



DRINKING WATER
SOURCE PROTECTION

ACT FOR CLEAN WATER

Drinking Water Source Protection

Ministry of the Environment
Source Protection Programs Branch

April 2010

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Opportunities for First Nations Participation

1. Participation in the watershed-based approach to drinking water protection:

Member of a Source Protection Committee: SPCs are required to notify the Chiefs of First Nations communities with reserves in source protection areas of the opportunity for Band Councils to jointly select a person to be appointed to the SPC.

Review and Input into Planning Process: SPCs are required to notify Chiefs of First Nations communities with reserves in source protection areas of their opportunity to review and comment on the draft Terms of Reference, Assessment Report and the Source Protection Plan.

2. First Nations drinking water systems protected under the Clean Water Act:

Government Regulation to protect a First Nations system: First Nations with reserves located in source protection areas may submit a Band Council Resolution requesting that their drinking water system be included in the source water protection planning process.

Where a First Nation community is interested in including their drinking water system in the provincial process, the SPA/Ministry would work with the community to determine the approach to be taken.



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Engagement Activities

SPPB has been engaging First Nations through:

- Conducting information sessions on the CWA and its regulations at First Nations' hosted events (Elders Workshop 2009, Kenora);
- Presenting information on the CWA at First Nations water conferences (Water Symposium March 2010, Niagara Falls)
- Pilot projects (Mohawks of the Bay of Quinte, Chiefs of Ontario, Ontario First Nations Technical Services Corporation); and
- Meeting directly with First Nations (Six Nations, Kettle and Stony Point First Nation, etc.).

SPAs/SPCs have been engaging First Nations through:

- Notifying First Nations of their opportunities to participate in the source protection planning process;
- Working directly with First Nations representatives on SPCs; and
- Working with First Nations to undertake preliminary assessments of their drinking water systems to assess whether they are at risk and thus might benefit from inclusion under the CWA for protection.

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First Nations Participation on Source Protection Committees

- There are currently 12 Source Protection Committees with seats for First Nations representation.
- 8 of the 12 committees have First Nations members.
- The following slide outlines the SPCs with seats available for First Nations and those that currently have First Nations members participating on their committees.

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SPC	First Nation within SPA	Seats	Seats Occupied	First Nation Occupying Seats
<i>Ausable Bayfield Maitland Valley</i>	•None	0	0	<i>Kettle and Stony Point First Nation (1) as non-voting member</i>
Lake Erie	•Six Nations of the Grand River •Mississaugas of New Credit	3	3	Six Nations (2) Mississaugas of New Credit (1)
Lakehead	•Fort William First Nation	1	0	N/A
Mattagami Region	•Mattagami First Nation	1	1	Mattagami First Nation
Sudbury	•Whitefish Lake First Nation •Wahnapitei	1	2	Whitefish Lake (1) Wahnapitei (1) Both are nonvoting members
North Bay – Mattawa	•Nipissing First Nation	1	0	
Quinte	•Mohawks of the Bay of Quinte	2	2	Mohawks of the Bay of Quinte (2)
<i>Raisin-South Nation</i>	•Mohawks of Akwesasne	2	1	<i>Algonquins of Pikwakanagan (1) in agreement with Akwesasne.</i>
Saugeen, Grey Sauble, Northern Bruce Peninsula	•Chippewas of Nawash •Saugeen First Nation	2	0	
Sault Ste. Marie Region	•Batchewana First Nation •Garden River First Nation	1	0	
South Georgian Bay-Lake Simcoe	•Beausoleil First Nation •Chippewas of Georgina Island •Chippewas of Mnjikaning (Rama) First Nation	3	1	Rama First Nation (1)
Thames-Sydenham and Region	•Aamjiwnaang First Nation •Chippewas of Kettle and Stony Point •Chippewas of Thames First Nation •Moravian of the Thames •Munsee Delaware Nation •Oneida of the Thames •Walpole Island	3	2	Walpole Island (1) Moravian of the Thames (1)
Trent Conservation Coalition	•Alderville First Nation •Curve Lake First Nation •Hiawatha First Nation •Mississauga's of Scugog Island First Nation	3	3	Curve Lake (1) Alderville (1) Hiawatha (1)

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Capacity Funding

- The Ministry provides annual capacity funding (\$10K) to eligible First Nation communities to facilitate participation in the general source protection planning process.
 - Research matters for, and discuss findings with, the Band Council on issues before the SPC, particularly as the source protection planning process for municipal drinking water systems relates to traditional lands;
 - Consult with elders in the community;
 - Fund a community member to sit on the SPC and to act as a one window contact between the community and the SPC/SPA;
 - Secure technical support from a Tribal Council, consultant or technical staff from the community to work with the community during the review of the assessment report and source protection plan;
 - Review assessment reports and source protection plans to determine potential impacts to Aboriginal and treaty rights;
 - Coordinate community input into the assessment report and source protection plan, including holding community meetings; and
 - Other activities related to facilitating participation in the source protection planning process.
- All First Nation communities with reserves in source protection areas are eligible to apply. Funding is provided on an application basis.
- The application, along with an application guidance document and draft agreement, are posted on the Ministry's Drinking Water website.

