May 1, 2008

Stephen Maude
Senior Policy Advisor
Ministry of the Environment
Integrated Environmental Planning Division
Land and Water Policy Branch
135 St. Clair Avenue West, Floor 6
Toronto, Ontario
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Re: EBR Registry 010-2974 Protecting Lake Simcoe: Creating Ontario's Strategy for Action

Dear Mr. Maude,

Pollution Probe supports the general direction the Government of Ontario is taking with regard to the sustainable management of the Lake Simcoe region. In 2006, Pollution Probe had the opportunity to consult the water managers across Canada through a series of five workshops. The theme of managing water across jurisdictions and on a watershed basis emerged everywhere as a fundamental necessity for sustainable resource management.

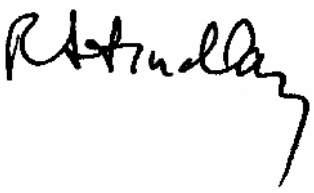
One key element is the presence of an animated and engaged public leading to a broadly shared ethic of stewardship. As outlined in the discussion paper *Protecting Lake Simcoe: Creating Ontario's Strategy for Action*, public awareness of the problems facing Lake Simcoe has increased in recent years alongside public concern about the need to ensure that future development and other activities in the watershed occur in a manner that protects the health of the lake. We view this as a good sign and as a platform for progressive and innovative new policies and management tools.

Attached please find Pollution Probe's comments and recommendations regarding the protection and sustainable management of Lake Simcoe. Our recommendations focus

on the areas in which we have knowledge and expertise. We intend that they will be useful and constructive.

Pollution Probe looks forward to working with the Government of Ontario, with other levels of government and with citizens, their businesses and organisations, to make the Lake Simcoe region sustainable.

Sincerely,



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THE POLLUTION PROBE APPROACH

Pollution Probe is a Canadian charitable organization whose mission is to define environmental problems through research, promote understanding through education, and press for practical solutions through advocacy. Pollution Probe is dedicated to achieving positive and tangible environmental change.

Over the course of its 39 year history, Pollution Probe has developed a well-defined approach to addressing issues that focuses on public policy reform to achieve environmental outcomes. We begin with solid research, carefully reviewing the latest scientific and technical information. We then build relationships with those having a legitimate interest in the issue. We listen to other stakeholders to deepen our own understanding. We formulate positions based on a solid foundation of science and stakeholder engagement. Finally, we identify the most effective way to obtain results. Our ability to forge partnerships with governments, the business sector, professional associations, health groups and other environmental NGOs significantly increases the depth and breadth of expertise we bring to issues. We have found that the development of strategic multi-stakeholder partnerships is the most effective way to achieve results.

We define the "Pollution Probe Approach to Environmental Renewal" as follows:

- we are a partnership-building organization;
- we are a donor-based organization;
- we seek to represent the needs of the general public;
- we are 'results-oriented';
- we choose the scope of our activity to ensure we can achieve results;
- we consider all facets of an issue, resisting the temptation to oversimplify issues that are truly complex;
- we approach issues fair-mindedly, based upon fact, respectfully listening to the points of view of all stakeholders;
- we seek professional competence in all aspects of our business; and,
- we adopt good ideas wherever we find them.

After doing research to bring ourselves up-to-date on the current science and knowledge on an environmental issue, we often run a multi-stakeholder conference or workshop to bring together experts from all sectors to engage in a learning forum and dialogue to understand the issue from all points of view. We publish proceedings that include recommendations drawn from what we learn. Since 1996, Pollution Probe has run ten national conferences and many more workshops on topics that cut across each of our major program areas.

POLLUTION PROBE WATER PROGRAMME

Source Water Protection has been a priority of Pollution Probe since we held a 1998 conference called "The Water We Drink" and subsequently released a report of the same name in 1999. We called for Source Water Protection to become a priority months before the tragedy of Walkerton in 2000, which sadly opened everyone's eyes to the wide range of issues surrounding the provision of safe drinking water. Pollution Probe was honoured to be a participant in all phases of the Walkerton Inquiry. In 2004 Pollution Probe joined a number or organizations in the preparation and submission of an NGO Statement of Expectations regarding source water protection.

