

**FULL AUTHORITY MEETING  
ON-LINE VIDEO CONFERENCE  
AND IN-PERSON MEETING**

**Ball's Falls Centre for Conservation  
Glen Elgin Room  
3292 Sixth Avenue, Jordan, ON**

**Friday, July 15, 2022  
9:30 a.m.**

**A G E N D A**

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**CALL TO ORDER – ROLL CALL**

*The Niagara Peninsula watershed is situated within the traditional territory of the Haudenosaunee, Attiownderonk (Neutral), and the Anishinaabeg, including the Mississaugas of the Credit—many of whom continue to live and work here today. This territory is covered by the Upper Canada Treaties (No. 3, 4, and 381) and is within the land protected by the Dish with One Spoon Wampum agreement. Today, the watershed is home to many First Nations, Métis, and Inuit peoples. Through the 2021-2031 Strategic Plan, we re-confirm our commitment to shared stewardship of natural resources and deep appreciation of Indigenous culture and history in the watershed.*

**1. APPROVAL OF AGENDA**

**2. DECLARATIONS OF CONFLICT OF INTEREST**

**3. APPROVAL OF MINUTES**

- a) Minutes of the Full Authority Meeting dated June 17, 2022 (For Approval)

Page # 1

**4. CHAIR'S UPDATE**

**5. CORRESPONDENCE**

**6. PRESENTATIONS**

- a) PowerPoint Presentation by Alicia Powell, Manager, Conservation Areas Programs and Services RE: Update on 2022 Ball's Falls Festival (For Receipt - to be circulated under separate cover)
- b) PowerPoint Presentation by Jason Culp, Manager, Compliance and Enforcement RE: NPCA Section 28 Compliance and Enforcement Procedural Manual (For Receipt - to be circulated under separate cover- This presentation is in conjunction with agenda item 10.a) i) Report No. FA-28-22 RE: NPCA Section 28 Compliance and Enforcement Procedural Manual)

**7. DELEGATIONS**

**8. CONSENT ITEMS**

- a) Report No. FA-27-22 RE: Planning and Regulations Semi-Annual Report (For Receipt)

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**9. DISCUSSION ITEMS**

- a) Report No. FA-26-22 RE: Contract Award – Gonder’s Flats Wetland Enhancement Project (For Approval)

Page # 11

- b) Report No. FA-29-22 RE: NPCA Conservation Awards (For Approval)

Page # 14

- c) Report No. FA-30-22 RE: Conservation Authorities Act Transition Quarterly Progress Report Ontario Regulation 687/21: Transition Plan and Agreements for Programs and Services (For Approval)

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**10. COMMITTEE REPORTS**

**10.1 GOVERNANCE COMMITTEE**

- a) Minutes from the Meeting of the Governance Committee dated June 30, 2022 (For Receipt)

Page # 22

- i) Report No. FA-28-22 RE: NPCA Section 28 Compliance and Enforcement Procedural Manual (For Approval)

Page # 26

- ii) Motion (Recommendation No. GC-22-2022) RE: Report No. GC-09-22 RE: Single Source Contracts for the NPCA Policy Document Review and Procedural Manual Phase 2 Project (For Approval)

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**11. MOTIONS**

**12. NOTICES OF MOTION**

**13. NEW BUSINESS**

- a) C.A.O. Updates – Verbal
- b) Niagara Peninsula Conservation Foundation – Verbal Update

**14. CLOSED SESSION**

- a) Litigation or Potential Litigation - Enforcement and Compliance Matters - Verbal Update
- b) A Proposed or Pending Acquisition or Disposition of Land by the NPCA – Verbal Update

**15. ADJOURNMENT**



**FULL AUTHORITY  
ONLINE VIDEO CONFERENCE  
MEETING MINUTES  
Friday, June 17, 2022  
9:30 A.M.**

**BALL'S FALLS CENTRE FOR CONSERVATION  
GLEN ELGIN ROOM  
3292 SIXTH AVENUE, JORDAN, ON**

**NOTE:** The archived recorded meeting is available on the NPCA website. The recorded video of the Full Authority meeting is not considered the official record of that meeting. The official record of the Full Authority meeting shall consist solely of the Minutes approved by the Full Authority Board. *NPCA Administrative By-law*

**MEMBERS PRESENT:** R. Foster (Chair)  
S. Beattie  
D. Cridland  
L. Feor  
J. Hellinga  
J. Ingrao  
B. Johnson  
K. Kwall  
B. Mackenzie  
J. Metcalfe  
W. Rapley  
E. Smith  
B. Steele  
M. Woodhouse  
B. Wright

**MEMBERS ABSENT:** R. Brady  
B. Clark  
D. Huson  
R. Shirton

**STAFF PRESENT:** C. Sharma, CAO / Secretary – Treasurer  
G. Bivol, Clerk  
A. Christie, Director, Land Operations  
L. Gagnon, Director, Corporate Services  
N. Green, Manager, Climate Change and Special Projects  
R. Hull, Manager, Strategic Business Planning and Public Relations  
L. Lee-Yates, Director, Watershed Management  
S. Miller, Senior Manager, Water Resources  
G. Shaule, Administrative Assistant  
G. Verkade, Senior Manager, Integrated Watershed Planning /  
Information Management

**OTHERS PRESENT:** Robert Orland, Orland Conservation

Chair Foster called the meeting to order at 9:31 a.m..

## 1. APPROVAL OF AGENDA

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Resolution No. FA-50-2022  
Moved by Member Cridland  
Seconded by Member Steele

**THAT** the agenda for the Full Authority Meeting dated June 17, 2022 **BE APPROVED.**  
**CARRIED**

## 2. DECLARATIONS OF CONFLICT OF INTEREST

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None declared.

## 3. APPROVAL OF MINUTES

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- a) Minutes of the Full Authority Meeting dated May 20, 2022

Resolution No. FA-51-2022  
Moved by Member Ingrao  
Seconded by Member Metcalfe

**THAT** the minutes of the Full Authority Meeting dated May 20, 2022 **BE APPROVED.**  
**CARRIED**

## 4. CHAIR'S UPDATE

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Chair Foster spoke on the joint event by the Conservation Authority and the Conservation Foundation on June 14, 2022 at Bench Brewery.

## 5. CORRESPONDENCE

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None

## 6. PRESENTATIONS

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- a) PowerPoint Presentation by Robert Orland, Orland Conservation RE: Land Securement Strategy 2022-2023 - This presentation was in conjunction with agenda item 9.b) Report No. FA-24-22 RE: Draft Land Securement Strategy 2022-2023. Chief Administrative Officer Sharma spoke on the land securement strategy exercise and introduced Mr. Orland who presented. Members posed questions.

Resolution No. FA-52-2022  
Moved by Member Feor  
Seconded by Member Wright

**THAT** the PowerPoint presentation by Robert Orland, Orland Conservation RE: Land Securement Strategy 2022 **BE RECEIVED**.

**CARRIED**

- b) PowerPoint Presentation by Geoff Verkade, Senior Manager, Integrated Watershed Planning / Information Management RE: Digital Terrain Model Update/Availability on Open Data – This presentation was conjunction with agenda item 8.b) Report No. FA-25-22 RE: Digital Terrain Model Update and Open Data Release. Mr Verkade presented.

Resolution No. FA-53-2022

Moved by Member Mackenzie

Seconded by Member Woodhouse

**THAT** the PowerPoint presentation by Geoff Verkade, Senior Manager, Integrated Watershed Planning / Information Management RE: DTM Update/Availability on Open Data **BE RECEIVED**.

**CARRIED**

## 7. DELEGATIONS

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None

## 8. CONSENT ITEMS

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- a) Report No. FA-22-22 RE: Morgan's Point Conservation Area Environment and Climate Change Canada's (ECCC) Habitat Stewardship Program Funding Update – Members posed questions and offered comment.
- b) Report No. FA-25-22 RE: Digital Terrain Model Update and Open Data Release - Members posed questions to staff and commented.

Resolution No. FA-54-2022

Moved by Member Wright

Seconded by Member Cridland

**THAT** the following reports **BE RECEIVED**:

- Report No. FA-22-22 RE: Morgan's Point Conservation Area Environment and Climate Change Canada's (ECCC) Habitat Stewardship Program Funding Update; and
- Report No. FA-25-22 RE: Digital Terrain Model Update and Open Data Release.

**CARRIED**

## 9. DISCUSSION ITEMS

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- a) Report No. FA-23-22 RE: Cave Springs Conservation Area Enhancement Project Update and Award of Contract for Parking Lot Construction – Adam Christie, Director, Land Operations presented the report. Members posed questions.

Resolution No. FA-55-2022

Moved by Member Kawall

Seconded by Member Beattie

1. **THAT** Report No. FA-23-22 RE: Cave Springs Conservation Area Enhancement Project Update and Award of Contract for Parking Lot Construction **BE RECEIVED**.
2. **THAT** a capital contract award to Duomax Developments Ltd. in the amount of \$257,191 (plus non-recoverable HST) **BE APPROVED**.
3. **AND THAT** a contingency of 10% or \$25,719 **BE ALLOCATED** to address any anticipated costs during the project implementation process.

**CARRIED**

- b) Report No. FA-24-22 RE: Draft Land Securement Strategy 2022-2032 – Leilani Lee-Yates, Director, Watershed Management presented the report. Members posed questions to staff. Discussion ensued.

Resolution No. FA-56-2022

Moved by Member Smith

Seconded by Member Hellinga

1. **THAT** Report No. FA-24-222 RE: Draft Land Securement Strategy 2022-2032, as appended, **BE ENDORSED** in principle for the purpose of engaging with external partners to obtain input prior to finalizing the Strategy.
2. **THAT** staff **CONSULT** with municipal partners, land trusts, Indigenous organizations, the Niagara Peninsula Conservation Foundation, and Public Advisory Committee to seek input and to explore partnerships toward future land securement.
3. **THAT** staff **DEVELOP** policy to guide decision-making regarding land acquisition and disposition, as per the *Conservation Authorities Act*, O. Reg 686/21 (Sec. 9 (2)(vi)).
4. **AND FURTHER THAT** staff **REPORT** back to the Board of Directors for final approval of the Land Securement Strategy 2022-2032 and implementation priorities during Q4 of 2022.

