



ENVIRONMENTAL | DEFENCE



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'Association canadienne du droit de l'environnement

April 20, 2009

Paul Heeney
Manager, Source Protection Implementation
Ministry of the Environment
2 St Clair Avenue West, 8th floor
Toronto, ON M4V 1L5

Dear Mr. Heeney:

RE: The Ministry of the Environment's decision to consider changes in its Ontario Drinking Water Stewardship Program

The Ontario Drinking Water Stewardship Program ("ODWSP") was inaugurated in late 2007 by the Ontario Ministry of the Environment ("MOE") to help farmers, landowners and businesses in rural areas protect local sources of drinking water.

To date, there have been fewer applications for funding by rural residents than had been anticipated. In light of this, the MOE has requested that individuals and groups submit recommendations on ways to elicit a greater interest in the ODWSP among those the program was created to help.

The Canadian Environmental Law Association ("CELA") and Environmental Defence ("ED"), with the endorsement of many members of the Water Guardians Network ("WGN"), a group of 35 environmental, health, First Nations and citizens organizations working to further source protection in Ontario, have a number of recommendations for the MOE on ways the ODWSP can be restructured for the benefit of the province's rural residents.

- *Create a series of applications that reflect project scale and particularly the sum of money being requested.*

At present, two farmers, one applying for funding partially to cover the cost of a \$750 soil erosion control project, and the other to fund a \$50,000 manure storage project, have to fill out the same 42-page ODWSP application.

For many farmers, the time required to fill out the application – to say nothing of the sheer amount of private information farmers are required to submit – is simply not worth the 25 per cent subsidy they would receive on a \$750 outlay.

We recommend that at least one new application be created for smaller projects. The application or applications for smaller projects should be simpler and shorter than the existing application.

For ODWSP applications, one size should not fit all.

- *The ODWSP should be extended into 2012 and beyond.*

It is the opinion of many members of the WGN that some landowners are waiting for the finalization of all regulations under the *Clean Water Act, 2006* (“CWA”), before making decisions about changes in their properties. We also think that many landowners are waiting for the results of the province’s drinking water threat assessment process before they commit to any adoptions of best management practices that could be funded in part through the ODWSP. If the activities on a landowner’s property receive low risk scores, it would be unlikely that many best management practices would be recommended to him or her. Landowners are waiting to see how the threat assessment results will affect them.

We therefore recommend that the ODWSP be extended into 2012 and beyond. Landowners who are asked to adopt certain best management practices should have access to MOE funding for their projects under the ODWSP for at least 5 years from the finalization of the province’s source protection plans. This 5-year period would give landowners ample time to develop their plans for undertaking best management practices, prepare a timeline for implementation, and apply for funding under the ODWSP.

- *The intake for applications for funding under the ODWSP should be open all year.*

Farmers, landowners and businesses should be able to submit applications all year. At present there are two intake periods.

If an open-all-year format is adopted, the MOE should correspondingly endeavour to process all applications within a reasonable period, from the time the application is received.

- *The proportion of costs for carrying out best management projects should be based in part on the potential threat significance of a land use activity.*

The higher the risk score for a particular land use activity, the larger the proportion of the project cost that should be covered by the MOE. For example, suppose there are two farmers in two parts of the province who both wish to

undertake \$40,000 manure storage facility retrofit projects. One farmer's current operation is found to carry a risk score of 65, while the other a 78. After being encouraged to adopt the best management practice for manure storage, the two farmers apply for funding through the ODWSP. If both projects receive funding, the second project, for the operation with the higher risk score, would receive more MOE funding than the first.

In addition, the proportion of funding now provided by the MOE (70 per cent for manure storage and handling, 70 per cent for cover crops, etc.), should be considered base-level funding. As the risk score increases, so too should the proportion of MOE funding above base level.

Introducing these funding elements would alleviate concern some landowners have that through circumstances largely outside of their control, they are being asked to bring their operations in line with best management practices at great personal expense. If the proportion of the monetary costs for landowners to retrofit their properties were correlated with their operations' risk scores, it is probable that opposition to the adoption of best management practices would decrease.

- *The proportion of funding for properly decommissioning private wells that is eligible for coverage under the ODWSP should be 100 per cent.*

It is unlikely that many wells will be elevated for inclusion during the current phase of the source protection process. Moreover, it is unclear when the scope of the CWA will be expanded to include wells more comprehensively.

As there are many public benefits in having wells properly decommissioned (whether inside or outside of wellhead protection areas, significant groundwater recharge areas or highly vulnerable aquifers), there is a corresponding need for public funding assistance to ensure that decommissioning occurs in a proper and timely manner. In order to ensure more well decommissioning projects are undertaken, we recommend the proportion of funding eligible for coverage under the ODWSP be increased to 100 per cent.

Moreover, if old, improperly decommissioned or abandoned wells that landowners intend to retire using government standards are fed by groundwater sources that serve a municipality, 100 per cent of decommissioning costs should be funded by the MOE. We feel it is inappropriate to ask landowners to pay for decommissioning wells that at least in part will help safeguard municipal drinking water sources by way of a law that may not even protect the landowners themselves. This would be particularly true if a landowner found an old, abandoned well on his property and voluntarily declared its existence and state to the province.

- *In promoting the ODWSP in local rural newspapers, the MOE should focus on reaching farmers through articles not advertising.*

Many rural landowners read their local rural newspapers assiduously. However, the content that they read with so much enthusiasm is the articles on local news, not the advertisements, and in particular not advertising placed in the paper by unknown businesses and groups from outside of their communities.

We therefore recommend that to help promote the ODWSP among rural landowners in a positive way, the MOE consider having local rural journalists interview key MOE source protection personnel for articles on source protection and the ODWSP. The same articles should also include quotes from local residents knowledgeable about and supportive of the ODWSP. Also, community groups keen on promoting source protection, and representatives of local stewardship councils, should be either mentioned or interviewed in the articles.

This approach to outreach and education would help provide rural landowners with links to learn more about source protection. It would also show rural landowners that their neighbours, local news outlets, community groups and stewardship councils support them and source protection.

Having articles written in local rural newspapers by local journalists in which the merits of the ODWSP and how it can benefit rural landowners are discussed, could go a long way towards increasing support for the program.

- *Conservation Authorities (“CAs”) should be eligible for direct funding for outreach and education projects under the ODWSP.*

At present, CAs can only participate in outreach and education projects under the ODWSP indirectly, i.e. through partnerships with other organizations that are the leads on grant applications.

We recommend that CAs be eligible for direct funding for outreach and education projects under the ODWSP. CAs play an invaluable role in the Ontario source protection process. Their source protection personnel are extremely well informed on this process. If they develop good ideas for outreach and education projects which a CA is well-suited to carrying out, either as the lead organization in a collaborative effort or by itself, that CA should be permitted to apply for direct funding.

In safeguarding the province’s drinking water, there is a need to ensure rural Ontarians are considered and supported technically and financially. Rural Ontarians all have roles to play in source protection. These roles and the source protection process in general

need to be communicated to them. The support of farmers, rural landowners and businesses in the source protection process strengthens Ontario source protection.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

ENVIRONMENTAL DEFENCE



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CELA Publication No. 660

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