

Ministry of the Environment,
Conservation and Parks
Drinking Water and Environmental
Compliance Division
West Central Region
Guelph District Office

1 Stone Road West
4th Floor
Guelph, Ontario N1G 4Y2
Tel.: 519 826-4255
Fax: 519 826-4286

Ministère de l'Environnement de la
Protection de la nature et des Parcs
Division de la conformité en matière
d'eau potable et d'environnement
Direction régionale du Centre-Ouest
Bureau de district de Guelph

1, chemin Stone ouest
4^e étage
Guelph (Ontario) N1G 4Y2
Tél.: 519 826-4255
Télé.: 519 826-4286



NOTICE OF INTENTION TO ISSUE ORDER

Section 114 Safe Drinking Water Act
S.O. 2002, c. 32, as amended ("SDWA")

TO: The Regional Municipality of Waterloo

PO Box 9051
Station C
Kitchener ON N2G 4J3
Attention: Regional Clerk
DELIVERED via e-mail

AND TO:

The Corporation of the Township of Wilmot
60 Snyder's Road West
Baden ON N3A 1A1
Attention: Municipal Clerk
DELIVERED via e-mail

AND TO:

Knipfel Water Supply Inc.
1 Deerfield Extension
Petersburg, ON N0B 2H0
Attention: Paul Knipfel
DELIVERED via e-mail

TAKE NOTICE that, for the reasons set out in this Notice, I propose to issue an Order to the Regional Municipality of Waterloo ("Region"), and the Corporation of the Township of Wilmot ("Township") pursuant to subsection 114(1) of the Safe Drinking Water Act (SDWA), requiring them to provide service from a municipal drinking-water system ("DWS") or to oversee the establishment or alteration of one or more non-municipal DWS to serve the users of the DWS owned by Knipfel Water Supply Inc. and located in the Township of Wilmot.

TAKE NOTICE that I have consulted with the Medical Officer of Health with respect to the matter of the DWS owned by Knipfel Water Supply Inc. ("Knipfel Well Supply") as evidenced by the correspondence which is attached to the Notice in Appendix A.

TAKE NOTICE that I hereby provide the Region and Township with the opportunity to respond to this notice in accordance with subsection 114(10) of the SDWA. Pursuant to subsection 114(10) of the SDWA, the Region and Township shall provide the Director and the Medical Officer of Health with their written response to this Notice no later than February 26, 2024.

TAKE NOTICE that the Director will review and consider any submissions received within the time frames identified above in determining what decision will be made under s.114 of the SDWA.

TAKE NOTICE that, EFFECTIVE MAY 13, 2024, the Region and Township are required to take charge of the Knipfel Well Supply DWS and to operate and maintain the Knipfel Well Supply DWS in accordance with the Directions set out in Part 3 of this Notice.

TAKE NOTICE that, pursuant to subsection 114(4) of the SDWA, the Region and Township shall comply with the Directions set out in Part 3 of this Notice until an Order has been issued and complied with or until this Notice has been amended or revoked.

TAKE NOTICE that, pursuant to subsections 114(6) and 114(7) of the SDWA, Knipfel Water Supply Inc. shall comply with the Directions set out in Part 5 of this Notice.

PART 1: Legal Authority

- 1.1 This Notice is issued pursuant to the authority of sections 114, 117 and 162 of the SDWA all of which are set out in Appendix B.

