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Friends of Rural Communities and the Environment

REGULATORY ENVIRONMENT

The *Aggregate Resources Act*

FORCE begins by noting that the *Aggregate Resources Act* is the leading statute for obtaining approval for new aggregate developments. We acknowledge that it is provincially administered by the Ministry of Natural Resources (MNR). Under the ARA, the proposed aggregate development requires a Class A licence, which is the most onerous form of ARA approval, because the proponent seeks to extract more than 25,000 tonnes per year from the quarry. Although no application for an ARA licence has been submitted at this time, the proponent has indicated his intention to file a licence application during the City OPA and rezoning process. Further, we believe that there are relevant take-aways from the standards as the Peer Review Team and CART consider the potential impacts of the proposed aggregate development on water quantity and quality.

The ARA makes provisions for regulations and standards which are legally binding. We understand that the most recent standards were enacted in 1997. For a proposed Class A aggregate development extracting below the water table, the applicable standards are found under Category 2. These standards cover three major topics: applications, conditions of approval and notification and consultation.

We further understand that the ARA standards represent a significant advance on the approach taken to ARA applications prior to their existence, despite their limitations. We note that for hydro-geology, the standards do *not* prescribe a numeric zone around the quarry; rather, they require consideration of all features within the *zone of influence* around the quarry. Although the standards do not define this concept, we understand that it has come to have an accepted meaning in hydro-geology and refers to the area around a quarry where, because of dewatering at the quarry, pre-existing groundwater levels are lowered during the operating life of the quarry.

We also note that the ARA itself imposes application compliance standards early in the licensing process before the Minister makes any decision regarding a licence. The critical clause is as follows:

> "11(1) If an application for a licence complies with this Act and the regulations, the Minister shall require the applicant to comply with the prescribed notification and consultation procedures."

FORCE has already corresponded with the Minister with respect to section 11 of the Act and our expectation that a comprehensive review of the application for compliance, prior to public notification and consultation, be undertaken. The *Planning Act* is less clear with respect to the degree of completeness of applications. Nonetheless, the zone of influence and the impact therein are crucial issues for our communities and should be part of the OPA, rezoning and licence application processes.

Given that there is currently no ARA licence application, we will not speak to the ARA further or in more detail, at this time.

The *Planning Act*: 1997 Provincial Policy Statement, 2005 Provincial Policy Statement and the Greenbelt Plan

We also note that the *Planning Act* and the ARA have been designed to provide an integrated approach to aggregate approvals. While the ARA contains licensing requirements for all aggregate operations, it also provides that no licence may be issued where the zoning for the property does not permit the operation. Thus, through zoning, the *Planning Act* has a "trump card" over the ARA. In this case, the zoning is set out in the Town of Flamborough Zoning By-law.

Zoning is the critical instrument under the *Planning Act* in that all new developments must comply with applicable zoning by-laws. Where a proposed development does not comply with the applicable zoning by-law, the *Planning Act* requires that there be an application for zoning amendment or rezoning and that this application be approved prior to the development proceeding.

Zoning by-laws are legal documents written to provide enforceable rules. Though very detailed on what is or is not permitted within a specific zone, we have learned that zoning by-laws do not address *whether* a zoning application should be granted or refused. Where rezoning is required, the *Planning Act* further requires that the rezoning *conform* to all applicable official plans (s. 24). In most areas of southern Ontario, there are at least two levels of official plan: plans by upper tier governments such as the former regional municipality of Hamilton and plans by lower tier governments such as the former Town of Flamborough. Though a lower-tier plan must conform to an upper tier plan, the upper tier plan can specify that conformity exists where the lower tier plan uses more stringent policies than the upper tier plan.

