

Appendix E

Ministry of Environment Letters Approving Variances to Technical Rules

Ministry of
the Environment

Source Protection Programs
Branch

8th Floor
2 St. Clair Ave. West
Toronto ON M4V 1L5

Ministère de
l'Environnement

Direction des programmes de protection
des sources

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2, avenue St. Clair Ouest
Toronto (Ontario) M4V 1L5



FEB 4 '10 AM 11:41

Log: ENV1174IT-2010-29

- GM
- Water Mgmt.
- Communications
- Land Mgmt.
- Foundation
- _____

January 27, 1010

Mr. Mark Neufeld
Chair, Niagara Peninsula Source Protection Committee
740 Ridge Road North
Ridgeway ON L0S 1N0

Dear Mr. Neufeld:

I am responding to the December 4, 2009 e-mail sent by Jayme Campbell requesting to use an alternate method under Rule 15.1 of the Director's Technical Rules (Rules) for the completion of the assessment report under the *Clean Water Act* (CWA) for the Niagara Peninsula source protection area.

As set out in your correspondence, your proposal is to use an alternative grid centroid within which you calculated the impervious surface area per 1 km² using a node centred on the centroid of the individual IPZs, instead of "with a node of the grid centred on the centroid of the source protection area" as required by Rule 17. In our opinion, the use of this proposed alternative grid centroid will not impact the implementation of the Rule, other than to centre the calculations on the areas of particular interest. Therefore, this approach is equivalent to the method currently required through sub-Rule 16(11) and Rule 17.

In accordance with my authority under Rule 15.1, I hereby provide Director's approval for the use of this alternate method for the Niagara Peninsula source protection area.

Your rationale for the use of an alternative grid and how it is being applied must be included in your assessment report.

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Mr. Mark Neufeld
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We thank you for your efforts in completing the technical studies in support of the assessment report under the CWA. If you have any questions or require additional information, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ian Smith', written over a faint, larger signature.

Ian Smith, Director
Source Protection Programs Branch
Ministry of the Environment

cc: ✓ Brian Wright, Project Manager, Niagara Peninsula Conservation Authority
Jayme D. Campbell, Source Protection Hydrogeologist
Heather Malcolmson, Manager, Source Protection Planning
Keith Willson, Manager, Source Protection Approvals
Maeve McHugh, Liaison Officer, Source Protection Implementation

Mr. Mark Neufeld

Page 2.

We thank you for your efforts in completing the technical studies in support of the assessment report under the CWA. If you have any questions or require additional information, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ian Smith', written over a faint circular stamp.

Ian Smith, Director
Source Protection Programs Branch
Ministry of the Environment

cc: Brian Wright, Project Manager, Niagara Peninsula Conservation Authority
✓ Jayme D. Campbell, Source Protection Hydrogeologist
Heather Malcolmson, Manager, Source Protection Planning
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Log: ENV1174IT-2010-124

- GM
- Water Mgmt.
- Communications
- Land Mgmt.
- Foundation
- _____

May 6, 2010

MAY 13 '10 PM 3:59

Mr. Mark Neufeld
Chair, Niagara Peninsula Source Protection Committee
740 Ridge Road North
Ridgeway ON L0S 1N0

Dear Mr. Neufeld:

I am writing to you regarding the classification for the Niagara Falls and DeCew intakes under Rule 55.1 of the Director's Technical Rules (the Rules) for the completion of the assessment report under the Clean Water Act (CWA) for the Niagara Peninsula source protection area.

Variation from Rule 55.1 – Classification of Intakes

The Director has the authority under Rule 55.1 to notify a Source Protection Committee of the classification of an intake. Based on Rule 55, the Niagara Falls and DeCew intakes are classified as Type C and Type D intakes respectively. Through this letter, I am providing notice that both intakes are to be classified as Type B (connecting channels) intakes.

The Niagara Falls intake is located in the channel of the Welland River which makes it a Type C intake according to Rule 55.0. The intake is located at the mouth of Welland River where it receives 100% of the Niagara River flow, under normal conditions. The flow conditions at the intake are very similar to the Niagara River flow conditions and therefore the intake is best classified as a Type B intake.

