OVERVIEW/EXECUTIVE SUMMARY
The Canadian Bottled Water Association (CBWA), as one of many water stakeholders in Ontario, welcomes the opportunity to have input into the process of developing a regulatory framework that will raise the standards, protect our ground water, promote sustainable development, and ensure a broad-based approach to water management. The CBWA is a strong proponent of protecting source drinking water in Ontario and in Canada. The member companies of the CBWA are also economic stakeholders in Ontario, employing thousands of Ontarians and maintaining hundreds of millions of dollars in plants, equipment and economic activity in this province. At the same time, bottled water manufacturers account for only a tiny portion of the water taken in Ontario.

The CBWA supports source protection planning, and submits that if the costs associated with water protection and management are to be borne by water takers, they must be equally borne by all water takers. For this reason, and for that given above, the CBWA will not support being required to disproportionately pay for the water takings of others.

The CBWA believes that the MOE must consider its water protection policies on the basis of scientific data while bearing in mind the economic impact of these decisions surrounding issues such as water taking charges. By doing so, a framework that protects Ontario's water can be achieved without causing unwarranted economic harm to water bottling companies, their employees, suppliers and retailers who have come to rely on bottled water for their economic well being.

GOVERNANCE STRUCTURE
The management of these resources will most effectively be completed through the creation of the Source Protection Planning Boards, but somewhat modified from that described in the White Paper. In many other jurisdictions throughout the world, similar types of planning bodies are referred to as Watershed Basin Commissions and we strongly urge the government to solicit and use this experience to develop these bodies effectively. Another modification involves the selection of appropriate boundaries to the Watershed Regions. These boundaries should not be political, but based on the physical sciences. It would be most efficient to recognize geographic and hydrogeologic principles and not mix regions of different fundamental scientific properties. We would recommend that at a minimum the following stakeholders be included on the Source Protection Planning Board:

- Representatives of the local office of the Ministry of the Environment;
- Local and municipal authorities;
- Local conservation authorities;
- Senior qualified technical people;
- Groundwater users;
- CBWA Ontario members, where present; and
- Other stakeholders as designated with a specific interest in local watershed resources.

WATER MANAGEMENT
Water Use
Actual bottling amounts in 2002 were 1.1 million cubic metres (confidential CBWA member survey, 2003). To put this in perspective, actual water usage by CBWA members in 2002 was 0.2% of all water taking permits in Ontario. Water bottling is not a threat to sustainable water levels in any watershed (reference: MOE, Best Practices for Water Taking Proposals, November, 2002). CBWA members use the resource where it is sustainable, in local watersheds where it does not contribute to cumulative impact.
CBWA members presently meter their water use very accurately as part of their normal business practices. While the CBWA supports the need to account for water taking volumetrically, individual companies also have a right for bottling volumes to remain confidential and proprietary, like any other business has the legal right to keep their manufacturing numbers confidential.

Science
CBWA applauds the move to more comprehensive science, as many of our members already do this. We want to ensure that those enforcing the source protection legislation are as well qualified as the scientists we employ to do our assessments. If the regulating agency and conservation authorities do not have access to good science, then the plans that are prepared will not be credible, nor will there be a collective will for the plans to succeed. Presently we do not see that level of science in either the MOE or most Conservation Authorities. CBWA supports an improvement in the level and consistency of scientific understanding at the PTTTW review level as might be instituted by Source Protection Planning legislation.

Stakeholder Involvement
The CBWA supports a reasonable level of stakeholder involvement, as education of the public and/or local municipalities to the sound science involved in assessing a proposed or continued water taking will remove most concerns. It is essential that the government institutes a system that holds public stakeholders responsible in the process and not just effectively hand them a license to use the system to oppose any proposed undertaking.

Efficiency
The water bottling industry is one of, if not the most, efficient and clean user of water in Ontario. Over 97% of the water taken by our members is intended for human consumption. To manufacture 1 litre of bottled water it takes 1.03 litres of water. When compared to beer (7 litres of water to produce 1 litre of beer) and milk (1 6 litres of water to produce 1 litre of milk), the statistics clearly show bottled water production to be an efficient user of ground water.

As required by Health Canada’s, Food and Drugs Act, bottled water must be potable and fit for human consumption. Bottled water is one of the few beverages in our society that does not contribute in any way to health problems, such as obesity, diabetes, high blood pressure, etc. In comparison, only a small percentage (approximately 1%) of municipal water is used for consumption, as the rest is used as utility water for activities such as; watering lawns, flushing toilets, laundry, etc., and creates sewage effluent. The CBWA supports improved water efficiency and conservation, provided credit is given to those that already practice this.

Length of Terms of Permits
The concept of graduated permits was originally put forward by the CBWA in a workshop including members of the MOE Water Policy Branch in September 2001. It was seen as a practical solution to the reluctance of the MOE to grant longer term permits. The CBWA supports graduated permits that would use science to determine the safest level of water taking. Three levels of permits are seen as the best approach.

- **Level 1** – would allow testing of the source, monitoring of the ecosystem and related users to develop a likely safe level of water taking.
- **Level 2** – would be a two-year permit with stringent monitoring, incorporating adaptive environmental monitoring techniques to ensure no inadvertent impact developed.
- **Level 3** – would be a ten-year permit that incorporated focused monitoring of the factors that are most important.

Water Budgets
Other beverages such as milk, soft drinks, beer or fruit beverages are also packaged and shipped from ground water sources. Given the fact that these products far outweigh bottled water (by over 16 times according to the 2002 Canadian market report by the Beverage Marketing Corporation), tracking and budgeting water moving in and out of a given watershed will be difficult. The CBWA supports understanding the effects of water taking on a watershed but does not consider the tracking of such water usages, which

---

1 Excludes water needed to grow grain, hay, irrigation, etc to feed dairy cattle. *(Reference: Dairy Farmers of Ontario)*
are clearly much greater than water bottling volumes, to be a practical exercise. Water budgets must include “water in – water out” principles and not just focus on who is taking water.

Consumers demand bottled water, and it is the “go-to” source of safe drinking water in times of emergency. During the summer of 2000, over 1.5 million litres of bottled drinking water were donated by the industry to the citizens of Walkerton to ensure they had a safe, clean source of water to consume.

