



DRINKING WATER
SOURCE PROTECTION

ACT FOR CLEAN WATER

Drinking Water Source Protection – Inclusion of a First Nation’s Drinking Water System

Ministry of the Environment
Source Protection Programs Branch

April 2010

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Background and Scope of the Act

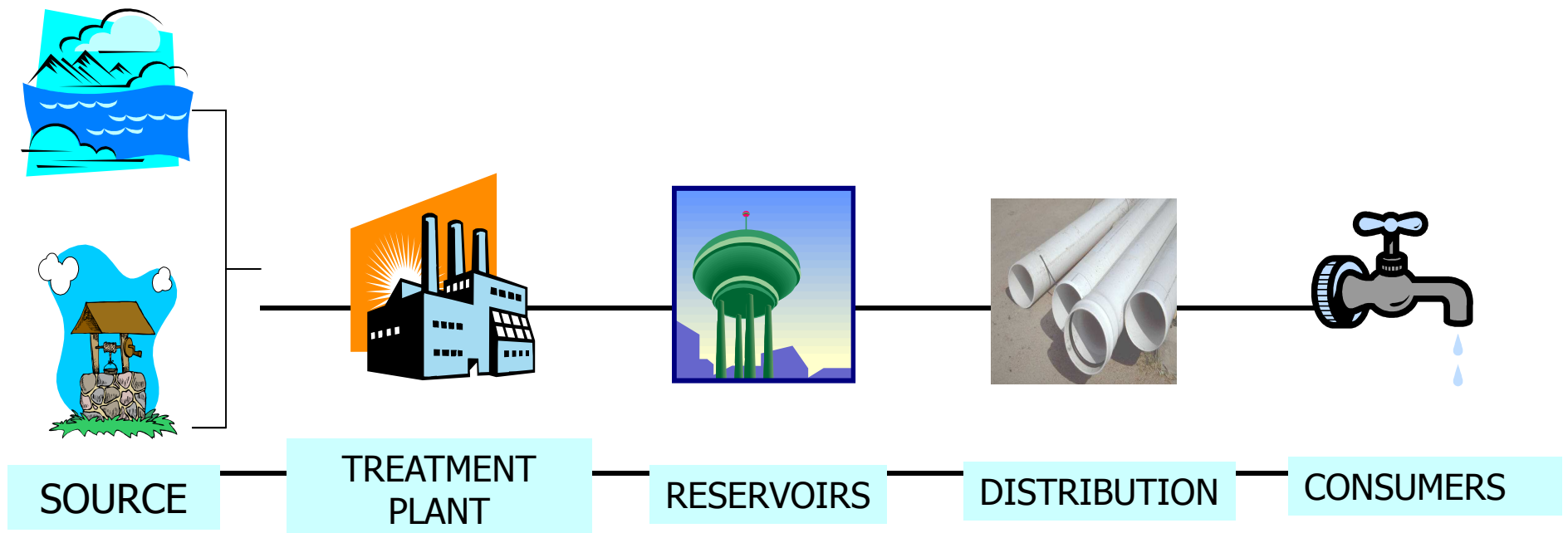
- The *Clean Water Act* was proclaimed into force on July 3rd, 2007.
- The purpose of the Act is to protect sources of drinking water – the lakes, rivers and groundwater.
- The Act generally applies to municipal drinking water systems, representing approximately 90% of the population in Ontario.
- Other drinking water systems may be included in the source protection planning process, including a drinking water system serving or planned to serve a First Nation reserve located within a source protection area.
- Drinking water sources will be protected through a collaborative, locally driven, science-based, multi-stakeholder planning process.
- Assessment/action in four vulnerable areas:
 - wellhead protection areas
 - surface water intake protection zones
 - highly vulnerable aquifers
 - significant recharge areas

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Ontario's Drinking Water Safety Net

- Clean Water Act is the first barrier in a multi-barrier approach (protection at the source)



