



## Thames – Sydenham and Region Source Protection Authority Meeting Agenda

**Source Protection Authority** Upper Thames River

**Meeting Date:** Tuesday May 27, 2008

**Meeting Time:** Following adjournment of the UTRCA Board of Directors' Meeting

**Meeting Location:** UTRCA Administration Boardroom

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### ***Agenda***

1. Adoption of the Agenda
2. Minutes From the Previous Meeting
  - March 25, 2008
3. Business for Approval
  - (a) Source Protection Authority – Conservation Authority Agreement
  - (b) Terms of Reference Extension
4. Business for Information
  - (a) Source Protection Committee Chair Report
5. Other Business
6. Adjournment

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Chris Tasker  
Source Protection Project Manager



Source Protection Authority Meeting  
 UTRCA Administration Boardroom  
May 27, 2008

P.Huitema called the Source Protection Authority meeting to order at 4:40 p.m. in the Boardroom of the UTRCA Administration Office. The following members were in attendance:

Members:	J.Baechler	E.Hunt
	A.Bannister	T.Jackson
	M.Blackie	C.Lauder
	J.Boyce	G.Marr
	J.Bryant	D.Mayberry
	S.Clark	M.Wearn
	P.Huitema	

Absent: J.Brown H.McDermid

Guest: Bob Bedggood, Chair, Source Protection Committee

Staff: S. Shivas  
 C.Tasker  
 I. Wilcox

1. Approval of Agenda

C.Lauder moved – J.Boyce seconded:-

“RESOLVED that the agenda be approved as presented.”  
CARRIED.

2. Minutes of the Previous Meeting  
 - March 25, 2008

A.Bannister moved – D.Mayberry seconded:-

“RESOLVED that the minutes of the Source Protection Authority dated March 25, 2008 be approved as circulated.”  
CARRIED.

3. Business for Approval

(a) Source Protection Authority – Conservation Authority Agreement  
 (Report attached)(Document #72465)



C.Tasker outlined the report for the members' consideration.

D.Mayberry moved – J.Boyce seconded:-

“RESOLVED that it is recommended that the Chair of the Source Protection Authority be authorized by resolution of the SPA to enter into an agreement with the Conservation Authority on behalf of the Source Protection Authority.”

CARRIED.

- (b) Terms of Reference Extension  
(Report attached)(Document #72466)

C.Tasker presented the attached report for the members' consideration.

G.Marr moved – T.Jackson seconded:-

“RESOLVED that it is recommended that the Source Protection Authority receive the Source Protection Committee's letter to the Minister of the Environment requesting an extension to the deadline for submission of the Terms of Reference.”

CARRIED.

4. Business for Information

- (a) Source Protection Committee Chair Report

B.Bedgood, Chair, Source Protection Committee advised the members that two municipal working groups have been formed, the Surface Water Intake Group and the Ground Water Working group. The groups are meeting on a regular basis. He also noted that the Source Protection Committee has participated in two field trips to understand the nature of the source water issues in our region.

He stated that “compensation for changes in land use” could become controversial. He outlined several examples of potential controversial issues.

5. Other Business

There was no other business to discuss.



6. Adjournment

The meeting was adjourned on a motion by G.Marr at 4:45 p.m..

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I.Wilcox, General Manager  
/ses  
Att.

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P.Huitema, Chair, Source Protection  
Authority

**Report to** Source Protection Authorities in the Thames – Sydenham and Region

**Agenda #** 2008.05.3a

**Cc** SP Management Committee

**Date** May 20, 2008

**From** Chris Tasker, Project Manager

**Re:** CA – SPA agreement

## **Recommendation**

*It is recommended that the Chair of the SPA be authorized by resolution of the SPA to enter into the agreement with the Conservation Authority on behalf of the SPA*

## **Background**

- The SPA, its employees and its agents are protected against liability for actions taken in good faith as part of their duties under the CWA
- It is the CA that has staff, financial and administrative resources to be able to carry out the SPA's responsibilities under the CWA
- The agreement between the CA and SPA sets the CA and its employees up as agents of the SPA and offers them the same protection as the SPA
- This agreement has been reviewed by the CA insurers and the extension of insurance coverage to include the work required by the CWA is based on CAs having this agreement in place.

