

January 13, 2020

**BY E-MAIL ONLY** ([sanjay.coelho@ontario.ca](mailto:sanjay.coelho@ontario.ca))

Mr. Sanjay Coelho  
Environmental Policy Branch  
40 St Clair Avenue West, Floor 10  
Toronto, ON M4V1M2

Dear Mr. Coelho:

**Re: Amendment to the Record of Site Condition (Brownfields) Regulation (ERO #019-0987)**

Thank you for the opportunity to comment on the Ministry of Environment, Conservation and Parks' Environmental Registry (ERO) posting on the proposed regulatory changes to the requirements for groundwater sampling for brownfield development.

The Toronto and Region Conservation Authority (TRCA) undertakes a dual role with respect to the movement and use of excess soil within its watershed-based jurisdiction: as a regulator of site grading and the placement, dumping or removal of any material, originating on the site or elsewhere; and as a proponent of construction projects on TRCA-owned lands.

TRCA conducts itself in accordance with the objects, powers, roles and responsibilities set out for conservation authorities (CA) under the *Conservation Authorities Act* and the MNRF Procedural Manual chapter on CA policies and procedures. TRCA is:

- A public commenting body under the *Planning Act* and *Environmental Assessment Act*;
- An agency delegated the responsibility to represent the provincial interest on natural hazards under Section 3.1 of the Provincial Policy Statement;
- A regulatory authority under section 28 of the *Conservation Authorities Act*;
- A service provider to municipal partners and other public agencies;
- A resource management agency; and
- A major landowner in the Greater Toronto Area.

TRCA is also the lead Source Protection Authority for the CTC Source Protection Region, which encompasses the Credit Valley, Toronto and Region, and Central Lake Ontario Source Protection Authorities. Under the Clean Water Act, 2006, TRCA has a key role in the protection of the sources of drinking water for an estimated 3.4 million Ontario residents. This work includes the development of the CTC Source Protection Plan (the Plan) as well as supporting our municipal partners with technical and policy planning advice with respect to implementation of the Plan.

Brownfield redevelopment represents an opportunity to optimize the use of existing drinking water systems as well as to mitigate the impacts of past land uses that may pose a risk to municipal drinking water systems. However, the process must ensure that redevelopment does not inadvertently impact the quality or quantity of municipal drinking water supplies.

TRCA has provided detailed comments to the ERO previously on several proposals for the provincial Excess Soil Management Policy Framework and Brownfield regulation informed by TRCA's experience in development and infrastructure review and the management of "large scale fill" or "excess soil" for projects in our nine urban and urbanizing watersheds and Lake Ontario shoreline (e.g. Tommy Thompson Park-Toronto, Lakeview Waterfront Connection Project - Mississauga).

## **Proposed Regulatory Amendment**

We understand the government's current proposal would provide flexibility for a Qualified Person to exercise professional judgement regarding the need for groundwater testing where excavation has removed the soil down to bedrock and under key conditions.

## **General Comments**

TRCA staff have reviewed the proposal as described in the ERO posting and generally support the spirit of the initiative to streamline redevelopment processes to encourage urban revitalization and environmental remediation. We understand that the proposed amendment exempts properties from groundwater sampling that are municipally serviced, more than 30 metres from a water body, are not an "enhanced investigation property" under O.Reg 153/04, and are not part of a "risk assessment". We further understand that properties that are "serviced by a municipal drinking water system" constitutes those with a drinking water source that is Lake-based or from a municipal well. Therefore, staff presume that a property could meet all the criteria for exemption but still be in proximity to a municipal well (i.e. wellhead protection area). In the absence of groundwater testing, it is possible that the bedrock groundwater system has become unknowingly contaminated, which may place the municipal water system at risk.

Of lesser risk, but still of note, is that a municipally serviced property (either Lake- or municipal well-based) may still be in proximity to a private well serving other properties not municipally serviced, for which a sampling exemption poses a risk for that private water source.

**TRCA Recommendation:** That the proposed regulatory amendment includes the following additional criteria in the determination of exemption from groundwater sampling:

1. Confirmation that the subject property is not located within a Wellhead Protection Area A or B (WHPA-A or WHPA-B) as prescribed in Source Protection Plans under the *Clean Water Act*;
2. Confirmation that the property is not located within 100 metres of a private well used as a potable water source.

We trust these comments are clear and of assistance. Thank you once again for the opportunity to comment on the regulatory amendment for brownfield development. Should you have any questions or wish to meet to discuss our remarks, please contact the undersigned at 416.667.6290 or at [john.mackenzie@trca.ca](mailto:john.mackenzie@trca.ca).

Sincerely,



John MacKenzie, M.Sc.(Pl), MCIP, RPP  
Chief Executive Officer

## **BY E-MAIL**

cc:

TRCA: Laurie Nelson, Director, Policy Planning  
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