



Transportation and Works Department

Water and Wastewater Branch

February 9, 2005

Ms. Dawn Landry
Policy Advisor, Strategic Policy Branch
Ontario Ministry of the Environment
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Ms. Renee Bowler
Drinking Water Programs Branch
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Dear Ms. Landry and Ms Bowler:

**Re: York Region Staff Comments on EBR Registry No. XA04E0021 and XA04E0022
*Final Report of the Implementation Committee on Source Water Protection and Final
Report of the Technical Experts Committee on Science Based Decision making for
protecting Ontario's Drinking Water Resources: A Threats Assessment*
Our File: WR046, P12**

The Province of Ontario posted the *Final Report of the Implementation Committee on Source Water Protection (SPIC Report)* and the *Final Report of the Technical Experts Committee on Science Based Decision making for protecting Ontario's Drinking Water Resources: A Threats Assessment (TEC Report)* on the Environmental Bill of Rights (EBR) Registry on December 14, 2004. A 60 day period was allowed for interested parties to submit comments to the Province by February 14, 2004.

Staff of The Regional Municipality of York (York Region) has prepared the following comments to be considered by the Ministry of the Environment (MOE) in response to this EBR posting. Given the timing constraints of this EBR posting, these comments have not yet been endorsed by Regional Council, however a report summarizing the issues and containing this letter will be forwarded to Transportation and Works Committee and Regional Council in March, 2005.

After review of the two documents, and in consideration of the advice provided to the Minister of the Environment and the importance of this advice, it was felt that any comments on either of these two documents could not be properly considered in isolation from the other. From this

perspective, York Region staff has prepared a common response to be considered by reviewers of both EBR postings. The responses are organized to first deliver the overarching messages relevant to the entire process of establishing drinking water source protection and then specific comments relevant to each document.

Overarching Comments:

1) Value of Work Completed:

York Region wishes to recognize and commend the Province for their leadership role in convening these two Committees and in guiding them in the assembly of a wide-reaching coverage of technical, regulatory, social, and political concerns related to the development and implementation of Source Protection Planning in Ontario. The *SPIC Report* and *Tec Report* reflect substantial commitment and dedication from the Committee members in achieving a workable solution in the face of many conflicting interests and points of view.

York Region also recognizes that the Principles and Recommendations put forward by the two committees represent “advice” to the Minister and do not necessarily reflect the direction in which the Province will proceed in the next steps to establishing a regulatory framework for drinking water source protection.

In general, the principles and recommendations put forward are sound and should be carefully considered by the Minister in their entirety. In cases where it may not be feasible to implement the specific recommendations, the Minister should attempt to respect the relevant principles to the maximum possible extent, perhaps including them into the products.

2) Validity of previous comments:

York Region has provided comments to previous EBR Postings relating to the process to develop Source Protection Planning in Ontario on:

- June 18, 2003 (York Region Comments regarding EBR Registry XA03E0011 - Final Report of the Advisory Committee on Watershed-based Source Protection Planning).
- April 8 2004 (York Region Comments on EBR Registry No. PA04E0003 White Paper on Watershed-based Source Protection Planning).
- August 14, 2004 (York Region Comments on EBR Registry No. AA040002 – Draft Drinking Water Source Protection Act)

While many of the issues raised in comments to EBR postings have been addressed to varying extents in the subsequent EBR Postings, previous comments directed toward establishing a clear understanding of the issues and implications of potential source protection legislation continue to apply.

Among the topics that must continue to be prioritized in development of a regulatory framework for Drinking Water Source Protection (planning and implementation) are:

- Clear definition of, and acceptance of, intended roles and responsibilities of all parties
- Provision of technical guidance to help to direct the process before initiation.
- Identification of a source of secure, long-term funding (for all parties).
- Changes to the entire provincial regulatory framework to enable effective implementation and establish appropriate primacy.
- Complete Information-base for decision-making.
- A reasonable and achievable time schedule for development of plans and implementation.

The attached letter provides more detail on these issues as communicated previously in response to the EBR Posting on the Draft Drinking Water Source Protection Act.

