

# **Request for a Review of the Oak Ridges Moraine Conservation Plan and Related Initiatives**

**Purpose:** The Applicant requests a review of existing policies, legislation, regulation and/or technical guidance relating to the protection and management of the Oak Ridges Moraine pursuant to section 61 of the Environmental Bill of Rights.

## **Description of Relevant Acts, Policies and Related Instruments:**

The Oak Ridges Moraine Foundation (or “Foundation”) contends that a number of instruments relating to the protection of the Oak Ridges Moraine warrant review for consideration of revisions to existing policies, amendments to existing legislation, regulations and/or supporting technical guidelines to provide for the more effective implementation of the Oak Ridges Moraine Conservation Plan.

Although most of the instruments relevant to this submission are administered by the Ministry of Municipal Affairs and Housing, certain related instruments administered by the Ministry of the Environment and the Ministry of Natural Resources also need to be considered.

The instruments that may be affected under this review would include:

- The Oak Ridges Moraine Conservation Act (ORMCA)
- The Oak Ridges Moraine Conservation Plan (ORMCP)
- The Municipal Act
- The Aggregate Resources Act
- The Environmental Assessment Act
- The Permit To Take Water –Regulation 387/04 adopted pursuant to the Ontario Water Resources Act

The request may apply to each statute or regulation individually or collectively to address identified deficiencies in the current implementation of the ORMCP.

## **We believe that the Ministries should undertake this review to protect the Oak Ridges Moraine because:**

The ORMCP was adopted by the Province in 2002 to provide protection and where possible improvement to the significant and sensitive ecological and hydrogeological integrity of the Oak Ridges Moraine. **We believe that there are serious policy, legislative, regulatory and technical support deficiencies that currently limit the ability of the agencies responsible for the implementation of the ORMCP to achieve the stated objectives of the ORMCP.** The ORMCA and the ORMCP both made provisions for a review of the effectiveness of the ORMCP within 10 years of its adoption. This date was subsequently changed to 2015 under the Greenbelt Act so the review of the ORMCP could occur simultaneously with the

Greenbelt Plan and the Niagara Escarpment Plan. Notwithstanding this scheduled review, certain deficiencies, as will be described herein, are of a nature and urgency that they need to be addressed and resolved immediately.

Both the ORMCA and the ORMCP provide opportunity for the Minister of Municipal Affairs and Housing to amend the ORMCP. The Plan Review and Amendment section of the ORMCP, subsection f) written in accordance with section 12 of the ORMCA states:

***“It is not intended that the Plan will be amended on a routine or regular basis. However, the Minister may consider amendments outside a 10-year review if:***  
***- the amendment would correct major or unforeseen circumstances, or would incorporate or reflect major new Ontario government legislation, regulations, policies, new information or standards;***  
***- deferral of the amendment to the next 10-year review would threaten the overall effectiveness or integrity of the Plan;***  
***- the amendment would improve the effectiveness and relevance of its policies.”***

This section of the ORMCP acknowledges the Province’s commitment to revisit and if necessary amend the ORMCP and related initiatives to improve the effectiveness of the ORMCP outside the scheduled review.

As will be discussed in more detail in other parts of this application, the Foundation and many of its partners believe the ORMCP and related initiatives need to be reviewed and upgraded to ensure that the Province meets its commitment to, maintain and where possible improve the health of this environmentally significant natural landform.

The basis for this opinion stems from evaluative works carried out by the Foundation and other stakeholders. Under the Foundation’s “*Measuring Success on the Oak Ridges Moraine Project*” a comprehensive in depth evaluation of the ORMCP implementation was undertaken. Eight reports prepared by the Foundation identified successes, challenges and opportunities for improving the manner in which the policies and programs developed for the ORMCP are implemented.

This evaluation identified many positive components of the ORMCP implementation process. All municipalities have successfully amended their official plans to incorporate the requirements of the ORMCP and most area municipalities have amended their zoning by-law accordingly. Some major infrastructure agencies including the Ministry of Transportation and York Region have amended their infrastructure review and operating procedures to address the infrastructure requirements of section 41 of the ORMCP. Many municipalities have revised or adopted watershed plans, site alteration by-laws and tree conservation by-laws to enhance their ability to protect the ecological integrity of the Oak Ridges Moraine.