PART 2: Background and Reasons

- 2.1 Knipfel Water Supply Inc. owns a DWS located at 1 Deerfield Extension, Petersburg in the Township of Wilmot that supplies water to a non-municipal year-round residential subdivision.
- 2.2 The Knipfel Well Supply DWS is classified as a non-municipal year-round residential DWS under Ontario Regulation 170/03, Drinking-Water Systems, made under the SDWA ("O. Reg. 170/03"). It is therefore a regulated non-municipal system for the purposes of s. 114 of the Act as prescribed by subsection 2 (5) of Ontario Regulation 171/03, made under the SDWA.
- 2.3 Knipfel Water Supply Inc. supplies water to a residential community including one property on Deerfield extension, nine properties on Deerfield Avenue, thirty-one properties on Alice Crescent, four properties on Redford Drive, eight properties on Notre Dame Drive and nine properties on Synder's Road East. A community park and church are included in the properties served. As the development comprises more than six private residences, it is considered to be a major residential development as defined in the SDWA.
- 2.4 The Knipfel Well Supply DWS is supplied from a 281 ft deep drilled well with a ten-inch diameter casing. The well was drilled in 1963. The current well pump was installed in 2004 and is rated at 111.3 GPM. Treatment of the water is achieved by the injection of sodium hypochlorite into the water which is then directed to a ninety-five cubic meter reservoir. The distribution system installed in the 1960's to serve the original subdivision along Alice Crescent, Deerfield Avenue and Redford Drive consists of four-inch cast iron watermains. The distribution system has been extended to additional properties along Snyder's Road and Notre Dame Drive.
- 2.5 On November 29, 2021, Paul Knipfel, the owner and sole Director of Knipfel Water Supply Inc, requested that the Township assume ownership of the drinking water system by the end of May 2024.
- 2.6 In Wilmot, the Region is responsible for treating municipal drinking water and the Township is responsible for the municipal distribution systems.
- 2.7 Paul Knipfel assumed responsibility for the drinking water system in 2004 after the original owner passed away. He will be unable to continue operating the DWS as of May 31, 2024, and has not been able to identify a new owner.

2.8 The absence of a future owner is concerning for several reasons.

The DWS was constructed approximately sixty years ago with no significant upgrades since that time. It is likely, based on the typical life expectancy, that most of the original drinking water equipment and infrastructure, including the well, reservoir and watermains will need replacement in the coming years. As an example, a recent assessment undertaken by the Region in October 2023, identified that the surge tank which mitigates water surge pressures from pump start up and shut down is in need of immediate replacement as it is at risk of failure.

The DWS may become more vulnerable to the intrusion of contaminants as cast iron pipes that are at the end of their life span become susceptible to breaks and leaks.

Without an owner or sufficient reserve fund, aging equipment will not be replaced and will ultimately fail which may lead to a drinking water health hazard.

Uncertainty regarding the water supply may also prompt some residents to drill private drinking water wells and fragment from the drinking water system. This previously occurred in 2017 when one resident drilled a private well and illegally fragmented from the drinking water system. There have been other recent inquiries from residents about drilling private wells. The ad hoc drilling of private wells would lead to inconsistent servicing and potential for cross contamination issues if backflow prevention is not installed.

If a new owner is not identified, it is likely that within a year some residents will illegally fragment from the DWS and without oversight the system will become deficient.

2.9 I have consulted the Medical Officer of Health (MOH) with respect to this matter. The correspondence from the Region of Waterloo Public Health Unit appears in Appendix A to this Notice.

The MOH has indicated that: *“Based on the information provided by your office, I am in agreement with your assessment that the Knipfel Drinking Water System requires servicing by a municipal drinking water system to protect residents from any potential drinking water health hazard.”*

- 2.10 Based on the foregoing I am of the opinion that the major residential development requires servicing by a municipal drinking water system to protect residents from a drinking water health hazard.

PART 3 – Directions to the Region and Township

I hereby direct the Region and Township, pursuant to my authority under subsection 114(4), subsection 117(4) and subsection 162(1) of the SDWA, to take all necessary steps and to do, or cause to have done, the following:

- 3.1 By May 13, 2024 take charge of, operate and maintain the Knipfel Well Supply DWS in compliance with the requirements of O. Reg. 170/03.
- 3.2 Immediately upon taking charge of the Knipfel Well Supply DWS, initiate monitoring and sampling of the DWS in accordance with the applicable requirements of O. Reg. 170/03, specifically:
- a) Conduct operational checks, sampling and testing in accordance with the requirements of schedule 6 of O. Reg. 170/03;
 - b) Conduct maintenance and operational checks in accordance with the requirements of schedule 8 of O. Reg. 170/03;
 - c) Conduct microbiological sampling and testing in accordance with the requirements of schedule 11 of O. Reg. 170/03;
 - d) Conduct chemical sampling and testing in accordance with the requirements of schedule 13 of O. Reg. 170/03;
 - e) Ensure an operator with the appropriate qualifications is in place to operate the DWS;
 - f) Ensure an Engineering Evaluation Report is available in accordance with Schedule 21 of O. Reg. 170/03;
 - g) Ensure that the appropriate treatment equipment is installed and operational as per Schedule 2 and/or Schedule 3 of O. Reg. 170/03;
 - h) Report adverse test results and other problems in accordance with the requirements of schedule 16 of O. Reg. 170/03;
 - i) Complete corrective actions in accordance with the requirements of schedule 18 of O. Reg. 170/03.

