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Dear Mr. Annett:

**Re: EBR 012-0562 – Technical Bulletins**

Ontario Rivers Alliance (ORA) is a Not-for-Profit grassroots organization acting as a voice for the French River Delta Association, CPAWS-Ottawa Valley, Council of Canadians, Kiishik Community Association, Food & Water First, Whitewater Ontario, Vermilion River Stewardship, Mississippi Riverwatchers, French River Stewardship, as well as many other stewardships, associations, and private and First Nations citizens who have come together to protect, conserve and restore healthy river ecosystems all across Ontario.

ORA is grateful for this opportunity to comment on this series of Technical Bulletins that are designed to provide guidance for dam location, operation, maintenance, amendments, reporting and approval under the Lakes and Rivers Improvement Act (LRIA).

All underlined text below is merely to emphasize a point.

Our intention in commenting on these bulletins is to help ensure that waterpower projects developed under the LRIA are not approved until the effects on the environment and aquatic ecosystems are fully identified, understood, and effectively mitigated. It is also vital that the public has a mandated role and a voice in these processes.

#### **MNR's Role and Responsibility:**

The exercise of reviewing these technical bulletins has been very disturbing to say the least. It is as though the bulletins were written by the waterpower industry instead of MNR. This series of bulletins reflect an abdication of the MNRs responsibilities under the Lakes and Rivers Improvement Act (LRIA), which state:

**2.** *The purposes of this Act are to provide for,*

- (a) the management, protection, preservation and use of the waters of the lakes and rivers of Ontario and the land under them;*
- (b) the protection and equitable exercise of public rights in or over the waters of the lakes and rivers of Ontario;*
- (c) the protection of the interests of riparian owners;*
- (d) the management, perpetuation and use of the fish, wildlife and other natural resources dependent on the lakes and rivers;*
- (e) the protection of the natural amenities of the lakes and rivers and their shores and banks; and*
- (f) the protection of persons and of property by ensuring that dams are suitably located, constructed, operated and maintained and are of an appropriate nature with regard to the purposes of clauses (a) to (e). 1998, c.18, Sched.1, s.23.*

The Act also empowers the Minister of Natural Resources to make additional regulations concerning the use of lakes and rivers for in-water developments.

Many of the provisions above have either been seriously undermined or ignored in these proposed bulletins, and this is totally unacceptable.

It is also disturbing that the MNR is considering all responsibility for fish habitat and fish passage as out of scope, and is divesting its interests by way of these bulletins, with no clear MNR role mentioned, to the Department of Oceans and Fisheries (DFO). This is at a time when the federal government has just announced the signing of a memorandum of understanding between the DFO and the National Energy Board (NEB) to relinquish much of its oversight of fish habitat along pipeline corridors. This news was quietly released just before Christmas, and only highlights the need for the Ontario government to look after its own interests and not rely on federal protection for any of our crown resources. Unfortunately many elements of these bulletins do the very opposite. It is even more disturbing that this deferral was carried out despite the Fish Habitat Compliance and Referral Protocols for Ontario which was approved by government and identifies and enables roles for MNR in the matters of fish habitat and fish passage.

It is ORA's view that this government must continue to play a strong role in ensuring effective mitigation of the impacts of development to meet their strategic directions for sustainable development; and certainly that will be what Ontario taxpayers expect. It is vital that these bulletins reflect a commitment for inter-governmental cooperation, in a holistic and collaborative way, to ensure there are no gaps in fulfilling all responsibilities and commitments legislated under LRIA.

Please find our detailed comments below:

### **LRIA Permitting and Approvals:**

Many permitting conditions will rely on the Environmental Report (ER); therefore it is imperative that all data, information, analyses and determinations required for permitting and approvals are included in the ER at the time of filing for public comment. This is essential to ensure the public has an opportunity to be consulted and provide input into crucial aspects of the proposal. In the past, key issues and decisions of high public interest have frequently been deferred to processes well outside the ER where the public has no opportunity to be consulted or comment. This problem needs to be rectified if public transparency and input is a true goal of this

government. An alternate way of addressing this is to enable public comment on LRIA permits for waterpower, and other activities that involve significant environmental risk. Otherwise the bulletins should reflect that no LRIA approvals will be issued until all issues have been resolved inside the ER process.