3) Necessity for “Long-Term Commitment” to Drinking Water Source Protection

The work of the Walkerton Inquiry and the three expert panels convened by the Province to provide advice on establishing drinking water source protection have clearly identified that this process is of great importance and will provide long-term value if integrated into our existing and future municipal planning and water management systems. The *SPIC Report* and the *TEC Report* both clearly work from the basic assumption that these initiatives must be brought into place and supported over a long-time period, one that is much greater than current planning cycles.

One key challenge that the Province must face in moving forward with drinking water source protection is in establishing a “system” that is flexible enough to be workable and to be improved through experience, but that also carries a long-term commitment to the process that can not be ignored or lessened by future decisions. The “principles” provided by these two expert committees provide an ideal basis for establishing a system by which future decision-makers can determine acceptable and unacceptable outcomes of any proposed changes to the Drinking Water Source Protection process. One of the key elements requiring commitment is funding. It is imperative that secure sources of funding are available to meet the long-term goals to be set in the Source Protection Plans. It is also important that any funding provided, particularly for implementation, can be available to the project teams on a multi-year basis and not be subject to annual budgetary approvals.

4) Necessity for additional clarity in Governance Structure, Roles and Responsibilities, and Approval/Appeals Process

The *SPIC Report* does not provide any substantial change to the Governance Structure and the Approval/Appeals process as presented previously by MOE. Additional clarity and detail is

required by municipalities to better understand their role and options in this aspect of the source protection planning process.

Appendix 8.5 of the *SPIC Report* provides one possible model of Roles and Responsibilities of the participants in Source Protection. While this model provides an excellent starting point, there remains substantial opportunity for additional clarification and particularly for guidance in establishing the links for coordination between the lead partners for individual tasks. Each element of the legislation package governing Drinking Water Source Protection that comes forward should more clearly define the expected roles of individual parties and provide a process for coordinating efforts. Individual parties need this information with sufficient lead time in order to plan for resources to fulfill the expected requirements.

5) Support for Municipal Roles as outlined

The SPIC Report provides an outline of the expected roles for municipalities. These include responsibilities for technical studies related to protecting the aquifers and surface water sources used for public water supply, and all aspects of the implementation of Source Protection Plans via a "Source Protection Sphere" under the Municipal Act.

As many conservation authorities (CAs) are already gearing up and completing work that will ultimately be included in the Source Protection Plans, it is important to get these roles established at the earliest possible time. The recommendations identify municipalities as the lead agencies for establishing wellhead protection studies and potentially for aquifer vulnerability studies. While this work has been advanced as part of previous Municipal Groundwater Studies, the outcome of previous studies will need to be reviewed in light of the directions given by SPIC/TEC and additional work will be necessary to become prepared to implement the wellhead protection programs to be consistent with the recommendations in the *TEC Report*.

6) Necessity for additional clarity in what tools will be provided to enable Source Protection

The SPIC Report provides recommendations for developing a "Sphere of Jurisdiction" for Source Protection under the Municipal Act that would enable effective implementation of Drinking Water Source Protection. Municipalities require further insight into the types of tools that would be provided under this "Sphere of Jurisdiction" and also insight into how these tools would be integrated with other current or proposed regulatory and planning instruments. These tools and measures should also consider and support the current and potential future roles of municipal health departments in contributing to the Source Protection Planning and Implementation process.

In addition, the Province needs to consider new fiscal policy arrangements and financial tools that will enable municipalities to ensure that initiatives like Drinking Water Source Protection, compact urban form, and brownfields revitalization happen in a coordinated and complimentary fashion. The Province's *Places to Grow* discussion paper is very clear that the protection of valuable natural resources and city-building are not mutually exclusive. From the Province's report, "We must protect and enhance our valuable resources as part of managing growth."

Concentrating growth and infrastructure investments in strategic locations, such as existing urban areas, redirects development pressure away from those places we want protected.

Municipalities, as one of the key deliverers of Provincial policies, programs and legislation, require the tools, financial and otherwise, to ensure that these initiatives are carried out in an effective and coordinated manner. The Province, along with the Federal governments need to work with Municipalities to confirm what tools are needed and then to ensure these tools are made available.

