



Environmental Services

VIA FACSIMILE

May 2, 2008

Mr. Stephen Maude
Senior Policy Advisor
Ministry of the Environment
Integrated Environmental Planning Division
Land and Water Policy Branch
35 St. Clair Avenue West, Floor 6
Toronto ON M4V 1P5

Dear Mr. Maude:

Re: **EBR Registry Number: 010-2974**
Policy Proposal Discussion Paper - Protecting Lake Simcoe:
Creating Ontario's Strategy for Action
Our File: P12 G207

York Region is pleased to provide the following staff comments on the Lake Simcoe Discussion paper- EBR Registry Number: 010-2974. Due to the timing of Committees and Council at the Region and the EBR comment deadline, these comments cannot be considered by Council until June 19, 2008. We will provide the Council report to you after that date.

Background and Planning Context

York Region is one of Canada's fastest growing municipalities with a current population of approximately 984,000. The provincial population forecast contained in the Growth Plan for the Greater Golden Horseshoe (A Plan under the *Places to Grow Act, 2005*) identifies York Region as having a population of 1.5 million persons by the year 2031. At least part of this population will be located in the Lake Simcoe Basin in existing urban areas, Towns and Villages and White-belt lands in Georgina, King, Whitchurch-Stouffville and East Gwillimbury.

Approximately 69% of York Region is within the Provincial Greenbelt (GB) and the Oak Ridges Moraine Conservation Plan (ORMCP). These areas are therefore effectively excluded from accommodating additional growth.

York Region currently owns and operates five of the fifteen sewage treatment facilities in the Lake Simcoe Basin recognized in Ontario Regulation 60/08. The total phosphorus loading from all facilities in the Lake Simcoe Basin was approximately 5.93 tonnes in 2006. Of this loading, York Region's contribution amounted to approximately 0.66 tonnes or 11% of the total contribution from sewage treatment facilities.

York Region is committed to the use of enhanced technologies and practices in sewage treatment technology towards the protection of the environment, as is evident in our current Environmental Assessment undertaking for the Keswick Water Pollution Control Plant expansion.

Lake Simcoe has been studied for the past 17 years

Lake Simcoe has been the subject of concern and remedial efforts since the 1970's. Through the Lake Simcoe Environmental Management Strategy (LSEMS) partnership and the Region's support of the Lake Simcoe Region Conservation Authority, York Region has been an active participant in efforts to improve water quality in the Lake.

Phase III of LSEMS is just being completed with the release of the Comprehensive Basin Report. During the last few years of Phase III, there has been increasing calls for a redesign of the LSEMS partnership to lead the way forward.

Discussion Paper Comments

The Discussion Paper provides significant direction about the intended Provincial direction in each of the topic areas. As a result, Regional staff feel compelled to comment directly on the Province's positions as well as providing our opinions on additional elements to be considered. Regional comments and suggestions follow the Province's organization of the discussion into five key areas as follows:

A PROPOSED GOAL FOR THE LAKE SIMCOE PROTECTION STRATEGY

The Province has proposed a goal for this effort to be:

“Improve and protect the health of the Lake Simcoe watershed ecosystem and improve associated recreational opportunities”

According to the Discussion Paper, this goal “recognizes a key principle of modern environmental management, that actions to improve and protect the health of the lake have to encompass the broader ecosystem, and these actions need to be managed on a watershed basis. This is consistent with the current goal of LSEMS”.

The current LSEMS goal is:

“To improve and protect the health of the Lake Simcoe watershed ecosystem and improve associated recreational opportunities by:

- Restoring a self-sustaining coldwater fishery;
- Improving water quality
- Reducing Phosphorous loads to Lake Simcoe and
- Protecting natural heritage features and functions”

Staff Comment and Recommendation:

Expand the existing Goal to acknowledge growth and settlement requirements stipulated in Places to Grow.

The current LSEMS goal provides more direction to readers and decisions-makers in acknowledging the main areas of improvement and protection required; however, the Discussion Paper itself also acknowledges that population and employment in the watershed is expected to grow based on Provincial forecasts contained in Places to Grow. The Province should therefore acknowledge the growth and settlement directions of Places to Grow in the goal statement so that questions do not arise in future regarding the accommodation of development within the watershed.

