



City of
Peterborough

To: Members of the Planning Committee

From: Ken Hetherington, Manager, Planning Division

Meeting Date: May 26, 2014

**Subject: Report PLPD14-029
Source Water Protection Update and Agreement with
Otonabee Region Conservation Authority**

Purpose

A report to provide an update on the implementation of the Source Water Protection Plan and to recommend that the City enter into an agreement with Otonabee Region Conservation Authority to assist with the implementation of the objective.

Recommendations

That Council approve the recommendations outlined in Report PLPD14-029 dated May 26, 2014, of the Manager, Planning Division, as follows:

- a) That an agreement with Otonabee Region Conservation Authority be executed to implement source water protection initiatives as described in Report PLPD14-029; and
- b) That the Mayor and the City Clerk be authorized to sign the agreement.

Budget and Financial Implications

It has been anticipated that there would be costs to municipalities in order to implement the Source Water Protection Plan prepared by the Province. In response to this concern, the Province has provided municipalities with the opportunity to access funding to assist with the initial cost of preparing to fulfil its obligations under the *Clean Water Act*. On

December 13, 2013, the City entered into an agreement with the Province to follow through with the protection of source water in accordance with the *Clean Water Act*. The agreement allowed the City access to receive \$62,827 as a Base Grant to address eligible costs that would include municipal staff salaries, fees for contracted services and the cost of printing and distributing material for education and outreach. There is a difference between the total costs of the eligible activities and costs that are not covered by the implementation funds of \$8,915, which will become a cost to the City for implementation.

Background and Update

The Ministry of the Environment has reviewed the initial submission of the Source Protection Plan that was returned to the Source Water Protection Committee in late 2013 with comments from stakeholders including the Ministry itself. The Plan has since been reviewed by the Committee and sent back to the Ministry last month (March 2014) for final review and approval. It is anticipated that it will receive final approval from the Minister of the Environment by August 2014. Once the plan is approved, the planning phase will have concluded, and the implementation phase will commence.

The City is currently in the process of updating its Official Plan Policies, which are expected to include policies that will reflect those policies advanced by the Source Protection Plan. In the meantime, the City is also preparing itself to implement its obligations to protect source water by entering into partnership agreements with other agencies, including Otonabee Region Conservation Authority.

Similar to other neighbouring municipalities that have an obligation toward the protection of our municipal source of drinking water, the City is planning to enter into an agreement with Otonabee Region Conservation Authority as the agency that would assist the City with:

- 1) Risk management, including enforcement obligations required under Part IV of the *Clean Water Act*;
- 2) Education and outreach to those who own land or are carrying out activities that could become a significant threat to drinking water on land in proximity to our intake protection interests (See Exhibit A attached); and
- 3) Assistance with readiness and implementation of the Plan objectives. This will include the establishment of interactive protocols to ensure the business process fulfills legislated requirements set out under the Clean Water Act.

The Municipal Source Protection Implementation Fund amount of \$62,827 is the Base Grant amount to cover eligible costs associated with the activities listed above. The costs must be incurred by December 7, 2015. In addition to the Base Grant amount,

Peterborough can access an additional \$15,000 to cover its costs for collaboration with adjacent municipalities in co-ordinating efforts toward protecting source water. A copy of the Implementation Funding Proposal prepared by Otonabee Region Conservation Authority is attached to this report as Exhibit B. Table 2 on page 4 of Exhibit B offers a summary of costs and activities that will be covered by the funds. At the bottom of the table is a figure of \$8,915, being the difference between the total costs of the activities and the costs that are not covered by the implementation funds.

Summary

Staff is providing this information as an update on the plan for protection of municipal drinking water and recommending the execution of an agreement with Otonabee Region Conservation Authority as the lead agency that will assist the City in fulfilling its obligations described under the *Clean Water Act* including enforcement activities.

