



# OntORA

Equal Public Access to Crown Land in Ontario

CANADA: Sault Ste. Marie ON, Echo Bay, Goulais River, Heyden, Searchmont, Hilton Beach, Bruce Mines, Cambridge, Orillia, Val Caron, Richards Landing, Wawa, Sultan, Hawk Junction, Copper Cliff, White River, Ilderton, Skead, Capreal, Terrace Bay, Clayton, Picton, Hanmer, Manitouwadge, Coniston, Azilda, Chelmsford, Dubreuilville, Hornepayne, Guilleville, Val Caron, Dryden, Sudbury, Falconbridge, Sarnia, Carleton Place, Oakville, Deep River, Crystal Falls, Field, Marathon, Kitchener, Bathurst NB / USA: Petosky MI, Onaway MI, Hudsonville MI, Jennison MI, Springfield OH, Enon OH, New Carlisle OH

## NEWSLETTER

January/February 2010

### MNR LOOKING TO CLOSE MORE ACCESS IN MAGPIE FOREST:

OntORA has made repeated attempts since February of 2009 to have OntORA representative Mike Boudreau appointed to the MNR's Wawa District CLUAH (Crown Lands Use Harmonization) committee, but District Manager John Peluch has steadfastly refused. However, he did consent to a CLUAH meeting involving OntORA officers on February 1<sup>st</sup> 2010.

The meeting was attended by OntORA President Tom Brason, District Director Mike Boudreau and five Area Representatives, Dino Tarini, Marion "Zack" Zajac, Frank Reiser, Ken Culhane and Sebastien Chabot, as well as several members and interested residents.

As the meeting progressed, **attendees were shocked when a large map was taped to a wall** indicating that the doughnut-shaped buffer zones around all the best lakes reserved for paying tourists were all connected **with NEW straight lines, filling in and closing all the areas between the buffer zones.** The MNR wants to call these newly closed-off areas "wildlife zones" in a blatant effort to close off any open area that may have existed, however inaccessible, around the many "remote tourism" lakes in the Dubreuilville Magpie forest. The MNR wants to make the "remote experience" even more remote for paying tourists and "bye bye locals" to the rest of us.

It was apparent to our delegation that every lake with any decent recreational value would be closed to public access, and that these "wildlife zones" only applied to tourism lakes.

CLUAH Chair Wendy Leclair bragged about the MNR's apparent 89% public compliance with the signs, meaning that only 11% of the second-class citizens did not obey the "no trespassing" signs. Our Dubreuilville rep, Sebastien Chabot mentioned that heavy compliance was possibly also due to the hefty \$1,000 fines. Sebastien also later expressed the fear that the MNR changing the terminology of these new closures to "Zones" could add permanence to these closings under the PLA sec. 12, which gives the Minister the right to designate classes of "zones" and to administer them for MNR purposes, which clearly will not be in the public's interest.

The MNR also produced a graph showing that the farther away from remote tourism lake that vehicular restriction signs are erected, the least likely that the locals, or ordinary citizens, would attempt to walk in, with 2 km being the optimum distance.

President Tom Brason asked many pointed questions but received little clarification. He also pointed out that the provincial Shoreline Reservation Policy and the Public Lands Act -



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Section 3 ensures the public's right of access to the remote lakes would be continued by setting aside at least 25% of the shoreline for public access. The MNR is deliberately circumventing this by making access practically impossible if one has to walk in with all his/her gear.

Tom has been fighting, on behalf of OntORA, to have the MNR's CLUAH and LCC's (Local Citizens Committees) staffed with members of the general public, rather than the various special interest groups now serving on these committees.

The President is submitting a full report of OntORA's observations and recommendations to the MNR's District Manager John Peluch.

## **OntORA MEMBER GETTING THE "WORKS" FROM MNR**

Member Danny Hein and his moose hunting party had their 2007 trip turn into a nightmare. Danny had been given a map and directions by an MNR employee for a good hunting area. About 3km from their destination they came across an open gate and accompanying sign. With information they'd been given and thinking the gate, being open, was redundant they continued on - big mistake. The MNR showed up and they received two charges each for the same offense of driving on a road "that was closed to protect remote tourism values".

They were charged under Public Lands Act (PLA) s.28 (2). *Every person who possesses, occupies or uses any public lands on which signs have been erected under clause (1) (a) in contravention of any such sign, or who parks a vehicle on public lands on which signs have been erected under clause (1) (b) in contravention of any such sign, and who has had a reasonable opportunity of seeing any of such signs, is guilty of an offence.* And under the Fish & Wildlife Conservation Act (FWCA) s.10, 1(a) A person shall not, (a) enter premises in contravention of the Trespass to Property Act for the purpose of hunting or fishing.

