

Presented To:	Operations Committee
Presented:	Tuesday, Feb 03, 2015
Report Date	Thursday, Jan 22, 2015
Type:	Presentations

Request for Decision

Source Protection By-Law

Recommendation

THAT the City of Greater Sudbury approve the report dated February 2, 2015 from the General Manager of Infrastructure Services;

AND THAT the necessary By-laws be prepared;

AND THAT the City of Greater Sudbury amend the Appointment of Officials of the City of Greater Sudbury By-law 2007-161 by appointing the statutory officials, the Risk Management Official (RMO) and Risk Management Inspector(s) RMI pursuant to subsection 47(6) of the Clean Water Act, 2006.

Finance Implications

The Province has not committed to fund any risk management activities and the City of Greater Sudbury must review all cost recovery options. The Act does specify opportunities for municipalities to introduce cost recovery by-laws and staff is recommending cost recovery fees to promote fiscal sustainability. If approved, there will be no further budget implications for Water/Wastewater as funding for the 2015 program will be provided from the proposed Water/Wastewater allocations.

Signed By

Report Prepared By

Dave Brouse
Compliance Supervisor
Digitally Signed Jan 22, 15

Division Review

Nick Benkovich
Director of Water/Wastewater Services
Digitally Signed Jan 22, 15

Recommended by the Department

Tony Cecutti
General Manager of Infrastructure
Services
Digitally Signed Jan 26, 15

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Jan 26, 15

Background

In recent years the Province of Ontario has made safe drinking water a priority by implementing several pieces of legislation to ensure safe drinking water for all Ontario residents. The City of Greater Sudbury has implemented appropriate operational, treatment, and testing procedures as required under the *Safe Drinking Water Act, 2002*, ensuring CGS residents receive the highest quality of drinking water.

As a result of the Walkerton tragedy, Justice O'Connor was appointed to conduct an inquiry. He made recommendations which largely led to the Province creating the *Clean Water Act, 2006* which set out a framework to help protect drinking water at the source. Together, the *Safe Drinking Water Act, 2002* and the *Clean Drinking Water Act, 2006* form part of Ontario's Drinking Water Safety Net and the basis of what Justice O'Connor had referred to as the "Multi-Barrier" approach to drinking water protection.

The Act contains extensive requirements and is accompanied by several regulations, with specific deliverables and the need for public consultation at each stage of delivery. A local Source Protection Committee, which is a group of appointed multi-stakeholder representatives from the public, industry, the municipality, the local Conservation Authority and concerned citizen groups, was responsible for the creation of the Terms of Reference, the Assessment Report and the Source Protection Plan.

On September 30, 2014 the Ministry of the Environment and Climate Change announced that the City of Greater Sudbury's Source Protection Plan had been approved. Implementation of the Source Protection Plan will officially come into effect April 1, 2015 (see attached PSA). The Source Protection Plan contains policies that address potential threat activities occurring in the Wellhead Protection Areas, Intake Protection Zones, and Issue Contributing Areas, as identified in the Greater Sudbury Assessment Report. The Greater Sudbury Source Protection Plan is designed to protect existing and future sources of municipal drinking water by managing threat activities.

As of April 1, 2015 the policies within this Plan must be implemented. All Part IV policies within the Plan are to be enforced and administered by the Risk Management Official (RMO), Risk Management Inspectors (RMI) and other various CGS departments.

This report and the Source Protection By-law is being brought forward for Council's approval and will deal with the screening of new threat activities, Risk Management Plans, Risk Assessments, inspection programs, forms, templates, fees and the appointment of individuals as RMOs and RMIs. Under Part IV of the *Clean Water Act, 2006* municipalities have the authority to pass by-laws required to implement, administer and enforce these policies locally.

Key Elements

- April 1, 2015 Source Protection Plan implementation commences;
- CGS Risk Management Inspectors begin to attend sites identified as significant risk activities – education and outreach as focus;
- Request that proponents establish a Risk Management Plans to mitigate significant threat activities;
- Proposed Risk Management Plans are reviewed and accepted by RMO – complete with appropriate time frames for completion of required mitigation works;
- Ongoing monitoring & inspections of sites to ensure Risk Management Plan requirements have been met;
- Continuous future monitoring of existing sites and new activities in vulnerable areas to establish that activities have not changed and/or are causing new risks to CGS drinking water sources

Implementation and Administration

With the approval of the Source Protection Plan by the Minister, implementation roles can be summarized as follows:

Source Protection Authority: Conservation Sudbury

Designated as the Source Protection Authority, Conservation Sudbury is responsible for reporting annually

to the province on the progress of policy implementation by the various implementing bodies; continue providing support to the Source Protection Committee; and completing technical studies to update the Assessment Report and Source Protection Plan as required.

Role of CGS

The City of Greater Sudbury has two main roles in Source Protection:

- Implement policies where so assigned by the Source Protection Committee;
- Become responsible for the enforcement, administration and monitoring of Part IV policies as mandated in the Source Protection Plan by the Act.

Implementing Body

The Source Protection Plan contains thirty –five (35) policies that specify CGS as the implementing body. Implementing bodies will be required under the Plan to comply with the requirements of the specific policy within a specified time frame. Water/Wastewater staff have been coordinating and planning with affected departments of CGS and have developed internal policy documents to define roles and responsibilities to ensure that requirements and compliance dates are understood.

Part IV Enforcement

Under Part IV of the *Clean Water Act, 2006* the default authority for the enforcement of activity, prohibition, and risk management policies relating to significant threats identified in the Greater Sudbury Assessment Report is the municipality (CGS). The Act also identifies the legal responsibility of the municipality to undertake risk management duties and appoint Risk Management Officials and Inspectors.

July 2012, Council passed Resolution FA 2012-23 to accept the delegated authority to enforce Part IV of the Clean Water Act (Report Appended).

Appointment of RMO/RMI

The enforcement of the *Clean Water Act, 2006* will be largely conducted by two statutory officials, the Risk Management Official (RMO) and the Risk Management Inspector (RMI). There is a requirement to appoint Risk Management Official(s), with the power to enact an alternate person should it be required, and Risk Management Inspectors.

The Risk Management Official will have the following responsibilities under the Act:

- Responsible for administering and enforcing the Part IV policies set out in the source protection plan
- RMO responsible for negotiating Risk Management Plans
- RMO is responsible for issuing section 59 notices
- RMO is responsible for accepting risk assessments under section 60 of the Act
- RMO may issue an Order under section 61 of the Act requiring a person responsible for a significant drinking water threat activity to provide a report describing the operation
- RMO may cause work to be done
- RMO may use power of entry on properties where a drinking water hazard is suspected

- RMO must prepare an annual report to the Source Protection Committee summarizing the actions taken by the risk management official and risk management inspector(s).

In addition, the RMO will coordinate with internal City stakeholders to ensure that the City's non- Part IV Source Protection Policy obligations are met as well.

The Risk Management Inspector will have the following responsibilities under the Act:

- RMI is responsible for ensuring compliance with Part IV
- RMI may issue an Enforcement Order
- RMI is responsible for prosecuting persons if persons commit an offence under Part IV
- RMI may attend Environmental Review Tribunal hearings
- RMI must submit all actions taken to the RMO for the annual report to be completed by the RMO

These persons are required to be qualified in accordance with the requirements of the regulations under the Act. Five existing CGS staff members have already taken the necessary training to qualify as Risk Management Officials and Risk Management Inspectors.

