

ENGOs Comments on the White Paper on Watershed-based Source Protection Planning

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Note: These comments have been compiled by the Walter & Duncan Gordon Foundation for discussion and comparison purposes only. We have made no attempt to interpret or evaluate them, only to organize them into categories. In some cases editorial changes have been made, but largely they are copied directly from submissions received by the Foundation.

Comments herein submitted by:

Canadian Environmental Law Association and others (**CELA**)

Saugeen Ojibway Nations (**Saugeen**)¹

Don Watershed Regeneration Council (**Don Council**)

Carol Dillion (**Dillon**)

Friends of Earth Canada and Polis Project on Ecological Governance (**Polis Project**)

Friend of the Tay Watershed (**FofTW**)

Georgian Bay Association (**GBA**)

Great Lakes United (**GLU**)

The Ontario Federation of Cottagers' Association (**FOCA**)

Ontario Headwaters Institute (**OHI**)

Ontario Nature; formerly Federation of Ontario Naturalists (**Ontario Nature**)

Ontario Water Works Association and Ontario Municipal Water Association (**OWWA & OMWA**)

The Pembina Institute (**Pembina**)

Melvyn Plewes, MA, MCIP, RPP (**Plewes**)

Pollution Probe (**Probe**)

Sierra Legal Defence Fund (**SLDF**)

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¹ Comments on the Framework and recommendations from the Joint Chiefs and Councils of the Saugeen Ojibway Nations (Saugeen FN and Chippewas of Nawash Unceded FN) were NOT sent to the EBR because Council has a policy of not responding to EBR postings. They do not constitute proper "consultation" with FNs (as it has been defined by the Supreme Court) and yet it has been our experience that Ontario nevertheless deems FNs' comments to EBR postings to be consultation

I. SPECIFIC LEGISLATIVE RECOMMENDATIONS

Administrative and Technical suggestions

- The source protection legislation must contain a broad statement of legislative purpose aimed at protecting human health, facilitating ecosystem-based watershed management, and integrating source water protection with other environmental and land use decision-making processes. (*CELA*)
- The source protection legislation should be administered by the Minister of the Environment, who must be given sufficient statutory powers and tools to ensure the timely development and effective implementation of Source Water Protection Plans. (*CELA*)
- It is Ontario Nature's position that source water protection legislation must include a definition of source water protection – that is, the point at which a water source is considered "protected."
- We recommend that source watershed protection legislation strengthen government ability to impose temporary water takings restrictions based on water supply conditions. (*GLU*)
- The Ontario government should adopt the definition of the precautionary principle adopted at the Bergen Ministerial Declaration on Sustainable Development (1990) to be adopted in the source protection legislation and used by the Technical Experts Committee. (*SLDF*)
- The legislation should clarify what the role of the "accredited operating authority" will be. (*OWWA & OMWA*)
- The legislation should clarify the role of municipal water departments and/or water utilities and its legally binding nature with respect to the agreement between the minister and the affected conservation authority and the designation of watershed regions. (*OWWA & OMWA*)

Level of Protection

- We recommend that new or increased water takings that constitute diversions between quaternary-level watersheds be banned. (*GLU*)
- The water takings permitting program should be consistent with the principles of the "Annex 2001" agreement signed by the province on June 18, 2001. That is, cause no significant harm to the ecosystem, embody environmentally sound and economically feasible water conservation, and result in an improvement to the waters and water dependent natural resources of the Great Lakes basin. (*GLU*)
- The source water protection legislation must ensure that threat assessment and risk management decisions are reasonably consistent across the province. (*CELA*)
- The source water protection legislation must ensure that for vulnerable or sensitive sources, groundwater should be protected at a level that meets current drinking water quality standards, and surface water should be protected at a level that meets the Provincial Water Quality Objectives. (*CELA, Ontario Nature*)
- While recognizing that the purpose of any source water protection planning legislation is the protection of human health, the White Paper has neglected environmental health benefits of source water protection. (*Ontario Nature*)
- Clearly detail measures and penalties available to municipalities, SPPCs, CAs, MOE staff and other to use in cases of non-compliance and/or watershed abuses. (*OHI*)
- Legislation must employ a holistic and ecosystem approach to protecting the quality of surface and ground waters. This can be accomplished in part by ensuring the

integrity of those beneficial natural processes that support improved water integrity. (FOCA)

- The Ontario Government, and in particular the Ministry of the Environment, must ensure that the objective(s) of source water protection goes beyond protecting public health, and includes protecting ecosystems and the economy in a sustainable development context. (Probe)
- Adopt the net gain principle as a guiding principle in developing watershed-based source protection plans. (Probe)
- The Ministry must include the Great Lakes Basin in the source water protection plans, in a clear and more comprehensive manner. The plans should not only focus on inland surface water and groundwater. (Probe)
- Minimum levels of protection should be applicable to all Source Protection Watershed Regions which responsible Source Protection Planning Boards can choose to exceed. (SLDF)
- Source protection legislation promotes regeneration of natural ecosystems and ensures a minimization of those activities, which have the potential to threaten water sources. (SLDF)
- Inextricable links between ecosystem integrity of all aquatic systems and human health and well-being must be made explicit in the source protection planning legislation using a truly integrated approach to water management. (Polis)
- We consider source protection plans (SPP) to be an important subset of comprehensive integrated ecosystem-based watershed management. (Don Council)
- We recommend clarification be provided that SPP are directed at protecting water for public and private consumption. (Don Council)
- We therefore urge that effective methods for determining ecosystem needs for water in each watershed be specified. (Polis)
- Protecting aquatic systems requires that a certain quantity of water of appropriate quality remain in situ to support ecosystem functions.
- The White Paper fails to recognize that human social and economic systems are components of the greater ecological system. (Polis)
- The primary goal of water source protection legislation and regulation should be protection of environmental health. (CONE)
- The goal of protecting environmental health will foreclose on schemes that may ensure human health is protected but at the expense of the health of plants and animals with which we share this world. (CONE)
- The Framework and enabling legislation should make their primary goal the protection of environmental health. (Saugeen)
- There is no mention in the Framework of planning to protect other water, including swamp and wetland water, which of course are crucial to the health of the environment. (Saugeen)

Integration with Other Acts/Regulations

- Other provincial legislation should be amended to be consistent with the new source protection legislation.
- There must be an express legislative linkage between the source protection legislation and the permit to take water ("PTTW") regime under the *Ontario Water Resources Act*. The PTTW regime must be amended in several key respects (i.e. data collection, public consultation, water conservation/efficiency, monitoring/reporting, documentary requirements, and procedural steps) to ensure consistency with approved Source Water Protection Plans and Annex 2001. (CELA)

