



RNAO SUBMISSION TO:
**The Standing Committee on General
Government**

**Bill 72: *Water Opportunities and Water
Conservation Act, 2010***

October 18, 2010



Water Opportunities and Water Conservation Act, 2010

Summary of Recommendations:

RNAO calls for:

1. Enshrining the right to clean water in provincial law and joining in the call for the federal government to support the United Nations declaration of water as a basic human right.
2. Adopting the recommendations of the Ontario Water Conservation Alliance as posted to the Ontario Environmental Registry, particularly with respect to the immediate development of a comprehensive water conservation and efficiency strategy with ambitious, strong but achievable conservation targets, evaluation of performance, and accountability to the Legislature.
3. Maintaining access to affordable water by investing in cost-efficient conservation strategies, helping municipalities prepare water sustainability plans and upgrading municipal infrastructure to ensure no community is left behind.
4. Amending the stated purposes of the Act in section 1 to clarify that water is a public good that is owned and controlled by the people of Ontario. One possibility is to amend section 1(c) to add “in public ownership” following “to conserve and sustain water resources”.
5. Amending section 2(1) of the *Water Opportunities Act, 2010*, to read “The Minister of the Environment shall, to further the purposes of the Act, establish aspirational targets in respect of the conservation of water and any other matter the Minister considers advisable.”
6. Amending section 2(2) of the *Water Opportunities Act, 2010*, to require targets to be approved in regulation by the Lieutenant Governor-in-Council and published in the Ontario Gazette in addition to posting on the Environmental Registry.
7. Working with municipalities to ban the sale of bottled water in publicly owned places. We can only support bottled water as a temporary solution in the event that local water is not safe for consumption. Bottled water brings with it its own health risks and huge environmental footprint.

Water Opportunities and Water Conservation Act, 2010

INTRODUCTION

The Registered Nurses' Association of Ontario (RNAO) is the professional organization for registered nurses who practise in all roles and sectors across Ontario. RNAO's mission is to speak out for health, health care, and nursing. There is no question that clean water and sanitation are essential determinants of health and the RNAO appreciates the opportunity to present this submission on Bill 72, the *Water Opportunities and Water Conservation Act, 2010*, to the Standing Committee on General Government.

Evidence of the connection between the environment and health is well established. The World Health Organization (WHO) estimates that environmental factors account for 24 per cent of the world's burden of disease and 23 per cent of all deaths.¹

Both international and Canadian evidence show that environmentally-related health problems are disproportionately borne by lower income and older people.^{2 3 4 5 6 7 8} Environmental protection is thus not only a matter of health, but also of social justice and equity.

Nowhere is the connection more clear than with water quality. According to WHO figures in 2002, water, sanitary and hygiene were the direct cause of 3.6 million deaths world-wide, including an astonishing three million children.⁹ In fact, according to the Council of Canadians, a child dies every eight seconds from drinking dirty water.¹⁰ Canada and Ontario are blessed with large supplies of fresh water, yet we are not immune to drinking water tragedies and there remain a number of communities across the province and country without safe drinking water. Long-term boil water advisories continue to be far too common, especially in many First Nation communities.¹¹

Ontario has been credited by environmental organizations for having Canada's best drinking water legislation, with rigorous standards, public transparency and accountability. Despite the slow pace of adoption of source water protection, Ontario's source water protection legislation (*Clean Water Act, 2006*) helped earn it the highest grade in a report card on water quality issued by the Sierra Legal Defence Fund.¹² This legislation implemented many of the recommendations of the Walkerton Inquiry.¹³ It represents a significant step forward, but critics such as the Canadian Environmental Law Association point out that more legislative and policy measures are required to fully implement the recommendations of the Walkerton Inquiry.¹⁴ In the meantime, many communities still suffer from poor drinking water quality.

In the *Water Opportunities and Water Conservation Act, 2010*, the government aims to promote and value conservation of water while creating new opportunities for innovation, sustainable technology and job creation. While generally supportive of this approach, the RNAO believes there are areas where Bill 72 must be strengthened if it is to achieve its potential of making Ontario a global leader in water conservation and efficiency.