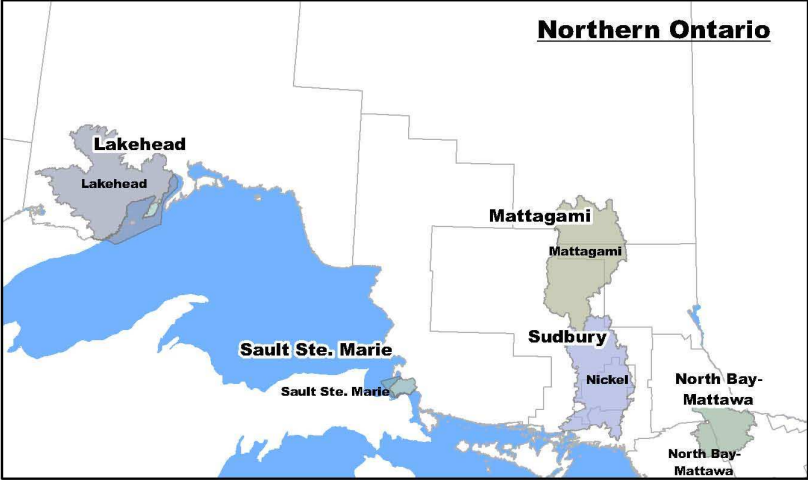
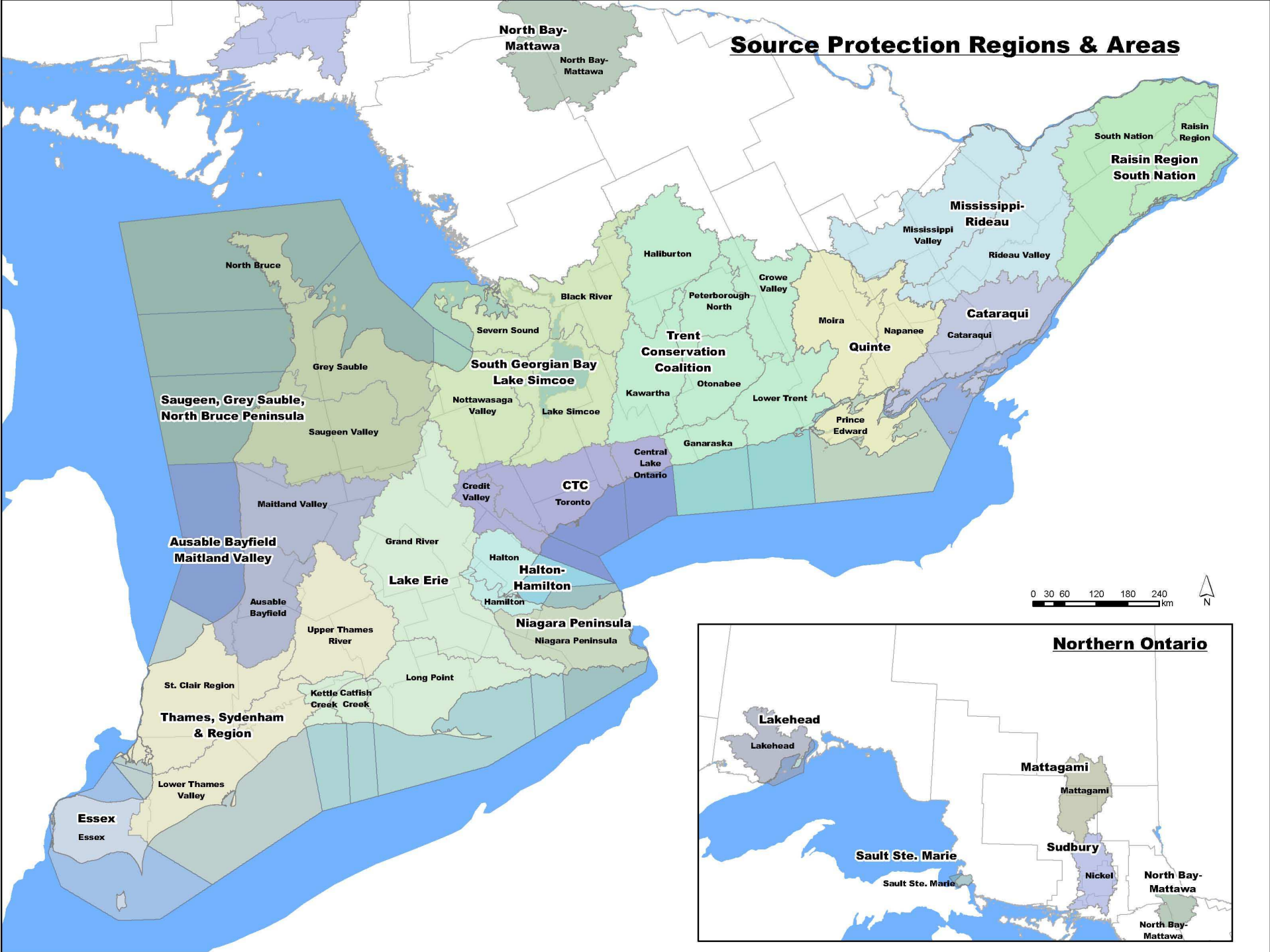
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Watershed Approach



Source Protection Regions & Areas



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Source Protection Authorities and Committees

Source Protection Authority

- A Conservation Authority exercises and performs the powers and duties of the Source Protection Authority (SPA) in areas where conservation authorities exist.
- Generally responsible for overseeing the planning process and supporting the work of the Source Protection Committee (SPC).

