

June 15, 2006

**RE: POLICY INTERPRETATION MADE FOR THE APPROVAL OF
CONSERVATION ORGANIZATIONS RESPECTING THE ESTABLISHMENT OF
NATURE PRESERVES IN THE NIAGARA ESCARPMENT PLAN (2005)**

This Policy interpretation applies to Conservation Organizations seeking an **approved** status under the Niagara Escarpment Plan (NEP, the Plan). Such status allows Conservation Organizations to secure property within the Plan to establish Nature Preserves.

The Plan defines a Nature Preserve as:

Nature Preserve - Property held by an **approved** Conservation Organization for the purpose of enhancing, protecting, maintaining or providing access to the natural environment in the Niagara Escarpment Plan area. Nature preserves will be areas or sites that presently, or in the future, could contribute to the conservation of Ontario's biodiversity and natural heritage. Such lands are not recognized as building lots under the Plan.

The definition of a conservation organization is:

Conservation Organization - a non-government conservation body including a land trust, conservancy or similar not-for-profit agency governed by a charter or articles of incorporation or letters patent, and with by-laws and objectives that support the protection of the natural environment of the Niagara Escarpment. Such an organization must have registered charitable status.

A conservation organization shall be considered to have an **approved** status under this Plan once the Ministry of Natural Resources and Niagara Escarpment Commission have been satisfied that a conservation organization has an environmental purpose consistent with the purpose, objectives and policies of the Niagara Escarpment Plan. This would include commitment, public support, organizational ability, sustained activity in the interests of conservation over several years and a legally binding arrangement to ensure that all lands acquired or held as nature preserves remain protected should the organization cease to exist.

Approval Standards, Documentation and Process

The following standards apply to the evaluation of Conservation Organizations seeking an **approved** status under the policies and definitions of the Niagara Escarpment Plan.

Part 1 - Standards

A Conservation Organization must meet or commit to the following in order to qualify as an **approved** Conservation Organization:

- 1) Must be incorporated.
- 2) Must, as set out by Part 2.14 of the Niagara Escarpment Plan, place a conservation easement or similar legal restriction on the title of any property secured as a Nature Preserve guaranteeing use of the property as a Nature Preserve and ensuring the land's continuing protected status should the Conservation Organization cease to exist.
- 3) Must be a qualified charitable organization under paragraph 149 (1) (f) of the *Income Tax Act* and be eligible to issue tax receipts under the Federal EcoGift program.
- 4) Must undertake that, should the Conservation Organization cease to exist or otherwise not be able to properly steward any Nature Preserve(s) secured by conservation severances through the provisions of the Niagara Escarpment Plan, such Nature Preserves(s) would be transferred to another **approved** Conservation Organization, or failing that, be offered for transfer at no cost to public bodies involved in managing lands within the Niagara Escarpment Parks and Open Space System.
- 5) Must be willing to allow site visits by the Niagara Escarpment Commission and the Ministry of Natural Resources to lands secured as Nature Preserves and to arrange for site visits for properties proposed to be secured as Nature Preserves.
- 6) Must be willing to provide general information on the location of properties listed in Appendix 4 to the Niagara Escarpment Plan and more specific location information for publicly accessible properties. This includes making the properties accessible to the public for passive, pedestrian enjoyment where such access is environmentally appropriate and legally feasible (where the properties adjoin public lands or road allowances; where municipalities permit parking on such road allowances; etc) and where public safety and liability risks

can be appropriately managed and maintained. If at any point the conservation features on the property are jeopardized by visitor use, or responsible authorities change access possibilities from adjacent lands, the property may be closed to public access.

- 7) Must be willing to permanently post a sign or signs at the property site, or at the property access point(s) notifying the public about ownership, contacts, and accessibility, consistent with the provisions set out in standard 6 above.
- 8) The Conservation Organization must notify the Niagara Escarpment Commission and the Ministry of Natural Resources of all proposed acquisitions and planning applications related to the establishment of a Nature Preserve, prior to closing.
- 9) Must undertake to prepare a Management Plan or Management Statement for all Nature Preserves secured by conservation severances through the provisions of the Niagara Escarpment Plan, within three (3) years of securing such Nature Preserves. The Conservation Organization shall acknowledge that such Plans/Statements must make the properties accessible to the public for passive, pedestrian enjoyment where such access is environmentally appropriate and legally feasible (where the properties adjoin public lands or road allowances; where municipalities permit parking on such road allowances; etc) and where public safety and liability risks can be appropriately managed and maintained. The Management Plan or Statement may also note that if at any point the conservation features on the property are jeopardized by visitor use, or responsible authorities change access possibilities from adjacent lands, the property may be closed to public access.

