

August 2, 2020

Ontario Ministry of the Environment, Conservation and Parks  
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To Whom This May Concern,

Re: Comments on Provincial Update to  
Water Quantity Management Framework  
Environmental Registry of Ontario Posting No. 019-1340

On June 18, 2020, the Ontario Ministry of the Environment, Conservation and Parks (MECP) posted a regulatory proposal on the Environmental Registry of Ontario (ERO) entitled: "Updating Ontario's Water Quantity Management Framework". The project number is 019-1340, and the public comment period is for 45 days from June 18 until August 2, 2020.

This proposal is a vital part of the Ontario government's moratorium for new and increasing bottled water takings, which currently expires on October 1, 2020. As part of the moratorium, the Ontario government committed to complete a review of the Province's water taking programs, policies and science tools. ERO proposal 019-1340 provides the results of that review and recommendations for provincial action.

The MECP requested respondents' comments to focus on the four goals and related actions discussed in the proposal paper. MECP has provided several discussion questions related to each goal. Each goal and its associated discussion questions are listed below, followed by my response.

### **Goal 1 – Priority of Use**

I support the proposed Highest Priority Uses (Environment, Drinking Water and Agricultural Irrigation) and Priority Among Other Users (Industrial/Commercial and others) categories offered by the Province, especially where there is potential insufficient water fit to drink.

#### *1. Do you support including priorities of water use in regulation? Why or why not?*

Yes, this is an important feature that benefits the effective management of Provincial water resources. It establishes clarity in terms of expectations for managing our water resources. It will hopefully reduce pushback against Provincial decisions if the parameters are already known and transparent. It ensures accountability in terms of what the public can expect.

The proposed priority of use categories and sub-categories are reasonable. However, how will preference of use be applied? Municipal water is a broad term within which there is residential, industrial and commercial water use. During times of water scarcity, will municipal industrial and commercial water users have to reduce their water usage to ensure more water is available for residential and other Category I – Highest Priority Use?

Regarding the Water Taking and Transfer Regulation 387/04 and Ontario Water Resources Act, Section 34 – 34, 11, the current exceptions related to livestock and poultry require a review. Water taking for livestock or poultry does not require a PTTW regardless of the amount of water withdrawn. This approach is reasonable for the average family farm but is outdated for addressing the water needs of factory farms. What mechanisms are in place to track the water use of these large entities that may be in direct competition with a nearby municipality? A case in point is the expanding poultry operation along County RD 7, near Sixth Line, situated between Elora and Guelph. This farm operation continues to expand buying up adjacent properties and building more chicken barns (nineteen to date), despite being located between Elora, Fergus and Guelph. The Ministry has stated, "the sustainability of future water supplies in Guelph, Fergus and Elora is uncertain."

What mechanisms are in place to regulate the size of a farming operation especially in areas with known low water conditions?

Regarding Agricultural Irrigation, should there be more government oversight in determining where best to have agricultural irrigation and to promote effective irrigation techniques that conserve water? This view aligns with the Ministry's expectations that "higher priority water users are taking reasonable measures to optimize their water supply... including using water efficiently and addressing water leakage."

2. *How should priorities of use be applied to water taking decisions? When should it be applied? What process should be followed? Who should be involved? What information should be considered?*

Ideally, a collaborative approach to share water resources should be the first choice when dealing with competing interests for water. However, fair sharing with priority setting is preferred in situations where competing interests and dwindling water conditions have not been resolved through other means. Preferably, municipal water use should receive the highest priority (a Category I use) as it aligns with the source water protection program to protect drinking water. Provincial growth targets should be another determining factor to ensure growing municipalities have sufficient water for their current and future needs. Allowing competition between a municipality and commercial interests destroys the former's efforts to cost-effectively and efficiently service its population and employment growth.

Imagine, if an expanding municipality exceeded its water supply, what would the repercussions be?

A municipality's position as an unwilling host must carry weight in the deliberations.

A concern regarding available water quantity is whether or not it is fit to drink. While a Tier 3 water study may determine the amount of water for a given area, it does not differentiate between potable and non-potable water. Many small communities have known and unknown water quality issues (e.g. TCE, fuel) associated with historical industrial or commercial practices or geological conditions (e.g. arsenic, iron), rendering some water useless or else more expensive to treat. In Centre Wellington, the water west and northwest of Elora requires less treatment than the water surrounding Fergus. It is essential to consider not only available water but also its potability and the expense to render it fit to drink.