7) Necessity for Additional Clarity on Funding and Direct Funding support to Municipalities for Development of Source Protection Plans

The principles presented by the SPIC surrounding Funding are sound. The importance of establishing a secure source of long-term funding to address both initial and ongoing planning elements as well as implementation must be recognized. One key element that is missing is an appreciation of the expected total costs of both the initial plan development phase and the later implementation phase. Using the estimates for the costs of plan development provided by SPIC, York Region estimates a total cost of between \$1.7 and 2.6 million to develop Source Protection Plans for the geographic area of 1756 km². These estimates should be considered low in view of costs of approximately \$3.7 million currently being incurred by York Region to undertake similar studies to meet the requirements of the Oak Ridges Moraine Conservation Plan. Based on these ongoing costs, it would be more reasonable to expect the costs to develop Source Protection Plans in York Region to be closer to \$7 to \$10 million. The Province has not yet provided any indication whether costs that contribute to Source Protection Plans incurred to date by municipalities will be reimbursed.

The *SPIC Report* tends to deal with funding from a “big-picture standpoint”. Many of the challenges that will be faced will involve the allocation and availability of funds to the various participants in the Drinking Water Source Protection initiative. Given the clear roles for both municipalities and conservation authorities in the process, the ultimate funding scenarios, particularly in the case of items to be funded directly by the province, should include an opportunity for funds to be delivered directly to Municipalities. This will ultimately reduce the need for internal transfers of funds between partner agencies.

In addition to providing funding for future costs associated with establishing drinking water source protection, many municipalities have expended substantial sums, above and beyond the provincial support, toward establishing wellhead or intake protection plans. The initiative taken by these agencies should be rewarded with an opportunity to recover the costs incurred to date, and not just the costs incurred after a specified starting date.

8) Necessity to Clarify on Relationships between Drinking Water Source Protection and Other Regulations

Drinking Water Source Protection is only one of many key initiatives that the Province has either recently revised, or is in the process of reviewing. There is considerable confusion on the

potential linkages to these other pieces of legislation and planned orders of precedence. This confusion should be addressed when Drinking Water Source Protection legislation is introduced.

One example of such an issue is the need to clarify the expected conflict between a Significant Risk identified under a Source Protection Plan and the measures being undertaken to address the same site under the Brownfields legislation. In particular, what will be the expected municipal role in this process.

Specific Comments – SPIC Report:

SPIC 1) Importance of Education / Communication

The *SPIC Report* acknowledges the important role that education and effective communication will play in delivering effective drinking water source protection. The message must be emphasized and form a key element of the Provincial program. The Provincial Program should include both “universal” education tools and messages as well as support for local agencies to deliver the appropriate emphasis in their jurisdiction. In particular, a clear role should be developed for the local health departments to participate in and perhaps to lead the communication and education process.

SPIC 2) Implementation of Source Protection Plans via Official Plans

Section 4 of the *SPIC Report* provides an overview of the tools necessary to effectively implement source protection. The “Continuum of Tools Concept” as outlined in Section 4.2 and Figure 4.1 envisions that there will be a wide range of tools that vary from direct provincial legislation, to legislative requirements stemming directly from Source Protection Plans, and from current or future authorities of municipalities to implement based on recommendations in Source Protection Plans.

Under all aspects of these implementation tools remains the requirement that Municipal Official Plans will need to be updated to be consistent with Source Protection Plans. This is a very valid and worthwhile objective, however, there is significant potential for difficulty in implementation if municipalities must achieve approval of these official plan amendments via the Ontario Municipal Board. It would be preferable if all official plan changes to address Source Protection Plan recommendations were to be approved directly by the Minister of Municipal Affairs and Housing with final Ministerial decisions being final and not subject to appeal, or at least have limits on the eligibility of appeals.