The term Management Plan or Statement means:

Management Plans or Management Statements for a Nature Preserve shall include: the Nature Preserve's conservation purpose, property features, threats to conservation, management activities, visitor use, implementation strategies, monitoring/inspection time-lines and budget.

- 10) Must demonstrate that the Conservation Organization has the resources to steward Nature Preserves on an ongoing basis, or undertake to develop such resources prior to applying to secure Nature Preserves by conservation severances through the provisions of the Niagara Escarpment Plan.

Part 2 - Documentation Requirements

The following documentation, to satisfy the relevant standards in **Part 1**, must be provided as justification to receive a determination on the **approved** status of a Conservation Organization under the provisions of the Niagara Escarpment Plan:

- 1) A copy of the Conservation Organization's constating documents, bylaws, and other related corporate documents as may be required by the Niagara Escarpment Commission to confirm compliance with the relevant standards.
- 2) A copy of the Conservation Organization's determination letter (Notification of Registration) issued by Revenue Canada under the *Income Tax Act*.
- 3) A description of the Conservation Organization and its goals, objects and activities, past and present.
- 4) A copy of the Conservation Organization's budget for the current fiscal year.
- 5) A list of the Conservation Organization's current Board of Directors and officers with contact information, and an undertaking to file future changes thereto.

Part 3 - Additional Requirements

Provide the Niagara Escarpment Commission with a survey, legal description, and the property roll number to the Niagara Escarpment Commission after a Nature Preserve is secured for listing in Appendix 4 to the Niagara Escarpment Plan.

The conservation easement or similar legal restriction placed on the property title guaranteeing the use of the property as a Nature Preserve, and ensuring the land's continuing protected status pursuant to the requirements of the Niagara Escarpment Plan shall be provided to the Niagara Escarpment Commission for each property listed in Appendix 4 to the Plan.

Part 4 - The Application Form

The Niagara Escarpment Commission will provide an application form (print and/or electronic) to be completed by all applicants, and will make it available to prospective Conservation Organizations.

A Conservation Organization desiring to qualify as **approved** Conservation Organization for the purpose of establishing Nature Preserves pursuant to the provisions of the Niagara Escarpment Plan, and satisfy the terms and conditions set out in the application, will make application to the **Director of the Niagara Escarpment Commission** and request that a copy of the application be sent to the **Director, Lands and Waters Branch**, Ministry of Natural Resources.

Part 5 - The Approval Process

The process for consideration of applications from Conservation Organizations will be:

1. Once submitted, the Niagara Escarpment Commission will review the application to ensure that all of the standards, criteria and documentation are met. The Ministry of Natural Resources will be consulted by the Niagara Escarpment Commission.
2. The Niagara Escarpment Commission after consulting with the Ministry of Natural Resources may ask the Conservation Organization to submit missing or additional information.
3. After the application is considered complete, the Niagara Escarpment Commission will consult with the Ministry, to ensure that the Ministry of Natural Resources supports the submission.
4. The Niagara Escarpment Commission (staff) will prepare a report and recommendation for consideration by the Niagara Escarpment Commission after the Ministry has provided its advice. The report and recommendation will include any advice and comments received from the Ministry of Natural Resources.
5. The prospective Conservation Organization seeking **approved** status may make a presentation to the Niagara Escarpment Commission at such time as the Commission is preparing to take a position on the Conservation Organization's request.
6. The Niagara Escarpment Commission will notify the Conservation Organization of its determination, and inform the Ministry of Natural Resources.

Part 6 - Decision to Approve

If approved, the Niagara Escarpment Commission will issue an official determination letter stating that the organization qualifies as an **approved** Conservation Organization under the definition for Conservation Organization found in Appendix 2 of the Niagara Escarpment Plan. The letter will be signed by the **Director of the Niagara Escarpment Commission**. The Niagara Escarpment Commission will keep a signed original letter and copies on file and forward a copy to the Ministry of Natural Resources.

A list of **approved** Conservation Organizations will be created and maintained at the Niagara Escarpment Commission's Georgetown corporate office. The file will include all of the applicable background materials originally filed and considered.