PART 4 – Response by the Region and Township

Pursuant to the requirements in subsection 114(2) of the SDWA, I hereby provide to the Region and the Township the opportunity to respond to this Notice as follows:

- 4.1 A written response to this Notice shall be provided to the Director and to the Medical Officer of Health in accordance with the requirements of subsection 114(10) of the SDWA by February 26, 2024.

PART 5 – Access Requirements for Knipfel Well Supply DWS

Pursuant to subsections 114(6), 114(7) and 162(1) of the SDWA, I hereby require Knipfel Water Supply Inc. to take all necessary steps to do, or cause to have done, the following:

- 5.1 By May 13, 2024, relinquish control and operation of Knipfel Well Supply to the Region and Township and/or their agents and ensure unimpeded access to the Knipfel Well Supply DWS is provided to the Region and Township and/or their agents sufficient to allow for full compliance with the Directions contained in Part 3 of this Notice.

Please Note: If the requirement at 5.1 above is not fully complied with the Ministry of the Environment, Conservation and Parks retains the right and the authority to issue an access order to Knipfel Water Supply Inc., pursuant to subsection 162(2) of the SDWA.

PART 6 - Miscellaneous

- 6.1 If a time period expires on a Saturday or Sunday or other provincial government holiday, the time period shall expire on the following weekday.
- 6.2 All notices are issued in the English language and may be translated into the French language. In the event that there should be a conflict between the English original and the French translation, the English original shall prevail.
- 6.3 The requirements of this Notice are severable. If any requirement of this Notice or the application of any requirement to any circumstance is held invalid, the application of such requirement to other circumstances and the remainder of the Notice shall not be affected thereby.

- 6.4 The requirements of this Notice are minimum requirements only and do not relieve you from:
- a) complying with any other applicable order, statute, regulation, municipal, provincial or federal law; and
 - b) obtaining any approvals or consents not specified in this order.
- 6.5 Notwithstanding the issuance of this Notice, further written directions may be issued in accordance with the legislation, as circumstances require.

ISSUED at Guelph, Ontario, this 15th day of January 2024.

Lisa Williamson

Director, s.114 SDWA

c.c. -

Dr. Hsiu-Li Wang, Commissioner & Medical Officer of Health Region of Waterloo
Public Health

Rebecca Piovesan, Manager (Acting) Region of Waterloo Public Health

Mari MacNeil, Director, Water & Wastewater Services, Region of Waterloo

Jeff Molenhuis, Director of Public Works and Engineering, Township of Wilmot

Aaron Todd, District Manager, Guelph District Ministry of the Environment,
Conservation and Parks

Karla Everard, Water Compliance Officer, Guelph District Ministry of the
Environment, Conservation and Parks

Appendix A

CORRESPONDENCE WITH MEDICAL OFFICER OF HEALTH



PUBLIC HEALTH AND PARAMEDIC SERVICES
Health Protection and Investigation

99 Regina Street South 3rd Floor
P.O. Box 1633
Waterloo, Ontario N2J 4V3 Canada
Telephone: 519-575-4400
TTY: 519-575-4608
Fax: 519-883-2226
www.regionofwaterloo.ca

150 Main Street
Cambridge, Ontario
N1R 6P9 Canada
Telephone: 519-575-4400
TTY: 519-575-4608
Fax: 519-622-1235
www.regionofwaterloo.ca

December 08, 2023

Ms. Lisa Williamson, Director
Ministry of the Environment, Conservation & Parks
Drinking Water & Environmental Compliance Division – West Central Region
1 Stone Rd West, 4th Floor
Guelph, ON, N1G 4Y2

Dear Ms. Williamson,

Re: Operation of the Knipfel Drinking Water System, Petersburg Ontario (DWS #260006269)

Thank you for consulting with Region of Waterloo Public Health about the Ministry of Environment, Conservation & Parks' proposed plan for the future operation of the Knipfel Drinking Water System.

