

AGENDA

Mississippi-Rideau Source Protection Committee (MRSPC)

June 5, 2008 at 1:00 pm
Merrickville Community Centre
106 Read Street, Merrickville, Ontario

		Pg.	
1:00 p.m.	1.0 Welcome a. Agenda Review b. Notice of Proxies c. Adoption of the Agenda (D) d. Declarations of Interest e. Approval of Minutes – May 1, 2008 (D) * draft minutes attached as a separate document f. Status of Action Items (I) 1 g. Correspondence 1. Letter from Raisin-South Nation SPC Re: Proxies 5 2. Letter from Quinte SPC Re: Timelines 6 3. FAQ from CELA Re: Compensation..... 7 4. Letter from MOE Re: Compensation 9 5. Memo from OFEC Re: Compensation 12		<i>Chair Stavinga</i>
	2.0 Community Outreach (I) 14 a. Members & staff report on activities during the past month b. Upcoming events & opportunities		<i>Chair Stavinga</i>
	3.0 Draft Technical Reports (I) 15 a. Overview of preliminary draft <i>Watershed Characterization Report</i> , Chapters 2 & 4: Water Quality & Issues and Threats		<i>Brad Carew</i>
	4.0 Proposed Changes to the Ontario Building Code (I) 17 a. MOE staff will provide an overview of proposed changes to the OBC regarding septic system re-inspections		<i>Katie Fairman (Ministry of the Environment)</i>
	5.0 Draft Terms of Reference from Neighbouring Committees (D) 25 a. Review and Comment on Cataraqui, Quinte and Raisin-South Nation's draft Terms of Reference		<i>Sommer Casgrain- Robertson</i>
	6.0 Other Business		<i>Chair Stavinga</i>
	7.0 Member Inquiries		<i>Chair Stavinga</i>
	8.0 Next Meeting – July 3, 2008, 7pm (public “meet & greet”, 6pm) Rideau Vista Public School 9921 Highway 42 (at Perth Road), Westport		<i>Chair Stavinga</i>
	9.0 Adjournment		<i>Chair Stavinga</i>

(I) = Information (D) = Decision

Delegations wishing to speak to an item on the Agenda are asked to please contact Karyn Cornfield at 613-692-3571 ext 1149 or karyn.cornfield@mrsourcewater.ca before the meeting.

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1.0 e) STATUS OF ACTION ITEMS

Date: May 22, 2008

To: Mississippi-Rideau Source Protection Committee

From: Sommer Casgrain-Robertson, Communications Specialist
Mississippi – Rideau Source Protection Region

Staff & Chair Action Items:

	Issue	Action	Lead	Status
1	Ottawa River Water Budget Study	Staff to find out why draft technical guidance does not allow for a water budget on the Ottawa River Highlight issue in letter to municipalities Janet to raise issue at next Chair's Meeting	Brian Stratton & Janet Stavinga	In-progress Inquiry sent to MNR/MOE in April, response was "undefined" in draft guidance. Draft <i>Assessment Report</i> regulation due mid-June, will be posted on EBR. Highlighted in Terms of Reference letter sent to municipalities May 8, 2008 Next Chair's meeting June 2-3, 2008
2	MOH Liaison on MRSPC (MOH - Medical Officer of Health)	MOHs in Mississippi-Rideau must decide among themselves who will be the Liaison. Staff will assist with Minister's appointment process.	Sommer Casgrain-Robertson	In-progress Eastern Ontario MOHs are meeting May 27, 2008 and will decide who the MOH Liaison will be.
3	Terms of Reference (ToR)	Staff to forward draft ToR to Parks Canada – Rideau Canal Office	Sommer Casgrain-Robertson	Complete Sent May 26, 2008
		Staff to draft comments on draft ToR from neighbouring regions (and submit within comment deadline)	Brian Stratton	In-progress Sent draft comments to Raisin-South Nation (May 20, 2008) and Cataraqui (May 27, 2008). Will send to Quinte by June 17, 2008

	Issue	Action	Lead	Status
4	Property Entry Protocol	Staff to circulate MVC & RVCA protocols for entering private property	Sommer Casgrain-Robertson	In-progress MVC & RVCA are both in the process of developing these protocols.
5	Links on websites	Add links to municipal websites on www.mrsourcewater.ca Ask municipalities, Algonquin First Nation and other groups to add link to www.mrsourcewater.ca on their websites	Sommer Casgrain-Robertson	In-progress
6	Precautionary Principle	Staff and MOE to examine Precautionary Principle and provide feedback	Sommer Casgrain-Robertson & MOE	Complete MOE response circulated to Members May 1, 2008 (in blue folders) Statement included in draft Terms of Reference saying source protection process is inherently precautionary.
7	Compensation	Staff to find out details about compensation meeting scheduled for May 12 (Casselman)	Sommer Casgrain-Robertson	Complete Invitation circulated to Members May 9, 2008 (email)
		MOE to provide feedback on draft compensation model prepared by agricultural reps on Raisin-South Nation SPC	Chair Stavinga	Complete MOE response circulated to Members May 15, 2008 (email)
		Staff to collect other compensation models (e.g. Ottawa wetland policy, Alternate Land Use Services).	Sommer Casgrain-Robertson	In-progress

