LAKE ERIE REGION SOURCE PROTECTION COMMITTEE
MEETING MINUTES
Thursday, November 3, 2011

The following are the minutes of the Lake Erie Region Source Protection Committee meeting held on Thursday, November 3, 2011 at the Grand River Conservation Authority Administration Office, 400 Clyde Road, Cambridge, ON.


Members Regrets: J. Laird, G. Montour, P. Wilson

Proxy Representatives: P. Busatto (J. Laird)

Liaisons: L. Ross, Provincial Liaison; J. Mitchell, SPA Liaison

Region Management Committee: C. Evanitski, LPRCA; J. Farwell, GRCA; S. Martyn, CCCA; C. Murray, KCCA; R. Sackrider, LPRCA; K. Smale, CCCA; E. VanHooren, KCCA

Staff: S. Brocklebank, GRCA; N. Davy, GRCA; J. Deter, GRCA; J. Etienne, GRCA; B. Fields, Norfolk County; L. Heyming, GRCA; E. Hodgins, Region of Waterloo; C. Jacques, LPRCA; M. Keller, GRCA; L. Minshall, GRCA; S. Shifflett, GRCA; M. Silverio, City of Hamilton; K. Smith, GRCA; L. Stafford, City of St. Thomas; E. Stahl, GRCA; A. Wong, GRCA; G. Zwiers, GRCA

Also Present: P. Hania

1. Call to Order
   C. Ashbaugh called the meeting to order at 1:00 p.m.

2. Roll Call and Certification of Quorum – 17 Members Constitute a Quorum (2/3 of members)
   The Recording Secretary called the roll and certified quorum.

3. Chairman’s Remarks
   C. Ashbaugh welcomed members, staff and guests and noted the following:
• The Lake Erie Region Management Committee (LERMC) held their quarterly meeting at the Catfish Creek Conservation Authority on October 25th. The meeting was highly productive and S. Martyn was commended for her outstanding hosting efforts.

• The history and structure of LERMC was reviewed. The committee has been very successful in getting the 4 watersheds of the Lake Erie Region (LER) to work collaboratively and has proved most beneficial to all parties involved. The LER remains unique with its high level of municipal involvement in policy writing, and although that type of process may take more time, it will produce very positive results. It is suggested that, in the upcoming months, focus be kept on the final product instead of entirely on the process.

• Kaitlyn Smith was introduced and welcomed to the Source Protection Committee (SPC) as the new Source Protection Program Administrative Assistant.

• M. Goldberg is not renewing his SPC membership. The Committee is sorry to see him go, as his contributions were of tremendous value and he will be sincerely missed.

4. **Review of Agenda**

M. Keller reviewed the new items added to the agenda and suggested that Report SPC 11-11-04 be presented before Report SPC 11-11-02. B. Ungar also asked if he could discuss what has been happening with the Early Actions Review Committee (EARC) under Other Business.

*Moved by: H. Cornwell  
Seconded by: B. Ungar  
carried unanimously*

**THAT the revised agenda for the Lake Erie Region Source Protection Committee Meeting of November 3, 2011 be approved.**

5. **Declarations of Pecuniary Interest**

There were no declarations of pecuniary interest made in relation to the matters to be dealt with.

6. **Minutes of Previous Meeting – October 6, 2011**

*Moved by: L. Perrin  
Seconded by: D. Murray  
carried unanimously*

**THAT the minutes of the previous meeting October 6, 2011 be approved as distributed.**

7. **Hearing of Delegations**

None

8. **Presentations**

None
9. Correspondence

a) Copies for Members

i) Correspondence to Heather Malcolmson, Director (Acting), Source Protection Programs Branch, Ontario Ministry of the Environment from Craig Ashbaugh, Chair, Lake Erie Region Source Protection Committee Re: Concerns about Meeting Source Protection Plan Submission Date of August 2012

