



February 1, 2007

James Scott
Senior Policy Analyst
Strategic Policy Branch
Ministry of Environment
135 St. Clair Avenue West, 11th floor
Toronto, Ontario M4V 1P5

Dear Mr. Scott:

**Re: Source Protection Committee - Discussion Paper
EBR Posting PA06E0013**

Throughout the consultative process on the *Clean Water Act 2006*, the Regional Municipality of York (York Region) has been an active participant and welcomes the opportunity to continue to provide relevant comments, as a provider of safe drinking water to over million residents. In response to the recent EBR posting regarding the structure, nature and rules of operation for the Source Protection Committee, we offer the following comments in three key areas – crucial concerns, general comments, specific responses to the questions posed throughout the Discussion Paper .

1) Crucial Concerns

On several previous commenting occasions, York Region has raised these primary concerns to the Province, yet they have not been considered. These concerns continue to be crucial with the Region and need to be addressed by the Province.

➤ **Adequate Municipal Representation on the Source Protection Committee (SPC)**

The current proposal limits the SPC to 16 members for complex Source Protection Regions/Areas. In addition, municipal representation in the SPC is restricted to 1/3 (or 5) representatives. While it is recognized that the number of SPC members should be limited to effectively accomplish the committee's work, the proposed committee size and municipal representation maximums are not adequate to ensure that source protection plan reflects local needs.

Under the Ontario Municipal Act (2001) Section 11, municipalities have been mandated the sphere of jurisdiction for water production, treatment and storage. As such, allocation of municipal members for the Source Protection Committee should be provided to those who

own and operate water supply systems as designated under the Safe Drinking Water Act, wherever possible.

We therefore strongly recommend that the Ministry increases the size of the SPC for complex Source Protection Regions/Areas and reconsiders and increase the proposed municipal member allocation to allow 50% of municipal representation in the SPC. Adequate municipal representation in the decision-making process of source protection planning will ensure that the final products (Assessment Report and Source Protection Plans) can be implemented at the local level.

➤ **Sustainable Funding for Implementation**

As previously stated, the powers of the SPC to implement measures have huge financial implications to municipalities and very little accountability to municipal taxpayers. To date, there has been no commitment by the Province to financially support the implementation measures of this work, nor guidance on how this implementation will happen. There is also no sustainable funding to maintain the Source Protection Authority. The Region is concerned that this financial burden will be downloaded to municipalities, which we consider to be a duplication of the *Conservation Authorities Act*.

➤ **Consideration of Reasonable Timelines for Public Consultation**

The Province needs to consider reasonable timelines for public consultation to occur on these proposals and respect the municipal Council and reporting processes. We remain of the opinion that there is a fundamental gap in the Province's understanding of the way the municipal council decision making process works. Within York Region, staff requires at least a three month advance notice in order to give due consideration to initiatives and have these initiatives considered by Committee and Council. The Province must allow flexibility to ensure that they not impose short deadlines that circumvent the Source Protection Committee's ability to have adequate consultation with municipal councils.

Given the short commenting period for this EBR posting and its wide potential for municipal impact, regional staff are obligated to consult with our local municipalities and then report back to our Committees and Council. Given this consultation we anticipate a Council position on this EBR posting in late April, 2007

2) General Comments

- MOE is the approval authority for Source Protection Committee's terms of reference, assessment report and source protection plan – What provincial commitment is there to a timely review of these documents? What will the Province do to ensure effective conflict resolution – will conditional approvals of parts of the document be considered in order to allow progress?
- The Ministry proposes that the source protection authority will have the financial responsibility and accountability for managing the budget provided by the Province for the source protection committee – how will the Province ensure a transparent and accountable process?

