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August 6, 2004

**MEMORANDUM TO:**

James O'Mara  
Director  
Environmental Assessment & Approval Branch  
Ministry of the Environment

ATTENTION: Kevin Plautz, Project Officer

**SUBJECT:** Class EA for Provincial Parks and Conservation Reserves

I am pleased to provide you with current information regarding the application by the Minister of Natural Resources for approval of a Class Environmental Assessment for Provincial Parks and Conservation Reserves (Class EA).

The "*Class EA for Provincial Parks and Conservation Reserves Phase III: Submission to MOE*" was submitted by the Ministry of Natural Resources (MNR) to Ministry of the Environment (MOE) in October 2001. At that time, a government agency and public comment period was held. As a result of this comment period, MNR agreed to make changes to the Class EA (subject to the decision on the Class EA by the Minister of the Environment with approval of the Lieutenant Governor in Council) to address concerns that were raised. The changes MNR agreed to make were outlined in general terms in the MOE's "*Review Under the Environmental Assessment Act: A Class EA for Provincial Parks and Conservation Reserves*" published in March 2002. An agency and public comment period was held on the Review. To address comments submitted during that comment period, MNR agreed to make further changes to the Class EA.

To ensure the changes agreed to were consistent through the document, an August 22, 2002 version of the Class EA, copy attached, was prepared which incorporates all of the specific textual changes which MOE determined were necessary to address the issues raised by government agencies and the public during the two comment periods. The August 22, 2002 version also includes some minor administrative changes that had been identified as being necessary. Further, the August 22, 2002 version also contains some changes that MNR had determined to be advisable, to improve overall clarity of the processes in the Class EA and the projects to which it applies. MOE, upon review, agreed that it would be beneficial for these changes to be made to the Class EA, subject to the Minister's decision on the Class EA. These changes are described in part A below.

Shortly after the preparation of the August 22, 2002 version of the Class EA, MOE identified six items, which it felt needed to be addressed through further changes to the Class EA. MNR agrees to these items and they are outlined in part B of this letter.

Consideration of the Class EA application has been on hold for some time. In May 2004, MOE determined it appropriate to ask previously consulted government agencies whether any policy or legislative changes had occurred since fall 2002 which need to be reflected in the Class EA. To address comments made during this policy and legislation update, MNR proposes additional changes to the Class EA. These proposed changes are outlined in part B for MOE's consideration and the Minister of the Environment's consideration.

Please feel free to contact Barton Feilders, Manager, Planning & Research (705-755-1730) or Dan Paleczny Class EA Project Manager (705-755-1745) if you have any questions or wish to discuss any matters concerning the Class EA.

Yours truly,

Adair Ireland-Smith  
Managing Director  
Ontario Parks

c.c. Andj Dominski, Ministry of the Environment  
John Bullen, Ministry of the Environment  
Barton Feilders, Ontario Parks  
Derryk Renton, Ministry of Natural Resources  
Dan Paleczny, Ontario Parks

## A. MNR Proposed Changes Which MOE Agreed to Being Implemented in the August 22, 2002 Version of the Class EA (subject to the decision of the Minister of the Environment)

### Section 4.2 Screening Process

MNR proposed adding a description of 'project' in this section to provide greater clarity for users who are beginning the screening process of what constitutes a project. Often, projects involve single or discrete components, but in MNR's experience, a single project can also be multi-faceted. In keeping with accepted principals of environmental assessment, and as provided for in appendix 5, effects of multiple undertakings should be considered. In addition, the box contains text that explains that MNR practice has been to prepare 'implementation plans', which can comprise multiple undertakings and should be considered holistically as one project.

#### **Project**

A project may comprise one or more discrete components. It is usually desirable to evaluate the aggregate effects of all related components. In such cases, the project description will describe all associated components to be screened and evaluated. In more complex situations, these related components are described in an implementation plan (see Appendix 4, part 4.4 for more detail), such as a resource stewardship plan for ecosystems, vegetation, fire, wildlife, erosion control, etc. The project description required in Step 2 will identify the range of actions to be included within such a plan, and the anticipated duration (i.e., one time or recurring).

### Section 6.8.1 Recurring Projects

The Class EA contained a provision (initially in appendix II) that recognized the recurring nature of projects that generally conform to the initial project description and within the original project area; these can proceed for a period of 10 years, and after this time, would be re-evaluated in accordance with the provisions of the Class EA. During 2002, MNR and MOE discussed this aspect of the Class EA in substantial detail and determined that it warranted fuller treatment associated with Section 6.8, Modifications to Project Files and ESRs, in order to provide improved clarity. Accordingly, the provisions in Section 6.8.1 were developed. The provisions retain the initial concept and provide greater specificity concerning procedures for how reviews will be carried and what information will be taken into account.

### Project 75--Electrify Existing Campgrounds

Following the MOE Review (March 2002), MNR proposed changes to this project for discussion with MOE to address an oversight regarding the difference between new and existing campgrounds. Through further examination, MNR noted that park management planning addresses decisions pertaining to electrifying new campgrounds; not retrofitting existing campgrounds within a defined development zone. To correct this but to maintain the same level of consultation, MNR proposed the following text, which MOE agreed to being inserted into the August 22, 2002 version of the Class EA: *"Projects may only proceed as a category A if they are in a development or access zone in a park or in an area identified for this purpose in a reserve. Projects outside these zones in a park or area in a reserve would need to be screened. If in an operating park where a management plan is not in place, screen to determine Category B/C/D."* Further, to reflect these provisions, which ensure due public planning processes either through the management plan or through a Class EA evaluation, the footnote attached to the project title was changed to denote that a park management plan was not required in all instances.

In addition, at MOE's request, MNR has agreed to prepare a bulletin to provide guidance to field staff when planning for category A electrification projects to determine if screening for placement into Categories B, C or D is warranted. This bulletin is discussed in note d) of Appendix 2: List of Projects in the Class EA.

## New Projects: ID 26 for Salvaging Trees and ID 27 for Fuelwood Cutting

A key design feature of the Class EA is the comprehensive listing of approximately 100 projects in appendix 2. MNR felt that such a listing would assist staff in achieving Class EA requirements in an effective and efficient manner, and also ensure transparency with the public by identifying how projects would be dealt with. However, MNR included an “other” category in the Class EA because it was anticipated that not every single project type would be captured in the first listing. The projects of salvaging trees and fuelwood cutting came to light during discussion after the Class EA was submitted but MNR proposed adding these two projects to make the list of projects more exhaustive and to assist users of the Class EA in addressing appropriate Class EA needs for these types of projects. The provisions outlined below for the projects are consistent with policy and current practice. The distinction between minor and major for project 26 recognizes the routine nature of some tree cutting compared to large-scale circumstances where a more extensive consideration, as set forth in the Class EA is deemed appropriate. In a limited number of cases fuelwood cutting is permitted where this has been permitted for land owners or land use permit holders prior to the establishment of new OLL parks or reserves and where road access is not available to facilitate alternative means of securing firewood.

26	Salvage standing, fallen or sunken trees, and dealing with natural blowdowns			Standing, fallen or sunken trees may be removed from development, access, historical, or natural environment zones in parks or from high use areas in reserves to ensure public safety, facilitate capital construction or for resource management purposes, and may be marketed if economical.
(a)	Minor <sup>(1)</sup>	✓		Includes clean up of blowdown and select removal of dead or dying trees along roadways and trails, in campgrounds and around remote campsites. In a reserve, may include incidental salvage for personal use with a permit.
(b)	Major <sup>(2)</sup>		✓	Includes large-scale blowdowns across a large area where a management response is needed.
27	Fuelwood cutting <sup>(1)</sup>	✓		Where permitted in a limited number of cases, in accordance with OLL-LUS.