In order for those persons to commence conducting enforcement under Part IV of the Act, Council must appoint the Risk Management Official and Risk Management Inspectors as required by section 47(6) of the Act. As such, staff recommends that By-law 2007-161 being a By-law Respecting the Appointment of Officials of the City of Greater Sudbury be amended to appoint the necessary qualified persons as Risk Management Official and Risk Management Inspectors. Following this appointment, the City Clerk is required by section 47(7) of the Act to issue a certificate of appointment to each appointee.

Source Protection Fees

The Act provides that responsibility for preparation of a Risk Management Plan lies with the person engaged in the threat activity. In an effort to promote financial sustainability for Water / Wastewater by relying on users of a service to fund those services, staff is recommending that the City create user fees specific to the enforcement and administration of the Source Protection Plan.

As such, staff is recommending that an hourly rate for 2015 of \$55.00 be established as the amount to be recovered from users for the following activities:

- Establish a Risk Management Plan;
- Agreeing to Risk Management Plan;
- Application to transfer a Risk Management Plan;
- Application to transfer an Agreement;
- Acceptance of Risk Assessment;
- Agreeing to an amendment of a Risk Management Plan
- Inspection fee (verification inspections).

The rate of \$55.00 is a blended rate that will recover the salaries and benefits of the RMI and RMO time involved in the supply of the chargeable service. The only exception to the hourly rate is for a proposed application screening fee of \$35 to determine if a proposed activity has any source protection implications.

In the case, where the City has to employ a subject matter expert to perform any of the above mentioned services, the actual costs charged to the City by the experts will be passed on to the proponent.

If Work is caused to be done by the RMO, the actual costs will also be passed on to the proponent.

Conclusion

The *Clean Water Act, 2006* promotes actions to protect municipal drinking water at the source which is the first step of the “Multi-Barrier” Approach. The City of Greater Sudbury will ensure that the multiple barrier system is in place to protect our sources of municipal drinking water. Practices and procedures presently followed by City staff will continue to ensure no negative impact to our source water quality and quantity, and safe drinking water will remain a protected resource for future generations.

Commencing April 1, 2015, the City of Greater Sudbury’s Source Protection Plan will be implemented. The RMO and the RMIs will be responsible for enforcing and administering Part IV policies to address significant threats in Vulnerable Areas such as, Intake Protection Zones and Wellhead Protection Areas as indicated in the Source Protection Plan. In order to enforce the powers under Part IV of the *Clean Water Act, 2006* the appointment of a Risk Management Official (RMO) and Risk Management Inspectors (RMIs) by the City of Greater Sudbury is required.



Request for Decision Source Water Protection - Implementation and Enforcement

Presented To: Finance and
Administration
Committee

Presented: Tuesday, Jul 10, 2012

Report Date: Tuesday, Jul 03, 2012

Type: Managers' Reports

show/hide decisions

Decisions

Report dated July 3, 2012 was received from the General Manager of Infrastructure Services regarding Source Water Protection – Implementation and Enforcement.

The following recommendation was presented:

FA2012-23 Belli/Berthaiume: WHEREAS Council of the City of Greater Sudbury has expressed the desire to protect municipal drinking water sources,

AND WHEREAS Council of the City of Greater Sudbury has expressed the desire for greater efficiencies in City operations,

AND WHEREAS the Province has delegated enforcement of Part IV of the *Clean Water Act* to municipalities;

THEREFOR BE IT RESOLVED THAT the City of Greater Sudbury accept the report and recommendation that Enforcement of Part IV of the *Clean Water Act* be maintained by the City of Greater Sudbury as outlined in the report dated July 3, 2012 from the General Manager of Infrastructure Services regarding Source Water Protection – Implementation and Enforcement.

CARRIED

Recommendation

Whereas Council has expressed the desire to protect municipal drinking water sources,

Whereas Council has expressed the desire for greater efficiencies in City operations,

Whereas the Province has delegated enforcement of Part IV of the Clean Water Act to municipalities,

BE IT RESOLVED THAT Council accept the report and recommendation that Enforcement of Part IV of the Clean Water Act be maintained by the City of Greater Sudbury as set out in the report from the General Manager of Infrastructure Services dated July 3, 2012;

Finance Implications

Greater Sudbury Source Protection Authority (GSSPA) Responsibilities:

At this time, the GSSPA expects the Province to pay 100% for all mandatory implementation responsibilities outlined in the Clean Water Act. The GSSPA estimates at present that it could require up to an average of \$350,000 per year starting in fiscal year 2014.

Therefore, based on the current information from GSSPA, it is anticipated that the City will hopefully not have to provide any funding to the GSSPA for the implementation of the mandatory roles and responsibilities as identified in the Clean Water Act. However, the Province has not as yet indicated when it will make a final decision as to the amount of funding it will provide to implement mandatory tasks.

Implementing Part IV Policies:

Many of the policies in the Source Protection Plan identify the City as the implementation body. The costs associated with implementation of these policies will impact future operational and capital budgets beginning as soon as 2013. The extent of this impact is difficult to fully predict at this time as the report has not been finalized and costs will vary for operating Divisions of CGS according to the specific policies of the approved Plan.

The Risk Management Inspector position is a legislated requirement and will be incorporated in the 2013 Water and Waste Water operating budget.

Signed By

Report Prepared By

Nick Benkovich
Director of Water/Wastewater
Services

Digitally Signed Jul 3, 12

Recommended by the Department

Greg Clausen
General Manager of
Infrastructure Services
Digitally Signed Jul 3, 12

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Jul 3, 12

Supporting Documents

1. Source Protection Plan Implementation (pdf)

Request for Decision

Source Water Protection - Implementation and Enforcement

Presented To: Finance and Administration Committee

Presented: Tuesday, Jul 10, 2012

Report Date Tuesday, Jul 03, 2012

Type: Managers' Reports

Recommendation

Whereas Council has expressed the desire to protect municipal drinking water sources,

Whereas Council has expressed the desire for greater efficiencies in City operations,

Whereas the Province has delegated enforcement of Part IV of the Clean Water Act to municipalities,

BE IT RESOLVED THAT Council accept the report and recommendation that Enforcement of Part IV of the Clean Water Act be maintained by the City of Greater Sudbury as set out in the report from the General Manager of Infrastructure Services dated July 3, 2012;

Signed By

Report Prepared By

Nick Benkovich
Director of Water/Wastewater Services
Digitally Signed Jul 3, 12

Recommended by the Department

Greg Clausen, P.Eng.
General Manager of Infrastructure Services
Digitally Signed Jul 3, 12

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Jul 3, 12

Finance Implications

Greater Sudbury Source Protection Authority (GSSPA) Responsibilities:

At this time, the GSSPA expects the Province to pay 100% for all mandatory implementation responsibilities outlined in the Clean Water Act. The GSSPA estimates at present that it could require up to an average of \$350,000 per year starting in fiscal year 2014.

Therefore, based on the current information from GSSPA, it is anticipated that the City will hopefully not have to provide any funding to the GSSPA for the implementation of the mandatory roles and responsibilities as identified in the Clean Water Act. However, the Province has not as yet indicated when it will make a final decision as to the amount of funding it will provide to implement mandatory tasks.

Implementing Part IV Policies:

Many of the policies in the Source Protection Plan identify the City as the implementation body. The costs associated with implementation of these policies will impact future operational and capital budgets beginning as soon as 2013. The extent of this impact is difficult to fully predict at this time as the report has not been finalized and costs will vary for operating Divisions of CGS according to the specific policies of the approved Plan.