**CARRIED**

## 10. COMMITTEE ITEMS

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### 10.1 PUBLIC ADVISORY COMMITTEE

- a) Minutes of the Public Advisory Committee Meeting dated June 2, 2022

Resolution No. FA-57-2022

Moved by Member Woodhouse

Seconded by Member Feor

**THAT** the minutes of the Public Advisory Committee Meeting dated June 2, 2022 **BE RECEIVED**.

**CARRIED**

## 11. NOTICES OF MOTION

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None

## 12. MOTIONS

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None

## 13. NEW BUSINESS

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- a) C.A.O. Updates – Verbal – Ms. Sharma, Chief Administrative Officer spoke on the recent staff appreciation day, ongoing consultations with partner municipalities in respect of the Conservation Authorities Act amendments, the next slated transition report submission to the province, the Mud Girl event at the Binbrook Conservation Area, media coverage on the NPCA annual report, Four Mile Creek community involvement and related geomorphic study, Great Lakes-St. Lawrence Cities' Initiative annual meeting and the Niagara Climate Change Summit.
- b) Niagara Peninsula Conservation Foundation Update – Verbal – The Board was briefly updated on the Foundation's strategy for sponsorship and outreach, the upcoming golf fundraiser event and was apprised of open positions on the Foundation Board of Directors. The NPCA Board was told that the next Foundation meeting was slated for July 7, 2022.

## 14. CLOSED SESSION

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None

## 15. ADJOURNMENT

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The meeting adjourned at 11:23 a.m..

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Robert Foster, Chair  
Niagara Peninsula Conservation Authority

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Chandra Sharma, MCIP, RPP  
Chief Administrative Officer / Secretary-  
Treasurer  
Niagara Peninsula Conservation Authority



**Report To: Board of Directors**

**Subject: Planning and Regulations Semi-Annual Report**

**Report No: FA-27-22**

**Date: July 15, 2022**

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**Recommendation:**

**THAT** Report No. FA-27-22 RE: Planning and Regulations Semi-Annual Report **BE RECEIVED.**

**Purpose:**

The purpose of this report is to update the Board of Directors on the Planning and Regulations activities during the first half of 2022. The reporting of statistics within the Planning and Regulations division is a requirement of the Client Service Standards Document and Conservation Ontario.

**Background:**

The Planning and Regulations section of the Watershed Management Division is responsible for providing a variety of services to our municipal clients as well as the public. This includes reviewing *Planning Act/Niagara Escarpment Planning and Development Act* applications, and municipal Building Permit applications where there is a feature regulated by the NPCA. Planning and Regulation staff also respond to general phone/email inquiries, and issue Work Permits under Section 28 of the *Conservation Authorities Act*.

NPCA staff monitor a variety of metrics and report these on a semi-annual basis to the Board.

**Discussion:**

A total of 574 applications (Planning, Building Permit Clearances and Niagara Escarpment Commission (NEC) applications combined) were reviewed during the six-month period.

Planning and Regulations reviewed 155 *Planning Act* (various types and complexity) and 15 NEC Development Permit applications, 178 Building Permit applications and 44 property information requests. Staff also provided comments on 159 *Planning Act* pre-consultation proposals, reviewed 4 proposals relating to the provincial Drainage Act and (Section 28) Regulations Team (DART) Protocol under the *Drainage Act* and were involved in 4 Environmental Assessments.

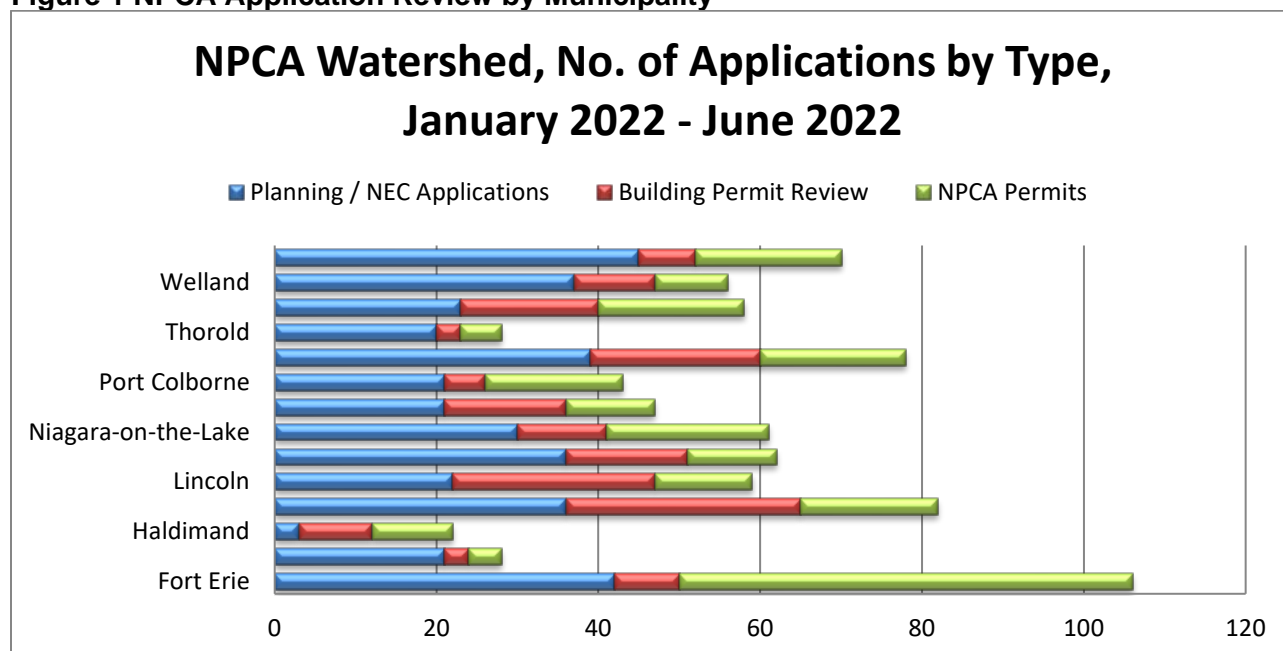
In addition, staff processed 226 Work Permits under Section 28. Overall comparison to last year's workload will be evaluated at the end of year. While there has been a slight decrease in the number of applications for the first six months as compared to 2021, the complexity of issues and difficulty with finding suitable candidates for vacant positions is resulting in a heavy workload for the Planning and Permitting team.

Table 1 and Figure 1 provide a breakdown of review activity by municipality.

**Table 1 NPCA Application Reviews by Municipality**

<b>Municipality</b>	<b>Plan Review (Planning Act/NEC/EA/Drainage Act)</b>	<b>Building Permit Review</b>	<b>NPCA Permits</b>	<b>Total</b>	<b>%</b>
Fort Erie	42	8	56	106	13%
Grimsby	21	3	4	28	4%
Haldimand	3	9	10	22	3%
Hamilton	36	29	17	82	10%
Lincoln	22	25	12	59	7%
Niagara Falls	36	15	11	62	8%
Niagara-on-the-Lake	30	11	20	61	8%
Pelham	21	15	11	47	6%
Port Colborne	21	5	17	43	5%
St. Catharines	39	21	18	78	10%
Thorold	20	3	5	28	4%
Wainfleet	23	17	18	58	7%
Welland	37	10	9	56	7%
West Lincoln	45	7	18	70	9%
<b>Total</b>	<b>396</b>	<b>178</b>	<b>226</b>	<b>800</b>	<b>100%</b>

**Figure 1 NPCA Application Review by Municipality**



Permit response times have improved slightly from the first half of 2021. In 2022, 73 percent of all Permits were reviewed within the Conservation Ontario timeframes as opposed to 65 percent in 2021. Management continues to explore process improvements to reduce our Permit review times. A detailed break-down the Permit review timelines is provided in Table 2.

**Table 2 NPCA Permit Processing Times**

Number of Days	Permits Issued Based on Type within CO Guidelines	Permits Issued Based on Type outside of CO Guidelines	Total Permits Issued (By Type)	% Permits within CO Guidelines	% Permits within CO Guidelines
1-14 Days Routine Permit	7	4	11	64%	36%
15-21 Days Minor Permit	36	19	55	65%	35%
22-28 Days Major Permit	121	39	160	76%	24%
Total Reviews	164	62	226	73%	27%
Total Review Days	2257	3296	5553		
<b>Avg. Process Time</b>	<b>14</b>	<b>53</b>	<b>25</b>		

The high volume of applications and general inquiries continues to place a strain on the Planning and Regulations section. Our Client Service Standards (based on Conservation Ontario guidelines) stipulate a two business day timeframe for initial response. This has proven to be a challenging target to hit. To help address this issue, a Planning Technician was hired as growth position in Q2

2022 to help handle general inquiries, among other duties to support Planning and Regulations staff. We are also exploring other improvements to our customer service delivery such as updating our Frequently Asked Questions (FAQs) on the NPCA website.

### **Continuous Improvement**

There are a number of continuous improvement initiatives and projects happening in the Planning and Regulations section in 2022:

- Completion of the Policy Document update and new Procedural Manual Phase 1 Gap Analysis and initiation of the Phase 2 workplan
- Preparing and implementing interim NPCA EIS Guidelines
- Preparing and implementing interim NPCA Wetland Procedure Document
- Undertaking an internal Planning and Regulations process mapping exercise to inform the development of the new Procedural Manual
- Preparing the Section 28 Compliance and Enforcement Manual
- Responding to Provincial policy matters posted on the Environmental Registry of Ontario
- Ongoing Regulatory Mapping Update
- Monthly coordination meetings with Municipal partners and NEC

### **Financial Implications:**

There are no financial implications from this report.

### **Links to Policy/Strategic Plan:**

The daily work of the Planning and Regulations section contributes to a healthy and resilient climate and supports sustainable growth by protecting people and properties from natural hazards and climate impacts, and maintaining a high standard of client services, tools, and procedures for planning review and permits.

### **Related Reports and Appendices:**

None

### **Authored by:**

*Original Signed by:*

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David Deluce, MCIP, RPP  
Senior Manager, Planning and Regulations

**Reviewed by:**

*Original Signed by:*

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Leilani Lee-Yates, MCIP, RPP  
Director, Watershed Management

**Submitted by:**

*Original Signed by:*

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Chandra Sharma, MCIP, RPP  
Chief Administrative Officer/Secretary-Treasurer

**Report To: Board of Directors**

**Subject: Contract Award - Gonder's Flats Wetland Enhancement Project**

**Report No: FA-26-22**

**Date: July 15, 2022**

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**Recommendation:**

1. **THAT** Report No. FA-26-22 RE: Contract Award – Gonder's Flats Wetland Enhancement Project **BE RECEIVED**.
2. **THAT** a contract award to Anthony's Excavating Central Inc. in the amount of \$122,600 (plus non-recoverable HST) **BE APPROVED**.
3. **THAT** staff **BE AUTHORIZED** to execute all necessary documents to award the contract.

**Purpose:**

The purpose of this report is to seek approval to award a contract to Anthony's Excavating Central Inc. for the contractor services to implement the Gonder's Flats wetland enhancement project, in accordance with Niagara Peninsula Conservation Authority's (NPCA) Procurement Policy.

