



Comments on:
Bill 43,
The Clean Water Act, 2006

Submitted to:
The Standing Committee on Social Policy
August 22nd, 2006

By the
Ontario Council
Canadian Federation of University Women
62 Thompson Avenue,
Toronto, Ontario M8Z 3T4
cfuwontario@yahoo.com

Submitted by
Linda MacGregor
President, Canadian Federation of University Women/Ontario Council

Presented, researched and written by Carolyn Day, CFUW/Ontario Council Water
Issues

Shafiq Qaadri, MPP,
Chair, Standing Committee on Social Policy
Room 1405, Whitney Block,
Queen's Park,
Toronto, ON M7A 1A2

August 22, 2006

Re: Bill 43. Clean Water Act, 2006

Dear Mr. Qaadri and Members of the Standing Committee on Social Policy,

The Ontario Council of the Canadian Federation of University Women (CFUW/Ontario Council) welcomes the opportunity to comment on the Proposed Bill 43, the Clean Water Act.

Carolyn Day, a past-President of Ontario Council will present this Brief on our behalf.

Water, its quality and availability, has been a concern of ours for many years, and especially since the Walkerton tragedy. We congratulate the government for moving on Justice O'Connor's recommendations. In this Brief, as in previous ones, we offer our recommendations based upon policy that has been developed, studied, and ultimately voted on and passed by members of CFUW.

The Canadian Federation of University Women/Ontario Council (CFUW/OC) is made up of more than 5700 women university graduates living in all regions of Ontario, from Windsor to Ottawa and from Niagara Falls to Thunder Bay. We are non-partisan, non-sectarian and totally member-funded.

Members of CFUW/OC put their skills and education at the service of their community to:

- promote a high standard of public education;
- improve the status of women and girls in Ontario;
- ensure human rights for everyone in this province; and
- protect the ecological integrity of our environment.

We are affiliated with the Canadian Federation of University Women (CFUW), a non-governmental organization with over 10,000 members across Canada. CFUW has special consultative status with the United Nations Economic and Social Council (ECOSOC), at the United Nations Commission on the Status of Women and is represented on the Education Committee of UNESCO. CFUW is one of 79 affiliates of the International Federation of University Women (IFUW) which has special consultative status with the United Nations Economic and Social Council (ECOSOC), UNICEF, UNESCO and the International Labour Organization.

Sincerely,

Linda MacGregor, President
Ontario Council of the Canadian Federation of University Women

The **Ontario Council of the Canadian Federation of University Women** (CFUW/Ontario Council) welcomes the opportunity to comment on the proposed **Bill 43, the Clean Water Act**.

Since 1988, CFUW has had policy asking that government “enact legislation to set rigorous quality standards for ground and drinking water, which would be updated frequently to reflect current research and increased technology”. Copies of some CFUW policies that are relevant to this legislation are appended to our submission.

All life depends on a reliable source of clean water to survive. We commend the present Government of Ontario for finally moving to enact a comprehensive legislated policy on water and water management that adequately protects the public interest, public health and safety, as well as the ecological health of our province.

CFUW/Ontario Council applauds the continuing commitment of the Government of Ontario to meet the recommendations of the O’Connor Inquiry with the introduction of Bill 43, the Clean Water Act.

It now addresses the twenty-two recommendations from Justice O’Connor’s report that deal with the protection of the sources of our drinking water. We commend the clear, all-encompassing vision that puts public interest and safety first, and in which prevention and protection are the over-arching principles. The scope of Bill 43 defines this vision and translates it into practical implementation strategies.

We are very pleased that during the crafting of this legislation you established expert Technical and Implementation Committees to assess and advise, gave many opportunities for public input, and, in particular, listened and responded to the many concerns and recommendations you received.

CFUW/Ontario Council submitted a response in August 2004 to the first draft of this legislation, the proposed Drinking Water Source Protection Act. We submitted a response in February 2006 to the first draft of the Clean Water Act. We are also signatories to the NGO Statement of Expectations.

CFUW/Ontario Council is very supportive of Bill 43.

AREAS OF SPECIAL COMMENDATION:

In our February submission, we outlined the specific provisions of this revised Bill that are especially significant to your vision and need to be supported in this review and **retained in the final draft of the Bill.**

They include:

- **Section 2:1.**

The pro-active definition of “drinking water threat” which is defined as “an existing activity, possible future activity or existing condition that results from a past activity”; and the detailed definition of “prescribed instrument” to include among others: “the Nutrient Management Act; the Aggregate Resources Act; the Mining Act; the Oil, Gas and Salt Resources Act; the Pesticide Act and any other Act or Regulation prescribed by the regulations.”

