

# Ontario's Environment and the Common Sense Revolution



## A Four Year Report



Est. 1970

CANADIAN INSTITUTE FOR ENVIRONMENTAL LAW AND POLICY

L'INSTITUT CANADIEN DU DROIT ET DE LA POLITIQUE DE L'ENVIRONNEMENT



# **Ontario's Environment and the Common Sense Revolution :**

## **A Four Year Report**

**prepared by:**

**Mark Winfield, Ph.D.  
Director of Research**

**Greg Jenish, B.E.S.  
Project Officer**

**September 1999**

Copyright © 1999 Canadian Institute for Environmental Law and Policy. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, photocopying, electronic, mechanical, recording or otherwise without prior written permission of the copyright holder.

Printed in Canada.

### **Acknowledgements**

The Canadian Institute for Environmental Law and Policy would like to thank the Joyce Foundation for their contribution to this project.

The authors would like to thank those who contributed to this effort by way of writing, reviewing, editing or providing advice : Anne Mitchell, Jack Gibbons, Jan Rabantek, Carla Roche, Cristina Giannetas and Neil Kumar.

Also, thanks go to individuals from the following organizations: the Toronto Environmental Alliance, the Canadian Environmental Law Association, the Sierra Legal Defense Fund, an Algonquin Wildlands League. Many government departments and agencies from the municipal to the federal level assisted by providing data and information as well.

The authors assume responsibility for the views expressed in this paper and responsibility for any inaccuracies or misconceptions that may arise.

For more information about this publication or its publisher contact Anne Mitchell, Executive Director at the:

Canadian Institute for Environmental Law and Policy  
517 College Street, Suite 400  
Toronto, Ontario  
M6G 4A2

telephone (416) 923-3529  
facsimile (416) 923-5949  
E-mail: [cielap@web.net](mailto:cielap@web.net)  
<http://www.web.net/cielap>

ISBN 1-896588-38-7

# Table of Contents

## Section I

### Part 1: Introduction

## Section II

### Part 2: Government-wide Accountability and Democratic Structures

Environmental Bill of Rights & Public Participation in Decision-Making . . . . .	2 - 1
Environmental Assessment & Approvals . . . . .	2 - 9
Standards Setting & Regulatory Processes . . . . .	2 - 16
Land Use Planning . . . . .	2 - 36
Environmental Science, Monitoring And Education . . . . .	2 - 47
Endnotes . . . . .	2 - 53

### Part 3: Environmental Protection

Air Quality . . . . .	3 - 1
Waste Management . . . . .	3 - 12
Water . . . . .	3 - 25
Energy . . . . .	3 - 39
Pesticides & Agriculture . . . . .	3 - 49
Endnotes . . . . .	3 - 53

### Part 4: Natural Resources Conservation

Forestry . . . . .	4 - 1
Wildlife, Wilderness and Protected Areas . . . . .	4 - 11
Fisheries and Fish Habitat . . . . .	4 - 25
Mineral Aggregates, Petroleum Resources and Brine Industries . . . . .	4 - 29
Endnotes . . . . .	4 - 33

### Part 5 : Mining, Transportation and Public Safety

Mining . . . . .	5 - 1
Transportation . . . . .	5 - 7
Underground Storage Tanks, Boilers and Pressure Vessels . . . . .	5 - 16
Endnotes . . . . .	5 - 19

## Section III

### Part 6: Conclusions

Appendix A : Ontario Environmental Protection Initiatives : Chronology of Events (1995-1999)

Appendix B : Recommendations from the Environmental Agenda for Ontario Project

# INTRODUCTION

This report describes and analyzes the changes to Ontario's environmental laws, policies and institutions that took place over the four-year period from June 1995 to June 1999.

A new government of Ontario was elected on the basis of a platform entitled the 'Common Sense Revolution' in June 1995. The same government was elected for a second term in June 1999. The government's June 1995 platform made no mention of the environment or natural resources. There was only an indirect reference to the "appointment of an arms-length commission on red tape to review all current regulations affecting business. Any regulation that can't be justified will be eliminated within 12 months of a Harris government taking office."<sup>1</sup>

During the 1995 election campaign, the Progressive Conservative Party indicated its intention to repeal a number of the previous government's environmental initiatives, including a ban on new municipal waste incinerators, and reforms to the land-use planning process.<sup>2</sup> At the same time, the Party committed itself to "work with organizations and communities to improve our provincial parks system and work toward the World Wildlife Fund's Endangered Spaces Campaign goal of completing a system of protected areas by the year 2000."<sup>3</sup>

The four years following the June 1995 election were marked by a dismantling of environmental laws and institutions without precedent in the province's history. The government of Ontario's environmental policies during this period were structured around three core themes:

regulatory "reform" in the guise of sweeping amendments to virtually every statute in the province dealing with environmental protection or natural resources management;

enormous reductions in the budgets and capacity of provincial and local agencies charged with the protection of the province's environment and natural resources; and

an extensive restructuring of roles and responsibilities between the province, municipal governments, and the private sector.

## **Regulatory 'Reform'**

Between 1995 and 1997, major amendments were made to every significant provincial statute related to environmental protection or natural resources management, with the exceptions of the *Environmental Bill of Rights* and the *Power Corporation Act*. These typically: weakened environmental protection requirements; expanded ministerial

and cabinet discretion in decision-making; reduced or eliminated opportunities for public participation in decision-making and structures for government accountability; established self-regulation systems for a wide range of industries and activities which have major impacts on the environment; and insulated the government from lawsuits arising out of damages resulting from the government's removal of environmental protection requirements.

The pace of legislative change slowed significantly in the government's third and fourth years. This was partially a result of the fact that many of the province's environmental and natural resources statutes had by then been amended to grant the cabinet or, in some cases, individual ministers, virtually unlimited authority to act through regulations.

However, there were a number of significant new legislative initiatives over the third and fourth years of the government's mandate. In December 1997 the government enacted the *Development Charges Act*. The Act limited the degree to which municipalities could require developers to internalize the costs of the infrastructure to serve new developments. This effectively required municipal governments to subsidize urban sprawl. Bill 146, the *Farming and Food Production Protection Act* was enacted in May 1998. This legislation provided a mechanism through which municipal by-laws intended to control environmental nuisances arising from 'normal' farm operations could be overturned in response to complaints by farmers.

October 1998 was marked by the passage of Bill 35, the *Energy Competition Act*. The Bill is intended to introduce competition into the electricity market in Ontario and divided Ontario Hydro into a number of entities including: the Ontario Electricity Generation Corporation with the utility's generating assets; the Ontario Hydro Service Corporation to operate Ontario Hydro's transmission and distribution infrastructure; and the Ontario Hydro Financial Corporation to hold Ontario Hydro's debt.

The Act provided for the incorporation of the Service Corporation and Generation Corporation under the *Business Corporations Act* as private corporations held by her Majesty in the right of Ontario. Among other things, this arrangement permitted the Generation Corporation and the Services Corporation to escape the requirements of the *Freedom of Information and Protection of Privacy Act* and other statutes and accountability mechanisms that normally apply to public entities.<sup>4</sup>

The Bill also created an Independent Market Operator (IMO) to operate the competitive market and provide the Ontario Energy Board with a regulatory function through requirements for licensing as a condition of market access. The Act made provision for the requirement of electricity suppliers to be in compliance with environmental performance standards as a condition of market access, but made no provision regarding the nature of these standards. Major concerns have been raised that unless specific measures to control emissions from new sources of supply are adopted, the introduction of competition into the electricity sector will result in major increases in air pollution.<sup>5</sup> The extension of the application of the *Environmental Assessment Act* to the operations of some of Ontario Hydro's successor companies was announced in May 1999.

In December 1998 Bill 25, *The Red Tape Reduction Act*, an omnibus bill similar to the January 1996 Bill 26, *Government Savings and Restructuring Act*, was enacted. The Bill amended more than a dozen natural resources statutes: permitting the delegation of decision-making authority, over a wide range of activities on public lands, and affecting lakes and rivers, to "any person;" removing requirements for conservation authority approvals of aggregates extraction; and, facilitating the sale of public lands. Schedule 'C' of the Act, *Statute and Regulation Revision Act, 1998*, made provision for the adoption of revisions to statutes by the Chief Legislative Council, without approval by the Legislature.

Bill 82, *An Act to Strengthen Environmental Protection and Enforcement* was also enacted in December 1998. The Act introduced administrative monetary penalties for offenses under the *Environmental Protection Act*, *Ontario Water Resources Act* and *Pesticides Act*, and strengthened the penalty and enforcement provisions of the Acts. A second Omnibus 'Red Tape Reduction' bill, Bill 101, which would have made amendments to seven natural resources statutes, including the *Niagara Escarpment Planning and Development Act*, died on the Order Paper with the end of the Legislative session at the end of the year.

The Ministry of the Environment presented proposed 'revisions' to its environmental regulations in July 1996.<sup>6</sup> These affected almost every regulation administered by the Ministry, and proposed to remove a wide range of environmental protection requirements, including elements of the Municipal-Industrial Strategy for Abatement (MISA) industrial water pollution control program, and controls on the management of hazardous wastes. The Ministry's proposals were re-iterated in November 1997,<sup>7</sup> although some proposed changes to air pollution control regulations were dropped. Specific proposals regarding the province's municipal solid and hazardous waste management regulations were presented by the Ministry in June 1998.<sup>8</sup>

In September 1998, the Ministry of the Environment proceeded with the implementation of the first "Approval Exemption Regulations" (AERs) for a range of air and water pollution related activities. Under these regulations specified activities are exempted from the approval requirements of the *Environmental Protection Act* and *Ontario Water Resources Act*. "Standardized Approvals" (SARs) which allow activities to take place without Ministry approval, subject to specific conditions, have been proposed as well. Major revisions to the pesticide regulation system were adopted in August and September 1998.

For its part, the Ministry of Natural Resources removed approval requirements for most activities on public lands in November 1996. Approval requirements for many undertakings affecting waterways were also removed at that time. Self-monitoring and regulation systems have been adopted by the Ministry for the aggregates, petroleum, forestry, commercial fisheries and fur industries and proposed for the baitfish industry.

The impact of the government's changes to environmental legislation, such as the *Environmental Assessment Act* are becoming increasingly apparent. This has been especially clear in the area of approvals for waste management facilities. Major undertakings, such as the Taro industrial waste landfill in Stoney Creek, approved in July 1996, and the expansion of the province's only commercial hazardous waste landfill in

Sarnia in September 1997, have been approved without public hearings before the Environmental Assessment Board. The scope of the review of other large scale projects, such as the Adams Mine Landfill in Kirkland Lake, approved in August 1998, has been significantly curtailed.

### *Budgetary and Personnel Reductions*

The fall of 1995 and spring of 1996 were marked by a series of announcements regarding reductions in the budgets of Ontario government agencies and in transfer payments from the province to municipalities and other agencies. The Ministries of Natural Resources and of Environment were particularly heavily affected by these reductions.

The government's May 1999 budget indicates that, by the end of the 1998/99 fiscal year, the Ministry of Environment and Energy will have lost 38% of its operating budget and 93% of its capital budget,<sup>9</sup> as measured against its actual budget for the 1994/95 year. These losses are outlined in Tables 1.1, 1.2 and Figures 1.1(a), 1.1(b). Figures provided by the Ministry indicate that staffing levels fell from 2208 to 1494 over the period 1994/95 to 1997/98, a loss of 32%.

The Ministry's operating budget has recovered slightly from the low of the 1997/98 fiscal year, at which point it had fallen by 45% against the 1994/95 year. The slight increase in expenditures for the 1998/99 fiscal year reflected the costs of the "Drive Clean" program, and the establishment of a \$10 million fund for "analysis of the critical issues that climate change presents for Ontario's environment and economy."<sup>10</sup>

The operating budget of the Ministry of Natural Resources shows a rise of 9% over the period 1994/95 to 1998/99, while its capital budget will fall by 44%, as illustrated in Tables 1.1, 1.2 and Figures 1.1(a), 1.2 (b). However, the apparent increase in the Ministry's operating budget is a result of one-time, in-year, funding approvals in the 1998/99 fiscal year. These included: additional fire-fighting resources (\$70M); the Living Legacy program (\$30M); and commercial fisheries licence buy-outs on the Bruce Peninsula (\$14M). The government's May 1999 budget shows a planned continuing decline in the MNR's budget to \$364M for 1999/2000, the lowest level since 1994/95, and a reduction of 24% against that year. The Ministry's staff declined from a total of 6,639 in 1994/95 to 4,643 in 1997/98,<sup>11</sup> a loss of 30%.

In its 1998 budget, the provincial government stated that it intended to increase spending on environmental matters by \$35 million over the next four years. This was to include \$20 million for land acquisition in the Niagara Escarpment and other sensitive



Figure 1.1 (a)

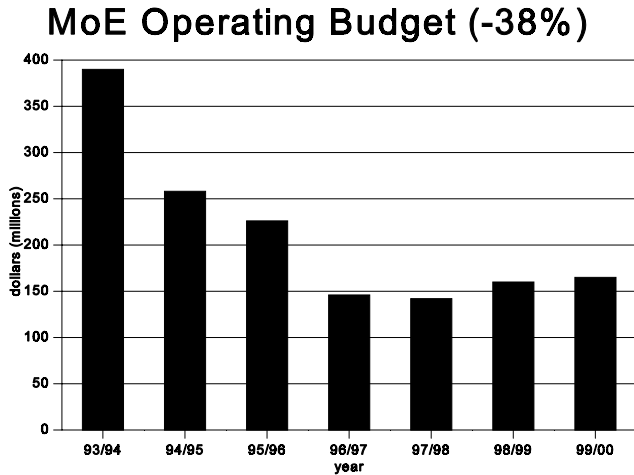


Figure 1.1 (b)

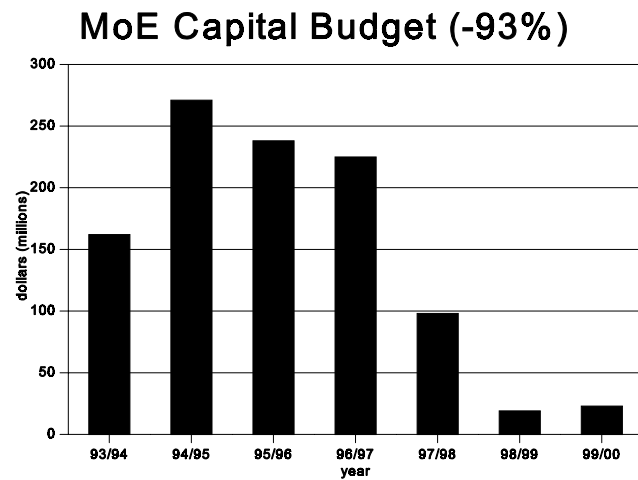


Figure 1.2 (a)

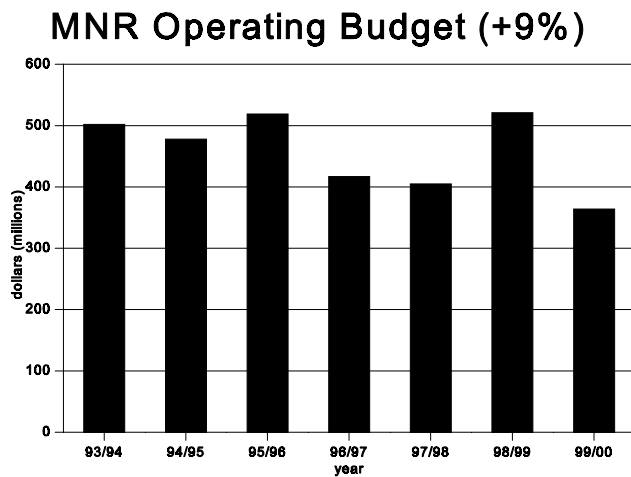
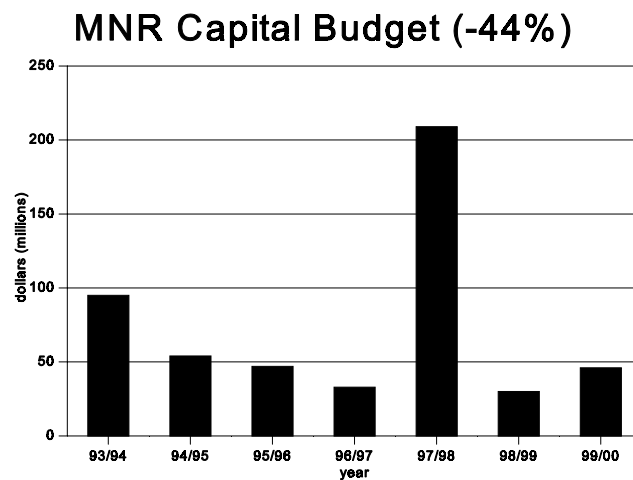


Figure 1.2 (b)



<b>Table 1.1 : Operating Expenditures - Select Ministries 1994/95 to 1999/00 (in millions \$)</b>							
<b>Ministry</b>	1994/95	1995/96	1996/97	actual 1997/98	interim 1998/99	plan 1999/00	Change: 94/95 to 98/99%
Agriculture, Food & Rural Affairs	\$409	\$263	\$324	\$306	\$317	\$365	-22
Citizenship, Culture & Recreation	\$363	\$302	\$282	\$344	\$393	\$393	8
Community & Social Services	\$9,364	\$8,816	\$7,965	\$8,047	\$7,707	\$7,677	-18
Consumer & Commercial Rel.	\$150	\$140	\$123	\$92	\$134	\$126	-11
Economic Dev't, Trade & Tour.	\$463	\$385	\$245	\$194	\$157	\$175	-66
Energy, Science and Technology	\$14	\$13	\$11	\$69	\$334	\$146	2,286
Environment	\$258	\$226	\$146	\$142	\$160	\$165	-38
Health	\$17,599	\$17,607	\$17,760	\$18,284	\$18,925	\$20,173	8
Native Affairs Secretariat	\$16	\$16	\$17	\$10	\$10	\$12	-38
Natural Resources	\$478	\$519	\$417	\$405	\$521	\$364	9
Northern Development & Mines	\$54	\$66	\$52	\$62	\$82	\$127	52
Transportation	\$598	\$1,054	\$879	\$709	\$627	\$539	5

Source: 1999 Ontario Budget, Budget Papers, May 1999

<b>Table 1.2 : Capital Expenditures - Select Ministries 1994/95 to 1999/00 (in million \$)</b>							
<b>Ministry</b>	actual 1994/95	actual 1995/96	actual 1996/97	actual 1997/98	interim 1998/99	Plan 1999/00	Change 94/95 to 98-99 %
Agriculture, Food & Rural Affairs	\$12	\$5	\$0	\$1	\$0	\$0	-100
Citizenship, Culture & Recreation	\$42	\$29	\$9	\$7	\$6	\$16	-86
Community & Social Services	\$72	\$14	\$116	\$51	\$30	\$22	-58
Economic Dev't, Trade & Tour.	\$117	\$113	\$11	\$3	\$2	\$2	-98
Energy, Science & Technology	\$0	\$0	\$0	\$0	\$23	\$17	n/a
Environment	\$271	\$238	\$225	\$98	\$19	\$23	-93
Water Protection Fund	n/a	n/a	n/a	n/a	\$15	\$185	n/a
Health	\$249	\$168	\$175	\$106	\$172	\$504	-31
Native Affairs Secretariat	\$17	\$9	\$13	\$11	\$10	\$12	-41
Natural Resources	\$54	\$47	\$33	\$209	\$30	\$46	-44
Northern Development & Mines	\$240	\$163	\$168	\$173	\$176	\$225	-27
Transportation	\$1,757	\$1,387	\$1,279	\$1,186	\$902	\$824	-49

Source: 1999 Ontario Budget, Budget Papers, May 1999

areas, \$10 million to improve fish and wildlife management, and a \$5 million endowment for a foundation to attract contributions for cleaning up the Great Lakes. However, it is important to note that the budget also indicated that the operating and capital budgets of the Ministries of the Environment and of Natural Resources were to fall by more than \$100 million over 1998/99 fiscal year.

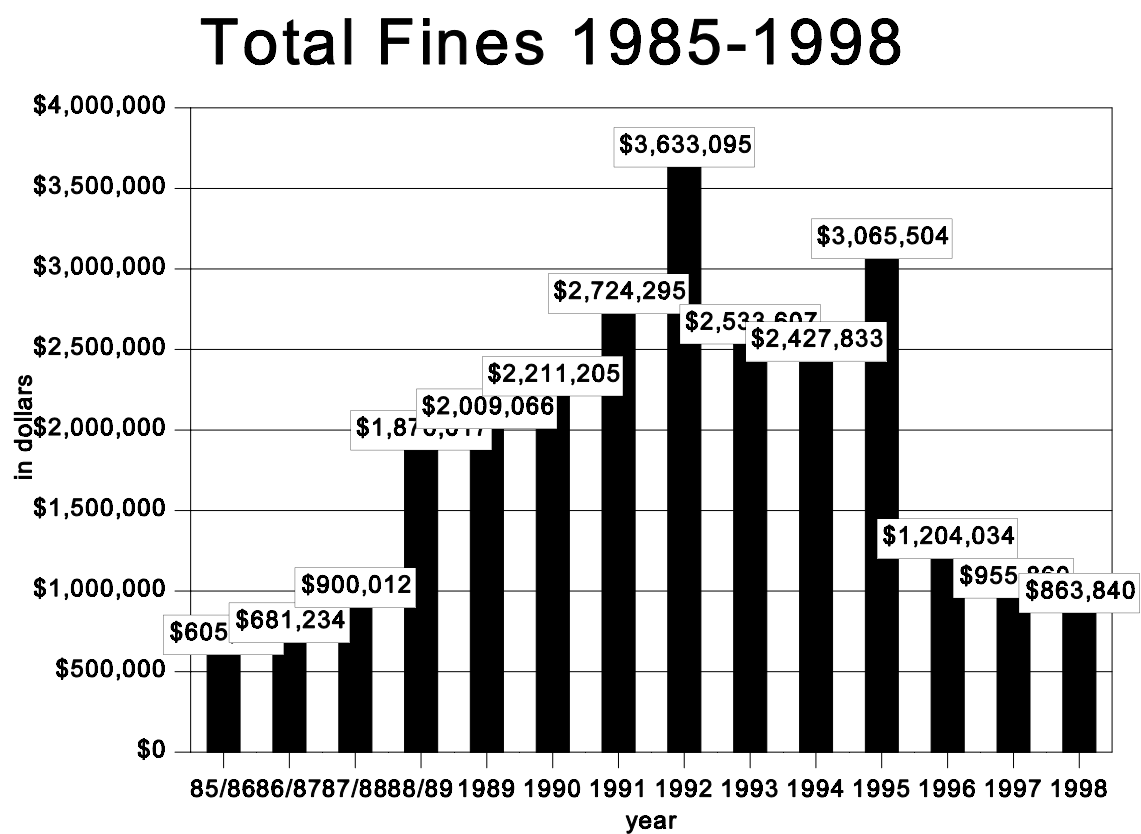
Provincial transfers to municipalities for a range of environmentally related activities, including curbside recycling and household hazardous waste collection programs were terminated in the government's first year in office. The provincial government indicated its intention to withdraw provincial support for sewer and water infrastructure and public transit services in January 1997. However, it stated that it would provide one-time capital grants for sewer and water infrastructure and public transit services during the transition period. Conservation Authorities, which have traditionally played a major role in the delivery of water resources management and the protection of ecologically significant areas have lost approximately 70% of their funding from the province.<sup>12</sup>

The most dramatic evidence of the impact of the budgetary and personnel reductions to provincial agencies is the precipitous decline in their environmental law enforcement activities. This is outlined for the Ministry of the Environment in Table 1.3 and Figure 1.3. The total fines obtained by the Ministry for 1998, the most recent year for which data could be obtained, were \$863,840 - the lowest figure since 1986/87, and less than one third of the total for 1995. Fines fell, in part, as a consequence of the 28% reduction in Investigation and Enforcement Branch staff over the period 1995-1998.

**Table 1.3 : Ontario Ministry of Environment Enforcement Activity, 1995-1998**

<b>Activity</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>
Total number of Crown Briefs received.	196	143	145	204
Total number of charges against individuals	615	343	491	353
Total number of charges against corporate defendants	430	409	463	452
Total number of convictions against corporate defendants	232	148	215	243
Total fines against corporate defendants (1000s of \$)	\$1,845	\$750	\$760	\$622
Total number of convictions against individuals	280	189	203	171
Total fines obtained against individuals (in 1000s of \$)	\$1,220	\$453	\$195	\$241

Figure 1.3 : Total fines recorded by the Ministry of Environment 1985-98



In February 1999, it was revealed that the Ministry of the Environment had developed a delivery strategy for its operational staff, directing them not to respond to public complaints about a wide range of environmental problems, or to direct such complaints to other agencies and municipalities. Specific examples included problems arising from: activities related to agriculture; construction and demolition; diesel generators; gravel pits and quarries; mobile sources; oil from vehicles; septic systems; boating; sewers; drinking water quality; road salt; inert fill; pop bottles; industrial, institutional and commercial waste source separation; recycling and composting regulatory requirements; tire disposal sites with less than 5,000 tires; litter; abandoned vehicles; inquiries about pesticide use; and residential pesticide use.<sup>13</sup>

A March 1999, analysis of the Ministry's 1996 law enforcement activities by the Sierra Legal Defence Fund indicated that only three of 134 companies and sewage treatment plants that had violated water pollution control requirements had been successfully prosecuted by the Ministry.<sup>14</sup> A similar analysis of air pollution infractions indicated that in 1997 there were 1,224 violations of air pollution regulations, resulting in four charges. In 1998 there were 3,354 violations, resulting in two charges.<sup>15</sup>

A number of other incidents over the past two years have indicated serious gaps in the province's capacity to monitor activities which may threaten the health, safety or environment of Ontarians. The most prominent of these occurrences was the four-day long, July 1997 fire at the Plastimet PVC recycling facility in Hamilton.<sup>16</sup> The Ontario Court, General Division's February 1998 decision<sup>17</sup> regarding the Ministry of Natural Resource's failure to comply with the *Crown Forest Sustainability Act* and the Terms and Conditions of the Class Environmental Assessment of Timber Management on Crown Lands, raised similar questions about the management of the province's natural resources. The Ministry's primary defence in the case was that it lacked the resources necessary to comply with the requirements of the Act, and the Terms and Conditions of the Class Environmental Assessment.

### *Restructuring*

#### *The Provincial/Municipal Relationship*

A wide range of provincial responsibilities have been transferred to municipal governments over the past four years. The withdrawal of provincial funding for municipally delivered environmental services, including curbside recycling and household hazardous waste collection, and the upgrading of sewer and sewage treatment systems to deal with combined sewer overflows, was announced in the fall of 1995. The 'Mega-week' announcements of January 1997 included the withdrawal of provincial funding for public transit services (approximately \$700 million/yr) and sewer and water infrastructure (approximately \$140 million/yr). The government subsequently announced a series of one-time grants in these areas to deal with transitional issues.

The transfer of responsibility for the operation and maintenance of provincially-owned water and sewage treatment facilities and the regulation of septic systems to municipalities was also announced in January 1997. These steps were provided for

through Bill 107, the *Water and Sewerage Services Improvements Act, 1997*, enacted in May 1997. Responsibility for dealing with odour, noise, dust and other 'nuisance' environmental problems has effectively been downloaded to municipalities as well. This is a result of the adoption of Approval Exemption Regulations for many sources of these problems by the province. The Ministry of the Environment's 'Delivery Strategy' also directed Ministry staff to refer many types of public complaints about environmental issues to municipalities.<sup>18</sup> No additional resources were provided to municipalities to deal with these demands.

Support by provincial agencies for the management of conservation lands, and environmental protection in land-use planning decision-making was withdrawn as a consequence of March 1996 amendments to the *Planning Act*. These amendments also weakened requirements that municipal planning decisions be consistent with provincial land-use policies, and environmental protection provisions within those policies. At the same time, the provincial government did not hesitate to override important or innovative local environmental decisions in favour of particular economic or institutional interests. This included disallowing a vehicle anti-idling by-law enacted by the former City of Toronto,<sup>19</sup> adopting regulations to prevent municipalities from charging product manufacturers or importers for the costs of dealing with their products or packaging through municipal recycling programs<sup>20</sup> or imposing deposits on containers sold through the Liquor Control Board of Ontario,<sup>21</sup> blocking municipal efforts to protect ecologically sensitive areas from aggregates development,<sup>22</sup> and establishing barriers to the adoption of municipal by-laws to control the environmental and health impacts of agricultural operations.<sup>23</sup>

Finally, the province forced the amalgamation of a number of municipalities against the clearly expressed wishes of their municipal councils and residents. The most prominent example of such actions was the amalgamation of the six municipalities making up Metropolitan Toronto into a single City of Toronto in January 1998.<sup>24</sup> In this case, opposition to the province's proposals was stated by all of the affected local councils, and by seventy-six per cent of Toronto residents who voted in a municipally-sponsored referendum on the subject.<sup>25</sup>

### *Industry Self-Regulation*

The final two years of the government's first mandate were marked by the transfer to the private sector of a wide range of functions previously carried out by the province. These changes have taken a number of different forms. In the case of the Ministry of Natural Resources, self-monitoring and compliance systems have been established for the forestry, aggregates, petroleum, brine, commercial fisheries and fur industries which were previously regulated by the Ministry. Parallel arrangements have been proposed for the baitfish industry. A similar system has been under consideration regarding the regulation of the closure of mines by the Ministry of Northern Development and Mines since the enactment of amendments to the *Mining Act* through Bill 26 in January 1996.

In the case of the Ministry of Consumer and Corporate Relations, in May 1997 the regulatory functions of the Ministry related to underground storage tanks, boilers, pressure vessels, fuels, elevators, amusement devices, and upholstered furniture were transferred

to a private organization called the Technical Standards and Safety Authority (TSSA). The Authority's board of directors is dominated by representatives of the industries it is to regulate.<sup>26</sup> The Independent Market Operator and Electrical Safety Authority are similar entities created through Bill 35, *The Energy Competition Act, 1998*.

Serious questions regarding the implications of these transfers have been raised by the Environmental Commissioner,<sup>27</sup> Provincial Ombudsman,<sup>28</sup> and Information and Privacy Commissioner.<sup>29</sup> There are particular concerns that, as these functions will no longer be carried out by provincial government agencies, they will escape the application of such statutes as the *Environmental Bill of Rights, Freedom of Information and Protection and Privacy Act, Ombudsman Act, Environmental Assessment Act*, and the *French Language Services Act* and mechanisms for public and legislative oversight and accountability, such as the Provincial Auditor. Although some of these entities, such as the TSSA, carry out law enforcement activities, it is also unclear whether the *Canadian Charter of Rights and Freedoms* applies to their actions.

Similar issues exist with respect to the successor companies to Ontario Hydro created through the *Energy Competition Act*. The Act provided for the incorporation of the Ontario Electricity Service Corporation and Ontario Generation Corporation under the *Business Corporations Act* as private corporations held by the Crown in Right of Ontario. As private corporations these entities also escape the application of statutes such as the *Freedom of Information and Protection of Privacy Act* that apply to public bodies.<sup>30</sup>

## **The Evidence of Harm**

The past two years have seen growing evidence of the impact of these changes to Ontario's environmental laws and institutions. Imports of hazardous wastes into the province from the United States, for example, have grown dramatically, rising by a factor of four, from 56,000 tonnes in 1993 to 246,000 tonnes in 1997.<sup>31</sup> The quantities of hazardous and liquid industrial wastes being transferred off-site for disposal from Ontario sources have also increased sharply, with a 50% growth reported through the provincial Waste Manifest System, from 1.4 million tonnes, to over 2.1 million tonnes, between 1994 and 1997.<sup>32</sup> Federal National Pollutant Release Inventory (NPRI) data shows a 92% increase in reported transfers of NPRI reported substances in waste between 1994 and 1996 in Ontario.<sup>33</sup>

Air emissions have risen dramatically in Ontario as a result of increased reliance on coal-fired generation as a replacement for electricity supplied by nuclear generating facilities 'laid-up' as part of the utility's Nuclear Asset Optimization Plan (NAOP). Emissions of nitrogen oxides and sulphur dioxide (acid rain and smog precursors), rose 58% and 68% respectively over the period 1996-1998, on an average basis, from Ontario Hydro's coal-fired operations.<sup>34</sup> Emissions of particulates and heavy metals from Ontario Hydro facilities have likely increased by similar amount over the same period.<sup>35</sup> NAOP was developed in response to reports raising major safety concerns regarding Hydro's nuclear operations.<sup>36</sup>

The Ministry of the Environment has also noted that: "Improvements in air quality

have levelled off and in some areas particulate levels are rising again. Long-standing particulate problems persist in a number of urban centres.<sup>37</sup> In addition, the Ministry has noted an ongoing increase in ground level ozone,<sup>38</sup> and an increase in median concentrations of some volatile organic compounds, such as benzene, toluene and xylene since 1995.<sup>39</sup>

There have also been a significant number of reports, from independent and authoritative bodies, highlighting the extent of the environmental challenges facing the province. These included an October 1998 report from the North American Commission on Environmental Cooperation,<sup>40</sup> indicating that the province was the third largest source of releases to the environment and transfers to disposal of pollutants in Canada and the United States.<sup>41</sup> As shown in Table 1.4, Ontario's 1995 releases and transfers of pollutants were exceeded only by those of the states of Texas and Louisiana.

Province/ State	Total Releases & Transfers in (kg)
Texas	151,082,326
Louisiana	74,495,761
<b>Ontario</b>	<b>74,278,803</b>
Ohio	71,555,943
Pennsylvania	56,361,058
Alabama	49,861,913
Illinois	49,704,025
Tennessee	48,249,163
Michigan	47,645,356
Indiana	46,399,630
North Carolina	41,490,654
Florida	35,686,897

**Table 1.4 - Largest sources of NPRI / TRI substances in North America - 1995**

Other reports from the Commission on Environmental Cooperation,<sup>42</sup> Environmental Commissioner for Ontario,<sup>43</sup> Ontario Medical Association,<sup>44</sup> International Joint Commission,<sup>45</sup> the Acidifying Emissions Task Group of the National Air Issues Coordinating Committee,<sup>46</sup> the North East States for Coordinated Air Use Management,<sup>47</sup> and the University of Toronto<sup>48</sup> have stressed the province's air pollution problems and their impacts on human health.

A report by the Office of the Fire Marshal in the aftermath of the July 1997 Plastimet PVC fire raised serious questions about the adequacy of the province's regulation of waste 'recycling' and handling sites.<sup>49</sup> Similar issues were identified by the Canadian Institute for Environmental Law and Policy in a February 1998 report on the management of hazardous wastes in Ontario.<sup>50</sup> The extent of the gaps in environmental science and monitoring capacity within the province, resulting from budgetary reductions at the provincial and federal levels, is also becoming increasingly apparent.

## The Government's Response

Despite a growing body of evidence regarding deteriorating environmental conditions in the province, the government of Ontario's actions to improve environmental protection over the 1995 to 1999 period were extremely limited. Summer gasoline volatility limits were lowered in February 1997, an 'interim' Acceptable Ambient Air Quality Criteria (AAQC) for PM<sub>10</sub> (particulate matter) was adopted in November 1997,<sup>51</sup> and an 'interim' ban on the approval of new waste oil burning space heaters adopted in March 1998.<sup>52</sup>

New standards for nine hazardous air pollutants were adopted in December 1998,



although the improvements over existing standards were marginal.<sup>53</sup> The Ministry of the Environment stated its intention to phase out the use of waste 'black liquor' (also known as 'Dombind') from pulp mills as a dust suppressant in the same month.<sup>54</sup> This was agreed to by the company concerned in March 1999. Bill 82, also adopted in December 1998, strengthened the enforcement powers available to the Ministry of the Environment. However, no additional resources were provided to support its implementation.

The government's much publicized 'Drive Clean' vehicle inspection and maintenance program started to become mandatory on April 1, 1999. However, the program will initially be limited to the Greater Toronto Area and Region of Hamilton-Wentworth, and excluded heavy trucks and buses during its first phase.

In January 1999, the Minister of Natural Resources announced the cancellation of the annual spring bear hunt in Ontario. The provisions of the *Fish and Wildlife Conservation Act*, enacted in December 1997 came into force in the same month. The new legislation replaced the *Fish and Game Act*, and provided protection for non-game species, and for wildlife held in captivity. However, the new Act has been criticized for granting excessive discretion to the Minister of Natural Resources, and permitting the delegation of Ministry functions to private individuals and entities.

The government announced its response to the recommendations of the 'Lands for Life' Round Table Reports in March 1999. The 'Lands for Life' process had been established in April 1997 to determine the future uses of public lands in Central and Northern Ontario, an area encompassing 47% of the province's land area. The government stated its intention to protect 12% of the lands in the planning area from development, a significant increase over current levels and the recommendations of the Round Tables, which had been presented in October 1998.<sup>55</sup>

However, this commitment is subject to a number of major concessions to the forestry and mining industries, and other interests. In the case of mining, according to statements issued by the Ministry of Northern Development and Mines, existing mineral land tenure in new parks and protected areas is to be maintained, prospecting and exploration permitted in these areas, and land 'borrowed' from parks for mining purposes if significant mineral deposits are found. More than \$20 million in new subsidies to the mining industry are also to be provided.<sup>56</sup>

With respect to forestry, the government has committed to: no long-term reduction in wood supply; no increases in the costs of the wood supply; potential exemptions for the biodiversity protection provisions of the *Crown Forest Sustainability Act* in areas where intensive silviculture is to be practiced; and \$21 million in new subsidies and compensation to the forest industry.<sup>57</sup> The issue of extended tenure for forest companies was not addressed in the government's announcements, but extensions of tenure appear to be implicit as a quid pro quo to industry in the 'Lands for Life' process. Statements made by the government indicate any future expansion of parks and protected areas will require the "mutual agreement" of the mining and forest industries.<sup>58</sup> Finally, commercial fur harvesting and sport hunting and fishing are to be permitted in most new protected areas.<sup>59</sup>

It is important to note that elements the Ministry of Northern Development and Mines' announcements on March 29 regarding mining directly contradicted provisions of the 1999 Ontario Forest Accord, signed by the representatives of the Partnership for Public Lands,<sup>60</sup> the forest industry and the Ministry of Natural Resources. The Accord stated that mining would be excluded from parks and protected areas,<sup>61</sup> provided for interim protection from mining activities for areas proposed as parks or protected areas,<sup>62</sup> and stated that the Ontario Forest Accord Advisory Board would develop a strategy for additions to the parks and protected areas system.<sup>63</sup>

The government's statements regarding mining activities in new parks and conservation reserves were re-affirmed in July 1999, along with its position regarding the continuation of bait fishing, commercial fishing, commercial fur harvesting and sporting hunting in these areas. The government also stated that it would consider the expansion of hunting activities within existing provincial parks.<sup>64</sup>

### *Intergovernmental and International Environmental Commitments*

The enormous reductions in the budgets and resources of the province's environmental and natural resources agencies have had a major impact on the province's ability to fulfil its obligations under agreements with other levels of government.

### *The Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem*

In its 1996, 8th and 1998, 9th *Biennial Reports on Great Lakes Water Quality*, the International Joint Commission expressed concern over the effects of the Ontario government's actions on the province's ability to fulfil its responsibilities under the 1994 *Canada-Ontario Agreement Respecting the Great Lakes Ecosystem Basin* (COA).<sup>65</sup> The Agreement is the primary instrument for the carrying out of Canada's obligations under the Canada-U.S. *Great Lakes Water Quality Agreement*.