Unfortunately the *Measuring Success on the Oak Ridges Moraine Project* also identified a number of serious deficiencies that present significant impediments to the ability of the ORMCP to protect or possibly improve the ecological and hydrogeological integrity of the Oak Ridges Moraine. This evaluation identified a number of areas where the responsibilities of certain agencies and the expectations of the ORMCP have not been achieved or are not being carried out in an effective manner.

Some of these obligations and expectations will no doubt be addressed and hopefully resolved as part of the review of the ORMCP scheduled for 2015. With this in mind the Foundation has shared the results of its comprehensive evaluation of the ORMCP with the appropriate provincial ministries. This application will only deal with concerns and deficiencies that the Foundation feels need to be dealt with immediately.

The eight specific concerns that the Foundation believes need to be addressed immediately are as follows:

**a) Fill/Site Alteration and Tree Conservation Controls**

i) Description

Fill importation, site alteration and tree conservation can be controlled through municipal by-laws adopted by municipalities under Sections 135 and/or 142 of the Municipal Act. At present such by-laws are incomplete and/or inconsistent in their coverage across the Oak Ridges Moraine. Some policies in the ORMCP can only be enforced if these regulatory by-laws are adopted by the municipalities pursuant to the provisions of the Municipal Act.

The Ministry of Municipal Affairs and Housing has not mandated the adoption of such by-laws on the Oak Ridges Moraine and has not provided any standards or related instructions on what the contents of such by-laws need to be to meet the requirements of the ORMCP.

Under Section 23 (1) (f) and (g) of the ORMCA, the Minister has the ability to prescribe the adoption of these by-laws by the municipality under the provisions of Section 135 and 142 of the Municipal Act. To date the Minister has chosen not to execute this power.

The Province also has the ability under the Environmental Protection Act to adopt regulations to restrict and manage the importation of fill.

As of 2011, four of the 25 area or single-tier municipalities have yet to adopt a site alteration by-law under Section 142 of the Municipal Act. Two municipal entities do not have tree conservation by-laws in place pursuant to Section 135 of the Municipal Act or the provisions of the Forestry Act.

More significantly, no comprehensive evaluation of any of the relevant by-laws have been undertaken by the Province to assess whether these by-laws provide the minimum level of protection needed to meet the requirements of the ORMCP. A cursory review of selected by-laws carried out by the Foundation identified instances where tree control by-laws did not provide protection to tree cover located in key natural heritage features as defined by the ORMCP.

On a similar note there are many municipalities who have expressed concerns about the importation of fill into, for instance, depleted sand and gravel pits in the Oak Ridges Moraine. While such proposals have the potential to return surface contours to their pre-extraction levels and emulate previous landforms on the Oak Ridges Moraine, they come with a number of hidden dangers including:

- Degradation of water resources if imported fill is contaminated;
- The importation of fill with different textural, density and mineralogical characteristics that may adversely affect ecological and hydrological processes; and
- The need to adopt and monitor expensive and complex monitoring protocols to ensure the fill is imported and placed on sight in accordance with proper environmental standards. Although such matters could be addressed by the municipality under the site alteration by-law, municipalities would likely prefer the province address such issues through controls available under regulations to the Aggregate Resources Act and the Environmental Protection Act.

## ii.) Implications and Impacts

Effective controls for site alteration, fill importation and tree cutting are needed to control disruptions to landform and natural features and functions that are not covered by controls under the Planning Act or the Environmental Assessment Act. If a municipality has not adopted the necessary site alteration or tree conservation by-laws then many forms of site alteration, fill importation and tree removal can occur unopposed on the Oak Ridges Moraine and work against the intentions of the ORMCP.

Site alteration, fill importation and large scale tree cutting can result in the destruction and degradation of significant landforms identified in Section 30 of the ORMCP, the destruction or degradation of key natural heritage features identified in Section 22 of the ORMCP and impair the hydrologically sensitive features identified in section 26 of the ORMCP.

