

Association

PRESS RELEASE

The Environmental Law Association has prepared the following brief on behalf of the Save Rainbow Country Committee. It is addressed to the Minister of Natural Resources. Copies have also been dispatched to the Minister of the Environment, the Minister of Treasury, Economics, and Intergovernmental Affairs, all in Toronto, and the Ministers of Transport and Environment in Ottawa.

The Save Rainbow Country Committee requests the Minister of Natural Resources to intervene in order to prevent further deterioration of the North Georgian Bay Recreational Reserve. The Fisher Harbour development is a prime example of conflicts arising from inconsistent regulations over public and private land use. To ensure the future of the Recreational Reserve, there must be controls on the location, size, and type of all development in the area, whether it is on private or public land. For these reasons, it is imperative that the Minister of Natural Resources, and the other ministries of the Ontario Government act quickly to resolve the conflicts which have arisen.

Environmental Law Association

It has recently come to the attention of various interested citizens that large-scale industrial development is taking place on Little La Cloche Island, and on the Whitefish River Indian Reserve, both in the District of Manitoulin. In response to these proposals, the Save Rainbow Country Committee has been formed, taking as its primary objectives the preservation of the character of the area in which they are being built, and the balanced and controlled economic development of that same area. The Save Rainbow Country Committee, in association with the Environmental Law Association and the McGregor Bay Association submits the following for the consideration of the Minister of Natural Resources.

The Save Rainbow Country Committee, through one of its associates, the Environmental Law Association, has made a detailed study of the North Georgian Bay Recreational Reserve - Summary Report, as well as the more comprehensive thesis by E. M. Cressman, from which it is drawn.¹ The Committee wishes to state that it is in full agreement with the aims of the report, and the proposed outline of land use for the area.

The development of Fisher Harbour on Little La Cloche Island is of immediate concern to three of the landscape units of the

North Georgian Bay Recreational Reserve, Little Current, Killarney, and McGregor Bay. The east side of Little La Cloche Island on which the wharfing facility will be built is very near the boundaries of these three areas. However, the problem that has arisen on Little La Cloche has implications for all privately held land in the Reserve. The Committee is concerned not only about the impact of Fisher Harbour on the environment, but also about the ramifications of all uncontrolled development in other parts of the Reserve.

The Save Rainbow Country Committee wishes to emphasise that it is not opposed to economic development of the area. The District of Manitoulin suffers from a marked deficiency in per capita income relative to the provincial average. There is a need for development which will provide fairly large numbers of jobs of a year-round nature. The port facility at Fisher Harbour has not yet been shown to provide such employment, particularly in view of the fact that most of its operations will cease in the winter months. However, it should be conceded that the port will provide needed transportation infrastructure for the North Eastern Region of Ontario. The Committee's principal concern is that whatever development does take place should be shown to be consistent with the area's needs and that it occur in a controlled fashion after appropriate public consultation.

It is recognised that the Minister of Natural Resources acquired by means of the North Georgian Bay Recreational Reserve Act, the prerogative to make regulations governing the use of public lands in the Reserve, namely for the care, preservation, improvement, etc. of the North Georgian Bay Recreational Reserve. The freeze on the disposition of Crown land within the Reserve was a positive and necessary regulation within the scope of the act. However, the rigidity of the controls on public lands within the Reserve emphasises the conspicuous absence of land use controls applicable to private holdings. This problem is most severe in areas of the Reserve which include a large percentage of private land such as the La Cloche - McGregor Bay area.

It is the understanding of the Committee that at present no controls over the use of private land beyond sanitation, water and air pollution exist. In short, a private land owner in the unorganised territories of the Reserve is free to use his land in any manner, whether or not it is consistent with the stated policy of the government for public lands, so long as he merely observes the usual controls over air and water use.

