

ONTARIO AND WATER EXPORT



Click logo for HOME

Canadian Environmental Law Association **BACKGROUND**

517 College St., Suite 401, Toronto, ON M6G 4A2

Phone: 416-960-2284 Fax: 416-960-9392

Email: cela@web.net

Website: www.web.net/cela

May 29, 1998

ONTARIO'S WATER RESOURCES - STILL FOR SALE

On March 31, 1998 Ontario tried to deepen its commitment to transforming public water resources into private profits. The Environment Ministry issued a five year "water-taking" permit to a private company, the Nova Group of Sault Ste. Marie, allowing withdrawal by tanker of up to 600 billion litres a year of Lake Superior water. After mushrooming into an international incident, Ontario is now consulting the public about cancelling the permit. Public comments are invited until June 13, 1998.

The stakes in this issue are high. Literally the fate of the Great Lakes and the sovereignty of Canadians over their water resources hang in the balance. Will governments enact laws to protect this ecological treasure and ensure its long term sustainability? The governments of Ontario, all the Great Lakes States, Canada and the US are now involved and actions taken so far are inadequate.

In a 1997 report entitled *The Fate of the Great Lakes: Sustaining or Draining the Sweetwater Seas?*, CELA and Great Lakes United documented the many stresses on Great Lakes water quantity and the sorry history of inaction. Issued on February 10th, 1997, to mark the 12th anniversary of the Great Lakes Charter, the report included an urgent call to action for a comprehensive management strategy based on environmental and sustainability grounds. That call remains unheeded and the Pandora's box opened by this ill-advised permit is one consequence of the prevailing crisis management approach.

Free Water for Private Profit - Ontario Issues a Permit

Water taking permits in Ontario are issued under the *Ontario Water Resources Act* for any water-taking above 50,000 litres per day. This law was not written for anything like the Nova Group permit. Environment Ministry officials did not evaluate the long term environmental, social or trade policy impacts of issuing this permit. Public consultation was limited to posting notice on a computer bulletin board, the Environmental Registry, one of the few remaining ways the government notifies the public about significant environmental matters. Then, on the basis of an extremely limited amount of information, the permit was issued and would have allowed a private company to take, for free, Great Lakes water and put it on the international export market.

Ontario Cancels the Permit; Writes "Surface Water Transfers" Policy

After a month of negative reaction, the Ontario government is seeking public comment on a proposal to cancel the permit. Ontario has also adopted a policy on Surface Water Transfers which contains some important features including language about Ontario being "generally opposed to proposals to divert water" and the need to preserve water quantity to sustain ecosystem integrity. It also requires broad consultation and that reviews of permit applications must consider cumulative effects of existing and proposed water takings. However, unenforceable policy is no substitute for law.

Public comment is being sought on both the proposal to cancel the permit and on the Surface Water

Transfers Policy, even though the policy is already in effect. Since the Nova Group water taking had not begun, the new policy applies and is used to justify cancelling the permit. Members of the public should comment on both the policy and the proposal to cancel the permit (see Taking Action below).

The Push for Privatization

The Nova Group permit is yet another example of the Ontario government's ideological commitment to the privatization of Ontario's water resources. Despite the much-delayed move to cancel the permit, the public should view this controversy in a much larger context. The Ontario government has systematically made its water resources vulnerable to private takeover and control.

For three years, the Ontario government has been paving the way for privatization of Ontario's water and sewage utilities. Numerous legal changes have served to both establish the rules for, and exclude the public from, future decisions about privatization of water and sewage plants by Ontario municipalities. Water pollution rules have been weakened and Provincial monitoring and enforcement staff laid off. All of this, combined with crippling funding and program cuts and downloading of responsibilities, puts the financial squeeze, and the political heat, on municipalities. Previously public services - including water - could well be privatized and become available only to those who can afford to pay.

Despite public opinion surveys showing over 75% support for continued non-profit, public control of water in Ontario, the Province has forged ahead with this coordinated strategy.

Equally apparent is the strategy and agenda of the international water industry. With over 10 years experience in taking control of publicly-owned water around the world, the international water industry is now made up of multinational operations often structured as conglomerates. These corporations include water, electrical and gas (including pipeline) utility companies, large consulting, engineering and construction firms, and large financial institutions including banks and investment firms. They are actively courting municipalities across Ontario, indeed across Canada.

Water is viewed by this industry as the oil of the next century. With control of Canada's most precious and vital natural asset vast profits are possible in Ontario alone. Can water pipelines to the United States be far behind? Under Ontario's new legal regime, this activity would be largely unregulated and under NAFTA, Canada's water, once diverted, would have to be perpetually supplied even during times of shortage in Canada (see trade law discussion below).

The Canadian Government Response

Caught off guard by the Nova Group permit, the federal government looked up its unenforceable 1987 policy "discouraging" water exports. In this legal vacuum Canada has made a request to the US that the two countries jointly refer the matter to the International Joint Commission (IJC). Negotiations are currently underway on the possible mandate for this referral. If the referral goes ahead, public consultation by the IJC could occur in late summer or early fall (watch this website for further details).

While the IJC should be involved in discussions on this matter, it has no authority to resolve problems. More important, the IJC has repeatedly undertaken references, and written reports on this issue. Over 12 years ago, in 1985, the IJC issued an excellent report, *Great Lakes Diversions and Consumptive Uses*, that recommended stronger measures to prevent diversions, large withdrawals and exports of Great Lakes waters. If those recommendations had been followed, governments could have prevented the continuing crisis management of this significant resource.

This summer the federal government also intends to review, with the Provinces, all of its freshwater policies. The work will be overseen by Environment Minister Christine Stewart under the recently signed Harmonization Agreement between the federal government and the Provinces. This task is potentially huge and like many federal-provincial negotiations could be controversial, acrimonious and lengthy. Nevertheless, on a parallel and likely swifter track, Christine Stewart has said that Canada hopes to pass a law in the fall of this year banning bulk water exports (see trade law discussion below).

Response in the United States

The Nova Group permit drew strong opposition from members of the US Congress, the Great Lakes Commission, various Great Lakes Governors and others. Despite the relatively small amount of water involved, the broader policy issues and precedent-setting nature of the decision was recognized. As well, the lack of consultation was widely criticized. Canadians were reminded once again that the US has a law, the *Water Resources Development Act, 1986*, which provides federal veto power over any export, diversion or withdrawal from the Great Lakes. The Act also requires consensus among all Great Lakes states prior to any export, diversion or withdrawals. Canada and Ontario have no such legislation.

