

Will Developer Power Destroy Two Rare Forests in Niagara?

Controversial report raises questions over Niagara Peninsula Conservation Authority's impartiality

by **DR JOHN BACHER**



Monarch Butterfly in Thundering Waters Forest. Photo: Adrin Willems



Regionally rare butterfly Milkweed in Thundering Waters Forest. Photo: Adrin Willems



Blue Spotted Salamander in Thundering Waters Forest was denied by developer. Those who helped discover it working for NPCA were subsequently fired. Photo: Adrin Willems



Irish Grove Forest old growth Shagbark Hickory tree. Photo: Bruce Mackenzie

Currently, the two biggest conservation battles in Niagara are to protect old growth forests from the blight of development. These are the 29 acre Irish Grove Forest in Grimsby, ON, and the 500 acre Thundering Waters Forest in Niagara Falls, ON.

Today there is a proposal to build an extension of Livingstone Avenue through the Irish Grove Forest. This battle to stop this forest slashing is tied to the broader struggle to protect the Greenbelt, now undergoing provincial review. The elected Grimsby and Niagara Regional councils are proposing that these lands be removed from the Greenbelt, through a “swap” where these forests would be swapped out, and lands south of the Niagara Escarpment remote from servicing, virtually impossible to pave over, would be swapped in.

Policy review also threatens the Thundering Waters forest. Though about 200 acres of the Thundering Waters Forest is for now protected through the designation of provincially significant wetland, there is a proposal for urban

development on some 300 acres of forest surrounding it. The entire forest however, could be wiped out if the province approves the proposed "offsetting" or "swapping" policy which would allow now protected wetlands to be traded away.

These two old growth forests - Irish Grove and Thundering Waters Forests - were both identified for protection in a 1980 study of environmentally sensitive areas (ESAs) conducted jointly by the Brock University Department of Geography and the Niagara Region's Planning Department.

The 1980 ESA study is popularly known by the tragically elite circle of Niagara environmentalists familiar with its findings as the "Brady Report." While other inventories have been conducted, these failed to recommend the establishment of new protected ESAs, in part because developers refused site access. This could have been avoided if criteria such as forest size from air photos was used to identify critical threatened lands.

The Brady report presents an approach to protect critical habitats to maintain bio-diversity in Niagara. The critical relevant passage which points this out is that such "remnant natural areas" are vital to protect the "wide variety of habitats which...enrich wildlife diversity." It notes that "Great stress is placed on wildlife populations as a result of habitat destruction." Protection of critical areas such as the Thundering Waters Forest and the Irish Grove Woodlot, it concluded, would "provide some habitat relief for wildlife populations residing in the region."

While the Brady report is dated and does not adequately address, for instance, the needs to protect what are now termed "vernal pool obligate species", such as frogs and salamanders, the study shows the power of developers over elected municipal councils in Niagara. To use its language, wildlife in our region are essentially experiencing "great stress ... as a result of habitat destruction" since municipal politicians don't have the guts to stand up to developers. If they were, the councilors would insist on the implementation of 36 year old Brady report which uses the best available conservation biology.

An opportunity that could have been used to protect these lands, the Strategic Plan for the Niagara Peninsula Conservation Authority, (NPCA) has been used instead for staff firings. Some of the people who were axed were involved with me for working to protect the Thundering Waters Forest.

I read the Brady report in 1980 but wasn't able to do anything practical to save the Thundering Waters Forest until Jean Grandoni contacted me in 2008. Blessedly, at that time she obtained and read all the agendas of Niagara Falls City Council, which provided her with a notice of the a change in the official plan designation of the forest from industrial to residential. This discovery allowed me to file an appeal with the Ontario Municipal Board, (OMB). This resulted in a negotiated settlement that led to the Ministry of Natural Resources (MNR) being given access to the forest to do a wetland re-evaluation.

Discovering the Thundering Waters Forest in 2008 was an awesome experience. What clearly stunned me was seeing so many frogs and the gigantic Pin Oak trees. When I walked over a bridge built in 1938 that carries Ramsey Road over a huge vernal pool the waters below simply exploded with a torrent of frogs suddenly leaping.

Giving MNR access to Thundering Waters Forest was only a first step in saving it. What proved critical was the courage and professionalism of staff of the NPCA. They went out with MNR and ecological experts who were representatives of the developer over a two year period.

One incident during the wetland re-evaluation was an expert who kicked over a log, found a Blue-Spotted Salamander. Regarded at the time as a regionally rare species in the Hamilton-Niagara area, its presence helped push the point score needed to make the Thundering Waters forest upwards to 600. This high scoring is what is needed for protective ranking. Another was the identification of the presence of still provincially rare tree species, the Black Gum.

With the new field work identifying the presence of previously unrecognized species the provincially significant wetland complex, the Niagara Falls Slough Forest was delineated. While much of this is on adjacent lands, the core of this wetland complex protected from development is about 200 acres.

The 2010 victory was quite significant since, even though not all the 500 acres of the Thundering Waters Forest were protected, it became very difficult to develop the remainder. This is because the now protected old growth swamp forest south of Oldfield Road is the area closest to existing municipal roads and services.

The victory however, resulted in a mechanism to punish the NPCA staff who worked on the upgrading of what become legally recognized as the protected Niagara Falls Slough Forest in 2010. This became known as the NPCA

Strategic Plan review. It should have been an exercise to finally implement the shelved Brady report through public land acquisition for the Irish Grove Forest and Thundering Waters. Instead it became an opportunity to punish those bravely working to carry out its recommendations.

The public meetings of the Strategic Plan were pitched battles of around 100 people, divided evenly between environmental activists and lobbyists for development. (The later were a diverse group of farmers and various elements of the construction industry.) The real decisions however, were not made in this forum but by on advisory committees. They were dominated by farmers with a long hostility to regulatory efforts, and minions of developers associated with failed schemes to destroy the Thundering Waters Forest.

In an unusual forum a Brock University seminar on the threats to climate change in Niagara I obtained a confirmation of the intent of the Strategic Plan. A prominent farm leader expressed to me there his happiness with the firings of staff at the NPCA. He expressed delight how it was done under the authority of its new, and in his view, excellent, Strategic Plan.

More about the consequences of the Strategic Plan have become known through [the publication](#) of an investigation into the NPCA termed, "A Call For Accountability at the Niagara Peninsula Conservation Authority" ([full 25 MB document here](#)). One of its most important exposes in the investigation comes, supposedly, from the Minutes of the NPCA board. They reveal that a then-NPCA board member representing the City of Hamilton, Carmen D' Angelo, at the November 20, 2013, board meeting, was granted a "HR Restructuring project as per the NPCA Strategic Plan." For this purpose, Mr. D' Angelo received, according to "A Call", an "untendered, unsolicited contract" for his company, DPM Consulting, for \$41,000.

In addition to the lack of tendering regarding the implementation of the Strategic Plan is the staff firings it generated. According to the "A Call" investigation, nineteen people have been fired from the NPCA since December 2013. This was not done as a downsizing effort since in overall terms, staff numbers have increased from 55 to 57.

The resistance to the Brady report by Niagara politicians and the firings of public servants who have attempted to implement its recommendations is disturbing. However, the counter-resistance of those who have worked in Niagara so far with success to keep development out of the Irish Grove Forest, its surrounding Greenbelt, and the Thundering Waters Forest is, I believe, heroic.

The forests are in traditional territory of Iroquois (Haudenosaunee) and Ojibwa (Anishinaabe) peoples. Treaties there include the Nanfan Treaty of 1701 (British crown and Iroquois), and the Treaties of Niagara of 1764 and 1784.