



Ontario Professional Foresters Association

April 9, 2003

Mr. Blair Rohaly, Project Manager
Environmental Assessment and Approvals Branch
Minister of Environment
2 St. Clair Avenue West Suite 12A
Toronto Ontario
M4V 1L5

Subject: Comments on “Declaration Order Regarding the Ministry of Natural Resources Class Environmental Assessment Approval for Forest Management on Crown Lands in Ontario - EBR Registry Number RA03E0004

The Ontario Professional Foresters Association (OPFA) has reviewed the Declaration Order Regarding the Ministry of Natural Resources Class Environmental Assessment Approval for Forest Management on Crown Lands in Ontario. We are pleased to see that substantive progress has been made on some of the issues raised by the Association. However, there remain several significant deficiencies in the Order and improvements are needed, specifically in the areas of Scope of Practice, Protecting the Public Interest and Sustainability.

In particular we are concerned about the continued absence of explicit wording and mention of the role of the Registered Professional Forester (R.P.F.) in those conditions that reflect the scope of practice of professional forestry; the need for an independent and interactive review of results relating to the implementation of the conditions of the Declaration Order and increased accountability measures; and the continued development and application of “guides” in a manner lacking appropriate reporting and evaluation to ensure the overall sustainability of Ontario’s forests.

We recognize that the significant improvements that have been made in the Order should be retained. In particular we approve of the additions to “results reporting”, the increased clarity on roles and responsibilities of public committees and increased accountability on some aspects of the Ministry of Natural Resources’ responsibilities.

In our submission of September 10, 2002, the Association set the context for its’ proposals which in our view, would have improved the clarity of the proposed Terms and Conditions, protected the public interest, improved the accountability of those responsible for implementing and monitoring the renewal and brought the EA in line with the recently passed legislation governing the practice of forestry in the province. That context is worth repeating.

The 1994 Decision of the EA Board and its accompanying Terms and Conditions was a landmark in forest management in Ontario. This complex legally binding decision set the stage for public involvement in forest resource management, aboriginal

consultation, set standards for forest management planning and harvest practices and set silvicultural research goals. It gave rise one year later to new and cutting edge legislation and regulations in forestry that put Ontario firmly on a course of sustainable forest management. This legislation also gave the forest industry heavy responsibilities in planning and managing their licensed areas sustainably. The EA gave rise to a decade of rapid policy change and an improvement of practice.

This process of continued improvement and the maintenance of the forest resource on a sustainable footing are vital for our province's environment and the success of our forest industry both at home and abroad. Recent information shows that global climate change is taking place, airborne and water pollution events have escalated and are now widespread and these issues, together with carbon sequestration, are growing rapidly as important public concerns. Careful and publicly acceptable forest management is part of the solution.

Key to maintaining our progress in forest management from a public and government perspective is the establishment of an efficient and effective monitoring system to ensure compliance with legislation and standards. One of the challenges government now faces, as a result of staffing reductions in government ministries, is that of monitoring the implementation of operations when a non-government party conducts those activities. This contributed to the tragic events that occurred two years ago in Walkerton.

Our point is that the public interest must come first, not only in obvious health and safety issues, but also in forest management. Without the proper watershed protection afforded by forest cover, water quality can deteriorate downstream. Forest cover can mitigate airborne pollution. The Kyoto protocols set specific objectives for carbon management and sequestration.

We believe that strong and fair monitoring will increase public credibility in the management of our forests. It will also raise the standards of practice in an extremely important sector that not only creates much wealth, especially in northern Ontario, but also improves our environment.

Our review of all documents relating to the renewal of this Class EA has been based upon the principal objects of the *Professional Foresters Act 2000 (Bill 110)*. The objects are to protect and serve the public interest, to regulate the practice of professional forestry and to govern its members. Our review has also been based on the Act's scope of practice, which details the practices and services as they relate to the management, conservation and sustainability of forests.

This is the context and rationale we used to make our comments and to recommend changes. In our review of the Declaration Order, we have again grouped our concerns into general categories.

Scope of Practice

The 1994 EA decision gave the Registered Professional Forester clear duties in the Terms and Conditions (Ts & Cs) and these were then carried into the 1996 Forest Management Planning Manual. In 1994, the Association's members had a right to title only, today the members are licensed and the practice of forestry is regulated. This brings with it a set of obligations, which are governed by legislation.