With respect to the DeCew intake, there is a lack of certainty as to whether or not this system is in a connecting channel, and therefore, the system could be classified as a Type B or a Type D system depending on local interpretation. The Conservation Authority staff have been working with the understanding that it is a Type B intake. It is apparent that given the lack of certainty, that there is a need to confirm the classification of this intake. Based on various conversations between staff from the Source Protection Programs Branch (SPPB) and

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Mr. Mark Neufeld
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Conservation Authority staff, as well as a meeting held on January 29th 2010 with SPPB staff it was determined that there would be little difference in the practical outcome regarding whether the DeCew intake was classified as a Type B or a Type D intake with respect to the delineation and scoring of the IPZ-1 and IPZ-2. There is considerable difference in the delineation of the IPZ-3 and the Type B IPZ-3 delineation is more appropriate for this intake. As such I am formalizing it as a Type B intake.

In accordance with my authority under Rule 55.1, I hereby classify both the Niagara Falls and the DeCew intakes as Type B intakes.

This letter notifying you of the classification of the intakes must be included in your assessment report.

We thank you for your efforts in completing the technical studies in support of the assessment report under the CWA. If you have any questions or require additional information, please contact our office.

Sincerely,



Ian Smith, Director
Source Protection Programs Branch
Ministry of the Environment

cc: Brian Wright, Project Manager, Niagara Peninsula Conservation Authority
Jayme D. Campbell, Source Protection Hydrogeologist
Heather Malcolmson, Manager, Source Protection Planning
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Log: ENV1174IT-2010-162

June 21, 2010

Mr. Mark Neufeld
Chair, Niagara Peninsula Source Protection Committee
740 Ridge Road North
Ridgeway ON L0S 1N0

Dear Mr. Neufeld:

I am responding to the June 3, 2010 memo sent by Jayme Campbell requesting approval to use an alternate method under Rule 15.1 of the Director's Technical Rules (Rules) for the completion of the assessment report under the *Clean Water Act* (CWA) for the Niagara Peninsula source protection area.

As set out in the memo, the proposal is to use an alternate method for the identification of drinking water threat conditions (Rule 126). This proposed alternative method is to compare the results of the sediment analyses with soil criteria, rather than with sediment criteria as stipulated in Rule 126. The memo requests approval to use this alternative method for the Niagara Falls, Fort Erie/Rosehill, Grimsby, Welland and Port Colborne water treatment plant intakes. This alternative method has already been approved for the DeCew water treatment plant intake protection zones.

The rationale for this alternative method is to be consistent with the approach at the DeCew water treatment plant. The original need for this alternative method was first indicated by staff from the MOE Niagara District office. They supported the conclusions of a Human Health and Ecological Risk Assessment (Goss Gilroy Inc. and Intrinsic, 2009) recently completed for the Lake Gibson reservoir (part of the DeCew water treatment plant system) which compared sediment data to soil criteria for its analysis.

As set out in the Lake Gibson risk assessment, soil standards were used to determine if the contamination could pose a risk to human health. Given the results of that report, we agree that determining whether this is a condition under the CWA should also be based on the soil standards.

In accordance with my authority under Rule 15.1, I hereby provide Director's approval for the use of this alternate method for the assessment of the Niagara Falls, Fort Erie/Rosehill, Grimsby, Welland and Port Colborne water treatment plant intakes in the Niagara Peninsula source protection area.

Your rationale for the use of this alternative method and how it is being applied must be included in your assessment report. .../2

We thank you for your efforts in completing the technical studies in support of the assessment report under the CWA. If you have any questions or require additional information, please contact our office.

Sincerely,


Ian Smith, Director
Source Protection Programs Branch
Ministry of the Environment

cc: Brian Wright, Project Manager, Niagara Peninsula Conservation Authority
Jayme D. Campbell, Source Protection Hydrogeologist
Heather Malcolmson, Manager, Source Protection Planning
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