Danny hired a lawyer in Thunder Bay who recommended they all plead guilty. This changed after OntORA's Tom Brason supplied the lawyer with legal information. They were acquitted on all charges except one against Danny himself under PLA s.28 (2) even though it pertained to public lands, not roads. According to his lawyer, Danny should have been acquitted here as well.

The MNR appealed the acquittal under FWCA s.10, 1(a) and according to the Judge, the appeal would have been upheld against Danny except for the fact that a person cannot be convicted twice for the same offense, and he issued a judicial stay. The appeal was dismissed against the rest of the party.

Information critical to this case provided by OntORA was missing from the decision. The Judge classified the road as a "premises" and the MNR as the "occupier of the said premises".



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OntORA had informed the lawyer representing Danny that “premises” does not include a road, also that “occupiers” are liable under the Occupiers Liability Act but according to PLA s.50 the Crown is not liable on public roads, so therefore the MNR cannot be an occupier *per se*. We also informed the lawyer that one cannot legally hunt on a road and that PLA s.49 says the PLA only can be used to close roads on public lands. Therefore, the MNR should not legally be able to use an Act dealing with conservation of fish and wildlife as a tool to close roads. What happened to this lost information and why it was missing from the Court’s decision. Did the lawyer not use those valid arguments supplied by OntORA?

Danny has been a very successful tournament fisherman having been All-Ontario five of the last seven years and is sponsored by a major boat company. Immediately following his being charged this company received an email from an MNR site making them aware of the situation. The Liberal Minister over Natural Resources has been asked to investigate.

Outdoors clubs from across Ontario must be made aware of this and band together in getting our lands and lives back.

## **NEW BOARD OF DIRECTORS MEMBERS AND AREA REPRESENTATIVES:**

District 6 (Sudbury) Director John Berardi indicated at the last Annual General Meeting that his various business interests, his job and a young family leaves him with little time to continue serving as Director. We thank John for his dedicated and knowledgeable service in the past two years. He looked after our incorporation as well as many other duties and is still presently in charge of the file on members and directors’ liability insurance,. We are happy that John will stay on as an active member and will be helping out with various tasks.

We are also very fortunate to have a popular Sudbury area outdoorsman, hunting safety and gun license instructor and outdoors expert Oliver Barriault join us as the new District 6 Director. We look forward to his leadership and outdoors skills benefitting the growth and success of OntORA in the Sudbury District.

Also, Willy Smedts, outdoors activist and owner of the Bristol Motel in Wawa, and activist Sebastien Chabot of Dubreuilville have been appointed as Area Representatives for their respective communities. Welcome aboard and thanks for volunteering to serve the outdoors community in a way that your children and grand children will appreciate.

Also, a tip of the OntORA cap goes to to Darren Michaud and Brian Sitko, members of the Outdoors Clubs Liaison Committee who have been hard at work.



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## **DIRECTOR MIKE BOUDREAU HOLDING WAWA DISTRICT MEETINGS:**

District 3 (Wawa) Director Mike Boudreau has been busy arranging public and group meetings in various communities across his District. President Tom Brason has been in attendance at most meetings. Mike reports a very good attendance at all meetings and several new members have signed up. So far, meetings have been held in the communities of Manitowadge, Dubreuilville, Wawa, Hornepayne and Marathon, with more future meetings being scheduled. Good work, Mike!

## **PUBLIC MEETING PLANNED FOR SUDBURY ON MARCH 2<sup>nd</sup> 2010**

President Tom Brason, VP Tym Barker, Secretary-Treasurer Bob Rollins, Sudbury District Director Oliver Barriault and North Bay District Director Edgar Labelle, and OntORA Area Representatives will headline a public information meeting scheduled for Tuesday, March 2<sup>nd</sup>, in Sudbury, at the Marguerite Lougheed Memorial Hall (old St. Clement's Church) at the corner of Eyre and Albert Streets, starting at 7:00 pm.

A power point presentation will be shown and the role of OntORA will be explained. A question and answer period will follow. Please have all your friends attend. Member Tom Taylor, who has arranged for the hall, free of charge from the Lougheed family, asks that people please use the parking lot at the school across the street, and not block private driveways on the street. Our thanks go out to the Lougheed family for the use of this splendid hall.

## **Membership Renewal Reminder**

**OntORA has come a long way in the last year both in size and respect. We're gaining ground and having an impact when dealing with those who have no respect for our rights.**

**If you haven't already done so, please be sure to renew your membership as we see this through to a successful conclusion together.**

**Our strength is in our members.**

**Sign up a friend**