

February 6, 2023

Dear Keith,

Thank you for providing Conservation and Source Protection Branch (CSPB) with the proposed updates to the Trent Source Protection Plan (TSPP) and Assessment Report and the Ganaraska Source Protection Plan (GSPP) and Assessment Report. As per the amended section 36 (s.36) Order issued by the Minister on May 21, 2019, submission of all proposed updates to the assessment report and source protection plan is required prior to consulting more broadly with implementing bodies.

We provide the following comments, which reflect my input and input from our branch hydrologist and watershed management specialist.

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The Minister's Order specifies mandatory updates to the assessment report and plan to ensure they comply with the Technical Rules (TRs) in effect at the time of the update. For your source protection region, this includes:

- Assessing the vulnerability of the Great Lakes intakes (Ganaraska only)
- Assessing locations where the above-grade handling and storage of fuel, as well as liquid hydrocarbon pipelines, pose a significant, moderate and low risk and ensuring policies apply to all relevant protection zones; and
- Updating the significant groundwater recharge areas and any associated policies in the plan to align with the TRs.
- Updating liquid hydrocarbon pipeline references in the current assessment reports and plans from a local threat to a prescribed drinking water threat of provincial interest and ensuring policies apply to all relevant protection zones.
- Integrate any technical work completed within the timeframe of the review for changes to drinking water systems if these have not been included in amendments under section 34 of the *Clean Water Act, 2006*.
- Revising policies that address implementation issues where the committee, authority and affected municipalities determine it is necessary.

### **Comments on Assessment Reports**

*Both ARs:* Since the updated TCC assessment reports (ARs) follow the 2021 TRs, please address the following topics in the ARs:

1. Mapping Impervious Surface Areas (IMP): Please clarify and provide the rationale for grouping WHPA-A and WHPA-B into a single zone to calculate the IMP for groundwater drinking water systems. In this rationale, please explain the approach or method used to calculate the IMP in WHPA-Ds vulnerability scores that trigger low, moderate or significant risks.
2. Contaminated Sites (Conditions): Since the 2017 Technical Rules amendments, TR 126 lists six (6) occurrences whose presence is used to identify conditions. Please revise the ARs to include an assessment of these occurrences and

discuss whether the update would impact the conclusion that there are "No Conditions". In addition, any reference to significant groundwater recharge areas in relation to conditions must be removed, as these areas are no longer used for assessing water quality risks.

3. Stirling - Issue Contributing Area (ICA): In the 2021 TRs, the ICA has become a vulnerable area (e.g., WHPA-ICA); therefore, managed land/livestock density or impervious surface area calculations are required in these areas as outlined in footnote 19, page 20 of the 2021 TRs. Please update the ARs to map and discuss the approach that illustrates the calculated managed land and livestock density in the WHPA-ICA associated with the Stirling Wells E.Coli Issue.
4. Enumerating Drinking Water Threats Tables (Tables): Please add liquid hydrocarbon pipeline threat # 22 to the tables, even though there are no identified significant threats, to recognize that all prescribed threats were considered in the enumeration process. Please make this change to any other similar tables throughout both ARs (for example, Table 5.4-2: Enumeration of Significant Threats for the Creighton Heights Water Supply System in the Ganaraska AR, Table 5.4-188 in the Trent AR)
5. Editorial change: Please ensure consistency in referencing the 2021 Technical Rules; for example, use "2021 Technical Rules" instead of "Director's Technical Rules."
6. Editorial change: Please ensure all references to MOECC are swapped with MECP, or Ministry of the Environment and Climate Change, to the Ministry of the Environment, Conservation, and Parks, where appropriate. References to the historical role of the Ministry can remain, but may require some clarification.

#### *Ganaraska*

7. Please provide more information about whether the vulnerability of Great Lakes intakes were re-assessed and the results of these assessments.
8. Pipeline Threat / Circumstances in Section 4.4.2.2: Please remove table 4.4.2 as it relates to the previously issued local threat for pipelines, which have now been superseded by the prescribed threat # 22, liquid hydrocarbon pipelines as listed in subsection 1.1, paragraph 22 of O.Reg. 287/07 and the 2021 TRs. In addition, the AR may continue to include a description of the modelled circumstances of the pipelines that align with the Pipeline circumstances listed in the 2021 TRs. To align with that, please reword the section's heading to read "Activities identified through the Event Based Modelling Approach" or any other similar language.
9. Chapter 4:
  - a. Section 4.4.2.4.1: *Managed Land*, and throughout the document – please correct the vulnerability score values referenced as the minimum score needed for an activity to be considered a low drinking water threat as 4.0, not 4.5.
  - b. Section 4.4.4: Enumeration of threats, and throughout the document – please ensure the word 'local' is deleted from the text regarding the pipeline threat, for example, "In the case of the Ganaraska Region Source Protection Area, the Lake Ontario based IPZ-1 does have a vulnerability score of 5, making the local threat a potential low drinking water threat," as it is no longer a local threat but a prescribed threat.
10. Chapter 5:
  - a. Section 5.4.1.2 Listing drinking water threats – Conditions, please review and correct references to the vulnerability scores that result in low, moderate, or significant threats. For example, on page 5.26, in the sentence "The threat level of the condition is assigned based on its risk