- The source protection legislation should specify which statutory approvals under other legislation (i.e. land use planning decisions, certificates of approval for air/water emissions, approvals for land application of biosolids) shall be consistent with approved Source Water Protection Plans. (CELA)
- The Environmental Protection Act (EPA) should be amended to require that source water protection plans be prepared for approval by the Minister of the Environment in all watersheds, to set out penalties for non-compliance, and further, that once SWPPs are approved, all relevant municipal Official Plans and zoning by-laws must be amended to be consistent with the SWPP.² (Plewes)
- The EPA amendment should allow regulations to be developed which provide the Minister with the authority to designate the priority for developing SWPP and which set out time lines, processes, procedures, instruments and tools for preparing source water protection plans for implementation. (Plewes)
- Use existing familiar land use planning processes. (Don Council)
- We recommend linking the water takings permitting program to the source watershed protection planning system. The relationship of the two functions should be established in statute. (GLU)
- Changes to the Planning Act will be required, to allow for the universal application of planning tools to achieve meaningful protection. (FOCA)
- It is imperative for the Ministry to develop (and present to the public) a coherent and comprehensive legislative framework, which outlines the linkages between the Acts and describes ways in which the Acts will interact, to ensure that gaps and inconsistencies in the regulatory framework are eliminated. (Probe)
- There is a need to bring open netcage aquaculture under the same regulations as land based aquaculture operation to remove pollutants prior to discharge. (GBA)
- If water source protection plans take precedence over Official Plans, then determining compliance with a source protection plan should be the sole authority of the Environmental Review Tribunal. (CONE)
- Water source protection legislation should take precedence over Official Plans. (CONE)
- Other legislation should be amended to be consistent with water source protection legislation. (CONE)
- Specifically, CONE recommends the Niagara Escarpment Planning and Development Act (NEPDA) and the Niagara Escarpment Plan (NEP) be amended to be consistent with the water source protection legislation.
- Source protection legislation should NOT take precedence over the NEP or NEPDA. (CONE)
- Water taking should be addressed in water source protection legislation and Source Protection Plans and the Ministry of Environment's permit to take water regulatory scheme must be linked to source protection legislation. (CONE)
- The Ministry's Statement of Environmental Values (SEVs) must be integrated into any new source water protection legislation. (FoFTW)
- The SEVs should be made binding on the Ministry. (FoFTW)
- A non-derogation and non-abrogation clause must be inserted into the Framework and into any enabling legislation. (Saugeen)

² This comment is in support of Justice O'Connor's recommendation that source protection planning fall under the Environmental Protection Act (EPA). EPA has the broadest definition of "harm to the environment". (Mel Plewes personal communication)

- Any enabling legislation must oblige other governments operating in the traditional territories of First Nations to notify all First Nations in a watershed of policy and project proposals that could affect the watershed in the traditional territories. Saugeen
- With respect to plan implementation, municipalities and other planning authorities should be required to amend their official plans and zoning by-laws to bring them into compliance with the source water protection plans. This should be done through an amendment to the Planning Act. (*Pembina*)
- Provision should be made to permit provincial agencies, particularly the Ministry of the Environment, to initiate appeals to the Ontario Municipal Board where land-use planning decisions that are inconsistent with source water protection plans are made, and to intervene before the board where decisions related to the implementation of plans are challenged. (*Pembina*)

Superseding Legislation/ Paramourncy

- Since it will be mandatory for municipalities to make official plans consistent with the SPP approved by the Minister of MOE, and since all other provincial approvals and programs must be consistent with approved SPP **there is no need to discuss/argue the paramourncy of statutes**. Provincial government agency decisions that influence source water protection areas must be consistent with approved source protection plans. (*Don Council and Plewes*)
- We support the mandatory requirement that municipal official plans must be made consistent with the Source Protection Plans once approved by the Minister of the Environment. (*Don Council*)
- The source water protection legislation must bind the Crown, and **must contain a paramourncy clause** indicating that the legislation prevails over other special or general Acts in cases of conflict. (*CELA*)
- Ontario's source protection legislation must include a primacy provision such that in cases of conflict, the more stringent legislation would take priority. However, the Province must also review other provincial environmental and land use planning statutes, and revise them where they are inconsistent with the source water protection planning framework. (*Ontario Nature*)
- The Ministry should be clear on where and how source protection legislation will take precedence over other pieces of legislation. (*Probe*)
- Source protection legislation ought to supercede other legislation in Ontario and should specify which statutory approvals provided under other statutes (land use planning decisions, certificates of approval for emissions, approvals for applications of biosolids) shall be consistent with Source Protection Plans. (*SLDF*)
- Other relevant pieces of environmental legislation ought to be amended to ensure consistency with source protection legislation where potential conflicts may exist or, alternatively; source protection legislation ought to contain a paramourncy clause. (*SLDF*)
- We are concerned that existing legislation could be inconsistent with watershed-based source protection plans and plans for amending specific pieces of inconsistent legislation have not been outlined. (*Probe*)
- The legislation should clarify how agricultural issues will be handled in light of the Nutrient Management Act and regulation. (*OWWA & OMWA*)

Right of Appeal

- Broaden the right of appeal to include any landowner (current and future) in a given watershed and expand the sentence that ends, "use of property" to include "including use of water on or below the surface of their property". (*OHI*)
- A right of appeal must exist to allow interested persons to challenge aspects of source protection processes to the Environmental Review Tribunal. (*SLDF*)
- Broaden the rights of appeal to include all stakeholders, including the general public, and establish a formal appeal process that allows for both individual and class action appeals. (*Polis*)
- CONE supports a limited right to appeal, and in particular the designation of the Environmental Review Tribunal as the appeals body.
- The proposed Environmental Review Tribunal (ERT) appeal process for source water protection plans needs to consider the larger public interest in non-compliant plans, and grant standing to bring such appeals to bona fide community and public interest representatives, rather than simply those who are "directly affected" by plans. (*Pembina*)

II. PUBLIC PARTICIPATION and INFORMATION

Public review of legislation

- The MOE should embark on a third round of full-scale public consultation of the results of the feedback from posting the White Paper on the EBR registry and the draft proposals from the two Advisory Committees (TEC and IC). (*Don Council and Plewes*)
- The Technical Expert Committee and the Implementation Committee should be required to provide opportunities to meet with the public to receive input and further that both committees circulate their draft reports in advance of submission for comment from interested participants. (*Don Council and Plewes*)
- The source water protection legislation must provide for a mandatory public review of the legislation no later than three years after the legislation comes into force. (*CELA*)

Public Engagement on implementing SPPs

- The source water protection legislation must expressly require meaningful public/agency participation at each significant step of the planning process, and, among other things, the legislation shall provide for the use of: EBR Registry notices; media releases; mailouts; newsletters; public meetings, open houses, workshops, and other appropriate consultation tools. (*CELA*)
- Any enabling legislation must oblige other governments operating in the traditional territories of First Nations to notify all First Nations in a watershed of policy and project proposals that could affect the watershed in the traditional territories. (*Saugeen*)
- The MOE should take the lead in preparing generic educational materials that can be adapted and presented locally. (*Plewes*)
- Use the EBR to proactively distribute the annual Ministry progress report. (*OHI*)
- Ensure that all reports that are released to the public are written in a non-technical user-friendly fashion. (*OHI*)
- The need to inform the public on source water protection planning should be prominent in the legislation. (*Probe*)
- We recommend that the Ministry use the information gathered from each source protection planning lead organization to produce annual reports on the status of source water protection plans for ALL watersheds. (*Probe*)
- Watershed-based source protection plans should be posted on the EBR Registry for public review. (*Probe*)
- We support the improved consultation suggested by the White Paper. (*GLU*)
- We recommend provincial commitment to holding public hearings on water takings permits where appropriate. (*GLU*)
- The Ministry's role and responsibility for education and outreach activities should be clearly defined. (*Probe*)
- To further ensure that the public is involved in the planning process, a formal Public Advisory Committee should be included as an element of the engagement and planning process. (*Probe*)
- People "directly affected by the plan" ought to be defined broadly in order to recognize that a wide array of people may be affected by source water protection in any given region in the Province. (*SLDF*)
- The need to inform the public on source water protection planning should be prominent in the legislation. (*Probe*)