In 2002 Pollution Probe organised a conference entitled *Managing Shared Waters*. Attended by over 440 delegates from 38 countries the conference brought together a tremendous amount of expertise on the subject of managing shared waters. Through the course of the conference it became clear that, though there are a plethora of organisations engaged on Great Lakes issues, they are doing so in an often un-coordinated manner. There was need to provide a new forum for dialogue between various high-level decision makers to better align their individual efforts.

To that end in 2003 Pollution Probe brought together experts from both Canada and the U.S. and formed an institution that would become known as the Great Lakes Futures Roundtable (GLFRT). This forum has led Pollution Probe's Water Programme to take on a number of new initiatives.

With support from the International Joint Commission and The Joyce Foundation Pollution Probe released Phase I, Phase II and Phase III of *Recommendations on the Review of the 1987 Canada-United Stated Great Lakes Water Quality Agreement (GLWQA)* in September 2003, October 2003 and April 2004 respectively.

From February 2006 to October 2006 water experts from government agencies, the private sector, academia, and non-governmental organizations gathered for a progressive series of five workshops to talk about water policy in Canada. The *Water Policy in Canada: National Workshop Series* was organized by Pollution Probe in conjunction with a wide range of government and non-governmental sponsors and partners. The workshops took place in Winnipeg (February 2006), Lethbridge (March 2006), Wolfville (April 2006), Guelph (June 2006) and Moncton (October 2006), benefiting from almost seventy expert presentations and the input of several hundred participants in total.

From November 2006 through January 2007 Pollution Probe joined forces with the Environmental Commissioner of Ontario and embarked on a five-city consultation series around the Great Lakes. Holding both daytime invited roundtables and evening public forums in Kingston, Windsor, Hamilton, Thunder Bay and Toronto we heard the thoughts, perspectives and concerns of over 400 people from all sectors of society.

In April 2007 we released *Towards a Vision and Strategy for Water Management in Canada*, a report summarising results from our cross-Canada consultation. Drawing on this report and other complimentary research Pollution Probe has recently recently published their vision and strategy titled *A New Approach to Water Management in*

Canada (March 2008)**.** In this concise document we present our vision for a new approach to water management; a set of eight fundamental principles to guide this New Approach; a set of three overall strategic directions to follow; and specified supporting roles and responsibilities for everyone.

Comments on *Protecting Lake Simcoe: Creating Ontario's Strategy for Action*

Please find the following comments as aligned with questions posed in the discussion paper.

1. What are the key issues that you believe this strategy should address?

Certainly phosphorous is a key concern for Lake Simcoe and it should be a key management objective within the proposed Lake Simcoe Protection Strategy. With 2031 population projections on the order of a million plus more people in Durham, York, Simcoe, Barrie and Orillia combined numerous other stresses within the watershed can be expected to intensify as well.

Competition between agricultural and domestic water needs, land-use and infrastructure planning, a shifting local economy and a transitioning demographic will speak to the need for a holistic, adaptive approach to sustainable management of the Lake Simcoe region. Accounting for big intangibles such as climate change and population pressures, competing demands and emerging contaminants of concern will be key to the overall success and sustainability of the region.

It will be essential to base the policy goals of the Strategy on solid science. The Strategy should evolve out of a dynamic science-policy interface where the governance challenges associated with a holistic, adaptive approach are accounted for.

2. Would you recommend any changes to the goal statement and, if so, what are they?

The current goal statement is focussed primarily on an environmental endpoint with improvements to recreational opportunities being identified as flowing from a healthy environment. While it is appropriate to orient the Plan toward ecosystem improvement and protection, the current goal statement may be seen as doing this largely without recognition of related socio-economic determinants and endpoints.

We feel that managing the environment independently of economic and social realities may send a risky signal that some could interpret as an approach that separates environmental, social and economic connections and basically endorses managing the economy outside of ecological considerations. Clearly the environment is impacted by economic decision making. More and more we are beginning to understand the degree to which the reverse is true, with tourism, property values, and recreational industries being a few examples.