Submitted by,

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Attachments:

Exhibit A – Map of Peterborough System Intake Protection Zones 1 and 2

Exhibit B – Source Protection Municipal Implementation Fund Proposal from Otonabee
Region Conservation Authority

Exhibit A, Page 1 of 1

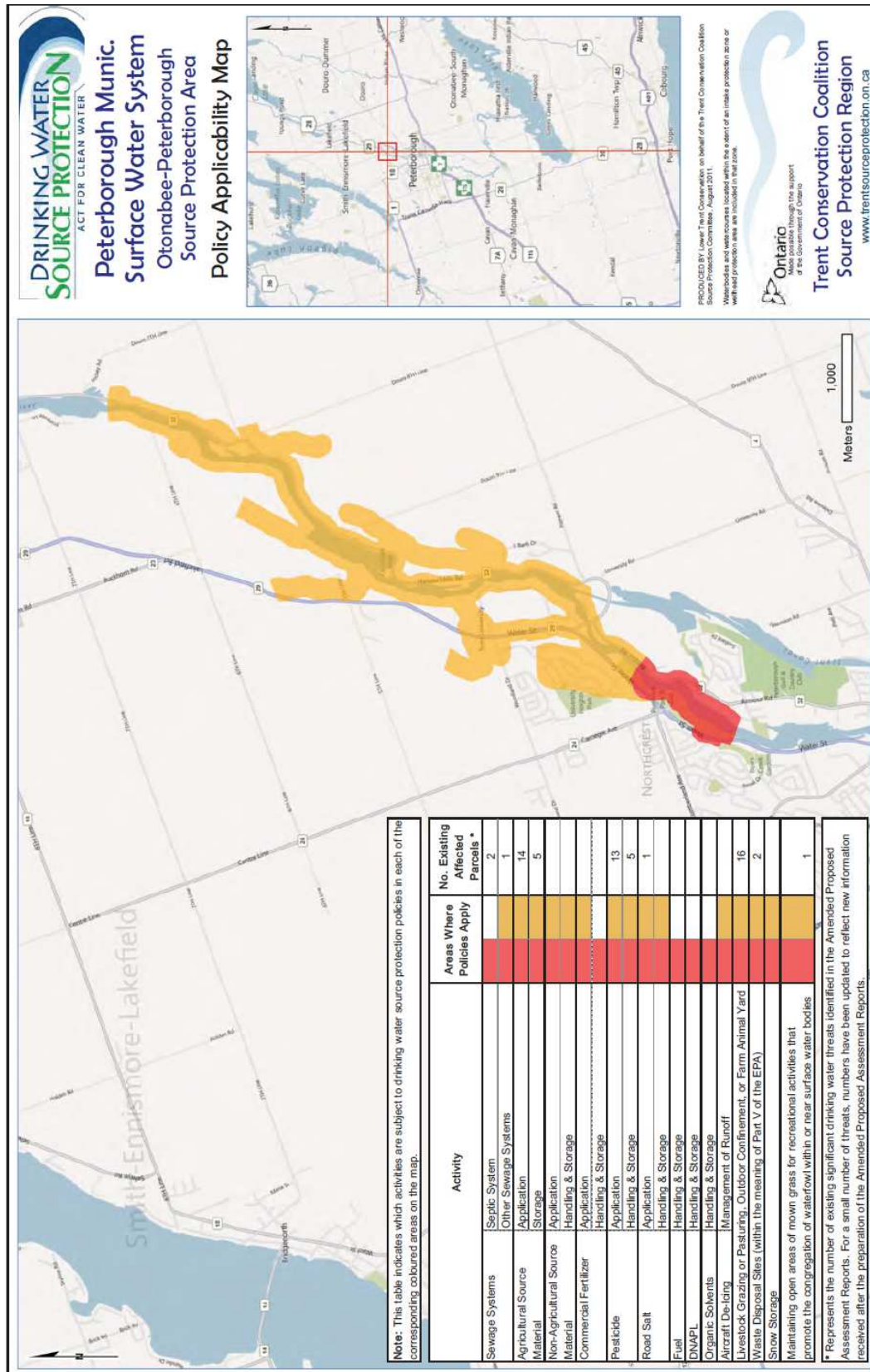


Exhibit B

**Source Protection Municipal Implementation Fund Proposal from Otonabee
Region Conservation Authority**

Source Protection Municipal Implementation Fund Proposal
For the City of Peterborough



April 10, 2014

Introduction

In December 2013, the Ministry of the Environment (MOE) announced the Source Protection Municipal Implementation Fund (SPMIF). The SPMIF represents a one-time grant to eligible municipalities to assist them in their preparation for and implementation of Source Protection Plans. To encourage municipalities to foster partnerships that facilitate implementation, the SPMIF offers incentive funding to municipalities that collaborate on implementation.

