



AGENDA

Source Protection Committee Meeting No. SPC-010/2010
 Meeting No. 8
 Monte Carlo Inn Barrie Suites
 81 Hart Drive, Barrie, ON L4N 5M3
 Thursday October 21, 2010 – 1:00pm – 5:00pm

MEMBERS:

Lynn Dollin, Chair

Municipal

Herb Proudley
 Stan Wells
 David Marquis
 Clayton Cameron
 John Boucher
 Rick Newlove

Economic / Development

Colin Elliott
 Chris Galway
 Colin Nisbet
 David Ketcheson
 Gerry Brouwer
 David Ritchie
 John Hemsted

Public Sector

Dianne Corrigan
 Fred Ruf
 Larry Slomka
 Stephanie Hobbs
 Bob Duncanson
 Alex Millar
 Tom Kurtz

First Nations

Fred Jahn

Liaisons

Lake Simcoe Region Conservation Authority - Gayle Wood
 Simcoe Muskoka District Health Unit – Karen Wierzbicki/Ted Devine
 Ministry of the Environment (MOE) –Maeve McHugh

Staff

Don Goodyear
 Ben Longstaff

Susan Jagminas
 Katie Howson

Shelly Cuddy
 Angela Bishop, minutes

Guests

Wendy Kemp, Regional municipality of York
 Donna Bigelow, Ministry of the Environment

Regrets

Erin Mahoney

I. WELCOME & OPENING REMARKS

II. DECLARATION OF PECUNIARY INTEREST

III. APPROVAL OF THE AGENDA

(Pages 1-5)

RECOMMENDED: THAT the agenda for the, October 21, 2010, meeting of the Source Protection Committee be approved as presented.

IV. *ADOPTION OF MINUTES*

(a) Source Protection Committee *(Pages 6-11)*

Included is a copy of the minutes from the August 26, 2010, meeting of the Source Protection Committee (SPC).

RECOMMENDED: THAT the minutes of the August 26, 2010, meeting of the Source Protection Committee be approved as printed and circulated.

V. *ANNOUNCEMENTS*

(a) Activities of the Chair & Committee

VI. *DELEGATIONS*

VII. *PRESENTATIONS*

(a) Ministry of Environment Update

Briefing update from Maeve McHugh, Ministry of the Environment Liaison.

(b) First Nations Drinking Water Systems

Presentation from Donna Bigelow, Ministry of the Environment, regarding the inclusion of First Nations drinking water systems in the Source Protection process.

RECOMMENDED: THAT the presentation from Donna Bigelow, Ministry of the Environment back ground regarding inclusion of First Nations drinking water systems in the Source Protection process be received for information.

VIII. *DETERMINATION OF ITEMS REQUIRING SEPARATE DISCUSSION(Pages 2-5)*

IX. *ADOPTION OF ITEMS NOT REQUIRING SEPARATE DISCUSSION*

RECOMMENDED: THAT the recommendations respecting items not requiring separate discussion be approved, and staff be authorized to take all necessary actions to effect those recommendations.

X. *CONSIDERATION OF ITEMS REQUIRING SEPARATE DISCUSSION*

XI. OTHER BUSINESS

XII. CLOSED SESSION

XIII. ADJOURNMENT

AGENDA ITEMS

1. Correspondence

(Pages 12-62)

- (a) Ministry of the Environment communication, date August 31, 2010, to SPC Chairs and Project Managers, concerning "SPC Backgrounder: Existing Municipal Authorities and Land Use Planning".
- (b) Ministry of the Environment, Memorandum (ENV11171T-2010-228), dated October 6, 2010 to SPC Chairs and Project Managers, concerning "On-site sewage (Septic) systems – Changes to the Ontario Building Code, and what it means for Ontario's *Clean Water Act*".
- (c) Ministry of the Environment communication to SPC Chairs and Project Managers, dated October 7, 2010 concerning "Source Protection Planning Bulletin – Notice When Plan Preparation Begins"
- (d) Conservation Ontario, Electronic Source Protection Newsletter, dated September 15, 2010.
- (e) Correspondence Wayne Farrell, Trent Talbot River Property Owners Association, dated August 3, 2010. Response from City of Kawartha Lakes, dated August 31, 2010 and September 3, 2010, copied correspondence to Don Goodyear, LSRCA, concerning cumulative impact assessment quarries.
- (f) Correspondence from Chief Sharon Stinson Henry, Chippewas of Rama First Nation, dated September 10, and October 1, 2010, to SPC Chair Lynn Dollin, concerning Notice of Consultation and draft Assessment Report comments.
- (g) Correspondence from Municipality of Newmarket, dated September 21, 2010, to SPC Chair Lynn Dollin's attendance at presentation..
- (h) Correspondence from Township of Oro-Medonte, dated September 28, 2010, to SPC Chair Lynn Dollin, concerning Notice of Consultation – Deadline for Comments on Draft Assessment Report.
- (i) Correspondence from Chair Greg Sutcliffe, Severn Sound Source Protection Authority, dated September 14, 2010, on "Notice of consultation for draft proposed Assessment Reports".
- (j) Correspondence from Mr. Peter J. Trinkler, dated September 30, 2010, concerning receipt of Threat Letter, to Don Goodyear, Director Source Water Protection, and response to received letter by Don Goodyear, dated October 7, 2010.
- (k) Correspondence from Ted and Nancy Phelps, dated September 18 and September 28, 2010, concerning receipt of Notice of Significant Threat letter and correspondence from SPC Chair Lynn Dollin, dated September 24, and October 4 and October 6, 2010, in response to communications.

