



## **CFUW Ontario Council Response to**

### **A Blueprint for Change: A Proposal to modernize and strengthen the Aggregate Resources Act policy framework (EBR# 012-5444)**

December 14 2015

Submitted by  
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Katie Rosa, Aggregate Resources Officer  
Natural Resources Conservation Policy Branch  
Ministry of Natural Resources and Forestry  
300 Water Street  
Peterborough, Ontario, K9J 8M5

Re: A Blueprint for Change: A Proposal to modernize and strengthen the Aggregate Resources Act policy framework (EBR# 012-5444)

Dear Ms. Rosa:

The Ontario Council of the Canadian Federation of University Women (CFUW Ontario Council) is pleased to respond to the recommendations to modernize and strengthen the Aggregate Resources Act (ARA).

CFUW Ontario Council has for many years been a strong advocate for the protection of our water. We were a member of the Great Lakes Annex Advisory Panel and we appreciated the professionalism of the MNR staff and the steps your Ministry took to listen to and to benefit from the advice of that multi-stakeholder group. We have also participated, as a member of the Advisory Panel, in the development of the Safeguarding and Sustaining Ontario Waters Act, the Clean Water Act, the Lake Simcoe Protection Act, and the Great Lakes Protection Act. We have strongly supported the actions of the Government of Ontario to date which have recognized the importance of our water sources and resources and the ecosystems that they support - and the need to more carefully protect them.

We are especially pleased to note the number of areas in this proposal which address environmental concerns. And we welcome the intent to more carefully align the ARA with other government legislation and regulations.

CFUW Ontario Council would like to address several issues in this new draft legislation – with a special focus on changes that have particular impact on our water resources and on how the proposed new requirements in the Blueprint will align with current and recent legislation.

We strongly support the increased focus within the proposed changes on Environmental Protection (10 areas of change) and Oversight (22 areas of change) in the new provisions – and the intention to align the Act with other legislation such as the Endangered Species Act, the Ontario Heritage Act and the Wetland Protection Act. However it is also important that the amended ARA align more closely with legislation such as the Clean Water Act and the Source Protection Plans recently being developed and implemented across the province. ARA requirements should also conform more closely with requirements under the Planning Act, the Niagara Escarpment Act, the Conservation Ontario Act, the Municipal Act, the Ontario Water Resources Act, the Provincial Policy Statement and other similar laws which oversee the use and protection of Ontario lands and resources. This is an effective means of streamlining ARA application and approval processes while at the same time ensuring a consistent level of oversight and protection.

#### Section 1.1 a)

CFUW Ontario Council supports the requirement for enhanced water impact studies for extraction above the water table.

(i) Recent legislation has recognized the importance of watersheds when considering environmental impacts as well as the cumulative impacts of water stresses within a watershed or sub-watershed. As the water impact studies are of such vital importance and in order to align this proposal with recent legislation,

#### **CFUW Ontario Council recommends:**

**that water impact studies also be required to address the potential impact on the watershed and the water flow within the watershed and/or sub-watersheds; and  
that a cumulative impact study be a required part of every application; and  
that it be made clear that the “qualified expert” is either a Ministry/Conservation Authority expert or an impartial third party expert, and not an internal “expert” in the employ of the applicant.**

(ii) The issue of aggregate extraction in proximity to a municipal well does not align well with the Clean Water Act and Source Protection Plans. It needs to be rethought. A new or expanded aggregate extraction site within the “2 year time of travel” zone would be prohibited under most Source Protection Plans. The assumption made in this proposal that “the submission of aggregate extraction proposals in the vicinity of a municipal drinking supply will continue to be allowed”, will generate much dissension between aggregate operators and the municipalities that are tasked with implementing the Source Protection Plans – and will potentially result in more OMB appeals.

Moreover, the Blueprint mentions only “municipal wells”. It also needs to take into account **proximity to and potential impact on GUDI wells and surface water intakes (IPZ’s), as well as sites proposed in an area of WHPA 1 or WHPA 2.**

**CFUW Ontario Council recommends:**

**that the content on requirements for extraction near municipal drinking water sources be rewritten in consultation with Conservation Authorities and Source Protection staff.**

(iii) In order to align the Blueprint with the Endangered Species Act,

**CFUW Ontario Council recommends:**

**that examples of “sensitive land uses” be expanded to include “habitats of endangered species”.**

#### **Section 1.1.1 (d)**

The new requirement to establish a “maximum disturbed area” in a proposed site plan is a positive improvement to ensure the progressive rehabilitation of the area. It should not be limited to new sites only, but to applications for site expansion as well.

