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Dear Ms. Sookhoo,

**Re: EBR Registry No 012-5834, Draft Strategy for a Waste-Free Ontario: Building the Circular Economy and EBR Registry No 012-5832 *Waste-Free Ontario Act***

As the Executive Director of the Concerned Residents Association of North Dumfries (“CRAND”), I have been engaged in a number of policy consultations involving the Ministry of Environment and Climate Change (“MOECC”), speaking in the interests of the community and local environment. I have also had the privilege of working with many shared-value organizations across the Province to tackle underlying policy issues, including those severely impacted by Ontario’s waste management policies.

I have reviewed the materials available with the EBR postings, attended the public consultation in Guelph, and prepared the following comments in response to the proposed *Waste-Free Ontario Act* (“the Act”) and Draft Strategy for a Waste-Free Ontario (“Draft Strategy”).

1. Climate Change and Fully Accounting for GHGs

As is acknowledged on the EBR proposal notice, the Province has woefully failed to achieve or even appear to make some attempt to achieve the waste diversion targets it committed to in 2002. As a result, Ontario is faced with increased pressures on waste-disposal, climate change, and the associated adverse effects.

The National Inventory Report 2014 (2012 data) shows that solid waste disposal on land accounts for approximately 4% of Ontario’s emissions. This figure, however, does not take into account the full impact of emissions resulting from waste. Any evidence-based, sincere effort to confront the climate crisis must fully acknowledge the range of climate impact from waste management, including those resulting from transit.

Goals claiming of achieving ‘zero’ or minimal emissions should be clear in the expectations. We do not have time to spare on misrepresentative marketing.

1. Acknowledging On-Going Challenges

CRAND values the relationships built with the multiple organizations in neighbouring Oxford County. These organizations are confronting a proposal that seeks to install what would be Canada’s 4th largest landfill into a quarry currently operated by Carmeuse Lime Ltd (the “mega dump”). This proposal is very disconcerting for many reasons and presents a dangerous precedent that could risk the well-being of communities across the province. In preparing these comments, we have given considerable thought to this case and have questioned how the proposed legislation and policy framework would apply.

1. MOECC Responsibility

A community of 100,000 citizens, Oxford County has submitted at least 47,000 letters and gone to great length to communicate their concerns with the mega dump to MOECC. Astoundingly, the Ministry has offered little regard to these concerns – not even any attempt to cease their apparently relentless killing of trees in communicating these concerns.

**The MOECC has been suspiciously opaque** in its handling of activities and proposals relating to the proposed mega dump and the quarry site. From its abhorrent approval of a Certificate of Approval allowing the release of industrial sewage into the formerly-pristine, adjacent quarry lake (in the proposed attenuation zone) to its peculiar handling of Freedom of Information Requests to its failure to appropriately respond to the very serious and very-evident impacts on human health resulting from the industry’s degradation of the local air shed. The MOECC is even in violation of its own regulations under the *Environmental Assessment Act* regarding Terms of References, to which there appears to be no recourse for remedy.

It is no wonder that a community faced with these circumstances might have some doubt in the capacity or motives within the Ministry. Accordingly, the Act and Draft Strategy must ensure relief to these concerns is provided. Also, that the situation is not worsened through delegation of authority to a non-Crown, not-for-profit organization, currently referred to as Resource Productivity and Recovery Authority (“the Authority”).

1. Avoiding Limitations for Public Participation with Non-Crown Corporations

***The Authority must be equally accountable to recourse available to the public with Crown corporations, such as the Ontario Ombudsman and Freedom of Information Requests.***

While the reasons for delegating enforcement and data management to a non-Crown, not-for-profit organization are not clear in the consultation materials, it was explained in the afternoon public consultation in Guelph that limited MOECC funding was a factor. *The Province’s failure to adequately fund the MOECC (and MNRF) must not preclude the public’s ability to participate.*

CRAND has born witness to what results from inadequate ministry capacity and continues to be fervently committed to advocating for improved funding for these ministries.

1. Dangerous Precedents – Pit and Quarry Rehabilitation

One of the more disconcerting aspects relating to the mega dump proposal is the precedent it creates regarding the rehabilitation of pit and quarries.