On page 3 the discussion paper describes the long-term strategy as being "based upon consideration of the broad range of societal values associated with the Lake Simcoe watershed, including the environment, recreation, the agricultural economy, and sustainable growth." Pollution Probe would like to suggest that wording aligned with this intention be brought into the goal statement.

We support the long-term nature of this goal statement. In this way it is much like a vision statement for the Lake Simcoe region. An appropriate, thoughtful and broadly

adopted vision statement can become a coordinating force bringing often independent but implicitly interconnected decisions more into alignment with one another in pursuit of a shared vision, a landmark on the landscape of decision making.

As a possible starting point for a vision statement we submit the following Vision and Mission statements for the Lake Simcoe region (as adapted from the Great Lakes Saint Lawrence Vision, Mission and Goals - www.pollutionprobe.org/Reports/greatlakesvision.pdf).

Proposed Lake Simcoe Protection Strategy Vision and Mission Statement

VISION

The Lake Simcoe region is one where people, the environment, economy and cultures are healthy and thrive for generations to come.

MISSION

The people of the region will act as stewards to use and enjoy their natural treasures in ways that care for and improve them.

3. What objectives would you recommend to assist in further defining a healthy Lake Simcoe watershed?

The discussion paper suggests the proposed goal could guide objectives related to water quality and quantity, ecosystem health and improved/sustained recreational opportunities among other things, and that more specific objectives such as phosphorous reduction and restoration of a self-sustaining cold-water fishery could be included in the Plan. Alternatively one could see a self-sustaining cold water fishery as a good goal (beyond being simply an objective), as development of a self-sustaining cold water fishery is dependent on realising a number of interconnected improvements.

Recent environmental improvements have accumulated and presented themselves as rebounding dissolved oxygen concentrations, and there is some evidence of natural reproduction of deep water fish species. The concern now is that continued population pressures and other forces will undo this progress. Using the fishery as an indicator of the overall sustainability of the Lake Simcoe region could play a key part in achieving the vision while the interaction of causal factors, decision points and associated environmental impacts can be brought together to support more comprehensive understanding and improved decision making in the region.

By taking a specific issue such as phosphorous loadings and not only linking it with ecological integrity through a focus on the fishery but also recognising social and economic needs, the strategy can pursue a vision of sustainability for the Lake Simcoe region

One approach to structuring the Plan to utilise this approach would be to nest a set of interlocking and mutually supportive objectives, grouped under the themes of social, environmental and economic goals, within the vision and mission statements for the region. Some suggested starting text follows (also adapted from the Great Lakes Saint Lawrence Vision, Mission and Goals).

PROPOSED GOALS

Social

Social institutions give people the ability and knowledge they need to cherish and safeguard Lake Simcoe, the skills and capacity to be productive and contribute, and the opportunity to enjoy a good quality of life.

- Education. The region has an educational system that teaches people to appreciate and respect the unique environment in which they live, and gives them the skills and capacity to participate in a knowledge-based economy.

- Health. Both the natural and built environments foster good health for all, high quality care is accessible to those who need it, and well-being is enhanced by employment, housing, recreational and cultural opportunities.

- Engagement. Individuals and public sector, private sector and non-governmental organizations actively work together to improve conditions in the region.

Environmental

A robust ecosystem provides the basis for a diverse and healthy community of plants, animals and people, as well as strong economic and social systems.

- Natural Environment. The biological, physical and chemical integrity of Lake Simcoe supports natural biodiversity and ecosystem functions.

- Built Environment. The built environment of the region is compatible with and enhances the natural environment.

- Adaptation to Change. People of the region engage in global efforts to mitigate social, economic and environmental change, and apply their combined resources to address local impacts.

Economic

The Lake Simcoe region has a vital economy and business climate that delivers quality goods and services to residents and beyond. There are job opportunities in all sectors with productivity and well-being assured through the wise use of natural and human resources, technology and capital.

