

PW-FI-1

DATE: May 9, 2012

REPORT TITLE: **CLEAN WATER ACT REQUIREMENTS - APPOINTMENT OF RISK MANAGEMENT OFFICIAL AND INSPECTORS AND UPDATE ON SOURCE WATER PROTECTION**

FROM: Dan Labrecque, Commissioner of Public Works

RECOMMENDATION

That the appointment of Mark Schiller as Risk Management Official (RMO) for the Region of Peel (the Region) under the *Clean Water Act, 2006* (the *Act*), be approved;

And further, that the appointment of Mark Schiller and Stefan Herceg as Risk Management Inspectors (RMIs) for the Region under the *Act*, be approved;

And further, that the Commissioner of Public Works or his or her designate be delegated authority to appoint additional RMIs, into existing compliment responsibilities for the Region under the *Act*, as needs arise, be approved;

And further, that the CTC Source Protection Authority be requested to designate Mark Schiller, Stefan Herceg and future RMIs power of entry under Section 88 of the *Act*;

And further, that the Regional Clerk issue a certificate of appointment bearing the Clerk's signature for RMO and RMIs under the *Act*;

And further, that the report of the Commissioner of Public Works, dated May 9, 2012, titled "*Clean Water Act Requirements – Appointment of Risk Management Official and Inspector and Update on Source Water Protection*" be circulated to the Clerks of City of Mississauga, City of Brampton and Town of Caledon; to the Chair of the South Georgian Bay Lake Simcoe Source Protection Committee; to the Chair of Credit Valley, Toronto and Region and Central Lake Ontario (CTC) Source Protection Committee; to the Chair Hamilton-Halton Source Protection Committee and to the Ministry of Environment (MOE), by the Regional Clerk.

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REPORT HIGHLIGHTS

- Under the *Act*, the municipality responsible for water supply is responsible for the implementation of the Source Protection Plans and policies in its area.
- Draft Source Protection Plan and policies are being prepared by Source Water Protection Committees and will be submitted to the MOE by August 2012 for approval.
- Part IV – Implementation of the *Act* requires the appointment of the RMO and RMI, to prepare and implement Risk Management Plans, monitor and report as per the *Act*.
- The Region had recommended to the MOE that these new provincially regulated positions could be undertaken within existing job responsibilities reducing the financial impact of the new regulation, which was accepted by the MOE.
- The *Act* is now “applicable law”. Planning and Building Officials will have to work with the RMO for the release of building permits in the future to meet new policies that will be implemented within well head protection areas, primarily in Caledon.
- Regional and Municipal Official Plans and Zoning By-laws must be brought into conformity with the Source Protection Plan, when approved by the MOE.

DISCUSSION

1. Background

Following the Walkerton tragedy, the Province of Ontario enacted the *Act* and the associated Regulations to ensure that municipal drinking water supplies are safe at source. The implementation of the *Act* is a highly regulated process, with specific deliverables and extensive public consultation at each stage of delivery. The *Act* has prompted the formation of the Source Protection Authorities and Committees in Ontario, which are administered by the conservation authorities. The Source Protection Committees are comprised of representatives from municipalities, agriculture and economic sectors, public appointees, first nations and representatives appointed by the Province. The mandate of the Committees is to develop a science-based Source Protection Plan and policies for each Source Protection Area, to ensure the protection of existing and future municipal drinking water sources.

The Source Protection Committees’ Terms of Reference were approved by the MOE in 2009. The Assessment Report, identifying the vulnerable areas and potential threats to municipal drinking water sources, was approved by the MOE in 2011.

The draft Source Protection Plans and Policies are in the final stages of being finalized in accordance with the *Act*. This includes pre-consultation with the municipalities that may have some responsibilities when the Source Protection Plans are implemented.

Formal public consultation began in April/May 2012. Public consultations will be completed before submitting the final draft Source Protection Plans to the MOE by August 2012. The Minister of Environment will review and approve the final Source Protection Plans and Policies for Source Protection Regions in Ontario. Once approved, the municipality responsible for water supply is responsible for the implementation of the Source Protection Plans and Policies in its area.

As the provider of safe drinking water, the Region will be required to deliver a risk management program to protect source waters.

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a) Overview of Draft Policies

Risk Assessment studies, carried out as part of this exercise, established the Well-Head Protection Areas (WHPAs) and Intake Protection Zones (IPZs) in the Region. Significant drinking water quality threats (SDWTs) were identified for every WHPA and IPZ. For the Region wells, 77 threats on 32 properties have been identified which are currently being verified at each property. Most of the issues identified are water quality threats, associated with septic systems and fuel.

The threats listed below are based on a paper exercise developed by the MOE and the number of threats are anticipated to be reduced by field verification, which is almost complete in Caledon.

Threat #	Threat Type	# of Significant Threats
1	Waste Disposal	0
2	Sewage System (Septic)	28
3	The application of agricultural source material to land	3
4	The storage of agricultural source material	4
5	The management of agricultural source material	0
6	The application of non-agricultural source material to land	3
7	The handling and storage of non-agricultural source material	0
8	The application of commercial fertilizer to land	2
9	The handling and storage of commercial fertilizer	2
10	The application of pesticide to land	1
11	The handling and storage of pesticide	2
12	The application of road salt	0
13	The handling and storage of road salt	0
14	The storage of snow	0
15	The handling and storage of fuel	13
16	The handling and storage of dense non-aqueous phase liquid	14
17	The handling and storage of an organic solvent	1
18	The management of runoff that contains chemicals used in the de-icing of aircraft	0
19	An activity that takes water from an aquifer or a surface water body without returning the water taken to the same aquifer or surface water body	0
20	An activity that reduces the recharge of an aquifer	0
21	The use of land as livestock grazing or pasturing land, an outdoor confinement	4
	Total significant Threats subject to field verification Spring 2012	77

