

November 29, 2019

BY EMAIL

The Hon. Jeff Yurek
Minister of the Environment, Conservation and Parks
College Park, 5th Floor
777 Bay Street
Toronto, ON M7A 2J3

Dear Minister:

**RE: Proposed Amendments to Regulation 903 (Wells)
ERO #013-1513**

On behalf of the Canadian Environmental Law Association (CELA), I am writing to express CELA's ongoing concern about the inadequacy of your Ministry's recently proposed changes to Regulation 903 (Wells) under the *Ontario Water Resources Act (OWRA)*.

Despite long-standing public and stakeholder concerns about various problems within Regulation 903, the Ministry is only proposing three regulatory amendments at this time:

- modify minimum insurance requirements for licensed well contractors;
- update well casing standards for new water supply wells; and
- allow shallow well screens to be placed in new test holes and dewatering wells.

For the reasons outlined in our attached brief dated November 26, 2019, CELA concludes that the proposed amendments are relatively minor in nature, but they still require some further revision or clarification.

More importantly, CELA notes that these modest proposals do not address the systemic shortcomings of Regulation 903 that have persisted for many years. Similarly, they do not implement various commitments previously made by the Ministry in response to CELA's most recent Application for Review of Regulation 903, pursuant to the *Environmental Bill of Rights (EBR)*.

At the present time, about 1.3 million Ontarians use or rely upon domestic wells for drinking water purposes. However, these private residential wells are not covered by Source Protection Plans approved under the *Clean Water Act, 2006* (or the *Safe Drinking Water Act, 2002*) that safeguard municipal drinking water supplies. Therefore, Regulation 903 is, in effect, the only line of regulatory defence for Ontarians who are wholly dependent upon private domestic wells for potable water.

Canadian Environmental Law Association

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Moreover, it is well-documented that poorly constructed or improperly abandoned wells can serve as direct pathways for surface contaminants to enter and degrade aquifers that are being used as drinking water supplies by Ontario residents.

Accordingly, CELA submits that the Ministry's dilatory approach in this matter is unacceptable, and that any further delay in fixing Ontario's flawed well requirements is clearly inconsistent with key recommendations from the Walkerton Inquiry, and from the former Environmental Commissioner, that Regulation 903 should be reviewed and revised.

CELA remains particularly concerned about the Ministry's continuing inaction on upgrading current disinfection requirements under Regulation 903. CELA first raised this concern over 16 years ago in our first *EBR* Application for Review, and the Ministry responded by referring this important issue to the independent Ontario Drinking Water Advisory Council ("ODWAC") for consideration and expert advice.

In June 2005, the ODWAC sent its advice letter on Regulation 903 to the Minister of the Environment, and the ODWAC agreed with CELA that Regulation 903's disinfection requirements for well construction and repair are "deficient" for numerous reasons. Therefore, the ODWAC specifically recommended that Regulation 903 should ensure that a rigorous five-step disinfection and sampling protocol is followed before well water is consumed after well construction or repair.

However, this prescriptive advice has not been fully acted upon by the Ministry to date, and in the interim tens of thousands of new wells have been constructed, repaired and cleaned in accordance with a standard that did not meet ODWAC's full recommendations. In CELA's view, the Ministry's steadfast refusal to implement the recommendations from its own expert advisory body is both unsatisfactory and unjustifiable, particularly in light of the risks of waterborne disease arising from inadequate disinfection.

Having regard for the public interest purpose of the *OWRA*, CELA submits that the paramount objective of reforming Regulation 903 should be ensuring public health and safety and protecting environmental quality, rather than simply making it "easier" for the well industry to operate in this province, as indicated in the above-noted ERO notice. Moreover, CELA does not accept the Ministry's apparent position that Regulation 903 is merely "red tape" or imposes an undue administrative burden on well businesses.

Accordingly, CELA requests that you immediately direct Ministry staff to develop and consult upon substantive regulatory improvements that will finally transform Regulation 903 into an effective and enforceable mechanism for protecting human health and the environment in Ontario.

At your earliest convenience, please let us know the specific steps that the Ministry intends to take (and when) in order to address CELA's request.

We look forward to your timely reply. Please contact the undersigned if you have any questions, or require any further information, in relation to CELA's concerns about Regulation 903.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

A handwritten signature in black ink, appearing to read 'R. Lindgren', with a long horizontal stroke extending to the right.

Richard D. Lindgren
Counsel

Encl.