

Ministry of the Environment,
Conservation and Parks

Ministère de l'Environnement,
de la Protection de la nature et des
Parcs



Office of the Minister

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Sandy Annuziata, Chair
Niagara Peninsula Source Protection Authority
36 Concession Road
Fort Erie, ON L2A 4G4

Maria Bellantino-Perco, Chair
Niagara Peninsula Source Protection Committee
174 Pancake Lane
Fonthill, ON L0S 1E2

Dear Mr. Annuziata and Ms. Bellantino-Perco:

I am following up on your proposed workplan for the comprehensive review and update of the Niagara Peninsula assessment report and source protection plan. The workplan, dated November 2, 2017, was submitted in compliance with the order dated October 13, 2015, issued under section 36 of the *Clean Water Act*.

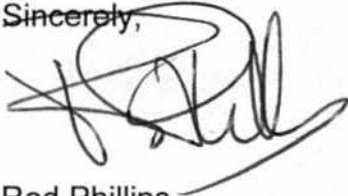
I am pleased to note that your workplan confirms that implementation of the source protection plan is going well and I appreciate the level of effort you put into your analysis of your assessment report and plan.

Pursuant to subsection 36 (1) of the *Clean Water Act*, I am amending the order dated October 13, 2015, to establish requirements governing the content and timeframes of the review and the process to be followed for any updates to your assessment report and plan. The source protection committee shall update the assessment report and source protection plan to address the workplan items identified in the attachment to this order and ensure those changes comply with the recent amendments to the General regulation and Director's Technical Rules. I will leave it to the source protection committee to determine if they wish to undertake other updates outlined in the workplan.

When undertaking these updates, the source protection committee and authority must follow the amendment process and consultation requirements set out in the attachment to this letter. All updates carried out under section 36 of the *Clean Water Act* are to be submitted to the Ministry by March 31, 2022.

I want to thank you for the continued efforts of the source protection authority, committee and local communities to ensure sources of drinking water are protected. Significant progress has been made in source protection and the province looks forward to continuing to work with you and all stakeholders to protect sources of drinking water.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rod Phillips', written over a horizontal line.

Rod Phillips
Minister

Attachment

c: Jayme Campbell, Project Manager, Niagara Peninsula Conservation Authority
Heather Malcolmson, Director, Source Protection Programs Branch, MECP
Stacey Baker, Program Analyst, MECP
Bilal Kidwai, Liaison Officer, MECP

Mandatory Updates to the Assessment Report and Source Protection Plan

The Niagara Peninsula source protection committee shall ensure that the review includes updates to the assessment report and source protection plan to:

- reflect the planned changes at Niagara Falls, DeCew Falls, Rosehill and Welland water treatment plants (section 2 of the workplan);
- comply with the amendments made to the Director's Technical Rules, published on the Environmental Registry in March 2017 under posting number 012-8507. In particular for your source protection area, this includes assessing the vulnerability of the Port Colborne drinking water intake (section 3.1 of the workplan) and locations where the above grade handling and storage of fuel poses a significant risk, and updating the significant groundwater recharge areas to align with the amended Rules; and
- assess the new drinking water threat of provincial interest recently added to the General regulation (O.Reg. 287/07) under the *Clean Water Act* – the establishment and operation of a liquid hydrocarbon pipeline (section 3.2 of the workplan) in accordance with the Director's Technical Rules.

In determining how to complete this work, also consider the timelines the municipality is proposing for the alterations to their existing drinking water systems. The new regulation under the *Safe Drinking Water Act* (O.Reg. 205/18) requires the source protection plan be amended to reflect any alterations to an existing surface water intake before the drinking water system can provide water to the public. Given this, the source protection committee, authority and municipality should jointly determine if it would be more appropriate to have the source protection authority propose amendments under section 34 of the *Clean Water Act* to deal with the changes to the Niagara Falls, DeCew Falls, Rosehill and Welland drinking water systems, as opposed to including these updates as part of the review under section 36.

Amendment Process for Updates including Consultation:

The rules that source protection committees and source protection authorities were required to follow under the *Clean Water Act* in preparing, consulting on and submitting assessment reports and source protection plans to the Ministry will generally apply when making updates as part of the review. However, as with locally initiated amendments, any proposed updates to the assessment report and plan are to be consulted on concurrently and submitted together as one package to the Ministry by the source protection authority.

Only those provisions of the *Clean Water Act* and the General regulation referred to below apply to the update of the assessment report and source protection plan. For example, as no terms of reference is being required for the review and update of the assessment report and plan, subsection 36 (3) of the *Clean Water Act* does not apply.

Accordingly, for the updates to the assessment report and source protection plan, the following provisions apply:

- Assessment report content outlined in section 15 of the *Clean Water Act* and sections 11 to 14 of the General regulation.
- Source protection plan content outlined in subsections 22 (2) to (15) of the *Clean Water Act* and sections 20 to 34 of the General regulation.

Updates to the Niagara Peninsula assessment report and source protection plan shall be made in consultation with affected municipalities, the Ministry, and any other bodies responsible for implementing a policy that may be revised by as part of the updates.

Consultation shall include the following minimum requirements:

- Early consultation on any draft updates to the assessment report and plan with the Source Protection Programs Branch prior to carrying out pre-consultation with other bodies.
- Pre-consultation with all implementing bodies as well as persons and businesses engaged in significant drinking water threats in the geographic areas affected by the updates in accordance with sections 35 to 39 of the General regulation.
- Consultation for a minimum of 35 days, as outlined below.

The Explanatory Document that accompanies the plan (section 40, General regulation) shall also be updated to reflect the proposed changes to the plan and made available for consultation.

While consulting on the proposed updates to the assessment report and source protection plan in accordance with the requirements set out above, 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.

Notification and publication of the proposed updates shall follow the provisions included in the General regulation for assessment reports and plans as described below. This includes making the proposed updates available on the Internet and in locations that are accessible to give the public and other interested parties an opportunity to inspect and comment on the updates. Specifically, consultation on the proposed updates to the assessment report and plan shall occur concurrently and sections 23 to 25 of the *Clean Water Act* and section 41 of the General regulation apply with modifications noted below:

- References to a draft or proposed source protection plan shall be read as references to the proposed updates to the assessment report and source protection plan that result from the review carried out under section 36 of the *Clean Water Act*.
- Notices shall be provided to the clerk of each municipality and all other persons and bodies listed in section 41 that are affected by the proposed updates.
- A public meeting referred to in clause (c) of subsection 41 (3) and in subsection 41 (7) is optional as determined by the source protection committee in consideration of the nature and scope of the proposed updates.