Large-scale fill importation has become an especially controversial and complicated land use issue in some parts of the Oak Ridges Moraine. Several municipalities have bemoaned the lack of clear standards and procedures for controlling such activities as aggregate resource extraction to ensure contaminated fill is not introduced as part of rehabilitation that will create long-term impacts on the water resources.

Some municipalities would prefer to see stronger leadership and control from the Province to address these situations.

The Province has done little to assist municipalities to craft the standards and protocols needed to address fill control issues through site alteration by-laws. Several areas where provincial assistance would be helpful include:

- Direction on how to determine if fill is clean;
- Protocols for assessing and monitoring large scale fill operations;
- and
- Direction on how to coordinate fill control legislation administered by the province, conservation authorities and the municipality to reduce red-tape.

### iii) Actions Needed

We contend that the Minister of Municipal Affairs in concert with the Minister of the Environment and the Minister of Natural Resources needs to consider adjusting its current ORMCP implementation process to:

- Require all relevant municipalities to adopt site alteration and tree conservation by-laws as provided for under Section 25 of the ORMCA;
- Require all municipalities with existing site alteration or tree conservation by-laws to review and revise these by-laws to ensure they meet the minimum protection standards of the ORMCP;
- In support of the above, provide technical standards to municipalities describing the minimum levels of protection that must be included in these by-laws to meet the requirements of the ORMCP;
- In concert with the Minister of the Environment provide technical standards on how to assess applications to import fill to ensure it is clean and doesn't disrupt the ecological integrity of the Oak Ridges Moraine;
- Provide guidance on how approvals under municipal by-laws can be effectively co-ordinated with fill approvals required under other legislation, most particularly the Environmental Protection Act, the Aggregate Resources Act and the Conservation Authorities Act; and
- Consider the adoption of comprehensive provincial regulations under the Environmental Protection Act and/or the Aggregate Resources Act to ensure that fill importation into depleted sand and gravel pits or any other lands meets the environmental standards prescribed in the ORMCP.

## **b) Transportation, Infrastructure and Utilities:**

### i.) Description

Section 41 of the ORMCP provides policy direction on how applications for transportation, infrastructure and utility works will be evaluated and approved within the Oak Ridges Moraine. Stakeholder surveys undertaken as part of the

*Measuring Success on the Oak Ridges Moraine Project* indicate a consistent concern about the low level of rigour assigned to the assessment of these types of uses in the context of protecting the Oak Ridges Moraine. More specifically there were concerns that:

- The “need” and “reasonable alternative” criteria to assess the appropriateness of such works included in section 41 of the ORMCP are vague and nebulous and difficult to consistently apply. Technical supporting guidance material needs to be provided by the Province;
- The permissive nature of Section 41 undermines the overall integrity of the ORMCP insofar as it only requires that certain minor planning tests, siting and mitigation measures need to be addressed to receive approval for an infrastructure proposal. There is minimal direction on when infrastructure work should not be permitted on the Oak Ridges Moraine. Many stakeholders fear that the ORMCP will become a Parkway Belt where major infrastructure, needed by the GTA and Simcoe Area, will be dumped into the Oak Ridges Moraine. These stakeholders would like guarantees that large scale, high impact infrastructure works such as 400 series highways and large wind-power fields will not fragment the Oak Ridges Moraine and not be acceptable activities in areas designated Natural Core and Natural Linkage. As the ORMCP is currently written if a transportation, infrastructure or utility work is needed and there is no reasonable alternative then it is permitted in the Oak Ridges Moraine regardless of the magnitude of environmental damage it may create. Surely there are situations where the need to preserve the ecological integrity of the Oak Ridges Moraine should take precedence over societies never ending quest for more infrastructure to support the endless expansion of urban growth. The current policies of the ORMCP to maintain and where possible improve the ecological and hydrogeological integrity of the Oak Ridges Moraine is unsustainable if the policies of Section 41 of the ORMCP are not changed; and
- There are no co-ordinated policies or procedures in place to compel infrastructure project proponents to address the requirements of the ORMCP in a thorough and effective manner. While matters arising under the Planning Act are implemented by amendments to municipal official plans and zoning by-laws, no such amendments exist for matters under the Environmental Assessment Act that controls infrastructure, transportation or utility development. There is no co-ordinated protocol requiring such agencies to amend relevant review procedures conducted under the Environmental Assessment Act to ensure that the policies of the ORMCP are considered as part of activities subject to the EA approvals process. For example, there are numerous municipal undertakings that are carried out as Class EAs under the Environmental Assessment Act, yet the Class EA procedures followed by all municipalities have not been amended to address the requirements of the ORMCP.