	Issue	Action	Lead	Status
8	Need to identify broad regional threats in HVAs* and SGRAs* that threaten private wells and be able to address them in Source Protection Plans	This issue will continue to be raised with MOE as needed. Staff will watch for appropriate opportunities to raise this issue (e.g. comment on draft regulations).	Chair Stavinga & staff	In-progress EBR posting of draft Assessment Report Regulation anticipated mid June, 2008
9	Source Protection Program "Stewardship Fund"	Staff are critiquing the current program and preparing a list of recommendations for consideration by the MRSPC	Sommer Casgrain-Robertson	Complete EBR comments submitted May 16, 2008 (comments recommended improvements)
		Staff will ask MOE to produce a report showing what percentage of the funding was successfully granted to landowners.	Sommer Casgrain-Robertson	In-progress
10	Uranium mining	Circulate staff report and motions to Citizen Inquiry and companies/ individuals with active exploration claims	Karyn Cornfield	In-progress Sent to Citizen Inquiry contact Mar 17/08, Frontenac Ventures Corporation Mar 20/08 and RJK Explorations Ltd. Mar 25/08. Staff requested addresses for all other individuals/ companies from MNDM several times since Feb 27/08. Requested assistance from MOE on May 2, 2008. MOE is looking into it.
		Formal request sent to MOE asking them to further examine the uranium issue in conjunction with other Ministries and report back to the MRSPC	Brian Stratton	In-progress MOE received the letter March 5, 2008. They are currently looking into the issue in conjunction with other relevant Ministries.
		Develop public awareness campaign with local Health Units about naturally occurring uranium in drinking water – request funding	Paul Lehman	In-progress Letter sent to MOE March 5, 2008 requesting funding.

	Issue	Action	Lead	Status
		from MOE for this initiative		
11	MRSPC email addresses	Staff to circulate email protocol to members (e.g. tracking of emails)	Karyn Cornfield	In-progress
12	Outreach & Education program	Get a copy of stewardship landowner survey done by University of Guelph	Sommer Casgrain-Robertson	In-progress
13	Partnerships with Academia	Approach post-secondary institutions about possible partnerships	Chair Stavinga	In-progress Chair Stavinga sent introductory emails to local institutions Mar 18/08

MRSPC Member Action Items:

	Issue	Action	Lead	Status
1	Articles for golf course industry publications	Jim Riopelle asked staff to prepare articles about source protection for a number of golf course industry publications	Sommer & Jim Riopelle	In-progress Staff are preparing draft articles
2	Open House attendance	Members to notify Sommer if they are attending June Open Houses	All members	In-progress
	Community Outreach opportunities	Members to notify Sommer of potential events and opportunities to engage the public about source protection	All members	ongoing

* HVAs – Highly Vulnerable Aquifers

* SGRAs – Significant Groundwater Recharge Areas



February 26, 2008

Mr. Ian Smith
Director, Source Protection Programs Branch
Ontario Ministry of the Environment
2 St. Clair Ave. West
Toronto ON M4V 1L5

SUBJECT: Proxy

Dear Mr. Smith,

The Raisin-South Nation Source Protection Committee continues to move forward with the development of our procedural manual. In our discussions the Committee has agreed that the use of proxies is not advisable for many reasons. We understand that the direction from the Ministry is that the procedural manual cannot take away the use of proxy. Therefore, the Committee has passed the following motion:

That staff and the Chair hereby be directed to approach the MOE to request amendment of S.17 of Regulation 288/07 to provide the option to Source Protection Committees to choose whether proxy be allowed as well as the terms of same. That this motion be circulated to all other Source Protection Committees for support.

In accordance with the Committee resolution, I would like to request that the Ministry amends Section 17 of *Regulation 288/07* to allow Source Protection Committees to choose whether proxy be allowed.

Thank you for your consideration in this matter.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Claude Cousineau'.

Claude Cousineau, Chair
Raisin-South Nation Source Protection Committee

Copies: All Source Protection Committees
Raisin Region and South Nation Source Protection Authorities

Quinte Source Protection Region
2061 Old Highway #2, R.R. #2
Belleville, Ontario K8N 4Z2
Phone: 613-968-3434
Fax: 613-968-8240
www.quintesourcewater.ca

Thursday, May 22, 2008

Hon. John Gerretsen
Minister of the Environment
Ministry of the Environment
12th Flr
135 St Clair Ave W
Toronto ON M4V1P5

RE: Time to Complete Source Water Protection Committee Mandates

Dear Minister Gerretsen;

Further to our brief meeting in London at the OWWA/OMWA conference, I am writing to express the concerns our committee has with regard to meeting the prescribed completion dates for the various aspects of our work.

In particular, our concerns are that we may not be able to meet the prescribed dates because the province has not provided the detail we require to complete some of our work. As importantly we are concerned that because of the amount of work involved we may not have the necessary resources. As a further consideration, the committee feels that the priority should be to complete this work such that the final product is presented after a thorough and detailed study and that it be presented in a professional standard. If the final product does not reflect these attributes it is probable that that public will not have confidence in the final plans that are produced. I understand that similar concerns have been expressed to you by other committee chairs.

Given the above the Quinte Source Protection Committee requests an extension to the prescribed dates. Failing that, and subject to our demonstrating that we are working in a diligent and professional manner, it is asked that we be assured that I as committee chair, the committee members and the professional staff will not be "taken to task" by the province if the prescribed dates are not met.

Your consideration of the above will be appreciated by our committee.

Sincerely



Max Christie
Chair
Quinte Region Source Protection Region

cc: Committee Chairs
Chair, Quinte Source Protection Authority
Ian Smith, Director - Source Protection Programs Branch



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

ONTARIO'S CLEAN WATER ACT, 2006: CELA FAQ #1

Prepared by
Richard D. Lindgren, Counsel
Kaitlyn Mitchell, Student-at-Law
(April 2008)

QUESTION: Are property owners entitled to compensation if an approved Source Protection Plan prohibits or restricts certain land uses or activities on their properties?

ANSWER: No. Compensation obligations only arise if a municipality or source protection authority exercises its expropriation powers to implement an approved Source Protection Plan pursuant to section 92 of the *Clean Water Act, 2006*.

ANALYSIS:

The overall purpose of Ontario's *Clean Water Act, 2006* ("CWA") is to protect existing and future sources of drinking water against "drinking water threats."