Before proceeding to an examination of these documents, we believe it valuable to comment on the extent of planning policies in evidence. The *Planning Act* appears to have permitted, if not encouraged, large numbers of statements of planning policy at the provincial level as well as at the regional and local levels. Furthermore, while it has resulted in some statements of priorities between otherwise seemingly inconsistent policies, it has lacked a comprehensive approach to setting priorities. This system has encouraged an application-specific balancing of policies where municipal decision-makers make a decision on the balance relevant to the local community but where an appellate tribunal, such as the Ontario Municipal Board or even the Provincial Cabinet (the Lieutenant Governor-in-Council) has had the final say on the balance. This reality may very well be the case with this application but we note the strong convergence of provincial and municipal interests around the protection of water quality and quantity.

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1997 Provincial Policy Statement

The 1997 Provincial Policy Statement (PPS) clearly applies to this application and does so in the statutory context that the municipality shall "have regard to" its provisions. We understand that the City of Hamilton is to review the application and to have regard for the policy sections which are relevant. For purposes of our analysis here regarding hydro-geology and potential water impacts, Policy 2.4 describes the treatment of water quality and quantity. Policy 2.4.1 provides the provincial approach to water resources. As we read it, it provides an *absolute* commitment to the following:

> "The quality and quantity of groundwater and surface water and the function of sensitive groundwater recharge/discharge areas, aquifers and headwaters *will be* protected or enhanced."

The 1997 PPS defines "quality and quantity (of water)" as follows:

> "…is measured by indicators such as minimum base flow, oxygen levels, suspended solids, temperature, bacteria, nutrients, hazardous contaminants, and hydrologic regime".

Because there are no apparent internal or external conditions attached to Policy 2.4, as compared to other sections of the 1997 PPS, we conclude that it is the strongest policy in that particular PPS version.

The Greenbelt Plan and the 2005 PPS

The applicability of the 2005 PPS to this application may be less clear than first glance would suggest. Indeed, its effective date is March 1, 2005 and its transition provisions do not apply to applications prior to February 28, 2005 suggesting it does not apply, in and of itself. The Greenbelt Plan does apply to the application, however, by virtue of O. Reg. 61/05 and the Plan, itself, incorporates direct sections of the PPS 2005 and uses definitions from PPS 2005, clearly referenced in its Definitions Section beginning at p47. This suggests that there is applicability, at least, in definition and interpretation as well as being a barometer of the Province's desired directions for protection of water quality and quantity. The latter will be elaborated upon in the section below on the Province's source water protection planning initiative.

The 2005 PPS provides a major strengthening of the above noted water policies that are mirrored in the Water Resource System Policies (3.2.3) and other sections of the Greenbelt Plan, as follows. We will refer to the Greenbelt Plan provisions but also cite PPS 2005 relevant terms and definitions.

The broad objectives of the Greenbelt Plan in terms of conservation biology and feature structure and function are delineated clearly in the descriptions of the geography's systems. The *Natural Heritage System* includes areas of the Protected Countryside with the highest concentration of the most sensitive and/or *significant* natural features and

functions. It is explicit that these areas need to be managed as a connected and integrated natural heritage system given the functional inter-relationships between them and the fact that this system builds upon the natural systems contained in the Niagara Escarpment Plan (NEP) and the Oak Ridges Moraine Conservation Plan (ORMCP). Equally, the *Water Resource System* is made up of both ground and surface water features and their associated functions, which provide the water resources necessary to sustain healthy aquatic and terrestrial ecosystems and human water consumption. While the NEP and ORMCP contain elements that are fundamental to the Water Resource System, the Greenbelt Plan is clear that the Protected Countryside includes several areas of hydrologic significance including the upper reaches of watersheds draining to Lake Ontario to the west of the Niagara Escarpment. The importance of these systems has led to the development of overall and specific protection policies.