SPIC 3) Projections of Costs of Source Protection

Section 6.4 of the *SPIC Report* provides a first-order estimate of potential costs related to Drinking Water Source Protection. While the *SPIC Report* acknowledges that these costs will vary relative to specific watersheds, it does not provide sufficient detail to confirm that the expenditures to meet the proposed “targets” in all watersheds will be possible. Ultimately, decisions on source protection implementation will likely require compromises to balance the

achievable outcomes with the available funds. There is substantial value in having at least a baseline estimate of potential costs available to the Source Protection Board in each watershed at the outset of the process. This estimate could continue to “improve” in accuracy as the plans are developed. As described above, it is the opinion of York Region staff that the estimates provided in the *SPIC Report* are relatively low.

SPIC 4) Potential Liabilities not clearly defined

The Drinking Water Source Protection Planning process as outlined will introduce many new responsibilities and therefore liabilities to municipalities, and other agencies. These liabilities have not been clearly defined by the Province or by the SPIC. Municipalities cannot fully appreciate the significance or value of the proposed process unless these costs and liabilities are understood at the outset of the process.

Specific Comments – TEC Report:

TEC 1) Support for Outcome-Based Approach

The “outcome-based” approach described for identifying vulnerable areas and assessing and prioritizing risks should provide ultimate flexibility to local committees in making the right decisions to protect drinking water sources. This approach clearly recognizes the differences in current knowledge across the province as well as the varying interest and capacity to undertake source protection to varying degrees to meet the local values. It will be very important for the Province to provide clear guidance on the expectations for these technical studies so that the local working groups can ensure that they are planning to address at least the minimum expectations. This guidance should be provided at the earliest possible time to allow agencies to make appropriate decisions as to whether they should only perform the minimum work as prescribed, or to consider undertaking more advanced studies now in the event that sufficient data is available. York Region is in a position where more advanced studies could conceivably be initiated.

TEC 2) 50 Year Water Supply Strategy

Recommendation 21 in the TEC Report suggests that all municipalities should maintain a long-term (50 year) water supply strategy that sets out their water supply needs, including conservation plans and they need planned sources for meeting their 25 year needs. This recommendation is sound in principle, but must be carefully considered in terms of its potential consequences in creating conflicts with municipal planning horizons. This concept is difficult to appreciate now, but will be easier to achieve once the initial Source Protection Plans have been completed and the limits on water resource capacity begin to be incorporated into the municipal planning process.

TEC 3) Source Water Protection Technical Review Committee (SWPTRC)

Recommendation 45 refers to a Source Water Protection Technical Review Committee. This is the first and only reference to such a committee. Clarification should be provided as to whether

this type of committee is to be established locally, or if it is established by the province to ensure consistency between various approaches. In either case, guidance is required to define the role of this committee, the qualifications for participation and membership, and the sources of funding. This might be an ideal role for the academic community to participate in the source protection planning process.

TEC 4) Data Management Issues

The recommendations on Data Management provided in the *TEC report* (Recommendations 92 to 111) are sound. There is, however, a tendency for the data models to appear to be driven from the top (Province) down. It is important for the province to establish a "minimum standard" for the local agencies (CAs and municipalities, or partnerships in some cases) to follow for day-to-day collection of the data that can feed into an appropriate system for managing "summary data" on a scale appropriate to the province and the public. For example, the province may not need to see data collected by automatic recorders every 5 minutes, but would be expected to maintain a daily, weekly, or perhaps monthly average. The working teams however, will need guidance on setting up a data management system that works on both the detailed level and that can send appropriate summary data up to the next level. This includes all relevant meta-data.

We trust that these comments will be considered appropriately. Please do not hesitate to contact me should you have any questions or require further clarification.

Sincerely,



Lloyd Lemon, M.Sc., P.Geo
Program Manager, Water Resources Protection

LAL/BJ/sp

Attachment

Copy to: Michael Garrett, Chief Administrative Officer
Kees Schipper, Commissioner, Transportation and Works
Bryan Tuckey, Commissioner, Planning and Development Services
Sandra Cartwright, Commissioner, Corporate Services
Joy Hulton, Regional Solicitor



Transportation and Works Department

August 17, 2004

Ms. Dawn Landry
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Dear Ms. Landry:

**Re: York Region Staff Comments on EBR Registry No. AA040002
Draft Drinking Water Source Protection Act
Our File: WR046, P12**

The Province of Ontario posted the Draft *Drinking Water Source Protection Act (DWSPA)* on the Environmental Bill of Rights (EBR) Registry on June 23, 2004 and allowed a 60 day period to receive comments. Staff of York Region has prepared the following comments to be considered by the Ministry of the Environment (MOE) in response to this EBR posting. Given the timing constraints of this posting, these comments have not yet been endorsed by Regional Council, however a copy of our report and this letter will be forwarded to Committee and Council in September.