"Drinking water threat" is defined under the CWA as "an activity or condition that adversely affects, or has the potential to adversely affect, the quality or quantity of any water that is or may be used as a source of drinking water, and includes an activity or condition that is prescribed by the regulations as a drinking water threat."¹

For example, where a particular activity (i.e. waste disposal or underground chemical storage) within a wellhead protection zone or surface water intake protection zone may create significant risk to source water, the CWA makes it mandatory for the Source Protection Plan to include policies to ensure that the activity "never becomes a significant drinking water threat," or that the activity, if already underway, "ceases to be a significant drinking water threat."²

To implement such policies, the Source Protection Plan may designate lands upon which prescribed activities are prohibited,³ restricted,⁴ or regulated through risk management plans.⁵ Under the CWA, municipalities are required to amend their official plans and zoning by-laws under the *Planning Act* in order to bring them into conformity with the significant threat policies contained in the Source Protection Plan.⁶

¹ CWA, section 2.

² CWA, section 22.

³ CWA, section 57.

⁴ CWA, section 59.

⁵ CWA, sections 56 and 58.

⁶ CWA, sections 40 to 42.

Where land use prohibitions or restrictions are established through a Source Protection Plan, the CWA expressly provides that no compensation is payable or recoverable as a result of anything done or not done under the Act, and further provides that “nothing done or not done in accordance with this Act or the regulations, other than an expropriation under section 92, constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law.”⁷

The CWA’s statutory exclusion of compensation obligations for non-expropriation matters is consistent with Canadian jurisprudence. For example, in the leading case of *B.C. v. Tener*, the Supreme Court of Canada held that:

Ordinarily, in this country, in the United States, and the United Kingdom, compensation does not follow zoning either up or down.⁸

This fundamental principle has been applied in countless court decisions in Ontario and across Canada.⁹

In addition, Canadian courts have held that a *de facto* expropriation only occurs where: (a) there has been a complete “taking” of property (or total extinguishment of rights); and (b) the taking provides benefits to the expropriating authority.¹⁰ Even where *de facto* expropriation has occurred, the presumption that compensation will follow can be rebutted by express statutory language.¹¹

In summary, it is well-established in Canadian law that planning authorities may regulate, restrict or prohibit certain land uses without having to pay compensation to affected landowners or without having to acquire their properties, provided that the planning authorities have acted in good faith to achieve a proper planning purpose.

For the foregoing reasons, compensation obligations do not arise where a Source Protection Plan under the CWA results in the “downzoning” of specific properties (i.e. by prohibiting or restricting certain land uses thereon) in order to protect sources of drinking water. Thus, landowners are not entitled to compensation for economic losses, property value depreciation, or other pecuniary damages that allegedly flow from land use constraints imposed under a Source Protection Plan.

⁷ CWA, section 98. See also the *Expropriations Act*, R.S.O. 1990, c.E.26 for general expropriation procedure.

⁸ *The Queen in Right of British Columbia v. Tener* (1985), 17 D.L.R. (4th) 1 (S.C.C.).

⁹ See, for example, *Soo Mill Lumber Co. Ltd. v. City of Sault Ste. Marie* (1975), 47 D.L.R. (3d) 1 (S.C.C.); *Sanbay Developments Ltd. v. City of London* (1975), 45 D.L.R. (3d) 403 (S.C.C.); *Hartel Holdings Co. Ltd. v. Council of the City of Calgary* (1984), 8 D.L.R. (4th) 321 (S.C.C.); *Salvation Army, Canada East v. Ontario* (1986), 53 O.R. (2d) 704 (Ont. C.A.); *Mariner Real Estate v. N.S.* [1999] N.S.J. No.283 (N.S. C.A.); *Rodriguez Holding Corp. v. Vaughan (City)*, (2006), 25 M.P.L.R. (4th) 100 (Ont. S.C.J); affd. 2007 ONCA 256 (Ont. C.A.).

¹⁰ *Alberta v. Nilsson*, 1999 CarswellAlta 499 (Alta. Q.B.); affd. 2002 CarswellAlta 1491 (Alta C.A.); leave to appeal refused 2003 CarswellAlta 1050 (S.C.C.); *Steer Holdings Ltd v. Manitoba* (1993), 99 D.L.R. (4th) 61 (Man. C.A.).

¹¹ *Manitoba Fisheries Ltd. v. R.*, (1978), 6 W.W.R. 496 (S.C.C.).

**Ministry of
the Environment**

Source Protection Programs
Branch

8th Floor
2 St. Clair Ave. West
Toronto ON M4V 1L5

**Ministère de
l'Environnement**

Direction des programmes de protection
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Toronto (Ontario) M4V 1L5



May 14, 2008

TO: Source Protection Committee Chairs
Source Protection Program Managers

FROM: Ian Smith, Director,
Source Protection Programs Branch
Drinking Water Management Division

Re: Including policies related to compensation in the Terms of Reference

A draft model outlining a mechanism to evaluate compensation options for impacts to property use as a result of the implementation of source protection plans was prepared by the agricultural representatives of the Raisin-South Nation Source Protection Committee and was presented to the committee at their February 29, 2008 meeting.

The paper was subsequently presented and discussed at the March 26-27, 2008, training meeting of Source Protection Committee (SPC) agricultural representatives in Barrie organized by the Ontario Farm Environmental Coalition. As a result a number of questions regarding the purpose and intent of this document have been raised at multiple SPC meetings. The Ministry has been requested by some SPC chairs to provide direction or guidance on the inclusion of concepts in the draft compensation model in the terms of reference.

The following direction is being provided in response to the draft compensation document.

Section 22 of the *Clean Water Act*, 2006, which sets out the required contents of a source protection plan, does not provide for the inclusion of policies related to financial compensation. The Act also states in subsection 98(6) that nothing done in accordance with the Act constitutes an expropriation or injurious affection for the purposes of the *Expropriation Act* (except an expropriation under s. 92). This provision indicates that the Legislature did not intend there to be compensation for the imposition of land use restrictions. Therefore, it would not be appropriate to include in the terms of reference tasks related to the development of compensation for land use restrictions.