Michigan Congressman Burt Stupak has introduced a resolution to the US House of Representatives calling upon the President and Secretary of State to "act to prohibit the sale or diversion of Great Lakes waters to foreign countries, businesses, corporations, and individuals." Note that the resolution does not prevent such sales or diversion in the US.

The Nova Group Water Taking Permit and Trade Law

This permit is not governed by the Canada-US Free Trade Agreement or NAFTA, since the company intended to ship the water to Asia, not to the US or Mexico (Canada's trading partners under NAFTA). However, GATT applies, and the FTA/NAFTA do affect what response Canada can make to this challenge. Since the permit was granted under Ontario provincial law, the province can effectively revoke it, or put sufficient conditions on it, so that no exports can occur. However, for the federal government to now contemplate banning water exports is very difficult given the FTA and NAFTA.

First, water trade is covered by both agreements, since water is a commodity listed in the tariff schedules that are part of them. All water in Canada is included, however it is to be traded: in bottles, diversion channels, pipelines, or tankers. The agreements require that Canada treat US (and in the case of NAFTA, Mexican) investors the same as Canadian ones, and they prevent Canada from stopping a water sale, merely because the purchasers are outside the country.

FTA/NAFTA prevents us from limiting water exports, whether by using bans; different prices for foreigners; duties; taxes; or other charges based on quotas, import or export licences or other measures. Reduction in exports to the US and Mexico can only occur if we reduce our overall "production" and consumption of water in Canada.

These terms in the FTA and NAFTA were major goals for the US in the negotiations, so it is unlikely that the US would simply agree that Canada should now use an export ban to stop this export, even though the US government has given itself that power. (Ironically, the US use of that power could give Canada and Mexico grounds for complaint. It may be inconsistent with US free trade obligations.)

However, Canada could enact a long-overdue comprehensive water management and conservation policy which could justify an export ban on environmental and sustainability grounds. The federal government would need to come to terms with the issue of water within the trade agreements and defend any trade challenge that might result. It must also consider that some provinces have already approved various types of water exports. British Columbia passed legislation enabling exports and, after a change in government, placed a moratorium on approvals granted under that law. Newfoundland has granted an export permit and Quebec is actively studying marketing its water by tanker. These circumstances will complicate federal-provincial discussions in Canada.

Great Lakes Treaty; Binding National Water Policy

It is essential that any federal government action not be based solely on economic and export issues but also include the environmental, social and cultural importance of sustaining our water resources. And the uniqueness of the Great Lakes Ecosystem requires special protection in the form of a joint US-Canada treaty. A legislatively-based National Water Policy for all of Canada is long overdue and will be more complicated. Work should begin on both immediately.

TAKING ACTION

BEFORE JUNE 13th, Write or fax Environment Minister Norm Sterling to:

- ☐ insist the permit to export Lake Superior water be cancelled.

Cite the EBR Registry Number IA8E0657.

Want to do more? Comment on the proposal to cancel the permit. You'll need to visit the [Environmental Bill of Rights Registry](#) and send comments to the Thunder Bay office noted in the Registry posting.

- ☐ support the content of the new "Surface Water Transfers Policy".

The policy is a step in the right direction but it should be enshrined in law.

Cite the EBR Registry Number PA8E0027.

Want to do more? Comment on the policy. Visit the [EBR Registry](#) and send comments to the Assistant Deputy Minister of Operations Division--contact information noted in the Registry posting.

- ☐ copy your EBR Registry comments to Eva Legeti, Environmental Commissioner for Ontario

KEEP THE PRESSURE ON:

Use this Backgrounder to take further action (see below). Should the reference go ahead, the International Joint Commission could hold public consultations as early as this summer or fall. Watch this website for information.

WHAT'S NEEDED?

- ☐ **A Great Lakes Ecosystem Treaty** that must include a comprehensive water management and conservation policy based on environmental and sustainability grounds.

The Great Lakes Premiers and Governors are meeting in July and will consider the water export issue. Write to Premiers Harris and Bouchard and to the Council of Great Lakes Governors asking for a new international treaty to protect the Great Lakes Ecosystem.

Write also to federal and provincial Environment Ministers, Foreign Affairs Minister Lloyd Axworthy, Prime Minister Jean Chretien and US Secretary of State Madeline Albright.

Contact Information:

Hon. Norm Sterling
Environment Minister
135 St. Clair Ave. W.
15th Floor
Toronto, Ontario M4V 1P5
tel: 416-314-6790
fax: 416-314-6748

Hon. Lloyd Axworthy
Minister of Foreign Affairs
House of Commons
Ottawa, ON
K1A 0A6
tel: 613-995-1851
fax: 613-996-3546

Hon. Madeleine Albright
US Secretary of State
Department of State
2201 C Street, N.W.
Washington, D.C.
20520
fax: 202-647-4088

Hon. Mike Harris
Premier of Ontario
Queen's Park
Toronto, Ontario
M7A 1A5
tel: 416-325-1941
fax: 416-325-3745

L'hon. Lucien Bouchard
Premier Ministre du Québec
Edifice J, 3e étage
885 Grand-Allee Est
Québec, Québec
G1A 1A1
tel: 418-643-5321
fax: 418-643-3924

Eva Ligeti
Environmental
Commissioner for Ontario
1075 Bay St. Suite 605
Toronto, Ontario
M5S 2B1
fax: 416-325-3370

Hon. Christine Stewart
Minister of Environment
House of Commons
Ottawa, ON
K1A 0A6
tel: 613-992-8585
fax: 613-995-7536

Mr. Jeff Edstrom
Council of Great Lakes
Governors
35 East Wacker Drive
Chicago, Illinois
60601
tel: 312-407-0177
fax: 312-407-0038

Right Hon. Jean Chretien
Prime Minister of Canada
Room 309-S
House of Commons
Ottawa, Ontario
K1A 0A6
tel: 613-992-4211
fax: 613-941-6900/6901

For related information see CELA's Backgrounders:

A Shared Inheritance - Some Great Lakes Facts

Ontario's Push for Privatization

Back

[CELA Home](#) | [Media Centre](#)
[About CELA](#) | [Cases & Campaigns](#) | [Publications](#) | [Library](#)

© Copyright 1998, Canadian Environmental Law Association



Click logo for HOME

Canadian Environmental Law Association **BACKGROUND**

517 College St., Suite 401, Toronto, ON M6G 4A2

Phone: 416-960-2284 Fax: 416-960-9392

Email: cela@web.net

Website: www.web.net/cela

May 29, 1998

Ontario's Push for Privatization

Further to CELA's backgrounder entitled "Ontario's Water Resources - Still for Sale", this backgrounder provides further information on the Ontario government's ongoing commitment to the transformation of public water resources into private profits. Despite the much-delayed move to cancel the permit, the public should view this controversy in a much larger context. As further explained here, the Ontario government has systematically made its water resources vulnerable to private takeover and control.