J. Harrison asked that his objection to the letter be noted and that he be disassociated with its contents. He commented that it is dishonest of the SPC to say, as a collective group, that the deadline of August 2012 will not be met. The Committee should not blame municipalities’ lack of responses for potentially missing the deadline, when the timeline could not be considered reasonable to begin with.

ii) Correspondence from Mark Goldberg, Lake Erie Region Source Protection Committee Member to Craig Ashbaugh, Chair, Lake Erie Region Source Protection Committee Re: The Dolime Quarry

M. Goldberg explained his reasoning for not renewing his SPC membership. After retirement in July, he is stepping back from a number of his involvements and taking time to pursue other opportunities. He added that he appreciates the dedication of the SPC and civil servants involved in the program and has a great deal of respect for all the efforts put forth. He commented on an outstanding issue that he is disappointed remained unsolved during his time with the SPC. The Dolime quarry was determined a serious concern for Guelph’s water supply, as the aggregate extraction has breached the aquitard (a layer of rock protecting the underground supply, where 95% of city’s drinking water is drawn from). The SPC passed a motion in February 2010 that the excavation be deemed a subscribed threat to source water; however, since then there has been continual resistance from the Ministry of the Environment (MOE) to designate the activity as such. The purpose of the SPC is to identify these issues and make sure they are addressed effectively. To date, nothing has been accomplished in regards to this problem. M. Goldberg highlighted that in a recent meeting he asked L. Ross, provincial liaison, to report back on the status of the SPC's request to the MOE, but has not received an update. L. Ross reviewed the correspondence from M. Goldberg and responded that this is a difficult and complex issue for the Ministry. Source Protection (SP) involves a large number of different legislations and separate branches of the government (SP Program, Operations Division, Ministry of Natural Resources etc.). Therefore, particularly complex issues take a great deal of time to resolve. There are talks occurring between the different branches and November 10th is the next scheduled meeting. The top priority of the MOE is to protect drinking water, and often it is a challenge to identify the best way to accomplish this, while simultaneously being mindful of other legislation. The Dolime quarry had not specifically been discussed by the MOE until August. It was decided that the activity doesn’t involve excavations below the water table, and so the request to include it as a subscribed threat was originally denied. For commenting on this particular matter, the Operations Division has the lead, as they have the authority and detailed technical knowledge to deal with it properly.

* M. Wales joined the meeting at 1:22 pm.
The City of Guelph has arranged for a consultant to prepare a technical report to outline their concerns regarding the Dolime quarry and the Operations Division will receive it. L. Ross added that as MOE liaison, she will continue to push towards finding a solution as quick as possible, and is looking forward to when the decision is made so that she may report it to the SPC. C. Ashbaugh commended L. Ross’ contributions and expressed appreciation on behalf of the SPC for her efforts.

b) Not Copied

None

Res. No. 83-11  Moved by: B. Ungar
Seconded by: P. Busatto  carried unanimously

THAT the correspondence be received for information.

10. Reports

a) SPC-11-11-01  Source Protection Committee Member Appointments

S. Brocklebank provided an overview of report SPC-11-11-01. There were no questions or comments.

Res. No. 84-11  Moved by: L. Perrin
Seconded by: R. Krueger  carried unanimously

THAT Report SPC-11-11-01 Source Protection Committee Member Appointments be received as information.

b) SPC-11-11-04  Comments on Updated Assessment Reports and Timelines for Source Protection Plan Development

M. Keller provided an overview of report SPC-11-11-04, and added an extra item for consideration. He asked the Committee if there were any concerns with changing the December 15th meeting to half a day, and postponing the presentation of draft policies until the January 12th meeting, which would extend to a full day. These changes were a result of discussions from the SP Project Team meeting the day prior. He also asked if there were any objections to having the January 12th meeting at Long Point Region Conservation Authority. There were no objections from the Committee and the schedule changes were confirmed.