- Effective opportunities for public debate and advice should be established throughout risk assessment and management processes. (*Probe*)
- The Province, CAs, municipalities, and other stakeholders should share responsibilities to disseminate information. (*Plewes*)
- The Ministry should ensure that all consultation processes are transparent. (*Probe*)
- Each SPPC should be required to produce an annual report that can be made available to the public and should be promoted in local newspapers. (*OHI*)
- More room should be made for citizens and environmental groups based in the watershed on the Source Protection Planning Boards, so that the number of “stakeholder” representatives balance the number of government representatives. (*CONE*)
- Information regarding the proposed minimum requirements to guide the SPPC to coordinate a transparent local consultation process should be made available for public review. (*OWWA & OMWA*)
- There is a need to clarify the frequency of reporting to the public that will be considered “regular”. (*OWWA & OMWA*)
- Information regarding the proposed “legally binding directions to the SPPB” should be made available for public review. (*OWWA & OMWA*)
- Another way to engage First Nations in the watershed planning process must be explored in discussions between interested First Nations, the Chiefs of Ontario and the Ontario government and the matter resolved before implementing legislation is presented. (*Saugeen*)

Engagement of Specific Groups

- The source protection legislation must ensure that First Nations have meaningful opportunities to participate in source water protection decisions within the entire watershed (including adjoining municipalities). (*CELA*)
- The source protection legislation must ensure that there is adequate notice to, and involvement of, municipalities in circumstances where provincial decision-making may affect lands or resources related to source water protection within municipalities. (*CELA*)
- First Nations must have meaningful opportunities to participate in the development and implementation of watershed-based source protection plans. (*Ontario Nature*)
- Engaging lake-based citizen’s groups, and land trusts, early in the planning and implementation phases of source protection planning will yield long-standing and productive results. (*FOCA*)

III. SCIENCE and DATA MANAGEMENT

Scope / level scientific detail

- Information on the woodlands, wetlands and other natural heritage features in the watershed should be included in the components of a source protection plan and watershed based “assessment reports”, along with the suggested information on water supplies, potential contamination sources and water use and demand. (*Ontario Nature*)
- Implement the Advisory Committee on Watershed-based Source Protection Planning, “that drinking water research be adequately resourced and shared so that each component of the source-to-tap protection system is continually improved. (*Probe*)
- Merely determining a simple water budget is an insufficient basis for water takings permitting decision-making, because it does little to help determine how a taking or takings would lead to specific changes in drinking water quality or ecosystem functioning. (*GLU*)
- We recommend establishment of guidelines for determining whether detailed water flow information should be obtained at scales below the watershed (quaternary) level. (*GLU*)
- We recommend that the province immediately undertake a comprehensive study of means for reliably assessing actual water use (actual taking), with the aim of minimizing the burden that monitoring and reporting imposes on water takers. (*GLU*)
- MOE should clarify what levels or standards are contemplated for restoration (*OWWA & OMWA*)
- Clarification is needed on how international agreements such as Annex 2001 will be met given the lack of information of total water withdrawals of any given area. (*GBA*)
- Good scientific research, combined with traditional environmental knowledge, would form the best foundation for good source protection planning. (*CONE*)
- *CONE* would like to see specific reference made to TEK as one of the information sources on which decision-making is based.
- The Framework and enabling legislation should embrace the precautionary principle over the calculation of risk of harm to the environment. (*Saugeen*)

Risk management

- There needs to be clarification around the specific responsibilities and definitions of “potential threats” and “high risk activities” to ensure that interim objectives are met. Application of this approach requires the need for initial scoping of potential threats and drinking water source vulnerabilities. The Province should provide funding this initial scoping and legal review. (*Don Council*)
- The Province should identify and provide clarification of “available powers” of Provincial agencies, municipalities and CA’s for interim approaches and powers to deal with interim risk management opportunities and to clarify interim risk management responsibilities, to be used while the legislation and guidelines are developed. (*Don Council*)
- The MOE should develop risk management definitions, standards and guidelines and offer training sessions for practitioners as early as possible after the proclamation of the statutory instruments. (*Plewes*)
- The Ontario government should adopt the definition of the precautionary principle adopted at the Bergen Ministerial Declaration on Sustainable Development (1990) to

be adopted in the source protection legislation and used by the Technical Experts Committee. (SLDF)

- Adopt a precautionary approach. (Probe)
- Create contingency plans for dealing with years of unusually high or unusually low water levels, as well as for unexpected events, such as severe forest fires or toxic spills. (Polis)
- Future water source protection legislation should leave no doubt that the primary decision-making tool for Source Protection Planning Boards and Committees is the precautionary principle. (CONE)

Specific Threats

- Emphasize the impact of chronic non-point source pollutant loadings along with point source catastrophic impacts approach to source degradation. (Don Council)
- Special consideration must be given to addressing the implications of road salts application, road salts storage sites and snow dumps. (Don Council)
- Watershed-based source protection plans must take the potential impacts of climate change on water sources into account. (Probe, GBA)
- It is recommended that the Ontario government conduct scientific research on the expected impacts of climate change and work towards developing adaptation strategies. (Probe)
- The Province must take into consideration the multitude of unmanaged and unregulated rural waste water treatment systems, and other non-point sources that may potentially pose a threat to surface and ground water supplies in the Province. (FOCA)
- The risk assessment to be performed by the Technical Expert Committee should be based upon definitions and methodologies that are robust, rigorous, stringent and which are primarily science-based. (SLDF)

Monitoring/ Reporting

- The Province should reinstate previous surface water monitoring stations and develop new monitoring and reporting mechanisms including data and information standards and guidelines and offer training sessions for practitioners. (Don Council and Plewes)
- All water takings above a very small minimum should be required to be reported on a seasonal basis. (GLU)
- Information is needed about the amount of water being returned to watersheds as well as the amount of loss from the watershed due to evaporation. (GBA)
- Pursue the early introduction of well monitoring equipment starting with the largest users in the province with the ultimate goal of having the means to automatically monitor water consumption on every pump in the province. (OHI)
- FOCA strongly supports the requisite and systematic characterization and monitoring of surface water supplies, not just where they are directly and immediately impacting on municipal drinking water supply facilities, but also across each watershed using a more sophisticated and comprehensive approach. (FOCA)
- Rigorous planning mechanisms must be in place to ensure that water is not incrementally and insidiously degraded by a short-term planning horizon, and by a lack of firm planning regulations. (FOCA)
- Planning should be flexible enough to allow for continual revision of Source Protection Plans as new information becomes available. (SLDF)

- Sierra Legal recommends that monitoring of water takings be mandatory and reported information made publicly available in order to ensure public confidence in the water-taking regime. (*SLDF*)
- The inspection program that oversees the existing regulations for discharge of black water from live-aboard boats need to be reinstated. (*GBA*)
- Relying on voluntary reporting is totally inappropriate as there is absolutely no incentive to respect the terms of the permit or conserve beyond the permitted amount. (*Polis*)
- Provincial guidelines and building capacity within local authorities will also be key to monitoring impacts on environmental quality and drinking water security as the plans are implemented. (*Polis*)

