

Monday January 13, 2020

Sanjay Coelho
Ministry of the Environment, Conservation and Parks - Environmental Policy Branch
40 St. Clair Avenue West, 10th floor
Toronto, Ontario M4V 1M2

Dear Sanjay Coelho,

RE: Proposal to amend the Record of Site Condition (Brownfields) Regulation related to the Requirement to Sample Groundwater (ERO# 019-0987)

The City of Guelph (the City) is pleased to comment on the Government of Ontario's Proposal to Amend the Record of Site Condition (Brownfields) Regulation related to the Requirement to Sampling of Groundwater.

Comments from the City of Guelph

The City, in general, does not recommend the Provincial government's decision to amend the Record of Site Condition (RSC) Regulation with respect to the sampling of groundwater for communities who use groundwater as their drinking water supply. The City is supportive of the Provincial government's intention to examine in more detail their understanding of the water resources in the province, with a particular focus on groundwater takings. As a community that relies almost entirely on groundwater for its drinking water, the City asks the Province to strongly consider the comments below.

1. Amendments that could reduce barriers to redevelopment of brownfields

As part of a Phase Two Environmental Site Assessment (ESA), which is used to assess the state of a brownfield site, groundwater sampling is required. The intent to amend the issue of non-standard delineation (or undue vertical delineation) of impacts in groundwater has been amended through ERO #03-5000. Based on this, listed below are some of the Province's practices that the City believes could be changed to streamline the Province's review process:

- a. Remove the Province's reluctance to rely on historical chemical analyses data for groundwater. This will result in a streamlined process that allows the proponent's Qualified Person to make a determination regarding the applicability of the use of historical data. For example: historical chemical analyses missing from currently regulated parameters for evaluating area of potential environmental concerns (APEC), delineation of impacts or confirmatory soil sampling, as this could mean completion of additional investigation for parameters that were not identified as contaminants of concern (COCs).

City Hall
1 Carden St
Guelph, ON
Canada
N1H 3A1

T 519-822-1260
TTY 519-826-9771

guelph.ca

- b. Remove the Province's preference for additional soil and groundwater sampling within building footprints even when other samples and data are already present within the APEC.
- c. Remove the requirement for several rounds of groundwater sampling before the completion of the risk assessment, when the risk assessment is based on the concentration of COCs detected during the sampling event at the Phase Two ESA stage.

The City does not believe that the current regulation creates barriers for redevelopment of brownfield sites since groundwater sampling is already required as part of a Phase 2 ESA and is key to understanding any potential site conditions that would determine if the water below the site could be deemed non-potable. The removal of this item may create undue pressure on Qualified Persons conducting ESAs, which could prolong the review process as opposed to streamlining it.

Also, some of the key scenarios that are not captured in Item A of the Proposal are listed below:

- a. Infill developments in and around urbanized areas with suspect historical uses, where soils are removed to build several stories of underground garages, which may preclude risk assessment altogether if groundwater sampling is not part of a Phase Two ESA.
- b. Areas down and/or cross-gradient of contaminated sites with impacted groundwater plumes.

2. The Proposal relies on the Made-in-Ontario Environmental Plan

The Proposal relies on a "Made-in-Ontario Environmental Plan" (ERO# 013-4208), which did not include detailed information on the action items that would achieve the Made-in-Ontario Plan. Overall, the Plan indicates there will be rules in place for protecting air, water and soil; addressing climate change; waste management, impacted land development, excess soil reuse; and conserving land and greenspace. While the Plan sets directions for the Province to take action towards protecting the environment, it does not provide detailed information about the action items that will achieve the Plan.

The proposed amendment could be perceived as being less protective to the environment, especially for a community that relies on groundwater for drinking water supply. The costs of obtaining groundwater quality information are minimal when one compares the potential costs associated with off-site impacts from contaminated groundwater.

Therefore, the City is unsure how the removal of groundwater sampling fits within this new directive for the Province.

3. The Proposal does not recognize the many groundwater-dependent communities in Ontario that rely on drinking water sources from bedrock or overburden sources.

The proposed amendment should consider Wellhead Protection Areas as defined under the Clean Water Act and associated regulations. Wellhead Protection Areas developed under the Source Protection programs outlines the area where municipalities take their drinking water from to support their communities. Although municipal servicing is available to most locations, the removal of groundwater sampling would comprise the City's ability to protect its groundwater supplies which is used for drinking water. Further, areas down gradient of contaminated sites with impacted groundwater plumes need to be taken into consideration when looking at groundwater protection (i.e., these sites should have a groundwater investigation).

Therefore, the City suggests that the Regulation be amended to ensure that groundwater sampling is required in areas where Wellhead Protection Areas have been designated.

Closing

Thank you again for the opportunity to provide comments on the MECP's proposal to amend the Record of Site Condition Regulation with respect to the sampling of Groundwater. The City of Guelph would be happy to discuss our comments further as the province works to develop rules and regulations for water takings and groundwater sampling across the province.

Please do not hesitate to contact Leslie Muñoz, Manager, Policy and Intergovernmental Relations, at leslie.munoz@guelph.ca if you have any questions or comments regarding the City of Guelph's feedback on this regulatory proposal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kealy Dedman', with a stylized, flowing script.

Kealy Dedman, Deputy Chief Administrative Officer
Infrastructure, Development and Enterprise
The City of Guelph
1 Carden St., Guelph ON

T 519-822-1260 x 2248
E kealy.dedman@guelph.ca