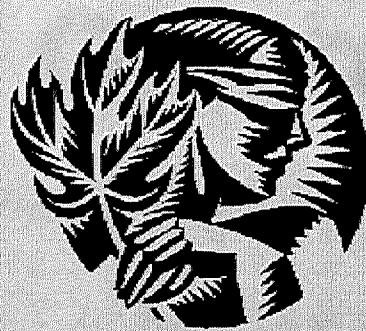




Ontario's Drinking Water Legislation October 2005 Update



**Theresa
McClenaghan**
Canadian Environmental
Law Association

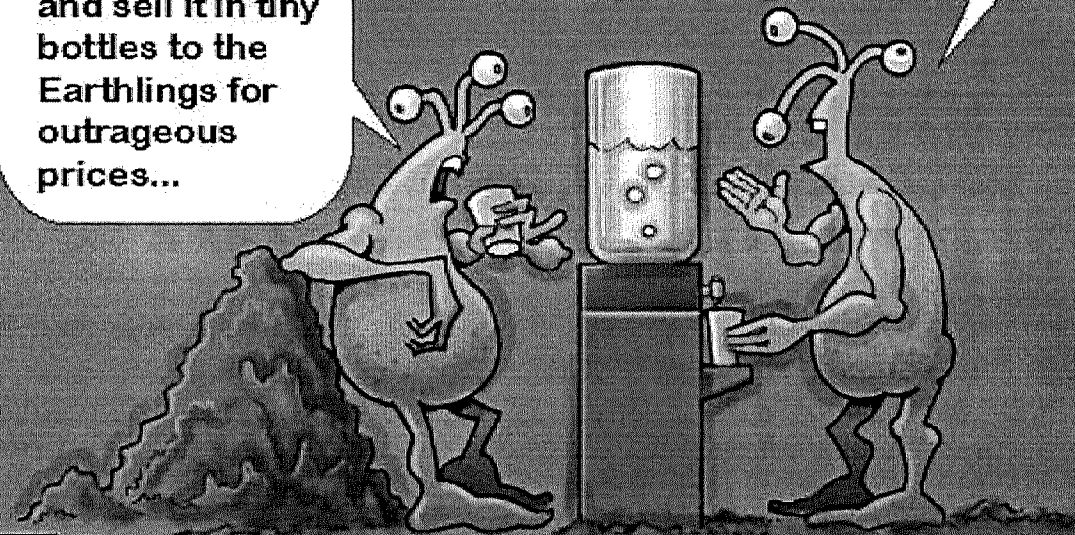
NASA FINDS WATER ON MARS

OK, we give it a foo-foo name and sell it in tiny bottles to the Earthlings for outrageous prices...

Nah, they're not that stupid!

TIM SHEPPARD

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What is the Canadian Environmental Law Association?

- **CELA is a public interest law group**
- **Founded in 1970 for the purposes of using and improving laws to protect public health and the environment**
- **Funded as a legal aid clinic specializing in environmental law**