**WATER TAKING CHARGES**

The White Paper states under consumptive use that "water users that permanently remove water from the local watershed could be charged. This would mean that those companies that incorporate a significant portion of water into their end products could pay for their water withdrawals." (Page 32) The scale of “local watershed” is not clearly defined, the role of imported water is not considered, and the timing of the withdrawal not even mentioned. For these reasons we believe that this proposal is fraught with problems:

- Imposition of economic charges on water that is taken for commercial purposes that is ultimately exported out of Canada would have to respect a number of trade agreements.

- Difficult to track the quantity of product that leaves the local watershed and the quantity that does not. It will also be difficult to track the amount of water entering local watersheds as well. Because of the weight and low margins associated with bottled water, proximity to market is key. The profitability of bottled water diminishes with distance to market.

- In a report prepared by Hidell-Eyster International for the International Joint Commission entitled "Great Lakes Basin, Bottled Water Markets & External Trade" (November 30, 1999), it was concluded that the Great Lakes Basin is a net importer of bottled water.

- The MOE is urged to consider that the same report concluded that Ontario imported virtually the same volume of water that it exported in that same year. Any new charges imposed by the MOE will, to the extent that it is feasible, be a pass through to consumers, ultimately reflected at the cash register.

- If the White Paper's definition of consumptive uses is to be accepted, and this test is applied fairly, then a number of other water takers, other than water bottlers and those who take water as an ingredient, must be included.

- The definition of consumptive use, must be extended to any person or organization that uses large amounts of water for the purposes of irrigation. While the incorrect conclusion propagated by the press that 100% of ground water used to irrigate (golf courses, crops, etc.) returns to the ground from where it came, the scientific data does not support this. In fact, only a fraction (22% - Source: Great Lakes Commission) of that water returns to the ground or runs off. A significant portion of the water will evaporate or return to the atmosphere by plant respiration and leave the watershed. If the test for levying charges is to be water leaving the watershed, then this use too must be included, to the proportionate extent that the portion of water taken which leaves the watershed.

- An average 18-hole golf course uses 137,500 cubic metres of water per year over a 20 week irrigation season. There are approximately 650 golf courses in Ontario. This is equivalent to 89 million cubic metres of irrigation water per year. The water taken by CBWA members in Ontario in 2002 (52 weeks) equalled less than the amount of water used by 9 golf courses in just 20 weeks. Approximately 78% of the water used by golf courses will be used consumptively by evaporation or returned to the atmosphere by plant respiration and leave the watershed.

The CBWA would propose that a significantly longer permit period be put into place, perhaps as long as ten years, with the necessary ongoing monitoring and regular quality assurances being maintained. Should the MOE proceed with a charge on the industry, it would be punitive to levy the charge at the time of issuance of permit. An annual charge would be much more workable. In the event that charges are linked to the volume allowed under the permit, the CBWA submits that the charge be adjusted annually with the volume of water actually drawn.
Should the MOE proceed with a charge structure that is designed to encourage conservation, it should consider a formula that considers number of litres taken (by all water takers) compared to number of litres produced in finished product. For example, an industry that takes ten or twenty litres of water to produce one litre of finished product has little motivation to conserve—even if they take municipal water and “pay” for it.

Municipalities charge for the service and infrastructure to deliver water, not for the water itself. It is important to note that some beverage and food manufacturers use municipal water for their product, and therefore do not require a permit to take water. Charging Ontario spring water bottlers for water may impact our ability to compete with these municipal water users, as we still need to cover the total cost of our own infrastructures.

Consideration must be given to the actual economics of our industry, not the perceptions, so as to avoid implementation of a charge so high that it cannot be sustained by the industry. The government is correct in “proceeding carefully with the introduction of charges for water takings, given the potential trade implications and the need to promote a strong economy in Ontario and be competitive with other jurisdictions”, (page 30, White Paper).

In conclusion, the CBWA does not categorically oppose the notion of water charges. However, we strongly believe the charge and charge structures contemplated by the MOE must be fair, applied equally to all users, consider volumes actually taken versus that which is permitted for, consider overall percentages taken by different users, consider “water-in / water-out” principles, be mindful of trade agreements, be based on scientific data, and not be detrimental to the economic well being of Ontario.

Please Direct Questions or Requests for Additional Information to:

Elizabeth Griswold
Executive Director
Canadian Bottled Water Association
Telephone: (905) 886-6928
INTRODUCTION

The Canadian Bottled Water Association (CBWA) is pleased to submit its response to the White Paper issued by Ontario's Ministry of the Environment (MOE) on February 12, 2004. This response has been prepared in consultation with the member companies of the CBWA and leading scientific and engineering experts. As stated to the MOE as far back as September 2002, “the bottled water industry is ready to work with the government and other stakeholders to develop a regulatory framework that will raise standards, protect our ground water, promote sustainable development, and ensure a broad-based approach to water management.”

The CBWA, as one of many water stakeholders in Ontario, welcomes the opportunity to have input into this process. The CBWA is a strong proponent of protecting source drinking water in Ontario and in Canada. The member companies of the CBWA are also economic stakeholders in Ontario, employing thousands of Ontarians and maintaining hundreds of millions of dollars in plants, equipment and economic activity in this province. At the same time, bottled water manufacturers account for only a tiny portion of the water taken in Ontario. Certainly the Province should have a strong interest in promoting a healthy lifestyle that will reduce strain on the health care system, and they must recognize that bottled water is an important lifestyle decision.

The CBWA supports source protection planning, and submits that if the costs associated with water protection and management are to be borne by water takers, they must be equally borne by all water takers. For this reason, and for that given above, the CBWA will not support being required to disproportionately pay for the water takings of others.

The CBWA believes that the MOE must consider its water protection policies on the basis of scientific data while bearing in mind the economic impact of these decisions surrounding issues such as water taking charges. By doing so, a framework that protects Ontario’s water can be achieved without causing unwarranted economic harm to water bottling companies, their employees, suppliers and retailers who have come to rely on bottled water for their economic well being.

PRINCIPLES

There are a number of principles upon which this CBWA response is based.

1. The CBWA and its members commend the MOE for taking steps to protect Ontario’s drinking water from contamination. The CBWA also agrees with the concept of protecting the quantity of Ontario’s drinking water from unacceptable impacts of water takings. Not only are objectives in the interests of the people of Ontario and the natural environment, but they are necessary to protect the interests of the water bottling industry.