Removing Citizens Rights, Municipal Funding Squeeze

For three years, the Ontario government has been paving the way for privatization of Ontario's water and sewage utilities. First, Bill 26 (the "*Savings and Restructuring Act*") removed the *Public Utilities Act* requirement that municipalities hold a public referendum on the sale of public utilities. Second, Bill 26 and related budget cutting reduced municipal transfer payments by up to 40% in some cases. The Province substantially eliminated the Environment Ministry's municipal infrastructure assistance program, which provided capital grants for municipal water and sewage projects. Downloading of other responsibilities further increased municipal costs. By putting on the financial squeeze, municipalities will likely embrace (or be forced to embrace) the notion of privatizing any number of public services to avoid increasing property taxes. Previously public services - including water - could well become available only to those who can afford to pay.

Cutting Staff, Setting the Rules for Municipal Privatization

Ontario has weakened water pollution controls and laid off Environment Ministry monitoring and enforcement staff. And through Bill 107, the *Municipal Water and Sewage Services Transfer Act*, passed into law in June of 1997, the Province transferred, to municipal ownership, all water and sewage plants that had been under provincial control (about one quarter of the total in the province). The Bill sets out the rules for the sale of any water or sewer plant.

Provincial claims that Bill 107 "encourages" public ownership are dubious at best. The Bill does not require public ownership nor prohibit privatization. Instead, Bill 107 merely provides that before a municipality can transfer a water or sewage facility to the private sector, any provincial grants received for the facility since 1978 must be re-paid (but without interest). The price tag ignores federal grants to the facilities and simply establishes a subsidized price tag. It likely means that acquisition costs will be an option for only a few large companies enabling monopoly control of water and sewage services in many areas of Ontario. Testimony to the Legislative Committee considering Bill 107 was largely negative. Input from the public and agencies such as the Ontario Municipal Water Association echoed public opinion surveys showing over 75% support for continued non-profit, public control of water in Ontario. The Bill passed swiftly without amendment. And with the *Public Utilities Act* changes, in the absence of informed and watchful citizen activism, public debate may be curtailed at the municipal level as well.

The International Water Industry

With over 10 years experience in taking control of publicly-owned water around the world, the international water industry is now made up of multinational operations often structured as conglomerates. These corporations include water, electrical and gas (including pipeline) utility companies, large consulting, engineering and construction firms, and large financial institutions including banks and investment firms.

These huge companies are teaming up with the most powerful corporate players in Canada and are setting up shop in Ontario. Chanting the familiar mantra that government involvement leads to wastefulness and inefficiency, corporate advocates of privatization extol the virtues of the private sector. The economic benefits of private sector take over of public services flow from private operators being more efficient managers, more technically advanced, and possessing capital investment. Or so the argument goes.

Privatization in England and Wales

In reality, savings through water privatization in England and Wales occurred from cutting labour costs through extensive layoffs, pay cuts, and union busting. The money saved was funnelled in large measure into massive increases in executive salaries, consistently high shareholder dividends, and the use of capital to obtain control of other utilities and expand operations world wide. Reinvestment in aging infrastructure has been meagre at best and consumers experienced severe water shortages and soaring rate increases. Thousands of low income people had their water disconnected prompting the *British Medical Association* and *Save the Children* to call for a ban on disconnections citing serious public health consequences (seen in large increases in dysentery and Hepatitis A).

Courting Ontario Municipalities

The Canadian brand of privatization is sizing up to be a two step process. Through "public-private partnerships", private companies are tendering bids on the operation of water and sewage plants while municipalities maintain ownership. Across Canada, especially in Ontario, municipalities are being courted by water companies. Also in Ontario, the Office of Water Privatization wants to sell the Ontario Clean Water Agency (OCWA) - a body that manages about one quarter of the water and sewage treatment plants across Ontario. These 230 plants were transferred to municipal ownership under Bill 107. If the OCWA sale goes to a single company, it will be in a public-private partnership arrangement with 230 municipalities.

As yet, only a handful of municipalities have set up public-private partnership arrangements. One barrier to these partnerships is the preferential tax and borrowing status of municipalities. At a recent water summit of the industry held in Toronto, tactics to overcome these barriers were identified. Several private companies have applied to Revenue Canada for "municipal status" to gain GST and HST exemptions. The outcome of those applications will have profound impacts significantly blurring the lines between private companies and *democratically-elected* municipalities.

The push for full privatization will continue because the international water industry agenda is clear. They see water as the oil of the next century and seek control of Canada's most precious and vital natural asset. Vast profits are possible. When the same companies setting up shop in Ontario are also acquiring water contracts in the US, can water pipelines to the US be far behind? Under Ontario's weakened laws, this activity will be largely unregulated and under NAFTA, Canada's water, once diverted, would have to be perpetually supplied even during times of shortage in Canada.

Watch this website for more information on alternatives to corporate control of public water resources.

For related information see CELA's Backgrounders:

[Ontario's Water Resources - Still for Sale](#)

A Shared Inheritance - Some Great Lakes Facts

[Back](#)

[CELA Home](#) | [Media Centre](#)
[About CELA](#) | [Cases & Campaigns](#) | [Publications](#) | [Library](#)

© Copyright 1998, Canadian Environmental Law Association



Click logo for HOME

Canadian Environmental Law Association **BACKGROUND**

517 College St., Suite 401, Toronto, ON M6G 4A2

Phone: 416-960-2284 Fax: 416-960-9392

Email: cela@web.net

Website: www.web.net/cela

May 29, 1998

A Shared Inheritance - Some Great Lakes Facts

Only one per cent of the water in the Great Lakes is renewable. The other 99 per cent is the inheritance from the last glacial melt, deposited over 10,000 years ago. Twenty per cent of the world's freshwater is in the Great Lakes making them the largest system of freshwater on earth.

The Great Lakes watershed, the area drained by the Great Lakes and their connecting channels, is only twice the size of the surface area of the Lakes. This area is smaller than occurs for most lakes and means that adjacent land uses will have significant impacts on the Lakes.

With a shoreline over 17,000 kilometres (10,000 miles) long and a population of over 33 million people, the Great Lakes ecosystem harbours 131 animal and plant species which are imperiled, or rare on a global scale. One quarter of Canada's people and 10% of the US population live in the Great Lakes Basin, 80% of whom get their drinking water from the Lakes. The Great Lakes are also the primary source of industrial water use for the region.