RECOMMENDED: THAT the correspondence listed in the October 21, 2010, agenda as Items 1 (a to k) be received for information.

2. Draft Proposed Assessment Report

(Pages 63-64)

Attached Staff Report No. SPC-10-2010-02 regarding comments received following public consultation process for the Draft Proposed Assessment Reports and associated revisions to the reports.

RECOMMENDED: **THAT Staff Report No. SPC-10-2010-02 be received for information, AND FURTHER THAT the Source Protection Committee provide direction to staff regarding the revised reports and the issuance of the three Proposed Assessment Reports for the second stage of public consultation.**

- 3. Working Group Requirements and Structure 2011** *(Pages 65-78)*
Attached Staff Report No. SPC-10-2010-3 summarizing the four working groups currently supporting the SPC.

RECOMMENDED: **THAT Staff Report No. SPC-10-2010-03 be received for information, AND FURTHER THAT the Source Protection Committee provide direction to staff regarding the composition and function of the various working groups.**

MINUTES

Source Protection Committee Meeting No. SPC-08/2010
Meeting No. 7
Monte Carlo Inn Barrie Suites
81 Hart Drive, Barrie, ON L4N 5M3
Thursday August 26, 2010 – 1:00pm – 5:00pm

MEMBERS:

Lynn Dollin, Chair

Municipal

Herb Proudley
Erin Mahoney
David Marquis
Clayton Cameron
John Boucher
Rick Newlove
Stan Wells

Economic / Development

Colin Elliott
Chris Galway
Colin Nisbet
David Ketcheson
Gerry Brouwer
David Ritchie
John Hemsted

Public Sector

Dianne Corrigan
Fred Ruf
Tom Kurtz
Stephanie Hobbs
Bob Duncanson
Alex Millar
Larry Slomka

First Nations

Fred Jahn

Liaisons

Severn Sound SPA – Keith Sherman
Simcoe Muskoka District Health Unit – Karen Wierzbicki
Ministry of the Environment (MOE) -Maeve McHugh

Staff

Don Goodyear
Ben Longstaff
Katie Howson
Shelly Cuddy
Susan Jagminas
Theresa Vien, minutes

Kelsey Cronk

Guests

Anne Guiot, Skelton Brumwell & Associates Inc
Lucy Burke, City of Kawartha Lakes
Elaine Simpson, Ontario Federation of Agriculture
Wayne Willson, Nottawasaga Valley SPA
Moniguesirois-Kelly, Public at Large

I. WELCOME & OPENING REMARKS

Chair Dollin welcomed everyone and noted 100% attendance by the members.

II. DECLARATION OF PECUNIARY INTEREST

None declared for the record of this meeting.

III. APPROVAL OF THE AGENDA

Moved by: Erin Mahoney

Seconded by: John Boucher

RESOLVED: **THAT the agenda for the, August 26, 2010, meeting of the Source Protection Committee be approved as presented.**

CARRIED BY CONSENSUS

IV. ADOPTION OF MINUTES

(a) Source Protection Committee

Included is a copy of the minutes from the July 22, 2010, meeting of the Source Protection Committee (SPC).

Page 2 – Action Item – ODA Training – complete (SPC members have attended)

Suggested changes:

Page 4 – Item (b) – Carried by Consensus – Opposed 1 (One) **should read** Carried by Consensus

Page 4 – Item (c) – Carried by Consensus – **change to** Carried by Consensus

Page 5 – Agenda Item 4 Identified – Carried by Consensus **change to** Opposed by 1.

Action 1:	A request is to be made to the province of Ontario requesting amendment to Staff Report No. SPC-07-2010-04. Removal of the maximum project amount of \$100,000, but maintain the maximum grant cap, within the “Guiding Principles for the Early Response – Ontario Drinking Water Stewardship Program.”
Responsibility:	Stewardship Staff in their Early Response Application

Moved by: David Marquis

Seconded by: Rick Newlove

RESOLVED : **THAT the minutes of the July 22, 2010, meeting of the Source Protection Committee be approved as printed and circulated.**

CARRIED BY CONSENSUS

(b) Technical Working Group

Included is a copy of the draft minutes from the August 10, 2010, Technical Working Group meeting.

Suggested changes:

Item #2 – paragraph 2 – change “omission” to “emission” (3rd line down on 2nd page).

The word “Resolved” should be changed to “Recommended” on items 2, 4, and 6

Item #10 – 3rd point – the word “remit” should be changed to “scope” and point #4 the last name of Kelsey should be changed from “Howson” to “Kronk”.

Moved by: John Hemsted

Seconded by: Rick Newlove

RESOLVED : THAT the draft minutes of August 10, 2010, meeting of the Technical Working Group be received for information and the recommendations contained within the minutes be approved.

CARRIED BY CONSENSUS

(c) Planning Working Group

Included is a copy of the minutes from the June 16, 2010, and the draft minutes from the August 18, 2010 meeting of the Planning Work Group (PWG).