### **Text Box 1 Section 99 of the Clean Water Act (2006)**

#### **Immunity from action**

**99. (1)** This section applies to powers granted and duties imposed by this Part or by Part IV, other than section 56, on the following persons:

1. Risk management officials.
2. Risk management inspectors.
3. Employees or agents of municipalities, local boards or source protection authorities.
4. Employees or agents of a ministry, board, commission or agency of the Government of Ontario. 2006, c. 22, s. 99 (1).

#### **Same**

**(2)** No action or other proceeding shall be instituted against a person referred to in subsection (1) for any act done in good faith in the execution or intended execution of any power or duty to which this section applies or for any alleged neglect or default in the execution in good faith of that power or duty. 2006, c. 22, s. 99 (2).

**Report to** Source Protection Authorities in the Thames – Sydenham and Region

**Agenda #** 2008.05.3b

**Cc** SP Management Committee

**Date** May 27, 2008

**From** Chris Tasker, Project Manager

**Re:** Terms of Reference extension

### **Recommendation**

*It is recommended that the SPA receive the SPC's letter to the Minister of Environment requesting an extension to the deadline for submission of the Terms of Reference.*

### **Background**

- Attached is the SPC discussion paper which outlines the challenges with meeting the regulated deadline for submission of the Terms of Reference.
- Attached is the letter to the Minister requesting an extension to the deadline for submission of the Terms of Reference.
- Attached is memo from Ian Smith, Director regarding the schedule for submission of the Terms of Reference
- Once the SPC submits the Terms of Reference to the SPA and posts the proposed Terms of Reference, the SPA is required to submit the Terms of Reference to the Minister with their comments and any comments received on the posted terms of reference.
- Unless the minister grants the requested extension, both the SPC and the SPAs will be out of compliance with the CWA and regulations.

### **Discussion**

- The SPC has indicated that if the committee is to be successful in developing Source Protection Plans for the region it will be important that the committee produce a terms of reference that gives adequate consideration to the Clean Water Act, its regulations, director's rules and guidance. Submitting a terms of reference in advance of having considered significant pieces of the guidance would be irresponsible. Further, it is important that stakeholders in the region also be given adequate opportunity to consider the same information when providing their input into the Terms of Reference. Further it will be important for the SPC to have an opportunity to consider stakeholder comments which may be based on information not available when the terms of reference was submitted.

## Thames – Sydenham and Region Drinking Water Source Protection Source Protection Committee Discussion Paper

**Report to** Chair and members  
Thames – Sydenham and Region  
Source Protection Committee

**Agenda #** 2008.05.6e

**Cc** SP Management Committee

**Date** April 28, 2008

**Prepared By** Chris Tasker, Project Manager

**Re:** Terms of Reference timing

### **Background**

- The Terms of Reference regulation requires that the Terms of Reference be submitted to the Source Protection Authority (SPA) by August 20, 2008 after a required posting and comment period. Subsequent to submitting to the SPA an additional posting for comment is required.
- The Terms of Reference is required to include a work plan for the completion of the Assessment Report and Source Protection Plans for the region.
- In order to meet the required deadline and have adequate opportunity to consult with municipalities on the work plan, the first required posting period will occur in July. Draft terms of reference must therefore be ready in June.
- The director's rules on the Assessment Report and Source Protection plan have yet to be released. Some of the draft guidance may be posted on the EBR for comment in mid June. While draft guidance on the assessment report has been utilized for the technical projects underway, no similar guidance, draft or otherwise, is available for the Source Protection Plan.
- We have yet to see a discussion paper which will outline some of the MOE's considerations on the Source Protection Plan. This document was promised so that committees would have some guidance as to what will be required in the Source Protection Plan and the level of consultation which will be expected. This discussion paper is necessary as we will likely not see guidance or rules on the plan until after the Terms of Reference is required to be submitted to the Minister.
- It is anticipated that there will be significant differences in the director's rules when compared against the most recent guidance. Although the Terms of Reference is a high level planning document, these changes will result in work which needs to be allowed for in the Terms of Reference and as a result may require changes to the Terms of Reference.
- The Terms of Reference Wizard which provides the format in which the Terms of Reference must be submitted (and consulted on) only became available in March, rather than in November 2007 as planned.