We need to consider the impact of gravel quarries on water quality, especially if situated near a municipality's wells.

One should not overlook the economic argument in terms of the benefit to the community. Will the proposed PTTW create or restrict jobs? The latter could happen if the proposed PTTW competed with the municipality for its limited water resource, curtailing future economic expansion within the municipality. Hereto, should current and future municipal Category I and II uses override non-municipal demands. Municipal water, whether Category I (drinking water) or Category II (industrial, commercial and institutional use), should be treated as Category I to ensure holistically that the quality of life within a municipality is paramount. The challenge is addressing privately serviced employment lands of a rural municipality that may be in direct competition with a neighbouring municipality's municipally serviced employment lands. More importantly, reconciling the differences involving a rural municipality relying on privately serviced lands to generate property tax revenue versus urban districts relying on multiple sectors to generate tax revenue.

Furthermore, there is the wear and tear on roads over which tanker trucks are carrying water out of the community. How does the municipality recoup the costs of road maintenance associated with water hauling activity? Some of these commercial PTTWs are nothing more than a shack and a spigot, hardly a significant source of property tax revenue to offset the road damage.

Information to consider would include a community's or region's Tier 3 water quality study and water supply master plan (water quality) as well as those of surrounding communities or regions if the area overlapped competing demands.

If an area is targeted for future growth under the Places to Grow Act, then a higher-level review of information needs to be considered, incorporating various studies that provide a higher-level view of available water.

The participants in the process should include: the affected PTTW applicants, the municipalities (upper and lower tier) including neighbouring municipalities, agricultural users, the local Conservation Authority, Source Protection Authority staff, Indigenous communities and other water users who may have a vested interest in the outcome as well as information sharing groups established through source protection policy or practice and the Low Water Response Teams.

Ultimately, the decision lies with the Province who grants a PTTW, so the signing Director should lead the process at the MECP Regional office.

3. *Municipal drinking water supply is proposed as a highest priority use. What municipal drinking water needs should be considered a priority (e.g., current, planned growth, longer-term growth)?*

The needs of current, planned and longer-term growth all require consideration, especially if a municipality is mandated to grow under the Places to Grow legislation. The Township of Centre Wellington is mandated to double in size to approximately 52,000 people by 2041. Its current, planned, and longer-term growth needs deserve higher standing in the debate over water resources. We cannot be competing with commercial interests that force us to move further afield from the community in search of a sustainable water supply. Allowing

competition between a municipality and commercial interests destroys the former's efforts to cost-effectively and efficiently service its population and employment growth.

Future municipal well locations should be identified and given priority based on a completed Water Supply Master Plan study that identifies future well locations and a Tier 3 Water Budget Wellhead Protection Area for Quantity (WHPA-Q) areas.

Centre Wellington's new Water Supply Master Plan estimated millions of dollars to locate and connect our future municipal wells due to the area's local hydrology that requires a minimum of 2 km separation between high capacity wells. The presence of the idle commercial high capacity Middlebrook well forces us further away at a high cost to the Township. More advantageous to the community if the owner sold the well to the community.

However, despite being assigned a "highest priority use", does not exempt a municipality from being held accountable to effectively manage and optimize its "water supply, storage and distribution infrastructure, including using water efficiently and addressing water leakage, before requiring lower priority users to reduce their water takings."

## **Goal 2 – Update our approach to managing water takings in stressed areas**

I support enhancing the authority of Permit To Take Water Directors to manage water takings on an area basis and the additional proposed guidance offered. Our growing population will invoke higher demands for more water. We cannot consider new requests for PTTWs without looking holistically at an entire area or region to view the combined impact of all current, planned and future water takings.

Something to consider during these deliberations is what if the water supply suddenly became scarce, how would we recover? Other cities around the world are encountering this real issue, and we should not consider ourselves exempt.

### *1. Under what circumstances should the Ministry consider assessing and managing water takings on an area basis?*

The circumstances that would trigger a ministry assessment and managing of water takings on an area basis would be:

- Any WHPA-Q area identified at moderate or significant risk through the source protection process
- Areas having a history of recurring low water conditions especially where there are surface water or shallow groundwater water takings, and
- Areas with a higher density of water takings than its established density threshold based on permitted and non-permitted water takings exceeding 50,000 litres per day.