Karen Wianecki, Planning Solutions Inc. and Chair of the SPC PWG has been requested to attend the next SPC meeting. Members are looking for direction in reference to policies, current legislation, etc.

Suggested changes:

Item #7 – change “September 29, 2010” to “September 23, 2010”

Moved by: Herb Proudley

Seconded by: Colin Nisbet

RESOLVED : THAT the draft minutes of August 10, 2010, meeting of the Technical Working Group be received for information and the recommendations contained within the minutes be approved.

CARRIED BY CONSENSUS

V. **ANNOUNCEMENTS**

(a) Activities of the Chair & Committee

- John Boucher noted that Chair Dollin made a presentation to Penetanguishene Council and it was well received by all.
- David Ritchie met with a local MPP and provided an update on source water and the Assessment Report.
- John Hemsted met with John FitzGibbon (University of Guelph) to gather his views on tools across the province in the agriculture sector.

- Chair Dollin attended an Association of Municipalities of Ontario Conference in Windsor and had discussions with others about the Water Opportunities Act.

VI. **DELEGATIONS**

None for the record of this meeting.

VII. **PRESENTATIONS**

(a) Draft Proposed Assessment Reports

Presenters: Ben Longstaff, Manager, Integrated Watershed Management and Shelly Cuddy, Hydrogeologist of the LSRCA.

Action 2:	Amendment to presentation to include total number of land parcels affected by percentage
Responsibility:	Ben Longstaff

The group agreed that the Assessment Reports (AR) are an impressive set of documents.

A motion from the Agricultural Sector of the group was read by John Hemsted to the group:

We, John Hemsted, David Ritchie and Colin Elliot, representing the agricultural sector would like the minutes to note that while we are in favour of the recommendation that the draft Assessment Report proceed to the first stage of consultation, we still have concerns that the Directors Technical Rules and guidance put forward by the province in relation to the animal units is over conservative.

The above-noted motion is solely intended for the minutes and not to be incorporated in the AR. One dissention was noted against the statement

(b) Communications Update

Presenter: Susan Jagminas, Acting Manager, Corporate Communications

The revised calendar of events was given to all and discussion incurred about the open houses:

- Rob Ogilvie will be the professional facilitator at each meeting
- FAQ's to be included in the packages for the public
- Staff with Laptops will be available to address property specific questions
- SPC members and staff available to address questions at a series of poster boards describing the program and reports
- PowerPoint presentation will be made with a Q & A period

- DVD's will be available for the public (including appendixes and summary)

VIII. DETERMINATION OF ITEMS REQUIRING SEPARATE DISCUSSION

Agenda Item 1, 2 and 3 identified

IX. ADOPTION OF ITEMS NOT REQUIRING SEPARATE DISCUSSION

Agenda Items 4 identified

Moved by: Erin Mahoney

Seconded by: Alex Millar

RESOLVED: **THAT the recommendations respecting items not requiring separate discussion be approved, and staff be authorized to take all necessary actions to effect those recommendations.**

CARRIED BY CONSENSUS

X. CONSIDERATION OF ITEMS REQUIRING SEPARATE DISCUSSION

Agenda Item 1 - Correspondence

Moved by: Clayton Cameron

Seconded by: Larry Slomka

RESOLVED: **THAT the correspondence listed in the August 26, 2010, agenda as Items 1 (a) be received for information.**

CARRIED BY CONSENSUS

Agenda Item 2 – Communications Update

Moved by: John Hemsted

Seconded by: Colin Elliott

RESOLVED: **THAT Staff Report No. SPC-08-2010-02 describing media and other communications activities surrounding Source Water Protection for the period ending July 31, 2010, be received for information.**

CARRIED BY CONSENSUS

Agenda Item 3 - Assessment Report

Moved by: Larry Slomka

Seconded by: Alex Millar

RESOLVED: **THAT Staff Report No. SPC-08-2010-03 be received for information AND FURTHER THAT the Source Protection Committee endorse the DRAFT SGBLS Region Assessment Reports as being at a standard suitable for proceeding with public consultation.**

CARRIED BY CONSENSUS

XI. OTHER BUSINESS

Chair Dollin proposed cancellation of the September 23, 2010 SPC meeting to enable members and staff sufficient time to receive comments arising from the AR public consultation

XII. CLOSED SESSION

None for the record of this meeting.

XIII. ADJOURNMENT

Motion to adjourn proposed by Herb Proudley at 3:45 p.m.

From: DesLauriers, Angelune (ENE) [Angelune.DesLauriers@ontario.ca]

Sent: August-31-10 5:37 PM

To: spcchair@sourcewaterinfo.on.ca; willj@kos.net; susanself@powergate.ca; tomf@uwindsor.ca; spcchair@hrca.on.ca; cjash@amtelecom.net; bhartley@union-securities.com; ghughes@persona.ca; janetstavinga@rogers.com; mneufeld@vaxxine.com; b_groves@sympatico.ca; mchristie@xieenvironmental.com; cousi4@sympatico.ca; mike.jerrie@hurontel.on.ca; subhash.verma@saultcollege.ca; Lynn Dollin; nelscarol@vianet.ca; bbedggood@uniserve.com; jthunt@eagle.ca; cworthe@conservationontario.ca; cbrown@abca.on.ca; robmcrae@cataraquieregion.on.ca; staylor@erca.org; mkeller@grandriver.ca; dbloomfield@hrca.on.ca; d.goodyear@lsrca.on.ca; jamies@lakeheadca.com; glenda.rodgers@lrc.on.ca; joe.evers@city.timmins.on.ca; bwright@npca.ca; Judy.Sewell@city.greatersudbury.on.ca; SueMiller@nbmca.on.ca; ktaylor@quinteconservation.ca; rpilon@nation.on.ca; brian.stratton@mrsourcewater.ca; sommer.robertson@mrsourcewater.ca; d.smith@waterprotection.ca; rbateman@ssmrca.ca; bevthorpe@sympatico.ca; bthorpe@trca.on.ca; taskerc@thamesriver.on.ca

