

CEAC REPORT 2004-02

To: Mayor and Members of Council

From: Debbe Crandall, Chair, Caledon Environmental Advisory Committee (CEAC)

Date: April 6, 2004

Re: CEAC's Response to "White Paper On Watershed-Based Source Protection Planning" dated February 2004 as posted on Environmental Bill of Rights Registry (EBR) No. "PA04E0003" until April 12, 2004.

Recommendations:

1. That Council receive CEAC Report 2004-02;
2. That Council authorize CEAC to submit this brief as a response to the EBR prior to the deadline April 12, 2004; and,
3. That Caledon Council and staff engage with key stakeholders in a productive, collaborative effort to implement this extremely important legislation in this watershed region.

Background:

The Ontario Ministry of Environment has released a "White Paper" on the EBR that sets out for discussion a framework for water source protection plans. The White Paper is in direct response to Justice O'Connor's Walkerton reports, which identified water source protection as the missing element in ensuring Ontario's water is safe from source to tap. It outlines the framework for legislation requiring water source protection plans to be developed and implemented locally for every watershed in the province. The specifics of the new legislation will be presented to the Ontario Legislative Assembly for debate and enactment following the receipt of White Paper comments after April 12.

Purpose of Report 2004-02:

The purpose of this brief is to provide Council with comments on the White Paper, in accordance with Activity # 9 of the CEAC 2004 work plan submitted to Council on January 20, 2004.

Discussion:

CEAC believes that the policies proposed in the White Paper are heading in the right direction. The White Paper poses 13 questions in Appendix 5 for stakeholders, such as the Town of Caledon. CEAC uses those questions to organize and express its specific thoughts about the proposed framework for legislation, as follows:

1) Source water protection is a complex undertaking. What is the best approach to ensuring

that the process is open to input from those it may affect?

CEAC believes that the best approach is to ensure that both the Source Protection Planning Boards (SPPBs) and the Source Protection Planning Committees (SPPCs) are fairly representative of the rural interests involved in each specific watershed. CEAC notes that the Toronto and Region Conservation Authority (TRCA) Board, which could become the key coordinating body (SPPB) for the watershed region including the Town of Caledon, is heavily composed of urban elected officials. CEAC believes that this should be changed in the context of the approaching Source Water Protection legislation to reflect rural interests more closely. Furthermore, while the composition and size of the SPPCs proposed in the White Paper (refer to Section 3, page 14) appears to be reasonably flexible, care will have to be taken to ensure that rural interests are fairly represented in the make-up of the 15-member (maximum) body.

2) Should any changes to the scope of source water protection legislation be made?

CEAC notes that the issue of funding has not been identified in the White Paper. While it may be premature to include specific budget items, it is concerning that the issue of funding has not been addressed at all. Municipalities, conservation authorities and other key stakeholders cannot be expected to implement new provincial legislation of this scope and without additional funding to do so.

3) Should there be a specific primacy provision in the legislation whereby it would take priority over other laws when there is a conflict?

CEAC believes that this law should contain a primacy provision to ensure the legislation can achieve its objective of protecting public health.

4) What are the advantages and disadvantages of this proposed approach to source water protection?

CEAC believes that an unprecedented amount of intergovernmental collaboration and cooperation will be required to achieve the objectives of this legislation. [What has not been addressed in the White Paper is how source protection legislation would dovetail with the existing planning framework and who ultimately will be responsible for its implementation and ownership. In this uncertain environment, it is quite likely that turf protection by stakeholders and concern for maintaining jurisdictional roles will significantly impair the path to clean water. Only through extensive debate, a clearer administrative 'road map' and financial rationalizations will there be partners willing to work with the province to reach the end goal of protecting public health through source protection.](#)

5) What mechanisms would help the Source Protection Planning Committee to effectively manage the process, set priorities and reach timely conclusions to the planning process?

CEAC is concerned with the large size of some of the watershed regions. CEAC understands that the watershed region in which Caledon is to be represented includes the existing TRCA region,

plus the Credit River CA and the Central Lake Ontario CA (CLOCA). CEAC questions whether the largely rural CLOCA needs to be attached to the GTA TRCA/ CVC - the most highly urbanized and most rapidly growing area of Ontario. The issues of CLOCA and the GTA region are surely quite different.

In addition, it would appear that the current structure of several (or more) SPPBs providing input to a single SPPC, which in turn splits out a watershed plan for each of the areas represented by each SPPB (see Appendix 1 - Figure #5) is unduly bureaucratic and exacerbates the stakeholder representation issue. To alleviate this problem, consideration should be given to having one SPPC for each SPPB, which would submit the watershed plan for the area that it represents, directly to the Ministry of the Environment (MOE).

6) Is the proposed composition of the Source Protection Planning Committee appropriate?

