

**ONTARIO ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE**

**REPORT NO. 23 TO THE MINISTER**

**REQUEST FOR DESIGNATION**

**OF THE**

**DEER HUNT**

**IN THE PETERBOROUGH CROWN GAME PRESERVE**

**PROPOSED BY**

**THE MINISTRY OF NATURAL RESOURCES**

**October 27, 1986**

**Dr. Philip Byer, Acting Chairman  
Dr. Robert Gibson, Member**

## SUMMARY OF REFERRAL

DATE OF REFERRAL: September 25, 1986

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SUBJECT OF REFERRAL: Requests by Mr. Ambrose Moran of the Jack Lake Cottagers' Association, Mr. Egan Tancre of the Lake Kasshabog Associaton, and by 119 signators of a petition for designation under the Environmental Assessment Act of the proposed hunt in the Peterborough Crown Game Preserve, proposed by the Ministry of Natural Resources.

TYPE OF REFERRAL: Open Review Category A

### RECOMMENDATIONS:

The Environmental Assessment Advisory Committee recommends that:

1. Cabinet should, after public consultation, rule on whether the Peterborough Crown Game Preserve is to provide and enhance deer hunting opportunities or to facilitate wildlife viewing and appreciation or to serve both objectives.
2. Deer hunting in the Peterborough Crown Game Preserve after 1986, and more generally, any major effective change in the status of the Preserve, should not be permitted prior to completion of a public planning process for wildlife management activities in the Preserve based on adequate information.

Requirements for this planning process should be set out in specific terms and conditions (see section 7 of this report) in a separate exemption order applying to wildlife management activities in the Peterborough Crown Game Preserve.

3. If the above described approach to wildlife management in the Peterborough Crown Game Preserve after 1986 is accepted, then an environmental assessment under the Environmental Assessment Act should not be required for the 1986 controlled deer hunt in the Peterborough Crown Game Preserve proposed by MNR, with the understanding that the 1986 hunt is to be used as an opportunity to collect information required for the planning process for future wildlife management activities.

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## 1. Nature of Referral

By letter dated September 25, 1986, the Honourable Jim Bradley, Minister of the Environment, requested the advice of the Environmental Assessment Advisory Committee, with respect to requests by a number of concerned parties, for full environmental assessment under the Environmental Assessment Act of the 1986 controlled deer hunt in the Peterborough Crown Game Preserve as proposed by the Ministry of Natural Resources (MNR).

The referral is a Category A review and, accordingly, the Committee conducted an Open Review with notice to the public. The Committee notified the proponent (MNR), two cottagers' associations requesting designation, 15 government agencies, local government offices, 119 signators of a petition requesting designation, groups and individuals who had previously expressed interest to the Ministry of the Environment, environmental groups, and the press. In addition, the 500 hunters whose names had been drawn by lottery for the 1986 hunt were sent a copy of the Committee's Notice of Public Meeting by MNR, and notices were given to local groups and individuals for distribution and posting in the locality of the Game Preserve. A complete list of all individuals contacted is available in the offices of the Environmental Assessment Advisory Committee.

The Committee held a Public Meeting on Friday, October 17, 1986 at 2:00 p.m. and at 6:30 p.m. in the Burleigh, Anstruther and Chandos Community Hall in Apsley, Ontario.

## 2. Environmental Assessment and Legal Status

The proposed controlled hunt is a public sector activity which falls within section 3(a) of the Environmental Assessment Act and, as such, is subject to the requirements of the Act unless exempted by regulation.

The Ministry of Natural Resources relies upon a general exemption, Exemption Order MNR-42, for its "wildlife population and habitat management activities". This exemption provides that the activity of "population control through the establishment and enforcement of bag limits and hunting seasons for game species" is exempt from the Environmental

Assessment Act, provided that certain conditions are met. The first condition requires that MNR provide prior notice, to the affected public and government agencies, of all proposed wildlife activities which "have, or may have, a significant effect on the environment". The notice must specify "the location and description of the project, the scheduled project commencement date, the return period for comments and where additional information on the project is available", and be issued 30 days prior to implementation. MNR gave public notice by way of a press release which included all of the required information except a return date for comment.