IV. FUNDING & CAPACITY BUILDING

General

- As municipalities will have an integral role in source protection planning, planning for natural heritage systems in conjunction with source water protection simply makes good sense in terms of both expenditure of funds and use of human resources. *(Ontario Nature)*
- Funding of this critically important work must not fall entirely on the shoulders of municipalities and conservation authorities. In addition, the Province should assist in providing funding for land securement where needed to protect water sources. *(Ontario Nature)*
- The Province should ensure financial and technical resources are made available to Conservation Authorities and Conservation Ontario in order to promote understanding and planning for drinking water source protection. *(Plewes)*
- We recommend substantial additional funding should be put in place to hire qualified staff to implement and monitor new regulations in order to effectively protect our water resources. *(GBA)*
- Develop a CA funding model that would support their independence (even if the funding source ultimately continues to be from the municipalities). *(OHI)*
- Review the existing funding levels of each CA to determine where potential weakness exist and to determine what incremental funding will be necessary to achieve the watershed planning goals. *(OHI)*
- The financing of source protection should be integrated with a long term sustainable asset management approach for infrastructure funding and source water should be valued as an asset, for long-term source protection financing and management. *(Probe)*
- Long term sustainable funding needs to be provided to ensure that technical resources such as SPP updates and implementation updates are readily available and distributed. *(Don Council)*
- The additional mandated source protection requirements will have significant staff and technical resource implications for conservation authorities and municipalities which will require building up the capacity of conservation authorities, municipalities, stakeholders and ENGOs through education and training in watershed management capacities and abilities. *(Don Council)*
- The Ministry should determine and commit to providing on a long-term sustainable basis the required resources (funding, time, personnel) for developing and implementing source protection plans. *(Probe)*
- Increase financial and technical capacity of local authorities to ensure SPPs effectively address the goals of public health and ecosystem protection. *(Polis)*
- Increase the financial and human capacity (in-house capital) of the CAs and promote knowledge sharing. *(Polis)*
- CONE recommends the federal government adequately fund First Nations' research into traditional environmental knowledge.
- Funds should be earmarked for use by local ENGOs for research on water source protection matters and for engaging public in discussions. *(CONE)*
- The new responsibilities for Conservation Authorities means that they will require stable and sufficient public funding to carry out their new mandate. *(FofTW)*
- The Joint Chiefs and Councils of the Saugeen Ojibway Nation Territories favour full funding of First Nations in a watershed to review western and Native science on water resource issues. *(Saugeen)*

- The White Paper gives no indication of how the work of developing source water protection plans by these lead authorities will be funded. (*Pembina*)

Specific Funding Mechanisms

- The Ontario government provide core funding for the initial Source Protection Plan preparation process and utilize user-pays and polluter-pays mechanisms in permits to take water in order to sustain funding for SPPBs. (*SLDF*)
- Source water protection planning and implementation should be financed via various levies and charges based upon “user pay” and “polluter pay” principles (i.e. water rates, water-taking levies and effluent charges) to ensure sustainable funding for source protection programs. (*CELA*)
- It is FOCA’s expectation that the effort to support water protection will be adequately funded, and will not be paid for on the basis of local surcharges nor included as part of property taxes. An effort to protect the common good should not be paid for locally. (*FOCA*)
- The funding mechanisms proposed by the Ontario Government and the Source Protection Planning Implementation Committee, should include financial support for the Conservation Authorities and other stakeholders conducting public education and outreach on watershed-based source protection planning. (*Probe*)
- The source protection legislation should impose a mandatory duty on the Minister to provide sufficient funding to CA’s (or other designated agencies) to enable them to draft and implement Source Water Protection Plans. (*CELA*)
- Many of these proactive protective measures must occur on private lands, and can be cost-effectively facilitated by the application of tools such as an improved and properly deployed Managed Forest Tax Incentive Program and Conservation Land Tax Incentive Program. (*FOCA*)
- It is important that funding mechanisms or provincial government support are developed to allow municipalities to prevent adverse impacts to drinking water supplies, if this become a municipal responsibility. (*OWWA & OMWA*)
- Provincial infrastructure funding to municipalities should be made conditional on infrastructure investments being supportive of the goals laid out in the plans. (*Pembina*)
- It is unlikely that plans will be fully implemented and appropriately maintained without the identification of a specific funding mechanism. (*Pembina*)
- Provincial approval of land-use planning changes and infrastructure funding, for example, could be held in abeyance from the due date of a plan until an acceptable source water protection plan is provided. (*Pembina*)

Capacity Building & Tools

- New initiatives designed specifically to address the needs of source water protection in the context of integrated ecosystem-based watershed management need to be developed. (*Don Council*)
- Ensure that sufficient field staff, including at least one full-time hydrogeologist is budgeted during the CA budget reviews. (*OHI*)
- The MOE immediately should commence the preparation of guidelines and standards and commence the presentation of training programs to build source protection planning capacity. (*Don Council and Plewes*)
- Communication of water-related information to and within a watershed needs to be improved. (*FofTW*)

- The Ministry of Environment should adequately fund more research into the science and traditional knowledge of complex ecosystems. *(CONE)*
- Consideration should be given to broadening the range expertise and experience required for ERT appointments, or even the establishment of a specialized tribunal to hear appeals of source water protection plans. *(Pembina)*

V. GOVERNANCE

Interim control and management

- Provisions for interim control of Source Water Protection Planning areas should be made to ensure that inappropriate development is not permitted during the formulation, approval and adoption of the SWPP into local planning instruments. *(Plewes)*
- Until such time as source protection plans are developed and implemented, there ought to be a continuous moratorium on approvals for large intensive livestock operations and for particularly risky agricultural practices (for example, certificates of approval for organic soil conditioning – the land application of septage, biosolids, and other wastes). *(SLDF)*
- Judicious use (and timely enforcement) of existing legal tools such as the Ontario Water Resources Act, The Planning Act and the Conservation Authorities Act can provide a reasonable degree of interim protection for drinking water sources while watershed-based source protection plans are being developed and implemented. *(CELA)*

Roles and Responsibilities

General

- The Chiefs of Ontario should fund a thorough legal review of the Framework and advise First Nations of the potential problems of their participation. *(Saugeen)*
- Any powers granted to municipalities and conservation authorities should be combined with measures to ensure that water source protection is mandatory, subject to public scrutiny and free from discretion, which may be influenced by politicization. *(SLDF)*
- Any enabling legislation must oblige other governments operating in the traditional territories of First Nations to notify all First Nations in a watershed of policy and project proposals that could affect the watershed in the traditional territories. *(Saugeen)*
- The source water protection legislation needs to address questions of responsibility for the implementation and monitoring, assessment, review, updating and evaluation of plans in much more specific detail than is the case in the white paper. *(Pembina)*

Ministry of Environment/ Government of Ontario

- The Ministry of the Environment should prepare a complete functional organization and administration chart describing the various committees and boards and showing the relationships and roles and responsibilities among them. And further, this document needs to be circulated for review and comments for no less than thirty days prior to the introduction of statutory changes. *(Don Council)*
- The province should carry out a study to provide a relatively simple means for ministry permittees to categorize water takings proposals according to degree of needed scrutiny. *(GLU)*
- The Province should now require all municipalities to have septic system re-inspection programs in place. *(GBA)*

