



SPC MEETING MINUTES
NOVEMBER 2, 2012
Meeting #53

Bob Bedggood, Chair of the Source Protection Committee called the meeting to order at 9:10 a.m. on November 2, 2012 at the St. Clair Region Conservation Authority (SCRCA) Boardroom. The following members and staff were in attendance:

Members

Bob Bedggood	Jim Reffle (HU Liaison)
Brent Clutterbuck	Charles Sharina
Dean Edwardson	Pat Sobeski
Patrick Feryn	Augustus Tobias
Paul Hymus	John Van Dorp
Carl Kennes	Darlene Whitecalf
Joe Kerr	Darrell Randall (by telephone for part of meeting)
George Marr	
Don McCabe	
Doug McGee	
Earl Morwood	
Sheldon Parsons	

Regrets:

Kennon Johnson
James Maudsley
Pat Donnelly
Valerie M'Garry
Hugh Moran
Joe Salter
John Trudgen
Teresa McLellan (Provincial Liaison)
Murray Blackie (SPA Liaison)
Darrell Randell (by telephone briefly for approval of SPP)

Staff:

Chris Tasker	Linda Nicks
Deb Kirk	Rick Battson
Steve Clark	Ian Wilcox
Bonnie Carey	Derekica Snake
Ingrid Vanderschot	Paul Michiels

1) Chair's Welcome

Bob Bedggood noted that quorum was not achieved. The members present met as a subcommittee starting at 9:20 a.m with Agenda item 6.a.

2) Adoption of the Agenda

The agenda was not approved due to not having quorum.

3) Delegations

There were no delegations.

4) Minutes from Previous Meeting- October 12, 2012

The minutes will be considered at the January 25, 2013 meeting.

5) Declaration of Conflict of Interest

No conflict of interest was identified.

6) Business arising from the minutes

a) First Nations Update

Darlene Whitecalf reported the First Nations Liaison Committee October meeting was canceled. No new updates.

b) MOE letter

The draft letter relating to the recent spills in the St. Clair corridor was reviewed again with the revisions to be incorporated from Dean Edwardson. The changes were as follows:

- On page two, paragraph two of the letter the bolded wording will be removed. *“In the third event discussed above, the release of the ethyl benzene **may not have gone unnoticed if not** was detected by the Sarnia Lambton Environmental Association monitoring station **and notifications were made as outlined in the SLEA Notification protocol (was added)**”.*

- The sentence: “*We understand that in the American side of the river similar systems have been developed*”. Dean Edwardson reported that monitoring instruments have been installed but they have reliability issues and operating maintenance funding for the system is not in place.
- A copy of the letter will be sent to the Minister of Environment, and copied to the SPC, the St. Clair Region Conservation Authority General Manager, Canadian Coast Guard, Department of Transportation, Darlene Whitecalf, Augustus Tobias and operators that draw water from the St Clair River (LAWSS; Chatham-Kent PUC and Walpole Island).

A motion was passed that the spills letter be sent to the Minister of Environment as recommended by the committee.

Moved by Sheldon Parsons-seconded by Charles Sharina

“RESOLVED that the spills letter be sent to the Minister of Environment with the additional revisions and copied to the contacts outlined”.

CARRIED.

7) Business

a) Revised Volume I wording

A discussion paper titled “*Revisions to Volume I of the Source Protection Plan*” was circulated. Volume I required some additions and revisions based on comments during consultation from the Ministry of Environment (MOE) pertaining to the text of the SPP as follows:

- Under 5.4.7 the additional work that needs to be done for the Kettle and Stony Point Intake Protection zones for the Assessment Report will be noted in the SPP.
- Under 2.5.1 Terms of Reference, a summary of the consultation on the Terms of Reference will be added. A brief summary was done with reference to the consultation summary that is included in Appendix F of the Terms of Reference guide and the material was included in the DVD but there was not a link from the index page; a link will be added to the supporting document section.

- Under 2.5.2 Assessment Report, a paragraph will be included in the SPP to outline the consultation summary on the Assessment Report and will indicate where additional information can be found.

b) Existing and Future Definitions and Transitional Provisions

A presentation titled “*Proposed Source Protection Plan Final Alterations for Consultation*” was given to outline some of the changes that were made for the Existing and Future Definitions and Transitional Provisions. Paul Michiels of Oxford County discussed legal terms with the lawyer from the Ministry of Environment and brought forward these recommendations.

