



environmental  
defence

November 20, 2024

Provincial Planning Policy Branch  
13th Flr, 777 Bay St  
Toronto, Ontario M7A 2J3

*Sent by email to:*        espencer@grandriver.ca,  
                                 All GRCA Board Members

**Re: November 22 GRCA Meeting, Item 17- Legal Status of Kortright Waterfowl Park**

Attention Chair White and Members of the Grand River Conservation Board of Directors,

I am writing on behalf of Environmental Defence to remind you that it would not, at present, be legally permissible for the Grand River Conservation Authority to sell, declare surplus or otherwise convey any of the GRCA lands which constituted the historic Kortright Waterfowl Park. For clarity, these are the same lands occasionally referred to in GRCA meetings as the “Niska Land Holdings”.

As you are aware, the Grand River Conservation Authority’s *Land Disposition Policies and Procedures* prohibit any disposition of GRCA lands unless the proposed disposition has first been reviewed and found to be compliant with all the terms of the original acquisition. In particular, clause 1.4 of the *General Policies* prescribes that “1.4 The terms of the original acquisition shall be reviewed for compliance and consideration.”

The GRCA cannot at present sell, declare surplus or otherwise convey the relevant lands because it does not *have* the terms of the original acquisition. A recent Freedom of Information Request revealed the original acquisition (attached) was broadly for “Valley Land Acquisition - Hanlon Creek Conservation Area”, but the document (from then Minister Leo Bernier) specified that specific “Further particulars and conditions” were contained in “the attached copy of the Report to Management Board”. However, GRCA Supervisor of Administrative Services Eowyn Spencer admitted in response to the request that the GRCA was unable to locate those particulars and conditions. The GRCA referred the applicant to the MNR or the Ontario archives because it did not have the relevant documents.

Since the GRCA admits that it does not have the specific terms of the original acquisition, it cannot review any decision regarding the relevant lands for compliance with them. That means it cannot sell, declare surplus or otherwise convey them.

As a side-note, the documents revealed by this FIPPA request indicate the Kortright Waterfowl Park/”Niska Land Holdings” were not in fact acquired for the Hespeler Dam project. The document specifies that the acquisition was for “Valley Land Acquisition - Hanlon Creek Conservation Area”.

It is important to note also, that in our view the GRCA is likely also prohibited from making a decision to dispose of or surplus these lands by the MNRs directives for land acquired with MNR funding. Pursuant to 1.1 of the *Land Disposition Policies and Procedures* "The disposition of property must fulfill the objects of the GRCA in compliance with the Conservation Authorities Act and other applicable provincial policies and guidelines."

Sincerely,

A handwritten signature in black ink, appearing to read 'Phil Pothen', with a horizontal line drawn through the middle of the signature.

Phil Pothen, J.D., M.L.A.  
Counsel, Land Use and Land Development Program Manager  
Ontario Environment Program Manager  
Environmental Defence