What is CELA? /2

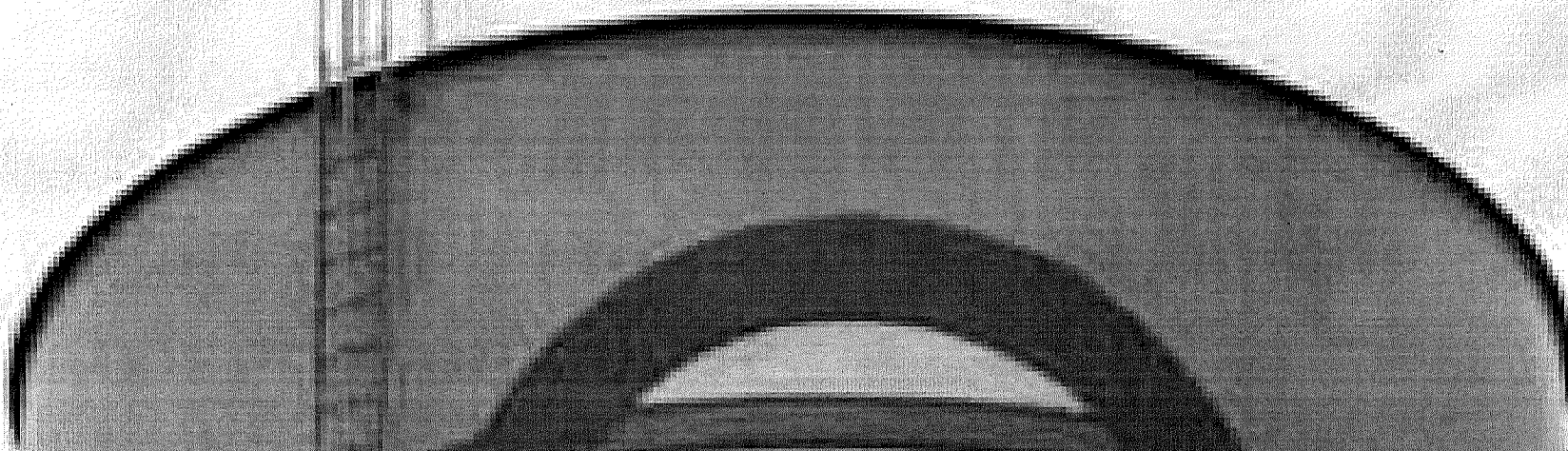
- **CELA represents individuals and citizens' groups in the courts and before tribunals on environmental matters**
- **In addition, CELA staff members are involved in various initiatives related to law reform, public education, and community organization**

What is CELA? /3

- **Past two decades: CELA's casework and law reform activities focused on drinking water quality & quantity issues**
- **CELA advocated passage of the SDWA since early 1980s**
- **Representing Concerned Walkerton Citizens during Walkerton Inquiry**

What is CELA? /4

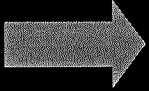
- **Submitting model water legislation to entrench watershed planning and water conservation in Ontario**
- **Commenting on the Drinking Water Protection Regulations**
- **Participating as a member of Ontario's advisory committee on watershed issues and on nutrient management advisory committee**



Walkerton

ED LOVE THE PLEASURE OF YOUR COMPANY

Presentation Outline

- 
- Impetus for Reform: Walkerton and its aftermath
 - New Ontario *Safe Drinking Water Act*
 - *Nutrient Management Act*
 - *Sustainable Water & Sewer Systems Act*
 - Evolving Source Protection Legislation

1. The Walkerton Tragedy

- **Walkerton, Ontario, 2000 - tragic link between environment & health**
- ***E. coli* 0157:H7, and *campylobacter jejuni* -- Pathogens in drinking water made thousands ill and killed seven people**
 - **Result of storage and spreading manure in a vulnerable area & heavy rains**



The Walkerton Inquiry /3

- **Farmer followed best management practices**
- **Well 5 not originally been intended to be a long term solution**
- **Town was to have purchased the surrounding lands (never happened)**

The Walkerton Inquiry /4

- **Failures of Operators at Walkerton:**
 - **Water was essentially unchlorinated**
 - **Removed the chlorinator at another well**
 - **Did not routinely chlorinate to necessary levels**
 - **Assumed groundwater was always safe, chlorination was an unnecessary government requirement**

The Walkerton Inquiry /5

- **Failures of Provincial government:**
 - **Discontinuation of lab testing services**
 - **Failure to enact a regulation mandating laboratories notify MOE and the Medical Officer of Health about adverse results**
 - **Failure to identify improper practices**
 - **Some MOE inspectors did not know that pathogens in water could be fatal**

The Walkerton Inquiry /6

- **Failures of Provincial government:**
 - **Failure to use continuous monitors at Well 5 resulted from shortcomings in approvals and inspections programs of MOE**
 - **MOE's inspection program should have detected the Walkerton PUC's improper treatment and monitoring practices to ensure that those practices were corrected**

The Walkerton Inquiry /7

- **Failures of Provincial government:**
 - **Bruce Grey Owen Sound Health Unit also unable to detect and prevent problems leading up to the Walkerton tragedy**
 - **Health Unit was no longer receiving adverse lab results from the water testing after the province privatized municipal water testing in 1996**