Based on the information provided by your office, I am in agreement with your assessment that the Knipfel Drinking Water System requires servicing by a municipal drinking water system to protect residents from any potential drinking water health hazard. Given the history of compliance with the Ontario Drinking Water Quality Standards, I have no objection to this system continuing to supply water for domestic purposes, including for human consumption and food preparation.

Region of Waterloo Public Health has no additional directions for inclusion in your notice to the Region of Waterloo and the Township of Wilmot relating to the operation of the Knipfel Drinking Water System beyond the requirements set out in the Safe Drinking Water Act and associated Regulations.

Sincerely,

A black rectangular box redacting the signature of Dr. Hsiu-Li Wang.

Dr. Hsiu-Li Wang
Commissioner & Medical Officer of Health
Public Health and Paramedic Services

Ministry of the Environment,
Conservation and Parks
Drinking Water and Environmental
Compliance Division
West Central Region
Guelph District Office

1 Stone Road West
4th Floor
Guelph, Ontario N1G 4Y2
Tel.: 519 826-4255
Fax: 519 826-4286

Ministère de l'Environnement de la
Protection de la nature et des Parcs
Division de la conformité en matière
d'eau potable et d'environnement
Direction régionale du Centre-Ouest
Bureau de district de Guelph

1, chemin Stone ouest
4^e étage
Guelph (Ontario) N1G 4Y2
Tél.: 519 826-4255
Téléc: 519 826-4286



November 30, 2023

Dr. Hsiu-Li Wang, MD, MHSc, FRCPC, FACPM
Medical Officer of Health
Region of Waterloo Public health
150 Main Street, Cambridge, ON N1R H86

Dear Dr. Wang:

RE: Operation of the Knipfel Drinking Water System, Petersburg Ontario (DWS #260006269)

The purpose of this letter is to consult with you as a precursor to issuing a notice to the Regional Municipality of Waterloo and Township of Wilmot advising them that it my intention to order them to provide service to the Knipfel Drinking Water System (DWS). Section 114 of the Safe Drinking Water Act (SDWA) authorizes a Director to issue a written order requiring a municipality to provide service from a municipal drinking water system to residents in a major residential development in the municipality or to oversee the establishment or alteration of one or more non-municipal drinking water systems to serve those residents.

The Knipfel Drinking Water System (DWS) is regulated under the SDWA as a non-municipal year-round residential (NMYRR) drinking water system and supplies a major residential development as defined by the SDWA. It serves over sixty connections including private residences along Alice Crescent, Deerfield Avenue, Redford Drive, Notre Dame Drive and Snyder's Road (Highway 6) in Petersburg. It also supplies an apartment building, church, private club, and community park. The drinking water system is located adjacent to an agricultural field.

The DWS is currently owned by Knipfel Water Supply Inc. The DWS is supplied from a 281-foot drilled well that was constructed in 1963. The current well pump was installed in 2004. Treatment is achieved by injecting sodium hypochlorite into the water which is directed to a ninety-five cubic meter reservoir before being distributed to users. The distribution system installed in the 1960's to serve the original subdivision along Alice Crescent, Deerfield Avenue and Redford Drive consists of four-inch cast iron

watermains. The owner reports the distribution system was extended to additional properties along Snyder's Road and Notre Dame Drive over the years due to water quality issues from the private wells serving those properties.

Sample results from the last five years for the DWS show that the drinking water has met the Ontario Drinking Water Quality Standards (ODWQS) with the exception of total coliform which were detected in samples collected in the distribution system on May 27, 2022 and February 17, 2023 at concentrations of 2 and 1 CFU/100 ml respectively. The most recent arsenic sample collected on October 14, 2022 shows it is present at 4.1 µg/L. The ODWQS for arsenic is 10 µg/L.