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First Nations Participation: Including a First Nation System in the Source Protection Planning Process

Legislative Requirements

- A First Nation community with a reserve in a source protection area can voluntarily request that their drinking water system be included in the source protection planning process under the Act. Subsection 109 (6) of the Act requires that such a request be made by submitting a Band Council Resolution to the Minister. Subsection 109 (6) requires that a regulation be made to include a First Nation's drinking water system.

First Nations included:

- Two First Nation communities requested inclusion of their drinking water systems in the source protection planning process under the Act:
 - Kettle and Stony Point First Nation; and
 - Six Nations of the Grand River.
- Amendment was made to regulation to include these systems on February 22, 2010.

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Including a First Nation System in the Source Protection Planning Process

Six Nations of the Grand River

- The Band Council resolution requested that the Ohsweken drinking water system (intake located on the Grand River) be included in the drinking water source protection planning process.
- The Six Nations of the Grand River reserve is located approximately 25 km southwest of the City of Hamilton between the cities of Brantford, Caledonia and Hagersville, and is in the Grand River source protection area.
- The Ministry signed an agreement with the Grand River Conservation Authority (GRCA) regarding the the technical work that is being conducted to assess the Ohsweken drinking water system and its inclusion in the Grand River source protection area.
- Based on discussions with Six Nations of the Grand River and the GRCA, the following arrangements are included the agreement:
 - The GRCA will assess and the Lake Erie SPC will develop policies in the source protection plan for all significant drinking water threats to the Ohsweken system originating off-reserve; and
 - Six Nations of the Grand River has its own source protection planning process and will assess and address drinking water threats located on-reserve.

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Including a First Nation System in the Source Protection Planning Process

Kettle and Stony Point First Nation

- The Band Council Resolution requested that the drinking water intakes at Kettle Point (the reserve) and Camp Ipperwash (Stony Point System) be included in the source protection planning process for the Ausable Bayfield Maitland Valley (ABMV) source protection region.
- The Kettle and Stony Point First Nation reserve is located on the shore of Lake Huron, northeast of Sarnia, and is in the Thames-Sydenham and Region (TS) source protection region
- Although not in the ABMV source protection region, members of Kettle and Stony Point First Nation have been attending ABMV SPC meetings as non-voting members.

Kettle Point Drinking Water System:

- The Kettle Point system is located on the reserve, in the TS source protection region, and is a surface water intake.

Stony Point Drinking Water System:

- The Stony Point system is located at Camp Ipperwash, which is not currently part of the reserve, but may be transferred back to Kettle and Stony Point First Nation by the Federal Government in the near future.
- Camp Ipperwash is located in the ABMV source protection region.

Inclusion of the Drinking Water Systems in the Source Protection Planning Process:

- Only the existing on-reserve surface water drinking water system (Kettle Point) is currently included in the source protection planning process.
- The specific details of including the Kettle Point system in the source protection planning process will be set out in a Memorandum of Understanding (MOU) between the ministry, the First Nation and the two relevant Source Protection Authorities/Committees. The MOU will address issues such as: which party will conduct the technical work, timelines, funding, etc.
- The agreement will also include details regarding the Ipperwash drinking water system (e.g. technical work may be completed in order to determine if there are any potential threats to that drinking water system but it will not formally be brought under the regime of the Act until such time as jurisdictional issues are resolved and Camp Ipperwash is returned to reserve status).



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Appendices

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Source Protection Authorities and Committees

Source Protection Authority

- A conservation authority exercises and performs the powers and duties of the Source Protection Authority (SPA) in areas where conservation authorities exist.
- SPA generally responsible for overseeing the planning process and supporting the work of the Source Protection Committee (SPC).

Source Protection Committee

- One for each of 19 planning regions
- Is responsible for (1) terms of reference, (2) assessment report, and (3) source protection plan, which collectively complete the source protection planning process
- First Nations with reserves in a source protection area can be a member of a SPC.

Both SPAs and SPCs work at the direction of the Crown in implementing source water protection at the local level, though with flexibility to recognize local situations.

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Components of Drinking Water Source Protection

Terms of Reference

- A **work plan** – documents the decisions about **where and how source protection planning will take place** to complete the assessment report and source protection plan.
- Includes summary maps, drinking water systems to be included, plan for how public will be consulted, and how much the assessment and planning activity will cost.

Assessment Report

- Maps the vulnerable areas around wells and surface water intakes serving the specific systems to be protected, inventories drinking water threats and issues within these vulnerable areas.
- Addresses both water quality and quantity and both existing and future supplies.

Source Protection Plan

- Will include policies on how to manage activities identified as threats to drinking water sources.



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