The Walkerton Inquiry /8

- **Biggest concern: adverse reporting protocol was contained only in guideline → private labs not informed of requirements**
- **MOE didn't send results to health unit**
 - **1996-2000: Health unit had no records of the Walkerton water supply**

The Walkerton Inquiry /9

- **People at Walkerton very hopeful that legacy of Walkerton would be recommendations that would be implemented to prevent a similar tragedy in Ontario in the future**
- **Ontario government committed to implementing all of the 128 Walkerton Inquiry recommendations**

Primary Recommendation: Multi-barrier Approach

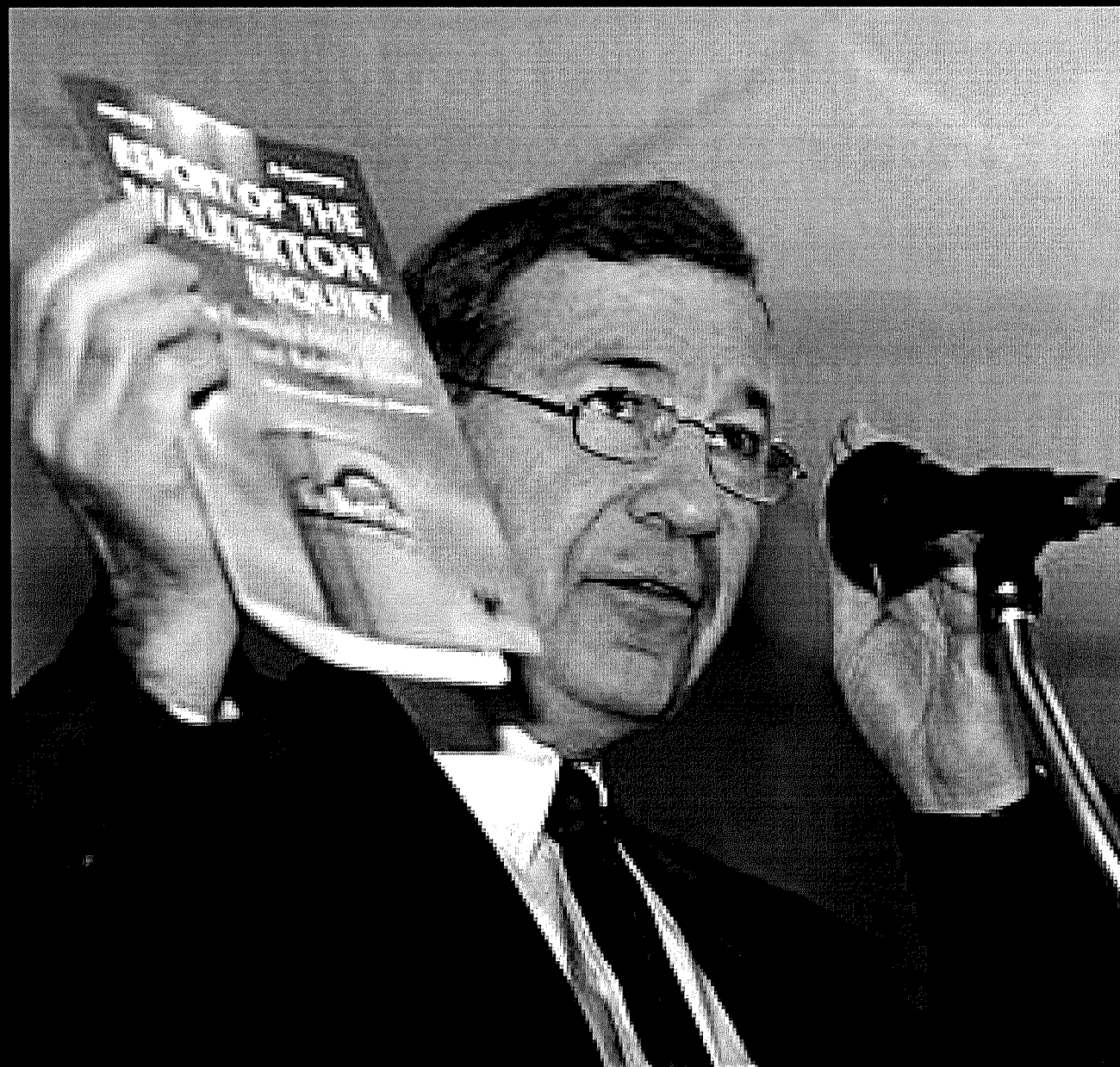
- **1st barrier: Watershed based source protection**
- **2nd barrier: Filtration and treatment**
- **3rd barrier: Distribution system maintenance and standards**
- **Final barrier: Monitoring system and standards enforced**