- **Section 7.5.**

The administrative training and the scientific and technical support mandated for the Source Protection Committees by the Source Protection Authorities to give the Committees the tools needed to enable them to do their job properly.

- **Section 8:2.**

Public consultation by the Source Protection Committees in the preparation of the terms of reference which will build public knowledge, support and ownership into the process from the beginning; and

- **Section 11.**

The timely availability of these terms of reference with any amendments to the public.

- **Section 13.**

The outline of the variety of detailed assessments required of the Assessment Reports is **a vital improvement to the legislation** – especially the detailed studies required to establish the **Water Budget** as recommended by Justice O’Connor, and the detailed assessment of three areas of “drinking water threats”.

However, while we support the current content of Section 13, CFUW/Ontario Council recommends a new section, 13.2, be inserted, (with current Sections 13.2 and 13.3 renumbered) to read:

Responsibilities of the Minister:

2. For the duration of the Assessment process, the Minister shall impose a provincial moratorium on any significant new projects or water-taking permits that could pose a potential “drinking water threat” within a watershed until after the Source Protection Plans are approved and in place.

- **Section 18.1**

The Interim Progress Report which will ensure the timely start to protection and remediation of the watershed resources.

- **Section 19.2.**

The detailed requirements for the contents of the Source Protection Plan.

- **Section 35.**

The establishment of the precedence of the Clean Water Act when it conflicts with Municipal Official Plans and By-Laws, Policies, Plans and/or Prescribed Instruments “with respect to a matter that affects or has the potential to affect the quality or quantity of any water that is or may be used as a source of drinking water”, so that “the provision that provides the greatest protection to the quality and quantity of the water prevails”.

- **Section 53.1 & 5.**

The authority to change, limit and revoke water-taking permits based on scientific and ecological priorities for the sustainability of the quality and quantity of the water supply;

and,

The ensuing authority and power to inspect and to enforce the provisions of the Clean Water Act when they are not being met, including the liability of the offender to pay.

- **Section 96.**

The clear and explicit establishment of precedence given to the Clean Water Act when it is in conflict with other legislation, especially the Nutrient Management Act so that the “greatest protection to the quality and quantity of the water prevails”. This is a major improvement to the Act that clearly underscores the government’s priority. **CFUW/Ontario Council strongly endorses this Section.**

AREAS OF CONCERN:

There are however, three areas of the Act where we have concerns and offer related recommendations.

1st CONCERN:

The need for **more explicit linkage of this Act with the provisions of the Great Lakes Charter Annex Agreement governing the waters of the Great Lakes Basin**

The alignment of the Clean Water Act (CWA) with the expectations of the Great Lakes Charter Annex Agreement (GLCAA) is vital to its successful implementation and to the successful realization of a coherent government policy. The GLCAA and the CWA provide twin pillars of protection for the waters of Ontario - and neither will work unless both are closely aligned. This is especially important when you consider that most of the Source Protection Areas defined under the CWA abut one of the Great Lakes.

CFUW/Ontario Council offers the following **recommendations to amend four Sections of the act:**

- **Section 12:**

It is especially important that CWA be linked explicitly with the recently signed GLCAA which provides many safeguards, including provisions on

diversions, on the use of research and data, on conservation, on return flow and on limits for consumptive use.

CFUW/Ontario Council recommends that Section 12 (1) 2 be amended to read:

2. The Great Lakes Charter signed by the premiers of Ontario and Quebec and the governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin on February 11, 1985, including **THE GREAT LAKES CHARTER ANNEX AGREEMENT SIGNED DECEMBER 13, 2005 AND any OTHER** amendments made before or after this section comes into force.