Cc: Kinch, Pat (ENE); Fairman, Katie (ENE); Smith, Ian (ENE); Malcolmson, Heather (ENE); Heeney, Paul (ENE); Willson, Keith (ENE); Scanlon, Debbie (ENE); Ward, Melanie (ENE); Gardiner, Heather A. (ENE); Charley Worthe; Nicole Barbato; Duong, Tu Van (ENE); Gervais, Neil (ENE); Lavender, Wendy (ENE); McHugh, Maeve (ENE); McLellan, Teresa (ENE); Ross, Lisa (ENE); Westlake, John (ENE); Wooding, Mary (ENE)

Subject: SPC Backgrounder: Existing Municipal Authorities and Land Use Planning

Source Protection Committee Chairs and Project Managers:

We are pleased to provide you with a backgrounder on land use planning tools and other municipal authorities. The backgrounder outlines how municipalities may be using these in advance of source protection plans to address threats to municipal sources of drinking water. This information may play an important role in developing source protection plan policies that build on the good work being done by municipalities.

I understand that many committees have already been working with local municipalities on the technical studies, and will likely be working even more closely with municipal planners as they develop source protection plan policies. This backgrounder is intended to give committee members some information on what municipalities can do using existing authorities and land use planning, and how they may already be addressing source protection.

Please note that we will revise this document to include more examples and provide you with an update in the future. In the meantime, if you have any questions, please contact your Liaison Officer.

<<20100826SPP-BulletinMunicipalToolsAuthoritiesvFinal.pdf>>

Thanks,

Angelune Des Lauriers

Land Use Planner

Source Protection Programs Branch

416-212-4417

angelune.deslauriers@ontario.ca

Source Protection Committee Backgrounder: Existing Municipal Authorities and Land Use Planning



Date: August 2010

Introduction

This backgrounder provides source protection committee members with information on existing municipal planning tools under the Planning Act, authorities under the Municipal Act, 2001, the Building Code and the Environmental Assessment Act. It also outlines how municipalities may be using these in advance of source protection plans to address threats to municipal sources of drinking water. This information may play an important role in developing source protection plan policies that build on the good work being done by municipalities.

While every effort has been made to ensure the accuracy of the information in this document, it should not be relied on as a substitute for professional advice in connection with any particular matter. For more information about land use planning in your source protection area, please contact your local municipality.

Land Use Planning

The Planning Act

The Planning Act provides the legislative framework for land use planning in Ontario, and specifies how land uses may be controlled, and who may control them. The Planning Act requires the Minister, the council of a municipality, a local board, planning boards, and the Ontario Municipal Board (OMB) to have regard for matters of provincial interest in carrying out their responsibilities under the Act. The Planning Act lists matters of provincial interest (s. 2), including matters that may relate to drinking water source protection, for instance:

- *the protection of ecological systems, including natural areas, features and*

Protecting our environment.



functions; (s. 2 (a))

- *the conservation and management of natural resources and the mineral resource base; (s. 2 (c))*
- *the supply, efficient use and conservation of energy and water; (s. 2 (e))*
- *the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems; (s. 2 (f)) and*
- *the protection of public health and safety; (s. 2 (o)).*

Planning decisions directly affect people living in the community, and citizens are given the opportunity to examine planning proposals and provide their feedback before decisions are made. Like the source protection process, the legislative framework for land use planning includes requirements for public engagement in the process, ensuring the rights of local citizens to be notified about planning proposals, to give their views to their municipal council or planning board and, where permitted, to appeal decisions to the OMB.

The Provincial Policy Statement

The Provincial Policy Statement, 2005 (PPS, 2005) issued under Section 3 of the Planning Act, provides policy direction for the entire province on matters of provincial interest (s. 2, Planning Act) related to land use planning and development. The Planning Act requires that all decisions affecting land use planning matters "shall be consistent with" the PPS¹. The policies of the PPS, 2005 recognise the importance of protecting Ontario's water resources.

Among other policies, the PPS, 2005 directs that planning authorities shall protect, improve, or restore the quality and quantity of water by:

- using the watershed as the ecologically meaningful scale for planning;
- implementing necessary restrictions on development and site alteration to:
 - protect all municipal drinking water supplies and designated vulnerable areas;
 - protect, improve or restore vulnerable surface and ground water, sensitive surface and ground water features, and their hydrologic functions; and
- promoting efficient and sustainable use of water resources.

These policies complement the source water protection initiative and demonstrate the government's commitment to ensure that all Ontarians can enjoy clean, safe water.