Pits and quarries are granted approvals based on assurances that the operations are an “interim use” and would be returned to agriculture or some initiative that would minimize the environmental impact. Pits and quarries are sited near to residences and sensitive environmental areas given consideration for these rehabilitation conditions.

North Dumfries Township hosts over 5,000 acres of licenced gravel pit operations, most of which occupy what was formerly prime farmland.

While these initial applications require review from multiple approval-authorities, the *Aggregate Resources Act* allows the MNRF sole authority ability to completely re-vamp rehabilitation requirements in licenced operations through amendments to site plans. The public is afforded no opportunity to comment.

The existing rehabilitation plans of the quarry of the proposed mega dump require the site be returned to a recreational area for the community to enjoy. (The MOECC’s approval of permits to degrade the quarry lake appear to prevent the implementation of these rehabilitation plans – this has been noted.)

The mega dump proposal presents **a horrifying precedent**, that could encourage the transformation pits and quarries into landfills, adding unconscionable insult to injuries already endured as a result of aggregates extraction.

These fears are further realized upon a review of Chapter 6 of the 2010 State of Aggregate Resources in Ontario Study (SAROS) (**APPENDIX #**), commissioned by the MNRF:

*Given the serious and global problems of increasing solid-waste production by humans and decreasing waste-storage capacity, the rehabilitation of depleted extraction pits and quarries for waste landfills is logical and has at least some potential for solving local and regional waste management problems*

SAROS has been heavily criticized by environmentalists and community advocates, particularly due to the lack of any peer review or opportunity for public comment (**APPENDIX #**). In this situation, it must be noted that the authors of this section are consultants who frequently work for proponents of landfill applications (**APPENDIX #**). We strongly disagree with these SAROS authors on what is “logical”.

We urge the Ministry in the development of the Act, Policy Statements, and any associated regulations to prohibit re-definition of “rehabilitation” site plans.

Furthermore, we urge the **MOECC to ADOPT MORATORIUM.**

1. “Excess Soils” and Aggregate “Recycling”

The aforementioned concerns regarding inappropriate “rehabilitation” of pits and quarries extend further to the management of “Excess Soils” (currently undergoing a public comment period) and the processing of construction waste and debris under the guise of “recycling” (currently undergoing review of *Aggregate Resources Act*). These activities are related to the management of various forms of waste.

We urge the MOECC to communicate thoroughly with the MNRF to ensure these types of waste management operations are appropriately sited and given appropriate regard in the Act and any Policy Standards.

1. Provincial Interests

The Act should include specific reference to the need to **minimize consumption**. Continuing with the use of aggregates as an example, methods should be take to reduce our unmatched consumption rates and, ultimately, the waste that results from its deconstruction.

In addition, the Act should explicitly mention **the minimization of transportation and energy savings as a provincial interest.**

The recent ERT decision (Case No. 12-033) (**APPENDIX #**) regarding the Richmond Landfill highlighted the urgent need for **recognition of water as a public good.** Despite findings that the MOECC’s management of the landfill failed to contain leachate and protect the local water supply, paragraph 4 of the decision reads:

*[4] As set out below under Issue 3, the Tribunal finds that, in deciding this matter, it is unnecessary to address and make findings respecting whether there is a common law public right to access uncontaminated groundwater and surface water or a common law requirement that the Director consider the public interest in protecting public water rights based on the parens patriae principle.*

Ontario’s *Environmental Bill of Rights Act (1993) states. “The people of Ontario have a right to a healthful environment.”*

The *Ontario Safe Drinking Water Act (2002)* recognizes “that the people of Ontario are entitled to expect their drinking water to be safe.”

No one wants to drink sewage. And we’re not going to send you a bottle of leachate to demonstrate our point. Given the risks, historical failures, and the consequences of any failures to protect human health, we urge the Act to ***include the protection of public water rights as a Provincial Interest.***

1. Review of Strategy

The Act currently proposes a review of the Strategy every ten years. Given the province’s historical failure to take appropriate action to achieve waste diversion targets over the past decade and the urgency in the climate crisis, **the initial review should be undertaken after a period no more than five years.**

1. Policy Statements - Consultations

Section 11 of the Act references the creation of resource recovery and waste reduction Policy Statements. It is our submission that there should be **explicit requirements to consult with indigenous communities** in the development of these statements.

