

April 17, 2020

Premier Doug Ford  
Legislative Building  
Queen's Park  
Toronto, ON M7A 1A1

cc Minister of Environment Conservation and Parks  
Minister of Natural Resources and Forestry  
Minister of Energy, Northern Development and Mines  
Minister of Indigenous Affairs  
Minister of Municipal Affairs and Housing  
Ontario Commissioner of the Environment, Office of the Auditor General  
Attorney General of Ontario

*via email*

Dear Premier Ford:

We, the undersigned organizations, appreciate the province's COVID-19 response efforts to protect the health and well-being of Ontarians. We are concerned, however, that your government's recent regulation under the *Environmental Bill of Rights* (EBR) inappropriately suspends key rights of the people of Ontario under the EBR. While we understand the need for emergency measures, in our view, this regulation is overreaching in its effects and hinders the public's ability to engage in governmental decision-making in order to safeguard our environment.

In particular, Ontario's new regulation exempts *all* governmental proposals from key requirements under Part II of the EBR until 30 days after the emergency declaration on COVID-19 has ended.<sup>1</sup> First, the regulation exempts any proposal to make, amend or revoke environmental laws, regulations, policies or instruments (e.g. licences, permits and approvals) from mandatory public notice and comment requirements under the EBR. Inexplicably, this exemption is *not* limited to measures related to COVID-19. In effect, this overbroad exemption means that for the duration of the regulation residents of Ontario, including Indigenous community members, will not have knowledge of, nor a means to participate in, provincial decisions which may have significant effects on the environment.

Second, the regulation exempts Ministers and government decision-makers from having to consider their respective commitments to protect the environment, as set out in their Statements of Environmental Values (SEVs) under the EBR.<sup>2</sup> The abrupt removal of the legal obligation for ministries to consider their SEVs is an unjustified change in Ontario's environmental policy and decision-making that will clearly undermine governmental accountability for such decisions.

---

<sup>1</sup> Environmental Registry of Ontario (ERO No. 019-1599), *Temporarily exempting proposals from the application of the Environmental Bill of Rights*, online: <https://ero.ontario.ca/notice/019-1599>

<sup>2</sup> O Reg 115/20: Temporary Exemptions Relating to Declared Emergency

Although unprecedented and devastating in so many ways, the COVID-19 pandemic should not diminish or eliminate the ability of Ontarians to engage in matters of environmental importance or profound public interest. In our collective view, environmental protection and public participation are not luxuries that should be indefinitely suspended for the duration of the province's emergency declaration. To the contrary, meaningful public participation – and full compliance with SEVs – is essential for ensuring sound and credible environmental decision-making by the Ontario government.

We therefore request the province to undertake the following steps:

1. Ontario Regulation 115/20 under the EBR should be repealed forthwith. In the event a time-sensitive measure is necessary to address COVID-19, then the Ontario government should exercise its authority under section 29 of the EBR to exempt the specific proposal from public participation obligations imposed by law. This provision currently provides a ready-made emergency exception allowing provincial actions to proceed without public consultation under the EBR. In our collective view, it is neither onerous nor time-consuming for the Ontario government to post information notices on the Registry from time to time if the section 29 power is being invoked in relation to COVID-19 matters.
2. All legislative and regulatory reforms including amendments or repeals related to Ontario's environmental laws should be deferred until 30 days following the cessation or withdrawal of the provincial emergency declaration issued in March 2020 in relation to COVID-19.
3. All public comment periods that are currently running under the EBR should be extended so that they close 30 days following the cessation or withdrawal of the provincial emergency declaration issued in March 2020 in relation to COVID-19.
4. The province should defer making decisions on any proposed policies, acts, regulations and instruments currently posted on the Environmental Registry until the day following 30 days after the cessation or withdrawal of the provincial emergency declaration issued in March 2020 in relation to COVID-19. This will safeguard public participation opportunities and preserve appeal rights under Part II of the EBR.