J. Harrison suggested that it might be premature to discuss Kettle Creek’s Draft Plan Volume I, Volume II and Explanatory Document at this meeting, when two policies addressing threats for the Municipality of Central Elgin remain incomplete and subject to change. M. Keller responded that there will be an approved Assessment Report (AR) for Kettle Creek, and apart from those two policies requiring additional consideration, all policies can move forward. Comments on Kettle Creek’s Draft Plan can be received and revisions can begin. W. Wright-Cascaden commented that when a decision on the two outstanding policies is made, the change might be that they simply apply to a greater area. Whatever the decision might be, it will not alter the nature of the policy itself; therefore, the
process of approving Kettle Creek’s Draft Plan should continue to move forward. M. Keller agreed and added that the discussions are based around defining existing and future threats, and how might these policies address both.

M. Goldberg asked if it is wise to start a 30 day consultation for Kettle Creek’s Draft Amended Updated Assessment Report (AUAR) on December 19th, considering the Christmas holidays are about to begin. M. Keller responded that 30 days is the requirement for a public consultation period; however, the number of individuals that will be affected by the changes to the assessment report is very small, Therefore, it is not likely that the Christmas holiday period would be detrimental to the consultation. C. Ashbaugh suggested that a one day consultation could be scheduled for January, once the holidays are over, and both W. Wright-Cascaden and M. Keller expressed agreement.

D. Woolcott asked if the County of Oxford has expressed any concern about the policies of the Upper Thames, in regards to meeting timelines. M. Keller responded that during yesterday’s SP Project Team meeting, such concerns were raised by the County of Oxford. It was confirmed that the Thames Sydenham Region are on a different timeline, and there is hope that they will produce some draft policies soon.

I. Macdonald questioned why there is such concern to acquire approval for Kettle Creek’s AUAR, when the Grand River AR has not received any approval yet. M. Keller responded that Kettle Creek’s Draft Plan can only be released for formal public consultation after the AR is approved.

J. Oliver asked, that if the policies for Central Elgin’s fertilizer and fuel tanks were changed, what would the magnitude of the increased footprint of the area of concern be? Would it affect 1-2 more individuals, or would it affect a much greater property area and therefore many more landowners? M. Keller responded that in both cases the area could be extended upstream or downstream, but to what degree would depend on the results of the modelling done. For Port Stanley, the area would likely extend to capture the harbour area, but it would be premature to assume the policy could reach beyond that, as additional modelling would be needed to determine such. A. Henry provided clarification that in regards to the fertilizer tank in Port Stanley, the policy would likely no longer apply to just the asphalt site, but to all of the harbour properties. The question is, if a tank was put in adjacent to the current site, would the tank also pose a significant threat to the intake? The answer is yes. However, how far beyond the harbour this area could extend is currently unknown, and will be addressed in future updates of the AR. In regards to the diesel tank, there needs to be a decision made as to whether or not this site should be considered a significant threat. The water treatment plant drains at the facility, but also on a portion of the property, a section of the county road and some of the properties adjacent. It is expected that additional information will be provided by the end of the week that will help finalise the analysis.

J. Harrison asked M. Keller for confirmation that other Source Protection Regions (SPRs) have a later timeline than the LER with respect to policy development. M. Keller responded that it was his understanding that they have a timeline that is either similar to the LER or slightly later. Other SPRs do not have such high municipal involvement in writing their policies, and this differentiation is one of the reasons why their timeline is not consistent with that of the LER.
Res. No. 85-11  Moved by: D. Murray  
Seconded by: L. Perrin  carried unanimously

THAT Report SPC-11-11-04 Comments on Updated Assessment Reports and Timelines for Source Protection Plan Development be received as information.

c) SPC-11-11-02  Kettle Creek Source Protection Plan: FIRST DRAFT

E. Stahl provided an overview of Report SPC-11-11-02. She noted that Kettle Creek’s Draft Plan is still a working document, and that the SPC will receive it again for approval for the 30 day consultation. She also explained that changes to the document were not highlighted in the packages received by SPC members, because the edits were too numerous.