CEAC believes that the proposed blend of stakeholders for the SPPC is as appropriate as could be set forth at this point, and that the character of the MOE-appointed chair will be most significant in the eventual effectiveness of the SPPC. **However, it must be reiterated that there must be a greater weighting of rural municipal representation on the GTA-SPPB and SPPC.**

7a) How can the process build on existing partnerships that support source protection-related activities?

CEAC believes that individual members of existing alliances, e.g. Humber Alliance, already initiated by CAs should be logical candidates for the SPPCs. In this way the experience of lay people familiar with many issues of watershed health can be harnessed to assist with source protection.

7b) What is the best way to facilitate new partnerships that may be needed?

Establish partnerships with those organizations, which have a common interest in seeing source water protection succeed and where such a partnership would lead to more effective implementation of the approaching legislation.

8) How can source protection planning best achieve a balance between achieving some consistency across the province and the need for flexibility to deal appropriately with local conditions and priorities?

CEAC believes that the Provincial Policy Statement regarding ground and surface water needs to be modified to increase a consistent level of protection commensurate with the objective of the proposed water source protection legislation. At the same time, CEAC understands that the unique, tremendous and historic problems of urban stormwater contamination of streams of the GTA leading to Lake Ontario will take some time to remedy.

The important element here, rather than concern for "balance", is to maintain and enforce a high

level of funding and commitment to clean up existing stormwater contamination of Lake Ontario, which is Ontario's main source of drinking water, and to protect river source recharge areas. This proposed legislation promises to raise Ontario's level of commitment to clean water.

9) What criteria should the MOE use to decide whether to approve a source water protection plan?

CEAC believes that criteria can only be met by ensuring that 100% of the land area of a given watershed region is addressed with respect to the content of the source water protection assessment, as outlined in Appendix 3 of the White Paper.

Furthermore, with respect to Appendix 3 (Proposed Content of Source Water Protection Assessment), CEAC believes that an abandoned well and test hole inventory should be specifically added.

10) Are there specific improvements that you would make to the proposed source water protection assessment or planning process?

CEAC has no comment, except to add an abandoned well and test hole inventory to Appendix 3, as mentioned above, and to [include a recognition that private water wells present another layer of complexity within the scope of the legislation and planning process.](#)

11) What should happen if a source water protection plan is not completed in a timely way?

CEAC believes that withholding of provincial grants for infrastructure and planning approvals would be an obvious inducement to complete these plans in a timely way.

12) Should water-taking charges be fixed for all users, or scaled according to factors related the taking such as volume, consumption or water source?

Charges for water taking would form a strong foundation for an aggressive water conservation and efficiency programme across Ontario. Consumptive users of water (commercial water bottlers, wet manufacturing) should be metered with a sliding scale of charges or fees based on volume used i.e., the more that is taken the higher the rate.

More science and enforcement of best management practices are needed in the area of 'non-consumptive' users (golf course and agricultural irrigation operations), which claim that water is returned to the local system through infiltration and stream discharge. This assumption is based upon the theory that all operations use best management practices whereby little water is lost to evaporation. State-of-the-art irrigation operations could be rewarded through a water-charging framework.

Priority must be given by the Ministry of Environment to assist in the completion of water

budgets to identify watersheds under stress. In identified high stress areas, water taking could be considered a land use and regulated through the planning process insofar as zoning or development permits would reflect limits on water-taking and charges scaled to reflect the value of the resource. Another mechanism to promote conservation and protection of water at source could be to reduce the volume of water requiring a permit from 50,000 l/day to 20,000 l/day as is done in the United Kingdom.

Indiscriminate and unregulated water taking from surface water sources (water suppliers, water well drillers, tree transplanting operators) must be discouraged and penalties put in place.

13) Should certain purposes of water taking be exempt from a charge?

Municipal water taking for drinking water supplies and firefighting should be exempt. However domestic, industrial, commercial and institutional water rates should be increased to reflect the value of the resource and to ensure that residents and business operators take water conservation seriously.

Agricultural operations should be exempted. However all efforts and financial incentives should be made to enforce adherence to the use of best management practices for irrigation operations.

Summary

CEAC believes that the objective of clean water is of prime importance to all citizens and that the general direction of the White Paper is appropriate. CEAC is concerned that a high level of commitment and funding may not be maintained to achieve the objective of this proposed legislation. Clearly, this would seriously impair the effective implementation of source protection. Unprecedented collaboration between municipalities, the conservation authorities and the province will be essential to the success of the proposed legislation.

Conclusion

CEAC is pleased to provide these comments to Council on the important issue of source protection. The proposed framework contained within the White Paper is a good first step to engaging stakeholder discussions, however there are a number of areas that require further work to ensure that the goal of protecting clean water sources is achieved.