First, in the Greenbelt Plan, there are new overarching Natural Heritage System policies in section 3.2.2 which are relevant to hydrologic features and functions:

> "3.2.2.3 New *development* or *site alteration* in the Natural Heritage System shall demonstrate that:
>
> a) There will be no negative effects on *key natural heritage features* or *key hydrologic features* or their functions
>
> b) *Connectivity* between *key natural heritage features and key hydrologic features* is maintained, or where possible, enhanced for the movement of native plants and animals across the landscape
>
> c) The removal of other natural features not identified as *key natural heritage features and key hydrologic features* should be avoided. Such features should be incorporated into the planning and design of the proposed use, wherever possible…"

Section 3.2.4 specifies that *key natural heritage features* include:

- Significant habitat of endangered species, threatened species and special concern species
- Fish habitat
- Wetlands
- Life Science Areas of Natural and Scientific Interest (ANSIs)
- Significant valleylands
- Significant woodlands
- Significant wildlife habitat
- Sand barrens, savannahs, and tallgrass prairies, and
- Alvars

and that *key hydrologic features* include:

- Permanent and intermittent streams
- Lakes (and their littoral zones)
- Seepage areas and springs, and
- Wetlands.

As we read this, the commitments to no negative effects and connectivity for key natural heritage and key hydrologic features are *absolute* commitments. While conditional, the treatment of other features is directional.

> "3.2.2.4 Where non-agricultural uses are contemplated within the Natural Heritage System, applicants shall demonstrate that:
>
> a) At least 30 percent of the *total developable area* of the site will remain or be returned to *natural self-sustaining vegetation*, recognizing that section 4.3.2 establishes specific standards for the uses described there
>
> b) *Connectivity* along the system and between *key natural heritage and key hydrological features* located within 240 metres of each other is maintained or enhanced…"

Second, in the Greenbelt Plan, and consistent with the PPS 2005, we find that there are new overarching Water Resource System policies in section 3.2.3 which apply throughout the Protected Countryside:

> "1. All planning authorities will provide for a comprehensive, integrated and long-term approach for the protection, improvement or restoration of the quality and quantity of water. Such an approach will consider all hydrologic features and functions and include a systems approach to the inter-relationships between and/or among recharge/discharge areas, aquifers, headwaters and surface waters (e.g. lakes as well as rivers and streams, including intermittent streams).
>
> 2. Watersheds are the most meaningful scale for hydrological planning and municipalities, together with conservation authorities, should ensure that watershed plans are completed and used to guide planning and development decisions within the Protected Countryside.
>
> 3. Cross-jurisdictional and cross-watershed impacts need to be considered in the development of watershed plans. The development of watershed plans and watershed management approaches in the Protected Countryside should be integrated with watershed planning and management in the Niagara Escarpment Plan (NEP) and Oak Ridges Moraine Conservation Plan (ORMCP) areas and beyond the Greenbelt.
>
> 4. Municipalities shall, in accordance with provincial direction related to the protection of source water, protect vulnerable surface and groundwater areas, such as wellhead protection areas, from development that may adversely affect the quality and quantity of ground and surface waters."

Again, the comprehensive, integrated and long-term approach for the protection, improvement or restoration of the quality and quantity of water and the protection of vulnerable surface and groundwater areas, such as wellhead protection areas, an illustrative but not exhaustive listing example, represent an *absolute* commitment.

There are new definitions, some of which include:

> "Connectivity means: the degree to which *key natural heritage or key hydrologic features* are connected to one another by links such as plant and animal movement corridors, hydrologic and nutrient cycling, genetic transfer, and energy flow through food webs
>
> Hydrologic function means: the functions of the hydrologic cycle that include the occurrence, circulation, distribution and chemical and physical properties of water on the surface of the land, in the soil and underlying rocks, and in the atmosphere, and water's interaction with the environment including its relation to living things (PPS 2005)
>
> Negative impact(s) means:
> (a) in regard to water, degradation to the quality or quantity of surface or groundwater, key hydrologic features or vulnerable areas, and their related hydrologic functions, due to single, multiple, or successive development or site alteration activities; (PPS 2005)
>
> Vulnerable means: surface and groundwater that can be easily changed or impacted by activities or events, either by virtue of their vicinity to such activities or events or by permissive pathways between such activities and the surface and/or groundwater (PPS 2005)
>
> Watershed Plan: is a plan used for managing human activities and natural resources in an area defined by watershed boundaries. Watershed plans shall include, but are not limited to, the following components:
> (a) a water budget and conservation plan
> (b) land and water use and management strategies
> (c) a framework for implementation
> (d) an environmental monitoring plan
> (e) requirements for use of environmental management practices and programs
> (f) criteria for evaluating the protection of water quality and quantity and key hydrologic features and functions; and
> (g) targets on a watershed or sub-watershed basis for the protection and restoration of riparian area and the establishment of natural self-sustaining vegetation
>
> Wellhead protection areas mean the surface and subsurface areas surrounding a water well or well field that supplies a public water system and through which contaminants are reasonably likely to move so as eventually to reach the water well or water field."

