

Appendix A.3 Explanatory Document Correspondence from Implementing Bodies and Public

From: Bill Jones <billjones.nbp@eastlink.ca>
Sent: Monday, March 09, 2015 2:48 PM
To: Emily Vandermeulen; 'Donna Hardman'; 'Angie Cathrae, Clerk Administrator'; 'Tom Gray'
Cc: David Ellingwood
Subject: RE: EBA comments

Hi Emily, we are aware of the proposed inclusion of intakes to SWP, as Northern Bruce Peninsula has been attending SWP meetings regularly for years and was aware of the intake issue months ago. Essentially, the impacts pertain to fuel storage and we are able to accommodate the proposed intake regulations with little impact, as long as the existing fuel storage remains at our current capacity and does not become a prohibited activity.

I would however, still be willing to attend any meeting on this issue.

Regards,

Bill Jones, CAO

Municipality of Northern Bruce Peninsula
56 Lindsay Road 5
RR#2
Lion's Head, On
N0H 1W0
Phone 519-793-3522 ext. 225
Fax 519-793-3823
Billjones.nbp@eastlink.ca

From: Emily Vandermeulen [<mailto:e.vandermeulen@waterprotection.ca>]
Sent: March-09-15 1:41 PM
To: 'billjones.nbp@eastlink.ca'; Donna Hardman; Angie Cathrae, Clerk Administrator; Tom Gray
Cc: David Ellingwood
Subject: EBA comments

Good afternoon,

Our commenting period is up and we hadn't heard anything from your municipalities regarding our new EBA delineations or the resulting significant drinking water threats. Did you have any questions or concerns that need to be addressed? We are meeting with other municipalities to discuss the science and its application to the municipal intakes and we were wondering if you also wanted to meet with us or if you are comfortable with the delineations as they are.

Please advise.

Thanks,



Emily Vandermeulen, B.A., GIS A.S.
Program Supervisor



Drinking Water Source Protection
c/o Grey Sauble Conservation Authority
237897 Inglis Falls Road, RR 4
Owen Sound, Ontario, N4K 5N6
Tel 519-470-3000 x 105
1-877-470-3001
Fax 519-470-3005

<http://www.waterprotection.ca>

e.vandermeulen@waterprotection.ca

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MEMORANDUM

TO: Michael Traynor, Chair, Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Committee

David Ellingwood, Program Manager, Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Region

FROM: Kyle Davis, Risk Management Official, Wellington County municipalities

DATE: March 6, 2015

SUBJECT: Comments on Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Region *Updated Proposed Source Protection Plan: Saugeen Valley, Grey Sauble and Northern Bruce Peninsula Source Protection Areas* dated February 3, 2015

The purpose of this memorandum is to provide staff comments regarding the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Region document entitled: *Updated Proposed Source Protection Plan: Saugeen Valley, Grey Sauble and Northern Bruce Peninsula Source Protection Areas* dated February 3, 2015 (Updated Proposed Plan). The public comment period closes on March 6, 2015 at 4:30 pm.

This memorandum was written in consultation with staff from the Town of Minto, Township of Wellington North and County of Wellington.

Source Protection Implementation – Wellington County

Source protection implementation for the municipalities within Wellington County is coordinated by the Risk Management Official (RMO), who represents all seven local municipalities within Wellington County (Wellington County municipalities) including the Town of Minto and Township of Wellington North. Implementation is completed in close collaboration with the local municipal and County staff.

The *Clean Water Act* (2006) provides the framework for the development and implementation of watershed-based Source Protection Plans. The Source Protection Plans identify the risks to municipal drinking water sources and establishes actions and policies to protect current and future sources of drinking water. The policies apply within Wellhead Protection Areas (WHPA) and Intake Protection Zones (IPZ) established around municipal wells or intakes. There are five (5) Source Protection Plans applicable to Wellington County. Two plans (Saugeen and Maitland) are applicable to the Town of Minto and three plans (Saugeen, Maitland and Grand River) apply to the Township of Wellington North and this memorandum provides comment on the Updated Proposed Plan for the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Region.

Comments

Upon reviewing the Updated Proposed Plan, the Wellington County municipalities' respectfully submit the following comments for the Source Protection Committee (SPC)'s consideration. Please note, where applicable, the policy reference number has been noted (ie TP-02) along with a brief description of the purpose of that policy. The comments are generally presented in order of the policies within the Updated Proposed Plan.

1. General comment regarding timing – We note that many policies have three year implementation timelines for municipalities. We would respectfully request the SPC to reconsider the implementation timeline of three years and instead consider five years to enact. There are many requirements that will be required in the first few years after the source protection plans become effective. Being municipalities with multiple source plans needing implementation, the timelines are often different and consistency would aid our efforts. We are requesting five years as this matches up with many of our timelines from our source protection plans for various activities (RMPs, Official Plan updates etc.). We note that policy G-02 - Official Plan update is already set for five years, we are appreciative of this timeline. By setting a consistent five year timeline, it allows our municipalities to decide on the timing of our implementation and set our own priorities related to work load. We have made this comment under certain policies below but please consider this comment to apply to all timing in policies where the implementation timing is less than five years.

Please note that only the Maitland plan has a three year timeline for RMP implementation, our remaining plans have either five years (CTC and Halton-Hamilton) or discretion of the RMO (Grand River). CTC does have a requirement to confirm RMP locations within one year.

2. General comment regarding level of detail in Threat policies – We note the level of detail that the Source Protection Committee has chosen to place in the threat policy text as it relates to the Ministry of the Environment and Climate Change's (MOECC) Table of Drinking Water Threats. We note that if the MOECC choses to change the Table of Drinking Water Threats in the future that it will then necessitate changes to the Source Protection Plan. Given that the Table of Drinking Water Threats requires a lower level of approval (ie senior MOECC staff) then the Source Protection Plan (Minister approval), a change to the Table of Drinking Water Threats could occur more quickly than changes to the Source Protection Plans. We respectfully suggest that this could be resolved by using wording such as "where the activity is significant". This then refers the reader to the Table of Drinking Water Threats and allows for changes to that document without needing changes to the Source Protection Plan.
3. General Comments Relating to Risk Management Plan Policies – It is noted that often the SPC has chosen to use the wording "a RMP shall include". Our municipalities are supportive of providing guidance to the content of RMPs, however, respectfully request

that the SPC consider using wording such as “a RMP should include” or the use of “and / or” in the requirement listing. This allows site by site flexibility that will likely be needed as our municipalities begin to implement the RMP policies. A rigid list of mandatory requirements, especially where it is detailed such as policy 15-02, will lead to implementation challenges. As we have previously raised in our May 11, 2012 correspondence and at Planning Officials Working Groups, the RMP policies continue to focus too much on “how to” rather than simply stating objectives and leaving flexibility to plan implementers.

4. General Comment regarding Prohibition and RMP Approaches – We note that there are differences between policy approaches for some threat activities. For example, commercial fertilizer storage and hazardous waste (not requiring provincial approval) uses an RMP approach for both existing and future activities while organic solvents, pesticide storage, fuel and DNAPLs use a RMP approach for existing uses and a prohibition approach for future and expansion of existing. Our municipalities would respectfully request that the SPC consider using RMP approaches consistently for, at a minimum, expansion of existing activities and existing activities. Our municipalities would also support the use of RMP approaches for the above future activities instead of a prohibition approach.
5. Policy G-01 - s. 59 Restricted Land Uses – Our interpretation of G-01 is that all land uses including solely residential land uses are included in the RMO screening requirements. Given the urban nature of our wellhead protection areas, our municipalities are concerned that screening of residential properties is unnecessary given that many of our residential areas are serviced by natural gas and municipal sewers so the bulk of residential permits will not engage in significant threat activities. We continue to see very little reason why residential land owners should be subjected to anything more than education and outreach. Please note that, except for the Maitland plan, our other three Source Protection Plans include a residential exemption to the screening under s. 59. Consistency between our source protection plans will assist our implementation efforts. Additionally, the work load associated with the review of residential applications that, in most cases pose little threat to the municipal drinking water supply, will be significant. Given limited staff resources, our preference would be to focus staff resources on the land uses (i.e. industrial, commercial, mixed use) that have the greatest potential to impact municipal drinking water. We would note that provincial and County policy directs growth to urban centres and we anticipate that residential intensification in our communities will continue.

We have previously raised this concern in our May 11, 2012 comments to Mr. Don Smith. We respectfully request that the SPC consider including a residential exemption to the screening requirements under Section 59.

6. Policy 01-01 and 01-02 – Risk Management Plan (RMP) approach for hazardous and liquid industrial waste and p,q,r,s,t,u wastes. This policy has been rewritten from a prohibition approach to an RMP approach. We are supportive of this change.

Regarding RMP timelines, we would respectfully request the SPC to reconsider the implementation timeline of three years and instead consider five years to enact. Please

note that only the Maitland plan has a three year timeline for RMP implementation, our remaining plans have either five years (CTC and Halton-Hamilton) or discretion of the RMO (Grand River). CTC does have a requirement to confirm RMP locations within one year.

7. Policy 02-01 - Sewer Connection Bylaw and General Comment Regarding Bylaw policies. Our municipalities have sewer lines within vulnerable areas as defined by the policy. However, our analysis of existing septic systems indicate that the existing septic serviced properties would be exempted from connection through the exemptions listed in 1 a through d of the policy. Given this, we would respectfully request an interpretation from the SPC on whether the policy would still apply to our municipalities. We would be happy to provide the results of our analysis if needed.

If the policy does apply to our municipalities, we would respectfully request the SPC to reconsider the implementation timeline of one year to initiate the bylaw process and two years to enact the bylaw and instead implement three years to initiate and five years to enact. Our municipalities are opposed to bylaw policies being a mandatory requirement of a Source Protection Plan. Our preference would be that the decision regarding bylaws be at the discretion of our respective Councils and the bylaw policies in the Updated Proposed Plan be discretionary. We would also note that in the Township of Wellington North, bylaw policies are not a required policy in the Grand River Plan. This results in bylaws being required for Mount Forest but not Arthur. This raises implementation challenges.

8. Policy 02-03 – Septic Maintenance Inspection Program. Please note that the Building Code reference appears incorrect and should be updated to reflect the current Building Code legislation. We had previously raised that an existing holding tank should be allowed to be repaired or replaced if it is the only option available to the landowner in our May 11, 2012 comments.
9. Policy 02-04 – Sewer Requirement for New Lots – Based on our analysis, this policy seems to have limited applicability for our municipalities. However, please consider that sanitary servicing is not always technically feasible (for multiple reasons) and this policy would therefore prohibit new lots in certain locations.
10. Policy 02-08 – Sewer Maintenance – As the policy is currently worded, it does not differentiate between sanitary sewer mains and connection laterals. Our interpretation is that this policy applies to sewer mains. Due to their smaller diameter, connection laterals can be difficult to inspect and are often on private properties (and therefore not captured by this policy based on the wording “municipal sewage lines”). Short and long term funding of the inspections is also a concern as the current source water related funding (ie SPMIF) expires shortly and this work type are ineligible activities under that funding. It is noted that the SPC has written policy G-11 for the province to consider implementation assistance for municipalities. We are supportive of policy G-11 and are appreciative of its inclusion.

11. Policy 02-12 – Infiltration Prevention – Our only comment would be similar to our comment under Policy 02-08 regarding funding and our general comment above regarding timing (three years versus five years).
12. Policy 02-13 – Design Principles for New Development – Our municipalities would respectfully note that Zoning By-laws are likely not the appropriate place to establish design principles for stormwater management facilities. We would suggest municipal design standard documents are a more appropriate place to have regard to certain design principles.

In regards to updating the Official Plan, please note that this policy is in conflict with certain policies within the CTC Source Protection plan for water quantity risk areas where the CTC Source Protection Committee is promoting low impact development guidelines that encourage infiltration to groundwater. This conflict between the Saugeen and CTC Plans will cause our municipalities' difficulties in implementing Official Plan updates that reflect both Source Protection Plans.

As previously raised in our May 11, 2012 comments, we are not convinced that an official plan and zoning bylaw can prevent infiltration based storm water management and we are also not convinced such a prohibition would be wise.

13. Policy 15-01 – Prohibition of Certain Fuel Facilities – We recognize the SPC's desire to prohibit the establishment of new fuel facilities where significant. Our municipalities are concerned regarding the prohibition of expansion of an existing facility. Although there is an exemption for facilities' capacity documented in an approved Risk Management Plan, the municipalities still feel that prohibition of expansion of an existing facility is an unnecessary restriction.
14. Policy 15-02 – RMP for Small Fuel Facilities – This policy is aimed at home heating oil threats. Given that the owners will be residential land owners, the level of detail that is required (shall) in the RMP appears very detailed and restrictive to land owners. We note that the RMP requirements do not contain an "and" or "or" in the list of requirements 1 to 6. Therefore, our interpretation is that all requirements will apply to all homes. Based on this, we respectfully request that the SPC consider providing more flexibility through either adding "and / or" in the list of requirements 1 through 6 or changing shall to should at the beginning of the policy. Additionally, policy 15-02 provides a more detailed list of requirements than policy 15-03 despite policy 15-03 applying to larger quantities of fuel.

Additionally, clarification should be provided regarding sub section b) "the tank and any supply lines to not be in direct contact with the ground". We understand that the intent of this sub section is the body of the tank and supply lines are not to be in contact with the ground, however, as worded it appears to include the tank support structure (ie legs of the tank).

15. Policy 16-01 – Prohibition of future DNAPL use in WHPA A, B, C (vulnerability score = 2 or greater). Specific chemicals are defined as DNAPLs including chlorinated solvents (i.e. tetrachloroethylene, trichloroethylene, vinyl chloride) and poly aromatic hydrocarbons. Poly aromatic hydrocarbons are a broad range of chemicals that are components of many common commercial and industrial products including asphalt cold mix and driveway sealers. Chlorinated solvents are also contained in a large range of commercial and industrial products including metal degreasers, brake cleaners, dry cleaning fluids, craft products etc. DNAPLs may be present in small to large quantities at a variety of commercial or industrial businesses. Additionally, the potential to impact groundwater varies dramatically between the different DNAPL chemicals. The chlorinated solvents tend to be present in liquid products (ie degreasing solvents, dry cleaning fluids). The poly aromatic hydrocarbons tend to be present in semi-liquid products (i.e. asphalt cold mix, driveway sealers).

The policy wording prohibits all future DNAPL use in WHPA A, B and C and does not distinguish between the DNAPL chemicals or the quantities stored or handled. The effect of the policy as currently written, would be to prohibit all future DNAPL storage or handling within relatively large geographic areas (WHPA A, B,C) without regard for the type of DNAPL or the quantity. For instance, this would have the effect to prohibit the establishment of a new hardware or Canadian Tire store within the WHPA A, B or C or to, at a minimum, prohibit a new hardware or Canadian Tire store from handling driveway sealers or asphalt cold mix in total quantities greater than 25 litres. Additionally, by prohibiting the use of DNAPLs in such large areas, this could lead to the activity moving underground and possibly leading to illegal waste disposal or storage. A comprehensive risk management plan policy for both existing and future uses would help mitigate this possibility by establishing a mechanism to work with property owners / tenants to ensure proper storage, handling and storage of DNAPL.

Some policy alternatives to the current wording of the policy could be utilizing the prohibition approach in 17-01 (Organic Solvents) that only prohibits in WHPA A, and WHPA – B (vulnerability score = 10) and requires risk management plans elsewhere. This would reduce the geographic area affected by prohibition and bring the policy in line with other chemical handling policies and the DNAPL existing policy in the Updated Proposed Plan. Another policy alternative could be to prohibit future, below grade storage of DNAPL in WHPA A, B, C (vulnerability score = 2 or greater) and require risk management plans for at or above grade storage and handling of DNAPL. This approach splits the activity based on circumstances provided in the Table of Drinking Water Threats (circumstance reference numbers 1098 to 1112).

A third option would be to build on the 25 litre exemption that the SPC has written into the policy. We are supportive and appreciative of the 25 litre exemption. The policy could be reworded to prohibit single containers of 25 litres or greater of liquid DNAPL products. This change would address future, liquid bulk storage of DNAPL while still allowing retail volumes to be stored and sold. As noted above, the liquid DNAPLs (primarily chlorinated solvents) are of greatest risk to the groundwater.

16. Policy 16-03 and 17-03 – Sewer Use Bylaw – Similar to our comments under Policy 02-01 and our general comment above, we would respectfully request the SPC to reconsider the implementation timeline of one year to initiate the bylaw process and two years to

enact the bylaw and instead implement three years to initiate and five years to enact. Our municipalities have some existing sewer use bylaws that do require updating and this policy provides additional rationale to update these bylaws. Short and long term funding of the inspections is also a concern as the SPMIF funding is set to expire at the end of 2015. It is noted that the SPC has written policy G-11 for the province to consider implementation assistance for municipalities. We are supportive of policy G-11 and are appreciative of its inclusion.

17. Policy G-03 – Incentive program – We are supportive of this policy and appreciate its inclusion in the Source Protection Plan.
18. Policy G-04 and TP-12 – Education Programs – Further to our discussions with SPA staff, we note that education activities within the County of Wellington will be implemented by our municipalities. We have already developed a County wide education and communications plan for source protection and will begin delivering education programs in 2015. All four of our other Source Protection Plans require municipalities to lead education and outreach. We recognize that the Conservation Authority wishes to provide an education program for the Saugeen Source Protection Plan and we are supportive of this. However, given our County wide education plan, we would like to work collaboratively with the Conservation Authorities in implementing the education program within the Saugeen Source Protection Area within Wellington County. We have already had discussions with SPA staff regarding this and note that they were very open to discussing this collaboration. We are appreciative of their support and look forward to working together.
19. G-05 – Road Signs – Our analysis indicates that eight signs will be required within Wellington County for the Saugeen Source Protection Area. Six of those signs appear to be on roads that are provincial jurisdiction and therefore will be the province's responsibility to install and maintain. There are two signs that appear to be County jurisdiction. Similar to our general comment regarding timing, we would respectfully request the SPC consider an extension to the implementation timeline
20. Policy G-06 and G-07 – Hazardous Waste Disposal Opportunity and Collection Program – Our interpretation of these policies are that our municipalities already comply with this policy. The County is responsible for waste and hosts seven household hazardous waste events during the year and operates five, year round household hazardous waste depots throughout the County. Our interpretation is that taken together the County events and depots comply with these policies. If our interpretation is incorrect, we would appreciate clarification from the SPC as that may change our comment. In any event, we feel these policies are too prescriptive and have raised these concerns in previous comments.
21. Policy G-08 – Transition Provisions – Our five source protection plans have a range of existing definitions and transition provisions. Although we would prefer consistency, at this point, we recognize that each SPC has chosen different definitions and transition provisions based on specific rationale. We have no further comment on this policy beyond noting our preference for consistency, wherever possible, between our five source protection plans.