An assessment of the performance of the Parties to the Agreement published by the Canadian Institute for Environmental Law and Policy in March 1999 concluded that "it is clear that most of the goals and objectives in the Agreement will not be met by the time of its expiry in March 2000."<sup>66</sup> The report highlighted the impact of budgetary reductions to agencies and programs essential to the fulfilment of Ontario's obligations under the Agreement, including the lay-off of the Coordinators for many of the provincially-led Remedial Action Plans for Areas of Concern identified in the *Great Lakes Water Quality Agreement*, in January 1997. The report also noted that the Ministry of Natural Resources had disbanded its Great Lakes Branch, and that there was no mention of COA or Great Lakes commitments in the Ministry's current Business Plan.

### *Fisheries Act Enforcement*

In September 1997 the Ministry of Natural Resources terminated its enforcement of the habitat protection provisions of the federal *Fisheries Act*, on one month's notice to the federal government. The Ministry had responsibility for the enforcement of these

provisions of the Act under an arrangement with the federal Department of Fisheries and Oceans. The enforcement of the Act was also a commitment contained in the *Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem*.

In May 1998, a report by the House of Commons Standing Committee on Environment and Sustainable Development described the Ontario government's action in this regard as leaving a "huge hole"<sup>67</sup> in the protection of fish habitat, such as streams and wetlands, in the province. In September 1998, eight federal fisheries officers and one supervisor were assigned to Ontario on a temporary basis to enforce the habitat provisions of the Act. Over the summer of 1998, only one official, based in Yellowknife, had been left responsible for the enforcement of the Act in the province.<sup>68</sup>

### *Blocking National Initiatives on Acid Rain, Smog, Sulphur Content of Gasoline and Climate Change*

Despite the Government of Ontario's repeated statements that reducing air pollution was its priority environmental issue,<sup>69</sup> the province took steps to block a number of major intergovernmental initiatives on the subject. Ontario's representatives played a central role in undermining the consensus on the National Air Issues Coordinating Committee's Acidifying Emissions Task Group in favour of additional action to reduce emissions that cause acid rain.<sup>70</sup> The Task Group's report indicated that a 75% reduction in permitted levels of acidifying emissions in Eastern Canada was required to halt the continuing damage to water bodies and human health.<sup>71</sup> A Canada-Wide Acid Rain Strategy was agreed to by the federal and provincial energy and environment ministers in October 1998.<sup>72</sup> However, it contained no specific targets or timetables for reducing acidifying emissions.

The province played a similar role in halting the development of a National Smog Management Plan. Efforts towards the development of the plan were stalled in the summer of 1997 when Ontario and British Columbia indicated that they would be unable to prepare and consult on their Regional Smog Management Plans prior to the fall 1997 joint energy and environment ministers' meeting.<sup>73</sup>

In November 1998 it was revealed that the Ontario Ministers of the Environment, Economic Development and Trade and Transportation had written to the federal Minister of the Environment, opposing a federal initiative to dramatically lower the sulphur content of gasoline sold in Canada.<sup>74</sup> The government of Ontario had publicly stated its support for the federal initiative.<sup>75</sup> Gasoline sold in Ontario has one of the highest sulphur content levels in the world.<sup>76</sup>

Ontario representatives have also sought to block progress on the development of any specific conclusions or recommendations in the issues tables established by the federal government to develop an implementation strategy for Canada's obligations under the Kyoto Protocol under the Framework Convention on Climate Change.<sup>77</sup> In addition, there are indications that the \$10 million for analysis of climate change issues announced in the May 1999 budget may be used as to develop a defence against actions the federal

government might request that Ontario undertake as a consequence of Canada's Kyoto commitments.

### *Environmental Education*

One of the most significant, and least noticed, environmental initiatives of the government has been the changes to province's elementary and secondary school curricula. In April 1998 the government adopted a new elementary school curriculum. The environmental content of the new curriculum was significantly reduced. An evaluation of the new curriculum by the Ontario Society for Environmental Education concluded that its environmental content averaged less than five percent of learning outcomes for all grades except Grade 7. The Society concluded that there are few and only fragmented requirements for awareness or knowledge building on environmental subjects in lower grades.<sup>78</sup>

A new secondary curriculum was adopted in March 1999.<sup>79</sup> Its environmental content has also been reduced. These changes to the elementary and secondary school curricula may represent one of the most important changes in environmental policy undertaken by the province, as in the long term it will result in a population that is less aware of the environmental challenges facing Ontario society.

### **The Structure of this Report**

This report is divided into three sections. The first is this introduction. The second consists of brief overviews over the past four years in the following areas: Environmental Bill of Rights & Public Participation in Decision-Making; Environmental Assessment & Approvals; Standards Setting & Regulatory Processes; Land Use Planning; Environmental Science, Monitoring And Education; Air Quality; Waste Management; Water; Energy; Pesticides & Agriculture; Forestry; Wildlife, Wilderness and Protected Areas; Fisheries and Fish Habitat; Mineral Aggregates, Petroleum Resources and Brine Industries; Mining; Transportation; Underground Storage Tanks, Boilers and Pressure Vessels. The final section is an overall conclusion, summarizing the key events and their implications for the future of Ontarians and the quality of their environment.

A complete chronology of environmental events and changes to Ontario environmental laws, regulations and policies between June 1995 and June 1999 is included in Appendix A.

Recommendations for the reform of environmental laws, policies and regulations presented by the province's environmental community through the Environmental Agenda for Ontario Project, are presented in Appendix B.

## Endnotes

1. *The Common Sense Revolution* (Toronto: Progressive Conservative Party of Ontario, May 1994) pg.14.
2. *The Project for Environmental Priorities, Election '95/Backgrounder - Highlights of PEP Poll Results*, May 1995.
3. Ibid.
4. Ontario Regulation 138/99 brought other successor corporations to Ontario Hydro (the Independent Market Operator, the Ontario Electricity Pension Services Corporation and the Ontario Electricity Financing Corporation under the *Freedom of Information and Protection of Privacy Act*.
5. Electricity Competition and Clean Air (Toronto: The Ontario Clean Air Alliance, April 1998).
6. Responsive Environmental Protection: A Consultation Paper (Toronto: Ministry of Environment and Energy, July 1996).
7. Better, Stronger, Clearer Environmental Regulations for Ontario (Toronto: Ministry of the Environment, November 1997).
8. EBR Registry Posting RA8E0023 "Waste Management Regulation," June 2, 1998.
9. This is partially accounted for by the transfer of the bulk of the Ministry's capital budget to the Clean Water Fund.
10. Pers.comm., Carmen Gauthier, Acting Director, Business & Fiscal Planning Branch, Ministry of the Environment, May 1999.
11. Ministry of Natural Resources, response to request under the *Freedom of Information and Protection of Privacy Act*, May 11, 1998.
12. See M.Winfield and G.Jenish, Ontario's Environment and the 'Common Sense Revolution:' A Second Year Report (Toronto: CIELAP, July 1997), pp/29-30.
13. Summary Document for the Delivery Strategies - Draft, Ministry of the Environment, April 9, 1998.
14. Ontario's Water Polluters: The Ontario Waste Water Discharge Violations Report (Toronto: Sierra Legal Defence Fund, March 1999).
15. M.Mittelstaedt, "Ontario polluters unchecked, group says," The Globe and Mail, May 10, 1999.
16. For a detailed description of the Plastimet Fire, G.Crittenden, "smoke and errors," Saturday Night, June 1998.
17. *Algonquin Wildlands League et. al. v. Minister of Natural Resources et. al.* Ontario Court, General Division, Court File No. 539/96. Upheld on appeal by the Ontario Court of Appeal, October 27, 1998, Court File Nos. C-29652 and C-29654.
18. Summary Document for the Delivery Strategies - Draft, Ministry of the Environment, April 9, 1998.
19. M.Winfield and G.Jenish, Ontario's Environment and the 'Common Sense Revolution:' A First Year Report (Toronto: CIELAP, 1996), pg.62.
20. Regulation 352/97.
21. Ontario Regulation 700/98, December 18, 1998.
22. Winfield and Jenish, Ontario's Environment and the CSR: A Second Year Report, pg.103.

23. See Bill 146, *The Farming and Food Production Protection Act*, 1998.
24. See Bill 103, *The City of Toronto Act*, 1997.
25. See, for example, M.Campbell, I. Ross, G.Abbate, and M.Granger, "Metro voters reject amalgamation," *The Globe and Mail*, March 4, 1997.
26. See M.Winfield and G.Jenish, Ontario's Environment and the 'Common Sense Revolution:' A Third Year Report (Toronto: Canadian Institute for Environmental Law and Policy, July 1998), pp.115-125.
27. ECO, Annual Report 1996.
28. Ombudsman Ontario, Annual Report (Toronto: June 1996), pg.3.
29. Information and Privacy Commissioner, 1998 Annual Report (Toronto: June 1999) [www.ipc.on.ca/web\\_site.ups/intro/frames.htm](http://www.ipc.on.ca/web_site.ups/intro/frames.htm).
30. Ontario Regulation 138/99 brought other successor corporations (the Independent Market Operator, the Ontario Electricity Pension Services Corporation and the Ontario Electricity Financing Corporation) to Ontario Hydro under the Act
31. M.Winfield, Environmental Agenda for Ontario Background Paper: Hazardous Wastes and Toxic Substances (Toronto: CIELAP, March 1999).
32. Ibid.
33. Environment Canada, National Pollutant Release Inventory: 1996 Summary Report (Ottawa: July 1996), Table 2.
34. M.Mittelstaedt, "Report blames electric emissions for foul air in southern Ontario" *The Globe and Mail* April 6, 1999.
35. B.McAndrew, "Hydro's foul air emissions on rise," *The Toronto Star*, 1999.
36. Report to Management: IIPA/SSFI Evaluation Findings and Recommendations (Toronto: Ontario Hydro, July 1997).
37. Ontario Ministry of the Environment, Summary of Compendium of current knowledge on fine particulate matter in Ontario (July 1998), pg.9. See also Ministry of the Environment, Air Quality in Ontario 1996 (Toronto: December 1998), figure 3.1.
38. Federal-Provincial Working Group on Air Quality Objectives and Guidelines, Science Assessment Summary Document, (March 1999), pg.xi.
39. Ministry of the Environment, Air Quality in Ontario 1996: A Concise Report on the State of Air Quality in the Province of Ontario (Toronto: December 1998), figure 6.2.
40. Taking Stock: North American Pollutant Releases and Transfers : 1995 (Montreal: Commission for Environmental Cooperation, 1998).
41. Taking Stock: North American Pollutant Releases and Transfers: 1994 (Montreal: North American Commission on Environmental Cooperation, 1997).
42. Continental Pollutant Pathways: An Agenda for Cooperation to Address Long-Range Transport of Air Pollution in North America (Montreal: North American Commission for Environmental Cooperation, 1997); Long-Range Transport of Ground-Level Ozone and Its Precursors (Montreal: North American Commission for Environmental Cooperation, 1997).
43. Open Doors - Ontario's Environmental Bill of Rights: Annual Report 1997 (Toronto: Environmental Commissioner for Ontario, April 1998).

44. The Health Effects of Ground-Level Ozone, Acid Aerosols and Particulate Matter (Toronto: Ontario Medical Association, May 1998).
45. The IJC and the 21st Century (Washington D.C. and Ottawa: International Joint Commission, 1997).
46. Acidifying Emissions Task Group, Towards a National Acid Rain Strategy (Ottawa: NAICC/Environment Canada, October 1997).
47. Air Pollution Impacts of Increased Deregulation in the Electric Power Industry: An Initial Analysis (Northeast States for Coordinated Air Use Management, January 1998).
48. Emissions from Coal-Fired Electric Stations: Environmental Health Effects and Reduction Options (Toronto: University of Toronto Institute for Environmental Studies and Pollution Probe, January 1998).
49. Office of the Fire Marshal, Protecting the Public and the Environment by Improving Fire Safety at Ontario's Recycling and Waste Handling Facilities (Toronto: Ministry of the Solicitor General and Correctional Services, August 1997).
50. M.Winfield, Hazardous Waste Management in Ontario: A Report and Recommendations (Toronto: Canadian Institute for Environmental Law and Policy, February 1998).
51. Pers. comm., Dale Henry, Ministry of the Environment.
52. Press Release "Approval of Small Waste Oil Space Heaters on Hold," Ministry of the Environment, March 19, 1998.
53. EBR Registry Postings PA8E0009-RA8E0017, December 23, 1998.
54. M.Mittelstaedt, "Ontario to phase-out use of paper-mill waste," The Globe and Mail, December 8, 1999.
55. Ministry of Natural Resources, *Backgrounder: Ontario's Living Legacy/New Parks and Protected Areas*, March 29, 1999.
56. Ministry of Northern Development and Mines, *Backgrounder: Ontario's Commitments to the Mineral Industry*, March 29, 1999; Ministry of Northern Development and Mines, *Press Release* "Hodgeson Announces \$19 Million for Operation Treasure Hunt," March 29, 1999; Ministry of Northern Development and Mines, *Press Release*, "Hodgeson Announces \$4 Million for Ontario Prospectors," March 29, 1999.
57. Ministry of Natural Resources, *Backgrounders - Ontario's Living Legacy/The Ontario Forest Accord and the Living Legacy*, March 29, 1999.
58. MNDM, *Ontario's Commitments to the Minerals Industry*.
59. MNR, *Backgrounder: Ontario's Living Legacy/New Parks and Protected Areas*, March 29, 1999.
60. Consisting of the Wildlands League, the Federation of Ontario Naturalists, and the World Wildlife Fund Canada.
61. The 1999 Forest Accord, Article 1.
62. Ibid, Art.2.
63. Ibid, Art.6.
64. EBR Registry Notices PB7E4001 (Great Lakes-St Lawrence); PB7E4002 (Boreal East); and PB7E4003 (Boreal West), July 16, 1999.

65. International Joint Commission, 8th Biennial Report on Great Lakes Water Quality (Washington and Ottawa, 1996), pp.4-5.
66. M.Winfield and G.Jenish, Troubled Waters?: A Review of the Performance of the Governments of Canada and Ontario under the Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem (Toronto: CIELAP, March 1999).
67. Standing Committee on Environment and Sustainable Development, Enforcing Canada's Pollution Laws, pg.16.
68. Troubled Waters, pp.3-12 - 3-14.
69. On Jun 10, 1997, the Premier of Ontario acknowledged in the legislature that more efforts have to be taken to tackle the problems of smog in Ontario. On July 11 1997, the Premier of Ontario urged the U.S. Great Lakes states to reduce their air emissions to help Ontario in its efforts at a meeting with the Governors of U.S. states bordering Great Lakes. On July 23, 1997 the Premier publicly criticizes the Minister of Environment and Energy for failing to move quickly enough to develop a vehicle-emissions testing program for the province.
70. Pers comm., Dr. Martha Kostuch, member NAICC Acidifying Emissions Task Group, May 27, 1998. See also "Minutes of the Acidifying Emissions Task Group Meeting," May 24-25, 1997 and News Release, "Acid Rain Still a Problem" Prairie Acid Rain Coalition, May 26, 1997.
71. Acidifying Emissions Task Group, Towards a National Acid Rain Strategy (Ottawa: Environment Canada, October 1997).
72. Federal/Provincial/Territorial Ministers of Energy and Environment, The Canada-Wide Acid Rain Strategy for Post-2000, (Environment Canada, October 1998).
73. "Progress Report - Smog Task Group," (NAICC NOx/VOC Consultation Task Group) May 1998.
74. T.Blackwell, "Tories fear changes to gas: Federal limits on sulphur content said to be too costly," The Hamilton Spectator, October 1998.
75. M.Mittelstaedt, "Sterling's flip-flop elicits anger," The Globe and Mail, November 7, 1998.
76. M.Mittelstaedt, "Canadian gasoline fuels smog, federal study says," The Globe and Mail, March 7, 1998.
77. Personal Observation, Greg Jenish, Project Officer, CIELAP; Member, Landfill Gas Sub-committee, Canada's National Climate Change Process.
78. "OSEE ranks frequency of environmental outcomes generally low in new Ontario elementary science curriculum," Parent's Environmental Network Newsletter, May 1998.
79. Ministry of Education and Training, News Release, "Ontario's new high school curriculum increases emphasis on math, science, English," March 4, 1999.



**Part 2 :**  
**Government-wide Accountability and**  
**Democratic Structures**

**Table of Contents**

Environmental Bill of Rights & Public Participation in Decision-Making . . . . . 2 - 1

Environmental Assessment & Approvals . . . . . 2 - 9

Standards Setting & Regulatory Processes . . . . . 2 - 16

Land Use Planning . . . . . 2 - 36

Environmental Science, Monitoring And Education . . . . . 2 - 47

Endnotes . . . . . 2 - 53

## **Introduction**

Dramatic reductions in opportunities for public participation in environmental decision-making in the province of Ontario have been a central feature of the 'Common Sense Revolution.' Although the *Environmental Bill of Rights* has enjoyed the unique status of being the only significant environmental statute in the province not to be significantly amended in the past four years, there has been a significant erosion of public rights under the Act. One of the government's first initiatives, in November 1995, was to permanently exempt the Ministry of Finance from the *Environmental Bill of Rights*, and to exempt measures related to "financial restructuring" from the public notice and comment requirements of the *Environmental Bill of Rights* for the following ten months.

The applicability of the *Environmental Bill of Rights* has been eroded in a number of other ways as well. This has included the delegation of decision-making responsibilities to private entities that are not subject to the Bill, and the introduction of 'Standardized' approvals, and 'Approval Exemption Regulations' by the Ministry of the Environment.

The Environmental Commissioner has delivered four annual reports and two special reports since June 1995. All have been profoundly critical of both the process by which the government has made changes to environmental laws, policies and institutions, and the content of these changes.

A number of other developments have also limited the ability of the public to participate in environmental decision-making. The expiry of the *Intervenor Funding Project Act* in April 1996 has made it extremely difficult for members of the public to participate meaningfully in public hearings before the Environmental Assessment Board on major undertakings. Amendments to the *Environmental Protection Act*, *Environmental Assessment Act*, *Ontario Water Resources Act*, *Planning Act*, and *Aggregate Resources Act* have also eliminated or curtailed a number of opportunities for public participation in environmental approval processes.

## **The *Environmental Bill of Rights***

### *Regulation 482/95*

On November 29, 1996 the government promulgated a regulation permanently exempting the Ministry of Finance from the *Environmental Bill of Rights*, as well as exempting measures related to "financial restructuring" from the public notice and comment requirements of the *Environmental Bill of Rights* for ten months. The exemptions from the *Environmental Bill Rights* prompted the Environmental Commissioner for Ontario to make a special report to the Ontario Legislature, highly critical of the government's action, in January 1996.<sup>1</sup>

### *The EBR and Responsive Environmental Protection*

As part of its July 1996 proposals for the reform of its regulatory framework, the Ministry of Environment and Energy<sup>2</sup> proposed to remove EBR registry public notice requirements for "minor" approvals. These included exhaust systems for battery charging operations, laboratory exhausts, pilot tests and demonstration projects, composting operations, prescribed burns for forestry control, air from plumbing drainage systems, vehicle emissions during vehicle repairs, equipment used in fire fighting exercises and training and a range of other activities.<sup>3</sup> The Ministry also proposed to remove EBR registry public notice requirements for the approval of pesticides with new active ingredients on the basis that an as yet to be established "national" system would provide equivalent public notice.<sup>4</sup>

### *The EBR and SARs and AERs*

The Ministry's July 1996 proposals regarding the EBR were dropped in the Ministry's November 1997 document "Better, Stronger, Clearer Environmental Regulations for Ontario." However, many of the subjects which were proposed for exemptions from the EBR's public notice requirements were subsequently proposed to be dealt with under "Standardized Approvals Regulations" or "Approval Exemption Regulations." Under these regulations, which are described in more detail under *Environmental Approvals and Assessment*, Certificates of Approval are no longer issued for the prescribed activities and, therefore, the EBR public notice requirements would not be triggered.

In her April 1999 Annual Report to the Legislature, the Environmental Commissioner noted that the Ministry had failed to respond to her requests for information regarding how many instruments will be removed from EBR Registry posting requirements by the existing and proposed AERs and SARs, and also what percentage of the total number of EBR prescribed instruments will be affected.<sup>5</sup>

### *EBR Instrument Classification Regulations*

The Ministries of Northern Development and Mines and of Consumer and Commercial Relations completed instrument classification regulations for the *Mining Act*,<sup>6</sup> and *Gasoline Handling Act*<sup>7</sup> respectively, in 1998. A Classification Regulation for the *Planning Act* was finalized by the Ministry of Municipal Affairs in June 1999.<sup>8</sup>

Under the provisions of the EBR, the Ministry of Natural Resources was to have developed an Instrument classification regulation within a reasonable time after April 1, 1996. However, as of June 1999, the regulation had not been finalized and promulgated. Without an instrument classification regulation, proposals by the Ministry to grant an approval or a licence are not posted on the Environmental Registry. The regulation would also determine the level of opportunity for public participation in the decision-making process, whether it is through making comments or applying for appeals, reviews or

investigations under the EBR.<sup>9</sup>

### *The EBR and 'Restructuring'*

The government's wide ranging initiatives to reassign responsibilities among agencies, between the province and municipal governments, and to privatize some of its functions also have had major impacts on the rights of the public to participate in decisions which may affect the environment through the EBR. As decisions to issue approvals or, in some cases, establish policies are no longer being made by provincial government agencies, such actions will no longer be automatically subject to the requirements of the EBR. Similarly, the Request for Investigation, Request for Review, or Whistleblower Protection provisions of the Bill may cease to apply. The EBR contains provisions permitting Ministers to delegate their duties under the Bill to third parties.<sup>10</sup> However, this has only been done in the case of the Technical Standards and Safety Authority and the *Gasoline Handling Act*.

### *The Environmental Commissioner's Reports*

Under the EBR, the position of Environmental Commissioner was established as an Officer of the Legislature to oversee and report on the Bill's implementation. The Environmental Commissioner has issued four Annual Reports and two special reports since June 1995.<sup>11</sup> These reports all reflected a number of common themes regarding the government's adherence to the requirements of the EBR (see also Figures 2.1-2.3). These have included:

- failures of ministries to post environmentally significant decisions on the environmental registry, as required by the EBR;
- failures of Ministries to provide Ontarians with adequate time, information and opportunity for comment on those proposed decisions which are posted on the registry; and
- failures of Ministries to assess and report on the environmental effects of proposed changes, or their consistency with Ministry statements of environmental values, as required by the EBR.

In her second Annual Report, the Environmental Commissioner highlighted a number of actions by the government which seemed likely to have negative effects on the environment protection in the Province. These included: the decisions by the Ministries of the Environment and Energy and of Health to terminate the provision of drinking water testing services to municipalities in November 1996; the ongoing "dissolution" of the province's acid rain monitoring program, despite the evidence of continuing damage to the environment and of the need for further action to reduce acid rain causing emissions; and the Ministry of Natural Resources' move to a self-monitoring program for the province's aggregates (sand, gravel and stone) industry.

More generally, in her statement on the tabling of her Second Report, Commissioner Ligeti noted that:

"ministries demonstrated an alarming lack of environmental vision in 1996...  
"I am concerned that these changes undermine the principles of accountability and public consultation established by the EBR...  
"I saw very little commitment to environmental monitoring and reporting." <sup>12</sup>

In her third Annual Report, the Commissioner highlighted problems related to air quality, forest management, environmental monitoring, the Ministry of the Environment's growing reliance on voluntary agreements with industry to reduce pollution, the government's response to the Plastimet fire, and the government's approach to conservation authorities and watershed management. The Commissioner noted that:

"I regret to report that in the past year there has been little substantive improvement in the actions taken by provincial ministries toward protecting the environment." <sup>13</sup>

The Commissioner also stated that:

"The government of Ontario needs to shift its focus from providing regulatory relief to industry to protecting the environment and human health." <sup>14</sup>

The Commissioner's Fourth Annual Report was tabled in April 1999. The Commissioner highlighted weaknesses in the government's responses on the issues of global climate change, the 'Drive Clean' program, hazardous waste management, solid waste diversion, and the 'Lands for Life' process, the government's failures to respond to previous recommendations on groundwater protection, the sale of Crown lands, the revision of standards for hazardous air pollutants, and the relationship between the Ministry of Natural Resource's Wilderness policy and the 'Lands for Life' process.

The Commissioner noted that:

"the Ontario government has redefined its role in relation to environmental protection," resulting in "the decline of Ontario's capacity to protect the environment." <sup>15</sup>

The Commissioner also reported that the:

"evidence of the deterioration of the province's environmental protection standards is widespread." <sup>16</sup>

The Minister of the Environment responded to the Commissioner's April 1999 report by stating that the Commissioner was "wrong" in her assessment of the government's performance and insisted that the government was doing a better job with less funds and fewer workers than any previous government.

## Public Use of EBR Provisions

In the context of the government's overall direction of removing opportunities for the public to influence provincial decisions affecting the environment, increasing use has been made of the EBR's provisions regarding requests for investigations and reviews. A number of environmental organizations, for example, filed a request for an investigation of the Ministry of Natural Resource's authorization of the construction of a logging road in the Temagami Region in December 1996.<sup>17</sup> This resulted in the Ministry of Environment and Energy laying charges against the Natural Resources Ministry under the *Environmental Assessment Act* in April 1997.<sup>18</sup>

In June 1997, several organizations filed a request for investigation regarding reported discharges of copper, zinc and other metals from Ontario Hydro's Pickering Nuclear Generating Plant.<sup>19</sup> This request was subsequently rejected by the Ministry of the Environment, as were a request for investigation following the July 1997 Plastimet PVC recycling site fire in Hamilton, and requests for reviews regarding the reform of hazardous waste regulations in February 1998,<sup>20</sup> and the with respect to the government's commitment to the restoration of the Great Lakes in March 1999.<sup>21</sup> In May 1999 a request for investigation was filed alleging that the Ministry of the Environment's failure to address air pollution problems in the province constituted a violation of the *Environmental Protection Act*.<sup>22</sup>

**Figure 2.1 : Summary of Environmental Commissioner's Report for the Year 1996**

April 22/97 -- In her 1996 annual report, the Environmental Commissioner of Ontario cited hasty cutbacks, closed-door decision-making, omnibus-style legislation and a variety of other actions as demonstrating an "alarming lack of environmental vision." Specific examples in which decision-making had been a cause for concern included:

- the provincial off-loading of the testing of drinking water quality, and the costs associated, to municipalities;
- cutbacks in acid precipitation monitoring programs when many lakes are still very much at threat;
- the move to self-monitoring of aggregate pits and quarries.

Some specific legislative initiatives of concern in 1996 included:

- the *Safety and Consumer Statutes Administration Act's* creation of the Technical Standards and Safety Authority;
- the expiry of the *Intervenor Funding Project Act*;
- the *Environmental Assessment and Consultation Improvement Act*;
- proposed amendments to regulations under the *Niagara Escarpment Planning and Development Act*;
- self-certification of mines under the *Mining Act*; and
- the narrow focus of the Responsive Environmental Protection initiative.

**Figure 2.2 : Summary of Environmental Commissioner's Report for the Year 1997**

*Air Quality*

- the ministry is relying on a voluntary approach to cutting pollution;
- there are no plans to upgrade old certificates of approval granted to sources of pollution;
- the province has announced the elimination of funding for public transit, although road vehicles are Ontario's number one source of air pollution
- the Ministry of the Environment's own emissions projections show that even if all proposed control activities are carried out, Ontario's air quality will be worse in 2015 (the date implementation of the Smog Plan is to complete) than it is today.

*Forest Management*

- despite its budget and staff being cut in half, the Ministry of Natural Resources is faced with increasing pressures from rising demand for wood, the need to complete the provincial parks system, and conflicts between forestry, tourism and natural heritage values.
- report is critical of the pace of the 'Lands for Life' process and lack of adequate public consultation in this program to determine the uses for 46% of the province's land area.
- The Commissioner also expresses concern over some of the approaches to forest management being adopted or considered by the Ministry of Natural Resources including: tenure in perpetuity for forestry companies; compensation if the land licenses to companies is later re-allocated; industry self-monitoring of compliance with forestry regulations; and streamlining the sale of crown lands.

*Environmental Monitoring*

- crucial environmental data is not being collected in such areas as:

Ministry of the Environment:

- loading of toxic substances into Ontario's lakes and rivers;
- presence of persistent toxic substances in sewage treatment plant effluent
- total loadings of raw sewage spills into waterways
- the condition of the 1 million plus septic systems in the province; and
- emissions of inhalable particulates.

Ministry of Natural Resources:

- no analysis of figures for harvested forest areas since 1991;
- does few population surveys of small game species or non-game wildlife;
- has no population estimates for most wildlife species that are vulnerable, threaten or endangered;
- is not analyzing data on big game mortality, and its not producing provincial or regional reports; and
- has weak information on rare species in Northern Ontario.

*Voluntary Agreements*

- the report notes the Ministry of the Environment is entering into voluntary agreements to reduce environmental protection, despite considerations that the agreements are not enforceable, lack clear goals, are often negotiated "behind closed doors," and that there is no legal framework for such arrangements in Ontario.

*Conservation Authorities and Watershed Management*

- the report notes the reduction in MNR share of funding to Conservation Authorities from 33% to 5%, limiting their ability to undertake watershed management planning.

*Plastimet Fire*

- the report is critical of Ministry of Environment exemption of Plastimet PVC recycling facility from requirements for Certificate of Approval, on basis that no realistic market demand existed for material;
- the Commissioner calls for and inquiry into Plastimet fire.

**Figure 2.3 : Summary of the Environmental Commissioner's Report for the year 1998**

April 28, 1999 -- The Environmental Commissioner's report for 1998 documented how the "Ontario government has redefined its role in relation to environmental protection" and in particular highlighted "the decline of Ontario's capacity to protect the environment." Select examples from the report include:

*Statements of Environmental Values.* A number of ministries have not dedicated attention and resources to carrying out the commitments contained in their SEVs :

- The Ministry of Health : commitment to support the elimination of carcinogens and toxics implicated in the environmental causes of cancer has been weak;
- Management Board Secretariat : has been deficient in the area of preparing environmental reports and consulting with the public prior to selling environmentally significant public lands;
- Ministry of Transportation : lacks commitment to carry out its promise to reduce transportation related air emissions.

*Environmental Protection Standards.* The Commissioner reports that "Evidence of the deterioration of the province's environmental protection standards is widespread":

- Ministry of Natural Resources is noted for its reduced staffing and reliance on industry self-monitoring programs;
- Ministry of the Environment was supposed to update its 70 provincial air quality standards, after two years only nine guidelines have been produced and no enforceable standards;
- Ministries of Municipal Affairs and Housing and of Transportation have done little to support environmentally sustainable land use and transportation;

*Specific Program Performance.* :

- Climate Change: lack of effort and lack of analysis by ministries to support their GHG reduction strategies;
- Drive Clean: behind schedule; impact minimal relative to all smog-causing agents; program weaknesses need to be corrected;
- Blue Box: not as strong at beverage container return as most other systems in Canada and still costing municipalities more than its revenue;
- Lands for Life: poor public participation process; shifting goals;
- Standardized Approval Regulations: loss of EBR rights, rights to appeal / seek reviews; concern that public will be frustrated by inability to comment.
- Hazardous Waste : MoE is not supporting its SEV which calls for pollution prevention ahead of pollutant management; heavy reliance on voluntary initiatives; lack of adequate response to legitimate issues raised; better reporting needed.
- Domind: the rules governing 'recycling' of waste pulp liquor need strengthening and clarification;

*Ministry Compliance with 1997 ECO Recommendations*

- Groundwater Protection Strategy: no formal strategy yet; mixed performance by ministries involved; MoE taking some action.
- Crown Land Sale Consultation : partially met; generally land strategy to be posted but no specific details.
- Air Standards Development: Slow to no progress; guidelines instead of standards for: ethylene dichloride, carbon tetrachloride, and 1,4 dichlorobenzene; no point of impingement standards to be attempted for methylene chloride or tetrachlorethylene;
- Roadless Wilderness: MNR is still very slow in clarifying this policy; internal working group assembled; fall of 1998 report deadline missed; failed to provide insight to the Lands for Life process.



## **Expiry of the *Intervenor Funding Project Act***

The *Intervenor Funding Project Act* expired on April 1, 1996. Enacted in December 1988 by then Attorney-General Ian Scott, the Act provided financial assistance to public interest intervenors in hearings before the Environmental Assessment Board, the Ontario Energy Board, and Joint Boards of the Environmental Assessment Board and the Ontario Municipal Board.

The government stated that its decision to let the Act expire was "consistent with our commitment to make hearings more efficient and to reduce non-essential administrative processes" and that it would encourage proponents to voluntarily supply intervenor funding.<sup>23</sup> For her part, the Minister of the Environment stated that "people are able to come forward as volunteers still."<sup>24</sup>

The expiry of the Act has made it extremely difficult for ordinary citizens and community and public interest groups to make their voices heard in major environmental decisions in Ontario. The problems created by the absence of intervenor funding were highlighted by the Environmental Assessment Board itself in December 1997 decision regarding the approval of a scrap metal smelting furnace as a low-level PCB destruction facility.<sup>25</sup>

## **Amendments to Specific Legislation to Reduce Opportunities for Public Participation in Decision-Making.**

In addition to the problems identified by the Environmental Commissioner in the application of the Environmental Bill of Rights, over the past four years, the government has amended a number of environmental and natural resources statutes in ways which reduce opportunities of public participation in environmental decision-making. The *Environmental Protection Act*, *Ontario Water Resources Act*, *Environmental Assessment Act*, and *Aggregate Resources Act*, for example, have been altered to grant Ministers much wider discretion with regard to when a public hearing is required prior to the granting of an approval under these statutes. Bill 20, *The Land Use Planning and Protection Act* amended the *Planning Act* to reduce public comment periods on official plan amendments from 30 to 20 days, remove public meeting requirements for subdivision plans, and disallow of minor variance appeals to the Ontario Municipal Board.<sup>26</sup>

## ENVIRONMENTAL ASSESSMENT & APPROVALS

### Introduction and Overview

Changes to the environmental approvals process have been a major focus of the government's regulatory 'reform' initiatives. The impact of changes to legislation, particularly Bill 57, the *Environmental Approvals Process Improvement Act*, passed in June 1997, and Bill 76, the *Environmental Assessment and Consultation Improvement Act*, passed in November 1996, and consequences of budgetary reductions to the Ministry of the Environment have become increasingly evident over the past two years. This has been especially true in the area of waste management.

Opportunities for public participation in decision-making have been reduced, both through the discretionary waiving of public hearing requirements, and as a consequence of the expiry of the *Intervenor Funding Project Act*, in April 1996. In addition, the scope of the environmental assessment of a number of major undertakings has been significantly reduced.

Concerns regarding the operation of the environmental assessment process were expressed by the Provincial Auditor in his November 1997 Annual Report, particularly regarding monitoring compliance with terms and conditions of environmental assessment decisions. In addition, in September 1997 the Ministry of Natural Resource was convicted for violating the *Environmental Assessment Act* with respect to the construction of a logging road. Furthermore, a landmark February 1998 Court decision found the Ministry's forest management practices to be out of compliance with the *Crown Forest Sustainability Act* and the Terms and Conditions of the Class Environmental Assessment on Timber Management decision of the Environmental Assessment Board.

The Ministry of the Environment has proposed to introduce 'Standardized' approvals for a wide range of activities, and has adopted "Approval Exemption Regulations" for a variety of undertakings. Under 'Standardized' approvals, exemptions from the normal approval requirements of the *Environmental Protection Act* or *Ontario Water Resources Act* are granted subject to certain conditions. Activities covered by AER's are granted unconditional exemptions from approval requirements. Major concerns have been raised regarding the significance of some of the activities which have been proposed for 'standardized' approvals and approval exemptions, the Ministry of the Environment's capacity to monitor and oversee the facilities operating under these systems, and their legal implications. The Ministry's April 1998 'Delivery Strategy' document directed officials not to respond to complaints related to many of the activities which had been proposed to be covered by 'standardized' approvals and AERs.

### **Bill 76 *The Environmental Assessment and Consultation Improvement Act***

On June 13, 1996, the Minister of Environment and Energy introduced Bill 76, the *Environmental Assessment and Consultation Improvement Act*. The Bill was passed in November 1996, and proclaimed in force on January 1, 1997. The Bill was developed in the absence of any consultation with non-governmental stakeholders. In her 1996 Annual Report, the Environmental Commissioner was critical of the government's failure to provide any detailed analysis of proposed amendments or adequate opportunities for public consultation in their development.<sup>27</sup>

Bill 76 made major amendments to the *Environmental Assessment Act*. The Bill contained some useful additions to the Act, including the establishment of provisions for pre-hearing mediation, the development of provincial policy statements to guide the environmental assessment process, and the establishment of requirements that municipalities using the facilities or services of another person for the final disposal of waste obtain an approval under the Act. However, its overall direction was to fundamentally alter, and weaken, the structure and goals of the Ontario environmental assessment process.

The Bill included provisions to:<sup>28</sup>

- replace the current requirements for the consideration of the need for undertakings, and the availability of alternatives to them, with a process for the development of "terms of reference" for each individual assessment, within which these requirements may be dispensed with at the discretion of the minister;
- permit the Minister to establish timelines for the conduct of environmental assessments and, most importantly, the conduct of hearings by the Environmental Assessment Board;
- permit the Minister to determine the scope of hearings by the Environmental Assessment Board;
- broaden the scope of exemptions to include classes of proponents and undertakings, rather than individuals;
- permit the Minister of Environment and Energy to waive any or all of the requirements of the Ontario *Environmental Assessment Act* where another jurisdiction's environmental assessment process may apply to an undertaking; and
- permit the Minister to amend the terms and conditions of approvals in light of changed circumstances or new information,<sup>29</sup> and the Lieutenant-Governor in Council to vary class environmental assessment decisions as they apply to new proponents.<sup>30</sup>

Under the amendments, the scope of the environmental assessment process has been significantly narrowed, as was the case with respect to the proposed Adams Mine Landfill in Northern Ontario.<sup>31</sup> There are also concerns that the amendments may be used

to vary the terms and conditions of important Environmental Assessment Board decisions, such as the Class Environmental Assessment of Timber Management on Crown Lands.<sup>32</sup>

The Bill's provisions must be also read in conjunction with the expiry of the *Intervenor Funding Project Act* (IFPA) in April 1996. Bill 76 made no provision for the establishment of "participant" or "intervenor" funding to replace the IFPA. This has presented significant barriers to the participation of individual citizens, and community and public interest organizations, in the environmental assessment process.