A provincial officer inspection of the drinking water system was initiated on October 12, 2023. Preliminary findings show that, with the exception of some administrative items, the owner is in compliance with the requirements for operational testing and sampling; however, maintenance of the water treatment has not been conducted as per the required schedule.

In Wilmot, the Region is responsible for treating municipal drinking water and the Township is responsible for the distribution systems. In late 2021, the owner and sole Director of Knipfel Water Supply Inc, Paul Knipfel, requested that the municipalities assume ownership of the DWS by the end of May 2024 when his operator certification expires. Mr. Knipfel assumed responsibility for the DWS in 2004 after the original owner passed away. The owner will be unable to continue operating the system as of May 31, 2024. He has not been able to identify a new owner.

Although the current owner employs one operator and could retain an operating authority to conduct the day-to-day operations of the system, the absence of a future owner is concerning for the reasons outlined below.

The DWS was constructed approximately sixty years ago with no significant upgrades since that time. It is likely, based on typical life expectancy, that most of the original drinking water equipment, including the well, reservoir and watermains will need replacement in the coming years. A recent assessment completed in October 2023 by the Region indicates that the surge tank which mitigates water surge pressures from pump start up and shut down is in need of immediate replacement as it is at risk of failure. The assessment further identified upgrades to the chlorination equipment and other instrumentation are needed.

Without an owner or sufficient reserve fund, aging equipment will not be replaced and will ultimately fail which may lead to a drinking water health hazard in the future. For example, a drop in distribution pressure below 20 PSI in the DWS may result in conditions that increase the risk of contamination of the drinking water by inflow through cracks and leaky joints in buried watermains and back flow from plumbing fixtures.

Guidance on Monitoring the Biological Stability of Drinking Water in Distribution Systems published by Health Canada on February 25, 2022 states:

As pipes age, they may become more prone to leaks and breaks, and more vulnerable to intrusion of contaminants (O'Connor, 2002; Moe and Rheingans, 2006; Qureshi and Shah, 2014). During low or negative pressure events, contaminants surrounding the pipes can be drawn in through leaks in the system (see Section B.1.3). Aging water infrastructure is a significant threat to water safety in Canada (Canadian Infrastructure Report Card, 2016). In Ontario, for example, many water systems were constructed in the 1960s and 1970s, (MacDonald, 2001) and, as such, will be nearing the end of their life span, which averages around 50 to 70 years (Tafari and Field, 2010). Pipes installed during the 1960s and 1970s have also been associated with an increased likelihood of failure because of the type of material used, and poor installation practices (Besner et al., 2001; MacDonald, 2001).

Uncertainty regarding water supply may also prompt some residents to drill private drinking water wells and disconnect from the DWS. This previously occurred in 2017, when one resident drilled a private well and illegally disconnected from the DWS. There have been other recent inquiries about drilling private wells from residents unhappy with the current water service. The ad hoc drilling of private wells would lead to inconsistent servicing and potential for cross contamination issues if backflow prevention is not installed. Under the SDWA, disconnecting from a regulated drinking water system is considered fragmentation which is the replacement of all or part of a regulated non-municipal drinking water system with a separate non-municipal drinking water system that is not prescribed as a regulated drinking water system under the SDWA. Subsection 52(2) of the SDWA prohibits fragmentation unless written consent of the Director is obtained. Before providing written consent to fragment, the Director will typically require the owner to follow a defined process including providing an engineering assessment of potential risks and availability of safe and sustainable sources of water for consumers as well as consultation with all residents and the health unit.

The owner has informed the Region, Township and the ministry of his challenge maintaining private ownership of the DWS. If a new owner is not identified, it is likely that within a year some residents will illegally fragment from the DWS and without oversight the DWS will become deficient.

Based on the foregoing I am currently of the opinion that the major residential development requires servicing by a municipal drinking water system in order to protect residents from a drinking water health hazard.