2. There is a fundamental difference between the members of CBWA and other users of municipal water. The members of CBWA bear 100% of the costs of their exploration, development, permitting, monitoring and water supply infrastructure. On the other hand, municipal water users only pay for a portion of the true cost of water supplied by the municipalities, with the majority of the costs of the water they use being subsidized by the taxpayers of the province.

3. Water bottlers take a mere fraction of the total water taken in Ontario. In fact, the best data available indicates that of source water, the bottled water industry accounts for less than 0.2% of the water taken in Ontario each year.

4. An aquifer cannot distinguish who takes water from it, (whether it is taken by way of ground water or by way of surface water), or what the ultimate usage of the water taken will be. The only notable fact to an aquifer is the quantity of water taken. How much and when that water is taken is what is important to the natural environment and to other users of the resource. Accordingly, the focus of any
watershed protection initiative must be on the impact of withdrawals on the aquifer, regardless of the status of the taker. Municipalities that rely on wells to provide water to their citizens often draw on the same aquifer as other users. To ensure long term sustainability and proper resource management, all ground water users must be treated and monitored equally.

5. Ground water is a renewable resource that is replenished through the hydrologic cycle. As a renewable resource, ground water has a replenishment cycle. The duration of this cycle is influenced by weather patterns, the recharge area characteristics, geologic settings and other site specific factors. The water cycle transports water from watershed to watershed continuously and in vastly greater quantities than those that are transported between watersheds by man.

6. Clean water is a healthy beverage alternative for Ontarians. At a time when medical experts as well as Ontario’s Ministry of Health have identified obesity as a growing and serious problem, bottled water is an important part of the health solution.

GOVERNANCE STRUCTURE

There are a number of governance issues presented in the government’s White Paper that deserve to be addressed. First and foremost, the CBWA believes that the legislation that will be created for the purpose of groundwater management must be specifically designed to protect the resource, protect those that rely on it including the natural environment, and to conserve water. Such legislation would be entirely consistent with the first recommendation made by Justice O’Connor in Part II of his report where he stated quite plainly that, “Drinking water sources should be protected by developing watershed-based source protection plans. Source protection plans should be required for all watersheds in Ontario.” The CBWA supports the government’s efforts to implement a plan that would fulfill Justice O’Connor’s recommendation.

The management of these resources is not something that cannot be done effectively by a conservation authority or by the MOE alone. We believe that groundwater management should be done responsibly and in concert with all stakeholders that are using the resource in a given watershed. Source Protection is a scientific undertaking. We are very uncomfortable leaving the decisions with politically driven individuals that have no scientific background. There must be an equal representation of scientific people at the decision-making level, and not just as a support function.

We believe that the management of these resources will most effectively be completed through the creation of the Source Protection Planning Boards, but somewhat modified from that described in the White Paper. In many other jurisdictions throughout the world, similar types of planning bodies are referred to as Watershed Basin Commissions and we strongly urge the government to solicit and use this experience to develop these bodies effectively. Another modification involves the selection of appropriate boundaries to the Watershed Regions. These boundaries should not be political, but based on the physical sciences. It would be most efficient to recognize geographic and hydrogeologic principles and not mix regions of different fundamental scientific properties.

The CBWA believes that the SPPBs should fall under the oversight of regional office of the Ministry of the Environment. We recognize that in some areas where a Conservation Authority does not exist, the legislation will allow for the designation of an SPPB. We would caution the government that in many instances neither local municipalities nor conservation authorities currently have the expertise to deal with these issues, and it would be wasteful for each of the various municipalities and Conservation Authorities within a watershed to acquired such expertise. Shared resourced for the watershed will maximized the expertise and experience while ensuring consistent application and minimizing costs.

Furthermore, and in keeping with the spirit of consultation that is evident in the White Paper, the CBWA supports the inclusion of a wide spectrum of stakeholders to be included on the Source Protection Planning Boards. We would recommend that at a minimum the following stakeholders be included on the Source Protection Planning Board:

- Representatives of the local office of the Ministry of the Environment;
- Local and municipal authorities;
- Local conservation authorities;
- Senior qualified technical people;
• Groundwater users;
• CBWA Ontario members, where present; and
• Other stakeholders as designated with a specific interest in local watershed resources.

Lastly, we believe that in addition to the responsibilities laid out in the White Paper, the SPPBs should also be given the responsibility together with stakeholders to engage in public education campaigns that would work to raise the public awareness of economic, social and demographic aspects related to the resource.

WATER MANAGEMENT
The CBWA welcomes this opportunity to contribute directly to the reform and rationalization of the permitting system. In general, our goal is to achieve high science based decisions that are consistent as between all types of water takings, and to couple such decisions to longer permit terms, so that the cost of obtaining the permits and building plants can be justified. The following paragraphs directly address the different components of reform identified in section 4 of the White Paper.

Water Use
We understand that the government wishes to quantify and control the amount of water takings from a water management point of view. CBWA members are in remote areas where there are few (if any) other high volume users that might be affected by their water use. As demonstrated by the numbers presented by the MOE in the stakeholder consultation presentation on February 25, 2004, the net water taking by bottlers is minor compared to other users. For the record, actual bottling amounts in 2002 were 1.1 million cubic metres (confidential CBWA member survey, 2003). To put this in perspective, actual water usage by CBWA members in 2002 was 0.2% of all water taking permits in Ontario. **Water bottling is not a threat to sustainable water levels in any watershed** *(reference: MOE, Best Practices for Water Taking Proposals, November, 2002)*. CBWA members use the resource where it is sustainable, in local watersheds where it does not contribute to cumulative impact.

CBWA members presently meter their water use very accurately as part of their normal business practices. While the CBWA supports the need to account for water taking volumetrically, individual companies also have a right for bottling volumes to remain confidential and proprietary, like any other business has the legal right to keep their manufacturing numbers confidential.

Science
Better Science is needed to assess the potential impacts of any given water taking. CBWA members adhere to their own Environmental Stewardship Code that promotes sustainable development and ensures a broad-based approach to water management. It has been our experience that good science is already practiced in a number of areas, but its application is not uniform across MOE regions, industrial sectors, or types of taking, nor between individual applications. We are aware that the MOE is looking for defendable water budgets at both the local and watershed scale from which to judge water use/consumption. In addition, attention needs to be paid to the ecosystem as per Regulation 285/99, something the White Paper is oddly silent on.