22. Policy G-10 and G-11 – Financial Support Fund and Municipal Implementation Assistance
- It is noted that the SPC has written policies G-10 and G-11 for the province to consider implementation assistance for land owners and municipalities. We are supportive of these policies and are appreciative of their inclusion.
23. Policy G-12 – Update of Municipal Emergency Response Plans – Our municipalities support this policy, however, would ask the SPC to consider a two year implementation timeline to ensure all our source protection plans are approved and policy wording is final prior to our updating of the Emergency Response Plans. We note that most of our Source Protection Plans have similar policies and we would only wish to update once based on final policy wording.
24. TP-01 – Municipal Bylaw for Geothermal Systems - Similar to our comments under Policy 02-01, 16-03 and 17-03 and our general comment above, we would respectfully request the SPC to reconsider the implementation timeline of one year to consider the bylaw process and instead implement three years to consider the bylaw. Additionally, we are unsure if municipalities have legal authority to prohibit geothermal systems as it is a type of heating source. Additionally, geothermals are often encouraged due to energy efficiency programs. We recognize that this policy is only requesting due consideration.
25. TP-02 – Water Connection Bylaw - Similar to our comments under Policy 02-01, 16-03, 17-03 and TP-01 and our general comment above, we would respectfully request the SPC to reconsider the implementation timeline of one year to consider the bylaw process and instead implement three years to consider the bylaw. We note that some of our municipalities are already considering such a bylaw and we recognize that this policy is only requesting due consideration.
26. TP-03 – Transport Pathway Proposals – We note that this policy repeats the relevant section under O. Reg 287/07. If there are changes to the regulation then this policy will need to be updated. There will likely be a lag between regulation changes and policy changes.
27. TP-04 – Water Services for New Lots - Similar to our comment under Policy 02-13, our municipalities would respectfully note that Zoning By-laws are likely not the appropriate place to govern lot creation, the Official Plan is. We are supportive of this policy as it applies to Official Plan updates but not for Zoning By-law updates.
28. TP-06, TP-10 and TP-11 – Provincial Permitting for New Wells, Locate Unidentified Wells, Incentive Program for Wells – We are supportive of these policies.
29. TP-09 – Constraining Well Location – Although we support the general intent of the SPC for this policy, further consideration should be given to expanding the list of exemptions. We note that other wells within a WHPA A may be necessary including monitoring wells associated with industrial / commercial facilities following a spill or discovery of soil / groundwater contamination.

c.c. (via email)

Town of Minto

Township of Wellington North

County of Wellington

March 6th, 2015



Drinking Water Source Protection – PSPP Comments
Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Region
c/o Grey Sauble Conservation Authority
237897 Inglis Falls Road, RR#4
Owen Sound, ON, N4K 5N6
And via Email

Re: Municipal Response to Consultation on Proposed Source Protection Plan

Please find attached Staff Report PB2015-04 and Resolution #12-04-2015 regarding Municipal comments in response to the recent consultation on the Proposed Source Protection Plan for our region.

Staff and Council of the Municipality of Meaford have significant concern regarding the prohibition of fuel storage facilities exceeding 2000L in the Events Based Area – A , *specifically* as it relates to the ongoing availability of a fuel storage and dispensing facility to service the Municipal Marina at Meaford Harbour. The marina represents a substantial municipal investment and community asset and is a key driver in future Economic Development for the Municipality. The importance of fuel services for this use was acknowledged via the Municipality of Meaford Waterfront Strategy (2014) and contingency planning, for ongoing fuel service, was identified as a key recommendation of that Strategy.

Fuel services are presently available via Richardson's Boats on the west wall of the 'old harbour'. It is Staff's understanding that the 'storage' is located on Mr. Richardson's lands, with the 'pumps' being located on abutting federal waterfront lands sub-leased to Mr. Richardson by the Municipality of Meaford. Richardson's have indicated that they will continue to provide this service as long as they have a Provincial license to do so, however, because the provision of fuel is integral to the operation of the Harbour; and, there is a risk that the license may not be extended, the Municipality has proposed a contingency plan to establish a new above ground gas storage/dispensing facility in the 'new' harbor/marina area. The Source Protection Plan, as proposed, would prohibit such a facility.

To address these concerns, the Municipality respectfully requests an exception from the prohibition to allow for a *replacement* facility, to be located on the Federal and/or Municipally-owned lands abutting the marina/ 'new' harbour, at the time the storage and dispensing facility at Richardson's Boats is to be discontinued.

Staff would be happy to work with the Source Protection Committee to develop a policy-based approach to facilitate future permissions for a replacement fuel facility and suggest that perhaps a Special Policy Area could be established for the waterfront lands inclusive of Richardson's Boats and east along the shoreline to those lands abutting the Municipal marina. This Area could be mapped as an overlay on Map 5.2.M.M.1 with corresponding text to be included in Threat Policy 15-04 to the effect of "Within Special Policy Area 'A', a new facility, not to exceed 5625L (4500L existing plus 25%)

may be established by the Municipality of Meaford, provided the total storage within the SPA does not exceed 5625L. Such facility shall be risk managed and subject to enhanced monitoring provisions.'

Staff will continue to explore options to address the provision of fuel services to the marina and advise the Committee that additional comments may be submitted in the coming months, as this work progresses.

I am happy to discuss this submission in more detail and look forward to working with the Committee to resolve this matter.

Sincerely,



Liz Buckton, BSc (Hons), MCIP, RPP
Senior Planner, 519-538-1060 X1120

Attachments:

Resolution 12-04-2015

Staff Report PB2015-04

Excerpt from Waterfront Strategy – 6.0 Recommendations

Liz Buckton

From: Margaret Wilton-Siegel
Sent: Thursday, March 5, 2015 9:11 AM
To: Rob Armstrong; Liz Buckton
Subject: Report PB2015-04 - Resolution

Good morning,
As a follow up to the Council meeting held Monday March 2, 2015, please see the following resolution:

PB2015-04 – Drinking Water Source Protection Plan Consultation

Moved by: Councillor Calvert
Seconded by: Deputy Mayor Greenfield

That Council of the Municipality of Meaford direct Staff to forward a written response to the Drinking Water Source Protection Committee regarding the draft Source Protection Plan expressing concerns with regard to the potential restriction on new fuel storage facilities exceeding 2000 litres and significant economic impact should a fuel facility not be available at our Municipal Harbour.

Carried Resolution#12-04-2015

Thanks,
Margaret

Margaret Wilton-Siegel
Deputy Clerk



Municipality of Meaford
21 Trowbridge Street West
Meaford, Ontario N4L 1A1
Phone: 519 538-1060 ext. 1100
Fax: 519 538-1556
Email: mwiltonsiegel@meaford.ca
www.meaford.ca



Date	Monday, March 02, 2015
From	Robert Armstrong, Director, Planning and Building Services
Subject	Drinking Water Source Protection Plan Consultation
Report No. PB2015-04	Roll No. n/a

Recommendation

That Council of the Municipality of Meaford direct Staff to forward a written response to the Drinking Water Source Protection Committee regarding the draft Source Protection Plan expressing concerns with regard to the potential restriction on new fuel storage facilities exceeding 2000 litres and significant economic impact should a fuel facility not be available at our Municipal Harbour.

Financial Impact

The financial viability of the Municipal Marina may be at risk should the future establishment of fuel services by the Municipality of Meaford be prohibited as recommended by the Events-Based policies of the draft Source Protection Plan.

Background

Public Notice (Appendix 1) was received from the regional Drinking Water Source Protection Committee advertising the publication of Revised Assessment Reports and an Updated Draft Source Protection Plan for the region, which includes the Municipality of Meaford. The Committee is accepting written comments regarding the draft report/plan until March 6th, 2015.

Staff have reviewed the Draft Source Protection Plan and have identified that a new 'Events-Based Area' and associated policies regarding the 'Handling and Storage of Fuel' are proposed for the Intake Protection Zone (IPZ-2) surrounding the Municipality of Meaford's Water Treatment Plant Intake. Map 5.2.M.M.1 and related policies 15-04, 15-05 and 15-06 (Appendix 2) are proposed and would have the effect of:

- 1) Prohibiting the establishment of new fuel storage operations having capacity of more than 2000L within the Events Based Area 'A' (EBA-A)
- 2) Requiring Risk Management Plans to be negotiated for existing fuel storage operations in EBA-A and for existing or future storages exceeding 5000L or 12000L in EBA-B and C, respectively.

The Municipal Marina and adjacent harbor-related uses fall within the EBA-A and thus new fuel storage operations (>2000L) would be prohibited.

Source Water Protection staff have noted that the reason for these constraints is that Benzene concentration modelling indicates the potential impact at the water intake with spills of quantities exceeding 2000L in the EBA.

Currently, fuel for boats at Meaford Harbour is provided by a private operator (Richardson Boats). This consists of an in ground storage facility on the west site of the old harbour / mouth of the Big Head river. The current operator has indicated that they will continue to provide this service as long as they have a license to do so from the Province. Because the provision of fuel is integral to the operation of the Harbour and there is a risk that a license may not be extended, the Municipality has proposed a contingency plan to establish a new above ground gas dispensing facility for boats in the new harbour. It is our understanding that should the proposed changes to the plan occur, the Municipality would be prevented from establishing a replacement facility in the new harbour.

Staff are not in a position to dispute the science, although we do question whether a new replacement fuel storage in the new harbour, which does not have significant water flow out to the open water, has been modelled. It would appear to us that a replacement fuel facility in this location could be better than the current situation and possibly facilitated.

Staff acknowledge that the Municipality does support the protection of our water resources through various initiatives (Water and Food First and potentially Bluedot) however do believe an exception to the plan should be provided in this case due to the significant financial impact that will occur if a replacement facility is not permitted.

Planning Staff are attending a workshop on February 24th, which is after the writing of this report. We will report any further information we obtain after that workshop.

Meaford Strategic Plan

This report supports the objectives of the Municipality of Meaford Vision 2020, particularly with respect to:

Goal: Healthy Economy

Objective:

- Implement strategies from MEDS
- Promote municipal & community environmental sustainability

Goal: Healthy Community

Objective:

- Assure community safety, health & wellness
- Provide effective leadership & governance

Consultation

Drinking Water Source Protection Staff

Senior Management Team

Communications Plan

This report and comments/requests, as directed by Council, are to be forwarded to the Drinking Water Source Protection Committee in response to their consultation notice and request for comments.

Conclusion

Planning Staff are of the opinion that we should advise the Source Water Protection Committee of our concerns and request that they revisit the science for a facility in the new harbour and further that we request an exception for a replacement facility for Municipal purposes in the new harbour. This is on the basis that a replacement facility will be considered an improvement from the current arrangement.

Appendices

Appendix 1 – Public Notice of Consultation for Updated Proposed Source Protection Plan & Revised Assessment Report

Appendix 2 – (Annotated) Draft Map 5.2.M.M.1 of Draft Source Protection Plan & Related Draft Policy Text 15-04, 15-05, 15-06

Respectfully Submitted:

Original Signed By

Robert Armstrong
Director, Planning and Building Services

Original Signed By

Prepared by:
Liz Buckton, BSc (Hons), MCIP, RPP
Senior Planner

Original Signed By

Reviewed by:
Denyse Morrissey, CAO

6.0 RECOMMENDATIONS

The recommendations for the Meaford Waterfront Strategy and Master Plan (Meaford Waterfront Plan) are based on the input received from the community, stakeholders, staff and Council. The purpose of the Meaford Waterfront Plan was to develop a waterfront master plan as an update to the Meaford Harbour Strategic Plan and policy recommendations that implement the strategies developed through the Meaford Economic Development Strategy.

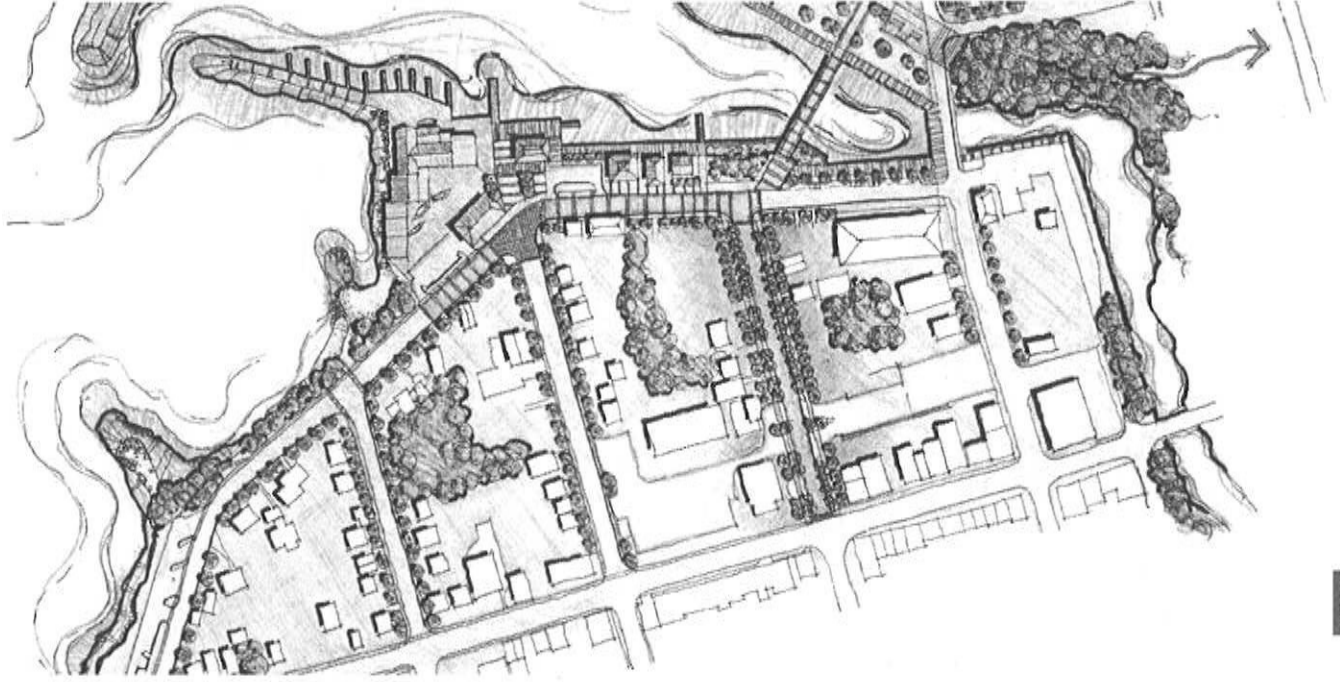
In the development of the Meaford Waterfront Plan, two concept options were considered for the Municipality of Meaford urban area waterfront redevelopment – the two concepts' land use, harbour functions, and tourism and economic development potential were the main differentiators. Based on a deep understanding of the Municipality of Meaford's Official Plan policy gaps and 'environment-first' mandate, the technical, regulatory and navigation challenges in the Old Harbour, community support, and the economic development and market conditions evaluation, it is the recommendation of the Meaford Waterfront Plan that Option 1 – Harbour Village Concept (see Figure 31) be adopted as the preferred Waterfront Master Plan.

The Waterfront Master Plan provides the greatest opportunities for creating a balanced mix of uses, tourism activities and economic development in Meaford. Although the development of certain features, such as the cantilevered harbour village cluster, may encounter ownership, regulatory and funding challenges, it should not limit or undermine the potential for a successful development of the waterfront, including the promotion of harbour-related uses on the west side of Bayfield Street.

Detailed recommendations for the redevelopment of the waterfront as a Harbour Village are identified below:

6.1 GENERAL

1. The Municipality should invest capital budget into the placemaking elements of the urban area waterfront lands, such as the trail experience as the path meanders along commercial areas, softer edges of the adjacent parks, continuous waterfront boardwalk, flexible street/plaza, beaches and the green system. Other examples include: gateway entrances, signage and way-finding, public spaces (such as the Meaford Rotary Pavilion), and streetscapes. The development of commercial areas that support the tourism activity in the urban area waterfront should come through other funding strategies.

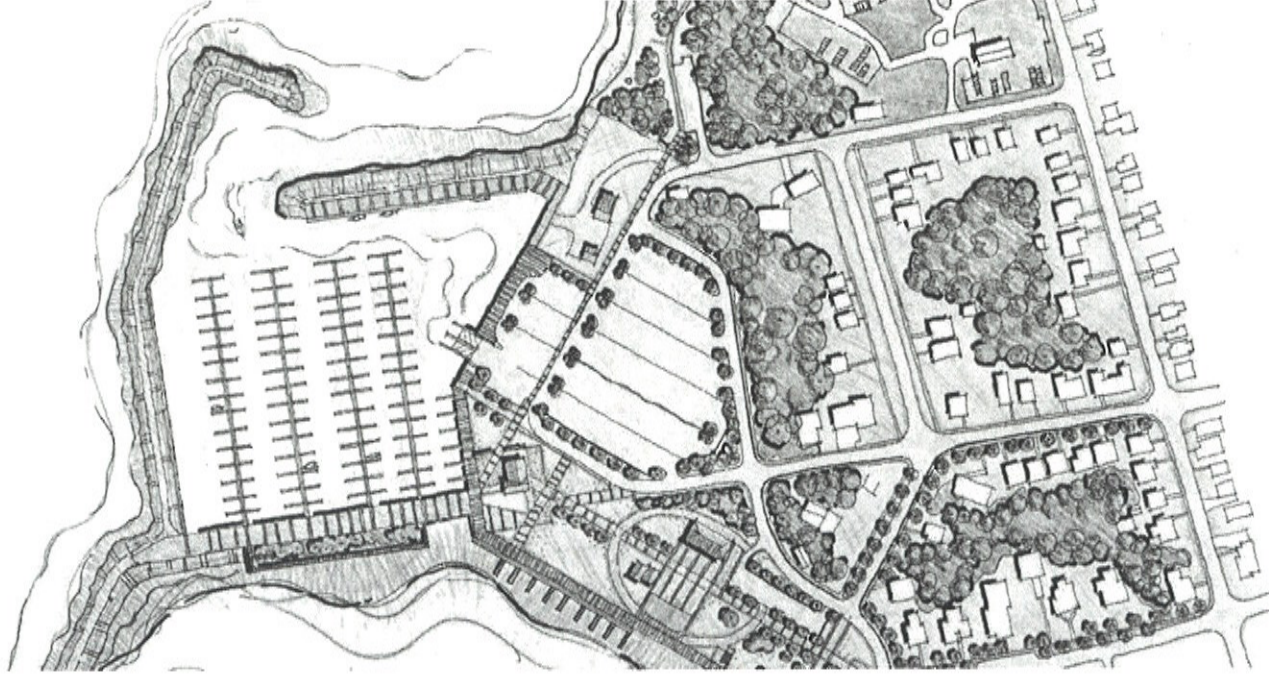


2. The Municipality should consider the future relocation of boating services and fuel to the New Harbour in the event that Richardson's can no longer provide this service.

3. The Municipality of Meaford should recognize the Métis traditional use of the waterways, shorelines and lands in and around the Municipality's boundaries. All future development and development currently under processing for permitting in the vicinity of shorelines should not impede access of the Métis to these traditional areas. In order to better understand and mitigate the potential impact of such developments, the Municipality of Meaford should consult the Métis community, working through the MNO Georgian Bay Traditional Territory Consultation Committee.

6.2 POLICY

1. The Meaford Waterfront Plan becomes a policy of the updated Official Plan (2013) and that the recommendations provide the basis for continuous water and land-based waterfront improvements as funding becomes available.
2. Apply an 'urban area waterfront' designation to all lands within the study area of the Meaford Waterfront Plan, with a unified vision and set of objectives that support sustainable redevelopment of the waterfront lands and important connections to the adjacent lands.
3. Objectives:
 - a) Recognize the waterfront for its tourism and recreation opportunities.
 - b) Develop a balanced mix of uses, including recreation, harbour, commercial, natural heritage, open space and harbour support.
 - c) Maintain boat access to boat services and fuel operations in the Old Harbour.
 - d) Improve the layout and operations of the New Harbour.
 - e) Attract businesses to Meaford's waterfront at the Harbour Village.
 - f) Improve connectivity between the waterfront, Downtown and the Georgian Trail.
 - g) Improve aquatic and terrestrial habitats of the Georgian Bay shoreline and Bighead River mouth.
4. Update the Land Use Plan to reflect the new vision, strategic objectives and potential waterfront uses, as reflected and supported by the Meaford Waterfront Plan, for the urban area waterfront and adjacent supporting lands.
5. Apply separate waterfront designations, vision and objectives for all other public waterfront lands within the Municipality.
6. Distinguish the importance of the urban area waterfront for tourism activity and the synergy with the Downtown Core Commercial Area.