- The source protection authority will have the authority to assign a mediator to resolve disputes arising during preparation of the assessment report and source protection plan. While we support the idea of mediation, we recommend that any assigned mediator be required to have knowledge and understanding of the stakeholders as well as the legislative responsibilities of the various parties to ensure safe drinking water.
- It is recommended that the relevant members of the SPC sit on the proposed sub-committees in order to allow for better two way information sharing.
- The Ministry proposes that all members be required to attend training sessions – we agree, all members should have this common frame of reference to begin the process. In addition, training will help various members understand the disciplines and interests of other members. We suggest that in addition to information on the Clean Water Act members be made aware of the drinking water supply implications of other legislations and policies including provincial land use planning and policy statements, and public health and environmental legislation.
- The example decision tree on page 17 of the document is extremely confusing and depicts more a decision tree for what is considered in the source protection plan versus how potential members of a source protection committee should be chosen? We suggest this be simplified or broken down into several decision trees.
- The paper suggests the that source protection committee should have flexibility in determining which types of working groups is requires to assist in its responsibilities for completing the assessment report and the source protection plan. We agree with this approach, and suggest that the SPC first consult with stakeholders in determining which working groups are required to ensure participation of various interested parties in the process.
- In discussing the term of office of committee members, the Ministry indicates how members should be replaced. The Ministry should also consider conditions and circumstances that would allow SPC members to appoint an alternative designate.
- It is not clear from this discussion paper that the terms of reference, the assessment report or the source water protection plan are considered “documents” that will be required to be posted on the EBR for comments. Clarification is sought in this regard.
- We recommend that the Ministry set up a specific website for the source protection process with separate pages for each of the source protection areas so that stakeholders, other SPCs and the general public can track the progress of each source protection areas as well as provide input if a member of the public lives and/or works in the source protection area. This will allow for information sharing across source protection areas (may allow for avoiding re-inventing the wheel, build on BMPs, etc) and enhance and ensure better accessibility of the process.

3) Specific Responses to Questions Posed Throughout the Discussion Paper

- See attached table.

Due to the limited time for review of this EBR, the above comments are submitted in draft and a report will be taken to Regional Transportation and Works and Planning and Economic Development c Committee and Council in April, 2007 for ratification. We will advise you of the outcome of this process.

We thank you for this opportunity to comment and look forward to working with the Province to a functional solution towards protecting drinking water sources.

Sincerely,



Debbie Korolnek, P.Eng
General Manager, Water and Wastewater

WK/wk

Copy to: Mr. Bob Panizza, Municipal Clerk, Town of Aurora
Ms. Lucille King, Municipal Clerk, Town of East Gwillimbury
Mr. Roland Chenier, Clerk, Town of Georgina
Mr. Chris Somerville, Township of King
Ms. Sheila Birrell, Town Clerk, Town of Markham
Mrs. Anita Moore, Town Clerk, Town of Newmarket
Mr. Robert Prowse, Town Clerk, Town of Richmond Hill
Mr. John Leach, Clerk, City of Vaughan
Mrs. Michele Kennedy, Clerk, Town of Whitechurch-Stouffville
Mrs. Beverley Thorpe, Project Manager, CTC
Mr. Don Goodyear, Source Protection Manager, LSRCA