### Technical Bulletin for Location Approval for Dams:

In many sections of this bulletin, it is stated that “*the onus is on the proponent to determine the degree to which such measures should be adopted in order to address any remaining effects, outstanding concerns, or commitments made by the proponent following the preparation of the ER*”. While it is clear that the waterpower industry would be pleased with this statement, apparently the MNR needs to be reminded that satisfying the industry and reducing government workload must not be the only drivers in the development of these bulletins. Given the potentially significant environmental impacts that can be associated with such projects, it is unacceptable to prepare these bulletins in isolation of other key MNR responsibilities under the LRIA, including strategic directions that mandate sustainability, biodiversity, conservation and environmental protection, etc. It is unacceptable to give the proponents, with vested interests, sole responsibility for ensuring ‘*the degree to which such measures should be adopted*’.

This approach can only work if at the end of the process the MNR thoroughly reviews and, if acceptable, approves the information provided by the proponent to ensure that all key issues and concerns have been included, and adequately addressed. As the ER process for waterpower is proponent driven and has proven to be seriously flawed, the proponent cannot be relied upon to make this key determination when their own self-interests and profits are at stake. This important determination must be left to the MNR in order to eliminate any conflict of interest.

#### 1.6 Responsibility for Location Approval

The “*MNR cannot be responsible for validating the owner’s assessment of potential impacts or the effectiveness of mitigation measures nor can MNR staff be expected to complete an in-depth review of all aspects of the project design.*”<sup>1</sup> History has shown over and over that proponents can be unreliable in adequately identifying all the potential impacts, and/or in adopting effective mitigation of effects, as it is not in their best interests to do so. So if the MNR is washing their hands of this responsibility, then how will the proponent be held accountable?

This bulletin also suggests “*additional guidance on addressing impacts associated with the construction and operation of a dam may also be available from the industry associations or other groups (e.g. Best management Practices Guide for the Mitigation of Impacts of Waterpower Facility Construction developed by the Ontario Waterpower Association).*”<sup>2</sup> The Ontario Waterpower Association (OWA) represents its industry, not the public or the environment, so it cannot be expected to act in our best interests. Furthermore, if the MNR and MOE are going to rely on OWA’s Best Management Practices (BMP) they should first be posted on the Environmental Registry to provide the public with an opportunity to comment.

Ensuring effective mitigation measures are adopted must be a key role for the MNR. Ontario taxpayers want to know that their tax dollars are being used wisely, and that

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<sup>1</sup> Location Approval for Dams, Section 1.6, P-3

<sup>2</sup> Location Approval for Dams, Section 1.6 – P-3

unbiased science-based oversight and decisions are ensuring sustainability and sustainable development. This important role must be maintained by the MNR and not divested to private industry or other crippled agencies. Government must not simply rubber-stamp and approve information provided by proponents and their industry representatives. A stringent review process independent of the proponent needs to be maintained inside government as honest brokers.

*“The Ministry provides flexibility to the project proponent and their staff and/or consultants to determine the most applicable standards for use in the development of their project proposal.”<sup>3</sup> Who will be held accountable for damages to the environment or public health and safety if the proponent’s choices or OWA’s BMPs are flawed and fail?*

While working closely with the waterpower industry and being flexible may be important, government must oversee this process and approve the standards adopted to ensure achievement of the strategic directions that taxpayers expect – that is to set and approve clear, consistent and strict standards that protect our fisheries, natural resources, and public health and safety – not solely the vested interests of private industry; anything less than this would be a breach of trust.

It must be the MNR that sets a clear, consistent and strict standard to follow – not the proponent or the waterpower industry.

## **2.1 Aquatic Ecosystems:**

It will be very challenging to have the responsibility for the protection and management of aquatic ecosystems without at the same time having any say or consideration over water quality. This is a prime example of how dividing off responsibilities can create gaps and grey areas, as all issues categorized as inside and outside the MNR’s scope, are interdependent.