## Project: ID 56 Maintain, Resurface or Reconfigure Existing Road, Bridge, or Parking Area

As initially presented, this project lacked sufficient specificity to be effective in practice. In order to enhance the clarity, MNR proposed that the single project be split into two subcategories to reflect the minor and major nature of projects. In making this change, routine activities will be treated as a category A, such as maintenance of the existing surface to maintain condition, including filling potholes, adding a lift of gravel to maintain standard, minor work on corners to ensure safety. This excludes any change in capacity or design standard. More substantive development, such as an increase in capacity or improvement of design standard of an existing facility and including widening, straightening, major work that significantly extends the life of a facility (e.g., reconstruction of a bridge) would be screened and evaluated through the Class EA. Prior to splitting this category into two subcategories all projects would have been Category A projects, so the consultation and evaluation requirements are actually increased by this change.

## B. Proposed Changes After the August 22, 2002 Version of the Class EA

### Preface

Update the date in the first paragraph to 2004.

In paragraph two, before the last sentence "This represented the final stage prior to approval by the Minister of the Environment", add the following text: *"During April 2004, MOE requested various agencies and ministries to identify any policy or legislative changes since 2002 that may need to be reflected in the Class EA."*

Rationale for Change: Provides an update to the description of the process.

### 1. Introduction

Add the word 'net' before 'negative' in each of category A, B, C, D descriptions in Figure 1 to read:

- Category A: Potential for Low *Net* Negative Effects and/or Public/Agency Concern
- Category B: Potential for Low to Medium *Net* Negative Effects and/or Public/Agency Concern
- Category C: Potential for Medium to High *Net* Negative Effects and/or Public/Agency Concern
- Category D: Potential for High *Net* Negative Effects and/or Public/Agency Concern

Rationale for Change: This proposed change is intended to ensure internal consistency in the document. The Class EA was written with the intent of considering net effects (i.e., with appropriate mitigation in place) when carrying out the screening assessments. This is illustrated by the term 'net effects' being explicitly used in the following places of the Class EA:

- Section 4.2, Step 3 which involves reviewing the project against net effects.
- Section 4.3 "explains the intended meaning of each of the rating categories in Table 4.1 when applying the screening criteria in Step 3, Section 4.2". In particular, low, medium and high 'net effects' are described.
- The screening criteria in Table 4.1 asks users to rate the potential net effects.
- Table 4.2 presents criteria for "potential net environmental effects", and describes category B, C and D projects in terms of 'net effects'.
- Net Environmental Effect is defined in the glossary as "The change to the environment that would occur, following the application of proposed mitigation or enhancement measures."
- Appendix 5, which outlines how the significance of environmental effects will be assessed, lists net environmental effects as a consideration. It describes net effects as: "A net (or residual) environmental effect is a change to the environment that would result from the project, following the application of proposed mitigation or enhancement measures. Monitoring may be proposed to assess the need for mitigation measures in the future. In the project evaluations conducted under this Class EA, decisions on the significance of environmental effects are based either on the effects of the project with appropriate mitigation measures in place (as specified in the project description), or the effects with both appropriate mitigation and any additional measures found to be necessary during the project evaluation." As well, Section 5.3 of Appendix 5 provides guidance for comparing alternatives, with consideration of 'net effects'.

This rationale applies to other instances in the Class EA where a correction is proposed to ensure consistency and clarity for the users of the Class EA. These are further identified in this letter (e.g., Figure 1 and 3, section 4.1, Table 4.2).

## 2. Provincial Context

In the fourth bullet point, add the parenthetical phrase “(denoted by a footnote 2)” after “Appendix 2 identifies projects...”.

Add the following text to the end of this section: *“However, if MNR wishes to proceed with a project which was previously prohibited in provincial parks or conservation reserves but which, through a change in MNR’s permitted uses policy, is changed to a permitted use, MNR will complete a screening and categorize the project as Category B, C, or D. For projects which are determined to be Category B, newspaper notice during Step 2 of the process set forth in Section 5.1 of this Class EA is mandatory, unless the Class EA is amended to reflect the specific description of the new project type. In accordance with Sections 6.1 and 6.3, MNR shall document the implementation of any new projects previously prohibited in MNR’s permitted uses policy in the annual report required to be prepared for this Class EA. Also, with respect to changes in MNR’s permitted uses policy, MNR will also determine if it intends to prepare any requests for amendments to the Class EA to improve its implementation. MNR will include this determination in the annual report required to be prepared under this Class EA. Any amendment requests made by MNR will be considered by MOE in accordance with Section 6.2.”*

Rationale for Change: The first change is being requested by MOE for the intended purpose of clarity. The second proposed change addresses comments received during the public comment periods about the potential to change policy on uses permitted in parks and/or reserves be made subject to individual EAs and that the Class EA specifically state this. In response, MNR notes that the following mechanisms are used to address this situation:

- Significant policy changes that are proposed by the Government are posted for review on the Environmental Bill of Rights Registry. If and when the Government makes a change to policy, the additional requirements still apply, as noted in the following points.
- Most significant projects must be identified in land use or management direction that have public consultation processes. The listing of all projects that require prior direction is a key feature of the Class EA.
- Significant projects generally require screening and subsequent project evaluation in accordance with the procedures of the Class EA. Therefore a trigger is in place, which enables concerned parties to request either voluntary elevation or a Part II Order.

MOE reviewed the matter and in fall 2002 determined that additional provisions to deal with such situations, including assuring that due public planning processes would be carried out, were necessary and has decided to recommend to the Minister of the Environment that these provisions be added.

## 3. Projects Subject To This Class EA

### 3.1.2 Acquiring and Disposing of Land

Delete the final parenthetical phrase of the last sentence of the last paragraph in Section 3.1.2: *“(this is intended to be a balanced consideration and is not intended to imply a greater importance of this one aspect).”*

Rationale for Change: This change was suggested by Ministry of Culture as it does not add clarity and can be misinterpreted.

### 3.4 Partnerships

Change the title to “Partnerships and Disposition Applicants”, and divide the text into two subsections: 3.4.1 Partnerships, and 3.4.2 Disposition Applicants. The first two paragraphs of the section become part of subsection 3.4.1. In the second bullet point of the first paragraph, remove “*providing land tenure to, or*”. In the second paragraph, after “In all such cases,” add: “*MNR as the proponent of the class of undertakings subject to this Class EA,*”. Add a final sentence to the second paragraph: “*Where necessary, the agreement would specify that it is dependent upon achieving the requirements of the EA Act for the projects.*”

Add a third paragraph to this subsection, as follows: “*MNR will fulfill all applicable requirements of Sections 4 and 5 of this Class EA to the project, or require the partner to fulfil some or all requirements themselves, as determined by MNR, and report to the ministry. This would mean that the partner would be accountable to MNR for the completion of some or all requirements in accordance with this Class EA. Freedom of Information and Protection of Personal Privacy Act (FIPP Act) concerns may limit the partner’s ability to conduct direct mailings as required under Section 5, in which case, MNR will need to conduct the mailings. For clarity, opportunities for Part II Order requests apply to partnership projects.*”

Replace the existing paragraph three with the following new sub-section:

#### “3.4.2 Disposition Applicants

*“MNR often receives applications for the disposition of certain or all rights to a Crown resource in a provincial park or conservation reserve for a variety of proposals. In these cases, the disposition is the undertaking that is subject to this Class EA, not the project that the proponent may be proposing which requires the disposition.*

*MNR requires information from the applicant to make a decision on the disposition application. Therefore, it is MNR practice that in most cases the applicant would be requested to follow some or all provisions of this Class EA, as determined by MNR, such as preparing an Environmental Study Report or consulting with the public as outlined in Sections 4 and 5.*

*Where the applicant’s proposed project is placed in Category D (at any stage), the result may be a letter from MNR to the Ministry of the Environment advising of the activity so that the Minister could decide whether to seek designation of that project as a major commercial or business activity to which the EA Act applies, or to take other steps as may be appropriate. In the event that the Minister (MOE) advises that he or she does not intend to seek designation or to take other appropriate steps, MNR has no obligation to proceed with the disposition. However, MNR may consider a revised proposal submitted by the applicant for a new screening. MNR can then apply the requirements of Section 5 of this Class EA to the proposal, or request the disposition applicant to follow the requirements themselves and report to the ministry. This would mean that the disposition applicant would be accountable to MNR for the completion of certain requirements in accordance with this Class EA. FIPP Act concerns may limit the applicant’s ability to conduct direct mailings as required under Section 5, in which case, MNR will need to conduct the mailings.*