There are new protection policy elements delineated in the Greenbelt Plan with respect to key natural heritage and hydrologic features in section 3.2.4. Relevant features are

specified as noted above as are development and site alteration prohibitions/restrictions, including minimum vegetation protection zones and required analyses.

> "1. *Development* or *site alteration* is not permitted in *key hydrologic features* and *key natural heritage features* within the Natural Heritage System, including any associated *vegetation protection zone*, with the exception of:…
> c) infrastructure, aggregate, recreational, shoreline and *existing uses* as described by and subject to the general policies of section 4 of this Plan…
> 4. In the case of *wetlands, seepage areas and springs, fish habitat, permanent and intermittent streams, lakes and significant woodlands,* the minimum *vegetation protection zone* shall be a minimum of 30 metres wide measured from the outside boundary of the *key natural heritage feature* or *key hydrologic feature*.
> 5. A proposal for new *development* or *site alteration* within 120 metres of a *key natural heritage feature* within the Natural Heritage System or a *key hydrologic feature* anywhere within the Protected Countryside requires a natural heritage evaluation and hydrological evaluation which identify a *vegetation protection zone* which:
> a) is of sufficient width to protect the *key natural heritage feature* or *key hydrologic feature* and its functions from the impacts of the proposed change and associated activities that may occur before, during and after construction, and where possible, restore or enhance the feature and/or its function and
> b) is established to achieve and be maintained as *natural self-sustaining vegetation…*

Notwithstanding the Natural System policies of section 3.2 of the Greenbelt Plan, within the Natural Heritage System, we note that mineral aggregate operations are subject to the following Non-Renewable Resource Policies in section 4.3.2 and we cite those references specific to water quality and quantity and hydrologic features/functions:

> "3 a) No new mineral aggregate operation…will be permitted in the following *key natural heritage features and key hydrologic features:*
> i. *Significant wetlands…*
>
> b) An application for a new mineral aggregate operation…may only be permitted in other *key natural heritage features and key hydrologic features* not identified in 4.3.2.3(a) and any *vegetation protection zone* associated with such other feature where the application demonstrates:
> i. How the Water Resource System will be protected or enhanced and
> ii. That the specific provisions in 4.3.2.5 (c), (d) and 4.3.2.6 (c) have been addressed and that they will be met by the operation
>
> c) Any application for a new mineral aggregate operation…shall be required to demonstrate:

i. How the *connectivity* between *key natural heritage features* and *key hydrologic features* will be maintained before, during and after the extraction of mineral aggregates….
iii. How the Water Resource System will be protected or enhanced"

These policies too carry an *absolute* commitment to protection or enhancement of the Water Resource System and to connectivity between key natural heritage and hydrological features.

External connections beyond the Greenbelt Plan are clearly of importance too and are delineated in section 3.2.5 where it is noted that the Natural Heritage System is connected to local, regional and provincial scale natural heritage, water resource and agricultural systems beyond the boundaries of the Greenbelt. These connections are to be supported. Indeed, the Greenbelt Plan specifies that federal government, municipalities, conservation authorities, other agencies and stakeholders should:

"1. Consider how activities and land use change both within and abutting the Greenbelt relate to the areas of external connections identified in this Plan
2. Promote and undertake appropriate planning and design to ensure that external connections are maintained and/or enhanced and
3. Undertake watershed based planning which integrates supporting ecological systems with those systems contained in this Plan."