- Business climate. Revitalised natural and built environments increase the region's attractiveness, with investments being made in enterprises that share the Vision for the region, underpinning social and environmental goals

- Employment. A workforce that is highly educated and motivated is attracted to the region by its environmental quality, social systems and the opportunities provided by its vibrant economy.

- Infrastructure. People and goods move with great efficiency and the lowest impact on the environment. Production is supported by sustainable use of available natural resources.

Recognising the many interests (social, cultural, economic, environmental) and interdependencies among organisations in the Lake Simcoe region, this vision can only be achieved by organisations working together.

4. Do you have comments on the proposed contents of a Protection Plan?

Where the Protection Plan is meant to help ensure that "future growth in the Lake Simcoe watershed occurs in a sustainable manner" (discussion paper, page 1) it should articulate a vision for what this means and how decisions made under the Plan will be consistent with the increasing sustainability of the Lake Simcoe region.

Admittedly these are big questions however Pollution Probe would like to put forward our recently released report entitled *A New Approach to Water Management in Canada* (www.pollutionprobe.org/Reports/WPWSVisionandStrategy-Mar1208Eng.pdf).

This report is the end result of two years of work and a national policy consultation that engaged hundreds of key water decision makers and influencers from all sectors across Canada. Key conclusions that align with the ideas presented in the discussion paper include:

- placing human demands for water within the context of watersheds
- enhancing the existing management framework through coordination of efforts
- engaging residents through development of a growing "Sense of Place"
- ensuring strong science-policy linkages that define and are supported by an appropriate data gathering and research agenda

Pollution Probe encourages adoption and adaptation of any aspects of *A New Approach to Water Management in Canada* that are found to be applicable.

We would encourage consideration be given to forming of the new Lake Simcoe governance body prior to development of the first plan so that they share ownership of the process and are able to help shape the plan they will be expected to implement and evolve. While this may require a larger investment of time and resources in the creation of the first plan we feel that this investment will be recovered through better understanding and greater ownership of the process from the outset, and that these conditions will reverberate positively through future implementation, review and amendment.

5. Are there tools not mentioned in the discussion paper that you think should be considered? Tell us about them.

Pollution Probe is supportive of the public's **Right to Know**. We believe that that there should be a presumption in favour of a public right to access data about water quality and quantity. The accessibility of data may be expected to initiate a social dynamic that is supportive of voluntary initiatives mentioned in the discussion paper.

Through improved access to information the public will be better positioned to connect with and understand their watershed home, developing a strong “Sense of Place”. A person’s Sense of Place emerges from a mix of the natural and social features of their surrounding landscapes. Fostering a strong identity, of Sense of Place, within a watershed can help create an ethic of stewardship and shared responsibility for its protection.

Furthermore improved access to data and information will help existing civil society organisations be more effective in their work. While some situations will arise where various organisations and agencies do not interpret the data in the same way, transparent access to information levels the playing field and helps render a decision based more on science and less on opinion.

In terms of governance and broad ownership of the management process an engaged and animated public and an informed and enabled civil society are both features of a more robust governance structure and decision making process. Employing this **Distributed Governance** approach will lead to improved sustainability of the Lake Simcoe region through recognising and taking into account varying perspectives including socio-economic concerns when making decisions related to environmental management.

Currently the ecological footprint of human activities in the Lake Simcoe watershed has exceeded the carrying capacity of the environment with the resulting feedback mechanisms delivering poor water quality and a range of secondary impacts. To achieve restoration and long-term sustainability and integrity of the Lake Simcoe watershed it is necessary to not only stop depleting natural capital but to go beyond and undo some of the existing damage. This can be seen as a first step toward the replenishment of our natural capital and more sustainable approaches where society is effectively **Living off the interest,** and not off the capital.

The **Net Gain Principle** states that we need to redress past abuses and strive for a net gain in ecological assets when economic development and other activities are undertaken. Where the scope of application is the watershed, employing a Net Gain approach can help in resolving issues of jurisdiction by putting the needs of the watershed first.