Condition 2 provides that the Minister of the Environment may require that an activity be subject to the Act if that activity "a) may generate an unusual amount of public or Government concern; b) may have unusual or significant potential environmental impacts not adequately treated in the pertinent planning exercise; or c) would otherwise warrant an environmental assessment". This condition gives the Ministry of the Environment (MOE) an opportunity to review the question of whether there are significant outstanding environmental concerns which should be addressed through the environmental assessment process.

Condition 3 provides that once the Minister of the Environment has given notice to MNR that the application of the Act is being considered, the activity cannot be implemented for 45 days unless the Minister gives written notice before that time that an environmental assessment is not required.

In this case, MNR was given notice on September 25, 1986 that designation under the Environmental Assessment Act is being considered. Given this, the Minister of the Environment has the following options with respect to this year's hunt:

- A. Direct, prior to the expiration of the 45-day period (November 8), that an environmental assessment is to be prepared, in which case the 1986 hunt will be cancelled.
- B. Give notice to the Minister of Natural Resources prior to the start of the hunt (November 3) that an environmental assessment is not required, in which case the hunt can proceed as planned.

- C. Give notice between November 3 and November 8 that an environmental assessment is not required, in which case a shortened hunt could proceed.
- D. Make no decision prior to the expiration of the 45-day period (November 8) in which case a shortened hunt could proceed.

Condition 5 states that the exemption cannot be used for "the establishment of new wildlife management areas". It is not clear whether the regulations which enable the proposed controlled hunt to be carried out in the Peterborough Crown Game Preserve have the effect of establishing a "new wildlife management area" since this phrase is not defined by statute.

The Game and Fish Act provides a comprehensive scheme for the regulation of deer hunting. Hunting in crown game preserves is prohibited by section 26(1) of the Game and Fish Act, unless regulations are passed permitting such activities. Enabling regulations have been passed for the 1986 hunt. Ontario Regulation 325/85, passed in June 1985, created Wildlife Management Unit (WMU) 60B which encompassed certain sections of the Peterborough Crown Game Preserve. The 1985 hunt was authorized by way of Regulation 326/85 which provided that a controlled hunt could be held in WMU 60B from the first Monday in November until the second Saturday following. Regulation 516/86 amends Schedule 3 of Ontario Regulation 428 to allow a shotgun hunt for deer in Wildlife Management Unit 60B during this same time period in 1986. It is the understanding of the Committee that a new regulation must be passed whenever MNR wishes to hold a hunt in WMU 60B.

The Ministry of Natural Resources relies on a number of policy documents to support its wildlife management activities within the Preserve. Both the Bancroft District Land Use Guidelines and the Southern Ontario Coordinated Programme Strategy list multiple objectives for wildlife management including provision for hunting opportunities and increased opportunities for appreciation of wildlife and wildlife habitat. The 1983 Burleigh/Methuen Deer Yard Management Plan proposed measures aimed at enhancing the carrying capacity of the deer range within the area.

### 3. Nature of the Undertaking

The Ministry of Natural Resources proposes a controlled deer hunt to take place during the two week period from November 3 to November 15, 1986 (except Sunday, November 9) within the Peterborough Crown Game Preserve excluding private lands and a buffer area around Jack Lake.

The Peterborough Crown Game Preserve is located near Apsley in Peterborough County. Its present area is approximately 57.9 square miles, of which 75% is Crown land. It was established in 1927 on an 85.8 square mile forested area and has since then decreased in size at the written request of landowners who wanted their property removed. According to MNR, the Preserve was established for game management to ensure an abundance of game for hunters. It is one of only 15 preserves remaining in Ontario and is the only preserve which currently allows hunting.