Multi-barrier Approach /2

- **Concept of “multi-barrier” protection also endorsed**
 - **by British Columbia’s Drinking Water Review Panel**
 - **by Commission of Inquiry regarding the North Battleford *cryptosporidium* outbreak**

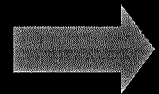
Legislation & Policy Results from Walkerton

- ***Safe Drinking Water Act (2002)***
- ***Sustainable Water and Sewer Systems Act (2002)***
- ***Nutrient Management Act (2002)***
- **Source Protection laws (2005/2006?)**



Presentation Outline

- Impetus for Reform: Walkerton and its aftermath



- New Ontario *Safe Drinking Water Act*
- *Nutrient Management Act*
- *Sustainable Water & Sewer Systems Act*
- Evolving Source Protection Legislation

Ontario Safe Drinking Water Act

- ***Safe Drinking Water Act* passed in December 2002 based on the Walkerton recommendations**
- **Provides for testing, operator licensing and training, laboratory requirements**

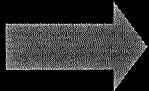
Small Systems

- **Reg 170 amended re small systems**
- **Some new steps were required as interim measure this season**
- **Province has been consulting this summer and fall on regulations to implement Drinking Water Advisory Committee's Report, e.g. health units involvement**

Small Systems cont'd

- **Residential systems and systems serving vulnerable populations remain under Reg 170**
- **Other small systems now covered by Reg 252/05**
- **System will continue to be developed with additional protocols and new approach should be in place by next year**

Presentation Outline

- Impetus for Reform: Walkerton and its aftermath
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-  • *Nutrient Management Act*
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Nutrient Management

- ***Nutrient Management Act* passed during Walkerton Inquiry**
 - Regulations proposed thereafter
 - Reaction to the proposed regulations by much of the agriculture community led government to proceed only with the new, expanding and largest farms
 - These farms to prepare nutrient management plans and strategies



Nutrient Management /2

- **All remaining farms were to be subject to a consultation and previous government stated that they would not be covered before 2008**
- **Thereafter the Nutrient Management Advisory Committee was appointed to consider a range of issues such as farms under 300 nutrient units, manure storage facilities and flow to drainage tiles**

Nutrient Management /3

- **However, as deadline for large farm compliance approached this year, government faced major pressure to change approach**
- **This past summer consulted on amendment to the regulations that removed several requirements**
- **Further study is to be done on practices that will work**

Sustainable Water & Sewage Systems Act (2002)

- requires municipalities to assess the full costs of their water:
 - \$ **source protection costs**
 - \$ **capital and operating costs**
- requires plans for municipalities to charge appropriate rates and generate enough money to pay for adequate sewer and water systems
- Not in force yet

Sustainable Water & Sewage Systems Act (2002) /2

- **Government was awaiting Swain report, was released late summer (titled “Watertight”)**
- **Deals with how to adequately finance and govern water systems in Ontario**
- **No formal comment period; government is preparing a response for this fall**

Sustainable Water & Sewage Systems Act (2002) / 3

- **Among other things, would see municipal systems grouped together in larger water management regions**
- **May see some integration between source protection planning regions and infrastructure water management regions**