As the agency responsible for fisheries management, the MNR has a clear mandate, interest and legal responsibility to be fully involved in the protection of fish habitat, and must, at the very least, set clear objectives to ensure other partners deliver adequate actions. It is unacceptable to simply divest responsibility to another agency without closely monitoring and keeping involved in decisions where the MNR shares mandates and legal responsibility. These bulletins do not consider or even mention the need for clear fish habitat management objectives before approving dams and waterpower facilities, let alone provide direction for their development.

A holistic approach would be much more effective if the true goal is to protect and manage aquatic ecosystems. This attempt to streamline and not overlap to the extent proposed has the potential to be detrimental to aquatic ecosystems overall, to our fisheries, and to the effectiveness of the MNR. There are effective models for avoiding overlap while retaining the utility of all aspects of the LRIA – this is what must be researched and implemented.

Management of programs such as dams and waterpower are highly complex, so MNR must maintain arm’s length oversight, expertise, and set standards/objectives for all aspects of activities that affect achievement of other Ministry directions and values. Such an overly simplistic and single-minded approach as is proposed, builds isolated siloes

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<sup>3</sup> Location Approval for Dams, Section 1.7, P-4

which only entrench a very narrow short-sighted view in the program responsible for dams and waterpower – and history has already shown that this approach can create environmental havoc.

### 2.3.1 Impacts to Fish Habitat:

This section provides a clear and final statement that *“the protection of fish habitat is a federal responsibility and is administered by Fisheries and Oceans Canada under the authority of the Fisheries Act (R.S.C., 1985).”*

Also, during the LRIA Technical Bulletins webinar, on Slide 7, the MNR stated that fish habitat and fish passage are out of the scope of the MNR. This is contrary to the Fish Habitat Referral Protocol for Ontario, which states, *“MNR is the provincial agency responsible for the protection and management of Ontario's natural resources, including the management of fisheries. Specific responsibilities include; administering and enforcing the Ontario Fishery Regulations (allocation and licensing of the fisheries resources), fisheries management (e.g., angling, stocking), fisheries management planning, fish and fish habitat information management, and fish habitat rehabilitation. MNR has the primary responsibility for several pieces of provincial legislation, such as the Public Lands Act, the Lakes and Rivers Improvement Act and the Crown Forest Sustainability Act, which support the protection of fish habitat.”*<sup>4</sup>

To suggest that fish habitat and fish passage issues are out of scope, when the LRIA and Fish Habitat Compliance and Referral Protocols for Ontario clearly gives the MNR the authority, mandate and legal responsibility to be involved and, if necessary, take the lead from time to time depending on each agencies' capacity, is simply wrong. Moreover, fisheries management is clearly within the MNR's scope, and highly dependent on fish habitat and fish passage. This must be clarified, including the need to develop clear fisheries management objectives for fish habitat and fish passage at the scale and scope required for these projects. While it may not be intentional, these bulletins, as currently written, appear to entrench a clear abdication of the MNR's interests and legislative responsibilities under the LRIA and other strategic directions such as sustainability, biodiversity, fisheries management, SEVs, endangered species, etc. – at least when it comes to the management of dams and waterpower. These strategic directions all apply and are heavily impacted by waterpower and dams, and yet are barely mentioned in the bulletins, and they clearly must be.

With respect to fish habitat, DFO plainly indicates their need for clear fisheries management objectives related to the area or species in question, but there is neither mention nor direction relating to this requirement in the bulletins. Surely if the MNR is attempting to pass off its legal responsibilities for these issues to another level of government or agency, it should develop policy and direction around the development of these specific management objectives for fish habitat and fish passage. Yet there is no mention of this in the bulletins.