These two latter recommendations coincide with COVID-19 actions being taken by other judicial and administrative decision-makers, who have chosen *not* to do away with legislated timelines for notice and public participation, but rather defer or extend timelines in light of the circumstances. For example, courts in Ontario have suspended their regular operations,<sup>3</sup> are adjourning hearings and extending limitation periods,<sup>4</sup> and tribunals are permitting the late filing of appeals and introducing transition periods, whereby appeals will be accepted following the lifting of the provincial emergency declaration.<sup>5</sup>

---

<sup>3</sup> Superior Court of Justice, Notice to the Profession, the Public and the Media Regarding Civil and Family Proceedings – Update (2 April 2020)

<sup>4</sup> O Reg. 73/20 Order Under Subsection 7.1(2) of the Act

<sup>5</sup> Tribunals Ontario, Environment & Land Division, "Assessment Review Board – COVID-19 Policy," online: <https://elto.gov.on.ca/contact/assessment-review-board/>

In closing, we collectively ask that Ontario implement its COVID-19 emergency response in ways which prevent undue harm to our environment and uphold public participation rights. Anything less deprives Ontarians of their right to a healthful environment for the benefit of present and future generations.

Sincerely,



**ActivismNB**

Lena Ross, Administrator



**Attawapiskat First Nation**

Deputy Chief Louis Edwards



**Alton Grange Association**

Linda Lockyer, President



**APT Environment**

Susan Bryant, Director



**Alton Village Association**

Mary Cooney, President



**Blue Mountain Watershed Trust  
Foundation**

Norman Wingrove, Acting President and  
Secretary-Treasurer



**Blue Fish Canada**

Lawrence Gunther, President



**Canadian Freshwater Alliance**

Raj Gill, Great Lakes Program Director



**Canadian Environmental Law Association**

Theresa McClenaghan, Executive Director and Counsel



**Citizens United for a Sustainable Planet**

Paul Berger, Meetings Chair



**David Suzuki Foundation**

Rachel Plotkin, Boreal Project Manager



**Earthroots**

Amber Ellis, Executive Director



**EcoSpark**

Paul Mero, Executive Director



**Ecojustice**

Elaine MacDonald, Program Director -  
Healthy Communities



environmental  
defence

**Environmental Defence**  
Tim Gray, Executive Director



**Environment North**  
Graham Saunders, Executive Director



FRESHWATER™  
F U T U R E  
C A N A D A

## ENDANGERED ECOSYSTEMS ALLIANCE

**Endangered Ecosystems Alliance**  
Kenneth Wu, Executive Director

**Freshwater Future Canada**  
Kristy Meyer, Associate Director



Federation of Ontario Cottagers' Associations

**Federation of Ontario Cottagers' Associations**  
Terry Rees, Executive Director



Friends of the Earth  
Les Ami(e)s de la Terre

**Friends of the Earth Canada**  
Beatrice Olivastri, Chief Executive Officer



GRAND RIVER  
ENVIRONMENTAL NETWORK

**Grand River Environmental Network**  
Kevin Thomason, Vice Chair



**Gravel Watch Ontario**  
Graham Flint, President



**Greenpeace**

Shawn-Patrick Stensil, Program Director



**Green Infrastructure Ontario Coalition**

Jennifer Court, Executive Director



**Green Durham Association**

Elizabeth Calvin, President



**The Land Between National Charity**

Leora Berman, Founder and Chief Operating Officer

**Grey Association for Better Planning**

Margaret Hutchison

**Dr. Gail Krantzberg**, Professor  
Engineering and Public Policy Program  
Booth School of Engineering Practice and  
Technology  
McMaster University



**Local Enhancement and Appreciation of Forests**

Janet McKay, Executive Director



ONTARIO  
CLEAN AIR  
ALLIANCE

**Ontario Clean Air Alliance**

Jack Gibbons, Chair





## ONTARIO SOIL REGULATION TASK FORCE

**Ontario Soil Regulation Task Force**

Ian McLaurin, Chair



**Ontario Headwaters Institute**

Andrew McCammon, Executive Director



**Ontario Nature**

Caroline Schultz, Executive Director



**Ontario Rivers Alliance**

Linda Heron, Chair



**Oneida Nation of the Thames**

Brandon Doxtator, Environment and Consultation  
Coordinator



**Pembina Institute**

Carolyn Kim, Regional Director for Ontario



SIERRA  
CLUB  
ONTARIO

**Sierra Ontario**

Lino Grima, Co-Chair



**Toronto Environmental Alliance**

Emmay Mah, Executive Director



**Whole Village Property Co-operative**  
Brenda Dolling, Treasurer



**Women's Healthy Environments Network**  
Cassie Barker, Executive Director



**Wildlands League**  
Janet Sumner, Executive Director



**Wildlife Conservation Society**  
Justina Ray, President and Senior Scientist



**WWF-Canada**  
Mary MacDonald, Chief Conservation Officer