The *Professional Foresters Act 2000 (Bill 110)* defines the scope of practice in Section 3.1 and states that:

“The practice of professional forestry is the provision of services in relation to the development, management, conservation and sustainability of forests and urban forests where those services require the knowledge, training and experience equivalent to that required to become a member under this Act and includes,

- (a) the designing, specifying or approving of silvicultural prescriptions and treatments, including timber harvesting
- (b) the appraisal, evaluation and certification of forests and urban forests;
- (c) the auditing of forest management practices;
- (d) the assessment of impacts from planned activities on forests and urban forests;
- (e) the classification, inventory and mapping of forests and urban forests inventory;
- (f) the planning and locating of forest transportation systems, including forest roads.”

In our submission of September 10, 2002, we proposed that explicit wording and mention of the role of the R.P.F. be expanded to those Ts & Cs that reflect the scope of practice of professional forestry. We note that the Declaration Order identifies 3 additional situations for R.P.F. involvement however we believe that a number of additional circumstances should be identified as well. In particular we are concerned that explicit wording of the role of Registered Professional Foresters be identified as required in:

- the provision of updated forest resource inventory data for the management unit (**Declaration Order 9 (a)**)
- the preparation of the description of the forest based on updated forest resource inventory data for the Forest Management Plan (**Declaration Order Conditions 10 (a)**)
- leading the development of long term management direction of the Forest Management Plan (**Declaration Order Condition 11 (a)**)
- being part of the planning team involved in the planning of primary and secondary road corridors (**Declaration Order Condition 12**)
- leading the identification of areas of operations (**Declaration Order Condition 15**)
- describing planning provisions in the Forest Management Planning Manual for the monitoring descriptions related to forest cover (**Declaration Order Condition 21 (b)**)
- the requirement to be part of the interdisciplinary team developed when there is a major pest infestation (**Declaration Order Condition 24 (a)**)

- ensuring that each independent forest audit team must have at least one Registered Professional Forester as a member of that team **(Declaration Order Condition 28)**
- the design of silvicultural effectiveness monitoring programs to be contained in the Silvicultural Effectiveness Manual **(Declaration Order Condition 29)**

We strongly propose that precision be restored in light of our legislation and expanded to the conditions of this Declaration Order that fall within the scope of practice of professional forestry.

Protecting The Public Interest

The *Professional Foresters Act 2000*, Section 5.1 states that:

“The principal object of the Association is to regulate the practice of professional forestry and to govern its members in accordance with this Act, the regulations and the by-laws in order that the public interest may be served and protected.”

Given that our mandate to serve and protect the public interest is consistent with that of the Ministry of Environment (MOE) and of the government of Ontario, we are very supportive of the proposed conditions in this Declaration Order relating to the protection of the public interest. We see the establishment of accountability measures that are quantifiable and unbiased as a critical means of ensuring the citizens of Ontario that their interests are being protected. We have the following recommendations on this point:

1. Sustainability

(a) Independent Environmental Assessment Audit

The Association is very supportive of the requirements for the Provincial Annual Report on Forest Management, the Five-Year EA Report and the State of the Forest Report. These are all positive initiatives. However, the Association continues to view the absence of any interactive and independent review of progress and accomplishments as a prerequisite to the continuation of the Declaration Order as a serious gap in the overall accountability of MNR and its adherence to the conditions of the Declaration Order.

We believe that the use of an “everlasting” Declaration Order is not in the public interest and allows MNR to escape significant accountability. The Order should be for a fixed term (10 years) subject to extension after the completion of an interactive and comprehensive independent public review. The Association notes that the Declaration Order requires the submission by MNR of the Five-Year EA Report in the 6th year following the date that the Declaration Order comes into force and that this report shall be provided to the Ministry of Environment and made available to the public, but there is no provision for independent verification, stakeholder challenge or even response.

The Association is recommending that all Five-Year EA Reports be tabled in the Legislature at the time of submission. It is further recommended that the second Five-Year EA Report be subject to an independent public review. Following the completion of the review, the Minister of Environment could continue the Order for an additional 10-year period and/or could order additional conditions be attached to the Order. We strongly recommend that condition 52 of the Declaration Order be revised to reflect these recommendations.

The Association views this lack of an interactive independent public review to be the most serious deficiency in this proposed Declaration Order. The absence of a formal public review process cannot be considered to be in the public interest. An interactive independent public review must be a part of this Declaration Order. It is the most serious credibility issue in this entire process.