### *2. What suggestions do you have for the process of assessing and developing a strategy to manage water takings on an area basis? For example, how should local water users, stakeholders and Indigenous communities be engaged?*

Groundwater and surface water management on a watershed scale is required to effectively evaluate the cumulative effect of all water takings within the watershed. We cannot ignore the Province's continuing population growth and the impacts of that growth on our shared watershed. The concern by focusing on too small an area is we will miss a more significant and developing problem related to water sustainability.

Provincial funding is required to manage continuing Tier 3 Studies and other important water management work of Conservation Authorities.

The local Conservation Authority, including Source Protection Authority Staff, should manage the engagement process under the oversight of the MECP Regional Office, utilizing existing methods such as:

- Source Protection (working groups, Community Liaison Groups, Section 34/36 consultation experience)
- Watershed management planning groups
- Low Water Response Teams
- Water Management Committees.

The Ministry's *"2016 Procedures and Technical Guidance Document for Bottled Water"*, required the applicant to consult with First Nations. Although the consultation is necessary, not having the Ministry present changes the conversation. It places the burden on First Nations as well as a municipality to understand and have the relevant information and technical knowledge and expertise to engage in discussion with the applicant's professional representatives. This requirement puts the First Nations and municipality at a disadvantage. The new regulations need to address this irregularity not only with First Nations but also with the public and municipal authorities. The Government cannot evade its responsibility to ensure the well-being of its citizens, by absenting itself from the discussions. Its role is to ensure fairness and a full understanding of the process.

### 3. *How can the province help water users be more prepared for drought?*

The Province should set a province-wide requirement mandating drought response plans for water takings over 50,000 litres per day during the summer months. The drought management plan should include thresholds for specific actions (e.g. implementation of watering bans or restrictions) that align with Low Water Response Program guidance. This program must remain flexible to changing environmental conditions that may restrict or loosen close management of an area.

Area management of water takings must integrate with Low Water Response Teams and Tier 3 water quantity policies, where applicable.

All PTTW users must submit their drought response plans to the Province for review and approval to ensure a consistent approach.

## **Goal 3 – Make water taking data more accessible**

1. *Is there any water quantity and monitoring information reported to the Ministry that should not be made publicly available? If so, why?*

"In Ontario, no one "owns" water in the ground or in lakes and rivers in the Province. The Government of Ontario is responsible for managing the water in the Province on behalf of all Ontarians." (Updating Ontario's Water Quantity Management Framework, Ministry of the Environment, Conservation and Parks p. 5). Based on this comment, all water quantity data and monitoring information related to its withdrawal and use reported to the Ministry should be made publicly available and promptly. This information includes the application documents, monitoring reports, and survey data associated with permit applications and conditions for PTTWs.

2. *Would the proposed online resource be helpful to you? Why or why not? Are there other mechanisms for sharing this information that would be helpful to you?*

The proposed online tool will help provide full access to the data as well as tools to analyze it. The online tool should give various levels of information suitable to the end-user. Ideally, there would be a high-level all-encompassing view of the info, perhaps in a dashboard format with graphs. The intent is to allow quick reference. The tool should also enable bulk data download (e.g. .csv format) for in-depth analysis.

Improved and more timely access to the data is especially important to promote increased trust and transparency in the Government's management of water resources.

3. *What data would you like to see included in the online resource?*

All of the data currently collected through PTTW requirements and conditions, including monitoring wells, piezometer and pumping well data including water level and water quality data.

Application and monitoring reports should be in a secured pdf format, allowing a review of the info in the context of the study's requirement.

All submissions to the Ministry should follow prescribed reporting and data upload formats to ensure consistency and ease of use by end-users. Ideally, a common unit of measure should be used across the board rather than different units of measure. Using a variety of units makes it increasingly difficult to appreciate what is going on, especially for a non-technical user.

Post proprietary info in a specific Appendix that allows its easy removal before posting. Note: critical data mustn't be hidden behind proprietary restrictions. Individual commercial interests to date have denied public access to their data citing particular concerns. The public has a right to know who is withdrawing the water, how much and how often.