- The Province (MOE) should establish time lines for its internal review and approval process of SWPPs. Administrative monitoring of the approval process should be carried out to ensure adherence to the time lines. *(Plewes)*
- The Province should assign Low Water Response duties to the SPPC. *(Don Council and Plewes)*
- The MOE should prepare science-based technical guidelines prior to the proclamation of any statutory requirements in order to provide adequate lead-time for the development of multi-year work plans, budgets and staff capacity, and to minimize duplication of efforts. *(Plewes)*
- The MOE should develop and provide: source protection planning legislation; technical guidelines for such things as water budgets; model Source Water Protection Plans (SWPP); environmental data and information; and, performance standards prior to bringing any statutory instruments into effect. *(Don Council and Plewes)*
- The MOE immediately commence the preparation of guidelines, standards and definitions in order to support early start-up of training programs to build source water protection planning capacity. *(Plewes)*
- The MOE must monitor and audit the performance of each SWPPC to ensure that representatives are accountable and responsible in performing their roles. *(Plewes)*
- The MOE should establish formal linkages with other provincial ministries as well as with Federal agencies and ministries to ensure that efficient implementation of SWPP is achieved. *(Plewes)*
- The Ontario government should create a new Watershed Management Branch within the Ministry of the Environment that will be responsible for overseeing source protection planning, approving source protection plans and providing ongoing technical support to participants in the planning process. *(SLDF)*
- The MOE should adopt policies ensuring that the activities of the new Watershed Management Branch take priority over other MOE program areas. *(SLDF)*
- The Ontario government provide core funding for the initial Source Protection Plan preparation process and utilize user-pays and polluter-pays mechanisms in permits to take water in order to sustain funding for SPPBs. *(SLDF)*
- We agree with the suggestion of the Canadian Environmental Law Association that the linkage between the water takings permitting program and the source watershed protection planning system be supported by housing source watershed planning and water takings permitting in the same provincial agency. *(GLU)*
- MOE needs to improve its watershed information gathering, use and dissemination and made available to all including local communities/citizens. *(FoFTW)*
- An updated manual is needed that outlines what criteria the MOE will use to review and evaluate the application and studies completed to support the permit to take water application request. *(OWWA & OMWA)*
- MOE should clarify what levels or stands are contemplated for restoration. *(OWWA & OMWA)*
- The Ministry of Northern Development and Mines should be required to ensure the consistency of its decisions regarding new or expanded mines, and mine closure plans with source water protection plans. *(Pembina)*
- The Ministry of Natural Resources should be subject to the same requirements regarding aggregate pits and quarries, forestry operations, and other activities on public lands. *(Pembina)*
- The proposed legislation should include provisions requiring that the Ministry of the Environment provide an annual public report on the state of the province's source

waters, and the status of source water protection plan development and implementation. (*Pembina*)

Lead Role

- The MOE should take a lead role in Headwater areas to ensure that proper aquifer and recharge zone mapping is completed. (*OHI*)
- The MOE should work closely with each SPPC to help them identify the most capable candidate to be the Chair of the SPPC. (*OHI*)
- The Ministry of Transportation should be included as an agency that works in a government-wide approach with the Ministries of Environment, Natural Resources, Agriculture, Municipal Affairs, and Health, and the federal government. (*Probe*)
- The MOE should clarify the responsibilities and roles for Watershed Regions and specify how the various committees and boards would function under a variety of scenarios. (*Plewes*)
- We encourage the Ministry to consider adopting the Conservation Authority model for all areas of the province that are not currently designated as such. (*OHI*)
- The Province must recognize that there are several agencies that have purview over the required protective measures, and there must be considerable coordination between the respective agencies. (*FOCA*)
- The Ministry of Environment should be discussing, with municipalities and citizens' groups, a system of incentives to encourage water source protection. (*CONE*)

Powers of the Minister

- The Minister should be empowered to approve (or amend and approve) Source Water Protection Plans, with or without conditions. There should be a limited right of appeal for "interested" persons to appeal the Minister's decision, in whole or in part, to the Environmental Review Tribunal. (*CELA*)
- In order to strengthen the source protection planning framework, the Minister of the Environment should hold the ultimate responsibility and accountability for source protection. (*SLDF*)
- The legislation should clarify the circumstances under which the MOE could amend the Terms of Reference for SWPPlans. (*OWWA & OMWA*)
- The role, responsibilities and powers must be clearly set out including methods by which the Province may override inappropriate local decisions. (*Plewes*)

Conservation Authorities

- Clarify which CA (in a Watershed Region) will establish the Source Protection Planning Board (SPPB) and whether a SPPB can be established on a sub-watershed basis. Can a Watershed Region form a Regional SPPB? (*Don Council*)
- Reconstitute the Conservation Authorities to be independent bodies with broad-based, multistakeholder, representation on their boards from within their communities. (*OHI*)
- Existing conservation authorities ("CA's") should be utilized as the lead agencies (either individually or jointly) for drafting Source Water Protection Plans; however, the Minister should be empowered to designate other lead agencies in areas where CA's do not exist. (*CELA*)
- In regional watersheds where there are regional aquifers and recharge zones that cross multiple watershed boundaries, a lead CA should be selected to coordinate the selection of Planning Boards and Planning Committees. This concept may be

workable in downstream crossover situations but not in headwater areas such as the Oak Ridges Moraine and the Niagara Escarpment. *(OHI)*

- CA's should be required by law to establish Source Protection Planning Boards, which shall be primarily responsible for ensuring that Source Water Protection Plans are developed and implemented in accordance with provincial requirements and standards. *(CELA)*
- CA's should be required by law to establish multi-stakeholder Source Protection Planning Committees, which shall be primarily responsible for collecting data, consulting with the public, and preparing the documentation prescribed by the source protection legislation. *(CELA)*
- Conservation Authorities should be given responsibility for:
 - coordinating the development of ecosystem-based watershed management plans;
 - providing technical support to SWPPC to prepare source water protection plans;
 - forming SWPPB and recommending SWPP for approval by the Minister;
 - entering into agreements with neighbouring CAs;
 - ongoing review and update of the plan; and
 - issuance of status reports on SWPP progress. *(Plewes)*
- CAs would also share roles with other agencies and stakeholders in public education and dissemination of SWPP information and management and collection of SWPP data. *(Plewes)*
- The overlapping boundaries among Conservation Authorities should be addressed. *(OHI)*
- Changes to the current boundaries of conservation authorities and to the regional grouping of watershed areas should be subject to the public consultation and the input of municipalities and water utilities. *(OWWA & OMWA)*

Municipalities

- Maintain local authority for source protection planning within guidelines and Terms of Reference established by provincial officials. *(Polis)*

SPPBs and SPPCs

Representation

- Flexibility in the size and representation on the SPPC should be provided with respect to the maximum number of SPPC members in order to include ENGOs with a history of committed involvement. *(Don Council)*
- The local municipal council(s) in the area of the SWPP be responsible for establishing the SWPPC and for ensuring that each relevant stakeholder group representing the needs and interests of the community is appointed to the SWPPC. *(Plewes)*
- Ontario should invite First Nations to form the nucleus of Source Protection Planning Boards and fund their work at the same scale of funding given to Conservation Authorities. *CONE*
- Flexibility should be built into the SPPC forming process to allow for representation of important watershed community interests, while maintaining an effective and accountable SPPC structure. *(Don Council)*
- The DONC recommends that the local municipal council(s) in the area of the SPP be represented on the SPPC, and that a member from each stakeholder group representing the needs and interests of the community also be appointed to the SPPC. *(Don Council)*