Other stakeholders echo these concerns. Peter Gorrie in an Ontario Nature article stated, “Infrastructure projects are” a “big worry”. They occur in core and linkage

areas as long as their proponents can show that the infrastructure is needed and no reasonable alternative exists.” Debbe Crandall of Save The Oak Ridges Moraine Coalition added, “infrastructure bounds along at its own pace and nothing stops it...Everything gets through that filter”

#### ii.) Implications and Impacts

With large-scale urban development suspended in most parts of the Oak Ridges Moraine, development and site alteration associated with transportation, infrastructure and other utility works will likely represent the largest element of surface and sub-surface disruption and land use change. These activities have a high potential to destroy or degrade the ecological and hydrological integrity of the Oak Ridges Moraine if they are not closely assessed and monitored to ensure they comply with the requirements of the ORMCP. This is particularly worrisome when one considers that many of the instruments that control infrastructure development have poorly defined policy or procedural linkages to the ORMCP. Caroline Schultz the Executive Director of Ontario Nature stated that infrastructure “projects, particularly roads, fragment habitat, threaten its survival and the well being of the species that use it. It’s a huge problem”.

As stated above, Section 41 of the ORMCP provides an automatic conditional approval for such uses proposed in 62% of the Oak Ridges Moraine, that constitutes the natural core and natural linkage designations, provided “need” and lack of “reasonable alternative” can be established. Currently there is no provincial direction on how need and reasonable alternative should be assessed.

The two above ingredients make the interpretation and application of Section 41 provisions open to abuse and inconsistent application. Transportation, infrastructure and other utilities have the potential to significantly degrade the health of the Oak Ridges Moraine if the provisions of section 41 are inappropriately applied.

#### iii.) Actions Needed

We contend that the Minister of Municipal Affairs and Housing and the Minister of the Environment need to consider adjusting the current ORMCP implementation process to:

- Provide specific instruction to all municipal and other government agencies undertaking transportation, infrastructure and other utility works that sets expectations and responsibilities of these agencies to address the requirements of section 41 of the ORMCP;
- Amend all relevant class EA procedures and other guidance materials relating to undertakings under the EA process to require appropriate consideration of the policies

of the ORMCP as part of the EA process, most particularly the Municipal Class EA process; and

- Consider amending the ORMCP to describe the kinds of large-scale transportation, infrastructure and utility works that will not be permitted in the Oak Ridges Moraine. At the very least, major works of the nature described in section 41 of the ORMCP should only be considered in the most extraordinary situations in the Natural Core and Natural Linkage designations.

### **c) Water Management:**

#### **i.) Description**

Section 24 to 29 of the ORMCP provides extensive policies on the protection and management of the water resources of the Oak Ridges Moraine. However, deficiencies in certain other policies, regulations and standards limit the ability of implementing agencies to provide the protection envisioned in the ORMCP to maintain or where possible improve water quality, preserve water storage and protect the related health of hydrological features found on the Oak Ridges Moraine. More specifically:

- Not all upper tier municipalities have prepared or commenced preparation of watershed plans, water budgets or water conservation plans as prescribed under Section 25 of the ORMCP. Certain municipalities have decided not to prepare such plans presumably because of the high costs or because there was no incentive since there are no major developments contemplated within the watershed area;

- For the watershed plans that have been prepared or are under preparation there are no performance standards, review or approval process to confirm that the watershed plans have adequately addressed the requirements of the ORMCP;