**Background:**

NPCA staff have partnered with several local organizations to complete a wetland restoration project adjacent to the Niagara River in the Town of Fort Erie, a property known locally as Gonder's Flats. The NPCA's budgeted contribution for this project (\$45,000) was approved by the Board of Directors in April 2022, as part of the NPCA restoration grant program (Report No. FA-01-22). In addition to its contributions, the NPCA has successfully secured \$80,000 toward the implementation of this project thanks to contributions from Ducks Unlimited Canada, Land Care Niagara, and the Niagara Community Foundation. Staff awaits confirmation on additional funding applications.

In May 2022, the NPCA Board of Directors received a staff presentation and report with detailed information about the Gonder's Flats wetland enhancement project (Report No. FA-17-22).

**Discussion:**

In May 2022, the NPCA issued a competitive request for quotation (RFQ No. NPCA-2022-RP002) for contractor services for construction of the Gonder's Flats wetland. The RFQ process closed on May 30, 2022 with 5 compliant bids received and evaluated.

Staff are recommending the contract be awarded to the highest ranked proponent: Anthony's Excavating Central Inc. in the amount of \$122,600 (plus non-recoverable HST).

### Financial Implications:

The project funding breaks down is as follows:

1. NPCA Restoration Grant Program (approved 2022 Operating Budget)	\$45,000
2. Confirmed external funding sources - Ducks Unlimited, Land Care Niagara, Niagara Community Foundation	<u>80,000</u>
<b>TOTAL</b>	<b>\$125,000</b>
Contract award to Anthony's Excavating Central Inc. (including non-recoverable HST)	124,758

### Related Reports:

- FA-01-22 RE: 2021 Restoration program highlights and 2022 restoration project approvals
- FA-17-22 RE: Gonder's Flats Wetland Enhancement Project

### Links to Policy/Strategic Plan:

Restoring habitat, water resources, and forest cover is identified as a priority as part of the NPCA's 10-year strategic plan (Goal 1.3). Additionally, the project advances the Niagara River RAP's habitat improvement goals, provides access to greenspace and connections to nature (Goal 3.1), supports volunteerism (Goal 3.2), and strengthens relationships with government, academic, and community partners to advance mutual goals (Goals 4.1 and 4.2).

### Authored by:

*Original Signed by:*

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Natalie Green  
Manager, Climate Change & Special Programs

### Reviewed by:

*Original Signed By:*

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Leilani Lee-Yates, BES, MSPL.RPD, MCIP, RPP  
Director, Watershed Management

**Reviewed by:**

*Original Signed by:*

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Lise Gagnon, CPA, CGA  
Director, Corporate Services

**Submitted by:**

*Original Signed by:*

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Chandra Sharma, MCIP, RPP  
Chief Administrative Officer/Secretary-Treasurer



**Report To: Board of Directors**

**Subject: NPCA Conservation Awards**

**Report No: FA-29-22**

**Date: July 15, 2022**

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**Recommendation:**

1. **THAT** Report No. FA-29-22 RE: NPCA Conservation Awards **BE RECEIVED**.
2. **AND THAT** the NPCA Board of Directors **SHARE** information about the Award of Merit nomination process, as appropriate, within their networks.

**Purpose:**

The purpose of this report is to update the Board of Directors on the Niagara Peninsula Conservation Authority (NPCA) Conservation Awards and to request their assistance in sharing the application process for the Award of Merit with a broad network of stakeholders, community groups, general public and partners in conservation.

**Background:**

Volunteerism is an important part of what makes communities thrive. The NPCA established the annual Conservation Achievement Awards in 1991 to recognize those who voluntarily contribute to the conservation, restoration, and stewardship of the natural environment within. The awards are intended not only for the volunteers who work directly on NPCA projects but also for those residents whose contributions to conservation efforts are evident in their daily lives to ensure that our treasured natural resources will be sustained for generations to come.

On average, the NPCA recognizes approximately 400-500 volunteers and community partners per year. Of notable significance is that volunteers range from youth to seniors and come from all walks of life. In addition, the NPCA also bestows Awards of Merit which recognizes "significant achievements or contributions by an individual, group or business to improve and restore our local environment for the benefit of all watershed residents." Nominations are invited from the public and internally through the board and staff.

The Authority hosts a reception where we have an occasion to meet and thank the volunteers and community stewards and hand out a small token of appreciation. The event gives the authority board and staff an opportunity to network and establish collaborative opportunities for future undertakings. This has grown to become an event that is greatly favoured and looked forward to. For those that

are unable to attend the reception, their appreciation gift is delivered to them either by a staff person or through a courier service.

The program is an important community relations effort and helps us demonstrate and communicate the value that we place on volunteer actions. The last Conservation Awards event was held on February 28, 2020, and has not been held since then due to concerns related to COVID-19.

The awards reception will recognize 2020 and 2021 NPCA volunteers and partners in conservation at the West Niagara Agricultural Centre and Fairgrounds on September 21, 2022, at 5:30 PM.

### **Discussion:**

Nominations for the Award of Merit are invited from the public and internally through a media release, correspondence, social media, website, and the Greater Niagara Chamber of Commerce.

Nominations are submitted through the [NPCA Get Involved portal](#) by completing a short application form and require a nominator and seconder, plus the permission of the nominee.

On July 11, 2022, the application process for nomination will be open, closing on August 5, 2022. Staff request that the Board of Directors shares the nomination process with their Councils, networks, staff, and public by sharing NPCA social media posts, direct correspondence, and word of mouth to ensure that many people are aware of the opportunity to nominate an individual, business, or community group.

Applications will be reviewed by the NPCA staff Conservation Awards Steering Committee with final recommendations going to the NPCA Management Team for approval. Award of Merit recipients will be notified by the end of August and will be formally recognized at the Conservation Awards event on September 21, 2022.

### **Financial Implications:**

None.

### **Links to Policy/Strategic Plan:**

The Niagara Peninsula Conservation Authority Conservation Awards program links to the following goals of the Strategic Plan:

Goal 3.2: Lead nature education, environmental stewardship, and volunteerism.

Goal 4.2: Foster relationships with the community, non-government organizations, businesses, agriculture, industry, and academic institutions for collective outcomes and impact.

### **Related Reports and Appendices:**

None.

**Authored by:**

*Original Signed by:*

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Kerry Royer, Coordinator,  
Community Outreach

**Reviewed by:**

*Original Signed by:*

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Rebecca Hull,  
Manager of Strategic Business Planning  
& Public Relations

**Submitted by:**

*Original Signed by:*

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Chandra Sharma, MCIP RPP  
Chief Administrative Officer/Secretary-Treasurer

**Report To: Board of Directors**

**Subject: Conservation Authorities Act Transition Quarterly Progress Report  
Ontario Regulation 687/21: Transition Plan and Agreements for  
Programs and Services**

**Report No: FA-30-22**

**Date: July 15, 2022**

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**Recommendation:**

1. **THAT** Report No. FA-30-22 RE: Conservation Authorities Act Transition Quarterly Progress Report Ontario Regulation 687/21: Transition Plan and Agreements for Programs and Services **BE RECEIVED**.
2. **AND THAT** a copy of this report **BE CIRCULATED** to the NPCA's partner municipalities for information.

**Purpose:**

The purpose of this report is to update the Board of Directors on the Niagara Peninsula Conservation Authority's (NPCA) first quarterly progress report under Ontario Regulation 687/21 submitted to the Ministry of Environment, Conservation and Parks (MECP).

**Background:**

On October 7, 2021, Ontario Regulation 687/21: Transition Plans and Agreements for Programs and Services Under Section 21.1.2 of the Conservation Authorities Act was passed requiring Conservation Authorities to submit quarterly progress reports to the Ministry of Environment, Conservation and Parks.

As required under Regulation 687/21, the NPCA Board of Directors approved and submitted to the MECP the following:

**NPCA Transition Plan (Resolution No. FA-196-2021):**

*"THAT Report No. FA-68-2021 RE: NPCA Transition Plan in Accordance with Section 21.1.4 of the Conservation Authorities Act BE RECEIVED.*

*AND FURTHER THAT the NPCA Transition Plan, as appended, BE APPROVED and SUBMITTED to the Ministry of Environment and Parks (MECP) with a copy to NPCA funding municipalities and posting on the NPCA website."*

### NPCA inventory of Programs and Services (Resolution No. FA-18-2022):

*“THAT Report No. FA-03-22 RE: Conservation Authorities Act – Update on Inventory of Programs/Services BE RECEIVED for information.*

*THAT the Inventory of Programs and Services BE SUBMITTED to the Ministry of Environment Conservation and Parks (MECP) as required under Ontario Regulation 687/21 and CIRCULATED to participating municipalities.*

*THAT the Inventory of Programs and Services BE SHARED with NPCA jurisdiction municipalities, as appropriate, throughout 2022-2023 to inform discussions related to NPCA services.*

*AND FURTHER THAT the Final Programs and Services Inventory BE SUBMITTED to MECP at the end of the Conservation Authorities Act Transition period along with a copy of Municipal Agreements.”*

Another requirement of the transition regulation is quarterly progress submission to MECP. Under the regulation, the progress reports must include the following:

- a summary of any comments or feedback on your inventory that were submitted by your participating municipalities or by any others;
- a summary of any changes that were made to your inventory;
- an update on the progress towards negotiating cost apportioning agreements with your participating municipalities, including any difficulties you are experiencing that might impact the ability to conclude any cost apportioning agreements by the transition date; and
- a copy of your updated inventory, clearly indicating changes that have been made since your initial inventory was submitted in February, 2022.

### **Discussion:**

The NPCA's quarter one progress report, attached as Appendix 1 has been submitted to MECP to meet the first quarterly report deadline outlining the consultation steps that have been undertaken to date with the NPCA's three participating municipalities, the City of Hamilton, Haldimand County and the Regional Municipality of Niagara.

Six quarterly reports will be required in total with the second report required October 1 this year and four in 2023. A final Conservation Authority report will be due January 31, 2024.

### **Financial Implications:**

Financial implications of Conservation Authorities Act changes and transition requirements are being addressed through internal efficiencies, existing staff resources, and Board approved reserve funding.

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**Related Reports and Appendices:**

Appendix 1: NPCA Quarterly Report #1, July 8, 2022 Ontario Regulation 687/21: Transition Plan and Agreements for Programs and Services. Section 21.1.2 of the Conservation Authorities Act

**Authored and Submitted by:**

*Original Signed by:*

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Chandra Sharma, MCIP, RPP  
Chief Administrative Officer/Secretary-Treasurer



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*Niagara Peninsula Conservation Authority  
(NPCA)*

*Quarterly Progress Report 1*

*As required for Conservation Authorities Act Amendments: Transition Plan and  
Agreements Regulation (O.Reg. 687/21)*

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*Submitted To:*

*Ministry of Environment, Conservation and Parks  
(MECP)*

*July 8, 2022*

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### **NPCA Transition Plan Deliverables for the Period Ending June, 2022**

#### **Completion and Submission of Transition plan November 2021:**

NPCA transition plan submitted to MECP, City of Hamilton, Haldimand County, and Niagara Region. Transition Plan has also been posted on NPCA website.