• **Sections 74, 75 and 76:**

- **CFUW/Ontario Council recommends that the provisions of Sections 74, 75 and 76 be made mandatory and that the mandated Great Lakes Targets align with the requirements of the GLCAA within the limits set by the area's Water Budget.**
- **CFUW/Ontario Council further recommends that the Ministry of the Environment and the Ministry of Natural Resources work together as an inter-ministry team to align the implementation of the CWA and the GLCAA. This inter-ministry cooperation and sharing of expertise would help to avoid wasteful duplication, and to help coordinate and facilitate information flow, data, research etc. between these two vital initiatives to protect the water in our watersheds and in our Great Lakes.**

Therefore:

- **CFUW/Ontario Council recommends that Section 74 be amended to read:**

74. The Minister SHALL establish one or more advisory committees to provide advice to the Minister on any matter relating to the use of the Great Lakes as a source of drinking water. ONE OF THESE SHALL BE AN INTER-MINISTERIAL ADVISORY COMMITTEE WITH MEMBERS DRAWN FROM THE MINISTRY OF NATURAL RESOURCES AND THE MINISTRY OF THE ENVIRONMENT.

- **CFUW/Ontario Council recommends that Section 75 (1) be amended to read:**

75. (1) The Minister **SHALL** direct a source protection authority, to prepare and submit to the Minister, in accordance with the direction, **AND IN COMPLIANCE WITH THE PROVISIONS OF THE GREAT LAKES CHARTER ANNEX AGREEMENT**, a report on any matter relating to the use of the Great Lakes as a source of drinking water;

- **CFUW/Ontario Council recommends that Section 76 be amended to read:**

Great Lakes targets

76. (1) The Minister **SHALL** establish targets respecting the quality or quantity of water **WHICH ARE ALIGNED WITH THE PROVISIONS OF THE GLCAA**, for (DELETE "one or more") source protection areas that contribute water to the Great Lakes **OR DRAW DRINKING WATER FROM IT.**

Division of target among source protection areas

(2) WHEN the Minister establishes a target under subsection (1) for a group of source protection areas, the Minister **SHALL** direct the source protection authorities for those source protection areas to jointly establish, in accordance with the direction, a target for each of the source protection areas.

2nd CONCERN:

The need for **consistency in the protection of the sources of drinking water** offered to all citizens of Ontario in all geographic areas of the province.

Section 5:

CFUW Ontario Council is disappointed that the source protection of water in watershed areas that are not covered by Conservation Authorities is still not mandated in this legislation. Nor is the source protection of water and watersheds on First Nation Reserves.

It is important that the level of protection for all areas of the province be consistent.

It is important to recognize that municipalities on their own often do not have the expertise, the resources, or sometimes even the will, to invest in the kind of measures needed to ensure Source Protection. And it is also important to recognize that contaminants polluting a source of ground water or surface water anywhere in the province have the potential to affect the quality of Ontario's water resources and drinking water supply.

The Ministry of Natural Resources has a presence in the areas of the province that are not covered by Conservation Authorities. Their officers have an understanding of their region and the expertise to manage the required assessments and develop source protection plans; they already have communication links with the populations within their areas; and the consistency of their training to implement this legislation could be centrally managed by MNR.

CFUW/Ontario Council recommends that Section 5 be amended to read:

5. THE Minister **SHALL** make a regulation that establishes source protection areas in the parts of Ontario that are not covered by the source protection areas established by subsection 4 (1). The regulation **SHALL** designate a person or body for the source protection area. The person or body shall exercise and perform the powers and duties of a drinking water source protection authority under this Act.

CFUW/Ontario Council further recommends that the Ministry of Natural Resources be designated by the Minister as the body responsible for developing and supporting Source Protection Committees and/or Source Protection Plans for watershed areas which are not covered by Conservation Authorities.

3rd Concern:

The need to ensure the provision of adequate, sustainable funding to support the development, implementation and enforcement of this Bill.

CFUW/Ontario Council is also concerned that the funding provided by the Government of Ontario be sustainable over the long term and not subject to the yearly negotiations of conflicting Budget priorities.

Funding must be sufficient to ensure both compliance with, and enforcement of, this Act. In particular, owners of private wells, owners of small and medium farms, small municipalities, despite their best wishes to comply, may not have the financial resources to do so.

CFUW/Ontario Council recommends that:

- **an explicit commitment to provide adequate, sustainable long-term funding be included in the Act; and**
- **a detailed plan outlining how that funding will be generated also be included.**

We further recommend that:

- **funding required for implementation of and compliance with the Act be generated in several ways:**
 - **by substantial volume-based water-taking charges from companies that use water for private profit (eg. bottled water, beverage, slurries, etc.); as well as**
 - **from volume-based pollution charges;**
 - **from development charges and administrative charges for permit fees; and**
 - **from a surtax on municipal water and sewage rates.**

These charges would not only help fund the implementation of source protection, but would also have the added benefit of encouraging increased water conservation by all consumers.