The Risk Management Inspector position is a legislated requirement and will be incorporated in the 2013 Water and Waste Water operating budget.

SOURCE WATER PROTECTION PLAN – IMPLEMENTATION AND ENFORCEMENT

EXECUTIVE SUMMARY

Ontario's Clean Water Act is a key cornerstone of the multi-barrier approach to protect drinking water from source to tap by stopping contaminants from entering sources of public drinking water systems such as lakes, rivers and aquifers.

The Greater Sudbury Source Protection Committee (GSSPC) has been charged with developing the local Drinking Water Source Protection Plan. The Plan which identifies threats to local municipal water supply sources and policies to mitigate those threats is nearing completion. The implementation phase of the Source Water Protection is scheduled to commence once the province approves the Plan which is expected as early as January 2013.

There are three (3) main areas of implementation responsibility. The GSSPA is mandated with maintaining, the Plan and associated data, updates, and annually reporting on progress. The CGS has been identified as an implementation body for 20 non-Part IV policies. Implementing these policies will require defining funding implications and allocating funds in the future operating and capital budget submissions from respective Divisions.

The Clean Water Act also defaults the implementation of Part IV Policies including enforcement to municipalities. As such, provisions of the Clean Water Act make municipalities responsible for enforcement of Part IV, including:

- Appointing a risk management official (RMO) and risk management inspectors (RMI's)
- Establishing rules or policies to administer Part IV, which may include fees, inspection programs, forms and applications.

CGS implementation of Part IV offers significant opportunities for synergies through the ability of several City Divisions to collaborate and integrate their work plans and operations as appropriate for the protection of municipal drinking water sources. For example, internal RMO and RMIs at the City would allow the requirements of the Source Protection Plan policies to be seamlessly integrated with City operations and processes such as development approvals and assist with Source Control enforcement as well.

The CGS staffing plan would include assigning RMO duties to an existing non-union position. Part of the RMO's key tasks will be to enter negotiations with the parties responsible for activities for which Risk Management Plans are required to ensure that these are prepared in a timely manner.

Estimated costs associated with meeting the requirement for Part IV Enforcement relates mainly with recruitment / staffing for one contract RMI position, training the RMO and the RMI(s), and ancillary costs. The annual expenses are expected to total approximately \$100, 000.

This report provides detailed information in support of the business case for retaining Part IV responsibilities by the municipality. It explains the advantages over the other alternative and seeks authorization to proceed accordingly with preparations as required to maintain full compliance with the requirements of the Clean Water Act.

BACKGROUND

A public inquiry led by Chief Justice Dennis O'Connor was held following the Walkerton tragedy in 2000. In response to part of Chief Justice O'Connor's recommendations outlined in his 2002 report, The Strategy for Safe Drinking Water, the Province of Ontario drafted to include provisions to protect sources of public water supplies and enacted the Clean Water Act, 2006.

Ontario's Clean Water Act is a key cornerstone of the multi-barrier approach to protect drinking water from source to tap by stopping contaminants from entering sources of public drinking water systems such as lakes, rivers and aquifers.

Specifically, Ontario's Clean Water Act:

- Requires that local communities, through local Source Protection Committees, assess existing and potential threats to their water, and that they set out and implement the actions needed to reduce or eliminate these threats.
- Empowers communities to take action to prevent threats from becoming significant.
- Requires public participation on every local source protection plan.
- Requires that all plans and actions are based on sound science.

The Greater Sudbury Source Protection Committee (GSSPC) has been charged with developing the local Drinking Water Source Protection Plan and is comprised of three municipal representatives, three industrial and commercial business representatives, and three 'other' representatives from the environmental non-governmental sector and the public at large. Additionally, a number of non-voting liaisons sit at the committee representing stakeholders such as the Province of Ontario, Sudbury & District Health Unit, First Nations and the Greater Sudbury Source Protection Authority (GSSPA), which in our area is the Conservation Sudbury (Nickel District Conservation Authority).

The Greater Sudbury Source Protection Area Assessment Report, which was approved by the Minister of the Environment in 2011, identifies those activities that pose significant threats to local municipal drinking water sources. There are three categories of threats:

- Chemicals (solvents, fuels, fertilizers, pesticides);
- Pathogens (virus, bacteria or parasite that cause diseases); and,
- Water quantity threats that reduce the ability of water to 'recharge' or move from the surface to an aquifer, and contribute to the overuse of water in an area.

Of the 21 types of drinking water threats prescribed in Ontario Regulation 287/07, 18 are applicable to areas within the Greater Sudbury Source Protection Area with a total of 77 drinking water threats identified in the Greater Sudbury Source Protection Area. There are no identified water quantity threats in this area. Not all threats to municipal drinking water are equal; some carry greater risk to human health. A threat is determined to be significant if it meets the criteria listed by the Ministry of the Environment.

SOURCE PROTECTION PLAN POLICIES AND IMPLEMENTATION TOOLS

The Greater Sudbury Source Protection Committee must develop policies to mitigate all existing and future significant threats to municipal drinking water sources within the Greater Sudbury Source Protection Area.

The Clean Water Act and Ontario Regulation 287/07 identify policy tools available to Source Protection Committees to address drinking water threats. There are several types of regulatory and non-regulatory policy approaches permitted. These are:

- Land Use Planning
- Prescribed Instruments (i.e., a permit or other legal document issued by the Province)
- Clean Water Act Part IV Tools:
 - Section 56 (Interim) Risk Management Plans
 - Section 57 Prohibition
 - Section 58 Risk Management Plans
 - Section 59 Restricted Land Uses
- Education and Outreach
- Stewardship and incentive programs
- Best management practices, pilot programs and research
- Other actions (e.g., specific municipal by-laws)

The Greater Sudbury Source Protection Plan (GSSPP) lists 45 policies designed to mitigate risks to local municipal drinking water sources, the majority of which apply to:

- Intake Protection Zone 1 of the municipal water intakes on the Vermilion River, the Wanapitei River, and Ramsey Lake;
- Well Head Protection Areas A and B of the municipal wells in Valley East; and,
- The Ramsey Lake Issue Contributing Area (i.e., most of the Ramsey Lake watershed).

IMPLEMENTING THE SOURCE PROTECTION PLAN

Implementation responsibilities associated with the Greater Sudbury Source Protection Plan (GSSPP) are varied and can be divided into three main components as shown on Figure 1:

1. Mandated Responsibilities of the GSSPA after Plan Approval
2. Implementation of non-Part IV Policies
3. Implementation of Part IV Policies