A. WATER IS A HUMAN RIGHT

When we turn on the tap, many of us take water quality for granted. Yet there are many inequities in access to clean, safe water. Boil water advisories are a fact of life for many Ontarians, especially those living in rural, northern and First Nation communities. While we hear the water shortage is a global crisis, corporations are taking control of limited water supplies for huge profits. Water is essential to life, and is a public resource that rightfully belongs to all of us.

That's why the RNAO joined numerous individuals and groups in urging Prime Minister Stephen Harper to vote in favour of a crucial motion at the United Nations recognizing water as a basic

human right.¹⁵ On July 28, 2010, the United Nations General Assembly voted overwhelmingly to declare the human right to “safe and clean drinking water and sanitation” with 122 countries voting in favour and 41 countries, including Canada, abstaining.¹⁶ While the ultimate vote is an historic victory, Canada’s failure to step up to support a basic right that means life and death to billions is shameful.

It is not clear why Canada has resisted signing onto a right to water convention at the U.N. The Council of Canadians suggests that a universally accepted right to water could act as a counterweight to those who want to sell Canada’s water for profit.¹⁷ In any event, efforts continue to convince the federal and provincial governments to enshrine the right to safe, clean, affordable water in both federal and provincial law. This would be an important step to ensuring that all Canadians have the right to clean water without discrimination and that our water is protected in perpetuity as a public trust for our children and grandchildren.

Acceptance of a human right to clean, safe water would no doubt oblige Canada to address the glaring inequity in its own backyard where many First Nations communities continue to suffer sub-standard water quality.¹⁸ In February, 2008, for example, 93 First Nation communities were subject to boil water advisories. However, it is not only First Nation communities who are affected by inequities in access to clean water. Over the period 2006 to 2008, 1,766 boil water advisories were in effect in Canada, mainly in small, rural communities. Of that number, 679 were in Ontario.¹⁹

There is good reason to suggest, as some have, that we are developing a two-tier system of water supply. This must be unacceptable to all Canadians.²⁰

Recommendation

- **That the Standing Committee urge the provincial government to enshrine the right to clean water in provincial law and join in calling on the federal government to support the declaration by the United Nations of water as a basic human right.**

B. WATER CONSERVATION AND WATER OPPORTUNITIES ACT, 2010

I. Ontario Water Conservation Alliance

RNAO is pleased to endorse the excellent detailed submission on Bill 72 that was prepared on behalf of the Ontario Water Conservation Alliance and posted to the Ontario Environmental Registry on July 17, 2010.²¹ The Alliance, a diverse coalition of about 47 organizations, is calling for a comprehensive water conservation and efficiency strategy that would support new and innovative ways to protect and conserve water across various systems while maintaining public ownership, governance and accountability. It commends the Ontario government for showing leadership on water and striving to make Ontario a leader on water-efficient solutions and technologies while keeping conservation at the forefront.²² RNAO adopts the Alliance’s preliminary recommendations while using the remainder of this submission for additional emphasis.

Recommendation:

- **Adopt the recommendations of the Ontario Water Conservation Alliance as posted to the Ontario Environmental Registry, particularly with respect to the immediate development of a comprehensive water conservation and efficiency strategy with ambitious, achievable conservation targets, evaluation of performance and accountability to the Legislature.**

II. Overview of Legislation

Bill 72 is primarily enabling legislation and consists of a lengthy preamble and five Schedules that enact or amend different pieces of legislation: Schedule 1 enacts the *Water Opportunities Act, 2010*; Schedule 2 amends the *Building Code Act, 1992* to incorporate standards for water conservation; Schedule 3 amends the *Capital Investment Plan Act, 1993* to promote and finance water and sewage works; Schedule 4 amends the *Green Energy Act, 2009* to promote the efficient use of water; and, Schedule 5 amends the *Ontario Water Resources Act* to enforce efficiency standards for appliances and other products prescribed by legislation.²³

Schedule 1, the new *Water Opportunities Act, 2010*, sets out the three-fold purpose of the legislation as being to: (1) “foster innovative water, wastewater and stormwater technologies and services” in the private and public sectors; (2) “create opportunities for economic development and clean-technology jobs in Ontario”; and (3) “conserve and sustain water resources for present and future generations”.²⁴ Schedule 1 goes on to establish a new entity, the Water Technology Acceleration Project (WaterTAP) with the explicit mandate of promoting the development of Ontario’s water and wastewater sectors to exploit business opportunities on the national and international stages. As described in the Preamble, WaterTAP will be “a catalyst for the development and sale of innovative water technologies and services for domestic and international markets” with the goal of making Ontario “a North American leader in driving innovation and creating new economic opportunities in the water and wastewater sectors.”²⁵

