



March 29, 2019

Sent via email: [jack@cleanairalliance.org](mailto:jack@cleanairalliance.org)

Mr. Jack Gibbons, Chair  
Lake Simcoe Watch  
160 John Street, Suite 300  
Toronto, Ontario M5V 2E5

Dear Mr. Gibbons:

**RE: Lake Simcoe Watch letter of January 31, 2019 - Protecting Lake Simcoe and its Watershed**

Thank you for writing us with your concerns regarding Lake Simcoe and for making a deputation to the Board of Directors on March 22<sup>nd</sup>. It's encouraging to know that members of our watershed community are interested and engaged in efforts to protect Lake Simcoe.

I am writing to formally respond to your delegation to our Board of Directors and have also attached the associated board report addressing the issues raised in your correspondence.

Since our creation in 1951, the Lake Simcoe Region Conservation Authority (LSRCA) has been dedicated to conserving, restoring, and managing the Lake Simcoe watershed. As the leading scientific agency in the watershed, as evidenced in the presentation delivered by our Limnologist Dr. Brian Ginn, the LSRCA has been playing a leadership role addressing environmental issues impacting the Lake and surrounding watershed. I am confident that Dr. Ginn's presentation, the board report and this follow-up letter now clear up the evident misinformation and misconceptions shared by you and the members of Lake Simcoe Watch.

Reiterating some of the vital points we addressed in our Board meeting on March 22<sup>nd</sup>, significant progress has been made to reduce phosphorus loads to Lake Simcoe since 1990. The progress to-date has been largely realized through the Lake Simcoe Environmental Management Strategy, a partnership led by LSRCA (involving all levels of government, First Nations, stakeholders, and the watershed community) and more recently through the Lake Simcoe Protection Plan (2009) lead by the then Ministry of Environment and now by the newly formed Ministry of Environment, Conservation and Parks (MECP). Since the 1990s, phosphorus loads have been reduced by more than 25 metric tons through source controls and policy.

In collaboration with the province, our municipal partners and the watershed community, LSRCA has also planted more than 3 million trees, completed more than 2,500 projects with the agricultural community to reduce runoff, and recently more than 50 urban stormwater projects, all designed to reduce phosphorus entering the Lake.

LSRCA has also collaborated with MECP, our member municipalities and the Building Industry and Land Development Association (BILD) to implement two first-of-their-kind policies and programs. In July 2016 the LSRCA Board approved improved standards for stormwater management to mitigate impacts from new development, and on January 1, 2018 the Phosphorus Offsetting Program, which is generating revenue to complete more stormwater quality improvement projects throughout the watershed. It is estimated that

these two programs combined will reduce more than 13.5 tonnes of phosphorus from urban runoff entering Lake Simcoe by 2031. In addition, you will be pleased to know that the Province of Ontario has a renewed commitment to improving the health of Lake Simcoe as outlined in the new MECP ["A Made in Ontario Environmental Plan"](#). Based on this plan and the commitment from the Board of Directors at last Friday's Board meeting, LSRCA will continue to assist the Province and partner with First Nations, our member municipalities and community stakeholders, to improve the health and quality of Lake Simcoe.

Given the complexity and cost of watershed management efforts, it is essential that a new phosphorus reduction strategy be established based on SMART planning principles. Based on our most current science and in recognition of what needs to be done, we know your proposed timeline to achieve the phosphorus loading target is not realistic; and furthermore, significant resources and a long-term commitment of many will be required in order to implement it. In the absence of a new SMART strategy, it is premature and would be irresponsible for LSRCA to agree that the phosphorus loading target could be met. Doing so would only raise unfair and unrealistic expectations among watershed stakeholders and residents. Dr. Ginn said it best in the closing remarks of his presentation *"it has taken more than a 100 years for Lake Simcoe's health to decline and it will take decades for it to be restored."*

In regards to your proposed target of 40% for a Natural Heritage System, it will please you to know that currently the Lake Simcoe watershed contains 45% natural heritage cover and that LSRCA has a goal of increasing this to 66% cover with high connectivity.

In July 2018, the Board of Directors approved the [LSRCA's Natural Heritage Systems & Restoration Strategy](#). It forms the roadmap to restoring a wide variety of natural heritage features within the watershed and identifies specific targets and locations. As with the phosphorus target, the goal of increasing natural cover to 66% will also take time to achieve.

Critical factors to achieving this goal are the cost and the availability of tree seedlings. To add 5% forest cover to the watershed, current conservative estimates reveal we would require 32 million seedlings (which exceeds the total seedling supply for the entire province) and a cost of \$84 million dollars for seedling purchase and planting. Based on SMART planning principles, LSRCA has established a 40 year timeframe to achieve this goal, allowing time for tree nurseries to increase production and to plan for a minimum of \$2.1 million annual planting costs.

LSRCA's Mission is to work with our community to protect and restore the Lake Simcoe watershed by leading research, policy and action. You have LSRCA's commitment from the Board of Directors and staff that we will continue in our leadership role to achieve this mission. Our Board has reaffirmed our continued support to the Province of Ontario, specifically MECP, in implementing the recommendations of the LSPP, in partnership with First Nations, our municipalities and watershed community.