As such, in accordance with subsection 114(2) of the SDWA, I am considering giving notice to the Corporation of the Regional Municipality of Waterloo and the Township of Wilmot of my intention to issue a Director's order under subsection 114(1) of the SDWA, and providing the municipalities with the opportunity to respond to the notice. I am engaged in ongoing discussions with the Region and Township regarding the notice and proposed order. I am proposing to issue a notice to the Region and Township in mid-January 2024. Based on recent discussions with the municipalities, and pending consultation with you, I am considering including a direction in the notice that will require the municipalities to begin operating the DWS by the end of May 2024. At this time the municipalities will be required to operate the DWS in accordance with the relevant treatment, sampling, operation and maintenance requirements of O. Reg. 170/03 (Drinking Water Systems), and the SDWA for a NMYRR drinking water system. The DWS will not become a municipal residential system until a Director's order is issued.

The notice is being provided several months in advance of the municipalities starting operations at the DWS so they can plan for needed equipment and resources. The advance notice also provides time for the municipalities to communicate with residents about anticipated changes to the DWS.

I am seeking your written comments and advice on the ministry's proposed course of action as described above, including your opinion on whether the DWS can continue to be used to supply water for a domestic purpose, including for human consumption or food preparation. I am also seeking your opinion on whether any additional directions relating to the operation of the DWS, (e.g., public notice, and sampling, testing, monitoring and reporting with respect to the quality or quantity of any waters), should be included in the notice.

If you have any questions or would like to discuss further, please do not hesitate to contact me. Otherwise, I would appreciate your comments by December 31, 2023.

Sincerely,



Lisa Williamson, Director s114 Part IX, SDWA

Cc:

Aaron Todd, District Manager, Guelph District Ministry of the Environment,
Conservation and Parks

Karla Everard, Water Compliance Officer, Guelph District Ministry of the Environment,
Conservation and Parks

Rebecca Piovesan, Manager (Acting) Region of Waterloo Public Health

Mari MacNeil, Director, Water & Wastewater Services, Region of Waterloo

Jeff Molenhuis, Director of Public Works and Engineering, Township of Wilmot

Appendix B

SAFE DRINKING WATER ACT PROVISIONS (SECTIONS 114, 115, 117 AND 162)

114. (1) After complying with the requirements in subsection (2), the Director may issue a written order, in one or more of the following circumstances, requiring a municipality to provide service from a municipal drinking-water system to residents in a major residential development in the municipality or to oversee the establishment or alteration of one or more non-municipal drinking-water systems to serve those residents:

1. There has been a failure or refusal to comply with an order issued under this Act in respect of a deficiency in a regulated non-municipal drinking-water system or privately-owned municipal drinking-water system that serves the major residential development and the Director is of the opinion that the continuing use of the system will result in a drinking-water health hazard.
2. There is a deficiency in an abandoned regulated non-municipal drinking-water system that serves the major residential development and the Director is of the opinion that the continuing operation of the system will result in a drinking-water health hazard.
3. The municipality granted a consent for a non-municipal drinking-water system under section 53 in respect of the major residential development and there continues to be a deficiency in the system because,
 - i. the system is abandoned, or
 - ii. the owner of the system has failed or refused to comply with an order that relates to the deficiency.
4. The Director is of the opinion that the major residential development requires servicing by a municipal drinking-water system in order to protect residents from a drinking-water health hazard. 2002, c. 32, s. 114 (1).

Requirements for issuing order

(2) The Director shall not issue an order under subsection (1) until the Director has done the following:

1. The Director shall consult with the medical officer of health.
2. The Director shall give notice to the municipality of his or her intention to issue an order under subsection (1) and give written reasons in the notice for the proposed order.
3. The Director shall provide the municipality with the opportunity to respond to the notice in accordance with subsection (10). 2002, c. 32, s. 114 (2).

Direction to operate system in certain circumstances

(3) If the medical officer of health advises the Director in accordance with s. 116 that a drinking-water system that is the subject of the notice can continue to be used to supply water for a domestic purpose other than human consumption or food preparation,

the Director may, by the notice under subsection (2), direct the municipality to take charge of the system and do one or more of the following things:

1. Operate, maintain and repair the drinking-water system in such manner and with such equipment as the Director specifies in the direction included in the notice under subsection (2).
2. Provide the users of the system with notice of the Director's direction to the municipality in the manner specified in the notice under subsection (2).
3. Sample, test, monitor and report with respect to the quality or quantity of any waters. 2002, c. 32, s. 114 (3).