CBWA applauds the move to more comprehensive science, as many of our members already do this. We want to ensure that those enforcing the source protection legislation are as well qualified as the scientists we employ to do our assessments. If the regulating agency and conservation authorities do not have access to good science, then the plans that are prepared will not be credible, nor will there be a collective will for the plans to succeed. Presently we do not see that level of science in either the MOE or most Conservation Authorities. CBWA supports an **improvement in the level and consistency of scientific understanding at the PTTW review level** as might be instituted by Source Protection Planning legislation.

Stakeholder Involvement
Stakeholder involvement is intended to ensure that neighbours and interested parties such as other water users, municipalities or conservation authorities are included in the dialogue leading up to a permit. In southern Ontario, permits have been issued routinely without these bodies even being aware that it was occurring. CBWA members have been hurt by an apparent public perception that the MOE is blindly giving out permits, even though there has always been full scientific scrutiny of permits, and especially those related to water taking.
The CBWA supports a reasonable level of stakeholder involvement, as education of the public and/or local municipalities to the sound science involved in assessing a proposed or continued water taking will remove most concerns. Our biggest worry in this area however, is that a vocal minority will use the process to slow down or stop the permitting process without scientific justification. It is essential that the government institutes a system that holds public stakeholders responsible in the process and not just effectively hand them a license to use the system to oppose any proposed undertaking. We welcome the dialogue with public stakeholders and are willing to include them in decision making, in return for a measure of closure and acceptance. We will not accept a system that is open-ended and closed minded.

Efficiency
The water bottling industry is one of, if not the most, efficient and clean user of water in Ontario. Over 97% of the water taken by our members is intended for human consumption. To manufacture 1 litre of bottled water it takes 1.03 litres of water. When compared to beer (7 litres of water to produce 1 litre of beer) and milk (26 litres of water to produce 1 litre of milk), the statistics clearly show bottled water production to be an efficient user of ground water.

As required by Health Canada’s, Food and Drugs Act, bottled water must be potable and fit for human consumption. Bottled water is one of the few beverages in our society that does not contribute in any way to health problems, such as obesity, diabetes, high blood pressure, etc. In comparison, only a small percentage (approximately 1%) of municipal water is used for consumption, as the rest is used as utility water for activities such as; watering lawns, flushing toilets, laundry, etc., and creates sewage effluent. The CBWA supports improved water efficiency and conservation, provided credit is given to those that already practice this. We see a danger that government may flatly require some percentage of improvement across the board with little consideration of present practices. For an already efficient user of water, such arbitrary goals might be difficult to attain. It will be important to establish what baseline to which any improvement would be judged.

Length of Terms of Permits
It is presently MOE policy to restrict water bottlers to two-year permits. This practice greatly penalizes the industry, imposing costs for constant renewal applications and limiting their ability to raise investment capital due to the uncertainty of the renewal process. We are aware of one former member (a Canadian, family-owned company) who is no longer in business in part due to this unfair practice. Other industries enjoy five, ten and even twenty-year permits with less monitoring and less reporting required. The sum of this is a substantial penalty on Ontario bottlers that makes them less competitive. The second principle in the Provincial Policy Statement states that “Ontario’s long term economic prosperity, environmental health and social well-being depend upon: … …protecting resources for their economic use and/or environmental benefits.” Bottlers through their Environmental Stewardship Code are protecting the resources, but the government through the above practices restrict economic use and actually inhibit environmental responsibility. In short, the market dictates the need and demand for bottled water, so Ontario should ensure it is taken where it is safest.

It is our understanding from the February MOE stakeholder meeting that the government is considering the concept of graduated permits. This concept was originally put forward by the CBWA in a workshop including members of the MOE Water Policy Branch in September 2001. It was seen as a practical solution to the reluctance of the MOE to grant longer term permits. The CBWA supports graduated permits that would use science to determine the safest level of water taking. Three levels of permits are seen as the best approach.

- **Level 1** – would allow testing of the source, monitoring of the ecosystem and related users to develop a likely safe level of water taking.
- **Level 2** – would be a two-year permit with stringent monitoring, incorporating adaptive environmental monitoring techniques to ensure no inadvertent impact developed.
- **Level 3** – would be a ten-year permit that incorporated focused monitoring of the factors that are most important.

---

2 Excludes water needed to grow grain, hay, irrigation, etc. to feed dairy cattle. *(Reference: Dairy Farmers of Ontario)*
It would permit water taking levels that were based on the results of the detailed monitoring stage of Level 2. Annual reporting of actual water use and environmental effects would be mandatory.

**Water Budgets**

As stated in the White Paper, one of the primary goals will be to establish water budgets for the Source Protection Districts. Some comment is given to consumptive versus non-consumptive uses. The definition includes considering any water “withdrawal that is not returned within a relatively short time frame to the water source from which it is taken” as consumptive. Such a definition is fraught with potential interpretation problems. What size watershed?

The goal of this policy disregards the vast amounts of water that are naturally transported, or are transferred by evaporation and winds from one watershed to another due to agricultural golf course irrigation uses of water.

What recognition is to be given to ground water that was discharging already to surface water (e.g., a spring)? What length of time period should be considered in such analyses?

Other beverages such as milk, soft drinks, beer or fruit beverages are also packaged and shipped from ground water sources. There is one example where the local beer store imported far more water (in the beer product) than a local bottler shipped out of the watershed. One must consider the fate of the water in these products. It is usually discharged a few short hours after consumption, into the local waste water treatment system thereby joining a new watershed. Given the fact that these products far outweigh bottled water (by over 16 times according to the 2002 Canadian market report by the Beverage Marketing Corporation), tracking and budgeting water moving in and out of a given watershed will be difficult. The CBWA supports understanding the effects of water taking on a watershed but does not consider the tracking of such water usages, which are clearly much greater than water bottling volumes, to be a practical exercise. Water budgets must include “water in – water out” principles and not just focus on who is taking water.

Consumers demand bottled water, and it is the “go-to” source of safe drinking water in times of emergency. During the summer of 2000, over 1.5 million litres of bottled drinking water were donated by the industry to the citizens of Walkerton to ensure they had a safe, clean source of water to consume.

**WATER TAKING CHARGES**

As stated above, the CBWA supports the idea of a sound, scientifically based strategy for source protection planning and water management, provided that the costs for implementation are borne by all users and that water bottlers are not unfairly singled out.