*If the applicant does not comply with MNR’s request that the applicant carry out certain or all provisions set forth by this Class EA, MNR has no obligation under this Class EA to continue processing the disposition application and relevant dispositions cannot be granted. The applicant remains entirely accountable to MNR for the completion of the requirements of this Class EA, and MNR remains responsible for all decision-making and approvals. Although not anticipated, MNR may choose to share responsibility for meeting the requirements of this Class EA with the applicant.*

*For clarity, only the disposition, and not the project authorized by the disposition, is subject to provisions of a Part II Order request. Where the public has an outstanding concern regarding a disposition applicant’s proposed project, and that they consider has not been adequately*

*addressed through this Class EA procedure, they may write to the Minister of the Environment with a request for designation of the applicant's proposed project as an undertaking to which Section 5 of the EA Act applies."*

Rationale for Change: Changes to Section 3.4 are proposed to further clarify the meaning of what was stated and intended in the original text. MOE had indicated in June 2004 that it felt further clarification was necessary so that the Class EA clearly reflected the provisions of the *Environmental Assessment Act* (EAA). To achieve this, it is proposed that greater distinction be made between partnerships and disposition applicants, and in so doing, additional text is proposed to ensure clarity of each subsection so that each is accurate. In particular, the revisions are intended firstly, to clarify that MNR is the proponent of the class of undertakings subject to this Class EA and, therefore, all partnership projects will comply with the provisions of the Class EA. Secondly, the proposed changes indicate that where a disposition is proposed, MNR will need the same standard of information for an applicant's project, as that required for an MNR project, even though the EAA and the Class EA do not apply to a private sector project to result from a disposition by MNR unless they are specifically designated by regulation under the EAA. It is MNR's responsibility to ensure that appropriate levels of information are obtained and, where appropriate, are available for public review prior to deciding whether to process and/or grant the disposition application.

### 3.5.1 Other MNR EA Mechanisms

Change "Class for Timber Management on Crown Lands in Ontario" to "*MNR's Class EA Approval for Forest Management on Crown Lands in Ontario, 2003*".

Rational for Change: Editorial update to reflect the new terminology provided by Declaration Order MNR-71 in June 2003.

### 3.5.3 Access for Mineral Exploration and Development

Add the following text to the end of paragraph one:

*"This provision pertains to:*

- *Mining claims or leases (and mining patents that result from these claims and leases) that are in existing or previously designated Forest Reserves (wholly or partially enclosed by, or adjoining an OLL protected area).*
- *Mining patents that were enclosed by an OLL protected area at the time when the OLL Land Use Strategy was approved (July 1999).*

*This provision to consider access does not guarantee that access to partially enclosed or adjoining Forest Reserves will actually be through the new protected area where alternatives may exist; however, it enables consideration of alternatives which could result in access through the protected area."*

In the second paragraph change the first sentence from "*Requirements for a work permit or a land use permit may ...*" to: "*Permit requirements may ...*".

In the second paragraph, add "*land use planning and*" after the opening phrase in the sentence: "Staff should consult with MNR".

Rationale for Changes: These proposed changes clarify the policy provisions in the Ontario's Living Legacy Land Use Strategy (OLLLUS) (1999) as a result of input from the Ministry of Northern Development and Mines in May 2004 concerning provisions in the OLLUS. The proposed revised text reflects government policy more accurately and only applies in limited circumstances

associated with OLL protected areas. The OLL Land Use Strategy (section 7.2.1 and 7.2.2) specifically provides for access in the context of Forest Reserves, which may be located wholly or partially within or adjoining recommended protected areas. During the regulation process, the Forest Reserves are not included in the regulation description. Accordingly, access provisions will continue to be recognized in this context. In addition, through the boundary refinement process, which includes public consultation, adjustments are being made to boundaries, and in some cases the mining lands will no longer be designated as Forest Reserves. In these cases, the wording in the Class EA should recognize, for clarity, presently or previously designated Forest Reserves to preserve the initial intentions of the OLL Land Use Strategy. This change excludes provisions pertaining to adjoining mining lands except where they are currently or were previously designated as Forest Reserves. Consideration of access in a park or reserve to current or previously designated Forest Reserves, shall comply with the Class EA.

The two editorial changes concerning permit requirements and consulting with land use planning staff are intended to add clarity and support use of the document, respectively.

### 3.6 Relationship of Class EA to Other Legislation and Policy

In the fourth paragraph, remove “*Authorization to proceed*” and begin the sentence with “*A determination*”. In the same sentence, after the phrase “dispositions associated with *CEA Act* approved projects” add “*for which a CEA Act determination of “no likely significant effects” has been reached*”.

In the final paragraph, change “*harmonizing*” to “*coordinating*”.

Rationale for Change: These proposed changes from the Canadian Environmental Assessment Agency (May 2004) are intended to ensure accuracy and consistent use of language.

## 4. Class EA Categories and the Screening Process

In the first bullet, change “*varying degrees of potential for significant negative*” to “*potential for varying degrees of net negative*”. In the second bullet, change “*potential negative*” to “*potential net negative*”.

Rationale for Change: See rationale under point 1 Introduction and under 4.1 below.

### 4.1 Planning Categories

In the first bullet point, change “*low potential for significant negative*” to “*potential for low negative*”. In the second bullet point, change “*medium-high potential for significant negative*” to “*medium to high net negative*”.

Rational for Change: These proposed changes, and the change in Section 4 above, are intended to ensure internal consistency in the document. The Class EA categories were developed with the intent of considering the potential for low, medium or high net effects when carrying out the screening assessments, as opposed to a low, medium or high potential for an effect. This intent is illustrated explicitly throughout the Class EA which use the phrase ‘potential for’, such as:

- Section 1.1 Purpose, which states: “For those projects subject to this Class EA, describe efficient and effective processes for: Assignment of projects to categories based on their potential for negative environmental effects and public concern”.
- Figures 1 and 3 as well as tables 4.1 and 4.2.
- Sections 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.2, step 2 in 4.2, 4.3.
- Appendix 5 states: “This appendix is intended to provide guidance to MNR staff in assessing the significance of potential environmental effects under individual criteria, for the project as a

whole, and for alternatives.” Throughout this appendix, the guidance is based on ‘potential effects.’

Also see rationale under point 1 Introduction.

4.1.1 Category A – Potential for low negative environmental effects and/or public or agency concern

Add the word *net* to the subtitle for Section 4.1.1 Category A, to read: *“Potential for low net negative environmental effects and/or public or agency concern”*.

In the first sentence, change *“minor administrative procedures”* to *“minor or routine”*, and remove the subsequent phrase *“and routine”*. Add *“activities”* to the end of the sentence.

In the second sentence, change *“low potential for negative”* to *“potential for low net negative”*.

Rationale for Change: The first proposed change is intended to add clarity to the definition of category A projects by emphasizing ‘minor or routine’ and removing administrative procedures as they may be associated with projects that are subject to the Class EA but are not themselves projects that are the subject of the Class EA. The proposed change “potential for low negative” is intended to ensure internal consistency with the use of language in the document, as noted in the rationale under point 1 Introduction and further under 4.1 above.

In the final paragraph, change the two instances of *“should”* to *“will”*. Add the following text to the end of the paragraph: *“and appropriate mitigation measures will be considered. If a project involves unavoidable disturbance to known or potential cultural heritage resources, MNR will appropriately mitigate any impacts. Staff will consult the cultural heritage guidelines that will be prepared in consultation with Ministry of Culture.”*

Rationale for Change: The proposed changes were suggested by Ministry of Culture to identify special situations where additional consideration of cultural heritage resources may be needed for Category A projects; the comments strengthen the protection of cultural heritage resources.

