projects are being planned for 2011.

2) General Restoration

- In total 35 woodland restoration / riparian projects will be implemented across the watershed through partnerships with private landowners, Land Care Niagara (funding provided through Trees Ontario Foundation and 50 Million Tree Program), Ontario Power Generation (bio-diversity and carbon sequestering funding) and the Niagara Restoration Council. Over 100,000 trees and shrubs will be planted. Over 20,000 wildflowers and grass plugs will be planted and over 30 kilograms of native seed will be sowed into restoration project sites.
- Construction projects such as wetland restoration, aquatic in-stream works, erosion and bank stabilization projects are currently being planned. Over 25 wetland and riparian projects across the watershed will be completed this year with contributions from Ducks Unlimited, Great Lakes Sustainability Fund, Species at Risk Farm Stewardship Program, Niagara Community Foundation, Canadian Tire Financial, St. Catharine's Green Committee, and TD friends of the Environment.
- Best Management Practice (BMP) projects such as nutrient management projects, livestock fencing, cover crops and erosion control projects (such as rock chutes and check point dams) are currently being planned. Over 40 BMP projects will be implemented across the watershed with contributions from Great Lakes Sustainability Fund, Environmental Farm Plan and Species at Risk Farm Stewardship Program.
- Seven project interpretative signs will be produced and installed at key project sites across the watershed. These signs will provide education and awareness about the work of the NPCA relating to water quality and habitat biodiversity improvement.

3) Yellow Fish Road

Program information has been sent out to schools and clubs within our area of jurisdiction. Requests to participate from teachers and parents have already started coming in for the 2011 season.

4) Canopies for Kids - ECO School Program

The Niagara Peninsula Conservation Authority is pleased to introduce *Canopies for Kids*, a new program aimed at planting shade trees in school grounds. The goal of *Canopies for Kids* is to engage young students and volunteers to learn through hands-on involvement the benefits that trees provide, not only for a healthy environment, but also to recognize the important contribution trees make to our health.

The science-based program is adapted for grades 1 to 8 and meets the Life Systems Strand of the Ontario curriculum. The program will provide a deeper look at how trees improve biodiversity, water quality and air quality. Studies have shown that trees can reduce asthma rates related to poor air quality, contribute to increased physical activity, mood improvement and promote psychological well being. Students will learn about the benefits of trees and forests and how they help our ecological, economic and social environment.

The following schools were selected this year for the program:

St. Catharines

- Alexandra Public
- Connaught Public

Niagara Falls

- Kate S. Durdan
- St. Gabriel Lalement

Welland

- St. Augustine
- Holy Name

Fort Erie

- Fort Erie Elementary.

Port Colborne

- St. Therese

Wainfleet

- Winger Public

West Lincoln

- Covenant Christian

5) Earth Day

Staff hosted our 3rd annual Earth Day event on April 19th (Earth Day, the 22nd is Good Friday) at the E.C. Brown Wetland Restoration Project site. Six schools with over 300 students attended to assist in the planting of trees and shrubs as well as assisting with monitoring exercises for both flora and fauna. Several staff from the local MOE district attended to assist with the plantings and student coordination.

VI. Remedial Action Plan (RAP)

1) Lyons Creek East

The Lyons Creek East Administrative Controls Protocol document has been signed by all except one of the participating agencies. It will then be posted on the Ministry of the Environment's Environmental Bill of Rights (EBR) web site.

The NPCA will act as the lead coordinating agency in implementing the Protocol. Next steps will involve establishing a Management Framework Agreement between the stakeholders and a public communication strategy.

2) RAP Monitoring & Assessment

A multi-stakeholder workshop to address the BUI: *Loss of Fish & Wildlife Habitat* was held on March 29 at the NPCA. Results of the GIS landscape analysis of data from the Natural Areas Inventory pertaining to the delisting criteria parameters were presented, as well as a comparison to non-Area of Concern reference sites. Results indicated that RAP has completed most of its work for this BUI and very few actions remain. The workshop proceedings report is under preparation and will be circulated to all participants.

The RAP Coordinating Committee met in mid-April to discuss the proposed RAP budget for 2011/12, the RAP Coordinator's work plan, outreach activities and the status of the Science Committee. The next meeting is scheduled for mid-July 2011.

3) Update: Canada-Ontario Agreement Respecting the Great Lakes Ecosystem (COA).