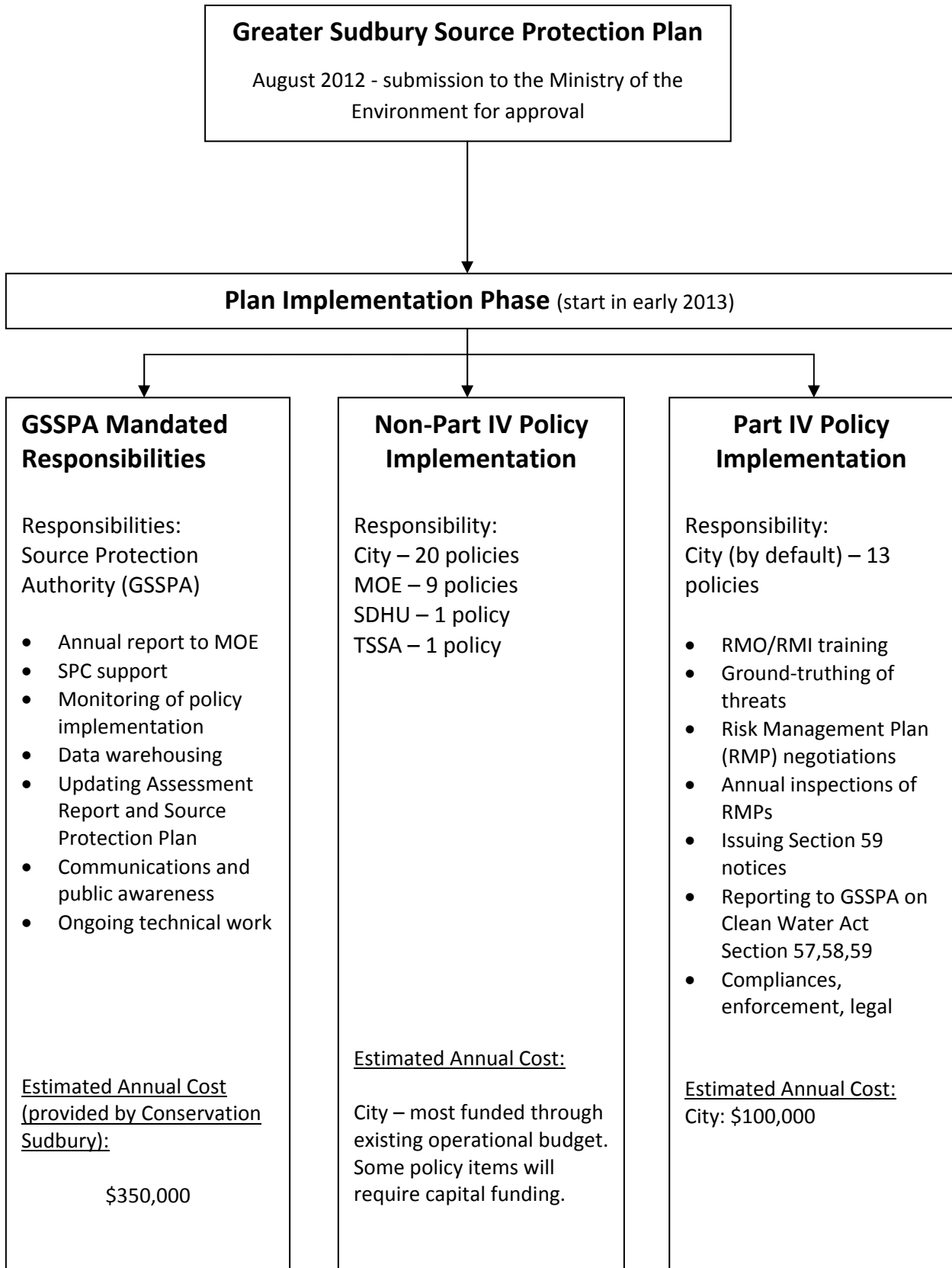


Figure 1 – Source Protection Implementation Responsibilities

Mandated Responsibilities of the GSSPA after Plan Approval

The Clean Water Act (Section 46) mandates the Source Protection Authority to “*annually prepare and submit to the Director and the source protection committee in accordance with the regulations a report that,*

- (a) describes the measures that have been taken to implement the source protection plan, including measures taken to ensure that activities cease to be significant drinking water threats and measures taken to ensure that activities do not become significant drinking water threats;*
- (b) describes the results of any monitoring program conducted pursuant to section 45;*
- (c) describes the extent to which the objectives set out in the source protection plan are being achieved; and*
- (d) contains such other information as is prescribed by the regulations. 2006, c. 22, s.46 (1).”*

Given that the municipality will be implementing most of the policies (including monitoring) of the GSSPP, the GSSPA reporting obligations will be largely based on the municipality’s report to the GSSPA, which must be submitted annually by February 1st.

The GSSPA has given notice to the City that it will also be responsible for the following activities:

- Management of Greater Sudbury Source Protection Plan with adequate staff capacity.
- Support of Clean Water Act hearings and appeals related to Source Protection Plan policies.
- Data warehousing and information management (15 year minimum requirement).
- Ongoing support to all implementing bodies, which includes the City, as plan policies rollout and some of the uncertainties and unknowns have to be dealt with.
- Updates and revisions to the Terms of Reference, Assessment Report and Source Protection Plan as new issues arise and once the Province specifies the timeline for plan review updates, amendments and submission.
- Continuing support to the Greater Sudbury Source Protection Committee.
- Ongoing technical work to complete Tier 3 Water Budgets with policies that will have to be incorporated into the GSSPP.
- Other technical work in future planning cycles to update groundwater and surface water models, to address emerging issues such as the impacts of climate change, etc.

Implementation of non-Part IV Policies

The City of Greater Sudbury is directly responsible for implementing most of the Source Protection Plan policies, including the Part IV policies. In fact, many of the policies point to or reinforce programs, initiatives and activities that the municipality has been undertaking for a number of years. The City needs to continue the many actions that it has been doing to protect municipal drinking water sources and its hundreds of lakes, including:

- Re-greening local watersheds since 1978, which contributes to healthy lakes, rivers and streams
- Lake Water Quality Program and Advisory Panel started in 2000 to help in the monitoring of local lakes and the support lakes stewardship groups.
- Spring phosphorus sampling on about 45 lakes.
- Education and outreach on lake stewardship issues, including use of de-ices, fertilizers, phosphorus-free home products, shoreline vegetation buffer strips, septic system maintenance, etc.
- Official Plan policies and Zoning By-law regulations – shoreline buffers, minimum lot size, watershed-based focus, wetland protection, and exclusion of incompatible land uses near municipal drinking water sources.
- Upgrading water and wastewater treatment plants.
- Sewer Use By-law to allow source control inspections.
- Detailed watershed mapping for some lakes.
- Shoreline Demonstration project at Science North.
- An annual Water Gathering for the community to help inform citizens on various water-related topics.
- Sediment control retrofits for existing situations.
- Storm water planning.
- Source Water Protection Planning.
- Monitoring of cyanobacteria and microcystin at municipal drinking water sources.
- Coherent water resonator – assessment for phosphorus control.
- Biological control of Eurasian water-milfoil.
- Salt Management Plan to help control the amount of road salt entering our lakes.

Part IV Enforcement

Table 1 shows the number of non-Part IV and Part IV policies to be implemented from the Greater Sudbury Source Protection Plan along with the implementing bodies. As shown, the City is the implementing body for 65% of the non-Part IV policies. If Part IV policies are included, the City is the implementing body for 75% of all 44 policies in the GSSPP.

Table 1. Number of Greater Sudbury Source Protection Plan policies to be implemented.

	Non-Part IV Policies				Part IV Policies
Implementing Body	City	MOE	SDHU	TSSA	City (by default)
Number of policies in Plan	20	9	1	1	13

Most of the non-Part IV policies to be implemented by the City can be funded through existing operational funds. These include policies for education and outreach, water sampling for sodium and phosphorus, development of plans for management of pesticides on municipal properties, updating the City Salt Management Plan and Emergency Management Plan, continued implementation of the sewer use by-law, and several land use planning policies. As examples, two policies that may require additional funding allocations include development of a Stormwater Management Strategy for Ramsey Lake within five years, and the construction of a new road salt storage area at the Frobisher Depot. Funding for these two actions would need to be made through the capital envelopes of the responsible division.