Many of the municipalities in the Otonabee-Peterborough Source Protection Area (O-P SPA) qualified for this funding, and have since signed funding agreements with MOE. Under the SPMIF, the City of Peterborough qualified for a \$62,827 Base Grant to address eligible costs associated with eligible activities which include Risk Management, Education and Outreach, Land Use Policies and Other.

It is anticipated that the Trent Source Protection Plan (SPP) will be approved in 2014, so it is critical that municipalities prepare themselves to transition from source protection planning to implementation. Otonabee Region Conservation Authority (ORCA) staff are well positioned to assist Peterborough in fulfilling its municipal requirements under the *Clean Water Act, 2006 (Act)*.

This proposal was developed in accordance with the SPMIF Guide to enable each municipality in the O-P SPA to achieve source protection implementation readiness and to optimize the use of the SPMIF grants that have been made available. The proposed cost structure is designed to maximize cost-sharing opportunities and partnerships for the benefit of all O-P SPA municipalities and uses the most current data available including the number of drinking water systems, the number of affected parcels, and the number of existing and potential future significant drinking water threats.

This proposal details the activities that ORCA is offering to undertake on behalf of Peterborough to assist the municipality in preparing for and implementing the SPP. A description of each activity and the associated cost(s) based on the participation of the seven municipalities in the O-P SPA is included and is presented in the following three parts:

1. **Risk Management (Part IV Enforcement Responsibilities: Risk Management Office/Inspector);**
2. **Education and Outreach;** and,
3. **Assistance with Readiness and Implementation.**

SPMIF eligible costs must be incurred by the municipality from December 13, 2013 to December 7, 2015 to qualify for payment.

In addition to the Base Grant, the SPMIF provides up to \$15,000 in collaboration incentive funding to each eligible municipality (refer to MOE SPMIF Agreement for details). Through the delivery of the services outlined in this proposal, it is anticipated that the Peterborough would be eligible for the maximum available collaboration incentive funding.

A summary of key SPMIF costs and activities are shown in Table 1. Full details are provided in [The Source Protection Municipal Implementation Fund Guide](#) prepared by the province (www.ene.gov.on.ca/stdprodconsume/groups/ltr/@ene/@resources/documents/resource/stdprod_109697.pdf).

Table 1: Summary of Eligible and Ineligible Costs under the SPMIF

Eligible Costs	Ineligible Costs
<ul style="list-style-type: none"> • Municipal staff salaries and benefits • Fees for contracted services • Printing and distribution costs related to Education and Outreach Program 	<ul style="list-style-type: none"> • Travel, meals, accommodation and hospitality • Overhead (rent, utilities, HR services, office supplies etc.) • Capital (vehicles, furniture, computers etc.) • Training • Land expropriation or purchase • Incentives/ compensation for property owners • Cost to establish Risk Management Plans where they will be otherwise recovered

The following assumptions have been made in the preparation of this proposal:

- Costs are based on participation by the seven named O-P SPA municipalities;
- SPMIF collaboration incentive (up to \$15,000) is not included in the calculations;
- A portion of the Risk Management Office costs described under Part 1 of this proposal are eligible SPMIF costs;
- Proposed Costs for Risk Management Office beyond January 1, 2016 will be assessed once the Office has been active for some time and are not reflected in the costs of this proposal;
- A portion of the proposed Education and Outreach program costs described under Part 2 are eligible SPMIF costs;
- Assistance with Readiness and Implementation costs described under Part 3 of this proposal are eligible SPMIF costs.

Table 2 summarizes the activities and costs for the services offered through this proposal, the associated cost to the municipality and a breakdown of SPMIF eligible and ineligible costs.