We strongly recommend that an expanded goal statement read as follows:

“To improve and protect the health of the Lake Simcoe watershed ecosystem and improve associated recreational, *settlement and economic* opportunities by:

1. Restoring a self-sustaining coldwater fishery;
2. Improving water quality;
3. Reducing Phosphorous loads to lake Simcoe; and
4. Protecting natural heritage features and functions”

WHAT COULD THE LAKE SIMCOE PROTECTION PLAN COVER?

The Province proposes that a Lake Simcoe Protection Plan be developed to define the objectives and actions required to protect the Lake by:

- identifying priority issues to be addressed and set specific targets;
- defining policies and actions necessary to protect the Lake with assigned responsibilities and timelines; and
- including a range of management approaches or tools to achieve its objectives and targets, from informal and voluntary tools (e.g. stewardship and education), to formal and legally binding tools (e.g. nutrient offsetting or trading).

The Province suggests that any new management approaches or tools would build on and be integrated with existing processes, programs and tools, including the Clean Water Act, Greenbelt Plan, Growth Plan, Provincial Policy Statement (PPS) and Planning Act.

At the outset, the Province is suggesting that development of the first Lake Simcoe Protection Plan would be led by the Province under the proposed legislation. A new governance body could be responsible for supporting the implementation of the Protection Plan and for reviewing and proposing amendments in the future.

Staff Comment and Recommendations:

Identify and acknowledge the requirements of Places to Grow and the need to provide adequate wastewater servicing for the approved population and employment forecasts.

The Lake Simcoe Plan must acknowledge that growth will occur in the watershed and that growth management studies at the upper tier and local levels are currently in preparation to accommodate the required growth. All municipalities are bound by the requirements of Places to Grow, including the population and employment forecasts. In York Region, some

of this growth will occur in the White-belt in East Gwillimbury and in existing settlement areas in Georgina, East Gwillimbury, King and Whitchurch-Stouffville.

Adequate wastewater treatment in York Region will likely require development of the Upper York Servicing System. The Individual Environmental Assessment (IEA) for this servicing scheme is already underway and the Lake Simcoe Plan should also acknowledge this work so that the Lake Simcoe Plan cannot be used as a means of frustrating the intent of the IEA and indirectly the Growth Plan.

Extend control and regulation of Phosphorus inputs beyond municipal waste water treatment and urban storm water.

The Discussion Paper identifies a range of sources of Phosphorus to the lake, but only contributions from municipal waste water treatment and urban storm water (7% and 13% of total Phosphorus respectively) have been specifically targeted for improvement in the Interim Regulation.

If the Province's intent is to improve the quality of the Lake, then the much more significant point and non-point sources of Phosphorus contribution, including atmospheric deposition (34% of total Phosphorus loading) and non-point source agricultural contributions (36% of total Phosphorus loading and an additional 3% from the Holland Marsh Polders) must also be targeted for control and improvements. This approach would also support sub-watershed phosphorus loading targets developed in the Assimilative Capacity Study (ACS), which was a Provincial initiative. The Province is presently using these loading targets for ongoing sewage treatment plant expansions and associated Certificate of Approval negotiations in York Region.

Require Phosphorus Reductions from Agricultural lands and Atmospheric contributions as part of a comprehensive Phosphorus offset or trading program.

Further control and regulation of the significant Phosphorus contribution from the Agricultural sector cannot be overlooked. The Province, in partnership with the Agricultural community, must enact programs that reduce Phosphorus contributions from agricultural lands. Such programs could be designed to work as Phosphorus offset or trading program along with proposed development activities in the watershed at a much lower cost per capita than wastewater treatment plant improvements at those plants already performing beyond expectations.

In so far as Atmospheric contributions are concerned, the Region's understanding is that a great proportion of this contribution is directly linked to wind borne topsoil deposition from both agricultural and development sites in the area. Changes in practices to require minimal tillage and maintenance of cover crops, minimization of mass grading, maintenance of ground covers and dust suppression during grading and site development will be needed to reduce to Phosphorus loading from this source. These changes could be required as part of Lake Simcoe Act and for development sites and be implemented through changes in development standards and subdivision agreements.