Implementing and Enforcing Part IV Policies:

In addition to the policies that serve to reinforce programs and actions that the City is already undertaking in protecting its municipal drinking water sources, the Source Protection Plan also contains Part IV policies. Part IV (Regulation of Drinking Water Threats) of the Clean Water Act provides municipalities with the authority to regulate activities that are significant drinking water threats on a site-specific basis, where such activities are located within intake protection zones or well-head protection areas.

The tools set out in Part IV of the act include:

- Section 56 (Interim) Risk Management Plans
- Section 57 Prohibition
- Section 58 Risk Management Plans
- Section 59 Restricted Land Uses

Under Part IV, any municipality that has the authority to pass by-laws under the Municipal Act for the production, treatment and storage of water is the enforcement authority (referred to as the “default municipality”). The City of Greater Sudbury (CGS) is the default municipality for the implementation of Part IV policies in the Greater Sudbury Source Protection Plan.

As such, provisions of the Clean Water Act make municipalities responsible for enforcement of Part IV, including:

- Appointing risk management officials and inspectors
- Making alternate arrangements (if desired) to delegate some or all of the Part IV enforcement authority by entering into an agreement with other public bodies
- Establishing rules or policies to administer Part IV, which may include fees, inspection programs, forms and applications.

In some areas of the province, source protection areas encompass many municipal jurisdictions and in such situations enforcement by a single municipality could be cumbersome without other enforcement options. Therefore, the Province has established in the legislation that municipalities are to have the primary responsibility of enforcing Part IV of the Act unless it chooses to delegate this responsibility to a board of health or a source protection authority (i.e., conservation authority).

The enforcement authority granted in Part IV can only be used to deal with situations involving where a local assessment report identifies significant drinking water threats. In Greater Sudbury, as in most other municipalities, this includes small areas directly around municipal wellheads and intakes that represent particularly vulnerable zones.

A default municipality is required to appoint a Risk Management Official (RMO) and Risk Management Inspector(s) (RMI), as necessary, to administer and enforce Part IV policies. These policies cannot be implemented until these appointments are made.

The role of the (RMO) includes:

- Negotiating or establishing risk management plans;
- Accepting risk assessments, and
- Issuing orders and notices.

The role of the (RMI) includes:

- Monitoring and ensuring compliance with risk management plans, and;
- Monitoring and ensuring compliance with prohibition policies.

Although the roles of the RMO and RMI differ, municipalities may elect to have one person fill both roles.

Appointments of the RMO and RMI must be done via certification by the municipality (similar to the certification process for building officials). To be appointed as an RMO or RMI, a person must have the qualifications prescribed by Ontario Regulation 287/07 (i.e., the completion of a course and exam which has been approved by the Ministry of the Environment).

Part IV implementation provisions are familiar to municipalities as these are based on the relevant Ontario Building Code Act provisions. The RMO and RMI will exercise their respective authorities under the act in a manner that is similar to the exercise of authority by Building Officials and Inspectors in Ontario.

Staffing decisions around municipal Part IV enforcement depends on many factors, including the number of significant threats that have been identified, the size/population of the municipality, available capacity and resources, and the extent of application of Part IV policies in the local source protection plan. For some municipalities, the RMO and RMI will be newly created positions, while for others these functions will be assigned to existing staff (e.g., sewer use by-law staff).

The act provides flexibility in determining Part IV enforcement arrangements. These enforcement arrangements must be documented between the default municipality and any other bodies involved. Alternative approaches to implementing Part IV policies include:

- Entering into an agreement to transfer enforcement to another body, for example a municipality, a source protection authority, or a board of health; and
- Two or more municipalities entering into an agreement to provide joint or shared enforcement and appointment of risk management officials and inspectors.

The only municipality concerned by almost all of the policies in the Greater Sudbury Source Protection Plan is the City of Greater Sudbury.

Transfer of authority may be a desirable option in jurisdictions where the source protection plan includes several municipalities, in municipalities where there are a small number of source drinking water threats, or in less populated or remote municipalities. None of these situations applies to Greater Sudbury.

The only other practical option to having the CGS implement Part IV policies is for CGS to transfer enforcement to the Greater Sudbury Source Protection Authority (i.e., Conservation Sudbury).

Clean Water Act Enforcement (Part IV)

There are only two practical alternatives to the implementation of Part IV policies in the Greater Sudbury Source Protection Plan:

- CGS (Municipal) Enforcement
- Enforcement by the Greater Sudbury Source Protection Authority

Municipal Enforcement of Part IV of the Clean Water Act

Given its long list of water protection accomplishments, its responsibility for implementing most of the Source Protection Plan policies, and the direction provided by provincial legislation, the City of Greater Sudbury has and should retain the responsibility of enforcing Part IV of the Clean Water Act. The specific business case in support of this alternative clearly demonstrates that this option represents a cost effective, sustainable, approach that integrates well with other CGS strategic initiatives.

Work Load & Enforcement Efficiencies

The CGS staffing plan would include assigning the duties of RMO to an existing non-union position. Part of the RMO's key tasks will be to enter negotiations with the parties responsible for activities for which Risk Management Plans are required to ensure that these are prepared in a timely manner.

This staffing model envisions sharing the RMI functions over two positions that would reside in the Water/Wastewater Division: one new position and one existing source control inspector who would also be assigned duties of RMI. The RMIs are seen as field oriented staff responsible for inspecting activities associated with threats to municipal drinking water sources. Sharing the function over two staff positions would ensure seamless inspection / enforcement duties during periods of absence (i.e. for sickness, vacation, etc). Significant efficiencies could be generated from the integration of the Source Protection and Source Control roles into the City's Water/Wastewater Division Compliance Section where a full Quality Management System and other closely related functions currently exist to support the role.

The bulk of the work associated with the implementation of the Source Protection Plan will be done early (within about 12 to 24 months) after the approval of the Greater Sudbury Source Protection Plan. It is expected that the RMI work load will level out during the maintenance phase of the implementation requiring only routine inspections, review of monitoring data, related development approvals, and ongoing outreach programs.

Under this model, the ability to reassign duties to RMI staff in one Division offers improved flexibility to ensure that resources dedicated to the protection of municipal drinking water sources are most efficiently utilized. Also, the RMI's can perform multiple duties when in the field in a specific geographic area of the City (e.g., source control inspection and follow-up on risk management plan requirements). Importantly, all of the RMI's time will be dedicated to improving and protecting municipal drinking water sources, whether through enforcement or implementation of the Source Protection Plan.

Cross-divisional Collaboration

CGS implementation offers the ability for many City divisions continue to collaborate and integrate their work plans and operations as appropriate for the protection of municipal drinking water sources. Internal RMO and RMIs at the City would allow the requirements of the Source Protection Plan policies to be seamlessly integrated with City operations and processes.

Another aspect of cross-divisional collaboration and process efficiency relates to development approvals. Certain development applications will require review by the RMO as part of the approval process. It has been the strategic goal of the CGS to achieve a streamlined development approvals process using a 'one window' approach. Development planners currently review applications for a variety of considerations when reviewing development applications. Efficiencies could result from adding source water protection considerations to their preliminary review criteria so that the RMO could focus only on those approvals that could have the potential of affecting municipal drinking water sources.

Maintaining the one-window approach would control the number of outside agencies reviewing applications and reduce the streamline the review time and associated fees to the applicant. From this perspective, having the RMO on City staff would represent a significant advantage to help meet this goal.