Sections 4.1.2, 4.1.3, 4.1.4 Title and Description

Add the word ‘net’ to the subtitle of Section 4.1.2 Category B to read: *“Potential for low to medium net negative environmental effects and/or public or agency concern”*. In the first sentence of Section 4.1.2, add *“net”* before ‘negative’.

Add the word ‘net’ to the subtitle of 4.1.3 Category C to read: *“Potential for medium to high net negative environmental effects and/or public or agency concern”*. In the first sentence of Section 4.1.3, add *“net”* before ‘negative’, and *“may”* after “These projects”.

Add the word ‘net’ to the subtitle of 4.1.4 Category D to read: *“Potential for high net negative environmental effects and/or public or agency concern.”* In the second sentence of Section 4.1.4, add *“net”* before ‘negative’.

Rationale for Change: The proposed changes ensure internal consistency in the document, per the rationale noted in point 1 Introduction. Use of the word ‘may’ reflects the fact that the extent of the impact is not known at this stage but may be anticipated.

## 4.2 The Screening Process

### Step 3: Assess Against Screening Criteria (Table 4.1)

In the first sentence, after “MNR staff” add “*consult available resource inventories and*”.

Rationale for Change: This proposed addition, as suggested by MOE, adds emphasis that is consistent with the Provincial Auditor’s 2002 report.

### Step 6: Proceed with Planning Evaluation and Consultation Requirements

Change the title for Step 6 to read: “*Proceed with Evaluation and Consultation Process*”.

In the first sentence, change “*planning*” to “*evaluation*” and “*requirements*” to “*process*”. In Figure 3, below step 5 add the word “*net*” before “negative” in each of category A, B, C, D descriptions, and in step 6, change “*Proceed with project planning and consultation requirements*” to “*Proceed with evaluation and consultation process*”.

Rational for Change: Internal consistency in the document. For example, immediately following this reference, one finds Section 5, which is titled as such. The standard phrasing throughout the document is ‘evaluation and consultation’. Also refer to rationale in point 1 Introduction.

## 4.3 Assigning High, Medium and Low Effects in the Screening Process

In paragraph 3, change “*where MNR considers it essential to screening the project, the deficiency will need to be addressed*” to “*where MNR considers it relevant to screening or evaluating the project, the deficiency will be addressed*”. Add a final sentence to the paragraph: “*Note that the technical guideline for cultural heritage resources (to be developed by MNR) will be consulted for guidance.*”

Rational for Change: This proposed change is in response to an MOE request that stronger wording be used in this sentence. Ministry of Culture requested the addition of text to flag the need to reference the proposed new guidelines.

### **Table 4.1: Screening Criteria**

Under the heading “Social, Cultural and Economic Considerations”, replace the single bullet pertaining to cultural heritage with four new bullets as follows: Archaeology, Built heritage, Cultural heritage landscapes, Sacred or traditional use sites.”

Rationale for Change: This proposed change is in response to a request from Ministry of Culture to correct the terminology and to separate the four criteria to enable improved application of the screening table for the four criteria.

In footnote 2, corresponding to Table 4.1, remove “*Ministry of Culture*” from the beginning of the second sentence.

Amend the second paragraph to read: “*MNR shall develop a technical guideline, in consultation with the Ministry of Culture, to address how cultural heritage resources should be identified, and how to assess their significance and develop mitigation techniques.*”

Rationale for Changes: The first proposed change was requested by Ministry of Culture in recognition of the fact that not all technical studies are done by the ministry. Following preparation of the August 22, 2002 version of the Class EA, MOE decided that in response to input from the Ministry of Culture that it was appropriate to require MNR to prepare a technical guideline on cultural heritage resources. This requirement is now being incorporated into the text and the wording “*In accordance with the conditions of approval of this Class EA,*” is now extraneous. This

will be done by December 15, 2005, or such later date as may be determined by the Director of EAAB, and MNR shall implement the guideline. MNR shall provide a copy of the guideline to the Director of EAA Branch, together with MNR's implementation schedule, on December 15, 2005, or such later date as may be determined by the Director of EAAB.

#### 4.4 Criteria for Assigning Projects to Categories A, B, C, or D

In Table 4.2, for Category A, change bullet 1 from "*Low potential for significant negative environmental effects*" to "*Potential for low net negative environmental effects*".

For Category B, change "*Low-medium potential for significant net negative environmental effects*" to "*Potential for low-medium net negative environmental effects*".

For Category C, change "*Medium-high potential for significant net negative environmental effects*" to "*Potential for medium-high net negative environmental effects*".

Rationale for Change: Internal consistency in the document. Refer to rationale in point 1 Introduction and 4.1 above.

### 5. Project Evaluation and Consultation Processes for Category B and C Projects

#### 5.1 Category B Project Evaluation and Consultation Process

##### Step 2: Public Notice

In the first sentence, change "*a potential interest, and/or a local newspaper advertisement*" to "*a potential interest, or a local newspaper advertisement or both*".

Rational for Change: Clarity is improved by removing the 'and/or' phrase which has been misinterpreted by various readers. The revised sentence removes any doubt.

##### Step 3: Project Evaluation

In the fifth bullet, add "*available resource inventories*" to the parenthesis.

Rationale for Change: This proposed addition, suggested by MOE, and adds emphasis that is consistent with the Provincial Auditor's 2002 report.

##### Step 4: Notice of Completion

Add a sentence to the second last paragraph: "*When a Notice of Completion is issued it will be sent to the appropriate MOE regional office.*" Move this phrase from step 5 to step 4: "*If a Part II Order request is received, the procedure described in Section 6.6 applies.*"

Rationale for Change: This proposed change is in response to a requirement from MOE that MOE regional offices will be included in the distribution. Moving the noted text from step 5 to step 4 ensures its correct placement in the document.

##### Step 5: Statement of Completion, Implement Project

1) In the first paragraph, add the following phrase to the end of the first sentence: "*within a period of five years (after this time, the provisions of section 6.7 apply).*"

2) Move this phrase from step 5 to step 4: *“If a Part II Order request is received, the procedure described in Section 6.6 applies.”*

3) Delete the last sentence from this section, as follows: *“Note that a 7-day waiting period is suggested in Section 6.6.3, to allow for MOE notification of a request.”*

Rationale for Change: These three proposed changes have been requested by MOE for the intended purpose of: 1) assisting users with a cross-reference to text found elsewhere in the document; 2) correcting the placement of information, and; 3) removing incorrect text pertaining to the 7-day waiting period, that was inadvertently left in.

## 5.2 Category C Project Evaluation and Consultation Process

### Step 3: Project Evaluation and Preparation of a Draft Environmental Study Report (ESR)

Add to the sixth bullet point *“and in available resource inventories”*.

Rationale for Change: This proposed addition, suggested by MOE, adds emphasis that is consistent with the Provincial Auditor’s 2002 report.

### Step 6: Notice of Completion, Opportunity to Inspect the Final Environmental Study Report

Move this phrase from step 7 to step 6: *“If a Part II Order request is received, the procedure described in Section 6.6 applies.”*

Rationale for Change: Correct placement in the document.

### Step 7: Statement of Completion, Implement Project

1) At the end of the first sentence in the first paragraph, *“within a period of five years (after this time, the provisions of section 6.7 apply).”*

2) At the end of this paragraph and before the phrase “It will include:”, add: *“and MOE’s Environmental Assessment and Approvals Branch.”*

3) Move this phrase from step 7 to step 6: *“If a Part II Order request is received, the procedure described in Section 6.6 applies.”*

4) Delete the last sentence from this section, as follows: *“Note that a 7-day waiting period is suggested in Section 6.6.3, to allow for MOE notification of a request.”*

Rationale for Changes: These four proposed changes have been requested by MOE for the intended purpose of: 1) assisting users with a cross-reference to text found elsewhere in the document; 2) ensuring that MOE receives the notice at this stage; 3) correcting the placement of information, and; 4) removing incorrect text pertaining to the 7-day waiting period, that was inadvertently left in.

