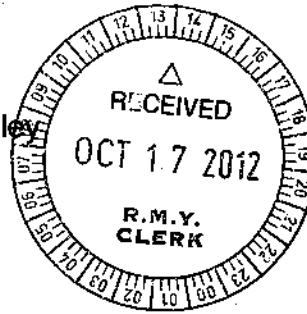




October 12, 2012

The Honourable James Bradley
Minister of the Environment
11th Floor, Ferguson Block
77 Wellesley Street West
Toronto ON M7A 2T5



REGION OF YORK
CLERK'S OFFICE

FILE No. - P42

The Regional
Municipality
of Durham

Clerk's Department

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Pat M. Madill, A.M.C.T., CMM III
Regional Clerk

RE: SOURCE WATER PROTECTION PLANNING CONSULTATION
PROCESS – COMMENTS BY DURHAM REGION IN RESPONSE
TO PROPOSED SOURCE PROTECTION PLAN FOR CREDIT-
TORONTO-CENTRAL LAKE ONTARIO (CTC) SOURCE
PROTECTION REGION (2012-J-30)
(OUR FILE NO.: E02-41)

Please be advised the Joint Finance & Administration, Health & Social Services, Planning & Economic Development and Works Committees of Regional Council considered the above matter and at a meeting held on October 10, 2012 Council adopted the following recommendations of the Joint Committee:

- "a) THAT the following general recommendations contained within Report No. 2012-J-30 be adopted:
- i) the Ministry of the Environment should establish, for use in the source protection plans province-wide, clear workable definitions of existing and future threats;
 - ii) the definition of existing threats should use the Assessment Report as an inventory of existing threats except for threats resulting from crop rotation practices;
 - iii) for properties affected by a Clean Water Act Section 58 policy, the Province should mandate registration on the title of the property a requirement for a risk management plan;
 - iv) the Province should exempt from appeal to the Ontario Municipal Board or Environmental Review Tribunal amendments made to municipal Official Plans to bring them into compliance with source protection plans;
 - v) municipalities and provincial ministries should have equivalent flexibility in deadlines to complete SPP policy requirements;
 - vi) the Nutrient Management Act should be extended to cover all farms in significant threat areas, and expanded to include Non-Agricultural Source Materials and pesticides;

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- vii) an integrated farm risk management plan should be negotiated and established by the Ontario Ministry of Agriculture, Food and Rural Affairs and enforced by the Ministry of Environment as the most effective approach to managing agriculture-related threats to drinking water sources;
 - viii) the existing and future application of pesticides be prohibited within 100 metres of a wellhead;
 - ix) the Ministry of the Environment should request the Agrichemical Warehousing and Standards Association to add wellhead protection areas and intake protection zones as locations to be avoided for pesticide storage facilities;
 - x) the provincial ministries and agencies such as the Ministry of Transportation and the Technical Standards and Services Authority should play a supportive role in managing significant drinking water threats related to their mandates;
 - xi) the Ministry of the Environment should develop and disseminate education and outreach materials for use and distribution by municipalities and source protection authorities delivering source protection plans education and outreach programs;
 - xii) the Province should invest in the studies and modelling required to understand the hydrodynamic factors and threat activities affecting water quality in Lake Ontario;
 - xiii) the Province should continue to offer grants and incentives under the Ontario Drinking Water Stewardship Program and other programs to assist property owners in addressing significant threats; and
 - xiv) since the implementation of source protection plans will result in significant start-up expenses and inappropriately downloaded costs to the Region, the Province should help fund the implementation costs.
- b) THAT the submission provided in Attachment 1 to Report No. 2012-J-30 be endorsed as Durham Region's comments on the proposed Credit-Toronto-Central Lake Ontario (CTC) Source Protection Plan and be forwarded to the Credit-Toronto-Central Lake Ontario Source Protection Authority;

October 12, 2012

- c) THAT the Association of Municipalities of Ontario and the Province address and alleviate the financial impacts of source protection plan implementation on municipalities at the Memoranda of Understanding table prior to approval of the plans by the Province; and
- d) THAT a copy of Report No. 2012-J-30 and Attachment 1 be forwarded to the Minister of the Environment, the Minister of Agriculture, Food and Rural Affairs, the Ministry of the Environment-Source Protection Programs Branch, the Association of Municipalities of Ontario, the Region's conservation authorities, the Regions of Halton, Peel and York, and the cities of Toronto, Oshawa and Pickering, the towns of Ajax and Whitby, the Municipality of Clarington and the townships of Scugog and Uxbridge for their information."

As directed, please find attached a copy of Joint Report #2012-J-30.



Pat M. Madill, AMCT, CMM III
Regional Clerk

PMM/lf

Encl.