It notes further that the river valleys that run through existing or approved urban areas and connect the Greenbelt Plan to inland lakes and the Great Lakes are a key component of the long-term health of the Natural Heritage System. Again, municipalities and conservation authorities are asked to:

"1. Continue with stewardship, remediation and appropriate park and trail initiatives which maintain and, to the extent possible, enhance the ecological features and functions found within these valley systems.
2. In considering land conversions or redevelopments in or abutting a river valley, strive for planning approaches that:
a) establish or increase the extent or width of *vegetation protection zones and natural self-sustaining vegetation* especially in the most ecologically sensitive areas (i.e. near the streams and below the *stable top of bank*)
b) increase or improve *fish habitat* in streams and the adjacent riparian lands
c) include landscaping and habitat restoration that increases the ability of native plants and animals to use valley systems as both *wildlife habitat* and movement corridors…
3. Integrate watershed planning and management approaches for lands both within and beyond the Greenbelt."

FORCE has tabled its significant and substantive concerns regarding the hydro-geological analysis and potential drinking water quantity and quality issues in the INTERRA Engineering Ltd report, as part of this submission. We reiterate those concerns here, and also note the Greenbelt Plan limitations on lake based water

extensions and expansions contained within the relevant Infrastructure Policies. The Greenbelt Plan states clearly in section 4.2.2.2 that "where settlements do not currently have Great Lake or Lake Simcoe based water and sewage services, extensions to, or expansions of existing Great Lake or Lake Simcoe based services to such settlements is not permitted". There is a public health caveat provided – "unless such servicing is required to address failed individual on-site sewage or water services, or to ensure the protection of public health where it has been determined by a medical officer of health (or health authority) that there is a public health concern associated with existing services within the settlement".

The potential negative risk for both drinking water quantity and quality from the proposed aggregate development, which already concerns individual well owners and homeowners in Carlisle who access their supply from the municipal wellheads, is magnified given the limitations on extension of Great Lakes water systems. This suggests that local water supplies must have "failed" or become a "public health risk" - and have been "determined" to have become so by an authority - *before* a decision to extend the lake based system from Waterdown could even be made. Given the time required for the municipality to undertake a Class EA for the water/sewer project and to conform to the Greenbelt Plan Infrastructure Policies, it would be years before service could be restored in a meaningful way. In the interim, residents might face the prospect drilling new deeper wells and of even more truck traffic volume to fill the Carlisle water tower and/or to fill individual cisterns. Needless to say, the cost of the infrastructure replacement would also be significant and likely born by the municipal taxpayer. No information is available from the proponent in the Planning Report or its appendices regarding financial arrangements and/or the strength of surety bonds or covenants in such a scenario. Further, it is reasonable to expect that the proponent would want causality determined before he was prepared to pay such a bill and it is reasonable to expect that that determination would not be simple given Carlisle's recurring water challenges.

Bottom-line, FORCE believes that the new policies relating to drinking water quality and quantity, and hydrologic features and functions, in the Greenbelt Plan strengthen the environmental protection for water quality and quantity and key hydrologic features and their functions. Because of their currency, these policies enhance the policy framework applicable to both the proposed OPA and rezoning.

<u>Upper Tier Plan – Region of Hamilton-Wentworth Official Plan</u>

We also note that the Region of Hamilton-Wentworth Official Plan (OP) addresses water policy in two ways related to the 1997 PPS. First, it references concern for water quality and quantity in policies dealing with other topics (e.g. s.1.2.2.a)ii). Second, it provides a section on groundwater (s.2.3). This contains an explicit test for groundwater protection, as follows:

> 2.3.2 Permit development in Rural Areas only where:
> …

b) cumulative impacts of development including landscape alterations and/or septic system uses will not threaten the quantity or quality of groundwater resources;

This test appears to us to be consistent with the 1997 PPS in providing no limits upon the protection of water quality and quantity.

Source Water Protection Planning

The purpose of source water protection planning has been clearly expressed by the Ontario Government. Protection of our drinking water sources is the first step in a multi-barrier approach to ensuring safe drinking water and to providing improved safeguards for human health. Protecting the quality and quantity of drinking water sources will also help maintain and enhance the ecological, recreational and commercial value of our water resources.