- No policies or regulations related to the review or approval of water taking permits pursuant to Regulation 387/04 pursuant to section 34 of the Ontario Water Resources Act have been adopted by the Province to require that permits issued on or adjacent to the Oak Ridges Moraine meet the objectives of the ORMCP or assess the cumulative impact on the ORMCP;

- There is a serious disconnect between the requirements of the ORMCP and water undertakings carried out under the environmental assessment process. Currently applications for water - taking permits are not required to establish compliance to the ORMCP. In addition water taking permits are reviewed and processed on an individual basis that do not take into account the cumulative impact of multiple applications in the same watershed; and

- There is a serious deficiency in the water monitoring systems in place on the Oak Ridges Moraine to assess trends in water quality, preservation of water reserves and the health of aquatic ecosystems. This was amply demonstrated in the Foundation's *Measuring Success on the Oak Ridges Moraine Projects' Watershed Health Assessment Report* (ORMF, 2011 c).

#### ii.) Implications and Impacts

Ontario Nature has observed, " the current plan ...focuses on land use rather than resource management. One consequence is that water from the aquifers can be drained for consumption in the burgeoning communities outside the moraine boundary. Underground water seeps into water and sewage pipes. Losses caused by both types of water removal are estimated to total more than 100 million litres per day. In addition, vast quantities –in billions of litres –have been drained away during construction of a major sewer system to serve York Region. The depletion of the underground water reduces the amount supplied to the streams that flow off the moraine. As a result, fish species disappear when the waterways get too warm or even dry up."

The current deficiencies described above could result in decisions being made on the Oak Ridges Moraine without regard to the ORMCP. Water taking permit approvals for example are conducted as a regulatory process largely independent of the water resource management requirements contained in the ORMCP. Many municipalities are making decisions about land use changes that affect the health of water resources often without the benefit of a properly prepared or executed watershed plan. Agricultural practices, for example, are not being assessed in terms of how they are affecting watersheds and related water resources. These inactions over time could cumulatively reduce water quality, reduce water storage capacity or destroy or degrade aquatic ecosystems.

#### iii.) Actions Needed

We contend that the Minister of Municipal Affairs and Housing and the Minister of the Environment need to consider adjusting the current ORMCP policies and implementation process to:

- Make it mandatory that all relevant municipalities prepare and implement watershed plans, water budgets and water conservation plans as envisioned under Sections 24 and 25 of the ORMCP;
- Undertake a review of all watershed plans, water budgets and water conservation plans to confirm they meet the requirements of the ORMCP;
- Require municipalities to include policies in official plans describing how they will address the directions and recommendations of the watershed plan;

- Amend regulation 387/04 for water taking permits applications to require the applicant to describe how a permit application located in or adjacent to the Oak Ridges Moraine will address and meet the requirements of the ORMCP including the ability to assess the cumulative effects of numerous water takings over time; and
- Provide a detailed schedule describing how monitoring standards, monitoring stations and performance targets and indicators will be developed and populated in time for the scheduled 2015 review of the ORMCP.

#### **d) Sustainable Lifestyle and Livelihood:**

##### **i.) Description**

Sections 11, 12 and 13 of the ORMCP describe the permitted uses that can occur in the Natural Core, Natural Linkage and Countryside Area designations respectively. While these permitted uses are generally consistent with what are expected in an environmental plan like the ORMCP, the Foundation heard from many stakeholders that there is a need for more flexibility and provision for innovative land use models on the Oak Ridges Moraine. Many landowners and rural municipalities are concerned that many of the limitations posed by the ORMCP are making it difficult for them to maintain their businesses and lifestyle choices. Several environmental and agricultural stakeholder groups have stated an interest in meeting to determine if some modification to the current permitted uses on the Oak Ridges Moraine could be identified that would increase the range of choice and opportunities to landowners without detracting from the overall focus of protection and enhancement of the ecological and hydrological integrity of the Oak Ridges Moraine.