- c: The Honourable T. McMeekin, Minister of Agriculture, Food and Rural Affairs
Ministry of the Environment (Source Protection Programs Branch)
P. Vanini, Executive Director, Association of Municipalities of Ontario (AMO)
R. Powell, CAO, Central Lake Ontario Conservation Authority
R. Messervey, CAO, Kawartha Conservation Authority
B. Denney, CAO, The Toronto & Region Conservation Authority
L. Laliberte, General Manager, Ganaraska Region Conservation Authority
D.G. Wood, CAO, Lake Simcoe Region Conservation Authority
K. Bennett, Clerk, Halton Region
D. Kelly, Clerk, York Region
C. Reid, Clerk, Region of Peel
U. Watkiss, Clerk, City of Toronto
S. Kranc, Clerk, City of Oshawa
D. Shields, Clerk, City of Pickering
M. de Rond, Clerk, Town of Ajax

c. cont:

D. Wilcox, Clerk, Town of Whitby
P.L. Barrie, Clerk, Municipality of Clarington
K. Coates, Clerk, Township of Scugog
D. Leroux, Clerk, Township of Uxbridge
R.J. Clapp, Commissioner of Finance
C. Curtis, Commissioner of Works
A.L. Georgieff, Commissioner of Planning and Economic
Development
R.J. Kyle, Commissioner & Medical Officer of Health



The Regional Municipality of Durham

To: The Joint Finance & Administration, Health & Social Services, Planning & Economic Development, and Works Committee

From: R. J. Clapp, Commissioner of Finance
R. J. Kyle, Commissioner & Medical Officer of Health
A.L. Georgieff, Commissioner of Planning and Economic Development
C. Curtis, Commissioner of Works

Report No.: 2012-J-30

Date: September 27, 2012

SUBJECT:

Source Water Protection Planning Consultation Process - Comments by Durham Region in Response to Proposed Source Protection Plan for Credit-Toronto-Central Lake Ontario (CTC) Source Protection Region

SC #2012-112 Correspondence dated September 7, 2012, CTC Source Protection Region Notice of Public Consultation on the CTC Proposed Source Protection Plan from G.L. O'Connor, Chair, Toronto Region Source Protection Authority and P. Perkins, Chair, Central Lake Ontario Source Protection Authority

Note: A glossary to the acronyms used in this report begins on page 12.

RECOMMENDATIONS:

THAT the Finance & Administration, Health & Social Services, Planning & Economic Development, and Works Committee recommends to Regional Council:

- a) THAT the following general recommendations contained within Report No. 2012-J-30 be adopted:
 - i) the Ministry of the Environment should establish, for use in the source protection plans province-wide, clear workable definitions of existing and future threats;
 - ii) the definition of existing threats should use the Assessment Report as an inventory of existing threats except for threats resulting from crop rotation practices;

- iii) for properties affected by a Clean Water Act Section 58 policy, the Province should mandate registration on the title of the property a requirement for a risk management plan;
- iv) the Province should exempt from appeal to the Ontario Municipal Board or Environmental Review Tribunal amendments made to municipal Official Plans to bring them into compliance with source protection plans;
- v) municipalities and provincial ministries should have equivalent flexibility in deadlines to complete SPP policy requirements;
- vi) the Nutrient Management Act should be extended to cover all farms in significant threat areas, and expanded to include Non-Agricultural Source Materials and pesticides;
- vii) an integrated farm risk management plan should be negotiated and established by the Ontario Ministry of Agriculture, Food and Rural Affairs and enforced by the Ministry of Environment as the most effective approach to managing agriculture-related threats to drinking water sources;
- viii) the existing and future application of pesticides be prohibited within 100 metres of a wellhead;
- ix) the Ministry of the Environment should request the Agrichemical Warehousing and Standards Association to add wellhead protection areas and intake protection zones as locations to be avoided for pesticide storage facilities;
- x) the provincial ministries and agencies such as the Ministry of Transportation and the Technical Standards and Services Authority should play a supportive role in managing significant drinking water threats related to their mandates;
- xi) the Ministry of the Environment should develop and disseminate education and outreach materials for use and distribution by municipalities and source protection authorities delivering source

protection plans education and outreach programs;

- xii) the Province should invest in the studies and modelling required to understand the hydrodynamic factors and threat activities affecting water quality in Lake Ontario;
 - xiii) the Province should continue to offer grants and incentives under the Ontario Drinking Water Stewardship Program and other programs to assist property owners in addressing significant threats; and
 - xiv) since the implementation of source protection plans will result in significant start-up expenses and inappropriately downloaded costs to the Region, the Province should help fund the implementation costs.
- b) THAT the submission provided in Attachment 1 to Report No. 2012-J-30 be endorsed as Durham Region's comments on the proposed Credit-Toronto-Central Lake Ontario (CTC) Source Protection Plan and be forwarded to the Credit-Toronto-Central Lake Ontario Source Protection Authority;
- c) THAT the Association of Municipalities of Ontario and the Province address and alleviate the financial impacts of source protection plan implementation on municipalities at the Memoranda of Understanding table prior to approval of the plans by the Province; and
- d) THAT a copy of Report No. 2012-J-30 and Attachment 1 be forwarded to the Minister of the Environment, the Minister of Agriculture, Food and Rural Affairs, the Ministry of the Environment-Source Protection Programs Branch, the Association of Municipalities of Ontario, the Region's conservation authorities, the Regions of Halton, Peel and York, and the cities of Toronto, Oshawa and Pickering, the towns of Ajax and Whitby, the Municipality of Clarington and the Townships of Scugog and Uxbridge for their information.
-