**CFUW Ontario Council recommends:**

**that all applications for new and/or expanded aggregate extraction permits be required to file a site plan showing maximum disturbed area; and  
that a monitoring program be established in the Blueprint to ensure compliance.**

#### **Section 1.1.1 (e)**

Extraction from the bed of a stream, a river or a lake cannot be done without damage to the water resources, to the water flow in the sub-watershed and to ecosystems that surround and inhabit it. Allowing such an activity runs counter to all the legislation designed to protect our environment.

**CFUW Ontario Council recommends:**

**that extraction of aggregates from the bed of a lake or river be prohibited.**

#### **Section 1.1.2**

CFUW Ontario Council appreciates the extended notification and pre-consultation to include First Nations communities, CA’s and SPC’s. It is also important to include Municipalities in the pre-consultation, as they are charged with implementing and enforcing Source Protection Plans in their regions.

We do however have questions regarding the weight and the legal effect of the recommendations regarding site approval coming out of these consultations, and the authority they have in the case of an appeal to the OMB. There are several instances of the OMB overruling the expert opinions of government agencies like CA's and the NEC regarding approvals for aggregate extraction sites and licences. This happened most recently in November at a site on the Niagara Escarpment near Duntroon. Where does the Ministry authority lie in situations like this? What are the qualifications in environmental science required of an OMB official who is ruling on an environmental issue?

One of the most important principles in recent legislation such as the Clean Water Act was the establishment of the principle of Precedence – so that whatever law provided the most protection of the water and ecosystem had precedence over all other laws.

**CFUW Ontario Council recommends:**

**That the Government of Ontario establish a list of criteria to determine Precedence for the protection of drinking water, groundwater and the aquifer - which must be taken into account in assessing the relative merit of any appeal to the OMB.**

**Section 1.2 (j)**

CFUW Ontario Council strongly supports the requirement for site operators to submit a new application for approval to lower their extraction depth to extract aggregate from below the water table. Sites which extract aggregate from below the water table have the very real potential to create pollution pathways into ground water sources – and through the dewatering process to introduce pollution into nearby surface water. This requires a major change in site management and stringent new rules and oversight to avoid contamination of groundwater or surface water.

**Section 2.1 (u)**

CFUW Ontario Council supports the proposal for new powers to request updated site plans from existing aggregate operations. Such requirements would be especially important when reviewing existing operations in Source Protection areas to ensure they do not present a threat to drinking water sources. It is also a way to monitor rehabilitation and “maximum disturbed area” at existing sites.

**Section 2.1 (v)**

CFUW Ontario Council strongly supports this provision to align the ARA with requirements of Source Protection Plans –especially in the storage and handling of fuel – and any other toxic chemicals used in the extraction process. As noted above, extraction operations, especially those which extract aggregate from below the water table and process on site, have a real potential to contaminate water sources.

### **Section 2.3 (y) & (z)**

CFUW Ontario Council supports the increased requirements for site rehabilitation and for improved record keeping on the site rehabilitation. This is a positive change and will help ensure that environmental concerns regarding rehabilitation of the site are safely met during site operations and after the site ceases to function.

### **Section 2.3 (aa)**

We do not, however, support the proposal to change the frequency of reporting to a two or three year reporting cycle. This change would run counter to other improvements you have proposed in the Blueprint and make the ability to monitor compliance with these new requirements much less effective. It would also interfere with an assessment of cumulative effects of water usage and/or stress in a watershed or sub-watershed which could have a bearing on other activities – especially in urbanized areas. Streamlining a process should not mean a move to lower standards of reporting or monitoring.

#### **CFUW Ontario Council recommends:**

**that the shortened reporting form for inactive and dormant sites require a report on rehabilitation activity on the site; and**  
**that the requirements governing the frequency of self-compliance remain an annual requirement; and**  
**that third-party monitoring of compliance continue.**

### **Section 4.2 (as)**

CFUW Ontario Council has concerns regarding the item of “Housekeeping” which proposes that “the Minister may, rather than must, be party to an OMB hearing for an application, to address situations where the ministry has no outstanding concerns with an application.” The applicant in an OMB hearing is challenging a decision made that his/her proposal did not meet the approval of a municipality, a government agency or the Ministry itself. “. The OMB has over time proven itself to be an arbiter for the rights of private development over governmental opposition. The Ministry has a responsibility to represent the public good in such a challenge.

#### **CFUW Ontario Council recommends:**

**that a representative of the Ministry must be party to an OMB hearing for an application.**

CFUW Ontario Council is composed of 54 clubs within Ontario, comprised of members living  
In urban and rural areas across Ontario. We are non-partisan, nonsectarian, a voluntary, self-funded,  
non-governmental organization. Our members are active in public affairs, advocating on public  
education, justice, health and environmental issues as well as the status of women and human rights.  
Ontario Council is part of the Canadian Federation of University Women which is the largest affiliate of  
the International Federation of University Women.

Sincerely

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