Finally, despite making major amendments to the Act, the Bill failed to deal with a number of long-standing issues related to the reform of the Ontario environmental assessment process. These included: the application of the Act to private sector undertakings; the assessment of government programs and policies; the incorporation of considerations of cumulative effects and an ecosystem approach into the assessment process; the better integration of the environmental assessment process into the land use planning process; and ensuring the implementation of terms and conditions imposed on undertakings through monitoring, reporting and enforcement mechanisms.<sup>33</sup>

The Bill also failed to consider the re-establishment of the Environmental Assessment Advisory Committee, abolished in September 1995. This was despite the Committee's long history of outstanding work in providing the Minister with independent advice on requests for exemptions from the environmental assessment process, and the reform of the process.<sup>34</sup>

### *Waste Approvals*

The impact of the Bill 76 changes to the environmental assessment process have become increasingly apparent over the past two years. This has been especially evident in the area of waste management. In September 1997, for example, the Ministry of the Environment approved a 1.9 million cubic meter expansion of Laidlaw Environmental Services hazardous waste landfill in Sarnia with no public hearing under either the *Environmental Protection Act* or the *Environmental Assessment Act*. This was despite concerns raised by members of the public regarding the proposal.<sup>35</sup> The facility is the only hazardous waste landfill in the province. The expansion is expected to extend its life for another 15-20 years.<sup>36</sup>

In December 1997, the use of a scrap metal smelting furnace as the province's only permanent low-level PCB destruction facility was approved by the Ministry of the Environment. However, in its decision the Environmental Assessment Board highlighted a number of concerns regarding the undertaking. In particular, the Board questioned why the project had not been designated for review under the *Environmental Assessment Act*, despite its implications for non-incineration PCB destruction technologies. It also noted the inability of members of the public to participate effectively in the process due to the absence of intervenor funding and it expressed concern over the granting of an approval to proponent with no previous experience in handling hazardous wastes.<sup>37</sup>

The Assessment Board's decision also suggested that the Ministry of the Environment had failed to follow through on its own staff's concerns regarding the potential health impacts of the facility.<sup>38</sup> In her April 1998 report to the Legislature, the Environmental Commissioner highlighted the Ministry of the Environment's failure to post the proposed approval for the facility on *Environmental Bill of Rights* (EBR) registry.<sup>39</sup> A second proposal for the use of a scrap metal smelting furnace as a PCB destruction facility is currently before the Environmental Assessment Board. Like the proposal approved in December 1997, it has not been designated for review under the *Environmental Assessment Act*.<sup>40</sup>

The Ministry of the Environment has also made use of the provisions of the Bill 76 amendments to the *Environmental Assessment Act* to limit the scope of the environmental assessments of individual undertakings. The most prominent example of this kind of action has been with respect to the environmental assessment of the proposed Adams Mine Landfill in Northeastern Ontario. Directions issued by the Minister of the Environment in December 1997 limited the Environmental Assessment Board to hearing evidence on two issues about the site: its hydrogeology and surface water characteristics and leakage containment.<sup>41</sup> Issues such as consideration of the need for the facility, and the availability of alternatives to it, which would have been required elements of the assessment under the pre-Bill 76 provisions of the *Environmental Assessment Act*, were excluded from the assessment of the proposal.

The proposed landfill was approved by the Cabinet in August 1998 and a Certificate of Approval granted in April 1999. A coalition of environmental organizations and local residents had unsuccessfully sought a judicial review of the cabinet's environmental assessment approval of the undertaking.<sup>42</sup>

### *Forestry and Environmental Assessment*

There have been a number of major legal developments regarding the Ministry of Natural Resource's compliance with the requirements of the *Environmental Assessment Act* in its forest management activities. These developments, including the Ministry's September 1997 conviction under the Act for the construction of a logging road, and the February 1998 Ontario Court decision regarding the Ministry's compliance with the Terms and Conditions of the Class Environmental Assessment for Timber Management on Crown Lands decision and the *Crown Forest Sustainability Act* are described in detail in the "Forestry" chapter of this report.

### *Provincial Auditor's 1997 Annual Report*

The November 1997 Annual Report of the Provincial Auditor highlighted a number of problems with the environmental assessment process. In particular, the Auditor noted the lack of indicators to measure and report on the effectiveness of the process and monitor compliance with the terms and conditions of approved projects.<sup>43</sup>

## **'Standardized' Approvals and Approval Exemptions**

The Ministry of the Environment has indicated its intention to proceed with further changes to the environmental approvals process. The Ministry proposed to establish a 'standardized' approval process for a wide range of activities in its July 1996 "Responsive Environmental Protection" and November 1997 "Better, Stronger Clearer Environmental Regulations for Ontario," documents. It also indicated its intention to provide outright exemptions from the approval process for a wide range of activities.

In the case of 'standardized' approvals, an exemption from the requirement to obtain a Certificate of Approval would be granted for facilities which meet conditions outlined in the 'standardized' approval regulation relevant to the facility in question. The first proposals for Standardized Approval Regulations (SARs) and Approval Exemption Regulations (AERs) were posted on EBR registry in February 1998.<sup>44</sup> The Ministry's specific proposals are outlined in Table 2.1.

The Ministry's proposals gave rise to a number of serious concerns. These included:<sup>45</sup>

- the lack of a Ministry strategy to ensure compliance with the requirements of SAR's;
- the loss of public notice of proposed undertakings, as proposed individual SAR approvals would not be posted on the *Environmental Bill of Rights* Environmental Registry;
- the scope, scale and environmental significance of the activities covered by some of the proposed SARs; and
- the legal implications of approvals granted through SAR regulations. In particular, it appears that the granting of an approval through a SAR regulation would provide proponents with a defence of statutory authorization against any civil action taken against them by someone who is harmed by activities conducted under the SAR. This defence is generally not thought to be provided by normal Certificates of Approval issued under the *Environmental Protection Act*.

In addition, as a result of the Crown immunity clause included in Bill 57, individuals whose persons or property were harmed as a result of an activity approved through a SAR or exempted through an AER would potentially face significant difficulties initiating an action against the Ministry of the Environment for 'regulatory negligence'.<sup>46</sup>

**Table 2.1 - Standardized Approvals and Approval Exemptions Proposed by the MoE (February 1998).**

<b>Regulation 347 - Environmental Protection Act (Waste Management)</b>	
<b>SAR Candidates:</b> a) Municipal Waste Transfer/Processing Sites b) Utilization of Sewage BioSolids on Agricultural Land	
<b>Ontario Water Resources Act ss. 34, 52, &amp;53 (Water and Sewage Works)</b>	
<b>SAR Candidates:</b> a) Water and Sewage Work Modifications b) Watermain and Sewers Construction c) Spill Containment and Stormwater Management works at Electrical Transformer Stations d) Water and Sewage Pumping Stations e) Temporary Water Taking from Ground Water	<b>AER (Exemption) Candidates:</b> a) Service Connections b) Appurtences (e.g. fire hydrants) c) Area Drains. d) Relining Sewer and Water Mains. e) Replacement of watermains and sewers. f) Bottled Water Plants g) Stormwater Management facilities
<b>Environmental Protection Act s. 9 (Air)</b>	
<b>SAR Candidates:</b> a) Modifications resulting in less than 10% change in emissions, provided total emissions are 50% below current permitted levels b) Combustion Equipment for space heating or industrial processes where only emissions are from burning of fuel. c) Emergency Generator Sets d) Sterilizers e) Arc Welding <b>AER (exemption) Candidates:</b> a) Ventilation systems for: non-process areas; drainage systems; indoor emission discharges (i.e. emissions directed back into source building; and warehouses. b) Food Preparation Exhaust Systems c) Air Conditioners d) Mobile Equipment to be used in construction and maintenance activities; duct, carpet or upholstery cleaning; asbestos removal; and crushing stone and screening stone, where the equipment will be below grade in pits or quarries;	e) Washing With Aqueous Detergents; f) Fireplaces and stoves; g) Household Can handling included aerosol cans; h) Area sources: - building and structure construction, alteration, demolition, drilling, blasting, crushing, screening, storage and sandblasting; - dust from roads or parking lots; lagoons, clarifiers, or ponds for the treatment or detention of sewage; - irrigation of farmland with effluent; - MNR prescribed forestry burns; - fire fighting exercises and training; - festivals and special events, including speedway events, concerns, fireworks, fairs, boat races, air shows, etc.; and - snow-making. i) anything used in connection with a building or structure designed for the housing of not more than three families.

The Ministry's first Approval Exemption Regulation came into force in September 1998, covering the activities proposed for AERs in February 1998.<sup>47</sup> The Ministry posted a second set of proposed AERs in December 1998.<sup>48</sup> These included:

*Air*

- contaminants from the grounds of a race track, if the emission of contaminants is attributable to the racing of horses, dogs, or motorized or non-motorized vehicles;

- emissions of contaminants from the grounds or premises upon or in which a special amusement, entertainment, charitable, political, education, artistic, musical or sporting event is held, if the emission of contaminants is attributable to the special event;
- natural gas or propane gas dispensing units;
- emission of contaminants from a shooting range, if the contaminants are attributable to the firing of a gun or guns;
- any equipment, apparatus, mechanism or thing that is used for the ventilation of emissions resulting from vehicles, trains, forklifts, etc used in warehouses and enclosed storage areas; and
- any equipment, apparatus, mechanism or thing that is used solely to mitigate the effects of an emergency declared to exist under the *Emergency Plans Act*.

#### *Water*

- the establishment, alteration, extension or replacement of, or a change in a water or sewage works that is used solely to mitigate the effects of an emergency declared to exist under the *Emergency Plans Act*;
- the taking of more than 50,000 litres a day to mitigate the effects of an emergency under the *Emergency Plans Act*; and
- the taking of water and establishment, alteration, or replacement of drains, pump devices and appurtenances for the collection and disposal or drainage from building foundations.

The Ministry's proposals for 'standardized' approvals are still under review. 'Standardized' approvals and AERs were proposed by the Ministry of the Environment for a wide range of activities related to waste management in June 1998.<sup>49</sup>

#### *Ministry 'Delivery Strategies'*

In February 1999, it was revealed that the Ministry of the Environment had developed a delivery strategy for its operational staff, directing them not to respond to public complaints about a wide range of environmental problems, or to direct such complaints to other agencies and municipalities. These included many of the activities that the Ministry had proposed to place under the 'standardized' approval or AER systems. Specific examples included problems arising from: construction and demolition; diesel generators; inert fill; recycling and composting regulatory requirements; and tire disposal sites with less than 5,000 tires.<sup>50</sup>



## STANDARDS SETTING & REGULATORY PROCESSES

### Introduction and Overview

Over the past four years, there has been a dramatic re-working of the province's regulatory framework for environmental protection and natural resources management. Every significant statute affecting the environment or natural resources, with the exception of the *Environmental Bill of Rights* has been significantly amended. Consistent with themes first established through Bill 26, *The Government Savings and Restructuring Act* enacted in January 1996, these changes have generally increased the discretion of Ministers and the cabinet, limited opportunities for public participation in decision-making, and shielded the government from regulatory negligence lawsuits. These measures are having a major effect on the ways in which environmental standards are established, implemented and enforced in the province.

One of the government's earliest initiatives was to dissolve the province's independent advisory committees that existed with respect to the environment. These included the MISA Advisory Committee, the Advisory Committee on Environmental Standards, the Environmental Assessment Advisory Committee and the Ontario Round Table on the Environment and Economy.

In July 1996, the Ministry of Environment and Energy proposed major revisions to the regulations administered by the Agency in a document entitled *Responsive Environmental Protection*. These would have significantly weakened many of the Ministry's regulations. A subsequent November 1997 document entitled "Better, Stronger, Clearer: Environmental Regulations for Ontario" backed away from many of these proposals, particularly with respect to air pollution. However, the Ministry indicated its intention to proceed with its proposals regarding waste management, the Municipal-Industrial Strategy for Abatement (MISA) regulations, and pesticides regulations.

Specific proposals with respect to MISA and waste management were advanced in December 1997 and June 1998 respectively, and major revisions to the pesticide licencing system were implemented in August and September 1998. The Ministry's first 'Approval Exemption Regulations' (AERs) for air and water approvals came into force in September 1998 as well. Further AERs and 'standardized' approvals for a wide range of activities have been proposed by the Ministry

The period since June 1995 has been marked by a major decline in the environmental law enforcement activities of the Ministry of the Environment. Annual total fines for environmental offences have declined to their lowest level in more than a decade, and the Ministry's April 1998 'Delivery Strategy' directed Ministry staff not to respond to complaints regarding pollution from a wide range of sources.

In November 1998 the Ministry released a proposed policy entitled "Recognizing

and Encouraging Voluntary Action" (REVA). In effect, the Ministry proposed to offer reduced oversight of facilities on the basis of their promises of good environmental performance. The Ministry also proposed to limit its future initiatives on the basis of these commitments, and to tie such initiatives to a 'quid pro quo' with industry.

"Commissions" of government MPP's on "red tape" and the future of the province's agencies, boards and commissions, established in December 1995, delivered their reports in January and February 1997. The 'Red Tape Commission' has come to play a major role in reviewing proposed laws, regulations and policies prior to their submission to cabinet. It has been particularly active with regard to the operations of the Ministry of the Environment. In November 1998 it was revealed that the Chair of the 'Commission' had attempted to intervene in a prosecution by the Ministry.

A broad range of industries have been placed on self-monitoring and compliance systems. In the case of the Ministry of Natural Resources, these have included the forestry, aggregates, petroleum, brine, commercial fisheries and fur industries. In addition, the regulatory functions of the Technical Standards Division of the Ministry of Consumer and Commercial Relations have been delegated to a private organization named the Technical Standards and Safety Authority.

The Ministry of the Environment and Energy announced a major project to revise its standards for water, air, soil contaminants in October 1996. Air standards were to be a priority in this review. However, progress on this initiative has been very slow. Nine standards for hazardous air pollutants were adopted in December 1998, although in most cases, they did not represent significant improvements over existing requirements. Proposals for a further 18 revised air standards were presented in January 1999.

Over the past four years, the annual reports of both the Provincial Auditor and the Environmental Commissioner have been critical of the government's environmental performance. Weaknesses in the government's efforts in the areas of air quality, waste management, and fish and wildlife management have been figured prominently in these assessments.

## **The Elimination of Independent Advisory Committees**

*Advisory Committee on Environmental Standards, Environmental Assessment Advisory Committee, and MISA Advisory Committee*

The Advisory Committee on Environmental Standards (ACES) and the Environmental Assessment Advisory Committee (EAAC), were disbanded by the Minister of Environment and Energy in September 1995. These bodies, consisting of independent individuals with appropriate expertise, received public input and provided advice to the Minister of Environment and Energy. The multi-stakeholder MISA Advisory Committee was disbanded at the same time. The MISA Advisory Committee had been established in 1986 to provide independent advice to the Minister of the Environment on proposed regulations under the MISA program.

On the occasion of their dissolution, the Minister of Environment and Energy stated that their work was completed, and that the Ministry could receive public input on proposed standards and undertakings through other means, particularly the notice and comment process under the *Environmental Bill of Rights*.<sup>51</sup>

#### *Dissolution of the Ontario Round Table on the Environment and Economy*

On September 12, 1995, the Minister of Environment and Energy dissolved the Ontario Round Table on Environment and Economy. The Round Table, established in 1989 to promote sustainable development in the province, was a multi-stakeholder body, supported by a small secretariat. It had worked towards the integration of environmental and economic decision-making in the province and the resolution of conflicts between environmental protection and economic development.

#### *The Policy Advisory Council on the Environment*

At the same time that ACES, EAAC, the MISA Advisory Committee and the Ontario Round Table on the Environment and Economy were dissolved, a new body, calling itself the Policy Advisory Council on the Environment emerged. Described as a "grassroots" policy process, it was made up of "a dozen or so volunteer stakeholders from different industries."<sup>52</sup> The Council was originally co-chaired by Robert Power, a lawyer, and Guy Crittenden, the Chair of the Environmental Policy Committee of the Progressive Conservative Party of Ontario.

The Council's recommendations to the Minister of Environment and Energy included the repeal of the ban on new municipal solid waste incinerators, the introduction of "rigorous" environmental performance standards for incinerators and landfills, "improvements" in the approvals process, "streamlining" the environmental assessment process, and an "overhaul" of regulation.<sup>53</sup> However, the significance of the Council's role declined following Norm Sterling's appointment as Minister of the Environment in August 1996.

#### **Bill 26 Amendments to Freedom of Information and Protection of Privacy Acts**

Schedule K of Bill 26, the *Savings and Restructuring Act*, enacted in January 1996, amended the *Freedom of Information and Protection of Privacy Act*, and the *Municipal Freedom of Information and Protection of Privacy Act* to permit the establishment of fees for appeals of access to information decisions, permit charges for the first two hours of search time in relation to access requests, allow heads of agencies to deny access to records on the basis that requests are "frivolous or vexatious" and permitted the Lieutenant-Governor in Council to establish regulations for determining what constitutes a "frivolous or vexatious" request. Schedule O of the Act amended the FOIPPA to state that the provisions of the *Mining Act* regarding the confidentiality of financial information provided by mining companies with respect to financial security requirements related to

mine closure prevailed over the FOIPPA.

These amendments to the Acts were strongly opposed by the Freedom of Information and Privacy Commissioner,<sup>54</sup> and by many members of the public and non-governmental organizations.<sup>55</sup> Although the new provisions of the Acts related to the establishment of standards for frivolous and vexatious requests have not been employed, a \$25 fee for appeals of denied access requests has been implemented, and charges are being levied by agencies for the first two hours of search time in relation to requests. As most freedom of information requests require less than two hours of search time to fulfil, this means that charges are now being levied for access to information that was previously free of charge. The Information and Privacy Commissioner has stated that these charges are emerging as a barrier to public access to information.<sup>56</sup>

### **Bill 57, The *Environmental Approvals Process Improvement Act***

In June 1996, the then Minister of Environment and Energy, Brenda Elliott, introduced Bill 57, *The Environmental Approvals Improvement Act*. This legislation, which was enacted in June 1997, was typical of the regulatory "reform" legislation being enacted by the government.

The Bill amended the *Environmental Protection Act* and *Ontario Water Resources Act* to permit the cabinet to exempt any person or activity from the requirements of the legislation. In addition, the Bill permitted the cabinet to make regulations controlling or prohibiting virtually any activity which fell under the jurisdiction of the *Environmental Protection Act* and *Ontario Water Resources Act*. In effect, the amendments permitted the cabinet to repeal almost any provision of these statutes, and replace it with whatever it chose to put in place.

Other provisions of Bill 57:

- permitted the cabinet to "deem" environmental approvals to exist without the actual review of applications by the Ministry;
- established a bar on civil lawsuits against the government by individuals if their property is damaged as a result of exemptions from environmental laws granted through the Bill;
- provided for the delegation to municipalities of the power to grant approvals under the *Environmental Protection Act*;
- permitted the Ministry of Environment and Energy to charge members of the public fees for access to documents and other materials related to proposed environmental approvals; and
- dissolved the Environmental Compensation Corporation, which provided compensation to innocent victims of environmental "spills" or individuals who have

- taken voluntary action to clean-up spills for which they were not responsible; and
- dissolved the Ontario Waste Management Corporation, originally established in 1980 to construct a hazardous waste treatment and disposal facility in the province.<sup>57</sup>

Among other things, the Bill's provisions were intended to permit the implementation of the 'standardized' approval process and 'Approval Exemption Regulations' described under *Environmental Assessment and Approvals*.

## **'Responsive Environmental Protection'**

Bill 57 was intended to provide for the implementation of changes to virtually every regulation administered by the Ministry of Environment and Energy proposed in a document entitled *Responsive Environmental Protection* (REP) which was released on July 31, 1996. This document proposed enormous changes to the framework of environmental regulations established under the *Environmental Protection Act*, *Ontario Water Resources Act*, and *Pesticides Act*. Some of the key amendments would have included the following.

### *Air Pollution*

*Responsive Environmental Protection* proposed to:

- replace "Hot Mix Asphalt Facilities" regulation (controls air emissions from facilities) with voluntary code of practice, which may be incorporated into "permit by rule" approvals;
- repeal Lambton Industry Meteorological Alert Regulation and its replacement with a memorandum of understanding with industry. The regulation currently requires reductions in SO<sub>2</sub> emissions by industry in Lambton county during alerts. Under the Ministry's proposal, industry would do monitoring and decide when to call an alert under the proposed agreement;
- reduce reporting requirements under Countdown Acid Rain Program from quarterly to annual reports;
- delegate air quality management to Local Airshed Management Units, run by representatives of "community" (not defined); and
- repeal of "sulphur content of fuels regulation," a regulation intended to control SO<sub>2</sub> emissions in Metro Toronto from the burning of fuel oil.

### *General Approvals Process*

*Responsive Environmental Protection* proposed to:

- eliminate approvals completely for yet undefined "environmentally insignificant activities;"
- move to a "standardized" (i.e. permit-by-rule) approval process for a wide range of activities (undefined but possibly including new water mains, sanitary sewers, storm sewers, spill containment for electrical transformer stations (may involve PCB's) and petroleum storage and distribution facilities);
- remove public hearing requirements for the approval of new waste management technologies under the *Environmental Protection Act*;
- transfer responsibility for approvals related to dust, odour and noise to municipalities.

### *Environmental Bill of Rights*

#### *Responsive Environmental Protection* proposed to:

- remove EBR registry public notice requirements for "minor" approvals including exhaust systems for battery charging operations, laboratory exhausts, pilot tests and demonstration projects, composting operations, prescribed burns for forestry control, air from plumbing drainage systems, vehicle emissions during vehicle repairs, equipment used in fire fighting exercises and training and a range of other activities.

### *Pesticides*

#### *Responsive Environmental Protection* proposed to:

- remove pesticide application permit requirements for pesticide applications that "pose little environmental risk;"
- remove EBR registry public notice requirements for approval of pesticides with new active ingredients on the basis that an as yet to be established "national" system will provide equivalent public notice; and
- simplify (eliminate?) requirements for public notice (i.e. signs) where "integrated pest management" practices are in place.

### *Spills*

#### *Responsive Environmental Protection* proposed to:

- expand reporting exemptions for "minor" spills.

### *Waste Management*

*Responsive Environmental Protection* proposed to:

- carry out the complete de-regulation of activities related to the handling of "recyclable materials," including hazardous wastes such as batteries, photochemical wastes, and metal bearing sludges;
- remove "liquid industrial wastes" from the province's definition of "subject" (i.e. hazardous) wastes;
- weaken Ministry oversight on the establishment and operation of on-site hazardous waste storage sites and hazardous waste transfer stations, the burning of hazardous wastes as "fuel," and the use of hazardous and liquid industrial wastes for dust suppression; and
- seek "input" on repeal of *Waste Packaging Audit and Reduction Workplan Regulations* and Refillable soft drink container regulations.

*Water Pollution*

*Responsive Environmental Protection* proposed to:

- implement new discharge regulations for sewage treatment plants;
- replace the *Marinas Regulation* (requires all marinas to have pump-out facilities and solid waste disposal facilities) with voluntary code of practice;
- remove the requirement for planing for zero discharge of AOX from pulp and paper mills from the *Municipal-Industrial Strategy for Abatement* (MISA) discharge regulation for the sector; and
- weaken monitoring and reporting requirements for other MISA sector regulations (e.g. chemicals, mining, iron and steel, petroleum refining) for "good" performers.

*New Environmental Standards*

*Responsive Environmental Protection* proposed to:

- apply a "Less Paper/More Jobs Test" (cost/benefit test) to proposed new environmental regulations; and
- put sunset clauses in all new regulations.

The REP proposals prompted a very strong negative response from a wide range of stakeholders,<sup>58</sup> who where initially given only 45 days to comment on the Ministry's initiative. This period was extended by a further month by Norm Sterling following his appointment as Ministry of Environment and Energy in August 1996. Background documents obtained by the Canadian Environmental Law Association through a freedom

of information request revealed that many of the proposals in the document contradicted the recommendations of the Ministry of Environment and Energy's own staff in its development.<sup>59</sup> The Ministry's approach to the process was subsequently heavily criticized by the Environmental Commissioner in both her October 1996 Special Report<sup>60</sup> and April 1997 Annual Report to the Legislature.

### *Better, Stronger, Clearer: Environmental Regulations in Ontario*

In November 1997, the Ministry of the Environment released a document entitled *Better, Stronger, Clearer: Environmental Regulations for Ontario* (see Figure 2.4). In this document, the Ministry backed away from many of the proposals contained in the July 1996 *Responsive Environmental Protection* consultation paper.<sup>61</sup> This was particularly evident with respect to the regulation of sources of air pollution (see also Table 2.2).

However, the Ministry's proposals to weaken its regulations in the area of waste management remained largely intact, particularly with respect to hazardous waste. The Ministry also proposed to weaken the reporting and monitoring requirements under the MISA regulations, and to remove the AOX elimination planning requirement from the MISA pulp and paper regulation. Proposals to implement changes contained in "Better, Stronger, Clearer," related to air quality,<sup>62</sup> the Environmental Bill of Rights<sup>63</sup> and MISA,<sup>64</sup> began to appear on the EBR Registry in December 1997. However, as of June 1999, these proposals had not been implemented. Major changes to the pesticide licencing system, flowing from the Ministry's November 1997 proposals, were adopted in August and September 1998. Proposals to remove reporting requirements for certain types of spills were posted on the EBR registry in April 1998.<sup>65</sup>

Proposals for 'standardized approvals' related to air quality, water use, and waste management were posted on the Registry in February 1998<sup>66</sup> and the first 'Approval Exemption Regulations' related to air and water approvals came into force in September 1998. The Ministry of the environment presented proposals for major revisions to the province's waste management regulations in June 1998.<sup>67</sup> These proposals reflected the directions laid out in *Responsive Environmental Protection* and *Better, Stronger, Clearer, Environmental Regulations for Ontario* and would weaken regulatory controls on a wide range of activities involving both hazardous and municipal solid wastes.

## **Environmental Law Enforcement**

### *Enforcement Activities*

In addition to these regulatory 'reform' initiatives, the 1995-1999 period witnessed a precipitous decline in the province's environmental law enforcement activities. The total fines obtained by the Ministry of the Environment in 1998 the most recent year for which data could be obtained, were \$863,840 - the lowest figure since 1986/87, and less than



one third of the total for 1995. Fines fell, in part, as a consequence of the 28% reduction in Investigation and Enforcement Branch staff between 1995-1998.

A March 1999, analysis of the Ministry's 1996 law enforcement activities by the Sierra Legal Defence Fund indicated that only three of 134 companies and sewage treatment plants that had violated water pollution control requirements had been successfully prosecuted by the Ministry.<sup>68</sup> A similar analysis of air pollution infractions indicated that in 1997 there were 1,224 violations of air pollution regulations, resulting in four charges. In 1998 there were 3,354 violations, resulting in two charges.<sup>69</sup>

### *Ministry of the Environment 'Delivery Strategy'*

In February 1999 it was revealed that the Ministry of the Environment had developed a delivery strategy for its operational staff, directing them not to respond to public complaints about a wide range of environmental problems, or to direct such complaints to other agencies and municipalities. Specific examples included problems arising from: activities related to agriculture; construction and demolition; diesel generators; gravel pits and quarries; mobile sources; oil from vehicles; septic systems; boating; sewers; drinking water quality; road salt; inert fill; pop bottles; industrial, institutional and commercial waste source separation; recycling and composting regulatory requirements; tire disposal sites with less than 5,000 tires; litter; abandoned vehicles; inquiries about pesticide use; and residential pesticide use.<sup>70</sup> Many of these subjects had been targets of the Ministry's "Responsive Environmental Protection" and "Better, Clearer, Stronger" regulatory 'reform' proposals.

### *Program Approvals*

In her April 1999 Annual Report, the Environmental Commissioner noted a marked increase in the Ministry of the Environment's use of 'Program Approvals' with only two such approvals being granted in the period 1994-1997, and nine being issued in 1998. 'Program Approvals' permit companies to operate and emit pollutants at levels higher than regulated limits, on the basis that the polluter is undertaking a program that will eventually result in the company's achieving compliance. While a 'Program Approval' is in place, a polluter may not be prosecuted with respect to company processes described in the approval, and the Ministry of the Environment cannot revoke or amend a 'Program Approval' before its expiration date except in certain circumstances. The Ministry's ability to issue control or stop orders is also restricted when a 'Program Approval' is in place.<sup>71</sup>

This change appears to flow from a 1995 amendment to the Ministry's Compliance Guideline, which removed restrictions on the authority of Ministry Directors to issue 'Program Approvals.' Each of the nine Program Approvals granted in 1998 were provided to companies that had failed to comply with pollution limits established by the MISA regulations. The Commissioner noted that the companies in question had negotiated generous phase-in periods to comply with the requirements of the MISA regulations, and that the use of 'Program Approvals' in this way may weaken the impact of the regulations,

and signal a retreat by the Ministry from the enforcement of regulatory controls.<sup>72</sup>

**Figure 2.4 : Summary of MoE's November 1997 regulatory 'reform' proposals.**

<b>"Better, Stronger, Clearer: Environmental Regulations for Ontario."</b>	
Nov 27/98. Ministry releases "Better, Stronger, Clearer: Environmental Regulations for Ontario."	
<p><b>Waste.</b> Specific proposal related to waste management include:</p> <ul style="list-style-type: none"> <li>• revoke regulation thus permitting eight waste disposal sites to receive Liquid Industrial Wastes. None of the sites currently receive such wastes;</li> <li>• amend the regulation governing deep well disposal to bring oil field brine disposal under the <i>Environmental Protection Act</i>, eliminate the oil field brine exemption, and consolidate the requirements into a revised general waste regulation;</li> <li>• amend definition for agricultural wastes, waste-derived fuel, and clarify the management requirements for biomedical waste and asbestos waste;</li> <li>• simplify approval and administrative requirements for "manufacturer controlled networks," to promote "product stewardship";</li> <li>• introduce four classes of approvals: Class I: mandatory hearings under EPA and as required under EAA; Class II: Discretionary hearing under EPA; Class III: Standardized Approvals; and Class IV: exemptions from waste approval requirements.</li> <li>• numerous changes related to hazardous waste management including: <ul style="list-style-type: none"> <li>• reducing reporting requirements for small movements of hazardous wastes;</li> <li>• amending the definition of a "site" (presumably to include all facilities within a given municipality as proposed in July 1996);</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• remove generator registration requirements for registerable solid waste;</li> <li>• exempt battery and precious metal bearing waste recycling activities from regulatory requirements;</li> <li>• modify (weaken) the definition of PCB wastes and establish standardized approvals for PCB storage and transfer sites;</li> <li>• numerous changes related to municipal solid waste management:</li> <li>• amend Recycling and Composting Municipal Waste Regulations to allow two stream collection systems, amend (weaken?) the 50 metre buffer requirement, and allow food composting at leaf and yard composting facilities;</li> <li>• revoke regulations related to the types of disposable containers than may be used to package milk;</li> <li>• retain refillable and non-refillable soft drink container regulations;</li> <li>• amendment of the Waste Audits and Waste Reduction Workplan Regulations and Packaging Audits and Packaging Reduction Workplan Regulations to "streamline" the regulations, "increase their flexibility" and "reduce the paper burden on the regulated community;"</li> </ul>
	<p><b>Spills.</b> Proposed changes related to spills include:</p> <ul style="list-style-type: none"> <li>• proposal to eliminate reporting requirements for notification of "insignificant" spills under the <i>Environmental Protection Act</i>.</li> </ul>

**Figure 2.4 - Continued**

Nov 27/98. Ministry releases "Better, Stronger, Clearer: Environmental Regulations for Ontario."	
<p><b>Energy.</b> Proposed changes related to energy regulations include:</p> <ul style="list-style-type: none"> <li>• repeal of regulations related to electric stationary water heaters under the <i>Energy Efficiency Act</i>, as this type of heater is no longer permitted for sale or lease in Ontario;</li> <li>• establish energy efficiency standards for gas-</li> </ul>	<ul style="list-style-type: none"> <li>fired room heaters; wall furnaces; and fluorescent lamps;</li> <li>• establish uniform systems of accounting for utilities regulated by the Ontario Energy Board;</li> <li>• Remove obsolete exemptions related to completed transactions regulated by the Ontario Energy Board; and</li> <li>• permit the Ontario Energy Board to set its own rules of procedure.</li> </ul>

**Figure 2.4 - Continued**

<p>Nov 27/98. Ministry releases "Better, Stronger, Clearer: Environmental Regulations for Ontario."</p> <p><b>Air.</b> Proposed changes related to air regulations include :</p> <ul style="list-style-type: none"> <li>• consolidate the Gasoline Volatility Regulation, Motor Vehicles Regulation and Recovery of Gasoline Vapour in Bulk Transfers Regulation into one regulation.</li> <li>• consolidate the four Countdown Acid Rain regulations into one and reduce reporting requirements from quarterly to annual reports. The regulations apply to the four largest sources of Acidifying emissions in Ontario, Ontario Hydro, Inco, Falconbridge and Algoma Steel.</li> </ul>	<ul style="list-style-type: none"> <li>• consolidate Ambient Air Quality and General - Air Pollution Regulations;</li> <li>• revoke obsolete Air Contaminants from Ferris Foundries Regulation;</li> <li>• retain Hot Mix Asphalt Facilities regulation and supplement with an industry code of practice. The Ministry had proposed to replace this regulation with a SAR;</li> <li>• retain the Lambton Industry Meteorological Alert Regulation, and supplement with a contractual agreement with the Lambton Industrial Society. The Ministry had proposed to repeal this regulation.</li> <li>• retain the Sulphur Content of Fuels Regulation and the Boilers Regulation. The Ministry had proposed to repeal these regulations and replace them with a SAR.</li> </ul>
---	--

**Figure 2.4 - Continued**

<p>Nov 27/98. Ministry releases "Better, Stronger, Clearer: Environmental Regulations for Ontario."</p> <p><b>Pesticides and Agriculture.</b> Proposed changes related to pesticides include:</p> <ul style="list-style-type: none"> <li>• prohibition of the burial of empty pesticide containers and require recycling of agricultural and commercial containers made of plastic or metal;</li> <li>• elimination of the sections of Regulation 914 dealing with obsolete pesticides that are no</li> </ul>	<p>longer available; and</p> <ul style="list-style-type: none"> <li>• consolidation and clarification of the sections of Regulation 914 on fumigants.</li> <li>• simplify the licensing system and reduce the number of types of licences;</li> <li>• upgrade training requirements for exterminators; and</li> <li>• eliminate exterminator licences requirement for the use of some "low risk" pesticides.</li> <li>• introduce Standardized Approvals for applications of "low risk" pesticides.</li> </ul>
---	--

## Recognizing and Encouraging Voluntary Actions (REVA)

In November 1998, the Ministry of the Environment posted a proposed policy framework entitled "Recognizing and Encouraging Voluntary Actions" (REVA) on the EBR registry. The proposed policy would offer reduced Ministry oversight of industrial facilities on the basis of promises of good environmental performance. The Ministry also proposed to limit its future regulatory initiatives on the basis of these commitments.

The Ministry's proposals would move from relying on voluntary action by industry as a supplement to a baseline regulatory framework to protect the environment and human health, to employing promises of voluntary action as a basis for modifications to that framework.

In addition, the Ministry's proposal appeared to provide affected industries with a

privileged position in the Ministry's program and policy development, approval, administrative, and enforcement processes and to provide a commitment not to move forward significant new initiatives without industry consent under guise of regulatory "certainty." The proposal also implied that if new requirements are moved forward, they would be accompanied by "quid pro quo" concessions to industry. This would suggest that there could be no net gain in environmental protection requirements.<sup>73</sup>

## **The 'Red Tape Commission' and 'Agencies, Boards and Commissions Review Commission'**

In December 1995, the government established two "commissions" of government MPP's, one to review the regulations administered by the province,<sup>74</sup> and the other to review the status of the provincial government's agencies, boards and commissions.

### *The 'Red Tape' Commission*

The "Red Tape Review Commission" delivered its report in January 1997.<sup>75</sup> The report, reflecting a strong influence by industry interests, largely reiterated proposals which had been presented in the Ministry of Environment and Energy's July 1996 document, *Responsive Environmental Protection*. The Commission also emphasized the application of cost-benefit tests and sunset clauses to new regulations, the establishment of a "regulatory watchdog committee" formed of MPP's and "representatives of the private sector,"<sup>76</sup> and the need for public servants to put customer (i.e. regulatee) service first.<sup>77</sup>

The 'Red Tape' Commission has been heavily involved in reviewing the implementation of the Ministry of the Environment's regulatory 'reform' proposals, and all other regulatory proposals put forward by Ontario government agencies. Specific cases in which the Commission became involved have included the Ministry of the Environment's proposals for the introduction of 'cost-recovery' charges on the manifesting of hazardous and liquid industrial wastes for 'off-site' disposal,<sup>78</sup> and the application of the Ministry of the Environment's 'Drive Clean' program to heavy trucks.<sup>79</sup>

The following statement regarding the role of the 'Red Tape' Commission was included in a decision of the Freedom of Information and Protection of Privacy Commissioner regarding an appeal of freedom of information requests regarding records related to the Commission's activities by CIELAP:

"According to the cabinet office, the RTC is inextricably connected to the Cabinet decision-making process. Ministries are asked to appear before the RTC to discuss their policy proposals or draft legislation before they appear before Cabinet or its Committees. Cabinet may also recommend that a Ministry take its proposal before the RTC for review and comment. The RTC reviews policy proposals, draft legislation, Cabinet Submissions, Cabinet presentation slides, provides Ministries with comments and directly advises cabinet or its committees on proposal it has reviewed. Cabinet Office points out that since the RTC came into existence, it has served as a screening

process for Cabinet and its Committees on a wide range of policy items. Cabinet Office explains that after the RTC has reviewed an item, the Chair will usually write the Minister and/or the Chair of the Cabinet Committee, raise any concerns, and provide advice and recommendations on the item. The Chair and members of the RTC are often invited to attend Cabinet Committee meetings in order to provide advice or make recommendations to the Committee on the reviewed items."

"... the RTC performs an integral role in the Cabinet decision-making process in the area of regulatory review and reform. Cabinet has chosen to rely on the views and opinions of the RTC in considering reforms, and has established a process which requires various Ministers and Ministries to involve the RTC in certain matters prior to submitting them to Cabinet. Although the RTC is not a Committee of Cabinet, in discharging its mandate it would frequently deal with matters that are subsequently placed before cabinet or one of its Committees for deliberation."<sup>80</sup>

The Commission has maintained a very close watch on the activities of the Ministry of the Environment. A freedom of information request filed by CIELAP in April 1998 regarding communications between the Commission and the Ministry, resulted in a response that its fulfilment would require reviewing the files of a large number of individuals in the Ministry, and involve up to 100 hours of search time.

In addition to the review of proposed legislation, regulations and policies, the 'Red Tape Commission' has attempted to involve itself in the operational activities of the Ministry of the Environment. A record provided by the Cabinet Office in response to CIELAP's freedom of information requests indicated, for example, that in March 1998 the Chair of the 'Red Tape Commission' Mr. Frank Sheehan, M.P.P. attempted to intervene in the Ministry of the Environment's conduct of a prosecution under the *Environmental Protection Act*.<sup>81</sup>

The Commission has also focussed on 'streamlining' building approvals with the Ministry of Municipal Affairs and Housing.<sup>82</sup> Such streamlining will likely further facilitate urban sprawl.

### *'Red Tape Reduction' Legislation*

In December 1998 Bill 25, *The Red Tape Reduction Act*, an omnibus bill similar to the January 1996 Bill 26, *Government Savings and Restructuring Act*, was enacted. The Bill amended more than a dozen natural resources statutes, permitting the delegation of decision-making authority over a wide range of activities on public lands and affecting lakes and rivers to "any person," removing requirements for conservation authority approvals of aggregates extraction, and facilitating the sale of public lands. Schedule 'C' of the Act, *Statute and Regulation Revision Act, 1998*, made provision for the adoption of revisions to statutes by the Chief Legislative Council, without approval by the Legislature.

A second omnibus 'red tape reduction' bill, Bill 101, *The Red Tape Reduction Act* #2, introduced on December 16, 1998, died on the Order Paper when the Legislative session ended on December 18. Schedule M of the Bill would have amended seven natural resources statutes, including the *Aggregate Resources Act*, *Fish Inspection Act*, *Forest Fires Prevention Act*, *Fish and Wildlife Act*, *Niagara Escarpment Planning and Development Act*, *Oil, Gas and Salt Resources Act*, and the *Public Lands Act*.