March 4, 2015

David Ellingwood, Project Manager
Grey Sauble Conservation Administration Centre
237897 Inglis Falls Road, RR4
Owen Sound, ON N4K 5N6

VIA: E-MAIL, Original to Follow

Dear Mr. Ellingwood:

Re: Proposed Source Water Protection Plan

Thank you for the opportunity to attend the recent information session at the Bayshore Community Centre.

Since their inception, the term of reference for Source Water Protection Committees (SWPC) was established to focus the committee's attention on "significant" threats to drinking water sources. Until approximately three weeks ago we understood that water systems using Great Lakes intakes could not be ranked as vulnerable as per the scoring rules set out by the MOE in the Source Water Protection Terms of Reference. If the system could not be rated as vulnerable, then a threat could not be considered "significant" under the terms of reference.

In the case of the Owen Sound intake, there were no identified significant threats (including the WWTP outfall) and therefore there would be no requirement to impose land use prohibitions or restrictions as outlined in the draft Policies to protect our source water, since only a "significant" threat triggers the imposition of such measures. For this reason the City has not taken an active role in the establishment of the source water protection plan and policies as none applied to our circumstances.

It was therefore a considerable surprise to learn at the recent presentation that the SWPC has been conducting modelling of the Great Lakes intakes such as the one for Owen Sound. We understand that the original scope of the analyses was to address the transportation of fuels as a local threat. It appears that the scope has now somehow morphed into an examination of the impacts of spills leaking from onsite storage of fuels. We understand that the results of the modelling now suggest that the intake could be at risk as a result of on-shore fuel spills. On the basis of these modelling results the SWPC is proposing restrictions on the volumes of petroleum products that may be stored in areas surrounding the Sound varying between 15,000 l and 50,000 l.

The City of Owen Sound has a number of concerns with the proposal including the following:

1. The SWPC and the affected municipalities have had over five years to evaluate the threats to their drinking water sources. They have participated in the analyses through every stage of development and participated in the development of the protection plans.

Municipalities like Owen Sound have not been afforded the same opportunity. We have had no input to the formulation of the basic assumptions, no opportunity to review the modelling scenarios and no opportunity to participate in the review of the results of the modelling. We request that the City of Owen Sound be afforded the same opportunities as other to municipalities participate in the development of the source water protection plan and policies as it affects our intake.

2. We understand that the City's comments are required not later than March 6, 2015 and the SWPC will be submitting its final recommendations to the MOE by the end of March. It is further understood that it is the intention of the Ministry to implement the source water protection plans no later than the end of 2015.

With respect it appears that the components of the plan relating to Great Lakes intakes are being rushed through to implementation without the value of proper and thoughtful evaluation. We therefore request that the implementation of the source water protection plan be postponed until municipalities like the City of Owen Sound have had an opportunity to fully evaluate the proposed plan. If it is not possible to suspend the implementation of the source water protection plan, we request that the portion relating to the Great Lakes water intakes be held in abeyance until such time as a proper review can be completed.

3. Municipalities who have been active participants in the development of the source water protection plans have had many years to prepare to assume their responsibilities for implementation as defined under the Clean Water Act.

The City of Owen Sound and other municipalities of a comparable nature have had no such opportunity. We request that the effective date of implementation be delayed for at least six months to give us the opportunity to put in place the regulatory and administrative measures needed and prepare staff to enforce the act and the source water protection plans.

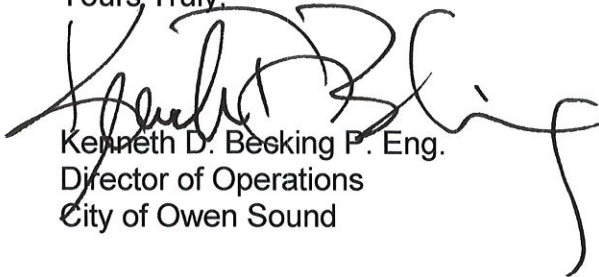
4. Municipalities who have been active participants in the development of the programs have been provided with financial and technical assistance to prepare for the transfer of responsibilities.

The City of Owen Sound has not been provided with these resources and can ill afford to absorb the additional costs associated with administering to Act. We

request immediate financial assistance to enable the City to prepare the assumption of responsibilities. We will provide a detailed breakdown of anticipated costs as soon as possible.

In closing we must express our extreme disappointment in the way that this matter has been handled and the way that the proposed changes are being imposed upon us on such short notice. We hope that this approach will not be repeated in the future. We look forward to early and favorable response to our concerns.

Yours Truly,

A handwritten signature in black ink, appearing to read 'Kenneth D. Becking', written over the printed name and title.

Kenneth D. Becking P. Eng.
Director of Operations
City of Owen Sound



Town of Saugeen Shores

600 Tomlinson Drive, P.O. Box 820

Port Elgin, ON N0H 2C0

March 5, 2015

Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Region
c/o Grey Sauble Conservation Authority
237897 Inglis Falls Road, RR#4
Owen Sound, ON
N4K 5N6
mail@waterprotection.ca

Attention: Mike Traynor, Chair

Dear Mr. Traynor:

RE: Updated Proposed Source Protection Plan and Revised Assessment Reports

Thank you for your letter dated February 2nd giving us an opportunity to review the updated information concerning Drinking Water Source Protection. Thank you also for providing the recent forums for staff and elected officials alike to learn about the proposed changes.

After reviewing the available material and after discussing a few key matters with Source Protection staff we hereby advise we have a number of serious concerns with regard to the proposed plan amendments which we identify herein:

Length of review and comment opportunity

Source Protection Committee has been active in preparing a Drinking Water Source Protection Plan for many years and has been considering modelling contaminants near intake protection zones. However, the Town, as affected landowner and as implementing authority, has only been provided 1 month to review and assess potential implications of the proposed Plan changes for our community. Analysis and review of threats to well-head protection areas was conducted over many months/years. Up until this point in this long process municipalities like Saugeen Shores were advised they had no impact arising as a result of the lake based intake system and were effectively 'exempt' from the DWSPP. We should be given as much time as municipalities with well-head protection areas to efficiently and fairly conduct a review of the proposals, review impacts on the community and assess the ongoing implications of now being essentially retroactively involved in the overall process.

Approach to Threats Analysis

While it appears there was a probability analysis completed for wind storm and tributary flow, it appears no probability analysis was completed to determine the likelihood of other factors that could contribute to the overall effect of an event. The following is a partial list of other factors which should be assigned probability:

- likelihood of fuel tank rupture,
- likelihood of underground tank pumping fuel to surface,

- likelihood of operations staff monitoring intake during storm events,
- likelihood of Southampton backup intake being used during storm events,

We acknowledge these are extreme events. However, we already understand many things about extreme events (such as fuel spills). We should be applying this knowledge to inform this process. Once a more comprehensive list of contributing factors is prepared and approved it seems appropriate to conduct a model of the contaminant. In this way, a better, more robust risk analysis may be presented to inform MOE and municipalities.

Need for direct consultation with affected landowners

Staff appreciated receiving direct correspondence as a landowner of a facility which would be affected by the new policies. However, as with being given more time to review the proposals, we are of the opinion that the Committee should provide additional direct consultation with affected municipalities once this first round of discussion is completed. Source Protection Committee will then have a better understanding of our concerns and can endeavor to meet with each affected municipality to create policies which are specifically tailored to meet our common goals.

It is also important to note that all landowners with existing fuel facilities that were circulated the proposed plan should be given a fair opportunity to review and seek advice on the potential impacts this may have in their operations.

Economic Development

It appears the impact of including our community with the threat modelling done to date will result in constraining certain fuel related land uses in a very urban part of our settlement areas. We feel the basis for determining constraints is speculative at best and does not reflect realistic threat assessments. Fuel storage facilities are already highly regulated and the series of incidents that appear to be necessary to occur to have our intake area impacted is, simply, in our opinion, not based in reality.

As we understand it, the only reason we are now proposed to be caught by the DWSPP and the threat assessment is the proximity of our back up water intake facility to the shoreline. We point out that use of this facility simply wouldn't occur if there was any threat to the quality of the water arising as a result of one of the fuel threats identified unfolding.

Transitioning

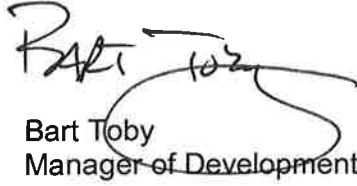
By the time this is approved by MOE, and assuming there are no further changes, Saugeen Shores budget for 2015 will have been set. However, in order to properly establish our RMO we will need more direct advice on how to budget or, as we are recommending herein, we will require transition funding to assist in the initial stages of implementation until we prepare 2016 and future budgets or fees and charges by-laws.

Saugeen Shores encourages you to continue developing effective and fair Source Protection Plan policies to ensure our quality of drinking water remains some of the best in Ontario. Doing so can occur without speculative unrealistic threats being created that would draw an otherwise well-managed community into an arduous process unnecessarily.

We would like to meet with your organization to review and elaborate on the concerns outlined herein at your earliest opportunity. We further advise we will be retroactively seeking the endorsement of our Council for the concerns expressed in this letter. The extremely short comment period precludes a conventional approach to engaging our elected officials in a dialog on this important matter.

If you have any questions please do not hesitate to contact me.

Regards,

A handwritten signature in black ink, appearing to read "Bart Toby", with a large, sweeping flourish extending from the end of the name.

Bart Toby
Manager of Development Services/CBO

cc: Luke Charbonneau, Chair, Saugeen Valley Conservation Authority

Niagara Escarpment Commission

232 Guelph St.
Georgetown, ON L7G 4B1
Tel: 905-877-5191
Fax: 905-873-7452
www.escarpment.org

Commission de l'escarpement du Niagara

232, rue Guelph
Georgetown ON L7G 4B1
No de tel. 905-877-5191
Télécopieur 905-873-7452
www.escarpment.org



Niagara Escarpment Commission
An agency of the Government of Ontario

March 3, 2015

Mr. Mike Traynor
Chair, Source Protection Committee
Drinking Water Source Protection
237897 Inglis Falls
Owen Sound, ON N4K 5N6

Dear Mr. Traynor:

Re: Updated Proposed Source Protection Plan and Revised Assessment Report for the Saugeen Valley, Grey Sauble, and Northern Bruce Peninsula Source Protection Areas (February 3, 2015)

The Niagara Escarpment Commission (NEC) has received and reviewed your letter dated February 2, 2015, as well as the above-referenced Source Protection Plan (SPP), and we offer comments below.

- 1) The purpose of the *Clean Water Act* is “to protect existing and future sources of drinking water” by ensuring activities cease to be or do not become significant drinking water threats. This is in line with the purpose and objectives of the *Niagara Escarpment Planning and Development Act (NEPDA)*, as the *NEPDA* is clear in its requirement that water should be protected through implementation of the Niagara Escarpment Plan (NEP).

Section 8 of the *NEPDA* sets out the objectives of the NEP, including “to maintain and enhance the quality and character of natural streams and water supplies” and “to support municipalities within the NEP Area in their exercise of the planning functions conferred upon them by the *Planning Act*”. Section 9 of the *NEPDA* specifies what the NEP can contain, including policies for the management of land and water and for the control of all forms of pollution of the natural environment within the NEP Area.

- 2) Lands within the NEP Area have been assigned one of seven land use designations, based on designation criteria and the features and characteristics of the lands. The NEP outlines policies for each land use designation and a list of permitted uses. There is a limited range of uses permitted in the Escarpment Natural, Escarpment Protection and Escarpment Rural Area land use designations and it is unlikely that uses that could pose a threat to drinking water sources would be considered a permitted use in these designations. It is also unlikely that expansions to existing uses that predate the NEP and that are identified as

threats could be approved, since the policies of the NEP limit or do not permit changes to these types of non-conforming existing uses.

The NEP also contains development criteria related to water quality and quantity, which may address some of the actions identified for the NEC to implement. Existing NEP policies may, in some circumstances, be more restrictive than those proposed in the SPP. In that case, the more restrictive policy will prevail. However, an opportunity exists to update NEP policies to more explicitly address threats to source water, as NEP water policies were created before source water protection became a provincial focus through the *Clean Water Act*.

- 3) Notwithstanding the above comment, it is our understanding that the NEC is not legally bound to implement SPP policies, as Development Permits under the *NEPDA* have not been identified as prescribed instruments under the *Clean Water Act* and the NEC is not considered a “planning approval authority” under Section 39 (1) of the *Clean Water Act*. However, we recognize that there is a gap in SPP policy implementation in the NEP Area, where the NEC is the planning authority for areas under Niagara Escarpment Development Control and where municipal zoning does not apply. In light of this, NEC staff has had preliminary discussions with staff from a few NEP Area municipalities, as well as staff from source protection authorities, to better understand how source protection plan policies will be implemented in areas under Development Control.
- 4) We note that the NEP/NEC does not appear to be contemplated in the Proposed SPP and Revised Assessment Report for the Saugeen Valley, Grey Sauble, and Northern Bruce Peninsula Source Protection Areas. Although the NEC is not considered a planning authority, we foresee that staff will play a role in source protection in areas under Niagara Escarpment Development Control in the aforementioned source protection areas. At this time, staff anticipates that the NEC’s role and responsibility in source protection will be threefold:
 - i. to ensure that an appropriate SPP policy is in place in the NEP;
 - ii. to screen development proposals to determine if it is within an identified vulnerable area and direct the applicant to the appropriate municipal and/or conservation authority contact or consult with other land use authorities when Development Permits are being considered; and
 - iii. to report annually on the actions taken to fulfill its obligations, including the processing of Development Permits where such Permits are required.

It would be helpful if your Source Protection Committee could confirm that this is in line with your expectations for the NEC. We also recommend that the SPP be updated to identify that the NEC is the planning authority for areas under Niagara Escarpment Development Control, as well as the role that the NEC will play in source protection the NEP Area through its administration of the NEP.

- 5) Further to comment 4 i) above, staff anticipates that source protection-related matters may be addressed as part of the co-ordinated provincial plan land-use review (i.e., coordinated review of the Niagara Escarpment Plan, Oak Ridges Moraine Conservation Plan, Greenbelt Plan, and Growth Plan for the Greater Golden Horseshoe), and that the plans will be updated accordingly. In anticipation of this, NEC staff has prepared a discussion paper on

source protection, which was presented at the November 20, 2014 meeting of the NEC. Given that the Niagara Escarpment falls within five (5) Source Protection Regions, there are a number of policies or approaches presented in each of the SPPs for how the NEC should implement the source protection policies. Staff believes that a “catchall policy” wherein a policy on drinking water source protection could be added to Part 2.6 of the NEP, to recognize and support the SPP policies of all of the Source Protection Regions in the NEP Area. In the discussion paper, staff presented proposed wording for source-protection-related policies and definitions for the NEP. A copy of this report can be found on our website at: <http://www.escarpment.org/planreview/index.php>.

The NEC strongly supports source protection program and believes it is in the public interest to introduce a policy(ies) into the NEP that relates more directly to the protection of drinking water sources. Although NEC staff has attended a number of meetings of the Saugeen Valley, Grey Sauble, and Northern Bruce Peninsula Source Protection Areas Planning Officials Working Group, we would be pleased to meet with you or your colleagues to gain a better understanding of how you envisioned the NEC implementing the proposed policies, as well as discuss the challenges and opportunities of implementing such policies in the NEP. Should you have any questions or wish to arrange a time to meet, please feel free to contact me via email at kellie.mccormack@ontario.ca or via phone at (905) 877-6370.

Sincerely,

A handwritten signature in black ink that reads "Kellie McCormack". The signature is written in a cursive, flowing style.

Kellie McCormack, MCIP, RPP
Senior Strategic Advisor

Cc: Rick Watt & Judy Rhodes-Munk, NEC

**Ministry of
Municipal Affairs
and Housing**

Municipal Services Office -
Western

2nd Floor
659 Exeter Road
London ON N6E 1L3
Tel: 519 873-4020
Toll Free: 1 800-265-4736
Fax: 519 873-4018

**Ministère des
Affaires municipales
et du Logement**

Bureau des services aux municipalités -
région de l'Ouest

2^e étage
659 Exeter Road
London ON N6E 1L3
Tél. : 519 873-4020
Sans frais : 1 800 265-4736
Télec. : 519 873-4018



March 6, 2015

Drinking Water Source Protection
Saugeen, Grey Sauble, Northern Bruce
Peninsula Source Protection Region
237897 Inglis Falls Road, RR #4
Owen Sound, ON N4K 5N6

Sent by email to: mail@waterprotection.ca

Good Morning:

Re: Revised Source Protection Plan
Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Region

Thank you for the opportunity to provide comments on revised Source Protection Plan (SPP) for the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Region. Our review focussed on Chapters 6 (Source Protection Plan Policies) and 7 (Implementation) of the SPP.

As you are aware, the Ministry of Municipal Affairs and Housing has provided comments on earlier drafts of the SPP, in letters dated January, 2012, May, 2012, and January 31, 2013. We note that several of our previous comments and concerns have been reflected in this updated version.

Based on our review of this draft, we offer the following comments for your consideration. We also note that the staff of the Ontario Growth Secretariat (OGS) of MMAH have reviewed the documents and have no comments to offer in regard to this matter.

Policy 02-04 (Sewer Requirement for New Lots) and Policy TP-04 (Water Services for New Lots)

As stated in our May 15, 2012 and January 31, 2013 comments, there appear to be portions of the vulnerable areas that extend into the agricultural and rural areas. Policy 02-04 proposes to prohibit the creation of new lots unless the lots are serviced by a municipal sewage system. Similarly, policy TP-04 proposes to prohibit the creation of new lots unless the lots are serviced by a municipal water system.

Sections 1.1.4 and 2.3 of the Provincial Policy Statement (PPS) permit limited lot creation in the agricultural and rural areas. The PPS allows municipalities to be more restrictive than the Provincial Policy Statement provided it does not conflict with any other policy in the PPS. The above-noted policies do not appear to conflict with other policies in the PPS however, they may prevent development in the relevant agricultural and rural areas where a properly installed and properly maintained septic system and well exist and which pose little risk.

Policy 02-13 (Design Principles for New Development)

As stated in our January 31, 2013 letter, design standards for stormwater management facilities are not generally incorporated into Official Plans unless they are included as very 'high level' policies. Design standards tend to be very detailed and any changes to the standards, regardless of extent, could trigger an official plan amendment if they are written into an official plan in such a manner. For municipalities such as the Town of the Blue Mountains and the City of Owen Sound, design standards are separate documents adopted by Council as guidance documents. It is also possible design standards in an Official Plan may create conflicts with the Ministry of the Environment's legislation and/or property owners who may satisfy a municipality's design standards but do not satisfy the Ministry of the Environment's design standards.

If you have any questions regarding these comments, please contact me at 519-873-4695.

Yours truly,

A handwritten signature in black ink, appearing to read 'D. Galbraith', with a stylized flourish at the end.