##### **ii.) Implications and Impacts**

The ORMCP will ultimately be an unsustainable enterprise if it does not adequately provide landowners with the opportunity to continue to enjoy their property and have a reasonable opportunity to adjust their land use practices to meet the economic demands and opportunities presented to them in the future. This is not to say the Foundation supports large-scale land use changes or increased opportunities for new urban development. Rather it is our proposition that we would be willing to explore with landowners and municipalities' adjustments and innovations for land use that fall within the general spirit of the objectives currently stated within the ORMCP and more importantly engage and enhance acceptance from landowners living and working on the Oak Ridges Moraine.

Stakeholder surveys conducted by the Foundation and others indicate that many parties will be asking for greater flexibility in land use choice on the Oak Ridges Moraine as part of the 2015 review. In anticipation of this becoming a potential issue at that time, we ask for the opportunity to explore this issue with the Province

and other stakeholders in an attempt to develop a consensus position in time for the 2015 review.

### iii.) Actions Needed

We contend that the Minister of Municipal Affairs and Housing needs to consider adjusting its current ORMCP implementation process to:

-Revisit the range of permitted uses in Sections 11, 12 and 13 of the ORMCP to explore livelihood opportunities for landowners on the Oak Ridges Moraine. This could be done through a consultation venue including landowners, developers, the aggregate sector and agricultural and environmental stakeholders in order to develop a consensus in time for the 2015 review of the ORMCP.

### **e) Monitoring:**

#### i.) Description

Under the Implementation Section of the ORMCP, the Province committed to the development of performance indicators for monitoring the effectiveness of the ORMCP and the establishment of a monitoring network in partnership with stakeholders. To date no meaningful efforts have been made by the Province to fulfill these commitments.

As more eloquently stated by Ontario Nature in a 2011 article prepared by Peter Gorrie “ The Province promised to produce “performance indicators to assess the moraine plan’s success and prepare for its review in 2015. It hasn’t and municipalities have done little to assess water quality in streams and wells, as well as stream flows and the health of plant, bird and animal populations. “

As part of its *Measuring Success on the Oak Ridges Moraine Project*, the Foundation identified almost 30 potential performance indicators and targets that could be adopted and upgraded very inexpensively over time to track trends in the Oak Ridges Moraine and gauge the effectiveness of the ORMCP in achieving its objectives. To date the Province has shown no interest in working with its partners to develop the necessary monitoring tools.

#### ii.) Implications and Impacts

Unless the Province starts immediately to meet its obligations in monitoring, as expressed under the Implementation Section of the ORMCP, the Province will not have the tools or information in place to undertake a meaningful evaluation of the success of the ORMCP as part of the 2015 review.

The Oak Ridges Moraine Foundation has provided extensive commentary on how an effective monitoring program could be initiated at moderate cost. The *Measuring Success on the Oak Ridges Moraine Project* developed by the Foundation has produced eight reports that examine in detail the achievements of the Foundation and others in implementing the policies of the ORMCP. These reports will provide an effective starting point for the Province to start to meet its monitoring commitments including working with other stakeholders to prepare an effective monitoring framework in time for the 2015 review of the ORMCP.

### iii.) Actions Needed

The Province needs to revisit its commitment to provide effective performance indicators and targets and provide clear guidance and scheduling as to when this will be achieved in time for the 2015 review. This includes honouring its commitment to work with other agencies to develop a monitoring network in time for the review of the ORMCP currently scheduled for 2015.

## **f) Auditing**

### i.) Description

The Foundation and many of its stakeholders remain concerned that there is no formal audit function developed by the Province, to determine the degree which agencies responsible for the implementation of the ORMCP are complying with its requirements. The Foundation and other partners have identified numerous situations where it is known or suspected that compliance is not occurring. Considering that other environmental initiatives such as the Niagara Escarpment Plan have dozens of provincial staff assigned to monitor and guide its progress, it is quite remarkable that the ORMCP has virtually no one doing the same. The Foundation, through its *Measuring Success on the Oak Ridges Moraine Project* has offered several suggestions as to how an audit process could be integrated into the ORMCP implementation process.