- Flexibility in the size and representation on the SWPPC should be provided with respect to the maximum number of SWPPC members in order to include ENGOs with a history of committed involvement. *(Plewes)*
- Environmental non-governmental representatives should be present at the table in SPPCs. All stakeholders must have a clear understanding of their roles and responsibilities and the “rules of engagement”. *(Probe)*
- A base level of training should be provided to all committee members. *(Probe)*
- Industry stakeholders should be included in the SPPCs, working groups and sub-committees. *(Probe)*
- For the process to be seen as representative and transparent, more public representation is needed. *(FofTW)*
- How committee members are chosen will also be important for public “buy in” to the process. *(FofTW)*
- As proposed, the Source Protection Planning Committees provide too little representation from the public at large. *(Dillon)*
- The legislation should clarify whether SPPBs need to approve the SPPB membership as well as what are the selection criteria and methods of appointing members. *(OWWA & OMWA)*
- The legislation should clarify the selection of five municipal representatives in regions where there are more than five municipalities in the watershed. *(OWWA & OMWA)*
- We have some doubt as to the ability of Source Protection Planning Committee to issue recommendations about protecting the surface water of the Great Lakes when so much depends on the actions of other jurisdictions, including the Great Lakes States. *(Saugeen)*
- We fear that between their membership on the boards of Conservation Authorities and their representation on the SPPCs, municipal politicians will be able to exert an undue and unhappy influence on source protection plans. *(Saugeen)*

Scope / Input / Powers

- The legislation should clarify whether SPPBs, municipalities and/or water utilities will have any input into how the SPPC is selected. *(OWWA & OMWA)*
- Clarify which CA (in a Watershed Region) will establish the Source Water Protection Planning Board (SWPPB) and whether an SWPPB can be established on a sub-watershed basis. *(Plewes)*
- SPPB and SPPCs should be merged as an independent broad-based stakeholder representation body without domination by local municipalities that may have economically drive agendas. *(GBA)*
- We strongly urge the formation of a coastal conservation authority for the coastal areas and specifically a separate Eastern and Northern Georgian Bay Source Protection Planning Board is needed. *(GBA)*
- We believe that the combined roles and responsibilities of the SPPC and SPPB into one body will be in a position to make balanced recommendations to the Ministry for their watershed. *(OHI)*
- Use EBR to notify watershed stakeholders of specific activities as they are accomplished by the SPPC. *(OHI)*
- SPPBs and the Ministry of the Environment should be granted powers, including powers to order phasing out or termination of certain activities, to ensure that threats are dealt with before harm materializes. *(SLDF)*

- The legislation should clarify under what condition the Minister could allow deviations from legally binding directions to the SPPB and whether there should be an appeal process. (OWWA & OMWA)
- SPPCs should maintain responsibility for developing their own work plans and implementation programs. (Polis)
- A complete review of the composition and structure of the SPCC and the implementation of pro-public and pro-civil society policies is needed. (Polis)
- It is important that the SPPC has a Terms of Reference that clearly defines the goals and objectives for the committee. (OWWA & OMWA)
- Clarification needed for structure, role, responsibility and representation within watershed committees and sub-committees. (OWWA & OMWA)
- The legislation should clarify whether the SPPB is a legal entity that the MOE can charge if the “legally binding directions” are not followed and clarify precisely what other types of tasks, duties and requirements will be assigned to the SPPB. (OWWA & OMWA)
- Information regarding the proposed “legally binding directions” should be made available for public review. (OWWA & OMWA)
- The legislation should clarify whether an agreement will be between the conservation authorities and the Minister or between the Minister and the SPPB. (OWWA & OMWA)
- It is unclear how the proposed sub-committee of “responsible municipalities” will operate vis-à-vis the SPPC. (OWWA & OMWA)
- Legislation should clarify the circumstances under which the SPPB would be required to amend the Source water protection assessment based on MOE comments. (OWWA & OMWA)
- Clarification is needed for structure, role, responsibility and representation within watershed committees and sub-committees. (OWWA & OMWA)
- The enabling legislation must oblige Source Protection Planning Committees to include TEK in their planning and monitoring of source protection plans and of projects that will impact on the watershed. (Saugeen)
- There is no guarantee that if a First Nation raises a rights-based objection to a plan at the Source Protection Planning Committee, that the other members of the Committee will agree to abandon or even alter the plan. (Saugeen)

Source Protection Plans and enforcement

- Water source protection legislation and regulation needs to clarify what information, data and research the Source Protection Plans must contain. (CONE)
- The ecosystem marker must be prescribed in regulation as specifically as possible and included in Source Protection Plans. (CONE)
- Source Protection Plans should clearly state what kinds of development are allowed in what parts of the watershed. (CONE)
- Certain “triggers” should be included in Source Protection Plans that would require the Ministry of Environment to cease issuing PTTWs. However, CONE would rather those “triggers are changes in the marker measurement of environmental health.
- Priority should be given to implementing source protection plans in rural areas where no other barriers, such as water treatment, are available. (FofTW)
- Source protection is a very complex process and as such needs to be introduced in levels or stages. (FofTW)
- Groundwater is not necessarily contained by the boundaries of the surface water watershed, thus coordination between the plans of adjacent watersheds that might

share a common aquifer needs to be addressed in the source protection legislation. *(FofTW)*

- Clarification is needed regarding whether the roles, process and schedule and outputs of the plan are mandatory. *(OWWA & OMWA)*
- Legal effect of the Source Water Protection Plan should be clarified including whether it takes priority over other documents such as municipal official plans and repercussions if plan is not implemented. *(OWWA & OMWA)*
- Criteria should be provided under which a plan is considered to be deficient. *(OWWA & OMWA)*
- Source protection planning, in the very area that spawned the Walkerton Inquiry, is being done without examining western science (let alone indigenous science) and is being based on information that is admittedly deficient. *(Saugeen)*
- The core elements of source water protection plans should be established by statute, and reflect the elements outlined in section 4.3.5.2. of part II of the report of the Walkerton Inquiry, including the development of water budgets for each watershed. *(Pembina)*

Enforcement

- We believe that PTTW fees can be used to monitor and to enforce water resource protection regulations. *(GBA)*
- Introduce legislation, which clearly details measures and penalties available to municipalities, SPPCs, CAs, MOE staff and other to use in cases of non-compliance and/or watershed abuses. *(OHI)*
- Clarification is needed surrounding what enforcement action will be taken for users that exceed their authorized takings. *(OWWA & OMWA)*

VI. PERMIT TO TAKE WATER

Principles

- The purpose of Ontario's water takings permit program should be to protect drinking water quality and ecosystem health. *(GLU)*
- The source watershed protection legislation should include the principle that water takings permitting should be precaution oriented and all water takings permits should be revocable. *(GLU)*
- The water takings permitting program should be consistent with the principles of the "Annex 2001" agreement signed by the province on June 18, 2001. That is, cause no significant harm to the ecosystem, embody environmentally sound and economically feasible water conservation, and result in an improvement to the waters and water dependent natural resources of the Great Lakes basin. *(GLU)*
- Information gathered by PTTW users should be submitted to a central, MOE repository. *(FofTW)*
- Revisions to the water-taking regime ought to incorporate both the user-pays and polluter-pays principles. *(SLDF)*
- Water takings reporting should be designed to be consistent with the requirements, and support the usefulness, of the regional water use database created by the Great Lakes Charter. *(GLU)*
- Any permit system should be based in the principle that basic human needs and protection of ecosystems should be met first. *(Polis)*

Permit Process

- We recommend that government ability to issue water-taking permits be conditioned on the availability of needed information, phased in over five years. The conditions should be:
 - The existence of a source watershed protection plan
 - The availability of information on watershed flow characteristics
 - The availability of information on existing water takings for the watershed *(GLU)*
- We recommend linking the water takings permitting program to the source watershed protection planning system. The relationship of the two functions should be established in statute. *(GLU)*
- We support the moratorium for new permits for groundwater and surface water withdrawals in all of Ontario. *(GBA)*
- Every PTTW must undergo a thorough public review process and proponents must indicate how they will consult the public. *(CONE)*
- Other water users may have local knowledge of the state water resources that should be considered in decision-making about permit applications. *(Pembina)*