A. Henry referred to page 14 of Volume II and asked how detailed this section need to be. There are a number of specific threats that could be included in this section, or they could be generalized, depending on how extensive the section will be. E. Stahl responded that the section does not necessitate immense detail, and that readers of the document will be referred to the AR if they require more information. However, if particular threats are deemed very important, they can be brought forward and given emphasis if desired. M. Keller added that any information that could aid in the comprehension of Source Protection Plans (SPP) can be included. Therefore, the SPC has the flexibility to decide what details are provided to help understand the greater context. He advised that the Committee should express what details they would like to see included whenever possible.

J. Harrison highlighted that Volume II for Kettle Creek is already 90 pages long, and it does not yet include the AR. He asked if staff had any idea how long the document would be, once completed. M. Keller responded it is uncertain how long the document will be. The exact nature of the finished package is yet to be determined, and there are several ideas in the works (for example, the AR being presented in CD format). M. Keller confirmed that adding the AR would most likely bulk up the entire document, but otherwise, the Plan itself will not be much larger than it is already. J. Harrison questioned that if the document for Kettle Creek is this long, how long will it be for the Grand River be? E. Stahl responded that Volume I will look the same, but that it cannot be said what the differences in length for Volume II will be. J. Harrison advised that it might be extremely difficult to receive such large documents for Catfish Creek, Long Point Region, and Grand River all in the same day, as proposed in the timeline. M. Keller responded that the proposed timeline for Grand River has not yet been adjusted and it is uncertain what exactly it will look like in the upcoming months.

T. Schmidt suggested that there might be a better way to present these policies to the SPC, so that the process is not so long and tedious. Choosing significant threats that occur across the watersheds, and discussing the policies associated with them, might be a more efficient way to present these lengthy documents. M. Keller agreed that this was a good idea. He reminded the Committee that they will still have to receive all the documents, but that the information can be shared quicker by presenting policies by theme instead of each individual one, and choosing policies that address threats occurring “across the board.” J. Harrison agreed that this method for presentation could
have significant value, but advised that it cannot be forgotten how these policies differentiate by municipality. Using an “across the board” approach could be a challenge when the policies are being written and applied at a municipal level. T. Schmidt reminded the Committee that the Region of Waterloo, for example, has 300 policies to present.

W. Wright-Cascaden added that there has been a major effort by the municipalities to use similar wording when writing their policies, creating less differentiation between them if they are addressing similar threats. She suggests that municipalities should attempt to keep policies consistent, and if there absolutely must be differences between them, then they should provide rationale for those differences. R. Haggart asked who has the authority to decide on what wording will be used across municipalities, especially if there is disagreement. W. Wright-Cascaden responded that ultimately the SPC is the deciding body. Municipalities can consult with their respective councils on the preferred policy wording, but the SPC has the final decision. R. Haggart responded that this could result in appeals from certain municipalities and that the SPC needs to be careful that it doesn’t overlook particular municipal requests and needs. W. Wright-Cascaden agreed that municipalities could appeal, but that if they provide rationale as to why their policies, and the respective wording, need to be different, then the issue should not arise.

D. Murray quickly summarized the plan development process to increase understanding, and clarified that Volume I will generally look the same across SPP’s and that Volume II is the document through which the municipalities will be introduced to the toolbox to help guide their policy writing direction. He asked for clarification that the SPC is hoping to receive the ‘first cut’ of these draft policies in January. M. Keller confirmed, and that coming to the SPC with the first cut of draft policies as soon as possible will allow them to provide productive feedback so that revisions can be made. D. Murray added that it might be beneficial to have Grand River’s Volume I in hand, so that it can be cross referenced during the review of these draft policies. M. Keller added that the LERSPC realizes that other SPR’s might have region-wide policies that apply to one threat, but that the LER will have more municipal-specific policies. The result is that there could be a fair amount of consistency in how to deal with certain threats, or there could be a lot of differentiation. The policies will have to be completed and presented before that can be completely determined. D. Murray highlighted that how this process is unfolding in Credit Valley is noticeably different than in the LER. M. Keller responded that consistency between SPRs may not be as important as has having some level of consistency between the municipalities within a SPR and also for municipalities across multiple SPRs.