David Galbraith, Planner
Municipal Services Office-Western

Cc:

Heather Gardiner, MOECC
Scott Oliver, MAH
Brooke Sykes, MAH

Ministry of Agriculture,
Food and Rural Affairs

Ministère de l'Agriculture, de
l'Alimentation et
des Affaires rurales

3rd Floor
1 Stone Road West
Guelph, Ontario N1G 4Y2
Tel: 519 826-4975
Fax: 519 826-3259

3^e étage
1 Stone Road West
Guelph (Ontario) N1G 4Y2
Tél. : 519 826-4975
Téléc. : 519 826-3259



Environmental Management Branch

March 26, 2015

Teresa McLellan
Source Protection Programs Branch
Ministry of the Environment and Climate Change
3232 White Oak Road
London, Ontario, N6E 1L8

Dear Ms. McLellan:

Thank you for providing Ontario Ministry of Agriculture and Food (OMAF) and Ministry of Rural Affairs (MRA) with the opportunity to comment on the Updated Proposed Source Protection Plan for the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Region (February 3, 2015). This letter summarizes the ministry's comments on the proposed policies in the document.

1. Policies Naming OMAFRA as an Implementing Body

Proposed policies G-03, G-10 and TP-11 request the Province to provide financial support or financial assistance to landowners, municipalities and conservation authorities under the source water protection programs. These proposed policies are outside the scope of the source protection plan and we recommend that the policies be deleted.

2. Education and Outreach Policies

The ministry supports the proposed policies concerning the development and implementation of education and outreach (E&O) programs. Many of these proposed policies indicate that the E&O programs would build on existing programs. OMAFRA has numerous existing materials that are designed to promote increased awareness and implementation of appropriate agri-environmental management practices.

.../2



Good Things
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À bonne terre,
bons produits



We do not have concerns with other policies that address drinking water threats as submitted. If you have any questions about the comments we have provided, please contact Hugh Simpson (hugh.simpson@ontario.ca) at (519) 826-3835.



J.D. Richardson
Director
Environmental Management Branch



Good Things
Grow in Ontario
A bonne terre,
bons produits



**Source Protection Programs Branch Comments – Revised Saugeen, Grey Sauble,
Northern Bruce Peninsula Source Protection Plan
March 6, 2015**

1. Policy 01-05 is a specify action policy that addresses the storage of PCB waste where it would be a significant drinking water threat. There are several modifications that we recommend to the policy in order to correctly distinguish it from a prescribed instrument policy, since it does not relate to an instrument prescribed under the Clean Water Act. These include the following:

We request that the word “shall” be modified to another term that correctly represents the non-binding legal effect of this specify action policy. Instead of “shall”, consider using “should” or “is requested to consider”.

It would also be beneficial for the policy to clarify that it relates to “Director’s Instructions” (rather than Environmental Compliance Approvals, which the term “approvals” could imply), under O. Reg. 362 in the second line of the policy. Also, references to the review of Environmental Compliance Approvals should be removed.

Regarding the timelines in the policy for reviewing existing Director’s Instructions, the ministry does not regularly review the Director’s Instructions since they do not have an expiry date. However, the ministry is aware of one existing PCB waste storage site that would be a significant drinking water threat in your source protection region, and will consider its review if any non-compliances are found at the site.

The monitoring policy MP-01 is not an appropriate monitoring policy to attach to this threat policy, since it also relates to Environmental Compliance Approvals. A separate monitoring policy asking the ministry to report on the actions taken to implement the policy would be an appropriate addition.

Finally, policy 01-05 should not appear on list C in appendix A, but rather should be placed on list K, since it does not use the prescribed instrument tool.

We support the current policy approach to allow the ministry to consider alternatives in cases where moving PCB waste from the site may increase risks to drinking water, including from spills.

2. Policy 10-1 is a prescribed instrument policy addressing pesticide application. The policy states that it “applies to the following provincial instrument: permits for land exterminations, structural exterminations and water exterminations under the *Pesticides Act*,” and that “Pesticides shall only be applied by a person in possession of a valid permit issued pursuant to the *Pesticides Act* and shall only be applied in compliance with the *Pesticides Act*.” Because structural exterminations and water exterminations are not captured by the circumstances for drinking water threats, it would clarify the policy if references to these were removed. Second, the wording of the policy could be interpreted to imply that licences and/or permits are required for all pesticide applications where they would be significant threats. However, licenses and/or permits are only required under the *Pesticide Act* for certain applications of certain classes of pesticides - there are many situations where pesticide application that would be a classified as a significant drinking water threat would

not require a permit. For these reasons, we suggest rewording the policy, similar to the following:

“The application of pesticides to land within vulnerable areas where the application of pesticide to land is or would be a significant drinking water threat shall be applied in accordance with any permit requirements as set out in the *Pesticides Act* and O. Regulation 63/09.”

3. A previous comment from MOECC requested modifications to fuel storage policies to clarify which types of facilities were being addressed. We note that you have removed the former policy 15-01 to address the comment, and have also slightly changed the terminology in the remaining policies. Currently, policy 15-02 is the only policy that specifically addresses smaller volumes of fuel stored in locations that are not bulk plants or facilities that manufacture or refine fuel. Part D of 15-02 specifies that the policy only applies where the fuel is stored inside a building. Because the tables of circumstances do not specify whether fuel is stored inside or outside a building, it is possible that there may be instances of fuel storage that would not be covered by policy 15-02 (and also not by 15-01 or 15-03). It would be useful for the committee to clarify their intention for any potential fuel storage that falls outside of these three policies (e.g., fuel stored outside a building, not at a bulk plant or facility that manufactures or refines fuel, in quantities between 250 and 2500L). This potential gap could be addressed by removing part D from 15-02 (i.e., having the policy apply to indoor and outdoor storage), or by adding more detailed rationale in the explanatory document (e.g., why no such facilities could occur, or that any such facilities are intended to be addressed only by education and outreach policy G-4, including the statement that the committee deems this tool sufficient to address the risk).

Also, we note the title of the current policy 15-01 was modified such that the policy applies to “certain fuel facilities” (previously it was for “other fuel facilities”). In the interest of consistency, policy 15-03, which addresses the same type of fuel facilities, should use the same terminology in the title (it still applies to “other fuel facilities”).

4. The new policies to address fuel storage in the newly delineated event-based areas generally prohibit the establishment of future fuel storage in areas closest to intakes (policy 15-4) and manage future fuel storage in areas further from intakes using risk management plans (15-5). For policy 15-4, the explanatory document describes that “the establishment of new facilities should not be permitted so as to prevent additional significant drinking water threats within the affected vulnerable areas.” However, the explanatory document gives no reasoning for why the Thornbury Water Treatment Plant event-based area A is exempt from this prohibition, and why all future fuel storage will be permitted (with risk management plans) in this area. It would be beneficial to explain why the committee has decided to manage rather than prohibit this instance of fuel storage, especially since it includes the largest volume of stored fuel, which one would expect would pose the greatest environmental hazard.

Also in relation to policy 15-05, item 6-b is missing the quantity (it should likely read 8000L for the EBA-C). For item 7-a, the quantity should likely read 5000L instead of 25000L for the EBA-B.

5. As the ministry has commented before, a transport pathway is a land condition which allows for a contaminant to circumvent the normal infiltration of water from the surface to an aquifer at depth in the ground. The presence of a well or a borehole (i.e., for a geothermal system) is not considered a transport pathway unless its construction provides a conduit from the

surface down to an aquifer or allows for increased flow between aquifers. A properly constructed, maintained or subsequently abandoned well or a newly constructed well are not considered transport pathways. Additionally, a transport pathway is not a drinking water threat. There are still a number of the transport pathway policies that would capture anyone with a well or a geothermal system, and would therefore not fall within the scope of s.27 of O. Reg. 287/27. We recommend including wording in policies TP-06, TP-08, TP-09, TP-10, and TP-11 that more clearly reflects that they are directed at transport pathways. We recommend adding the following text to those policies, in the same way that you have modified TP-02 and TP-04:

“To ensure that any drinking water threat in the vicinity of a transport pathway ceases to be or will not become a significant drinking water threat; or that a transport pathway ceases to endanger the raw water supply of a drinking water system...”

6. Policy TP-07 is a specify action policy addressing transport pathways (specifically, wells). As noted above, properly constructed wells are not considered transport pathways and do not increase the vulnerability of municipal residential wells considered under the source protection program. As written, the policy contains a wide variety of actions for the ministry to consider – some of these are already integrated into existing legislation, and others are somewhat unclear in terms of their relevance or desired outcome.

Part 1 of the policy requests that the ministry “require that a well associated with a permit be maintained to current standards.” Current regulations require well owners to construct the well to the standards of the day, and do not permit wells to be constructed that introduce a connection between surface water and groundwater (which would make the well a transport pathway). Once a well is drilled, it is a very difficult and costly endeavour to modify it.

Parts 2 and 3 of the policy are already integrated into existing legislation; O. Reg. 903 requires unused wells to be properly decommissioned.

Part 4 of the policy requests that the ministry “require a study, if the location of the permit coincides with a wellhead protection area, that would consider the impact of the water taking and the associated well upon the municipal water supply, including an evaluation of any potential change the vulnerability score within the WHPA and increase the potential number of significant drinking water threats.” This part of the policy appears to introduce concepts relating to water quantity (“impact of the water taking...upon the municipal water supply”), which are unrelated to the topic of transport pathways, and thus are not eligible for inclusion in a transport pathway policy. Furthermore, any changes in the vulnerability score within a WHPA (as per the technical rules) would be strictly mathematical and would not require a “study.”

For the reasons noted above, we do not feel that this policy introduces actions that address transport pathways. The simplest solution would be to remove this policy from the source protection plan (especially given the number of other policies that address transport pathways in this plan). However, if the committee is deeply committed to maintaining some of the concepts behind this policy, we recommend a follow-up discussion with our branch to discuss the intended outcome of the policy and options for alternate wording.

7. We note that monitoring policies have not been modified in accordance with previous recommendations from the ministry. As we have mentioned before, source protection committees have identified a wide range of reporting requirements. To enable consistent reporting, we continue to ask committees to make their monitoring policies more outcome-

based. For example, *“The ministry shall prepare an annual summary of the actions it has taken to achieve the outcomes of the source protection plan policies and make that report available to the SPA”*. Where the committee has specific, detailed reporting requirements, we request that the committee revise the language to make these “recommendations” (i.e., monitoring policies in policies MP-01, MP-03). We also noticed many of the monitoring policies directed at Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) (MP-06, MP-07, MP-08) and municipalities in the plans use a similar approach to the above noted policies. The SPC is encouraged to consider the feasibility of and possible revisions for these policies as well.

8. Policy MP-25 is a monitoring policy for tracking the implementation of the s.59 restricted land use policy, G-1. The policy requires the risk management official (RMO) to report on the number of occasions where enforcement action was taken and the result of the action. It is unclear exactly what this monitoring policy is intended to capture, since there really aren't any “enforcement actions” associated with restricted land uses. Previous guidance on monitoring policies from our branch has maintained that a monitoring policy to track the implementation of s.59 restricted land uses is not necessary, since the outcome of the policy (e.g, notices, orders, RMPs established) are tracked thoroughly by the information RMOs are required to collect and report on as per s.65 of O. Reg. 287/07. However, if the committee would like to have a monitoring policy associated with policy G-1, a better measure of the implementation of s.59 is whether the RMO and municipality have established a screening/ communications process to ensure Planning Act and Building Permit applications within the areas where the s.59 policy applies are not moving forward/being processed without the necessary notice from the RMO (as per s. 59(2) of the *Clean Water Act*).
9. We appreciate the modification of one phrase in policy G-5 to have the standard wording suggested by MTO and MOECC. With respect to the legal effect of this policy, in areas where the transportation of hazardous substances is not a local threat, the signage policies may be included in plans as a general education and outreach policies under section 22(7) of the Clean Water Act (which permits education and outreach policies that do not address significant threats). They were categorized in this way since the action of putting up road signs is not seen as directly addressing one of the 21 prescribed drinking water threats. Most committees have categorized the signage policies accordingly, and have treated them as non-legally binding for all implementing bodies (on list J of the legal effect lists in the appendix of the plan). Given the previous wording your committee had suggested for the municipal portion of the signage policy (“shall give due consideration to” rather than “shall be responsible for”), it would likely fit more with the intent of the committee to categorize this policy only as a list J policy (as described above), rather than also including it on list E for municipalities. In line with this change, the policy would be called “general education and outreach” in table 6.2.1 to indicate that it is not being used as a significant threat policy. Finally, if G-5 is regarded as a non-binding, list J policy, then the corresponding monitoring policies should also be on list J rather than F (MP-10 and MP-18).
10. Policy G-8 contains definitions of existing and future threats, including transitioning matters for the source protection plan. To allow activities related to applications in process to be treated fairly, transition provisions could ensure that activities related to the application would be considered as existing, and thus managed instead of prohibited. The transition provision in policy G-8 is embedded in the definition of existing and future, and could pose challenges during implementation and be considered unfair. For example, clauses 3 and 4 differentiate between activities related to an application where an approval is pending

(clause 3) and activities for which an approval has been granted (clause 4). If an application is received before the plan takes effect (and is approved after the effective date), the activity has no time restrictions for construction to commence (clause 3). However, where an application has been previously been approved (clause 4), the activity must commence within 180 days – this could be overly restrictive, as it is not unusual for planning permissions to precede construction by longer timeframes, and provincially planning permissions do not expire if construction hasn't been commenced by a certain time. For these reasons, activities that have received prior approvals are treated somewhat unfairly in the policy. Another complication is the monitoring and enforcement related to tracking that construction actually commenced within the 6 month specified time period (i.e., who would have the capacity / resources to monitor and track this construction start date?). To avoid confusion and treat all activities equally, we suggest simplifying the policy by removing clause 4 and modifying clause 3 to apply to all complete applications, including those for which approval has already been granted by the time the plan takes effect, rather than just those for which decisions are pending.

11. Policy G-09 is a new policy for monitoring nitrates in the Walkerton municipal supply wells. This policy is not a significant threat policy (does not contain actions to reduce the risk of a threat activity), nor does it fit as a strategic action policy under section 33 of O. Reg. 287/07. The only permissible option for such a policy is to be a monitoring policy under section 22(2)(7) of the Act (monitoring of an issue). As such, the policy should appear on list F. As a monitoring policy, it does not need to be tracked by a separate monitoring policy (MP-29).
12. It is unclear whether policy G-12, which recommends that municipalities update their emergency response plans, is intended as a specify action policy to address multiple significant threats (as implied by table 6.2.1), or is being included under section 26(6) of O. Reg. 287/07 (as implied by being placed on the list J legal effect list, which is for policies that aren't for significant threats). If policy G-12 is intended to address significant threats, it should be revised to specify that it relates to areas of WHPAs and IPZs where threats can be significant, and it should be on the legal effect list E. In this case, its monitoring policy (MP-26) should only be on list F (it is currently on both F and J). Alternatively, if the policy is being included under section 26(6) of O. Reg. 287/07, it would need to be revised to be applicable to areas of wellhead protection areas or surface water intake protection zones along highways, as defined in subsection 1 (1) of the Highway Traffic Act, railway lines or shipping lanes (and would remain on list J). In this case, its monitoring policy (MP-26) should only be on list J.
13. A number of policies appear on multiple legal effect lists. For some of these, their inclusion on more than one list could be confusing to implementing bodies and is unnecessary, and in some cases inaccurate.
 - It is unnecessary for policies using part IV tools to appear on list E (01-01, 01-02, 03-01, 03-02, 04-01, 04-02, 04-03, 06-01, 07-01, 08-01, 08-02, 09-01, 11-01, 11-02, 12-01, 13-01, 14-01, 14-02, 15-01, 15-02, 15-03, 15-04, 15-05, 15-06, 16-01, 16-02, 17-01, 17-02, 18-01, 21-01, 21-02, 21-03, and G-01).
 - Policies for risk management plans or s. 57 prohibition should not appear on list C (or appendix B, which lists prescribed instrument policies), even if there is a reference in the policies to the exemption process under section 61 of O. Reg. 287/07 for people holding a relevant provincial instrument (03-02, 04-02, 04-03, 08-02, 15-01). Ministries are required to follow the process set out in s. 61 of the regulation without the policies being on list C.

- Several policies that relate to decisions under the *Planning Act* are currently on lists A and E, when it appears that they only need to be on list A (01-06, 02-13, G-2). Also, policy 02-04 seems like it would be better placed on list A rather than list E.
14. Because several monitoring policies appear on list F and list J (due to the different types of policies they apply to), it would be advisable to add an explanatory note to the legal effect appendix to clarify that when a monitoring policy applies to policies that are on list J, then the monitoring policy is also a list J policy (i.e., has a non-binding legal effect, e.g., MP-12).

Monitoring policy MP-02 does not need to be on list J as well as list F – since it only monitors a significant threat policy, it should only be captured by list F.

The following monitoring policies should not be captured by list F, since they only monitor policies that aren't for significant threats (i.e., list J policies): MP-04, MP-05, MP-13, MP-20, MP-22, MP-28. These monitoring policies should only be captured by list J.

15. Several policies have been included on list J (which is for strategic action policies) that are actually significant threat policies. Any policy that addresses a significant threat cannot be listed as a strategic action policy, regardless of the implementing body, as per s. 33 of regulation 287/07. Specific action policies that address significant threats and that are to be implemented by bodies other than municipalities, local boards or conservation authorities should be put on list K. These would include significant threat policies directed at bodies such as the federal or provincial government, and other significant threat policies which have a non-legally binding commitment. The following policies should be removed from list J and added to list K: 02-05 (formerly 2-16), G-3, G-10, and G-11. The transition policy G-8 could also be included on list K.

Section 4.6 of the plan, which describes the legal effect of various policies, should be revised to reflect the difference between strategic action policies (list J), which are non-legally binding and do not address significant threats, and significant threat policies with a non-binding legal effect (list K).

16. O. Reg. 287/07 ss. 40(2)(6)) requires that where education/outreach or another “soft” policy approach is the only policy set out in the plan to deal with significant drinking water threat, a statement is required in the explanatory document that the committee is of the opinion that:
- i) the policy, if implemented, will promote the achievement of the objectives of the plan that the threat ceases to be / never becomes significant;
 - ii) a policy to regulate or prohibit the activity is not necessary to achieve those objectives.

It appears that policy G-4 (general education and outreach for all significant threats) or G-4 and G-3 (incentive policy) will be the only policies that addresses the following significant threat activities:

- application, handling and storage of category 1 NASM in areas outside WHPA A (since category 1 NASM is not captured by NASM plans), and
- application of pesticides not covered by provincial instruments.

If it was the intent of the committee only to address these threats with education, outreach and incentives, then the statement required above should be added to the explanatory document (either in the section for G-3 / G-4 or in the section describing which policies apply to the threats in question).

It is also conceivable that there could be existing septic systems regulated under the *Ontario Water Resources Act* that are only covered by policies G-3 and G-4 (policy 02-02 only addresses future systems, and not all existing systems would necessarily be captured and decommissioned under 02-01). As such, the explanatory document should be updated to include the statement noted above regarding this threat. Alternatively, if the committee is confident that none of these systems currently exist and that they won't be established by the time the plan takes effect, a statement to this effect can be added to the explanatory document. Another option would be to extend policy 02-02 to existing systems.

17. We note that you have included some additional rationale to the explanatory document regarding the impact of a number of policies. In several places, perhaps due to copy and paste errors, the additional statements do not fully coincide with the policy approach for specific threats. Please make appropriate corrections for the following:
- There are no policies prohibiting the storage of commercial fertilizer in WHPA A or B (policy 09-01 requires a risk management plan for all storage of fertilizer). However, in the explanatory document it states that the committee decided not to apply prohibition in WHPA B, thus implying that there is a prohibition in the WHPA A (p. 28).
 - The newly added rationale about the impact of salt application policies refers to landowners making alternate arrangements for salt storage, which isn't relevant to the policy being described in this section (p. 31).
 - In the fuel storage section, the first sentence says "storage of snow" when it should likely say fuel (p. 33).
 - There are no policies prohibiting grazing and pasturing in WHPA A or B (policy 21-02 requires a risk management plan for all grazing and pasturing), yet in the explanatory document it states that the committee decided not to apply prohibition in WHPA B, implying that there is a prohibition in WHPA A (p. 39).