¹ For information about the implementation standard of the PPS, please see "Applying the Provincial Policy Statement" Ontario Ministry of Municipal Affairs and Housing, 2005. ISBN 0-7794-8378-2

The PPS, 2005 must be read in its entirety with all relevant policies to be applied in each situation. This means that each municipality has an obligation to protect its drinking water sources in a manner that balances with other provincial policies.

Official Plan

The PPS is implemented at the municipal level through the official plan. The official plan describes the upper, lower or single-tier municipal council's vision for future community growth and development. The official plan establishes where and what types of development can occur in the community by designating areas for specific land use purposes, and the policies for these land uses. An official plan also addresses what environmental features are to be protected, which may now include HVAs and SGRAs as identified in assessment reports.

Amendments to an official plan are necessary from time to time because of new circumstances in the municipality, new information, or because of new direction in provincial policy. Council is required to revise its plan not less than every 5 years from the date the plan came into effect, in order to conform with a provincial plan, to have regard for matters of provincial interest, and other circumstances described in section 26 of the Planning Act.

An official plan may also include a section that describes how its policies will be carried out using a variety of planning tools provided under the Planning Act. Such tools include zoning by-laws (which may be granted on a temporary basis), establishing site plan control areas, or, alternatively, the use of development permits. The Planning Act also details tools for dividing land through plans of subdivision, condominium, and land severances. Other tools include designating community improvement areas, or temporarily restricting uses with temporary zoning by-laws, holding provisions, or interim control measures.

Zoning By-Law

A zoning by-law controls the use of land, and is used to implement official plan policies. It includes details on the restrictions, such as setbacks from lot lines, height, and density. It is through the zoning by-law that a municipality controls and restricts certain uses, such as development near wetlands or other vulnerable areas. Like the official plan, zoning by-laws can potentially be amended (changed) if a municipality, or proponent, wishes to use land differently. Zoning by-laws must conform to an approved official plan, and must be updated within 3 years of the approval of the Official Plan.

Site Plan Control

A municipality may establish areas that are subject to site plan control which apply to one or more land uses described in a zoning by-law. Site plan control addresses the layout of the site, including internal roads, building envelopes, locations for waste storage or other materials, and vegetation or landscaping. It can be used to establish the elevations or contours of land for the disposal of storm, surface, and waste water; and conveying easements for the construction, maintenance or improvement of watercourses, ditches and drainage works, etc. This may be particularly useful in areas where water quantity is a concern, so that the municipality can require additional drainage facilities for new development to maximize groundwater recharge and reduce urban runoff.

Other Planning Tools for Temporarily Restricting Uses

Some of the other tools provided by the Planning Act include interim control by-laws (section 38 of the Planning Act), temporary use (s. 39), and holding by-law provisions (s. 36).

- The interim control by-law has the effect of putting a freeze on some land uses in a zoning by-law for a site or area until more research can be done on the planning policies for the site or area. This tool is used to determine if the current policies and zoning are appropriate. The interim control by-law can be in effect for up to one year, with a maximum extension for another year. The Planning Act provides that an interim control by-law would remain in effect past the two-year period if the new zoning by-law which replaces the interim control by-law is appealed to the OMB. The new by-law may not become law until the OMB makes a decision. An interim control by-law cannot interfere with existing uses.
- The temporary use by-law allows a temporary use of land, buildings or structures, within a specific area and time period, for purposes that would otherwise be prohibited in the existing zoning by-law. The use must conform to the existing official plan and the temporary use by-law has a life span of three years and may be renewed for a maximum term of 3 years on expiration. This tool is generally used for purposes like wayside pits and quarries, parking, sales offices, and housing for temporary workers. For example, it is useful tool to allow a seasonal or temporary facility or activity on a property.
- The holding provision by-law allows for the zoning of land, buildings or structures in the future, subject to a holding symbol being removed by amendment to the by-law. Typically, the hold will be lifted when certain specified matters have been addressed, such as the provision of services.

Development Permit System

Instead of using zoning by-laws and site plan control, municipalities may elect to use the Development Permit System (DPS) for all or part of a municipality. The DPS combines three processes (zoning, site plan and minor variance) into one streamlined application and approval process. Among other benefits, the DPS provides the ability to better protect the environment through:

- allowing discretionary uses that may be allowed subject to criteria;
- the ability to impose a range of conditions including ones related to vegetation restoration, site alteration, and ongoing monitoring requirements. For example, municipalities can require on-going monitoring of the quality of groundwater or the function of natural heritage features through conditions attached to an approval; and
- a broader definition of "development" that includes site alteration and the removal of vegetation.

Municipalities can establish a DPS by adopting appropriate official plan policies and passing a development permit by-law. Check with the municipalities in your source protection region to determine whether they are using the DPS.

Subdivision and Land Severances

The division of land in a municipality happens through a plan of subdivision or a land severance (also known as consent). Generally, the land severance process is used for minor proposals, when a small number of lots are created; whereas plans of subdivision are used for larger developments requiring new roads and the extension of municipal services within a community. The approval authority reviews development proposals to make sure that they conform with the local official plan and are consistent with the PPS, that the development is appropriate for the community, that there are enough municipal services such as water and sewage available, and that other planning matters under S. 51(24) of the Planning Act are addressed. The approval authority may consult with persons or public bodies that have an interest in a proposed subdivision. Many municipalities already routinely consult the local source protection authority (i.e., conservation authority) responsible for the applicable assessment report and consider their comments in reviewing the application. The approval authority may approve a plan of subdivision or land severance with conditions, such as services being constructed to specific standards, based on available scientific and technical information from the assessment report.