Presentation Outline

- Impetus for Reform: Walkerton and its aftermath
- New Ontario *Safe Drinking Water Act*
- *Nutrient Management Act*
- ➔ • *Sustainable Water & Sewage Systems Act*
- Evolving Source Water Protection

Source Water Protection

- **Among most important of Justice O'Connor's recommendations were 22 recommendations concerned with source water protection**
- **first barrier in multi-barrier approach**

Source Water Protection /2

- **April 2003 Advisory Report**
- **MOE White Paper February 2004**
- **Source Water protection planning legislation draft released June 2004**
- **Source Water Protection Provincial Advisory Committees reported in December 2004 re technical, implementation and funding mechanisms**

Source Water Protection Goals

- **Protect human health**
- **Protect current and future sources of drinking water**
 - **Includes inland lakes, rivers and groundwater**
 - **Prevent contamination and depletion**
 - **Locally developed watershed-based source water protection plans**

Source Water Protection Principles

- **Sustainability - Water is essential for health and ecosystems**
- **Land uses – Plans must consider historical, existing, future land uses**
- **Comprehensive – Plans must take a precautionary approach**
- **Information – Plans must always use best available information**

Source Water Protection Principles

- **Ministry of Environment has ultimate responsibility for water protection**
- **Responsibility for specific outcomes shared among water managers, users and land owners**
- **Public participation and transparency throughout planning process; meaningful input**



Legislative Basis for Source Water Protection Planning /1

- **Advisory committee stressed Justice O'Connor's recommendations 4 & 5:**
 - **Human health concerns take precedence**
 - **Municipal plans must be consistent with source protection plans**

Legislative Basis for Source Protection Planning /2

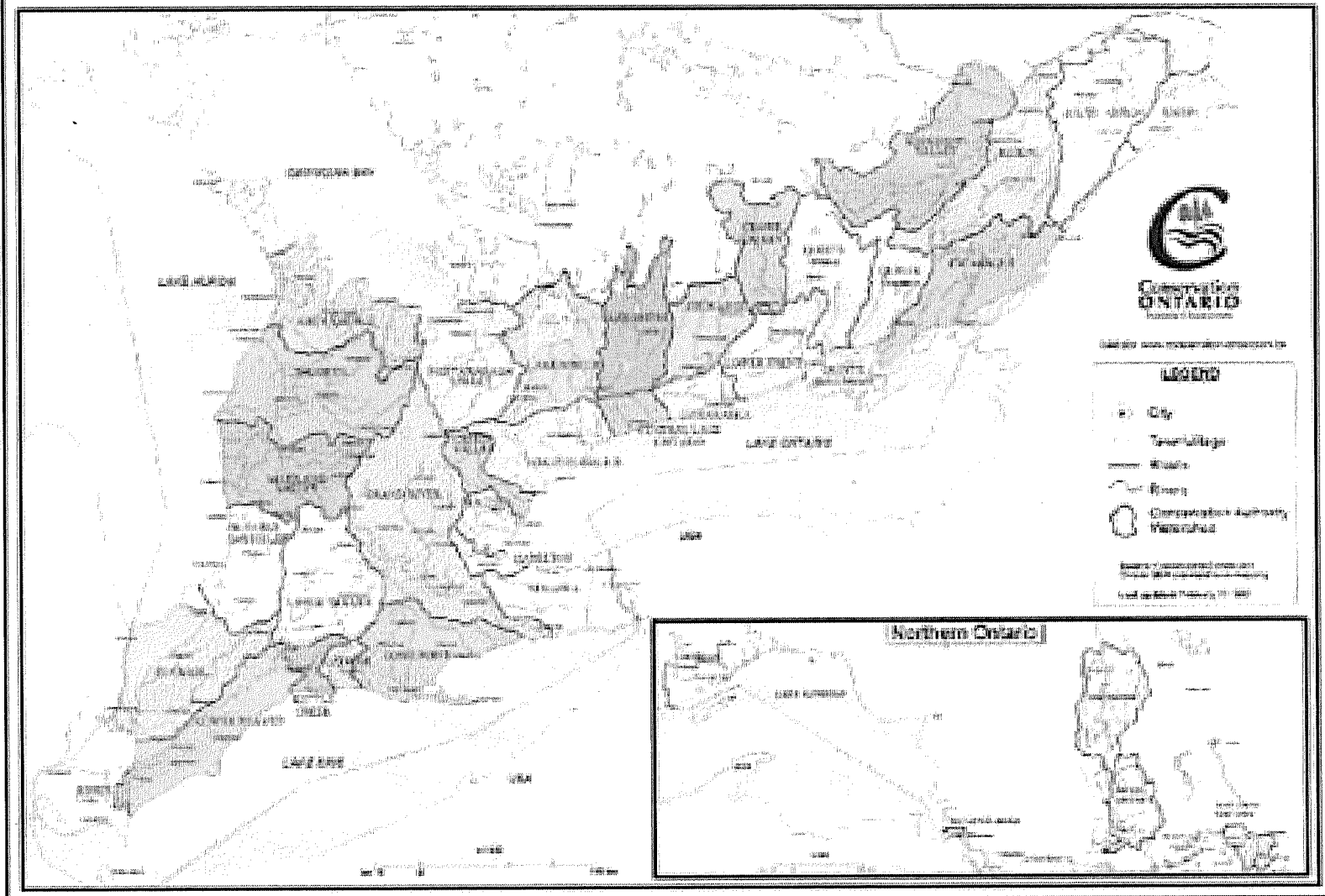
- **Provincial permits to take water and other permits and must be consistent with plans**
- **Legislation should have a schedule for plan development and implementation**