REPORT:**1. PURPOSE**

- 1.1 This report briefly summarizes the proposed CTC source protection plan (SPP) and provides the detailed comments prepared by Regional staff in response to the proposed source protection plan (Attachment 1) to be forwarded to the source protection authority.

2. BACKGROUND

- 2.1 In May 2012, Regional Council endorsed and submitted comments to the CTC SPC on its ***draft proposed*** source protection plan. (See Council Report No. 2012-J-13). Other public bodies with potential implementation roles also provided comments to the SPC at that time.
- 2.2 Based on the responses provided during the first consultation period, the SPC refined and revised the policies and released the ***proposed*** source protection plan on September 7, 2012. The Explanatory Document that accompanies the proposed source protection plan outlines the comments received during the consultation process and tracks the evolution of the policies in response to that input.
- 2.3 In Report No. 2012-J-13 to Joint Committee on April 12, 2012, Durham Region noted that the August 20, 2012 deadline for submission of the final source protection plan did not allow municipal councils on summer recess an opportunity to comment and recommended a 90 day extension. The MOE extended the deadline by 60 days.
- 2.4 In accordance with the CWA, the SPC released their revised plan for a second round of public review. The deadline for commenting is October 8th. **Staff seeks Joint Committee's authorization to forward the submission to the source protection authority before October 8th, following up with a final resolution from Regional Council after the October 10th Council meeting.**

- 2.5 Hard copies of the proposed source protection plan (219 pages) and Explanatory Document (445 pages) are available for public viewing in the Regional Clerk's Department or may be accessed electronically:
<http://www.ctcswp.ca/>.
- 2.6 The Region also prepared responses to the proposed source protection plans prepared by the Trent Conservation Coalition SPC and the South Georgian Bay Lake Simcoe SPC (see Report Nos. 2012-J-27 and 2012-J-31).
- 2.7 The CTC Assessment Report identifies 13 significant drinking water threats within the Uxville wellhead protection area in Durham Region, an area of approximately 1.2 square kilometres. Broken down by type of threat, these include:

Significant Drinking Water Threats

Threat # per O. Reg. 287/07	Type of Prescribed Threat	# significant drinking water threats
1	Waste disposal site	3
2	Sewage systems	6
15	Handling and storage of fuel	1
16	Handling and storage of DNAPLs	2
17	Handling and storage of organic solvents	1

- 2.8 The CTC Assessment Report also identifies that the wellhead protection area for the Whitchurch-Stouffville drinking water system in York Region extends into Durham Region. There are 25 significant drinking water threats in the portion of the WHPA lying within Durham. These threats relate to residential sewage systems, and handling and storage of fuel, ASMs, fertilizer and pesticides. **Management of these cross boundary issues will need to be negotiated with York Region.**

- 2.9 The CTC SPC also led the process undertaken by the Lake Ontario Collaborative project to identify significant drinking water threats to Lake Ontario based drinking water systems. The Collaborative modelled five scenarios based on real events from the past such as spills of chemicals, sewage and fuels. The significant threats affecting Durham intakes are:
- a tritium spill from a nuclear plant and;
 - a pipeline failure (that would spill fuel);
 - a disinfection interruption at a water pollution control plant; and
 - a sanitary trunk sewer failure.
- 2.10 No water quantity threats were identified in Durham Region portion of the source protection region.
- 2.11 The policies to address threats can rely on a range of regulatory and non-regulatory tools outlined in Chart 1 (see next page). Policy tools could be used alone or in combination to reduce significant risks to drinking water sources.
- 2.12 In total, the land area in Durham Region that will be affected by significant threat policies of all three source protection plans is less than 15 square kilometres. This includes approximately 120 parcels of land, most of which are in the jurisdictional areas of the Lake Simcoe, Kawartha and Ganaraska Conservation Authorities. Within the TRCA-CLOCA area, only the Uxville WHPA and part of the Whitchurch-Stouffville WHPA that extends into Durham will be affected.