### *Agencies, Boards and Commissions Review Commission*

The Agencies, Boards and Commissions Review Commission delivered its reports in January and February 1997. Among its recommendations were the consolidation of the Environmental Assessment Board and the Environmental Appeal Board into an Environmental Appeals Tribunal.<sup>83</sup> These bodies were subsequently amalgamated. The Niagara Escarpment Commission and the Ontario Energy Board were to remain unchanged.<sup>84</sup> Consistent with the provisions of Bill 57, the Commission also recommended the elimination of the Environmental Compensation Corporation.<sup>85</sup>

In addition, the Commission recommended the elimination of the Toronto Waterfront Regeneration Trust and the North Pickering Development Corporation.<sup>86</sup> The Waterfront Trust was converted into a private charitable entity in January 1999. The pickering proposal raised immediate concerns regarding the implied sale of 3,500 hectares of land designated as a "green belt" agricultural reserve on the eastern boarder of Metropolitan Toronto.<sup>87</sup>

A review of the need for the Ontario Clean Water Agency was proposed as well, on the basis that the Agency competed directly with the private sector and that sewer and water services were a municipal responsibility.<sup>88</sup> Subsequently, in March 1998, the Office of Privatization identified the Ontario Clean Water Agency as a potential target for the government's privatization efforts.<sup>89</sup> The agency currently operates approximately one third of the sewer and water works in the province, including 123 municipal water treatment facilities and 234 municipal sewage treatment facilities.<sup>90</sup>

### *Appointments to Agencies, Boards and Commissions*

The independence and impartiality of many provincial agencies, boards and commissions charged with the protection of major environmental resources, has been seriously eroded over the past few years. In the case of the Niagara Escarpment Commission, for example, appointments over the past two years have included individuals known to be hostile to the goal of the protection of the ecological integrity of the escarpment,<sup>91</sup> or who have had economic interests in its exploitation.<sup>92</sup>

Similarly, in December 1997, a seconded civil servant was appointed Chair of both the Environmental Assessment Board and Environmental Appeal Board.<sup>93</sup> This raised concerns that as a civil servant on secondment, the chair would be perceived to be too closely allied with the government, that it would seem inappropriate for the staff of government ministries and agencies appear before "one of their own," and that the result

would be that the Board's decisions would lack credibility.<sup>94</sup>

Similar concerns have been raised regarding the impact of recent appointments on other regulatory and adjudicative bodies, including ones outside of the environmental field.<sup>95</sup> Both the Chief Justice of Ontario,<sup>96</sup> and the Ombudsman<sup>97</sup> have felt the need to make public statements regarding the need to ensure the independence and impartiality of the province's adjudicative agencies in light of these appointments.

## **Delegated Regulatory Organizations**

The practice of delegating provincial regulatory functions to non-governmental actors has been a major feature of the past four years. These changes have taken a number of different forms. In the case of the Ministry of Natural Resources, self-monitoring and compliance systems have been established for the forestry, aggregates, petroleum, brine, commercial fisheries, and fur industries which were previously regulated by the Ministry. Similar arrangements have been proposed for the baitfish industry and have been under consideration regarding the regulation of the closure of mines by the Ministry of Northern Development and Mines since the enactment of amendments to the *Mining Act* through Bill 26 in January 1996.

In the case of the Ministry of Consumer and Corporate Relations, in May 1997 the regulatory functions of the Ministry related to underground storage tanks, boilers, pressure vessels, fuels, elevators, amusement devices, and upholstered furniture were transferred to a private organization called the Technical Standards and Safety Authority (TSSA). The Authority's board of directors is dominated by representatives of the industries it is to regulate.<sup>98</sup> The Independent Market Operator and Electrical Safety Authority are similar entities created through Bill 35, *The Energy Competition Act, 1998*.

Serious questions regarding the implications of these transfers have been raised by the Environmental Commissioner,<sup>99</sup> Provincial Ombudsman<sup>100</sup> and Information and Privacy Commissioner.<sup>101</sup> There are particular concerns that, as these functions are no longer be carried out by provincial government agencies, they escape the application of such statutes as the *Environmental Bill of Rights, Freedom of Information and Protection and Privacy Act, Ombudsman Act, Environmental Assessment Act*, and the *French Language Services Act* and mechanisms for public and legislative oversight and accountability, such as the Provincial Auditor.<sup>102</sup> Although some of these entities, such as the TSSA, carry out law enforcement activities, it is also unclear whether the *Canadian Charter of Rights and Freedoms* applies to their actions.

## **Ministry of Environment and Energy Standards Review**

The Ministry of Environment and Energy announced a major project to revise its standards for water, air and soil contaminants in October 1996.<sup>103</sup> Air standards were to be a priority in this review, as the province's current standards in this area are widely recognized as being out of date and inadequate.<sup>104</sup>

The standards revision process to date has been extremely slow. In the first year of the review only one new standard was adopted, an Acceptable Air Quality Criteria (AAQC) for PM10 (particulate matter up to 10 microns in diameter). However, even this standard was a guideline, and would not be incorporated into existing Certificates of Approval.

Proposals for revised air standards for 10 toxic substances were posted on the EBR environmental registry in March 1998.<sup>105</sup> However, in some cases, the proposed standards were significantly weaker than the proposals put forward by the Ministry in January 1997.<sup>106</sup> Proposals for new standards for four heavy metals (nickel, chromium IV, cadmium and arsenic), which included some of the most dramatic changes, were dropped altogether. The revised standards for nine substances were adopted in December 1998.<sup>107</sup> Table 2 provides a comparison between the Ministry's original January 1997 proposals, and the proposals posted in March 1998, and the final December 1998 decisions.

There were indications that very strong lobbying from the affected industries was a major factor in the weakening of the Ministry's January 1997 proposals. It was reported in the press that these industries had been given opportunities to 'preview' the proposed standards before they were made available to the general public.<sup>108</sup>

The Ministry of the Environment posted proposed revisions to an additional 18 standards for hazardous air pollutants in January 1999.<sup>109</sup> As of June 1999 no action had been taken to implement these proposals. There have been strong indications that the Ministry of the Environment intends to rely on Canadian Council of Ministers of the Environment (CCME) for virtually all other new standards to be adopted through the standards revision program.<sup>110</sup> The CCME standards developed process have been widely criticized for leading to lowest common denominator outcomes.<sup>111</sup>



**Table 2. 2 - Proposed revisions to standards for hazardous air pollutants**

<b>Chemical</b>	<b>Existing Standard</b>	<b>January 1997 Proposals</b>	<b>March 31, 1998 EBR posting</b>	<b>December 23, 1998 Decision</b>	<b>Comments</b>
<b>1,2 dichlorobenzene</b>	None	AAQC: 230 ug/m <sup>3</sup> (24 Hour)  POI: 690 ug/m <sup>3</sup>	AAQC: 95 ug/m <sup>3</sup> (24 hour)  POI 285 ug/m <sup>3</sup>	AAQC: 95 ug/m <sup>3</sup> (24 hour)  POI 285 ug/m <sup>3</sup> (standard)	Stronger than January Proposal but only a guideline.
<b>Formaldehyde</b>	AAQC: 65 ug/m <sup>3</sup>  POI: 65 ug/m <sup>3</sup> (standard)	No Change.	No Change.	No Change	No change from current standard.
<b>Tetrachlorethylene (perchloroethylene)</b>	AAQC: 4000 ug/m <sup>3</sup>  POI: 10000 ug/m <sup>3</sup> (guideline)	AAQC: 100 ug/m <sup>3</sup>  POI: 300 ug/m <sup>3</sup>	AAQC 285 ug/m <sup>3</sup>  POI: No proposal.	AAQC: 360 ug/m <sup>3</sup>  POI: 10000 ug/m <sup>3</sup> (guideline)	AAQC and POI weaker than January 1997 proposals.
<b>Trichloroethylene</b>	AAQC: 28000 ug/m <sup>3</sup>  POI: 85000 ug/m <sup>3</sup> (standard)	AAQC: 640 ug/m <sup>3</sup>  POI: 1900 ug/m <sup>3</sup>	AAQC: 115 ug/m <sup>3</sup> (guideline)  POI: No proposal	AAQC: 115 ug/m <sup>3</sup> (guideline)  POI: 3500 ug/m <sup>3</sup> (proposed standard)	AAQC stronger, POI weaker than January 1997 proposals.
<b>1,2 dichloroethane (ethylene dichloride)</b>	AAQC: 400 ug/m <sup>3</sup>  POI: 1200 ug/m <sup>3</sup> (guideline)	AAQC: 2 ug/m <sup>3</sup>  POI: 6 ug/m <sup>3</sup>	AAQC: 2 ug/m <sup>3</sup>  POI: 6 ug/m <sup>3</sup> (guideline)	AAQC: 2 ug/m <sup>3</sup>  POI: 6 ug/m <sup>3</sup> (guideline)	No change from January proposal.
<b>Carbon Tetrachloride</b>	AAQC: 600 ug/m <sup>3</sup>  POI: 1800 ug/m <sup>3</sup> (guideline)	AAQC: 2.4 ug/m <sup>3</sup>  POI: 7.2 ug/m <sup>3</sup>	AAQC: 2.4 ug/m <sup>3</sup>  POI: 7.2 ug/m <sup>3</sup>	AAQC: 2.4 ug/m <sup>3</sup>  POI: 7.2 ug/m <sup>3</sup> (guideline)	No Change from January Proposal.
<b>Cyclohexane</b>	AAQC: 100000 ug/m <sup>3</sup>  POI: 300000 ug/m <sup>3</sup> (guideline)	AAQC: 280 ug/m <sup>3</sup>  POI: 840 ug/m <sup>3</sup>	AAQC: 500 ug/m <sup>3</sup>  POI: 500 ug/m <sup>3</sup> (guideline)	No Decision.	No decision.

Chemical	Existing Standard	January 1997 Proposals	March 31, 1998 EBR posting	December 23, 1998 Decision	Comments
<b>Styrene</b>	AAQC: 400 ug/m <sup>3</sup> POI: 400 ug/m <sup>3</sup> (standard)	AAQC: 125 ug/m <sup>3</sup> POI: 400 ug/m <sup>3</sup>	AAQC: 400 ug/m <sup>3</sup> POI: 400 ug/m <sup>3</sup> (standard)	AAQC: 400 ug/m <sup>3</sup> POI: 400 ug/m <sup>3</sup> (standard)	AAQC weakened from January 1997.
<b>Methylene Chloride</b>	AAQC: 1765 ug/m <sup>3</sup> POI: 5300 ug/m <sup>3</sup> (guideline)	AAQC: 50 ug/m <sup>3</sup> POI: 150 ug/m <sup>3</sup>	AAQC: 220 ug/m <sup>3</sup> POI: No proposal.	AAQC: 220 ug/m <sup>3</sup> POI: 5300 ug/m <sup>3</sup> (guideline)	AAQC and POI weakened from January 1997 proposal.
<b>Acetaldehyde</b>	No current standard	AAQC: 9 ug/m <sup>3</sup> POI: 27 ug/m <sup>3</sup>	AAQC: 500 ug/m <sup>3</sup> POI: 500 ug/m <sup>3</sup>	AAQC: 500 ug/m <sup>3</sup> POI: 500 ug/m <sup>3</sup> (guideline)	AAQC and POI weakened from January 1997 proposal.
<b>Cadmium</b>	AAQC: 2000 ng/m <sup>3</sup> POI: 5000 ng/m <sup>3</sup> (standard)	AAQC: 20 ng/m <sup>3</sup> POI: 60 ng/m <sup>3</sup>	No proposal.	No Decision	No proposal.
<b>Chromium IV</b>	AAQC: 1.5 ng/m <sup>3</sup> POI: 5 ng/m <sup>3</sup> (guideline)  (not clear if existing standard sources conflict).	AAQC: 2 ng/m <sup>3</sup> POI: 15 ng/m <sup>3</sup>	No proposal.	No Decision	No proposal.
<b>Nickel</b>	AAQC: 2000 ng/m <sup>3</sup> POI: 5000 ng/m <sup>3</sup> (standard)	AAQC: 200 ng/m <sup>3</sup> POI: 600 ng/m <sup>3</sup>	No proposal.	No Decision	No proposal
<b>Arsenic</b>	AAQC: 300 ng/m <sup>3</sup> POI: 1000 ng/m <sup>3</sup> (guideline)	AAQC: 50 ng/m <sup>3</sup> POI: 150 ng/m <sup>3</sup>	No proposal.	No Decision	No proposal.

**Notes:** \*

- \* All AAQCs (Ambient Air Quality Criteria) are 24 Hour.
- \* POI (Point of Impingement) Guidelines would only be applied to new or modified facilities
- \* POI (Point of Impingement) standards would be applied to all new and existing facilities.

## Annual Reports of the Provincial Auditor

The Environment has been a major focus of the Provincial Auditor's Annual Reports since 1995.

The Auditor's November 1996 report included the following major points:<sup>112</sup>

- the identification of weaknesses in the Hazardous Waste Information System, including the Ministry of the Environment's failure to follow-up on registered generators of hazardous waste who do not report disposal;
- comments on the Ministry of the Environment's failure to act on the findings a 1992 review showed that 226 of 289 air pollutant standards required reduction, reassessment, or further review, to ensure the protection of human health and the environment.
- the identification of deficiencies in the Ministry of Environment and Energy's handling of its water well information system Of 200,000 well records submitted to the MOEE over the past 12 years, only about 30,000 had entered into the water well information system; and
- the failure of the Ministry of the Environment to monitor groundwater quality systematically throughout the province.

The Auditor's November 1997 Annual Report included the following key findings:<sup>113</sup>

- the measuring of, and reporting on the Province's waste reduction targets needed to be strengthened;
- the province needed to work with municipalities on reducing the cost of collecting and processing recycled materials as well as implementing a full costing approach for waste disposal;
- the provincial goal of 50% waste diversion from disposal should be incorporated into the Ministry of the Environment's Waste Reduction Branch's business plan;
- the Ministry should expedite the resolution of issues surrounding refillable soft drink containers and address municipal concerns;
- the environmental assessment process required better monitoring of the compliance with EA decision terms and conditions;
- water or sewage expansion projects should not be funded by the province unless municipalities have implemented and maximized water conservation; documentation filing and grant overpayment need to be better monitored as well.

The Auditor's November 1998 report highlighted weaknesses in the Ministry of Natural Resource's wildlife management programs, noting that:<sup>114</sup>

- the Ministry had not developed proper effectiveness measures to assess the program's success in achieving the sustained development of the province's fish and wildlife resources;
- the Ministry did not have adequate policies in place for the management of big

- game species (moose, deer and bear); and
- that information from the assessment of fish populations and other data were often not available to assist management in managing regeneration, stocking and harvesting.

The report was also critical of Ministry of the Environment's failure to act on the Auditor's 1996 recommendations regarding the revision of the province's standards for hazardous air pollutants.<sup>115</sup>

## **Annual Reports of the Environmental Commissioner for Ontario**

The Environmental Commission of Ontario has tabled four Annual Reports and two special reports to the Legislature since June 1995.<sup>116</sup> These reports all reflected a number of common themes regarding the government's adherence to the requirements of the EBR. These have included:

- failures of ministries to post environmentally significant decisions on the environmental registry, as required by the EBR;
- failures of Ministries to provide Ontarians with adequate time, information and opportunity for comment on those proposed decisions which are posted on the registry; and
- failures of Ministries to assess and report on the environmental effects of proposed changes, or their consistency with Ministry statements of environmental values, as required by the EBR.

The contents of these reports are described in detail in the *Environmental Bill of Rights & Public Participation in Decision-Making* section of this report.

# LAND USE PLANNING

## Introduction and Overview

The central feature of the government's policies related to land-use in Southern Ontario has been the degree to which they have both facilitated and, in many cases, promoted urban sprawl. This pattern began with the repeal of the Commission on Planning and Development Reform in Ontario's recommended changes to the land-use planning process in March 1996, and continued with the enactment of the December 1997 *Development Charges Act*, the extension of the Land Transfer Tax Rebate Program, the removal of most provincial approval requirements for official plan amendments, subdivisions and land severances, and the activities of the 'Red Tape Commission' to 'streamline' the building approvals process.

Provincial funding for public transit and sewer and water infrastructure was withdrawn through the January 1997 'mega-week' restructuring announcements. Responsibility for the regulation of septic systems was downloaded onto municipalities through Bill 107, *The Water and Sewerage Services Improvement Act*. The Act, which was adopted in May 1997, also made provision for the transfer of the ownership and operation of provincially-owned and operated sewer and water systems to municipalities.

The government has required the amalgamation of many municipalities around the province, in many cases over the clearly expressed wishes of the municipal councils and residents of the affected communities. The most prominent of these initiatives was the amalgamation of the six lower-tier and one upper-tier municipal governments forming Metropolitan Toronto into a single "City of Toronto" in January 1998. Major amendments have also been proposed to the *Municipal Act*, although these have yet to be adopted.

The integrity of the Niagara Escarpment has come under threat in many ways. Approval requirements for the expansion of pre-1975 aggregate extraction activities were largely removed in October 1996, and responsibility for the administration of the *Niagara Escarpment Planning and Development Act* and Niagara Escarpment Commission transferred from the Ministry of the Environment to the Ministry of Natural Resources. Individuals likely to be hostile to the protection of the Escarpment have been appointed to the Commission.

The mandates and authority of the province's 38 Conservation Authorities have been significantly reduced, and provincial funding to Authorities has fallen by an estimated 70% since 1995. Many Authorities report significant reductions in staff and programs as a result. The loss of many of their water quality programs has been of particular concern.

The May 1998 *Farming and Food Production Act* maintained the prohibitions on civil nuisance actions against farmers by neighbouring landowners contained in the 1988 *Farm Practices Protection Act*, and introduced new provisions permitting farmers to seek to have

municipal by-laws intended to control farm related nuisances overturned.

In November 1996, controls on a wide range of activities on public lands, including approval requirements for mineral exploration work, were removed. Approval requirements for activities related to lakes and rivers were significantly reduced. The government responded to the October 1998 recommendations of the 'Land for Life' round tables in March 1999, making commitments to the protection of 12% of the public lands in the planning area, which includes approximately 47% of the province's land area. However, this protection is subject to some significant limitations, including the possibility of the removal of lands from protection for the purpose of mining. At the same time, there are indications that the tenure of forestry operations on public lands outside of the protected areas may be extended to the point of virtual ownership.

## **Land-Use Planning**

*Bill 20, the Land Use Planning and Protection Act, 1996, and new provincial policy statement.*

A number of significant changes to the land-use planning system introduced by the previous government as a result of the work of the Commission on Planning and Development Reform in Ontario, were repealed through Bill 20 (The *Land Use Planning and Protection Act*)<sup>117</sup> in March 1996. The Commission's work had placed a strong emphasis on ecosystem based approaches to planning and the containment of urban sprawl.<sup>118</sup>

In particular, the Bill 20 amendments removed the requirement that municipal planning decisions be consistent with provincial planning policy statements. Instead, such decisions must simply "have regard to" provincial policy. In addition, the participation of the Ministries of Environment and of Natural Resources in reviewing development proposals was limited to situations where they are invited to do so by the Ministry of Municipal Affairs and Housing. Both Ministries have subsequently ended almost all of their activities related to land use planning.<sup>119</sup> In the past, both had acted as voices for environmental protection and natural resources conservation in the planning process.

A new Provincial Policy Statement was introduced at the time of the passage of Bill 20 in 1996, replacing the set of Comprehensive Policy Statements adopted in 1995. The new Policy Statement weakened requirements related to natural heritage and environmental protection in a number of significant ways. Specifically, the protection for wetlands was altered to apply to a smaller area of the province, and to remove explicit requirements for impact studies of proposed developments in or adjacent to wetlands.<sup>120</sup>

In addition, references to the protection of significant ravine, river and stream corridors and adjacent lands, were placed by a less specific reference to "significant valleylands." Reference to the protection of the habitat of 'vulnerable' species, and shorelines of lakes, rivers and streams, natural corridors, and biodiversity conservation were completely removed from the Provincial Policy Statement.<sup>121</sup> The 1995 Conservation

Policy Statement, which had been intended to promote water and energy efficiency, the 3Rs and the use of public transit, was entirely deleted from the new policy statement.

Although the Bill 20 amendments to the *Planning Act* were intended to give municipalities more control over the planning process the Minister of Municipal Affairs and Housing has overridden local planning decisions on a number of occasions in favour of particular economic interests. This has been especially true with respect to the aggregates industry,<sup>122</sup> and is discussed in more detail in the section on *Mineral Aggregates, Petroleum Resources, and Brine Industries*.

### *Development Approval Delegation*

In December 1997, the Ministry of Municipal Affairs and Housing released an implementation strategy for the delegation of development approval authority to municipalities under Bill 20. The first phase of the strategy was completed in January 1998, exempting official plan amendments of most regional and single tier municipalities from provincial approval requirements. In the second phase, requirements for provincial approval will be removed for most consents (i.e. land severences), subdivision and condominium approvals, and lower tier official plan amendments.<sup>123</sup>

The removal of requirements for provincial approval of official plan amendments, consents, subdivisions and condominiums will further weaken the degree to which municipalities are required to adhere to the directions laid out in the Provincial Policy Statement in their planning decisions. This is likely to result in even less protection for ecologically significant areas and prime agricultural lands in the planning process and a further facilitation of urban sprawl.

### *Development Charges*

Bill 20 also amended the *Development Charges Act* to require that all new development charges by municipalities be approved by the Minister of Municipal Affairs and Housing. Development charges are applied by municipalities to new developments to support the infrastructure necessary to support them. During debate on the Bill, the Minister of Municipal Affairs and Housing stated that approval would only be granted to municipalities for development charges for "hard" services, such as roads and sewers. Charges would not be approved to finance new "soft" infrastructure, such as schools and libraries. These services will have to be provided to new developments out of existing municipal resources.

These directions continued through the *Development Charges Act*, adopted in December 1997.<sup>124</sup> The Act:

- reduced the scope of services eligible for development charges to exclude services that benefit the broader community, such as cultural and entertainment facilities, tourism facilities, parkland acquisition, hospitals, waste management services and

- city halls;
- required the discounting by 10 per cent of certain services such as transit and recreation facilities;
- limited development charge revenues to anticipated capital costs; and
- prohibited the imposition of new charges, in addition to development charges, through conditions of approval or agreements under the *Planning Act*.

These provisions effectively require municipalities to subsidize urban sprawl, by limiting the degree to which municipal governments can require that the infrastructure costs of new developments to be internalized.

### *Land Transfer Tax Exemption*

The impact of the removal of constraints on urban sprawl and termination of provincial efforts to promote urban intensification in the government's new provincial Planning Policy Statement was compounded by the government's May 1996 Budget. The budget suspended the Land Transfer Tax on the purchase of new houses for nine months, effectively providing a subsidy to the purchase of houses in new urban developments. This rebate of up to \$1,725 per new home, which was continued in the 1997 and 1998 budgets, encourages urban sprawl by subsidizing the purchase of homes in new developments. Total expenditures under the program were over \$16 million in the 1996-97 fiscal year, and rose to over \$20.5 million in the 1997-98 fiscal year.<sup>125</sup>

### *Conservation Lands Taxation*

Significant changes to the property tax assessment regime for conservation, managed forest and farm lands were made through the *Fair Municipal Finance Act*, passed in May 1997. The reforms converted existing rebate programs into either an exemption from property taxation (conservation lands) or a new property class with a tax ratio of .25 of residential rates (farm and managed forest lands). Conservation lands are defined as endangered species habitat, areas of natural and scientific interest (ANSIs), provincially significant wetlands (classes 1-3), Niagara Escarpment natural zones, and lands which contribute to provincial conservation objects that are owned by non-profit conservation groups. Conservation Authorities are to be treated in the same fashion as any other landowner.<sup>126</sup>

While the announcement of the conservation lands program emphasized the need for long-term support for private landowners, in 1998 MNR staff placed a moratorium on adding new lands under the "Other Conservation Lands" portion of the program. This category was intended to cover lands held for conservation purposes by land trusts and similar organizations. As a result, non-profit groups have had to pay taxes at full rates while the program is being re-evaluated.

To qualify for the farm program, applicants must demonstrate that they are bona fide farmers with a certain income, and also must be members of the Ontario Federation of



Agriculture or the Christian Farmers' Association. This may limit the availability of tax relief to organic farmers. A large part of the managed forest program is administered by the Ontario Forestry Association and the Ontario Woodlot Association.<sup>127</sup>

## **Downloading and Restructuring**

### *Downloading/Who Does What?*

A panel on municipal and provincial roles and responsibilities chaired by former Toronto mayor David Crombie delivered its report on environmental and transportation matters in November 1996. The government moved to implement elements of the *Who Does What? Panel's* recommendations through a series of Bills introduced in January 1997 during what the government labelled "mega-week." Major components included the withdrawal of provincial funding for municipal sewer and water services and transportation infrastructure, including public transit, and the transfer of provincially operated sewer and water systems to municipalities. Responsibility for the regulation of septic systems was also transferred to municipal governments through Bill 107, the *Water and Sewage Services Improvement Act*<sup>128</sup> introduced as part of the "Mega-week" package, and enacted in May 1997.

The withdrawal of subsidies for new sewer and water and road infrastructure may have the effect of curbing urban sprawl. However, serious concerns were raised regarding the possibility of the privatization of municipal sewer and water services,<sup>129</sup> and the approval of inappropriate uses of septic systems to support new development.<sup>130</sup> The future provision of public transit systems was also thrown into question given removal of provincial funding for such services.

### *Municipal Amalgamations*

The government has required the amalgamation of many municipalities around the province, in many cases over the clearly expressed wishes of the municipal councils and residents of the affected communities. The most prominent of these initiatives was the amalgamation of the six lower-tier and one upper-tier municipal governments forming Metropolitan Toronto into a single "City of Toronto" in January 1998<sup>131</sup> Although such amalgamations do not have a direct impact on the environment, serious concerns have been raised regarding the long-term effect of these moves on environmental policy development and implementation at the local level.

Local governments have often been centres of innovation in the development and delivery of environmental programs, and the province's moves to produce much larger municipal units may reduce opportunities for such innovations in the future.<sup>132</sup> Existing innovative approaches to program delivery may also be lost through the amalgamation process and the resulting standardization of programs throughout the amalgamated entity.

### *Municipal Act Amendments*

In February 1998 the government proposed extensive amendments to the *Municipal Act*.<sup>133</sup> The proposals would give municipalities clearer authority to make by-laws in a number of areas related to the environment, including public health and safety, waste management, nuisance, noise, odour, vibration, illumination, dust, tree protection and the "natural environment." At the same time, however, the proposed amendments would prohibit municipalities from preventing competition from the private sector in the delivery of municipal services, such as waste management and public transit.

The proposed amendments have led to expressions of concern that the private sector will provide municipal services on profitable routes, and leave municipal governments having to provide services in less profitable areas. Concerns have also been raised about degree to which the Act would permit the Cabinet to restrict the powers of municipalities under the Act, or any other Act of the Legislature, through regulations.<sup>134</sup>

### **Conservation Authorities**

There are 38 Conservation Authorities in Ontario. They are the only institutions in the province established on an ecosystem basis, being organized around major watersheds. First established in 1946, the Conservation Authorities own or are responsible for the management of 121,400 hectares of land in Ontario. Their lands include a wide range of ecologically significant areas, such as wetlands, ravines and woodlots.

Conservation Authorities have been heavily affected by the "Common Sense Revolution." Provincial capital and operating support to Authorities has declined by approximately 70%.<sup>135</sup> Amendments were also made to the *Conservation Authorities Act* through Bill 26 in January 1996 to limit the mandate of authorities and facilitate their dissolution and the sale of their lands. The use of provincial funds by Authorities has been limited to flood control activities and the payment of property taxes.<sup>136</sup>

Smaller Authorities, operating in rural areas, have tended to be the most heavily affected by the province's reductions in financial support, as they often have been most dependent upon such support. The results of an informal survey of Conservation Authorities regarding the impact of the withdrawal of provincial support conducted in late 1996 by the Federation of Ontario Naturalists (FON) are presented in Table 2.3.

The Authorities responding to the FON's survey indicated that they had typically lost between 20 and 50% of their staff, and more than half indicated that they had terminated programs, or changed the way in which they manage their lands to bring in additional income. In particular, some authorities have indicated their willingness to sell lands, even donated properties or properties purchased with donated funds, in order to generate income.<sup>137</sup>

**Table 2.3 : Effect of Provincial Changes on Conservation Authorities**

Conservation Authority:	Percentage of Staff Lost	Discontinued Programs <sup>1</sup>	Additional Revenue sought from Lands <sup>2</sup>
Ausable / Bayfield	50%	NA	Yes
Cataraqui	50%	Yes	Yes
Catfish Creek	0%	No	Yes
Central	20%	NA	No
Credit Valley	33%	Yes	NA
Essex	25%	NA	Yes
Kawartha	54%	Yes	No
Kettle Creek	43%	Yes	No
Lake Simcoe	21%	No	Unsure
Lower Trent	30%	Yes	NA
Long Point	23%	No	No
Metro Toronto	20%	NA	Yes
Niagara	25%	NA	No
Nickel District	50%	Yes	Yes
Nottawasaga	0%	Yes	Yes
Rideau	22%	Yes	Yes
South Nation River	0%	Yes	Yes

Notes :           1) Actual Question: "Have programs been discontinued?"  
                       2) Actual Question: "Will lands be managed differently to bring additional income?"

Source:           1996 Survey of Conservation Authorities by the Federation of Ontario Naturalists

### *Bill 25, The Red Tape Reduction Act, 1998.*

The role of Conservation Authorities was further weakened by Bill 25, the *Red Tape Reduction Act, 1998*. Schedule I of the Bill, enacted in December 1998, amended the *Conservation Authorities Act* to remove the requirement for Conservation Authority approval for changing, diverting or interfering with watercourses, wetlands, Great Lakes - St. Lawrence River shorelines, inland lakes, river and stream valleys, and hazardous lands for activities approved under the *Aggregate Resources Act* (i.e. aggregate extraction).

### **Niagara Escarpment Commission**

The Niagara Escarpment is internationally recognized as a World Biosphere Reserve by the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Niagara Escarpment Commission (NEC) was established under the 1973 *Niagara Escarpment Planning and Development Act*. The NEC administers the Niagara Escarpment Plan, which was adopted in 1985 by the previous Progressive Conservative government, and renewed in 1994 after a public review process. The Plan effectively "zones" the Escarpment into protective land use categories, and limits the uses which may be undertaken within these zones. All new land uses or developments within the plan area require a development permit from the NEC, with the exception of some mostly minor exemptions provided by regulation.

Like the province's Conservation Authorities, the Niagara Escarpment Commission has been heavily affected by budgetary reductions, amounting to a loss of approximately 36% of its budget measured against the 1994/95 fiscal year<sup>138</sup> and a reduction in staff from 38 positions to 23.<sup>139</sup>

The integrity of the Escarpment plan has been under attack in a number of ways. In August 1996, the Ministry of Environment and Energy proposed to exempt aggregate pits and quarries licensed before June 10, 1975 (when provincial development control of the Escarpment began) from having to obtain permits from the NEC to expand their facilities.<sup>140</sup> The proposal had the potential to affect several aggregate operations on the Escarpment, and was widely seen as an attempt to reverse a court decision that the facilities in question did have to obtain a development permit in order to expand their operations.<sup>141</sup>

Following strong protest from environmental and conservation organizations, the proposal was modified to require development permits for activities involving the taking of water and its discharge into the environment, and for the construction of buildings and structures needed for aggregate operations which commenced prior to June 1975. It was incorporated into regulation in October 1996.<sup>142</sup> However, the modified decision was widely criticized as effectively leaving the original exemption proposal intact.<sup>143</sup>

It was subsequently revealed in May 1997, that the then Minister of Environment and Energy, Brenda Elliott, when questioned by a quarry operator in March 1996, had advised them to continue expanding a pit on the Escarpment, despite the court decision requiring it to obtain a development permit from the Commission.<sup>144</sup> The Minister's action was revealed in the course of a private prosecution regarding the expansion of the quarry in question.<sup>145</sup>

Concern over the future of the Escarpment was heightened when responsibility for the administration of the Escarpment Plan and the Commission was transferred from the Ministry of Environment and Energy to the Ministry of Natural Resources in March 1997. The transfer, which was widely interpreted as a personal defeat for the Minister of Environment and Energy, Norm Sterling,<sup>146</sup> was compared by the Coalition on the Niagara Escarpment (CONE) with "putting Dracula in charge of the blood bank,"<sup>147</sup> given the Natural Resources Ministry's close association with the Aggregates industry and dual roles as regulation of both natural resources exploitation, and natural areas protection.

The 1997 and 1998 saw the appointment of a number of Commissioners who were likely to be hostile to the principles of protecting the Escarpment.<sup>148</sup> The government's appointments to the Commission included the former President of the Aggregate Producers' Association of Ontario.<sup>149</sup>

In June 1998, the Niagara Escarpment Commission voted to reject the advice of its professional planning staff and approve a major winery-related resort development on lands designated Escarpment Protection Area within the Niagara Escarpment Plan Area. The property in question includes a provincially significant Area of Natural and Scientific Interest that is designated Escarpment Natural Area in the Niagara Escarpment Plan. In November 1998, a report by independent Hearing Officers recommended that the proposed development, which includes a winery and 120-seat restaurant; a culinary teaching centre (including a lecture theatre, teaching kitchen, and greenhouse); and 56 guest cottages, each housing two people, be approved.<sup>150</sup>

The Coalition on the Niagara Escarpment, some local vintners, and Niagara Escarpment Commission planning staff have all stated that if the development is approved, it would set a precedent for resort developments in the rural parts of the Niagara Escarpment Plan Area. Resorts are supposed to locate on lands designated Escarpment Recreation Area, Urban Areas, or Minor Urban Centres (i.e. villages). "The floodgates will be open for other developers to apply for similar approvals to destroy the escarpment - a UNESCO World Biosphere Reserve" according to CONE.<sup>151</sup> In January 1999, the Niagara Escarpment Commission recommended to the Minister of Natural Resources that the project be approved, and it is now before Cabinet for a decision.

The government's May 1998 budget included a commitment to spend \$20 million over four years to purchase lands for protection purposes.<sup>152</sup> \$13 million of this was earmarked for Escarpment lands. The remainder was for lands in the Rouge Valley and at Lynde Marsh in Whitby.<sup>153</sup>

### **The *Farming and Food Production Protection Act*, 1998**

In June 1997, the government introduced the *Farming and Food Production Protection Act*. The Bill received Royal Assent and came into force in May 1998. The Bill maintained the prohibition in the 1988 *Farm Practices Protection Act* against neighbours of farms from undertaking civil law actions in relation to nuisances which arise from 'normal' farm practices. It also permits farmers to appeal municipal by-laws to control such nuisances to 'Normal' Farm Practices Protection Board. The Board is granted power to disallow these by-laws in response to an appeal by a farmer.<sup>154</sup>

The legislation is particularly disturbing given that a draft State of the Environment Report prepared by the Ministry of Environment and Energy and released to the public in February 1997, indicated that runoff from agricultural operations was the leading cause of declining surface water quality in Southern Ontario.<sup>155</sup> Evidence of the growing environmental impacts of industrial agricultural operations in the province has also emerged from other sources.<sup>156</sup>

## Public Lands

Public lands constitute 87% on Ontario's total land area.<sup>157</sup> Major changes to the planning and control system for public lands were set in motion through the January 1996 Bill 26 amendments to the *Public Lands Act* and the *Lakes and Rivers Improvement Act*. These replaced the existing statutory requirement to obtain approval from the Minister of Natural Resources before undertaking any activities on public lands or affecting public waterways, with provisions which permit the cabinet to make regulations defining when approvals will be required.

In November 1996, regulations were adopted to implement these changes. Approval requirements for mineral exploration activities on public lands were removed, including clearing, mechanical stripping, bulk sampling, drilling and blasting, moving heavy equipment and drilling rigs and building trails.<sup>158</sup> Regulations under the *Lakes and Rivers Improvement Act* removed requirements for approvals from the Ministry of Natural Resources for a wide range of "small-scale" activities affecting shorelines, lakes and rivers, such as the construction of docks and boathouses, and the removal of aquatic plants.<sup>159</sup>

In April 1997, the Ministry of Natural Resources announced a "Lands for Life" initiative. This was intended to establish a broader planning process for the future use of public lands in the province. In June 1997, three "Regional Round Tables" were appointed to seek public input and make recommendations on future land use in the Boreal East (bounded by Kirkland Lake, Hearst and Wawa), Boreal West (North of Superior from Marathon to Thunder Bay to Fort Frances) and Great Lakes-St Lawrence planning areas.<sup>160</sup> The Round Table recommendations were presented in October 1998.

The government announced its response to the recommendations of the 'Lands for Life' Round Table Reports in March 1999, stating its intention to protect 12% of the lands in the planning area from development, a significant increase over current levels and the recommendations of the Round Tables.<sup>161</sup> However, this commitment is subject to a number of major concessions to the forestry and mining industries, and other interests. In the case of mining, statements issued by the Ministry of Northern Development and Mines indicate that mineral tenure in new parks and protected areas is to be maintained, prospecting and exploration permitted in these areas, and land 'borrowed' from parks for mining purposes if significant mineral deposits are found. More than \$20 million in new subsidies to the mining industry are also to be provided.<sup>162</sup>

With respect to forestry, the government has committed to: no long-term reduction in wood supply; no increases in the costs of the wood supply; potential exemptions for the biodiversity protection provisions of the *Crown Forest Sustainability Act* in areas where intensive silviculture is to be practiced; and \$21 million in new subsidies and compensation to the forest industry.<sup>163</sup> The issue of extended tenure for forest companies was not addressed in the government's announcements, but extensions of tenure appear to be implicit in the 'Lands for Life' process. Statements issued by the government also indicate that any future expansion of parks and protected areas will require the "mutual agreement" of the forest and mining industries.<sup>164</sup> Finally, commercial fur harvesting and sport hunting

and fishing are to be permitted in most new protected areas.<sup>165</sup>

It is important to note that the elements of the Ministry of Northern Development and Mines' announcements on March 29 regarding mining directly contradicted provisions of the 1999 Ontario Forest Accord, signed by the representatives of the Partnership for Public Lands,<sup>166</sup> the forest industry and the Ministry of Natural Resources. The Accord stated that mining would be excluded from parks and protected areas,<sup>167</sup> provided for interim protection from mining activities for areas proposed as parks or protected areas,<sup>168</sup> and stated that the Ontario Forest Accord Advisory Board would develop a strategy for additions to the parks and protected areas system.<sup>169</sup>

## **ENVIRONMENTAL SCIENCE, MONITORING AND EDUCATION**

### **Overview and Summary**

Environmental research and monitoring programs are essential components of environmental protection systems. Environmental science enables the identification of emerging problems, the establishment of priority areas for action, and the evaluation of the effectiveness of the policies and programs which are put in place in response to these challenges.

Environmental monitoring is also critical to holding governments accountable for their actions with respect to the environment. This is especially important in the context of the enormous changes which have been made to Ontario's environmental laws and institutions over the past four years. Throughout the 1995-1999 period, the Premier<sup>170</sup> and the Minister of Environment and Energy<sup>171</sup> insisted that the government's actions would not result in damage to the environment or human health. The only way in which these claims could be assessed is through the results of environmental monitoring programs.