### ii.) Implications and Impacts

Lack of an audit capability for the ORMCP has three serious implications:

- Development and land use decisions that do not comply with the ORMCP will likely occur unchallenged on the Oak Ridges Moraine and can ultimately degrade its ecological and hydrological health over time;
- It conveys the message that the Province doesn't care about effective implementation of the ORMCP. This will likely erode support for the ORMCP among implementation partners and other stakeholders; and
- It adds an element of uncertainty to the review process in that it is impossible to determine effectiveness of a specific policy if that policy has not been adequately applied i.e. is it the policy or the lack of policy that one is measuring

### iii.) Actions Needed

We contend that the Minister of Municipal Affairs and Housing needs to seriously reassess its role in monitoring the activities of others in complying with the requirements of the ORMCP. In this regard the Minister needs to consider either assigning staff to monitor and assess decision-making around development and land use changes being processed on the Oak Ridges Moraine to ensure it complies with the provisions of the ORMCP or establish a process whereby this function is undertaken by an appropriate body.

### **g.) Transition Provisions (Grandfathering)**

#### i) Description

Section 15 of the ORMCA makes provision for certain planning applications to proceed without regard to some or all of the provisions of the ORMCP if the applications were made before November 17, 2001 and a decision has been made in respect of the application, matter or proceeding being considered. This provision was intended to provide for grandfathering of applications that were in the planning process before the introduction of provincial restrictions related to the Oak Ridges Moraine.

As stated by Peter Gorrie in an Ontario Nature article “ many development plans - probably dozens though the exact number, or an estimate of the area they cover is not available- had received draft approvals when moraine conservation was enacted. Those plans were grandfathered, but ambiguity exists about which of the new laws apply to them. Rather than settle the issue in court, conservation authorities are engaged in time –consuming negotiations with developers to induce them to improve conditions such as setbacks from streams and wetlands, and protection or planting of trees.”

Developers who have such transition applications in place have now had nine years to complete their application and will have had 13 years by the time the 2015 review of the ORMCP arrives.

#### ii) Implications and Impacts

Many municipalities and the public view these grandfather applications as troublesome. They feel there has been sufficient time already allocated to resolve these matters and that by 2015 all grandfather provisions should be eliminated. The public remains concerned about the commitment of the Province to the objectives of the ORMCP when they see new development under the transition provisions occur on lands they thought were protected from such development.

### iii) Actions Needed

We contend that the Minister of Municipal Affairs and Housing needs to seriously consider the cessation of the transition provisions of the ORMCA and ORMCP and declare a cessation of such activities by 2015.

## **h) Ongoing Support for Stewardship, Land Securement, Education and Research**

### i) Description

In 2002, the Ministry of Municipal Affairs and Housing established and funded the Oak Ridges Moraine Foundation to carry out non-regulatory programs to support the policies of the ORMCP. With funding of \$15 million the Foundation has over the last nine years engaged partners in a large number of projects aimed at improving the health of the Moraine including land stewardship, land acquisition, public awareness and education, research and trail development. The Foundation was able to leverage support funding and in-kind contributions of over \$35 million for a combined total of a nearly \$50 million investment on the Oak Ridges Moraine.

### ii.) Implications and Impacts

To date the Foundation has been able to demonstrate significant success in implementing the objectives of the ORMCP including:

- Completion of a continuous east-west Oak Ridges Trail as required under Section 39 of the ORMCP;
- Securement of over 5,500 acres of conservation lands;
- Improvement of environmental health of an additional 1000 acres of land through stewardship; and
- Education programs delivered to almost 6000 elementary and secondary school pupils

The Oak Ridges Moraine Foundation did not receive funding in the recent provincial budget, meaning that unless it's supported in the 2012 budget it will likely cease operations at the end of next year. This means that a continuation of the very important non-regulatory work initiated by the Foundation and its partners will not occur. Equally important, it is likely that many of the partnerships and networks created over the last nine years will likely disintegrate.

Lack of funding will result in the cessation of many vibrant stewardship and securement programs that involve dozens of partners. For example the Oak Ridges Trail Association has warned that without continued support from the Foundation, they will likely be unable to maintain the current Oak Ridges Moraine Trail and will definitely not be able to pursue additional opportunities for trail improvements.