The 2007 Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem (COA) has been extended until June 24, 2012. As well, six new commitments have been made for the extension period to update and refresh the current Agreement, which relate to harmful pollutants, spills prevention and response, the development of a nearshore framework, stewardship activities, implementing binational cooperative monitoring programs, and an aquatic invasive species complete prevention plan.

A Decision Notice has been posted on the Environmental Registry (EBR #011-1929) and is available through the following link: <http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTExNjMy&statusId=MTY5MDQ5&language=en>.

4) International Liaison

A binational meeting (Niagara Roundtable) is being hosted at the Canadian Consulate General's office in downtown Buffalo on May 17.

The next U.S. RAC meeting is scheduled for May 24 at the New York State Dept. of Environmental Conservation office in Buffalo.

The International Association for Great Lakes Research (IAGLR) Conference will be held in Duluth, Minnesota, May 30 – June 3, 2011.

The Great Lakes and St. Lawrence Cities Initiative Annual Meeting and Conference 2011 will be held in Niagara Falls, June 15 – 17, 2011.

The 2011 Great Lakes Biennial meeting will take place at Wayne State University on October 12-14, 2011.

The State of the Lakes Ecosystem Conference (SOLEC) 2011 will be held on October 26 & 27 in Erie Pennsylvania. The theme is: "Linking Land to the Lakes".

5) Update: Great Lakes Water Quality Agreement.

The current GLWQA is the revised Agreement of 1978 as amended by Protocol in 1987. Negotiations between Canada and the U.S. for renewal of the Agreement may extend into 2012.

Ball's Falls Conservation Area

Summer hours of operation came in effect on May 1st with scheduled heritage tours now offered between 10 am and 4pm daily and park grounds open to the public from 8am – 8pm daily. The Centre remains open from 9am – 4pm daily. Interviews for seasonal staff have been conducted and the majority of seasonal staff will start work by May 9th. Attendance for the month of April is down this year, possibly because of unusually cold wet weather last month.

The travelling exhibit, "Child's Play", A Century of Toys (February 12 – April 25) was well received with close to 2,600 visitors on site during this period.

"Our Feathered Friends" a travelling exhibit from the Canadian Museum of Nature opened on April 30. This is one of the largest exhibits featured at the Centre since we opened in May 2008. A full schedule of programming is planned during the exhibit which runs until September. Site staff prepared a pamphlet promoting all the events that will be offered in conjunction with the exhibit.

Staff have been revising and updating education programs. Bookings are increasing as the end of the school year approaches, as are the number of requests for recently developed programs. Planning is underway for both the summer Day Camp and Mini- Trailblazer camps. Registration for summer camp has already begun. There is one PA day camp left in the school year and the next holiday day camp is on May 23rd.

The song meters will be installed this month as part of the research partnership to understand migratory bat activity in Ontario.

The barn continues to be popular with the first reception of the season held on April 30. All available Saturdays are booked until October 31, the end of the rental window. The number of rentals for the Centre continues to grow each year.

Staff are preparing the pond at the Centre for spring operation, and reviewing repair work needed for the pond liner and stone. It is anticipated that some work will be required to repair winter damage to the pond, this is being planned by staff so as to minimize disruption to programmes and services.

The NPCA has been approved for two of the three separate seasonal employment funding programs. The Young Canada Works (YCW) program (Department of Canadian Heritage) approved 2 positions to assist with collections projects for a total of \$3,900 and The Summer Jobs Service (SJS) employment program (Ministry of Training, Colleges and Universities) approved our application for the \$2 per hour wage subsidy for 34 seasonal positions for a total of \$27,000.

The Festival Selection Committee met in April to jury the Thanksgiving Festival artisans. The number of applications increased slightly over the last few years. General acceptance letters have been mailed. Preparations for other festival components are in progress.

Binbrook Conservation Area

Staff started the water system and are working on sampling in preparation for the summer operating season. Summer staff orientation and training was held on April.

Retrofit of the recirculation system of the splash pad is at 50% completion. Installation of a new holding tank, pump building, and electrical upgrades are completed. Plumbing work and equipment installation is proceeding. Staff will be reviewing items with the Hamilton health department for compliance, and implementing new operational procedures for water testing as the splash pad comes back into service at the park.