Chart 1: Summary of Policy Tools Available to SPCs

	Tools	Explanation	
REGULATORY TOOLS	Prohibition (Section 57)	Prohibits activities from taking place	Part IV Powers Under the CWA
	Risk Management Plans (Section 58)	SPCs can require owners of facilities to develop and implement plans to assess and reduce risks to drinking water from their facilities	
	Restricted Land Uses (Section 59)	Administrative orders can restrict land use approvals, such as subdivisions and building permits, to reduce risks to drinking water	
	Prescribed Instruments	Provincial permits or approval documents issued for an activity in a vulnerable area can be amended to include requirements that help manage associated risks to the raw water supply. A policy could prohibit the issuance or revoke such an instrument	
	Land Use Planning Approaches	Municipal planning tools and processes are used to regulate future development to reduce risks to drinking water	
NON-REGULATORY TOOLS	Incentive Programs	Programs to encourage participation in actions to reduce risks to sources of drinking water	
	Education and Outreach	Programs to raise awareness of why and how drinking water sources should be protected	
	Other	Other tools may include: • Specify actions to be taken • Establish stewardship programs • Specify and promote best management practices • Establish pilot programs • Research	

3. OUTLINE OF PROPOSED CTC SOURCE PROTECTION PLAN

- 3.1 The CTC SPR has 67 land-based drinking water sources as well as 16 Lake Ontario based municipal drinking water systems across three source protection areas in the Greater Toronto Area. The SPR covers the south and west part of Durham that falls under the jurisdiction of the Central Lake Ontario and Toronto and Region conservation authorities. The proposed CTC source protection plan contains 129 policies, of which 15 deal with Lake Ontario threats. The plan is laid out in 12 chapters and 5 appendices listed below.

Chapter 1 What is Source Water Protection

Chapter 2 Source Protection Regions in Ontario

Chapter 3 Roles and Responsibilities

Chapter 4 Purpose and Objectives of the Source Protection Plan

Chapter 5 Consultation Process: Overview

Chapter 6 Drinking Water Vulnerability and Threats Evaluation

Chapter 7 Prescribed Threats

Chapter 8 Policy Development

Chapter 9 Range of Policy Tools Available

Chapter 10 The Policies

Chapter 11 List of Acronyms

Chapter 12 Glossary of Terms

Appendix A: Assessment Report (a large separate document that can be viewed as www.ctcswp.ca)

Appendix B: Applicable Legal Provisions of the Policies

Appendix C: Prescribed Instruments which apply

Appendix D: Policy Summary Matrix

Appendix E: Maps of Threat Areas where Policies Apply

3.2 Chapter 10 outlines general policies that apply to multiple threat activities and specific policies that apply to the various prescribed threats. Appendix E provides maps of each wellhead or intake zone that illustrate where the policies apply.

3.3 In accordance with the CWA, the CTC SPC has also prepared an **Explanatory Document** that outlines the intent of the policies and their evolution in response to inputs from working groups, the SPC, the MOE, other stakeholders and public consultations. Should the Minister amend the SPP, these changes also would be documented in the Explanatory Document. This document is useful in providing context for the policies.

4. **COMMENTS ON THE PROPOSED SOURCE PROTECTION PLAN**

4.1 The proposed source protection plan released by the CTC SPC on September 7, 2012 reflects many changes that Regional staff suggested during the spring 2012 consultation.

4.2 In this final round of consultation on the CTC SPP, the comments provided by Regional staff are generally consistent with the recommendations of our previous Report No. 2012-J-13 and include recommendations to:

- adopt definitions of existing and future threats that apply province-wide;
- use the Assessment Report as the inventory of existing threats;
- register the requirement for a risk management plan on title of Section 58 properties;
- exempt amendments made to municipal Official Plans to bring them into compliance with SPPs from appeal to the Ontario Municipal Board (OMB) or Environmental Review Tribunal (ERT);
- allow risk management officials to determine appropriate mitigation measures for inclusion in risk management plans;
- give municipalities the same flexibility to meet deadlines for implementation of significant threat policies as the Province;
- extend the Nutrient Management Act (NMA) regulations to cover all farms in the significant threat areas and expand the NMA scope to include all agriculture-related threats through farm risk management plans to be delivered by OMAFRA and enforced by MOE;

- prohibit existing and future application, handling and storage of fertilizer and pesticides in WHPA-A;
- prohibit future and phase out existing threats from DNAPLs and Organic Solvents with the goal of eliminating these threats;
- and
- urge the Province to provide the TSSA with the direction and resources necessary to assist in protection of drinking water sources.

Further, the Region supports the Lake Ontario policies as presented in the proposed SPP. **We urge the Province to invest in the studies and modelling required to better understand the hydrodynamic factors and threat activities affecting water quality in Lake Ontario which is the source of 95% of Durham Region's drinking water.**

- 4.3 The Region of Durham's comments on the proposed CTC Source Protection Plan are outlined in greater detail in Attachment 1.