It is important to note that the legislation establishes the Ontario Drinking Water Stewardship Program, through which financial assistance may be provided to persons whose activities or properties are affected by the Act. In addition, as discussed more fully below, it is anticipated that implementation costs may be a consideration in the development of a set of criteria that will be evaluated when determining which policies to include in a source protection plan.

We have provided some additional discussion points and information below around the role of the SPC in the development of source protection plan policies, evaluation criteria for policies, and the role of the Ontario Drinking Water Stewardship Fund, that you and your committees may wish to consider.

1) The SPC has a significant role in the development of the source protection plan and the decision making process regarding which policies to include or not include in the Source Protection Plan.

SPCs have been established through a process designed to be representative of the watershed community and their social, political and economic needs. One of the most significant roles that SPC members will be involved in is the development of policies in the source protection plan to address

significant drinking water threats. The role of the SPC will be to inform what types of policies are included in the source protection plan – policies involving land use restrictions may be a potential tool that source protection committees choose to use to address significant drinking water threats in vulnerable areas.

Until the assessment report is complete and the development of the source protection plan is underway it is not possible to definitively state that properties will be impacted by land use planning restrictions. The policies developed may (or may not) lead to restrictions on land use as a means of addressing significant drinking water threats. The SPC will need to consider a number of factors, including social, economic, and environmental considerations when making decisions about which type of policy to include in a source protection plan.

However, some of the concepts provided in the draft compensation model could be applied by source protection committees during the consultation process undertaken for the development of the source protection plan. The Ministry anticipates that there will be a requirement for one-on-one individual meetings to reach out directly to affected property owners in the policy development stage before it reaches the public meeting date.

The Ministry also anticipates that one of the key discussions that will be undertaken during the development of the source protection plan regulation is consideration of which criteria will be evaluated when determining which policies to include in a source protection plan.

It is anticipated that an important aspect of the policy development process will include the evaluation of proposed policies in a way that will assist the community to select the most appropriate options. It is also anticipated that provincial guidance will set out some criteria to be considered in the development of source protection plan policies to help ensure that policies that are both effective and appropriate to the local circumstances are created. Some of these criteria will likely directly relate to requirements that will be set in regulation regarding the details of each policy that must be provided in the plan. Some of the criteria for evaluation that may be recommended in guidance include:

- Compatibility with existing risk-reduction activities that may already be in place
- Implementation costs (including monitoring costs) versus outcomes (cost effectiveness of risk reduction)
- Existing programs/opportunities for cost sharing or funding (provincial or federal grant or loan)
- Time required for implementation
- Time required for risk management effects to be realized
- Life cycle of measure (i.e. some measures may have to be replaced or upgraded over time)
- For threat policies, ease of monitoring compliance and effectiveness
- Potential co-benefits derived from the policy (i.e. contributes to achievement of other local or provincial goals and/or management of multiple threats)

Proposed policy options may be measured against a common set of criteria to ensure that stakeholders have a transparent and common basis for comparing the impacts, both positive and negative, that policies may potentially have. It is important that the committee be able to demonstrate that a particular policy option was chosen with full knowledge of the inherent trade-offs associated with the policy.

2) The Ontario Drinking Water Stewardship Program is designed to provide financial assistance to persons whose activities or properties are affected by the *Clean Water Act*, 2006.

The *Clean Water Act*, 2006 establishes the Ontario Drinking Water Stewardship Program. The purpose of the program is to provide financial assistance to those whose activities and properties may be affected by the *Clean Water Act*, 2006, persons who administer incentive programs and education and outreach programs that are related to source protection plans, and to other persons or bodies in prescribed circumstances that are related to the protection of drinking water sources. The financial assistance is to be provided in accordance with regulations made under the *Clean Water Act*, 2006.

The ministry has now prepared a draft regulation that sets out the proposed requirements of the Ontario Drinking Water Stewardship Program. This regulation sets out the decision-making authority for funding

applications. It also sets out the circumstances related to the protection of drinking water sources in which financial assistance may be provided to persons and bodies other than those whose activities and/or properties may be affected by the *Clean Water Act*, 2006 and those who administer incentives or education and outreach programs. The regulation, detailed program framework and guidance materials prepared for the program will collectively provide an accountability framework to ensure appropriate on-going oversight of funds distributed through the Ontario Drinking Water Stewardship Program for the protection of drinking water sources.

In advance of regulations and to ensure that activities to protect drinking water sources across the province could begin immediately, an initial \$7 million was made available for financial assistance in 2007-2008. Another \$21 million has been committed for the Ontario Drinking Water Stewardship Program, for a total of \$28 million over four years.

If you have any questions regarding this letter please do not hesitate to contact me at ian.r.smith@ontario.ca.

Sincerely,

Ian Smith



Ontario Farm Environmental Coalition

MEMO

To: Source Protection Committee Agricultural Representatives
From: OFEC Source Protection Working Group
Date: May 20, 2008
Regarding: Compensation and the Terms of Reference

Background:

As many of you are aware, there are currently two documents circulating regarding the issue of compensation within the Source Protection Terms of Reference. One document was written by Richard Lindgren of the Canadian Environmental Law Association (CELA), and the other document is from Ian Smith from the Ministry of the Environment (MOE).

Much of the debate occurring appears to be around the many different interpretations of the word “compensation”. As such, there is value in trying to step away from the use of this particular term.

The fact remains that the *Clean Water Act* has established the Ontario Drinking Water Stewardship Program (section 97 of the Act). The stated purpose of this Program is to “provide **financial assistance** in accordance with the regulations to, (a) persons whose activities or properties are affected by this Act ...” While Mr. Lindgren may argue that individuals are not entitled to “compensation” the *Clean Water Act* provides for financial assistance to affected persons.

The Terms of Reference must identify the major tasks required for the preparation of the Assessment Report and the Source Protection Plan (SPP). It is reasonable that one of these major tasks is the development of guiding principles and policies upon which decisions will be made in implementing the final plan.¹

Additionally, Section 22 of the *Clean Water Act* establishes that a SPP “may, in accordance with the regulations, set out policies governing incentive programs and education and outreach programs.” The Source Protection Committee will need to discuss how these programs will compliment the Ontario Drinking Water Stewardship Program.