New source water protection planning legislation is expected to be tabled in the Ontario Legislature in the fall 2005 sitting. Public consultation has been undertaken and directions provided through the original Walkerton Inquiry and Justice O'Connor's recommendations, the draft Source Water Protection Legislation (summer 2004), and the Implementation Committee and Technical Expert Committee reports. The three final items, in particular, inform both the legislation anticipated and provincial and municipal consideration of this application.

In particular, FORCE notes Implementation Committee recommendations regarding:

- The status (and primacy) of source water protection plans
- Municipal land use planning decisions being required to be consistent with source water protection plans once a source protection plan is approved by the province and taking the draft source water protection plan's directions into account in the interim
- A process for ensuring consistency between source protection plans and all provincially approved activities that affect drinking water sources in a watershed, regardless of the date of the original approval of the activity
- Land securement measures to be developed to help meet source protection goals across watersheds, including for protective buffers around reservoirs, priority stream segments, wetlands, groundwater recharge areas, wellhead protection areas, and other vulnerable zones; and,
- Development of sector specific best management plans.

With respect to the Technical Experts Committee, FORCE notes:

- the guiding principles outlined,
- the threats assessment framework (including the explicit delineation of threats of provincial concern, such as aggregate activities that penetrate the water table and/or aquifer thereby increasing vulnerability in a direct pathway to current and future drinking water)

- risk identification through watershed description, 25 and 50 year planning horizon water budgets, and protection area delineations (including wellhead protection zones, recharge areas, other vulnerable areas and Time of Travel approaches)
- risk assessment based on semi-quantitative analysis of threat characteristics, vulnerability and population served (including the specific delineation that a significant risk is one that has a high likelihood of rendering a current or future drinking water source impaired, unusable or unsustainable or compromises the effectiveness of a drinking water treatment process, resulting in adverse human health effects)
- risk management approaches, including the recommendation that new development that poses a serious threat to drinking water sources be directed to less vulnerable areas recognizing that it should be easier to address future land use planning issues than to impose significant risk management measures on existing operations
- support for ecological protection to ensure that wetlands and riparian zones are evaluated on a watershed basis and that source protection plans include these areas for protection along with encouragement for provincial ministries, municipalities and conservation authorities to take action to ensure ecological sustainability with respect to source water, even where the water is not used as a source for drinking water; and,
- priority drinking water protection actions by 2008 (including the planning and implementation of programs in jurisdictions that have initiated plans for wellhead protection areas through provincial groundwater studies money).

We note that the City of Hamilton Groundwater Resources Characterization and Wellhead Protection Study (Carlisle) is one of those studies recommended for priority drinking water protection programs. The study is presently with the Ministry of the Environment (MOE) for sign-off. Further, Conservation Halton was among the Conservation Authorities who were allocated a portion of $12.5 million from the Ontario Government in December 2004 to enable them to hire staff, undertake technical studies, and begin to develop local source water protection plans. Conservation Halton has made source water protection a top priority in its draft Strategic Plan.

The *Ontario Water Resources Act*

Given the priority rightly being attached to source water protection, FORCE also believes that the *Ontario Water Resources Act* (OWRA) is relevant to the proposed aggregate development – despite no application having been filed yet. We state this because we believe the considerations of the delegated Director have direct bearing on source water protection and on this case as it pertains to water quality and quantity impacts. It is our opinion that these considerations should occur early in the municipal and provincial approvals process as opposed to later. We believe that the proposed operation will likely trigger two approval requirements from the MOE: (1) the requirement to obtain a permit to take water (PTTW) where the proposed quarry will divert more than 50,000 litres per day to dewater the quarry at depth to extract dry aggregate and (2) the requirement to obtain a sewage work certificate of approval (CofA) where the proposed

quarry will discharge more than 10,000 litres per day of water taken from the quarry floor into the environment – whether as surface water or groundwater.