### iii.) Actions Needed

The Province needs to reinvest in the non-regulatory initiatives that support the ORMCP's protection and enhancement goals for the Oak Ridges Moraine. Recapitalization funds are needed to support the Foundation and its programs. The Foundation has a proven track record – delivering on-the-ground results and successfully developing and facilitating partnerships that have maximized the province's return on investment.

### **Conclusion**

For the reasons described above, the Oak Ridges Moraine Foundation and its partners contend that the ORMCA, ORMCP and associated regulations, policies and technical guidelines need to be reviewed and where necessary amended or supplemented to address fundamental deficiencies in the current process. This is to address emerging issues and concerns about the ability of the Province to fulfill its basic obligations under the ORMCA and ORMCP. In summary, matters requiring immediate attention are as follows:

- Lack of provisions to effectively control and manage site alteration, fill importation and tree cutting on the Oak Ridges Moraine;
- Lack of provisions to effectively control and manage the establishment of new or upgraded transportation, infrastructure and utility works on the Oak Ridges Moraine;
- Lack of provisions to effectively control and manage water taking and water management on the Oak Ridges Moraine ;
- The need to actively engage landowners and rural municipalities located on the Oak Ridges Moraine to explore opportunities to enhance the ability of rural landowners to maintain sustainable lifestyles and livelihoods in preparation for the 2015 review of the ORMCP;
- The need to establish a monitoring framework including performance indicators and targets in preparation for the 2015 review of the ORMCP;
- The need to establish an effective auditing capability in order to determine whether agencies responsible for implementing the ORMCP are complying with the requirements of that Plan; and
- The need to recapitalize the Oak Ridges Moraine Foundation to ensure the continuation of non-regulatory tools that have been developed to meet the requirements of the ORMCP.

## **Support Material**

### **Hall, Chris 2010**

Deadline of Oct 8 Set for Scugog, Fill Operation, article from Durham News, September 29, 2010

### **Gorrie, Peter**

Showdown on the Oak Ridges Moraine, Ontario Nature

### **Monitoring the Moraine (MTM) Program 2006**

Status Report on the Implementation of the Oak Ridges Moraine Conservation plan: Implications for the Greenbelt Plan

### **Monitoring the Moraine (MTM) Program 2007**

2007 Status Report on the Implementation of the Oak Ridges Moraine Conservation Plan: A look at New Infrastructure Projects.

### **Oak Ridges Moraine Foundation 2011a**

Stakeholder Survey –An assessment of Stakeholder Awareness, Support and Concerns for the Implementation of the Oak Ridges Moraine Conservation Plan

### **Oak Ridges Moraine Foundation 2011b**

Compliance Assessment – Assessing Compliance of Policy and Regulatory Agencies to the Requirements of the Oak Ridges Conservation Plan

### **Oak Ridges Moraine Foundation 2011c**

Watershed Health Assessment- assessing the Health of the Oak Ridges Moraine in a Watershed Context

### **Oak Ridges Moraine Foundation 2011d**

Landscape Health Assessment – Assessing the Health of the Oak Ridges Moraine in a Landscape and Municipal Context

### **Oak Ridges Moraine Foundation 2011e**

Land Stewardship –Achievements in Stewardship since the Establishment of the Oak Ridges Moraine Foundation

### **Oak Ridges Moraine Foundation 2011f**

Land Securement – Achievements in Land Securement since the Establishment of the Oak Ridges Moraine Foundation

**Oak Ridges Moraine Foundation 2011g**

Education and Research – Achievements in Research and Education since the Establishment of the Oak Ridges Moraine Foundation

**Oak Ridges Moraine Foundation 2011h**

Oak Ridges Moraine Trail since the Adoption of the Oak Ridges Moraine Conservation Plan

**Office of the Environmental Commissioner of Ontario 2007**

Doing Less with More: How Shortfalls in Budget, Staffing and In House Expertise Are Hampering the Effectiveness of MOE and MNR – A Special Report of the Legislative Assembly of Ontario, April 24, 2007