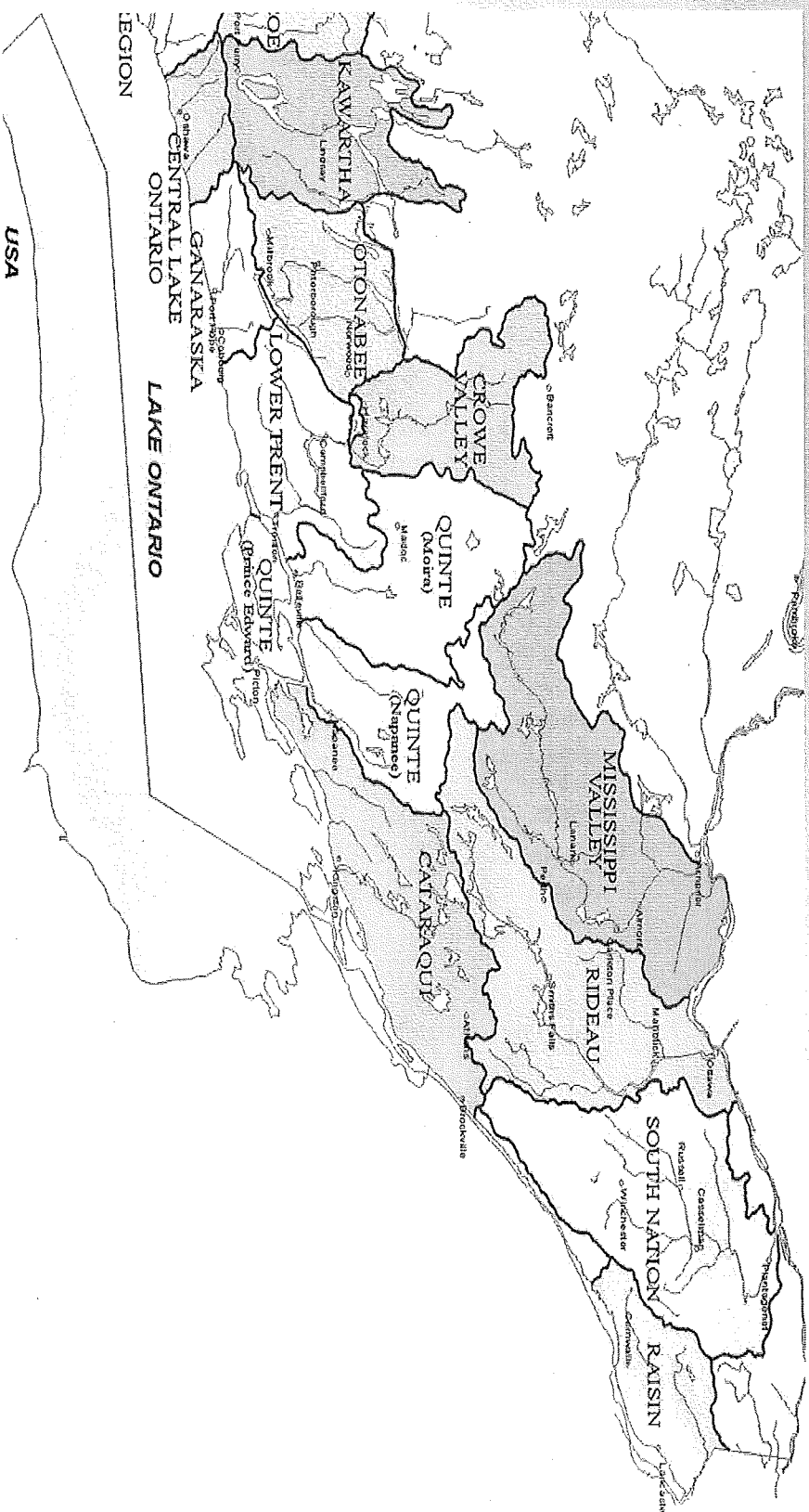
Legislative Basis for Source Protection Planning /3