Additionally, the Niagara Escarpment Commission will provide a list of **approved** Conservation Organizations in an introduction to Appendix 4 to the Niagara Escarpment Plan. This list will be updated as the Niagara Escarpment Plan is consolidated from time to time.

Part 7 - Rejection Decision

Where an application from a Conservation Organization is **rejected**, the decision of the Niagara Escarpment Commission will be final and **written reasons** for rejection shall be provided. A Conservation Organization may re-submit another application after two (2) years. The Niagara Escarpment Commission may reconsider a new application earlier than the two year (2) period where the Commission is satisfied that special circumstances exist, there is justification provided for an earlier review or the basis for the rejection has been remedied.

Part 8 - Policy Review Process

Any material changes in structure and operations of a Conservation Organization could affect its **approved** status. The **approved** status of a Conservation Organization will be reviewed by the Niagara Escarpment Commission in consultation with the Ministry of Natural Resources, and stakeholders no later than every **five (5) years**. The review process will address changes to existing activities and operations, as well as reporting requirements, and any substantive changes to the Conservation Organization or policies of the Niagara Escarpment Plan affecting such Organizations.

Part 9 - Reporting Requirements.

All approved Conservation Organizations will be required to meet reporting requirements. These will be set out as part of the terms and conditions specified on the application form.

All **approved** Conservation Organizations will be required to provide to the Niagara Escarpment Commission:

- A copy of the legal restriction or conservation agreement, survey, and deed for all acquired properties to be added to Appendix 4 of the NEP;
- Proof of registration of the easement on title;
- A copy of property Management Plans or Management Statements for each Nature Preserve listed in Appendix 4, within three (3) years of securing such property;

- A copy of monitoring reports for each Nature Preserve listed in Appendix 4, the first of which must be filed within two (2) years of securing the property and annually thereafter;
- A copy of the Conservation Organization's annual report, publication or newsletter. The minimum requirement will be to submit an annual report of the Conservation Organization's activities for each fiscal year within six (6) months of the end of the fiscal year; and
- The Conservation Organization will notify Niagara Escarpment Commission if the legal restriction or conservation agreement registered on title is to be changed, or amended and receive authorization from the Commission to make such modifications in advance of such a change being made.

The Reporting Information will be publicly available for review upon written request to the Niagara Escarpment Commission.

Part 10 - Site Visits

The Niagara Escarpment Commission (and/or the Ministry of Natural Resources) may make random site visits to properties listed in Appendix 4 to the Niagara Escarpment Plan to ensure compliance with practices, terms and conditions and property Management Plans or Management Statements and to ensure that the Nature Preserve remains protected in accordance with the definition of a Nature Preserve in the Niagara Escarpment Plan. The Niagara Escarpment Commission will inform the Conservation Organization that a site visit has been conducted and provide an indication of whether or not issues have been identified which may require action by the Conservation Organization holding the Nature Preserve.

Part 11 - Revocation (revoking approved status)

The Niagara Escarpment Commission following consultation with the Ministry of Natural Resources may recommend revoking a Conservation Organization's **approved** status on the following grounds:

- 1) Failure to provide required documentation, including, property Management Plans or Management Statements, annual monitoring reports, and annual reports;
- 2) Unauthorized sale or use of property listed in Appendix 4; and
- 3) Failure to exercise proper stewardship of property listed in Appendix 4.

After consulting with the Conservation Organization, and considering the advice of the Ministry of Natural Resources, the Niagara Escarpment Commission may rescind the **approved** status, at any time, in the event that the Organization fails to meet any of the above noted criteria.

Additionally, failure of a Conservation Organization to comply with any of the terms and conditions related to its **approval** (e.g., charitable status) shall be cause for the suspension of the **approved** status, unless in the judgment of the Niagara Escarpment Commission in consultation with the Ministry of Natural Resources, the failure was due to a correctable oversight or through no fault of the Conservation Organization.

Part 12 - Posting of Policy

A copy of this Policy shall be posted on the Niagara Escarpment Commission's web site.

Part 13 - Review of Policy

The standards, criteria and approval process for granting **approval** status to a Conservation Organization shall be reviewed by the Niagara Escarpment Commission in consultation with the Ministry of Natural Resources, no later than three (3) years from its date of **final adoption**. Conservation Organizations and stakeholders will be consulted during any such review.

Date Of final adoption: June 15, 2006