



Canadian Environmental Defence Fund

Fonds canadien pour la protection environnementale

July 12, 2001

The Honourable Dennis R. O'Connor
Commissioner
The Walkerton Inquiry
180 Dundas Street West, 22nd Floor
Toronto ON M5G 1Z8

Dear Commissioner,

Re: Public Hearings in Part II, Provincial Government

The Canadian Environmental Defence Fund (CEDF) would like to thank you for the invitation to participate in the public hearings on July 23rd and 24th, 2001, entitled "Provincial Government: Functions and Resources." We have summarized below our recommendations for the role of the public in drinking water safety, which can be neatly divided into two parts: (i) the principle of right-to-know and (ii) public accountability.

I. Right-to-Know

As it pertains to drinking water, "right-to-know (RTK)" means transparency and meaningful public reporting. This basic principle stems from the premise that an informed public is essential to effective risk management and proper decision making. The CEDF urges the Commission to call for the implementation of three RTK tools in its final recommendations.

1. Annual drinking water right-to-know reports

Also known as consumer confidence reports and water quality reports, right-to-know (RTK) reports are an effective tool for providing the public with a comprehensive understanding of their water quality and educating them about important health matters. These reports can be tailored to accommodate the interests of local communities to provide local residents with the specific information that they want to know.

In Ontario, section 12 of the *Drinking Water Protection Regulation* (DWPR) requires community water systems to issue quarterly water quality reports. However, the DWPR establishes vague content requirements, and only requires community water systems to make these reports available to the public at a reasonably convenient location (and on the Internet, for water systems servicing 10,000+ people).

In the US, on the other hand, the *Safe Drinking Water Act* Amendments of 1996 establish clear and specific content requirements for consumer confidence reports, and require community water systems to put these annual reports directly into the hands of consumers (and, for larger systems, post them on the Internet).

Recommendation 1:

The Ontario government should require community water systems to put annual drinking water right-to-know reports directly into the hands of the public. The government should

further stipulate the minimum content requirements of these reports. The CEDF's study entitled *Making the Grade?* provides a detailed set recommendations for right-to-know reports.

2. *Online provincial drinking water database*

Some state governments and local water suppliers in the United States have harnessed proliferating Internet technologies to make their drinking water databases accessible to the public online (in real-time, in some cases). The costs of doing so are not substantial.

At the provincial level, the Ministry of the Environment must first establish a drinking water database that includes, at a minimum, the following:

- detects for regulated contaminants
- inspections
- history of violations
- enforcement
- orders issued by the Ministry
- information about the community water system (capacity, contacts, etc.)
- well construction data

Wisconsin's Drinking Water System and Oregon's Safe Water System provide excellent examples of how complex and extensive information can be made readily available to the public in a user-friendly fashion.

At the local level, the Des Moines Water Works in Iowa provides real-time reporting online for a number of drinking water parameters.

Recommendation 2:

The Ontario government should systematically collect and process information about water quality in a database and ensure that the public can readily access this information, including the most up-to-date test results, on the Internet at no charge.

3. *Public Notification*

In Ontario, public notification for non-compliance with sampling, analysis, and treatment requirements, in addition to exceedances of the Ontario Drinking Water Standards, is left largely to the discretion of the Local Medical Officer of Health; with exception to the requirement under the DWPR for posting warning notices. A notification protocol, which includes immediate public notification, is thus required for violations that pose either *acute* or *chronic* threats to health in order to ensure some degree of preparedness. Public notification for exceedances of chemical and radiological standards cannot be overlooked.

Recommendation 3:

The Ontario government should establish a notification protocol for exceedances of Ontario's drinking water standards, as well as for violations of sampling, analysis, and treatment requirements. The protocol should legally entrench timing, content, and delivery requirements for notices to the public.

II. Public Accountability

Providing the means for public participation in environmental decision-making is imperative to ensuring public accountability. Public participation in environmental assessment, land-use planning, approvals and standard setting has declined dramatically in Ontario. Cuts to funding for public participation in environmental decision-making and a reduction in enforcement activities are primary causes of this decline.

1. Funding

Funding intervenors is the only effective way to ensure that the public has the means, the access to information, and the opportunity to participate in expensive and often protracted proceedings that examine the impacts of projects on the environment.

Recommendation 1:

An act providing intervenor funding should be established to extend funding to members of the public participating in environmental processes including, licensing/approvals, land-use planning and environmental assessment. The former *Intervenor Funding Project Act* could be used as a model, but with a much broader funding mandate.

2. Inspections and Enforcement

Inspection of water treatment facilities and enforcement of standards and regulations is critical to maintaining public confidence in drinking water. The current regime of inspections and enforcement is inadequate. The loss of experienced abatement officers and prosecutors has seriously undermined the protection of drinking water.

Recommendation 2:

The Ministry of the Environment must restore and maintain stable funding for inspection and enforcement activities. The 'de facto' policy of not prosecuting municipalities and OCWA must be ended permanently. A Safe Drinking Water Act should be established that provides a clear right of action for the public, that includes a bounty for successful prosecutions similar to the fine splitting provision of the *Fisheries Act*.

Sincerely,

Bryan Davis
Researcher