There is no need to refer the Minister to the details of the Cressman Report. However, with regard to the Fisher Harbour

Development, it is of particular interest to note that the Little Current - Killarney yacht waters of the North Channel are considered among the outstanding areas of the Reserve.² It is difficult to conceive that the Fisher Harbour development can be totally consistent with maintaining the unique character of that area. The possibilities of pollution from docking and loading are always present. In a public statement at Little Current on 19 July 1972, Captain F. J. Bulloch, Chief Surveyor of the Department of Transport stated that even with the most advanced environmental controls, there is no such thing as a completely clean port. The wharf itself will pose an obstacle to small boats using the shore line of Little La Cloche. The construction of a causeway over navigable water, without the requisite permit from the Department of Transport has already hindered navigation and impaired recreational quality of a shallow bay reputed to be a spawning ground for fish and a favourite fishing spot of local lodge keepers.

On land, the construction of a road and rail link to the harbour site has apparently resulted in disturbing some of the famous 'bell rocks', from which the island takes its name. These rocks were once used by the Ojibway as signals to warn of impending Iroquois raids.

Another recreational capacity of the Little Current landscape unit is that classified L - lodging or cottage sites. As noted

in the Cressman report, such usage has a moderate sensitivity to multiple use.³ In fact the Little Current landscape unit is designated as an area of high potential conflict between recreational use and such activities as mining and forestry.⁴

The other two landscape areas which are contiguous to Little La Cloche Island - McGregor Bay and Killarney - contain recreational features of both provincial and national significance.⁵ McGregor Bay has particularly high capacity for small craft boating, lodging and cottaging, and angling. Aside from the aesthetic considerations of the harbour, which are chiefly relevant to the first two of these, the possibilities of water pollution from its operation may pose a threat to use of that area for angling. In the Killarney landscape unit, excellent yachting capacity may be impaired both aesthetically and physically by the presence of significant numbers of ocean-sized vessels.

The Fisher Harbour development is inconsistent not only with the specific recreational uses outlined above, but with the general plan for zoning of the area. It is to be noted that the area around Little La Cloche Island is zoned 4M in the General Zoning Plan,⁶ i.e. moderate mixed use development. Mixed use, as defined in the report, implies compatible uses.⁷ It is significant that the plan distinguishes between industrial use areas and mixed use areas. The Little La Cloche site is not in an area designated industrial on the General Zoning Plan, although the Reserve does include such areas.

One of the Committees chief concerns about the Fisher Harbour development in particular is the lack of information available to the public. Mr. C. Fielding, of Alexander Centre Industries Limited has stated that he sees "no limit" to the development of the 1600 acre site around the harbour. The only details made public on the development of what would appear to be an industrial park are that "all sorts of warehouses" for the purpose of trans-shipment are envisaged. In a site of more than two and one half square miles, serious problems of water use, industrial waste, sewage, etc., are likely to arise. The geographical nature of the site, particularly the large amount of shoreline, would probably make the solution of these problems more difficult if development around the harbour is extensive. It is undesirable for such large scale development to take place without full disclosure to the public and to the appropriate government agencies.

IMPLEMENTATION OF PLANNING

In the light of the unfortunate developments occurring on Little La Cloche Island, the Save Rainbow Country Committee submits the following propositions for the consideration of the Minister.

The first concern of the Save Rainbow Country Committee is that Fisher Harbour be relocated in an area where less damage to the environment is likely to occur. The obvious alternative is the resuscitation of the plan drawn up in 1965 for the development of a harbour on Beauty Island. If the Department of Transport

chose that site as the most appropriate for a deep water harbour to replace the present facilities at Little Current, then the reasons for preferring that location may still be valid. However, it is fully recognised that no retroactive legal action can be taken on a development which is underway as long as it conforms to the existing state of the law. This makes the control of further development in the area a necessity.

It is the understanding of the Save Rainbow Country Committee that there are two basic approaches which can be taken to control ^{develop} of private land in unorganised territories. The first is an order under s. 32 of the Planning Act, administered by the Ministry of Treasury, Economics, and Intergovernmental Affairs. The second is a declaration of a restricted area under s. 17 of the Public Lands Act.

Considering that the North Georgian Bay Recreational Reserve plan was instituted by one of the constituent departments of the Ministry of Natural Resources and as its administration has remained within that ministry, the Save Rainbow Country Committee submits that declaration of the whole North Georgian Bay Recreational Reserve as a restricted area under s. 17 of the Public Lands Act is a necessary interim measure for the protection of the area, pending the adoption of an official plan. The approach taken in Sault Ste. Marie with respect to the planning of unorganised townships to the north of that city serves as a good

would be an effective means by which to implement such control.