In order for any Source Protection initiative to be effective the objectives, process, and roles and responsibilities, and the ultimate effects must be clearly understood and supported by all stakeholders. This represents a substantial challenge and the Province is to be commended for the efforts to date in developing the draft *Drinking Water Source Protection Act*. The *DWSPA* builds nicely on the efforts of the Advisory Committee on Watershed-Based Source Protection Planning and on the "White Paper on Watershed-Based Source Protection Planning and the ensuing public consultation. The draft *DWSPA* provides greater clarity into the processes, responsibilities and requirements for developing Source Protection Plans and addresses many of the issues raised in public consultation.

York Region staff comments on the draft *DWSPA* are organized to address:

- 1) Planning and Implementation Issues; and
- 2) Specific Technical Details and Inconsistencies.

1) Planning and Implementation Issues

The Draft DWSPA raises many questions and issues relating to the meaning of source protection, how source protection will be carried out, what the effects will be, and what timing will be applied to this initiative. To assist the Ministry, York Region's comments and recommendations are divided into five categories:

- i) Complete Information-Base for Decision-Making
- ii) Additional Information For Municipalities
- iii) Legislative Primacy and Conformities
- iv) Financing and Technical Resources
- v) Timing

i) Complete Information-Base for Decision-Making

The ultimate goal of this legislation is to achieve an effective mechanism to ensure that drinking water sources are protected and secure. All stakeholders need to more clearly understand the ultimate effects of this legislation. To do so will require:

- The complete Act.
- All proposed Regulations.
- All proposed Technical Guidance Documents and "Standards".
- Clarification of the primacy surrounding this legislation and the relationships with other initiatives (Oak Ridges Moraine Conservation Act and Plan, Greenbelt Protection Act and Plan, Provincial Growth Management initiatives, Planning Reform, etc.).
- Outline of the proposed mechanisms to "implement the plan".
- Knowledge of the total costs and how it will (can) be paid for.
- Outline of what the likely effects will be and ways to balance local priorities.
- An indication of the realistic time frame expected to develop and implement Source Protection, which should be scheduled according to priorities.
- Additional clarity of roles and responsibilities of all participants (not just the boards).
- Definition of who will actually be doing the work (where will these resources come from).
- Outline of expected responsibilities and the liabilities that come with these.

Recommendation:

The Province should endeavour to substantially address the above items/issues prior to introducing legislation. Given some of the technical challenges, experience in the form of pilot studies to achieve the desired product would provide valuable input to fine-tune legislation before it is implemented universally.

ii) Additional Information for Municipalities

In order to fully appreciate the potential effects of proposed Source Protection under the draft *DWSPA*, Municipalities will also need to have:

- Improved clarity of expected roles, responsibilities, liabilities.
- Support for additional resources required (financial and staff).
- Additional clarity on how the intended legislation is to fit into the Municipal Planning Process and how Source Protection Plans or Wellhead Protection Plans would be incorporated into Municipal Official Plans.

Recommendation:

The Province should provide municipalities with a clearer vision of their expected role in the Source Protection Planning and Implementation Initiative prior to introducing the legislation. This vision should communicate how local concerns, issues, and direction can be respected and maintained in the Source Protection Plans.

iii) Legislative Primacy and Conformities

There is a need for municipalities and other stakeholders to clearly understand the legislative primacy of the draft *DWSPA*. In addition, further clarification is needed regarding the potential relationships between the draft *DWSPA* and other existing and proposed legislative initiatives, such as:

- Oak Ridges Moraine Conservation Act/Plan
- Green Belt Protection Act/Plan
- Growth Management Act
- Planning Reform
- Safe Drinking Water Act
- Environmental Protection Act
- Ontario Water Resources Act, and
- Nutrient Management Act.