Staff reviewed with the Glanbrook Conservation Committee the condition of the Tyneside Trail and projects to improve the trail function and safety. Hazard trees were noted and park staff cut and removed damaged trees and limbs near the trail. An eroded portion of the trail was re-designed as a switchback with surface grades less than 10% for sustainability. Trail work was completed by the GCC May 5th.

The local Binbrook Branch of TD Canada Trust will be assisting with trail construction on the Gatehouse Trail upgrade project. Conservation Area staff also provided promotional information for a table top display at the bank.

Long Beach and Chippawa Creek Conservation Areas

A very cold and wet spring has resulted in a setback for campground operations. Heavy rains have impacted the ability of staff to do grounds keeping, so the focus has turned to administrative tasks. Media Mix Interactive is being well received. Patrons are taking advantage of the new on-line system to book their camping stays, in spite of the poor spring weather.

Water systems are up and operating at both Campgrounds. Initial start-up water tests will be conducted over the next few weeks to ensure the plants are functioning properly.

Over-mature hybrid poplars were removed from the Chippawa Creek campground. Following this, the April 28th windstorm resulted in significant tree damage. We have a number of staff dedicated to this and had to call in the services of a tracked excavator and dump truck to remove the uprooted trees.

Jordan Harbour Conservation Area

Docks are back in the water and the paddlers are too. This site began operation on May 1st. Staff are reviewing options for installation of a new pavilion by the dock and boat ramp. Some preliminary inquiries of suppliers have been made, and bid packages are being assembled. Staff will also start the building permit process for this project with Town of Lincoln.

Beamer Memorial Conservation Area

Friday April 22 the Niagara Peninsula Hawkwatch Group (NPH) held its annual Open House at the site from 10 a.m. to 3 p.m. to educate the public about this amazing natural phenomenon. The day's events included 'Hawk Talks', Hawk information, a live raptor demonstration and Nature Group displays. Approximately 400 people attended.

Milestones reached at the Hawkwatch. On Wednesday, April 27, the total count of birds tallied at Beamer Conservation Area since the count started in 1975 reached 500,000 birds. And April 30, the 2011 season reached a first time total of 20,000 raptors on one day. Since 1975 the NPH volunteers have invested 17,600 hours in counting. The 2011 Hawkwatch Season ends May 15.

Mud Lake Conservation Area

New entrance and information signs have been completed and will be installed mid-May. Signs will include a map of the site showing trails, and information on key features. It will also provide insight to the history and previous activities at the site.

St. Johns Conservation Area

The site's trout pond opened Saturday April 23 at noon. Staff greeted approximately 50 anglers at the opening time with another 10 arriving later in the day. The lower number of anglers is thought to be attributed to the provincial seasons change from the last Saturday in April to fourth Saturday. In addition, opening day fell on the Saturday of the Easter Weekend. There were a number of community events competing for attendance.

Five memorial benches have been purchased by donors for installation at the St John's pond. At the trout season opening a memorial bench was in place for donors to view. The memorial benches will be installed on new concrete pads by staff this spring.

Nature Conservancy Lathrop Property

Authority staff began cleaning up the Lathrop property. In late 2010, the Nature Conservancy asked the NPCA to assist them by removing unauthorized bicycle jumps, built on this sensitive natural area. Staff expect this work to be completed by the end of May. The entire project is funded by the Nature Conservancy of Canada.

Stevensville Conservation Area– Ontario Trails Council Conference

A successful conference was held April 20 and 21st by the Ontario Trails Council and Sustainable Trails Ltd at Stevensville Conservation Area. The conservation club provided use of the club building and the club catered outstanding lunches both days to those in attendance. Glowing reviews of the event have been received by staff. Workshop participants learned trail building techniques while doing hands-on trail work at Stevensville around the pond by the new bridge. Participants also visited Woodend Conservation Area to view the Bruce Trail and received instruction on trail design.

Conservation Area Highway Signs

The Region of Niagara sign shop and road works staff have completed installation of new highway signs for Ball's Falls, Comfort Maple, and Chippawa Conservation Areas. These signs are blue with white lettering to match region standards, and have the new Conservation Area logo on them. Staff are now proceeding to work the CTODs and the City of Hamilton for new highway signs at Binbrook Conservation Area.

NPCA Hunting Program

Staff issued an additional 35 hunting permits in for the NPCA Conservation Areas in 2011. To

date 136 hunting permits have been issued for 2011. Of these, 20 permits are issued to individuals residing outside of our administrative area.