The International Joint Commission has identified over 300 toxic chemicals of concern in the waters and sediments of the Great Lakes. Drops in water levels mean those chemicals are less diluted. Lower lake levels also increase the risk of disturbing contaminated sediments making them more mobile for uptake through the food chain. The commercial viability of already shallow harbours and connecting channels can also be impacted.

Climate change adds more uncertainty and demands a prudent and comprehensive approach. Increasing levels of greenhouse gases are expected, over the next century, to contribute to significant increases in summer temperatures, lower lake levels (estimates range from 1/2 to 2.5 metres in different parts of the Great Lakes Basin), reduced wetlands, forests, cold water fish, decreased water quality and increased human health problems and crop damage, and higher costs for shipping and industries dependent on Great Lakes waters.

In 1992, daily water withdrawals from the Basin were about 3,650 billion litres (965 billion gallons). This is more than six times the average daily outflow from Lake Ontario to the St. Lawrence River. Ninety four per cent of those withdrawals were for hydroelectric power.

Consumptive use of the waters of the Great Lakes results in permanent water loss from the system. In 1992, consumptive use in the Great Lakes Basin amounted to 11 million litres of water per day. This was a 37% increase from the year before. Ontario, Wisconsin, and Michigan took over 70% of the water consumed in the Great Lakes Basin. Ontario consumed 27% of the total, Wisconsin 26% and Michigan 18%.

Global water use per capita has increased by over five times in the last 300 years. The US leads the world as the largest per capita water consumer with Canada as a close second. In the last century the

global population has tripled, while use of water has increased sevenfold. In January of 1997, the United Nations released a report predicting that global water shortages in the next century will restrain economic and social development and increase conflicts between countries.

For related information see CELA's Backgrounders:

[Ontario's Water Resources - Still for Sale](#)

[Ontario's Push for Privatization](#)

[Back](#)

[*CELA Home*](#) | [*Media Centre*](#)
[*About CELA*](#) | [*Cases & Campaigns*](#) | [*Publications*](#) | [*Library*](#) |

© Copyright 1998, Canadian Environmental Law Association



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

June 15, 1998

The Honourable Norm Sterling
Ontario Minister of the Environment
135 St. Clair Avenue West
15th floor
Toronto, Ontario
M4V 1P5

Dear Minister Sterling,

Re: Ontario Actions on Water Export

The Canadian Environmental Law Association (CELA) has been involved in water quantity, allocation and conservation issues for over two decades in Ontario. A good deal of our activity has been focused on the Great Lakes Region. This work led to the 1997 publication of the report, *The Fate of the Great Lakes: Sustaining or Draining the Sweetwater Seas?* with the international coalition, Great Lakes United. This report (attached) chronicles the history of the management of Great Lakes water resources, identifies new stresses challenging traditional water management, and makes recommendations to governments for ecosystem actions for a long term sustainable water strategy.

Recent international concerns raised by the granting of the Lake Superior water export permit have once again put a number of challenges in front of Ontario. The potential exists to either advance protection of the province's water resources in an ecologically, socially and economically sustainable manner, or make those resources more vulnerable to opportunistic proposals and continuing crisis management and reaction.

Also appended is our formal response on the revocation of the permit and to your Ministry's new Surface Water Transfers Policy. As our submissions note, the *Ontario Water Resources Act* (OWRA) never anticipated export and sale of large volumes of surface water by tanker. Consequently, your new Surface Water Transfers Policy, established under the OWRA, is far too narrow and limited to provide the protection needed to sustain over one fifth of the world's fresh water resources into the next millennium when global water crises are predicted.

The recent furore over water export and use has given rise to actions by a number of governments and agencies in the next six months, including:

* on July 24th, the Great Lakes Governors and Premiers will be asked to consider new initiatives

to protect Great Lakes waters;

- * the likely pursuit by the US government of further Great Lakes protections in Congress and a strengthening of their *Water Resources Development Act*;

- * the likelihood of a formal reference to the International Joint Commission (IJC) from the US and Canadian governments to consider the export issue before the winter of this year; and

- * consultation this summer by the federal government with Ontario Premier, Mike Harris and other Premiers on a review of the 1985 federal water policy (within the framework of the recently signed harmonization agreement). The federal government hopes to fast-track its considerations of water exports in order to introduce legislation in the fall.

Your role in upcoming discussions will be crucial to the future of the Great Lakes. Indeed, you alone are in a position to ensure that the special protection this unique ecosystem requires will result from these discussions. Your role is especially urgent since Quebec is now actively studying the potential of water export from the north shore of the St. Lawrence River.

Please respond as to what position Ontario will be bringing to these important deliberations.

You have stated that you do not support water exports. However, Ontario's water management framework remains inadequate to prohibit exports. Unenforceable policy is not enough. Furthermore, authority over water allocation in Ontario is seriously fragmented between your Ministry and the Ministry of Natural Resources.

Ontario's record in protecting water resources has taken two distinct and contradictory paths. While the Province has shown some leadership in water protection within international Great Lakes initiatives, domestically it has retreated repeatedly from sustainable water practices. The following chronology demonstrates this confusion.

Chronology of Action and Inaction

- ✓ Premier Bill Davis sponsored the first conference on water quantity in the Great Lakes in the early 1980s.

- ✓ Premier David Peterson took a strong role in negotiations leading up to the signing the *Great Lakes Charter* in 1985. The Ministry of Natural Resources committed substantial resources to the data collection system that flowed from the Charter and routinely published reports on progress under the Charter.

- ✗ Regrettably, Ontario never enshrined the Provisions of the *Great Lakes Charter* in law, as

some other Great Lakes jurisdictions did.

✓ Throughout the late 1980s, Ontario continued to be a strong advocate for the Great Lakes by defeating several large U.S. proposals to divert water from the US side. Ontario was also instrumental in ensuring special provisions were placed on other water withdrawal proposals requiring no net loss of water from the Great Lakes.

✗ In 1989, following the debate on the *Canada-US Free Trade Agreement*, Ontario passed but failed to ever proclaim the *Ontario Water Transfer Act*.

✗ In 1991, the Ontario Ministry of Natural Resources put considerable resources into a Province-wide broad-based consultation on "A Water Efficiency Strategy for Ontario". The strategy was never implemented.

✓ The Ontario Clean Water Agency was created as a Crown corporation and given a mandate to make Ontario water and wastewater plants self-sustaining and to carry out water conservation.

