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May 8, 2024

Mr. Raymond St. Martin

Email: enev@sen.parl.gc.ca

Dear Mr. St. Martin:

RE: Written submission Standing Senate Committee on Energy, the Environment and Natural Resources regarding Bill C-248, An Act to amend the Canada National Parks Act (Ojibway National Urban Park of Canada)

The Ontario Ministry of the Environment, Conservation and Parks (MECP) appreciates the opportunity to provide comments to the Standing Committee on Environment and Sustainable Development regarding Bill C-248, *An Act to amend the Canada National Parks Act (Ojibway National Urban Park of Canada)* and how Ojibway Prairie Provincial Park may be impacted by the Bill.

As you may be aware, Ojibway Prairie Provincial Park is a non-operating park that is 64 hectares in size and is the largest protected remnant of native tallgrass prairie in Ontario. MECP is responsible for administration and control of the lands regulated as Ojibway Prairie Provincial Park pursuant to the *Provincial Parks and Conservation Reserves Act, 2006* (PPCRA).

Ojibway Prairie Provincial Park is classified as a Nature Reserve class provincial park. Nature reserve class provincial parks protect representative ecosystems and provincially significant elements of Ontario's natural heritage, including distinctive natural habitats and landforms, for their intrinsic value, to support scientific research and to maintain biodiversity. Specifically, Ojibway Prairie Provincial Park protects and perpetuates tallgrass prairie and oak savannah vegetation communities and the numerous rare plant communities and significant species that it hosts.

The ministry is interested in discussing the establishment of the proposed national urban park in Windsor, including how Ojibway Prairie Provincial Park may be involved in this proposal, and believes that the Partner Committee that has been established by Parks Canada is a strategic and effective way to pursue this.

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MECP has been participating in the Partner Committee since September 2022 with the goal of exploring how a national urban park in Windsor could contribute to shared goals for nature and climate, connecting people with nature, and reconciliation with Indigenous peoples.

MECP remains supportive of continuing to participate in the collaborative Partner Committee process to discuss potential models for the proposed national urban park including shared governance arrangements, but has identified the loss of the established collaborative process in place that establishes this national urban park in Windsor, and planning for its ongoing management, as a significant risk.

MECP raises the following concerns with the interpreted legal effect of Bill C-248, as drafted.

First, the *Canada National Parks Act* (CNPA), appropriately contemplates and provides for broad public consultation about the establishment of parks, including with indigenous communities.

Section 12 of the CNPA provides as follows:

Public consultation

12 (1) The Minister shall, where applicable, provide opportunities for public participation at the national, regional and local levels, including participation by aboriginal organizations, bodies established under land claims agreements and representatives of park communities, in the development of parks policy and regulations, the establishment of parks, the formulation of management plans, land use planning and development in relation to park communities and any other matters that the Minister considers relevant. (emphasis added)

To our knowledge, consultation about the establishment of the Ojibway National Urban Park as specifically envisaged by the current Bill has been limited and particularly with respect to the incorporation of the Ojibway Prairie Provincial Park lands.

Second, the Bill purports to add Ojibway National Urban Park to Schedule 1 of the CNPA thus making it subject to the provisions of that Act. MECP's understanding is that if the Bill is passed about half of the current Ojibway Prairie Provincial Park would purport to become part of Ojibway National Urban Park. However, the Bill does not address how the federal CPNA and the provincial PPCRA are to apply (or not apply) to the lands regulated by both regimes or otherwise address the existing interests and use of the lands.

This lack of certainty has a real potential to result in operational conflicts that can only be finally resolved through costly litigation This would be a very disappointing outcome because it could have been entirely avoided thorough consultation and negotiation between the two governments as part of the Partner Committee.

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Third, the proposed amendment to Schedule 1 of the CNPA does not align with other provisions of the CNPA more generally. Specifically, subsection 5(1) of CNPA clearly contemplates that to be included as a park under Schedule 1, Canada should have clear title or an unencumbered right of ownership to the lands in question. This is obviously not the case with the proposed Ojibway National Urban Park at this time. Further, subsection 5(1) also provides that the provincial government must agree to the use of the lands for national park purposes.

MECP notes that under subsection 5(2) of the CNPA the Governor in Council may alter a description of park in Schedule 1 if a court was to find that Canada did not have clear title or an unencumbered right of ownership to the lands. MECP would seriously consider seeking such a ruling to protect its interests in Ojibway Prairie Provincial Park in the absence of a negotiated transfer of land.

An implication of the Bill is that a portion of Ojibway Prairie Provincial Park may come under the management and control of the Minister of Environment and Climate Change as a result of subsection 8(1) of CNPA. This would effectively deprive MECP of its interest in these lands without providing any compensation for this loss of interest. MECP would explore all options to protect its interests in Ojibway Prairie Provincial Park.

Finally, it is my understanding that there are conflicts between the study area for the proposed national urban park, which includes municipally owned lands in the City of Windsor and the Town of LaSalle, and the lands that are described in Bill C-248, specifically that the lands described in the Bill do not include the entire study area.

In closing, MECP is concerned for what appears to be an unintended consequence of Bill C-248, which is expected to transfer administrative control of a portion of Ojibway Prairie Provincial Park without MECP's consent and without any compensation, to which the MECP is opposed.

As a result, MECP requests that Bill C-248 be amended so that the description of the Ojibway National Urban Park does not include any portion of Ojibway Prairie Provincial Park and that collaboration regarding a future transfer of the land continue.

MECP has full intentions to continue discussions about the creation of a National Urban Park in this location through the Partner Committee led by Parks Canada.

Sincerely,



Andrew Dowie
Parliamentary Assistant to the Minister of the Environment, Conservation and Parks