- Policy 1.11 Definition of Existing.

- *Where a policy in this Source Protection Plan refers to future or existing, the following definitions shall apply:*

Existing: Means undertaken or established as of the date the Source Protection Plan takes effect

The word “*activity*” and the reference to expansions, replacements and modifications was removed. Therefore, unless otherwise stated, all expansions would be treated as existing.

The committee discussed removing the word “*activity*”. Concerns were raised of what happens if, in the future, circumstances change affecting what is considered a threat. If a modeled threat policy (where the threshold is defined) is altered, the policy and the SPP would require changes. The SPP will be reviewed and updated if necessary in the future. However, if MOE changed the circumstances in the Table of Drinking Water Threats, these possible changes in circumstances could result in an activity becoming a significant threat which was not at the time the SPP came into effect. This would have implications on the definition of existing. The concerns raised will be captured in the rationale.

- Policy OC 1.01. Definitions

- *Existing – means undertaken or established as of the date the Source Protection Plan takes effect or at some point prior to the date the Source Protection Plan takes effect with a demonstrated intent to continue.*

The committee was asked to consider changing the definition of “*Existing*” in the TSR policies to match the definition put forward by Oxford. Oxford County defines existing as undertaken or established as of the date of the SPP taking effect which they felt demonstrates intent and is consistent with the Lake Erie Region. In previous discussions the committee decided to not reference timing and the

wording established as of the SPP effective date gives the RMO the latitude to interpret. The intent of the policy is the same therefore the TSR policies will remain as discussed earlier and further details will be added to the rationale. How local risks are defined and the concern of lack of consistency across regions was noted.

- Policy OC-1.05 Replacements, Modifications and Expansions. Oxford deleted this policy based on legal advice that replacements, modification and expansions would be considered existing but may ask that it be put back if they receive further legal advice contrary to that received recently.
- Policy 1.10/OC 1.02 Transitional Provisions- Transitional Matters

Transitional Matters

1. Despite the definition of existing, where development is being proposed by one or more of the following applications:

- a. A site-specific amendment to a zoning by-law under subsection 34(10) of the Planning Act;***
- b. Approval of development in a site plan control area under subsection 41(4) of the Planning Act; or***
- c. A building permit under the Building Code Act.***

A significant drinking water threat activity that is to be established as part of the proposed development may be considered existing for the purposes of complying with the applicable significant drinking water threat policies, provided that:

- ***The application was deemed to be complete by the applicable approval authority as of the date this Source Protection Plan takes effect; and***
- ***The applicant has certified to the satisfaction of the implementing body named in the applicable significant drinking water threat policy that a particular significant drinking water threat activity is specifically intended to be undertaken as a part of the proposed development.***

Where further development approvals are required to establish the development and related significant drinking water threat activity proposed by such application, that activity may also be considered as existing for the purposes of determining whether those subsequent approvals comply with the applicable significant drinking water threat policies.

The above noted transition provisions shall cease to apply where any of the approvals or applications required to implement the proposed development have been denied by the applicable approval authority and/or, where applicable, the relevant appeal body, or have lapsed or been withdrawn.

2. Despite the definition of existing, where a significant drinking water threat activity is being proposed by way of a new or amended prescribed instrument, it shall be considered existing for the purposes of complying with the applicable significant drinking water threat policies provided that the application for the new or amended prescribed instrument was deemed to be complete by the applicable approval authority as of the date this Source

Protection Plan takes effect.

3. Despite the definition of existing, where a significant drinking water threat activity is directly related to a land use permitted by existing zoning and such activity does not require any approvals under the Planning Act or Ontario Building Code Act to be lawfully established on a property, such activity shall be considered existing for the purposes of compliance with the applicable significant drinking water threat policies.

4. Despite the definition of existing and the provisions contained in Sections 1 and 3 of the transitional matters policies, where a Risk Management Official or Inspector has conducted a property-specific assessment and documented the significant drinking water threat activities undertaken or established on a property as of that point in time, any significant drinking water threat activity not so documented shall be considered as new or future from that point forward.