5. **FINANCIAL IMPACT OF THE PROPOSED SPP**

- 5.1 The Region's concerns about financial impacts of SPP implementation also are summarized in Attachment 1 and include:

- omission from the SPP of any estimate or discussion of the overall cost of implementation;
- implementation roles refused by Provincial Ministries and agencies have downloaded to municipalities which will result in replication of these functions at the municipal level (i.e. NMPs);
- the Region will be handed a number of entirely new responsibilities upon approval of the SPPs which translate direct to increases in property taxes and user fees;
- the RMO function will be in place for three to five years before a municipality collects any offsetting risk management fees under Section 55;
- overhead costs to implement the SPP are largely unrelated to the incidence of threats and may outweigh the benefits;
- area municipalities, conservation authorities, residents, farms and business will all experience increased costs; and

- due to the spillover of benefits, funding of these activities should come from a broader base than municipal property taxes or user rates.
- 5.2 The Region funded one additional position in 2012 to support source protection and anticipates that additional staff may be needed in 2013 as SPPs are approved.
- 5.3 **Province should provide funding to municipalities to support start-up and downloaded costs of implementation of the source protection plans.**
- 5.4 In addition to municipal costs, residents located in significant threat areas may be faced with the costs to comply with SPP policies related to threats such as onsite sewage systems and household fuel tanks. Farms and businesses in significant threat areas will be directly affected by costs to develop risk management plans for practices such as the storage and use of fertilizers, pesticides, DNAPLs and solvents. **The Province should continue to offer grants and incentives under the Ontario Drinking Water Stewardship Program and other programs to assist property owners in addressing significant threats.**

6. NEXT STEPS

- 6.1 During the final public consultation process, comments on the proposed source protection plan are directed to the Source Protection Authority (SPA). All comments received by the SPA are to be forwarded, along with the proposed plan, to the Minister of Environment by October 22, 2012. For this reason, the formal response (which is summarized in this report) has been prepared as a separate submission to the Source Protection Authority (Attachment 1). **Staff seeks Regional Council endorsement of the submission as the Region's comments on the proposed CTC Source Protection Plan.**
- 6.2 In accordance with the CWA, the Minister must consider those additional comments during the approval process.

6.3 The options then available to the Minister are:

- appoint a hearing officer and consider the findings of the hearing officer before amending or approving the plan;
- approve the plan as submitted;
- request the Source Protection Authority to make amendments and resubmit the plan by a specified date;
- after resubmission, make further amendments to the plan if he/she considers it appropriate; and
- if the SPA fails to make the requested amendments in time, the Minister may amend the plan and approve it.

6.4 The CWA contains no deadline for approval of the SPPs. Most likely, approved SPPs will not be in place until mid-2013 at the earliest. The source protection plan is considered to be in effect on the date the approved plan is posted on the EBR by the Ministry of the Environment.

6.5 Implementation steps for some source protection policies are linked to the date of approval of the SPP, so the exact timelines for municipalities to achieve compliance are not yet known.

6.6 Regional staff will continue to track the progress of the CTC source protection plans through the approval stages and report to Council as needed.

7. CONCLUSION

7.1 This report summarizes the comments on the proposed CTC source protection policies in response to the consultation process from September 7, 2012 to October 8, 2012. Attached to the report is the Region's submission to the source protection authority conveying more detailed comments and recommendations for improvement to the CTC SPP.

R. J. Clapp, CA
Commissioner of Finance

R. J. Kyle, MD, MHSc, CCFP, FRCPC
Commissioner & Medical Officer of
Health

A. L. Georgieff, MCIP, RPP
Commissioner of Planning and Economic
Development

Clifford Curtis, P.Eng., MBA
Commissioner of Works

RECOMMENDED FOR PRESENTATION TO COMMITTEE

Garry H. Cubitt, MSW
Chief Administrative Officer

Attachment: 1. Region of Durham Comments on the Proposed CTC Source
Protection Plan

ACRONYMS USED IN THE REPORT

ASM = agricultural source material

CA = conservation authority

CTC = Credit Valley-Toronto and Region-Central Lake Ontario (a source protection region in southwest Durham)

CWA = Clean Water Act, 2006

DNAPL = Dense Non-aqueous Phase Liquids (a organic liquid which is relatively insoluble in water and heavier than water)

ERT = Environmental Review Tribunal

IPZ = intake protection zone

MOE= Ministry of Environment

NASM = non-agricultural source material

NMA = Nutrient Management Act

OBC = Ontario Building Code

OMB = Ontario Municipal Board

OMFRA= (Ontario) Ministry of Agriculture, Food and Rural Affairs

RMO = risk management official

RMP = risk management plan

SGBLS = South Georgian Bay Lake Simcoe (a source protection region in northwest Durham)

SPA = source protection authority (often equates to a conservation authority)

SPC= source protection committee

SPP= source protection plan

SPR= source protection region

TCC = Trent Conservation Coalition (a source protection region affecting east Durham)