Require the protection, enhancement and restoration of Natural Heritage Systems

The Lake Simcoe Region Conservation Authority has spent considerable time in the past two years developing a defensible natural heritage system for the watershed. Phase 2 of this work will proceed to identify key restoration and enhancement areas.

The proposed Lake Simcoe Plan should give this system additional policy status and require that municipal systems be consistent with it as a minimum standard.

Comments on a proposed governance structure are provided in following sections.

WHAT FUNDING MECHANISMS ARE AVAILABLE/NECESSARY?

The Discussion Paper recognizes that funding is required to implement and sustain programs needed to protect Lake Simcoe and identifies a number of existing funding programs such as the Lake Simcoe Water Quality Improvement Program and the Drinking Water Stewardship Fund. The need for innovative funding mechanisms such as nutrient offsetting or phosphorus trading is also recognized.

Staff Comment and Recommendations:

A number of existing funding sources have been used by LSEMS over the years, including, provincial special purpose funding under Healthy Futures and other water quality programs aimed directly at agricultural runoff. As well, the Lake Simcoe Conservation Foundation has provided a significant amount of funding. But much of the on-going funds have been provided by municipal contributions, with York's contributions larger than others because of its population base within the watershed.

Province and Federal government should provide the majority of the funds for long term stable funding.

Regional Council is on record many times as requesting a more equitable, stable funding basis for Lake Simcoe remediation and improvement. Over the past 17 years, the Region has funded the Conservation Authority and LSEMS on an on-going basis, with total funding for LSEMS Phase III, since 2000 at approximately \$3.0 million. The 2008 budget approved for LSEMS related projects amounts to approximately \$600,000.

Ongoing municipal commitments are however, inadequate to fund long term remediation of the Lake. Municipalities and Lake partners are looking at both the Provincial and Federal governments to establish an ongoing fund to cover the majority of remediation costs. An unfunded plan will have limited impact.

Credit Municipalities where Phosphorus Reductions have been achieved and Proceed with a Phosphorus Trading or Offset program.

The Region of York has been actively involved in reducing Phosphorus contributions to all watersheds in the Region by:

- Making financial investments and commitments to the use of enhanced practices in sewage treatment technology in all our facilities.

- Reducing water consumption and effluent production through the Region's Water for Tomorrow program.
- Removing approximately 2,335 existing residential units from septic systems and replacing them with municipal service access in the Willow Beach and surrounding lakeshore areas in Georgina by 2009, to address issues regarding inadequate and failing septic facilities.

Further, we have supported agricultural remediation programs such as Healthy Futures in the past to leverage available funding and provide environmental benefits.

Our observations however, are that these achievements are largely unnoticed and un-credited. It would be helpful if the Province would provide a sustainable funding model which rewards municipalities where Phosphorus reductions have been achieved through an incentive program to proceed with additional works. Areas where incentives could be applied could include:

- Expedited permissions for pilot projects for Phosphorus offsets or trading in high achieving municipalities,
- Assistance from the Province in funding maintenance and retrofitting requirements for Solid Waste Management and provincial assistance in the acquisition of privately owned lands and construction costs for the purpose of the retrofits, where existing storm ponds require retrofits that involve expansions.
- Agency responsibility for monitoring and maintenance of existing and retrofit storm water management facilities.
- Research, documentation and collation of best management practices and standards of pond quality for existing storm water management facilities.

TOWARDS A NEW IMPLEMENTATION PARTNERSHIP

The Discussion Paper proposes that a new governing body is needed to champion the long-term protection of Lake Simcoe. Responsibilities of this new body could include:

- overseeing implementation of the Protection Plan, monitoring, and reporting on progress;
- coordinating reviews and proposing amendments to the Protection Plan; and
- facilitating partnerships with municipalities, conservation authorities and other stakeholders to implement the Plan.