score: where the risk score is greater than or equal to 80, the condition is a significant threat; where it is between 64 60 and 79, it is a moderate threat; where it is between 44 40 and 59 it is a low threat,” the reference to 61 should be replaced with 60, and 41 should be replaced with 40.

- b. Section 5.4.1.3 *Identify areas for significant, moderate, or low threats – activities*, and throughout the document – please clarify or correct references to the TRs and Tables of Drinking Water Threats. The preface of the assessment report links to the 2021 TRs, but there are references to the Tables of Drinking Water Threats throughout. For example, on page 5.27, the following sentence should be revised to read, “The activities and circumstances under which these threats are considered to be significant, moderate, or low to groundwater are described in ~~Tables 1 and 2~~ of the Tables of Drinking Water Threats (~~Ministry of the Environment and Climate Change, November 2009~~ and Ministry of Environment, Conservation and Parks, 2024). The Tables of Drinking Water Threats classifies the threats based on the observed vulnerability scores in the identified vulnerable area.”
- c. Section 5.4.2.1 Creighton Heights Water Supply System, page 5.28 – liquid hydrocarbon pipelines were added to the list of prescribed threats in 2018. Please correct references like the one on page 5.28 to read, “In ~~2021~~ 2017, the Ministry of Environment, Conservation and Parks added “the establishment and operation of a liquid hydrocarbon pipeline” as a prescribed drinking water threat.”

#### 11. Editorial changes:

- a. Page 6, typo – replace the word ‘consolation’ with ‘consultation.’
- b. Page 6-18, the first line of section 6.3.1, the word ‘aquifers’ has been struck out, but it should be kept.
- c. Map 4-10 – there is no corresponding label in the legend for the light green shapes on the maps; are they IPZ-3? Please label.
- d. Map 4-13 – Revise the title and descriptions for the ‘Local Significant Threat’ to read ‘Modelled Significant Threat.’

#### *Trent*

12. Editorial change: Please revise the last sentence in section 5.2.2.2 to remove the reference to the technical staff and liaison officer of SPPB (as stated).
13. Introduction chapter: please add the liquid hydrocarbon pipeline threat #22 to Table 2, even though there are no identified significant threats, to recognize that all prescribed threats were considered in the summary.
14. Chapter 1: section 1.5.2. Please consider whether this is the correct place to include the information about the amendment for the Keene Heights drinking water system. There have been several other amendments under section 34 that were consulted on since 2014. Instead, refer to the chapter on consultation and ensure that the chapter includes all the amendments and related consultations that have occurred since the initial approval of the source protection plan.
15. Chapter 2-5, page 5-98, we noted a few typos in the new text about conditions, please revise.

### **Comments on Source Protection Plans**

#### *Both Trent & Ganaraska Source Protection Plans*

- Replace the “Director’s Technical Rules” with “Technical Rules” throughout both plans.

- Editorial change: capitalization is inconsistent for terms such as “intake protection zone” and should be consistent throughout. Similarly, hyphenation of terms like “issues-contributing area” is inconsistent, please edit for consistency throughout.
- Section 3.1.1 – legal effect text needs editing for clarity and accuracy, so that it reads:
  - There are three legal effects outlined in the *Clean Water Act, 2006* for the policies throughout this plan;
    - 1) Must Conform – legally binding, decisions made by implementing bodies are required to conform or comply with policies for significant threats, meaning that the decision must be in accordance with the provisions of the significant drinking water threat policy.
    - 2) Have Regard To – legally binding, decisions are required to have regard to policies for moderate and low threats, meaning that the decision must consider the policy and give it appropriate weight with other factors.
    - 3) Strategic (non-legally binding) – other types of policies that have been developed to achieve the Plans’ objectives that are equally essential to achieving the Plan’s objectives but are not given legal effect by the Act, such as policies respecting stewardship programs, pilot programs, research, outreach and education, and, in several instances, policies that specify actions for public bodies. Under the Act, these policies are not legally enforceable, nor do they create legal duties. Rather, accountability for these policies is achieved through methods other than courts or tribunals, such as through the periodic progress reports on the Plan mandated under the Act.
- Table 3.1 – needs to be edited for accuracy and to reflect any clarifications to the text for Section 3.1.1.
- Table 3.3 – The effective date for existing and future activities designated for section 57 is accurate in the GSPP, please make changes to the TSPP for consistency and accuracy. The compliance/target date for section 57 prohibitions cannot be “as determined by RMO,” the information in the effective date column for this tool is accurate, and there’s no need to add a compliance/target date. Decisions must conform immediately to the significant threat policy, while official plans have time to be amended. See comments regarding the compliance date for RMPs below with comments on policy G-8. Please review this table and determine whether the last column is necessary or helpful.
- Section 3.2.1 – edits needed to new text for clarity so that it reads:
  - If an individual or business will not voluntarily agree to a Risk Management Plan, the Risk Management Official can establish it on their behalf. The Risk Management Inspector has the authority to take actions to achieve compliance if there is a failure to comply with a Risk Management Plan or **order that a person** cease engaging in an activity prohibited under Part IV of the *Clean Water Act, 2006*.
- Policy G-6(6) – edit policy for clarity so that it reads:

- Pipeline owners should post sufficient and visible liquid hydrocarbon pipeline identification signage for pipelines in wellhead or intake protection areas. In addition, 'do not anchor' signs should be posted when there is a submerged pipeline in the area of a navigable waterway.
- Policy G-7(2) – The beginning of policy G-7(2) should be revised for accuracy and clarity so that it reads:
  - **Land uses that include** the following ~~land use~~ activities are not permitted where ~~these activities~~ would be a future significant drinking water threat, unless stated otherwise in this source protection plan:
- Policy G-8(1) - timelines for RMPs. The timeline for s. 58 RMPs cannot be conditional or dependent on “when the RMO becomes aware of the activity.” Please refer to subsection 58(1) of the CWA, which states that a prohibition doesn't apply to activities that require RMPs that were in existence before the SPP took effect, and under subsection 58(3), the SPP can specify the date when the prohibition in subsection 58(1) should start to apply. If the SPP is going to specify a date, it will be a date on which the prohibition begins to apply to all activities (whether the activity's existence is known to the RMO or not). It shouldn't be tied to when the RMO discovers the activity. For example, if a pre-existing activity is discovered to still be engaged in after that specified date and it doesn't have an RMP, an RMI can issue orders under subsection 63(1) (e.g. requiring the person to cease the activity, requiring the person to comply with directions to achieve compliance with ss. 58(1), which entails entering into an RMP, and providing relief from the requirement for an RMP while the RMP is being established as long as terms/conditions are complied with). If the SPA decides that it wants the RMOs to have more flexibility for the timeline to establish RMPs, they should NOT specify the date under subsection 58(3) and rely instead on subsection 58(4). That would mean that there is no set date for the prohibition in subsection 58(1) to begin applying to pre-existing activities. Instead, it would be a case-by-case decision by the RMO, who would determine when the prohibition should begin to apply to a person engaging in an activity designated for section 58. The RMO would specify the date in a notice, and the date the prohibition begins to apply must be at least 120 days after the notice is given. Please discuss with the SPC/SPA the intent of this timeline. Similarly, the “compliance/target” dates, giving two years for initiating the risk management plan's provisions do not align with the provisions of section 58. Once the RMP has been agreed to (subsection 58(5)), then the RMP is considered established (subsection 58(10)), and the person engaged is prohibited from engaging in that activity except in accordance with the RMP (subsection 58(18)). I am sorry that this was not caught at the time of the initial approval of the plan. It should be removed.
- Policy G-8(1)(b) and Table 3.3 – subsection 58(1) of the CWA does not allow for a 'grace period' for new activities that require an RMP. New activities that require an RMP cannot be established without an RMP. Section 59 is intended to

address these activities by establishing the screening of planning and development applications.