## 5.3 Mitigation

### 5.3.1 Typical Mitigation Measures

Change the 4<sup>th</sup> bullet from: *“Systematic excavation and/or working around an archaeological or cultural heritage feature.”* To *“Avoiding known or potential archaeological sites, sensitive adaptation*

*and reuse of built heritage features, protecting sensitive features through the use of fences, protective coverings, the imposition of a buffer, or other isolating mechanisms.”*

Rationale for Change: This proposed change responds to a suggestion from Ministry of Culture to provide a more accurate description of mitigation examples.

#### 5.4 Project Monitoring, Evaluation and Reporting

In the first sentence of paragraph two, change “*should*” to “*will*” and add the following sentence to the paragraph: “*Resource inventories should be consulted as an additional piece of information.*”

In the second and third sentences of the second paragraph, change both instances of “*should*” to “*will*”.

Remove the fourth and fifth bullet points from this list and include them in a new paragraph below this list, as follows:

*“Reporting would include an overall analysis of the effectiveness and any environmental effects of the project and adjustments to the project arising from the results of monitoring. Specifically, reporting would include:*

- *Results: a description and assessment of the results with respect to the acceptable outcomes, and any recommendations.*
- *Remedial Action: additional recommended actions that may be required to mitigate a problem, including any related monitoring.”*

In the sixth bullet point, change the phrase “*how reporting will be completed*” to “*how interim and final reporting will be completed*”.

Rationale for Changes: The proposed changes respond to a request from MOE that monitoring and reporting requirements be strengthened and to clarify the intended meaning. Improvements concerning reporting improve clarity in terms of the intended purpose of the report.

## 6. Class EA Administrative Practices and Procedures

### 6.1 Monitoring the Implementation of this Class EA

Under part x. change the fifth point from “*for Category B projects at a minimum, whether newspaper notice was provided and, if yes, at which stage(s) of the process, and in which newspaper(s) on which date(s)*” to “*for Category B projects whether newspaper notice was provided.*”

For the sixth point, change “*dates the projects were started*” to “*dates of the Statement of Completion*”.

Rationale for Changes: The Class EA submitted by MNR did not have any requirements for MNR to report or indicate to MOE whether newspaper notice may have been provided for particular projects. In the Review published by MOE, MNR agreed to the additional requirements of reporting on which newspapers and on which dates notice may have been provided. Upon further analysis, the key item that needs to be reported to MOE is whether newspaper notice was given or not. This will be done in the annual report. The proposed change of not reporting in the annual report on the actual newspaper and dates the notice was given is intended to remove unnecessary information collection and reporting, which has financial and time implications for MNR on a province-wide basis. In addition, information on newspaper notices will still be available on project files and accessible if requested, and MOE regional offices will continue to

receive a notice indicating if newspaper advertisements were used at step 2 in the Category B process (section 5.1).

The proposed change to bullet six provides added clarity to this point and enables reporting on a date that has meaning in the context of the administration of the Class EA process.

## 6.2 Amendments to This Class EA

Remove the text box pertaining to minor and major amendments.

Rationale for Change: This proposed change is in response to a request from MOE that this abbreviated information in its current form is incorrect and that it would be better to remove it as the requirements are fully stated in section 6.2.2.

### 6.2.2 Major Amendments

Beginning in the third sentence with the phrase “it will be posted by”, change the remainder of the paragraph from “...MOE on the Environmental Registry for a minimum period of 30 days. Interested parties will be invited to submit comments to the Director of the EAA Branch, MOE, copied at the same time to MNR. In some circumstances, additional public consultation activities may be carried out.” to “... MNR as an information posting with an opportunity to comment on the Environmental Registry for a minimum period of 30 days. In addition, MNR will directly notify persons and agencies with a known or (what MNR considers to be) a potential interest in the proposed amendment. Interested parties will be invited to submit comments to MNR copied at the same time to the Director of the EAA Branch, MOE. In some circumstances, additional public consultation activities may be carried out.”

Rationale for Change: This proposed change is in response to discussions between MNR and MOE about the use of Environmental Registry for an EA-related matter. MOE does not use and is not required to post on the Environmental Registry for EA matters, aside from proposed designation and declaration orders, and prefers that direct notice to known interested parties or newspaper notice be used by proponents. Therefore, MOE determined that text suggesting that MOE would do such a posting should be deleted. However, the posting of similar items on the Environmental Registry is an established MNR practice. Accordingly, this section proposes a change to have MNR responsible for postings. It also addresses MOE suggestions to clarify the types of additional consultation that would be used, which are now similar to methods regularly recommended by MOE.

## 6.5 Transitional Provisions

In the first sentence, change “*would be subject*” to “*are subject*”, and change “*when this Class EA takes effect*” to “*when the approval for the Class EA comes into effect*.”

In bullet 1, change “*would be*” to “*is*” and “*was approved*” to “*approval takes effect*”.

In bullet 2, change the phrase “*the project is not under construction within two years of the effective date*” to “*the project has not been initiated within five years of the effective date*”.

Add the following sentence to the end of the second bullet: “*Approved projects that have not been initiated within five years will be screened to determine the appropriate Class EA category, and the requirements of section 6.7 shall apply.*”

Rationale for Changes: These proposed changes are in response to comments from MOE to provide improved clarity of meaning and process. Previously, there had been use of both of the date the Class EA was approved and the date it takes effect, which caused confusion since there is a time period between when it is approved and when it takes effect. MNR also proposes changing the provision in bullet two from two to five years because two years has proven to be

impractical in the implementation of the Class EA for MNR Resource Stewardship and Facility Development Projects. The five-year period is also consistent with provisions under Subsection 6.7 of the Class EA which indicates that projects may proceed within a period of five years before being subject to a review and re-issuance of notice.

## 6.6 Part II Order Provisions

Add the following paragraph to this section: *“It is recognized that resolution of concerns directly between the proponent and the person or party raising the concern is preferable to having the Minister of the Environment make a decision on a Part II Order request. Accordingly, dispute resolution mechanisms (Appendix 8.5.3) may be considered. As well, when concerns are raised late in the project evaluation process, specifically during the 30-day Notice of Completion review period, the proponent may attempt to negotiate a resolution of the issues, even if it means that the 30-day review period may be exceeded. In this event, the proponent should make it clear to those raising the concern that negotiations will continue for a specified period of time as determined by MNR, following which, if the issues remain unresolved, a request for a Part II Order can be made to the Minister of the Environment within a further seven calendar days.”*

Rationale for Changes: This proposed change is in response to a suggestion from MOE, based on MOE experience in dealing with other Class EAs since 2002. It is intended to facilitate further resolution of issues between parties.

### 6.6.2 Attempt Early Resolution

In the first paragraph, change “will” to “may” and insert the following text after the first paragraph:

*“Where the deferral is being requested by MNR prior to the commencement of the 45-day review period (per section 6.6.3), the 45-day review period will begin following the deferral period and upon submission of the materials requested by MOE to be submitted by MNR for the review of the Part II Order request. The materials will include the results of the discussions with the requester, including any supporting documentation. MNR will give the EAAB written notification of the deferral period having ended.”*

*Where the deferral is being requested by MNR during the 45-day review period, the review will resume for the remainder of the 45 days beginning the day following the end of the deferral period. MNR will give the EAAB written notification of the deferral period having ended.”*

Rationale for Change: This proposed change is in response to a suggestion from MOE, based on MOE experience in dealing with other Class EAs since 2002.

### 6.6.3 MOE Considerations of the Request

In the first bullet, add the following: “MNR shall not proceed with any portion of the project until the Minister of the Environment makes a determination regarding the request, unless permission, with or without conditions, is given by the Director of the EAA Branch.”