Schedule 1 also enables the Minister of the Environment to establish performance indicators and targets for municipal water services, require certain municipalities to develop sustainability plans for municipal water services, and prescribe the information that must be included in a municipal water bill. While the details are all left to regulations to be enacted at a later time, the government’s intention presumably is to mirror the “smart meters” and time-of-use rates being introduced for electricity.

There are legitimate concerns being expressed both from the standpoint of consumers and municipalities that the Act will lead to unaffordable water rates and crippling infrastructure costs that will hurt individuals and communities that are most vulnerable. Implementation of Bill 72 must include adequate funding to upgrade municipal infrastructure and invest in cost-saving and resource-efficient conservation strategies.²⁶

Recommendation:

- **Maintain access to affordable water by investing in cost-efficient conservation strategies, helping municipalities prepare water sustainability plans and upgrading municipal infrastructure to ensure no community is left behind.**

III. Keeping Our Water Public

Water’s critical importance to our continuing health, well-being and prosperity is recognized in no small part by the Preamble: “Water sustains life. Wise stewardship and conservation of water, for both the present generation and for future generations, are of great importance to all Ontarians.” In fact, water is in our name, as “Ontario” itself has its roots in a number of Aboriginal languages’ term for “beautiful lake”. It is curious, therefore, that nowhere in the Preamble and Purposes of the legislation is there any mention of water as a public good that must, above all, remain under public ownership and control.

While the government has been clear in its public statements that the *Water Opportunities and Water Conservation Act* is about exporting clean water technology and know-how and not exporting Ontario's fresh water resource,²⁷ the legislation as currently worded misses the opportunity to enshrine the principle for future governments of all political stripes that our water is a public good that belongs to the public and is not for sale to the highest bidder. Moreover, the effect of the Act, for example in its requirements of municipal water services, must not be to indirectly compel municipalities to privatize or outsource publicly owned resources.

Recommendation

- **Amend the stated purposes of the Act in section 1 to clarify that water is a public good that is owned and controlled by the people of Ontario. One possibility is to amend section 1(c) to add “in public ownership” following “to conserve and sustain water resources”.**

IV. Water Conservation

Conserving and sustaining water resources for present and future generations is the third guiding outcome of Bill 72 as set out in section 1(c) of the new *Water Opportunities Act, 2010*. Using water efficiently, or reducing water use, is undoubtedly the most cost-effective water use strategy. To achieve conservation of water, section 2 empowers the Minister of the Environment to set aspirational targets and publish them on the environmental registry. Although the legislation uses the permissive term “may” is stating that the Minister “may” establish aspirational targets, the Minister “shall” publish any targets on the Registry. In the opinion of the RNAO, clear, ambitious and achievable targets are a crucial element of any water conservation plan or strategy. For conservation targets to be realized, the mandatory form of “shall” must be used. Similarly, targets should be enacted as regulations and published in the Ontario Gazette in addition to being posted on the Environmental Registry if the targets are to be taken seriously.

An unfortunate response to concerns about water quality has been the burgeoning resort to bottled water, which rose from 28.4 to 64 litres per capita in Canada between 1998 and 2006.²⁸ Canadians bought 2.15 billion litres in 2006, with Ontario taking almost half (48.2 per cent).²⁹ The bottled water industry is a massive industry, and has a huge footprint, with its use of plastic and energy. The plastic industry itself estimated that by 2002 alone, Ontario generated over 50,000 tonnes of plastic beverage bottles, of which only 35 per cent are recovered for recycling.³⁰ The rest ends up discarded in the environment or thrown into dumps. Large amounts of energy are consumed making the plastic and shipping the water. All of this is unnecessary when safe drinking water is available from the tap. Furthermore, there remains controversy over the risk of plastic migrating from the bottle into the drinking water.

Bottled water may have its place in the event of temporary water quality issues, but it is a costly and unnecessary private solution to the real or perceived problems of accessing safe drinking water. It is far better to solve water quality problems rather than apply a bottled solution that allows us to ignore environmental problems or access issues (e.g. water fountains have largely disappeared from public spaces, which helps to drive demand for bottled drinking water).