Subdivision approval authorities may also grant approval to condominium proposals pursuant to the Condominium Act, 1998, which is a similar process to the subdivision process. Through the land severance and subdivision approval process, municipalities also commonly acquire lands for public purposes, such as parkland, road widenings, or lands which are unstable, such as valleylands, as a condition of approval.

Community Improvement Plans

Lower and single-tier municipalities can plan for community improvement for all or parts of their communities through development, redevelopment, maintenance and rehabilitation. They may acquire, hold, clear, lease and sell land in designated areas as well as direct and stimulate development through grant or loan programs (e.g., protection of municipal drinking water sources through the cleanup of contaminated lands). Upper-tier municipalities named in Ontario Regulation 221/07 can implement community improvement plans for affordable housing, infrastructure and transit corridors. Coordinated, inter-government planning may take place through lower and upper-tier participation in each other's grant or loan programs (e.g., brownfield redevelopment programs). Whether municipally driven or incentive driven, community improvement plan programs can be tailored to support broad municipal goals such as source water protection or the reuse and redevelopment of former industrial lands.

Example: How Land Use Planning tools apply to a property

<i>Land Use Planning Tool</i>	<i>Application</i>
Official Plan	Employment District permitting manufacturing, warehousing and storage
Zoning by-law	Light Industrial Permits: Service Shop, Wholesaling Use, Public Utility, Laboratory Production Studio, Warehouse, Self-storage Warehouse, Cold Storage, Food Warehouse, Abattoir, Bindery, Custom Workshop, Carpenter's Shop, Industrial Sales and Service Use, Building Supply Yards, Dry Cleaning or Laundry Plant, Printing Establishment, Furniture Manufacturing, Medical Equipment and Supplies Manufacturing, Service Shop, Vehicle Repair Shop
Site Plan Control	Existing site plan layout and agreement registered on title for the site which addresses the location of buildings, structures, parking and loading for the abattoir that is currently operating on the site
Development Permit System	

Building Code Act - Re-Inspection of Septic Systems

The Clean Water Act included amendments to the Building Code Act, 1992 to establish a province-wide legislative framework for sewage system maintenance inspections. These amendments allowed the Province (through the Building Code) to develop regulations to require inspections in prescribed areas and provide principal authorities (i.e. municipalities, health units and/or conservation authorities) the option to establish maintenance inspection programs in other parts of their jurisdiction. Amendments to the Building Code regulation developed by the Ministry of Municipal Affairs and Housing (MMAH) require mandatory on-site sewage maintenance inspections in specific parts² of wellhead protection areas and surface water intake protection zones delineated in approved assessment reports under the Clean Water Act.

Municipal Act – Municipal Programs and Services

Under the Municipal Act, 2001, municipalities have broad powers to pass by-laws concerning the economic, social and environmental well-being of the municipality and the health, safety and well-being of people as long as they do not conflict with provincial acts, plans, and regulations. The City of Toronto generally has the same broad powers under the City of Toronto Act, 2006. Municipalities may use these powers to address the quality or quantity of municipal drinking water sources.

Municipalities deliver local services such as transportation, waste management, public health and safety, as well as protection of the natural environment. Municipalities may also pass by-laws to address certain activities such as tree cutting, open air burning, sidewalk snow removal, etc. In order to protect a natural feature and its function, municipalities may also pass site alteration by-laws to restrict grading and the placement of fill. Property standards by-laws can assist a municipality in restoring or repairing a site and recovering the costs through taxation.

To address water quality and quantity, municipalities may also run education and incentive programs that encourage water conservation, such as water metering, downspout disconnection or rain barrel programs. Municipalities also have broad authority to charge user fees for services they are providing. Generally, these fees cannot exceed cost recovery.

Environmental Assessment Act – Municipal Class Environmental Assessment

The purpose of the Environmental Assessment Act (EAA) is to protect the environment by requiring a thorough review of the potential environmental effects

² The mandatory maintenance inspections will apply to areas where on-site sewage systems are considered a significant drinking water threat as per provincially approved assessment reports.

of a project before it proceeds. Generally, the EAA applies to public bodies, including municipalities, and some private sector proponents. The Municipal Class Environmental Assessment (EA) applies to projects that are commonly carried out by municipalities or by the private sector on behalf of municipalities, including roads, sewage works and water works. The Class EA sets out the EA process to be followed for these projects, and requires extensive public consultations. The foundation of the process is the consideration and comparison of the environmental effects of a range of alternatives.

When carrying out a study for a Class EA, there are many aspects municipalities must consider, including effects of proposed projects on the natural environment and water. When looking at the impact on water, the study would consider water quality impacts, disruption of natural processes that may cause flooding, and impacts on aquatic habitat. As they proceed through this assessment, municipalities look at the scientific and technical information available, which can include local assessment reports, the identification of vulnerable areas and an assessment of local threats to municipal sources of drinking water. The Class EA requires a municipality to take into account the potential impacts a project may have on the environment, including on these sources. Municipalities might also consider whether a proposed project could create or worsen threats, to help prevent and minimize risks to drinking water supplies.