#### **Completion and Submission of Inventory of Programs and Services February 2022:**

NPCA Programs and Services Inventory submitted to MECP, City of Hamilton, Haldimand County, and Niagara Region.

#### **Joint Conservation Authority / Municipality Meetings for High Level Review of Regulation and Inventories:**

- On March 29, 2022, a joint meeting of all conservation Authorities was hosted with City of Hamilton senior staff and a decision was made to host follow-up meetings separately with each Conservation Authority.
- On June 13, 2022 NPCA staff met with Senior staff team from Haldimand County.
- On June 22, 2022 NPCA staff had their first meeting with Niagara Region staff.
- On June 27, 2022 NPCA staff met with Hamilton staff team.
- Meetings with NPCA lower tier municipalities are also underway to share the list of Programs and Services in anticipation of any Services Level Agreements (SLA). NPCA staff have met with the municipalities of Town of Lincoln, Town of West Lincoln, and Niagara-on-the-Lake. Meetings with the City of St. Catharines is planned for July 2022 and other municipalities will follow. NPCA has also made a presentation to join Niagara Area Planners meetings with Niagara Region.

#### **Summary:**

Initial meetings with municipal partners have been very productive. Initial discussion on cost apportionment agreements for Category 3 Services such as restoration and stewardship and Category 2 Service has also been positive. Key discussion points are:

- Development of business case for Category 3 services;
- More clarity for self-generated vs municipal levy for asset infrastructure;
- More support for monitoring for upcoming growth areas; and
- Initial discussion with Niagara Region to transition to the new budget model sooner (for 2023 budget cycle) instead of 2024. NPCA staff have been planning this and would like to execute the changes sooner than later.

Subsequent meetings will be organized to flush out any additions / changes to the Inventory in advance of any SLA initiation. At this time no changes or refinements to the inventory have been finalized for submission to MECP.





**GOVERNANCE COMMITTEE  
ONLINE VIDEO CONFERENCE  
AND IN-PERSON  
MEETING MINUTES**

**Niagara Peninsula Conservation Authority  
Main Office Boardroom  
250 Thorold Road, Welland, ON**

**Thursday, June 30, 2022  
9:30 a.m.**

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<b>MEMBERS PRESENT:</b>	J. Ingrao, Chair R. Brady B. Clark (departed at 11:00 a.m.) R. Foster K. Kawall E. Smith M. Woodhouse
<b>MEMBERS ABSENT:</b>	B. Johnson B. Mackenzie
<b>STAFF PRESENT:</b>	C. Sharma, Chief Administrative Officer / Secretary - Treasurer G. Bivol, Clerk D. Deluce, Senior Manager, Planning and Development L. Gagnon, Director, Corporate Services J. Culp, Manager, Compliance and Enforcement L. Lee-Yates, Director, Watershed G. Shaule, Administrative Assistant
<b>ALSO PRESENT:</b>	J. Hellinga, NPCA Board Member S. Spitale, North-South Environmental Inc. (attended at 10:50 a.m.) K. Wiancki, Planning Solutions Inc. (attended at 10:50 a.m.)

Chair Ingrao called the meeting to order at 9:31 a.m..

## **1. APPROVAL OF AGENDA**

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Recommendation No. GC-18-2022

Moved by Member Kawall

Seconded by Member Smith

**THAT** the Governance Committee agenda dated Thursday, June 30, 2022 **BE APPROVED** as presented.

**CARRIED**

## 2. DECLARATIONS OF CONFLICT OF INTEREST

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None declared.

## 3. APPROVAL OF THE MINUTES

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- a) Minutes of the NPCA Governance Committee meeting dated May 12, 2022

Recommendation No. GC-19-2022

Moved by Member Woodhouse

Seconded by Member Kawall

**THAT** the minutes of the meeting of the NPCA Governance Committee dated May 12, 2022  
**BE ADOPTED.**

**CARRIED**

## 4. CORRESPONDENCE

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None.

## 5. PRESENTATIONS

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- a) PowerPoint Presentation by Jason Culp, Manager, Compliance and Enforcement RE: NPCA Section 28 Compliance and Enforcement Procedural Manual - This presentation was related to agenda item 8. a) Report No. GC-08-22 RE: NPCA Section 28 Compliance and Enforcement Procedural Manual. Mr. Culp presented. Members emphasized customer service and the need to provide public updates and re-assurance that enforcement concerns were being addressed. Maintaining confidentiality during investigations and understanding how much information could be disclosed to the public were discussed.

Recommendation No. GC-20-2022

Moved by Member Kawall

Seconded by Member Woodhouse

**THAT** the PowerPoint presentation by Jason Culp, Manager, Compliance and Enforcement  
RE: NPCA Section 28 Compliance and Enforcement Procedural Manual **BE RECEIVED.**

**CARRIED**

## 6. DELEGATIONS

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None.

## 7. CONSENT ITEMS

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None.

## 8. DISCUSSION ITEMS

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- a) Report No. GC-08-22 RE: NPCA Section 28 Compliance and Enforcement Procedural Manual – Members discussed the need for directive language in the Procedural Manual to ensure clarity on who can attend site investigations and the discretion of the Officer to leave the site, the general safety of Officers and the importance of amicably resolving enforcement matters.

Recommendation No. GC-21-2022

Moved by Member Brady

Seconded by Member Kawall

1. **THAT** Report No. GC-08-22 RE: NPCA Section 28 Compliance and Enforcement Procedural Manual and Appendix 1 **BE RECEIVED**.
2. **THAT** Report No. GC-08-22 RE: NPCA Section 28 Compliance and Enforcement Procedural Manual including Appendix 1 **BE ENDORSED** with further consideration to address the concerns and recommendations expressed by the Governance Committee.
3. **AND THAT** staff **REPORT** to the Board of Directors for final approval of the NPCA Section 28 Compliance and Enforcement Procedural Manual.

**CARRIED**

- b) Report No. GC-09-22 RE: Single Source Contracts for the NPCA Policy Document Review and Procedural Manual Phase 2 Project – Leilani Lee-Yates, Director Watershed Management spoke to the report.

Recommendation No. GC-22-2022

Moved by Member Smith

Seconded by Member Woodhouse

1. **THAT** Report No. GC-09-22 RE: Single Source Contracts for the NPCA Policy Document Review and Procedural Manual Phase 2 Project **BE RECEIVED**.
2. **THAT** a capital contract award to Planning Solutions Inc. in the amount of \$68,000 (plus non-recoverable HST) **BE APPROVED**.
3. **THAT** a contingency of 10% or \$6,800 **BE ALLOCATED** to address any unforeseen costs associated with the Planning Solutions Inc. contract during the project implementation process.
4. **THAT** a capital contract award to North-South Environmental Inc. in the amount of \$62,983 (plus non-recoverable HST) **BE APPROVED**.
5. **AND THAT** a contingency of 10% or \$6,298.30 **BE ALLOCATED** to address any unforeseen costs associated with the North-South Environmental Inc. contract during the project implementation process.

**CARRIED**

- c) Discussion on Niagara Peninsula Conservation Authority Policy Review and Procedural Manual Phase 2 Project: Themes and Key Questions – The workshop was presented by Karen Wianeck, Planning Solutions Inc., Sal Spitale, North-South Environmental Inc., Leilani Lee-Yates, Director, Watershed Management and David Deluce, Senior Manager, Planning and Regulations. Members posed questions and discussion ensued.

Recommendation No. GC-23-2022

Moved by Member Smith

Seconded by Member Kawall

**THAT** the PowerPoint and presentation materials RE: Niagara Peninsula Conservation Authority Policy Review and Procedural Manual Phase 2 Project: Themes and Key Questions **BE RECEIVED**.

**CARRIED**

## 9. NEW BUSINESS

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- a) Verbal Discussion RE: Training Needs for the Remainder of the Term – Discussion was heard in respect of indigenous engagement and the need for diversity, equity and inclusiveness training.

## 10. ADJOURNMENT

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Recommendation No. GC-24-2022

Moved by Member Kawall

Seconded by Member Brady

**THAT** the Governance Committee meeting **BE** hereby **ADJOURNED** at 11:55 a.m..

**CARRIED**

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John Ingrao,  
Committee Chair

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Chandra Sharma, MCIP, RPP  
Chief Administrative Officer /  
Secretary - Treasurer

**Report To: Board of Directors**

**Subject: NPCA Section 28 Compliance and Enforcement Procedural Manual**

**Report No: FA-28-22**

**Date: July 15, 2022**

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**Recommendation:**

1. **THAT** Report No. FA-28-22 RE: NPCA Section 28 Compliance and Enforcement Procedural Manual and Appendix 1 **BE RECEIVED**.
2. **THAT** Report No. FA-28-22 RE: NPCA Section 28 Compliance and Enforcement Procedural Manual including Appendix 1 **BE APPROVED**.
3. **AND THAT** the NPCA Section 28 Compliance and Enforcement Manual **BE POSTED** to the NPCA website.

**Purpose:**

The purpose of this report is to present the NPCA Section 28 Compliance and Enforcement Procedural Manual to the Board of Directors for approval.

**Background:**

The Compliance and Enforcement service area at the Niagara Peninsula Conservation Authority (NPCA) plays a pivotal role in the protection and conservation of wetlands, shorelines, valley lands and other natural hazard areas within the NPCA's jurisdiction. The overall objective is ensuring the requirements of Ontario Regulation 155/06 and NPCA's other development policies are adhered to, and to assist other agencies in obtaining compliance with other regulatory requirements.

The purpose of this procedural manual is to outline and provide guidance to regulations staff with regards to the NPCA's approach to Section 28 compliance and enforcement activities. This includes complaint response, identifying known or potential violations, and making decisions on the appropriate levels of action to take for complaints, violations and non-compliance issues.

At the March 25, 2022, Full Authority meeting, staff identified through Board Report No. FA-09-22, several continuous improvements to the compliance and enforcement service area for 2022, including a Section 28 Compliance and Enforcement Procedural Manual to form part of the new NPCA Procedural Manual. This procedural manual works in conjunction with and has regard for but does not replace the Board-approved NPCA Section 28 Enforcement Guidelines, 2011.

## Discussion:

Compliance and enforcement response to regulatory complaints, potential violations or issues of non-compliance should be proportionate to the level of risk presented by the activity, the hazard involved and the landowner's willingness to work with the NPCA towards a resolution. The NPCA compliance and enforcement service area has been working over the past few years to continuously improve Officer training; formalizing operational procedures; enhancing data collection, retention and reporting functions; building agency partnerships and developing external communication tools such as a revised webpage and dedicated complaint reporting avenues for the public.