The White Paper discusses a number of factors for consideration. It correctly states that trade agreements to which Ontario and Canada are signatories must be taken into account. It is also correct to consider the economic impact of water charges given that any new charges will affect competitiveness, jobs and consumers. We also expect the government to adhere to the Provincial Policy Statement objectives, specifically that “Ontario’s long term economic prosperity, environmental health and social well-being depend upon: … protecting resources for their economic use and/or environmental benefits.” Water bottling from sources where it is sustainable and naturally replenished adheres to this objective.

In the section that deals with charge variability, the White Paper suggests that a charge be placed on water takers based on permit volumes. The CBWA does not support this suggestion, as it is unfair. Most CBWA members take out permits for peak withdrawal rate. While they may occasionally attain that rate for short periods, it is seldom sustained. This is because water bottling is seasonal, reflecting seasonal demands. When the actual total amount of water is summed up for any particular year it is very much lower than the volume determined by multiplying the peak rate by the time period. Because the water bottling business is based on demand that also depends upon weather, amounts are different from year to year and season to season. For these reasons Permits need to set maximum amounts, but any fee structure should be based on actual water usage.

The White Paper also suggests that charges could be limited to consumptive users; that is, water takers whose surface or ground water withdrawals are not returned (within a relatively short time frame) could be charged. The policy rationale offered is that consumptive uses cause concern when they interfere with the
interests of other users or threaten ecological functions that underlie the health of aquatic ecosystems. This is simply not the case for CBWA members. CBWA members draw water from remote watersheds where there are few other users (Grey County, Northumberland County, Oro-Medonte, etc). The CBWA submits that the MOE does a good job of monitoring threats to aquatic ecosystems and can deny permits as such. Imposition of monetary charges will do little to correct ecological damage.

The White Paper goes on to say under consumptive use that "water users that permanently remove water from the local watershed could be charged. This would mean that those companies that incorporate a significant portion of water into their end products could pay for their water withdrawals." (Page 32) The scale of "local watershed" is not clearly defined, the role of imported water is not considered, and the timing of the withdrawal not even mentioned. For these reasons we believe that this proposal is fraught with problems:

- Imposition of economic charges on water that is taken for commercial purposes that is ultimately exported out of Canada would have to respect a number of trade agreements.

- It would be difficult to track the quantity of product that leaves the local watershed and the quantity that does not. It will also be difficult to track the amount of water entering local watersheds as well. Because of the weight and low margins associated with bottled water, proximity to market is key. The profitability of bottled water diminishes with distance to market.

- Any discussion of the quantity of water leaving the watershed should reflect the amount entering the watershed. In a report prepared by Hidell-Eyster International for the International Joint Commission entitled "Great Lakes Basin, Bottled Water Markets & External Trade" (November 30, 1999), it was concluded that the Great Lakes Basin is a net importer of bottled water. The same report concluded that Ontario represents 38% of Canada's population, provides 38% of its bottled water market, represents 37% of Canada's imports, but provides only 6% of its exports as of 1998. These figures have changed little since that time.

- The MOE is urged to consider that the same report concluded that Ontario imported virtually the same volume of water that it exported in that same year. Any new charges imposed by the MOE will, to the extent that it is feasible, be a pass through to consumers, ultimately reflected at the cash register. It would be counter to Ontario's and Canada's interests to have the price of Canadian bottled water increase to the point where imported water becomes economically more attractive than domestic water, particularly with the recent change in the value of the Canadian dollar.

- If the White Paper's definition of consumptive uses is to be accepted, and this test is applied fairly, then a number of other water takers, other than water bottlers and those who take water as an ingredient, must be included. For example, it is logically impossible to exclude the agricultural sector from such a definition. Water that leaves the watershed in a 500 ml bottle is no different than water leaving the watershed in the form of milk, or as packing fluid for canned vegetables. While the CBWA does not intend any economic harm to the dairy or agricultural sector, this is simply a point of fairness. According to Statistics Canada, Ontario exported over $138 million out of the country in dairy products in 2002. This figure would not capture additional dairy products that stayed within Canada but left the watershed from which the water that created the milk originated. The same can be said for beer and soft drinks.

- While it would appear to be otherwise, the definition of consumptive use, must be extended to any person or organization that uses large amounts of water for the purposes of irrigation. While the incorrect conclusion propagated by the press that 100% of ground water used to irrigate (golf courses, crops, etc.) returns to the ground from where it came, the scientific data does not support this. In fact, only a fraction (22% - Source: Great Lakes Commission) of that water returns to the ground or runs off. A significant portion of the water will evaporate or return to the atmosphere by plant respiration and leave the watershed. If the test for levying charges is to be water leaving the watershed, then this use too must be included, to the proportionate extent that the portion of water taken which leaves the watershed.

- An average 18-hole golf course uses 137,500 cubic metres of water per year over a 20 week irrigations season. There are approximately 650 golf courses in Ontario. This is equivalent to 89 million cubic metres of irrigation water per year. The water taken by CBWA members in Ontario in 2002 (52 weeks)
equalled less than the amount of water used by 9 golf courses in just 20 weeks. Approximately 78% of the water used by golf courses will be used consumptively by evaporation or returned to the atmosphere by plant respiration and leave the watershed.

In the section entitled Exemption, the White Paper notes that Ontario could consider exemptions for drinking water, mineral processing, agriculture and conservation. Given that bottled water is used as drinking water, we submit that and exemption made for some on the basis of drinking water must be extended to all. Since there are municipalities in Ontario whose "municipal" water is actually ground water (and not surface water from a river or lake), consideration should be given to an exemption to the bottled water industry on the same grounds. Certainly the Province should have a strong interest in promoting a healthy lifestyle that will reduce strain on the health care system, and bottled water is an important lifestyle decision in that regard. Whereas the CBWA believes that no significant user should be exempt from water taking charges, the government may wish to consider an exemption for bottled water to promote its use. Given the relatively low water taking in comparison to other users, this would not represent much in lost revenue and would certainly be a positive public investment in our healthcare system.

