



**Source Protection Committee
Wednesday, June 29th, 2011
Holmesville Community Centre, Holmesville**

MEMBERS PRESENT

SPC Chair Larry Brown; SPC Members; Matt Pearson, Gerry Rupke, David Blaney, Mert Schneider, Ian Brebner, Bill Rowat, Don Jones, John Vander Burgt, Keith Black, Mike McElhone, Rowena Wallace, Gib Dow

LIAISONS PRESENT

Source Protection Authority Liaison, Jim Ginn, MOE Liaison, Lisa Ross, Health Liaison Bob Worsell

WITH REGRETS

SPC Members; Marilyn Miltenburg, Karen Galbraith, Al Hamilton, Kettle and Stony Point First Nations Liaison, Bob Bresette

DWSP STAFF PRESENT

Cathie Brown, Project Manager; Jenna Allain, Project Assistant/Recording Secretary; Tim Cumming, Communications Specialist; Donna Clarkson, Source Protection Technician; Mary Lynn MacDonald, Group Facilitator; Aaron Clark, GIS Specialist

OTHERS PRESENT

Geoff Cade, Supervisor of Water and Planning, ABCA

CALL TO ORDER

Larry Brown, Source Protection Committee Chair, called the meeting to order at 9:36a.m.

AGENDA

MOTION #SPC: 2011-06-01

Moved by Gerry Rupke
Seconded by Ian Brebner

That the agenda be approved.

Carried by Consensus.

MINUTES FROM MAY 25TH, 2011

MOTION #SPC: 2011-06-02

Moved by Rowena Wallace
Seconded by Matt Pearson

That the SPC minutes from May 25th, 2011 be approved.

Carried by Consensus.

BUSINESS OUT OF THE MINUTES

At the last SPC meeting the Committee considered attaching source protection policies onto land titles. As a follow-up to that discussion, Project Manager, Cathie Brown provided a presentation on land registration. Land registration takes place under either the *Land Titles Act* or the *Land Registry Act*. A land title describes the land and all the interests and rights attached to that land. It also lists any encumbrances to the land that might bind the property rights in some way. The key principles about what can be attached to a property title are that there has to be an established interest in the land, and there has to be a legislative authority. An interest in the land means that an individual has a right to the property (e.g., a mining right, easement, right of way, ownership). The title can list consolidated parcels, mortgages, partnerships, bankruptcy, condominium leases, leases, oil leases, planning related documents, and transfers from one party to another.

Additionally, a caution may be attached to a land title. Cautions protect the interests of the claiming party. They notify owners or interested purchasers that someone has an interest in the property. At the last meeting, a caution was suggested as a way that source protection policies could be attached to the title. However, cautions tend to expire after 60 days and legislative authority is required. No such permission exists under the *Clean Water Act*. Without the CWA giving permission, it is difficult to tie SP policies to an interest in the land. There is also a cost to registering properties, so the region could be faced with approximately \$180,000 (excludes legal fees) in costs if all 3000 properties within the WHPAs were registered on title. Without any clear statement in the CWA to do this, attaching policies to land titles does not seem to be an option.

The Committee debated the pros and cons for registering policies on title and discussed how to make source protection policies real and transparent to future landowners.

DECLARATION OF PECUNIARY INTEREST

None

ENVIRONMENTAL REVIEW TRIBUNAL

MOE Liaison, Lisa Ross provided a presentation on the Environmental Review Tribunal (ERT), which is a judicial body that has a role under the CWA. The ERT has been in place since 2000 and is an arm's length tribunal, with members appointed by cabinet that have a diverse background. Their primary role is adjudicating applications and appeals under various environmental and planning statutes. They can resolve disputes through mediation, public hears and under orders. The process is not always identical depending on the act the appeal is being heard under. They operate under a process that is slightly less formal than a court setting.

Under the CWA, what is not appealable to the ERT is an approved assessment report or source protection plan. What is subject to an ERT hearing includes: an order to establish or amend a risk management plan, a refusal to establish or amend a risk management plan, and a refusal to issue a notice under section 59 of the Act. The goal is that during

implementation of the plan, there will be a cooperative process with landowners. However, tools are available under Part IV to take a different approach if necessary. Risk Management Officials (RMO's) have the authority to impose a risk management plan (RMP), and if that is done, the landowner has the right to appeal. The RMO also has grounds to refuse to establish a RMP, which is also appealable. RMO's can issue orders for enforcement of prohibitions on a property. If the property owner does not obey an order, the RMO can force things to be done (e.g. hire someone to install secondary containment for fuel and then recoup the costs from the landowner). An RMO can also issue an order to a neighbouring property to provide access to perform a required task on an adjacent property. Parties have 60 days to appeal and they do that by sending a notice to the ERT and RMO. Generally ERTs decisions are final unless there has been a fundamental error in law. The option to go to the minister if the party does not agree with ERT decisions is not available under the CWA. However, ERT decisions must conform to source protection plans.