NPCA regulations staff also participate on the Regulatory Compliance Committee of Conservation Ontario and have been involved in assisting with developing and delivering updated Level 1 and Level 2 Officer training courses as well as several other projects related to improving and standardizing compliance and enforcement processes and procedures for all Conservation Authorities involved in Section 28 and Section 29 activities. NPCA regulations staff have also aided and worked collaboratively with other Conservation Authorities on developing their operating procedures and procedural manuals.

Customer service is a key component of the work undertaken by the Compliance and Enforcement service area in relation to complainant response, landowner and other regulatory agency relationships. Currently there are three avenues for the public to report a complaint or potential violation to the NPCA, an online complaint form (<https://npca.ca/services/enforcement-compliance>), a dedicated email address at [TIPS@npca.ca](mailto:TIPS@npca.ca) and a dedicated voicemail system at extension 255. Regulations staff provide an initial response to complaints related to potential violations generally through whichever means the complaint was received (e.g., voicemail, email, or automatic acknowledgement from the online form). However, to protect the privacy and rights of the landowner, individual or company where legal or court proceedings are a possibility, in most instances regulations staff will not provide on-going follow up with or updates to a complainant unless additional information is required from the complainant. In situations where the NPCA is not the appropriate agency to respond to a concern, staff may direct the complaint to the appropriate agency, such as a provincial ministry or agency, a federal government department or local municipality.

To further improve customer service, the NPCA has also been working on revisions and updates to their CityView software which is used to coordinate planning, permitting and compliance files. A component of these updates will include a CityView Compliance Portal which can be accessed by the public to submit a complaint concerning a potential violation to the NPCA and review the status of the complaint (if the complaint is currently open or has been closed [resolved] by the NPCA). It is anticipated that this portal will be functional by the end of Q2 in 2023.

Since 2019, many program improvements have been implemented and regulations staff are continuing to focus on building a resilient compliance program and working through a backlog of compliance and enforcement files. Moving forward, enhancing customer service, educational awareness of the program, and staff training and safety, will be key improvement areas.

The NPCA Section 28 Compliance and Enforcement Procedural Manual will serve as an internal NPCA guidance document and training resource and as a valuable reference and communications tool for NPCA staff, Board members, NPCA agency partners, residents and the general public. Once approved by the Board, the procedural manual will be made available to the public through the Compliance and Enforcement webpage on the NPCA website.

## **Financial Implications:**

There are no financial implications specific to the Board approval of the NPCA Section 28 Compliance and Enforcement Procedural Manual.

## **Links to Policy/Strategic Plan**

The duties carried out by the Compliance and Enforcement business unit are part of the Niagara Peninsula Conservation Authority's mandate and support NPCA's Strategic Plan 2021-2031 to protect people and properties from natural hazards and climate impacts.

## **Related Reports and Appendices:**

Appendix 1: NPCA Section 28 Compliance and Enforcement Procedural Manual

## **Authored by:**

*Original Signed by:*

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Jason Culp, C. Tech., EP  
Manager, Compliance & Enforcement

## **Reviewed by:**

*Original Signed by:*

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Leilani Lee-Yates, BES, MCIP, RPP  
Director, Watershed Management

## **Submitted by:**

*Original Signed by:*

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Chandra Sharma, MCIP, RPP  
Chief Administrative Officer/Secretary-Treasurer



# **Niagara Peninsula Conservation Authority**

## **Section 28 Compliance and Enforcement**

### **Procedural Manual**



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## Compliance and Enforcement Procedures

### 1.0 General

The Niagara Peninsula Conservation Authority (the Authority) is responsible for the administration of Ontario Regulation 155/06 pursuant to the Conservation Authorities Act. Regulations staff consider the text of the Conservation Authorities Act, and Regulations to determine if an occurrence is in non-compliance with or a contravention of Section 28 of the Act. In order to resolve contraventions, Regulations staff consider the planning and development policies of the Authority in conjunction with applicable Provincial Legislation.

These compliance procedures explain the Authority's approach to compliance and enforcement activities. This includes how regulations staff respond to complaints, identify known and potential violations, and make decisions on the appropriate level of actions to take for complaints, violations and non-compliance issues. The purpose of this manual is to provide guidance to staff. There may be occasions where staff use their professional discretion while exercising their authority to administer legislation that varies from the contents in this document. To understand the scope of authority an Officer has under Conservation Authority applicable legislation please refer to the province's e-laws website.

*Conservation Authorities Act:* <https://www.ontario.ca/laws/statute/90c27>

*Ontario Regulation 155/06:* <https://www.ontario.ca/laws/regulation/060155>

### 1.1 Requirements of Officers

The implementation of this Procedural Manual requires that Officers of the NPCA:

- shall be appropriately appointed by the Board of Directors and meet all requirements of being designated as a Provincial Offences Officer.
- will always carry copies of the Legislation and Regulations that they are responsible for, and appropriate equipment such as proper identification (business cards), evidence notebook, and cell phone.
- must be aware of the Charter of Rights, the *Occupational Health and Safety Act* as well as the health and safety policies of the Authority (i.e., Working Alone Policy).
- must use their judgement when travelling alone and only proceed with an inspection, investigation, discussion with property owners, contractors, or others if there is no real or perceived threat to their safety or well-being. Officers should attend properties in uniform and in NPCA marked vehicles. If appropriate regulations staff should plan on attending sites with another regulations or NPCA staff member.

- shall have regard for all processes and procedures as outlined in the *Provincial Offences Act*, *Conservation Authorities Act*, NPCA Section 28 Enforcement Guidelines, 2011, this procedural manual, internal operating procedures and applicable NPCA policies.

## 2.0 Risk Based Approach to Compliance and Enforcement

The NPCA's approach to delivering the compliance and enforcement program is based on potential risk to people, property and environmental features, and failure to comply with the requirement to obtain permission prior to development or interference under the *Conservation Authorities Act*. Efforts will be focused where the potential for risk is highest, allowing the Authority to focus on resolving matters that are having the most significant impacts.

Compliance and enforcement staff will investigate complaints, issue Notices of Violation, complete Part III Summons and Information's, and other duties in accordance with the processes and procedures as outlined in this document and all applicable NPCA policies.

### **Higher-Risk Focus / Lower-Risk Referral:**

- Staff will focus on responding to higher-risk incidents (e.g., large fill within floodplains, realigning or removing a watercourse, major development/grading activities on shorelines and slopes).
- Incidents that are determined to be lower-risk or in areas not regulated by the NPCA will be referred to the appropriate level of government or agency. This will also include incidents or potential violations where municipalities have the authority under the *Municipal Act*, 2001 to address these types of incidents through bylaws, which would be the appropriate legislative mechanism for compliance (e.g., Site Alteration Bylaws).

Staff will follow standard operating procedures when considering the potential level of risk associated with an unauthorized development and determining the appropriate level of action. The compliance history of offenders may also be considered in conjunction with the risk analysis.

**Table 1 – Development Activity Risk and Response Matrix**

Hazard Area Risk		Development Activity Risk and Response		
		Low	Medium	High
		Meets Guidelines - Could Be Approved Under Policy	Low Impacts or Impacts Can Be Mitigated. High Likelihood of Compliance	Mitigation Difficult - Does Not Meet Guidelines - High Hazard Area or Major Activity Risk.
	Low	Low Priority Response	Low Priority Response	Moderate Priority Response
	Medium	Low Priority Response	Moderate Priority Response	Moderate Priority Response
	High	Low Priority Response	Moderate Priority Response	High Priority Response

**Table 2 – Response Priority Descriptions**

Low Priority Response	Regulations staff may not fully investigate these matters depending on volume. Focus will be on education and outreach, deterrence and possible restoration or approval if time and resources are available.
Moderate Priority Response	Regulations staff will endeavour to respond to and investigate these matters as time and resources allow with a focus towards voluntary compliance through approval for unauthorized works, remediation, or restoration. Court proceedings may be warranted depending on the level of landowner compliance and nature of the potential violation.
High Priority Response	Regulations staff will respond to and investigate all matters deemed a high priority within the timelines of the <i>Provincial Offences Act</i> . Focus will be on likely court proceedings, remediation/restoration in the public interest, deterrence, and risk reduction.
No Risk	Regulations staff will not respond to frivolous or vexatious complaints, incidents with insufficient information provided, or not clearly within the jurisdiction of the Conservation Authority.

Response priority levels may change during the course of further investigation. Any matter which progresses to legal action or court proceedings will take priority over all other incidents, complaints and potential violations due to procedural timelines under the *Provincial Offences*

Act, laying an Information and service of Summons, solicitor and court requirements for timely correspondence and documentation, court appearances, negotiations and corporate liability.

## **2.1. Procedures for Receiving and Responding to Complaints**

All reported incidents and potential violations should be directed to the regulations staff. Whenever possible, other NPCA staff should not be responding to complaints or concerns from the public or other clients where there is information to indicate that it may involve a potential violation. This process is in place to ensure that incidents are properly reported, validated and lawfully investigated in-line with NPCA compliance and enforcement procedures. The NPCA maintains a dedicated and informative Compliance and Enforcement webpage which includes an online complaint form (<https://npca.ca/services/enforcement-compliance>). The NPCA also has established a dedicated email address at TIPS@npca.ca and an enforcement extension at 255 to help ensure that complaints are appropriately directed to the regulations staff and include all required information. Regulations staff do not answer the enforcement extension, and voicemails are to be left by the complainant which will be screened based on the Procedural Manual and directed to the appropriate NPCA staff accordingly.

Regulations staff provide an initial response to complaints related to potential violations generally through whichever means the complaint was received (e.g., voicemail, email, or automatic acknowledgement from the online form). However, to protect the privacy and rights of the landowner, individual or company where legal or court proceedings are a possibility, in most instances regulations staff will not provide on-going follow up with or updates to a complainant unless additional information is required from the complainant. The NPCA cannot provide details or information on an open complaint, incident or potential violation file to the public or any internal or external staff who are not directly involved in the compliance matter once an investigation is underway. Exceptions may include Municipal By-Law, and other public agency enforcement staff with overlapping statutes and regulations.

In situations where the Authority is not the appropriate agency to respond to a concern, staff may direct the complaint to the appropriate agency, such as a provincial ministry or agency, a federal government department or a local municipality.

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

As part of the procedures a regulations staff person will, whenever possible, make best efforts to collect the following information prior to undertaking any further investigation. This

information may be collected through the online complaints form, dedicated email address or enforcement telephone extension.

- a) Complainant's full contact information if required. This is necessary as a complainant may be contacted to provide a witness statement and appear in court.
- b) Address and approximate location on the property where the work is occurring.
- c) Full details of the works occurring and dates (NOTE: the length of time between when the development or interference has occurred and when it has been reported to or discovered by the NPCA may influence the priority level assigned).
- d) Pictures of the occurrence (if possible).
- e) Description of the companies/person seen undertaking the work.
- f) Accessibility of the site (is it visible from the road, or from the complainant's property? If visible from the complainant's property can Officers enter their property to make observations of the complaint).