The comment from our branch about including additional rational also asked for additional information on the number of sites being affected by prohibitions of existing activities (including some storage of ASM, application and handling/storage of NASM, and storage of salt and snow). While the explanatory document now contains references to existing activities for one of these threats (i.e., 2 possible, temporary municipal salt storage sites that will be prohibited), we continue to request any information you have (either in the explanatory document or a supplemental email or phone call) to help us understand and explain the impacts of prohibiting these other existing threats on the ground.

18. The application of road salt, commercial fertilizer and some NASMs (not from a meat plant or sewage works) are different from other significant threat activities since the actual landscape has to meet certain criteria for the threat to be significant (% impervious surface; % managed land, livestock density, as specified in the Table of Drinking Water Threats established under the Technical Rules for Assessment Reports). In contrast, other threats (e.g., fuel storage, NASM storage, sewage systems) become significant as soon as the actual activity is established. The added layer of contingency on landscape characteristics and associated mapping sets road salt, commercial fertilizer and some NASMs apart from the other threats. If the % impervious surface or managed land/livestock density thresholds are not met in an area, these threats are not and can never become significant in the area until such time as the landscape changes and the assessment report mapping is updated (i.e., no existing or future threats are possible until there is an update in the % impervious surface or managed land/livestock density above the minimum thresholds). The circumstances under which these threats would be significant are well described in section 3 of the plan. However, section 5 implies that the policies for these threats would be

applicable anywhere that vulnerable areas have certain scores. To more accurately reflect how policies for these threats are only applicable to vulnerable areas that meet the mapped thresholds, we recommend adding a footnote or explanation to the relevant policy lines in the tables in section 5. The note could point readers toward mapping of % impervious surface area, % managed lands, and livestock density in the assessment reports (in combination with the vulnerability scoring) to determine where these policies would apply.

19. The first paragraph of policy 02-06 states that this policy addresses existing sewage works. After listing which types of sewage works the policy applies to, the next paragraph states that the policy “applies to provincial instruments related to approvals to establish, alter, extend or replace new or existing sewage works...” If the policy is indeed only intended to apply to existing sewage works, it would be useful to remove or clarify the reference to new sewage works noted above.
20. Policy G-03 lists the significant threats to which it applies, and includes organic solvents in the list. However, the preamble to section 6.1.17 does not indicate that this policy applies to organic solvents. Please clarify whether this policy is intended to apply to organic solvents.
21. Page 5-22 of the plan states that the Thornbury intake cannot have significant drinking water threats, however new events-based mapping indicates that it can. Please update this text.
22. In table 7.1.1, policy 02-16 is listed as a policy for MMAH. This policy has been changed to be 02-05, and the table should be updated accordingly. In the policies listed for municipalities, the numbering of the sewage policies also has not been updated according to the new policy numbering.
23. We appreciate the modifications to policy 02-02 such that specific terms and conditions are now included as recommendations for the ministry. Please update the explanatory document to match the revisions to the policy – it currently still indicates that references to the BNQ standards for nitrogen and phosphorous are mentioned in policy 02-02.

Ministry of Transportation

Ministère des Transports

Policy and Planning Division

Division des politiques et de la planification

Transportation Planning Branch
Environmental Policy Office
2nd Floor, 301 St. Paul Street
St. Catharines, ON L2R 7R4

Direction de la planification des transports
Bureau de la politique de l'environnement
2^e étage, 301 rue St Paul
St. Catharines ON L2R 7R4



March 6, 2015

VIA EMAIL

Drinking Water Source Protection
237897 Inglis Falls Road, RR4
Owen Sound ON N4K 5N6

Attn: Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Committee

RE: Saugeen, Grey Sauble, Northern Bruce Peninsula Updated Source Protection Plan & Revised Assessment Report

The Ontario Ministry of Transportation (MTO) appreciates the opportunity to continue working with the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Committee during the development and implementation of this Plan. There are two policies that name the MTO as an implementing body, G-05 Vulnerable Area Road Signs and MP-10.

Policy Number: G-05 Vulnerable Area Road Signs

MTO is supportive of this policy and appreciates that the policy text has been revised as requested. The consistent application of the initiative on both municipal and Provincial roads will contribute to greater program success.

Policy Number: MP-10

MTO is supportive of providing an annual summary report to the local Source Protection Authority of the number of signs installed, the location of the signs, and the associated vulnerable area as related to policy G-05 Vulnerable Area Road Signs.

If the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Committee would like to discuss these policies further, please contact Natalie Boyd, Team Lead in the Environmental Policy Office at (905) 704-2727 or Natalie.Boyd@Ontario.ca

Regards,

Nicole Forbes

Nicole Forbes
A/ Senior Policy Analyst
Environmental Policy Office
Phone: 905-704-2213
Nicole.Forbes@Ontario.ca

CC: (Email): Mike Traynor, Drinking Water Source Protection
Nancy Guest, Drinking Water Source Protection
Natalie Boyd, Environmental Policy Office, MTO
Roger De Gannes, Highway Standards Branch, MTO
Jeff Baker, Contract Management and Operations Branch, MTO
Mary Wooding, Source Protection Programs Branch, MOECC

From: Carolyn Banjavcic <cbanjav@eastlink.ca>
Sent: Thursday, March 05, 2015 7:39 PM
To: David Ellingwood
Subject: Durham Source Protection Plan

Thursday, March 5th, 2015

To: Drinking Water Source Protection
c/o Grey Sauble Conservation Authority
237897 Inglis Falls Road
R. R. # 4 Owen Sound
Ontario, N4K 5N6
Fax: 519 – 470 – 3005
Email: mail@waterprotection.ca

From: Carolyn Banjavčić, BA, BSc, MLT (Cyg), ART
323105 Durham Road East
R. R. # 1 Durham
Ontario, N0G 1R0
Phone: 519 – 369 – 3619
Email: cbanjav@eastlink.ca

Re: Updated Information Concerning Drinking Water Source Protection & Updated Proposed Source Protection Plan & Assessment Report Information package relating to property with Roll # 42052200010570000000

To Whom It May Concern:

I, Carolyn Banjavčić, one of the co-owners of said property, and on behalf of my mother, Elizabeth Banjavčić, and brothers, Marko Peter and Frank Banjavčić, the other co-owners of said property, would like to officially express our concerns regarding how and when we were notified about our properties inclusion and the inclusion of our entire property in this potential protected area, and the changes to our livelihood this inclusion would incur.

First of all, your letter to us was dated February 17th, 2015 and postmarked February 19th, which we then received on February 20th (after my brothers had left home for the evening) but did not open until the 20th. By this time both the Durham (the 18th) and Chesley (the 19th) Public Meetings had already taken place without us even knowing that we were involved and might need to attend. I had hoped to try and attend one of the three remaining meetings (the 24th, 25th & 26th) but due to the combination of bad driving weather and the subsequent death (the 23rd), viewing and funeral (the 26th) in Mississauga of my last surviving Aunt, I missed attending any of these Public Meetings. If we had been notified with enough time in advance of the Durham Public Meeting I would have had time to gather all of my relevant information, review the Updated Proposed Source Protection Plan & Assessment Reports and maps, and attend said Public Meeting. We are very concerned regarding the handling of our notification, particularly since we had never been notified in the past six and a half years to indicate that our property might be included nor to have anyone enter our property to access it. I contacted you in September of 2008 regarding our concerns related to your eventual Source Protection Plan & Assessment of the Durham hill drumlin and was invited to attend a meeting in Mount Forest, which I did attend. At that time I was told you were still years away from doing your assessment studies but that I would be contacted when you did come to our area. This February 17th letter was the first time we have heard from you since then. Therefore, we feel that we have been denied our right "... of the opportunity to make comments on this Updated Proposed Source Protection Plan, which is being released for consultation..." as well as our right for "... public review and comment during this time."

Secondly, our family has owned and “small time – hobby” farmed this small acreage on the side of the Durham hill since 1968, with an environmental footprint so small as to barely even earn enough money to pay our property taxes. After studying your “MAP 5.1.WG.D.2 DURHAM WELL SUPPLY WHPA-E” map, we are baffled as to why our entire property is included, when other neighbouring, nearby or significantly more potentially damaging if industrially operated OR multiply subdivided and residentially developed properties, which are also or even more closely associated to the Saugeen River and its minor tributaries, are excluded from your inclusion zone. We respectfully request that you reconsider your inclusion of our entire property, limit the portion included to that within a few hundred feet of our pond (as you have on numerous larger farms), and allow us to continue trying to earn enough money on our land to at least be able to pay our property taxes. Not only would our inclusion immediately limit our ability to earn enough to be able to pay our property taxes, but it would also mean that if we ever planned to sell this property we would never be able to earn back its true value as no one would buy a farm they can’t work.

Finally, we are again concerned that the Source Protection Plan & Assessment Report seems to exclude the property immediately to our west, and other similar large farms immediately to their north, from inclusion in the “... vulnerable areas...” of “... Wellhead Protection Areas (WHPA), Intake Protection Zones (IPZ), Significant Recharge Areas (SRA), and Highly Vulnerable Aquifers (HVA)...” on top of the Durham hill drumlin, while someone has chosen to include our tiny little farm that sits on the tiniest edge of the hill. Their large acreage and environmental footprints vastly dwarf our own, yet they are excluded. Surely there is no comparison between the amount of already occurring and/or potential drinking water contamination caused to our Durham hill SRA and HVA by these properties, and their possible urban development, and our own tiny farm?

I reiterate, we respectfully request that you reconsider your inclusion of our entire property, limit the portion included to that within a few hundred feet of our pond (as you have on numerous larger farms within the WG.D.2 DURHAM WELL SUPPLY WHPA-E), and allow us to continue trying to earn enough money on our land to at least be able to pay our property taxes.

Thank you for your consideration. We look forward to hearing from you again in the near future.

Sincerely,

Carolyn Banjavčić, BA, BSc, MLT (Cyg), ART

323105 Durham Road East
R. R. # 1 Durham
Ontario, N0G 1R0
Phone: 519 – 369 – 3619
Email: cbanjav@eastlink.ca

From: richboats@bellnet.ca
Sent: Wednesday, March 04, 2015 4:04 PM
To: David Ellingwood
Subject: Drinking Water Source Protection

Importance: High

Hello,

Thank you for your letter dated February 2, 2015.

We are a marina that has been located in Meaford since 1933, under the business name of Cliff Richardson Boats Ltd.

After reading the information package, we are unsure how the proposed plan is going to affect established businesses' such as ours **now and in the future**. Being able to supply fuel, oil products, etc. to transient boaters and those boaters already in Meaford's harbour is a concern to us and I am sure the Municipality of Meaford as well.

Fuel at present is offered in Meaford at our facility with the next closest being Thornbury and Owen Sound.

We find that many visiting boater's enjoy fueling up, than taking a stroll around Town and visiting our merchants, who like us, rely on tourist dollars and in today's economy, we need to offer services to these people or they will go elsewhere or a worst scenario would be "Jerry" can fill ups by the boater themselves. We know that this could be detrimental to the Environment as accidental spills by non-trained people may increase.

We have fuel spill containment kits on site as per regulations for a quick response at our facility.

Our fuel facility is inspected per Federal and Provincial regulations annually and bi annually as required.

- Tanks and piping are under Provincial jurisdiction (located on privately owned land) and Fuel dispenser (pump) and piping is regulated by both Federal and Provincial agencies (dispensers (pump) are located on Federal land).

We at Cliff Richardson Boats fully understand the need to protect our drinking water for us, our children and the future and hope that we can continue to operate our Marina, as in the past, in harmony with the Environment.

Thank you for the work that you have put into the Plan to date.

Regards,

Brian Laporte

Cliff Richardson Boats Ltd

103 Bayfield St.

Meaford Ont.

N4L 1N4

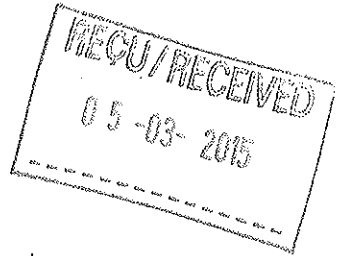
PH: 519-538-1940

Fax: 519-538-5790

richboats@bellnet.ca

Mrs. Shirley E. Bell
R.R. No. 1, #403428,
Grey Road 4
Priceville, Ont. N0C1K0
(519) 369-3940

Grey Sauble Conservation Authority, February 23, 2015
R.R. No. 4, 2378 97, Inglis Falls Rd.,
Owen Sound, Ontario N4K 5N6,
To Whom It May Concern:



Re Drinking Water Source Protection
My roll number - #42052200011350000000
and My roll number - #420522000190000000

Thank you for information which I received on
February 20, 2015 - 2 days after meeting held nearby
in Durham.

My husband, Norman, passed away in December
2006 from cancer. According to the rules of Agri Corp I am
a farmer. I belong to the Ontario Federation of Agriculture.
I do not own any livestock, but I sell hay which
is organic. I would not want to pen up any
livestock on cement; I would rather have them in
pasture eating the grass and weeds and enjoying
the sun. I am 77, and have lived here since
October 1962. Both of my farms are Century farms -
1885 and 1905. Bell Creek runs through both of these
farms. In May of 2009 I was responsible for
naming the creek through the MNR in Peterborough.
The creek has been fenced off for over 25 years
(with barbed wire). The Saugeen Conservation requested
and helped with this. We did our part!!!

Bell Creek is approximately 6 miles long, crosses
County Road 4 six times, is fast flowing, cold and

has some nice fish which my two, 6th generation grandsons (ages 9 and 5), love to catch and eat. Their father, Kerr, says fishing is very relaxing, and he has fished since he also was very young.

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Perhaps some of the cottages along river and creek should have their septic systems checked also.

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For over 100 years the Bell family farmed these two farms. They must not have caused any threat to the drinking water because the water is still being used today.

The Saugeen River and Bell Creek have been here, let us say, forever. We are not allowed to change their paths. Perhaps another well can be drilled in Durham. Leave the farmers alone or Canada may not have enough food in the food chain. This proposal is targeting the farmers far, far too much. Most farmers are hard working, considerate and good business people. They love the land. I am afraid this proposal will cause many farmers to quit. The value of the farms will decrease. There will be much more anxiety, poverty and other health problems such as allergies to weeds and pollens. Rural communities will be no more!!

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I will continue doing what I can for clean water if I feel request and rules reasonable. I do not want inspectors coming, but I am willing to discuss issues.


Thank you,

I remain,

(Mrs.) Shirley E. Bell

cc. Mr. Bill Walker, M.P.P.
 Mr. Kevin Eccles, Warden, GreyCliff.
 Mr. John L. Bell, Deputy Mayor, West Bay
 + Councillors
 Mrs. Heather Throck, O.F.A.

P.S. Please consider these comments also as our disapproval of most of the contents of the project.

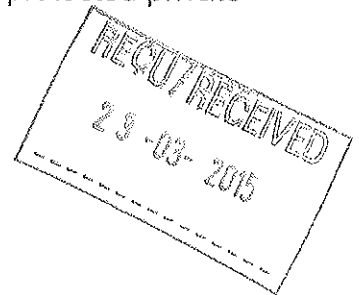

 Gerr N. Bell and
 Family

① and Concl
Lot: 57 Conc 3 EGR. Concession: LOTS 304ND R,
Township: (Glenelg) Municipality of West Grey,
Roll No.: 4205 220 00113500.0000 and 4205 220 00119000.0000
Street: Grey Road 4, Grey Road 4,
R. R. #: (if appl.) 1 403428 and 1403495,
Town: Pricville, Ont.
Postal Code: N0C1K0

, not being the titled owner, shall
cease and desist immediately. There has been no dedication for public use and there
has been no agreement entered into by myself or my agent. Any future action by the
~~Grey Sauble Conservation Authority, Conservation Authority,~~ Source Water Protection
Authority, Municipality, etc., shall be considered an attempt at forcible entry and
detainer, criminal trespass, etc., and a violation of my constitutionally protected private
property rights.

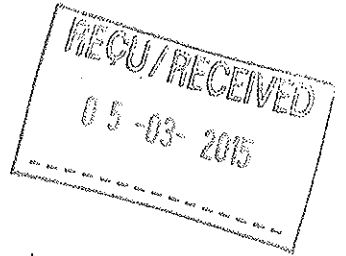
Regards

(signed) Mrs. Shirley E. Bell
and Ken M. Bell



Mrs. Shirley E. Bell
R.R. No. 1, #403428,
Grey Road 4
Priceville, Ont. N0C1K0
(519) 369-3940

Grey Sauble Conservation Authority, February 23, 2015
R.R. No. 4, 2378 97, Inglis Falls Rd.,
Owen Sound, Ontario N4K 5N6,
To Whom It May Concern:



Re Drinking Water Source Protection
My roll number - #42052200011350000000
and My roll number - #420522000190000000

Thank you for information which I received on
February 20, 2015 - 2 days after meeting held nearby
in Durham.

My husband, Norman, passed away in December
2006 from cancer. According to the rules of Agri Corp I am
a farmer. I belong to the Ontario Federation of Agriculture.
I do not own any livestock, but I sell hay which
is organic. I would not want to pen up any
livestock on cement; I would rather have them in
pasture eating the grass and weeds and enjoying
the sun. I am 77, and have lived here since
October 1962. Both of my farms are Century farms -
1885 and 1905. Bell Creek runs through both of these
farms. In May of 2009 I was responsible for
naming the creek through the MNR in Peterborough.
The creek has been fenced off for over 25 years
(with barbed wire). The Saugeen Conservation requested
and helped with this. We did our part!!!

Bell Creek is approximately 6 miles long, crosses
County Road 4 six times, is fast flowing, cold and

has some nice fish which my two, 6th generation grandsons (ages 9 and 5), love to catch and eat. Their father, Kerr, says fishing is very relaxing, and he has fished since he also was very young.

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Thank you,

I remain,

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P.S. Please consider these comments also as our disapproval of most of the contents of the project.

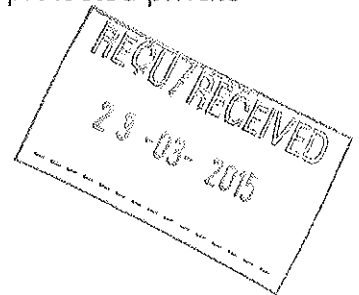

 Gerr N. Bell and
 Family

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Township: (Glenelg) Municipality of West Grey,
Roll No.: 4205 220 00113500.0000 and 4205 220 00119000.0000
Street: Grey Road 4, Grey Road 4,
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~~Grey Sauble Conservation Authority, Conservation Authority,~~ Source Water Protection
Authority, Municipality, etc., shall be considered an attempt at forcible entry and
detainer, criminal trespass, etc., and a violation of my constitutionally protected private
property rights.