Enforcement of Part IV of the Clean Water Act by the Greater Sudbury Source Protection Authority

The Clean Water Act permits municipalities to delegate the enforcement of Part IV to a board of health or a source protection authority (i.e., conservation authority). The Greater Sudbury Source Protection Authority/Conservation Sudbury (GSSPA/NDCA) Board has indicated that it would be prepared to assume this responsibility should the City chose to delegate it. The Greater Sudbury Source Protection Plan has been developed by staff housed at Conservation Sudbury and, as such, their staff has gained considerable knowledge on source protection planning by working closely with the Ministry of the Environment.

Knowledge for plan development is, however, different than for plan implementation. As such, provincial legislation around the implementation of the Plan policies and enforcement of Part IV has been assigned by default to municipalities. Therefore, it had been the original intention of the Province that the development of the Plan and its enforcement through Part IV be undertaken by different parties.

Under the Conservation Sudbury implementation proposal the opportunity for a flexible, efficient and integrated unit for municipal source water protection at the City would be lost. It would also be more costly overall since the levy to the Conservation Sudbury would need to be increased accordingly. The Province has not made any commitments regarding implementation funding for Source Water Protection.

After the Source Protection Plan is approved by the Province, and once the initial heavy implementation work load is completed the opportunity to deploy the RMO and RMI positions to other source water protection related functions would be lost.

Financial Implications of Implementation Areas

a. GSSPA Responsibilities:

At this time, the GSSPA expects the Province to pay 100% for all mandatory implementation responsibilities outlined in the Clean Water Act. The GSSPA estimates at present that it will require an average of \$350,000 per year starting in fiscal year 2014.

Therefore, based on the information from GSSPA, it is anticipated that the City will not have to provide any funding to the GSSPA for the implementation of the mandatory roles and responsibilities. However, the Province has not as yet indicated when it will make a final decision on this matter which could impact CGS costs.

b. Implementing Part IV Policies:

Many of the policies in the Source Protection Plan identify the City as the implementation body. The costs associated with implementation of these policies will impact future operational and capital budgets. The extent of this impact is difficult to fully predict at this time.

c. Enforcing Part IV Policies:

As mentioned previously, the Clean Water Act mandates the City of Greater Sudbury with the responsibility to implement Part IV policies. At this point without any provincial announcement around a funding formula, there remain a number of unknown costs however staff estimates costs associated with this alternative, are associated mainly with staffing for the functions of the RMO and the RMI.

Estimated costs associated with City implementation relate mainly with recruitment and staffing for one contract RMI position, training the RMO and the RMI(s), and ancillary costs. The 2013 expenses are expected to total \$96,000.

Part IV enforcement costs are similar whether the City or the GSSPA implement the Part IV policies of the Greater Sudbury Source Protection Plan as shown in Table 2.

Table 2: Detailed Cost breakdown for City or GSSPA Implementation

	2013	2014	2015	2016	2017
Implementation of Part IV by municipality					
Salaries and benefits (1 contract RMI)¹	\$92,000	\$94,000	\$96,000	\$98,000	\$100,000
Training	\$2,000	\$2,000	\$1,000	\$1,000	\$1,000
Operating expenses	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000
Vehicle²	\$0	\$0	\$0	\$0	\$0
Total	\$96,000	\$98,000	\$99,000	\$101,000	\$103,000
	2013	2014	2015	2016	2017
Implementation of Part IV by GSSPA					
Salaries and benefits (1 contract FTE RMO/RMI)	\$86,000	\$88,000	\$90,000	\$92,000	\$93,000
Training	\$2,000	\$2,000	\$1,000	\$1,000	\$1,000
Operating expenses	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000
Vehicle	\$4,000	\$3,000	\$3,000	\$2,000	\$2,000
Total	\$94,000	\$95,000	\$96,000	\$97,000	\$98,000

Dollar amounts have been rounded to the nearest thousand.

¹ RMO duties to be assigned to existing staff and RMI function will require one contract position equivalent to a Source Control Officer. Salary has been inflated using core inflation target of 2%.

² No additional vehicle required as current fleet will be redeployed.

Summary

CGS is responsible for implementing most of the policies in the Greater Sudbury Source Protection Plan. CGS is also the mandated default entity for implementing and enforcing the Part IV policies.

Citing similar advantages to those described above, most of the medium to large municipalities in Ontario have chosen to retain their Part IV enforcement authority. Municipal enforcement is associated with the potential for significant operational efficiencies and cross-divisional collaboration, and the consequent opportunities for better protecting municipal drinking water sources.

Recommendation

Whereas Council has expressed the desire to protect municipal drinking water sources,

Whereas Council has expressed the desire for greater efficiencies in City operations,

Whereas the Province has delegated enforcement of Part IV of the Clean Water Act to municipalities,

BE IT RESOLVED THAT Council accept the report and recommendation that Enforcement of Part IV of the Clean Water Act be maintained by the City of Greater Sudbury as set out in the report from the General Manager of Infrastructure Services dated July 3, 2012;

City's Source Water Protection Plan Approved

The City of Greater Sudbury is pleased to announce its Source Water Protection Plan has been approved by the Ministry of the Environment and Climate Change.

The province has amended the Clean Water Act (Ontario Regulation 287/07) to include requirements involving preparation and implementation of source water protection plans.

The Greater Sudbury's Source Water Protection Plan is designed to protect existing and future sources of municipal drinking water. Along with the Clean Water Act and regulations, the plan also enables new authorities to address threats to drinking water sources.

"Now that the Plan has been approved at the provincial level, we can move forward presenting City Council with the necessary by-laws needed to enforce the plan," said Nick Benkovich, City of Greater Sudbury Director of Water/Wastewater Services.

"We will continue to work with community partners to ensure a smooth transition as changes take effect over the coming months and years."

The implementation plan will be presented at an upcoming meeting of City Council.

More information on Source Water Protection Plans and the Clean Water Act can be found on the Ministry's website at www.ene.gov.on.ca.

To view the Greater Sudbury's Source Water Protection Plan, please visit the website at www.greatersudbury.ca/sourcewater.

-30-

Media contact:

Shannon Dowling, Corporate Communications

City of Greater Sudbury, 705-674-4455, ext. 2539

Facebook : www.facebook.com/greatersudbury

Twitter : @greatersudbury

By-law 2015-xx

A By-Law of the City of Greater Sudbury respecting Enforcement of the *Clean Water Act*, 2006

Whereas section 5 of the *Municipal Act, 2001*, S.O. 2001, c. 25 requires that a municipal power be exercised by by-law;

And Whereas section 55 of the *Clean Water Act, 2006*, S.O. 2006, c. 22 provides that a municipality may pass by-laws prescribing classes of risk management plans and classes of risk assessments, establishing and governing an inspection program to enforce Part IV of that Act, providing for applications under certain sections of that Act and requiring applications to be accompanied by plans, specifications, documents and other information, prescribing fees for applications, acceptances, approvals, issuance of notices and inspections, prescribing forms respecting risk management plans, acceptances of risk assessments and notices, and providing for their use;

And Whereas section 10 of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a municipality may pass by-laws respecting the environmental well-being of the municipality and the health, safety and well-being of persons;

And Whereas section 391 of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a municipality may impose fees or charges on persons for services or activities provided or done by the municipality, whether the service or activity is mandatory or not;

And Whereas Council of the City of Greater Sudbury adopted the report of the General Manager of Infrastructure Services presented to the Community Services Committee dated February 2, 2015;

Now therefore the Council of the City of Greater Sudbury hereby enacts as follows:

PART 1: INTERPRETATION

Definitions

1. (1) In this By-law:

“Act” means the *Clean Water Act, 2006*, S.O. 2006, c. 22 as amended;

