

Crowe Valley Conservation Authority
70 Hughes Lane P.O. Box 416
Marmora, Ontario K0K 2M0

April 3, 2025

Attn: Crowe Valley Watershed Advisory Board

RE: Watershed Advisory Board Hearing April 17, 2025 -Letter Report dated April 3, 2025.

Chair McLellan and Members of the Hearing Board.

My name is Gary Bowen. I will be representing our family at the Watershed Advisory Board Hearing scheduled for April 17, 2025, at 9 A.M.

I retired from the Toronto and Region Conservation Authority (TRCA) at the end of 2019. The last twenty years of my forty plus year career was spent in a senior conservation role at TRCA.

I would not be appearing at the Hearing if the replacement ATV crossing posed a flood risk to downstream landowners or to any public owned infrastructure.

Background

Our family has owned the remote property where the wetland development permit application is being requested for almost one hundred years. The trail system on the property was established over this timeframe to maintain the lot and to pursue recreational activities such as hunting, trapping, snowmobile, and ATV riding. Throughout this long period of ownership our family crossed the wetland without damaging it.

In 2022 a legal survey showed the current ATV crossing, which has been used for 30 years was on our neighbour's property. Because the jog in the lot line between Lots 29 and 30 coincides with wetland features of our property, there are no alternative routes to access both the East and West parcels of the lot.

What is being proposed.

The replacement ATV crossing is in a remote headwater of the Crowe River watershed. There are no occupied dwellings downstream and the nearest infrastructure at flood risk is a bridge 10 km downstream, over the North River in a much larger subwatershed.

As responsible landowners we want to relocate the wetland ATV crossing 150m (500 feet) downstream onto our property and construct a slightly bigger replacement crossing with an improved environmental footprint.

Newer ATVs and UTVs are much bigger today therefore the crossing should be 4m (13ft) wide. We understand this is wider than the 2m (**6ft**) the CVCA watershed policy recommends for recreational trails in a regulated wetland.

The replacement ATV crossing will be 130 m long (**425 ft.**) and 1m high (**3 ft.**). The total surface area of the crossing is 520 m² (**0.13 acres**). A good comparison would be a small rural laneway.

The replacement ATV trail crosses a narrow section of one of five wetlands (total **53 acres**) on our lot adjacent to the survey jog. The inlet to the upper wetland has a 2.7 m (**9ft.**) elevation difference which restricts any back water effects from the crossing.

By relocating the ATV crossing 150 m (**550ft**) downstream the flood storage area increases from **3.7 acres** to **7.2 acres** (1.5 to 2.9 ha). I anticipate the Board members will understand that this is a small change in flood storage on a watershed scale and in terms of a hydrologic response it simply mimics a beaver colony building a higher dam.

Subsection 28.1(4) of the Conservation Authorities Act.

The wetland development permit for the replacement ATV crossing is requested under Subsection 28.1(4) of the Conservation Authorities Act.

Subsection 28.1(4) of the Conservation Authorities Act states that the Conservation Authority may issue a permit with or without conditions. To receive permission for development, it must be demonstrated in an application to the satisfaction of the CVCA that the control of flooding, erosion, dynamic beaches or unstable soil or bedrock will not be affected. These are referred to as the “ Four tests of the Regulation.”

It was understood after the site meeting held on May 22, 2024 and after receiving the email from staff on June 19, 2024 that our initial permit application would not be supported by staff and that we would be required to make a delegation to the Watershed Advisory Board in order to make our case for the issuance of a permit to develop within a wetland.

Acting upon CVCA staff advice we prepared an Environmental Impact Study (EIS) for submission as our technical support for the Hearing.

To be clear, we are not disputing the fact that the ATV wetland crossing is not covered under the current Watershed Policies of the CVCA.

However, based upon the opinions of four professionals with over 120-years of practise as stated in the EIS the replacement ATV crossing meets the “ Four Tests” of the Act, Regulation and Policy.

It is based on this technical evidence we challenge CVCA staff recommendations to the Board to deny the permit.