After ongoing discussions with the MOE the transitional provisions have been given further revision. Paul Michiels explained each point. The question was asked of whether there is an exemption from the policies if a developer submits an application prior to the SPP taking effect. There would not be an exemption; rather it will be determining whether an existing or the future policy applies if the policy tool is different for existing and future. The language in the rationale will outline this. It was identified that for an activity to be considered existing under the transitional provisions a complete application has to be submitted to include all the supporting studies and a declaration that that particular threat was intended as part of the application.

- Policy 1.10 parts 3 and 4 were reviewed:

3. Despite the definition of existing, where a significant drinking water threat activity is directly related to a land use permitted by existing zoning and such activity does not require any approvals under the Planning Act or Ontario Building Code Act to be lawfully established on a property, such activity shall be considered existing for the purposes of compliance with the applicable significant drinking water threat policies.

4. Despite the definition of existing and the provisions contained in sections 1 and 3 of the transitional matters policies, where a Risk Management Official or Inspector has conducted a property specific assessment and documented the significant drinking water threat activities undertaken or established on a property as of that point in time, any significant drinking water threat activity not so documented shall be considered as new or future from that point forward.

The RMO will have to prioritize their work when it comes to documenting existing activities. The wording “*property specific assessment*” will be explained in the rationale. Self declaration is the favored route whereby property owners would need to complete forms disclosing any activities.

c) Proposed Source Protection Plan Volume II Policies

Paul Michiels discussed policy changes for Oxford County. The only changes from the previous version were:

- Policy OC-1.05 the elimination of provisions for replacements, modifications and expansions based on MOE legal advice that it is inherent in the tools already being used PI/RMPs; these were left in for the septic threats.
- The incorporation of an education and outreach policy to address significant threats for application of commercial fertilizer to residential properties only. These residential properties would not be covered under the OC-2.21 policy requiring a RMP for application of commercial fertilizer to land. It was determined in Oxford County this activity would represent approximately thirty five properties but only influence a few acres and they would not likely be a high priority for RMPs.

d) Proposed Source Protection Plan Volume III Policies

- Policy 2.07. Existing Discharge of Untreated Stormwater from Storm water Retention Pond – Management. The word “*untreated*” may be deleted. MOE was contacted however we are still awaiting confirmation. The wording “*from a storm water retention pond*” may also be removed to be consistent with how the circumstance is described; broadening the definition to be discharge of storm water. The policy title will be revised to reflect these changes. Wording of the policies need to be consistent with what is defined as a significant threat whether it is untreated or not. It was also noted that storage of snow containing road salt may end up in the storm water, therefore the storm water facilities need to consider the snow with the salt in it in those areas where storage of snow is considered a significant threat.
- Policy 2.38 Existing Fuel Storage-Management. The sentence “*In the opinion of the Risk Management Official, where an expansion of a facility storing or handling fuel will increase the threat to drinking water, the expansion shall be prohibited*” was added to reflect the intent of the SPC that fuel storage expansions be prohibited if they increase the risk even although the expansion would be considered existing. Similar wording was removed from Policy 2.40 Future Handling and Storage of Fuel – Prohibition as any expansion would be considered an existing threat based on our earlier discussions related to how expansions would be considered in the definition of existing.

- Policy 2.51 Agricultural Source Material (ASM) Generation through *Livestock Grazing or Pasturing Land, an Outdoor Confinement Area or a Farm Animal Yard*. The three policies addressing this threat were put into one policy in order to address comments received during consultation and address complications with implementation of the prohibition policy as it was written. The sentence “*Where in the opinion of the Risk Management Official, a future outdoor confinement area is of such size that it cannot be managed so that the activity ceases to be significant drinking water threat, the activity shall be prohibited*” was added in order to keep the intent of the SPC that new large outdoor confinement area operations not be introduced where they would be a significant threat. . For the policy related to the future activity, the words “*activity ceases*” will be changed to “*activity never becomes*”.
- Policy 1.07 General Restricted Land Use. The policy wording was tweaked based on advice from the MOE lawyer so that every single application, such as construction of a deck, would not have to go through the process. The RMO could provide guidance as to situations where the activity would not be designated for the *purposes of Section 59*.
- *Other revisions were sent out in the packages to include the Appendices, updated Legal Conformity lists and updated Policy Index tables.*

e) *Updated Volume III Policy Approach Tables*

The updated Intake Protection Zones, Moderate and Low Threat and Wellhead Protection Areas Policy Approach Matrices for TSR and Oxford County were circulated in the package for review and will replace the more *lengthy versions that* are in the previous version of the SPP. The tables indicate where the policies apply and the intent of the policies as well as a general description of the circumstances under which the activity is a significant threat.

f) *Updated Legal Conformity Lists*

The updated Appendix A- Legal Conformity lists were also circulated for the TSR and Oxford County. The changes resulted from MOE comments of which policies should be on which list. An additional list was added, List K for Strategic Action policies that apply to Province. These tables are an appendix to the plan and the RMO can rely on the lists as a reference.