Rationale for Change: Following preparation of the August 22, 2002 version of the Class EA, MOE decided that this change should be made to ensure a clear understanding of the proponent’s obligation once a Part II Order request has been received.

### 6.6.4 Minister’s Decision

Add the following text to the end of the first sentence: *“although the Minister’s decision is not invalid if made after 21 days.”*

In the third bullet, change subsection 16(2) to (1).

Rationale for Change: Following preparation of the August 22, 2002 Class EA, MOE decided that the first change above should be made to clarify that while an attempt will be made to adhere to certain timelines, the Minister's decision will not be invalid after that time. The first change would ensure accuracy.

## 6.8 Modifications to Project Files and Environmental Study Reports (ESRs)

### 6.8.1 Recurring Projects

In paragraph three, after "After this time," add "*or sooner as may be deemed necessary by MNR,*".

Rationale for Change: This proposed change is in response to a request by MOE to ensure that consideration sooner than ten years may occur when found to be necessary.

## Appendix 1: Glossary of Terms and Acronyms

Under the definition for Cultural Heritage Resource, change "*local architectural conservation advisory committees*" to "*municipal heritage committees*".

Rationale for Change: Update with current terminology as requested by Ministry of Culture.

## Appendix 2: List of Projects

### General Notes:

Add the following text as part of general note d): "*While this note applies to all projects, MNR shall develop, in consultation with MOE, a bulletin(s) to assist staff in implementing this general note for project numbers 43 (Minor development), 70 (Minor trail development and maintenance), 73 (Minor maintenance, upgrading or development) and 75 (Electrify existing car campsites) in the attached tables. If a project in these four project types is determined to be major based on the bulletins, it will be subject to screening for placement in Categories B, C or D. The bulletin(s) will have the same status as other MNR documents listed in Appendix 3 of the Class EA.*"

Rationale for Change: The inclusion of similar text was requested by MOE in fall 2002 in order that guidance would be provided as to what types of projects or circumstances ~~that~~ might require a Category A project to be screened for placement into a higher category. This especially arose with regard to the electrification of existing campgrounds (see discussion in part A). Project number 70 was added to projects covered by the bulletins on the further request of MOE in May 2004.

In the first two sentences of note f, change "*should*" to "*will*", and add after "potential effects to cultural heritage resources" the following text: "*and appropriate mitigation measures will be considered. Staff will consult the cultural heritage guidelines that will be prepared in consultation with Ministry of Culture.*"

Rationale for Change: This proposed change was requested by Ministry of Culture to strengthen and clarify the meaning ('will'), and to flag for users of the Class EA, the need to consider mitigation and to refer to the cultural heritage guidelines.

## Table 2. Acquiring or Disposing of Land for a Provincial Park or Conservation Reserve

Change the title to "*Acquiring or Disposing of Provincial Park or Conservation Reserve Land*".

Change project 9 to “*Sell land or dispose of land (e.g., through a land exchange)*”.

Below the table, add a cross reference, as follows: “*Note: other types of dispositions, such as land dispositions related to issuing a work permit, land use permit or lease, and resource disposition, such as issuing permits to use resources, are included in Section 3.1.3 and Appendix 2, table 3 c.*”

Rationale for Changes: The proposed change to the title is a more accurate reflection of the content. The change to project 9 reflects the fact that this is an example (i.e., just one method) of disposing of land. In making this change, screening is still required and therefore there is no change in the standard for how such projects would be treated. The cross-reference is intended to aid users of the document in finding related information.

Table 3. Managing a Provincial Park or Conservation Reserve

Table 3a. Resource Stewardship

In the notes column adjacent to the title “Fish & Wildlife Management”, change the following sentence from: “*The making of regulations to establish seasons for fishing and hunting is not within the subject matter of this Class EA.*” to read: “*The making of regulations to establish seasons for fishing and hunting is not a provincial park or conservation reserve activity and is within the subject matter of exemption order MNR-42. The issuance of licences for fishing and hunting is not a provincial park or conservation reserve management activity and is within the subject matter of the Class EA for MNR Resource Stewardship and Facility Development Projects.*”

Rationale for Change: MOE proposed this change in fall 2002 after discussions with MNR in order to clarify that the Class EA does not apply to the making of regulations to establish seasons for hunting and fishing. For purposes of further clarification, it was decided to include: an explanation of the reason that the Class EA does not apply to the making of regulations to establish seasons for hunting and fishing; an explanation that the making of these regulations is within the subject matter of exemption order MNR-42 for the undertaking of wildlife population and habitat management activities as carried out by MNR; and the cross reference to the Class EA for MNR Resource Stewardship and Facility Development to explain the EA coverage for the issuance of licences for hunting and fishing.

Change project 24 from:

24	Undertake prescribed burning, and manage wild fire <sup>(2)</sup>	✓	✓	Category A if project conforms with an approved management direction developed with public or agency consultation or an approved MNR fire plan (e.g., prescribed burn plan, fire management strategy), and carried out in accordance with prescribed burning planning guidelines. Otherwise, screen for Category C/D.
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To:

24	Undertake prescribed burning, and manage forest fire <sup>(1)</sup>	✓	✓	Category A for fire projects that conform with the Forest Fire Management Strategy for Ontario and the Prescribed Burn Planning Manual. Enhanced or alternative direction will be prepared in accordance with the Fire Management Policy for Provincial Parks and Conservation Reserves and be screened to Category B/C/D.
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Rationale for Change: MNR proposes that this project be updated in response to concerted work by Ontario Parks over the last year to develop a new fire management policy (approved) and comprehensive fire planning guidelines (pending) for provincial parks and conservation reserves, and to reflect MNR’s recently approved Forest Fire Management Strategy for Ontario.

MNR has carefully examined this change to ensure that it is fully in accord with the spirit of the proposed Class EA in terms of enhancing protection and management as set forth in the goal and objectives of the new fire management policy. It also ensures thorough and effective public consultation opportunities through the application of the project evaluation and consultation opportunities that are set forth in the Class EA.

The change from footnote 2 (management direction required) to footnote 1 (not required) recognizes that new provincial policy direction is provided in two substantive ways, firstly, the new Forest Fire Management Strategy for Ontario (2004) and secondly, the new Fire Management Policy for Provincial Parks and Conservation Reserves (2004). Both were developed through public consultation processes. For example, the policy process for the new Fire Policy for Provincial Parks and Conservation Reserves included public consultation through an EBR posting and through direct written invitations for comments to Aboriginal organizations, agencies and non-government organizations on the Ontario Parks Mandatory Distribution List.

The additional option to screen a project to category B recognizes that provincial policy direction is now in place which requires application of the comprehensive fire management planning guidelines (pending). Comprehensive direction of this nature has not been available previously. This option to screen to a category B recognizes the range of practical circumstances where some projects may have potential for low to medium net negative effects or public/agency concern that do not require the level of evaluation as that for a Category C. This change is consistent with the purpose of the Class EA, as outlined in section 1.1.

The fire management policy will be supplemented with comprehensive fire management planning guidelines that have been drafted to support the application of the Class EA. While the fire policy and Class EA set out the parameters (per 'Notes' column in the Class EA for project 24), the guideline provides detailed 'how to' guidance on preparing a fire management plan in accordance with the requirements of the Class EA. Therefore, while the technical work in the guideline has been drafted, MNR feels that public review of the guideline should occur after the Class EA is approved; this will ensure that public consultation on the guideline and subsequent decision making is appropriately sequenced.

Public safety and effectiveness in conducting prescribed burns is assured through the application of the Prescribed Burn Planning Manual, which requires public notice prior to conducting burns.

The 'notes' now reflect current terminology and direction in the Forest Fire Management Strategy for Ontario, and provide greater clarity.

In Table 2a, add the following note in the area adjacent to the title "Cultural Resources Management": "*Note: archaeological fieldwork requires special licensing under the Ontario Heritage Act.*" For project 32, change the project description from "*Reconstruct, restore or replicate archaeological, historical, or cultural heritage resources<sup>(2)</sup>*" to "*Reconstruct, restore or replicate cultural heritage resources<sup>(2)</sup>*".