Indeed, water is one of the canaries in the environmental mineshaft. When we address water quality, we reap co-benefits by dealing with underlying environmental issues, such as unsafe practices in handling municipal or toxic waste. It is far better to keep contaminants out of our water supply rather than have to filter them out before consuming that water.

Recommendations:

- **Amend section 2(1) of the Water Opportunities Act, 2010, to read “The Minister of the Environment shall, to further the purposes of the Act, establish aspirational targets in respect of the conservation of water and any other matter the Minister considers advisable.”**
- **Amend section 2(2) of the Water Opportunities Act, 2010, to require targets to be approved in regulation by the Lieutenant Governor-in-Council and published in the Ontario Gazette in addition to posting on the Environmental Registry.**
- **Work with municipalities to ban the sale of bottled water in publicly owned places. Our shared resource should not be bottled for huge profits where safe, clean public drinking water exists.**

Conclusion

Bill 72 aims to make Ontario a North American leader in water and water service technologies. This same boldness of purpose must drive leadership in developing a comprehensive water conservation strategy within the context of a publicly-owned and controlled water resource. The *Water Conservation and Water Opportunities Act* provides an important framework for achieving the legislation’s objectives. Now the real work begins as the Bill is implemented.

RNAO is pleased that the government has committed to consult widely on the development of regulations under the Act. We look forward to continuing to work with government and partners in developing effective regulations to achieve equitable access to safe, affordable, publicly-owned and controlled water for all Ontarians.