Requirement to comply with direction

[\(4\)](#) A municipality to which a direction is given by a notice under subsection (2) in respect of a drinking-water system shall comply with the direction and such further written directions as the Director may give to the municipality from time to time by an amendment to the notice. 2002, c. 32, s. 114 (4).

Municipality not liable

[\(5\)](#) No action or proceeding shall be commenced against a municipality or an employee or agent of a municipality acting under the authority of a notice issued under subsection (2) for any thing the municipality or the employee or agent does or fails to do in respect of a drinking-water system to which the notice relates or for anything related to or arising from the condition of the drinking-water system immediately before the municipality took charge of it, unless the action or proceeding arises from the failure by the municipality or the employee or agent to comply with a direction specified by the Director in the notice. 2002, c. 32, s. 114 (5).

Transfer of system to municipality

[\(6\)](#) The owner of the drinking-water system to which a direction under this section relates and all of the owner's employees and agents, including any operating authority for the system, shall, if required by the direction, relinquish control and operation of the system to the municipality by the date and in the manner specified in the direction. 2002, c. 32, s. 114 (6).

Same

[\(7\)](#) If a notice is issued under this section directing a municipality to take charge of a drinking-water system,

- (a) the owner of the system and all persons in charge of, managing or controlling the system or a place or thing associated with the system shall permit the municipality's employees and agents unimpeded access to the system, place or thing;
- (b) no person shall hinder or obstruct any employee or agent of the municipality in the performance of their duties and responsibilities as specified in the notice;
- (c) the owner or former operating authority of the system shall provide such assistance as the Director directs in the notice and provide the municipality

with access to all documents relevant to the operation of a drinking-water system;

- (d) the municipality shall continue to operate and maintain the system in accordance with the directions until,
 - (i) the Director revokes the order issued under subsection (1) or advises the municipality that the Director no longer intends to issue the order, or
 - (ii) the municipality has fully complied with the order; and
- (e) the municipality may make any by-law under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be, imposing fees and charges it considers necessary to recover from the users of the system all costs it incurs in operating, maintaining or repairing the system in accordance with the directions issued by the Director. 2002, c. 32, s. 114 (7); 2006, c. 32, Sched. C, s. 58 (2).

To whom notice given

(8) A notice under subsection (2) shall be given to,

- (a) the medical officer of health; and
- (b) the owner of the drinking-water system to which the notice relates. 2002, c. 32, s. 114 (8).

Compliance methods

(9) A municipality must do one or more of the following to comply with an order issued under subsection (1):

1. If the order is issued under a circumstance mentioned in paragraph 1, 2 or 3 of subsection (1), assume responsibility for the regulated non-municipal drinking-water system or privately-owned municipal drinking-water system, as the case may be, and take all steps necessary to bring it into compliance with all requirements under this Act that relate to municipal drinking-water systems.
2. Extend an existing municipal drinking-water system to serve residents of the major residential development.
3. Establish a new municipal drinking-water system to serve residents of the major residential development.
4. Enter into an arrangement with another municipality to serve residents of the major residential development from a municipal drinking-water system owned by the other municipality.
5. Oversee the establishment or alteration of one or more non-municipal drinking-water systems to serve residents of the major residential development. 2002, c. 32, s. 114 (9).

Municipality's response

[\(10\)](#) On or before the 15th day after receiving a notice under subsection (2) or the day specified in the notice, whichever day is later, a municipality shall provide a written response to the Director and medical officer of health,

- (a) indicating which action described in subsection (9) the municipality proposes to take to comply with an order under subsection (1); or
- (b) proposing terms of reference for a study to be completed by the municipality that evaluates the advantages and disadvantages of each action described in subsection (9), having regard to the purposes of this Act. 2002, c. 32, s. 114 (10).

Same

[\(11\)](#) If a municipality proposes terms of reference under clause (10) (b),

- (a) the Director may amend the terms of reference; and
- (b) the municipality shall prepare a study in accordance with the final terms of reference and submit it to the Director and the medical officer of health for their consideration. 2002, c. 32, s. 114 (11).