Quantities of Takings/ Capacity of Watershed

- Add a line to all PTTW that states the annual maximum quantity that can be taken so that the reviewing public can easily grasp the size and potential impact of the application. *(OHI)*
- The Ministry should review the reasons for not requiring permits for water takings of less than 50,000L/day. The rationale is not clear and in some cases provision for a lower limit would be appropriate. *(Probe)*
- The threshold taking of 50,000 litres per day should be lowered significantly in order to capture the majority of users. *(SLDF)*

- The 50,000l/day threshold fails to account for the cumulative effects of many water takings below this threshold. *(Dillon)*
- The threshold fails to distinguish between water takings of 50,000 l and water takings many times that amount. *(Dillon)*
- No further water takings should be permitted over the limit now allowed to be taken without permit until the Ministry of Environment's groundwater surveys are done and Source Protection Plans are in place for the six conservation areas on the Escarpment. *(CONE)*
- Standard measures need to be used for all water management information. *(FofTW)*
- Consideration should be given to enabling a member of the public to register his/her interest in a particular watershed with the manager of the EBR so that when any application for a PTTW is made in his/her watershed the interested party can be automatically notified. *(OHI)*
- We recommend that, after a five-year phase-in period, the minimum information required about a watershed for water takings permits to be issued in that watershed include:
 - The existence of an approved source watershed protection plan
 - A monthly water budget for the watershed
 - A description of the basic monthly flow characteristics of the watershed's watercourses
 - An up-to-date listing of the watershed's existing water takings. *(GLU)*
 - Renewal of PTTWs should be contingent on, for example, a 5-year plan to increase efficiency in water use to meet targets based on best available technology. In the absence of demonstrating the use of best available technology for water efficiency and conservation, PTTWs should be either be denied outright or significantly limited in time or volume. *(Polis)*
- In its current form, the proposed changes to the PTTW process maintain a bias toward maximizing individual rights to exploit Ontario's freshwater resources for short-term economic gain rather than the maximizing public interest in drinking water protection and healthy, sustainable aquatic ecosystems. *(Polis)*
- Integrate consideration of both water quality and quantity into the PTTW program. Any new system regulating the quantity of water withdrawn from surface or groundwater sources should be integrated with current and future programs designed to control the quality of return flows. *(Polis)*
- All applications for new or renewed PTTW must be accompanied by some formal demonstration of increasing water use efficiency and conservation. *(Polis)*
- Applications for a PTTW that will result in water loss or is being proposed for a sensitive environmental area should be held to a higher level of scrutiny. *(CONE)*
- No PTTW should be issued where the proposal conflicts with the watershed's Source Protection Plan or interferes with existing or planned municipal or domestic water sources or takings. *(CONE)*
- Where they do conflict with Plans, interfere with other takings impair ecosystem function or if water shortages exist in the area, CONE suggests that PTTWs should be revocable without damages.
- PTTWs should be applied to large-scale domestic and intensive livestock operations. *(CONE)*
- The Ministry of Environment should consider current and future allocations and potential uses of water in deciding whether to grant a PTTW. *(CONE)*
- All proponents must be required to include water conservation plans in their applications for a PTTW. *(CONE)*

- No commercial water takings should be permitted on the Escarpment. (*CONE*)
- There should be a better linking of various environmental processes to ensure the Ministry and proponents take a holistic view of water management to reduce instances of a proponent obtaining a PTTW without also obtaining the related Certificate of Approval. (*Dillon*)
- Summaries of key information, such as the number and details of PTTW already issued within a watershed, need to be developed. (*FofTW*)
- Applications for PTTW should be made known to the local community, including CAs, municipalities and local interest groups. (*Dillon*)
- The requirements of the application should be commensurate with the amount of water being sought and whether or not the use is consumptive. (*Dillon*)
- Applications should ask for information about contingency plans (if this water supply must be reduced due to drought or other reasons, what is your back up plan for water). (*Dillon*)
- The applicant's plans for conservation of water should be requested with each application. (*Dillon*)
- Terms for permits need to be shortened. (*Dillon*)
- Water-taking where water demands are heavy should be subjected to more scrutiny and requirements than water taking where water is plentiful. (*Dillon*)
- Some system of incentives should be developed to encourage the industrial/commercial/consumptive use of water where water is plentiful. (*Dillon*)
- There is a need for the Province to develop a water allocation philosophy or mechanism, e.g. how much of sustainable yield will be allocated to consumptive uses, how much to maintain ecologically uses. (*OWWA & OMWA*)
- Consideration should also be given to lowering the current 50,000 litres per day threshold for PTTW, particularly in areas where water resources are under stress. (*Pembina*)
- Research should be conducted on the cumulative impacts of current water takings in the province below the 50,000 litre per day threshold. (*Pembina*)
- The Institute strongly supports the establishment of mandatory requirements for monitoring and reporting as a condition of all PTTWs, including takings for agricultural purposes, and the assembly of this data in a publicly accessible and usable database. (*Pembina*)
- Reporting should be required to occur on a sufficiently regular basis to be useful in the management of seasonal variations in water resources. (*Pembina*)
- The Institute strongly supports the review of the PTTW process, although it believes that the review should include a discussion of the overall goals of PTTW program. These goals should include:
 - Ensuring the sustainability of surface and ground water resources.
 - The protection of drinking water sources.
 - Ensuring that water resources are used in a way that permits the structure and function of ecosystems, such as wetlands, to be maintained and enhanced.
 - Ensuring the most efficient possible use of Ontario's water resources.
 - The management of competing user demands on the province's water resources in a rational, fair, transparent and sustainable manner. (*Pembina*)

Exemptions

- Exemptions should be strictly limited. (*SLDF*)

- We are greatly troubled by the suggestion that exemptions from charges might be granted for municipal drinking water, mineral processing and agriculture (p. 33). *(Polis)*
- Permits to take water should not run with the land, as is presently the case (i.e. new owners of land to apply for permits). *(SLDF)*
- Exemptions to the PTTW process should be minimal and tightly defined. In this respect, water bottling should not be treated different from any other industry. *(Polis)*
- Exemptions from charges for water takings should be limited to takings for domestic uses and fire protection. *(Pembina)*

Water budgeting

- The most important item, barely mentioned in the White Paper, is the mandatory requirement to produce a water budget within the context of the overall ecosystem-based watershed management plan. *(Don Council)*
- The Ministry of Environment should develop water budgets and must consider the cumulative impact of proposed water takings in deciding whether to issue a PTTW. *(CONE)*
- Water budgets should be developed for all watersheds. *(FofTW)*
- We recommend that watershed budget and flow information, water takings reporting information, and water takings permit application, consideration, and issuance information be posted on a publicly accessible Web site. *(GLU)*
- We propose here that, after a five-year phase-in period, the province require minimum information about a watershed before issuing any water takings permit in that watershed. *(GLU)*
- We recommend a statutory and regulatory link between watershed flow information and water takings permitting. *(GLU)*
- There is a need to ascertain the total amount of water withdrawals for any one area. *(GBA)*
- The MOE must work with abutting CAs to set water budgets that take into account the amount of water that will flow out of the shared Headwater areas into each watershed and to set source protection plans in these sensitive headwater areas. *(OHI)*
- The Institute is particularly supportive of the development of watershed water budgets. *(Pembina)*
- The stresses on individual watersheds would be better dealt with through the water budgeting process under the auspices of source water protection plans, and the consideration of water budgets in the Ministry's PTTW decisions. *(Pembina)*