Environmental Impact Study Report Findings

Understanding that CVCA policy requires our permit application to be presented to the Board at a Watershed Advisory Hearing, we prepared the enclosed Environmental Impact Study (EIS) with technical assistance from a retired Research Scientist and an Engineer licensed to practise in Ontario. The Ganaraska Region Conservation Authority staff were helpful, providing me with a list of qualified engineering firms to contact. From the list provided, we retained the services of Mr. Bruno Dobri, Port Hope, Ontario. His engineering review dated December 16, 2024, and Dr. Booty Memorandum (July 2024) were included in the EIS report. The EIS was submitted to CVCA on

January 13, 2025. Mr. Dobri stated in his memo that the crossing design, and its properly sized culvert could withstand the 100-year regulatory storm. No flood risk was reported and there will be no hydrologic impacts to wetlands below. He had no issues with the proposal to relocate the ATV crossing.

Rationale For Hearing

February 5, 2025, CVCA Email:

It is our understanding you want to construct a trail 4 metres wide by 130 metres long by 1-metre in depth using locally sourced material with a culvert for ATV access to a portion of your property. The total footprint of the proposed trail will be 520 square metres and will require a significant quantity of fill material. Additionally, a culvert being 60cm in diameter by 5 metres in length will be installed to cross a watercourse within the wetland.

There are concerns that the proposed trail **may impact** the hydrological function of the wetland and **may impact** the control of flooding. Wetlands have flood attenuation characteristics that play an important role in the control of flooding. Construction of a road/trail placed on organic soils (unstable soils) and in an area susceptible to flooding **could require** significant ongoing maintenance and material being continually added to the wetland/floodplain. Continually adding material to repair or maintain the trail **will impact** the control of flooding.

In summary, at this time the CVCA staff are not able to grant permission to support the proposed development as submitted in application 085/24. The proposed trail is within a wetland and **does not currently meet** the requirements of the Conservation Authorities Act, Ontario Regulation 41/24 and the current Crowe Valley Conservation Watershed Planning and Regulations Policy, as approved by the CVCA Board.

If you wish to proceed with the development activity as proposed, you have the option to request a hearing with the Crowe Valley Conservation Authority Watershed Advisory Board. At the hearing, the Board will assess the application to **determine** if the proposed development activity is likely to **affect the control of flooding**, and/or is not likely to create conditions or circumstances that, in the event of a natural hazard, **might jeopardize the health or safety** of persons or result in the **damage or destruction of property**.

Issue

Before the Hearing, there are two different perspectives on flood risk implications of building a small replacement ATV trail through a wetland, in a remote area of the Crowe River Watershed.

Logic dictates that this is unlikely to be the case. So, to resolve the differences in flood risk assessment it is necessary for the Board to consider the merits of these statements.

Response

In support of our submission to the Board, I have provided CVCA staff with an impact summary Power Point presentation and a memo with additional background on the process followed to design the replacement ATV crossing.

Key Flood Related Statements are:

1. Based upon our Environmental Impact Study findings we have a compelling case demonstrating the replacement ATV trail crossing of a wetland in a remote area of the Crowe Watershed does not pose any flood risks.
2. We challenge staff assertions that the ATV trail poses increased likelihood for flooding and related risks to property and loss of life based on the Environmental Impact Study (EIS) conclusions. The EIS report was prepared by four professionals with the qualifications and expertise requisite for making this determination.
3. CVCA does not have a Professional Engineer or a Water Resources Scientist on staff. The CVCA did not require a peer review of our EIS report. Our permit application was accepted as being complete on February 5, 2025. A complete permit is a requirement before a Hearing can be requested.
4. If CVCA staff had identified technical deficiency in our flood risk evaluation in the EIS, then those deficiencies should have been shared, and the application declared incomplete.
5. By not taking the expert opinion of a licensed Professional Engineer into consideration, it is inappropriate for CVCA to make flood impact statements as a justification for the Hearing.

Watershed Regulations Policy Manual – Updated MAY 2024

We are not challenging the fact that the replacement ATV crossing of the wetland does not meet the definition of passive recreation trail use in the current Policy Manual. The key design difference is our active ATV trail is slightly wider and is not elevated above the wetland. It does not pose any impediment to the safe conveyance of regulatory flood flows.

