

Friday, November 20, 2020

The Honourable Jeff Yurek
Minister of the Environment, Conservation and Parks,
Ontario Ministry of the Environment, Conservation and Parks,
135 St. Clair Avenue West, 1st Floor,
Toronto, ON M4V 1P5

Dear Minister Yurek,

RE: ERO #019-2422 Proposal to require municipal support for new or increased bottled water takings

The City of Guelph (City) appreciates the opportunity to comment on the Proposal to require municipal support for new or increased bottled water takings (the "Proposal"). The Province of Ontario (Province) is seeking feedback on proposed changes to the Ontario Water Resources Act that would require water bottling companies to have the support of their local host municipality for a new or increased groundwater taking in their community. The proposed revisions to the OWRA are summarized as follows:

- A bottled water company seeking a permit to take water for a new or increase water taking shall request a municipal council resolution in support of the water taking;
- The request is to be supported by a description of the location and proposed amount of the water taking as well any technical studies in support of the application;
- If council supports the application, the application can proceed;
- Where council objects, the company may not proceed with the application;
- Where council had initially supported the application but subsequently withdraws the resolution in support, the application may proceed;
- Where support is withdrawn and the company proceeds with the application, the MECP will take the withdrawal of support into consideration for the application;
- Where council objection is withdrawn and then subsequently passes another resolution to again object to the application, the MECP will take the withdrawal of support into consideration for the application;

- Where there is no council resolution in 12 months, the application may proceed; and
- Where council is in support of the application or an objection has been withdrawn, and the company has not applied for the PTTW within five years, the application and council resolution process starts over.

The City has a keen interest in the efforts of the Province and the Ontario Ministry of Environment, Conservation and Parks (MECP) to manage water takings to protect the long-term sustainability of Ontario's water resources. The City's interests are primarily with respect to protection of the water resources in and around the City of Guelph that are used as sources of municipal drinking water. Under the Ontario Clean Water Act, a Wellhead Protection Area for water quantity (WHPA-Q) has been defined for the City's water supply system, which extends beyond City limits. The WHPA-Q includes a bottled water company (Nestle Waters Canada, located in Aberfoyle) and, as a result of the water taking for the company, the WHPA-Q extends to a large area to the south of the City. The City's water supply system has been determined to be at significant risk of not being able to meet its water demand in the future (2031) under drought conditions. For the water budget details see – [Source Protection Areas for Guelph and Guelph Eramosa Tier 3](#) .

The current Proposal is related to a previous Environmental Registry of Ontario Notice 019-1340 – Proposal – Updating Ontario's Water Quantity Management Framework under the Ontario Water Resources Act and in particular, the PTTW process. The City has provided comments previously on ERO 019-1340 which relate to ERO 019-2422.

Please find below our comments on the Proposal as it is currently provided. These comments may be subject to further detail or clarification as more information is provided by the Province.

Municipal Council Resolution – Host Municipality

The Proposal would require a bottled water company to seek a municipal council resolution in support of the bottled water taking from the local host municipality before it could apply for a permit to take water (PTTW). The City strongly advocates that in defining a "host" municipality, the Province consider the specific details of each proposed bottled water taking where the bottled water operation is contained within a WHPA-Q. For the City of Guelph, Nestle Waters Canada in Aberfoyle, lies outside of the municipal boundaries of the City but the groundwater taking for the facility is a large contributor to the area designated in the WHPA-Q. The water taking expands the already stressed WHPA and adds other permits into the area. Therefore, Guelph, with responsibilities under the CWA to protect water quantity, should have input into bottled water decisions in this particular case.

As an example for our rationale, the Nestle Aberfoyle plant is located in the Township of Puslinch, south of Guelph. However, Puslinch does not have municipal water supply systems and relies on private water systems to service the community. Therefore, Puslinch may make decisions on a bottled water company based on the economic benefits of the water taking rather than the environmental impacts on water resources or water supplies for other municipalities. For Guelph, Nestle's current water taking does not interfere with the City's current water takings, however, an increased or new water taking for Nestle in Aberfoyle could impact the City's water supply system and reduce the water quantity that may be available for municipal water supply. As part of ERO 019-1340, the Province is proposing to set priorities with respect to water use with municipal drinking water given a higher priority than bottled water takings. The City would suggest that the municipality that will likely to be impacted by the bottled water taking (one which is within the WHPA-Q for a municipal groundwater-based drinking water supply system) also be included as part of the approval process in order to preserve the concept of priority of use and ensure protection of existing and future municipal drinking water as is the purpose of the Clean Water Act.