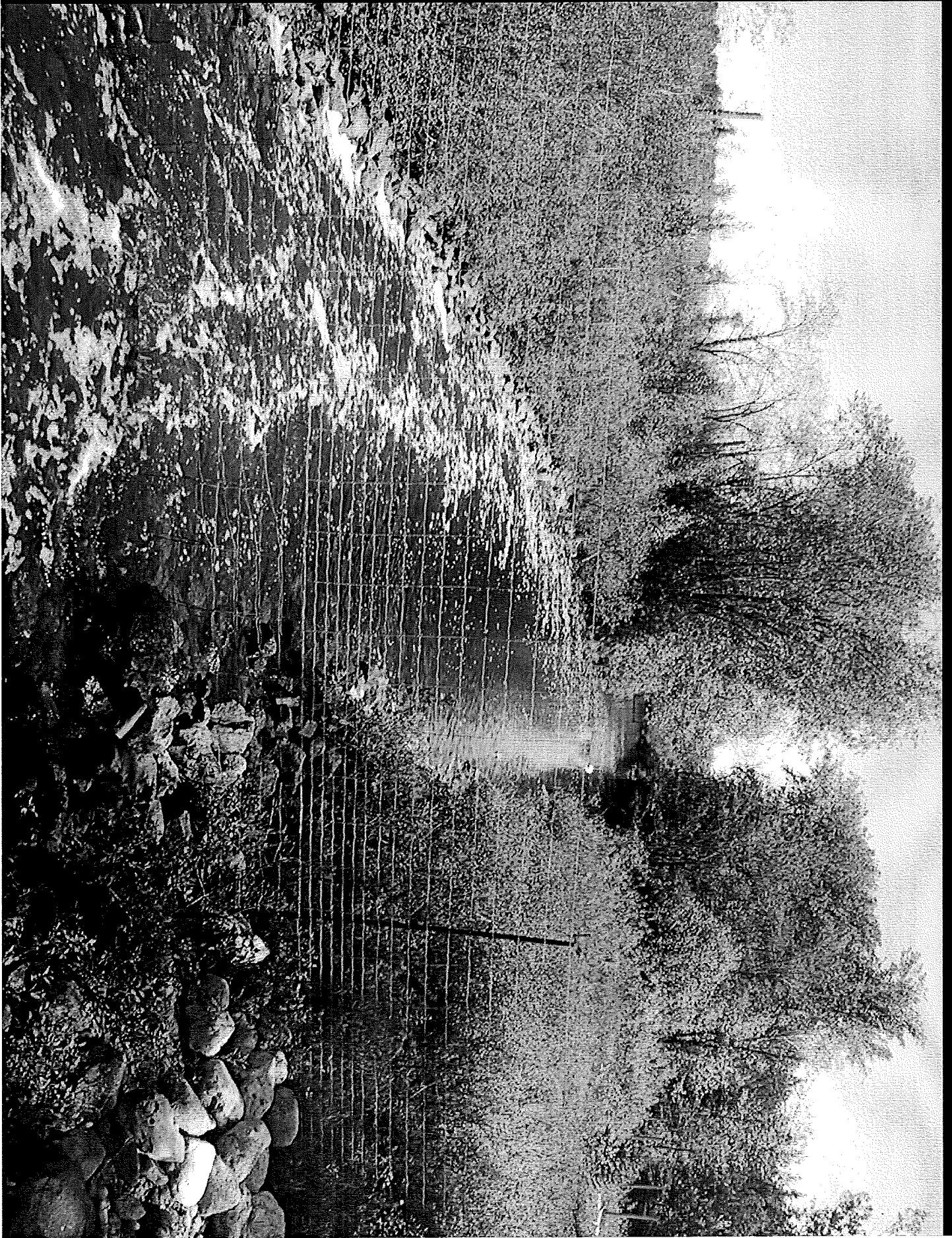
- **Minister of Environment will designate organization with lead responsibility to co-ordinate plan**
 - **Conservation Authority Boards in most cases - multiple CA's will become watershed planning regions**