Conservation

- Water conservation must be required in all water taking permitting. We suggest that "water conservation" in this context should be composed of:
- Means for ministry permittees to determine that the amount of a proposed taking is reasonable given the use
- The requirement that permittees employ techniques and equipment for the purpose of minimizing the amount of their water takings. *(GLU)*
- The province should support permittees in carrying out their water conservation obligations by establishing a provincial water conservation program that:
- Allows simple, one-step access to conservation information
- Establishes a water conservation goal and timeline on a watershed basis. *(GLU)*

- We strongly urge that water conservation and demand management serve as underlying themes for modifications to the water takings program. (*Polis*)
- The White Paper should reflect a determination to take required steps towards reducing the unacceptable amount of water withdrawals from Lake Huron and St. Clair River. (*GBA*)
- The management of water takings ought to be strongly linked with the Water Taking and Transfer Regulation (Reg.285/99), focusing on water conservation both in a qualitative and quantitative sense. Either source protection plans or the Regulation ought to indicate a threshold, in terms of water quantity beyond which no further water takings will be permitted. (*SLDF*)
- Pollution Probe supports the Ministry in seeking input on where there should be opportunities for promotion of efficient and sustainable water use and conservation measures in the PTTW process (when permits are granted or renewed), by requiring permit applicants to: explore voluntary commitments for and third party certification of proposed water conservation and demand management measures; and education and outreach.

PTTW Charges

- Water takings charges should be applied to all takings. (*GLU*)
- We find no reference in the White Paper to charges for water used (and environmental impact) by the hydroelectric sector. (*Polis*) In order to ensure fairness, charges ought to be applied throughout Ontario to all existing and new water taking permits. (*SLDF*)
- Municipal, agricultural and industrial users ought to be charged for the water they use, particularly where use is consumptive in nature or where the quality of water returned to a watershed has been degraded in any manner. (*SLDF*)
- We strongly support fees for all consumptive users of water. (*GBA*)
- Any system for imposing water takings charges should take into account degree of hardship and conflict with certain other public purposes. That is, fire protection, growing or raising food by families, or protecting or restoring an ecosystem should not be subject to charges. (*GLU*)
- The issue of how to scale water charges according to factors related to takings, i.e., based on volume, consumption and/or water source is a complex one, and merits further stakeholder consultation. (*Probe*)
- Pollution Probe also supports charging for water based on the source and the type, i.e. charge more for consumptive vs. non-consumptive uses.
- Charges associated with a PTTW should be sensitive to the volume of water withdrawn, and the degree to which water quality is degraded by use. (*Polis*)
- Charges should not vary with the sensitivity of watersheds; regulation, not a market mechanism, is needed to control or moderate use in sensitive areas. (*Polis*)
- Charges can be phased in for PTTW. (*Polis*)
- The full cost of supplying drinking water should be covered by water charges for all users and water takers, in order to institute incentives. (*CONE*)
- *CONE* supports the implementation of a sliding scale of charges, once water taking is sorted out in light of new source protection legislation, according to the type of use, volume taken, degree of consumption and water source.
- Water taking charges and municipal water rates should be set high enough to help offset the cost of water delivery and source protection planning and to make an incentive program attractive to consumers. (*CONE*)

- A tax or charge in excess of any charge that could be justified for sustainable water management should be imposed under the regime of water takings for commercial purposes. (*OWWA & OMWA*)
- Charges should be applied to the actual volume of water taken, not the permitted volume, as again this would provide incentives to reduce water use, and could easily be linked to a monitoring and reporting program. (*Pembina*)
- Consumptive uses that remove water from a local watershed should be charged at a higher rate than non-consumptive uses. (*Pembina*)
- Uses that degrade water quality should be charged at a higher rate than those that do not. (*Pembina*)
- Water charges should be applied on a regular basis, with charges being applied more frequently (e.g. monthly) on large-scale water users. (*Pembina*)

Use of Fees

- Funds derived from permits to take ought to be applied to provide adequate funding to SPPBs. (*SLDF*)
- Funds derived from permits to take water ought to be applied directly to source water protection efforts. (*SLDF*)
- Water takings charges should be dedicated to provincial water programs. (*GLU*)
- We believe that these fees can be used to monitor and to enforce water resource protection regulations. (*GBA*)
- Any revenue raised through charging fees for water takings should be applied towards the funding of integrated watershed management programs, which including source protection planning activities. (*Probe*)
- Revenues raised from municipal water rates and Permits to Take Water should be used to offset the costs of safe water delivery and water source protection. (*CONE*)
- I am opposed to any plan that proposes that only charges for water will be used to finance source protection. (*Dillon*)
- The revenues from water taking charges could also be employed to support research, monitoring, assessment and reporting on the state of the province's water resources. (*Pembina*)

VII. GREAT LAKES

- We recommend including the Great Lakes in the planning process because of limitations of the Lake Huron Working Group (limited resources) and the absence of a Lakewide Management Plan for the Lake Huron/Georgian Bay region. *(GBA)*
- Clarification is needed on how international agreements such as Annex 2001 will be met given the lack of information of total water withdrawals of any given area. *(GBA)*
- The lack of detail and the ambiguity with how the watershed-based source water protection plans would work with and be impacted by Great Lakes programs is of concern. *(Probe)*
- The Ministry should outline how the proposed source protection planning act will impact and be impacted by federal initiatives such as The Fisheries Act and federal-provincial arrangements such as the Canada Ontario Agreement (COA), and other Great Lakes programs and policies. *(Probe)*
- The Ministry must include the Great Lakes Basin in the source water protection plans, in a clear and more comprehensive manner. The plans should not only focus on inland surface water and groundwater. *(Probe)*
- Pollution Probe also strongly recommends that the Ministry evaluate how the Great Lakes Charter Annex 2001, signed by the Great Lakes Governors and Premiers might impact the Permit to Take Water Program and Water Taking Charges in the Great Lakes Basin.
- We have some doubt as to the ability of Source Protection Planning Committee to issue recommendations about protecting the surface water of the Great Lakes when so much depends on the actions of other jurisdictions, including the Great Lakes States. *(Saugeen)*
- Consideration should also be given the potential contributions of the federal government to the process plan development, implementation and maintenance, particularly in the context of the upcoming renewal of federal programs related to the Great Lakes basin. *(Pembina)*
- The Pembina Institute believes that the review of the PTTW Program should include a discussion of the overall goals of program. These goals should include meeting Canada and Ontario's international obligations with respect to water resources, particularly in the Great Lakes basin. *(Pembina)*

VIII. TIMING OF IMPLEMENTATION

- If the Legislature passed source protection legislation in the fall 2004 session, it would seem that given the planning process outlined in the White Paper, it could be five years or more before source protection actually comes into effect across Ontario. This timeline is simply unacceptably long. (*Ontario Nature*)
- The deadlines proposed in the Advisory Committee report should be adopted, that is, SWPPs be initiated within two years of the passage of SWPP legislation and completed within five years. (*Plewes*)
- Source Protection Plan preparation process be initiated within two years of the source protection legislation being passed and functioning by the end of the fifth year. (*SLDF*)
- Clarification is needed regarding whether the timeline set by regulation will be only for the plan or will it also include implementation of the management option recommended by the plan. (*OWWA & OMWA*)