## Discussion

- Meaningful consultation is important for the success of the Source Protection Plan. Consultation on a Terms of Reference which we know does not address the legislated requirements will serve to reduce the credibility of the committee and staff.
- Consultation in the summer will be required to meet the required submission dates. This will be seen by many stakeholders as an attempt to bypass meaningful consultation further reducing the credibility of the SPC.
- The summer timing of the last opportunity for municipal input on the Terms of Reference may make it difficult for some municipalities to get resolutions due to summer meeting schedules. As councils should have considered this in advance of the summer, this is only a minor concern. Further, provided the municipality has provided the SPC with an indication that a resolution will be coming; the council can provide the resolution subsequent to the submission of the Terms of Reference to the SPA or even to the MOE. It is important that the SPC be provided with advance notice in sufficient time to planning for the work, especially if the municipality's resolution affects the scope, timing or cost of the work to be included in the work plan. Resolutions are required if the municipality wishes to undertake work, in which case the resolution would be submitted with a scope, timing and cost of the work so that it may be included in the work plan. Further, a resolution is required for adding systems to be included in the SPP, however MOE is suggesting that municipalities hold off on considering these until guidance is available. The last thing that requires a municipal resolution is the exemption of a municipal residential system.
- Current MOE plans have draft rules and guidance being posted for comment at the same time as we will be preparing to begin consultation on the first draft of the Terms of Reference
- In addition to the guidance and rules to be posted in mid-June, it is anticipated that the Ministry will post the critical lookup tables for land use. Without these tables it is difficult to determine how much work will be required to amend previously completed threats inventories to final standards and to accurately assess the number of potential significant threats and therefore the scope of the work to undertake Tier 2 Risk Assessment. It has however been discussed that the Assessment Report and the Source Protection Plan can be completed without the completion of the Tier 2 Risk Assessment based on generalized categories of risk in areas where those threats could present a significant risk. Tier 2 Risk Assessment would however be necessary for Negotiated Risk Management Plans. It is possible that by deferring this work from part of the Source Protection Plan to implementation could have an impact on who might be required to fund this work.
- It would be possible for the SPC to request changes to the Terms of Reference after their submission to the SPA, by providing comments to the SPA during the second posting. These comments would then be considered by the Minister in the approval of the Terms of Reference. The Minister could order the Terms of Reference to be amended to reflect the comments of the SPC. This would effectively eliminate the need to undertake a second set of postings and consultation on the proposed revisions. It would however effectively eliminate stakeholders from having the opportunity to comment on these proposed revisions.



- It is important to proceed in an expeditious manner towards the completion of the Source Protection Plan; however proceeding with the submission of a Terms of Reference at a point where it is known that it is likely to require immediate amendments may actually result in further delays rather than a quicker end to the process. The requirements for consultation on proposed amendments will add more than 3 months to the approval of an amended Terms of Reference. Amending the terms of reference will require considerable efforts by staff and the SPC directing their attention from getting work underway which was included in the approved Terms of Reference. Thus moving forward with a terms of reference which will need immediate revision is not likely to shorten, but may actually extend the time required to complete the assessment report.
- An early submission of a Terms of Reference may provide the MOE with an early estimate of the costs of the completion of the Source Protection Plans. If however the MOE moves forward with securing funding based on these incomplete Terms of Reference and we require additional funding to complete the work contained in the revisions, it may be difficult to secure the additional funding required to complete the work.
- Based on some of the reasons identified above the Director requested that the deadlines for the submission of the Terms of Reference be extended. The ministry has however elected to maintain the existing deadlines. They have however reallocated resources to ensure that they are ready to post drafts on the EBR June 15.
- Irrespective of the Ministry's refusal to extend the deadline, we anticipate that some of the SPCs will be requesting an extension or indicating that they will not be meeting the required submittal dates and therefore will be out of compliance with the Clean Water Act unless granted an extension by the Minister of the Environment. A request of this nature is consistent with one of the options presented in the attached memo from Ian Smith, Director.
- Posting of drafts on June 15 does not give adequate time to give careful consideration of the rules and guidance in advance of the planned consultation on the proposed terms of reference. It does however allow for this posted guidance to be considered prior to submitting the Terms of Reference to the SPA. It still does not allow for *final guidance* to be considered as it is only drafts which will be posted in June.
- Regardless of whether an extension is requested or granted it is likely that the terms of reference will require amendment at some point.