



Greater Sudbury Source Protection Committee
44th Meeting
March 6, 2012

Held: Room C-12, Tom Davies Square

Commenced at: 12:45 p.m.

Adjourned at: 4:00 p.m.

Present: Nels Conroy, Chair
Paul Baskcomb
Luc Bock
Richard Bois
Nick Benkovich
Stephen Monet
Lilly Noble
Wendy Wisniewski

Also Present: Neil Gervais, Ministry of the Environment Liaison
Richard Auld, Sudbury & District Health Unit Liaison
Burgess Hawkins, Sudbury & District Health Unit Liaison
Kris Longston, City of Greater Sudbury Planning Alternate
Bob Rogers, Source Protection Authority Chair
Judy Sewell, Drinking Water Source Protection
Jessica Brunelle, Drinking Water Source Protection
Katherine Mackenzie, Drinking Water Source Protection
Paul Sajatovic, Nickel District Conservation Authority

Communications: Greg Haddad
Heather Mandamin
Cheryl Recollet
Marc Rondina
Tim Worton

1. Chair Conroy Opened the Meeting

Chair Conroy began the meeting by welcoming all SPC members and thanking them for their patience with the frequent schedule changes. Nels acknowledged the many constructive comments that were received during the pre-consultation process. Chair Conroy also spoke briefly about the recent Chairs meetings in Southern Ontario and explained that Source

Protection Chairs have not yet had the opportunity to speak with the new Minister and review program changes, funding issues and the implementation process. Nels will keep the committee updated on these developments.

Nels noted that the draft Greater Sudbury Source Protection Plan is in good shape. He also went on to congratulate the Nickel District Conservation Authority for receiving the Northern Ontario Business Community Builders Award for their work in the environmental field, including the Climate Change Consortium.

2. Declarations of Conflict

No declarations of conflict were declared.

3. Adoption of Agenda

Resolution 2012 – 01

Baskcomb – Bois

That the agenda for March 6, 2012, Greater Sudbury Source Protection Committee meeting be adopted as circulated.

Carried.

4. Adoption of Minutes of the Previous Meeting

Resolution 2012 – 02

Benkovich – Noble

That the minutes for the December 13, 2011, Greater Sudbury Source Protection Committee meeting, as duplicated and circulated, be approved.

Carried.

5. Business Arising from the Minutes

There was no business arising from the December 13, 2011 minutes.

6. Communications

The main communications received by source protection staff members have been from implementing bodies during the pre-consultation period.

Nels shared correspondence from the Vermilion River Stewardship Group. They had made a presentation to the Source Protection Authority following an update on the program that Nels and Judy had provided. He also indicated that there is currently work in progress between the Source Protection Authority and the stewardship group to address the concerns of the Vermilion Lake residents.

7. Update on Pre-Consultation Process and Status

Judy indicated that city staff members of the source protection committee have been leading the municipal review of the draft policies and provided a written response as part of the pre-consultation process for the source protection plan. There have also been many updates provided by numerous implementing bodies and staff members have been busy making editorial changes.

Judy noted that a digital copy of the draft plan was emailed to the SPC and requested that members review the document on their own time. Judy also mentioned that staff could print off hard copies of the plan if requested.

Katherine provided an overview of the implementing bodies and the comments received. While the City of Greater Sudbury has the majority of policies to address, comments have also been received from all implementing bodies except for the MOE Safe Drinking Water branch. Neil has left them a message as a reminder to contact staff but indicated that they have reviewed the document and do not anticipate any problems.

Feedback has also been received by those organizations that will be impacted by the plans but who are not implementing bodies, such as OMAFRA, MMAH and CN & CP Rail. CN & CP Rail were removed as implementing bodies after staff and Nels met with a CP representative in December and it was determined that existing regulations and our other draft policies (e.g. updates to the City of Greater Sudbury and Municipality of Markstay-Warren's Emergency Response Plans). The Technical Standards and Safety Authority (TSSA) are also currently listed as an implementing body, but discussions are on-going about their role in implementing fuel policies.