“Applicant” means a Person making application pursuant to Part IV of the Act or this By-law;

“City” means the municipal corporation of the City of Greater Sudbury or the geographic area of the City of Greater Sudbury, as the context requires;

“City Council” means the municipal council of the City of Greater Sudbury;

“Minister” means the Minister of the Environment and Climate Change or such other member of the Executive Council as may be assigned the administration of the Act under the *Executive Council Act*;

“Person” includes any natural person, firm, partnership, association, corporation, company or organization of any kind;

“Property Owner” means the registered owner of the property and includes a lessee, mortgagee in possession and the Person in charge of the property;

“Risk Management Inspector” means a Risk Management Inspector appointed by by-law of the City for the purpose of enforcing the Act;

“Risk Management Official” means a Risk Management Official appointed by by-law of the City for the purpose of enforcing the Act;

“Records Retention By-law” means a by-law of the City establishing retention

periods for records of the municipality;

“Risk Assessment” has the same meaning as defined in the Act;

“Risk Management Plan” has the same meaning as defined in the Act;

“Source Protection Plan” means the City of Greater Sudbury Source Protection Plan approved by the Minister in accordance with this Act;

“Supporting Documents” means any or all of forms, documents, plans, specifications, drawings, surveys, expert or technical reports, and other information;

“Verification Inspection” means an inspection and any subsequent inspection performed by a Risk Management Inspector to verify compliance with a warning or an order issued under the Act; and

“Zoning By-law” means a City By-law passed under the authority of section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13.

PART 2: ENFORCEMENT

2. (1) Enforcement of the Act shall be the responsibility of the City and enforcement shall be performed by the Risk Management Official and Risk Management Inspector in accordance with Part IV of the Act.

(2) The Risk Management Official shall, where required by the Act, receive and consider:

- a. Applications for a review to determine whether a notice shall be issued pursuant to section 59 of the Act,
- b. Applications for establishment of and agreements to Risk Management Plans and amendments to Risk Management Plans,
- c. Applications for acceptances of Risk Assessments, and

- d. Applications to obtain consent for transfer of a Risk Management Plan and agreement.

PART 3: APPLICATIONS

General Requirements for Making Application

3. (1) Every Applicant, in addition to meeting all other application requirements set out in this By-law and the Act, shall:

- a. make application on the prescribed form in writing, or where applicable electronically, and such application shall include:
 - i. the legal description, municipal address, assessment roll number, and where appropriate, the unit number of the property where the Applicant is engaging or proposes to engage in an activity or land use and which forms the subject of the application;
 - ii. the name, address, email address and telephone number of the Applicant and the Property Owner, and if the Property Owner is not the Applicant, the Applicant's name, address and telephone number and the signed statement of the Property Owner consenting to the application;
 - iii. identify and describe the activity or land use in which the Applicant is engaging or proposes to engage and provide Supporting Documents which show the location where the Applicant is engaging or proposes to engage in that activity or land use;
 - iv. such additional Supporting Documents as may be required by the Risk Management Official;
 - v. contain the Applicant's declaration as to the truth of the contents of the

application; and

vi. payment of the prescribed fee, where applicable; and

b. submit the application to the Risk Management Official.

4. (1) Each application shall, unless otherwise specified by the Risk Management Official, be accompanied by one additional copy of the application in order for the application to be deemed as complete.

5. (1) Plans, specifications or drawings submitted by the Applicant as part of the application shall be legible and drawn to scale on paper or in an electronic medium approved by the Risk Management Official. If so required by the Risk Management Official, the plans, specifications or drawings shall be submitted in an electronic medium approved by the City.

(2) If a survey is required by the Risk Management Official, the survey required shall be a current survey certified by a registered Ontario Land Surveyor and a copy of the survey shall be filed with the Risk Management Official.

Application for Notice Issued Pursuant to Section 59 of the Act

6. (1) In addition to complying with sections 2, 3, 4 and 5, when applying for a notice issued pursuant to section 59 of the Act, the Applicant shall submit Supporting Documents that contain sufficient information to establish whether the activity or land use in which the Applicant is engaging or proposes to engage is subject to sections 57, 58 or 59 of the Act.

Application for Establishment of or Agreement to a Risk Management Plan or an Agreement to Amend a Risk Management Plan

7. (1) In addition to complying with sections 2, 3, 4 and 5, when applying for an

agreement to a Risk Management Plan, an agreement to an amendment to a Risk Management Plan, or establishment of a Risk Management Plan, the Applicant shall submit:

- (a) Supporting Documents that contain sufficient information for the Risk Management Official to agree to, agree to amend or establish a Risk Management Plan; and
- (b) where applicable, the proposed Risk Management Plan or amendment to the Risk Management Plan.

Application for Acceptance of Risk Assessment

8. (1) In addition to complying with sections 2, 3, 4 and 5, when applying for an acceptance of a Risk Assessment, the Applicant shall submit:
- (a) Supporting Documents that contain sufficient information for the Risk Management Official to accept the Risk Assessment; and
 - (b) the Risk Assessment.

Authority to Delete Requirement

9. (1) Where compliance with all of the requirements for an application is unnecessary or unreasonable, the Risk Management Official may, in cases where the Risk Management Official deems appropriate and permissible at law, authorize deletion of one or more of the requirements provided in this By-law provided that the intent and purpose of this By-law and the Act are maintained.

Incomplete Application

10. (1) Where the Risk Management Official determines that an application is incomplete, the Risk Management Official may:

(a) commence processing of the application if the Applicant acknowledges that the application is incomplete; or

(b) refuse to process the application.

11.(1) An application shall be deemed to be incomplete if:

(a) any of the prescribed information or documentation, including additional information or documentation or Supporting Documents, is not submitted to the Risk Management Official with the application; or

(b) the required fees have not been paid in full.

PART 4: ACCEPTANCES AND AGREEMENTS

12.(1) Where the Applicant has complied with this By-law and where authorized by the Act, the Risk Management Official may:

(a) execute a notice issued pursuant to section 59 of the Act,

(b) execute an agreement to a Risk Management Plan or amendment to a Risk Management Plan, or

(c) execute an acceptance of a Risk Assessment.

13.(1) Every agreement to a Risk Management Plan or agreement to an amendment to a Risk Management Plan shall include:

(a) as a term of the agreement, that the Applicant shall indemnify the City;

(b) the agreed upon Risk Management Plan or amendment to a Risk Management Plan as a schedule to the agreement;

(c) the signature of the Applicant or its duly authorized signing officers; and

(d) such additional terms, conditions or information as deemed appropriate by the Risk Management Official in the Risk Management Official's sole determination.

14.(1) Every acceptance of a Risk Assessment shall:

(a) include the Risk Assessment as a schedule to the acceptance letter.

PART 5: TERMINATION OR REVOCATION

15.(1) The Risk Management Official may, in writing, terminate an agreement to a Risk Management Plan or amendment to a Risk Management Plan or revoke acceptance of a Risk Assessment:

- (a) if it was issued on mistaken, false or incorrect information; or
- (b) if it was issued in error.

(2) Prior to terminating an agreement or revoking an acceptance, the Risk Management Official may serve a notice by personal service or registered mail on the Person with whom the agreement is made or the Person whose Risk Assessment was accepted at the last known address of the Person, and following a 30 day period from the date of service, the Risk Management Official may revoke the agreement or acceptance if the grounds for termination or revocation still exist without further notice.