✓ In the early 1990's various Ontario Ministries began to espouse watershed management principles and the broad consultation undertaken through "New Planning for Ontario" considered how to enshrine these principles in reformed planning policies and practices.

✗ In 1995, your government's "omnibus bill" eliminated the *Public Utilities Act* requirement for a public referendum on the sale of public utilities.

✗ In 1996, your government severely weakened both the strength of, and ability to implement; groundwater protection policies under the *Planning Act*.

✗ In 1996, your Bill 107, dismantled the Ontario Clean Water Agency (OCWA) transferring all its facilities to the municipalities where they were located regardless of municipal ability to take on these new responsibilities. Despite the majority opinion of submissions to the public hearings on the Bill, no amendments were considered that would regulate the private water business in Ontario or keep water in public ownership and control.

✗ In 1996, concern was expressed by Great Lakes interests and jurisdictions about proposals in Ontario to transfer water by pipeline from Georgian Bay to the Lake Ontario Basin without an environmental assessment of impacts to the Great Lakes and connecting channels.

✗ In 1997 Ontario's Minister responsible for Privatization was asked to look at privatizing the remaining management function for the OCWA facilities.

✓ 1997 opinion poll indicates that over 70% of Ontarians surveyed want Ontario's water to remain in the non-profit, public domain. (repeating similarly high results from a 1996 poll);

X Despite mounting evidence throughout the 1990s projecting diminished water resources caused by climate change, continuing growth in Ontarian's per capita use of water, projections of large population growth, and the fast-growing global market for water, no new water protection initiatives have been undertaken.

X In April of 1998, the controversial permit was issued to the Nova Group with explanations that the Ministry of Environment had no choice but to permit the tanker withdrawal of water from Lake Superior, and had no jurisdiction over the export and sale of the water to Asia.

X Several weeks later that permit was revoked by exercising Ministerial authority under the *Ontario Water Resources Act*. An alternative Surface Water Transfers Policy was posted to Ontario's *Environmental Bill of Rights* Registry for comment.

A New *Sustainable Water Act*

CELA's submissions on this new policy are attached. We ask the Province to consider promulgating a *Sustainable Water Act*. This Act is needed to give Ontario protections enjoyed by Great Lakes residents in the US Great Lakes States.

As this sad chronology demonstrates, sustaining our water resources will require a comprehensive legal and policy framework and practices which can be sustained over time and not be subject to the whims of changing governments.

Other jurisdictions, the media and the public have all voiced concerns that the Ontario of today is offering up the Great Lakes and any other waters to the highest bidder. Over the next several months, you have an unprecedented opportunity to restore Ontario's leadership and level of commitment commensurate with the fresh water resources with which our Province has been blessed. Clearly, many changes need to be made fast:

- * A system needs to be put in place to measure and track all current water withdrawals, diversions and consumptive uses on all Provincial watersheds.
- * Methods have to be devised to save and conserve water in Ontario and project the needs of future Ontarians for water.
- * A new *Sustainable Water Act* is needed to guide and integrate future policies, programmes and practices. Altering old laws never intended for these complex water use and allocation challenges will not be adequate.

As the above chronology, CELA's comments on your new policy and *The Fate of the Great Lakes* report indicate, there is no lack of wisdom and resources on a sustainable water use strategy. All that is lacking is the will to act and to legislate. We would be very willing to meet

with you and your staff to assist with the task of framing a *Sustainable Water Act*. CELA would be willing to help involve the public in these crucial deliberations.

Ontario's future health and economic, social, cultural and ecological well-being are wholly dependent on its water resources. Please restore Ontario's leadership in protecting our most essential resource.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

A handwritten signature in cursive script that reads "Sarah Miller".

Sarah Miller
Coordinator

Encl.

SUBMISSIONS BY
THE CANADIAN ENVIRONMENTAL LAW ASSOCIATION
TO THE MINISTRY OF THE ENVIRONMENT

ON THE

SURFACE WATER TRANSFERS POLICY
(EBR Registry Number PA8E0027)

CELA Brief #347
ISBN #1-894158-36-9

By Paul McCulloch, Sarah Miller, Kathleen Cooper and Paul Muldoon
CANADIAN ENVIRONMENTAL LAW ASSOCIATION

June 11, 1998

**SUBMISSIONS BY THE CANADIAN ENVIRONMENTAL LAW ASSOCIATION
TO THE MINISTRY OF THE ENVIRONMENT
REGARDING THE
SURFACE WATER TRANSFERS POLICY**

1. Introduction

The Canadian Environmental Law Association (CELA) is a public interest group founded in 1970 for the purpose of using and improving laws to protect the environment and conserve natural resources. Funded as a community legal clinic specializing in environmental law, CELA represents individuals and citizens' groups before trial and appellate courts and administrative tribunals on a wide variety of environmental issues. In addition to environmental litigation, CELA undertakes public education, community organization, and law reform activities.

The purpose of this brief is to provide CELA's comments on the Ministry of the Environment's (MOE) Surface Water Transfers Policy, which was implemented on or before May 14, 1998. The Policy was posted on the Environmental Bill of Rights Registry on May 14, 1998, EBR Registry Number PA8E0027, with a thirty-day comment period.

CELA has had a lengthy history of researching and writing on water issues. The Great Lakes is one topic in which we possess particular expertise, as evidenced by recent reports on water quantity and quality respectively.¹ CELA has also been involved in law reform initiatives and litigation involving groundwater issues and participated in the development of water conservation strategies sponsored by the Ministry of Natural Resources. CELA is well positioned to provide comments on this policy.

In summary, CELA makes the following recommendations:

Recommendation No. 1: The Need for a New Sustainable Water Act

The Government of Ontario should repeal the *Water Transfers Control Act* and substantially amend the *Ontario Water Resources Act* to take a proactive and comprehensive approach to water management in Ontario. It should enact a new statute, the Sustainable Water Act, that would evaluate water taking permits using an individual watershed approach based upon a hierarchy of needs of which protection of ecosystem function is the primary need, and based upon concepts such as carrying capacity, cumulative impacts and predicted future supplies and demands.

1. John Jackson, Claire Farid, and Karen Clark, The Fate of the Great Lakes: Sustaining or Draining the Sweetwater Seas (CELA and Great Lakes United, 1997); Canadian Environmental Law Association, Great Lakes United and the National Wildlife Federation, Treading Water: A Review of Government Progress Under the Great Lakes Water Quality Agreement (CELA, 1997); and Lee Botts and Paul Muldoon, The Great Lakes Water Quality Agreement: Past Successes and Uncertain Future (Dartmouth College, N.H. 1997).