Recommendation:

*The Province should clarify relationships of the *DWSPA* with other existing and proposed legislation giving particular attention to the intended primacy.*

iv) *Financing and Technical Resources*

Source protection is expected to be a very expensive initiative. Costs will be incurred in the development of plans, implementation, monitoring, and enforcement. While the draft *DWSPA* indicates that substantial responsibility for directing the preparation of the Source Protection Plans will be carried by the Conservation Authorities (whose funding is provided by their municipal partners), other agencies and stakeholders will be incurring costs to participate. Once the plans are prepared, all agencies are likely to incur further costs in the implementation, monitoring, and enforcement. It is also likely that there will be a long-term process to review/update the Source Protection Plans. Secure, long-term funding sources will be required to ensure that the proposed objectives can be achieved.

In addition to the general requirements of financing, much of the work required to implement the source protection objectives will need to be undertaken by trained and experienced staff. From a municipal perspective, these staff must understand both the technical issues of watershed management and the social issues related to planning, development and public consultation. It is clear that our already heavily-burdened staff will be expected to carry additional weight in development and implementation of source protection and that programs to train existing and future staff to assist in developing and implementing source protection plans will need to be a priority.

Recommendation:

The Province should clarify where the expected costs of source protection will come from and be prepared to provide substantial funding toward the development, implementation, and future maintenance of Source Protection Plans.

The Province should develop programs to encourage the training of qualified personnel to be available to conservation authorities and municipalities to assist in Source Protection planning and implementation.

v) *Timing*

The draft *DWSPA* does not provide any clear indication of expected time-lines associated with proposed source protection initiatives. It is anticipated that some of the expected timing constraints will be introduced with the accompanying legislation or in Regulations that should accompany the legislation. All agencies and stakeholders will require a clear understanding of the timing implications. Timing will also have a direct effect on the availability of resources needed to meet the objectives.

Recommendation:

The Province should clarify the intended time-frames expected and provide local agencies with the tools and abilities to recognize priority situations and establish an acceptable level of protection based on likely risks and available resources.

Specific Technical Details and Inconsistencies

The draft *DWSPA* raised some specific questions and issues relating to technical issues and perceived inconsistencies. Comments and recommendations are provided in the following seven categories:

- i) Approval Provisions
- ii) Liability Issues
- iii) Wellhead Protection Requirements/Provisions for Municipalities
- iv) Permit To Take Water Process
- v) Power To Take Immediate Action
- vi) Technical Standard/Guidance Requirements
- vii) Minor Technical Details

i) Approval Provisions

The draft *DWSPA* provides approval provisions for the Source Protection Board for the "Terms of Reference" and the "Assessment Report". The Source Protection Board does not have any formal authority to approve the Source Protection Plan before it is forwarded to the Minister of the Environment. This appears to be an inconsistency to regional staff. There is also no clear role identified for municipalities to comment on or state official positions on the Source Protection Plan.

Recommendation:

*The Province should revise the *DWSPA* to require participating municipalities to review the Source Protection Plan as prepared by the Source Protection Committee and provide comments to the Source Protection Board for consideration. These comments should be forwarded to the Minister along with the Source Protection Plan.*

ii) Liability Issues

The measures outlined in the draft *DWSPA* could produce substantial liability (direct and indirect) for public agencies and private citizens/groups. These liabilities should be documented and provisions added to ensure that public and private agencies can appreciate the risks or are saved harmless by the legislation.

Recommendation:

The Province should provide additional documentation of the potential liabilities associated with Drinking Water Source Protection in a format that public and private agencies can understand the risks.