Unhappily, the overwhelming trend in environmental science and monitoring in Ontario over the past four years has been one of retreat by the provincial government. Many independent and authoritative agencies both within and outside of the province have delivered reports highlighting the decline of environmental conditions in Ontario, and in the provincial government's capacity to monitor and assess this situation.

Major changes to the elementary school curriculum were adopted in April 1998, and revisions to the secondary curriculum in March 1999. In both cases the environmental content of the curriculum was significantly reduced. This may represent one of the most significant changes in environmental policy undertaken by the province, as in the long term it will result in a population that is less aware of the environmental challenges facing Ontario society.

### **Budgetary Reductions and Program Terminations**

The province's environmental monitoring, research and science activities have been among those most heavily affected by the budgetary reductions and program terminations over the four year duration of the 'Common Sense Revolution.' The withdrawal of most funding for environmental research external to the provincial government (i.e. universities) was among the government's earliest actions.<sup>172</sup> Research programs on environmental technologies, energy efficiency and waste management were also eliminated.<sup>173</sup>

In 1996, the major reductions in the budgets of the Ministries of Environment and Energy (MoEE) and of Natural Resources (MNR) resulted in the lay-off of large numbers of scientific personnel, the termination of long-term research projects.<sup>174</sup> Some of the specific losses in capacity are detailed in Figure 2.5.



**Figure 2.5 : Lost environmental monitoring capacity in 1995-1996 period**

According to the Ontario Public Service Employees Union, the Environmental Commissioner of Ontario and the Ministry of Natural Resources, the following reductions were made within the first two years of the Ontario government's mandate:

- a reduction in the number of MoEE Air Quality Monitoring Stations from 35 to 20 facilities;<sup>175</sup>
- a reduction in the number of MoEE Water Quality Monitoring Facilities from 700 in 1991 to 200 today. It has been reported that no facilities remain in operation north of Barrie;<sup>176</sup>
- a 53% reduction in MoEE groundwater and hydrogeology staff;<sup>177</sup>
- a 21% reduction in MoEE aquatic, aquatic toxicology and ecosystem science staff;<sup>178</sup>
- the termination of drinking water testing services for municipalities by the Ministries of Environment and Energy and of Health;<sup>179</sup>
- the disbandment of the MoEE's Marine Service Unit, which provided vessels and staff for sampling water and sediments and obtaining data for geographic information systems;
- a reduction in the number of sites monitoring acid rain deposition from 39 to 16. Ten years of deposition data have yet to be analyzed, and quality assurance procedures have been reduced as a result of budget cuts. This may compromise the completeness and integrity of the data collected. There is evidence of continuing serious impacts of acid rain, and of a need for further action to curb acid rain causing emissions;<sup>180</sup>
- 61% of the science and technology staff of the Ministry of Natural Resources' Forest Management branch were laid off;<sup>181</sup>
- fish and wildlife field assessment programs delivered by MNR would be "significantly impacted," by restructuring, especially the Science, Technology and Transfer Units, Fisheries Assessment Units, and Great Lakes Assessment Units;<sup>182</sup> and
- testing services for pesticide residues provided to the Ministry of Environment and Energy by the Ministry of Agriculture, Food and Rural Affairs were terminated.<sup>183</sup>

## Independent Assessments

The province's weakening of its environmental science and monitoring capacity has prompted expressions of concern from a number of sources. The Environmental Commissioner highlighted the growing problems in her April 1997 Second Annual Report, particularly in the areas of drinking water testing and monitoring the impacts of acid rain.<sup>184</sup> The Commissioner's April 1998 third Annual report expanded on these themes, noting that data were not being collected in such areas as:

- the loading of toxic substances into Ontario's lakes and rivers;
- the presence of persistent toxic substances in sewage treatment plant effluent;
- total loadings of raw sewage spills into waterways;
- the condition of the more than 1 million septic systems in the province;
- inventories of emissions of inhalable particles;
- no analysis of figures for harvested forest areas since 1991;
- few population surveys of small game species or non-game wildlife.
- no population estimates for most wildlife species that are considered vulnerable, threatened or endangered;
- no analysis of big game mortality; and
- weak information on rare species in Northern Ontario.<sup>185</sup>

The Provincial Auditor highlighted weaknesses in the province's monitoring programs for ambient air quality, hazardous waste management, and surface and

groundwater quality in his 1996 Annual Report.<sup>186</sup> Major gaps in the Ministry's of Natural Resource's fish and wildlife monitoring programs were identified in the Auditor's 1998 report.<sup>187</sup>

Serious concerns about the impact of budgetary reductions to environmental research programs in the Great Lakes basin by federal, state, and provincial governments, including Ontario's, were expressed by the International Joint Commission (IJC) in its 1996 8th *Eighth Biennial Report on Great Lakes Water Quality*. The Commission is responsible for overseeing and reporting on the implementation of the 1978 *Canada-U.S. Great Lakes Water Quality Agreement*. The Commission noted that by 1997, a reduction of between 47-62% in the number of researchers active in the basin was projected against a 1991-92 baseline.<sup>188</sup>

In its report, the IJC also noted that programs under the 1994 *Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem* (COA), such as targets for the achievements in Remedial Action Plans, and persistent toxic substances reductions, "are under stress from government restructuring and resource constraints, as well as regulatory review in Ontario."<sup>189</sup> The COA agreement is the primary vehicle for the implementation of Canada's obligations under the *Great Lakes Water Quality Agreement*.

Commission's expressed its concerns more strongly in its 1998 *9th Biennial Report*, observing that:

"The ability of governments at all levels to deliver, however, is being stressed, and programs to restore and protect the Great Lakes have drastically slowed or halted."<sup>190</sup>

Concerns over the decline in environmental monitoring capacity in Ontario and elsewhere in North America have also been expressed by the North American Commission on Environmental Cooperation.<sup>191</sup>

### *The Evidence of Harm*

Over the past two years reports have been published by a range independent and authoritative bodies identifying major threats to the health of Ontarians and their environment. These included an October 1998 report from the North American Commission on Environmental Cooperation,<sup>192</sup> indicating that the province was the third largest source of releases to the environment and transfers to disposal of pollutants in Canada and the United States.<sup>193</sup> As shown in Table 2.4, Ontario's 1995 releases and transfers of pollutants were exceeded only by those of the states of Texas and Louisiana.

Other reports from the Commission on Environmental Cooperation,<sup>194</sup> Environmental Commissioner for Ontario,<sup>195</sup> Ontario Medical Association,<sup>196</sup> International Joint Commission,<sup>197</sup> the Acidifying Emissions Task Group of the National Air Issues Coordinating Committee,<sup>198</sup> the North East States for Coordinated Air Use Management,<sup>199</sup> and the University of Toronto<sup>200</sup> have stressed the province's air pollution problems and their impacts on human health.

A report by the Office of the Fire Marshal in the aftermath of the July 1997 Plastimet PVC fire raised serious questions about the adequacy of the province's regulation of waste 'recycling' and handling sites.<sup>201</sup> Similar issues were identified by the Canadian Institute for Environmental Law and Policy in a February 1998 report on the management of hazardous wastes in Ontario.<sup>202</sup>

Additional reports have raised concerns over dam safety,<sup>203</sup> the health of the Great Lakes Basin Ecosystem<sup>204</sup> the impacts of climate change on Ontario,<sup>205</sup> and the safety at Ontario Hydro's nuclear generating facilities.<sup>206</sup>

Many of these reports made recommendations for immediate action by government to address the problems identified. The province has taken virtually no action to implement these recommendations.

**Table 2.4 : The Top Twelve Jurisdictions in North American Releases and Transfers by State and Province, 1994 (Matched Chemicals and Industries)**<sup>207</sup>

Province/ State	Population (1994)	Total Releases and transfers (kg) (1994)	Total Releases and Transfers (kg (1995)
Texas	18,378,000	134,570,175	151,082,326
Tennessee	5,175,000	79,366,746	48,249,163
Ontario	10,928,000	78,803,309	74,278,803
Ohio	11,102,000	73,481,781	71,555,943
Louisiana	4,315,000	70,018,775	74,495,761
Illinois	11,752,000	69,769,517	49,704,025
Alabama	4,219,000	65,189,966	49,861,913
Pennsylvania	12,052,000	59,436,588	56,361,058
Michigan	9,496,000	56,855,878	47,645,358
Mississippi	2,669,000	55,278,082	24,821,703
Indiana	5,752,000	53,444,669	46,399,360
Quebec	7,281,000	52,809,233	27,336,541

### *State of the Environment Reporting*

The question of environmental monitoring was highlighted by the controversy in early 1997 over the release of a draft "state of the environment" report prepared by the MoEE in 1992. The Ministry initially denied the existence of the report in response to a

freedom of information request.<sup>208</sup> However, the report was subsequently released by the Minister of Environment and Energy.<sup>209</sup> It was also reported that the Ministry had begun work on a more comprehensive report for release in 1995, but determined that completing and releasing the report was not worth the estimated \$250,000 cost.<sup>210</sup>

In a letter in response to a March 1997 request from a coalition of environmental organizations that the Ministry commit itself to delivering regular State of the Environment Reports, so that the government's claims that its actions were not having a negative effect on the environment could be validated,<sup>211</sup> the Minister stated that such a report would be "a waste of taxpayers' money."<sup>212</sup>

## **Environmental Education Curriculum**

Finally, one of the most significant, yet least noticed, environmental initiatives of the government were the changes to province's elementary and secondary school curricula. In April 1998 the government adopted a new elementary school curriculum. The environmental content of the new curriculum was significantly reduced. An evaluation of the new curriculum by the Ontario Society for Environmental Education concluded that its environmental content averaged less than five percent of learning outcomes for all grades except Grade 7. The Society concluded that there are few and only fragmented requirements for awareness or knowledge building on environmental subjects in lower grades.<sup>213</sup>

A new secondary curriculum was adopted in March 1999.<sup>214</sup> Its environmental content has also been reduced. These changes to the school curricula may represent one of the most significant changes in environmental policy undertaken by the province, as in the long term it will result in a population that is less aware of the environmental challenges facing Ontario society.

## **Strengthening Monitoring Capacity?**

There were only two measures throughout the four-year Common Sense Revolution period which could be regarded as having the potential to strengthen environmental science and monitoring capacity in the province.

### *Research and Development Challenge Fund*

In the government's 1997 budget, the Finance Minister announced that an R&D Challenge Fund was to be established. The Fund provides tax credits and some direct support to industries conducting research and development primarily in advanced technology. Environmental Sciences were listed as one of four target areas after Natural Sciences and Engineering, Mathematics and Health Sciences. All disciplines, however, were eligible to apply to the Fund. In her April 1999 Annual Report the Environmental Commissioner of Ontario noted that not a single environmental science project had been supported by the Fund.<sup>215</sup>

### *Air Monitoring Network Upgrades*

The Province of Ontario claims a \$3 million expenditure to upgrade its air monitoring network over the past few years.<sup>216</sup> However, the Ontario Public Service Employees Union (OPSEU) reported a reduction in number of air quality monitoring stations from 55 to 40 between May and December 1996 and a 45% reduction in technical staff for monitoring since 1992.<sup>217</sup>

## Endnotes

1. See *Ontario Regulation 482/95 and the Environmental Bill of Rights: A Special Report to the Legislative Assembly of Ontario* (Toronto: Environmental Commissioner of Ontario, January 17, 1996).
2. MoEE, *Responsive Environmental Protection*.
3. *Responsive Environmental Protection: A Consultation Paper* (Toronto: Ministry of Environment and Energy, July 1997).
4. Ibid.
5. Environmental Commission for Ontario, 1998 Report (Toronto: ECO, April 1999), pg.158.
6. EBR Registry No. RD7E0001, September 1, 1998.
7. EBR Registry No. RD7E0001, June 12, 1998.
8. Ontario Regulations 324/99 and 325/99, June 1, 1999.
9. ECO, 1998 Annual Report, pp.190-191.
10. *Environmental Bill of Rights*, Ch. 28, S.O., 1993, s.117.
11. The second special report was issued in October 1996. See Environmental Commissioner of Ontario, Keep the Door to Environmental Protection Open: A Special Report to the Legislative Assembly of Ontario (Toronto: Legislative Assembly of Ontario, October 1996).
12. Speaking notes for Eva Ligeti, Environmental Commission of Ontario, New Conference, 11 A.M., April 22, 1997.
13. ECO Press Release, "Environment Low Priority for Province, says Environmental Commissioner," April 29, 1998.
14. ECO, 1997 Annual Report, pg.4.
15. ECO, 1998 Annual Report, pg.??
16. Ibid.
17. "Road illegal, groups claim," The Globe and Mail, December 12, 1996.
18. MoEE, Media Release, April 17, 1997.
19. J.Mahoney, "Groups urge probe of Hydro's dumping into Lake Ontario," The Globe and Mail, June 11, 1997.
20. EBR Request for Review Application 98002.
21. EBR Request for Review Application EBRO 99EBR001.R.
22. J.Saunders, "Inquiry sought into Ontario's air-pollution record," The Globe and Mail, May 17, 1999.
23. Ministry of Environment and Energy EBR Registry Notice, Expiry of Intervenor Funding Act , April 1, 1996.
24. M. Mittelstaedt, "Environmental intervenor funds cut off by Ontario," The Globe and Mail, April 1, 1996.
25. Environmental Assessment Board, "Gary Steacy Dismantling Ltd., Reasons for Decision and Decision," December 1997, EP-97-03.
26. For a detailed discussion of these amendments see Submission of the Canadian Environmental Law Association to the Standing Committee on Resources Development Reviewing Bill 20, pp. 11-12.
27. ECO, Second Annual Report, pg.23.
28. For a detailed analysis of the Bill see M.Winfield, "Brief to the Standing Committee on Social Development Re: Bill 76 - the *Environmental Assessment and Consultation Improvement Act* (Toronto: CIELAP, August 1996). See also R.Lindgren, "Submission of the Canadian Environmental Law Association to the Standing Committee on

Social Development Regarding Bill 76 - the *Environmental Assessment and Consultation Improvement Act*, 1996 (Toronto: CELA, July 1996).

29. *Environmental Assessment and Consultation Improvement Act*, 1996, ss.11.4.

30. *Ibid.*, s.15.2.

31. M. Mittelstaedt, "Board approves garbage dump in mine," *The Globe and Mail*, June 20, 1998.

32. Pers. comm., Tim Gray, Wildlands League, July 1997.

33. R. Gibson and B. Savan, *Environmental Assessment in Ontario* (Toronto: CELRF, 1986).

34. See, Environmental Assessment Advisory Committee, *Reforms to the Environmental Assessment Program* (Toronto: Ministry of Environment, 1991)

35. See *Review Under the Environmental Assessment Act prepared by Ministry and Agencies of the Province of Ontario: Review of the Laidlaw Environmental Services Ltd. Environmental Assessment Hazardous Waste Landfill Expansion* (Toronto: Province of Ontario, December 1996).

36. In a similar case, in July 1996, a 10 million tonne landfill for solid non-hazardous industrial wastes in the town of Stoney Creek, on the Niagara Escarpment was approved without a public hearing before the Environmental Assessment Board. The landfill is operated by a subsidiary of Philip Environmental called Taro Aggregates Ltd. See J. Nichol and S. Nolen, "Dark days at Philip," *McLean's*, March 2, 1998

37. "Gary Steacy Dismantling Ltd: Reasons for Decision and Decision" (Toronto: Environmental Assessment Board (File EP-97-93), December 1997)

38. *Ibid.*

39. ECO, *Annual Report 1997 Supplement*, Appendix C.

40. See EBR Registry No. IA8E1428, October 14, 1998, Environmental Assessment Board file 98-123, Material Resource Recovery SRBP Inc, Application for Amendment to Certificate of Approval for processing PCB wastes.

41. Pers. comm., Brennain Lloyd, Northwatch, May 1998. .

42. "Landfill project gets go-ahead," *The Globe and Mail*, April 24, 1999.

43. Office of the Provincial Auditor, *1997 Annual Report* (Toronto: Queen's Printer, November 1997) pg.123.

44. EBR Registry No. RA8E0008.P.

45. See M. Winfield and R. Nadarajah, "Comments on MoE's Proposal for Standardized Approval Regulations and Approval Exempting Regulations," (Toronto: Canadian Environmental Law Association and Canadian Institute for Environmental Law and Policy, March 1998).

46. *Ibid.*

47. Ontario Regulation 524/98 (*Environmental Protection Act*) and 525/98 (*Ontario Water Resources Act*), September 30, 1998.

48. EBR Registry No. RA8E0036, December 2, 1998.

49. See Ministry of the Environment, Draft Regulation General - Waste Management, June 2, 1998.

50. *Summary Document for the Delivery Strategies - Draft*, Ministry of the Environment, April 9, 1998.

51. "Environment and Energy Minister sunsets three committees," *News Release*, September 29, 1995.

52. "The Policy Advisory Council on Environment," *Hazardous Materials Management* April/May 1996.

53. *Ibid.*

54. Letter Re: Bill 26, Savings and Restructuring Act, 1995, (Schedules K and O (*Mining Act* amendments)) from Tom Wright, Freedom of Information and Privacy Commissioner to Jack Carroll, MPP, Chair, Standing Committee on General Government, December 18, 1998. The Commissioner also raised concerns regarding Schedules F (*Independent Health Facilities Act* amendments), G (*Ontario Drug Benefit Act* amendments), H (*Health Insurance Act*). See Letter Re: Bill 26, *Savings and Restructuring Act, 1995*, from Tom Wright, Freedom of Information and Privacy Commissioner to Jack Carroll, MPP, Chair, Standing Committee on General Government, December 21, 1996.
55. Canadian Institute for Environmental Law and Policy Submission to the Standing Committee on General Government Re: Bill 26, The Savings and Restructuring Act, 1996 (Toronto: CIELAP, December 1995).
56. M. Mittelstaedt, "Ontario urged to restore access to information about Hydro," The Globe and Mail, June 10, 1999.
57. For a detailed commentary on Bill 57, see M. Winfield, "Brief to the Standing Committee on Resources Development Re: Bill 57: *An Act to Improve the Efficiency of the Environmental Approvals Process and Certain Other Matters*" (Toronto: Canadian Institute for Environmental Law and Policy, October 1996).
58. For detailed commentaries on the document see M. Winfield and G. Jenish, Comments on Responsive Environmental Protection (Toronto: Canadian Institute for Environmental Law and Policy, October 1996), and Responding to the Rollbacks: Comments on Responsive Environmental Protection (Toronto: Canadian Environmental Law Association, October 1996).
59. See CELA, Responding to the Rollbacks.
60. ECO. Keep the Door to Environmental Protection Open: A Special Report to the Legislative Assembly of Ontario, October 1996.
61. See M. Winfield and G. Jenish, Ontario's Environment and the 'Common Sense Revolution': A Second Year Report (Toronto: CIELAP, 1997) for a detailed summary of the contents of this document.
62. EBR Registry Posting RA7E0030.P.
63. EBR Registry No. RA7E0028.P and RA7E0029.P.
64. EBR Registry Nos. RA7E0018.P-RA7E0026.P.
65. EBR Registry No. RA8E0017, April 3, 1998.
66. EBR Registry No. RA8E0008.P.
67. Ministry of the Environment, "Draft Regulation: General - Waste Management," June 2, 1998.
68. Ontario's Water Polluters: The Ontario Waste Water Discharge Violations Report (Toronto: Sierra Legal Defence Fund, March 1999).
69. M. Mittelstaedt, "Ontario polluters unchecked, group says," The Globe and Mail, May 10, 1999.
70. Summary Document for the Delivery Strategies - Draft, Ministry of the Environment, April 9, 1998.
71. ECO, Report 1998, pg. 192.
72. Ibid., pp. 192-193.
73. For a detailed discussion of REVA see "Comments on EBR Registry Proposal No. (A8E033 (REVA))," CIELAP Brief 1/99, January 1999.
74. Information provided to the Information and Privacy Commissioner by the Cabinet Office in response to CIELAP's appeals of its freedom of information requests regarding the 'Commission's' activities indicate that an Order-in-Council establishing the Commission was not adopted until December 1997.
75. Red Tape Review Commission, Cutting the Red Tape Barriers to Jobs and Better Government (Toronto: Cabinet Office, January 1997).
76. Ibid., pg. vii.



77.Ibid.

78. See "Index of Records, FOI Access Request 98004" (April 1998 CIELAP request for access to records related to communications between the Red Tape Commission and Ministry of the Environment).

79. See letter from Frank Sheehan, Chair, Red Tape Commission, to David H. Bradley, President, Ontario Trucking Association, September 21, 1998.

80. Information and Privacy Commissioner/Ontario, Order PO 1673, Appeal PA-98-213-1, Cabinet Office, April 30, 1999.

81. CIELAP freedom of information requests, April 1998, Cabinet Office Record 16; See also Ministry of the Environment Record 21.

82. Press Release: "Red Tape Commission - Ontario Government Explores 'One-Window' Approach to Building Regulations and Approvals," February 11, 1998.

83. Government Task Force on Agencies, Boards and Commissions, Report on Restructuring Regulatory and Adjudicative Agencies (Toronto: Cabinet Office, February 1997), pg.26.

84. Ibid., pp.34 and 35.

85. Ibid., pg.13.

86. Government Task Force on Agencies, Boards and Commissions, Report on Operational Agencies, (Toronto Cabinet Office, January 1997).

87. S. Josey, "Pickering may allow building on 'green' area," The Toronto Star, February 12, 1997.

88. Task Force on Agencies, Boards and Commissions, Report on Operational Agencies, pg.9.

89. News Release: "Government's Role in Operations of Water and Sewage Treatment Systems to be Reviewed," Office of Privatization, March 9, 1998.

90. Ibid.

91. Winfield and Jenish, Ontario's Environment and the CSR: A Second Year Report, pg.31.

92. In February 1998, the past president of the Aggregate Producers Association of Ontario was appointed to the Commission. Aggregate extraction is seen as a major threat to the integrity of the escarpment. T. Boyle, "Opposition criticizes appointments," The Toronto Star, April 16, 1998.

93. Ministry of Environment and Energy, News Release, "New Chair Appointed for Environmental Assessment and Appeal Boards," December 3, 1997. As Chair of the Environmental Assessment/Appeal Board, the individual concerned is also able to sit as a Hearing Officer for the purposes of the *Niagara Escarpment Planning and Development Act*.

94. Letter to the Hon. N. Sterling, Minister of the Environment, from John Riley, Acting Executive Director, Federation of Ontario Naturalists, December 11, 1997.

95. I. Urquhart, "Power play beneath the surface," The Toronto Star, January 24, 1998.

96. Ibid.

97. Letter to Agency Reform Commission, Re: Regulatory and Adjudicative Agency Reform Consultation from R.L. Jamieson, Ombudsman, November 14, 1997. See also T. Boyle, "Public service sector 'in a state of crisis'," The Toronto Star, June 16, 1999.

98. See M. Winfield and G. Jenish, Ontario's Environment and the 'Common Sense Revolution': A Third Year Report (Toronto: Canadian Institute for Environmental Law and Policy, July 1998), pp.115-125.

99. ECO, Annual Report 1996.

100. Ombudsman Ontario, Annual Report (Toronto: June 1996), pg.3.

- 101.Information and Privacy Commissioner, 1998 Annual Report (Toronto: June 1999) [www.ipc.on.ca/web\\_site.ups/intro/frames.htm](http://www.ipc.on.ca/web_site.ups/intro/frames.htm).
- 102.The Independent Market Operator created through Bill 35 was brought under the *Freedom of Information and Protection of Privacy Act* through regulation 138/99.
- 103.EBR Registry Notice PA6E0014.P, October 10, 1996.
- 104.See generally I.Dick, J.McGowan, P.Meneguzzi and J.Swaigen, "Air Quality," in J.Swaigen and D.Estrin, Environment on Trial: A Guide to Ontario Environmental Law and Policy (Toronto: Emond-Montgomery Publishers Ltd. and CIELAP, 1993). See also Office of the Provincial Auditor 1996 Annual Report: Accounting Accountability and Value for Money (Toronto: Queen's Printer for Ontario, 1996), pp.115-116.
- 105.EBR Registry Notices PA8E0009 - PA8E0017, March 31, 1998.
- 106."Proposed Standards Information Package: Presentation Overhead," Standards Development Branch, Ministry of Environment and Energy, January 1997.
- 107.EBR Registry Notices PA8E009-PA8E0017, December 23, 1998.
- 108.M.Mittelstaedt, "Firms get first say on levels of toxics," The Globe and Mail, December 17, 1996.
- 109.EBR Registry Notice PA9E0002, January 22, 1999.
- 110."Background on Other Standards Under Development," Ministry of the Environment, February 1998.
- 111.See for example, P.Fafard, "Green Harmonization: The Success or Failure of Recent Environmental Intergovernmental Relations," in H.Lazar, ed., Canada: The State of the Federation 1997/Non-Constitutional Renewal (Kingston: Queen's University Institute for Intergovernmental Relations, 1998).
- 112.Office of the Provincial Auditor, 1996 Annual Report (Toronto: Queen's Printer for Ontario, October 1996), pp.112-128.
- 113.1997 Annual Report of the Provincial Auditor of Ontario to the Legislative Assembly (Toronto: Queen's Printer, November 1997), pp.112-127.
- 114.1998 Annual Report of the Provincial Auditor of Ontario to the Legislative Assembly (Toronto: Queen's Printer, November 1998), pp.175-193.
- 115.Ibid., pp.272-273.
- 116.ECO, Annual Report 1995 (Toronto: ECO, June 1996); ECO, Annual Report 1996, (Toronto: ECO, April 1997); ECO, Annual Report 1997; (Toronto: ECO, April 1998) ECO, Report 1998 (Toronto: ECO, April 1999); Ontario Regulation 482/95 and the Environmental Bill of Rights: A Special Report to the Legislative Assembly of Ontario (Toronto: ECO, January 1996); Keep the Door to Environmental Protection Open: A Special Report to the Legislative Assembly of Ontario (Toronto: ECO, October 1996).
117. For a detailed discussion of the impact of Bill 20 see Submission of the Canadian Environmental Law Association to the Standing Committee on Resources Development Reviewing Bill 20 (Toronto: Canadian Environmental Law Association, February 1996).
- 118.Commission on Planning and Development Reform in Ontario, Final Report (Toronto: Ministry of Municipal Affairs and Housing, June 1992).
119. The MNR has reduced its budget for participation in land-use planning activities by \$3.2 million/yr in its April 11, 1996 Business Plan. The Ministry of Environment and Energy announced a reduction of \$680,000/yr in spending in this area on October 6, 1996.
- 120.See: Ministry of Municipal Affairs, Comprehensive Set of Policy Statements, Natural Heritage, Environmental Protection and Hazard Policies; and Ministry of Municipal Affairs and Housing, Provincial Policy Statement, 2.3 Natural Heritage.
- 121.Ibid.
- 122.T.Appleby, "Town traded for gravel, furious residents say," The Globe and Mail, March 6, 1997.

- 123.Ministry of Municipal Affairs and Housing, Press Release, "Next Steps in the Progressive Delegation of Planning Authority Announced," July 16, 1998.
- 124.Ministry of Municipal Affairs and Housing, Background Information "A balanced framework - The Development Charges Act, 1997," March 2, 1998.
- 125.Ministry of Finance, response to Freedom of Information Request G-98-0053-01, May 27, 1998.
- 126.For a detailed commentary on Bill 106 see C.Baines and I. Attridge, "Submission to the Standing Committee on Financial and Financial Affairs Concerning the *Fair Municipal Finance Act, 1997* (Bill 106), (Toronto: The Georgian Bay Land Trust, April 1997).
- 127.Pers. comm., Ian Attridge, Research Associate, CIELAP, July 5, 1999.
- 128.In areas without municipal organization, regulatory functions are transferred to the Ministry of Municipal Affairs.
- 129.R.Lindgren and S.Miller, Ontario Water Resources: The Need for Public Interest Regulation: Submission to the Ontario Ministry of Environment and Energy Re: Bill 107 (Toronto: Canadian Environmental Law Association and Great Lakes United, February 1997).
- 130.See M.Winfield, "Brief to the Standing Committee on Resources Development on Bill 107: *The Water and Sewerage Services Improvements Act*" (Toronto: Canadian Institute for Environmental Law and Policy, April 1997).
- 131.Bill 103, the *City of Toronto Act, 1996*.
- 132.See, for example, M.Winfield, "Presentation to the Standing Committee on General Government Regarding Bill 103, *The City of Toronto Act*," March 3, 1997.
- 133.Press Release: "Draft Municipal Act Released for Consultation," February 11, 1998.
- 134.Letter from John Sewell, to the Ministry of Municipal Affairs and Housing, Local Government Policy Branch, April 20, 1998.
- 135.Richard O'Brien, Chair, Metro Toronto Region Conservation Authority, remarks to Conservation Council of Ontario, January 29, 1997.
- 136.Ibid.
- 137.Ibid. See also, S.Kneisel, "Erosion Control: Conservation Authorities fight to stay afloat even as their funding is pulled," Seasons, Summer 1999.
- 138.NEC 1994/95 Budget \$2.5 million; 1996/97 \$1.6 Million.
- 139.Employment within Ministries of Environment and Natural Resources, 1994/95 and 1997/98 fiscal years, responses to CIELAP Freedom of Information Requests, presented in Winfield and Jenish, Ontario's Environment and the 'Common Sense Revolution': A Third Year Report, Tables vi and v .
- 140.EBR Registry Notice RA6E011.P, August 12, 1996.
- 141.M.Mittelstaedt, "Tories have put Niagara Escarpment at risk, critics say," The Globe and Mail, August 21, 1996.
- 142.See EBR Registry Number RA6E0011.D, October 17, 1996.
- 143.M.Mittelstaedt, "Conservatives ease rules for long-time quarries on Niagara Escarpment, The Globe and Mail, October 18, 1996.
- 144.B.McAndrew, "Environment minister in '96 okayed quarry dig, court told," The Toronto Star, May 9, 1997.
- 145.Ibid.
- 146.Mr. Sterling had been instrumental in ensuring the passage of the Plan in 1985.
- 147.M.Mittelstaedt, "Groups fear exploitation of Niagara Escarpment," The Globe and Mail, March 18, 1997.
- 148.Winfield and Jenish, Ontario's Environment and the 'Common Sense Revolution': A Second Year Report, pg.31.

- 149.T.Boyle, "Opposition criticizes appointments," The Toronto Star, April 16, 1998.
- 150."Report to the Niagara Escarpment Commission in the Matter an Application by the Niagara Land Company to Amend the Niagara Escarpment Plan" by Carl Dombek and Pauline Browes, November 12, 1998, PN-120-97.
- 151.Coalition on the Niagara Escarpment, Action Alert "Winery Resort Threatens Escarpment," December 1998.
- 152."\$35 million for environment," The Toronto Star, May 6, 1998.
- 153.Pers. comm., Linda Pim, Federation of Ontario Naturalists, July 19, 1999.
- 154.For a detailed commentary on the Bill see, P.McCulloch, "Submission to the Standing Committee on Resources Development Regarding Bill 146, An Act to Protect Farming and Food Production" (Toronto: Canadian Environmental Law Association, 1998).
- 155.1992 Status Report on Ontario's Air, Water and Waste (Toronto: Ministry of Environment and Energy, unpublished), pg.45.
- 156.T.Walkom, "The Whole Hog," The Toronto Star, May 9, 1998.
- 157.MNR Fact Sheet: Working on Crown Land, November 1996.
- 158.See Ministry of Natural Resources Press Release and Fact Sheets, "New Regulations Guide Activities on Crown Land," November 5, 1997.
- 159.Ibid.
- 160.MNR, Press Release, "Hodgson, Announces Lands for Life Committees, June 17, 1997.
- 161.Ministry of Natural Resources, *Backgrounder: Ontario's Living Legacy/New Parks and Protected Areas*, March 29, 1999.
- 162.Ministry of Northern Development and Mines, *Backgrounder: Ontario's Commitments to the Mineral Industry*, March 29, 1999; Ministry of Northern Development and Mines, *Press Release* "Hodgeson Announces \$19 Million for Operation Treasure Hunt," March 29, 1999; Ministry of Northern Development and Mines, *Press Release*, "Hodgeson Announces \$4 Million for Ontario Prospectors," March 29, 1999.
- 163.Ministry of Natural Resources, *Backgrounders - Ontario's Living Legacy/The Ontario Forest Accord and the Living Legacy*, March 29. 1999.
- 164.MNDM, *Ontario's Commitments to the Minerals Industry*.
- 165.MNR, *Backgrounder: Ontario's Living Legacy/New Parks and Protected Areas*, March 29, 1999.
- 166.Consisting of the Wildlands League, the Federation of Ontario Naturalists, and the World Wildlife Fund Canada.
- 167.The 1999 Forest Accord, Article 1.
- 168.Ibid., Art.2.
- 169.Ibid., Art.6.
- 170.Quoted in The Globe and Mail, August 17, 1996.
- 171.MoEE News Release "Sterling extends consultation on responsive environmental protection," September 5, 1996.
- 172.See Winfield and Jenish, Ontario's Environment and the "Common Sense Revolution." pp.63-64.
- 173.Ibid.
- 174.See, for example, D.Bell et.al., "The Urgent Need to Sustain Long-Term Ecological Research and Monitoring in Canada," a paper resulting from A Workshop on Environmental Science Research, Faculty of Environmental Studies, York University, Toronto, May 22, 1997.

175. Ontario Public Service Employees Union (OPSEU), Nothing Left to Cut, January 9, 1997, Fig.4a.
176. Ibid., pg.1.
177. Ibid., figure 9.
178. Ibid.
179. ECO, Second Annual Report, pp.17-20.
180. Ibid., pp. 20-21.
181. Forest Management Branch, Forest Management Business Plan, (Toronto: MNR, May 1996).
182. MNR, Fish and Wildlife Management Business Plan: Overview of Fish & Wildlife Management Review (Toronto: June 1997). pg.8.
183. B. McAndrew, "Cutbacks could affect pesticide testing," The Toronto Star, January 30, 1997.
184. ECO, 1996 Annual Report.
185. ECO, 1997 Annual Report.
186. Office of the Provincial Auditor, 1996 Annual Report: Accounting/Accountability/Value for Money (Toronto: Queen's Printer, October 1996), pp.113-128.
187. Office of the Provincial Auditor, 1998 Annual Report of the Provincial Auditor of Ontario to the Legislative Assembly (Toronto: Queen's Printer, 1998) pp.175-193.
188. International Joint Commission, Eighth Biennial Report on Great Lakes Water Quality (Washington and Ottawa: 1996), pp.5-7.
189. Ibid., pp. 4-5.
190. IJC, 9th Biennial Report on Great Lakes Water Quality, pg.18.
191. Continental Pollutant Pathways: An Agenda for Cooperation to Address Long-Range Transport of Air Pollution in North America (Montreal: Commission on Environmental Cooperation, September 1997) and Long-Range Transport of Ground-Level Ozone and its Precursors: Assessment of Methods to Quantify Transboundary Transport within the Northeastern United States and Eastern Canada (Montreal: Commission on Environmental Cooperation, October 1997).
192. Taking Stock: North American Pollutant Releases and Transfers : 1995 (Montreal: Commission for Environmental Cooperation, 1998).
193. Taking Stock: North American Pollutant Releases and Transfers: 1994 (Montreal: North American Commission on Environmental Cooperation, 1997).
194. Continental Pollutant Pathways: An Agenda for Cooperation to Address Long-Range Transport of Air Pollution in North America (Montreal: North American Commission for Environmental Cooperation, 1997); Long-Range Transport of Ground-Level Ozone and Its Precursors (Montreal: North American Commission for Environmental Cooperation, 1997).
195. Open Doors - Ontario's Environmental Bill of Rights: Annual Report 1997 (Toronto: Environmental Commissioner for Ontario, April 1998).
196. The Health Effects of Ground-Level Ozone, Acid Aerosols and Particulate Matter (Toronto: Ontario Medical Association, May 1998).
197. The IJC and the 21st Century (Washington D.C. and Ottawa: International Joint Commission, 1997).
198. Acidifying Emissions Task Group, Towards a National Acid Rain Strategy (Ottawa: NAICC/Environment Canada, October 1997).

- 199.Air Pollution Impacts of Increased Deregulation in the Electric Power Industry: An Initial Analysis (Northeast States for Coordinated Air Use Management, January 1998).
- 200.Emissions from Coal-Fired Electric Stations: Environmental Health Effects and Reduction Options (Toronto: University of Toronto Institute for Environmental Studies and Pollution Probe, January 1998).
- 201.Office of the Fire Marshal, Protecting the Public and the Environment by Improving Fire Safety at Ontario's Recycling and Waste Handling Facilities (Toronto: Ministry of the Solicitor General and Correctional Services, August 1997).
- 202.M.Winfield, Hazardous Waste Management in Ontario: A Report and Recommendations (Toronto: Canadian Institute for Environmental Law and Policy, February 1998).
- 203.Unsafe Dams? A Report by the IJC (Washington D.C. and Ottawa: International Joint Commission, February 1998).
- 204.The IJC and the 21st Century (Washington and Ottawa: International Joint Commission, October 1997).
- 205.The Canada Country Study: Climate Impacts and Adaptation, Ontario Region (Ottawa: Environment Canada, November 1997).
- 206.Report to Management: IIPA/SSFI Evaluation Findings and Recommendations (Toronto: Ontario Hydro, July 1997).
- 207.Commission for Environmental Cooperation "Taking Stock / North American Pollutant Releases and Transfers 1994", Montreal 1997, page 21.
- 208.M.Mittelstaedt, "Ministry denies study exists," The Globe and Mail, January 21, 1997.
- 209.For a detailed analysis of the contents of the report, and other sources on information regarding the issues addressed in it, see D.Macdonald, R. Nadarajah, M.Winfield, and C.Winter, Our Future, Our Health! A Statement of Concern by Ontario Environmental Non-Governmental Organizations (Toronto: Ontario Environmental Protection Working Group, March 1997).
- 210.M.Mittelstaedt, "Ontario scrapped review of pollution threats, records show," The Globe and Mail, March 15, 1997.
- 211.See D.Macdonald, R.Nadarajah, W.Winfield and C.Winter, Our Future, Our Health: A Statement of Concern by Ontario Environmental Organizations (Toronto: Ontario Environmental Protection Working Group, March 1997).
- 212.Correspondence from the Hon. Norm Sterling, Minister of Environment and Energy, to the Ontario Environmental Protection Working Group, June 2, 1997.
- 213."OSEE ranks frequency of environmental outcomes generally low in new Ontario elementary science curriculum," Parent's Environmental Network Newsletter, May 1998.
- 214.Ontario Ministry of Education and Training, News Release, "ontario's new high school curriculum increases emphasis on math science and English," March 4, 1999.
- 215.ECO, 1998 Annual Report, pg.31.
- 216.Ministry of the Environment, Media Backgrounder "Ontario's Ministry of the Environment: Key Initiatives," June 22, 1998.
- 217.Ontario Public Service Employees Union, Nothing Left to Cut, pp.2-3.