If sufficient information cannot be initially obtained by regulations staff to support an Officer proceeding with a lawful investigation of the concern or complaint, no further action will be taken. This includes complaints received where the complainant indicates they want to remain anonymous as any person providing information to the NPCA for the purpose of reporting a potential violation may be required to provide a witness statement and be prepared to appear in court. This information will still be documented in the Compliance database for reference.

Once a complaint is received and initially deemed valid by regulations staff, a more fulsome review of the site will be completed. The works or activities need to be confirmed as a potential violation or non-compliance with a works permit issued by the Authority. To determine whether the works or activities are a potential violation or non-compliance, the following are preliminary steps which will be undertaken to the extent required:

1. Consult the NPCA regulations mapping to confirm if and how the property is regulated by the NPCA and if due diligence by the property owner would have made that clear (i.e., does the mapping show the property as regulated and would the owner have been made aware that the property is regulated, had they inquired with the NPCA?);
2. Consult the NPCA property, planning and permits datasets to determine if any approvals have been issued for the works, and discuss with internal staff as required;
3. Consult any other information sources available to determine any past history with the NPCA and the property; and,
4. If required, contact municipal staff or other appropriate agency staff to see if there is a shared concern and if so, how they would like to be involved.

If it is confirmed that the property or area on the property is not regulated by the Authority, then all required information must be entered into NPCA's Compliance database. Based on the

source and nature of the concern or complaint, the regulations staff may choose to follow-up with the complainant, indicating that there are no compliance concerns and that the Authority considers the file closed. This type of follow-up is particularly suggested for files where the initial source of the information is from municipal, or other agency staff.

If it is confirmed that the property is regulated and a permit has been issued for the described works and there are not any compliance concerns, then this information must be clearly documented in the Compliance database and the file closed. Based on the source and nature of the concern or complaint, staff may choose to follow-up with the complainant, indicating that there are no compliance concerns, and that the Authority considers the file closed. This is important for files where the initial source of the information is from municipal, or other agency staff.

If it is confirmed that the property is regulated and it appears that a permit has not been issued for the described works or activities, regulations staff will determine the risk associated with the activities based on the Development Activity Risk and Response Matrix (Table 1) and the location described in the complaint. The next steps will be determined based on the response category.

If it is confirmed that the property is regulated and a permit has been issued for the described works, however, there may be non-compliance with the conditions, then regulations staff may contact the permittee and arrange for a site inspection under the permission of the permit.

For all scenarios, a concurrent complaint folder will be created on the Compliance NPCA network drive and all relevant correspondence, photos, emails, permits, or other information will be stored within that file moving forward.

## **2.2. Inspections and Investigations**

Inspections involve monitoring for regulatory compliance and may include the collection of evidence to support regulatory requirements. Investigations involve instances where the predominant purpose of the inquiry is the determination of penal liability (*R. v Jarvis*, 2002), involves the collection of evidence, and are carried out to support a resolution or enforcement outcome including potential prosecution. The attained threshold of an investigation will be determined on a case-by-case basis in accordance with the relevant policies; but in their simplest sense are to be undertaken when there are reasonable grounds to believe non-compliance has occurred.

## **2.3. Access to Property**

Access to property is an important consideration when seeking to enter a property. The methods used to access a property, will influence the demeanour and cooperation of the



landowner. In addition, when property access is lawfully obtained, it prevents the legal defence of a charter violation which will cause evidence collected to not be allowed in a court proceeding and alleviates the risk of a trespass lawsuit against the Authority or individual staff. To ensure the best opportunity for negotiating with a landowner and maintaining the integrity of evidence, the rights of the property owner must be respected.

There are three types of authorities available to staff to enter private property. These are statute authority, consent, and judicial authorization.

### **2.3.1 Statute Authority**

Conservation Authority staff have certain powers to access private property without the consent of the owner/occupiers available to them as outlined in Section 28 (subsections 20 through 23) of the *Conservation Authorities Act*. This authority shall only be exercised for entry onto open land and does not confer the power to enter buildings or structures. There are two circumstances in which staff may exercise this authority, specifically:

- A permit application has been submitted and the staff is entering for the purpose of considering the application; and
- Staff have reason to believe that a contravention of Ontario Regulation 155/06 is taking place on the property and this contravention is causing or is likely to cause significant environmental damage; and further that, the entry is taking place for the purpose of enforcing the Regulation and the entry is necessary to prevent or reduce the significant environmental damage.

For staff to exercise this authority to enter private property under one of the above circumstances, additional statutory obligations must be met including:

- The entry is made at a “reasonable time”
  - The customary time for a search to be carried out on property where there is an expectation of privacy in accordance with a search warrant is between the hours of 6AM and 9PM as established by the Provincial Offences Act. Almost all property inspections will be carried out by staff during the regular business hours of the Authority, 8:30 AM – 4:30 PM; constituting a reasonable time.

- “Reasonable notice” has been given to the owner and occupier of the property, provided that the occupier is not the owner
  - Under the Occupiers Liability Act, an occupier is a person who is in physical possession of premises, OR a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises.
  - The transmission of notice given to owners and occupiers and its agreeance to reason must be contemplated on a case-by-case basis considering the totality of the circumstances. Generally, the Authority provides a notice of entry of two days.
  - This notice is not required in the case where staff have reasonable grounds to believe that the time required in giving the notice would likely to lead to significant environmental damage.

In many instances, clients and landowners are cooperative with regulations staff when contact is made either for investigative purposes or to advise of notice of entry. At the discretion of staff, notice of entry can be given for periods that suit both client and staff availability,

### **2.3.2 General Protocols to Follow Prior to Entering a Property**

The investigating Officer will adhere to the following protocols and be guided by the NPCA health and safety Working Alone Policy and compliance and enforcement standard operating procedures:

- Every effort to contact the landowner/occupier and obtain permission before attending a site visit at the property (i.e., exhaust all reasonable avenues), will be made.
- The owner and/or the occupier will be sought upon entering private property.
- Prior to undertaking any further inspection of the site, the Officer will clearly explain why they are attending the property, what the potential outcomes may be, explain expectations for who should attend the property (i.e., the landowner and their representatives) and gain the landowner’s consent to continue with the investigation if entry is not for the purpose of determining compliance with an issued permit.
- If at any time during the inspection, the Officer feels threatened, there is discomfort with the circumstances, there is interference with their investigation or the potential for perceived bias, the Officer should leave the site immediately at their discretion and contact their immediate supervisor as soon as safely possible.
- If the Officer is asked to leave the site, the landowner/occupier should be thanked for their time and the Officer will leave immediately. The Officer should not return to the site without a Search Warrant or further review of the issued permit, in this case. Detailed notes about the request to leave should be made by the Officer as soon as possible after leaving the property.

- If there is significant environmental harm, or risk to life or property happening or about to occur, the Officer will issue a caution to the landowner, return to the office, and initiate the appropriate next level of enforcement actions with approval from their immediate supervisor or other appropriate management staff.
- If the property is gated or has clearly visible “No Trespassing” signs, the Officer will not enter the property without the permission of the landowner/occupier or under the authority of search warrant.

## **2.4. Starting a Violation File**

Once the Officer has confirmed that the works occurring are likely a violation, a formal violation file should be opened. At minimum, information about the landowner is required. In addition, information about the contractor, if available, should be filed. Once the file is opened, any further site reconnaissance becomes an investigation.

Once a Violation file has been opened, the Officer will prepare and deliver a formal Notice of Violation.

## **2.5. Compliance/Unauthorized Works Approval Process**

In many scenarios regulations staff may be able to obtain voluntary compliance and provide written permission for unauthorized works if the works meet the NPCA’s policies for the administration of Ontario Regulation 155/06 (e.g., development that was completed in the absence of a permit) or issue permission and the specific conditions for site remediation through a works permit. A permit for unauthorized works or for remediation works should be pursued only when there is a strong indication that the landowner(s) and/or contractors are willing to work with the Officer to resolve the issues of non-compliance.

The Officer will adhere to the following protocols when a violation can be resolved through a works permit to obtain voluntary compliance

- A NPCA permit to restore the site/property is required when development/alteration has been done without a permit, in contravention of the legislation and does not meet NPCA policy. The Officer will present the landowner with an opportunity to undo the unauthorized work without risking further enforcement action. A permit application and associated drawings and studies showing how the restoration of the site will occur is required as well as the appropriate permit fee with an applied Compliance Surcharge as outlined in the Board-approved Fee Policy.

- A permit for unauthorized works may be considered when development/alteration is done without a permit but has high potential to be allowable under the legislation and will meet NPCA policy (i.e., would have likely received an NPCA permit had the landowner/agent applied for one). Where it is determined that the development could meet NPCA policy, a permit may be issued for the development following the normal NPCA permit process including a permit application and associated drawings and studies as well as the appropriate permit fee with an applied Compliance Surcharge as outlined in the Board approved Fee Policy.

A permit to authorize works already undertaken may be an appropriate method for achieving compliance where the development would meet NPCA's policies. This process is initiated and documented by the Officer and under the advice of the Officer is processed by a Watershed Planner in coordination with other technical staff as required.

## **2.6. Preparing for Part III Information's, Unwilling or Non-Compliant Landowner**

If the landowner is unwilling or unable to work with the Authority for voluntary compliance, the violation becomes an enforcement matter and the following procedures should be initiated.

Once the formal enforcement process commences, a Notice of Violation should be sent if one has not been already issued. A Notice of Violation is a formal letter issued informing the landowner and/or contractor that it is believed an offence under the Conservation Authorities Act has occurred or is occurring on the subject property. The Notice of Violation should detail the type of violation, recommend mitigation steps, and provide details about risks associated with being found guilty of an offence of the *Conservation Authorities Act*.

The *Provincial Offences Act* is the guiding legislation which establishes the procedures for prosecution (charges, laying of charges) of provincial offences in Ontario. The Act is structured so as to distinguish relatively minor infractions from the more serious offences.

There are two methods of initiating legal action under the *Conservation Authorities Act* and they are distinguished by the original charging document (determined by the *Provincial Offences Act*). The method used to initiate the charging or offence notice has significant consequences at trial, on appeal and with respect to sentencing.

Court action initiated through the laying of an Information or a Part III Summons to court is considered serious and leads to penalties and Orders. Anyone may initiate proceedings by way of an Information or Part III proceeding, providing they believe "on reasonable and probable grounds" that an offence has been committed. The NPCA requires that the initiation of a Part III is undertaken by a designated Provincial Offences Officer employed by the Authority after review and consideration by their immediate supervisor or Director and possibly legal counsel.

