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## CTC Source Protection Region

Source Protection Committee

Ken Petersen  
Provincial Planning Policy Branch  
777 Bay Street, 13th Floor  
Toronto, ON M5G 2E5

January 20, 2019

Dear Mr. Petersen:

Re: Bill 66, Restoring Ontario's Competitiveness Act, 2018 (Schedule 10)  
Proposed Open-For-Business Planning Tool  
New Regulation under the *Planning Act* for Open-For-Business Planning Tool

I am writing in my capacity as Chair of the Credit Valley – Toronto and Region – Central Lake Ontario (CTC) Source Protection Committee (SPC) to provide comments on proposed Bill 66, the Open-For-Business Planning Tool, and the new regulation under the *Planning Act* to implement the Open-For-Business Planning Tool.

The CTC Source Protection Committee is one of nineteen multi-stakeholder committees created through section 7(1) of the *Clean Water Act, 2006*. It was responsible for overseeing the preparation and submission of the Assessment Reports and CTC Source Protection Plan to the Minister of the Environment, Conservation and Parks per the Regulations. Now that the CTC Source Protection Plan has been approved by the Minister and being implemented, the Committee is required to review annual progress reports and oversee necessary amendments to the CTC Source Protection Plan. Consequently, the Committee performs a very important role in the implementation of the *Clean Water Act, 2006* locally and thus, has tremendous interest in the potential local implications of the delivery of the Drinking Water Source Protection Program.

The proposed section 34.1 of the *Planning Act* would give new by-law making powers to municipalities. Since the proposed legislative and regulatory changes do not indicate the specific purpose and types of development that could be captured under section 34.1, and given that section 34.1 would allow the municipalities to exempt the current requirements listed under Section 39 of the *Clean Water Act, 2006*, the Committee feels it necessary to share its concerns. In particular, it finds the possibility of a *Planning Act* amendment to give the Minister of Municipal Affairs and Housing and councils new unchecked discretionary power to facilitate certain development contrary to the *Clean Water Act, 2006* disturbing. This amendment could allow new land uses and activities, including industrial uses, potentially posing significant threats to drinking water, in the most vulnerable areas surrounding municipal drinking water systems; a weakening of the critical public health and safety oversight role of the Committee and its years of dedicated work as manifested in the CTC Source Protection Plan.

As currently drafted, a Section 34.1 Open-For-Business by-law could be enacted anywhere in a municipality without regard for any existing land uses, environmental hazards, features, constraints or established land use planning.

Through the Drinking Water Source Protection Program, vulnerable areas around municipal drinking water systems, and the locations where specific activities could result in a significant threat to a municipal source of drinking water, have been identified. It was incumbent on the nineteen source protection committees to prepare source protection plans to ensure that policies in these plans addressed all potential existing and future significant drinking water threat activities. To prepare these policies, source protection committees had a spectrum of tools including the establishment of risk management plans and prohibition of activities consistent with the intent of Part IV of the *Clean Water Act, 2006*, prescribed provincial instruments such as environmental compliance approvals or permits-to-take water, and/or land use planning. Although the CTC Source Protection Plan has a number of land use planning policies which are complimentary to other policies, such as Part IV and prescribed instrument policies, thereby ensuring a future significant drinking water threat could not become established in the most vulnerable areas to municipal drinking water systems, this redundancy is not in place for all land use planning policies in the Plan. Therefore, enabling municipalities and the Minister of Municipal Affairs and Housing with unchecked discretionary power to circumvent the binding legal effect of section 39 of the *Clean Water Act, 2006* will create critical gaps in the multi-barrier safety net intended to protect Ontario's drinking water.

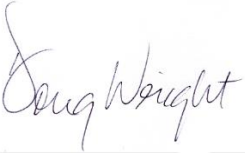
In addition, the Committee is also troubled by the lack of pre-application consultation, notification, and review and appeal processes associated with the proposed addition of section 34.1 of the *Planning Act*. The Province of Ontario has developed a sophisticated land use planning system which has evolved to recognize the need to balance social, economic, and environmental imperatives. Consultation with affected stakeholders and the general public has been enshrined in this planning system. This approach has been proactive and respectful of all interests. Removing the requirement for due process and transparency through the section 34.1 amendment deprives all parties other than the owner, the municipality, and the Minister, of the ability to share their concerns with the proposal, including any critical public health and safety issues that may be present. It is understood that the Minister of Municipal Affairs and Housing may choose to consult and to potentially add safeguarding conditions, however this action would not be set out in law and would be completely discretionary.

Ontario's drinking water is the envy of many jurisdictions worldwide, primarily as a result of the multi-barrier safety net that has been established to ensure the health and viability of this resource. The *Clean Water Act, 2006* and the Drinking Water Source Protection Program is the necessary first step of Ontario's multi-barrier safety net, without which drinking water protection is incomplete. Section 39 of the *Clean Water Act, 2006* is vitally important to safeguard the public health of Ontario residents and should not be set aside at the unchecked discretion of one Minister. Therefore, the CTC Source Protection Committee recommends the following with regard to the proposed legislative and regulatory amendments:

- 1) That under section 34.1(6) of Schedule 10, Bill 66, "section 39 of the *Clean Water Act, 2006*" be removed as a provision not subject to the Open-For-Business Planning By-Law, and
- 2) That a consultative process be established in the *Planning Act* to require the Minister to acquire formal commentary from the general public and other stakeholders prior to any enactment of a proposed Open-For-Business Planning By-Law coming into force.

Thank you for the opportunity to comment on these important legislative and regulatory proposals. Please do not hesitate to contact Jennifer Stephens, Manager, CTC Source Protection Region, at [jstephens@trca.on.ca](mailto:jstephens@trca.on.ca) or 416.892.9634 if you have any questions or require further information regarding the content of this letter.

Sincerely,

A handwritten signature in black ink that reads "Douglas Wright". The signature is written in a cursive style with a large initial 'D'.

Douglas Wright, Chair, CTC Source Protection Committee

Cc. CTC SPC members  
CAOs of TRSPA, CVSPA, CLOSPA  
Jennifer Stephens, Manager, CTC Source Protection Region  
Heather Malcolmson, Director, Source Protection Programs Branch, MECP