**Res. No. 86-11**

Moved by: L. Perrin
Seconded by: J. Harrison carried unanimously

THAT Report SPC-11-11-02 Kettle Creek Source Protection Plan: FIRST DRAFT be received for information.

**d) SPC-11-11-03**  Kettle Creek Source Protection Area Explanatory Document: FIRST DRAFT

M. Keller reviewed report SPC 11-11-03.

J. Harrison stated that he saw a major issue with the third full paragraph on page 104 of the Explanatory Document. The paragraph suggests that all residents of the Municipality
of Central Elgin would be responsible for bearing all costs associated with the SPP’s implementation. The paragraph should be reworded, and instead suggest that the cost should be borne by the users of the water systems, and not entirely on the residents of Central Elgin. He added that all the SPPs should be financed this way, where those who do not use the water do not pay for implementing the Plan, and those who do use the water, do. L. Perrin added that this has been a topic of discussion for quite some time. Central Elgin shares the municipal water supply with outside communities; therefore, the entire cost should not be borne by the municipality just because the source happens to be located there. J. Oliver noted that prior to 2003, there was an opportunity to implement a SP Program before the current one being undertaken now. The reaction at that time from council and senior staff of the Water Department was that although the program would target municipal water supplies, the SPPs and their policies would apply to the source as a whole, not just the intake location (not just the intake pipe of a particular municipal well, for example). As a result, there existed considerable differences in opinion on whether or not all residents, water users or non-water users, would share in the cost. Nothing consequently ensued, but it is worth noting that these differences in opinion existed prior to these current discussions. R. Haggart commented that it is not the responsibility of the SPC to determine who will pay for SPP implementation and who will not. The SPC can make a recommendation, and the argument that only water users should pay will occur frequently. However, there are locations where municipal water is supplied to both industry and commoners in the same municipal tax base, for example, Brant County. The taxes collected from new industries in Paris and St. George for their water use do not go strictly to Paris or just to St. George, they go into a pot to be shared by the entire municipality. Therefore, the protection of that water base is financially important, even to non-water users. C. Ashbaugh asked L. Ross if this particular argument has been raised at the Ministry level. L. Ross responded that of all the more contentious issues the MOE has to deal with, the financial arguments are at the top of the list. No decisions have been made yet on future funding; therefore, the MOE has nothing substantial to share with the SPC on the topic at this point in time.

D. Woolcott suggested that it is not the hard costs that are the main issue, such as the buying of a piece of property to act as a buffer for a well intake. It is the softer costs that are more difficult to deal with, such as the future value or cost of that property, which could be subject to unforeseen increases. He agreed with R. Haggart and J. Harrison that it is not in the SPC’s ability to dictate to municipalities who will be spending what. However, he suggested that the MOE fund the hard costs that result from the implementation of the SPPs. He also suggested that the Greenbelt Act should be referenced as an example of how municipalities were affected by policy implementation. The frustration of the industrial sector, in regards to SP, is certainly understood, as there will most likely be unintended consequences for them.

J. Oliver asked if the questionable third paragraph need to be included in the document at all. He suggested it be deleted entirely. The SPC has no jurisdiction in this financial area and the previous paragraph already states the SPC’s commitment to getting some funding from the Province for SPP implementation. M. Keller, C. Ashbaugh, A. Henry subsequently expressed agreement. A. Henry added that, if left in the document, the section will receive similar commentary and debate at a public consultation. He suggested that the MOE consider the arguments and consult with the public on financial implications of the SPP.
Res. No. 87-11  Moved by: J. Oliver  Seconded by: M. Goldberg  carried unanimously  

THAT the third paragraph on page 104 under section 2.3 Financial Considerations of the Kettle Creek Source Protection Area Explanatory Document: FIRST DRAFT be removed.

