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Media Release

Water Resources Engineer Asks MNR Minister to Conduct Audit of Conservation Authority

Concerns raised about Mississippi Valley Conservation application of Provincial Floodplain Policy

Ottawa, Ontario - In an October 1, 2006 letter to the Hon. David Ramsay, Ontario Minister of Natural Resources (MNR), and to Mr. Dick Hibma, Chair of Conservation Ontario, the umbrella organization that represents Ontario's 36 Conservation Authorities, Water Resources Engineer Ted Cooper of Eganville, Ontario called upon the MNR to conduct an operational audit of the Mississippi Valley Conservation Authority (MVCA).

"In the interest of Public Health and Safety and in the protection of private property, I hereby request the Province and Conservation Ontario initiate as quickly as possible, an operational audit of MVCA's approach to floodplain management", stated Mr. Cooper.

In support of his request, Mr. Cooper filed a 48-page supporting document, and 24 various reports that were assembled through searches of websites involving Decisions of Municipal Councils, the Ontario Municipal Board, the Ontario Mining and Lands Commissioner, and postings on the Environmental Bill of Rights Registry. In addition, one of the more important reports to the submission, in Mr. Cooper's view, was a report he found in storage at his home - a surplus report that he salvaged from a former employer many years ago. This 1983 report prepared under the Flood Damage Reduction Program provides background on flooding along the Carp River in the Glen Cairn Community.

Through the assembly of this supporting documentation, Mr. Cooper asks MNR and Conservation Ontario whether there is sufficient evidence that would support the need for an operational audit to be conducted on the MVCA's approach to floodplain management out concern that the MVCA:

- 1) Regulates and applies Provincial floodplain policy inconsistently within its own jurisdiction;
- 2) Regulates and applies Provincial floodplain policy inconsistently with other Conservation Authorities in the Province of Ontario; and
- 3) Enforces the *Conservation Authorities Act* in ways that are inconsistent with Decisions of the Ontario Mining and Lands Commissioner, who has been assigned the authority, duties and powers of the Minister of Natural Resources under the *Ministry of Natural Resources Act*.

The basis of his request lies in examination of a number of different examples involving floodplain management decisions by the MVCA that make it apparent that there is little consistency in its approach to regulating development in hazard areas within its jurisdiction.

To contrast the approach taken by the MVCA in floodplain management, Mr. Cooper cites Decisions and statements of the Ontario Mining and Lands Commissioner (OMLC), the independent adjudicative tribunal that conducts Hearings of Appeals under Section 28 of the *Conservation Authorities Act*. For example, in a speech to the Urban Development Institute on March 20, 2002, OMLC Linda Kamerman stated:

There is no power in conservation authorities to weigh or consider the relative merits of economic and social implications with those of susceptibility to flooding, risk to loss of property or life, pollution of the surface waters or soils, and general ecosystem concerns within the

watershed. The conservation authorities are specifically charged with determining the merits of a proposed encroachment based on risk not only to the applicant, but to affected persons both upstream and downstream of the proposal. In other words, in considering the right of a property owner to use his or her land, a conservation authority will weigh the individual's rights against the public interest, in so far as it concerns flooding, pollution or conservation of land.

One of the motivations for Mr. Cooper to initiate the request for an audit is the MVCA's apparent endorsement of a plan that would result in the filling and development of 28 Ha of floodplain along the Carp River in a Greenfield development area in the City of Ottawa known as Kanata West.

Mr. Cooper points out to the Minister and the Chair of Conservation Ontario that there is a recent history of flooding along previous channelization projects within the jurisdiction of the MVCA - along the Carp River in the community of Glen Cairn in Kanata (1996 and 2002), and along the Kizell Drain also in Kanata (2004).

In his detailed submission, Mr. Cooper includes excerpts from the 1983 floodplain mapping study on the Carp River that identified capacity limitations of the original Carp River channelization scheme in Glen Cairn - at the Castlefrank Road and Rickey's Place crossings - the locations where flooding occurred in 1996 and in 2002. The 1983 report recommended the MVCA conduct detailed studies in these areas, and in the case of the Rickey's Place crossing, to increase the embankment height by 0.6m to contain the 100-year flood flow.

Between 1983 and 1996 large new development areas upstream of the capacity constrained crossings were constructed in the Glen Cairn Community and the Bridlewood Community. Mr. Cooper has asked that MVCA verify that they acted on the recommendations of the 1983 study, and to indicate whether special controls were placed on developments upstream of these crossings given their capacity limitations.

Mr. Cooper also posed questions to the MVCA in relation to the 2004 flooding of the March Pumping Station by the Kizell Drain on Legget Drive in North Kanata. According to a news reports about this flooding incident, water backed-up behind a culvert at a temporary construction road access. Using background information from the \$350,000 Shirley's Brook and Watts Creek Subwatershed Study completed in 2000, Mr. Cooper suggests the construction access road was built to provide access to a residential development being constructed on lands Regulated by the MVCA as floodplain.

Furthermore, he noted that alterations had been made to the alignment of the Kizell Drain that appear to be inconsistent with recommendations of the Subwatershed Study. In his audit request, Mr. Cooper asks why the MVCA would have approved the development of the floodplain and the alterations to the Kizell Drain in the area, particularly because the Subwatershed Plan warned:

“To minimize the potential for flooding, erosion and environmental problems, every attempt should be made to preserve the existing drainage pattern.”

In total Mr. Cooper examines eight different cases involving MVCA's approach to floodplain management. Another of the cases concerned MVCA's position at a 2005 Ontario Municipal Board Hearing in the Town of Mississippi Mills. In that case, a landowner was granted a fill permit by the MVCA and a building permit by the former Township of Ramsay in the mid 1990's to place fill on the floodplain of the Mississippi River to enable the construction of a house. For one reason or another, the fill had been placed, but the house was never constructed. In 2002 the landowner wished to renew the Building Permit but by that time the Township of Ramsay had become part of the new Town of Mississippi Mills - which had passed a new Zoning By-law that zoned those lands as floodplain. The

position of the MVCA at the OMB Hearing was that despite the fact fill had been placed to raise the lands above the flood elevation, the building lot was still considered to be in the floodplain. The OMB Ruled against the landowner.

The 2005 OMB Hearing occurred less than one year after another Decision of the MVCA that allowed the loss of 45,000 m³ of floodplain storage along the Carp River to allow the construction of the Terry Fox Drive extension in the Richardson Road area of Kanata. For whatever reason, the MVCA could not allow the landowner along the Mississippi River to place what would amount to a few hundred cubic meters of fill - but apparently the MVCA had no problem with tens of thousands of cubic meters of fill being placed on the Carp River floodplain - a drainage system that is much smaller than the Mississippi River.

On it's website, Conservation Ontario notes that Conservation Authorities are local, watershed management agencies that deliver services and programs that protect and manage water and other natural resources in partnership with government, landowners and other organizations.

The public and government agencies count on the advice that they receive from Conservation Authorities, and that they respond appropriately in situations involving the protection of property and the public's health and safety. In the eight cases examined by Mr. Cooper, a number of questions are raised about MVCA's record on floodplain management.

As plans continue to be reviewed concerning the planned filling and development of 28 Ha of floodplain along the Carp River in Kanata West, Mr. Cooper is hoping that the MNR Minister and Conservation Ontario will be convinced that an operational audit of the MVCA is required - to avoid the possibility that MVCA would proceed with the Approval of an additional 28 Ha of floodplain along the Carp River, downstream from the flood damage center in Glen Cairn.

For further information:

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Webpage:

<http://www.canadiangeoheritage.org/audit/index.html>

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