Regards

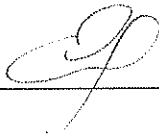
(signed) Mrs. Shirley E. Bell
and Ken M. Bell



NDR 14145 RP 16R7287H 1r2
Lot: and RP 16746H1 Concession: 2
Township: West Grey
Roll No.: 4205-22 00011981 000000
Street: 413629 Base Line
R. R. #: (if appl.) 1

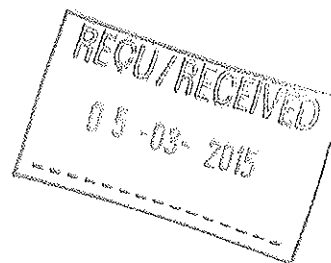
Town: Priceville ON
Postal Code: NOC 1K0, not being the titled owner, shall
cease and desist immediately. There has been no dedication for public use and there
has been no agreement entered into by myself or my agent. Any future action by the
Saupean Valley Conservation Authority, Source Water Protection
Authority, Municipality, etc., shall be considered an attempt at forcible entry and
detainer, criminal trespass, etc., and a violation of my constitutionally protected private
property rights.

Regards



March 3, 2015

To
Drinking Water Source Protection
Saugeen Conservation Authority
Municipality of West Grey



Re: Property Roll Numbers 42052200011250000000
 42052200011992000000
 42052200011990000000
 42052200011981000000

In response to your letters dated Feb 17/2015 and as owners of the above listed properties, we respectfully take exception to the inclusion of said properties in the Updated Source Protection Plan. (UPSP)

Our objection centres around the fact that in the extreme, our farming business and income would be severely reduced or eliminated if all or some of the list of activities included in the "Background Bulletin" are implemented. We have to date invested significant capital in purchasing the land as well as improvements.

We had the opportunity to attend the Walkerton Feb 25/2015 public meeting. While verbal assurances were given that there would be no problem as long as "normal" farming practices were adhered to and that there was no livestock grazing nor land used for pasturing, when pressed for written assurances to that effect, we were told this could not be forthcoming as it would need to be provided by the Risk Assessment Officer/Manager, a position that has not been filled yet.

This being the case, and to protect our present and all important future rights, we feel compelled to enclose the attached letters stating our formal position.

In closing, we are wholeheartedly on board with keeping our natural resources clean and unpolluted and trust the current administrations have the best of intentions, but without written assurances, we feel this effectively gives carte blanche to implement any and all restrictions now or more importantly in the future.

We look forward to your reply.

Respectfully,

Elisabeth McConaghy
Al Woodward

Name: Elisabeth McConaghy and M Woodward
Lot: EPL 51, EPL 52 Concession: 3 EGR
Township: West Grey
Roll No.: 4205 22 000 11250 00000000
Street: 413 676 Baseline Rd
R. R. #: (if appl.) 1
Town: Priceville ON
Postal Code: NOC 1K0

Date: March 3, 2015

Municipality of West Grey
Address: 402 813 Grey Rd 4
Rd + 2 Durham, ON
NOC 1R0

Attention: Mayor and Council

In response to your recent letter, The Clean Water Act is applicable to a reasonable distance from a municipal well-head and is the responsibility of the municipality and/or a source protection authority to ensure that this area is under the ownership of the municipality. Section 92 of the Clean Water Act, which states:

Expropriation

92. A municipality or source protection authority may, for the purpose of implementing a source protection plan, acquire by purchase, lease or otherwise, or, subject to the *Expropriations Act*, without the consent of the owner, enter upon, take and expropriate and hold any land or interest in land. 2006, c. 22, s. 92.

There is no consent given to any implementation of the plan/policy on the property known as:

Lot: EPL 51, EPL 52 Concession: 3 EGR
Township: West Grey
Roll No.: 4205 22 000 11250 00000000
Street: 413 676 Baseline Rd
R. R. #: (if appl.) 1
Town: Priceville ON
Postal Code: NOC 1K0

As we understand the term "policy" to mean part of a "plan"¹, unless full compensation is paid to all of the land/property owners, within the map area, the policy/plan cannot be implemented.

¹ "As explained by Saunders J. in *Bele Himmel Investments Ltd. v. City of Mississauga et al.* (1982), 13 O.M.B.R. 17 at 27: Official plans are not statutes and should not be construed as such. In growing municipalities...official plans

The intent of the Clean Water Act is to ensure protection of municipal/communal well-heads. This was precipitated because of the Walkerton Tragedy². No one wishes

set out the present policy of the community concerning its future physical, social and economic development." *Niagara River Coalition v. Niagara-on-the-Lake (Town)*, 2010 ONCA 173 (CanLII).

² Walkerton chronology, Mon. Dec. 20 2004 CTV.ca News Staff

http://www.ctv.ca/CTVNews/Story/1.103559265883_98968465/

May 12, 2000: Torrential rains wash bacteria from cattle manure into Walkerton's shallow town well. Over the next few days, residents are exposed to E. coli. **May 15, 2000:** The town's Public Utilities Commission (PUC) begins drawing water samples. **May 17, 2000:** The first symptoms of E. coli begin to surface. Residents complain of bloody diarrhea, vomiting, cramps and fever. **May 18, 2000:** According to later statements by Dr. Murray McQuigge, the medical health officer for Grey-Bruce, the PUC receives a fax from a lab confirming E. coli contamination from the May 15 samples. But water manager Stan Koebel fails to notify the Ministry of the Environment or the public health office. **May 19, 2000:** The Region's Medical Health Office (MHO) receives word of several patients with E. coli symptoms. Over the next few days, the public health office makes repeated calls to the utility asking if the water is safe. According to McQuigge, the utility says there's no problem. **May 21, 2000:** Region's MHO begins independent testing of the water and issues a boil-water warning. **May 22, 2000:** The first death directly linked to E. coli is reported. **May 23, 2000:** Health officials receive confirmation from their own tests that Walkerton water is contaminated with E. coli. By now, more than 150 people are reported to have sought hospital treatment, while another 500 complain of symptoms. **May 25, 2000:** McQuigge informs the media that that the PUC had not acted on an earlier fax from a lab confirming E. coli contamination from the May 15 samples. He alleges his office was "clearly misled" about Walkerton's water. **May 26, 2000:** The Ontario Provincial Police announces it is investigating events in Walkerton, as some townspeople launch a class-action lawsuit. **June 12, 2000:** A house-by-house disinfection program begins, as Walkerton starts cleaning up. Pipes are scrubbed as chlorinated water is pumped through 2,500 customer locations. Throughout the summer months, during this arduous process, Walkerton remains under a boil-water order. **June 27, 2000:** The federal government announces it will invest almost \$10 million to find better ways to treat Canada's water and wastewater. **July 28, 2000:** The Ontario Environment Ministry releases a list of 131 municipalities with "deficient" water facilities and announces a plan for upgrades. Among them, urban centres like Hamilton, Peterborough and Sudbury. **Aug. 26, 2000:** New drinking-water laws take effect in Ontario. **Nov. 17, 2000:** Stan Koebel resigns, after negotiating a \$98,000 severance package, including \$34,000 to cover vacation time. Walkerton council agrees on April 23, 2001, to pay Koebel \$82,000 in severance and vacation plus \$5,000 in legal costs. **Dec. 18, 2000:** Stan Koebel begins his testimony at the inquiry by apologizing for his role in the tragedy. He confesses he didn't really know what E. coli was, or its health effects. **Dec. 19, 2000:** Koebel tells the inquiry that water tests and water safety reports for the Ontario government were routinely falsified for about 20 years. He also testified that provincial officials knew the town wasn't meeting minimum standards for water testing. **April 23, 2001:** Municipal politicians in the town of Walkerton vote to pay out most of a controversial \$98,000 severance package to Stan Koebel. **Aug. 15 - 17, 2000:** In its closing arguments, government lawyers blame the E. coli tragedy on the "reckless" practices of former water manager Stan Koebel. However, Koebel insists the blame must be shared with the Ontario government. **Jan. 14, 2002:** O'Connor delivers the final Walkerton report to the Ontario government, one week before it is to be released to the public. **Jan. 18, 2002:** Justice Dennis O'Connor's report concludes the tragedy was preventable. It says the Koebel brothers' shoddy work and dishonesty, along with government budget cuts and Environment Ministry ineptitude, were to blame. **May, 2002:** O'Connor delivers the second part of his report to the Ontario government. **Aug 20, 2002:** The province releases draft regulations under the Nutrient Management Act to protect provincial drinking water. **Nov. 23, 2002:** An arbitrator awards former public utilities foreman Frank Koebel a \$55,000 compensation package by the municipality for his job loss. **Dec 5, 2002:** Study finds that most who fell ill from E. coli infection have recovered, although hundreds still suffer from gastrointestinal problems. **Dec. 22, 2002:** Ontario study finds half of provincial water plants are still violating safety laws implemented after the tainted water tragedy. **Feb. 18, 2003:** Opposition parties call for the resignation of Walkerton-area Conservative politician Bill Murdoch for suggesting Tory government bears no responsibility for disaster. Murdoch refuses to apologize. **April 23, 2003:** Charges of common nuisance, fraud and breach of trust announced against Stan and Frank Koebel. **Nov. 30, 2004:** Koebel brothers plead guilty to common nuisance endangering lives, health and safety of the public with maximum two-year sentence. Victims tell court about personal impact of the tragedy. **Dec. 1, 2004:** Defence asks for conditional discharge. Crown asks for close to maximum jail time for Stan Koebel, conditional sentence for Frank Koebel.

Dec. 20, 2004: Stan Koebel is sentenced to one year in jail, Frank Koebel to nine months of house arrest. The ruling is met with absolute silence in the courtroom. In sentencing, Ontario Superior Court Justice said "the

a repeat of this anywhere in Ontario and yet this incident had nothing to do with the agricultural or rural community. With the criteria, in this plan/policy, it would seem that the Municipality and/or the Source Water Protection Authority is trying to remove their responsibility, placing that responsibility onto the shoulders of individual private property owners. The Walkerton Tragedy rests fully on the shoulders of municipal employees and the municipal council of Walkerton. *"Jan. 18, 2002: Justice Dennis O'Connor's report concludes the tragedy was preventable. It says the Koebel brothers' shoddy work and dishonesty, along with government budget cuts and Environment Ministry ineptitude, were to blame."*³ And as expressed by Ruth Sullivan, in "Sullivan on the Construction of Statutes":

"1.16. The legal context is relevant to statutory interpretation in primarily two ways. First it is sometimes the source of legislation, as when common law rules or concepts are codified, legislation from another jurisdiction is relied on as a model or an international law convention is implemented. Second, it supplies the legal norms which inform statutory interpretation. These norms are relevant because they are part of the legal culture in which law makers as well as interpreters operate. They take both a positive and negative form: courts presume that legislatures want to do the right thing, such as comply with constitutional limits on their jurisdiction or with Canada's international law obligations; they also presume that legislatures want to avoid violating constitutional norms such as rule of law – by expropriating property without compensation, for example, or enacting retroactive legislation."⁴

Therefore, any new plan/policy cannot be implemented on private property without the consent of the private property owner or full compensation must be paid to all private property owners affected by this policy. This was established as late as 2013⁵.

There are also the constitutional rights of the private property owner and that these rights are protected under common law and the Letters Patent of the patentee, his/her

offenders are not being sentenced for being the cause of the Walkerton water tragedy." *With files from Canadian Press.*

³ Walkerton chronology, Mon. Dec. 20 2004 CTV.ca News Staff
http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/1103559265883_98968465/

⁴ Ruth Sullivan, LL.B., B.C.L., earned a master's degree in English from Concordia University, degrees in Common Law and Civil Law from McGill University and a master's degree in legislation from the University of Ottawa. She clerked from the Right Honourable Chief Justice Bora Laskin at the Supreme Court of Canada in 1982 and was called to the Bar of Ontario in 1984. After 27 years of teaching in the Faculty of Law at the University of Ottawa, she retired in 2011. She continues to work in the Legislative Services Branch at the federal Department of Justice, where over the years – on secondments, sabbaticals and now as a full time employee – she has drafted bills and regulations, provided training and written legal opinions. Sullivan on the Construction of Statutes, Sixth Edition, 2014, "About the Author." Sullivan on the Construction of Statutes, Sixth Edition, 2014, p. 3.

⁵ Antrim Truck Centre Ltd. v. Ontario (Transportation), 2013 SCC 13, DOCKET: 34413, March 7, 2013, it stated: [30]...The words of McIntyre J.A. in *Royal Anne Hotel* are apposite: "There is no reason why a disproportionate share of the cost of such a beneficial service should be visited upon one member of the community by leaving him uncompensated for damage caused by the existence of that which benefits the community at large. [p. 761]"

heirs and assigns, forever. The Conservation Authorities, being under the direction of the Minister of Natural Resources, said Ministry is to deal specifically with Crown lands, mines, mineral and the royalties which spring from what is determined under section 109 of the British North America Act, 1867, of which section 109 states:

“Property in Lands, Mines, etc. 109.

All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.”

With the provincial interests being subservient to the interests of the patentee, their heirs and assigns, so are the interests of the Conservation Authorities.

Then there is the issue of dedication and designation. Dedication is a very formal and complicated avenue⁶. One must dedicate by grant in deed, and then it must be accepted by the grantee (municipality or public), documented, registered, etc. If it was property dedicated to a municipality, not only was there to be the documentation and registration of the title, but a by-law would have to be passed and registered⁷. The passing of the by-law was the municipality acquiring the property as an asset⁸. This then allowed the corporation to exercise its authority under the *Municipal Act*⁹ or any other act, because the property now belonged to the municipal corporation. If a municipality does not follow this process it cannot designate or zone¹⁰ the land because the ownership of land, and the land title from the previous owner, has not been transferred and registered under the *Registry Act* or *The Land Titles Act*. Without registry there can be no designation because there has been no dedication¹¹. It also

⁶ Wright and Maginnis v. Long Branch (Village), 1957 CanLII 37 (ON CA).

⁷ Meaford (Municipality) v. Grist, 2013 ONCA 124.

⁸ “municipal property asset” means an asset of the municipality that is land, equipment or other goods. O. Reg. 599/06, s. 14 (2).

⁹ Broad authority, single-tier municipalities 10. (1) A single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public. 2006, c. 32, Sched. A, s. 8.
By-laws (2) A single-tier municipality may pass by-laws respecting the following matters:
4. Public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act..
Municipal Act, 2001, S.O. 2001, CHAPTER 25

¹⁰ **ZONE, ZONING, ZONES** - *verb* *tr.v.* zoned, zon-ing, zones. 1. To divide into zones. 2. To designate or mark off into zones. 3. To surround or encircle with or as if with a belt or girdle. <http://www.thefreedictionary.com/zone>
verb [with object] 1. designate (a specific area) for use or development as a particular zone in planning: *the land is zoned for housing* . <http://oxforddictionaries.com/definition/english/zone>

¹¹ City of Flagstaff, a Body Politic, Appellant, v. George Babbitt, Jr., Appellee. Sup. Court. Aug. 6, 1968. The Court of Appeals, Stevens, J., held that actions of subdivider in testifying that he did not intend to dedicate land designated in subdivision plat as park to public, in failing to include park in dedicatory working on record plat, in establishing and grading streets and replatting lots in portion of area designated as park, and in executing easement for sewer line to city across park and paying taxes on such property were inconsistent with intent to dedicate park to public but rather

must be understood that anything that is specified in this dedication and agreement cannot be changed by either the grantor or the grantee without the permission of the other

In regards to the public interest. *"The rule is the public good is always paramount but never when it is at the expense of a private individual."*¹² Therefore, it cannot be the intent of the legislators to interfere with the ability for the private property owner to exercise their vested rights, based on "...Her Majesty the Queen in right of Ontario has no right, title or interest in and to the lands described..."¹³.

Under the Municipal Act, section 14, is quite clear, when it states:

Conflict between by-law and statutes, etc.

- 14. (1)** A by-law is without effect to the extent of any conflict with,
(a) a provincial or federal Act or a regulation made under such an Act; or
(b) an instrument of a legislative nature, including an order, licence or approval, made or issued under a provincial or federal Act or regulation. 2001, c. 25, s. 14.

Same

(2) Without restricting the generality of subsection (1), there is a conflict between a by-law of a municipality and an Act, regulation or instrument described in that subsection if the by-law frustrates the purpose of the Act, regulation or instrument. 2006, c. 32, Sched. A, s. 10.

Therefore, with the statement under sections 10 and 11, subsection 2, part 4 of subsection 2, the municipality to exercise its authority, it must acquire the asset or it cannot interfere with any federal or provincial statute. This includes the Constitution and the Criminal Code of Canada.

Finally, the Saugeen Valley Conservation Authority, Source Water Protection Authority, Municipality, etc., and any party involved with the interference with the use and enjoyment of

were consistent with intent to retain property as private property of subdivider and they rebutted presumption of dedication arising from plat. Judgment affirmed.

¹² Mr. Gisborn, Ontario Legislative Assembly, February 11, 1965 Volume 1, Page 478

¹³ Conclusion

[121] Accordingly, the plaintiff's claim for a declaration that Her Majesty The Queen in right of Ontario is the owner of the lands lying between the water's edge of Nottawasaga Bay and the line depicting the "line of the wood" and a declaration as to the location of the line depicting the "line of the wood" on the original plan of survey of the Township of Tiny or in the alternative for an order directing a reference to determining the location of the line depicting the line of the wood on the original plan of survey of the Township of Tiny, are dismissed as is the claim for permanent injunctive relief and therefore all of the claims of the plaintiff are dismissed.

[122] As to the defendants' counterclaim, the defendants are entitled to the following, that is to say:

[123] A declaration that the owners of Blocks A, and B and each of the individual lots 1 to 45 inclusive Registered Plan No. 750 registered in the Registry Office for the Registry Division of Simcoe own and have title to the water's edge of Nottawasaga Bay subject to the right of free access to the shore of Lake Huron for all vessels, boats and persons and that Her Majesty the Queen in right of Ontario has no right, title or interest in and to the lands described as Blocks A, B, and each of the individual lots 1 to 45 inclusive, Registered Plan 750 save the free access to the shore of Lake Huron for all vessels, boats and persons from Lake Huron. Ontario (Attorney General) v. Rowntree Beach Assn. Date: 1994-03-11

Lot: EPL 51, EPL 52 Concession: 3EGR

Township: West Grey

Roll No.: 4205 22 000 1125 00 000 00


Street: 413 67th Baseline Rd

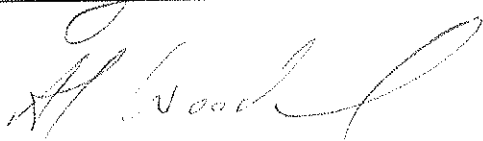
R. R. #: (if appl.) 1

Town: Priceville. ON

Postal Code: NOC 1K0, not being the titled owner, shall
cease and desist immediately. There has been no dedication for public use and there
has been no agreement entered into by myself or my agent. Any future action by the
Sourceen Valley Conservation Authority, Source Water Protection
Authority, Municipality, etc., shall be considered an attempt at forcible entry and
detainer, criminal trespass, etc., and a violation of my constitutionally protected private
property rights.

Regards





Name: Elizabeth McGonaghy
Lot: NPL Lot 1250 RP Concession: 2
66 757 Rd 1250 RP 16 77461 Rd 1
Township: West Grey
Roll No.: 4205 22 000 11981 000000
Street: 413689 Baseline Rd.
R. R. #: (if appl.) 1
Town: Priceville, ON
Postal Code: NOC 1K0

Date: March 3, 2015

Municipality of West Grey
Address: 402 813 Grey Rd 4
RR #2
Durham, ON NOG 1R0

Attention: Mayor and Council

In response to your recent letter, The Clean Water Act is applicable to a reasonable distance from a municipal well-head and is the responsibility of the municipality and/or a source protection authority to ensure that this area is under the ownership of the municipality. Section 92 of the Clean Water Act, which states:

Expropriation

92. A municipality or source protection authority may, for the purpose of implementing a source protection plan, acquire by purchase, lease or otherwise, or, subject to the *Expropriations Act*, without the consent of the owner, enter upon, take and expropriate and hold any land or interest in land. 2006, c. 22, s. 92.