DISCUSSION PAPER ON SOURCE PROTECTION COMMITTEE REQUESTED FEEDBACK		
Pg/Section	Solicited Feedback	Comments and Recommendations
9/2.2.1	Q1: Do you agree with the proposed qualifications of the chair? Q2: Should there be other qualifications for consideration?	R1: Yes, We concur with the proposed qualifications of the Chair. R2: The Clean Water Act is about the protection sources of municipal drinking water; in this process land use planning plays a key role. Therefore, it is recommended that the Chair must have the following additional qualification: • A clear understanding of the legislation and regulations under which municipalities provide safe drinking water. • A clear understanding of the provincial planning legislation and policies (specifically the PPS) and local municipal planning processes.
11/2.2.4	Q3: What additional roles and responsibilities do you think are appropriate for the chair of the SPC? Q4: It may be prudent to have an alternate chair to carry out the appointed chair duties when he/she cannot. Should the alternate chair be selected by the appointed chair, the entire source protection committee, or the source protection authority?	R3: The chair should also represent the interests of the SPC and stakeholders regarding source water protection issues in any matters that require resolution at the Provincial level. R4: The alternate chair should be chosen using the same process as the Chair, i.e. the source protection authority provides the Ministry with three nominations, with the minister appointing the chair, and potentially at the same time, the alternate chair. We recommend that the Province consider appointing the alternate chair at the same time as the chair in order to ensure a continued knowledge and awareness of the work and decision making processes of the SPC in preparation of the terms of reference, assessment report and source protection plan and consultation with stakeholders and working groups.
12/2.3.1	Q5: Should the Province provide in regulation or in guidance a process for selecting municipal members? Please suggest a process for consideration.	R5: The selection of municipal members should be provided in guidance documents not in Regulation to allow flexibility with this new process and the discovery of opportunities unforeseen by the Province. Municipalities that own and operate a residential drinking water system under the Safe Drinking Water Act should select their

		representatives in the SPC. Since Source Protection Plans have implications in municipal drinking water systems and land use, it is also recommended that both planning and works areas of these municipalities be allowed to become members of the SPC.
14/2.4	Q6: The Ministry is proposing that one of the qualifications for membership on the SPC is to be a resident and/or employed in the source protection region or area. Do you agree with this concept? Q7: The Ministry is proposing that the SPC members with the exception of the chair shall not be conservation authority board members. Do you agree with this approach? Q8: Are there additional qualifications desired of members or qualifications listed that are not applicable?	R6: The proposed resident or employee concept is a reasonable approach and would agree that those living and/or working in fields that relate to the elements for consideration in source protection will have a more relevant commitment to protecting source water compared to outside parties. R7: It is our understanding the CA board members are elected members, which may limit the continuity required for the SPC. Therefore we would agree all SPC members, including the chair, should not be conservation board members. R8: The Ministry may want to include that the prospective members have an adequate understanding of enforcement and implementation techniques.
15/2.6	Q9: Should there be other member responsibility that is not currently listed? If so please suggest them. Are the current responsibilities listed appropriate?	R9: The proposed responsibilities are adequate at this time.
20/3.2	Q10: Should attendance at meetings via teleconference be allowed in extenuating circumstances?	R10: Wherever possible, the opportunity to teleconference should be made available, with an expectation that Committee will conduct face-to-face meetings on a frequent basis.
22/3.9	Q11: There are two proposed options to remove a member of the committee, 1) Removal by the SPA or 2) Removal by SPC. Of the two options provided, which is the preferred one? If neither is preferred, please provide an alternative procedure.	R11: Removal by the SPC seems to be reasonable approach and allows the SPC to function as an entity. Both are preferred as options that should be available for use for all SPC members including the chair, depending on the circumstances under which a member is being considered for removal. In each case, the Ministry, in consultation with the source protection committee should decide which option is appropriate in each individual case.
23/4.3	Q12: The Ministry is	R12: The SPC should be left to their own

	proposing that the SPC be left with the discretion to determine how many working groups to establish, their mandate, their composition and the rule governing their operations. The Ministry would simply provide guidance for the SPC to consider when determining whether it is appropriate to establish a working group and how such working groups should function. Do you think this is reasonable approach, or do you think the regulation should require the SPC to establish working groups as part of the source protection planning requirements? If you believe the source protection committee should be required by the CWA regulations to establish working groups, then how many working groups should be required as a minimum and what should each of their mandates be?	discretion with respect to working groups, with guidance, not regulation, from the MOE. This allows for flexibility and for opportunities that may be unforeseen by the Ministry. While the Region agrees that the decisions around how many working groups to establish and their operation can be left up to the SPC, we suggest that it is mandatory for the committee to consult with stakeholders in determining which working groups to establish.
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