#### **Fish Passage:**

Fish passage was not mentioned in any of the technical bulletins, and yet *“under subsection 17(4) of the LRIA, MNR may order the provisions of free and unobstructed passage of fish up and downstream. MNR should consult with DFO when using this*

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<sup>4</sup> Fish Habitat Referral Protocol for Ontario – 2009 – 2.5, P-18

*order power.*<sup>5</sup> DFO has not required safe and effective permanent fish passage at any waterpower facility in Ontario in the past, and with the recent regulatory amendments and cutbacks, as well as deferring some of their authority around habitat protection to the NEB, their role has been drastically diminished, making it highly unlikely they will begin implementing fish passage now. Therefore, it is extremely important that MNR pick up the slack to help protect Ontario fisheries and their habitat, and to ensure fish passage is provided, especially where migratory fish are affected. This is clearly MNR's legal responsibility under the LRIA, and it is unacceptable to simply indicate that this is out of scope. The MNR must develop clear fisheries objectives for fish passage at the appropriate scope and scale for sites where dams and waterpower projects exist or are proposed. This needs to be clearly set out in the bulletins.

As you are aware, the impacts of hydroelectric facilities and water control dams on fish populations, and the extreme decline of several iconic fish species in Ontario, have been directly linked to over a century of fish habitat fragmentation and turbine mortality. The impact on some Ontario fisheries has been devastating. For example, the Atlantic Salmon have been extirpated from Ontario, the American Eel and Lake Sturgeon are listed as Endangered or Threatened provincially and federally, and American Shad have all but disappeared from the Ottawa River (note: the status of American Shad in Ontario has not yet been formally evaluated). Dams and waterpower facilities have all been identified as key factors in the serious decline of all the aforementioned species in Ontario.

It is imperative that the MNR ensure that the remaining fish populations are protected and their recovery is assured. The LRIA can be highly useful in this regard, and was clearly written with the understanding that dams and waterpower facilities can have serious impacts if not mitigated, and this has been known for decades. Clearly, the LRIA was written with this in mind, otherwise the purpose relating to the perpetuation of fish and wildlife would not have been included in the Act, and Section 17 pertaining to fish passage, would not have been included. It is imperative that the MNR ensures that the remaining fisheries are protected and restored.

The MNR must not abandon its legal responsibilities at a time when agencies are stressed by budget and staffing cuts. Instead, all agencies should work together and use their respective legislative powers to address key issues of high potential environmental risk. The Fish Habitat and Referral Protocol for Ontario were developed with this in mind to streamline while not throwing the baby out with the bathwater.

Instead of simply deferring to DFO, MOE or another MNR program for instance, there are many other options available to streamline, while continuing to use all the legislative powers, mandates and resources of these groups collectively to meet common mandates and objectives. A good example of this would be for fish that once provided robust and important fisheries but no longer do, such as Eels and Lake Sturgeon. Since it appears that the Fisheries Act will no longer protect such species, fish passage needs could be handled by the LRIA. This is not overlap nor is it duplication of effort.

It is disappointing to note that fish habitat and fish passage were not addressed in the bulletins despite the clear mandate and responsibility to do so under the Act. This is not a trivial issue; indeed, the situation is very serious and untenable and must be resolved before these technical bulletins are finalized.

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<sup>5</sup> Fish Habitat Referral Protocol for Ontario – 2009 – 2.5.2, P-20

Simply hiving these issues off as out of scope in these bulletins, with no further mention, is overly simplistic and inconsistent with other government strategic directions. Further, the MNR will and must always have an interest in these issues when it comes to the management of dams and waterpower.

#### **4.3 Preliminary Construction Plan:**

This section points the proponent in the direction of the guidelines prepared by the OWA. OWA has the best interests of its members at heart, not the best interests of Ontario fisheries and species at risk. If the MNR is to rely on any guidelines prepared by OWA, they should first be posted on the Environmental Registry, allowing the public and First Nations to comment. This has not been done, and while posting these on the EBR is not required, because they were developed by proponents, neither is there anything to prevent it. It is our opinion that the government should ensure that such BMPs are posted for comment if Ministries are going to rely on them to make vital decisions, and if public transparency and meaningful public input are truly valued by this government.