As I said earlier, it will take time to achieve these aggressive targets and it will require the cooperation of all levels of government and the watershed community to do so. I invite you to work with us to achieve these shared goals.

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**Lake Simcoe Region**  
conservation authority

Should you have any questions or require additional information, please contact me at this office or visit our website at [www.lsrca.on.ca](http://www.lsrca.on.ca).

Sincerely,



Mike Walters  
Chief Administrative Officer

Attachment: LSRCA Staff Report No. 14-19-BOD – March 22, 2019

cc: The Honorable Christine Elliott  
The Honorable Catherine McKenna  
The Honorable Rod Phillips  
The Honorable Caroline Mulroney  
The Honorable Laurie Scott  
MPP Doug Downey  
MPP Jill Dunlop  
MPP Andrea Khanjin  
Aware Simcoe [aware.simcoe@gmail.com](mailto:aware.simcoe@gmail.com)  
Innisfil District Association [info@innisfilaction.com](mailto:info@innisfilaction.com)  
Lake Simcoe Association [info@lakesimcoeassociation.org](mailto:info@lakesimcoeassociation.org)  
South Lake Simcoe Naturalists [paul@harpley.ca](mailto:paul@harpley.ca)  
North Gwillimbury Forest Alliance [Jack@cleanairalliance.org](mailto:Jack@cleanairalliance.org)  
Storm coalition [info@stormco.org](mailto:info@stormco.org)  
West Oro ratepayers' association [info@wora.ca](mailto:info@wora.ca)









what is established under either the *Planning Act* or *Municipal Act*. The *Environmental Assessment Act* also contains a clear public process which determines the appropriateness of a proposed activity that may require a permit.

### **Board Members as Hearing Officers**

The Board on occasion will sit as a Hearing Tribunal when required to render a decision on a permit being appealed by an applicant in an instance where staff cannot support the application. In accordance with Section 28 of the *Conservation Authorities Act*, a hearing is between the applicant and LSRCA only. No other parties can be part of this process unless acting as a witness or representative for either party. There is no public process as it is conducted under the same auspices of a trial. There are specific rules and requirements that all Board members must adhere to at all times in regards to hearings. These are as follows:

- Audi alteram partem rule
  - Listen to both sides and keep an open mind
- No reasonable apprehension of bias
  - Cannot be an appearance of bias
  - Cannot communicate with applicant other than through the hearing
  - Communication with the public on the matter can be considered apprehension of bias
  - Cannot carry out your own investigation whether by internet or other means
  - A hearing is solely between the applicant and the Authority; therefore, any third or outside party information provided to a Board member may create apprehension of bias
- Rules of Natural Justice Apply
  - Applicant has right to notice of hearing and right to representation
  - Right to call witnesses (either party), make submissions (either party), right to disclosure (either party)
  - Right to reasons for any decision
- *Statutory Powers Procedure Act*
  - Is in effect at all times during a hearing

Apprehension of bias is the crucial aspect to be maintained at all times by Board members. If a Board member chooses to advocate or intervene on behalf of an applicant and subsequently the application comes before the Board as a hearing, the member shall declare a conflict and recuse themselves from the hearing. Therefore any public consultation process (i.e. deputation before the Board from a non-participant) in regards to an application can directly cause or create apprehension of bias.

These reasons outline the legal rationale for there being no public consultation process associated with the issuance of Section 28 permits. Public process has clearly been established throughout previous approvals and processes in which direct public input and consultation occurs ranging from legislation to a simple variance. The best analogy involves comparing a



Section 28 permit to that of a municipal building permit. A building permit does not decide whether a building should be allowed, it just ensures the building is built to a safe standard. A Section 28 permit does not decide whether a development or activity can occur, it simply ensures the hazards are avoided or mitigated to protect people and property.

**4. Provide the LSRCA's board of directors with progress reports, at least once every three months, on their actions to implement each of the above directives.**

Currently, LSRCA highlights the results of all its programs and services including financial information within an annual report which is provided in print or electronically on LSRCA's website [LSRCA Annual Report 2018](#). The Board of Directors also receives specific updates based on project milestones and the completion of deliverables presented at monthly Board Meetings which are open to the public. To report quarterly could be done; however, it would require staff to prepare four reports per year, time which the CAO feels is better used to undertake the work to restore the watershed rather than to compile reports.

It should also be noted that staff are currently developing key performance indicators to be published on the website, which would provide the public with updated information regarding LSRCA programs and services. This easy-to-understand information will demonstrate the progress being made to achieve key outcomes required to meet environmental targets. This information would be updated based on milestones and completed deliverables.

**Summary and Recommendations:**

It is therefore RECOMMENDED THAT Staff Report No. 14-19-BOD regarding the Lake Simcoe Watch correspondence dated January 31, 2019 be received; and FURTHER THAT the CAO be directed to respond to Lake Simcoe Watch on behalf of LSRCA.



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Michael Walters  
Chief Administrative Officer