It is not appropriate to request that the Terms of Reference delineate how property owners obtain financial assistance or incentives. This will be developed at another stage in the process. However it is reasonable that the workplan for the SPP include the development of guiding principles and policies for the implementation of the plan, and the evaluation of these principles and policies for their effectiveness in implementing the SPP in an environmentally, socially and economically responsible manner.

¹ Furthermore, page 29 of the “Guidance on the Preparation of the Terms of Reference under the *Clean Water Act*, 2006 and Ontario Regulation 287/07, Version 1” references the need to develop options, develop evaluation criteria to select most appropriate options, and consult with affected stakeholders.”

Recommendation

As Ian Smith's letter clarifies, one of the roles of the SPC "will be to inform what types of policies are include in the source protection plan..." As such, it is recommended that the workplan for the Source Protection Plan include the creation of guiding principles for evaluating the effectiveness – environmentally, socially and economically, of the policies included within the Plan. The Source Protection Committee is the body responsible for the development of these guiding principles.

Furthermore, a critical policy component to the SPP is to consider the assistance required for the successful implementation of the Plan. This should include financial instruments complimenting the Drinking Water Stewardship Program. The Source Protection Committee is the responsible for the development of this policy.

The workplan for the Source Protection Program should also include the creation of reference materials for stakeholders on how to access the Ontario Drinking Water Stewardship Program and any other financial instruments available for assisting in the implementation of the plan, where available.

Next Steps

The OFEC Source Water Protection Working Group is currently organizing conference calls or local meetings with the agricultural community, along with the SPC Agricultural Representatives, to discuss the Public Consultations on the Terms of Reference. The decision for a conference call versus local meetings was based solely on the issue of timing with regards to the local public consultation schedules.

Conference calls schedule:

Cataraqui and Mississippi Rideau	Wednesday, May 21, 2008	7 pm
Quinte and Trent	Wednesday, May 28, 2008	7 pm
Ausable Maitland	Wednesday, June 4, 2008	7 pm

Local Meetings:

Meetings to be scheduled during the week of June 9th-13th.

Thames and Essex	TBD
Saugeen and South Georgian Bay	TBD
Lake Erie	TBD
CTC, Halton and Niagara	TBD
Lakehead	TBD
North Bay	TBD

If further issues arise as you continue to review your local documents, please bring them to our attention through Martha Harris, Source Water Protection Program Manager at 1-866-277-1185 or at martha.harris@ofa.on.ca.

2.0 Community Outreach

Date: May 22, 2008

To: Mississippi-Rideau Source Protection Committee

From: Sommer Casgrain-Robertson, Communications Specialist
Mississippi – Rideau Source Protection Region

Background

Staff and MRSPC members participate in many different community outreach activities that raise awareness and promote the source protection planning process. These activities include information booths at events, presentations at meetings and articles in newsletters and local papers. It is important that staff and members keep each other informed about the activities they are involved in so that we can coordinate our participation and prepare appropriate materials in advance. This includes coordinating with our neighbouring regions for meetings and events that cover Eastern Ontario.

Past Activities

- *Friends of the Tay Watershed- Implementation Meeting*
 - May 6 (Sommer & Carol Dillon attended)
- *Chair's May Newspaper Column - "Source Protection Report"*
 - published May 8-10
- *"Public Consultation - Draft Terms of Reference" newspaper advertisements*
 - published May 8-10
- *Mississippi Valley & Rideau Valley Source Protection Authority Meetings*
 - May 21 & 22 (Sommer & Janet attended)
- *"Open House" newspaper advertisements*
 - published May 22-24
- *Chairs Quarterly Meeting with MOE*
 - June 2-3 (Janet & Brian attending)
- *Almonte & Perth Open Houses*
 - June 3 & 4 (Staff & Members attending)

Members & staff are asked to give a verbal update on any other activities that took place in the past month related to source protection.

Upcoming Activities

- *Town of Smiths Falls - Committee of the Whole Meeting*
 - June 9 (staff attending)
- *Chair's June Newspaper Column - "Source Protection Report"*
 - published June 12-14
- *Remaining Open Houses:*

Carp, June 9	Smiths Falls, June 10	Michele Heights, June 11
Merrickville, June 12	Richmond, June 16	Carleton Place, June 17
Kemptville, June 18	Westport, June 19	

Members & staff are asked to give a verbal update about any other activities they know about in the coming months related to source protection.

3.0 Draft Technical Reports

Date: May 22, 2008
To: Mississippi-Rideau Source Protection Committee
From: Sommer Casgrain-Robertson, Communications Specialist
Mississippi – Rideau Source Protection Region

Background

Over the past three years staff have been working on background technical work that will feed into the Assessment Report which is due in 2009. Currently staff have completed *preliminary draft* versions of the first two reports: Watershed Characterization Report and Conceptual Water Budget. A four month schedule was developed to share these preliminary draft reports with the MRSPC starting in March (see below).

These two *preliminary draft* reports were distributed to members in March/April and are available to the public on CD or on our website:
<http://www.mrsourcewater.ca/committee/index.html#docs>

Watershed Characterization Report – *preliminary draft*

This report is a compilation of existing knowledge about the Mississippi-Rideau region. It includes information on natural characteristics, population distribution, land use, water quality conditions and trends, water use, vulnerable areas, issues and threats. Maps have been produced to illustrate many of these regional characteristics and features. The watershed characterization report is the foundation on which the rest of the technical reports build on.

Conceptual Water Budget – *preliminary draft*

This report provides an overview of how surface water and ground water interact and move through the hydrologic cycle within the Mississippi-Rideau region. It identifies where water is stored, how it travels through the region, what and where there are stresses on quantity and what trends exist. The goal of this report is to protect the quantity of drinking water sources in our region.