The Discussion Paper further recognizes the recommendations of the LSEMS Steering Committee for a future governance model. That governance model would consist of a Secretariat as a central point of contact for the new partnership, headed by an Executive Committee, with a Steering Committee to guide operations and functional subcommittees for specific tasks. The Lake Simcoe Region Conservation Authority would support and provide the services of the Secretariat. Both the Executive Council and the Steering Committee would have representation from all levels of government, industry and the public.

Staff Comment and Recommendations:

Maintain Lake Simcoe Conservation Authority leadership of a revitalized, adequately funded and staffed program with wider stakeholder representation

Regional Council is on record as supporting the continued leadership by the Lake Simcoe Region Conservation Authority of a program to remediate Lake Simcoe. The most recent report on the LSEMS partnership, Clause 1 of Report 10 of the Regional Planning and Economic Development Committee, adopted by Council on December 13, 2007, reported on the Working Group recommendations on Governance and requested:

- Lake Simcoe Region Conservation Authority leadership
- stable funding and adequate staffing,
- broader representation for stakeholders

Establishment of a separate entity to oversee and administer this program is not recommended, due to the uncertain and redundant reporting relationship with existing agencies, overlap of responsibilities and the fiscal and staffing inefficiency of establishing another entity to carry out many of the functions already being undertaken by the Lake Simcoe Region Conservation Authority.

York Region and its area municipalities request ongoing representation on Committees

York Region has supported the LSRCA activities over a long period of time. Continued representation on all Committees to be established is necessary to ensure implementation of the Plan.

Under the Province's current direction there is no municipal representation on the Scientific Advisory Committee, however this representation must be provided on the Citizens Advisory Committee. We look forward to working with the Province in the future in undertaking the Plan.

WHAT COULD PROPOSED LEGISLATION TO PROTECT LAKE SIMCOE LOOK LIKE?

The Discussion Paper provides considerable insight into the Province's current thinking about this legislation. It is suggested that legislation could:

- include mechanisms to ensure that the Protection Plan's provisions are informed by science;
- establish targets for the Lake and watershed;
- establish a new governance body and set out its powers and duties;
- require the Protection Plan to include provisions dealing with monitoring and reporting;
- authorize the Protection Plan to use a combination of mandatory and voluntary tools; and
- authorize the Protection Plan to influence other statutory decisions that regulate activities (e.g. sewage treatment plant approvals and compliance with the Protection Plan).

Staff Comment and Recommendations:

Approximately 69% of York Region is already covered by the Greenbelt Plan including the Oak Ridges Moraine portion. The Region is also subject to the Places to Grow Plan, and will be subject to the Clean Water Act and Source Water Protection Plans. All these have placed

significant restrictions on our ability to plan and service existing and future residents and businesses.

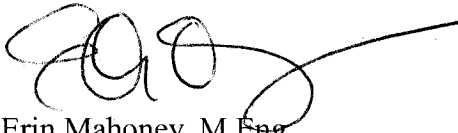
We recommend the legislation:

- ***Require the same high standards for growth management and for servicing in all watershed municipalities*** as are required from York Region and other GTA municipalities. This would ensure that all municipalities are proceeding from the same base point and have the same limits placed on their growth and development
- ***Provide for information/data sharing among all municipalities*** directly affected by the Regulations and the Plan. This information should include data sets for historical water and wastewater treatment flows, phosphorus concentrations, and phosphorus loadings for all wastewater facilities discharging to the Basin.
- ***Require improvements to waste water treatment facilities demonstrating poorer phosphorus removal*** to improve their performance to enhanced standards ***prior to further regulation and mandated improvement of facilities that have demonstrated enhanced phosphorus performance.***

We trust these comments will be useful to the Province in moving forward on the Lake Simcoe Protection Plan and Act and look forward to providing input at every stage in the process.

Should you have any questions, please contact Michele Maitre, P. Eng., Manager, Regulatory Compliance and Policy, Water and Wastewater, Environmental Services, 905-830-4444, ext 5097 or Email michele.maitre@york.ca or Barbara Jeffrey, M.C.I.P., R.P.P. Manager, Land Use Policy and Environment, Planning and Development Services at 905-830-4444, ext 1526 or Email barbara.jeffrey@york.ca

Sincerely,



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Commissioner of Environmental Services

MM/BJ/CD/cf

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