

February 20, 2006

Mr. Greg Mouchian, Policy Analyst
Strategic Policy Branch
Ministry of the Environment
125 St. Clair Avenue West, 11th Floor
Toronto, Ontario, M4V 1P5

Dear Mr. Mouchian:

**Re: Comments on EBR Registry No. RA05E0022
Proposed Matters to be addressed in Regulations to Support the Proposed Clean
Water Act, 2005**

The Region has prepared the following comments in response to the above EBR posting.

It is understood that this document is the first in a series that is intended to provide a description of proposed regulations respecting the source protection planning process and to pose questions for the purpose of soliciting feedback. This document is intended to provide information on the first three areas to be address in regulation which are:

- The establishment of Source protection areas/ Regions and lead Source Protection Authorities
- Source Protection Committees
- Contents of the Terms of Reference

The comments are structured to respond to these three areas.

Source Protection Areas/ Regions and Lead Source Protection Authorities

This section outlines the regulations authority to alter boundaries of source protection areas for the purpose of defining source protection areas that contribute to the source waters within the water shed. These boundaries generally follow existing conservation authority boundaries, and any municipalities/counties identified within thee boundaries would be involved in the terms of reference development.

In the proposal, York Region would be a member of two separate watershed consolidations, being the source protection regions of CTC, and the Lake Simcoe, Nottawasaga, Black River, and Severn Sound Environmental Associations. Although defining source protection

areas/regions on a watershed basis that contributes to the source waters is appropriate, there is concern with how the lower and upper tier municipalities will establish appropriate representation on the source water committees. Considering the population base in the case of the CTC and the geographic extent and the case of the Lake Simcoe consolidation, this could prove to be problematic.

The proposal refers to the Ministers regulation-making authority to change the membership of participating municipalities currently sitting on the conservation authority board for the conservation authority that is serving as a source protection authority. The ministry will be considering which municipalities should be participating municipalities in these situations and will consult with the public at a later date. Proposed changes to York Region's current representation will be reviewed at that time.

Source Protection Committees

The source protection committee, or in the case of a region, the lead source protection committee will be comprised of 16 members including the chair, and will oversee the source protection planning process.

The proposal is for minimum one third municipal representations. This may be problematic in the case of regional source protection areas due to the number of participating municipalities and the need to have appropriate representation by all municipalities. Furthermore, the outcome of the Source Protection Plans will have significant impact on the local municipality planning process and their representation needs to be also considered. The following addresses the specific questions outlined in the proposal:

- The membership of the source protection committee is intended to provide a broad spectrum of perspectives for the purpose of achieving a balanced, workable and sustainable source protection model. The committee member selection process should strive to identify participants that will work cooperatively towards this purpose. Criteria should be established to permit a pre-screening of candidates to ensure that the right balance of interest, skills and knowledge are brought to the table. The role of the member should be to represent the perspective to which they have been selected for and to support the process in achieving the objectives. Alternates should be permitted to allow flexibility and continuity in the process.
- The process should be transparent. In the case of municipal participation, appointment of municipal membership should be through Council and progress reports should occur frequently to ensure both Council and the citizens are aware of activities.
- Committee rules of operation should be standardized across the province with regard to higher order process. The rules should be flexible enough to allow amendment based on local circumstance however, with the fundamental premise that the higher order principles will be respected.
- To ensure transparency of the committee, operations should be conducted in a public forum that allows public access to witness the activities. Although public input will only

be requested at the prescribed opportunities, by conducting operations in a public forum, both parties will be better enabled to address and respond to areas of concern.

- The Lake Simcoe source protection area should be divided into the two separate watersheds of Severn Sound and Black River to form two source protection areas. This is proposed to facilitate a better planning process considering both the geographic area and the differences in population density. Coordination should occur between the two source protection committees to ensure consistency within the larger Lake Simcoe watershed.

Contents of the Terms of Reference

The proposed content of the terms of reference are appropriate for the intended objectives. However it has been observed that the competing timelines, such as the recent request for applications under the Grant Proposals by MOE, has lead to many isolated discussions about work plans without effective collaboration or discussion. Terms of Reference are urgently needed in order to develop work plans that are effective, collaborative and efficient use of the resources. The following are comments on the questions outlined in the proposal:

- The proposal to establish working groups to undertake many of the activities is supported and urgently needed as a feasible mechanism for achieving the objectives. The province should establish guidance in both their establishment and defining of minimum requirements. This will facilitate provincial consistency and expectations of what these working groups will achieve and that the appropriate representation is occurring.
- With respect to wellhead protection areas and intake protection zones, the responsibility should be with the municipality. However, the regulations should permit assignment of this responsibility to a conservation authority if so desired by the municipality. As discussed above, this decision has been made with the Conservation Authorities due to the timeline required for submission of grant proposals by the MOE.
- With respect to qualifications to undertake planning activities for assessment reports and source protection plans, the province must define a minimum level of expertise for the individuals and firms undertaking these activities. This will increase the level of confidence and consistency in the process to the benefit of all participants.

In summary, I would stress the following points with regard to this proposal:

- Careful consideration must be made in the creation of source protection areas to ensure that the source protection committee is able to retain the various perspectives within each area. It would be more advantageous to have smaller, well represented committees that coordinate with adjacent source protection areas rather than large regional areas with poor representation.
- Serious consideration has to be given on how the source protection committees are formed and how they will function. Some of the questions that will need to be addressed include; need to identify the “municipality of record” on the committee, who will make decisions and how they be made, guidance needed on the committee governance model, and those with the responsibility of implementing the plan should be accountable for the creation of the plan.

- As stated in previous responses to EBR postings, funding will be a significant hurdle in developing and implementing source protection plans. Although the Province has recently announced substantial funding for the various government stakeholders for the next five years, it will be insufficient. This is based on York Regions experience to date with regard to studies undertaken in recent years in support of source water protection. In addition, the cost for implementation and enforcement of the plan needs to be considered as a long term funding strategy.
- The Province needs to consider the time lines for delivery of the various components and should use the establishment of terms of reference, working groups and delivery of effective work plans as the approach. This will provide some flexibility in deliverables considering that, across the province; each source protection area will be at various stages of readiness. Over the past few months, a disjointed consultative approach has evolved as a result of various competing deadlines established through the funding agreements with Conservation Authorities and grant proposals for technical studies. There is an urgent need to slow down this process and establish the Terms of Reference to allow meaningful collaboration and efficient use of the limited resources available.

Sincerely,

Ilmar Simanovskis, P.Eng, MBA
Manager, Technical Support
Water and Wastewater Branch

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