Review of response

[\(12\)](#) After reviewing the municipality's response under subsection (10) and any study prepared under subsection (11), the Director may issue an order under subsection (1) requiring the municipality to,

- (a) implement the action proposed by the municipality in such manner and subject to such conditions as may be specified by the Director in the order; or
- (b) implement another action described in subsection (9) in such manner and subject to such conditions as the Director specifies in the order, if the Director is of the opinion that the action proposed by the municipality does not satisfy the purposes of this Act. 2002, c. 32, s. 114 (12).

Deemed municipal drinking-water system

[\(13\)](#) If, to comply with an order under subsection (1), a municipality assumes responsibility for a regulated non-municipal drinking water-system under paragraph 1 of subsection (9), the system shall be deemed to be a municipal drinking-water system for the purposes of this Act. 2002, c. 32, s. 114 (13).

Obligation to comply

[\(14\)](#) Every municipality shall forthwith do every act and thing in its power to comply with an order issued to it under subsection (1) and, despite s. 24 of the *Planning Act*,

- (a) the order prevails over the provisions of the municipality's official plan and the by-laws passed by the municipality; and
- (b) in the case of a lower-tier municipality, the order prevails over the provisions of the upper-tier municipality's official plan and the by-laws passed by the upper-tier municipality. 2002, c. 32, s. 114 (14).

Implementation by Director

[115](#) If a municipality fails to do everything in its power to comply with an order under this section and the time for appealing from the order has passed or there has been a final disposition of an appeal confirming or amending the order, the Director, with the approval of the Ontario Municipal Board, may direct that all action necessary to comply with the order be done at the expense of the municipality and may arrange for the Agency to do it. 2002, c. 32, s. 114 (15).

Water supply after order under s. 114

[115](#). If a notice is issued under s. 114 to a municipality of the Director's intention to issue an order under that section, the municipality shall provide residents of the area that is the subject of the order with an alternative supply of drinking water until,

- (a) the Director revokes the order or advises the municipality that the Director no longer intends to issue the order; or
- (b) the municipality has complied with the order. 2002, c. 32, s. 115.

Temporary relief from strict compliance

[117. \(1\)](#) Despite any requirements under this Act, an order issued under this Part may,

- (a) provide temporary relief from strict compliance with any requirement under this Act relating to a drinking-water system;
- (b) specify a date by which a person is required to achieve compliance with a requirement; and
- (c) impose interim conditions in place of a requirement that may be less onerous than the requirement under this Act. 2002, c. 32, s. 117 (1).

Same

[\(2\)](#) If a person is provided with relief under subsection (1) in an order, the person shall not be subject to prosecution or a penalty under section 121 for not complying with the requirement, as long as the person is complying with the terms of the order. 2002, c. 32, s. 117 (2).

Same

[\(3\)](#) For greater certainty, a person remains subject to prosecution or a penalty in respect of a contravention of a requirement under this Act that occurred or was continuing to occur immediately before the order was issued. 2002, c. 32, s. 117 (3).

Same

[\(4\)](#) Despite any provision of this Act or the regulations, a person or entity acting under the authority of a notice issued under this Part may use or operate the drinking-water system to which the notice relates or carry out an alteration to the drinking-water system to which the notice relates, if the use, operation or alteration is carried out in accordance with the directions specified by the Director in the notice. 2002, c. 32, s. 117 (4).

**Orders and instruments, consequential authority
Orders, intermediate action, etc.**

162. (1) The authority to make an order or notice under this Act includes the authority to require the person or entity to whom the order or notice is issued to take any intermediate actions or procedural steps, specified in the order or notice, that are related to the action required or prohibited by the order or notice. 2002, c. 32, s. 162 (1).

Orders, authority to order access

(2) A person who has authority under this Act to order that a thing be done on or in any place also has authority to order any person who owns, occupies or has the charge, management or control of the place to permit access to the place for the purpose of doing the thing. 2002, c. 32, s. 162 (2).

Authority to amend or revoke included

(3) For greater certainty, where a section in this Act gives a person the power to issue a directive, direction, order or notice and the section does not expressly provide the authority to amend or revoke the directive, direction, order or notice, the section shall be interpreted as including the authority to do so. 2002, c. 32, s. 162 (3).