

Executive Summary: Submission of the Canadian Environmental Law Association to the Standing Committee on General Government re: The Safe Drinking Water Act, 2002, Bill 195

November 26, 2002

For over two decades, the Canadian Environmental Law Association (“CELA”) has advocated the passage of the *Safe Drinking Water Act* (“SDWA”). More recently, as counsel for the Concerned Walkerton Citizens, CELA participated in all phases of the Walkerton Inquiry, and urged Commissioner O’Connor to recommend the enactment of the SDWA in Ontario.

Accordingly, CELA was pleased by the Ontario government’s commitment to implement Commissioner O’Connor’s Recommendation 67 (which calls for the passage of the SDWA). Significantly, the Ontario government also committed to implement all other recommendations arising from the Walkerton Inquiry.

However, having reviewed the proposed SDWA (Bill 195) in detail, CELA has concluded that the Act, as drafted, does not adequately address Commissioner O’Connor’s recommendations. Moreover, the proposed SDWA will not necessarily prevent the recurrence of another Walkerton Tragedy, nor does the Act represent the “best” or “toughest” drinking water legislation “in the world”, as has been claimed by the Ontario government.

For these reasons, CELA recommends that the SDWA must be substantially strengthened and improved before it is passed and proclaimed into force. In particular, CELA has identified 29 amendments to the SDWA that are necessary to transform the Act into effective and enforceable drinking water legislation.

CELA’s proposed amendments address a wide variety of matters under the SDWA, and if adopted, these amendments would:

- establish a comprehensive preamble and purpose statement in the Act;
- impose mandatory duties upon the Environment Minister, particularly in relation to regulation-making under the Act;
- require the establishment of financial/technical assistance programs for smaller drinking water systems;
- integrate source protection and watershed planning initiatives within the Act;
- ensure meaningful public participation in standard-setting and decision-making under the Act;

- impose enhanced operational duties upon owners and operators of drinking water systems;
- entrench community right-to-know principles;
- strengthen accreditation, licencing and training requirements under the Act;
- prohibit the transfer of ownership of municipal drinking water systems to private companies;
- prohibit the approval of drinking water systems where the source of drinking water is vulnerable to contamination or degradation that may cause a public health hazard;
- ensure that there are timely and effective inspections and mandatory abatement activities under the Act;
- establish a procedure to permit citizens to require investigations under the Act;
- enable citizens to enforce the Act through the civil courts;
- prescribe minimum fines for the most serious offences under the Act;
- require periodic review of the Act and drinking water standards thereunder; and
- ensure that all sections of the Act come into force in a coordinated manner.

To allow sufficient time for these and other amendments to be implemented (particularly in relation to source protection and watershed planning), CELA recommends that passage of the SDWA should be deferred to the spring of 2003 at the latest.

In CELA's view, the legacy of the Walkerton Tragedy should be the enactment of a strong and comprehensive SDWA. CELA's proposed amendments, if adopted, will ensure that this legacy is achieved.

November 27, 2002