In the section entitled Frequency, it is suggested that charges could be linked to the duration of permits. Currently, water bottlers are issued two-year permits. This system is inefficient. The CBWA would propose that a significantly longer permit period be put into place, perhaps as long as ten years, with the necessary ongoing monitoring and regular quality assurances being maintained. Should the MOE proceed with a charge on the industry, it would be punitive to levy the charge at the time of issuance of permit. An annual charge would be much more workable. In the event that charges are linked to the volume allowed under the permit, the CBWA submits that the charge be adjusted annually with the volume of water actually drawn.

Should the MOE proceed with a charge structure that is designed to encourage conservation, it should consider a formula that considers number of litres taken (by all water takers) compared to number of litres produced in finished product. For example, an industry that takes ten or twenty litres of water to produce one litre of finished product has little motivation to conserve—even if they take municipal water and "pay" for it. Notwithstanding the myth that bottlers of ground water get their water "for free", water bottlers maintain an excellent ratio in this regard.

Municipalities charge for the service and infrastructure to deliver water, not for the water itself. It is important to note that some beverage and food manufacturers use municipal water for their product, and therefore do not require a permit to take water. Charging Ontario spring water bottlers for water may impact our ability to compete with these municipal water users, as we still need to cover the total cost of our own infrastructures.

Consideration must be given to the actual economics of our industry, not the perceptions, so as to avoid implementation of a charge so high that it cannot be sustained by the industry. The government is correct in "proceeding carefully with the introduction of charges for water takings, given the potential trade implications and the need to promote a strong economy in Ontario and be competitive with other jurisdictions", (page 30, White Paper).

In conclusion, the CBWA does not categorically oppose the notion of water charges. However, we strongly believe the charge and charge structures contemplated by the MOE must be fair, applied equally to all users, consider volumes actually taken versus that which is permitted for, consider overall percentages taken by different users, consider "water-in / water-out" principles, be mindful of trade agreements, be based on scientific data, and not be detrimental to the economic well being of Ontario.

Please Direct Questions or Requests for Additional Information to:

Elizabeth Griswold
Executive Director
Canadian Bottled Water Association
Telephone: (905) 886-6928
APPENDIX 5: POTENTIAL QUESTIONS FOR THE REGIONAL STAKEHOLDER CONSULTATIONS

SOURCE WATER PROTECTION

1. Source water protection is a complex undertaking. What is the best approach to ensuring that the process is open to input from those it may affect?

There must be an equal if not greater representation of scientific people on the SPPB’s.

This system must be well funded or it will simply not work.

Senior qualified technical people must be hired to oversee source protection planning.

All revenue generated by water charges should be directed to source protection and not the general coffers.

**Rationale:** Detailed decisions will be made at the SPP Board level where local industries and water users reside. Currently the proposed composition of the SPPB’s are the CA Boards, and therefore elected politicians will sit on the SPPB. Source Protection is a scientific undertaking, and since ground and surface water does not respect political boundaries, we are very uncomfortable leaving the decisions with politically driven individuals that have no scientific background. There must be an equal if not greater representation of scientific people on the SPPB’s.

CA’s are notoriously under funded, again mandated by municipal politics and/or disagreements on provincial funding amounts. Most CA’s do not have the resources to hire technical or scientific support personnel at the level needed to understand the multi-disciplinary inter-relationships of a watershed. For example many have hired junior inexperienced hydrogeologists or biologists because of funding constraints. This costs many times more to the CA’s, municipalities and private sector proponents in terms of delays and unnecessary effort in educating these individuals in order to obtain approval of different undertakings. Therefore, for this to work, senior qualified people must be hired to oversee source protection planning. All revenue generated by water charges should be directed to source protection and not the general coffers. This system must be well funded or it will simply not work.

2. Should any changes to the scope of source water protection legislation be made (provide details)?

We recommend that the supporting rules, regulations, and guidelines are prepared and presented at the same time as the legislation to allow a realistic and effective review to be conducted by stakeholders.

We recommend that the legislation specifically address the protection of the environmental function of natural ground and surface water.
Rationale: When the recent Oak Ridges Moraine legislation was passed, there were no supporting regulations or policies available for public scrutiny. It was a full year before these were developed. Many inconsistent and impractical things were then mandated that are now embodied in regulation, but could have been avoided. We want to ensure that this government does not make the same mistakes. We therefore recommend that the supporting rules, regulations, and guidelines are prepared and presented at the same time as the legislation to allow a realistic and effective review to be conducted by stakeholders. Provide tools before providing rules.

The proposed scope of the source water protection legislation focuses on the use of our water resources as a water supply. It does not appear to have any regard to the protection of the water resources for use by the natural environment. We recommend that the legislation specifically address the protection of the environmental function of natural ground and surface water. Do not forget the “environment” part of “Ministry of the Environment”.

3. To make sure that source water protection legislation can achieve its objective – the protection of public health – should there be a specific primacy provision in the legislation (i.e., primacy means that the law would take priority over other laws when there is conflict)?

The proposed legislation needs to ensure a level of fairness and consistency to achieve its objectives.

The scope of source water protection should focus on the high risk, high use sectors.

The primacy of science must be put ahead of politics. Implementation and definition of what has to be done should be left up to those who know what to do, and more importantly, know how to do it.

Rationale: Presently there are many inconsistencies and a lack of fairness as to how present water uses are permitted. For example, different sectors have different lengths of permits, there is a different level of supporting information required of some sectors than others, different regions apply the existing rules differently. The proposed legislation needs to ensure a level of fairness and consistency to achieve its objectives.

One of the biggest threats to water quality is poor agricultural practices (and some accepted practices as well). Agricultural users are presently not asked to submit technical information and are typically issued multi-year permits. Water bottlers on the other hand, are a far smaller user in comparison to agriculture, according to MOE figures presented in February (1/400th of the amount of agricultural takers). These same water bottlers submit detailed consulting reports on ground water and biology, take only where the water can be sustained, and are a comparatively pristine industry, yet have permits issued for only two years, undergo extensive detailed monitoring and submit to multi-agency review.

The scope of source water protection should focus on the high risk, high use sectors. While the CBWA shares the objectives of source protection for obvious reasons, we recommend that financial resources be focussed where it will count the most.