- Policy G-9, the introductory text should be revised so that it reads:
  - This is an **administrative** tool provided under Section 59 of the Clean Water Act, 2006, used to identify where a ~~Section 57 prohibition or Section 58 risk management plans~~ **policies** are required for future significant drinking water threats. **An application for building or development planning or building application** cannot proceed until the Risk Management Official issues a notice **stating that either (a) neither section 57 nor section 58 apply to the activities related to the application or (b) that section 58 applies and a risk management plan has been established for activities related to the application.**
- Policy G-11 could use for clarity and ease of reading. For example, it could be revised to read:
  - Municipalities shall update municipal emergency planning documents and any other relevant documentation to identify vulnerable areas where significant drinking water threats could occur and outline reasonable actions to be implemented if an emergency situation compromises these areas.
  - Municipalities should ensure they have effective and efficient internal communications protocols and training on these protocols to ensure that when a spill or emergency event is reported, the correct people within the municipalities are notified as soon as reasonably possible.
  - Emergency management documents should:
    - be reviewed annually and when notified of changes to the Trent Source Protection Plan, then updated as necessary.
    - include an explanation of the purpose of the “Drinking Water Protection Zone” signs and identify their locations within the vulnerable areas.
- Policies referring to the Consolidated Linear Infrastructure ECAs will need to be reviewed by MECP staff knowledgeable in that program.
- Section 4.4.2 Agriculture, in the threat summary, please revise the phrase “the risk of pesticides” to “the risk posed by pesticides”.
- Policy R-5 – stray ‘.’ In policy R-5. If this is intended to remain an RMP policy, it is missing the essential “designation” language, if not, the “tool” needs to change.
- Policy R-6 – add the words “a quantity” so that the policy text reads, “Where the existing and future storage of road salt **in a quantity** is greater than 10 kg and is exposed to precipitation or runoff from precipitation or runoff, or **a quantity** greater than 100 kg
- Section 4.4.6, in the description of the “Organic Solvents” threats, the sentence introducing the list of solvents is missing ‘s’ on the word solvent (page 86 in GSPP, page 92 in TSPP)

- Policy O-1(4) in the policy text and the text for Applicable activities, remove the word 'outfall'. The policy text will be further reviewed by other parts of MECP at pre-consultation.
- Policies O-2 and O-3 – please clarify the difference between the activities addressed by these policies, as you cannot have both section 57 and section 58 policies applying to the same future activity. In addition, in the text for applicable activities, add the word 'that', so that it reads “The storage of snow **that** would be a future significant drinking water threat, where the snow is taken to a snow dump not managed by an Environmental Compliance Approval and contains snow from mixed land uses including commercial or industrial.”
- Policy L-2(1) (GSPP) and Policy needs editing for clarity, same for the remainder of the L-2 policies on pages 99-100, and please check that each policy tool is correct.

### *Ganaraska*

- Page 7, section 2.3.2.2 – title “Locally Defined Prescribed Drinking Water Threats” this section should be revised to better reflect the existing framework, rather than trying to make the old text fit the addition of liquid hydrocarbon pipelines to the list of prescribed threats.
- Page 9, section 2.4.1, typo – missing 'plan' in ‘The original Ganaraska Source Protection Plan...’ Other edits are necessary to the new text below, e.g. removing “Director,” etc.
- Page 11, section 2.4.4 optional policies – why are pipeline policies included here? They are not optional content, and if you are referring to low or moderate threat policies, those would be included in that part of the sentence.
- Page 71 – question about F-2 – is the reference to modeled area still relevant?
- Page 78 Policy R-6 change the tool as was done for the Trent SPP.
- Page 103 – Creighton Heights Pipeline policies – same as above, but for low drinking water threats, it needs some editing to be consistent with other L-2 changes.

### *Trent*

- Policy Q-3: Please revise the text of the policy so that it reads “The Ministry of Northern Development, Mines, Natural Resources and Forestry ~~will refrain from issuing~~ **shall not issue** aquaculture permits in the Stirling Issues Contributing Area to ~~coincide~~ **align** with Prohibition Policy Q-2 in the Source Protection Plan.”
- Policy HP-5 – please clarify the policy intent with respect to tributaries, what is the desired outcome?
- Policy HP-9 – consider whether this could be combined with policy HP-1 and apply to low, moderate, and significant drinking water threats since they have the same legal effect.
- Policy OT-6(1) – why is Parks Canada named in this policy? Please clarify.

## **Reminders**

- With respect to the Summary of Consultation Comments sections in the SPP, AR and Explanatory Document, we remind you of the following:
  - The section should be updated to include all required consultation activities as per the amended order (*pre-consultation, public consultation and any public meetings*).
  - Public consultation must be a minimum of 35 days.
  - As per the Minister's Order, comments received shall be documented, considered and addressed prior to advancing to the next consultation stage or finalizing the proposed updates to the assessment report and plan.
- Please refer to Appendix D: Submission Requirements for Assessment Report and Plan Revisions as part of the *Source Protection Planning Bulletin – Overview of Requirements for Plan and Assessment Report Amendments and Updates under sections 34, 35 and 36 of the Clean Water Act* for a checklist of items to include in your final submission.

We hope these comments are helpful. Please do not hesitate to contact me by email at [Angelune.DesLauriers@ontario.ca](mailto:Angelune.DesLauriers@ontario.ca) or Mary Wooding, Liaison Officer, at [Mary.Wooding@ontario.ca](mailto:Mary.Wooding@ontario.ca).

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