

MINISTRY OF NATURAL RESOURCES  
Policy Division  
Strategic Policy and Economics Branch  
Economics, Research and Environmental Planning Section  
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July 6, 2011

Dave Euler Box 6, Site 4,  
R.R.#4 103 Birch Point  
Drive Echo Bay, ON POS  
1CO

Dear Dr. Euler:

Re: Application for Review - File No. R201 1 001 under Section 61 of the  
*Environmental Bill of Rights (EBR)* requesting that MNR review the Forest  
Management Planning Manual and guidance related to the determination of  
sustainability

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The Ministry of Natural Resources (MNR) has completed a preliminary review related to the above noted Application for Review under the Environmental Bill of Rights (EBR) received on January 04, 2011.

The MNR has considered your application for review in accordance with the provisions of Section 68 of the EBR, and the ministry has determined that the public interest does not warrant a review of the matters raised in the application because:

- The decision to approve the FMPM 2009, including the determination of sustainability, was made during the five years preceding the date of the application for review; and
- That decision was made in a manner that MNR considers was consistent with the intent and purpose of Part II of the EBR.

In the event that you have questions regarding the above, or would like additional information about the EBR, please contact Jim Boothby, Senior Environmental Planning Analyst at (705) 755-5042.

Sincerely,

A handwritten signature in blue ink that reads "Sally Renwick".

Sally Renwick, Acting  
Team Leader  
Environmental Planning

c: Peter Lapp, Office of the Environmental Commissioner of Ontario

**NOTICE OF DECISION APPLICATION FOR  
REVIEW - FILE NO. R2011001**

On April 28, 2011, the Ministry of Natural Resources (MNR) received, from the Environmental Commissioner's Office, an Application for Review, R2011001, under the *Environmental Bill of Rights* (EBR).

The applicants have requested a review of the determination of sustainability in the Forest Management Planning Manual 2009 (FMPM 2009) because they contend that:

1. The determination of sustainability in the FMPM 2009 is circular and no objective analysis of targets is required; and
2. By removing the requirement for a natural benchmark run from the FMPM 2009, the outcomes reported in forest management plans (FMPs) are not tied to an objective reality and, consequently, do not reflect sustainability.

In accordance with Part IV of the EBR, MNR has considered the application in a preliminary way to determine whether the public interest warrants a review by the ministry of matters raised in the application.

**Review Decision:**

In accordance with subsection 68 (1) of the EBR, MNR has determined that the public interest does not warrant a review of the matters raised in the application because:

- The decision to approve the FMPM 2009, including the determination of sustainability, was made during the five years preceding the date of the application for review; and
- That decision was made in a manner that MNR considers was consistent with the intent and purpose of Part II of the EBR.

This Notice of Decision has been prepared to fulfill the Ministry's obligations under the EBR. The EBR requires that this notice contain a brief statement of the reasons for the decision and that it be sent to the applicants and the Environmental Commissioner.

**Rationale for Decision**

Subsection 68(1) of the EBR states that, "a minister shall not determine that the public interest warrants a review of a decision made during the five years

preceding the date of the application for review if the decision was made in a manner that the minister considers consistent with the intent and purpose of Part II."

Decision on Matter Sought to be Reviewed within Preceding Five Years:

In December 2009, the FMPM 2009 was approved through an amendment to O. Reg. 167/95 under the *Crown Forest Sustainability Act, 1994* (CFSA). The decision to approve the FMPM 2009 with the current determination of sustainability and without requirement for calculation of a natural benchmark was made within the five years preceding the date of this application for review.

Prior Decision Made in Manner Consistent with Intent and Purpose of EBR:

The decision to approve the FMPM 2009 was made in a manner that is consistent with the intent and purpose of Part II of the EBR. During development of the FMPM 2009, MNR provided extensive opportunities for the public and Aboriginal peoples to comment on the proposal, including the following:

- From April through September, 2008 consultation was undertaken regarding the scope of changes to be made in revising the Forest Management Planning Manual 2004 (FMPM 2004) to produce the FMPM 2009. Consultation included an Information Notice on the Environmental Registry (#010-3079) on April 04, 2008, meetings with key stakeholder and Aboriginal treaty organizations on request, direct notification to approximately 1,200 known interested and affected parties, and all Aboriginal communities within the area to which the FMPM applies.
- After review of all input, a draft version of the FMPM 2009 was prepared. Consultation on the draft FMPM 2009 was undertaken from December, 2008 through July, 2009. Consultation included,
  - o A regulation proposal notice (#010-5349) on the Environmental Registry, posted on December 16, 2008;
  - o A revised proposal notice that was republished to the registry on February 13, 2009 to extend the comment period to February 17, 2009, for a total of a 63 day public review and comment period.
  - o Meetings with key stakeholder and Aboriginal treaty organizations on request, and
  - o Direct notification to approximately 1,200 known interested and affected parties and all Aboriginal communities within the area to which the FMPM 2009 would apply.
- An amendment to O. Reg. 167/95 under the *Crown Forest Sustainability Act* (CFSA) approving FMPM 2009 was made by the Lieutenant Governor in

Council in December 2009 and came into effect.

- A decision notice was posted to the Environmental Registry in December 2009.

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One of the comments received in response to the regulation proposal notice on the Environmental Registry related to the determination of sustainability. MNR considered this comment in making its decision regarding the regulation proposal and determined that the determination of sustainability provisions in the revised FMPM 2009 was consistent with the purposes, principles and requirements of the CFSA and that no change was required.

Another comment received in response to the regulation proposal notice related to the proposed removal of the requirement to calculate the natural benchmark. MNR considered this comment and determined that the natural benchmark calculation was no longer required because desired levels of forest structure and composition were to be based on simulated ranges of natural variation (SRNV) determined through the use of forest landscape diversity simulation models rather than the current forest condition.

#### Other Considerations:

There is no evidence that a failure to undertake the requested review of the FMPM 2009 could result in significant harm to the environment. The FMPM 2009 incorporates peer-reviewed science in providing a process to set targets for forest landscape structure and composition and determine if proposed forest management activities provide for the sustainability of the forest.

Moreover, the application for review did not present additional evidence to what was considered when the FMPM 2009 was developed and approved.

MNR has recently submitted a request to the Ministry of Environment to amend its *Environmental Assessment Act* coverage for forest management activities on Crown land (i.e., Declaration Orders MNR-71 and MNR-74). If the amendments are made, MNR will undertake a revision to the FMPM 2009. Such a revision will include an opportunity to review all aspects of the manual.

#### **Conclusion:**

For the reasons noted above, MNR has determined that the public interest does not warrant a review of the matters raised in this application for review.