The proposed hunt would involve the issuing of 500 Controlled Deer Hunt Validation Tags, with 250 being valid during each week of the two-week period. These tags would be affixed to the deer hunting licence (the Residents Licence to Hunt Deer) of each hunter who participates in the controlled hunt. In the proposed hunt, the Controlled Deer Hunt Validation Tag would permit the taking of any one deer in the Preserve. This proposal is identical to the first controlled deer hunt in the Preserve which took place last year. The 500 hunters who will receive validation tags for this year's hunt have already been selected by lottery but the tags will not be issued until a decision is made with respect to the application of the EA Act. MNR has notified the selected hunters, but has informed them of the possibility that this year's hunt will not proceed.

The hunt would be controlled through the following measures: the presence of a check station, the establishment of buffer areas, a limit on the number of hunters, restricted occupation of the park by hunters to daylight hours only, the use of shotguns as the only weapons, and prohibition of hunting with dogs.

The MNR check station is located off Jack Lake Road, the only point of access allowed to participants. Hunters would be allowed to check into the Preserve no earlier than 1/2 hour before sunrise and check out no later than 1/2 hour before sunset. They would be required to show the Validation Tag upon checking into the Preserve. MNR would register all deer harvested, noting weight, sex and approximate age of deer, as hunters leave the Preserve.

A Resident's Licence to Hunt Deer in 1986 is issued to permit the taking of one deer with antlers per season in any area open for hunting. In some areas, permits are issued to take antlerless deer. In the proposed controlled hunt in the Preserve, hunters would be allowed to take any deer.

Certain areas of the Preserve would be excluded from the hunt. These are private lands and a buffer area around Jack Lake. MNR would post signs around the buffer area and several centrally located private lands. Other owners must post their own signs.

The species in question is the white-tailed deer. The deer found in the Preserve are at the northern portion of their range in North America. The life cycle of the deer found in this region is affected by the availability of various food sources and winter shelter. In the winter, the dietary requirements of the deer change to meet changing conditions. Reproductive capabilities will also be affected by availability of food and shelter.

Each winter, deer from surrounding areas migrate to the Preserve to utilize the winter cover which it provides. These migrant deer arrive in late November and December and leave for summer range in the spring. A resident deer population lives in the Preserve year round.

#### 4. Summary of Submissions

Submissions were received from the Ministry of Natural Resources, environmental and hunters' groups, local residents and cottager associations, and other concerned citizens. A list of groups who made submissions to the Committee is found in Appendix A. A detailed listing of all submissions, including those of individuals, is on file at the offices of the Committee.

The Ministry of Natural Resources made submissions in support of the activity of hunting in the Peterborough Crown Game Preserve and the appropriateness of exemption under the Environmental Assessment Exemption Order MNR-42. MNR endeavoured to describe the need for the hunt and demonstrate that the terms and conditions of the exemption order had been met. MNR described its management goals to be maintaining the optimum population of deer, given the carrying capacity of the Preserve, in order to provide hunting and viewing opportunities for the public.



MNR provides the following rationale for the hunt:

The deer herd is suffering from overpopulation. A 1986 survey estimates the wintering herd at 2,800, 500 of which are permanent residents in the Preserve. MNR stated that its number is at best a "guesstimate" and that it has no reliable figure for the current size of the deer population. It was submitted that the large number of deer exerts too much pressure on the food supply causing conditions of overbrowsing in the Preserve and starvation among the deer. In support of its view that the deer herd is overpopulated, MNR submitted that the following conditions exist on the Preserve: the deer are on average under-sized due to a shortage of both winter and summer browse, and there has been an increase in deer carcasses on the Preserve and an increase in car/deer collisions on local highways.

MNR attributed the deer overpopulation to a combination of factors. Recent winters have been relatively mild and the food supply has been supplemented by MNR feeding programmes. Logging in the Preserve has opened up the ground to sunlight and caused brush growth. The only natural predator, the wolf, has been nearly eliminated from the area by MNR-supported trapping.