# Part 3: Environmental Protection

## Table of Contents

Air Quality .....	3 - 1
Waste Management .....	3 - 12
Water .....	3 - 25
Energy .....	3 - 39
Pesticides & Agriculture .....	3 - 49
Endnotes .....	3 - 53

# AIR QUALITY

## Introduction and Overview

On many occasions over the past four years, the government of Ontario identified reductions in air pollution, particularly the serious smog problems in Southern Ontario, as its leading environmental priority.<sup>1</sup> Many reports from independent and authoritative sources, including the Ontario Medical Association, Provincial Auditor, Environmental Commissioner, International Joint Commission and the North American Commission for Environmental Cooperation have highlighted the extent of the province's air pollution problems, and their impact on human health. However, actual progress on measures to reduce air pollution has been very limited. In fact, in many cases the government has adopted policies which are likely to make the problem worse.

The Ministry of the Environment proposed extensive changes to its air pollution control regulations as part of its regulatory 'reform' program, beginning in 1996. Although a number of the Ministry's proposals were eventually dropped, as it was pointed out that they were likely to lead to significant increases in air pollution, the Ministry has proceeded with regulations exempting a range of 'area' sources of air pollution from provincial approval requirements. The Ministry is also proposing to proceed with 'standardized' approval regulations for many other air pollution sources. Consistent with this direction, the Ministry of the Environment's April 1998 'Delivery Strategy' instructed Ministry staff not to act on complaints about air pollution from a range of 'area' and mobile sources.

The implementation of a vehicle inspection and maintenance program was deferred repeatedly, but eventually began in April 1999. However, it has been pointed out by the Environmental Commissioner and others that the program's benefits are likely to be overwhelmed by the impact of other policies adopted by the provincial government. The withdrawal of provincial funding for public transit services, and the adoption of land-use policies which promote and facilitate urban sprawl, have been highlighted as being particularly problematic in this regard, as they are likely to lead to increased automobile use.

The government's Smog Plan, released in January 1998, was widely criticized as being inadequate and unlikely to be effective. The Ministry of the Environment's proposals to revise its standards for hazardous air pollutants have moved forward very slowly. In some cases, the standards eventually adopted by the Ministry were significantly weaker what it had stated earlier was necessary to protect human health and the environment.

The implementation of Ontario Hydro's Nuclear Asset Optimization Plan (NAOP) has had a major negative impact on air quality in the province. The Plan relies heavily on fossil fuel powered generating stations to provide replacement power for Ontario Hydro's 'laid-up' nuclear facilities, resulting in major increases in emissions of carbon dioxide, sulphur



dioxide, nitrogen oxides, particulates and heavy metals. The government has also failed to articulate how it intends to ensure that the introduction of competition into the province's electricity market will not result in increases in air pollution.

The Ministry of the Environment has stated that "improvements in air quality have levelled off and in some areas particulate levels are rising again. Long-standing particulate problems persist in a number of urban centres." In addition, the Ministry has noted an ongoing increase in ground level ozone,<sup>2</sup> and a rise in median concentrations of some volatile organic compounds, such as benzene, toluene and xylene, since 1995.<sup>3</sup>

Over the 1995-1999 period, the Ontario government sought to block, weaken or delay a number of national initiatives on major air quality issues. These included acid rain, smog, the sulphur content of gasoline and climate change.

## **Regulatory 'Reform'**

### *Incineration Ban Repeal.*

In December 1995, a ban on the construction of new municipal waste incinerators established in 1992, was repealed by the provincial government. This action was specifically criticized as being likely to result in increases in the presence of priority pollutants in the Great Lakes Basin by the International Joint Commission in its 8th<sup>4</sup> and 9th<sup>5</sup> Biennial Reports on Great Lakes Water Quality. Municipal waste incinerators have been identified as major sources of a wide range of contaminants, including dioxins and furans, heavy metals including mercury, lead and cadmium, and sulphur dioxide and nitrogen oxides.<sup>6</sup>

### *Responsive Environmental Protection*

In July 1996, the Ministry of the Environment released a discussion paper entitled *Responsive Environmental Protection*. The paper included extensive proposals for revisions to the Ministry's regulations related to air pollution. These included:

- the repeal of the "Sulphur Content of Fuels Regulation," intended to control sulphur dioxide emissions from the burning of fuel oil in Metro Toronto;
- the repeal of the "Hot Mix Asphalt Facilities Regulation," which controls emissions from hot mix asphalt facilities;
- the repeal of the "Lambton Industry Meteorological Alert Regulation," which requires reductions in sulphur dioxide emissions by industry in Lambton County during air pollution alerts;
- the weakening of regulatory controls on the incineration of hazardous wastes and liquid industrial wastes or their burning as "fuel;"
- permitting the widespread burning of municipal solid wastes as "waste-derived fuel;" and
- reducing reporting requirements under the "Countdown Acid Rain" program for the province's largest generators of sulphur dioxide emissions.

### *Better, Stronger Clearer Environmental Regulations for Ontario*

In November 1997, the Ministry released *Better, Stronger, Clearer: Environmental Regulations for Ontario* a document outlining its intentions regarding the implementation of the regulatory 'reform' proposals presented in the July 1996 *Responsive Environmental Protection* discussion paper. The November 1997 document indicated that the government intended to back away from many of the proposals it had presented in July 1996 with respect to air pollution.

In October 1998, the Ministry of the Environment posted a proposal to transfer responsibility for the administration and operation of the Lambton Industry Meteorological Alert program to the Lambton Industrial Society. The LIS would monitor ambient SO<sub>2</sub> concentrations and weather conditions; notify the Ministry spills action centre when concentrations are such that a LIMA needs to be initiated or terminated; and notify the affected industries. The air monitoring station at Port Huron Ontario would be removed as part of the proposal.<sup>7</sup>

### *Bill 57 Amendments to the Environmental Protection Act*

In the meantime, Bill 57, the *Environmental Approvals Improvements Act*, first introduced in June 1996, was enacted in June 1997. The Bill amended the *Environmental Protection Act* to permit the making of regulations that allow the exemption of specified types of proposals from the approval requirements of the Act. The amendments also permit requirements and conditions on any activity covered by the act, and approval exemptions under the act, to be specified by regulation.

### *'Standardized' Approvals and Approval Exemption Regulations*

The primary purpose of the Bill 57 amendments to the *Environmental Protection Act* was to provide for the implementation of the Ministry of the Environment's proposals for 'Standardized Approval Regulations' (SARs) and 'Approval Exemption Regulations' (AERs). These were first posted on the Environmental Bill of Rights registry in February 1998. Under the SAR system, activities meeting certain criteria would be exempted from the normal approval requirements of the *Environmental Protection Act* or *Ontario Water Resources Act*. AERs would provide unconditional exemptions from approvals for certain activities.<sup>8</sup> The Ministry's specific proposals related to air pollutants are outlined in Table 2.2 in the section "Standards Setting and Regulatory Processes".

Major questions have been raised about the Ministry's ability to effectively monitor and enforce approvals under the SAR system, and regarding the legal status and implications of SAR and AER approvals.<sup>9</sup> The Ministry of the Environment's first proposals for air pollution AERs were implemented in September 1998<sup>10</sup> and a second set of air pollution AERs was proposed in December 1998.<sup>11</sup> The Ministry's SAR proposals for air pollutants have yet to be implemented.

## *Ministry of the Environment Delivery Strategy and Air Pollution Regulation Enforcement*

In February 1999, it was revealed that the Ministry of the Environment had developed a delivery strategy for its operational staff, directing them not to respond to public complaints about a wide range of environmental problems, or to direct such complaints to other agencies and municipalities. Specific examples included problems arising from: activities related to agriculture; construction and demolition; diesel generators; gravel pits and quarries; mobile sources; recycling and composting regulatory requirements; tire disposal sites with less than 5,000 tires; inquiries about pesticide use; and residential pesticide use.<sup>12</sup> Many of these potential sources had been proposed by the Ministry of the Environment as candidates for AER or SAR regulations.

A March 1999, analysis of the Ministry's law enforcement activities by the Sierra Legal Defence Fund indicated that in 1997 there were 1,224 violations of air pollution regulations, resulting in four charges. In 1998 there were 3,354 violations, resulting in two charges.<sup>13</sup>

### **Standards Revisions**

The Ministry of the Environment announced a program to revise its standards for water, air and soil contaminants as a major project in October 1996.<sup>14</sup> The updating of standards for toxic air pollutants was identified as a priority for this effort. The province's current standards in this area are widely recognized as being out of date and inadequate.<sup>15</sup> This was point was highlighted by the Provincial Auditor in his October 1996 Annual Report.<sup>16</sup>

However, progress in this area has been very slow. In the first two years of the project, only two new air pollution standards were implemented. Strengthened summer gasoline volatility limits were adopted in February 1997 and a new "interim" Ambient Air Quality Criteria (AAQC) for PM<sub>10</sub> was adopted in November 1997. However, the latter standard was only a guideline, and will only be incorporated into Certificates of Approval for new facilities.

Proposals for revised air standards for 10 hazardous air pollutants were posted on the EBR registry in March 1998.<sup>17</sup> However, a number of the proposed standards were substantially weakened from January 1997 proposals put forward by Ministry indicating what was required in order to protect of human health and the environment.<sup>18</sup> Proposals for new standards for four heavy metals (nickel, chromium IV, Cadmium and Arsenic), which included some of the most dramatic changes, were dropped altogether (See Table 2.2 "Standards Setting and Regulatory Processes" section). There have been indications that these changes were the result of very strong lobbying from industry, which had been given opportunities to 'preview' the proposed standards.<sup>19</sup>

The lack of progress on the standards revision process was highlighted by the Provincial Auditor in his 1998 Annual Report.<sup>20</sup> Revised standards for nine hazardous air

pollutants were adopted in December 1998.<sup>21</sup> However, in most cases the improvements over existing standards were marginal. The Ministry invited public comments on proposals for the revision of its air pollution standards for 18 additional substances in January 1999.<sup>22</sup>

## **Ontario Smog Management Plan**

Smog conditions arise from the reaction of volatile organic compounds and nitrogen oxides in the presence of heat and sunlight to form ground level ozone. Smog also includes particulate matter, and can be worsened by humidity and acidic emissions. Most parts of southern Ontario experience high levels or exceedances of Environment Canada's ground level ozone standard on a regular basis in the summertime. The City of Toronto, for example, experiences about 37 days per year in which ground ozone levels exceed the standard.<sup>23</sup> The Canadian Council of Ministers of the Environment (CCME) has estimated that smog-induced health problems could impose costs of between \$10 billion and \$30 billion by the year 2020.<sup>24</sup>

In May 1998 the Ontario Medical Association issued a position paper on the health effects of Ground-Level Ozone, Acid Aerosols & Particulate Matter. The paper included the following statement:

"At current levels of exposure, pollutants such as ground-level ozone, inhalable particles and total sulphur compounds are responsible for adverse health effects in Ontarians."<sup>25</sup>

The report went on to make recommendations for the enactment of more stringent sulphur and nitrogen oxide emission standards for stationary sources, particularly the electricity sector, California level standards for light and heavy-duty vehicles, reductions from off-road engines, an expanded vehicle inspection and maintenance program, and tougher standards for the sulphur content of fuels.

Other reports from the Commission on Environmental Cooperation,<sup>26</sup> Environmental Commissioner for Ontario,<sup>27</sup> International Joint Commission,<sup>28</sup> the Acidifying Emissions Task Group of the National Air Issues Coordinating Committee,<sup>29</sup> the North East States for Coordinated Air Use Management,<sup>30</sup> and the University of Toronto<sup>31</sup> have also stressed the province's air pollution problems and their impacts on human health.

The Ministry of the Environment has noted that: "Improvements in air quality have levelled off and in some areas particulate levels are rising again. Long-standing particulate problems persist in a number of urban centres."<sup>32</sup> In addition, the Ministry has noted an ongoing increase in ground level ozone,<sup>33</sup> and an increase in median concentrations of some volatile organic compounds, such as benzene, toluene and xylene, since 1995.<sup>34</sup>

### *Towards a Smog Plan for Ontario*

In June 1996, the Ministry of Environment and Energy released *Towards a smog plan for Ontario : A Discussion Paper*. The paper stated that the province was committed

to the goals of a 45% reduction in nitrogen oxides and volatile organic compounds (which combine to produce ground level ozone - one of the most hazardous compounds of smog). These goals arise from the CCME Management Plan for Nitrogen Oxides / Volatile Organic Compounds. Key areas identified for action included: reducing transboundary pollution; reducing the Ontario government's own emissions; reducing transportation emissions; reducing industrial, commercial municipal emissions; environmentally-friendly products; and public education.<sup>35</sup>

### *Gasoline Volatility and PM10 Standards Revisions; Waste Oil Burner Ban*

The February 1997 revision of the Gasoline Volatility Regulation (Reg. 271/91) to lower summertime gasoline volatility requirements in Southern Ontario from 72 kiloPascals (kPa) to 62 kPa, and November 1997 adoption of an interim guideline for PM10 were intended to support the development of a provincial smog plan. In addition, an 'interim' ban on the approval of new waste oil burning space heaters was adopted in March 1998. The MoE estimates that about 10 million litres of oil per year are disposed of this way each year in the province.<sup>36</sup>

### *The Ontario Smog Plan*

The Ministry of the Environment announced its broader plan to reduce smog in January 1998. The Plan's key goals were to reduce nitrogen oxides (NOx) and volatile organic compounds (VOCs) by 45% by the target year of 2015. The government expected that this would reduce ozone exceedences by 75%.<sup>37</sup>

The smog plan was widely criticized as being inadequate. In her April 1998 report to the Legislature, the Environmental Commissioner noted that the Plan only identified how half of the proposed emission reductions were to be achieved, lacked clear funding priorities, contained no plan to upgrade existing Certificates of Approval for point sources, and failed to provide a plan to improve public transit.<sup>38</sup>

The Commissioner also noted that policies being pursued by the Ministries of Municipal Affairs and Housing, and Transportation seemed likely to increase urban sprawl and vehicle use, and thereby make the smog problem worse.<sup>39</sup> Environmental and public health organizations criticized the plan for its slow time line, reliance on voluntary action by industry, and lack of monitoring and reporting mechanisms.<sup>40</sup>

The Environmental Commissioner concluded by stating that:

"In fact, MOE's own emissions projects, which factor in future economic growth, show that even if all existing and proposed pollution control activities are carried out over the next 18 years, Ontario's overall air quality is likely to be somewhat worse in 2015 than it is today."<sup>41</sup>

### *The 'Drive Clean' Vehicle Inspection and Maintenance Program*

Vehicular traffic contributes significantly to ground level ozone, nitrogen oxides, particulates and the formation of smog. Concentrations of these pollutants could be reduced by ensuring that vehicles are properly maintained. Toward this end many jurisdictions in North America have made it a condition of vehicle licensing that a vehicle undergo an emissions test and that its pollution control equipment work or be replaced before its permit is renewed.

The province considered the establishment of a comprehensive vehicle inspection and maintenance program for several years. A pilot program was set up in Mississauga in April 1995 but was discontinued in October 1996. In August 1997 the Ministry of Environment and Energy announced its intention to proceed with the implementation of a vehicle emissions inspection and maintenance program. The program was to begin to be implemented in the summer of 1998. However, in April 1998, the Minister of the Environment announced that the government would not be proceeding with the program in 1998.<sup>42</sup>

Passing a 'Drive Clean' inspection became a mandatory condition of vehicle licence renewals on April 1, 1999. However, the program will initially be limited to the Greater Toronto area and the Region of Hamilton-Wentworth and will not be phased in for heavy trucks and buses until the fall of 1999.

In her 1998 Annual Report to the Legislature, the Environmental Commissioner for Ontario raised concerns about the integrity of the program, in that vehicle testing and repairs could be done in the same shop, creating a potential conflict of interest; that the program was not following some of the key recommendations in the CCME Code of Practice for vehicle inspection and maintenance programs; and that certain key procedures in the operation of the program had not yet been finalized.<sup>43</sup> The Commissioner also noted that Ministry of the Environment may be overestimating the vehicle emission reductions that can be achieved by the program.<sup>44</sup> Finally, the Commissioner noted that drive clean will have "minimal positive effect"<sup>45</sup> if the number of vehicles on the roads continues to rise, and noted government's policy of withdrawing provincial funding for public transit was having the effect of increasing vehicle traffic.<sup>46</sup>

### **Ontario Hydro Nuclear Asset Optimization Plan (NAOP)**

In August 1997 Ontario Hydro announced a Nuclear Asset Optimization Plan (NAOP) to refurbish most of its nuclear generating facilities. The plan was developed in response to an external assessment that raised major concerns over the safety of the utility's nuclear operations.<sup>47</sup> The utility's plan relied heavily on coal-fired generation to replace the 'laid-up' nuclear generating capacity affected by the plan.

The implementation of the NAOP has resulted in major increases in the utility's acid

gas emissions (nitrogen oxides and sulphur dioxide). Ontario Hydro's acid gas emissions had fallen from 210,000 tonnes in 1992 to 120,000 tonnes in 1996. Its current limit under the Countdown Acid Rain Program is 215,000 tonnes. However, between 1996 and 1998 emissions of nitrogen oxides and sulphur dioxides from Ontario Hydro's coal-fired facilities rose 58% and 68% respectively, to a total of 199,000 tonnes, a level approaching the Countdown Acid Rain cap.<sup>48</sup>

Furthermore, the utility's carbon dioxide emissions had been falling for a number of years (27 Mt in 1992; compared to 21 Mt in 1996)<sup>49 50</sup> and its target was to stabilize its emissions at the 1990 level (26 Mt) by the year 2000.<sup>51</sup> Preliminary estimates suggested that Ontario Hydro will violate this commitment by emitting at least 30 Mt of carbon dioxide per year over 1998, 1999 and 2000.<sup>52</sup>

To combat some of the ramifications of these developments, Ontario Hydro purchased 10,000 (U.S.) tons of carbon dioxide reduction credits from the Southern California Edison electric utility. The utility did this despite the fact that a verifiable and workable greenhouse gas emission credit trading system has not been devised nationally or internationally. The purchase was viewed as lending support to the concept of an international emissions trading program, one of the options under discussion at the Kyoto Conference on Climate Change in December 1997.<sup>53</sup>

## **Electricity Competition and Air Pollution**

In October 1998, Bill 35, *The Energy Competition Act*, was enacted. The Bill is intended to introduce competition into the electricity market in Ontario and divided Ontario Hydro into a number of entities including: the Ontario Power Generation Corporation with generating assets; the Ontario Hydro Service Corporation to operate transmission and distribution infrastructure; and the Ontario Hydro Financial Corporation to hold Ontario Hydro's debt.

The Bill also created an Independent Market Operator (IMO) to operate the competitive market and provided the Ontario Energy Board with a regulatory function through requirements for licencing as a condition of market access. The Act makes provision for the requirement of electricity suppliers to be in compliance with environmental performance standards as a condition of market access, but makes no provision regarding the nature of these standards.

Major concerns have been raised that unless specific measures to control emissions from new sources of supply are adopted, the introduction of competition into the electricity sector will result in major increases in air pollution.<sup>54</sup> This is due to short-term cost advantages of coal-fired generation both inside and outside of Ontario. In fact, forecasts by Natural Resources Canada suggest that the province's electricity-related greenhouse gas emissions in 2020 will be 2.2 times greater than its 1990 levels<sup>55</sup> in a competitive market.

Maintaining the existing regulations will not be adequate to prevent increased air

pollution in a competitive electricity market. Ontario's existing caps on emissions of SO<sub>2</sub> and NO<sub>x</sub> emissions under the Countdown Acid Rain program apply only to Ontario Hydro. Unless these regulations are extended and strengthened, new domestic and foreign entrants into the Ontario market will not be subject to the emission limits which they establish. No limits currently exist at all with respect to releases of air toxics (principally heavy metals) from the electricity sector, and Ontario Hydro's voluntary CO<sub>2</sub> reduction commitments could be exceeded in the years ahead as a result of the implementation of the NAOP.

The situation is further complicated by the conclusions of the Ontario Medical Association's May 1998 position paper on the health impacts of air pollution and the October 1997 report of National Air Issues Coordinating Committee's Acidifying Emissions Task Group.<sup>56</sup> Both reports indicated that a 75% reduction in permitted levels of sulphur dioxide emissions in Eastern Canada was necessary to protect human health and the environment.

The government has, to date, failed to indicate how it intends to deal with these problems with respect to the introduction of competition into the energy market. The application of Ontario standards to out-of-province generating sources supplying energy to the province may present particularly significant challenges, as it will require the close cooperation of other jurisdictions, and may also raise international trade issues.

### **Blocking National Initiatives on Acid Rain, Smog, Sulphur Content of Gasoline and Climate Change**

Despite the Government of Ontario's repeated statements that reducing air pollution is its priority environmental issue, the province has taken steps to block a number of major intergovernmental initiatives on the subject.

#### *Acid Rain*

Ontario's representatives played a central role in undermining the consensus on the National Air Issues Coordinating Committee's Acidifying Emissions Task Group in favour of additional action to reduce emissions that cause acid rain.<sup>57</sup> The Task Group's October 1997 report indicated that a 75% reduction in permitted levels of acidifying emissions in Eastern Canada was required to halt the continuing damage to water bodies and human health.<sup>58</sup> A Canada-Wide Acid Rain Strategy was agreed to by the federal and provincial energy and environment ministers in October 1998.<sup>59</sup> However, it contained no specific targets or timetables for reducing acidifying emissions.

#### *The National Smog Plan*

The province has played a similar role in halting the development of a National Smog Management Plan. Efforts towards the development of such a plan were stalled in the summer of 1997 when Ontario and British Columbia indicated that they would be unable to prepare and consult on their Regional Smog Management Plans prior to the fall



1997 joint energy and environment ministers' meeting.<sup>60</sup>

### *Sulphur Content of Gasoline*

In November 1998 it was revealed that the Ontario Ministers of the Environment, Economic Development and Trade and Transportation had written to the federal Minister of the Environment, opposing a federal initiative to dramatically lower the sulphur content of gasoline sold in Canada.<sup>61</sup> The October 1998 federal proposal would lower the average sulphur content of gasoline to 30 ppm from an national average of 350 ppm, by 2005.<sup>62</sup> The government of Ontario had publicly stated its support for the federal initiative.<sup>63</sup> Gasoline sold in Ontario has one of the highest sulphur content levels in the world<sup>64</sup> and sulphur in gasoline is a major smog precursor. The federal initiative was consistent with an April 1998

recommendation of the International Joint Commission that the Canadian and U.S. governments to make a major reduction in the allowable sulphur content of gasoline.<sup>65</sup>

### *Climate Change*

The December 1997 Kyoto Protocol under the United National Framework Convention on Climate Change committed Canada to achieve an averaged 6% reduction in its greenhouse gas emissions, in the period 2008-2012, relative to 1990. In order to stabilize emissions at 1990 levels Canada needs to reduce its greenhouse gas emissions by 13%, meaning that a total reduction of 19% is required to meet the Kyoto commitment. Representatives of the government of Ontario have consistently sought to block progress on the development of any specific conclusions or recommendations in the issues tables established by the federal government to develop an implementation strategy for Canada's

#### **To Commit or Not to Commit: is that the question?**

Ontario has made commitments to reduce precursors of smog, lung irritants such as sulphur dioxide and greenhouse gases such as methane. Yet the MoE has continued to approve discharges to the atmosphere of these gases, when in many cases, control methods or technology exist. A few of the atmospheric discharge approvals and permitted increases over the second half of 1997 included:

**Nov 21/97.** MoE issues a certificate of approval to the Toronto Transit Commission to discharge methane gas (a potent global warmer) to the atmosphere at its Greenwood Yard Carhouse (EBR Decision: IA7E1540.D).

**Dec 17/97.** MoE approves an amendment to the existing permit for Imperial Oil, Products & Chemical Division in Nanticoke city. According to the amendment, incremental sulphur dioxide emissions will increase not more than 1 tonne per day at the maximum feed rates compared to the original mentioned on the existing certificate of approval. (EBR Decision: IA7E1670.D).

#### ***Proposal to discharge:***

**Aug 28/97.** The Ministry of Environment and Energy approves WMI Waste Management of Canada Inc. proposal to vent landfill gas pressure in the soil adjacent to the site in the town of Witchurch-Stouffville. (EBR: Proposal IA7E1278.P)

#### ***An exception:***

**Oct 14/97.** Ministry of the Environment and Energy approves upgrades to the City of Vaughan Landfill's gas collection system. Gas will be collected and transmitted to the Keele Valley Landfill site's capture and control system where methane is combusted to produce electricity and in the process its global warming potential vastly reduced. (EBR Decision: IA5E0732.D)

**Figure 3.1 : Examples of Air Approvals in Ontario**

obligations under the Protocol.<sup>66</sup> In addition, there are indications that the \$10 million for analysis of climate change issues announced in the May 1999 budget may be used as to develop a defence against actions the federal government might request that Ontario undertake as a consequence of Canada's Kyoto commitments.

# WASTE MANAGEMENT

## Introduction and Overview

Waste management has been a major focus of the government's regulatory 'reform' efforts over the past four years. There have been major changes to the waste management approvals process, particularly from the Bill 76 amendments to the *Environmental Assessment Act*. Major undertakings, including a major expansion of the province's only hazardous waste landfill in Sarnia, and the establishment of a large non-hazardous industrial waste landfill in Stoney Creek, have taken place without public hearings. The scope of the review of other significant undertakings, such as the Adams Mine landfill in Northern Ontario, has been reduced substantially related to what would have been required prior to the passage of Bill 76. In December 1997, the use of a scrap metal smelting furnace as a low-level PCB destruction facility was approved without review under the *Environmental Assessment Act*. A similar proposal was under consideration by the Environmental Assessment Board over the summer of 1999.

A ban on the establishment of new municipal waste incineration facilities was removed in December 1995. A Ministry of the Environment 'Delivery Strategy' revealed to the public in February 1999, directed Ministry staff not to respond to complaints about a wide range of potential violations of waste management-related laws and regulations.

In July 1996, November 1997, and June 1998, the Ministry of the Environment presented proposals to significantly weaken its regulatory controls on such activities as hazardous and municipal waste 'recycling' and the handling and storage of PCB's. Most of these proposals have yet to be implemented.

In March 1999, it was revealed that there was a 50% increase in the amounts of waste manifested for off-site disposal from Ontario sources between 1994 and 1997 from 1.4 million tonnes to 2.1 million tonnes. Imports of hazardous wastes into Ontario from the United States quadrupled between 1993 and 1997, rising from 52,439 tonnes to 246,000 tonnes per year. Waste exports during the same period remained stable.

With respect to municipal solid waste, major problems have been identified with the province's diversion programs by the Provincial Auditor. As of 1996, the province had only reached a diversion rate of 32% measured against a 1987 based year, well short of the goal of 50% diversion of municipal waste from disposal by the year 2000, a target set in 1989. Total municipal waste generation in 1996 was 9 million tonnes per year, a figure almost identical to the figure for 1997. Provincial funding for residential recycling and household hazardous waste programs was terminated in the fall of 1995. New funding arrangements for curbside recycling have yet to be established.

The past two years have witnessed a series of major incidents at waste management sites throughout the province. The most serious of these was the Plastimet PVC 'Recycling' site fire in Hamilton in July 1997. This prompted the Office of the Fire

Marshal to make recommendations for a significant strengthening of the regulation of 'recycling' and waste handling facilities in the province. The province has failed to act on these recommendations, and has repeatedly proposed to expand the exemptions from the normal waste management approvals requirements under which the facility was operating.

A major controversy emerged over the province's approval of the use of industrial by-products as 'dust suppressants,' including a material produced at Domtar Ltd.'s Trenton Ontario facility under the trade name 'Dombind.' Normapac (the successor company to Domtar) agreed to phase out the use of 'Dombind' in March 1999.

The province has undertaken a number of major actions regarding contaminated sites. These have included the granting of limited exemptions from liability for financial institutions, and significantly weakening the requirements for the remediation of contaminated lands. The Ministry of the Environment has also proposed to permit the use of contaminated soils as 'inert' fills.

### **The Dissolution of the Interim Waste Authority and Greater Toronto Area Waste Management**

The Interim Waste Authority, established by the previous government to establish solid waste disposal sites for the Greater Toronto Area (GTA), was dissolved in July 1995. The government provided no indication of how the issue of the need for new municipal solid waste disposal capacity in the GTA is to be addressed, beyond stating that it will limit its role to the approval and regulation of whatever disposal option is pursued by municipalities within the region.

### **Dissolution of Ontario Waste Management Corporation**

On August 31, 1995, the Minister of the Environment and Energy dissolved the Ontario Waste Management Corporation. Following the rejection of its proposed hazardous waste treatment and disposal facility in the spring of 1995, the OWMC had focused on the provision of technical advice to industry on hazardous waste reduction. At the time of the corporation's dissolution, the Minister of Environment and Energy stated that: "The main responsibility for managing these wastes rests not with the government, but with those in the private sector who generates them. It is the ministry's role to ensure that the private sector manages this waste according to prescribed standards and policies."<sup>67</sup> In effect, in combination with the termination of its environmental technology development programs, and province virtually abandoned any meaningful efforts to promote hazardous waste reduction.

Bill 57, *The Environmental Approvals Improvements Act*, passed in June 1997, repealed the *Ontario Waste Management Corporation Act* through which the corporation had been created.

## **Funding for Municipal Waste Diversion and Household Hazardous Waste Programs**

The government announced the termination of funding for municipal curbside recycling ('Blue Box') and household hazardous waste collection programs in November 1995. Funding for municipal waste facility development and waste reduction research programs was also terminated. The termination of provincial funding for residential recycling program has lead some municipal governments to threaten to reduce or end their programs.

## **New Municipal Waste Incinerator Ban Repeal**

In December 1995, a ban on the construction of new or expanded municipal waste incinerators established in 1992, was repealed by the provincial government. Emission guidelines for new municipal solid waste incinerators were introduced in January 1996.<sup>68</sup> The government's action was specifically criticized as being likely to result in increases in the presence of priority pollutants in the Great Lakes Basin by the International Joint Commission in its 8th<sup>69</sup> and 9th<sup>70</sup> Biennial Reports on Great Lakes Water Quality. Municipal waste incinerators have been identified as major sources of a wide range of contaminants, including dioxins and furans, heavy metals including mercury, lead and cadmium, and sulphur dioxide and nitrogen oxides.<sup>71</sup>

## **Regulatory 'Reform' and Waste Management**

Waste management was a major focus of the Ministry of Environment and Energy document entitled *Responsive Environmental Protection* (REP) released in July 1996. This document proposed major changes to the framework of environmental regulations established under the *Environmental Protection Act*, *Ontario Water Resources Act*, and *Pesticides Act*. Some of the proposed amendments related to waste management included the following:<sup>72</sup>

- the complete de-regulation of activities related to the handling of "recyclable materials," including hazardous wastes such as batteries, photochemical wastes, and metal bearing sludges;
- the removal of "liquid industrial wastes" from the province's definition of "subject" (i.e. hazardous) wastes;
- the weakening of Ministry oversight on the establishment and operation of on-site hazardous waste storage sites and hazardous waste transfer stations, the burning of hazardous wastes as "fuel," and the use of hazardous and liquid industrial wastes for dust suppression;
- seeking "input" on repeal of *Waste Packaging Audit and Reduction Workplan Regulations* and Refillable soft drink container regulations; and
- expanding reporting exemptions for "minor" spills.

The Ministry's document prompted a strong negative response from many non-industry stakeholders.<sup>73</sup> A second set of regulatory 'reform' proposals were presented by the Ministry of the Environment in November 1997, under the title *Better, Stronger, Clearer: Environmental Regulations for Ontario*. Although the Ministry dropped many of its original proposals related to air pollution and other subjects, the July 1996 proposals on waste management reform remained largely intact. The Ministry's specific proposals related to waste management included:

- revoking regulation 348, which permits eight waste disposal sites to receive Liquid Industrial Wastes. None of the sites currently receive such wastes;
- amending the regulation governing deep well disposal to bring oil field brine disposal under the *Environmental Protection Act*, eliminate the oil field brine exemption, and consolidate the requirements into a revised general waste regulation;
- amending the definition for agricultural wastes and waste-derived fuel, and clarifying the management requirements for biomedical waste and asbestos waste;
- simplifying approval and administrative requirements for "manufacturer controlled networks," to promote "product stewardship";
- introducing four classes of approvals: Class I: mandatory hearings under EPA and as required under EAA; Class II: Discretionary hearing under EPA; Class III: Standardized Approvals; and Class IV: exemptions from waste approval requirements.
- numerous changes related to hazardous waste management including:
  - reducing reporting requirements for small movements of hazardous wastes;
  - amending the definition of a "site" (presumably to include all facilities within a given municipality as proposed in July 1996);
  - removing generator registration requirements for registerable solid waste;
  - exempting battery and precious metal bearing waste recycling activities from regulatory requirements;
  - modifying the definition of PCB wastes and establish standardized approvals for PCB storage and transfer sites;
- numerous changes related to municipal solid waste management including:
  - amending Recycling and Composting Municipal Waste Regulations to allow two stream collection systems, amend, presumably to reduce, the 50 metre buffer requirement, and allow food composting at leaf and yard composting facilities;
  - revoking regulations related to the types of disposable containers than may be used to package milk;
  - retaining refillable and non-refillable soft drink container regulations;
  - amending of the Waste Audits and Waste Reduction Workplan Regulations and Packaging Audits and Packaging Reduction Workplan Regulations to "streamline" the regulations, "increase their flexibility" and "reduce the paper burden on the regulated community;"

Proposed changes related to spills included the elimination of reporting requirements for notification of "insignificant" spills under the *Environmental Protection Act*.

The waste management proposals were presented again, in the form of a draft

regulation in June 1998.<sup>74</sup> The Ministry's proposals were again strongly criticized by non-industry stakeholders, as significantly weakening the existing regulatory framework, and failing to respond to the recommendations of the Provincial Auditor,<sup>75</sup> the Office of the Fire Marshal<sup>76</sup> and others<sup>77</sup> regarding the need to strengthen the province's regulatory controls on waste management activities.<sup>78</sup>

As of June 1999, the Ministry had not moved forward with its June 1998 proposals, with the exception of the repeal of Regulation 348. This regulation had permitted eight municipal waste disposal sites to accept liquid industrial wastes.<sup>79</sup>

### *Regulation 347 Amendments*

In the meantime, in October 1997 the Ministry posted a number of proposed amendments to Regulation 347 on the EBR registry. These included a redefinition of waste to include residuals from recycling operations. The proposed amendments would also have exempted 'chop line' residue (wire recycling residue) recycling, waste photochemical recycling, and the use of spent 'pickle liquor in sewage treatment plants, and wood waste recycling sites, from the requirements of the Regulation.<sup>80</sup>

The proposals regarding the definition of waste and exemption of 'chop line' residue were related to a June 1997 Ontario Court decision that only "unusable leftovers" from processing or recycling operations should be considered 'waste.' The Court also concluded that 'chop line residue' did not meet this definition and was therefore exempt from the waste management requirements of the *Environmental Protection Act*.<sup>81</sup> Ministry of Environment and Energy officials had argued before the court that 'chop line residue' should be considered a hazardous waste as it included heavy metals, including lead and cadmium.<sup>82</sup> Concerns were also expressed, by a number of environmental organizations, over the proposed exemptions for photochemical processing waste recycling and the use of spent 'pickle liquor'.<sup>83</sup>

The proposed amendments to regulation 347 were adopted in March 1998.<sup>84</sup> Records obtained by CIELAP through freedom of information requests indicated that the 'Red Tape Commission' was heavily involved in the development of the amendments to the Regulation.<sup>85</sup>

### *'Standardized Approvals' and Waste Management*

'Standardized' approvals and AERs, figure prominently in the Ministry of the Environment's regulatory 'reform' proposals related to waste management. Two waste related Standardized Approval Regulations (SARs) were posted on EBR registry in February 1998<sup>86</sup> as part of the Ministry's general SAR and AER proposal. The two SAR candidates were:

- municipal waste transfer/processing sites; and
- the utilization of sewage biosolids (i.e. sludge) on agricultural land.

As of June 1999, the Ministry had not implemented these proposals.

### *Ministry of the Environment 'Delivery Strategy'*

In February 1999 it was revealed that the Ministry of the Environment had developed a delivery strategy for its operational staff, directing them not to respond to public complaints about a wide range of environmental problems, or to direct such complaints to other agencies and municipalities. Specific waste related examples included problems arising from: activities related to agriculture; construction and demolition; oil from vehicles; boating; inert fill; pop bottles; industrial, institutional and commercial waste source separation; recycling and composting regulatory requirements; tire disposal sites with less than 5,000 tires; litter; and abandoned vehicles.<sup>87</sup> Many of these subjects had been targets of the Ministry's *Responsive Environmental Protection and Better, Clearer, Stronger* regulatory 'reform' proposals.

### *Spills*

Bill 57 amended Part X (Spills) of the *Environmental Protection Act* to terminate the Environmental Compensation Corporation (ECC) and remove the right of victims of spills to compensation through the ECC. Victims of spills are now required to initiate civil actions against the party responsible for a spill in order to receive compensation. There is now no provision for the compensation of victims of a spill where the responsible party is bankrupt or otherwise unable to provide compensation.

Proposals to remove reporting requirements for certain types of spills were posted on the EBR registry in April 1998.<sup>88</sup> These included approved discharges; spills of water from reservoirs and water mains; household fires; planned spills; fluids from motor vehicles; non-PCB spills of up to 100 litres from electrical equipment; petroleum sector spills of up to 100 litres in areas restricted from the public, or 25 litres in areas with public access; and refrigerants. As of June 1999, they proposals had yet to be implemented.

The proposal also stated that "where public safety is the only concern, MOE should not be involved before the agency that has a specific mandate under the circumstances for public safety." This would appear to suggest that Ministry would leave primary responses to spills to local fire departments. No additional resources were proposed for these agencies to deal with such additional responsibilities.

### **Waste Management Site Approvals**

The impact of Bill 76 changes to the environmental assessment process have become increasingly apparent over the past two years. This has been especially evident in the area of waste management, although changes to the approvals process were evident even before the Bill's coming into force in January 1997.



In September 1997, for example, the Ministry of the Environment approved a 1.9 million cubic meter expansion of Laidlaw Environmental Services hazardous waste landfill in Sarnia with no public hearing under either the *Environmental Protection Act* or the *Environmental Assessment Act*. This was despite concerns raised by members of the public regarding the proposal.<sup>89</sup> The facility is the only hazardous waste landfill in the province. The expansion is expected to extend its life for another 15-20 years.

In a similar case, in July 1996, a 10 million tonne landfill for solid non-hazardous industrial wastes in the town of Stoney Creek, on the Niagara Escarpment, was approved without a public hearing before the Environmental Assessment Board. This was despite widespread calls for a public hearing. The landfill is operated by a subsidiary of Philip Environmental called Taro Aggregates Ltd.<sup>90</sup> There have been allegations that the facility has accepted hazardous wastes for disposal.<sup>91</sup>

In December 1997, the use of a scrap metal smelting furnace as the province's only permanent low-level PCB destruction facility was approved by the Ministry of the Environment. However, in its decision, the Environmental Assessment Board highlighted a number of concerns regarding the undertaking. In particular, the Board questioned why the project had not been designated for review under the *Environmental Assessment Act*, particularly in light of its implications for the use of non-incineration PCB destruction technologies. It also noted the inability of members of the public to participate effectively in the process due to the absence of intervenor funding and it expressed concern over the granting of an approval to a proponent with no previous experience in handling hazardous wastes.<sup>92</sup>

In addition, the Assessment Board's decision suggested that the Ministry of the Environment failed to follow through on its own staff's concerns regarding the potential health impacts of the facility.<sup>93</sup> In her April 1998 report to the Legislature, the Environmental Commissioner highlighted the Ministry of the Environment's failure to post the proposed approval for the facility on the *Environmental Bill of Rights* (EBR) registry.<sup>94</sup> A second proposal for the use of a scrap metal smelting furnace as a PCB destruction facility is currently before the Environmental Assessment Board. Like the proposal approved in December 1997, it has not been designated for review under the *Environmental Assessment Act*.<sup>95</sup>

The Ministry of the Environment has made use of the provisions of the Bill 76 amendments to the *Environmental Assessment Act* to limit the scope of the environmental assessments of individual undertakings. The most prominent example of this kind of action has been with respect to the environmental assessment of the proposed Adams Mine Landfill in Northeastern Ontario. Directions issued by the Minister of the Environment in December 1997 limited the Environmental Assessment Board to hearing evidence on two issues about the site: its hydrogeology and surface water characteristics and leakage containment.<sup>96</sup> Issues such as consideration of the need for the facility, and the availability of alternatives to it, which would have been required elements of the assessment under the pre-Bill 76 provisions of the *Environmental Assessment Act*, were excluded from the assessment of the proposal. Strict timelines were also imposed upon the Board for hearing evidence in the case.