#### **4.5 Independent Third Party Review:**

This section states that, "*Proponents are required to have their preliminary Construction Plan and preliminary Operating Plan reviewed by an independent third-party at the cost of the proponent*". The proponent must not be allowed to hire the same "independent" third party reviewer over and over – or the results will be questionable. In fact, an independent third party reviewer must not be commissioned by the proponent at all. Instead, the MNR should use a procurement process with competitive bidding to create a list of potential qualified reviewers that would be chosen and retained by the MNR, and the developer would pay the costs. This would be a fair and effective way of ensuring the integrity of third party reviews. There are a number of models within the MNR to ensure that money collected is earmarked back to the program rather than go into consolidated revenue coffers - the Commercial Fish and Sport Fish Licence Fee models should be examined in this regard. It is ludicrous that the industry which clearly has a vested interest has been given this role, and it is simply wrong to suggest that costs paid to the Crown cannot be recaptured at the program level. This can and has been done by the MNR many times.

That being said, it would be preferable for the MNR to be the reviewer as they are considered to be independent and unbiased, and are responsible for our Crown resources.

#### **5.6 Issuance of a Decision on the Proponent's Application:**

It is reassuring to hear that the MNR can refuse a Location Approval application if of the opinion that the construction of the dam at the location in question would not coincide with the purposes of the Act. It was quite another matter when we were informed that this has always been the case, as the regulations already provide the MNR with the authority to deny an application, but apparently it never happens. ORA submits that if these guidelines are to have any meaning, they must be strictly applied, especially in those instances where proponents are not cooperating or complying with the Act and regulations.

## Operating Plans – Technical Bulletin

### 1.3.1 Construction of new dams – Section 14 approvals:

This section states, “Proponents seeking approval under S.14 of the LRIA to construct a dam ~~may~~ will be ordered to prepare an Operating Plan...”<sup>6</sup> May should be struck out and replaced with the word “will”.

### 1.6 Scope of an Operating Plan:

Please apply comments in Section 2 of Location Approval. Additionally, the decision to incorporate key environmental considerations into the operating plan must rest with the MNR, not with the proponent.

### 1.7 Responsibility for Operating Plans:

The MNR should not approve an operating plan unless they can endorse it – it is the MNR’s responsibility and mandate to ensure our fisheries and habitat are properly managed and protected. If the MNR cannot endorse a project then they should not approve it.

### 3.3 Independent Third Party Review:

Please apply comments in Section 4.5 of Location Approval.

### 3.7 Public Viewing of Approved Operating Plans:

To provide for a fully transparent and open system, all operating plans should be posted and available to the public for comment prior to approval. Once the public has had an opportunity to comment, approved operating plans should be posted and available to the public on the MNR’s website.

## Technical Bulletin for Operating & Water Management Plan Amendments:

### 2.1 3<sup>rd</sup> Party Amendment Requests:

“A proponent does not have to respond to requests they deem to be vexatious or unfounded.” This is ripe for problems. Proponents have “for profit” self-interests that may cause them to find complaints vexatious or unfounded as a means of not having to act on them.

Also, a stakeholder may not have the knowledge base, skills or funds to comply with an amendment request as described in this bulletin. The burden of proof must not rest on the 3<sup>rd</sup> party “to demonstrate their request is credible and should be pursued” – instead the onus should be on the operator to demonstrate that the claim is unfounded. This process should be a fair and accessible process that will allow the average person to request an amendment to the approved WMP. A 3<sup>rd</sup> Party Amendment request should not be left up to the proponent to decide, it must be up to the MNR to make an objective and unbiased decision.

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<sup>6</sup> Technical Bulletin for Operating Plans, P-2

Clearly, this process is unsatisfactory since the proponents have endless opportunity to sandbag an amendment proposed by a 3<sup>rd</sup> party, who is then left with an undefined process to get the MNR to require the proponents to move the amendment forward. Given the collective experience on the Bonnechere and Mississippi Rivers, the likelihood of doing that is extremely low.

It is essential to have a user-friendly process available to the public to request an amendment to a Water Management Plan (WMP), and all complaints should be registered, assessed and resolved through the MNR or an independent arms-length 3<sup>rd</sup> party – not the proponent.

### **2.2.2 Major Amendments:**

Any major change to a WMP must not only have a Public Notice and Direct Notice, but there must be public consultation, and a Standing Advisory Committee established to provide a voice for the public's interests. Major changes could have significant and long-lasting negative impacts on the environment and public health and safety; therefore the public and stakeholders must be consulted and provided an opportunity for meaningful input.