TSSA = Technical Standards and Safety Authority

WHPA= wellhead protection area

WHPA – A = area within 100 m radius of the wellhead

WHPA – B = area within 2 year time of travel to the wellhead

Attachment 1: Submission to CTC SPA

October 4, 2012

Chair, Source Protection Authority
c/o Toronto and Region Conservation Authority
70 Canuck Avenue
Downsview, ON M3K 2C5
Email: sourcewater@trca.on.ca

Re: Region of Durham Comments on Proposed Credit-Toronto-Central Lake Ontario Source Protection Plan,

Durham Region commends the CTC Source Protection Committee for a tremendous effort in carrying out the source protection planning process and producing a very comprehensive assessment report and source protection plan. This has been an enormous and complicated task. We also greatly appreciate the professionalism, patience, diplomacy and responsiveness of the source protection authority staff over the past several years in supporting this work.

As a Region that supplies municipal drinking water from both groundwater and surface water sources, we appreciate the investment that Province has made in developing the Assessment Reports on a watershed basis, as well as the contribution to the Lake Ontario Collaborative research. Across the Province, we now have a much improved scientific understanding of our wellhead protection areas, intake protection zones and real and potential drinking water threats. This is a valuable tool for municipalities managing drinking water supplies.

While it was essential for the science to be done on a watershed basis, it is not as clear that creating and implementing a new layer of policy on a watershed basis will be an effective approach.

On the positive side, by conducting this exercise concurrently in 19 source protection regions, involving hundreds of conservation authority and municipal staff, councillors and community stakeholders, we now have a much deeper and widespread awareness of drinking water science and threats in Ontario. We also have improved the understanding of policy development in many communities.

That being said, as noted in the explanatory documents it seems that the "locally-driven" policy direction was often modified to satisfy the Ministry of the Environment (MOE) or other provincial ministries. The SPC approach was often declared out of

scope or would not be supported by the Province. At the end of the day, the MOE may, through their approval process, further "homogenize" and align the plans to improve their legal defensibility and consistency.

A more consistent approach would be easier and less costly for the Region to implement. The Region has been and remains concerned about the expense, replication of effort, and operational impacts of creating, implementing and enforcing three very complex source protection plans within Durham.

These observations on the SPP process and the attached comments on the proposed CTC Source Protection Plan constitute our submission to be forwarded to the Province with the SPP. Please be aware that this submission was reviewed by Joint Committee of Regional Council on September 27th but cannot be finalized until the October 10th meeting of Durham Regional Council. We appreciate the opportunity to comment and will notify you as soon as possible of Council's decision.

We also extend our thanks to the CTC Source Protection Committee, the staff and the various working groups for their dedicated work over the past several years.

Sincerely,

Commissioner of Works

REGION OF DURHAM COMMENTS ON THE PROPOSED CTC SOURCE PROTECTION PLAN

The Region of Durham offers the following comments and recommendations for improvements to the source protection plan (SPP). We have commented only on policies where a change or clarification is suggested or to note that a welcomed change has already been made.

The introductory sections of the proposed SPP are generally well-written, concise, and provide understandable explanations of the complex SPP process.

General Policies

Regional staff appreciates the increased use of general policies regarding issues such as incentives, research and trends in water quality which apply to many of the prescribed threats.

The addition of Figure 10-1 "How to read the Plan" (p.44) is very helpful in understanding the format used in the plan.

Definitions of existing and future

The definitions of existing and future are now much clearer and more usable than those suggested in the earlier draft plan. However, Durham disagrees with defining an **existing threat** as an activity that has occurred in the past ten years, except in the case of agricultural crop rotation and fallowing practices. While the ten-year timeframe may be common in planning contexts, with respect to source protection, it is counter-productive. A significant threat that was removed seven years ago (e.g. fertilizer storage, gas station) could be recreated tomorrow. It thwarts the key source protection objective of progressively reducing risk to the water source.

The only available inventory of existing threats is the Assessment Report. It would be a logical basis for defining an existing threat other than those created by crop rotation. If the ten year time frame is retained in the definition, the onus to prove that an activity existed in the past decade must be on the property owner or user.

Definitions of existing and future threats are the foundation for interpreting and applying the policies in source protection plans. It is essential that these definitions be clear, concise, consistent and legally-sound, since appeal decisions may hinge on them. Having different definitions across the three SPRs in Durham Region will create implementation challenges. The Region

REGION OF DURHAM COMMENTS ON THE PROPOSED CTC SOURCE PROTECTION PLAN

recommends that the Province adopt definitions of existing and future threats that apply province-wide.