There is no consent given to any implementation of the plan/policy on the property known as:

Lot: NPL Lot 1250 RP 16 757 Rd 1+2 Concession: 2
66 757 Rd 1250 RP 16 77461 Rd 1
Township: West Grey
Roll No.: 4205 22 000 11981 000000
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As we understand the term "policy" to mean part of a "plan"¹, unless full compensation is paid to all of the land/property owners, within the map area, the policy/plan cannot be implemented.

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Therefore, any new plan/policy cannot be implemented on private property without the consent of the private property owner or full compensation must be paid to all private property owners affected by this policy. This was established as late as 2013⁵.

There are also the constitutional rights of the private property owner and that these rights are protected under common law and the Letters Patent of the patentee, his/her

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heirs and assigns, forever. The Conservation Authorities, being under the direction of the Minister of Natural Resources, said Ministry is to deal specifically with Crown lands, mines, mineral and the royalties which spring from what is determined under section 109 of the British North America Act, 1867, of which section 109 states:

“Property in Lands, Mines, etc. 109.

All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.”

With the provincial interests being subservient to the interests of the patentee, their heirs and assigns, so are the interests of the Conservation Authorities.

Then there is the issue of dedication and designation. Dedication is a very formal and complicated avenue⁶. One must dedicate by grant in deed, and then it must be accepted by the grantee (municipality or public), documented, registered, etc. If it was property dedicated to a municipality, not only was there to be the documentation and registration of the title, but a by-law would have to be passed and registered⁷. The passing of the by-law was the municipality acquiring the property as an asset⁸. This then allowed the corporation to exercise its authority under the *Municipal Act*⁹ or any other act, because the property now belonged to the municipal corporation. If a municipality does not follow this process it cannot designate or zone¹⁰ the land because the ownership of land, and the land title from the previous owner, has not been transferred and registered under the *Registry Act* or *The Land Titles Act*. Without registry there can be no designation because there has been no dedication¹¹. It also

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verb [with object] 1. designate (a specific area) for use or development as a particular zone in planning: *the land is zoned for housing* . <http://oxforddictionaries.com/definition/english/zone>

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must be understood that anything that is specified in this dedication and agreement cannot be changed by either the grantor or the grantee without the permission of the other

In regards to the public interest. *"The rule is the public good is always paramount but never when it is at the expense of a private individual."*¹² Therefore, it cannot be the intent of the legislators to interfere with the ability for the private property owner to exercise their vested rights, based on "...Her Majesty the Queen in right of Ontario has no right, title or interest in and to the lands described..."¹³.

Under the Municipal Act, section 14, is quite clear, when it states:

Conflict between by-law and statutes, etc.

- 14. (1)** A by-law is without effect to the extent of any conflict with,
(a) a provincial or federal Act or a regulation made under such an Act; or
(b) an instrument of a legislative nature, including an order, licence or approval, made or issued under a provincial or federal Act or regulation. 2001, c. 25, s. 14.

Same

- (2)** Without restricting the generality of subsection (1), there is a conflict between a by-law of a municipality and an Act, regulation or instrument described in that subsection if the by-law frustrates the purpose of the Act, regulation or instrument. 2006, c. 32, Sched. A, s. 10.

Therefore, with the statement under sections 10 and 11, subsection 2, part 4 of subsection 2, the municipality to exercise its authority, it must acquire the asset or it cannot interfere with any federal or provincial statute. This includes the Constitution and the Criminal Code of Canada.

Finally, the Saugeen Valley Conservation Authority, Source Water Protection Authority, Municipality, etc., and any party involved with the interference with the use and enjoyment of

were consistent with intent to retain property as private property of subdivider and they rebutted presumption of dedication arising from plat. Judgment affirmed.

¹² Mr. Gisborn, Ontario Legislative Assembly, February 11, 1965 Volume 1, Page 478

¹³ Conclusion

[121] Accordingly, the plaintiff's claim for a declaration that Her Majesty The Queen in right of Ontario is the owner of the lands lying between the water's edge of Nottawasaga Bay and the line depicting the "line of the wood" and a declaration as to the location of the line depicting the "line of the wood" on the original plan of survey of the Township of Tiny or in the alternative for an order directing a reference to determining the location of the line depicting the line of the wood on the original plan of survey of the Township of Tiny, are dismissed as is the claim for permanent injunctive relief and therefore all of the claims of the plaintiff are dismissed.

[122] As to the defendants' counterclaim, the defendants are entitled to the following, that is to say:

[123] A declaration that the owners of Blocks A, and B and each of the individual lots 1 to 45 inclusive Registered Plan No. 750 registered in the Registry Office for the Registry Division of Simcoe own and have title to the water's edge of Nottawasaga Bay subject to the right of free access to the shore of Lake Huron for all vessels, boats and persons and that Her Majesty the Queen in right of Ontario has no right, title or interest in and to the lands described as Blocks A, B, and each of the individual lots 1 to 45 inclusive, Registered Plan 750 save the free access to the shore of Lake Huron for all vessels, boats and persons from Lake Huron. Ontario (Attorney General) v. Rowntree Beach Assn. Date: 1994-03-11

Name: Elisabeth McConaghy
Lot: RP Lot 2 + 3 Concession: 2
Township: RP 16R 72 87 Rd 3 West Grey
Roll No.: 42052200011992000000
Street : _____
R. R. #: (if appl.) _____
Town: Priceville
Postal Code: _____

Date: March 3, 2015

Municipality of West Grey
Address: 4028/3 Grey Rd 4
Rd 42
Durham, ON N0G 1R0

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In regards to the public interest. *"The rule is the public good is always paramount but never when it is at the expense of a private individual."*¹² Therefore, it cannot be the intent of the legislators to interfere with the ability for the private property owner to exercise their vested rights, based on "...Her Majesty the Queen in right of Ontario has no right, title or interest in and to the lands described..."¹³.

Under the Municipal Act, section 14, is quite clear, when it states:

Conflict between by-law and statutes, etc.

- 14. (1)** A by-law is without effect to the extent of any conflict with,
(a) a provincial or federal Act or a regulation made under such an Act; or
(b) an instrument of a legislative nature, including an order, licence or approval, made or issued under a provincial or federal Act or regulation. 2001, c. 25, s. 14.

Same

- (2)** Without restricting the generality of subsection (1), there is a conflict between a by-law of a municipality and an Act, regulation or instrument described in that subsection if the by-law frustrates the purpose of the Act, regulation or instrument. 2006, c. 32, Sched. A, s. 10.

Therefore, with the statement under sections 10 and 11, subsection 2, part 4 of subsection 2, the municipality to exercise its authority, it must acquire the asset or it cannot interfere with any federal or provincial statute. This includes the Constitution and the Criminal Code of Canada.

Finally, the Saugeen Valley Conservation Authority, Source Water Protection Authority, Municipality, etc., and any party involved with the interference with the use and enjoyment of

were consistent with intent to retain property as private property of subdivider and they rebutted presumption of dedication arising from plat. Judgment affirmed.

¹² Mr. Gisborn, Ontario Legislative Assembly, February 11, 1965 Volume 1, Page 478

¹³ *Conclusion*

[121] Accordingly, the plaintiff's claim for a declaration that Her Majesty The Queen in right of Ontario is the owner of the lands lying between the water's edge of Nottawasaga Bay and the line depicting the "line of the wood" and a declaration as to the location of the line depicting the "line of the wood" on the original plan of survey of the Township of Tiny or in the alternative for an order directing a reference to determining the location of the line depicting the line of the wood on the original plan of survey of the Township of Tiny, are dismissed as is the claim for permanent injunctive relief and therefore all of the claims of the plaintiff are dismissed.

[122] As to the defendants' counterclaim, the defendants are entitled to the following, that is to say:

[123] A declaration that the owners of Blocks A, and B and each of the individual lots 1 to 45 inclusive Registered Plan No. 750 registered in the Registry Office for the Registry Division of Simcoe own and have title to the water's edge of Nottawasaga Bay subject to the right of free access to the shore of Lake Huron for all vessels, boats and persons and that Her Majesty the Queen in right of Ontario has no right, title or interest in and to the lands described as Blocks A, B, and each of the individual lots 1 to 45 inclusive, Registered Plan 750 save the free access to the shore of Lake Huron for all vessels, boats and persons from Lake Huron. Ontario (Attorney General) v. Rowntree Beach Assn. Date: 1994-03-11

PT Lot 2+3

Lot: RP16R 7287 Pct 3 Concession: 2

Township: West Grey

Roll No.: 4205 22 000 1192 000000


Street: _____

R. R. #: (if appl.) _____

Town: Priceville

Postal Code: _____, not being the titled owner, shall
cease and desist immediately. There has been no dedication for public use and there
has been no agreement entered into by myself or my agent. Any future action by the
Saugeen Valley Conservation Authority, Source Water Protection
Authority, Municipality, etc., shall be considered an attempt at forcible entry and
detainer, criminal trespass, etc., and a violation of my constitutionally protected private
property rights.

Regards



Name: Elisabeth McConeghey
Lot: NDR PT Lot 1+2+3 Concession: 2
Township: PLW RP 16R 7461 PA 1 - West Grey
Roll No.: 4205 22000 1199 0000000
Street : _____
R. R. #: (if appl.) _____
Town: Priceville
Postal Code: _____

Date: March 3, 2015

Municipality of West Grey
Address: 402 813 Grey Rd 4
RR #2
Durham, ON N0G 1R0

Attention: Mayor and Council

In response to your recent letter, The Clean Water Act is applicable to a reasonable distance from a municipal well-head and is the responsibility of the municipality and/or a source protection authority to ensure that this area is under the ownership of the municipality. Section 92 of the Clean Water Act, which states:

Expropriation

92. A municipality or source protection authority may, for the purpose of implementing a source protection plan, acquire by purchase, lease or otherwise, or, subject to the *Expropriations Act*, without the consent of the owner, enter upon, take and expropriate and hold any land or interest in land. 2006, c. 22, s. 92.

There is no consent given to any implementation of the plan/policy on the property

known as: NDR PT Lot 1+2+3
Lot: PLW RP 16R 7461 PA 1 Concession: 2
Township: West Grey
Roll No.: 4205 22 000 11 99 0000000
Street : _____
R. R. #: (if appl.) _____
Town: Priceville
Postal Code: _____

As we understand the term "policy" to mean part of a "plan"¹, unless full compensation is paid to all of the land/property owners, within the map area, the policy/plan cannot be implemented.

¹ "As explained by Saunders J. in *Bele Himmel Investments Ltd. v. City of Mississauga et al.* (1982), 13 O.M.B.R. 17 at 27: Official plans are not statutes and should not be construed as such. In growing municipalities...official plans

The intent of the Clean Water Act is to ensure protection of municipal/communal well-heads. This was precipitated because of the Walkerton Tragedy². No one wishes

set out the present policy of the community concerning its future physical, social and economic development." *Niagara River Coalition v. Niagara-on-the-Lake (Town)*, 2010 ONCA 173 (CanLII).

² Walkerton chronology, Mon. Dec. 20 2004 CTV.ca News Staff

http://www.ctv.ca/CTVNews/Story/CIY103559265883_98968465/

May 12, 2000: Torrential rains wash bacteria from cattle manure into Walkerton's shallow town well. Over the next few days, residents are exposed to *E. coli*. **May 15, 2000:** The town's Public Utilities Commission (PUC) begins drawing water samples. **May 17, 2000:** The first symptoms of *E. coli* begin to surface. Residents complain of bloody diarrhea, vomiting, cramps and fever. **May 18, 2000:** According to later statements by Dr. Murray McQuigge, the medical health officer for Grey-Bruce, the PUC receives a fax from a lab confirming *E. coli* contamination from the May 15 samples. But water manager Stan Koebel fails to notify the Ministry of the Environment or the public health office. **May 19, 2000:** The Region's Medical Health Office (MHO) receives word of several patients with *E. coli* symptoms. Over the next few days, the public health office makes repeated calls to the utility asking if the water is safe. According to McQuigge, the utility says there's no problem. **May 21, 2000:** Region's MHO begins independent testing of the water and issues a boil-water warning. **May 22, 2000:** The first death directly linked to *E. coli* is reported. **May 23, 2000:** Health officials receive confirmation from their own tests that Walkerton water is contaminated with *E. coli*. By now, more than 150 people are reported to have sought hospital treatment, while another 500 complain of symptoms. **May 25, 2000:** McQuigge informs the media that that the PUC had not acted on an earlier fax from a lab confirming *E. coli* contamination from the May 15 samples. He alleges his office was "clearly misled" about Walkerton's water. **May 26, 2000:** The Ontario Provincial Police announces it is investigating events in Walkerton, as some townspeople launch a class-action lawsuit. **June 12, 2000:** A house-by-house disinfection program begins, as Walkerton starts cleaning up. Pipes are scrubbed as chlorinated water is pumped through 2,500 customer locations. Throughout the summer months, during this arduous process, Walkerton remains under a boil-water order. **June 27, 2000:** The federal government announces it will invest almost \$10 million to find better ways to treat Canada's water and wastewater. **July 28, 2000:** The Ontario Environment Ministry releases a list of 131 municipalities with "deficient" water facilities and announces a plan for upgrades. Among them, urban centres like Hamilton, Peterborough and Sudbury. **Aug. 26, 2000:** New drinking-water laws take effect in Ontario. **Nov. 17, 2000:** Stan Koebel resigns, after negotiating a \$98,000 severance package, including \$34,000 to cover vacation time. Walkerton council agrees on April 23, 2001, to pay Koebel \$82,000 in severance and vacation plus \$5,000 in legal costs. **Dec. 18, 2000:** Stan Koebel begins his testimony at the inquiry by apologizing for his role in the tragedy. He confesses he didn't really know what *E. coli* was, or its health effects. **Dec. 19, 2000:** Koebel tells the inquiry that water tests and water safety reports for the Ontario government were routinely falsified for about 20 years. He also testified that provincial officials knew the town wasn't meeting minimum standards for water testing. **April 23, 2001:** Municipal politicians in the town of Walkerton vote to pay out most of a controversial \$98,000 severance package to Stan Koebel. **Aug. 15 - 17, 2000:** In its closing arguments, government lawyers blame the *E. coli* tragedy on the "reckless" practices of former water manager Stan Koebel. However, Koebel insists the blame must be shared with the Ontario government. **Jan. 14, 2002:** O'Connor delivers the final Walkerton report to the Ontario government, one week before it is to be released to the public. **Jan. 18, 2002:** Justice Dennis O'Connor's report concludes the tragedy was preventable. It says the Koebel brothers' shoddy work and dishonesty, along with government budget cuts and Environment Ministry ineptitude, were to blame. **May, 2002:** O'Connor delivers the second part of his report to the Ontario government. **Aug 20, 2002:** The province releases draft regulations under the Nutrient Management Act to protect provincial drinking water. **Nov. 23, 2002:** An arbitrator awards former public utilities foreman Frank Koebel a \$55,000 compensation package by the municipality for his job loss. **Dec 5, 2002:** Study finds that most who fell ill from *E. coli* infection have recovered, although hundreds still suffer from gastrointestinal problems. **Dec. 22, 2002:** Ontario study finds half of provincial water plants are still violating safety laws implemented after the tainted water tragedy. **Feb. 18, 2003:** Opposition parties call for the resignation of Walkerton-area Conservative politician Bill Murdoch for suggesting Tory government bears no responsibility for disaster. Murdoch refuses to apologize. **April 23, 2003:** Charges of common nuisance, fraud and breach of trust announced against Stan and Frank Koebel. **Nov. 30, 2004:** Koebel brothers plead guilty to common nuisance endangering lives, health and safety of the public with maximum two-year sentence. Victims tell court about personal impact of the tragedy. **Dec. 1, 2004:** Defence asks for conditional discharge. Crown asks for close to maximum jail time for Stan Koebel, conditional sentence for Frank Koebel.

Dec. 20, 2004: Stan Koebel is sentenced to one year in jail, Frank Koebel to nine months of house arrest. The ruling is met with absolute silence in the courtroom. In sentencing, Ontario Superior Court Justice said "the

a repeat of this anywhere in Ontario and yet this incident had nothing to do with the agricultural or rural community. With the criteria, in this plan/policy, it would seem that the Municipality and/or the Source Water Protection Authority is trying to remove their responsibility, placing that responsibility onto the shoulders of individual private property owners. The Walkerton Tragedy rests fully on the shoulders of municipal employees and the municipal council of Walkerton. *"Jan. 18, 2002: Justice Dennis O'Connor's report concludes the tragedy was preventable. It says the Koebel brothers' shoddy work and dishonesty, along with government budget cuts and Environment Ministry ineptitude, were to blame."*³ And as expressed by Ruth Sullivan, in "Sullivan on the Construction of Statutes":

"1.16. The legal context is relevant to statutory interpretation in primarily two ways. First it is sometimes the source of legislation, as when common law rules or concepts are codified, legislation from another jurisdiction is relied on as a model or an international law convention is implemented. Second, it supplies the legal norms which inform statutory interpretation. These norms are relevant because they are part of the legal culture in which law makers as well as interpreters operate. They take both a positive and negative form: courts presume that legislatures want to do the right thing, such as comply with constitutional limits on their jurisdiction or with Canada's international law obligations; they also presume that legislatures want to avoid violating constitutional norms such as rule of law – by expropriating property without compensation, for example, or enacting retroactive legislation."⁴

Therefore, any new plan/policy cannot be implemented on private property without the consent of the private property owner or full compensation must be paid to all private property owners affected by this policy. This was established as late as 2013⁵.

There are also the constitutional rights of the private property owner and that these rights are protected under common law and the Letters Patent of the patentee, his/her

offenders are not being sentenced for being the cause of the Walkerton water tragedy." *With files from Canadian Press.*

³ Walkerton chronology, Mon. Dec. 20 2004 CTV.ca News Staff
http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/1103559265883_98968465/

⁴ Ruth Sullivan, LL.B., B.C.L., earned a master's degree in English from Concordia University, degrees in Common Law and Civil Law from McGill University and a master's degree in legislation from the University of Ottawa. She clerked from the Right Honourable Chief Justice Bora Laskin at the Supreme Court of Canada in 1982 and was called to the Bar of Ontario in 1984. After 27 years of teaching in the Faculty of Law at the University of Ottawa, she retired in 2011. She continues to work in the Legislative Services Branch at the federal Department of Justice, where over the years – on secondments, sabbaticals and now as a full time employee – she has drafted bills and regulations, provided training and written legal opinions. Sullivan on the Construction of Statutes, Sixth Edition, 2014, "About the Author." Sullivan on the Construction of Statutes, Sixth Edition, 2014, p. 3.

⁵ Antrim Truck Centre Ltd. v. Ontario (Transportation), 2013 SCC 13, DOCKET: 34413, March 7, 2013, it stated: [30]...The words of McIntyre J.A. in *Royal Anne Hotel* are apposite: "There is no reason why a disproportionate share of the cost of such a beneficial service should be visited upon one member of the community by leaving him uncompensated for damage caused by the existence of that which benefits the community at large. [p. 761]"

heirs and assigns, forever. The Conservation Authorities, being under the direction of the Minister of Natural Resources, said Ministry is to deal specifically with Crown lands, mines, mineral and the royalties which spring from what is determined under section 109 of the British North America Act, 1867, of which section 109 states:

"Property in Lands, Mines, etc. 109.

All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same."