Recommendation No. 2: Criteria for Issuance of Water Taking Permits

The Ministry should implement laws and undertake initiatives to work proactively to identify and protect Ontario's water resources. Specific criteria should be prescribed for the issuing of permits to take water. Evaluating requests to take water on a case by case basis will inevitably lead to further crises occurring.

Recommendation No. 3: Specific Changes in Policy Needed

The Surface Water Transfers Policy and the proposed Sustainable Water Act should be worded in such a manner as to:

- (a) provide an outright ban on interbasin water transfers, or only allow such transfers under prescribed conditions;
- (b) be applied on an individual watershed basis as opposed to dividing the whole of Ontario into only two basins;
- (c) take all relevant laws and policies into account, not only those of the Ministry of the Environment; and
- (d) incorporate provisions that place appropriate restriction on water transfers that occur through the sale of bottled water.

Recommendation No. 4: Need for More Resources to Protect Ontario's Waters

The Ministry must employ a sufficient level of properly trained staff to review permits to take water thoroughly.

Recommendation No. 5: Information Needs

State of the Environment reporting and adequate baseline data must be generated and maintained to provide an accurate account of the state of Ontario's water resources.

Recommendation No. 6: Reporting and Enforcement

The Ministry of the Environment should develop specific reporting requirements for permit holders and make enforcement of permits a priority. Adequate resources should be allocated to carry through on this priority.

2. The Need for a Comprehensive Sustainable Water Law in Ontario

The Surface Water Transfers Policy ("The Policy") was introduced in early May. Before its introduction, there was absolutely no indication by the Government of an intention to introduce such a policy, no apparent background research conducted, and no public consultation was held on the

proposal. It is apparent that this Policy was introduced in response to the public and international outcry that emanated over the announcement by the Ministry in April that it had issued a permit to take water to the Nova Group to export water from Lake Superior to Asia.

It should be noted that, since at least the mid-1980s, the environmental community has been calling consistently for a more comprehensive and detailed regulatory policy designed to protect Ontario's water resources, especially in light of the threat to these resources emanating from the conclusion of the *Canada-U.S. Free Trade Agreement* and the *North American Free Trade Agreement*. The failure to promulgate laws to protect the province's water resources has left them open to unfettered commercial exploitation. In fact, a number of multi-national water companies, ready to take advantage of the regulatory gaps in Ontario, have opened offices in the province. Rather than pursuing a more extensive and comprehensive process to develop an effective regulatory strategy, the proposal under consideration is clearly a quick response to the recent export threat. The inevitable result is a wholly inadequate response to deal with the long-term crises facing Ontario's water resources from population growth and climate change.

The proposed policy is intended to supplement the *Ontario Water Resources Act* as a means of managing all of Ontario's water supplies. However, the OWRA was not designed to deal with inter-basin transfers and water diversion projects. It is primarily intended to deal with allocations of water between municipalities and between neighbouring landowners.²

The primary mechanism for allocation of water resources under the OWRA is the issuance of water taking permits. Water taking permits are issued to individual domestic users on a case by case basis. Moreover, permits are generally issued unless an immediate interference is demonstrated between neighbouring users. There is little consideration of the larger scale impacts of water takings in Ontario on a particular aquifer as a whole, on an entire watershed, or on the ecosystem in general. In fact, there is little guidance derived from the Ministry of the Environment's primary policy in this regard, namely, *Water Management: Goals, Policies, Objectives and Implementation Procedures of the Ministry of the Environment*.

It is CELA's position that the OWRA is neither designed for, nor capable of dealing with, the demands being placed upon Ontario's waters. Moreover, issuing permits on a case by case basis does not result in a consistent and comprehensive policy for Ontario's water resources. Water taking permits should only be issued in situations that meet strict criteria spelled out by statute, not on an individual case basis. But such regulatory criteria do not exist. Matters are further complicated because jurisdiction over water is fragmented between the MOE and the Ministry of Natural Resources.

It is therefore recommended that the province introduce a new law that enshrines in legislation the

2. OWRA, section 34(4); See also: Ministry of Environment, *Water Management: Policies, Guidelines, Provincial Water Quality Objectives of the Ministry of Environment and Energy* (Toronto: Queen's Printer for Ontario, 1994), pages 12-15.

principle that Ontario's waters must be conserved and managed appropriately. This new law, a new Sustainable Waters Act, would entail creating a hierarchy of needs, with preservation of ecosystem functions being the foremost priority. The provision of potable water for drinking water and agricultural needs would be the next most important objective. Recreational, industrial and commercial uses should follow as lesser priorities. Short-term immediate uses, such as pollution control, flood control, and fire protection, would be allowed on a temporary use basis as long as the first priority, ecosystem function, is not compromised.

The Sustainable Water Act would also be comprehensive in that it would treat surface waters and ground waters in the same manner. Every watershed for each significant river in Ontario would be evaluated; its carrying capacity assessed, minimum flow requirements determined, ecosystem functions identified, and groundwater/headwater sources located and protected. All requests for permits to take water would thus be considered based upon this information and the cumulative impacts of all water taking permits within that watershed, not simply in relation to neighbouring uses.

The new proposed law would also ban out-of-basin transfers (see recommendations below). It should be noted that Ontario has already passed a separate law to address inter-basin transfers, the *Water Transfer Control Act*.³ However, this Act was never proclaimed. Some components of this statute should be transferred to the new proposed law. However, since that law allowed the permitting of the inter-basin transfers, it has a number of systemic problems.

Recommendation No. 1: The Need for a New Sustainable Water Act

The Government of Ontario should repeal the *Water Transfers Control Act* and substantially amend the *Ontario Water Resources Act* to take a proactive and comprehensive approach to water management in Ontario. It should enact a new statute, the Sustainable Water Act, that would evaluate water taking permits using an individual watershed approach based upon a hierarchy of needs of which protection of ecosystem function is the primary need, and based upon concepts such as carrying capacity, cumulative impacts and predicted future supplies and demands.

3. Inadequacy of Surface Water Transfers Policy

The Surface Water Transfers Policy does not meet our first and most important requirement that a new Sustainable Water Act be passed. Although the Policy may be a step in the right direction, any policy suffers from the same affliction - it may be altered any time according to the winds of change. A "no water exports" policy today could become a "sell sell sell" policy tomorrow with the stroke of a pen and little public debate. The speed with which this current policy was implemented is clear

3. R.S.O 1990, c. W.4.

evidence of its fragility. On the other hand, a law duly passed through the legislature is much more difficult to amend on short notice and without public scrutiny. Therefore, this policy can only be regarded as a stop gap measure at best.