- **funding for the implementation of the Clean Water Act be considered a priority in striking the next provincial budget; and a comprehensive public education program and targeted incentive programs be undertaken by the government to support the Act.**
- **dedicated funds be set aside which can be accessed by small landowners, farmers or municipalities to make improvements to their wells, land and/or water system infrastructure to help bring them into compliance with the provisions of the Act.**

We would draw your attention again to the excellent recommendations contained in the 2004 Report of the Implementation Committee: specifically to Recommendations 1, 72, and 116-133.

And we would also remind you of the suggested wording submitted by CELA in 2004 to this purpose:

“Source Protection Fund

4. (1) Within 90 days after this Act comes into force, the Minister shall establish a special purpose account, known as the “Source Protection Fund”, in the Consolidated Revenue Fund.

Money in account

(2) All amounts received by the Crown under this Act, and under such other Acts as may be prescribed by regulation, shall be held in the Source Protection Fund, including all fines, fees, and proceeds from sales under this Act and other prescribed Acts, including sales of things forfeited to the Crown.

Idem

(3) Money standing to the credit of the Source Protection Fund is, for the purpose of the *Financial Administration Act*, money paid to Ontario for a special purpose.

Payments out of account

(4) The Minister shall direct that money be paid out of the Source Protection Fund, in such amounts and upon such terms as the Minister considers advisable, to any person, agency, ministry, municipality, entity or organization that requests financial assistance in order to implement an approved source protection plan.”¹

We thank you for your time this morning, and for your determination to support, strengthen and implement this landmark Bill.

CFUW/Ontario Council will continue to monitor the progress of Bill 43 and other water issues in the province.

¹ Canadian Environmental Law Association, *Drinking Water Source Protection Act, 2004, CELA’s Proposed Draft Legislation*, Publication #479, Aug. 18th, 2004.

CFUW/Ontario Council:

Website: www.cfuwontcouncil.ca

Mailing Address: CFUW/Ontario Council
62 Thompson Avenue
Toronto, ON M8Z 3T4

Email Address: cfuwontario@yahoo.com

Appendix A



Canadian Federation of University Women

Policy on Water

**Note: CFUW /Ontario Council policy integrates
CFUW/Ontario Council policy, as well as CFUW and IFUW policy**

2001 Canadian Water

RESOLVED, That the Canadian Federation of University Women (CFUW) urge the federal, provincial and territorial governments of Canada to protect our water resources and specifically to declare that water, being a non-renewable natural resource of paramount importance, belongs to the Canadian public and its use must be regulated in the long-term public interest;

RESOLVED, That CFUW urge the federal, provincial and territorial governments to adopt and implement a sustainable and prudent water management policy to respond to long-term regional needs with due regard to the ecosystem and hydrogeological reality; and

RESOLVED, That CFUW urge the federal, provincial and territorial governments to promote conservation and more efficient use of surface water and groundwater at individual, local, provincial, territorial, national and international levels.

2000 Canadian Water

RESOLVED, That the Canadian Federation of University Women urge the Government of Canada and the provincial and territorial governments to take all measures necessary to ensure that large-scale freshwater commercial exports carried out by any means do not take place.

1995 Sustainability

RESOLVED, That national federations and associations (of the International Federation of University Women) should:

1. urge their respective legislative bodies to incorporate the protection of the environment as an overall goal into their basic laws;

2. help raise a general awareness of the necessity of protecting the environment, in particular by expounding the consequences of resource depletion, the degradation of natural systems, the dangers of pollution and the destruction of fragile ecosystems;
3. promote the education of girls and boys of all ages in science, technology and disciplines relating to the natural environment; and
4. encourage governments to promote the development of sustainable and ecologically sound consumption and production patterns including ecologically safe waste disposal, the re-use and recycling of resources, the reduction of air pollutants, the careful management of energy sources and the use of environmentally sound technologies.