## **Technical Bulletin for Operating & Water Management Plan Implementation & Reporting:**

### **2.5 When to Establish a Standing Advisory Committee:**

It must not be left up to a proponent to decide whether a SAC should be established – it must be mandatory. Waterpower facilities can have long-lasting and serious negative impacts on water quality, water quantity, local fisheries, shorelines, and can impact significantly on stakeholders.

Further, the purpose of a SAC must not be to act as a cheer leader for the proponent to assist in selling the project to the community. A SAC must represent the interests of riparian owners, the community at large, and the natural amenities of the lakes and rivers, and their shores and banks, and the perpetuation of fish and wildlife.

One example of the dysfunctional way in which SACs currently work, is the SAC representing the Bonnechere River Water Management Plan, which is primarily made up of proponents operating on that system. Where, in spite of some SAC members representing the interests and concerns of local citizens, shoreline property owners have had to resort to the courts in order to protect their property rights. These bulletins do not attempt to remedy this dysfunction, but instead only serve to quiet the voice of the public even further. This is totally unacceptable.

There must be a balance of public representatives with industry representatives on the SAC, and input by members representing the public's interests must carry equal weight, and not ignored. It has come to ORA's attention that many times those representing the public on these Committees are outnumbered by industry interests, and their dissenting voices are not given meaningful attention – this is not acceptable.

Therefore, it is vitally important that the development of an arms-length SAC be mandatory. The SAC must have strong community stakeholder representation independently appointed by the local municipalities and groups representing fish, wildlife

and canoeing/kayaking, etc., to provide input and a meaningful voice for local interests in the preparation, planning and operation of a facility. The SAC should be balanced, and consist of an equal number of community representatives to proponent representatives, with a MNR and MOE (since MOE deals with water quality) representative appointed to ensure issues are dealt with in a fair and effective manner. MNR should rely on the SAC to ensure local complaints and issues are addressed, and follow up on their recommendations for action with fines and/or other effective compliance measures.

ORA strongly recommends that the establishment of a SAC be made mandatory, and that it is not left up to the proponent to choose its members, or decide when it will be established or dissolved. This responsibility must rest with the MNR or an independent arms-length 3rd party that is hired by MNR and paid for by the proponent.

There is no need to make this onerous in terms of the number of meetings, but their establishment should be mandatory and meet no less than once per year.

#### **4.1 Five Year Implementation Report:**

ORA supports a living WMP that is approved and finalized and reported on once every 5 years. ORA does not support a policy that allows a WMP to be in draft form for years, or even a decade or more.

There are many instances where WMPs have remained in draft form for years without being finalized or approved. This has been a long-standing problem that has not been addressed in these guidelines. There is no way to enforce compliance when there is no approved WMP, and proponents have no incentive to come to an agreement with other operators on how a river system will be managed. Currently there are several WMPs where operators cannot agree on their fair sharing of the water resources, so they have remained in draft form for several years. This can have devastating consequences for a river ecosystem, and for public health and safety.

The MNR has a legal responsibility for the construction, operation and maintenance of dams in Ontario; therefore, it is its obligation to ensure WMPs are finalized and approved in a timely fashion. ORA recommends that proponents be given a 30 - 90 day period of time in which to come to agreement with other operators on a river system. If there is no agreement at the expiration of this term, then the MNR would decide on a fair and equitable operating regime for all parties concerned in the WMP.

ORA also suggests that any complaints or concerns by other operators or the public be copied to MNR, MOE, the proponent, and the SAC, and are followed up and dealt with in a timely and effective fashion as they arise.

All data should be fully available and accessible to the public, as well as all compliance data retained for the life of the facility.

#### **Values:**

Clearly, values associated with other renewable resources are at stake when major projects such as dams and waterpower are involved. These projects can be associated with very significant environmental impacts if not effectively mitigated, and the effects can be highly cumulative, on-going, and long-lived.

Not one of these Technical Bulletins either addresses or even mentions cumulative effects or the precautionary approach. It is imperative to consider the cumulative effects of all past present and future development within the watershed. The cumulative effects of the growing numbers of cascading peaking facilities that maximize power generation at the expense of the riverine ecosystem must be considered in these technical bulletins. Indeed, the cumulative effects can be devastating to other renewable resources and the people that rely on these resources.