Despite our position that a comprehensive Sustainable Water Act is required, CELA has made numerous comments and concerns regarding the current policy. It is fair to assume that when this government does pass a Sustainable Water Act, it will reflect the design and intention of the current Policy. Therefore, the following additional comments are made with the caveat that these amendments should be directed towards both the Surface Water Transfers Policy **and** a Sustainable Water Act. In effect, the following recommendations are made as interim measures pending the passing of the new Sustainable Water Act.

i) The Policy Still Operates under a "Permitting System" Regime

The Surface Water Transfers Policy still operates under a "permitting" system regime. In other words, each request to take water will continue to be examined on a case by case basis. This is a reactive process that will ultimately lead to the Ministry addressing further crises as they arise and, possibly too late. The Ministry needs to take a proactive approach and identify potential areas of concern and to take action before it reaches the crisis stage. In terms of water transfers between basins, a proactive approach would be to ban these outright by legislation. In the very least, water basin transfers should be strictly controlled and permitted only under certain conditions as prescribed by statute. Furthermore, these conditions should be identified in consultation with the public.

Noting that it is almost impossible to separate surface waters from groundwater, a proactive approach is also needed for other water taking permits. Under the OWRA, there are no provisions to designate certain areas or surface waters as protection areas. Thus, Ontario has no laws to designate significant wetlands, important groundwater recharge areas, or vital bodies of water and provide statutory protections accordingly. A proactive approach would be to identify these areas before conflict arises over their use and to prescribe the conditions under which these waters may be utilized, if they may be utilized at all. This will become increasingly important as the impacts of climate change are predicted to diminish Ontario's water resources.

Recommendation No. 2: Criteria for Issuance of Water Taking Permits

The Ministry should implement laws and undertake initiatives to work proactively to identify and protect Ontario's water resources. Specific criteria should be prescribed for the issuing of permits to take water. Evaluating requests to take water on a case by case basis will inevitably lead to further crises occurring.

ii) Inappropriate Wording Within The Policy

Another set of shortcomings with the Policy is that the precise wording used is often inappropriate

given its objectives. These are each discussed in more detail below.

a) "Generally Opposed"

The Policy only states that the Ministry is "generally opposed" to interbasin water diversions, not outright opposed. More importantly, there is no clear articulation of what criteria apply as to when the Minister determines a transfer will occur. Section 5 of the policy directs the Director to consider a broad range of factors which are all quite vague. Furthermore, an environmental impact assessment is required for water takings that do not involve interbasin transfers, but is not explicitly required for those that do.

It is CELA's position that interbasin transfers should be banned outright, not "generally opposed". If transfers are to be approved in limited circumstances, then the proposal ought to be designated under the *Environmental Assessment Act* and evaluated accordingly with full public input.

b) Definitions of Basins is Far Too Broad

Splitting Ontario into only two water basins is far too large a scale to adequately control inter-basin transfers. Each of the Great Lakes and each individual watershed for major rivers should be designated as a basin and any transfer subject to intense scrutiny. There is the potential for significant environmental affects from the transfer of significant amounts of water from one watershed to another and in some circumstances, even within the same watershed. For instance, there have been various proposals to pipe water from Georgian Bay to municipalities within Lake Ontario's watershed. This could have a significant impact on water flows through Lake Huron, the St. Clair River, Lake Erie, and the Niagara River, despite being within the same basin for the purposes of this policy.

c) The Policy Only Takes Into Consideration Ministerial Policies

In determining whether or not to issue a permit to take water, the Ministry of the Environment is not the only relevant agency. Yet, section 4(a) implies that only relevant Ministry of the Environment legislation, regulations and policies will be taken into account in assessing permits to take water. Other government agencies and other governments have relevant laws and policies that should be taken into account. The Ministry of Natural Resources has responsibilities to exercise considerable jurisdiction over Ontario's water resources in its *Water Management Business Plan*⁴ and the Water Conservation Strategy it developed in the early 1990s. Similarly, the federal government has issued water policies and has jurisdiction over navigable waters and fisheries. Ontario is signatory to the Great Lakes Charter and to the *Boundary Waters Treaty* of 1909. Therefore, the Ministry of the

4. MNR, 1996.

Environment should take all relevant laws and policies into account, not only its own.

d) Exemption for Bottled Water

There is no clear rationale for providing an exemption to the bottled water industry under section 6. In 1990, over 95 million litres of water were exported from Ontario, worth an estimated 58 million dollars.⁵ Current sales are estimated at over 200 million dollars, which, assuming prices have remained constant or increased only slightly, would translate into 400,000 million litres per annum.⁶ By comparison, The Nova group application to take water from Lake Superior was for a maximum of 600 million litres per annum. Bottled water thus constitutes an enormous quantity of water being drawn mainly from Ontario's groundwater resources and shipped to other basins, mainly at the behest of private interests. Furthermore, Ontario does not currently charge royalties for mining this public resource. The Policy and Sustainable Water Act need to place appropriate limits on the bottled water industry, not provide it with an outright exemption.

Recommendation No. 3: Specific Changes in Policy Needed

The Surface Water Transfers Policy and the proposed Sustainable Water Act should be worded in such a manner as to:

- (a) provide an outright ban on interbasin water transfers, or only allow such transfers under prescribed conditions;
- (b) be applied on an individual watershed basis as opposed to dividing the whole of Ontario into only two basins;
- (c) take all relevant laws and policies into account, not only those of the Ministry of the Environment; and
- (d) incorporate provisions that place appropriate restriction on water transfers that occur through the sale of bottled water.

iii) The Policy Does Not Provide for Periodic Review or Revocation of Permits

The current Policy should be reviewed periodically to consider and reflect changing conditions. There should be an explicit requirement that the policy be reviewed every two years to ensure that it is meeting its objectives.

Similarly, individual permits should contain explicit revocation clauses as conditions of approval. Although the OWRA contains a general revocation power, there is a specific need to revoke permits that allow inter-basin transfers in situations where the transfer poses a threat to the integrity of the ecosystem.

5. MNR Water Management Business Plan, page 8.

6. Trade Data Online, <http://strategis.ic.gc.ca/cgi-gin/tsdt-bin/wow/wow.codeCountrySelectionF5/4/98>.

iv) The Ministry Has Inadequate Resources to Effectuate the Policy

In addition to the shortcomings with the policy itself, it must be noted that the Ministry does not have either the human or informational capacity to effectuate its own policy. The Ministry's budget and personnel have been cut by over 40% since 1995. It is doubtful that after sustaining these cuts there are enough staff to process applications, much less seriously review them. Moreover, the Policy requires staff to now consider water taking permits in light of cumulative impacts on the environment and to take into consideration potential future water taking requests. This places a greater burden on staff to gather further information and conduct more in-depth analysis than is currently carried out. This cannot be done without providing further resources.