The stated purpose of the controlled hunt is to reduce the resident herd in the Preserve, thereby providing improved wintering conditions for the remaining resident deer as well as for the migrant deer that join them during winter months.

MNR held that its plan for hunting in the Preserve is consistent with the historical purpose of game preserves, which is to provide a "sanctuary" for breeding and preservation of the deer in order to stock the surrounding area for hunting. This method of providing hunting stock has, however, met with limited success because the deer tend to remain in the Preserve, eventually overpopulating the area.

MNR submitted that the proposed activity, a controlled hunt in the Peterborough Crown Game Preserve, falls under Exemption Order MNR-42. It further submitted that effectively transforming the Peterborough Crown Game Preserve into Wildlife Management Unit 60B for the purposes of allowing a controlled hunt, while retaining the status of a Game Preserve, was an activity consistent with the exemption order. MNR stated the designation "Game Preserve" was retained at the request of local residents and municipalities.

MNR submitted that it reviewed a number of wildlife management alternatives in arriving at its decision to hold the controlled hunt in the Preserve. These alternatives were to:

- maintain the status quo;
- cull the herd using ministry staff;
- redesignate the Game Preserve to a Wildlife Management Area to permit deer hunting and to eliminate the game preserve status for the area;
- retain the Game Preserve but permit a controlled hunt through section 92 paragraph 32 of the Game and Fish Act.

The last option was chosen since "it fulfilled the need to control wildlife populations economically and produce recreational opportunities, while addressing the objections of municipalities and cottagers". MNR's consultation process consisted of contacting a number of concerned parties, and providing them with background information describing the deer management problems. MNR organized three field trips to the Preserve, the most recent occurring in February of 1984, and two meetings in the summer of 1983 involving the Bancroft District office and members of the Jack Lake Cottagers' Association. MNR stated that prior to its decision to hold a 1986 hunt, it "met individually with the executive of the Jack Lake Cottagers' Association and the senior staff of the Ontario Federation of Hunters and Anglers".

Culling a large proportion of the resident herd through a controlled hunt is MNR's preferred method of establishing the optimum size herd in relation to the carrying capacity of the area. In this way, the hunters would be served and the herd would be preserved for viewing. It is MNR's opinion that, if left alone, the size of the herd would peak and then crash disastrously. MNR has offered to build viewing platforms in order to serve the non-hunting public.

Submissions in support of MNR's deer management policies were received from: Havelock Council, Ontario Federation of Anglers and Hunters, Bancroft Field Archery Club, Muskoka/Parry Sound Hunt Camp Association, Bancroft & District Fish & Game Protection Association, Black Powder Club, Apsley Bowmen, Quinte Wild Turkey Association, Canadian Wildlife Federation, Quinte Sporting Dogs Association, Marsh Lake Hunt Club, Stayner Rod and Gun Club, and 77 individuals. Eight petitions were received with a total of approximately 1,550 signatures.

Supporters of the hunt expressed confidence in the scientific expertise and long-time experience of MNR, and believe any further scrutiny by way of an environmental assessment would mean a duplication of effort and a waste of money. It was submitted by several individuals that a more appropriate role for the Ministry of the Environment would be to investigate the pollution problem created by the cottage development on Jack Lake.

These parties described MNR's activities as a proper combination of conservation and husbandry. They asserted that managing for a good harvest of deer accords with a conservation ethic, and that the hunt would prevent the waste of a food source in the event of starvation of the herd. Eye-witness accounts of winter starvation (foilage eaten clean and skeletal remains) and overpopulation (many sightings and increased car/deer collisions) were noted. Many hunters had been involved in deer feeding programmes over the years. The Bancroft & District Fish & Game Protection Association referred to current MNR estimates, that the deer herd may be considerably larger than originally thought, and stated that a controlled hunt may not be adequate to cull the herd to the optimal level. Several hunters recommended annual reassessment of the need for the hunt, including some sort of inquiry after this year's hunt.

