

Canadian Environmental Defence Fund Submission

Source Protection

July 25, 2001

The Honourable Dennis R. O'Connor
Commissioner
The Walkerton Inquiry
180 Dundas Street West, 22nd Floor
Toronto ON M5G 1Z8

Dear Commissioner,

Re: Public Hearings in Part IV, Source Protection

The Canadian Environmental Defence Fund (CEDF) would like to thank you for the invitation to participate in the public hearings on August 2 and 3rd, 2001, entitled "Source Protection." I have included an outline of evidence prepared by Mr. John MacKenzie, who will be assisting me with our presentation.

I. Right-to-Know

The public's right to participate in land use planning decisions affecting drinking water sources is well accepted. The provincial government has often acted as an impediment to this participation. For example, the Environmental Commissioner of Ontario has recently released a special report condemning the Ministry of Natural Resources for not posting instruments or approvals on the Registry for public review.

Consumer confidence reports and water quality reports, right-to-know (RTK) reports are an effective tool for providing the public with a comprehensive understanding of their water quality and educating them about source protection in their area. These reports can be tailored to accommodate the interests of local communities to provide local residents with the specific information that they want to know.

Recommendation 1. Annual drinking water right-to-know reports

Consumer confidence reports should be sent to water users regularly and should include information regarding source protection initiatives.

The Ministry of Natural Resources should begin to list its instruments on the Registry immediately.

II. Public Accountability

Providing the means for public participation in source protection is imperative to ensuring public accountability. Public participation in environmental assessment, land-use planning, approvals and standard setting has declined dramatically in Ontario. Cuts to funding for public participation in environmental decision-making and a reduction in enforcement activities are primary causes of this decline.

1. Funding

Funding intervenors is the only effective way to ensure that the public has the means, the access to information, and the opportunity to participate in expensive and often protracted proceedings that examine the impacts of projects the sources of drinking water.

Recommendation 1:

Intervenors fighting to protect sources of drinking water should be publicly funded. An act providing intervenor funding should be established to extend funding to members of the public participating in environmental processes including, licensing/approvals, land-use planning hearings and environmental assessment that affects source protection. The former *Intervenor Funding Project Act* could be used as a model, but with a much broader funding mandate.

2. Land Acquisition

Possibly the most important tool for ensuring source protection is land acquisition for conservation purposes. New York City, in partnership with the state and federal government, has earmarked \$250 million (U.S.) for strategic land acquisitions in designated reservoir watershed areas. Ontario has spent fractions of this amount on similar acquisitions. In fact, the Ontario Realty Corporation has recently sold environmentally sensitive lands for development without regard for source protection.

Recommendation 2:

Ontario should earmark a substantial amount of future revenue derived from the full cost pricing to land acquisition. Any watershed management planning process should include areas designated for acquisition.

In addition to the above noted submissions, Mr. John MacKenzie will be making the following submissions on behalf of the CEDF:

Outline on Input from John MacKenzie, member of the Canadian Environmental Defence Fund Legal Expert Assistance Program and professional Environmental Planner

QUALIFICATIONS

I am currently employed Environmental Planner at the firm of Hardy Stevenson and Associates Limited and am a member of the Canadian Environmental Defence Fund Legal Expert Assistance Program. My responsibilities at Hardy Stevenson include preparation of land use reports, evaluating and obtaining approvals for land use and infrastructure proposals and providing case management support for OMB hearings. I have been conducting work in the field of land use planning, environmental planning, policy development, and restoration ecology for eight years.

1. I have an undergraduate degree in Human Geography and Urban and Environmental Studies and a Masters of Science degree in Planning with an environmental planning specialization.
2. I have conducted academic and professional work on the subject of environmental planning best practices for freshwater management as part of my work for the Korean National Commission of the United Nations Education Science Cultural Organization (UNESCO) and as part of the development of the International Council for Local Environmental Initiatives (ICLEI) Water Campaign.
3. I have personally been involved in dozens of land use planning processes where impacts on water sources including intermittent stream, wetlands, coldwater streams, kettle lakes, kettle wetlands and forest features were considered as major planning issues. This involvement includes formal submissions on secondary plans, site plans, testimony and evidence preparation for Ontario Municipal Board hearings, and involvement in negotiations with stakeholders on land use and approval requirements with respect to environmental impacts.
4. I am currently retained as Case Manager for Save the Rouge at the Oak Ridges Moraine Richmond Hill OMB hearing where source protection is a major planning issue.

PRESENTATION OUTLINE

5. My presentation to the Inquiry will generally include a discussion of my experience in implementing source protection measures in the Rouge River and watersheds in the GTA. I will briefly discuss my research on source protection in other jurisdictions including South Korea where I conducted research on

freshwater management for the Korean National Commission for UNESCO and the International Council for Environmental Initiatives.

6. I will provide my observations on how source protection and watershed management plans for Rouge River are being achieved and formalized through citizen lead establishment of the Rouge Park Alliance, a voting body of representatives from municipal, regional, provincial, federal government, and non-governmental sector. I will discuss how these plans are being implemented on the ground in Official Plan policies and Zoning By-laws and in developments.

As part of my presentation I will discuss what I view as:

7. “unsuccessful” land use processes from the perspective of source protection including the 1995 decision regarding OPA 5 urban expansion in York Region Town of Markham and its successive implementation now enshrined in draft approved subdivision plans. This includes situations where streams were piped, buried or channeled against the wishes of environmental interests.
8. “successful” land use decisions from the perspective of source protection including 1995 Ontario Municipal Board decision regarding OPA 721 in northeast Scarborough, The December 2000 Ontario Municipal Board Decision regarding Amos Pond Rouge-Duffins Wildlife Corridor. This includes situations where streams wetland features including necessary buffer areas were retained.
9. “mixed” land use processes including the 1998 Ontario Municipal Board Decision regarding Morningside Heights, the first negotiated compromise between urban development interests and environmental interests in the Rouge watershed initiated by the Provincial watershed/subwatershed planning initiatives of the early 1990’s and the ensuing City of Toronto sub watershed planning process for Morningside Creek.

I will discuss some of the key lessons and observations from these processes.

10. I will discuss the issue how the use of land impacts water quantity and quality and suggest land uses that are more compatible for retaining sensitive headwater/source areas.
12. I will discuss concern with standard and new mitigation measures associated with urban development in source areas including storm water management ponds, Rapid Infiltration Columns (RICs), Rapid Infiltration Basins (RIBs) from the perspective of land uses and growth management in source areas.
13. I will discuss my view of the implications of evidence presented and filed as part of the ongoing Oak Ridges Moraine Richmond Hill hearing and my view of the implications for land uses on the Moraine and Rouge watershed. I will submit filed witness statements and reports from expert witnesses for Save the Rouge

and the Province of Ontario for consideration in this stage and any future stages of this Inquiry.

14. I will provide my understanding and experience on how source protection and watershed management plans for the Han River in South Korea are being achieved and formalized through user fees on water combined with strategic acquisition of source areas.

15. I will discuss financial and land use policy incentives for achieving source protection in municipalities in Southern Ontario.

16. I will discuss my suggestions to improve implementation of source protection measures through changes to the Planning Act and Conservation Authority policies/practices and the requirements for expert studies to support development based on my experience working in the Rouge and other rapidly urbanizing watersheds of the Greater Toronto Area.

Please direct any questions regarding this presentation outline to Mr. David Donnelly of the Canadian Environmental Defence Fund at (416) 323-9521

We look forward to developing these issues in detail at the next session of the public hearings.

Yours truly,

David R. Donnelly