CONCLUSION

The Save Rainbow Country Committee, the McGregor Bay Association, and the Environmental Law Association express their concern over the uncontrolled and unplanned industrial development of Great Cloche and Little La Cloche Islands. More particularly, they submit that

- 1) the construction of Fisher Harbour on Little La Cloche Island is inconsistent with the objectives of the North Georgian Bay Recreational Reserve Act. All efforts to select an alternative site, such as Beauty Island, should be made by the Minister of Natural Resources.
- 2) the lack of control over private land use in the North Georgian Bay Recreational Reserve poses a threat to the integrity and potential of the whole Reserve. The Minister of Natural Resources is therefore requested to use his discretion to declare the Reserve a restricted area under s. 17 of the Public Lands Act. Such a declaration would be an interim measure, pending formation of a planning Board and adoption of an official plan.
- 3) the areas of high quarrying potential in the Reserve should be designated as subject to the Pits and Quarries Act, in order to control the opening of new quarries. Such regulation is a minimum requirement for meeting the objectives of the North Georgian Bay Recreational Reserve, and ensuring the protection of its recreational resources.

example of the action which the Save Rainbow Country Committee feels is immediately required to realise the objectives of the North Georgian Bay Recreational Reserve Act.

Following the declaration of a restricted area, a planning board should be established. In this connexion, the recent decision of the Divisonal Court on zoning in the City of Brampton should be noted.⁸ The strong language of that decision indicates a public right derived from common law to participate in planning. While that decision applies only to organised municipalities, it is arguable that citizens in unorganised territories should not be denied such rights simply because of lack of municipal organisation, particularly when a mechanism such as a s. 17 declaration is available through the Ministry of Natural Resources.

The Save Rainbow Country Committee also submits that the areas of the Reserve which have a high potential for quarrying be designated as subject to the Pits and Quarries Act. At present, Canada Cement Lafarge Company Limited holds two twenty year leases on quarry sites on Great Cloche Island. There is a considerable quantity of limestone on the island which can be used for the manufacture of cement, etc. Just as timber cuts along the shores of waters in the Reserve have been controlled, it is a minimum requirement that new quarries should be located only in areas in which damage to the aesthetic qualities of the area will be minimised. The quarry permit mechanism in the Pits and Quarries Act

Finally, the Save Rainbow Country Committee notes that Cressman defines a recreational reserve as

an extensive area of land that has received special recognition from the government in the form of special planning legislation. A recreational reserve is a multiple use area where recreation is declared the dominant land use (the highest priority use). Both private use and public use are possible in a recreational reserve.⁹

It is apparent from the elements of this definition that public and private uses must be made consistent. Fisher Harbour is a prime example of conflict arising from inconsistent controls over public and private land. There has been sufficient analysis of the planning problems of the area. However, as Cressman notes, the need now is for political action:

In the final analysis it would appear that much of the burden of settling serious resource use conflicts is not within the planner's terms of reference. Ultimately certain kinds of conflict can only be solved at the political level of our society. But this is not surprising since all major planning decisions are also political in nature, and the planner's role is one of providing the best information and alternative courses of action.¹⁰

The Save Rainbow Country Committee requests the Minister of Natural Resources to use his prerogatives to resolve these pressing conflicts within the North Georgian Bay Recreational Reserve.

FOOTNOTES

1. E. M. Cressman, North Georgian Bay Recreational Reserve - A Land-Use Planning Approach - Draft 3. (1970)
2. Ibid., page 104
3. North Georgian Bay Recreational Reserve - A Land-Use Planning Approach, page 24
4. Ibid., Map 13
5. North Georgian Bay Recreational Reserve - Summary Report, Map 2
6. North Georgian Bay Recreational Reserve - A Land-Use Planning Approach May 27
7. Ibid., page 23
8. Globe and Mail, 13 July 1972.
9. E. M. Cressman, North Georgian Bay Recreational Reserve - A Land-Use Planning Approach, pages 212, 213
10. Ibid., page 123