Hunters expressed the view that quick death by means of a shotgun hunt is more humane than slow death by way of winter starvation. It was submitted that overpopulation and the increased presence of the carcasses of starved deer could induce the spread of disease.

Hunt supporters stated that the hunt is a cost-efficient method of controlling the deer population. They argued that the alternative of administering the Peterborough Crown Game Preserve like a "zoo" would require expensive care, feed and medication.

Several respondents who participated in last year's controlled hunt praised MNR's management of that hunt. They asserted that cottagers' safety is protected by buffer areas and prohibition of hunting on private property. They argued that few anti-hunt cottagers are present at that time of year.

According to the Ontario Federation of Anglers and Hunters, at least 60% of the participants in last year's hunt were local residents.

Submissions in favour of environmental assessment of the hunt were received from the following: Jack Lake Cottagers' Association, Lake Kasshabog Cottagers' Association, Upper Stoney Lake Association, North Shore Stoney Lake Peterborough Game Preserve Association, Federation of Ontario Cottagers' Associations Incorporated, Peterborough Field Naturalists, Toronto Humane Society, Sierra Club of Ontario, Green Party of Peterborough, and 54 individuals. Two petitions with a total of ten signatures were received. Not all cottagers could be notified because the referral took place after many cottagers had departed. There were also some suggestions that attendance at the Public Meeting by hunt opponents was reduced due to cynicism about the motives behind the late referral and doubts about the possible effectiveness of Committee review at this stage.

A number of respondents in favour of environmental assessment stressed that they are not against all hunting. Many stated that they are hunters themselves. These respondents objected especially to hunting in a game preserve, at least until a full environmental assessment has been performed. A number of cottagers who live on, or adjacent to, the Preserve stated that they perceive the Preserve to be a sanctuary for deer where no hunting is to be allowed. Several stated that this perception had influenced their decision to purchase property in the region, and has contributed to their enjoyment of the property.

An opinion on the legality of the hunt under the Environmental Assessment Act and the Game and Fish Act was sought by the Jack Lake Cottagers' Association and the Toronto Humane Society from the firm McMillan, Binch (see Appendix B). Their opinion states that the controlled hunt contravenes the Environmental Assessment Act and is not legally authorized by the Game and Fish Act and its regulations. It suggests that MNR erred in proceeding by way of general regulation under the Game and Fish Act instead of recognizing the special legal status afforded crown game preserves in the Act and proceeding by way of special regulations under section 97(7) or 97(32) of the Act. Their conclusion is that "there is a good arguable case for an application to the Supreme Court of Ontario for an order enjoining the proposed hunt, in the context of proceedings either for judicial review of the decision to permit the hunt or based upon the apprehension of nuisance at common law to the owners of land in the Preserve".

There was much concern that areas like the Peterborough Crown Game Preserve should be set aside and protected from the practice of "game farming". Some respondents argued that the Preserve, with its large population of semi-tame deer, is uniquely suited for the alternative activity of wildlife viewing and appreciation. Further, hunting in the Preserve would eventually destroy these viewing opportunities by increasing fear of humans among deer and by decreasing the deer population.

It was observed that this result would conflict with the Bancroft District Land Use Guidelines which state that one objective of wildlife management is to provide increased opportunities for appreciation of wildlife and wildlife habitat. The shooting of tame deer was also criticized as being unsportsmanlike. It was noted that hunters, who make up 1.3% of Ontario residents have 82% of Ontario in which to hunt.

Cottagers observed that deer have been pushed into the buffer area by the 1985 hunt and consequently protective fences are being erected.

Many submissions criticized the quality of MNR's technical information. It was stated that MNR has little reliable data in such areas as the size of the resident and migrant herds and mortality through starvation. Several concerned citizens who have undertaken in-depth studies submitted that there are inconsistencies and questionable assumptions made by MNR and its consultants in such areas as method used for population counts, migration patterns and timing, dietary needs of deer at different times of the year and predictions of future conditions regarding the deer and related issues.

