



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

431b.

November 18, 2002

Submission to: The Joint Meeting of Policy & Finance and Works Committees and City Councillors

From: Sarah Miller,
Canadian Environmental Law Association

~~~~~

The Canadian Environmental Law Association (CELA) has studied governance models for water since the Ontario government announced in 1994 in the Legislature that they were considering water privatization. During the Walkerton Inquiry CELA represented the Concerned Walkerton Citizens (CWC) in the full Inquiry. Also Concerned Walkerton Citizens and CELA submitted several studies to the second phase of the Walkerton Inquiry on the need for a Safe Drinking Water Act in Ontario and a second paper requested by Justice O'Connor on Keeping Water Public in Ontario. This paper was accompanied by a detailed technical study of municipal financing which we provided to your committee last November when your Committees first introduced your study of new governance models for water.

Both the experience in Walkerton and our research have convinced CELA and CWC that safe drinking water is best provided by those elected and accountable to the public. Not only is the public system safer, but it is less costly over the long term for municipalities that have distinct financial advantages over the private sector to raise and borrow money. For these reasons we are endorsing Councillor Irene Jones, Toronto's Water Advocate's Alternative Solution to the proposed Toronto Water Board model.

Yesterday, Bruce Davidson, a Spokesperson for Concerned Walkerton Citizens pointed out parallels between the public utility in place in Walkerton during the tragedy and the Toronto Water Board before you today. The public utility in Walkerton had only one of the seven Walkerton Councillors serving on it at the time of the tragedy, the other six councillors could state that they had no knowledge of the workings of the utility. "Are people in Toronto prepared to not have elected officials accountable?" he asked. Furthermore, when Walkerton Councillors raised concerns about the closure of the government labs that tested the town's water, no Council action resulted as it was dismissed as a matter for the Utility. Although many people thought something was wrong with their water for years in Walkerton, only minor complaints about taste and odour were ever mentioned by the Utility to the Council.

Toronto is one of the few municipalities that still retains its own internal testing labs and expertise. Should these services be contracted out we will lose this invaluable knowledge base. Water here is tested far more frequently than it is in most other municipalities. A private contractor looking to cut costs to deliver profits for their shareholders would not be likely to do more testing than is required.

In Ontario, the Medical Officers of Health have the ultimate responsibility for water. In Walkerton, the MOH in Owen Sound did not have a defined role in Walkerton's emergency planning response. Weak Provincial enforcement and oversight of the Drinking Water Guidelines meant no one recognised that records were being falsified for years and chlorination equipment was broken for weeks. With Councillor Jones vision for water and wastewater as an internal stand alone committee of the City, consultation between the MOH and the drinking and wastewater operations will be routine rather than occasional. The City could train its own workers to understand how best to protect human health. Other co-ordination with other City Services such as roads, and development will lead to efficiencies of repairs and operations as well as cost recoveries for new services from development fees. With the water committee internal, the City could use by-law powers and set rates to ensure that the most vulnerable residents of the City are protected from unaffordable water costs and that those who use more water pay more. Most importantly there will be a forum for citizens to continue to instigate innovation and change by continuing to work directly with the City. This is the most effective accountability.

The two new pieces of legislation are now being considered by the Province of Ontario, Bill 195, *An Act Respecting Safe Drinking Water* and Bill 175, *Sustainable Water and Sewage Systems Act 2002*. If they are passed into law, we will still not have an adequate framework of protections. A confusing array of water and wastewater services delivery options now exist in this Province. What is missing are consumer protection regulations that will govern the private sector, whether it is a twenty year contract, a public-private partnership or outright privatization. In England the private sector regulator known as OFWAT has a legislative mandate to make sure monies in the hand of the private sector get invested back into infrastructure, and are not used for unrelated corporate ventures. OFWAT sets timetables for these improvements, and they protect consumers against rate gouging and monopoly situations. None of these protections currently exist or are contemplated in Ontario.

For these reasons we join many others in choosing a model that keeps this most essential public service in public hands. Toronto could become an example to others for how to balance their water budget while protect public health. Your report shows you are well down the road to achieving this. Please do not devolve this responsibility.

I would like to ask my colleague Lawyer Michelle Swenarchuk to speak to you next about our continuing concerns about international agreements and the Toronto Water Board.

Thank you for the opportunity to address you today.

Sarah Miller,  
Co-ordinator  
Canadian Environmental Law Association