1. Policy Statements – Intervenor Funding

Section 12 legislates the need to be consistent with these statements. However, in many of the processes related to the legislation listed in 12(2), it is often difficult if not impossible for the public or other entities to advocate for environmental interests. Financial limitations are a serious barrier to participation. Advocating for waste reduction under the *Planning Act* could cost an organization tens or hundreds of thousands of dollars, which it will be unable to recoup. Advocates of these policies may also face punitive cost awards, as CRAND has endured and continues to challenge in our traumatic experience with environmental advocacy. **We strongly urge the implementation (or long-awaited reinstatement) of intervenor funding for those advocating for the Provincial Interests in the Act.**

The need for appropriate funding is exemplified in the case revolving the Richmond Landfill in Greater Napanee. In response to a recent ERT decision, the Chief of the Mohawks of the Bay of Quinte stated:

*The cost of these proceedings has had to be taken from funds badly needed for the operation of our community and the well-being of our residents. We are very pleased with some of the outcomes of the hearing, but very disturbed at the financial burden on our community and others.**We hope the environmental protection will continue, but that the cost will ultimately be borne by the company responsible for these problems, Waste Management.*

*Further to that, Ian Munro, Chairman of the Concerned Citizens, said:*

*While this decision effectively supports every important recommendation we have made, it is regrettable that a group of citizens must organize and fund this work to protect our local environment****.*** *Over the years, our citizens’ group has been**forced to raise and expend significant funds pursuing our concerns because, in our opinion, both WM and the MOECC unjustifiably rejected recommendations made by the Concerned Citizens and their experts. I am gratified that these recommendations have now been imposed by the ERT in a legally binding decision at the conclusion of this appeal process.*

*(Source of Quotations:* [*http://www.quintenews.com/2016/01/decision-on-richmond-landfill/104637/*](http://www.quintenews.com/2016/01/decision-on-richmond-landfill/104637/) *)*

1. Official Plans

Given the legislation changes that would require reviews of Official Plans to occur every 10 years instead of five, it is crucial that section 14(2) of the Act ensure appropriate amendments are made as soon as possible.

ROUGH NOTES:

* “…require producers to take full responsibility for their products and packaging.” Must ensure this does not equate to leaving it up to industry to self-regulate.
* GHG emissions must take into account ALL associated emissions, not only those relating to waste management
* Should apply to the Energy Act so that related activity, such as incineration, would likewise adhere to the principles of zero-waste and GHG emissions.
* Ensure manufacturers are included in legislation. The draft policy framework is not clear.
* Cabinet given option to review ERT and OMB decisions is good to provide some recourse to hold the tribunal’s accountable. However, it could undermine the process itself. Cabinet did, after all, destroy the Endangered Species Act. It is not as though it always can be depended upon to make great decisions.
* WHY THE HELL WOULD YOU MODEL ANYTHING AFTER THE OMB RAAAHHHHHHHH

**Q2: What should be the priority areas in the initial policy statements? What key components do you think they should include?**

MORATORIUM – get the exact wording on what Oxford groups are calling for.

Waste reduction, diversion, and producer responsibility.

Financial assurances.

**Q3: Do you think the proposed Act has appropriate “teeth” (e.g. Director’s requirement for review and report) to make the policy statements effective? If not, what additions would you suggest?**

* Effective enforcement is required. It should be government-lead, not solely with a not-for-profit.
* Words like “shall” and “consider” must be avoided given the discretionary format of the policy statements.
* Require Financial Assurances for appropriate parties
* Hold the province liable if these policies fail.. similar to how those people sued their government for failing to take appropriate action on climate change. Is this something we can ask for? Because I have zero confidence in this achieving much otherwise.

**Timelines seem too long.** Why wait until 2018? What else is happening other than the provincial election? I am suspicious!!

**2.0 Oversight and Compliance and Enforcement**

What is the proposed funding model for the non-Crown corporation? Will this result in

Cite Mike F’s hardware store example… a hardware store chain who was very vocal in the consultation sessions went on at great length about how "industry is bearing the brunt of the costs of these transitions". This is the same company that proudly markets those special scissors whose main purpose is to cut open that hard, clear plastic packaging - and the scissors are packaged in the same packaging they're intended to open. Integrity factor = 0