1993 Canadian Water

RESOLVED, That the Canadian Federation of University Women (CFUW) urge the Government of Canada to pass and enforce a Canada Water Preservation Act which will prohibit further diversion of water between drainage basins and which will ensure Canada sovereignty over its domestic water resources; and

RESOLVED, That CFUW urge the Government of Canada to resolve immediately the uncertainty surrounding the water-trade issue through the execution of a separate and binding joint diplomatic agreement, ratified by both the US Congress and the Canadian Parliament, which ensures that nothing in the Canada-US Free Trade Agreement shall apply to Canada's water resource in other than bottled form.

1989 "Our Common Future"

RESOLVED, That national federations and associations (of the International Federation of University Women) be encouraged to take action in their respective countries, and where possible, to encourage joint participation with IFUW affiliates in neighbouring countries to prevent further deterioration of our global environment by working to implement the recommendations of the Report of the World Commission on Environment and Development, "Our Common Future", (Brundtland Report) presented to the UN General Assembly in October 1987.

1988 Drinking Water Quality

RESOLVED, That the Canadian Federation of University Women urge the Government of Canada, to enact legislation which would establish substantive and procedural laws in order to:

1. set rigorous quality standards for ground and surface drinking water which would be updated frequently to reflect current research and increased technology; and develop strict standardized inspection, testing and enforcement procedures to uphold these standards;
2. fund research into the identification and removal of substances in the drinking water which may be harmful to human health and distribute the results of such research to the provincial and territorial authorities responsible for administering water quality legislation;
3. provide user protection by:
 - a) requiring immediate public notification of instances of water contamination and ensuring an adequate supply of safe water either by decontamination or the provision of alternate sources; and
 - b) requiring the inclusion of safe water provisions in Emergency Planning Canada and promoting emergency planning schemes at other government levels.

1970 Water Pollution and Sewage Treatment Plants

RESOLVED that the Canadian Federation of University Women strongly urge the Government of Canada to ensure that any proposed phosphate substitute be harmless to the environment.

RESOLVED That CFUW strongly urge the Government of Canada to assist the Provincial and Territorial Governments to finance construction, by their municipalities, of sewage treatment plants with nutrient removal.

1967 Water Pollution

RESOLVED that the Canadian Federation of University Women request the Government of Canada to give effective leadership in the following ways, as laid down in the guidelines of the Conference of Resource Ministers:

1. To establish a national abatement code as soon as possible.
2. To direct and co-ordinate development of standards, supply of information, and active research related to water pollution, and
3. To continue to provide financial incentives, in order to accelerate the application of pollution control measures.

1990 Preservation of Wetlands

RESOLVED, That the Canadian Federation of University Women (CFUW) urge the Government of Canada to:

1. establish a standard system of evaluation of wetlands, in co-operation with the provincial and territorial governments in order to identify wetlands which it is agreed are worthy of preservation and statutory protection. (specially significant);
2. increase its support of research on wetlands;
3. increase its efforts to make the Canadian public aware of the vital importance of wetlands; and

RESOLVED, That CFUW urge their provincial and territorial governments to:

1.
 - a) establish a system of evaluation for wetlands consistent with the national system, and to pass legislation to protect and monitor those wetlands which have been identified as specially significant;
 - b) increase their support of research on wetlands;
 - c) increase their efforts to make the public aware of the vital importance of wetlands; and to
2.
 - a) be alert to any proposed development in areas where there are wetlands which might be degraded or lost; and
 - b) urge the relevant planning boards, municipal councils and like authorities at the local level to have evaluations done in order to preserve significant wetlands

Appendix B



Canadian Federation of University Women/ Ontario Council Club Locations

Ajax – Pickering	Kitchener - Waterloo	Owen Sound & Area
Aurora - Newmarket	Leaside - East York	Perth
Barrie & District	London	Peterborough
Belleville & District	Markham- Unionville	Renfrew & District
Brampton	Milton & District	Sarnia Lambton
Brantford	Mississauga	Saugeen
Brockville & District	Muskoka	Scarborough
Burlington	Nepean	Southport
Cambridge	Niagara Falls	St. Catharines
Chatham -Kent	Norfolk	St. Thomas
Cornwall & District	North Bay	Stratford
Etobicoke	North Toronto	Sudbury
Georgetown	North York	Thunder Bay
Grimsby	Northumberland	Toronto
Guelph	Oakville	Vaughan
Haliburton Highlands	Orangeville & District	Welland & District
Hamilton	Orillia	Weston & District
Kanata	Orleans	<u>Windsor</u>
Kincardine	Oshawa & District	
Kingston	Ottawa	