Volunteer Event

On Saturday May 21 9:30 a.m. to 11:30 p.m. the NPCA will be holding a volunteer event to help increase the awareness of invasive species and how to manage them. The event will involve volunteers helping to remove garlic mustard in a section of the Twenty Valley. Volunteers will meet at the parking lot by the Bailey Bridge in Jordan

COMMUNITY RELATIONS

Niagara Region Science and Engineering Competition

The Authority has supported the annual Science and Engineering Fair with 2 awards for many years. Staff attended the 49th annual awards ceremony on April 6th. NPCA awards were given to: Patrick Spano, St. Kevin Elementary School for his project entitled Science Behind the Electric Guitar; and Lexie Penny, Grimsby Secondary School for her project entitled Niagara Region's Environmental Impact of Water Quality in Lake Ontario. Ms. Penny represented the Niagara Regional Science and Engineering Fair at the 2010 Canada Wide Science Fair. Miss Lexie Penny won a spot on Team Canada and this year she will be representing the NRSEF and Canada at the International Science Fair as part of Team Canada in California. The projects produced by our students were outstanding and we are proud to be part of this event.

Earth Day Activities

The Authority held its annual Earth Day event at E.C. Brown Conservation Area. The event was attended by students from local elementary schools students, MOE staff and members of the public. Despite the cool weather, the day was very successful. We are continuing to support various Earth Day projects throughout the watershed with educational materials and prizes.

Hawkwatch Open House

Approximately 600 people attended the annual Hawkwatch event at Beamer Memorial Conservation Area of Good Friday, April 22nd. The Open House has occurred for the past 22 years and provides a great opportunity to educate the public about raptors and their importance to the environment. There were live bird presentations by the Canadian Raptor Conservatory and the Halton Conservation Authority in addition to other community activities. By day's end about 2,000 raptors were counted.

St. Johns Conservation Area Trout Season Opening

About 100 visitors attended the opening of the St. Johns Conservation Area Trout Season on April 23rd. The weather was perfect and visitors had a wonderful day.

Source Water Protection

The Committee met on April 26th to review and approve the Amended Draft Proposed Assessment Report. This report will now be forwarded to MOE.

Greening Niagara

Staff were involved in filming a segment for Cogeco's series 'Greening Niagara' which is a series sponsored by Niagara Peninsula Energy. The segment will air in the later part of May on Cogeco.

Town of Lincoln Communities in Bloom

NPCA staff is continuing to work with Town of Lincoln on the Communities in Bloom competition.

Niagara Children's Water Festival

As of May 5th, 34 schools comprising 1,926 students are already registered for the program.

GLSLCI Annual Meeting and Conference

Plans are well underway for the conference with registrations and sponsorships on target to date.

NIAGARA PENINSULA CONSERVATION FOUNDATION

Rain Barrel Sale

The Foundation hosted a successful truckload sale of rain barrels in Welland on April 30th. A total of 250 barrels were sold, resulting in \$3,750 being raised for the Foundation. Many thanks to all the hard-working volunteers that assisted at the event.

A second sale will take place at the West Lincoln Community Centre & Arena parking lot in Smithville on Saturday, May 28th from 10 am – 2 pm. Rain barrels can be ordered online at www.RainBarrel.ca/Westlincoln or by calling the Foundation office. Thank you to Mayor Doug Joyner and Township of West Lincoln staff for their assistance in the arrangements for this sale.

Funding

Staff was pleased to attend a dinner hosted by the Fonthill Lions Club. The club presented a cheque to assist with the fish stocking at St. Johns trout pond. Funding for the fish stocking was also received by The Kinsmen Club of Fonthill and District as well as the Royal Canadian Legion, Branch 613 in Fonthill.

Golf Tournament

Organization and planning for the 2011 Bob Welch Memorial Charity Golf Classic taking place on Tuesday, June 7th at the Whirlpool Golf Course is continuing. To date, 47 golfers are confirmed and \$4,500 in sponsorship has been received. Staff is working to secure items for the silent auction table. Board members are encouraged to notify staff as soon as possible if they are planning to attend the event and if they have any leads for potential sponsors or donors of silent auction items.

Recommendation:

Report No. 29-11 outlining the status of Authority projects be received for information.

Respectfully Submitted by: _____

Tony D'Amario, P.Eng.
Chief Administrative Officer/Secretary-Treasurer