Registration of the requirement for a risk management plan on title

The definition of existing threats allows for threat activities that occurred in the decade prior to SPP approval, but not currently being undertaken on a property, to be reinstituted. The definition also states that sale of property does not extinguish the "existing" status of a threat activity. Therefore, a new owner may purchase a property with a plan to continue or re-engage in the threat activity. To ensure continuity of risk management, we recommend that for properties with a Section 58 designation, the **requirement to establish a risk management plan** for threat activities on the property should be registered on the title of the property.

Land use planning policies

The Region is pleased to see that policies using land use planning tools have been restricted mainly to those threat activities that involve Planning Act triggers such as those relating to onsite sewage systems for new development. The use of land use planning policies where prescribed instruments are required is viewed by the Region as redundant (e.g. WST-5)

Given the inconsistencies in basic definitions, mapping and threat policies across the Durham, it may be very challenging to align official plan policies with the three SPPs. **The Region recommends that amendments made to municipal Official Plans to bring them into compliance with SPPs be exempt from appeal to the Ontario Municipal Board (OMB) or Environmental Review Tribunal (ERT);**

Timelines for implementation

Table 10-1 is a very helpful summary of the timelines. The indication of the timeline in the policy charts is another welcome improvement. The Region appreciates that the three source protection regions have worked to bring these policies in closer alignment. However, **municipalities should have the same flexibility for completing RMPs as the Province does for completing review of Prescribed Instruments.**

Content of risk management plans

Some policies that require Section 58 RMPs include details about minimum content of a risk management plan. Determination of acceptable risk mitigation measures should be

REGION OF DURHAM COMMENTS ON THE PROPOSED CTC SOURCE PROTECTION PLAN

left up to the Risk Management Official, based on MOE guidance documents, best practices, industry standards, and local hydrogeology.

Education and outreach policies

The Region is pleased to see policies that involve MOE and provincial agencies (e.g. FUEL 4, DNAP- 2) in developing and delivering education and outreach material in partnership with SPAs, municipalities and other organizations.

Agricultural threat policies

As noted in our previous submissions, the Region strongly disagrees with the application of Section 58 risk management plans to regulate significant threats related to agriculture. **Instead, the Province should extend the Nutrient Management Act (NMA) regulations to all farms in the significant threat areas as originally intended. Threats related to non-agricultural source materials (NASMs) and pesticides used on farms should also be included in the expanded regulation. In keeping with the Drummond report, the goal should be to establish a single integrated farm risk management plan that protects water and the environment and reduces the number of agencies regulating and inspecting farms.**

Farm risk management plans should be delivered by OMAFRA and enforced by MOE. These ministries already have NMA, NASM and pesticides standards, process and expertise in place. It makes no financial or regulatory sense to recreate functions that already exist at the Province, in dozens of municipalities. An integrated farm risk management plan is a sensible approach in order to reduce the number of contacts and paperwork for the farmer. It also matches responsibility and accountability to the agencies with the legislated mandate and the expertise to deliver the service.

Existing and future application of pesticides should be prohibited in WHPA-A. Further, to assist in reducing pesticide threats, the Region urges the Province to ask the Agrichemical Warehousing Standards Association to include wellhead protection areas and intake protection zones on their list of locations to be avoided for pesticide storage facilities.

DNAPLS and Solvents

Durham staff is pleased to see parallel policies for DNAPLs and solvents. However, we remain concerned that the definition of existing threats will allow for recurrence or

REGION OF DURHAM COMMENTS ON THE PROPOSED CTC SOURCE PROTECTION PLAN

expansion of the threat. Renewed use or increased storage of these chemicals should not be permitted where it would be a significant drinking water threat. Because it is almost impossible to rehabilitate a water system contaminated by these substances, the policy goal should be to phase out and eliminate such threats.

Fuel

Existing **home heating fuel tanks** are one of the most prevalent significant threats Ontario-wide and across Durham Region. For this reason, consistent policies and risk management approaches are very important. The CTC and SGBLS policies for existing fuel threats are now more closely aligned, basically exempting single family dwellings from risk management plan requirements. However, we note this approach is inconsistent with the fuel policies adopted by the TCC SPC which require risk management plans for all existing fuel threats.

We are very supportive of policy FUEL 4 which calls for a collaborative approach to protecting water sources from damage or contamination by fuels through education and outreach. **The Region urges the Province to provide the TSSA with the direction and resources necessary to assist in protection of drinking water sources.**

Policies for the Lake Ontario-based systems

Because 95% of Durham's drinking water comes from Lake Ontario, protecting the quality of the raw water is important to our Region and the Region supports the Lake Ontario policies. **The Province should invest in the studies and modelling required to understand the hydrodynamic factors and threat activities affecting water quality in Lake Ontario.** This work should be a priority for provincial research funding and potential action under the Great Lakes Protection Act.