The focus of the PTTW is water quantity impacts, although water quality impacts are not irrelevant, whereas, the focus of the sewage works CofA is on water quality impacts. The statutory requirements in the OWRA governing applications for a PTTW address whether the taking of water interferes with other existing water takings but they do not require the applicant to avoid such impacts. The issue of interference is left to the discretion of the appointed Director to address via regulation. In 2004, the Provincial Government passed regulation O. Reg. 387/04 to explicitly expand the considerations relevant to a PTTW application to include the following mandatory considerations, where relevant, when a Director is considering an application to cancel, amend or issue a permit to take water. We believe that these considerations have direct bearing on our case.

> "(2) The Director shall consider the following matters, to the extent that information is available to the Director, and to the extent that the matters are relevant to the water taking or proposed taking in the particular case:
>
> 1. Issues relating to the need to protect the natural functions of the ecosystem, including,
>
> i. the impact or potential impact of the water taking or proposed water taking on
>
> A. the natural variability of water flow or water levels,
>
> B. minimum stream flow, and
>
> C. habitat that depends on water flow or water levels, and
>
> ii. ground water and surface water and their interrelationships that affect or are affected by, or may affect or be affected by, the water taking or proposed water taking, including its impact or potential impact on water quantity and quality.
>
> 2. Issues relating to water availability, including,
>
> i. the impact or potential impact of the water taking or proposed taking on:
>
> A. water balance and sustainable aquifer yield, and
>
> B. existing uses of water for large municipal residential systems and small municipal residential systems, both as defined in subsection 1 (1) of Drinking-Water Systems, for sewage disposal, livestock and other agricultural purposes, for private domestic purposes, and for other purposes,
>
> ii. low water conditions, if any,

iii. whether the water taking or proposed water taking is in a high use watershed or a medium use watershed,

A. as shown on the Average Annual Flow Map, or

B. as shown on the Summer Low Flow Map, and

iv. any planned municipal use of water that has been approved,

A. under a municipal official plan in accordance with Part III of the *Planning Act*, or

B. under the *Environmental Assessment Act*.

3. Issues relating to the use of water, including,

i. whether water conservation is being implemented or is proposed to be implemented in the use of the water, in accordance with best water management standards and practices for the relevant sector if these are available,

ii. the purpose for which the water is being used or is proposed to be used, and

iii. if the water is not currently being used, whether there is a reasonable prospect that the person will actually use the water in the near future.

4. Other issues, including,

i. the interests of other persons who have an interest in the water taking or proposed water taking, to the extent that the Director is made aware of those interests, and

ii. any other matters that the Director considers relevant."

The regulation also makes provision to distinguish between high-use and other watersheds, as follows:

"(3) If the proposed water taking is in a high use watershed as shown on the Average Annual Flow Map, the Director shall refuse the application unless,

(a) at the time of the application, the applicant or another person held an unexpired permit to take water; and

(b) the application is for a new permit to authorize the taking of the same or a lesser amount of water at the same location and for the same purpose as was authorized by the unexpired permit.

(4) If the proposed water taking is in a high use watershed as shown on the Summer Low Flow Map, the Director shall refuse the application unless,

(a) the permit includes a condition prohibiting the person from taking water during the six-week period from August 1 to September 11, or during a specified longer period that includes the six-week period; or

(b) at the time of the application, the applicant or another person held an unexpired permit to take water, and the application is for a new permit to authorize the taking of the same or a lesser amount of water at the same location and for the same purpose as was authorized by the unexpired permit.

Conclusion

In conclusion, we believe that the Province of Ontario's, the City of Hamilton's and adjacent municipal jurisdictions' existing duty and pending obligations to protect source water, directly and through their agent, Conservation Halton, are clear and absolute. The regulatory framework is also informative with respect to the footprint and factors that should be considered for hydro-geological impact, to the assurance of ecological and hydrological integrity in the Greenbelt, to the onus and level of demonstration required by the applicant, and to the planning and management/implementation actions necessary by the municipal jurisdictions and/or their agent.