Judy also provided an update regarding our neighbouring municipality, Markstay-Warren. They have been recently identified as having a handful of significant threats to address. They are well informed about the Drinking Water Source Protection Program and are very agreeable with being incorporated into the plan and working with the source protection committee.

Judy went on to briefly discuss stormwater and Land Use Planning. She indicated that there will be a separate working group meeting on Tuesday, March 13, 2012 to address these concerns.

8. Review of Pre-Consultation Process and Comments from City of Greater Sudbury Committee Members

Paul Baskcomb led the review of the city's pre-consultation comments. He explained that the policies were divided amongst key staff members to be addressed by various departments.

Stephen Monet continued by saying many of the issues encountered while reading the draft were benign. He indicated that the review process will constantly be changing until such a time that an RMO is available to assess the reasonability of the policies. The City of Greater Sudbury is primarily seeking greater clarity and/or guidelines about the program and policies from the Ministry, for example in the case of monitoring.

Nick added that he was concerned about implementers not having any consistency or standards to follow from the MOE. The financial implications could be significant and therefore the city would like to be assured that the local program has been designed to address what it should. Stormwater policies are of particular concern. Katherine assured city SPC members that the stormwater policies have also been flagged for review by MOE staff and by MMAH and that they will be addressed during a working group meeting on March 13 and again at the SPC meeting on March 20th.

Neil reminded SPC members that policy can be written to be less or more prescriptive in order to avoid these problems. The program is designed to be local and not be provincially managed by the MOE. He also reminded staff about the use of the Risk Management Measures Catalogue, which is specifically designed as a guidance document.

Paul S. indicated that conversations with other SPAs indicate that these questions regarding implementation are not unique to Sudbury and that the SPA will continue to work closely with the City of Greater Sudbury to address these issues.

Neil added that these issues have been recurring all over the media and at the recent ROMA (Rural Ontario Municipal Association) convention. All municipalities are concerned with the MOE's plans for the future of Source Protection. He also indicated that a municipal working group with MOE representation has been established to address these concerns behind the scenes.

Nels closed the conversation by indicating his support this working group, assured SPC members that the items discussed here are being widely discussed around the province and thanked city staff members for their comments.

9. Review of Pre-Consultation Comments Received

Katherine explained that all comments and changes made (or not made) will be tracked and shared with the SPC; working groups will be established to resolve larger issues before being brought forward to the committee for review; and that not all editorial comments will be brought to the SPC for review.

City of Greater Sudbury:

The SPC accepted the removal of two ‘subthreats’ from policy S7EF-SA as recommended by the City because these sub threats have no relation to the sewer use by-law.

The SPC also directed Katherine to work with City staff to reword policy S9F-LUP as recommended by the City in order to ensure that the standards are not lowered.

Markstay:

Stephen indicated that he would like to see a signage policy not only apply to municipal drinking water sources but also to residential and private intakes. Nels replied that the SPC is currently working within a cooperative province-wide model for signage and that technically, private intakes fall out of the scope of the *Clean Water Act* at this time. Signage is designated for higher traffic roads only.

Stephen indicated that he was in favour of the road signage installed in Southern Ontario by local CA’s to indicate things not normally publicly appreciated like watershed boundaries. Lilly questioned whether or not the SPA has been made aware of the future highway plans recently made public for the Wahnapeitei area. Paul answered that, yes, the SPA has been in contact with MTO and is currently working to coordinate comments to them.

Nels asked for clarification on the CA’s responsibility for commenting on future activities within the IPZ’s and WHPA’s as to whether consideration for Source Protection concerns should be highlighted to the Authority. Bob Rogers responded that the CA would welcome instructions from the Committee.