Table 2: Activity and Cost Summary for Peterborough

SPMIF (\$)		Description
Base Grant	62,827	MOE funding to help build municipal capacity to implement the SPP, support sustainable local actions to protect municipal drinking water sources, and foster partnerships to facilitate implementation.*
Cost (\$)		Description
Education & Outreach	10,149	Development and delivery of an Education and Outreach program as legislated under the <i>Clean Water Act, 2006</i> , including: <ul style="list-style-type: none"> • Collection of source water protection and education & outreach material; • Development of outreach material, where not otherwise available; • Development of tracking and reporting database; • Distribution of materials to applicable landowners/tenants; • Use of OC/TCC website and other social media; • Incorporation of SWP messaging at appropriate events; • Participation/representation at municipally-hosted events, upon request.
Risk Management Office	29,384	Enforcement of Part IV responsibilities as legislated under the <i>Clean Water Act, 2006</i> including enforcement, inspection and administration requirements through an agreement with the O-P SPA.
Readiness & Implementation	9,424	Assist in establishing business processes, protocol, reporting and administration procedures to meet the requirements of the Act including: <ul style="list-style-type: none"> • Coordinating collaboration to quality for SPMIF incentive funding (up to \$15,000); • Work with O-P SPA and TCC SPC to understand municipal requirements under the SPP; • Developing and/or modifying the municipality's business processes in order to implement significant drinking water threat policies; • Establishing information sharing processes among municipalities and the O-P SPA; • Development a reporting framework; and, • Other activities to fulfill municipal requirements to implement significant drinking water threat policies.
Total Costs	48,957	
SPMIF Eligible Cost	40,042	
Municipal Cost	8,915	
Remaining SPMIF Funds	22,785	

* Municipality may be eligible to receive up to \$15,000 incentive funding for collaborating on implementation with other municipalities.

Part 1: Risk Management

Municipalities have many responsibilities under the *Act*. Under s. 47 of the *Act*, municipalities are responsible for enforcement of Part IV policies which include three key activities:

- s. 57: Prohibition
- s. 58: Risk Management Plans
- s. 59: Restricted Land Use

Part IV responsibilities are administered and enforced by a Risk Management Official (RMO) and Risk Management Inspector (RMI). This proposal assumes that these responsibilities will be filled by one FTE and that the Risk Management Office will be housed at ORCA.

The RMOs' responsibilities and authorities under the *Act* include:

- Negotiation of risk management plans (RMP) under s. 58;
- Issuance of notices and orders for the establishment of RMPs;
- Issuance of s. 59 notices for Restricted Land Use;
- Review and considered acceptance of risk assessments;
- Issuance of s. 61 orders to report to RMO on activities;
- Issuance of orders requiring a person grant access to their property;
- Attendance at Environmental Review Tribunal hearings;
- Making records available to the public; and,
- Preparation of annual report to the SPA.

The RMI's responsibilities and authorities for compliance and enforcement under the *Act* include:

- Inspections and monitoring to ensure Part IV compliance RMPs and prohibition policies;
- Use powers of entry on properties where reasonable;
- Issuance of enforcement orders under s. 63;
- Prosecution of persons if they commit an offence under Part IV;
- Obtaining inspection warrants from a court if necessary;
- Preparation of an annual report to the RMO; and,
- Attendance at Environmental Review Tribunal hearings.

Agreement to Enforce Part IV Responsibilities

Seven municipalities (Asphodel-Norwood, Cavan Monaghan, Douro-Dummer, Otonabee-South Monaghan, Selwyn, Peterborough and Trent Lakes) have indicated that they wish to enter into an Agreement to transfer their Part IV enforcement responsibilities to ORCA under its Authority as the O-P SPA.

A draft agreement is being prepared and will be circulated to all parties as soon as possible. The initial term of the agreement will be three years with costs to be reviewed and adjusted as required for 2016.

The proposed costs to the City of Peterborough for the transfer of their Part IV enforcement responsibilities to ORCA under its Authority as the O-P SPA are shown in Table 3. These costs were based on the initial cost structure circulated to the municipality which has been adjusted to reflect new data obtained through the threats verification process completed by ORCA staff in January 2014. The proposed costs reflect the following:

- Municipal residential drinking water systems in your municipality;
- Parcels where Significant Drinking Water Threat (SDWT) activities have been identified;
- Parcels where a change in land use activity might result in a new SDWT; and
- Cost reduction based on the number of septic systems subject to mandatory inspection.

