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April 2, 2015

The Corporation of the Township of CavanMonaghan  
988 County Rd 10  
Millbrook, Ontario L0A 1G0  
by email to: [yhurley@cavanmonaghan.net](mailto:yhurley@cavanmonaghan.net)

**Attention:** Yvette Hurley, CAO

Dear Ms. Hurley,

**Re: ORCA Policy on Management of Water and Ice Control Structures**

Further to your email of March 20<sup>th</sup>, 2015 we have reviewed the policy. As we understand the Township had some concerns about the policy and, specifically, the approach to “levy apportionment” for capital works. You have requested comments about the Conservation Authority’s authority under the legislation concerning apportionments and this policy.

As it relates, to the Millbrook Dam, the policy provides that the Township will be responsible for 90% of the costs of any capital works that are undertaken; the remaining 10% would be borne by the remaining municipalities.

This apportionment is based on the general policy direction (itself based on historical practice) that capital costs will be apportioned based on whether the structure primarily benefits the “host municipality”. If it does, a 90% apportionment would apply. The policy does provide for some modification of the apportionment, down to a minimum of 75% should there be some determination that the structure benefits other municipalities.

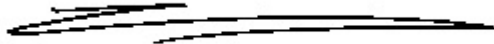
The Conservation Authority does have jurisdiction to “unilaterally” determine apportionments for capital works. This is set out in section 25 of the *Conservation Authorities Act*. The Act permits a municipality to dispute the apportionment through a “request for review”. The review would be conducted by the Ontario Municipal Board, and pursuant to section 25(4), the Board has authority to confirm or vary the apportionment made by the Conservation Authority. The Board’s decision is final and not subject to appeal.

We have not encountered or had any experience with a request for a review under section 25 of the Act. Our review of the Board’s decision database reveals no cases concerning an apportionment “request for review”. Based on the foregoing and the fact that the policy is just that (a policy) we would suggest it would simply constitute a “piece of evidence” to be considered by the Board in determining whether the apportionment was appropriate.

We would also suggest that each member municipality would be eligible to be a party in the proceeding as each municipality could be financially impacted by a change in the apportionment. On a general level, it would appear that any individual municipality initiating such a request for review could reasonably expect to be opposed by ORCA, as well as the remaining member municipalities at such review hearing.

If you require a more detailed investigation and report please advise.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward B. Veldboom", with a horizontal line underneath it.

Edward B. Veldboom  
*(electronically signed)*