The proposed approach appears to have been written by planners. The actual scientific principles behind achieving the goals of the program are not presented and appear not to be understood. The definitions in Section 2 of the White Paper are unclear and, in our experience, actually wrong. For example, water does not percolate, coffee percolates. The correct term is infiltration. There is no such thing as the newly coined word “groundwatershed”. Perhaps the authors were referring to a ground water basin, but we hesitate to define what they can’t even enunciate. Water bottlers actually work with the scientists to define their water taking and its environmental safety, and are at least aware of how our activities physically sit in the natural environment. We therefore submit, as a group that knows what we are talking about, that the primacy of science be put ahead of politics. Planning is just that: planning. Implementation and definition of what has to be done should be left up to those who know what to do, and more importantly, know how to do it.
4. What are the advantages and disadvantages of this proposed approach to source water protection?

The government should research and investigate other jurisdictions where source protection has been implemented already. A pilot project on one of the watershed Regions should be conducted first. In the meantime the province should be working ahead on establishing basic water budgets, fixing the PTTW program, preparing a user-friendly environmental database.

This opportunity needs to be taken to select the best aspects of our existing water assessment infrastructure (such as some Conservation Authorities functions) and create a workable system. The government needs to carry out source protection at the provincial level, using science as the key decision making tool. It is time to think “outside of the box” and replace present systems.

**Rationale:** The advantages of the proposed approach include the watershed based approach, and the concept of source protection being universally applied. The disadvantages of the approach as presently conceived are many. The process outlined in the White Paper is too convoluted, contains too many feedback loops and will be too time consuming. It is designed to avoid problems that may never occur in some regions. This process appears to have been developed without consideration of what is being done elsewhere. (The only exception appears to have been the research on water charges.) Before going ahead with this legislation, the government should research and investigate other jurisdictions where source protection has been implemented already. Europe and the United States are places where water resources are under threat and governments have decades of experience with source protection measures. Once this has been explored, then a pilot project on one of the watershed Regions should be conducted to see if it will work. In the meantime the province should be working ahead on establishing basic water budgets, fixing the PTTW program, preparing a user-friendly environmental database, so that these tools are ready for the new rules when the time comes.

If Source Protection legislation is to be effective, it needs to be based on a sound and practical foundation of workability. This foundation cannot be built out of existing building blocks that are flawed. For example the degree of science practiced by many regional MOE offices is poor. The existing permitting process, which sometimes relies on science but seems more to rely on the degree of public opposition to make decisions, needs to be fixed. Conservation Authorities, as the White Paper acknowledges, have a wide range in capabilities and most could not expect to support this initiative. (The approach of seeding each Watershed Region with one lead CA will not work. Unfortunately, the only capable CA’s are grouped together at the west end of the GTA.) The White Paper proposes to mandate municipal buy-in. Unfortunately, there is widely diverse set of environmental values from municipality to municipality and based on our member’s collective experience, buy in may not be possible.

The government needs to keep source protection above the municipal system, which is flawed by parochial politics, and directly carry out the work at the provincial level using science as the key decision making tool. It is time to think “outside of the box” and replace present systems such as Conservation Authorities with water districts that report directly to the province. Municipal membership would be important, but not on a majority basis.
5. What mechanisms would help the Source Protection Planning Committee to effectively manage the process, set priorities and reach timely conclusion to the planning process?

**Improve service delivery of PTTW review and approval.**

**The government should be involving those, who will be in charge of implementation and who will work within the plans, to develop the plans.**

**Rationale:** The issue with current approval systems is a lack of “service delivery”. Some CBWA members have waited for five years to get a two-year permit that ultimately did not reflect the MOE technical reviewers advice and instead capitulated to public opinion. If science is used as the foundation for decision making, and public stakeholder involvement is premised on a mutual responsibility, then timeliness will not be an issue. Presently most intravenors use the PTTW process to slow down or stop proponents, without any scientific basis, or responsibility to society. The vocal and radical minority drive the process, which is detrimental to Ontario’s economy and the cost of such systems as the White Paper proposes. By using science and meaningful public involvement as the platform for reform, the service delivery can be improved.

Having said this, we recognize that the question is referring only to the timeliness of the planning process. We suggest that this misses the point entirely. It is the implementation of the source plans that is most important, not the process of getting there. Therefore the government should be involving those, who will be in charge of implementation and who will work within the plans in their future water uses, to develop the plans. These groups need to be given the time to do this properly and it should not be rushed through to meet a political agenda or timeline. The government has also appeared to be consulting with stakeholders such as ourselves, public agencies and the legal community, but not with the scientific practitioners (and technical consultants) who actually understand what is needed.

6. Is the proposed composition of the Source Protection Planning Committee appropriate (why or why not)?

**The proposed composition of these committees is inappropriate and should include formal scientific representation including ground water, engineering and ecological disciplines at the senior level.**

**Rationale:** The proposed composition of the Source Protection Planning Committees is dangerously inappropriate. While we applaud the inclusion of stakeholders, where we would expect local CBWA members to be included, the committee, as proposed, is made up entirely of advocates for various groups. Source Protection Plans are about source protection. To protect water sources one has to understand them. Only the scientific community can do this with any impartiality. As with Conservation Authorities, a Board makes the decisions and the scientific support is asked for only when they recognize a need. This model clearly doesn’t work in land use planning, and it certainly won’t work here. It is essential for Ontario’s future health that this mistake is not repeated. The Source Protection Planning Committees need to have formal scientific representation including ground water, engineering and ecological disciplines at the senior level.

7. Partnerships will be a key success factor in the development of source water protection plans and in their implementation. How can the process build on existing partnerships that support source water protection-related activities? What is the best way to facilitate new partnerships that may be needed?

**The bottled water industry is ready to work with the government and other stakeholders to develop a regulatory framework that will raise standards, protect our ground water, promote sustainable development, and ensure a broad-based approach to water management.**
**Rationale:** Partnerships will be essential to the success of Source Protection. The process and objectives of the White Paper are too immense for the municipalities to implement and fund. Industries such as ours always oppose unnecessary levels of regulation. Our own members are frustrated with the lack of neutral scientific judgement that presently exists even now. Therefore we are skeptical of what will be achieved by yet another level. On the other hand, we have a lot to offer in terms of practical science and our own Environmental Stewardship Code. The CBWA can ask members to voluntarily meter actual water usage. They can show how water taking is conducted safely. The CBWA can participate in an independent comparative industry review to help determine water uses that present risks. We stress that all partnerships should include the science component. As stated to the MOE as far back as September 2002, the bottled water industry is ready to work with the government and other stakeholders to develop a regulatory framework that will raise standards, protect our ground water, promote sustainable development, and ensure a broad-based approach to water management.