(b) Wood Supply Strategy

On the issue of “Wood Supply”, we are very pleased with the proposed revisions and requirements that have been identified in this Declaration Order and in particular, specific affirmation of the primacy of sustainability in determining allowable harvest. The reporting requirements are also a major step forward as the development of effective strategies to deal with this issue are central to the overall sustainability of the Crown forests. However, we do recommend that the strategy include an explanation of the role of the “Room To Grow” approach recommended by the Ontario Forest Accord Advisory Board.

(c) Application of Guides

The Association is very pleased that MOE has established conditions respecting the development and reporting on program plans for wildlife population monitoring, the maintenance of a program of scientific studies, the development of a status summary of Forest Management Guides and the completion of an action plan which shall describe scientific studies that shall assess the effectiveness of the direction for clearcut sizes relating to the emulation of natural disturbance patterns. These are all very positive initiatives on behalf of MOE.

However, we remain concerned over the lack of opportunity for an independent public review of the guides, their application and results to ensure that real progress is being made, that sustainability is not being compromised and that the public interest is being served and protected.

The recent introduction of guides on the Emulation of Natural Disturbance Patterns and the Provision of Marten Habitat are innovations that require open and close review.

Therefore we continue to recommend that an independent review process be established, one that would utilize the expertise of the Provincial Forest Technical Committee and be carried out in conjunction with or be part of, the proposed interactive independent review process following the submission of the Five-Year EA Report.

2. MNR's Reporting and Accountability

(a) Forest Audits

With respect to the Independent Forest Audits, we are very supportive of proposed changes in the scope, content and public review. These changes will contribute substantially to the overall sustainability of the forest and will be very much in the public interest.

We continue to feel strongly however, that overall accountability needs to be further strengthened through an independent review of the audit procedures and protocols every five years and that firm deadlines should be established for the tabling of completed audits, associated action plans and other EA related reports in the Legislature.

(b) Amendments to the Declaration Order

On the issue of "Amendments", we are generally in agreement with the proposed process, however we believe that increased public consultation measures are required. The posting of proposed amendments is but one step in a meaningful consultation process. We believe that the consultation period should be increased to a minimum of 60 days and that there should be an opportunity for an independent review of the proposed amendment before a decision is taken.

Therefore it is recommended that Condition 53 of the Declaration Order be revised to reflect these recommendations.

(c) Consultation on the Forest Management Planning Manual

In conversation with MNR after their July 17th 2002 submission, we were told that many of our proposals and the proposals of others will be candidates for discussion in the public consultation on the Forest Management Planning Manual, which is a regulated manual under the *Crown Forest Sustainability Act*. This manual lays down the details involved in developing Forest Management Plans. We are strongly opposed to leaving the changes recommended by the Association, which we feel are extremely important, to discussion in a consultation of much less stature and with only minimal chances of our being successful. We need surety now to be confident that the public interest will be served and protected.

(d) Special Issues

We are also pleased with the deadline for "Old Growth", however we are not aware of any recommendations with respect to "Roadless Wilderness" for the landscape outside protected areas. This is an outstanding issue that has yet to be addressed.

3. Public Committees

(a) Local Citizens Committees

We are very pleased to see that the present Declaration Order incorporates a number of the recommendations made by the Association in its earlier submission. This is especially true with respect to the proposed changes regarding Local Citizens Committees.

(b) Provincial Level Committees

We are still of the opinion that the Provincial Policy Committee and the Provincial Technical Committee should be more directly involved in the establishment of action plans with respect to ongoing scientific studies as required by the Declaration Order. I refer to our earlier comments contained in our letter of September 10, 2003, that set out our suggested revisions with respect to Purpose, Membership and Responsibilities of these two committees.

Summary

There is no doubt that the 1994 EA Ts & Cs were instrumental in significantly advancing both the public interest and forest management in this province. Further developments since then have resulted in the production of a set of operating Manuals and in the innovative Forest Renewal Trust Fund system. All this has created a new sense of purpose and public expectation with respect to forest management in Ontario. MNR and all stakeholders need to continue to work constructively and together to enhance this improvement in forest management on Crown lands.

To maintain this momentum, it is important that the Order be amended to:

- Strengthen the Code of Practice section to ensure the use of qualified professionals, and
- Protect the public interest and ensure sustainability by removing the “everlasting” approval in this Order and replacing it with a ten year comprehensive public and independent review of the Order and its elements.

We look forward to continuing our partnership in this process and it is our expectation that the implementation of the Declaration Order with amendments, will assist us all in moving forward in the effective and efficient management of our Crown forests.

Thank you again for the opportunity to comment on this Order and we would be pleased to discuss our proposals with you in more detail at your convenience.

Yours sincerely,

Rick Monzon, R.P.F.
Executive Director