

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.¹ 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.² 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.

¹ 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>

² 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,³ are adjourning hearings and extending limitation periods,⁴ 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.⁵

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

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

⁵ 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

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

ENDANGERED ECOSYSTEMS ALLIANCE

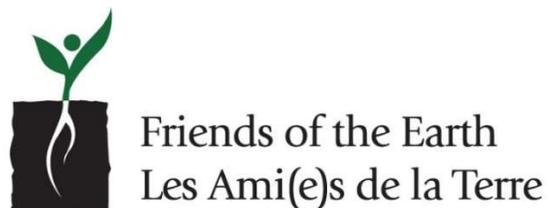
Endangered Ecosystems Alliance
Kenneth Wu, Executive Director



Freshwater Future Canada
Kristy Meyer, Associate Director



Federation of Ontario Cottagers' Associations
Terry Rees, Executive Director



Friends of the Earth Canada
Beatrice Olivastri, Chief Executive Officer



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
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



Registered Nurses' Association of Ontario
Doris Grinspun, Chief Executive Officer



Simcoe County Greenbelt Coalition
Margaret Prophet, Executive Director



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 Canada
Justina Ray, President and Senior Scientist



WWF-Canada
Mary MacDonald, Chief Conservation Officer