Moving Forward

Source protection planning looks at water resources on a watershed basis, while most land use planning decisions are made at the municipal scale. Municipalities have many tools available to them to address source protection; however, land use planning does not generally address the activities and processes associated with a land use. When new policies and rules are introduced that affect a municipality's land use planning controls, the municipality can only apply them going forward to new land uses and planning applications. They cannot be applied retroactively to existing development that complied with the land use controls in effect at the time they were established.

Activities affecting sources of drinking water currently occurring on the land may be controlled by other provincial regulations, and some will have to be addressed through other tools available under the Clean Water Act.

Summary

Municipalities have been involved in source protection planning from the beginning and they will continue to have a strong role in developing policy and implementing source protection plans locally. Municipalities are represented on conservation and source protection authority boards and in source protection committees. They are already responsible for the delivery of municipal drinking

water and land use planning, and the source protection planning process builds on this work.

Source protection planning looks at water resources on a watershed basis, while most land use planning decisions are made at the municipal scale. Ontario's Provincial Policy Statement, 2005 directs planning authorities to use the watershed as the ecologically meaningful scale for planning and provides clear policy direction to promote a clean and healthy environment. To support this, source protection plans will provide decision makers with a watershed perspective.

The tools and authorities outlined in this bulletin, combined with the scientific and technical information developed through the source protection process or through local studies, are currently used by municipalities to help make land use planning and policy decisions that protect their sources of drinking water.

Several municipalities have already begun protecting the vulnerable areas identified in local assessment reports by:

- Considering assessment report science in land use planning decisions, in order to protect municipal drinking water supplies and designated vulnerable areas
- Carrying out re-inspection programs for septic systems already in place, or developing the framework to implement the new regulatory requirements for inspections through the recent amendments to the Building Code
- Using powers under the Municipal Act to create programs and deliver services
- Considering the impacts on sources of drinking water when making decisions on projects that are subject to the Environmental Assessment Act

For More Information

Ministry of the Environment
Source Protection Programs Branch
Web Page: ontario.ca/cleanwater

Ministry of Municipal Affairs and Housing
Web Page: ontario.ca/mah

Association of Municipalities of Ontario (AMO)
Web Page: amo.on.ca

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ENV1117IT-2010-228

October 6, 2010

MEMORANDUM

TO: Source Protection Committee Chairs
Source Protection Project Managers

FROM: Ian Smith, Director
Source Protection Programs Branch

RE: **On-site sewage (septic) systems – Changes to the Ontario Building Code, and what it means for Ontario's *Clean Water Act***

The provincial government recently passed two regulations that have an impact on on-site sewage (septic) systems. First, Ontario Regulation 287/07 (O.Reg. 287/07) under the *Clean Water Act, 2006* was amended to set out the requirements of a source protection plan to address threats to drinking water. Second, O.Reg. 350/06 under the *Building Code Act, 1992* was amended to set out the requirements for septic system maintenance and inspection programs. The purpose of this memo is to clarify these requirements and to address the questions and concerns of source protection committees about the Building Code changes and the *Clean Water Act, 2006*. It also includes source protection plan policy considerations related to this drinking water threat. Additional policy development support will continue to be provided to committees subsequent to this memorandum.

Ontario Regulation 287/07 (General) under the *Clean Water Act*

The *Clean Water Act* and this regulation set out the requirements for the content of a source protection plan and enable tools to address threats to drinking water. However, the regulation limits the tools available for policies that address septic systems. Initially, there was some confusion that this limit on the tools available meant that septic systems had been removed from the list of prescribed drinking water threats. The list of prescribed drinking water threats for the purpose of the *Clean Water Act, 2006* are set out in Section 1.1 of O.Reg. 287/07 and the recent amendments to this regulation did not change the list of prescribed threats. Sewage, including septic systems, remains a

prescribed threat. Where sewage systems are identified as significant drinking water threats in the local assessment report, writing policies in the source protection plan to address these threats is mandatory.

The recent amendments to O. Reg. 287/07 state that the tools enabled under Part IV of the *Clean Water Act, 2006* may not be applied to threats related to sewage and waste facilities (section 19.4). This means that source protection committees can not include policies in their source protection plans that rely on prohibition (under section 57 of the Act), risk management plans (s. 58) or restricted land uses (s. 59) to address these threats. They must still set out policies as set out later in this memo, using other tools that are available.

Ontario Regulation 350/06 (Building Code) – under the Building Code Act

Septic systems continue to be subject to the requirements of the Building Code. The recent amendments to the Building Code provide tools to address septic systems as a threat to drinking water. Septic systems in designated areas (described below) are now required to be inspected, maintained, and replaced or upgraded where necessary, to ensure they continue to protect drinking water. The Building Code regulation was also amended to support the implementation of the Lake Simcoe Protection Plan. The regulation establishes mandatory on-site sewage system maintenance inspection programs to be administered by principal authorities¹ in designated areas. The regulation also governs discretionary maintenance inspection programs that principal authorities may establish in non-designated areas.