Of particular concern are the cumulative effects on fisheries, biodiversity and ecosystems in a given watershed relating to the numerous other development projects and sources of pollution related to hydroelectric generation, flood control, mining, forestry, agriculture, urban and cottage development and water treatment. The cumulative effects of multiple existing or proposed developments in a watershed are seldom adequately considered during the environmental assessment process; therefore, to determine the long-term sustainability of any proposal, it is imperative that all past, present and future development in the watershed is considered before approval is granted for additional development.

These issues, coupled with climate change, have led to a loss of native biodiversity, depleted fisheries, polluted waters, and let's not forget the scourge of blue-green algae blooms.

The precautionary approach means that if an action or policy has a suspected risk of causing harm to the public or to the environment, in the absence of scientific consensus, that the action or policy is harmful, and the burden of proof that it is *not* harmful falls on those taking an act. The federal and provincial authorities, and all parties to development, must exercise their powers in a manner that protects the environment and human health, and applies the precautionary principle to address the cumulative effects of all facilities, water management practices, obstructions, roads, transmission lines, diversions, as well as all resulting identified Potential Risks. The precautionary approach will ensure the well-being of communities, the environment, and the riverine ecosystem.

The MNR's Statement of Environmental Values (SEV) promises that "*The Ministry is committed to the conservation of biodiversity and the use of natural resources in a sustainable manner.*" In fact sustainability was only mentioned briefly on a few occasions throughout all the bulletins, and there was not one mention of biodiversity in any of the bulletins. In addition, the SEV states that the MNR will adopt an ecosystem approach. An ecosystem approach cannot be adopted when the program responsible simply hives off key issues to other programs or agencies without acting to ensure that this is handled responsibly and effectively, and ensuring that appropriate information such as fisheries management objectives at the appropriate scale and detail are developed and passed on. This siloed and insular approach to this important program cannot continue. These values should be a key driver in all policies and bulletins related to the LRIA, and guidance should include clear management objectives and policies related to the perpetuation of fish and wildlife – including fish passage.

### **Summary:**

In summary the overall approach of these technical bulletins has been an attempt to slough off and ignore key issues and responsibilities under the LRIA, and to minimize or barely mention the relevance of other key drivers for the MNR, including sustainability, conservation and protection, SEVs, fish habitat and fish passage.

The problem with the approvals processes associated with dams and waterpower is that their environmental impacts can be extremely significant, highly cumulative, and of high public interest. The LRIA approvals rely very heavily on the Class EA process and the ERs, both of which are flawed. When flagged, the MNR simply states that these issues are the responsibility of MOE or DFO.

ORA argues that these bulletins cannot be developed in isolation of water quality, fish habitat and fish passage issues, or in isolation of the problems associated with the Class EA and ER processes. This is particularly important for issues such as waterpower and dams where individual and cumulative environmental impacts have been known for decades to be high. The LRIA has been clearly written to consider and protect the perpetuation of fish and wildlife and it is unacceptable to continue to ignore or hive off these responsibilities to proponents, other agencies, and other programs, particularly when they are not being administered well, if at all, by these groups. These bulletins are an important direction for the program and the MNR, and should not be written in isolation of the other values managed by, or of critical importance to the MNR.

Ontario urgently needs a new approach to rivers and their management – one that recognizes the critical ecological importance of healthy rivers to the well-being of our planet and our freshwater reserves, takes into account the effects of climate change, and assesses the cumulative effects on a watershed basis, to ensure the protection of river ecosystems and those species that rely on them for their survival. The LRIA is a very useful tool in this regard, and interagency models, approaches and policies, like these technical bulletins, must be developed to enhance its usefulness in achieving the MNRs strategic directions and mandates - not diminish it.

ORA also supports the joint submission made by the Lake Ontario Waterkeepers and Ottawa Riverkeepers; as well as the submissions of Bonnechere River Watershed Project and the Round Lake Property Owners' Association.

Thank you for this opportunity to comment.

Respectfully,



Linda Heron  
Chair, Ontario Rivers Alliance

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