### 2.6.1 Investigation

Investigations begin when the Officer has established reasonable grounds to believe an offence has occurred. As soon as it is confirmed that development has occurred in a regulated area without permission, the process has moved past a site visit and into an investigation. Where the landowner is willing to work with the Officer and the infraction either can be remediated or has the potential to meet policy, the Officer works towards compliance. However, where the landowner is uncooperative or unwilling to work with the Officer, a formal caution will be issued, and the enforcement process begins.

It is acceptable to revisit the site with the owner's consent and knowledge that the visit is for investigative purposes. This allows the owner time to consider options and whether they would like to consult with agents or representatives before entertaining such a visit. It is imperative that the Officer launches the following legal protocols to ensure that any evidence collected is admissible.

### 2.6.2 Facts in Issue

The purpose of conducting an investigation is to search for and gather evidence that will substantiate the facts in issue and support potential court proceedings. The onus is on the prosecutor (the Conservation Authority) to prove beyond a reasonable doubt that the defendant is guilty of the alleged offence. The example charge below provides the details of a potential violation or non-compliance scenario followed by the evidence which would need to be collected to support laying a charge.

#### Example Charge:

"On or about the 9th day of October 2020 John Smith unlawfully undertook development to wit placement of fill within 0-120m of a Provincially Significant Wetland without written permission from the Niagara Peninsula Conservation Authority."

In the above example, the following facts in issue would need to be proven:

1. **Date of the offence** – the offence occurred on the 9th of October 2020
2. **Name of the guilty party** – John Smith is the guilty party
3. **Development** – development occurred (if a removal order is being sought, the Officer would also need to prove how many loads of fill were placed)
4. **Type of development** – the nature and extent of the unauthorized development
5. **Location of offence** – the offence occurred within 0-120m of the Provincially Significant Wetland
6. **Existence of the Provincially Significant Wetland** – a Provincially Significant Wetland exists within 0-120m of the development
7. **No written permission** – permission was not previously provided to the accused

### 2.6.3 Investigation and Risk Assessment

The severity of the violation will dictate the level of investigation needed. In cases where the violation is egregious and has negatively impacted the control of flooding, erosion, pollution, dynamic beaches or the conservation of land or has caused significant interference with a wetland or watercourse, the Officer must conduct a full investigation. The Officer will also consider the appropriate compliance/enforcement outcomes based on the willingness of the person(s) being dealt with and the level of risk the violation poses as per the Development Activity Risk and Response Matrix (Table 1).

When a violation is deemed minor in nature and will likely not require the Conservation Authority to seek a Section 28(17) order, the Regulations Officers should record the Information in the basic facts in issue example. Who, what, where, when and how need to be discovered and documented.

A full investigation requires the Officer to determine all of the facts associated with the violation. This process is similar to the facts in issue but expands the minimum facts for a conviction.

The Officer will endeavour to gather the following evidence.

1. Property owner information
2. Contractor information
3. Third party involvement information
4. Land ownership documents
5. Documentary evidence associated with the violation
6. Emails
7. Contracts
8. Invoices
9. Correspondence
10. Measurements
11. Photos/video
12. Witness statements
13. Statements from the accused
14. Historical documents
15. Maps
16. Air photos
17. GPS Points and/or Surveys
18. Drawings

### **2.6.4 Statements**

Where the violation is significant and court prosecution is likely, formal statements may be taken from the accused and all witnesses, including other Conservation Authority staff or other agency staff if appropriate. The time that the statement was started and finished must be noted and the statement signed. The last question asked during all statements will be, “Do you have anything you would like to add?” The person must be given the opportunity to read over the statement and sign and date it.

A statement is typically presented in a question-and-answer format. It tells the story of the incident from the view of the accused and/or the witness. The Officer or the accused/witness may write the statement. It is important to take statements from witnesses, if possible, or at least obtain their contact information for further follow-up. The witnesses should write down their version of the events, including answering “who, what, where, when and how.” The investigator may ask questions to fill in any blanks or clarify missing information, recording further questions and answers. Each witness statement must be reviewed and signed by the witness.

Throughout this process, it is important to educate the landowner about the applicable legislation and any related environmental issues and continue to work co-operatively to try to resolve the violation through removal/amendment of the completed works or site restoration. In instances where the violation is considered low risk, evidence should be taken in a comprehensive, but relatively informal manner and statements recorded to allow for the commencement of proceedings at a later date should compliance not be forthcoming.

### **2.6.5 Caution**

If there are reasonable grounds to believe that a person has committed an offence and a formal statement can be obtained from the accused, a formal legal “caution” must be given to the accused. This is done by directly reading from a “caution card” or evidence notebook. The purpose of the caution card is to advise the “accused” of their rights under the Charter of Rights. A formal statement taken without the accused first being cautioned may not be admissible in court, should the investigation result in formal charges. The caution can also be found in the rear section most formal evidence notebooks. After reading the caution, the offender must be asked if they understand the caution and their exact response must be recorded in the notebook.

### **2.6.6 Collection of Evidence**

When the process moves from inspection to investigation, the Officer must actively search for evidence to support the facts in issue. The Officer must follow legal requirements before searching for and collecting evidence. This should not be confused with the inspection

authorities as these authorities do not permit the collection of evidence. While searching for evidence, the Officer will determine if a search warrant(s) is needed, whether the information is given voluntarily without threats or inducements, and whether the person being investigated is aware of the legal jeopardy associated with the investigation. The aforementioned considerations need to be made continuously throughout the investigation.

### **2.6.7 Notebooks**

Notes should be taken either at the time or as soon as possible for every compliance site visit or occurrence. Notes must include the date, time, names, weather, location, vehicle involved (colour), description of people, and any other relevant details. A detailed written record of the incident will ensure that Officers are able to recall details and outline the relevant information with regards to the incident. Detailed notes are also necessary as they will often become admissible as evidence in court. This situation may present in cases where a statement has been given to an Officer and the individual who made the statement subsequently changes their facts.

Where reference is made to notes, the Officer(s) must be prepared for defence counsel to request to see them. Officers are required under law to disclose their notes as part of a Crown Brief. For this reason, terminology in notes will be proper and business-like. Use of derogatory terms or slang expressions should never occur in notes.

#### **2.6.7.1. Contents of Notebook**

1. Write name, business address, and badge number (if applicable) on the front cover.
2. Write the starting date on the front cover.
3. Write the final date on the front cover when the book is completed.
4. All pages of the notebook must be numbered prior to the first entry.
5. Write any and all issues that pertain to the Inspection/Compliance enforcement work.
6. Notes assist memory during an investigation/inspection/court case.
7. Make notes at the time of the occurrence or as soon after the occurrence as is feasible.
8. The Officer will often be asked questions by the defence counsel relating to when the notes were made, and should therefore be prepared to answer that they were made as soon as possible following the occurrence. No reference can be made to notes which were made beyond this period.
9. Make entries in chronological order.
10. Do not leave large blank spaces left in the book between entries.
11. Any errors or mistakes will have a single line drawn through them. Do not erase.
12. Use a black pen.
13. The first item for every separate entry must be the date.
14. Notes should answer the WHO, WHAT, WHEN, WHERE, WHY and HOW.



15. Request that all other Authority staff in attendance make their notes on the matter recorded in a bound notebook.

#### **2.6.7.2. Storage of Notes**

The Provincial Offences Officer and other Authority staff are responsible for retaining notebooks in a safe place indefinitely.

Some Authority staff use a hard covered bound notebook that is 8 ½ x 11", larger than a typical evidence notebook. Any notebook used by any staff must be bound to ensure that no information has been removed and the pages must be numbered by the manufacturer. Any information that is not written in the notebook (i.e., on a loose piece of paper) must be kept in its original form and married to the notebook either by fastening them into the notebook (i.e., stapled) or referencing them in the notes as a separate piece of paper. These separate notes must be kept and disclosed in the same manner as evidence notebook notes.

#### **2.6.8 Photographs**

According to Section 30.1.(4) of the Conservation Authorities Act, Officers are given the authority to make any photographic or other records that may be relevant to the inspection. Using a camera, take a series of pictures of the violation. Whenever feasible Officers will endeavour to undertake photo documentation in the following manner:

1. Overview Shot – covers the entire surroundings.
2. Mid-range shot – narrows toward particular important aspects or objects and shows them in reference to their surroundings.
3. Close-up shot – displays details of an object or important area.

Officer notes will reflect the systematic manner in which any supporting photographic evidence is collected. Drawing a site diagram in notes and placing markers to show vantage point is highly recommended. Photographs should be taken of the work area, the undisturbed areas all around and on either side and/or up and down stream. A reference element for scale such as a person, vehicle or measuring device and as well as a panoramic view of the landscape including the occurrence should be part of the photographic evidence.

Hard or paper copies of all the photographs should be included in the compliance file. Photographs should be marked with the date of the photo, the name of the photographer & signature, location/direction of the photo and a brief description of the photograph. If using a digital camera (including cell phones), all photos taken must kept in a secure location where the Officer is assured the photos cannot be damaged, tampered with, erased or the properties of the digital image altered or changed. It is best practice to retain a paper copy and a digital copy in the respective files.

### **2.6.9 Measurements**

Using a measuring tape where possible collect the height, width, length of all disturbed areas, size of structures or alteration of any kind which may form part of the potential violation. GPS coordinates of the disturbed area or location of the incident on property mapping can also be useful in determining the extent and significance of any offence as it relates to property boundaries, location to or within hazard lands, etc.

### **2.6.10 Consent to Search**

Regulations staff must ensure that investigated parties' rights are always respected. It is recommended that if an Officer believes the violation is of a serious nature, before commencing a search for evidence on private property, the Officer must conduct a consent to search.

Consent exists if the following is present:

1. There was a consent, either express or implied;
2. The consenting party has the authority to give the consent;
3. Consent was voluntary and not the product of Officer oppression, coercion, or other external conduct negating freedom to choose not to consent;
4. The consenting party knew of the nature of the Officer conduct to which he or she was being asked to consent;
5. The consenting party knew they had the ability to refuse the search; and,
6. The consenting party was aware of the potential consequences of giving the consent

### **2.6.11 Search Warrant**

The Conservation Authorities Act outlines that a search warrant can be obtained under Part VIII of the Provincial Offences Act and can authorize (if named) other people to assist Officers as required. The Provincial Offences Act provides Provincial Offences Officers the ability to obtain search warrants when an Officer either suspects an offence has occurred or has reasonable grounds to believe an offence has occurred. Once evidence is obtained under the authority of a search warrant, the evidence cannot be challenged as unlawfully obtained. When possible and when the situation dictates, the Officer will obtain a search warrant. The reasons for and desired outcomes of executing a search warrant must be discussed with the Officer's immediate supervisor prior to obtaining or executing a search warrant. Additional discussion with legal counsel may be advisable at this time.

