



Comments on:
The Proposed Drinking Water Source Protection Act
(EBR#AA04E0002)
To
Strategic Policy Branch
Ontario Ministry of the Environment

August 20, 2004

By the

Ontario Council
Canadian Federation of University Women

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This fax contains 6 pages including this cover

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August 20, 2004

RE: EBR # AA04E0002 Drinking Water Source Protection Act

The Ontario Council of the Canadian Federation of University Women (CFUW) welcomes the opportunity to comment on the Proposed Drinking Water Source Protection Act.

In 2001, CFUW established a policy that:

- declared that water, being a non-renewable natural resource of paramount importance, belongs to the Canadian public and its use must be regulated in the public interest;
- requested that government adopt and implement a sustainable and prudent water management policy to respond to long-term regional needs with due regard to the ecosystem and hydro-geological reality; and
- requested that government promote conservation and more efficient use of surface water and groundwater.

CFUW Ontario Council applauds the commitment of the Government of Ontario to meet the recommendations of the O'Connor Inquiry by "developing source protection legislation to require that drinking water source protection plans be developed and implemented locally for every watershed in the province." We further commend the government

- for the establishment of the Implementation Committee,
- the Technical Experts Committee,
- and the ministry's plan to "consider the advice of the committees and any comments received on the proposed legislation, and combine the planning components and implementation components into one comprehensive source protection bill."

All life depends on a reliable source of clean water to survive. And yet, up until now, there has been no overriding vision from government for a comprehensive policy on water and water management which adequately protects the public interest and the ecological health of our province.

The Province of Ontario has numerous acts, statutes and regulations for the many areas of urban and rural land use, natural resources management and the environment in general which impact on the quality and quantity of water in our ecosystem. This includes the recently passed Nutrient Management Act and the proposed Water Taking and Transfer Regulations. We are concerned, however, that the proposed Drinking Water Source Protection Act to date has few provisions that clearly determine precedence where the demands of two or more acts, statutes and regulations conflict with one another.

Justice O'Connor stressed the need for an overall water policy for Ontario, and identified source water protection as the most important component and the "necessary first step in a multi-barrier approach to assure drinking water safety." Once the Proposed Drinking Water Source Protection Act is passed, all of these other Acts and Regulations will have to be reassessed to ensure that they conform to the high standards this Act will set for each watershed. Justice O'Connor listed such areas as municipal planning and land use, emissions permits, water-taking permits, and approvals for bio-solid applications among those that must conform to the water source protection requirements.

Recommendation #1

CFUW Ontario Council recommends that the Drinking Water Source Protection Act contain provisions which:

- **make the Ministry responsible for source protection under the Act;**
- **identify that the government's first priority and responsibility is to protect the human and ecological health of our province through water source protection; and**
- **give the Drinking Water Source Protection Act precedence over all other Acts and Regulations which impact on the quality and quantity of water in our province.**

It is imperative that all watersheds of Ontario are equally protected under this Act. In Section 2 (1), the Act specifies the source protection areas covered by Conservation Authorities (CA's) but makes a difference when describing the areas without a CA. Situated mainly in Northern Ontario, these areas have many urgent issues to be addressed regarding source protection for their drinking water. The concerns of these areas must be dealt with at the same time and in the same way as those under CA jurisdiction. It should not be left to the discretion of the Minister to establish source protection areas and boards for this part of the province at some future date.

Recommendation #2

CFUW Ontario Council recommends that

- **Section 2 (2) be amended to read "The Minister SHALL establish drinking water source protection areas in the parts of Ontario that are not covered by the source protection areas established by subsection (1)"**

In Section 4 (2) the composition of the committee is defined by number (no more than 16 members) but the wording of the Act fails to identify any criteria by which these 16 committee members will be chosen to ensure balance in regional representation, background knowledge and interest.

As these committee members, especially those appointed from Municipal Councils, will come with varying backgrounds, understandings, and knowledge, it is very important to the effectiveness of the committee's work that one of the responsibilities of the Board in Section 4(4) would be to deliver mandatory training for committee members about the legislation and its vision to ensure a universal level of understanding and purpose among committee members.

The content of this training should be developed by the Ministry and provided to each Source Protection Board to assist them in this task.

Recommendation #3

CFUW Ontario Council recommends that

- **Section 4(2) be expanded to detail the criteria for establishing the composition of the Source Protection Committee; and**
- **A new Section 4(5)(b) be inserted:**
 - **“(b) provide training for all committee members about the legislation and its vision, and the powers and duties of committee members under this Act.**
 - **The present 4(5)(b) would become 4(5)(c)**

Having the public aware of this new Act and supportive of it will be one of the keys to its success. The Act is prescriptive of the need for a public consultation plan for the Assessment Report and Source Protection Plan stages. This is very commendable. But there is no mention of public consultations during the preparation of Terms of Reference. Because it is the Terms of Reference that details plans for public consultation, it is important that the public be brought in at the beginning of the process.