(3) Within 30 days from the date of service of a notice under this Part, the Person with whom the agreement is made or the Person whose Risk Assessment was accepted may submit, with the prescribed fee, a request in writing that the Risk Management Official defer the termination or revocation by stating reasons why the agreement should not be terminated or the acceptance revoked. Having

regard to the Act or any applicable law, the Risk Management Official may, in writing, allow one deferral for a period of up to one year in the sole discretion of the Risk Management Official.

PART 6: TRANSFER OF RISK MANAGEMENT PLAN

16. (1) A person may submit, along with the prescribed fee, an application to the Risk Management Official to obtain consent to have a Risk Management Plan and agreement transferred to a different Person by completing and submitting the prescribed form and any Supporting Documents required by the Risk Management Official.

(2) A transfer shall not be effective until the Risk Management Official has provided consent for the transfer in writing.

PART 7: FEES

User Fees

17. (1) Fees shall be calculated in accordance with the amount set out in column B of Schedule "A" and the fees for activities conducted in accordance with this By-law and the Act shall be determined by the Risk Management Official.

(2) Where the fee is charged as an hourly rate, fees will be charged for the number of hours used to:

- (a) process and review the entire contents of an application, including reviewing Supporting Documents, time spent for the preparation and review of reports by Persons retained by the Risk Management Official and also includes time spent issuing a notice, agreement, or acceptance; and
- (b) conduct a Verification Inspection, including travel to and from inspections.

(3) Fees for matters not described in this By-law shall be a reasonable fee determined by the Risk Management Official.

(4) A decision of the Risk Management Official under this section is final.

Due and Payable

18. (1) Fees owing to the City are due and payable, where applicable, upon:

- (a) application for a notice issued pursuant to section 59 of the Act,
- (b) application for an agreement to a Risk Management Plan,
- (c) application for establishment of a Risk Management Plan,
- (c) application for an agreement to an amendment of a Risk Management Plan,
- (e) upon notice of the order establishing a Risk Management Plan under subsection 58(10) of the Act,
- (f) application for acceptance of a Risk Assessment,
- (g) application for a Transfer of Application,
- (h) completion of a Verification Inspection, and
- (i) upon commencement of the work caused to be done by the Risk Management Official pursuant to section 64 of the Act.

(2) Where the actual cost of the activities described in subsection (1) is not known by the Risk Management Official, the Risk Management Official will issue an estimate, the amount of which is due and payable as described in subsection (1).

(3) Where the actual cost of any of the activities described in subsection (1) is less than the amount estimated by the Risk Management Official, the Risk Management Official shall refund the amount of the difference in the amount paid by the Applicant and the actual cost to the Applicant.

(4) Where the actual cost of any of the activities described in subsection (1) is more than the amount estimated by the Risk Management Official, the amount of the difference between the amount paid by the Applicant and the actual cost is due and payable by the Applicant forthwith and the Risk Management Official may refuse to further process the application by the Applicant or conduct any further inspections until payment of the amount.

Refunds

19.(1) Subject to subsection (2), in the case of a withdrawal or abandonment of an application or in the event of the refusal of the City to agree to a Risk Management Plan or amendment to a Risk Management Plan, or to accept a Risk Assessment, and upon written request by the Applicant, the Risk Management Official shall determine the amount of paid fees that may be refunded to the Applicant, if any, and the decision of the Risk Management Official is final.

(2) In any event, no refund shall be made:

- (a) after a period ending 1 year after the application;
- (b) if the calculated refund for any individual application is less than \$110.00; or
- (c) for the withdrawal or abandonment of an application for a notice issued pursuant to section 59 of the Act.

Addition to Tax Roll

20.(1) If payment of any amount owing in accordance with this By-law is not made within thirty days of the date upon which the amount owing becomes due and payable, the City Treasurer may, in addition to any other remedy the City may

have at law, add the balance outstanding to the tax roll of property and collect the balance outstanding in the same manner as municipal taxes.

PART 8: ADMINISTRATION

Delegation

21.(1) Subject to the provisions of this By-law and the Act, the administration of this By-law is assigned to the Risk Management Official who is also delegated the authority to make all decisions required of the Risk Management Official under this By-law and to perform all administrative functions identified herein and those incidental to and necessary for the due administration of this By-law and for the enforcement of Part IV of the Act, including:

- (a) subject to the Act, the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56, the Records Retention By-law and any other applicable legislation or by-law, decisions relating to the disposal, use and retention of records;
- (b) collection of personal information for the purpose of enforcing Part IV of the Act; and
- (c) prescribing, from time to time, forms for use by the Risk Management Official, Risk Management Inspectors and Persons making application under this Act.

(2) Subject to the provisions of this By-law and the Act, the Risk Management Official may delegate the performance of any one or more of the Risk Management Official's functions under this By-law to one or more City employees or contractors as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation.

PART 9: OWNERSHIP OF RECORDS

22. (1) Records submitted to or required by the Risk Management Official or filed with the City in accordance with this By-law or the Act are the property of the City.

PART 10: MISCELLANEOUS

Interpretation

23. (1) Whenever this By-law refers to a natural person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.

(2) References to items in the plural include the singular, as applicable.

(3) The words “include”, “including” and “includes” are not to be read as limiting the phrases or descriptions that precede them.

(4) Headings are inserted for ease of reference only and are not to be used as interpretation aids.

(5) Terms not defined in this by-law shall have the meanings ascribed to them in the Act.

(6) Specific references to laws in the By-law are printed in italic font and are meant to refer to the current laws applicable at the time the By-law was enacted, as they are amended from time to time.

(7) Any reference to periods of time, stated in numbers of days, shall be deemed applicable on the first business day after a weekend or statutory holiday if the expiration of the time period occurs on a weekend or statutory holiday.

24. (1) Whenever this By-law refers to an Act of the Province of Ontario or Canada, the reference includes reference to regulations under that Act.

Schedules

25. (1) Each of the following Schedules is incorporated into and forms a part of this By-law:

(a) Schedule "A": Prescribed Fees

Severability / Conflict

26. (1) If any section, subsection, part or parts of this By-law is declared by any court of law to be bad, illegal or *ultra vires*, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

Compliance with Other Laws

27. (1) Nothing in this By-law relieves any Person from complying with any provision of any federal or provincial legislation or any other by-law of the City.

(2) Where a provision of this by-law conflicts with the provisions of another by-law in force in the City of Greater Sudbury, the provision that establishes the higher standard to protect the health, safety and welfare of the public shall prevail.

Short Title

28. (1) This By-law shall be known as the "Source Protection By-law".

Effective Date

29. (1) This By-law shall come into force on April 1, 2015.

Expiry Date

30.(1) This By-law expires at the end of March 31, 2020.

Read and Passed In Open Council this 10th day of March, 2015

Mayor

Clerk

DRAFT

SCHEDULE “A”
PRESCRIBED FEES

1. (1) Fees

DESCRIPTION OF ACTIVITY FOR WHICH FEE IS PRESCRIBED	AMOUNT OF FEE
A review to determine whether a notice shall be issued pursuant to section 59 of the Act	\$35.00 per review
Agreement to a Risk Management Plan	\$55.00 per hour
Agreement to an Amendment to a Risk Management Plan	\$55.00 per hour
Establishment of a Risk Management Plan (whether upon application or in response to a failure to agree to a Risk Management Plan)	\$55.00 per hour
Acceptance of a Risk Assessment	\$55.00 per hour
Verification Inspection	\$55.00 per hour
Obtain Consent to Transfer a Risk Management Plan and Agreement	\$55.00 per hour