Rationale for Change: This proposed change was suggested by Ministry of Culture to enhance awareness among users of the Class EA regarding the need for special licensing, and also to make the project title more accurate.

#### Table 3b. Development & Related Operations

In Table 2b, amend the note in the area adjacent to the title "Building or Structure" to read: "*If a building is being abandoned, mothballed, demolished or replaced its heritage potential should be considered first.*"

Rationale for Change: This proposed change was suggested by Ministry of Culture to enhance this information note to increase awareness among users of the Class EA.

Change the description and notes pertaining to project #59 from:

59	Provide a disposition to allow access within a recommended or regulated OLL park or reserve, to an existing mining claim or lease in a Forest Reserve, or to a mining patent, for exploration, development or operations.			This provision pertains to Forest Reserves and mining patents that are enclosed by an OLL park or reserve. Refer to Section 3.5.3 in this Class EA for notes on (a), (b), and (c) below, and consult with MNREA specialists for advice on a case by case basis.
(a)	Develop or maintain a trail, or maintain an existing road <sup>(1)</sup>	✓		MNR to work with proponents to locate trail.
(b)	Develop or decommission a road <sup>(1)</sup>		✓	
(c)	Develop a corridor for utilities and services (e.g., water, electricity, drainage) to support exploration, development or operations <sup>(1)</sup>		✓	

To:

59	Provide a disposition to allow access within a recommended or regulated OLL park or reserve for mineral exploration, mining development or operations.			This provision pertains to specific situations--refer to Section 3.5.3 in this Class EA and consult with MNR land use planning and EA specialists for advice on a case-by-case basis.
(a)	Develop or maintain a trail, or maintain an existing road <sup>(1)</sup>	✓		MNR to work with proponents to locate trail.
(b)	Develop or decommission a road <sup>(1)</sup>		✓	
(c)	Develop a corridor for utilities and services (e.g., water, electricity, drainage) to support exploration, development or operations <sup>(1)</sup>		✓	

Rationale for Change: This information was clarified to match the corresponding text in Section 3.5.3, described previously. It was also simplified because the text was too long and complex for this table, and instead, readers are referred to Section 3.5.3. This table also reflects the inclusion of project (c), which was previously added in the August 22, 2002 version of the Class EA as a result of a public comment during the comment period on the MOE Review document. When the list of all projects was devised it was anticipated that a few project types might be overlooked and when this project type was identified, it was felt to be advisable to add this so that the list in the Class EA was as complete as possible. This addition was deemed appropriate because such projects could be proposed in the future, and when proposed would need to be considered in accordance with current policy. The project would require screening, which ensures that the provisions of the Class EA will be addressed, including evaluation and consultation of proposals, and the opportunity for Part II Order requests.

In project 73, change the first two entries of “or” in the notes column to “and”.

In project 75, add a checkmark in the fourth column to indicate screening.

Rationale for Changes: These proposed changes were requested by MOE to make the statements accurate (for project 75, the checkmark was intended but inadvertently missed).

### Table 3c. General Operations

In Table 2c, add the following text to the note in the area adjacent to the title “Land Dispositions”: “See Table 2 for full dispositions related to sale, trade, etc.”, and in the space adjacent to the title “Resource Disposition”, remove the cited example “fuelwood cutting”.

Rationale for Change: The first change is intended to assist users of the Class EA with finding related information by cross-referencing related text. The second change is intended to correct an error, since fuelwood cutting is not a commercial activity associated with the projects under this heading. Rather, this project is addressed in project #27.

## Appendix 3: Policies, Procedures, Guidelines, Standards, Manuals

Changes were made to the names or dates of the directives to ensure up-to-date information.

## Appendix 4: Provincial Context

Numerical information in this appendix was updated (e.g., figures 4.3 and 4.4) for currency.

## Appendix 5: Assessing the Significance of Environmental Effects

### 5.1 Factors for the Assessment of Significance

#### **Magnitude**

In the second sentence, remove “, say,” and “of an adjacent project”.

Rationale for Change: This change is proposed to improve grammar and remove the final phrase, which is extraneous.

## Appendix 6: Government and Other Agencies

Change “(MOE Regional EA and Planning Coordinator for project reviews under this Class EA are mandatory)” to “(MOE Regional Air, Pesticides & Environmental Planning Supervisor; for mandatory project reviews under this Class EA)”.

Add “Canadian Environmental Assessment Agency” and “Transport Canada”.

Rationale: These proposed changes were requested by government agencies for accuracy during the May and June 2004 policy and legislation update.

## Appendix 7: Other Relevant Federal and Provincial Legislation

All proposed changes in this section are intended to provide accurate and current information, in response to requests by government agencies during the May and June 2004 policy and legislation update. Input came from the Canadian Environmental Assessment Agency, Environment Canada, Transport Canada, and the Department of Fisheries and Oceans.

### 7.1 Federal Legislation

#### **Canadian Environmental Assessment Act**

In the last sentence of the first paragraph, remove “*Responsible Authority’s Guide (November 1994)*” and add “*guidance material found on their website (www.ceaa-acee.gc.ca)*”.

In the first sentence of the fourth paragraph, after “Table A outlines” add “*some common*”, and remove “, per Table A”. Add a second sentence: “*For a full list of regulatory triggers, consult the annotated law list at the above noted website*”.

#### **Canadian Environmental Protection Act**

Amend this description to read: “*Certain guidelines, codes of practice and regulations under the Canadian Environmental Protection Act, 1999, may apply to these projects. These include, but are not limited to: Part 3, Information Gathering, Objectives, Guidelines and Codes of Practice and Part*”

4, Pollution Prevention, Part 7, Controlling Pollution and Managing Wastes, Part 8, Environmental Matters Related to Emergencies and applicable regulations including: New Substances Notification Regulations, Chlorobiphenyls Regulations, Storage of PCB Material Regulations, PCB Waste Export Regulations, Export and Import of Hazardous Waste Regulations, Transportation of Dangerous Goods Regulations, Environmental Emergencies, Disposal at Sea and other regulations to be developed may apply to these projects.”

### **Fisheries Act**

Amend this description to read: *“The federal Fisheries Act gives the Minister of Fisheries and Oceans the authority to protect fish and fish habitat from destructive activities. Any works that occur in or near water may require authorization under the Fisheries Act. Under Section 35(1) of the Act, no person shall carry out any work or undertaking that harmfully alters, disrupts or destroys fish habitat, unless authorized by the Minister of Fisheries and Oceans Canada under Section 35(2). An authorization under Section 35(2) of the Fisheries Act protects an individual from prosecution under the Act, provided the conditions of the authorization are met. A Section 35(2) Fisheries Act authorization is a regulatory trigger for an environmental assessment under the CEA Act. It should be noted that Fisheries and Oceans Canada can refuse authorization where impacts to fish habitat are unacceptable.*

*In addition to Section 35, the Fisheries Act Sections 22(1)(2)(3), 32 and 37(2) sets out general habitat and pollution provisions which are binding on all levels of government and the public in areas such as:*

- *The provision of sufficient water flows.*
- *Passage of fish around migration barriers.*
- *Screening of water intakes.*
- *Prohibition against the destruction of fish by means other than fishing unless authorized by Fisheries and Oceans Canada.*
- *Restrictions on fishing near a barrier.*
- *Deposit of a deleterious substance into waters frequented by fish unless authorized by regulation.*

*These issues should be addressed early in the Class EA process. Information on the Fisheries Act and Fisheries and Oceans Canada’s Policy for the Management of Fish Habitat are available on the Internet at: [www.dfo-mpo.gc.ca/canwaters-eauxcan](http://www.dfo-mpo.gc.ca/canwaters-eauxcan).*

*Section 36 of the Fisheries Act specifies that, unless authorized by federal regulation, no person shall deposit or permit the deposit of deleterious substances of any type in water frequented by fish or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water. If no regulation exists defining a specific substance to be deleterious, then each substance must be evaluated to determine whether it is deleterious.”*