The Conceptual Water Budget was subject to a peer review process. Our *preliminary draft* version has been reviewed and approved by both the peer review team and the Province.

Schedule to Present Reports to MRSPC

March 6 Meeting - Watershed Characterization Report, Chapter 1

- Staff provided an overview of Chapter 1 (watershed description) of the *preliminary draft* Watershed Characterization Report. Presentation slides and meeting minutes are available on our website.
- Members received a hard copy of the *preliminary draft* Conceptual Water Budget at this meeting.

March 27

- Members received a newly revised copy of the *preliminary draft* Watershed Characterization Report with their April agenda package.

April 3 Meeting – Conceptual Water Budget

- Staff provided an overview of the *preliminary draft* Conceptual Water Budget. Presentation slides and meeting minutes will be available on our website after May 1.

May 1 Meeting – Watershed Characterization Report, Chapter 3

- Staff will provide an overview of Chapter 3 (Vulnerable Areas) of the *preliminary draft* Watershed Characterization Report.

June 5 Meeting – Watershed Characterization Report, Chapter 2 and 4

- **Staff will provide an overview of Chapters 2 (Water Quality) and 4 (Threats & Issues) of the *preliminary draft* Watershed Characterization Report.**

4.0 Proposed Changes to the Ontario Building Code

Date: May 22, 2008

To: Mississippi-Rideau Source Protection Committee

**From: Sommer Casgrain-Robertson, Communications Specialist
Mississippi – Rideau Source Protection Region**

Background

The Ministry of Municipal Affairs and Housing (MMAH) proposed changes to the Ontario Building Code regarding septic system re-inspection. These proposed changes were posted on the Environmental Bill of Rights Registry for a 45 day public comment period (March 14 - May 1, 2008).

Attached is the EBR posting as well as Part 3 of a Consultation Paper issued by MMAH about the proposed changes (Part 3 - *Background Information on On-site Sewage Systems and Ontario's Building Code*).

MOE staff will provide an overview of:

- the proposed changes to the Building Code; and
- how they relate to source protection work under the *Clean Water Act*.



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Regulation Proposal Notice:

Title:

Proposed amendments to the Building Code (O. Reg. 350/06) respecting on-site sewage systems

EBR Registry Number: 010-3036

Ministry:

Ministry of Municipal Affairs and Housing

Date Proposal loaded to the

Registry:

March 14, 2008

Keyword(s): Sewage

The comment period for this proposal is now over.

Description of Regulation:

The proposed regulations would amend the Building Code to:

- Introduce administrative requirements respecting maintenance inspections (or re-inspection) of existing on-site sewage systems; and
- Establish technical requirements for tertiary treatment unit disposal beds ("area beds") that form part of certain on-site sewage systems.

Maintenance Inspection of On-site Sewage Systems (septic systems):

The proposed amendments to the Building Code would establish programs to enforce standards for the maintenance and operation of existing sewage systems, and to require that these programs be enforced by principal authorities.

It is anticipated that the areas where required maintenance programs would be established would be a subset of the "vulnerable areas" identified in an assessment report included in a source protection plan subject to posting on the environmental registry in accordance with section 30 of Clean Water Act, 2006. The method of delineating these areas will be set out in future technical rules under the Clean Water Act, 2006. The areas will be identified in assessment reports attached to individual source protection plans for each of the forty (40) areas defined in Ontario Regulation 284/07.

The proposed amendments to the Building Code would also establish certain administrative requirements respecting maintenance inspection programs for existing sewage systems that may be established on a discretionary basis by principal authorities. The proposed amendments would require that a discretionary program apply in all areas within the jurisdiction of a principal authority not covered by programs required under the Building Code.

Principal authorities responsible for on-site sewage systems enforcement would be a municipality, board of health, or conservation authority.

Area Beds:

The Ministry is also seeking comments on proposed technical changes to Part 8 of Division B of the Building Code in respect of the design and construction of area bed on-site sewage systems. Specifically, the proposed construction requirements for area beds include:

- Their size or footprint;
- Sizing the stone and sand layers and when a "mantle" of imported fill is necessary;
- Their thickness and the type of sand used;
- Means of ensuring proper distribution of effluent; and
- Maintenance and testing.

Purpose of Regulation:

Contact:

Sabina Filipescu
Policy Advisor
Ministry of Municipal Affairs and Housing
Municipal Services Division
Building and Development Branch
777 Bay Street
2nd Floor
Toronto Ontario
M5G 2E5
Phone: (416) 585-6753

Additional Information:

The following government offices have additional information regarding this Proposal. To arrange a viewing of these documents please call the Ministry Contact or the Office listed below.

Building and Development Branch
777 Bay Street
2nd Floor
Toronto Ontario
M5G 2E5
Phone: (416) 585-6666

Maintenance Inspections of On-site Sewage Systems (septic systems):

The proposed amendments to the Building Code concerning mandatory maintenance inspections of on-site sewage systems would be in support of the Clean Water Act, 2006, which included complementary amendments to the Building Code Act, 1992. The intent is to require inspections by principal authorities (municipalities, boards of health and conservation authorities) in those areas at greatest risk of drinking water source contamination.

These areas will be formally identified through the source protection plan development process under the Clean Water Act, 2006 as being the areas where drinking water supplies are most vulnerable.

The regulations would also govern discretionary on-site sewage maintenance inspection programs established by principal authorities that would apply in all areas within the jurisdiction of a principal authority not covered by mandatory programs described above.

The establishment of required and discretionary sewage maintenance inspection programs governed by the proposed regulations would provide an additional enforcement tool that, in conjunction with the Clean Water Act, 2006, would enable communities across Ontario to better protect drinking water supplies, enhance local water quality and support environmental integrity.