The Jack Lake Cottagers' Association reported difficulties in obtaining information from MNR, arguing that MNR had not given proper attention to public consultation and information. Hunt opponents perceive that MNR is devoted to meeting hunters' needs but has little regard for the views of "non-consumptive" users of wildlife resources. They suggested that this reflects MNR's close relationship with the Ontario Federation of Anglers and Hunters ("senior people have confided that the OFAH was set up as their public information vehicle"). MNR was criticized for making information available to a select group, with no effective consultation with opposing parties. It was also submitted that the original regulatory changes to allow controlled hunting in the Preserve were made during the last days of the previous government to avoid public scrutiny.

Critics of the planned hunt stated that MNR and OFAH had deliberately sensationalized the starvation of the deer in order to justify the hunt. They submitted that starvation during harsh winters was no greater in the Peterborough Crown Game Preserve than anywhere else this far north in the range of white-tailed deer. Most said that their winter experience in the Preserve had given no indication of death by starvation. Hunt critics agreed that there is evidence of overbrowsing but said conditions have not changed much over the years. They also argued that the resident herd does not browse in summer, preferring herbaceous plants, and therefore culling this herd will not cure overbrowsing.

The cost-effectiveness of the hunt was questioned in one submission which held that the actual cost of the 1985 hunt was three times the \$13,500 total reported by MNR.

Some respondents submitted that the cause of deer overpopulation is directly attributable to: MNR's deliberate policy of selective harvest (restricted doe licences); previous feeding in the Preserve (encouraging the herd to reproduce in response to the food supply); and wolf trapping.

Several opponents of hunting in the Preserve attributed the incidence of car/deer collisions on the local highways to the migration of deer into the Preserve for shelter and food, rather than to movements of the resident herd. They submitted that most collisions took place in Spring when the deer move out of the Preserve. MNR's feeding and selective harvest programmes have served to increase the migrant herd and attract it into the Preserve. It was submitted that culling the resident herd would not reduce the number of deer on the highway.

On the subject of hunting for humanitarian reasons, the Toronto Humane Society stated that managing the deer according to humanitarian principles would require that MNR put them out of their misery once they were deemed fatally ill, and not indulge in "pre-emptive euthanasia".

Hunters' safety was questioned. It was stated that the area of the Preserve where 80% of the hunting took place in 1985 had the highest hunter and deer density in Ontario, according to one source. Assertions about cottager safety were questioned. It was noted that cottagers must drive through the hunting area to reach Jack Lake and that existing laws make enforcement of buffer zones impractical.

Those in favour of environmental assessment of the hunt observed that there are many points of unresolved conflict. They also argued that MNR-42 should not apply, given: the level of public concern, the potential for significant environmental effects, and the appearance that MNR did not comply fully with the public notice requirements as stated in the exemption order.

## 5. Discussion

The advice of the Committee has been sought on whether or not a controlled deer hunt in the Peterborough Crown Game Preserve, an activity proposed by the Ministry of Natural Resources, should be subject to the Environmental Assessment Act.

A decision that the Act applies will effectively cancel this year's hunt. Further, it will ensure that no hunting can take place on the Preserve until the environmental assessment process is complete. The Minister's decision will have two implications. It will answer the immediate question of whether this year's hunt can proceed and will address the larger question of whether MNR's wildlife management strategy of controlled hunting in the Peterborough Crown Game Preserve should be subject to the Act. The Committee considered each of these two questions.

Before addressing these questions, however, the Committee considered the purpose of the Preserve. The conflict and confusion which has surrounded MNR's decision to hold a controlled deer hunt is due, in large measure, to conflicting perceptions of the purpose of the Preserve and crown game preserves in general. From submissions received, three possible purposes for the Peterborough Crown Game Preserve can be identified:

- to be used exclusively as a means of extending hunting opportunities in the area;