Rules of practice for the ERT can be found on the ERT website. When a landowner notifies the ERT of an appeal, the ERT issues a public notice that a hearing will be held. A preliminary hearing to deal with administrative items is usually conducted in person and is open to public. The hearing will always include the person that launched the appeal and the RMO. The ERT can determine whether to involve other parties. The actual hearing is always done in person and is open to public. Opinion evidence can only be provided if approved as expert advice by the ERT. The ERT can amend the decision one way or the other, or they may revoke it. The ERT also has the authority to issue orders that would require a RMO to do something. There is a parallel process in place called the mediation approach. This approach allows parties to settle disputes through mediation. Most parties can settle dispute this way without going to a formal hearing. If parties come to an agreement and the ERT accepts that agreement, then the hearing is dropped. The ERT really pushes the mediation approach if parties are willing.

INDUSTRIAL THREAT POLICIES

ABCA Planner, Geoff Cade, introduced the policy recommendations for industrial threats that were included in SPC package materials. The policy recommendations are a result of the early engagement with municipal staff and stakeholders. The reports provided in meeting materials, deal with industrial sewage and waste disposal. In general these policies follow the same path as previous ones in that future activities will be limited through planning act tools, existing activities will be dealt with through risk management plans, and education and outreach will be tied into all policies. However, for industrial activities, the SPC has the ability to use prescribed instruments for both waste disposal and sewage systems and these have been used as a policy tool as well. The meeting materials also include a report on suggested policy ideas for climate change, spills, and transport pathways. The SPC broke into three groups to discuss each of the policies in detail. A roundtable discussion was had at the end to share comments and concerns about the policies. Comments were recorded and the policies will be further refined and presented to the SPC again at the summit in August. The MOE Liaison agreed to provide wording advice on the refined policies at the summit as well.

Action item: Include CWA glossary definitions in next SPC meeting materials.

RISK MANAGEMENT VS. EDUCATION APPROACH

Geoff Cade presented information on the risk management versus education approach report that was provided in SPC packages. The idea behind the report is to reduce the challenges of both approaches by combining them. The report outlines a three-phased program that starts with a series of workshops for landowners to self-evaluate what threat activities they are engaging in, and finding ways to improve or manage them (essentially developing their own RMP called a personal action plan). This would be a voluntary process to engage landowners. The second phase of the program would be following up from the workshops and monitoring the implementation of the voluntary personal action plans. The third phase would be to sign off on the plans with the ultimate goal of some kind of risk management. The report was developed to spawn discussion among Committee members. Essentially this approach would be a phased in risk management plan that would begin with education and outreach.

The Committee discussed the pros and cons of implementing this kind of approach. Some felt it was a good approach while others felt that education and outreach has already been in place for many years through the stewardship program.

Action Item: Determine whether risk management plans are going to be public documents.

DRAFT PLAN TO DATE

Project Manager, Cathie Brown provided a presentation on the draft plan that was provided in SPC meeting materials. Project Manager Brown also demonstrated the threats look-up table through the Upper Thames Conservation Authority website which is essentially the MOE Table of Threats. The number of circumstances in the threats lookup table was discussed to give the Committee an idea of the number of unique policies that could be included in the source protection plan.

Action item: Send link for the threats lookup tables to SPC members.

The current draft plan is very rough and incomplete but was provided for SPC members to think about what they are working towards. Each of the elements of the plan was described including monitoring policies and the explanatory document. Items that were still missing from the plan were listed. There is a need to clarify the problem between what is an existing threat and what is a future threat, and where existing infrastructure and permissions creates an “existing” threat even if not in practice at present. The Committee also needs to consider how municipalities will administrate the plan. The next steps will be to have a revised version of the draft plan ready for the summit at the end of August 31st and September 1st. The concept of the summit was explained and the expert speakers invited to the summit were listed.

CORRESPONDENCE AND DELEGATIONS

Four items of correspondence were included in SPC meeting materials. The first was a smart about salt report for the Committee to see what other regions that have greater problems with salt are doing about it. The second item was an acknowledgement letter from MOE informing the Chair that the amended Assessment Report had been received. The third and fourth pieces of correspondence were an article from the Kingston Whig Standard and a response letter from Conservation Ontario.

MOTION #SPC: 2011-06-03

Moved by Don Jones
Seconded by Mert Schneider

That the pieces of correspondence be received for information.

Carried by Consensus.

LIAISON UPDATES AND OTHER BUSINESS

MOE Liaison, Lisa Ross informed the Committee that a monitoring policy guidance document has been developed by MOE and Conservation Ontario.

AGENDA ITEMS FOR NEXT MEETING – SUMMIT: AUG. 31/SEPT. 1

- Expert Presentations from TSSA, MOE, etc.
- Policy Discussion – All draft policies.

ADJOURNMENT

Motion to adjourn by Rowena Wallace at 2:55 p.m.

Larry Brown
Chair

Jenna Allain
Recording Secretary