The proposed landfill was approved by the Cabinet in August 1998 and a Certificate of Approval granted in April 1999. A coalition of environmental organizations and local residents sought a judicial review of the cabinet's environmental assessment approval of the undertaking. However, the appeal was dismissed in the Ontario Divisional Court in July 1999.<sup>97</sup>

## **Municipal Waste Diversion**

The Provincial Auditor highlighted major problems with the province's municipal waste management programs in his October 1997 report to the Legislature.<sup>98</sup> In particular, the report highlighted the Ministry's failure to adequately measure and report on progress towards the province's waste reduction targets, failure to incorporate the 50% waste diversion goal into the Ministry's business plan and failure to enforce waste management regulations, particularly with respect to the use of refillable beverage containers.

In February 1998, the Minister of the Environment stated publicly that the province was unlikely to meet the goal of 50% waste diversion from landfill or incineration by the year 2000. The goal had been first set in 1989. Figures released by the Ministry of the Environment indicate that the province is currently diverting 32% of its waste from disposal,<sup>99</sup> and that total waste generation remains approximately 9 million tonnes per year, the same as it was in 1987.<sup>100</sup>

A report on options for the future funding of the province's municipal waste diversion programs was presented by the Recycling Council of Ontario to the Ministry at the end of April 1998.<sup>101</sup> The Ministry of the Environment and Energy had terminated provincial funding support for residential recycling programs in the fall of 1995.<sup>102</sup> In October 1998, the Minister of the Environment announced plans to form a new 'waste diversion organization' to provide funding for curbside recycling. The food, beverage, and consumer product industries, newspapers and the Liquor Control Board of Ontario were to contribute voluntarily to the organization. The organization was "to give municipalities the tools to reduce the cost of their recycling programs and to develop, implement and fund municipal initiatives to increase waste diversion. The organization would include representatives from affected industries, municipal and provincial governments, consumer groups, environmental groups and other organizations."<sup>103</sup> The government also indicated that it would use some of the revenues from the 10 cent per non-refillable liquor container tax to support municipal recycling programs.<sup>104</sup>

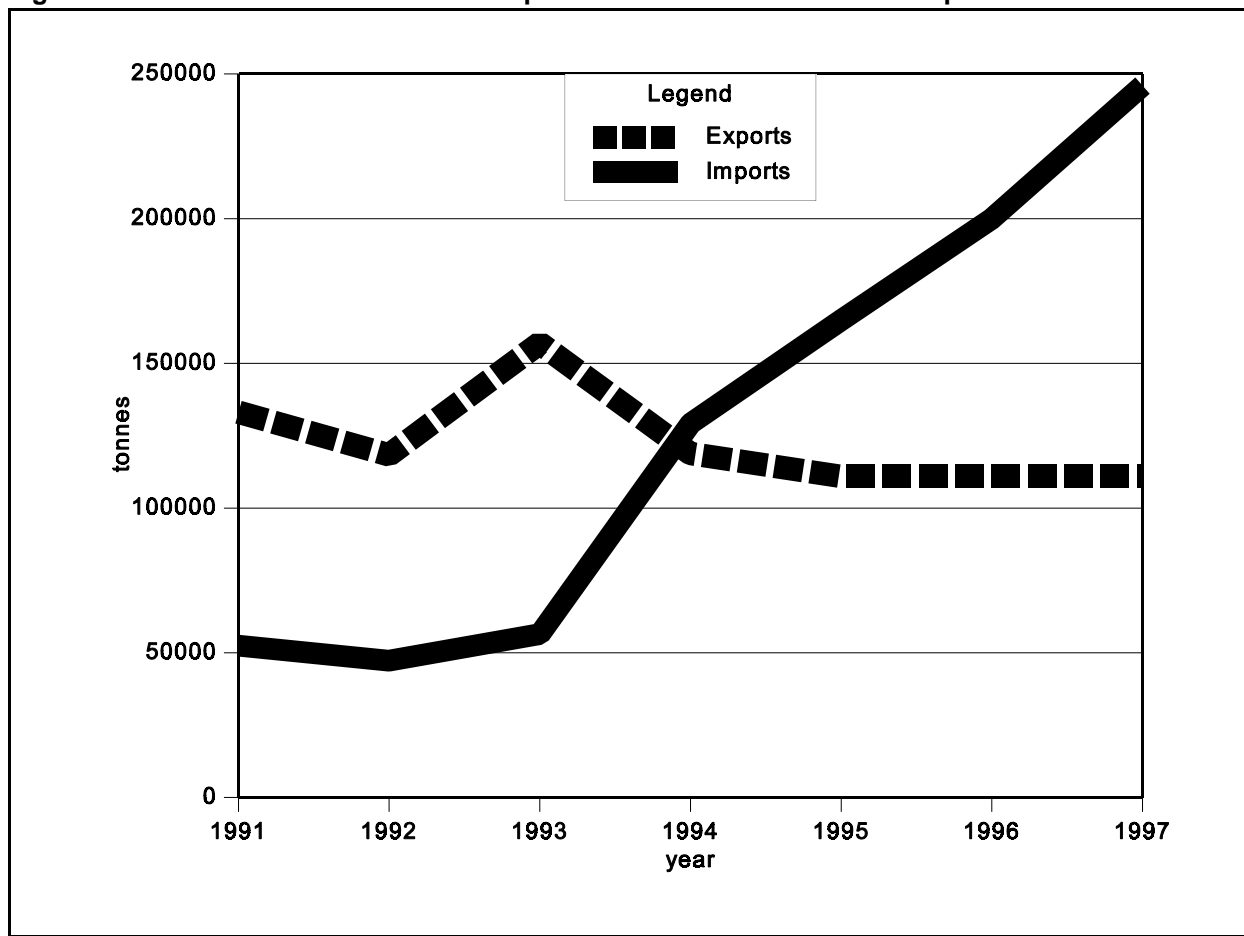
As of June 1999, the waste diversion organization had yet to be established. In the meantime, the province has adopted regulations to prevent municipalities from charging product manufacturers or importers for the costs of dealing with their products or packaging through municipal recycling programs,<sup>105</sup> or from requiring that the Liquor Control Board of Ontario put deposits on the containers which it sells.<sup>106</sup>

## **Hazardous Waste Management**

On April 20, 1998, the Ministry of the Environment rejected a request for review of the province's hazardous waste regulations filed by the Canadian Institute for Environmental Law and Policy. The Ministry stated that a review was "not in the public interest."<sup>107</sup> The Institute's request had been based on the findings of a comprehensive report on the management of hazardous wastes in the province presented in February.<sup>108</sup> The report had concluded that there were major gaps in both the available information and underlying regulatory framework for the protection of public safety, public health and the environment in the management of hazardous wastes in the province.

A subsequent March 1999 report by the Institute found that imports of hazardous wastes into Ontario from the United States had quadrupled between 1993 and 1997, rising from 52,439 tonnes to 246,000 tonnes per year (see Figures 3.2 and 3.3). Waste exports during the same period remained stable.<sup>109</sup> The Institute's report also documented a 50% increase in the amounts of waste manifested for off-site disposal from Ontario sources between 1994 and 1997 from 1.4 million tonnes to 2.1 million tonnes.<sup>110</sup> Federal National Pollutant Release Inventory (NPRI) data shows a 92% increase in transfers of NPRI reported substances in waste between 1994 and 1996 in Ontario.<sup>111</sup>

**Figure 3.2 Growth in hazardous waste imports to Ontario vs. hazardous exports from Ontario**

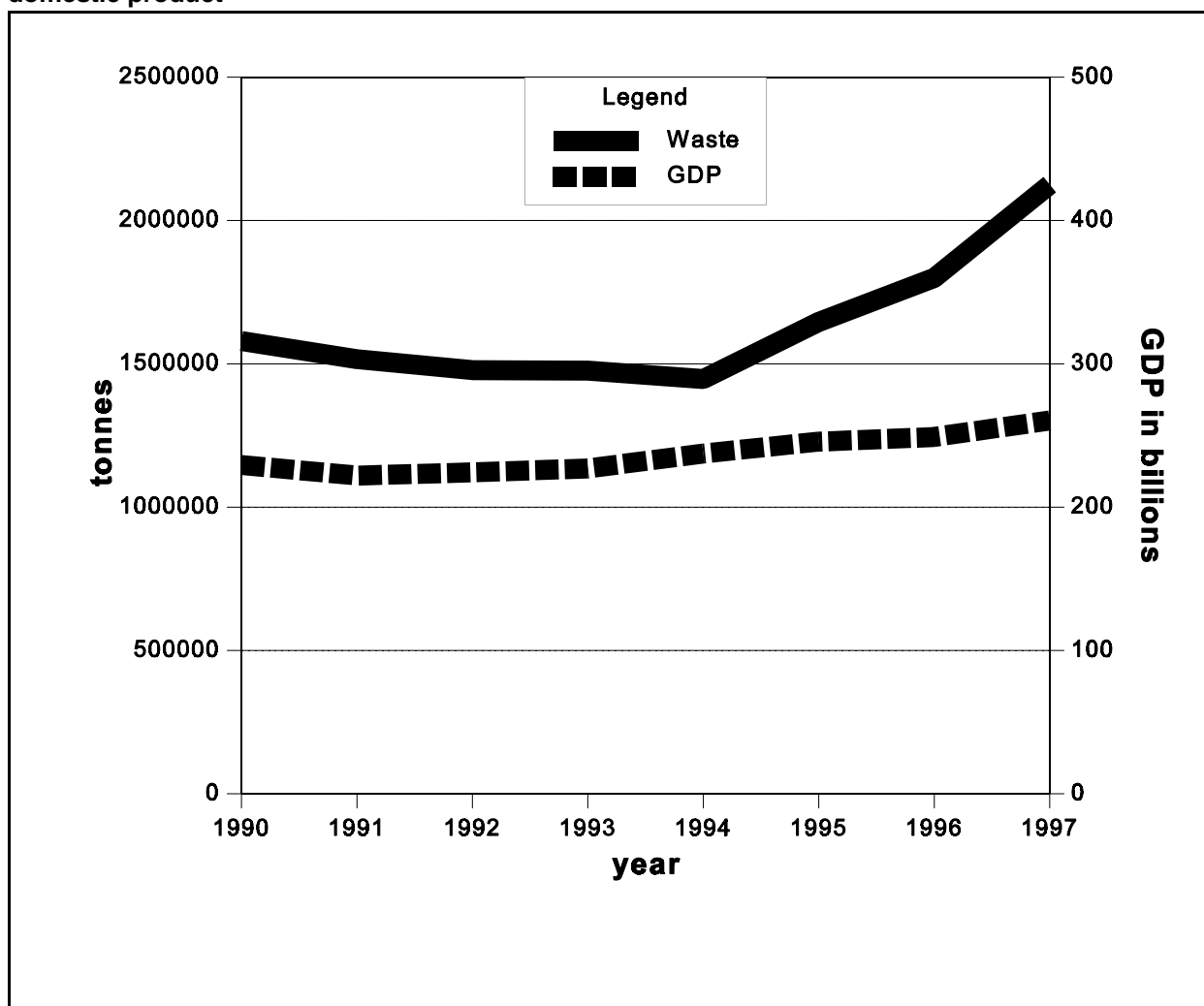


In response to the waste import figures, the Minister of the Environment stated that "We have a free trade agreement that limits us. You better speak to the federal government to stop it coming across the border."<sup>112</sup>

### Incidents at Waste Management Sites

The period between 1997 and 1999 witnessed a series of major incidents at waste management sites throughout the province. The most serious of these was the Plastimet PVC 'Recycling' site fire in Hamilton in July 1997. The Plastimet fire burned for four days,

**Figure 3.3 : Growth in hazardous and liquid industrial waste disposal in Ontario vs. growth in gross domestic product**



and is believed to have produced large amounts of highly toxic combustion products, including dioxins.<sup>113</sup> There have also been a number of smaller tire fires,<sup>114</sup> and fires at

other 'recycling' facilities.<sup>115</sup>

In the aftermath of the Plastimet Fire, the Office of the Fire Marshal issued a report calling for the strengthening of the environmental and fire safety regulation of recycling and waste handling sites.<sup>116</sup> In addition, in her April 1998 Annual Report, the Environmental Commissioner raised serious questions about whether the 'recycling' site exemption from normal waste management site approval requirements granted to Plastimet by the Ministry of the Environment had been justified.<sup>117</sup>

An implementation strategy for the Fire Marshal's recommendations, released in May 1998, failed to incorporate many of the key recommendations contained in the Fire Marshal's original report.<sup>118</sup> In fact, many of the Fire Marshal's August 1997 recommendations were contradicted by the contents of the Ministry's June 1998 draft waste management regulation.

### **Dust Suppressants and 'Dombind'**

The past two years have been marked by a controversy over the use of "black liquor" from Domtar Ltd's., pulp mill in Trenton, Ontario as a dust suppressant under the product name "Dombind." The Office of the Environmental Commissioner,<sup>119</sup> the World Wildlife Fund Canada,<sup>120</sup> and a number of other environmental organizations have expressed serious concerns about the environmental impacts of this practice.<sup>121</sup> In May 1998 it was revealed that dioxin levels rose sharply in samples taken from road beds, ditches and fields close to where Dombind had been applied.<sup>122</sup>

The agreement between the Ministry of the Environment and Domtar, which purports to exempt the material from the requirements of Regulation 347 on the basis that it is a dust suppression 'product' expires in 1998 and is currently under review. In its February 1998 report on hazardous waste management in the province, CIELAP noted that there appeared to be no statutory basis for the agreement between Domtar and the Ministry of the Environment regarding the exemption of 'Dombind' from the province's waste management regulations.<sup>123</sup>

In December 1998, the Ministry of the Environment stated that it was giving Normapac (formerly Domtar) 30 days to develop a plan to phase out the use of Dombind within two years.<sup>124</sup> An Order was issued by Norampac Inc. by the Ministry of the Environment to eliminate the use of Dombind as a dust suppressant, in May 1999.<sup>125</sup>

However, leave to appeal the Order has been sought by the Federation of Ontario Naturalists, and a number of individuals, arguing that the Director lacks the necessary authority to issue an Order that explicitly or implicitly permits persons to use Dombind as a dust suppressant without issuing a Certificate of Approval, to either Norampac or the Applicator. The applicants also claim that the Order fails to ensure that: the use of Dombind will be phased out by the end of the year 2000; dioxin levels in Dombind will remain below 500 parts per quadrillion; that terms and conditions regarding the application of Dombind will be enforced; that adequate monitoring and reporting of the composition o

f Dombind and its impact on roads will be carried out; that the application rate of Dombind will be reasonably limited; and that applicators will be properly trained.<sup>126</sup>

In the meantime, in June 1997 the Ministry of Transportation posted a decision on the EBR registry stating that it would no longer test, prior to approval, materials used to minimize dust during road construction and on unpaved rural roads. Instead, the Ministry would depend on the list of dust suppressants issued by the Ministry of Environment. In her Annual Report, the Environmental Commissioner noted that the MoE's list comes with the disclaimer: "The MoE does not endorse any of the following products nor does it guarantee that the products are environmentally benign."<sup>127</sup>

## **Contaminated Sites**

### *Lender Liability Exemption for Contaminated Sites*

On December 18, 1995, the Ministry of Environment and Energy issued a new policy exempting lenders from liability for the clean-up of contaminated sites under the *Environmental Protection Act*. The policy gives creditors general permission to inspect properties and prepare sites for re-sale without the possibility of incurring liability under the Act.

The new policy appeared to ignore the possibility that creditors would abandon properties whose remediation costs may exceed their value. This may lead to properties being left unremediated, or in cases where action is needed to prevent further damage to the environment or human health, the taxpayer having to bear the costs of remediation. Furthermore, strong arguments have been made that the province should not deal with the issue of liability for the remediation of contaminated sites in a piecemeal fashion, granting exemptions to individual sectors, while failing to establish an overall policy framework on liability which ensures that the taxpayer is not left with the costs of site remediation.<sup>128</sup>

### *Environmental Liability Exemption for Prospectors*

Prospectors were granted immunity from environmental liability for pre-existing mine hazards under the *Environmental Protection Act* through a regulation announced on December 13, 1995 by the Ministry of Environment and Energy. This regulation seemed intended to permit and promote prospecting on unremediated abandoned mine sites.

### *Contaminated Site Remediation Guidelines Revisions*

In May 1996 the Ministry of Environment and Energy released new Guidelines for the remediation of contaminated sites. The new guidelines departed from the approach embodied in the original 1989 *Guidelines for the Decommissioning and Clean-up of Sites in Ontario* of requiring the restoration of sites to "background" levels of contamination. The new guidelines permit remediation to background levels, to a generic standard, or on the basis of a "site specific risk assessment." Ministry "sign-off" on the acceptability of remediation efforts has been eliminated. Furthermore, a history of contamination only has

to be registered on the title of lands subject to "site-specific risk assessment" standards (i.e. left partially contaminated).<sup>129</sup>

The government's approach to contaminated site remediation has been heavily criticized for dealing with issues of remediation standards, the liability of owners and occupiers of lands for site contamination, and the financing of the remediation of "orphan" sites for which no party responsible for the contamination can be identified, in a piecemeal fashion. The government, for example, has granted a series of exemptions from liability to specific sectors, such as financial institutions and prospectors, and is considering further such exemptions in the absence of any indication how the remediation of the resulting "orphan" sites is to be financed.<sup>130</sup>

#### *'Inert' Fill Guidelines.*

In August 1998, the Ministry of the Environment proposed criteria for the management of excess soil.<sup>131</sup> The Ministry proposed to classify this material as four categories of 'inert' fill depending on the level of contamination. Class I fill could be deposited anywhere, Class II anywhere but ecologically sensitive sites, Class III on agricultural, commercial or industrial sites, and Class IV within areas zoned for industrial or commercial uses. The Ministry's proposal was severely criticized for its failure to provide for any regulatory oversight or controls on the use of inert fill, lack of sampling and testing procedures to confirm the level of contamination of fill, inappropriate classification on contaminated soils as 'inert,' providing mechanisms for the redistribution of contaminated soils onto uncontaminated lands, and failure to consider possible future uses of industrial and commercial sites onto which Class IV 'inert' fill might be deposited.<sup>132</sup>

# WATER

## Introduction and Overview

The 1995 to 1999 period saw wide-ranging changes to the water resources protection system in Ontario. Virtually every aspect of this system, including the protection of aquatic ecosystems, regulatory controls on discharges to water bodies, administration of sewer and water works infrastructure and the status of the principle that water is not an exportable commodity has been challenged or altered in fundamental ways.

Over the past four years, the Ontario government made significant changes to the *Lakes and Rivers Improvements Act* and the ways in which Conservation Authorities (CAs) are mandated and funded resulting, in weaker protection for lakes and rivers and weaker CAs. The period also witnessed the release of a number of reports highlighting continuing problems related to the integrity of the Great Lakes Basin ecosystem and the degree to which the province has failed to fulfil its commitments to the restoration of the Lakes.

It was revealed in 1997 that there had been large and unreported discharges of copper and zinc from Ontario Hydro facilities. At the same time, the province has repeatedly proposed to weaken the monitoring and reporting requirements for industrial facilities under the MISA program, and to eliminate the requirement that Pulp and Paper mills plan to eliminate organochlorines (AOX) from their effluent. The Ministry also increased the allowable discharge limits for a number of individual facilities.

With respect to sewer and water infrastructure, the responsibility for the regulation of most septic systems was passed from the Ministry of the Environment to municipalities, and from the *Environmental Protection Act* to the *Building Code Act*. Water and sewer infrastructure grants were eliminated and the Ontario Clean Water Agency was referred to the provincial privatization agency.

The difficult issue of the commoditization of water and bulk export of fresh water resources were raised by the Ontario government's approval, then retraction of approval, of such an undertaking in May 1998. As a result of the controversy that emerged over this approval of the export water from Lake Superior, restrictions on bulk transfers of surface water were adopted by the province in May 1999.

## CHANGES TO THE BIO-PHYSICAL WATER PROTECTION REGIME

### Bill 26 Amendments to the *Lakes and Rivers Improvements Act*

In January 1996, Bill 26, the *Government Savings and Restructuring Act* was enacted. This omnibus legislation made major amendments to the *Lakes and Rivers Improvements Act*, in addition to many other pieces of natural resources legislation. The



Bill amended the Act so that permits from the Ministry of Natural Resources would only be required for "improvements" (i.e. dams and diversions) prescribed by regulation. Previously, permits were required for all "improvements" (i.e. alterations) to lakes and rivers.

In November 1996, the Ministry of Natural Resources announced new regulations to implement the Bill 26 amendments to the *Public Lands Act* and the *Lakes and Rivers Improvement Act*. These removed permit requirements for a wide range of activities likely to affect shorelines and fish habitat, including mineral exploration, the construction of shoreline structures like docks and boathouses, dredging, and the removal of aquatic plants.<sup>133</sup>

## **Conservation Authorities**

Bill 26 also made significant amendments to the *Conservation Authorities Act*. Among the most important were those that would permit the dissolution of Authorities and facilitate the sale of their lands. At the same time, provincial operating grants to Conservation Authorities were reduced by 42%. The province provided no indication of how the functions of Conservation Authorities are to be carried out with such enormous budget reductions, or in the event that Authorities are dissolved. Private sources of revenue have been sought by some authorities to fill the gap. However, this has raised conflict of interest issues.<sup>134</sup> Further, there have been concerns that gifts of land to Authorities may be discouraged if there is a possibility that Authorities are open to dissolution or that their lands may be sold.<sup>135</sup>

These potentially crippling developments for CAs will have major implications for water resources management in the province well into the future. Conservation Authorities were established for the specific purpose of managing water and other renewable resources on a watershed basis. CAs were often the local defenders of flood-plain management and aquatic habitat, having the resources and expertise to match those of other interests at tribunals and local council meetings. The impacts of these changes are outlined under *Land-Use Planning*

*Bill 25, The Red Tape Reduction Act, 1998.*

The role of Conservation Authorities was further weakened by Bill 25, the *Red Tape Reduction Act, 1998*. Schedule I of the Bill, enacted in December 1998, amended the *Conservation Authorities Act* to remove the requirement for Conservation Authority approval for changing, diverting or interfering with watercourses, wetlands, Great-Lakes St. Lawrence River shorelines, inland lakes, river and stream valleys, and hazardous lands for activities approved under the *Aggregate Resources Act* (i.e. aggregate extraction).

## **Great Lakes Commitments**

The Great Lakes Basin Ecosystem, once the subject of major monitoring and restoration efforts, has suffered from the withdrawal of many provincial government functions. This is emerging as a significant threat to the progress made over the past thirty years to restore the health of the lakes.

In July 1997, Environment Canada and U.S.EPA released their "State of the Great Lakes 1997."<sup>136</sup> Among the report's conclusions: aquatic community health were mixed/improving; aquatic habitat and wetlands were in poor condition; the state of human health in the Great Lakes basin, as reflected by human exposure to persistent toxic substances was mixed/improving; and the situation with respect to toxic contaminants was mixed/improving.

In late 1997, the International Joint Commission (IJC) released a report on its potential future role in meeting the environmental challenges of the 21st century. In its report the IJC stated that significant air pollution problems in the Great Lakes basin will persist and could worsen in the next century. It also noted that new concerns have emerged about possible human and environmental health implications of exposure to many compounds legally released into the environment, and that staff and budget cuts to environmental agencies have already undermined basic environmental monitoring and research programs.<sup>137</sup>

Environment Canada and the Ministry of the Environment presented a largely positive outlook for the Great Lakes when they released their most recent progress report, in late 1997, on the activities under the 1994 *Canada-Ontario Agreement on the Great Lakes Basin Ecosystem*. The agencies stated that zero discharge had been achieved for five toxic substances: aldrin/dieldrin, chlordane, DDT, toxaphene and mirex in terms of these products not being imported to, sold or used in the province, although residuals of these compounds could still be active in the environment. Other highlights of the report included: reduced discharge levels for some Tier 1 compounds; 50% of necessary actions to restore areas of concern stated to have been implemented; 5000 hectares of wetlands protected and rehabilitated; almost 30% of stored high level PCBs destroyed. However, the report also acknowledged that a number of other commitments made under the Agreement are not being fulfilled, due to budgetary reductions at both levels of government.<sup>138</sup>

However, the International Joint Commission expressed serious concerns over the impact of budgetary reductions and other initiatives in Ontario related to Great Lakes programs, and their implications for Ontario's ability to fulfil its obligations under the 1994 *Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem* in its 8th<sup>139</sup> and 9th Biennial Reports under the *Great Lakes Water Quality Agreement* (GLWQA).<sup>140</sup>

A March 1999 report by the Canadian Institute for Environmental Law and Policy entitled *Troubled Waters? A Review of the Performance of Canada and Ontario under the 1994 Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem* detailed the extent to which government budgetary reductions and program changes were affecting the ability of both the Ontario and federal governments to fulfil their commitments under the agreement. The report concluded that most of the Agreement's goals and objectives would not be met by the date of its expiry in March 2000. Some of the specific findings are

listed in Table 3.4.

**Table 3.4 : State of Canada-Ontario Agreement Progress at March 1999**

<p style="text-align: center;"><b>Objective 1: Restore Degraded Areas</b></p> <ul style="list-style-type: none"><li>• only 4 Areas of Concern reported to be close to meeting the year 2000 deadline (Peninsular Harbour; Spanish Harbour; Wheatly Harbour; and Niagara River;</li><li>• work plans in many Remedial Action Plans (RAP) has been severely disrupted or stalled, including those of the St.Mary's River, Metro Toronto; Port Hope, Bay of Quinte and St.Lawrence River.</li><li>• RAP work was heavily affected by loss of coordinators in many provincially lead RAPs, by the loss of key supporting programs from the MoE (Urban and Rural Beach Clean-up; Municipal Assistance Plan), and by the loss of MNR and MoE presence in the land-use planning process.</li></ul> <p style="text-align: center;"><b>Objective 2 : Control and Prevent Pollution</b></p> <ul style="list-style-type: none"><li>• major achievements, including clean-up of pulp and paper sector discharges, Canadian discharges into the Niagara River, flow from pre-1995 initiatives (1992 federal Pulp and Paper Regulations; 1995 provincial MISA regulations).</li><li>• many provincial initiatives since 1995 have or are likely to increase loading of priority pollutants such as : the removal of the MSW incineration ban; the Ontario Hydro Nuclear Asset Optimization Plan; and proposals to: introduce electricity market competition without adequate environmental standards; and weaken MISA and hazardous waste regulations.</li></ul> <p style="text-align: center;"><b>Objective 3 : Ecosystem Health</b></p> <ul style="list-style-type: none"><li>• progress on Lakewide Management Plans (LaMPs) extremely slow. Goals undermined by many provincial initiatives;</li><li>• 1996 amendments to land-use planning legislation and policies undermined ecosystem approach, removed protection of ecologically significant areas and biological diversity;</li><li>• MNR withdrawal from enforcement of Federal <i>Fisheries Act</i> has major impact on habitat protection;</li><li>• provincial <i>Farming and Food Production Protection Act</i> undermines key goals of reducing environmental impacts of agricultural operations;</li></ul>
--

The report noted that the Ministry of Environment maintains a nominal commitment to COA in its Business Plan, but has withdrawn key resources and functions. The Ministry of Natural Resources, for its part, was found to have effectively abandoned its commits and functions related to the Agreement.

The province announced a one-time \$5 million investment in Great Lakes restoration in its May 1998 budget. The amount will be used to finance an endowment held within the Ontario Great Lakes Renewal Foundation. The province indicated that it intended to use the Foundation to attract private sector contributions for clean-up efforts.<sup>141</sup> However, there are concerns that the Foundation may represent part of a wider approach of downloading responsibility for the financing and carrying out of RAP implementation to municipal governments and the private sector by the province and federal government. The International Joint Commission has stressed the problems associated with the downloading of RAP responsibilities with no associated increases in local capacity.<sup>142</sup>

### **Water Impacts of Reductions to the MoEE Operating Budget**

Between the period 1994/95 and 1998/99 the MoEE lost almost 45% of its operating budget and 30% of its staff. The Ontario Public Service Employees Union provided figures for staff reductions related to water as of December 31, 1996.<sup>143</sup> These figures are outlined in Table 3.1.

**Table 3.1 : MoEE Water Related Staff Reductions (OPSEU AND AMAPCEO) Dec 1996**

Issue	Original Staff	Surplussed (laid-off) Staff	%Surplussed
<b>Water and Drinking Water</b>	113	48	42%
<b>Groundwater and Hydrogeology</b>	28	15	53%
<b>Watershed Management</b>	12	3	25%
<b>Wastewater</b>	15	5	33%

Note: this table does not reflect the effect of further program and specialist position elimination that took place in the 1997-98 fiscal year.

## **DISCHARGE, ABATEMENT AND CONTROL ISSUES**

The water pollution prevention and control regime in Ontario's has been re-moulded by way of a number of modifications and amendments over the course of the past four years. Proposals for further amendments were still in progress at the end of first term of the 'Common Sense Revolution.'

### **The MISA (Municipal Industrial Strategy for Abatement) Program**

The Municipal Industrial Strategy for Abatement (MISA) program is the foundation of the province's system for controlling industrial discharges to surface waters. Regulations made under the program between 1993 and 1995 establish discharge limits and monitoring requirements for facilities in nine industrial sectors<sup>144</sup> releasing pollutants into the province's surface waters.

#### *MISA Advisory Committee Dissolution*

The MISA Advisory Committee (MAC) was dissolved in September 1995. The Advisory Committee was established in 1986 to provide the Minister of the Environment with independent advice on the development and implementation of the MISA program.

#### *MISA Discharge Regulation Amendments*

In the fall of 1996, a series of amendments were made to the regulations controlling industrial discharges to water under the (MISA) Program. Although the amendments were minor in nature for the most part, they raised serious concerns that the Ministry was returning to "back-door" dealing with individual facilities. Such an approach was seen to be contrary to the MISA model, which sought to establish limits on a sector-wide basis.<sup>145</sup>

### *"Regulatory Reform"*

The province's regulations related to water quality and water pollution prevention and control were a major focus of the MoEE's proposed regulatory reform package *Responsive Environmental Protection*, released in July 1996. The elements of the Ministry's July 1996 proposals related to water, are included in Figure 3.5.

Many of the MoEE's proposals for the "reform" of the MISA program regulations for industrial dischargers to the province's waterways were also re-stated by the Red Tape Review Commission in its January 1997 report.<sup>146</sup>

**Figure 3.5 : Ministry's Responsive Environmental Protection proposals for the Water Pollution Control Programs July 1996**

- the replacement of the *Marinas Regulation* (requires all marinas to have pump-out facilities and solid waste disposal facilities) with voluntary code of practice;
- the removal of the requirement for planning for zero discharge of AOX (organochlorines) from the *Municipal Industrial Strategy for Abatement* (MISA) pulp and paper sector regulation;
- the weakening of monitoring and reporting requirements for other MISA sector regulations (e.g. chemicals, mining, iron and steel, petroleum refining) for "good" performers. Possibilities including going from daily to bi-weekly monitoring and the elimination of parameters (i.e. substances) from monitoring requirements if not used in particular plant. This is despite the possibility that the substance might still be present in wastewater.<sup>147</sup>
- more positively, the Ministry proposed the development of discharge regulations on sewage treatment plants. This reflects the serious concerns regarding conventional (i.e. suspended solids and biological oxygen demand) and toxic discharges from sewage treatment plants highlighted by the Provincial Auditor<sup>148</sup> and others. However, the establishment and implementation of such standards is likely to be difficult with the cancellation of Clean Water Agency's *Municipal Assistance Program*.

### *"Better, Stronger Clearer: Environmental Regulations for Ontario"*

The Ministry of the Environment dropped the proposal to repeal the Marinas Regulation in its November 1997 follow-up document to *Responsive Environmental Protection: Better, Stronger, Clearer: Environmental Regulations in Ontario*. However, the proposals regarding the MISA program were retained. These included the reduction of the monitoring and reporting requirements under the MISA regulations. The Ministry also proposed to effectively eliminate the requirement that pulp and paper mills plan for zero discharge of AOX (organochlorines). Proposals to implement these changes in the MISA regulations were posted on the EBR Registry on December 30, 1997.<sup>149</sup>

Serious concerns were expressed regarding these proposals by a number of environmental organizations<sup>150</sup> and the Office of the Environmental Commissioner,<sup>151</sup> particularly given the Ministry of the Environment's inability to provide estimates of the total loadings of Ontario water bodies of pollutants generated by facilities regulated under the MISA program. As of June 1999, these proposals had not be amended.

However, in January 1998, the Ministry amended the MISA Regulations for the organic and inorganic manufacturing sector to raise the permissible discharge limits for 'conventional' pollutants for a number of facilities.<sup>152</sup> These changes were justified on the basis of increases in production levels at the facilities concerned.<sup>153</sup>

### *MISA and Program Approvals*

In her April 1999 Annual Report, the Environmental Commissioner noted a marked increase in the Ministry of the Environment's use of 'Program Approvals,' with only two such approvals being granted in the period 1994-1997, and nine being issued in 1998. 'Program Approvals' permit companies to operate and emit pollutants at levels higher than regulated limits, on the basis that the polluter is undertaking a program that will eventually result in the company's achieving compliance.<sup>154</sup>

Each of the nine Program Approvals granted in 1998 were provided to companies that had failed to comply with pollution limits established by the MISA regulations. The Commissioner noted that the companies in question had negotiated generous phase-in periods to comply with the requirements of the MISA regulations, and that the use of 'Program Approvals' in this way may weaken the impact of the regulations, and signal a retreat by the Ministry from the enforcement of regulatory controls.<sup>155</sup>

## **Ontario Hydro's Discharges to Water**

### *Metal Discharges*

In May of 1997 it was revealed that Ontario Hydro had been discharging large quantities of copper, zinc, and other metals, including small amounts of lead and arsenic from its Pickering Nuclear Generating Station over the past 25 years.<sup>156</sup> It was also reported that although the utility had been aware of these discharges, it had failed to report them under the province's MISA industrial water pollution control program.<sup>157</sup>

The Minister of Environment and Energy responded to the revelations by stating that the discharges from the Pickering station were not harmful to humans, and disputing claims that copper and zinc were persistent and bioaccumulative substances.<sup>158</sup> A request for investigation of the Hydro discharges was filed by a coalition of environmental organizations with the Environmental Commissioner under the *Environmental Bill of Rights* on June 10, 1997. The Minister stated that the request would go through the proper channels in his Ministry.<sup>159</sup> The Ministry did conduct an investigation, but decided not to lay charges against Ontario Hydro.<sup>160</sup>

An external review team on the discharges released its report in June 1997.<sup>161</sup> In its report, the team concluded that over 1,800 tonnes of metals had been released as a result of the corrosion of brass condensers at six generating stations. The team also stated that: the Hydro management system was inadequate in the areas of environmental accountability and awareness; poor judgements had been exercised by Ontario Hydro staff; and that there did not appear to be a strong environmental ethic within the Nuclear business of Ontario Hydro.

### *Tritium Discharges*

Over the past four years, there have been a number of incidents involving spills of tritium, a radioactive substance, at Ontario Hydro nuclear facilities.<sup>162</sup> Fish caught near some Ontario Hydro nuclear facilities have been found to be more radioactive than fish caught elsewhere.<sup>163</sup>

### **Water Standards Revisions**

As part of its overall program to revise the province's environmental standards, announced in October 1996, in March 1998, the Ministry of the Environment posted proposed revisions to provincial water standards for four substances on the EBR Registry as part of its standards revisions project. The proposed Provincial Water Quality Objectives for Cadmium, Carbaryl, Trivalent and Hexavalent Chromium and Arsenic were based on the Canadian Water Quality Guidelines. Scientific criteria documents for development of Interim Provincial Water Quality Objectives were also posted for Molybdenum, Vanadium, and NDMA.<sup>164</sup> An Interim Provincial Water Quality Objective for hexachlorocyclopentadiene was adopted in December 1997.<sup>165</sup>

### **Model Sewer Use By-Law**

In June 1998, the Ministry of the Environment posted a revised Model Sewer Use By-Law. The Model By-Law is intended to be used as a model by municipalities in drafting their own sewer use by-laws. The proposed new by-law included new standards for certain persistent organic pollutants, but removed standards for some metals, and prohibitions on the disposal of certain types of hazardous waste in sanitary and storm sewers.<sup>166</sup> As of June 1999 the new provincial model by-law had yet to be finalized.

In the meantime, the City of Toronto has been developing a new, unified sewer-use by-law. Like the province's draft model, the City's draft by-law includes standards for persistent organic pollutants. However, it also retains the standards for the metals and prohibitions on the discharge of certain hazardous wastes dropped from the draft provincial model by-law. The new city by-law also includes requirements that facilities discharging certain priority pollutants into the sewer system develop pollution prevention plans for these substances.<sup>167</sup>

## **DEVELOPMENTS IN SEWER, WATER & INFRASTRUCTURE MANAGEMENT**

The funding of water and sewer infrastructure and the oversight of its operation within Ontario has been altered significantly since June 1995. The Ministry of Environment has withdrawn from many of its functions in this area, and transferred these responsibilities to the Ministry of Municipal Affairs and Housing, municipalities and the private sector

### **Sewer and Water Infrastructure Impacts via Funding Reductions to the Ontario Clean Water Agency**

Provincial support for the provision of sewer and water services was first reduced, in 1995, through reductions to the MoEE's capital spending. Most of the MoEE's capital spending was achieved through allocations to the Ontario Clean Water Agency (OCWA). The budgetary reductions to OCWA totalled \$142.5 million between 1995/96 and 1997/98. This significantly affected the provision of assistance to municipalities for sewer and water infrastructure through the Municipal Assistance Program.

#### *Bill 107 - the Water and Sewage Services Improvement Act*

Following the enormous cuts to the MoEE and OCWA budgets for water-related activities, a major restructuring of responsibilities between the province and municipal governments took place in the 1996/97 year. Bill 107, *The Water and Sewage Services Improvement Act*, was introduced in January 1997 as part of the government's "mega-week" announcements of its re-ordering of the provincial-municipal relationship. The termination of provincial funding for municipal sewer and water infrastructure was announced at the same time.

The province's approach was based partially on the contents of a November 1996 report of the province's "Who Does What" Commission. The Commission had recommended that the province transfer its ownership of sewer and water facilities to appropriate municipalities, and terminate its sewer and water grant and loan programs, while continuing to set and enforce environmental standards.<sup>168</sup>

Bill 107, which was enacted in May 1997, had two major components. The first provided for the transfer of ownership of provincially owned water and sewage treatment plants to municipalities. This constitutes approximately 25% of the existing plants in the province, mostly in rural areas.