The data portal should provide a glossary of terms to make the units more readily understandable to the general public.

The data should cover the site, region, watershed, and Province.

The data should also include the results of Tier 1, Tier 2, Tier 3 water studies and municipal water supply master plans.

2. *How would you like to see water quantity data presented? What are the most useful formats (e.g. maps with embedded information, reports, tables, story pages)?*

Present the data in a manner that captures a broad audience with varying levels of interest and knowledge to build trust and transparency. The goal is to effectively communicate the science in a way that allows the public to understand complex issues. The current process is opaque and complicated.

A picture is worth a thousand words, so maps with embedded information are essential, as are graphical depictions of data. The key is determining how best to relay important information to a reader who has limited time to digest the information.

For the more serious reader and technical analyst who prefer in-depth research, reports, tables and raw data are essential. The format and font style should support scanning and machine translation of the numbers for use in spreadsheets.

3. *What water resources information and guidance would you like to see made available to the public?*

The chief intent should be to share knowledge and build water literacy in the Province. The MECP needs to take the lead in messaging about water to ensure a consistent message.

Key guidance documents such as the Clean Water Act, 2006, PTTW manual, Water Taking and Transfer Regulation (Ontario Regulation 387/04), the Blue Book – Water Policy Guidelines, Ontario Low Water Response Group, Environmental Activity Sector Registry (EASR) - Water Taking Regulation (O. Reg. 63/16) should be available on the portal, as well as other useful documents to explain the science and management of the public's water.

Ideally, including a chronology of regulations and key actions overseeing the management of the public's water will assist in understanding the history of water management and how the various pieces of law and government departments interact on the theme of water. Currently, it is a challenging and opaque process to sort out. The chronology should include the formation of the 19 source protection regions.

To further build trust, the various documents should either be updated or replaced with more current information that is most relevant to today and tomorrow's outlook.

#### **Goal 4 – Give host municipalities more input into water bottling decisions**

1. *Do you support the proposal to require water bottling companies to seek support from their host municipality when applying for a Permit to Take Water? Why or why not?*

Yes, this is a reasonable ask and should be required for all PTTWs, regardless of the end-user. While the Province does not consider this requirement a veto by the municipality, nevertheless, a municipality's opposition (i.e. "not a willing host") should rate as a higher level of cause to deny a request for a PTTW.

Seeking the support of a municipality should not be restricted to the proposed threshold of 379,000 litres, instead, base it on the 50,000 litres per day threshold requirement for a

PTTW. The Ministry and the municipality need to consider the cumulative impact of all permitted water takings before providing input, as part of their due diligence to ensure a sustainable water supply for the community.

Although the consultation is necessary, not having the Ministry present changes the conversation. It places the burden on the municipality to understand and have the relevant information and technical knowledge and expertise to engage in discussion with the applicant's professional representatives. Imagine the representatives of a small 6000-person community having a conversation with an international corporate entity with worldwide water interests. How do you think that conversation is going to unfold?

The Ontario hydrology community is quite small. It can be challenging trying to find a consultant willing to take on specific projects or causes if it means losing out on other more lucrative projects with the large water companies.

The Government cannot evade its responsibility to ensure the well-being of its citizens, by absenting itself from the discussions. Its role is to ensure fairness and a full understanding of the process.

The proposed criteria to allow a host municipality to refuse support are sufficient and robust. The justification for withholding support will carry more weight if based on a technical or scientific rationale that is in keeping with the scientifically driven PTTW regulatory process.

While it is reasonable to apply the host municipality support requirement to new or expanded takings, what if problems arise with an existing permit that gives cause for a community to withdraw its support? The French town of Vittel is a case in point where the activities of a water-bottler are lowering the water table. This business entity accounts for 50 percent of all water use in the town. Common sense would dictate the town's water needs come first, yet the town is forced to build a kilometres long pipeline to another village for water. Theoretically, this action is now putting two municipalities at risk of having to share water. The Province needs to have a mechanism in place for dealing with this scenario.

Thank you for leading this initiative and for allowing me the opportunity to share my views on the proposed updates to Ontario's Water Quantity Management Framework.

Should you have any questions regarding my comments, please do not hesitate to contact me.

Yours truly,

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