### **International Rivers Improvement Act or Boundary Waters Treaty Act (trans-boundary water management)**

Amend the title to read: *“International Boundary Rivers Boundary Waters Treaty Act”.*

Amend this description to read: *“Works within Great Lakes inter-connecting channels\* and other boundary waters rivers\* must not obstruct, or divert waters in Canada in a manner that may affect the level or flow of boundary waters in the United States, except in accordance with a license from the Minister of Foreign Affairs. Under the International Boundary Waters Treaty Regulations, Foreign Affairs Canada is responsible for issuing permits for in-water and shoreline activities affecting levels and flows in interconnecting channels and other transboundary waters. The documentation submitted to Foreign Affairs Canada for the review of individual projects should include impact predictions, proposed mitigation/compensation measures and technical analyses to support any conclusions and final designs.*

\* *These waterbodies include: Rainy River, Namakan River, St. Mary's River, St. Clair River, Detroit River, Niagara River and St. Lawrence River.*

### **Migratory Birds Convention Act**

Amend the description to read: *"The Migratory Birds Convention Act, 1994, deals with the conservation and protection of listed species of migratory birds and their nests. Under the Act, release of a harmful substance into any waters or other areas frequented by migratory birds, and the "incidental take" of migratory birds and the disturbance, destruction or taking of the nest of a migratory bird are prohibited pursuant to sections 35(1) and 6, respectively, of the Migratory Birds Regulations. "Incidental take" is the killing or harming of migratory birds due to actions, such as economic development, which are not primarily focused on taking migratory birds."*

### **Navigable Waters Protection Act**

In the final sentence, remove *"Department of Fisheries and Oceans – Coast Guard"* and add *"Transport Canada-Navigable Waters Protection"*.

Add the following text for the Species at Risk Act: *"The Species at Risk Act, 2003, is intended to provide protection for individuals of wildlife species at risk listed under schedule 1, parts 1-3 of the Act, their residences (dwelling places, such as a den or nest or other similar area that is occupied or habitually occupied by one or more individuals during part or all of its life cycle) and their critical habitat. Critical habitat, as it is or will be identified in species specific recovery strategies or action plans, is the part of areas used or formerly used by listed species to carry out their life processes that is deemed essential for survival or recovery. Prohibitions under SARA apply to federally regulated migratory birds and aquatic species and all species on federal lands."*

In Table A, for entry 6, remove *"Fish Habitat Management"*. For entry 7, remove *"Fisheries and Oceans Canada Coast Guard"* and replace with *"Transport Canada, Navigable Waters"*.

In Table B, for navigation, remove *"Fisheries and Oceans"* and add *"Transport Canada"*.

## 7.2 Provincial Legislation

All proposed changes in this section are intended to provide accurate and current information, in response to requests by government agencies during May and June 2004. This input came from the ministries of Municipal Affairs and Housing, Culture, Agriculture Food and Rural Affairs, Northern Development and Mines, and Environment, as well as the Ontario Native Affairs Secretariat and Ontario Realty Corporation.

Add the following new acts and descriptions:

### *Drainage Act*

*The Drainage Act balances the rights of landowners living along watercourses with the rights of property owners who do not have access to a stream or creek in order to drain their lands. This act is administered by the Ontario Ministry of Agriculture and Food (OMAF) and provides a legal means for the construction and maintenance of sufficient outlets to drain surface and subsurface water. Municipalities are responsible for the repair and maintenance of drainage systems constructed under the Drainage Act.*

### *Farming and Food Production Protection Act*

*The purpose of the Farming and Food Production Protection Act is to give farmers protection from nuisance complaints and subsequent lawsuits or injunctions. It also ensures that the farming and food production industry is protected from restrictive municipal by-laws that constrain normal farm practices. In agricultural area, agricultural uses and normal farm practices be promoted and*

protected in a way that balances the needs of the agricultural community with provincial health, safety and environment concerns.

#### *Kawartha Highlands Signature Site Park Act*

*The Kawartha Highlands Signature Site Park Act provides for the protection of the ecological integrity of the park as the overriding priority for management, as well as protecting the natural and cultural values and traditional uses that are compatible with the natural heritage values and semi-wilderness character of the park. The Act provides for access to and enjoyment of private property and Crown lands that are subject to a land use permit, licence of occupation or lease under the Public Lands Act where these lands are surrounded by the park or abutting the park. It also includes provisions to ensure that public consultation will be carried on decisions related to development or any major revision to the park management plan.*

#### *Nutrient Management Act*

*The Nutrient Management Act provides for the management of material containing nutrients in ways that will enhance protection of the natural environment and provide a sustainable future for agricultural operations and rural development. The Ontario Ministry of Agriculture and Food and the Ministry of Environment are responsible for governing the Act. Along with the Act itself, there is a regulation, which outlines standards, and protocols, which explain the regulation in greater detail.*

#### *Oak Ridges Moraine Conservation Act*

*The Oak Ridges Moraine Conservation Act, 2001, administered by the Ministry of Municipal Affairs and Housing, is an Act to conserve the Oak Ridges Moraine by enabling the designation of the Oak Ridges Moraine Area and the establishment of the Oak Ridges Moraine Conservation Plan. The plan is designed to protect the ecological and hydrological integrity of the Oak Ridges Moraine while providing for land and resource uses and development that are compatible with maintaining the ecological well-being of the moraine. The Act states that decisions shall conform with the Oak Ridges Moraine Conservation Plan.*

#### *Ontario Planning and Development Act*

*The Ontario Planning and Development Act, 1994, permits the Minister to establish a development planning area. The act also permits the Lieutenant Governor in Council to put in place a development plan for such a planning area. Section 14 of the Act states that if there is a conflict between a development plan and an official plan or zoning by-law covering part or all of the same area, the development plan prevails.*

#### *Ontario Water Resources Act*

#### *Safe Drinking Water Act*

*The Ontario Safe Drinking Water Act provides for the protection of human health through the control and regulation of drinking water systems and drinking water testing. The Act regulates drinking water testing laboratories, operator certification, and the reporting of adverse drinking water results. The Ministry of Natural Resources would require approvals from the Ministry of the Environment for establishing, altering, or replacing a regulated system. The Ministry of the Environment administers the Act.*

*Amend this description to read: "The Ontario Water Resources Act (OWRA) provides for the protection of surface and ground water related to adverse discharges. The Act regulates the taking of water from wells or surface water sources and the treatment and disposal of sewage. It is administered by the Ministry of the Environment. Approvals that MNR may require may consist of a certificate of approval for a sewage system and/or a permit to take water. Ontario Regulation 129/04, made under the Ontario Water Resources Act, governs the certification and training of both drinking water and wastewater operators."*

## Ontario Heritage Act

Amend the second sentence to read: *“The primary focus of the Act is the protection of property of cultural heritage value or interest, heritage districts and archaeological sites.”*

## Planning Act

In the second paragraph and second sentence, add *“and Housing”* to the name of this ministry.

## Appendix 9: Sample Notices and Forms

All proposed changes to the sample forms in this appendix are intended to reflect the previously-noted proposed changes in the body of the Class EA..

In appendix 9.1 and 9.10, add the following: “Within five years of the approval of this Statement of Completion MNR may proceed with project implementation; after this time, the provisions of section 6.7 of the Class EA shall apply.” In appendix 9.10, add “MOE Environmental Assessment and Approvals Branch”.

In appendix 9.11, change “Monitoring is required, as outlined in the following report” to “Monitoring is required, as outlined in the following monitoring plan”. Amend item 1 to read: “(a) Acceptable Outcome: the predicted effects to be monitored and the range of acceptable outcomes (based on pre-project inventory where required) (b) Monitoring Methods: the protocols to be used (techniques, equipment, measurements/indicators, duration, frequency, etc.) (c) Reporting: a description of when and how interim and final reporting will be completed (see Section 5.4 for reporting needs).”