With the provincial interests being subservient to the interests of the patentee, their heirs and assigns, so are the interests of the Conservation Authorities.

Then there is the issue of dedication and designation. Dedication is a very formal and complicated avenue⁶. One must dedicate by grant in deed, and then it must be accepted by the grantee (municipality or public), documented, registered, etc. If it was property dedicated to a municipality, not only was there to be the documentation and registration of the title, but a by-law would have to be passed and registered⁷. The passing of the by-law was the municipality acquiring the property as an asset⁸. This then allowed the corporation to exercise its authority under the *Municipal Act*⁹ or any other act, because the property now belonged to the municipal corporation. If a municipality does not follow this process it cannot designate or zone¹⁰ the land because the ownership of land, and the land title from the previous owner, has not been transferred and registered under the *Registry Act* or *The Land Titles Act*. Without registry there can be no designation because there has been no dedication¹¹. It also

⁶ Wright and Maginnis v. Long Branch (Village), 1957 CanLII 37 (ON CA).

⁷ Meaford (Municipality) v. Grist, 2013 ONCA 124.

⁸ "municipal property asset" means an asset of the municipality that is land, equipment or other goods. O. Reg. 599/06, s. 14 (2).

⁹ Broad authority, single-tier municipalities 10. (1) A single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public. 2006, c. 32, Sched. A, s. 8.
By-laws (2) A single-tier municipality may pass by-laws respecting the following matters:
4. Public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act..
Municipal Act, 2001, S.O. 2001, CHAPTER 25

¹⁰ **ZONE, ZONING, ZONES** - *verb tr.v.* zoned, zon-ing, zones. 1. To divide into zones. 2. To designate or mark off into zones. 3. To surround or encircle with or as if with a belt or girdle. <http://www.thefreedictionary.com/zone>
verb [with object] 1. designate (a specific area) for use or development as a particular zone in planning: *the land is zoned for housing* . <http://oxforddictionaries.com/definition/english/zone>

¹¹ City of Flagstaff, a Body Politic, Appellant, v. George Babbitt, Jr., Appellee. Sup. Court. Aug. 6, 1968. The Court of Appeals, Stevens, J., held that actions of subdivider in testifying that he did not intend to dedicate land designated in subdivision plat as park to public, in failing to include park in dedicatory working on record plat, in establishing and grading streets and replatting lots in portion of area designated as park, and in executing easement for sewer line to city across park and paying taxes on such property were inconsistent with intent to dedicate park to public but rather

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In regards to the public interest. *"The rule is the public good is always paramount but never when it is at the expense of a private individual."*¹² Therefore, it cannot be the intent of the legislators to interfere with the ability for the private property owner to exercise their vested rights, based on "...Her Majesty the Queen in right of Ontario has no right, title or interest in and to the lands described..."¹³.

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 - (b) an instrument of a legislative nature, including an order, licence or approval, made or issued under a provincial or federal Act or regulation. 2001, c. 25, s. 14.

Same

(2) Without restricting the generality of subsection (1), there is a conflict between a by-law of a municipality and an Act, regulation or instrument described in that subsection if the by-law frustrates the purpose of the Act, regulation or instrument. 2006, c. 32, Sched. A, s. 10.

Therefore, with the statement under sections 10 and 11, subsection 2, part 4 of subsection 2, the municipality to exercise its authority, it must acquire the asset or it cannot interfere with any federal or provincial statute. This includes the Constitution and the Criminal Code of Canada.

Finally, the Saugeen Valley Conservation Authority, Source Water Protection Authority, Municipality, etc., and any party involved with the interference with the use and enjoyment of

were consistent with intent to retain property as private property of subdivider and they rebutted presumption of dedication arising from plat. Judgment affirmed.

¹² Mr. Gisborn, Ontario Legislative Assembly, February 11, 1965 Volume 1, Page 478

¹³ *Conclusion*

[121] Accordingly, the plaintiff's claim for a declaration that Her Majesty The Queen in right of Ontario is the owner of the lands lying between the water's edge of Nottawasaga Bay and the line depicting the "line of the wood" and a declaration as to the location of the line depicting the "line of the wood" on the original plan of survey of the Township of Tiny or in the alternative for an order directing a reference to determine the location of the line depicting the line of the wood on the original plan of survey of the Township of Tiny, are dismissed as is the claim for permanent injunctive relief and therefore all of the claims of the plaintiff are dismissed.

[122] As to the defendants' counterclaim, the defendants are entitled to the following, that is to say:

[123] A declaration that the owners of Blocks A, and B and each of the individual lots 1 to 45 inclusive Registered Plan No. 750 registered in the Registry Office for the Registry Division of Simcoe own and have title to the water's edge of Nottawasaga Bay subject to the right of free access to the shore of Lake Huron for all vessels, boats and persons and that Her Majesty the Queen in right of Ontario has no right, title or interest in and to the lands described as Blocks A, B, and each of the individual lots 1 to 45 inclusive, Registered Plan 750 save the free access to the shore of Lake Huron for all vessels, boats and persons from Lake Huron. Ontario (Attorney General) v. Rowntree Beach Assn. Date: 1994-03-11

NPR PT Lots 1, 2, 3

Lot: NWS RP 162 746 / Part 1 Concession: 2

Township: West Grey

Roll No.: 4205 22 000 1199 000 0000

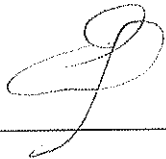
Street : _____

R. R. #: (if appl.) _____

Town: Priceville

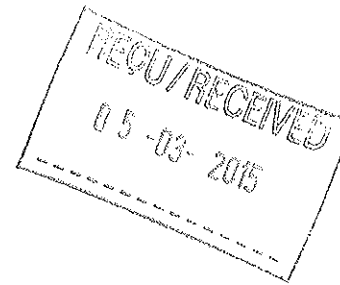
Postal Code: _____, not being the titled owner, shall
cease and desist immediately. There has been no dedication for public use and there
has been no agreement entered into by myself or my agent. Any future action by the
Saupeen Valley Conservation Authority, Source Water Protection
Authority, Municipality, etc., shall be considered an attempt at forcible entry and
detainer, criminal trespass, etc., and a violation of my constitutionally protected private
property rights.

Regards



March 5, 2015

Source Protection Committee
237897 Inglis Falls Road RR #4
Owen Sound, ON N4K 5N6



To Whom It May Concern:

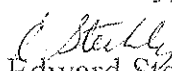

RE: Drinking Water Source Protection
Roll #42043600021610000000

Please be advised no fertilizers and no pesticides are used on our land. The property would probably be classed as recreational. Hay is harvested on three small fields for our two horses which are housed fifty yards away from water source on land sloping west away from the north flowing waters. Some years ago Mr. Ray Robertson of Grey Agricultural Services viewed the location and determined it to be of no concern to the water source.

We are actively involved in waterway bank stabilization and temperature control. In 2005 a windmill was installed with oxygen being pumped to three ponds. Only sufficient fish are maintained for insect control. We protect our ANSI area and we are participants in the Managed Forest Tax Incentive Plan. In 2002/2003 work was done under the Wetland Habitat Fund and final correspondence is hereby attached. We are very interested and committed to the waters in our area.

Submitted for your information.

Yours truly,


Edward Stechly,  Valerie Laing
636466 Euphrasia-Holland Townline
RR #3
Markdale, ON N0C 1H0



WETLAND
HABITAT
FUND

FONDS POUR
LES HABITATS
HUMIDES

Doug van Hemessen
Program Representative
P.O. Box 751
Owen Sound, Ontario
N4K 5W9
519-794-9966
dvanhemessen@wetlandfund.com

June 19, 2003

Ed Stechly & Valerie Lang
R.R. #3
Markdale, ON N0C 1H0

Dear Ed and Valerie,

I'm happy to enclose your copy of the Conservation Agreement for the wetland project on your property, signed by *Wildlife Habitat Canada*.

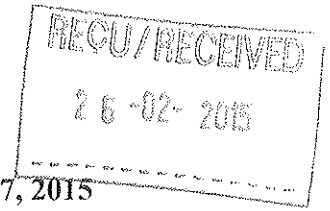
The *Wetland Habitat Fund* is grateful for your participation with our program and your commitment to conserving wildlife habitat.

Many thanks!

Doug van Hemessen



PAUL D COOK
343675 NORTH LINE RR 2
PRICEVILLE ON
N0C 1K0



Drinking Water Source Protection – Reply to Letter February 17, 2015

Your letter has been received at our home by regular mail after the dates for the first three public meetings have past and I am unable to attend those on Feb 25 or 26 due to previous commitments. For reasons I can't understand my computer will not access your web site at www.waterprotection.ca. Due to present circumstance I am unable to travel to the Conservation Authorities you have indicated, review the documents and respond within the time frame you have specified. Nevertheless, I am making comments here in an effort to be helpful.

The Role Number for the property is 42052200012120000000 and is located at 343675 North Line, Municipality of West Grey, in the previous Township of Glenelg, Lots 11 and 12. Our mailing address is 343675 North Line, R R 2 Priceville, ON, N0C 1K0

My wife and I purchased this property in 1986, are retired and live here full time. I am well aware of the activities since that time and have learned some of the earlier history from long time neighbours.

This 100 acre property is 98% enrolled in the MFTIP program and is managed as per the plan. I completed an Environmental Farm Plan that was deemed appropriate July 8, 2005.

As far as I can determine there have been no agricultural activities on this property since 1954 from which time the land has been left to natural regeneration except for small areas where we have planted trees, each year from 1980 to 2008. None of the significant drinking water threats you have listed have been carried out within or near the delineated areas of your map as a wellhead protection area.

I am commenting below on the threats you have listed, as relevant to the property:

The house is served by a septic system that we have pumped out on a regular basis about every seven years and it has shown no problems.

There is no application of agricultural source material or storage of such material, nor application of non-agricultural source material to the land

The only application of commercial fertilizer is confined to a small vegetable garden close to the house and the maximum amount in storage is about three bags at one time.

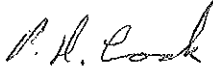
The only pesticides applied to the land were small quantities, mostly glyphosate, in the establishment of plantations over the years 1988 to 2008, in order to reduce competition to the young seedlings, with application by knapsack sprayer around the base of the trees. The largest area planted in any one year was 2 to 3 acres.

The storage of a very small quantity of pesticides is in a metal chest and in compliance with provincial requirements. I possess a valid Forestry Exterminator Licence that is only used on my own property, in order to comply with the Pesticide Act.

Diesel fuel is stored on the property (less than 1000 litres maximum) and is used mostly in winter in the removal of snow from the lane.

There is no use of land for livestock grazing or pasturing, nor confinement or farm-animal yard.

Submitted February, 24, 2015.



Paul D. Cook

Telephone 519 369 5718

Email cookpd@sympatico.ca

Source Protection re Roll # 42052200050280100000 Risk
From: Michael Risk <riskmj@mcmaster.ca>
Sent: Wednesday, February 18, 2015 10:15 AM
To: David Ellingwood
Cc: Michael Risk
Subject: Source Protection re Roll # 42052200050280100000

Good day.

I assume this revision is based on solid science, incorporating recent changes in relevant environmental parameters. I would appreciate having access to those data. The only possible relevant alteration in the hydrology I can imagine is the recent opening of the gravel pit off #4, which will change groundwater flow directions and recharge rates.

Dr. M. J. Risk
PO Box 1195 Durham ON
NOG 1R0
519-369-3874

MOECC Public Consultation Comments on the SGSNBP SPR UARs (Feb. 2015 version)

Grey Sauble UAR

NOTE: These comments may also apply to the Saugeen and North Bruce Peninsula UARs. Please also address these comments for the other 2 UARs, where applicable.

1- Page 4-5 (events based approach), last paragraph

- Please remove the terms “a well” and “WHPA-F”. An EBA applies only to SW systems (intakes) as per rule 68. There are no GUDI wells for Great Lakes, Connecting Channels or other sources mentioned in TR 68.

2- Page 4-6, 2nd paragraph from the top: “...that was approved by MOECC”.

- Please re-word this sentence to “....that was accepted by MOECC” as it seems to refer to the work plan methodology stated in 2013-2014 agreements.

3- Page 4-20, last paragraph: “...but also a minimum volume required to cause and exceedance”.

- Please re-word this sentence to reflect the assumptions made to determine the minimum volumes. Suggest that the sentence be revised to: “...but also a lower volume than the volumes modelled by Baird required to cause an exceedance”. Please correct the typo to “an” instead of “and”.
- Although the 50m³ volume was modelled by Baird, the SPA determined lower volumes than 50m³ within an EBA. These lower volumes may not necessarily be the lowest volumes within the EBA due to the high uncertainty associated with the desk-top exercise. These lower volumes are volumes below those Baird determined to be a SDWT. This would also be consistent with EBAs where their benchmark quantity is higher than small volumes modelled within the same EBA.

4- Page 4-29, first sentence

- Please provide rationale regarding “Any holes smaller than one hectare were removed”.

5- Please clarify the intent of the square brackets for:

- Page 4-46, section 4.1.5.6: the sentence “....that result from past activities [...] are significant...”.
- Page 4-55, top paragraph: “...and (4) the identification of the drinking water threats listed [...]....”.

6- Page 4-55, uncertainty of delineation and vulnerability scoring

- The 1st paragraph of this section is repeated twice. Please remove the second paragraph.
- The section is limited only to HVAs and SGRAs areas while the title of this section seems to be for all vulnerable areas. Please re-word the section as appropriate.

7- Page 4-61, near-shore currents statement “then relatively warm river discharge is often denser than the colder receiving lake water”

- This section talks about negative buoyancy (i.e. the plume sinks down). So if the stream discharge is warmer than the receiving water body, then discharge of the stream does not sink down, it floats. Please clarify and reword this statement as needed.

8- Page 4-89

- It is stated that 1 existing SDWT was identified for storage of fuel of 15000L. There are 2 EBAs for Thornbury intake, one is for 50m³ and other is for 100m³.

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- Please clarify where the 15m³ came from.
- Please also clarify how the 15m³ is being assigned as SDWT if the minimum volume to identify SDWT is 50m³.
- Please also check Tables 4.2.S1.3 and 4.2.S1.4.

9- Page 4-131

- Please include a paragraph stating that the modelling approach was applied for the East Linton Intake but the modelling results did not show that this intake would be impacted under the scenarios runs, as shown in Baird report.

10- Page 4-147

- This page states that volumes ranging from 300L to 11600L were used. It is recommended that this statement be re-worded to "Volumes were split into three EBA categories..." and just indicating the three EBAs with their benchmarks. Mentioning volume ranges and EBA category volumes could confuse the reader.
- This comment applies to all intakes where EBAs are delineated.

11- Page 4-159 Owen Sound Intake

- The UAR states that there are 2 EBAs for volumes of 15m³ and 50m³ while map 4.7.S1.9 shows that there are 3 EBAs (15, 25 and 50m³). All calculations were done for three EBAs, please correct as needed.

12- Page 4-208

- Please confirm whether there is one SDWT fuel storage with a volume of 15m³ as stated in the EBA for the Wiarton intake. Table 4.8.S1.3 shows that there are 2 SDWTs of storage of fuel.

13- Map 4.6.S1.8 shows a hatched area (in red) named area outside DWSP jurisdiction.

- IPZs for Meaford are within Grey Sauble SPA, please clarify this mapping.

14- General comments:

A- In some sections of the AR, MOE is mentioned and in other sections MOECC is mentioned. Please use the current name of MOECC through the report for consistency purposes.

B- Please insert a statement indicating that IPZ-3s for all Great Lakes intakes do not have vulnerability scores, and therefore no threats assessments under the threat-based approach were undertaken.

C- Please insert a statement that the local threats approved by the Director can be low or moderate threats using the threat-based approach.

Saugeen Valley UAR

1- Page 4-63 (Uncertainty for Ruhl Intake)

- The uncertainty, under the rules, has only two levels: low and high. Please update the text and table 4.1.20 to reflect this.

2- Page 4-88, Table 4.2G2.2c (WHPA-E for Chepstow DWS)

- The WHPA-E area has been reduced to 7.3km² from 44km² based on the new delineation. Please update the text and the table mentioned to reflect this.

3- Page 4-122, Table 4.5.S1.1b

- Although the IPZ-2 for Ruhl intake has been significantly increased and updated as shown in IPZ-2 Ruhl intake map, the managed land, livestock density still reflects calculations based on the old IPZ-2. Please review all relevant sections to consider updated information.

4- Map 4.9.S1.8

- This map shows a hatched area beyond the DWSP jurisdiction. Please clarify whether the hatched area is located in the Grey Sauble SPA.

5- Page 4-241, Table 4.7.S1.4

Although the WHPA-E for Durham wells have been reduced, the area of WHPA –E mentioned in this table still reflects calculations based on the old WPHA-E. Please review all relevant sections to consider updated information.

6 – Chapter 4 Water Quality

- To improve clarity, please provide more information and context regarding the removal of the Walkerton Nitrate Issue from the AR.

North Bruce Peninsula. UAR

Comments above for Grey Sauble may apply for this UAR.

Grey Sauble UAR

- 1- The Sucker Creek/Judges Creek/Cape Croker subwatershed
 - This watershed has been included in both this AR and the one prepared for the Northern Bruce Peninsula SPA. It is likely that this subwatershed crosses the two SPA boundaries. Please ensure that this subwatershed is included in only one of the ARs.
- 2- Section 3.10.5 Page 101
 - The term 25-year future found on pg 101 (Section 3.10.5) should be amended to the correct term which is future scenario.
- 3- Table 3.11.3
 - Please include all the results of the sensitivity analysis for all surface water subwatersheds in Table 3.11.3.
- 4- Table 3.10.5
 - Please consider changing the units in Table 3.10.6 from (L/s) to (m³/day) to be consistent with Table 3.10.5.

Saugeen Valley UAR

- 1- Table 3.10.1
 - Please ensure the subwatershed names presented in all tables are identical as well as on the corresponding maps. In Table 3.10.1, the North Saugeen/Chesley subwatershed is presented twice and should be corrected to Saugeen/Chesley East and Saugeen/Chesley West to match the subwatersheds shown on Map 2.3.
- 2- Section 3.10.5 Page 116
 - The term 25-year future found on pg 116 (Section 3.10.5) should be amended to the correct term which is future scenario.
- 3- Tables 3.10.5 and 3.10.6
 - Please consider changing the units in Table 3.10.6 from (L/s) to (m³/day) to be consistent with Table 3.10.5.
 - Also, the North Saugeen/Chesley subwatershed is presented twice (in both Tables 3.10.5 and 3.10.6) and should be corrected to Saugeen/Chesley East and Saugeen/Chesley West to match the subwatersheds shown in Map 2.3.

Northern Bruce Peninsula UAR

- 1- Table 3.10.1
 - Please ensure the subwatershed names presented in all tables are identical as well as on the corresponding maps. In Table 3.10.1, the North Saugeen/Chesley subwatershed is presented twice and should be corrected to Saugeen/Chesley East and Saugeen/Chesley West to match the subwatersheds shown on Map 2.3.
- 2- Section 3.10.5 Page 116

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- Term 25-year future found on pg 116 (Section 3.10.5) should be amended to the correct term which is future scenario.

3- Tables 3.10.5 and 3.10.6

- Please consider changing the units in Table 3.10.6 from (L/s) to (m^3/day) to be consistent with Table 3.10.5.
- Also, the North Saugeen/Chesley subwatershed is presented twice (in both Tables 3.10.5 and 3.10.6) and should be corrected to Saugeen/Chesley East and Saugeen/Chesley West to match the subwatersheds shown in Map 2.3.