Table 3: Proposed Cost of Risk Management Office for Peterborough

Cost (\$)		
Total	SPMIF Eligible	Municipal
29,384	21,557	7,827

Part 2: Education and Outreach

Under Policy G-5 of the SPP, municipalities are required to develop and implement an ongoing education and outreach program within two years of the SPP effective date. The Program is intended to educate anyone engaging an activity that is, or would be, a SDWT.

The proposed Education and Outreach program will include the following items and actions to assist municipalities in meeting their legislated responsibilities:

- Compilation of source water protection and education & outreach material;
- Development of outreach material, where not otherwise available;
- Development of tracking and reporting database;
- Distribution of materials to applicable landowners/tenants;
- Use of ORCA/Trent Conservation Coalition website and other social media;
- Source water protection messaging at appropriate events (e.g. International Plowing Match, community events); and,
- Participation/representation at municipally-hosted events, upon request.

Since the program development stage will benefit all municipalities equally, a \$1,000 annual base cost has been incorporated into the cost of the comprehensive Education and Outreach Program included in this proposal. The balance of the program cost is based on the number of parcels on which SDWT activities are, or would be, if a change in land use activity(s) were to occur. The proposed costs to the City of Peterborough to engage ORCA to develop and deliver the Education and Outreach Program through 2014 and 2015 are shown in Table 4.

Table 4: Proposed Cost of Education and Outreach Program for Peterborough

Cost (\$)				
2014	2015	2014/15		
		Total	SPMIF Eligible	Municipal
3,383	6,766	10,149	9,062	1,087

Part 3: Assistance with Readiness and Implementation

Municipal staff will need to increase their awareness and involvement in source protection and will benefit from the transfer of knowledge and experience available from ORCA staff through this proposal. ORCA will also assist the municipality in establishing business processes, protocols, reporting and administration procedures to meet the legislated requirements set out in the *Act* through activities that will include:

- Coordinating collaboration to ensure municipalities qualify for SPMIF incentive (up to \$15,000);
- Working with O-P SPA, SPC and TCC to ensure municipal requirements set out in the SPP are met;
- Assisting the municipality in their review and modification of existing business processes to ensure effective implementation of significant drinking water threat policies;
- Coordinating establishment of information sharing processes among municipalities and O-P SPA;
- Developing a reporting framework to align with collection of data under s. 65 of O Reg 287/07;
- Other activities to fulfill municipal requirements to implement significant drinking water threat policies; and,
- Information and data management including file retention etc.

The proposed costs to the City of Peterborough to engage ORCA to assist them in achieving readiness and implementation of the SPP for 2014 through 2015 are shown in Table 5 and were calculated annually based on 7.5% of the SPMIF base grant.

Table 5: Proposed Cost of Assistance with Readiness and Implementation for Peterborough

Cost (\$)				
2014	2015	2014/15		
		Total	SPMIF Eligible	Municipal
4,712	4,712	9,424	9,424	0

Conclusion

Given that the Trent SPP is likely to be approved in 2014, it is critical that Peterborough ensure it is prepared to meet its legal responsibilities under the Act including those that ORCA is offering under this proposal, namely: Risk Management; an Education and Outreach Program; and Assistance with Municipal Readiness and Implementation.

Otonabee Region Conservation Authority (ORCA) staff are well positioned to assist Peterborough in fulfilling its municipal requirements under the *Clean Water Act, 2006 (Act)*. ORCA has the capacity, experience, training and expertise to provide the services outlined in this proposal and to ensure a smooth transition and legal compliance for municipalities as they proceed through the implementation phase of the Drinking Water Source Protection Planning Program.

This proposal also provides for the required municipal collaboration to ensure that Peterborough qualifies the maximum amount of incentive funding, \$15,000 and has been prepared to maximize the use of the SPMIF and lessen the financial burden to the municipality of implementing the Trent Source Protection Plan.

For additional information and discussion, please contact:

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