Mandatory Septic Inspection Program

For the *Clean Water Act, 2006*, the mandatory inspection program will be required for designated areas. Designated areas are those areas where septic systems are, or would be, a significant drinking water threat as identified in approved assessment reports. Septic systems can only be a significant drinking water threat in certain parts of wellhead protection areas and intake protection zones. These are vulnerable areas identified near groundwater wells or surface water intakes that are subject to the *Clean Water Act, 2006* (mostly municipal drinking water systems). Source protection plans must address all significant drinking water threats, including septic systems. Most of the septic inspection provisions of O. Reg. 350/06 come into force on January 1, 2011. The effective date for inspections required under the *Clean Water Act, 2006* will depend on the approval date of the local assessment report. Inspections must be completed within five years of the approval of the assessment report.

For Lake Simcoe, mandatory inspections will also be required in designated areas. The designated areas are initially certain areas located within 100 metres of the Lake Simcoe shoreline, eventually extending to the balance of land located within 100 metres of the Lake Simcoe shoreline, and to land located within 100 metres of other lakes and permanent streams in the Lake Simcoe watershed. For the Lake Simcoe areas, there

¹Principal authorities as defined in section 1(1) of the *Building Code Act, 1992*, include: municipalities, planning boards, local health unit, a conservation authority, or the Crown.

are different effective dates for different areas, with some areas having effective dates as late as January 1, 2016.

In the designated areas where inspections are mandatory, each on-site sewage system will be inspected once every five years. Systems will be inspected to ensure they are functioning properly. If the inspection shows that the system is failing, the Building Code provides the authority to require upgrades or replacements. The Ministry of Municipal Affairs and Housing has been invited to speak in more detail about the septic inspection program at an upcoming meeting of the Chairs.

Discretionary Septic Inspection Program

Amendments to the Building Code also provide principal authorities the discretion to establish maintenance inspection programs for on-site sewage systems outside of the areas designated through the *Clean Water Act* or the Lake Simcoe Protection Plan. Details of the discretionary (optional) maintenance inspection programs, including the scope of application or the frequency of inspections, are not prescribed in the regulation. Principal authorities will have the flexibility to determine these aspects of the program themselves.

Implementation and Enforcement

Both the mandatory and discretionary programs would be enforced by principal authorities under the Building Code. The enforcement of the maintenance and inspection programs will be fully funded by the principal authority responsible for the designated areas. However, enforcement bodies may charge fees to recover the costs of the inspection programs.

Policy Options for Source Protection Plans under the Clean Water Act

When developing source protection plan policies, source protection committees must ensure they include policies that address all **areas** where a specific drinking water threat could be significant. They will first decide whether to manage or prohibit a specific drinking water threat, and may make different choices to reflect areas where the threat exists today versus where it would be significant if established in the future. There are a number of policy options to address drinking water threats associated with septic systems.

Specify Actions

In the areas where septic systems are significant threats, or would be significant threats if established in the future, source protection plan policies could refer to and support the mandatory on-site sewage system maintenance inspection programs that will be required under the Building Code regulation and implemented by principal authorities.

Land Use Planning Approaches

Policies that rely on land use planning approaches under the *Planning Act* can be used to address future occurrences of this activity, in areas where septic systems would be significant drinking water threats. *Planning Act* restrictions and permissions apply to land uses, buildings, and structures, regardless of ownership; therefore, these controls

bind future owners, unless an amendment is approved. Many municipalities already address land uses around sources of drinking water.

Where septic systems would be a significant threat if established in the future, a committee could write a policy that directs the municipality to: require specific setbacks or separation distances from municipal intakes and wellheads, ensure that lot sizes are sufficient to meet servicing needs over the long term, and/or prohibit future septic systems in designated areas².

The policy may also include reference to how it would be implemented by the municipality through the *Planning Act*, such as directing the municipality to identify specific areas that would be subject site plan control (section 41 of the *Planning Act*). Site plan control allows a municipality to address the layout of a site when new uses or structures are being established. This gives the municipality more control over the location of any future septic systems. This approach could be used to determine the location of buildings, structures (including septic systems) and other uses in areas where this threat is significant, moderate or low. A site plan would delineate areas where future septic systems would be permitted. These permissions would be registered on the land title.

Incentive, Education and Outreach Programs

Many municipalities, in cooperation with local health units and conservation authorities, have already developed educational materials explaining the benefits of a properly functioning septic system and regular system maintenance, including pumping out. Committees may wish to discuss the possibility of drafting policies to direct responsible groups to expand these existing programs, to focus existing incentive programs in vulnerable areas, or suggest other strategies for reaching out to homeowners with septic systems.

Monitoring

The source protection plan must also include monitoring policies that track over time the drinking water threat and the policies that address it.

For More Information

The Ministry of Municipal Affairs and Housing, who is responsible for the administration of the Building Code, have provided some information documents on the recent amendments:

² After a source protection plan is approved, municipalities could conform to these policies by implementing them through the suite of planning tools available under the *Planning Act*; including official plan policies, zoning by-laws, site plan controls, or the development permit system.

News Release: <http://www.obc.mah.gov.on.ca/Page3196.aspx>
Backgrounder: <http://www.obc.mah.gov.on.ca/Page3197.aspx>
Building Code Regulation: http://www.e-laws.gov.on.ca/html/source/regs/english/2010/elaws_src_regs_r10315_e.htm
Questions and Answers: <http://www.obc.mah.gov.on.ca/Page3207.aspx>

A handwritten signature in black ink, appearing to read 'Ian Smith', with a long horizontal flourish extending to the right.

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