Municipal Council Resolution – New or Increased Water Takings

The Proposal would apply to a bottled water company intending to apply for a permit for a new ground water taking or to increase the amount they are authorized to take under an existing permit. It would not apply to a renewal of an existing permit to take water for the same or lower permitted volume, the same purpose and the same location of water taking. The City would strongly suggest that the Proposal should apply to renewals of existing permits for bottled water takings. The rationale is listed as follows:

- The Proposal appears to assume that there is municipal support for an existing permit but will provide the municipality with options to support or object to new or increased bottled water takings. The Province may want to consider the degree of municipal support for an existing bottled water company and factor the level of support for or against the renewal of a permit into its evaluation of the permit.
- Existing permits expire and the permittee must apply for a new permit to extend the water taking. As noted in ERO 019-1340, "A Permit to Take Water does not allocate a right to water or guarantee a supply of water. A permit is also not guaranteed to be renewed." It would stand to reason that a council resolution in support of a bottled water company should be re-evaluated in a timeframe consistent with a permit renewal.
- The renewal of the water taking extends the environmental impacts of the taking for the period of the permit. The Director, upon review of the renewal application, should consider the potential environmental impacts, and if so, what would be done to address them from environmental protection and management, ecosystem, pollution prevention and sustainability perspectives as well as continuous improvement as required under the MECP Statement of

Environmental Values. Similarly, municipalities should re-evaluate the conditions under which support of a bottled water taking has been provided and to determine if it is still appropriate.

- With continual growth in the Province as mandated by Places to Grow, requirements for water supply will change with time. Municipalities should have the option to consider the use of water in its municipality and to determine if a bottled water use is still a priority use of the water. Future councils may want to re-consider past resolutions if warranted by new conditions. As noted in ERO 019-1340, “when water is in short supply, decisions must be made about how the available water should be shared among water users (including the environment).” The City would suggest that municipalities should re-evaluate support for bottled water takings for each renewal of a permit.
- A renewal of an existing facility could extend the water taking and any environmental impacts for the renewal period which, potentially, could be up to 10 years. With the MECP proposing to set priorities on uses with municipal use a higher priority than bottled water facilities and to consider cumulative effects of water takings in stressed areas, renewal of an existing permit could have the same potential impacts to a municipality as a new permit.
- The MECP should consider the “water availability, including current or future municipal water supply needs” and allow the municipality to provide support for or against the renewal application. If a municipality believes it needs the water versus the bottled water facility, the municipality’s needs should be factored into the MECP decision on the renewal application.

The MECP should reconsider this exemption to align with the goals of ERO 019-1340 and include PTTW renewal applications as requiring a council resolution to proceed.

Municipal Council Resolution – Council decisions prior to a bottled water taking application

ERO 019-2422 states “Before a water bottling company applies for the permit... the company would be required to seek a municipal council resolution...” and “Even with a support resolution from the host municipality, companies would still be required to meet any requirements or conditions that the ministry might have in deciding whether to issue the permit to take water.” The proposed revisions to the OWRA also requires the company to provide “any technical studies that would support the application.” This position will present some interesting dilemmas for a municipality in that it may be asked for a council resolution with only the permit to take water application and a technical study provided by the bottled water company in advance of technical reviews to be performed by the MECP. The application, studies and reviews, presumably, would provide information on the potential impacts of the water taking including well interference and environmental impacts as well information on cumulative effects and water resource sustainability. City staff would then be responsible for the review of the technical studies in order evaluate

support or objection for the proposed water taking before making recommendation to its Council. This process approach may mean municipalities may be unaware of all potential impacts of the water taking through their independent technical reviews and therefore would be at risk of making a poorly-informed recommendation to their Councils to approve such water takings.

Other Proposal Details – Decisions on applications

An important consideration on this issue is the context for water takings for bottled water operations in the Province. The City of Guelph supports seeking a council resolution for new or increased water takings for bottled water companies. However, current bottled water taking has been shown (ERO 019-1340) to have negligible environmental impacts. The City would suggest that the MECP apply the same approach of a council resolution for more impactful water takings, such as quarry dewatering, especially in water quantity stressed areas such as a WHPA-Q.

All of which is respectfully submitted:

Jennifer Rose, General Manager
Water Services, **Environmental Services**
Location: 1 Carden Street, Guelph ON

T 519-822-1260 extension 3599

TTY 519-826-9771

E jennifer.rose@guelph.ca
guelph.ca