In the Lake Simcoe watershed, the Net Gain principle should guide the integration of watershed-based planning with other planning processes, such as official planning by municipalities, growth planning and infrastructure planning.

While there is work to do in terms of defining an environmental baseline and specific parameters that could be used to plan for and monitor progress towards a Net Gain phosphorous management would likely be a key indicator.

6. Are there circumstances in which certain tools should not be used? Please explain.

7. How should these tools be integrated with existing approval processes, programs, and tools?

The use of consistent and coordinated policies and programs on a watershed basis is essential for the sustainable development of the Lake Simcoe region. A certain amount of coordination can be expected from application of the Net Gain Principle as previously discussed however there will likely remain some level of overlap leading to uncertainty regarding role and responsibility.

To address this issue Pollution Probe suggests consideration of the principle of **Jurisdiction Best-Placed**. This states that policy development should take place at all jurisdictional levels, but implementation should be the responsibility of the level most appropriate to resolving the issue. Application of this principle should be supported with adequate money, data, human resources and legal authority.

Details delineating the boundaries of role and responsibility and jurisdiction best-placed can be organised within the Plan or in a supporting administrative agreement. This approach and associated improvements in accountability and efficiencies in delivery could be further strengthened by the creation of a coordinating body, possibly the new governance structure identified in the discussion paper.

Through the provision of ongoing interaction with decision making and the development of a more distributed model of governance, this coordinating body offers an approach that allows for continuous improvement by adapting to what is learned from ongoing science and monitoring efforts (i.e., an adaptive management approach).

To assist in interagency cooperation between managers in different jurisdictions we are currently developing an online tool for watershed collaboration in the Ottawa area. The Ottawa-Gatineau Watershed Atlas project is a collaborative effort amongst numerous agencies in the Ottawa-Gatineau region to develop a bilingual, web-based water resource management tool for the Ottawa-Gatineau region of the Ottawa River watershed. The project is a partnership supported by agencies of both the provincial and federal levels of government as well as several other organisations (including Conservation Authorities).

Through the web-based Atlas local communities in the Ottawa-Gatineau Region will be able to access and use interactive maps, graphs and information to explore and learn about the watershed where they live. The Atlas will explore numerous water topics (water quality, flow, wildlife, land use, climate change, and recreation) through interesting facts, issues and local information. Each topic will feature actions community members can take to benefit their environment, and will answer many of the questions they might have.

Additionally, it will provide water managers with access to a range of regional datasets relevant to watershed management and the decisions they make every day. Building upon the recommendations of *A New Approach to Water Management in Canada*, the Atlas takes a watershed approach, utilizing the natural boundaries of the watershed rather than political and jurisdictional boundaries. By framing issues within the context of the watershed, data, information and partner led initiatives can be uniquely presented, compared, and analyzed at the regional level.

A key objective of the Atlas is to educate, animate and engage the local population. To this end it has a strong public outreach and education component tied to an interactive user-defined mapping application. More information on the Ottawa-Gatineau Watershed Atlas project is available upon request. Expected launch date is March 2009.

Coordinating the monitoring and research agenda with management needs through fostering of strong science-policy linkages is essential. The data that is gathered should be directly relevant to the application of a Net Gain approach, thereby complimenting the integration of planning processes within a coordinated framework that pursues ecological improvements in a way that is responsive to socio-economic concerns.

8. Which existing programs might be a "fit" with Lake Simcoe protection activities and act as a source of funding? Where are the programming and funding gaps and how can they be addressed?

9. Are you aware of other innovative funding approaches that may be helpful?

The Lake Simcoe Protection Plan should consider adopting **Full Cost Pricing** to support sustainable infrastructure management and a long term sustainable asset management approach. The programme should be designed to support change-over programmes and other measures to grow adaptive capacity in the face of climate change.