The Clean Water Act, 2006 was introduced following Justice O'Connor's Walkerton Inquiry report. The purpose of the Clean Water Act, 2006 is to protect drinking water supplies. This legislation permits communities to protect municipal drinking water supplies by creating local multi-stakeholder committees that are required to develop collaborative, locally driven, science-based protection plans. These committees will identify potential risks to local water sources and identify actions to be taken to reduce or eliminate these risks. Among other matters, Justice O'Connor's report identified improperly installed and poorly maintained septic systems as a potential threat to drinking water.

Area Beds:

The Building Code does not presently contain specific requirements relating to the design and construction of area bed systems. The use of area bed systems has become widespread. The Ministry is proposing to establish area bed requirements in the Building Code.

Other Information:

The Ministry of Municipal Affairs and Housing is consulting on these proposed amendments in conjunction with proposed amendments to the Building Code related to residential fire sprinklers. A consultation paper is available at www.ontario.ca/buildingcode.

Public Consultation:

This proposal was posted for a 30 day public review and comment period starting March 14, 2008. Comments were to be received by April 13, 2008.

On-line submission of comments on this proposal was not permitted.

Electronic comments can be sent to: sabina.filipescu@ontario.ca

All comments received during the comment period are being considered as part of the decision-making process by the Ministry of Municipal Affairs and Housing.

Please Note: All comments and submissions received have become part of the public record.

Other Public Consultation Opportunities:

The Ministry of Municipal Affairs and Housing is undertaking a two and a half month public consultation on these proposed changes to the Building Code. The Ministry of Municipal Affairs and Housing's public consultation includes stakeholder meetings and a series of public information sessions to be held across Ontario. A schedule of the public information sessions can be viewed at www.ontario.ca/buildingcode. Comments on the proposed changes must be submitted by May 1, 2008 and can be submitted to the Ministry of Municipal Affairs and Housing

through:

- Online through the Building Code Website www.ontario.ca/buildingcode
- Email to Sabina.filipescu@ontario.ca
- Fax to 416-585-7531
- Mail to: Building Development Branch
2nd Floor, 777 Bay Street
Toronto ON M5G 2E5
Attention: Sabina Filipescu

Note: Please use "2008 Building Code Consultation" as the subject line of your submission.

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Residential Fire Sprinklers & On-site Sewage Systems: A Consultation on Proposed Changes to Ontario's Building Code

PART 3

Background Information on On-site Sewage Systems and Ontario's Building Code

There are an estimated 1.2 million on-site sewage systems in Ontario. When properly designed, installed and maintained in accordance with the Building Code, on-site sewage systems contribute to safe drinking water and protect the environment.

In 1998, the Building Code was amended to establish standards for new and renovated on-site sewage systems for houses and small buildings where the systems are contained on one lot and have a daily design sewage flow of not more than 10,000 litres per day. Other larger and more complex systems are regulated under the Ontario Water Resources Act administered by the Ministry of the Environment.

The Building Code regulates the construction, installation, repair, alteration and extension of on-site sewage systems. The Code classifies sewage systems as follows:

- Class 1 — a chemical toilet, an incinerating toilet, a recirculating toilet, a self-contained portable toilet and all forms of privy including a portable privy, an earth pit privy, a pail privy, a privy vault and a composting toilet system;
- Class 2 — a greywater system;
- Class 3 — a cesspool;
- Class 4 — a leaching bed system; and
- Class 5 — a system that requires or uses a holding tank for the retention of hauled sewage at the site where it is produced prior to its collection by a hauled sewage system.

The Building Code also contains operation and maintenance requirements for on-site sewage systems. In particular, the Code requires that all on-site sewage systems be operated and maintained to prevent breakout of effluent to the surface, leakage from any component of the system, or leakage into ground water or surface water. Moreover, sewage systems must be operated in accordance with the basis on which their construction was approved and the manufacturer's requirements.

There is great variety within the Class 4 category, which represents the most common type of small, on-site sewage system in Ontario. However, most Class 4 systems include a septic tank and leaching bed, and rely on gravity to move effluent through its components.

Some Class 4 systems contain additional components such as pumps, filters and secondary and tertiary treatment units. Under the Building Code, a Class 4 system that incorporates a tertiary treatment unit may be designed with a specific type of trench-based absorption system known as a

shallow buried trench. In addition, other Class 4 systems utilizing certain tertiary treatment units may be designed with a bed-type absorption system known as an "area bed".

Standards for "area bed" systems, however, are not set out in the Building Code, but their use has been authorized by the Building Materials Evaluation Commission (BMEC).

The BMEC is a regulatory body authorized under the Building Code Act, 1992, whose mandate is to evaluate new and innovative construction materials, systems and designs for use in construction in Ontario. Since 1998 the BMEC has issued eight separate "area bed" authorizations for use in construction in Ontario. (Authorizations of the BMEC are available on the Building Code website at www.ontario.ca/buildingcode.)

Under the Building Code Act, 1992 and Building Code enforcement of the on-site sewage provisions of the Act and Code is carried out by principal authorities (municipalities, health units and conservation authorities).

What Changes are Proposed for On-Site Sewage Systems?

This consultation paper proposes two types of Building Code amendments related to on-site sewage systems:

- Administrative requirements for maintenance inspections (re-inspections) of on-site sewage systems; and
- Technical requirements for area beds.

1) Administrative Requirements for Maintenance Inspections

In response to the events in Walkerton of 2000, the Government of Ontario appointed a public inquiry, which resulted in Justice Dennis O'Connor's report in 2002. The report concluded that drinking water should be protected at its source through a coordinated planning process. Among other matters, improperly installed and poorly maintained septic systems were identified as a potential threat to drinking water.

In response to Justice O'Connor's report, the government introduced the Clean Water Act, 2006, which was proclaimed in force on July 3, 2007. This legislation permits communities to protect their municipal drinking water supplies by creating multi-stakeholder committees that are required to develop collaborative, locally driven, science-based protection plans. These committees will identify potential risks to local water sources and identify actions to be taken to reduce or eliminate these risks.