8. How can source protection planning best achieve a balance between achieving some consistency across the province and the need for flexibility to deal appropriately with local conditions and priorities?

**The Province needs to take a strong leading role in implementing the source protection plans to ensure consistency. It will be relatively easy to achieve a balance between consistency and flexibility if science based decisions are mandated. The “decision tree” approach should be taken to determining the scope of source protection planning.**

**Rationale:** Presently there is a lack of consistency because there are so many players. The Province needs to take a strong leading role in implementing the source protection plans and therefore it should be mandated in the anticipated legislation. Municipal roles should be advisory only. Using science as the foundation will be critical, as it will greatly reduce the advocacy factor inherent in multiple player issues. It will be relatively easy to achieve a balance between consistency and flexibility if science based decisions are mandated. Based on our background in assessing our own water taking we have learned that it is a matter of scale. The science can be consistent, simply by scoping the level of application of that science. For example, the CBWA promotes the concept of a decision tree when assessing water taking. This same approach could be applied to source protection. Large, remote watersheds would not require the same level of detail as small sensitive watersheds. Relatively small takings in comparison to the available water resources would not require the same amount of scrutiny as higher proportionate water takings. A strong provincial role, based on scientific reasoning will be essential to achieve both flexibility and consistency across the province.

9. What criteria should the Ministry of the Environment use to decide whether to approve a source water protection plan?

**The physical scientific criteria must of course be based on local conditions. Economic, social and cultural criteria on the other hand will need a strong provincial guiding hand to avoid local advocacy and political traps. Public education on source protections will be essential to gain buy-in.**

**Rationale:** When the Province selects criteria to approve these plans they should ensure that they are science based and not politically based. The physical scientific criteria must of course be based on local conditions. For example, the watershed regions should be based on geologic and water similarities as well as watersheds. In other words don’t select boundaries that group dissimilar areas that have different issues. Economic, social and cultural criteria on the other hand will need a strong provincial guiding hand to avoid local advocacy and political traps. The Boards and Committees, as said above, must be balanced with scientific and professional members to achieve this. Approving plans should be based on science over public outcry. To achieve this will mean an “early and often” approach to public education in source protection planning matters. This will minimize the advocacy issue.
10. Are there specific improvements that you would make to the proposed source water protection assessment or planning process?

CBWA members have provided many suggestions to improve this undertaking. They have been listed here in no particular order:

- Undertake a cost/benefit analysis of the proposed process now to see if it is warranted.
- Examine other jurisdictions to avoid reinventing the wheel, or duplicating other errors.
- Phase this in by region to avoid multiplying problems. We do not want another gun registry fiasco.
- Protection of the natural environment is missing, as the White paper assumes all waters are potential sources.
- Use this opportunity to strip out or combine other agencies and avoid duplication of effort between levels of government. (For example all three levels of government presently get involved in water taking applications: Federal (DFO); Provincial (MOE, MNR); and municipal (CA))
- Process is way too complicated, keep it simple, by combining the roles of the above agencies.
- Standardize the program across the province and provide rules, guidelines and policies before the legislation is enabled.
- One window approval process needed under any new plan.
- Province should have control of all data, not municipalities.
- Avoid local political control.

**Rationale:** For our members the greatest difficulty in producing our product is the regulatory process. Source protection is automatic, scientifically based and defendable. Approvals are none of these. Funds would be better expended in addressing the water taking and making it a safe sustainable process. This initiative represents an opportunity to rethink the entire process as it stands now and incorporate source protection into a streamlined and practically effective system.

11. What should happen if a source water protection plan is not completed in a timely way (e.g., fails to meet timelines as set out in regulations)?

It is essential that enough time is provided to set up a solid defensible plan.

**Rationale:** The first reaction of the CBWA to this question is simply that a better plan would be the result! If adequate time is not provided for now, then the program is set for failure. Political expediency at the Provincial level is not the reason for doing this, particularly because we are going to be making use of these plans in the long term for the future health and safety of all Ontario residents. A pilot process is essential to ensure the success of these plans.
WATER TAKING CHARGES

12. Should water taking charges be fixed for all users, or scaled according to factors related to the taking, such as volume, consumption, or water source?

Water taking charges should be fixed for all users.

**Rationale:** All users of water should pay water taking charges in order to provide as broad a base as possible to bear the cost of source protection. Unfortunately there may not be many takers in some watershed regions whereas there may be many in others. Therefore the costs of the program should come from one central coffer, dedicated to source protection. Scaling of charges imposes a level of tracking that may be difficult to police, and will certainly generate much discussion, with little promise of resolution. If scaling is imposed, the rate variability should not be too great. Definitions of things such as consumptive use would have to be very specific. Few people realize that irrigation water is 80% consumptive, whereas consumption of bottled water simply returns the water to the local water treatment infrastructure a few hours later. It is our recommendation that water taking charges be fixed for all users. Keep it simple.

13. Should certain purposes of water taking be exempt from a charge?

In the section entitled Exemption, the White Paper notes that Ontario could consider exemptions for drinking water, mineral processing, agriculture and conservation. Given that bottled water is used as drinking water, we submit that an exemption made for some on the basis of drinking water must be extended to all. Since there are municipalities in Ontario whose “municipal” water is actually ground water (and not surface water from a river or lake), consideration should be given to an exemption to the bottled water industry on the same grounds. Certainly the Province should have a strong interest in promoting a healthy lifestyle that will reduce strain on the health care system, and bottled water is an important lifestyle decision in that regard. Based on promotion of the most healthy beverage (Drinking Water) Ontario produces, bottled water should be exempt from charges.

**Rationale:** The CBWA is aware that the government’s original (but incorrect) thought was that water bottling was a very consumptive use of our water. Since their moratorium in December however, it has become clear that water bottling is a very minor water taking in the province. In addition it can be demonstrated, by the very nature of the Water taking permits issued to bottling companies, that it is a carefully monitored and very clean industry. Certainly the Province should have a strong interest in promoting a healthy lifestyle that will reduce strain on the health care system, and bottled water is an important lifestyle decision in that regard. Whereas the CBWA believes that no user should be exempt from water taking charges, the government may consider an exemption for bottled water to promote its use as a “Drinking Water”. Given the relatively low water taking in comparison to other users, this would not represent much in lost revenue and would certainly be a positive public investment in our healthcare system.