Res. No. 88-11  Moved by: H. Andrew  Seconded by: I. Macdonald  carried unanimously  

THAT Report SPC-11-11-03 Kettle Creek Source Protection Area Explanatory Document: FIRST DRAFT be received as information.

11. Business Arising from Previous Meetings  
None  

12. Other Business  
  a) Question and Answer Period  

B. Ungar provided an overview of what has been happening with the Early Response Review Committee. The review committee received 13 project funding applications in total; 10 were approved, 2 were deferred for further information, and 1 was rejected. $111,000 of grant money was spent on the approved applications. R. Haggart asked if there would be successive reports written regarding this information. B. Ungar responded that as of right now there are no other applications to the review committee. R. Haggart suggested that a written report be presented to the SPC about the current projects that received the grant money. B. Ungar responded that confidentiality agreements prevent the review committee from knowing exactly who the money is given to. R. Haggart confirmed that confidentiality would undoubtedly be honoured, but that the SPC would benefit from a written report to outline the nature of these approved projects, since $111,000 is quite a large sum. M. Keller clarified that approval of these projects, and allocation of funding was extremely recent, and that staff certainly will have time later to create a report to bring the details to the SPC.

T. Schmidt commented that the Clean Water Act (CWA) has no transition policies for Section 59 Restrictive Land Use Policies. Once the SPP is approved, its policies will instantly take effect. This will certainly cause considerable planning issues. The CWA does allow the MOE to develop transition policies; therefore, the SPC should request the MOE to develop them for Section 59, for the entire province. A. Henry asked if anyone was concerned about what the nature of such transition policies would be. A development activity should not necessarily be allowed to continue when there are threats associated with it, simply because there is an application already being processed. He noted his approval of having transition policies, but advised caution on how they are applied. W. Wright-Cascaden explained that, under the CWA, policies are allowed to be ‘phased’ in, so that implementing bodies have the capacity and proper resources assembled to accomplish such realistically and effectively. If every policy
came into effect upon approval of the SPP, any individual or business that has an approved application, no matter how long they were in the process, would no longer be able to continue that development. It is not realistic to stop all of the development in Ontario in a single day. Transition policies have been effective in the past, such as with the Provincial Policy Statement or the Development Charges Act. The potential for chaos will be significantly reduced with transition policies, but they do not mean that activities with threats will not be caught or prevented. L. Ross added that the SP Project Team has plans to provide a document with the formal question to the MOE, and once they receive it, they will able to respond to this issue. The understanding right now is policies addressing future threats will take effect the day the SPP is approved, and policies addressing existing threats will be phased in. M. Keller confirmed that the SP Project Team has been discussing the desire for transitional policies for Section 59 and have full intention of sending those concerns to the MOE.

Res. No. 89-11  Moved by:  T. Schmidt  
Seconded by:  D. Murray  carried unanimously

THAT the Lake Erie Region Source Protection Committee request that the Province develop regulations for governing transition for Section 59 Restrictive Land Use Policies to ensure a smooth and orderly implementation of risk reduction policies for future threats including decisions under the Planning and Condominium Acts.

13. Closed Meeting

Not applicable


Grand River Conservation Authority, 400 Clyde Road, Cambridge, ON

15. Adjourn

The Lake Erie Region Source Protection Committee meeting of November 3, 2011 adjourned at 3:15 p.m.

Moved by:  B. Ungar  
Seconded by:  M. Ceschi-Smith  carried unanimously

THAT the November 3, 2011 Lake Erie Region Source Protection Committee meeting be adjourned.