A "save harmless clause" should be added to protect Boards, Committees and delegates, including municipalities, their employees and their political representatives.

iii) Wellhead Protection Provisions for Municipalities

The draft DWSPA does not directly address the issue of Wellhead Protection. Wellhead Protection is a priority for municipalities serviced by groundwater and is a required element for those municipalities on the Oak Ridges Moraine. Source Protection Legislation is expected to provide the basis for the legal powers, responsibilities, standards, guidance, etc that are required for municipalities to implement effective wellhead protection programs. The DWSPA focuses on the initiatives that will likely be led by the Source Protection Boards (Conservation Authorities) but Municipalities are both responsible for delivering water and far better placed to be able to deliver programs that will ensure protection of groundwater to municipal wells.

Definitions and provisions for the identification and establishment of wellhead protection areas in official plans and zoning by-laws are required in the Draft DWSPA

Recommendation:

The Province should review the Draft DWSPA and revise to include specific reference to municipal wellhead protection and the responsibilities and powers that will be provided to municipalities to make it effective.

Definitions and provisions for the identification and establishment of wellhead protection areas in official plans and zoning by-laws are required.

iv) Permit To Take Water Process

Management of water use will be a key component of effective source protection plans. The Draft DWSPA does not currently provide any direct reference to the current or potential future processes that will be implemented to ensure that water is used in a sustainable fashion. Concurrent with the draft DWSPA, the MOE has also requested comments on proposed amendments to the Water Taking and Transfer Regulation. The proposed amendments to the Water Taking and Transfer Regulation do not appear to address the breadth of concerns that will accompany source protection.

Recommendation:

The Province should ensure that Drinking Water Source Protection Legislation provides appropriate tools and responsibilities to the MOE, conservation authorities, and municipalities to ensure that water use can be managed within the objectives of source protection planning.

v) Power to Take Immediate Action

The draft DWSPA provides many powers to the SPB and its delegates to enter properties to collect data and obtain samples. It is likely that some site visits and site inspections will reveal conditions that present a clear and immediate risk to water sources (definitions/guidance will be required). An example could be untreated effluent being discharged directly into a receiving stream without approvals. The SPB or its delegate must have the ability to legally require a stop and require correction to these activities when found.

Recommendation:

Powers should be provided to the Source Protection Board and their delegates to order private land owners to stop or correct any activities that are observed to present a clear and present risk to the drinking water sources.

vi) Technical Standard/Guidance Documents

The Technical Standards and Guidance Documents are not yet available. Similar standard and guidance were also not provided with the Oak Ridges Moraine Conservation Plan in April 2002 and many are still not available. This has substantial implications on being able to deliver the required plans and policies by the dates established in regulation. The draft DWSPA must be accompanied, not only by the proposed regulations, but also by the Technical Guidance documents in order for municipalities and other stakeholders to adequately address implementation issues.

Recommendation:

The Province should provide all Technical Standards and Guidance Documents relevant for enacting the DWSPA so that all parties can clearly understand the expected commitments.

vii) Minor Technical Details

Some of the minor technical details that are observed in the Draft DWSPA include:

- The powers for collection of information and samples from private land are not accompanied by a responsibility to communicate the findings of work to private land owners. This should be included.
- There is no clear provision to illustrate how these measures will protect the quality of private wells.
- References to classes of drinking water systems in Section 7(2) should be consistent with the designations in the Safe Drinking Water Act.
- Clarity should be provided regarding the municipality's role and responsibilities with respect to private drinking water systems that could pass into municipal ownership if owner's default on their responsibilities.

Recommendation:

Include a provision that all findings of work conducted on private properties will be communicated to the owner or delegate.

Address the issue of protection of water quality for private wells.

Clarify issues relating to designated drinking water supply systems under the Safe Drinking Water Act.

We trust that these comments will be considered appropriately. Please do not hesitate to contact me should you have any questions or require further clarification.

Sincerely,



Lloyd Lemon, M.Sc., P.Geo
Program Manager, Water Resources Protection

LAL/BJ/sp

Copy to: Michael Garrett, Chief Administrative Officer
Kees Schipper, Commissioner, Transportation and Works
Bryan Tuckey, Commissioner, Planning and Development Services
Sandra Cartwright, Commissioner, Corporate Services
Debbie Korolnek, Director, Water and Wastewater
John Waller, Director, Long Range and Strategic Planning
Don Sinclair, Director, Development Law, Corporate Services
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