References

- ¹ Prüss-Üstün, A. & Corvalán, C. (2006). *Preventing disease through healthy environments: Towards an estimate of the environmental burden of disease*. Geneva: World Health Organization, 9. Retrieved January 17, 2010 from http://www.who.int/quantifying_ehimpacts/publications/preventingdisease/en/index.html
- ² Finkelstein, M., Jerrett, M., & Sears, M. (2005). Environmental inequality and circulatory disease mortality gradients. *Journal of Epidemiology and Community Health*, 59 (6), 481-487. Concludes that some of the social gradient in circulatory mortality is due to environmental exposure to background and traffic pollution.
- ³ Finkelstein, M., Jerrett, M., DeLuca, P., Finkelstein, N., Verma, D. & Sears, M. (2003). Relation between income, air pollution and mortality: a cohort study. *Canadian Medical Association Journal*. 169(5), 397-402.
- ⁴ Smargiassi, A., Berrada, K., Fortier, I. & Kowalski, T. (2006). Traffic intensity, dwelling value, and hospital admissions for respiratory disease among the elderly in Montreal (Canada): a case-control analysis. *Journal of Epidemiology and Community Health*, 60(6), 507-512.
- ⁵ Cruickshank, K. & Boucher, N. (2004). Blighted areas and obnoxious industries: constructing environmental inequality on an industrial waterfront, Hamilton, Ontario, 1890–1960. *Environmental History*, 9(3), 464-496.
- ⁶ Martins, M., Fatigate, F., Véspeil, T., Martins, L., Pereira, L., Martins, M., Saldiva, P. & Braga, A. (2004). Influence of socioeconomic conditions on air pollution adverse health effects in elderly people: An analysis of six regions in São Paulo, Brazil. *Journal of Epidemiology and Community Health*, 58(1), 41-46.
- ⁷ Additional research on environmental inequality may be found on the Scorecard website. Retrieved January 17, 2010 from http://www.scorecard.org/env-releases/def/ej_evidence.html
- ⁸ Neupane, B., Jerrett, M., Burnett, R., Marrie, T., Arain, A., & Loeb, M. (2010). Long-term exposure to ambient air pollution and risk of hospitalization with community-acquired pneumonia in older adults. *American Journal of Respiratory and Critical Care Medicine*. 1 (181), 5-6.
- ⁹ Prüss-Üstün, A., Bos, R., Gore, F., & Bartram, J. (2008). Safer Water, Better Health: Costs, benefits and sustainability of interventions to protect and promote health. WHO. 12. Retrieved October 16, 2010 from http://www.who.int/quantifying_ehimpacts/publications/saferwater/en/
- ¹⁰ The Council of Canadians. (July 28, 2010). Action Alert: Demand Canada Support UN Right to Water Resolution. Retrieved October 16, 2010 from <http://www.canadians.org/action/2010/RTW-June-18.html>
- ¹¹ Ontario Ministry of the Environment. (2010). *Chief Drinking Water Inspector Annual Report 2008-2009*. p. 39. Retrieved October 18, 2010 from http://www.ontario.ca/drinkingwater/dw_el_prd_039637.pdf
- ¹² Sierra Legal Defence Fund. (2006). *Waterproof 2: Canada's drinking water report card*. Toronto: Author. Retrieved January 21, 2010 from <http://www.waterquality.ec.gc.ca/web/Environment-Canada/Water-Quality-Web/assets/PDFs/waterproof.1l.report.pdf>
- ¹³ Ontario Ministry of the Environment. (2006, October 18). *Media Backgrounder: Ontario's new clean water act: Why we need it, how it will work*. Retrieved January 21, 2010 from <http://www.ene.gov.on.ca/en/news/2006/101801mb.php>
- ¹⁴ Canadian Environmental Law Association. (n.d.). *Water source protection*. Retrieved January 21, 2010 from <http://www.cela.ca/collections/water/water-source-protection>
- ¹⁵ RNAO. (June 21, 2010). Urgent Action Alert to Prime Minister Stephen Harper: Vote Yes, Water is a Human Right. Author. Retrieved October 16, 2010 from http://www.rnao.org/Page.asp?PageID=122&ContentID=3259&SiteNodeID=403&BL_ExpandID=#_ftn1
- ¹⁶ Council of Canadians (July 28, 2010). Action Alert: Demand that Canada Support UN Right to Water Resolution. Retrieved October 16, 2010, from <http://www.canadians.org/action/2010/RTW-June-18.html>
- ¹⁷ Toronto Star. (July 13, 2010). Letter to the editor: "A human right Canada rejects: Access to clean water" by Barlow, M. & Naidoo, A.
- ¹⁸ Ibid.
- ¹⁹ Eggertson, L. (March 10, 2008) 1766 boil water advisories now in place across Canada. CMAJ.
- ²⁰ Hruday, S. (Apr. 8, 2008). Safe Water? Depends on where you live! CMAJ. 178(8).
- ²¹ Canadian Environmental Law Association, Ecojustice Canada & Ontario Water Conservation Alliance. (July 17, 2010) Submission. EBR Registry Number 010-9940 Preliminary Recommendations on Bill 72. Retrieved October 16, 2010 from <http://www.conserveourwater.ca/?p=580>
- ²² Ontario Water Conservation Alliance. (May 18, 2010). Media Release: Industry and Environmental Groups Commend Ontario Government for Showing Leadership on Water. Retrieved October 16, 2010, from <http://www.cela.ca/newsevents/media-release/ontario-government%27s-water-leadership>
- ²³ *Water Opportunities and Water Conservation Act, 2010*.
- ²⁴ *Water Opportunities Act, 2010*, s.1(a)(b)(c).
- ²⁵ *Water Opportunities and Water Conservation Act, 2010*, Preamble.
- ²⁶ ENGO letter to Minister Gerretsen (July 29, 2010). Retrieved October 16, 2010 from http://www.rnao.org/Page.asp?PageID=122&ContentID=3280&SiteNodeID=390&BL_ExpandID=
- ²⁷ Canadian Press. (May 19, 2010). "McGuinty wants Ontario to export water technologies, not bulk water". Retrieved October 7, 2010, from <http://www.conserveourwater.ca/?p=522>
- ²⁸ Agriculture and Agri-Food Canada. (2009). *The Canadian Bottled Water Industry*. Ottawa: Author. Retrieved January 12, 2010 from <http://www4.agr.gc.ca/AAFC-AAC/display-afficher.do?id=1171644581795&lang=eng#en2>
- ²⁹ Agriculture and Agri-Food Canada. (2009). It
- ³⁰ CM Consulting. (2004). *An Overview of Plastic Bottle Recycling in Canada*, Mississauga: Environment and Plastics Industry Council (EPIC). Retrieved January 12, 2010 from <http://www.solidwastemag.com/postedddocuments/PDFs/OctNov04/PlasticBottle.pdf>