### **2.6.12 Return to a Justice**

Once a search warrant has been executed and evidence collected, the Officer must do a return to a justice as soon as practical (see Provincial Offences Act). If proceedings are not

commenced within 3 months or a detention order has not been issued, the seized evidence (drawings, etc.) must be returned.

### **2.6.13 Creation of a File Synopsis**

Once the evidence has been examined and catalogued, the Officer should draft a File Synopsis or “mini-crown brief” that details the facts in issue. The brief will expand on the occurrence report and provide a detailed synopsis of events. This brief must be reviewed with the Officer’s immediate supervisor prior to proceeding to laying a charge. Additional discussion with legal counsel may be advisable at this time.

### **2.6.14 Charges**

Only when the Officer establishes reasonable grounds to believe a person has committed an offence, will they have the legal authority to swear an Information detailing the alleged offences. In cases where the offence supports the laying of charges, the Officer will appear before the courts to swear an Information.

### **2.6.15 Limitation Period**

The Conservation Authorities Act has a two-year limitation period. Once an Officer has established reasonable grounds to believe an offence has occurred, there are two years to conduct an investigation before charges must be sworn. If the Officer does not swear an Information within two years of establishing reasonable grounds, the Justice of the Peace will not accept the Summons and the Authority will be unable to obtain Section 28(17) orders. It should be noted that post November 1, 2010, the date of the alleged violation has no impact on the limitation period.

### **2.6.16 Part III Information (laying a charge)**

An Information is the charging document in a criminal prosecution which initiates a court action, proceeding or charge for a Provincial Offence. This is usually reserved for more serious offences. “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, an Officer will swear the Information at the municipal courthouse in the presence of a Justice of the Peace (intake court). An Information will not be undertaken without consultation the Officer’s immediate supervisor and likely in consultation with legal counsel.

The Officer must be prepared to explain the particulars of the offence to the Justice at intake court and indicate the reasons for being confident that the Information is the truth.

The Information contains:

- The Officer’s name, organization, occupation, and signature;

- The defendant's name or description and address;
- The charge;
- The date and location of the offence;
- The Legislation and Ontario Regulation # and Offence section;
- The signature of the Justice of the Peace/Judge;
- Court date and location (there are set times for First Appearances).

"Information" forms can be obtained at the court office or as online forms if available. If online forms are used, two copies of the Information will be prepared on yellow paper. One will stay with the court signed by the Justice of the Peace and the other will go into the case file. An Information can be sworn by anyone. The Summons which is the notification form used to inform the offender that a charge has been laid against them in Provincial Court must be served by a Provincial Offences Officer.

### **2.6.17 Summons**

Once an Information has been sworn, a Summons will be issued. It is the responsibility of the Officer to serve the Summons as soon as practical as per the requirements of the Provincial Offences Act. It is recommended that the Officer contact the charged party to arrange an appropriate time and location to personally serve the Summons. If the charged individual does not arrange a time or place to meet and receive service, the Officer may have to work outside of regular hours in order to effectively provide the service.

If required, the Provincial Offences Officer may contact the appropriate Police service station to request that a Police Officer attend and assist with issuance of the Summons or if police presence is not necessary that another NPCA staff person (preferably another Officer) attend with the Officer.

### **2.6.18 Affidavit of Service**

It is imperative that the Officer documents how service was carried out and attend the court to swear an affidavit of service as soon as practical, but no later than one week after serving the Summons. A signed copy of the affidavit of service is to be put in the case file.

### **2.6.19 Field Summons**

There are times when it would be impractical to swear an Information and serve a Summons. This may be because the alleged offender is transient and be difficult to find. In these cases, while an Officer is on site it may be appropriate to issue a field Summons. Before an Officer issues a field Summons or files it at the court, the Officer will obtain direction from their immediate supervisor.

### **2.6.20 Legal Documents**

Before charges are laid, the Officer should prepare a disclosure brief and evidence brief. The disclosure package will be provided both to the prosecutor and the charged parties. The disclosure must be provided no later than one week before the first appearance. The evidence brief is prepared for the prosecutor and assists the prosecutor in determining if the facts in issue have been established.

### **2.6.21 Sentencing Brief**

Upon the completion of the disclosure and evidence brief, the Officer may be required to prepare a sentencing brief that includes restoration requirements and suggested penalties. The brief will detail options for either guilty pleas or post trial options. The Officer is not to formally charge any person or provide any restoration requirements or penalties until such time as the appropriate management staff have reviewed the offence and discussed potential options. This step usually involves coordination and discussion with the solicitor.

## **3.0 Court**

Unless directed otherwise, the Officer should attend court, particularly when evidence is being presented. Usually, a summary of the court proceedings and decisions are provided by the solicitor. There may be a time when the Officer will attend court as an agent for the Authority. Officers must maintain a professional image while attending court.

The Authority's solicitor will be notified of all cases requiring court action by the Officer's immediate supervisor, after which the solicitor will work closely with the required Authority staff and the Officer. The Authority's solicitor will handle the court case with respect to presenting the case, evidence, witnesses, examination, etc. The solicitor is not necessarily an expert in the natural hazards field and, therefore, all relevant information must be provided to explain important pieces of evidence and to provide input on how the evidence should be introduced in any court proceedings.

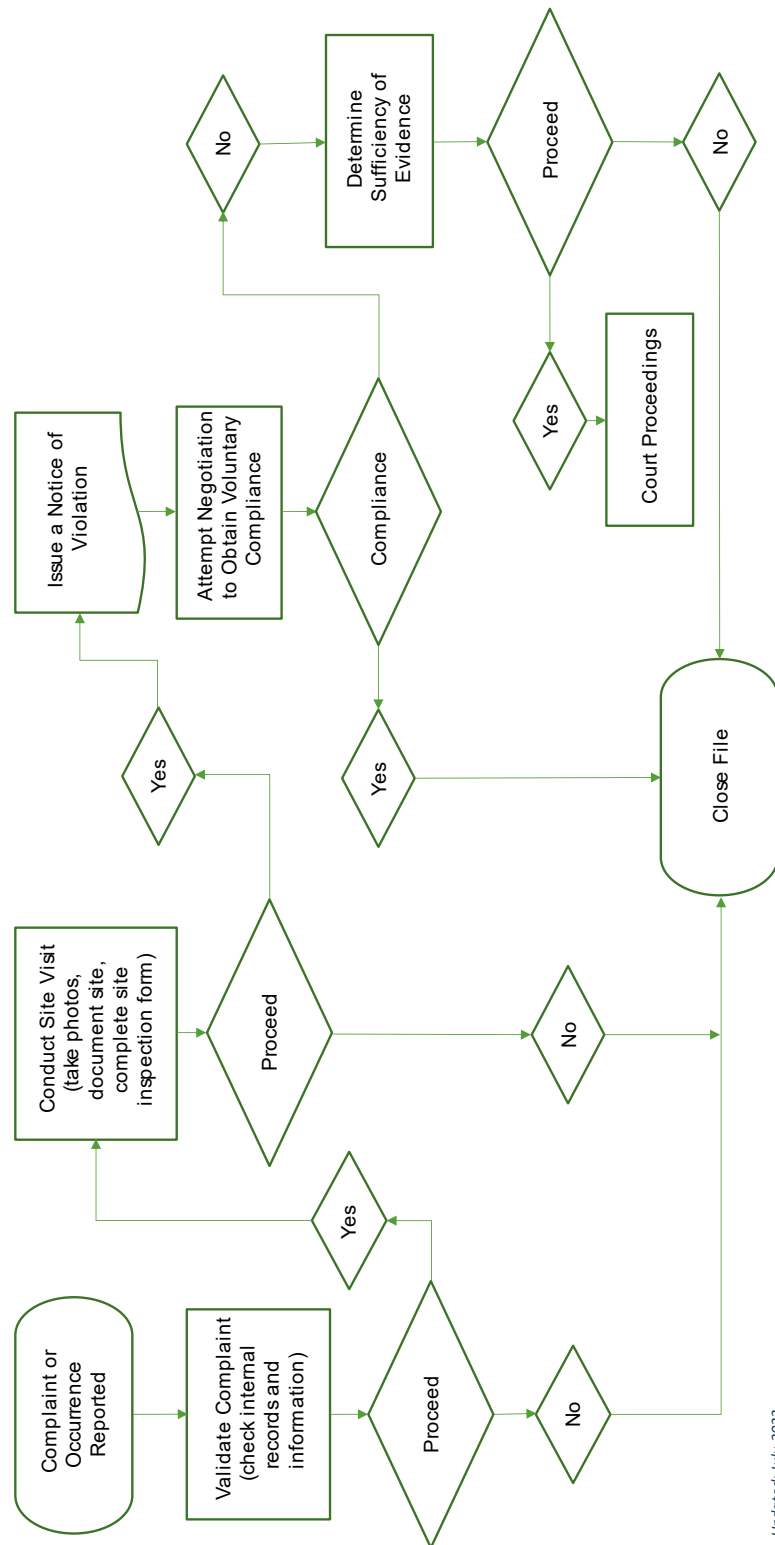
The Officer should realize that defendants may want to discuss aspects of the case 'without prejudice', or even change a plea to guilty. If the opportunity for these discussions/alternatives arises, the Officer will defer any formal decisions to their immediate supervisor likely in consultation with the solicitor.

### **3.1.1 Testimony**

When giving testimony, the importance of appearance goes beyond dress. The Officer or expert witnesses for the Authority should wait for the entire question to be asked before answering, think about the answer, and then answer the question. If necessary and available,

Officer's will ask the Justice if their notes can be used and referenced. Officers should focus on the notes that were made at the time of the incident and whether any changes to the notes were made since that time. If the answer to the question(s) being asked are unknown, inform the court.

## Appendix 1: Flowchart - Complaint and Compliance Process



Updated: July 2022



**DATE:** July 15, 2022

**MOTION: (Based on Recommendation No. GC-22-2022)**

Moved By:

Seconded By:

1. **THAT** Report No. GC-09-22 RE: Single Source Contracts for the NPCA Policy Document Review and Procedural Manual Phase 2 Project **BE RECEIVED**.
2. **THAT** a capital contract award to Planning Solutions Inc. in the amount of \$68,000 (plus non-recoverable HST) **BE APPROVED**.
3. **THAT** a contingency of 10% or \$6,800 **BE ALLOCATED** to address any unforeseen costs associated with the Planning Solutions Inc. contract during the project implementation process.
4. **THAT** a capital contract award to North-South Environmental Inc. in the amount of \$62,983 (plus non-recoverable HST) **BE APPROVED**.
5. **AND THAT** a contingency of 10% or \$6,298.30 **BE ALLOCATED** to address any unforeseen costs associated with the North-South Environmental Inc. contract during the project implementation process.

Chair: \_\_\_\_\_

CARRIED: \_\_\_\_ - \_\_\_\_

DEFEATED: \_\_\_\_ - \_\_\_\_

No. \_\_\_\_