The Act allows for a wide range of tools to address the existing and future threats. These tools include Prohibition, Risk Management Plans, Monitoring, Education and Outreach. Every Source Protection Area has developed their own set of policies with a mix of tools including Provincially Prescribed Instruments like the *Aggregate Resources Act*, *Nutrient*

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Management Act, MOE Certificate of Approvals and other Land use planning provisions. Although the local (lower tier) municipalities do not own or operate the Regional water supply system, the *Act* and draft policies may assign responsibilities to them. The *Act* is now "applicable law" in the Ontario Building Code, and local Building Officials may be responsible for septic tank re-inspection programs and obtaining RMO approval prior to the release of building permits for specified activities in WHPAs. Annual reporting requirements to the Source Protection Authority on the number of inspections completed in wellhead protection areas are proposed in current draft policies. The numbers in Caledon are small and will be consolidated into the Region's reporting requirements.

All planning decisions, including those made by the Ontario Municipal Board, must be consistent with the approved Source Water Protection Plan. The Region's and local Municipalities Official Plans and Zoning By-laws must be brought into conformity with the Source Protection Plan. The appropriate staff, from local municipalities and the Region, will take part in the review of the draft policies. There will be ongoing discussions between the staff regarding conformity exercises and defining clear roles and responsibilities. The RMO from the Region will lead these discussions.

Once the Source Protection Plan and Policies are approved by the MOE, the municipalities must implement them. Part IV – Implementation of the *Act* requires the appointment of the RMO and RMI, and to prepare and implement the Risk Management Plans, monitor, and report as per the *Act*. When the MOE was developing these mandatory positions, as part of the regulation, the Region requested they allow for the responsibilities to be incorporated into existing positions where possible. The MOE accepted this as an option, which would reduce the financial impact, while still satisfying the regulations requirements. While some municipalities have already hired new RMOs and RMIs, the Region is in an excellent position to incorporate these responsibilities into existing positions, requiring no additional compliment. The Region has had a Well Head Protection Program in place since the 1990's and a proven track record of providing safe potable water. Source Water Protection Plans reinforce existing Regional programs, while providing new tools to reduce or eliminate the threats identified. The MOE and third party auditor have approved the Region's Drinking Water Quality Management System (DWQMS), which is managed by the Water Quality and Compliance Section within the Regional Water Division. The Source Water Protection Plans will be built into the Region's DWQMS, which is subject to a third party audit. The RMI responsibilities under Source Water Protection will be incorporated into some existing positions that are responsible for monitoring water treatment and compliance within the DWQMS. The RMO responsibilities will be incorporated into the Director of Water position. Mark Schiller has long term knowledge of the Regional water systems, he is a member of the CTC Source Water Protection Committee and has chaired the technical studies for the Lake Ontario Collaborative for Source Water Protection on behalf of the MOE and area Municipalities, from Niagara to the Bay of Quinte in Eastern Ontario.

b) Regional Council Responsibility - Appointment of Risk Management Official and Inspectors

In order to enforce the powers under Part IV of the *Act*, Regional Council must appoint the RMO and RMIs.

The RMO will have the following responsibilities as set out under the *Act*:

- Negotiate/establish interim Risk Management Plans and final Risk Management Plans
- Evaluate risk assessments that conclude an activity is not a significant drinking water threat

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- Issue orders and notices
- Cause things to be done
- Issue orders to pay
- Attend Environmental Review Tribunal meetings
- Annually report to the Source Protection Authority
- Interact with municipal departments, depending on the situation

The responsibilities of the RMI as specified in the *Act*, include:

- Entry powers to conduct inspections to ensure compliance with interim Risk Management Plans
- Authorized to issue compliance orders to deal with non-compliance under Part IV
- Attend Environmental Review Tribunal Meetings
- Interact with other municipal departments, depending on the situation
- When entering property under Section 62 – if the RMI becomes aware of a drinking water health hazard the MOE must immediately be notified

Through this Report, it is recommended that Regional Council appoint one RMO and one RMI and approve additional RMIs in future as needed. At the current time the MOE has realized that the current regulation does not provide powers of entry to the RMO, even though this position must be trained and certified to do so. MOE staff are recommending that the regulation be changed to accommodate property entry by the RMO, however, until that is changed it is implemented, that the RMO also be designated as an RMI as well. In accordance with the *Act*, the Regional Clerk is required to issue a certificate to each appointee. Mark Schiller and Stefan Herceg have passed the necessary MOE training to undertake these new responsibilities and require final approval by Regional Council.

FINANCIAL IMPLICATIONS

Currently, there is no funding commitment from the Province of Ontario to implement the Source Protection Plan. The MOE is undertaking an assessment of the potential cost implications to municipalities. It is anticipated that municipalities providing water servicing will have to include these costs into their rate. At this time, there are no significant financial implications to the Region's current budget as we prioritized our internal workload to undertake these new responsibilities. The appointment of a RMO and RMI does not require new staff. It is proposed that these positions be incorporated into existing staff roles and responsibilities. Future RMIs may also be appointed into existing positions, as they become licensed by the MOE, which will provide flexibility.

The 2012 Capital budget for Source Water Protection was funded annually at \$120,000 until 2014. This will allow for additional technical work and monitoring that may be required as part of the MOE approving the final plan. The Regulation allows for fees being developed for inspections and other requirements, which will be developed in consultation with those area Municipalities that may be impacted.

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Commissioner of Public Works

Approved for Submission:



D. Szwarc, Chief Administrative Officer



For further information regarding this report, please contact Mark Schiller at extension 4394 or via email at Mark.Schiller@peelregion.ca

c. Legislative Services