Recommendation #4

CFUW Ontario Council recommends that

- **Section 6(1) be amended to include the phrase “and in consultation with the public” after the words “in accordance with the regulations”. That part of the clause would then read “...shall, in accordance with the regulations, and in consultation with the public, prepare...”**

It is very important that all Source Protection Committees across the province will be consistent in their assessments of what constitutes “threats” to water in each watershed area. The Act needs to provide more direction than simply asking in Section 7(2) (iii) “the location of every water risk in the watershed”.

Recommendation # 5

CFUW Ontario Council recommends that Section 7(2) (iii) be expanded to include reference, among other threats, to:

- **non-point, cumulative and point source threats;**
- **industrial-use threats, such as toxic emissions, wastes, or depletion of water supply;**
- **agricultural-use threats, such as spread of bio-solid waste, fertilizers, pesticides;**
- **leachate threats from deserted mine tailing ponds, buried industrial waste, landfill sites, sewage/septic systems, brownfields, etc.;**
- **threats to aquifer from abandoned wells, excavations, quarries.**

The Source Protection Plans will be based on the information contained in the Assessment Reports. It would therefore be counterproductive to ask, as in Section 7(2)3 for a “general” assessment of the quality and quantity of water in the watershed.

Recommendation # 6

CFUW Ontario Council recommends that Section 7(2) 3 be amended to read

- **“3. a detailed assessment of the quality and quantity of water in the watershed.”**

The “water budget” is one of the major recommendations of the O’Connor Inquiry to ensure the ecological health of a watershed. Justice O’Connor, in his Report of the Walkerton Commission Inquiry, stressed the importance of watershed planning and the establishment of a “water budget” for each watershed, which would establish water availability within the watershed, and set sustainable limits for water withdrawal from the watershed. He proposed that all significant water withdrawals be identified, including municipal intakes. And he recommended that wherever the total annual amount of water withdrawn exceeded the water budget, negotiations be held among the water takers to bring the total within the budget.

Section 7(2)5 goes some way to establishing this water budget. But a plan for establishing a water budget is no good unless it includes a plan to live within that budget. There is no implicit wording in the proposed Act which would make the water budget binding or forbid water-taking or diversion which would exceed the established budget.

Recommendation # 7

CFUW Ontario Council recommends that Section 7(2)5 be amended and renumbered to read:

- **(i) as is**
- **(ii) as is**
- **(iii) Using the information from (i) and (ii) above, establishes a binding water taking limit for each region of the watershed which will support sustainable water supply and water quality.**
- **(iv) Current (iii)**
- **(v) Current (iv)**
- **(vi) Establishes a data-based Registry for all water-takings and diversions within the watershed. This should include all diversions, total municipal intakes, total limits on all Water Taking Permits issued, as well as total consumable extractions that currently do not require a permit (eg. companies extracting less than 50,000 litres per day)**
- **(vii) Reviews and monitors the data from this Registry on a regular basis to ensure that it is correct, and that the total extractions and diversions do not exceed the water budget, as established in (iii), in any given watershed area.**
- **(viii) If the water taking and diversions do exceed the limit, establishes a plan, through improved conservation measures or by revoking, renegotiating and resetting limits on previously issued permits, until the total is back within the binding limit established in (iii).**

CFUW Ontario Council commends the emphasis in Sections 6, 7 and 8 that specifies that the Act outlines the minimum requirements for the terms of reference, the Assessment Report and the Source Protection Plan. This allows latitude for Committees to make their plan more stringent as local needs require.

We also commend the fact that the emphasis for Ministry approval of the Assessment Reports and the Source Protection Plans is placed on the adequate protection for the quality and quantity of the water available, rather than being guided by commercial demands for a lowering of restrictions.

Our members in all the regions of Ontario who have made Water and all policies surrounding it a priority hope that the Proposed Drinking Water Source Protection Act, after it has been further amended, will help to safeguard this life sustaining Ontario resource and its quality to the benefit of all Ontarians.

CFUW Ontario Council is made up of approximately 6000 women university graduates from all the regions of Ontario. We are totally member - funded. Our members live in 58 Ontario communities, in big urban areas as well as in rural and northern towns. We are non - partisan and non- sectarian. When voting on policy each of our clubs has one vote so that the voice of members from Thunder Bay and Renfrew and St. Thomas have the same weight as those from the Toronto and Ottawa areas. This results in well-balanced policies that may be embraced by most Ontarians.

We are business women, scientists, teachers, university professors, nurses and physicians, seed specialists and engineers, farm women and artists and accountants, wives, daughters, mothers and grandmothers. All put their skills and education at the service of their community, and are active

- § in all public affairs
- § for a high standard in public education,
- § for the improvement of the Status of Women in Ontario, and
- § to ensure Human Rights in the Province.

We are not a charitable fund raising organisation. Our clubs in Ontario, nevertheless, award more than \$200,000 annually in scholarships and bursaries to students in all the regions of our province as well as to charitable and cultural causes.

We are part of the Canadian Federation of University Women (CFUW) and have links to the International Federation of University Women (IFUW)

Respectfully submitted by,

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cc. The Hon. Dalton McGuinty