It was noted that the lists need to be proof read for accuracy. The Legal Conformity lists are a series of lists which the Act or regulation required to give the policies their legal status.

In the lists IPZ storage of commercial fertilizer should be referred to just as fertilizer, transportation of fertilizer. Under Commercial Fertilizer the local threat only applies to St. Clair Region and does not apply to WHPAs.

A question was asked of what the monitoring policies are for Health Units. It was pointed out through earlier consultation that Health Units do not administer septic systems approval so they no longer are a body responsible for implanting policies in the Source Protection Plan. As a result, no monitoring is not required by them.

g) Updated Policy Index Tables

When the *Draft Proposed SPP* was posted there was one list and now two additional tables have been included: Policies organized by bodies responsible for implementing and policies organized by municipality. Appendix B for Volume III now includes lower tiers. A list of acronyms will be included. Formatting of the tables may change.

h) Revisions to Explanatory Document

The *Explanatory Document* requires revisions and is a work in progress. The nature of the changes was outlined and Oxford County rationale has been integrated into this version. The expectation is that the document will be revised again and additional information may be included. The document will be available for the public to refer to in reviewing the Source Protection Plan however the Explanatory Document itself is not being consulted on.

Highlights of the revisions included: editorial changes with any reference to policies that were added or deleted, numbering changes, and section headings adjusted, minor edits based on comments, footers, and Appendix C was added.

The main revisions were to Section 4 the policy rationale relating to transitional provisions and RLU, Outdoor confinement Area policy, based on OMAFRA's comments for Section 57 rationale for WHPA-B (10) was bolstered, rationale for why PI is not used for NASM rather than Section 58, reference to Section 61 Reg 287/07 added, the Prescribed Instrument table and clarification around NMA and other changes in structure to allow for better integration.

On behalf of the committee, Dean Edwardson thanked Chris Tasker and the staff for the enormous amount of work done for the SPP, a job well done.

8) Information

a) Consultation Schedule for Proposed Source Protection Plan

The SPP will be posted after November 16, 2012 plan will be posted and notifications sent out. There will be a thirty day comment period to mid-December. After the comment period the SPP will be delivered to the Minister by the end of December; submitted by the SPA in printed form and on a USB and DVD. Any revisions that occur after posting will need to be highlighted.

A motion was made by the sub-committee to accept and approve the SPP for the final public consultation and that it is submitted to the SPA so that following consultation it can be delivered to the Minister in December.

Moved by Joe Kerr -seconded by Dean Edwardson

“RESOLVED that the SPP be posted for the final public consultation and submitted to the SPA”.

CARRIED.

At 11:45a.m. An additional member Darrell Randall joined the meeting by telephone and quorum was achieved. The motion was made that the decisions of the sub-committee be approved and accepted by the SPC.

Moved by Joe Kerr -seconded by Dean Edwardson

“RESOLVED that the decisions of the sub-committee today be accepted and approved”.

CARRIED.

9) In Camera Session

None.

10) Other Business

None.

11) MOE Liaison report

Teresa McLellan was absent. No report.

12) Members reports

Pat Feryn- made note of the agricultural perspective on the Great Lakes Protection Act and the importance of ensuring it is research based. He reported the Grand River CA is doing Education and Outreach for farmers on 4R Plant Nutrition, which is detailed, scientifically documented and supported by OFA, GRCA, University researchers and Region of Waterloo. If anyone would like a copy it can be found on International Plant Nutrition Institute web site or contact Pat.

13) Adjournment

There being no further business, the meeting was adjourned at 12: 05 p.m. The next SPC meeting is scheduled for January 25, 2013. The October minutes will be considered for approval at the January meeting.