CA Boundaries

Conservation Authorities of Ontario







Legislative Basis for Source Protection Planning /4

- **Advisory committee also recommended other legislation be amended where necessary such as:**
 - **Environmental Protection Act**
 - **Nutrient Management Act**
 - **Drainage Act**
 - **Brownfields Statute Law Amendment Act**
 - **Mining Act**

First Nations

- **Importance of First Nations' in source protection planning stressed.**
- **First Nations to be full participants in source water protection planning and implementation**
- **Walkerton statement that there is no justification for lower health standards is endorsed**

Financing Initial Source Protection

- **Advisory committee recommended that the province “substantially fund the development of all initial source protection plans” to ensure they are developed quickly; Implementation Committee made recommendations on new revenue sources**
- **Costs are to be analyzed and a formal funding strategy developed**

October 2005 Action Alert

- **CELA is issuing an Action Alert to our members and the public**
- **Cabinet is making critical decisions now regarding source protection legislation**
- **Legislation to be introduced late November**

Action Alert cont'd

- **CELA is circulating this weekend a letter to Premier and key cabinet ministers for organizations and groups to sign on**
- **Very encouraged by aspects of legislation we expect to see such as a broad water stewardship strategy for the province**

Action Alert cont'd

- **However, key outstanding issues include:**
 - Inclusion of surface water systems on same time line as ground water systems
 - Protection for private wells and small systems, not just municipal systems
 - Province's own approvals system to immediately reflect source protection requirements

Action Alert cont'd

- **Key Issues cont'd**
 - Adequate integration with Great Lakes initiatives and programs
 - New funding tools for watershed based source protection



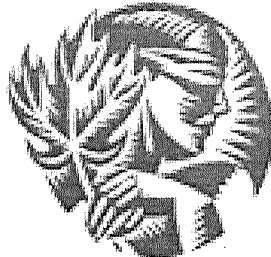
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VIEW ALL NEWS AND

Collection of materials about protecting drinking water
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WHAT IS SOURCE WATER PROTECTION?

Source water protection means protecting the systems (including watersheds, rivers, lakes and aquifers) on which we ultimately depend for water.

Many of our water sources are being depleted through over-consumption, wasteful practices, and a lack of understanding about how much water is available. They are also being degraded by toxic pollution and the destruction of natural areas.

Protecting the quality and quantity of water at its source is the only way to ensure it stays safe and healthy for the people and environments that depend on it.

LATEST NEWS



Federal committee to study Annex agreements ... [more](#)



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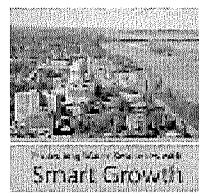
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