It is anticipated that the Board recognizes there are recreational snowmobile and ATV trails within the Crowe Valley Conservation Authority jurisdiction. These trail networks are crossing wetlands and water courses and are routinely maintained by local trail associations. When it is necessary during property permission reviews, the ATV and Snowmobile associations relocate trails and build replacement trail crossings to afford safe passage across wetlands. These active recreation trails systems provide countless hours of outdoor recreational enjoyment and make a significant local economic contribution. Similarly, recreational ATV trail systems developed on private property are also important recreational uses of undeveloped properties.

Administrative Policy

In **red font** we demonstrate through the EIS that the replacement ATV trail also meets the “Tests” of Policy 7.4.1.7

7.4.1.7

Replacement of passive low-intensity recreational uses/developments (ex. Boardwalks, footbridges) associated with public parks, outdoor recreation and education, **trail systems** or

watercourse access points will be permitted within any wetland where it has been demonstrated that there will be no negative impact on the hydrologic functions of the wetland.

A supporting Environmental Impact Study may be required at the discretion of the CVCA. It must also be demonstrated that:

- a technical site-specific study demonstrates to the satisfaction of CVCA that all hazards/risks associated with flooding and/or unstable soils have been addressed.

(See EIS , Mr. Dobri, Report and Dr. Booty's statements.)

- inert material will be used. The proponent may be required to provide proof of the origin and quality of the material,

(Dr Booty's statements.)

- for boardwalks, bridges, or **any structure to facilitate travel** over a wetland the following is adhered to:

(ATV crossing should be considered a structure commonly used across the province to cross wetlands with recreational ATV and snowmobile trails.)

a) the control of flooding, erosion, unstable soil or bedrock will not be affected;

(Mr. Dobri P.Eng. and Dr. Booty.)

b) the interference on the natural features and hydrologic functions of the wetland has been deemed to be acceptable by CVCA;

(Established in the EIS report January 13, 2025, prepared G. Bowen.)

c) the footprint of the development in the wetland is minimized,

(Established in the EIS report January 13, 2025, prepared G. Bowen.)

d) the boardwalk or footbridge must be raised over the applicable regulatory flood level;

(Mr. Dobri reviewed the design and states it will allow safe passage of 100-year flood.)

e) the boardwalk or footbridge has a maximum width of 2 metres.

(ATV crossing does not comply >2m , but a valid rationale was given to staff for the required 4m width).

f) the boardwalk or footbridge is constructed with materials that will not affect the natural environment.

(Follows provincial design for crossing wetlands and Dr. Booty's statement of no affect.)

Closing Statement

The ATV trail replaces an existing trail over a beaver dam than has been operational for 30 years without risks to flooding and any hydrologic damage to the adjacent wetlands.

The relocated crossing follows design standards for wetland crossing prepared by the province.

The crossing design was reviewed by a licensed professional engineer who states in his engineering stamped report, there are no risk involved, as the culvert and crossing profile meets engineering design criteria for the 100-year design storm. Additionally, a second expert, a retired Research Scientist has concluded there would be no downstream watershed implications.

As a watershed modeller, with an advanced understanding of the principles of water resources management, it is very apparent to me that our ATV wetland crossing presents too small a change in watershed runoff attributes to cause any increase in flood response.

Considerable amount of time and resources were expended debating the relative flood risk of an ATV crossing in a very remote section of the Crowe River Watershed.

Mindful of the Board member's time commitments, I would speak further to the technical studies and our rebuttal to CVA statements of flood risk and policy prohibitions, only if the Board requests.

I would recommend that the Board grant our family permission to build a replacement ATV crossing on a wetland on our property and further that staff be authorized to issue the required permit.

I will be available to answer questions at the Hearing.

Thank you for the opportunity to appear before the Board.

Sincerely

A handwritten signature in black ink that reads "Gary S Bowen". The signature is written in a cursive, flowing style.

Gary S Bowen

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Port Hope, Ontario
L1A 4K9.