Source Protection Committee

- One for each of 19 planning regions
- Is responsible for (1) terms of reference, (2) assessment report, and (3) source protection plan, which collectively complete the source protection planning process
- First Nations with reserves in a source protection area can be a member of a SPC.

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Components of Drinking Water Source Protection

Terms of Reference

- A **work plan** – documents the decisions about **where and how source protection planning will take place** to complete the assessment report and source protection plan.
- Includes summary maps, drinking water systems to be included, plan for how public will be consulted, and how much the assessment and planning activity will cost.

Assessment Report

- Maps the vulnerable areas around wells and surface water intakes serving the specific systems to be protected, inventories drinking water threats and issues within these vulnerable areas.
- Addresses both water quality and quantity and both existing and future supplies.

Source Protection Plan

- Will include policies on how to manage activities identified as threats to drinking water sources.

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Opportunities for First Nations Participation

1. Participation in the watershed-based approach to drinking water protection:

Member of a Source Protection Committee: SPCs are required to notify the Chiefs of First Nations communities with reserves in source protection areas of the opportunity for Band Councils to jointly select a person to be appointed to the SPC.

Review and Input into Planning Process: SPCs are required to notify Chiefs of First Nations communities with reserves in source protection areas of their opportunity to review and comment on the draft Terms of Reference, Assessment Report and the Source Protection Plan.

2. First Nations drinking water systems protected under the Clean Water Act:

Government Regulation to protect a First Nations system: First Nations with reserves located in source protection areas may submit a Band Council Resolution requesting that their drinking water system be included in the source water protection planning process.

Where a First Nation community is interested in including their drinking water system in the provincial process, the SPA/Ministry would work with the community to determine the approach to be taken.



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First Nations Participation on Source Protection Committees

- There are currently 12 Source Protection Committees with seats for First Nations representation.
- 8 of the 12 committees have First Nations members.
- The following slide outlines the SPCs with seats available for First Nations and those that currently have First Nations members participating on their committees.

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SPC	First Nation within SPA	Seats	Seats Occupied	First Nation Occupying Seats
<i>Ausable Bayfield Maitland Valley</i>	•None	0	0	<i>Kettle and Stony Point First Nation (1) as non-voting member</i>
Lake Erie	•Six Nations of the Grand River •Mississaugas of New Credit	3	3	Six Nations (2) Mississaugas of New Credit (1)
Lakehead	•Fort William First Nation	1	0	N/A
Mattagami Region	•Mattagami First Nation	1	1	Mattagami First Nation
Sudbury	•Whitefish Lake First Nation •Wahnapitei	1	2	Whitefish Lake (1) Wahnapitei (1) Both are nonvoting members
North Bay – Mattawa	•Nipissing First Nation	1	0	
Quinte	•Mohawks of the Bay of Quinte	2	2	Mohawks of the Bay of Quinte (2)
<i>Raisin-South Nation</i>	•Mohawks of Akwesasne	2	1	<i>Algonquins of Pikwakanagan (1) in agreement with Akwesasne.</i>
Saugeen, Grey Sauble, Northern Bruce Peninsula	•Chippewas of Nawash •Saugeen First Nation	2	0	
Sault Ste. Marie Region	•Batchewana First Nation •Garden River First Nation	1	0	
South Georgian Bay-Lake Simcoe	•Beausoleil First Nation •Chippewas of Georgina Island •Chippewas of Mnjikaning (Rama) First Nation	3	1	Rama First Nation (1)
Thames-Sydenham and Region	•Aamjiwnaang First Nation •Chippewas of Kettle and Stony Point •Chippewas of Thames First Nation •Moravian of the Thames •Munsee Delaware Nation •Oneida of the Thames •Walpole Island	3	2	Walpole Island (1) Moravian of the Thames (1)
Trent Conservation Coalition	•Alderville First Nation •Curve Lake First Nation •Hiawatha First Nation •Mississauga's of Scugog Island First Nation	3	3	Curve Lake (1) Alderville (1) Hiawatha (1)