The SPC agreed with Markstay-Warren’s suggested changes to policies T2EF-SA and S9F-LUP (proposed wording to add them as implementing bodies for these policies).

MTO Policies:

Katherine explained that the provincial signage policy written by a working group including MTO that has been presented must be used by all SPAs. City staff members have suggested that signs be replaced around Greater Sudbury as required, for example when the previous versions are damaged. The province had originally indicated having all signs replaced and installed en mass. SPC members agreed that replacing signs as necessary would be appropriate and directed NDCA staff to ask MTO if this could be added to the policy. (Update: this option has been accepted by MTO)

SDHU:

The Sudbury and District Health Unit’s pre-consultation comment was that an “if known” clause should be added to the policy to recognize that the age of septic systems is not always known and therefore can’t always be a criteria in prioritizing inspections. The SPC accepted this addition to the policy.

MMAH:

Katherine shared the comments received by the Ministry of Municipal Affairs and Housing, which included notes pertaining to site plan controls, salt policies and land use planning. The MOE had also noted comments on the same items. They will be discussed at the working group meeting on March 13.

MOE:

Katherine explained that most of the MOE's pre-consultation comments to date are general in nature – further comments may be forthcoming.

Katherine did review one comment – the MOE provided a preferred timeline for the review and amendment of existing Environmental Compliance Approvals (ECAs, formerly called Certificates of Approval) that fall under their jurisdiction: 3 years, or 'such other date as the Director determines based on a prioritized review of ECAs that govern significant drinking water threat activities'. The SPC accepted this recommended change.

DNAPLs:

Katherine reviewed two of the existing policies - RMPs for existing threats and Prohibition of future. The current wording in the policy would require any amount of a DNAPL stored to have an RMP, and any amount of future to be prohibited (e.g. nail polish!).

Katherine presented two options with examples from other SPCs: that either residential land uses be exempt OR that a volume cut-off be included (e.g. 25L as is the case for organic solvents).

Wording will be changed to incorporate a volume cut-off as in the case of organic solvent threats. The committee agreed that exempting residential properties could pose problems as some private home owners operate small shops and conduct other activities that would not be caught, and also that situations like these in residential areas are often complaint driven. A door to door education and outreach program would also benefit the residential neighborhoods.

The SPC directed Katherine to find out what amounts of DNAPLs are accepted by the toxic taxi and/or the household hazardous waste depot – this amount could be used as a volume cut off for the policies.

Dates for RMPs:

Katherine indicated that negotiation of Risk Management Plan development dates between the RMO and the SPA was not allowed. The issue of reporting dates was flagged during pre-consultation review by both the City of Greater Sudbury and the MOE. The process must either be at the discretion of the RMO or specific timelines determined by the committee must be written into the policy. Even though it is currently estimated that there are only

thirty-five risk management plans to be created, this number could grow significantly once the RMO begins work in the community. The SPC decided on a deadline of three years for reporting.

Definitions of existing and future threats:

The MOE advised that a definition of existing and future threats is required because our policies often treat these two types of threats differently (e.g. prohibition of future and management of existing).

- A *future* threat is an activity that commences at a location in a vulnerable area after the plan takes effect, where that activity has never been engaged in, in the past, or is not an *existing* activity (i.e. engaged in more than 10 years ago).^{1[1]}
- An *existing* threat is an activity that commences or has been engaged in at some time within the last 10 years in a vulnerable area before the plan takes effect.

Vulnerable Area Updates:

Katherine provided a summary of updates to vulnerable areas where significant threats apply – she and Jess did a thorough double and triple check of the Table of Circumstances. Katherine also recommended policy options for these additional areas.