Recommendation No. 4: Need for More Resources to Protect Ontario's Waters

The Ministry must employ a sufficient level of properly trained staff to review permits to take water thoroughly.

Information on all withdrawals and consumptive uses from individual water bodies should be gathered for use in evaluating applications for water taking permits and to identify trends and changes in water use. Similarly, the Ministry does not have adequate background and baseline data to seriously consider requests to take water in relation to cumulative impacts and on an ecosystem basis. The Ministry no longer conducts State of the Environment Reporting nor maintains extensive data on our water resources. Without reinstating these initiatives, it will be impossible to properly consider the potential affects of a water taking permit.

Recommendation No. 5: Information Needs

State of the Environment reporting and adequate baseline data must be generated and maintained to provide an accurate account of the state of Ontario's water resources.

Follow-up monitoring and reporting should be required if permits are granted. Conditions placed on permits need to be aggressively enforced. Currently, there is little understanding of the compliance rate of the permits that have been issued, including whether the water is being used in the manner permitted.

Recommendation No. 6: Reporting and Enforcement

The Ministry of the Environment should develop specific reporting requirements for permit holders and make enforcement of permits a priority. Adequate resources should be allocated to carry through on this priority.

H:\BRIEFS\WATERPOL.BRF

H:\BRIEFS\WATERPOL.BRF

News Release Communiqué



Office of Privatization

Bureau de la privatisation

Queen's Park
Toronto ON M4W 3R8

Queen's Park
Toronto ON M4W 3R8

FOR IMMEDIATE RELEASE

March 9, 1998

GOVERNMENT'S ROLE IN OPERATION OF WATER AND SEWAGE TREATMENT SYSTEMS TO BE REVIEWED

TORONTO — Rob Sampson, Minister without Portfolio with Responsibility for Privatization, and Norm Sterling, Minister of Environment, today announced the referral of the Ontario Clean Water Agency (OCWA) to the Office of Privatization to review the provincial government's role in operating municipally owned water and sewage treatment systems.

"Our government made a commitment to review its business operations to explore options to improve service and value to taxpayers," said Mr. Sampson. "We must look at whether or not the province needs to be in the business of running water and sewage treatment facilities for municipalities when there are private sector companies and municipal employees currently providing these services."

Mr. Sterling said: "Throughout the review, it will be business as usual for all OCWA operated facilities. Water quality will continue to be a top priority. All water and sewage treatment facilities, regardless of who operates them, are subject to tough provincial standards for drinking water and sewage effluent."

"The process for review will explore all options, be open and fair, and will ensure the public interest in all parts of Ontario is addressed," said Mr. Sampson. Plans to secure expert advice and to implement a full and thorough public consultation process will begin immediately. Both Ministers expect the OCWA management and employees will be active participants in the review.

OCWA is a provincial government agency which competes with the private sector for contracts to operate and manage municipally owned water and sewage treatment systems in Ontario.

OCWA operates and maintains about 123 municipal water treatment facilities and 234 municipal sewage treatment facilities. Private sector companies service over one half million Ontario residents by operating about 15 municipal water treatment facilities and 11 sewage treatment facilities. All other municipal water and sewage treatment facilities are operated by municipal employees (see attached Fact Sheet).

- 30 -

For information on the Ontario Privatization Review Framework, please contact the Office of Privatization at 1-888-224-2444, in Toronto 416-325-4550; or visit our website at <www.gov.on.ca/privatiz>.

Contacts:

Deborah Reid, Communications Advisor
Office of Privatization, Minister's Office
(416) 325-6153

Tobin Lambie, Communications Assistant
Ministry of Environment, Minister's Office
(416) 314-6739

Office of Privatization

Bureau de la privatisation

Queen's Park
Toronto, ON M4W 3R8Queen's Park
Toronto, ON M4W 3R8

FACT SHEET

The Ontario Clean Water Agency

Mandate

- The Ontario Clean Water Agency (OCWA) is a provincial government agency which operates and maintains municipally owned water and sewage treatment facilities on behalf of some Ontario municipalities.
- OCWA has service contracts to operate and manage about 357 facilities for over 200 municipalities. The treatment facilities range in size from small wastewater lagoons and pumping stations to urban water delivery systems.
- When OCWA was created in 1993 under the *Capital Investment Plan Act*, it filled the multiple roles of owner, operator and financier of water and sewage services to some Ontario municipalities.
- OCWA's ownership role was eliminated with the passage of Bill 107 in May, 1997, which provides for the ownership transfer of OCWA's facilities to municipalities. The legislation protects public ownership of water and sewage infrastructure by requiring municipalities to re-pay past capital grants to the province before they could sell these assets to the private sector.
- OCWA's role as financier has also been eliminated as OCWA no longer provides loans to municipalities for capital infrastructure. OCWA does, however, manage an existing portfolio of past loans to municipalities.
- OCWA has 760 full-time employees across the province. OCWA's head office is located at 20 Bay Street, 7th Floor, Toronto, Ontario.

Environmental Standards

- The Ministry of Environment requires that all operators -- public or private -- of water and wastewater systems comply with Ontario's tough environmental and health standards contained in the *Ontario Water Resources Act*, *Environmental Protection Act*, *Ontario Drinking Water Objectives* and *Provincial Water Quality Objectives*.

- 2 -

Water Distribution and Sewage Treatment In Ontario

- Eight million Ontario residents have their drinking water supplied from a water treatment facility. The remaining two and a half million people get their water from municipal or private wells.
- About nine and a half million Ontario residents have sewage treatment services. The remaining one million people are serviced by private septic systems.

Operator	Water treatment facilities	Sewage treatment facilities
Ontario Clean Water Agency	123	234
Municipalities	519	209
Private Companies	15	11
TOTAL	657	454

Role	Province	Municipalities	OCWA	Private sector operators
Ownership	No*	Yes	No	No
Financing capital improvements	Yes**	Yes	No	No
Operation and maintenance	Yes (through OCWA)	Yes	Yes	Yes

* ownership of facilities is being transferred to municipalities under provisions of Bill 107, The Municipal Water and Sewage Transfer Act, 1997 (Royal Assent, May 1997).

** a \$200 million Provincial Water Protection Fund was established in 1997 to assist municipalities with environmental and health related water and sewage treatment problems.

March 1998