Also it might consider introducing certain fiscal measures that "tax the bads", meaning environmental infractions carry with them a financial penalty. Pollution Probe work related to Bill 133, also known as the Spills Bill, finds that these environmental penalties are most beneficial overall when their application is directed toward environmental improvements or remediation works as determined by local interests. In a related way linking the Net Gain principle with the concepts of Payment for Ecological Services (PES) and ecological currencies could be used to convert environmental effects associated with development activities into financial levies payable to the watershed. The logical next question is how are these monies received and redirected into the watershed.

To this point Pollution Probe's *New Approach to Water Management in Canada* is promoting the establishment of Water Trusts to facilitate and encourage fully accountable and transparent public and private investment in the protection of watersheds across Canada, in accordance with the concepts of public trust and fiduciary responsibility.

Establishing a trust fund that uses market mechanisms and tools such as PES would provide a financial incentive for certain types of development and planning approaches. Financial support from the fund would be available to initiatives that can demonstrate a credible, measurable and accountable results-based plan for local actions that would protect and clean up watersheds and achieve a net gain in watershed ecological assets.

A **Lake Simcoe Watershed Trust** would employ a results-based management and accountability framework that would allow public and private investors to invest in the activities of a non-profit, non-governmental watershed protection organization or agency.

The goal of this organisation is the achievement of a good return on investment in terms of delivering net gains in watershed ecological capacity

Successful examples of a trust based approach include the Nature Conservancy of Canada, a private non-profit organization whose goal is the direct protection of Canada's biodiversity through the purchase, donation or placing of conservation easements on ecologically significant lands; and, Sustainable Development Technology Canada, a not-for-profit foundation that finances and supports the development and demonstration of clean technologies.

10. Does the idea of an innovative funding tool such as a nutrient offsetting or trading program make sense for the Lake Simcoe Watershed? What are its advantages? Its disadvantages?

A nutrient offset or trading programme has certain advantages however it should involve a cap and plan for retiring allotments. One option would be a buy-back programme by the Lake Simcoe Watershed Trust.

Such a system will benefit from social support in terms of supporting government regulation of activities carried out on private lands. Trust between rural landowners and resource managers may need to be fostered. This can be achieved through the promotion of a distributed governance model as well as collectively set the rules of the game.

11. What type of body should be given ongoing responsibility for a Lake Simcoe Protection Plan? How should the proposed governance body work with the other bodies in the watershed, such as the conservation authority, municipalities, and the source protection committee17 that was established recently?

Pollution Probe would suggest that the new governance body take the form of a secretariat that is charged with ensuring coordination and overseeing delivery of the plan.

It would be a stable institution providing ongoing access to decision making, and employ a flexible multi-stakeholder roundtable approach to identify emerging issues, what's working and what's not. Their overseer role would be informed through liaising with their constituent communities.

The new governance body would be comprised of key individuals and decision influencers who would be in a position to ensure accountability while sharing responsibility, however ultimately decision making rests with elected officials.

12. What do you think should be the responsibilities of the governance body?

The responsibilities of the governance body include:

- developing, adopting, promoting a shared vision and strategy
- encouraging cooperation and shared responsibility
- rebuilding capacity to measure and understand

- ensuring coordination for efficient use of resources

Furthermore they would monitor the undertaking of initiatives to develop the social capital and capacity needed for civil society to play an active role in watershed management

13. How should management actions be coordinated across the Lake Simcoe Watershed?

As discussed, human demands for water and on water need to be understood within the context of the watershed. Accordingly, meeting the ecological needs of watersheds is a top priority. Aligning the needs of the watershed with the principle of jurisdiction best-placed, clarifying roles and responsibilities, pursuit of a Net Gain in ecological assets, public access to data and information and use of a more distributed approach to governance will all serve to strengthen coordination across the watershed toward overall improvements in the sustainability of the region.

14. Does the proposed approach to developing proposed legislation to protect Lake Simcoe seem comprehensive and inclusive of the major components necessary to make it work? Is there anything that we've missed?

Beyond ensuring strong science-policy linkages are in place to ensure that important scientific knowledge regularly informs the decision making process and that the research agenda is responsive to policy priorities and needs, bringing the new governance body together prior to development of the first plan would be seen as beneficial.