The Clean Water Act, 2006 included complimentary amendments to the Building Code Act, 1992, concerning maintenance inspection programs for on-site sewage systems.

These amendments authorize regulations to establish programs to enforce the Building Code's standards for the maintenance and operation of existing sewage systems, and to require that these programs be enforced by principal authorities.

It is proposed that required maintenance inspection programs would apply to sewage systems located in prescribed areas. These areas are anticipated to be a subset of the "vulnerable areas" identified in an assessment report included in a source protection plan subject to posting on the environmental registry in accordance with section 30 of Clean Water Act, 2006. The method of delineating these areas will be set out in future technical rules under the Clean Water Act, 2006.

Questions related to the Clean Water Act, 2006 and source protection plans can be directed to:

"Ask the Expert" at source.protection@ontario.ca

Source Protection Programs Branch
Ministry of the Environment
8th Floor, 2 St Clair Ave W
Toronto, ON, M4V1L5

The amendments to the Building Code Act, 1992 also authorize principal authorities to establish "discretionary" maintenance inspection programs for existing sewage systems. These programs would be subject to provisions under the Building Code.

The amendments to the Building Code Act, 1992 authorize principal authorities to pass by-laws, regulations or resolutions governing both types of programs.

The amendments to the Building Code Act, 1992 also provide for the Building Code to authorize principal authorities to accept a certificate ("third party certificate"), as an alternative to conducting an inspection, confirming that a sewage system has been inspected and found to comply with the applicable Building Code standards.

This consultation paper proposes that changes be made to the Building Code to establish the following details related to required and discretionary maintenance inspection programs:

- Classes of sewage systems affected;
- Areas affected;
- Qualifications of inspectors;
- The frequency of inspections; and
- Requirements related to third party certificates.

The purpose of the proposed standards for maintenance inspections is to assess compliance with Section 8.9, Operation and Maintenance, of the Building Code in respect of existing on-site sewage systems. These proposed administrative amendments are intended to assure compliance with Section 8.9 in order to better support the Code's health and safety and environmental integrity objectives.

This consultation paper proposes a maintenance inspection methodology for possible inclusion as an Appendix Note to the Building Code. This methodology could be considered by principal authorities when designing maintenance inspection programs for on-site sewage systems.

Transition

The Building Code requirements related to discretionary maintenance inspection programs are proposed to come into force on January 1, 2009.

The required programs will not be in force until a source protection plan for a given area is approved by the Minister of the Environment. The plans are required under O. Regulation 285/07 made under the Clean Water Act, 2006, and are anticipated to be submitted to the Minister of the Environment by 2012.

2) Technical Requirements for Area Beds

The Ministry is also seeking comments on proposed technical changes to Part 8 of Division B in respect of the design and construction of area bed on-site sewage systems.

Area beds are a soil absorption system used in conjunction with an on-site sewage system that

includes a tertiary treatment unit listed in the supplementary standards (SB-5) to the Building Code. Area beds are designed to further treat and disperse effluent within the soil. They are comprised of a stone layer situated on top of a sand layer and may be installed in or on soil.

The Building Code does not presently contain specific requirements relating to the design and construction of area bed systems. The Ministry is proposing to establish area bed requirements in the Building Code.

Specifically, the proposed construction requirements for area beds include:

- Their size or footprint;
- Sizing the stone and sand layers and when a "mantle" of imported fill is necessary;
- Their thickness and the type of sand used;
- Means of ensuring proper distribution of effluent; and
- Maintenance and testing.

Transition

The proposed Building Code requirements related to area bed systems are proposed to come into force upon filing.

[Part 2 - Residential Fire Sprinklers](#)

[Part 4 - Comment Submission](#)



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5.0 Draft Terms of Reference from Neighbouring Committees

Date: May 22, 2008

To: Mississippi-Rideau Source Protection Committee

From: Sommer Casgrain-Robertson, Communications Specialist
Mississippi – Rideau Source Protection Region

Recommendation:

1. That the Mississippi-Rideau Source Protection Committee submit the following comments to neighbouring Source Protection Committees on their draft Terms of Reference:

Comments to the Raisin-South Nation Source Protection Committee:

We support the inclusion of the following five matters and have also included them in our draft Terms of Reference for the Mississippi Valley and Rideau Valley Source Protection Areas:

1. Shared Municipalities
2. Information Management
3. Regional Groundwater Flow and Vulnerability Mapping
4. Surface Water Modeling
5. Quebec-Ontario Agreements

We request that you add two additional matters that are of mutual interest to the Raisin-South Nation Source Protection Region and the Mississippi-Rideau Source Protection Region (both these matters are listed in our draft Terms of Reference):

1. Coordinated Approach to Plan / Policy Development
2. Emergency Response on the Ottawa River

Comments to the Cataraqui & Quinte Source Protection Committees:

We support the inclusion of the following four matters and have also included them in our draft Terms of Reference for the Mississippi Valley and Rideau Valley Source Protection Areas:

1. Shared Municipalities
2. Information Management
3. Regional Groundwater Flow, Significant Recharge Areas, and Vulnerability Mapping
4. Coordinated Approach to Plan / Policy Development

Background

Draft Terms of Reference (ToR) have been received from our three neighbouring Source Protection Committees requesting our review and comments (these draft Terms of Reference are attached as separate documents to the agenda package).

- Cataraqui draft ToR – comment deadline May 29
- Quinte draft ToR – comment deadline June 17
- Raisin-South Nation draft ToR – comment deadline May 20

Note: the MRSPC have circulated their draft Terms of Reference to these three Committees and requested their comments by June 20, 2008.

Submission of Comments

Staff reviewed only the section on “Matters Affecting Other Source Protection Committees” in each of the documents and prepared the draft comments listed in the recommendation.

These draft comments have already been submitted to the Cataraqui and Raisin-South Nation Committees in order to meet their comment deadlines. Our letters clearly stated that comments were draft and subject to review, possible amendment and ratification by the MRSPC at their June 5 meeting.