- a. 5 agriculture threats (ASM, NASM, livestock)
 - i. Add Wanapitei IPZ 2 and IPZ 3 with score of 8+
 - ii. Policy recommendation: Education & Outreach (accepted by the SPC)
- b. Application of untreated septage to land
 - i. Add Wanapitei IPZ 2 and IPZ 3 with score of 8+ (septage)
 - ii. Policy recommendation: future prohibition, manage existing (prescribed instruments – same as for other waste threats) (accepted by the SPC)
- c. Land filling of municipal waste and land filling of industrial or commercial waste
 - i. Add WHPA C with score of 8+
 - ii. Policy recommendation: add to existing policies (manage existing, prohibit future with prescribed instruments) (accepted by the SPC).
- d. 2 sewage threats (storm water and sewage plant effluent e.g. lagoons)

^{1[1]} The definition requires the addition of timing because many of our activities are intermittent (storage of snow, application of ASM etc). MOE suggests a timeline of 10 years because it is a reasonable time cut off and is recent enough that it would include modern operations that tend to have better operational standards. Also, some activities might only occur every 4 or 5 years (e.g. application of ASM and NASM).

- i. Add Wanapitei IPZ 2 and IPZ 3 with score of 8+ for both
- ii. Add WHPA A and B with score of 10 for storm water
- iii. Policy recommendation: Will discuss at meeting March 20th (will be included in existing policies, e.g. management via Prescribed Instrument)

Education and Outreach effective date policy:

Katherine said that our MOE plan reviewer (Heather Gardiner) noted that we cannot have the phrase “as determined by the SPA” as part of the effective date policy.

Our original text stated that: “The program shall be delivered within one year of the date the Source Protection Plan comes into effect and shall be made available and updated as necessary on an ongoing basis (as determined by the Source Protection Authority).”

The monitoring policy (the CGS will report to the SPA on what the E&O programs consisted of for the previous calendar year) allows the SPA (and SPC and Ministry) to determine whether the E&O programs are adequate and if any changes to the policy are necessary.

The SPC agreed that this phrase be dropped.

Expansions to existing activities that are significant threats:

Katherine pointed out that specific wording around this issue would have to be incorporated into the plan. Nick indicated that this is important, for example in the case of expanding an existing salt dome to ensure public safety. The committee discussed wording options and accepted the following option provided by Heather Gardiner:

“Expansions to existing activities are permitted provided that the activity can be adequately managed.”

Draft SPP and Explanatory Document:

Katherine briefly reviewed the structure of the Draft SPP and invited the SPC to comment on it. She noted that the policy section is not yet updated (e.g. does not yet incorporate pre-consultation comments), and an updated version will be mailed out after the SPC meeting on March 20th.

Katherine told the committee that they will receive a copy of the Explanatory Document within the next week for review. The MOE is currently creating a list of rules which must be followed while preparing the document. The explanatory document is not intended to be used to explain “why not” situations, but rather “why things are”. It is suggested that recommendations based on the “why not” situations can be addressed in the form of a letter to the minister.

10. Public Consultation – Schedule/Venues/Mail-Out

The Greater Sudbury Source Protection Authority, the committee and city staff members on the committee will work to co-ordinate a joint presentation to city council in the near future. Paul S. will be in contact with Paul B. to discuss the plans.

Judy reviewed a proposed public consultation schedule and asked committee members to provide comments.

Staff suggested holding two open houses (same as the AR public consultation) – one in Sudbury proper and one in Valley East. Possible locations: the Howard Armstrong Centre and the Living with Lakes Centre.

11. New Business

No new business.

12. Adjournment

Resolution 2012 – 03

Nels

That we do now adjourn. The meeting was adjourned at 4:00 p.m.

Carried.

13. List of Handouts Provided at Meeting

- Pre-Consultation Comments, summary
- Status of Pre-Consultation Policy Review by Implementing Bodies, table
- Proposed Public Consultation Schedule for Source Protection Plan, chart
- Proposed Public Consultation Activities, chart

14. Flash Drive Updates

- None provided

Next meeting: Tuesday, March 20, 2012
1:00 p.m. – 4:00 p.m.
Tom Davies Square, Room C-12