FINANCIAL IMPLICATIONS OF SPP IMPLEMENTATION

The CTC Source Protection Plan does not include any estimate or discussion of the **overall cost of implementing the proposed plan.** The Explanatory Document indicates that relative costs of policy options for individual threats were considered as one criterion of feasibility by the SPC. However, there is no estimate of the cumulative costs to implement the complete package of policies. This is a significant gap in the planning process given that implementation is likely to begin next fiscal year (2013).

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When SPCs consulted Provincial ministries, such as OMAFRA, about taking on additional duties as part of SPP implementation (such as extending the NMA to farms in significant threat areas), they generally advised the SPCs that they have no spare resources for this purpose. Since the CWA compels municipalities to conform to SPPs, the clear alternative for the SPC is to assign the responsibility to the municipality or the SPA. Either of these delivery alternatives results in municipalities carrying the financial burden. Provincial expenditures may be reduced by shifting the activity to the municipal tax base but the result will be an unnecessary replication of provincial-style administrative and enforcement functions in dozens of municipalities across Ontario.

As an implementation body, the Region will be handed a number of new responsibilities upon approval of the SPPs. The Region will be responsible for negotiating and enforcing risk management plans to manage threat activities regulated under Part IV provisions of the Clean Water Act. This will be an entirely new line of business for the Region. The Region may also be involved in delivering the mandatory sewage system maintenance inspections required under the Ontario Building Code (OBC) if these are delegated to the Region by area municipalities.

Since most of the Region's water supply is Lake Ontario-based, Durham Region has relatively few significant threats compared to some other regions. The total area affected by proposed significant threat policies for all three SPRs is less than .6% of the Region's geography. However, many costs, such as those relating to start-up of the risk management function and conformity activities, are largely unrelated to the incidence of threats.

The anticipated costs to the Region are uncertain but will be significant based on the following requirements:

- prepare by-laws to govern the implementation Part IV responsibilities;
- prepare legal agreements with other municipalities regarding shared Part IV responsibilities for WHPAs that cross municipal boundaries or;
- establish and operate the risk management function;
- inspect properties to verify significant drinking water threats;
- create new information management systems;
- store annually increasing volumes of risk management office records for a

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minimum of 15 years;

- defend RMO decisions at the Environmental Review Tribunal;
- hire subject matter experts to review specialized or complex RMPs;
- carry out RMO orders for work to be done where risk management requirements have been contravened;
- review and amend the Regional Official Plan(ROP) to comply with three source protection plans;
- defend those amended ROP policies at the OMB;
- negotiate and implement new business processes to ensure coordination among planning departments, risk management officials, chief building officials, health department, etc;
- implement the mandatory onsite sewage system maintenance inspection program if delegated to the Region by the area municipalities;
- address municipal operational threats (e.g. emergency fuel storage at municipal wells);
- provide education, outreach and incentive programs;
- erect additional WHPA signs if required; and
- meet new requirements in Environment Compliance Approvals for Regional facilities as these documents are reviewed by the MOE for SPP compliance.

Municipalities have three revenue streams to cover the costs associated with the implementation of the SPPs:

- fees charged for risk management services (per CWA Section 55);
- water and sewer user rates; and
- general tax levy.

Development charges can only be used to fund capital costs related to growth.

Recovering the overhead costs related to the risk management function may be a very slow and uncertain process. The time lag between establishing the risk management function and the Region receiving any offsetting Section 55 fees may be considerable.

While the Region can begin to prepare for implementation on the basis of proposed SPPs, more exact plans and calculations may not be possible till the MOE issues approvals in mid-2013 or later.

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Area municipalities also will face increased costs. As the Principal Authority under the OBC, the new responsibility and costs for implementing the mandatory onsite sewage system maintenance inspections directly or through a contract lies with the area municipality, i.e. the Chief Building Official. Area municipalities may also be affected by new capital and operating requirements relating to stormwater management systems, snow storage and salt management plans. They will face various costs to bring municipal operations and municipal facilities that have wells in line with the SPPs.

The Region is also concerned about demands on conservation authorities (CAs) and the potential requests to the Region for additional funding to help support SPP implementation.

In addition to municipal costs, residents located in significant threat areas may be faced with the costs to comply with SPP policies related to threats such as onsite sewage systems and household fuel tanks. Farms and businesses in significant threat areas will be directly affected by costs to develop risk management plans for practices such as the storage and use of fertilizers, pesticides, DNAPLs and solvents. **The Province should continue to offer grants and incentives under the Ontario Drinking Water Stewardship Program and other programs to assist property owners in addressing significant threats as recommended in policy GEN-2.**

Policy GEN-3 recommending funding from the Province for research into drinking water issues is also supported as another mechanism to help alleviate some local implementation costs.

The costs and benefits of source water protection spill over into other jurisdictions and for this reason, support for these activities should come from a broader base than municipal property taxes or user rates. **The Province should be requested to provide funding to municipalities to support start-up and downloaded costs of implementation of the source protection plans.**

We hope this input is helpful and thank you for the opportunity to comment.