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Capacity Funding

- The Ministry provides annual capacity funding (\$10K) to eligible First Nation communities to facilitate participation in the general source protection planning process.
 - Research matters for, and discuss findings with, the Band Council on issues before the SPC, particularly as the source protection planning process for municipal drinking water systems relates to traditional lands;
 - Consult with elders in the community;
 - Fund a community member to sit on the SPC and to act as a one window contact between the community and the SPC/SPA;
 - Secure technical support from a Tribal Council, consultant or technical staff from the community to work with the community during the review of the assessment report and source protection plan;
 - Review assessment reports and source protection plans to determine potential impacts to Aboriginal and treaty rights;
 - Coordinate community input into the assessment report and source protection plan, including holding community meetings; and
 - Other activities related to facilitating participation in the source protection planning process.
- All First Nation communities with reserves in source protection areas are eligible to apply. Funding is provided on an application basis.
- The application, along with an application guidance document and draft agreement, are posted on the Ministry's Drinking Water website.

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Including a First Nation System in the Source Protection Planning Process

Legislative Requirements

- A First Nation community with a reserve in a source protection area can voluntarily request that their drinking water system be included in the source protection planning process under the Act.
- Request be made by submitting a Band Council Resolution to the Minister.
- A regulation must be made to include a First Nation's drinking water system.

First Nations included:

- Two First Nation communities requested inclusion of their drinking water systems in the source protection planning process under the Act:
 - Kettle and Stony Point First Nation; and
 - Six Nations of the Grand River.
- Amendment was made to Regulation 287/07 to include these systems on February 22, 2010.

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Including a First Nation System in the Source Protection Planning Process

Six Nations of the Grand River

- The Band Council resolution requested that the Ohsweken drinking water system (intake located on the Grand River) be included in the drinking water source protection planning process.
- The Six Nations of the Grand River reserve is located approximately 25 km southwest of the City of Hamilton between the cities of Brantford, Caledonia and Hagersville, and is in the Grand River source protection area.
- The Ministry signed an agreement with the Grand River Conservation Authority (GRCA) regarding the technical work that is being conducted to assess the Ohsweken drinking water system and its inclusion in the Grand River source protection area.
- Based on discussions with Six Nations of the Grand River and the GRCA, the following arrangements are included in the agreement:
 - The GRCA will assess threats and the Lake Erie SPC will develop policies in the source protection plan for all significant drinking water threats to the Ohsweken system originating off-reserve; and
 - Six Nations of the Grand River has its own source protection planning process and will assess and address drinking water threats located on-reserve.
 - Enforcement of threat policies on-reserve will generally be the responsibility of Six Nations of the Grand River
 - MOE will provide the funds for the technical work related to the assessment of threats and policy development for threats located off-reserve

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Including a First Nation System in the Source Protection Planning Process

Kettle and Stony Point First Nation

- The Band Council Resolution requested that the drinking water intakes at Kettle Point (the reserve) and Camp Ipperwash (Stony Point System) be included in the source protection planning process for the Ausable Bayfield Maitland Valley (ABMV) source protection region.
- The Kettle and Stony Point First Nation (KSPFN) reserve is located on the shore of Lake Huron, northeast of Sarnia, and is in the Thames-Sydenham and Region (TS) source protection region
- Although not in the ABMV source protection region, members of KSPFN have been attending ABMV SPC meetings as non-voting members.

Kettle Point Drinking Water System:

- The Kettle Point system is located on the reserve and is a surface water intake.

Stony Point Drinking Water System:

- The Stony Point system is located at Camp Ipperwash, which is not currently part of the reserve, but may be transferred back to KSPFN by the Federal Government in the near future. KSPFN and MOE have agreed to defer inclusion of this system in the source protection planning process until the land is transferred back to reserve status.

Inclusion of the Drinking Water Systems in the Source Protection Planning Process:

- Only the existing on-reserve surface water drinking water system (Kettle Point) is currently included in the source protection planning process.
- KSPFN has requested that Ausable Bayfield Conservation Authority (ABCA) take the lead with respect to the assessment of threats located both on and off-reserve, and develop threat policies for significant threats located both on and off reserve.
- KSPFN will work closely with ABCA, and will be part of the project team.
- Enforcement of threat policies on-reserve will generally be the responsibility of KSPFN
- ~~MOE is in the process of entering into two separate agreements – one with the ABCA, and one with KSPFN.~~
- ~~MOE will provide funds to both ABCA and KSPFN related to assessment and policy development work.~~

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