The Bill's provisions regarding the transfer of provincially owned sewage treatment plants require that any capital expenditures made by the province in relation to the works after April 1, 1978 be returned to the province if the municipality, in turn transfers (i.e. sells) the facility to another person, other than another municipality. In his statement to the legislature accompanying the introduction of the Bill, the Minister of Environment and Energy stated that this was intended to discourage the privatization of transferred sewer and water plants.<sup>169</sup>



Notwithstanding this provision, the Bill prompted widespread concern that it would result in the privatization of sewer and water services in the province, as municipalities find themselves unable to deal with the capital and operating costs of the newly transferred facilities. The inability of many municipalities to finance adequate sewer and water infrastructure had been a major factor in the province's involvement in the establishment of sewer and water facilities since the 1950's.<sup>170</sup> The possibility of privatization has been of particular concern, given the impacts of the privatization of sewer and water infrastructure in England, where it prompted water shortages, the termination of water services to low-income families, and serious public health problems.<sup>171</sup>

It was pointed out that while the requirement that municipalities internalize the costs of new sewer and water infrastructure could have the effect of discouraging new urban development, there was also the possibility that municipalities, anxious to obtain additional tax revenues from new developments, may be tempted to use their new authority to approve septic systems to facilitate such developments. This could add to the already serious environmental and public health problems which have been identified with respect to the use of septic systems by the Commission on Planning and Development Reform in Ontario<sup>172</sup> and others.<sup>173</sup>

So far, the *operation* of sewer and water services by the Ontario Clean Water Agency itself has been unaffected by the budgetary reductions.<sup>174</sup> However, in March 1998 the Minister with Responsibility for Privatization and the Minister of Environment 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. OCWA operates and maintains 123 municipal water treatment facilities and 234 municipal waste treatment facilities.<sup>175</sup> In advance of this development, OCWA had been required to develop a detailed business plan, which outlined measures for it to be able to "remain self-sustaining as it faces more private sector competition in its operating activities, and lessens its dependence on profits from its financing activities."<sup>176</sup>

### *The Province : Maybe In, Maybe Out?*

The government's May 1997 budget, announced a one-time transfer of \$200 million to municipalities for sewer and water infrastructure support. These funds established the Water Protection Fund, a budgetary item separate from the MoE's capital budget. The Fund was intended to ease the transfer of provincially-operated sewer and water facilities to municipalities through Bill 107.

### *Difficulties Continue*

Despite the province re-entering the municipal water service funding arena, on a limited basis, some significant longterm difficulties have persisted. In March 1998, 44 water treatment plant operators in 23 communities in southwestern Ontario were warned by the MoE that their drinking water testing programs are inadequate.<sup>177</sup>

### *The Provincial Auditor's Report*

The Provincial Auditor's November 1997 Annual Report to the Legislature highlighted a number of problems with the province's programs related to sewer and water infrastructure. In particular, the Auditor stated that water or sewage expansion projects should not be funded by the province unless municipalities have maximized their water conservation opportunities.<sup>178</sup>

## **Municipal Restructuring/Downloading**

### *Drinking Water Testing*

The first manifestation of water services downloading to municipalities appeared early in the government's mandate. In September 1996 the Ministry of Environment and Energy and of Health terminated the provision of drinking water testing services to municipalities. Approximately 400,000 tests had been conducted by the Ministries each year. The service was eliminated with only eight weeks notice, and without an independent review of the availability or costs of private sector testing. This action by the province was heavily criticized by the Environmental Commissioner in her 1996 Annual Report.<sup>179</sup>

### *Bill 86 - The Better Local Government Act.*

Enacted in December 1996, this Bill among other things, amended the *Municipal Act* to limit the right of Ontario residents to undertake public or private nuisance lawsuits for property damage resulting from the escape of water or sewage from municipal water or sewer works.

### *Septic Systems*

Some of the most dramatic shifts of responsibility within the Ontario government have been in the regulation of septic systems. These systems have been associated with serious environmental and human health problems in the province.<sup>180</sup>

Bill 107, the *Water and Sewerage Services Improvements Act*, enacted in May 1997, transferred responsibility for the approval and regulation of most septic systems under the *Environmental Protection Act* from the Ministry of the Environment to municipalities, or the Ministry of Municipal Affairs and Housing in areas without municipal organization. Bill 152, the *Services Improvement Act*, enacted in December 1997, then transferred authority for regulating small, on-lot septic systems from Part VIII of the *Environmental Protection Act* to the *Building Code Act*. The Ministry of Municipal Affairs and Housing promulgated requirements regarding the approval of septic systems into the building code through a regulation made under the *Building Code Act* in April 1998.<sup>181</sup>

Serious questions were raised about the capacity of municipalities to administer the septic system provisions of the *Environmental Protection Act* in light of the enormous range of new responsibilities being downloaded onto them by the province, and the accompanying reductions in provincial transfer payments for a wide range of activities. The ability of the Ministry of Municipal Affairs to regulate septic systems in unorganized

territories was also challenged. The Ministry has no experience or expertise in environmental or public health regulation of this type, and no resources were transferred from the Ministry of Environment and Energy to the Municipal Affairs Ministry carry out its new responsibilities.<sup>182</sup>

In her 1997 Annual Report to the Legislature, the Environmental Commissioner expressed concern that these arrangements appeared to be more concerned with expediting the approval of septic systems, than ensuring the protection of human health and the environment. The Commissioner also questioned whether municipalities had adequate investigation and enforcement capabilities to deal with the cumulative and growing environmental and public health threats due to improperly functioning septic systems.<sup>183</sup>

## **Dam Safety**

In February 1998, the International Joint Commission released a report on the safety of dams along the Canada-U.S. border. The report concluded that some regulated facilities were not subject to comprehensive government safety inspections and that oversight by governments was unsatisfactory. The Commission was particularly concerned about the situation in Canada, where it concluded that "there does not appear to be any way of obtaining regular government safety inspections for regulated facilities."<sup>184</sup> The Commission recommended regular, periodic, complete and independent on-site inspections by qualified experts; timetables for the implementation of all inspection report recommendations; the establishment and testing of emergency action plans; and public access to all reports and documentation relating to safety issues.<sup>185</sup>

## **WATER AS AN ECONOMIC RESOURCE?**

### **Water Exports**

In early May 1998, it was revealed that the Ministry of the Environment had granted a Certificate of Approval under the *Ontario Water Resources Act* to take up to 10 million litres of water per day from Lake Superior over a period of five years. The firm that obtained the approval indicated that it intended to export the water to drought-stricken areas of Asia.<sup>186</sup>

The approval prompted the Great Lakes Commission, an interstate agency based in Michigan,<sup>187</sup> and a former Ontario Minister of the Environment and Energy<sup>188</sup> to suggest that the province had violated the 1909 *Boundary Waters Treaty* between Canada and the United States by granting the approval. Concerns were also raised regarding the implications of permitting water exports under the *North American Free Trade Agreement*.<sup>189</sup> In response, the Canadian federal government suggested to the United State government that the issue be referred to the International Joint Commission.<sup>190</sup>

The Minister of the Environment indicated his intention to withdraw the Certificate of Approval for the water taking on May 14, 1998 and to develop a Ministry policy against the approval of bulk water takings for export in the future.<sup>191</sup> The incident helped to highlight the fact that the federal government lacked any clear legislative authority to prohibit water exports. It also raised serious questions about the level of scrutiny being applied to proposals by the Ministry of the Environment in its environmental approvals process.

In May 1999, the provincial government had adopted a regulation under the *Ontario Water Resources Act* restricting inter-basin transfers of water.<sup>192</sup> The regulation divided Ontario into three water basins: the Great Lakes-St Lawrence; Nelson River; and Hudson and James Bay, and prohibited the transfer of surface water out of these basins. Exceptions to the transfer prohibition were provided for water which is used to manufacture a product which is then transferred out of the basin and for potable water contained in consumer sized containers, not more than 20 litres in volume.

### *Water Takings and Taking Too Much Water*

The Nova Corporation controversy was the most high profile water taking granted by the province over the past four years. However, many other large water takings were approved or renewed over the period, often under a minimum of terms and conditions (see Figure 3.6). The Environmental Commissioner of Ontario expressed concern over the situation in her 1997 annual report.<sup>193</sup> In her report, the Commissioner raised the following specific issues:

- Incomplete understanding by MOE of hydrogeology and potential impacts, including cumulative impacts, of water-taking prior to issuing permits.
- Lack of enforcement by MOE of terms and conditions of permits.
- No expiry dates on permits.
- Insufficient notice provided by MOE to members of the public regarding proposed water-takings.

The ECO also noted that concerns about the absence of a comprehensive groundwater management strategy were raised by the ECO as early as the 1994-95 annual report.<sup>194</sup> In the 1997 report it was recommended that the Ministry of the Environment make public its progress to date. No comprehensive groundwater management strategy has been announced by the province.

The Provincial Auditor also raised concern over the province's lack of a groundwater strategy in his 1996 Annual Report.<sup>195</sup> The Auditor highlighted the Ministry's failure to develop an overall ground water management strategy again in his 1998 Annual Report.<sup>196</sup>

## Taking Liberties with Water Takings?

Those who wish to draw large amounts of water from a water body in Ontario are required to obtain a permit to take water from the Ministry of the Environment. The permitting process is intended to avoid or reduce conflicts between water-takers and ensure that water is withdrawn only on a sustainable basis. The system needs to be closely monitored to ensure that such intents are met.

(Proposal date: Oct 31/97)

The water taking permitting process has become a subject of concern lately as the MoE has begun to authorize some large and unprecedented water takings and has been increasingly issuing permits with no expiry dates (perpetual permits). Such permits call into question the usefulness of the permit process to ensure sustainable use of a resource and to prevent future conflicts if a taking is permitted on a perpetual basis.

**Nova Group :** In early 1998, a permit to take water from Lake Superior was granted by Ontario Environment Ministry to Nova Group for export to Asia. The permit allowed a maximum taking of 600 million litres per year for the next five years. This permit possibly violates the International Boundary Waters Treaty with the U.S. government as well as a long-standing policy against water exports from the Great Lakes Basin.

**Permits Issued to Ducks Unlimited :** The wildlife organization Ducks Unlimited alters natural environments to promote conditions favourable to waterfowl. In so doing the organization frequently restructures aquatic environments. Since June of 1997, at least 30 permits to take water or renewal of permits were granted to Ducks Unlimited. Many of the renewals have been made without a date of expiry. Examples include:

Bognor Creek. Renewal, without change, of Permit for operation of artificial wetland. Normal operations allow for outflow equals inflow. Max. taking: 5,580 L/min and 8,040,000 L/day.

Figure 3.6 : Examples of Water Approvals in Ontario in 1997

## ENERGY

### Introduction and Overview

The most significant event over the course of the 'Common Sense Revolution' in terms of energy policy was the restructuring of Ontario Hydro and the province's \$10 billion/yr electricity market. While framed primarily as an undertaking in market efficiency and competitiveness, this restructuring could have enormous consequences for Ontario's environmental quality, an aspect not immediately recognized by many Ontarians. Without new environmental requirements, the introduction of competition into the electricity sector has the potential to result in major increases in air pollution. At the same time, the restructuring of Ontario Hydro into a number of new successor entities has raised serious issues of accountability and oversight.

Major questions emerged over safety at Ontario Hydro's nuclear facilities, and in August 1997, the utility adopted a \$5 billion Nuclear Asset Optimization Plan (NAOP), to refurbish its nuclear generating facilities. The utility relied heavily on coal-fired generation to replace power from its 'laid-up' nuclear facilities. This resulted in major increases in air pollution.

In addition to the developments related to Ontario Hydro, the government terminated its funding and research programs on energy efficiency and proposed to reduce energy efficiency requirements in Ontario's Building Code.

By the middle of 1999, there were indications that Ontarians were consuming more fossil fuels, and generating more greenhouse gas emissions, than they were in 1995. This trend contradicts the Province's commitment to stabilize greenhouse gas emissions at their 1990 level by the year 2000. In addition, Ontario has failed to play constructive role in the efforts to meet Canada's commitments under the Kyoto Protocol, and there are indications that it will intensify this approach in the future.

The energy sector in Ontario, in particular the electricity production segment, continues to evolve and develop in a pattern that is not environmentally sustainable. The system is heavily reliant on uranium which brings with it a host of environmental and health and safety problems in its mining, use and disposal and on coal, one of the most emission-intensive fossil fuels.

The potential adverse impacts of the introduction of competition could be greatly curtailed if the environmental regulatory processes, still ongoing in June of 1999, produce favourable results. On the nuclear side some uncertainty remains regarding the impact of the introduction of competition and the possibility of the privatization some of Ontario Hydro's assets. The nuclear capacity would appear to be the least likely candidate for privatization or expansion. However it will remain with Ontarians for quite some time, given the investments being made in it under the Nuclear Asset Optimization Program.

Competition and market restructuring may help to prevent the undertaking of major electrical generation projects without clear evaluations of their costs and benefits relative to other projects in the North American marketplace. Furthermore, the initiative could be a step in the direction of informing the marketplace of the real cost of electricity generation, although its actual impact in this regard remains unclear.

## Ontario Hydro and Electricity Market Competition

The only pledge specific to the electricity market contained in the 1995 Progressive Conservative Party of Ontario Platform, the *Common Sense Revolution* was a commitment to a 5-year rate freeze for Ontario. The platform did, however, also refer to considering the privatization of some of Ontario's assets. Soon after taking office, a process was put in place to move beyond a rate freeze, and to introduce competition into the electricity market.

To start the process, the government formed the "Advisory Committee on Competition in Ontario's Electricity System" on November 28, 1995. The Committee was to explore the role and effects of competition in Ontario's electricity marketplace and was chaired by former federal cabinet minister Donald Macdonald.

Immediately before establishing the Advisory Committee, the Ontario government moved to replace the then chair of Ontario Hydro, Maurice Strong, with William Farlinger. The government also attempted to remove five labour, environmental and public interest representatives from the utility's Board of Directors on January 10, 1996. The government's action was overturned a week later on January 19, by the Ontario Divisional Court.

Later in 1996, on June 7, the Advisory Committee released its final report, *A Framework for Competition*, in which it recommended an end to Ontario Hydro's monopoly control over electricity generation and transmission. As well, the committee proposed that a power generation market should be created through an open provincial transmission system. Specifically, the report recommended the potential privatization of much of Ontario Hydro's thermal and hydro-electric generating capacity and the consolidation of municipal electric utilities. The Minister of Environment and Energy promised consumers and industry representatives a chance to review and comment on the report before deciding whether to adopt its recommendations stating that: "This is an issue that is critical to our province's well-being, and we are committed to an open and comprehensive review."<sup>197</sup>

In November 1997, the Ontario government released the white paper *Direction for Change: Charting a Course for Competitive Electricity in Ontario* and announced that it was intending to open Ontario's electricity market to competition. The paper proposed to create a competitive market in the year 2000 for wholesale and retail customers and to separate monopoly operations from competitive businesses throughout the electricity sector.

The paper also spoke of : establishing an interim power market; redesigning the Ontario Energy Board with an expanded mandate and of providing for the introduction of new mechanisms to ensure environmental protection; encouraging the "reform" of existing municipal utilities; establishing a level playing field on taxes and regulations in the industry; and restructuring Ontario Hydro into new companies with clear business mandates.

## Competition Committees

To investigate some of the consequences of opening up Ontario's electricity market, the Minister of Energy, Science and Technology established two committees in early 1998. The Market Design Committee, created in January 1998, advised the government on market rules, powers and responsibilities of the regulatory agency. In February, the minister announced the creation of an Electricity Transition Committee to advise minister on proposed changes to Ontario's electricity system. Specifically, the Committee solicited input from affected stakeholders with regards to how they were likely to be effected by impending changes.

Both committees operated within the framework of the Government's White Paper *Direction for Change: Charting a Course for Competitive Electricity in Ontario*. The Committees' consultations and reporting provided some detail in support of, but did not substantially alter the government's course or planned direction of the electricity market restructuring.

### *Interim Market Establishment*

Consistent with the theme of creating competitive conditions, the province and Ontario Hydro announced the establishment of an interim market for replacement electricity in January 1998<sup>198</sup>. This system permitted generators other than Ontario Hydro to provide replacement electricity to meet Ontario's electricity demands.

### **Bill 35, *The Energy Competition Act*, 1998**

Bill 35, *The Energy Competition Act*, 1998, received Royal Assent on October 18, 1998. The Bill provided for the division of Ontario Hydro in a number of entities, including: the Ontario Power Generation Corporation with the generating assets; Ontario Services Corporation to operate the transmission and distribution infrastructure; and Ontario Hydro Financial Corporation to hold Ontario Hydro's debt; the Independent Market Operator, to operate the competitive electricity market; and an Electrical Safety Authority to assume Ontario Hydro's safety functions.

Under the legislation, the Service Corporation and Generation Corporation were to be incorporated under the *Business Corporations Act* held by her majesty in Right of Ontario. The financial corporation would continue as a corporation without share capital made up of its board of directors. The Independent Market Operator (IMO), was be a corporation, like the financial corporation, without share capital and made up of its board of directors, to operate the market. The Electrical Safety Authority was to be a delegated regulatory organization similar to the Technical Standards and Safety Authority. These five new entities came into being on April 1, 1999.

Bill 35 also provided the Ontario Energy Board was provided with an operator-specific regulatory function through requirements for licensing as a condition of market access. The Act made provision for the requirement of electricity suppliers to be in compliance with environmental performance standards as a condition of market access,



but made no provision regarding the nature of those standards.

Initially, it appeared as though the successor corporations to Ontario Hydro would no longer be subject to the *Freedom of Information and Protection of Privacy Act* and other accountability mechanisms for public bodies on the basis that they were no longer public entities. This arrangement was strongly criticized by the Province's Information and Privacy Commissioner in her June 1999 Annual Report.<sup>199</sup> Under Ontario Regulation 138/99, the Ontario government designated three the successor corporations subject to the FIPP Act: the Independent Market Operator; the financial corporation and the pension corporation. However, the entities with the greatest potential for environmental impact, the Services and Generating Corporations, were not made subject to the Act.

In addition, section 10 of the *Power Corporation Act*, which provided a mechanism through which the Cabinet could give policy direction to Ontario Hydro's Board of Directors, ceased to apply to the utility's successor corporations, as the Act was repealed through Bill 35.

In April 1999, the Ministry of the Environment confirmed that the operations of two of Ontario Hydro's successor companies, Ontario Power Generation Inc and Ontario Hydro Services Company Inc. would continue to be subject, where applicable, to the *Environmental Assessment Act*.<sup>200</sup> Application of the Act to other new generating facilities, not operated by Ontario Hydro's successor corporations would occur on a case-by-case basis.<sup>201</sup>

## **Electricity Market Competition and Air Pollution**

Major concerns have been raised regarding the implications of the introduction of electricity market competition for air quality. The province's existing regulations regarding SO<sub>2</sub> and NO<sub>x</sub> emissions related to electricity generation apply only to Ontario Hydro. As currently drafted they would not apply to new sources of supply entering the Ontario electricity market, either from within Ontario or elsewhere. No legally enforceable limits currently exist in Ontario with respect to emissions of CO<sub>2</sub>, and Ontario Hydro's existing Certificates of Approval are silent on the issue of emissions of hazardous or toxic substances to the air.

This is of particular concern given that coal-fired power plants in the Ohio Valley will be able to offer the Ontario market very price-competitive rates for electricity. Coal-fired electricity imports from the Ohio Valley are especially harmful since the NO<sub>x</sub> emission rates of many Ohio Valley stations are significantly higher than those for Ontario Hydro's facil-

ities.<sup>202</sup> This increased use of low-cost, coal-fired plants located in the U.S. and commensurate emissions increases would have serious air quality implications for Ontario, as the province is directly downwind of the Ohio Valley.

Furthermore, in a competitive environment, municipal utilities and investor-owned corporations are likely to build new electricity generating capacity in Ontario. When the emissions from these stations, are combined with Ontario Hydro's output, emission levels from electricity production in Ontario will increase. In fact, according to a recent Natural Resources Canada forecast, if new environmental policies are not enacted in Ontario, the province's electricity-related greenhouse gas emissions in 2020 will be 2.2 times greater than its 1990 levels.<sup>203</sup>

The situation is further complicated by the findings of the both the National Air Issues Coordinator Committee Acidifying Emissions Task Group,<sup>204</sup> the Ontario Medical Association<sup>205</sup> and others that a 75% reduction in the current emission limits for SO<sub>2</sub> in eastern Canada is necessary to halt the damage to human health and the environment resulting from these emissions.

### ***Fuel Switching, Renewables Would Help***

Ontario has, since 1970 become significantly reliant on two energy sources with unattractive properties. Uranium brings with it a host of environmental and health and safety problems in its mining, use and disposal. Coal, is the most emission-intensive of any fossil fuel in virtually every aspect: air toxics, carbon content and acid gases.

Regrettably, the debate over fuel sources for electricity has typically played the use of one fuel source into the hands of the other: the use of uranium reduces acid gases, smog and greenhouse gas emissions while the use of coal reduces the threat of nuclear radiation exposure. Little focus has been given to substantially replacing both coal and uranium with natural gas, co-generation, fuel conservation, wind and solar.

Purchasing from sources other than coal or nuclear generation was a mute point, as Ontarians have never had the luxury of choosing their source of electricity. Soon that luxury will be available to the market, and while consumer choice could help to drive the establishment of cleaner, renewable and lower impact forms of electricity generation, it may take a great deal of time and even then is likely to impact only a small portion of the market. In the future open market scenario, unless environmental regulations such as a carbon quota or renewable portfolio standard are instituted, coal-fired imports from the Ohio valley are likely to compete very successfully for new demand.

Without intervention, the semi-completed restructuring of Ontario electricity market is unlikely to shift the reliance on coal or nuclear appreciably in the short term, if at all. The exposure of the market to low cost coal-fired electricity from the Ohio Valley is likely to ensure that the introduction of cleaner, but marginally more costly forms of generation, is impeded. Alternatively, if the full environmental costs of nuclear and coal-fired power were factored into their prices, then many lower impact forms of generation would be highly competitive.

**Figure 3.7 : Electricity market restructuring and the potential environmental impacts.**

In late 1998 and early 1999, the Ministry of Environment began consultation processes to begin to deal with the environmental ramifications of electricity market restructuring. Processes involved the following issues : the use of regulations to apply new emission caps to Ontario operators; the defining of emission performance standards for all generators wishing to sell electricity in the Ontario market; certification, or the definition of what constitutes 'green' power; establishing disclosure requirements of generators for informing consumers; and the application of the *Environmental Assessment Act* to the electrical generation undertakings. With the exception of the status of Ontario Hydro's successor corporations under the *Environmental Assessment Act*, none of these issues

had been resolved as of June 1999.

## **Ontario Hydro Nuclear Problems**

### *Metals and Tritium Spills and Discharges at Ontario Hydro Facilities*

#### *Metal Discharges*

In May 1997, it was revealed that over the past 25 years, Ontario Hydro's Pickering Nuclear Generating Station had released more than 1,000 tonnes of copper and zinc (which are toxic and bioaccumulative) into Lake Ontario. The emissions arose from the scouring of brass (copper-zinc) condenser tubes in the plant's heat exchanger systems. Ontario Hydro staff had been aware of the copper erosion problem since at least 1981. However, the utility never reported the discharges of copper to the MoE.

The response of the Minister of Environment ( and Energy) was that the discharges from the Pickering station were not harmful to humans, and disputed claims that copper and zinc were persistent and bioaccumulative substances.<sup>206</sup> A request for investigation of the Hydro discharges was filled by a coalition of environmental organizations with the Environmental Commissioner under the *Environmental Bill of Rights* on June 10, 1997. The Minister stated that the request would go through the proper channels in his department.<sup>207</sup> The Ministry did conduct an investigation, but decided not to lay charges against Ontario Hydro.<sup>208</sup>

A review team on the discharges released its report in June 1997.<sup>209</sup> In its report, the team concluded that over 1,800 tonnes of metals had been released as a result of the corrosion of brass condensers at six generating stations. The team also stated that: the Hydro management system was inadequate in the areas of environmental accountability and awareness; poor judgements had been exercised by Ontario Hydro staff; and that there did not appear to be a strong environmental ethic within the Nuclear business of Ontario Hydro.

#### *Tritium Discharges*

Over the past four years, there have been a number of incidents involving spills of tritium, a radioactive substance, at Ontario Hydro nuclear facilities.<sup>210</sup> Fish caught near some Ontario Hydro nuclear facilities have been found to be more radioactive than fish caught elsewhere.<sup>211</sup>

## **Nuclear Safety and Restructuring**

On August 13, 1997, Ontario Hydro publicly released "Report to Management IIPA/SSFI Evaluation Findings and Recommendations." The report was the product of an "Independent and Integrated Performance Assessment (IIPA)" of Ontario Hydro's nuclear

operations and found that three nuclear plants (Pickering, Bruce and Darlington) were operating at a "minimally acceptable level."<sup>212</sup> The assessment included six Safety System Functional Inspections (SSFI) of plant systems. The report noted that long standing management, process and equipment problems in the nuclear plants are well known and that the plants' performances are well below levels at the best operated plants in the industry.

Key deficiencies in the nuclear plants that were identified included: inadequate definition of employee accountabilities; poorly defined lateral working relationships; inadequate managerial practices; nonconservative decision-making; inadequate quality assurance and inadequate work protection; and incomplete or flawed processes. The report concluded that "immediate action is required in many areas" but that the deficiencies identified have not yet "undermined the minimum safety envelopes at the sites."

### *The Nuclear Asset Optimization Plan (NAOP)*

In response to the release of the IIPA report, the province's utility announced that it would undertake a massive overhaul of its nuclear generating capacity in the province called the Nuclear Asset Optimization Plan (NAOP). The plan (see Figure 3.8) proposed to refurbish the utility's nuclear generating facilities, and to rely heavily on fossil fuel generation to provide replacement power while the nuclear facilities were undergoing repair. The Premier of Ontario, as well as the Chairman of Ontario Hydro insisted that the estimated \$5-8 billion cost of the plan would not be passed onto electricity customers in the form of a rate increase.<sup>213</sup>

**Figure 3.8 : Ontario Hydro's Nuclear Asset Optimization Plan**

Details about the nuclear reactor refurbishing include:

- 7 of Ontario Hydro's 20 reactors (4 units at Pickering and 3 units at Bruce) would be out of service for at least two years (restart decision to be made at a later date); upgrades would be made to Pickering B, Bruce B and Darlington reactors;
- Nanticoke and Lambton coal/oil fired stations would run at higher levels to make up the short fall in electricity;
- an oil-fired unit at the Lennox Generating Station near Kingston would be brought out of retirement;
- the plan was estimated to cost between \$5 and \$8 billion over four years;

### *Report of the Select Committee on Ontario Hydro Nuclear Affairs*

In September 1997 the Ontario legislature formed a committee to review the restructuring plan. The mandate of the Select Committee on Ontario Hydro Nuclear Affairs included the review of Ontario Hydro's nuclear recovery plan and of the serious assertions made about Hydro in the recent IIPA report on nuclear safety at the utility.

The Select Committee did little to attempt to steer the utility away from its heavy reliance on nuclear generated electricity. In its December 1997 report,<sup>214</sup> the committee's recommendations focussed strengthening regulatory supervision, and improving the safety and integrity of nuclear operations, but did not question the overall environmental integrity

and sustainability of such infrastructure.

The Committee concluded that the "safe and efficient" operation of Ontario's Hydro's nuclear generating stations was "vitally important" and that "proper management" was required to protect the \$24 billion invested in the nuclear program. In terms of environmental concerns, the report recommended that the Minister of the Environment should ensure that Ontario Hydro's implementation decisions comply with all environmental legislation, policies and standards.

The report also recommended that Ontario Hydro increase access to existing generation which creates less emissions and is financially competitive. In addition, the aggressive promotion of cost-effective energy conservation was recommended as a further means of reducing environmental emissions.

### *The Environmental Impacts of the NAOP*

The implementation of the NAOP has lead to major increases in emissions from Ontario Hydro's five coal-fired generating facilities. Ontario Hydro's acid gas (combined Nitrogen and Sulphur dioxide) emissions had fallen from 210,000 tonnes in 1992 to 120,000 tonnes in 1996. Under the NAOP, Nitrogen oxide emissions grew from 34,500 in 1995 to 56,000 tonnes in 1998, and increase of 58%. Sulphur dioxide emissions increase from 84,900 tonnes in 1996 to 143,000 in 1998, a growth of 68%.<sup>215</sup> Hydro's total acid gas emissions for 1998 were 199,000 tonnes (see Figure 3.9). The utility's current limit under the Countdown Acid Rain Program is 215,000 tonnes. Although specific data is not available, it can be expected that emissions of heavy metals and particulates from Ontario Hydro's facilities have also undergone large increases under the NAOP.

Ontario Hydro's utility's carbon dioxide emissions had been falling, having dropped from 27 million tonnes in 1992 to 21 million in 1996.<sup>216 217</sup> The utility's board had made a voluntary commitment to stabilize its emissions at the 1990 level (26 Mt) by the year 2000.<sup>218</sup> Under the NAOP, it is estimated that Ontario Hydro will emit at least 30 Mt of carbon dioxide per year over 1998, 1999 and 2000.<sup>219</sup>

To combat some of the ramifications of these developments, Ontario Hydro

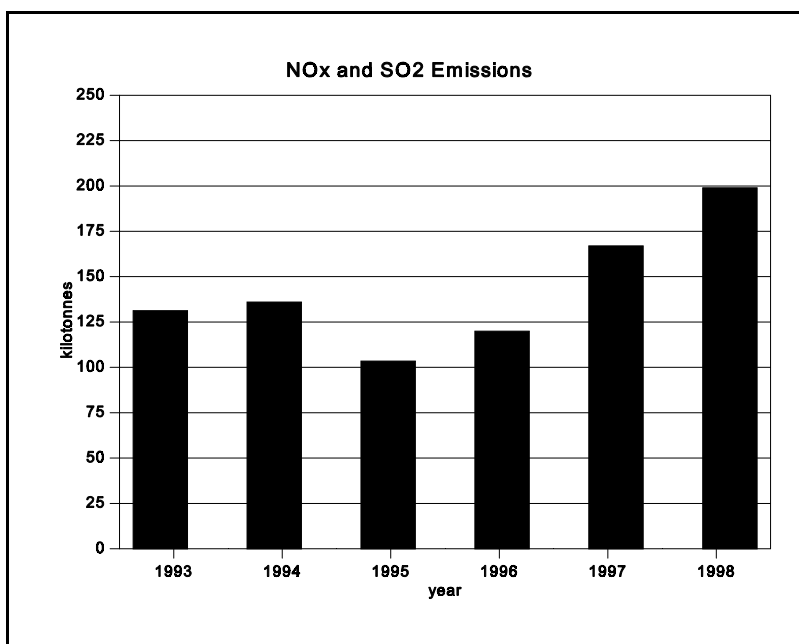


Figure 3.9 : Ontario Hydro Acid Gas Emissions

announced in December 1997 that it had purchased 10,000 (U.S.) tons of carbon dioxide reduction credits from the Southern California Edison electric utility.<sup>220</sup>

## **Amendments to Energy Efficiency Programs and the Building Code**

### *Elimination of Energy Efficiency Programs and Requirements*

Early in its mandate, the government eliminated funding for virtually all of the MoEE's energy research and efficiency programs. The termination of the Ministry's Green Communities and Home Green-up Programs eliminated provincial support to energy efficiency programs for the residential sector was announced at the same time. Support for some of these activities was subsequently arranged with the private sector.<sup>221</sup>

### *Ontario Building Code Revisions*

In January 1996, the Ministry of Municipal Affairs and Housing (MMAH) issued a discussion paper entitled *Back to Basics: A Consultation Paper on the Focus of the Ontario Building Code* which outlined 650 recommendations to streamline and simplify the Ontario Building Code (OBC). Among the recommendations were a number of proposals which would reduce the required level of insulation in new homes and buildings (to one-third of existing requirements), replace energy efficiency design standards with a labelling system, and a variety of other measures which would lead to the design of less energy efficient housing and buildings. Such measures were estimated to increase the carbon dioxide output from the heating of homes built to the revised code by 25%.<sup>222</sup> In the face of opposition from a wide range of sectors, the government diluted these proposals.<sup>223</sup> The final outcome allowed for a slight reduction in wall insulation value (from R18.5 to R17)<sup>224</sup>

### *New Products / Energy Efficiency*

As part of the Responsive Environmental Protection initiative, changes to *Energy Efficiency Act Regulation 82/95* broadened the number of products which are captured by the regulation and re-categorize some of the products and standards.<sup>225</sup> These changes aligned Ontario's *Energy Efficiency Act* with the United States' *National Appliance Energy Conservation Act*. The amendment to 82/95 created minimum standards for gas-fired room heaters, wall furnaces and fire places and for fluorescent lamps that are primarily used in area lighting. The amendment also established new standards for three products: electrically heated storage water heaters, parking lot and area dusk-to-dawn lighting and cobra-head type roadway lighting. Products were to comply with the new standards by various dates in 1998 and 1999.<sup>226</sup>

## **Ontario and the Kyoto Protocol**

Canada is a signatory to the December 1997 Kyoto protocol on climate change. The Protocol commits Canada to reduce its greenhouse gas emissions by an average 6% over

the years 2008 to 2012 relative to 1990 levels. The net effect of this commitment would be a 19% reduction over the commitment period (2008-2012) as Canada is currently projected to be 13% over the stabilization target (referenced to 1990).

By the middle of 1999, indications were that Ontarians were consuming more fossil fuels and generating more greenhouse gas emissions, than in 1995,<sup>227</sup> making the achievement of these commitments unlikely. Furthermore, Ontario's representatives have sought to block progress on the development of any specific conclusions or recommendations in the issues tables established by the federal government to develop an implementation strategy for Canada's obligations under the Kyoto Protocol on Global Climate Change.<sup>228</sup> There are also indications that the \$10 million for analysis of climate change issues announced in the May 1999 budget may be used as to develop a defence against actions the federal government might request that Ontario do as a consequence of Canada's Kyoto commitments.

# PESTICIDES & AGRICULTURE

## Overview and Summary

No action has been taken over the past four years to deal with the environment impacts of agricultural operations. In fact, the government's most significant action was the enactment of the *Farming and Food Production Protection Act* in May 1998. This legislation is particularly noteworthy as it remains one of the few pieces of legislation in Canada intended to *protect* activities which may damage the environment or human health.

Major revisions to the pesticide regulation system were implemented in August and September 1998. These reforms involved both amendments to ensure proper pesticide use and reduce regulatory requirements for other uses. The Ministry of Agriculture and Food eliminated the positions of inspectors who among other duties, arranged for the testing of foods for pesticide residues and terminated an agreement with the Ministry of Environment and Energy to test food samples for pesticide residues.

Given the business-as-usual approach to pesticide use, the steadfast support to the agricultural industry in the province, and the corresponding reduction in environmental monitoring capability in the province, agricultural operations are likely to continue to pose a significant threat to environmental quality in the years ahead. Major impacts to ground and surface water have been associated with pesticide and fertiliser applications, hog farm and manure operations and agricultural runoff. The identification of such impacts before adverse consequences are seen may be difficult given the extensive reductions in environmental monitoring capacity in the province.

## **Bill 146, *The Farming and Food Production Protection Act***

Bill 146, the *Farming and Food Production Protection Act*, was enacted in May 1998. The Act maintained the prohibition in the 1988 *Farm Practices Protection Act* barring neighbours of farms from undertaking civil law actions in relation to nuisances which arise from 'normal' farm practices. It also added a provision permitting farmers to appeal municipal by-laws that attempt to control such nuisances to the 'Normal' Farm Practices Protection Board, and provided the Board with the power to overturn such by-laws.<sup>229</sup> The measure appeared to have been motivated by concerns on the part of industrial scale hog farmers that municipal councils were considering the adoption of such by-laws to control the environmental and health effects of their operations.<sup>230</sup>

Bill 146 is of particular concern given that a draft State of the Environment Report prepared by the Ministry of Environment and Energy released to the public in February 1997, indicated that runoff from agricultural operations the leading cause of declining surface water quality in Southern Ontario.<sup>231</sup> Furthermore, a February 1998 report by the Canadian Institute for Environmental Law and Policy, noted that there was virtually no information available regarding the management of waste pesticides from agricultural



operations in the province.<sup>232</sup>

The passage of Bill 146 further insulated farm operations from either public or private actions to control their impacts on human health and the environment. The Bill was particularly noteworthy as it remains one of the few pieces of legislation in Canada intended to *protect* an activity which may damage the environment or human health.<sup>233</sup>

## **Pesticides and Regulatory "Reform"**

### *Round 1 : Amendments to the Pesticides Act*

In October 1995, the MoEE released proposed changes to the *Pesticides Act*. Under the proposed amendments, operators of pest control businesses would no longer be required to write an examination to obtain an operator's licence. However, operators would be required to hold an exterminator's licence or employ a licensed exterminator to perform or supervise each extermination. In addition, the number of pesticide licences would be reduced from ten to five, and the range of products permitted to be used in the new licence categories be broadened.<sup>234</sup>

### *Round 2 : Responsive Environmental Protection*

In July 1996, the Ministry of Environment and Energy presented major proposals for changes to the regulatory framework for pesticides in the province. These were contained in the document *Responsive Environmental Protection* and included:

- replacing the provincial pesticides classification system with a national system;
- decreasing the number of different pesticide licenses from 53 to 15;
- requiring licensed exterminators to recertify every five years;
- requiring at least \$1 million in third party liability for pest control businesses; and
- replacing underground disposal requirements for pesticide containers with new recycling requirements;
- remove pesticide application permit requirements for pesticide applications that "pose little environmental risk;"
- remove EBR registry public notice requirements for approval of pesticides with new active ingredients on the basis that an as yet to be established "national" system will provide equivalent public notice; and
- simplify (eliminate?) requirements for public notice (i.e. signs) where "integrated pest management" practices are in place.

### *Round 3 : "Better, Stronger, Clearer:" Environmental Regulations for Ontario*

The *Responsive Environmental Protection* process culminated in the November 1997 release, by the Ministry of the Environment, of the document *Better, Stronger, Clearer: Environmental Regulations for Ontario*. It proposed a number of changes related to pesticides including:<sup>235</sup>

- the prohibition of the burial of empty pesticide containers and require recycling of agricultural and commercial containers made of plastic or metal;
- the elimination of the sections of Regulation 914 dealing with obsolete pesticides that are no longer available; and
- the consolidation and clarification of the sections of Regulation 914 on fumigants.
- the simplification of the licensing system and reduction of the number of types of licenses;
- the upgrading of training requirements for exterminators; and
- the elimination of exterminator license requirements for the use of some "low risk" pesticides.
- the introduction of Standardized Approvals for applications of "low risk" pesticides.

The amendments would strengthen the requirements for supervision of non-certified agriculturalists by certified agriculturalists, and place responsibility on the supervisor for the acts and omissions of non-certified agriculturalists and labourers.

The proposals also required non-certified agriculturalists who apply schedule 2 and 5 pesticides to attend a course on safe pesticide use and that only a certified agriculturalist can decide on the pesticide mix to be used, purchase the products and oversee proper storage. In addition, It would removed the requirement for certification for agriculturalists to use Schedule 3 pesticides on the basis that these pesticides are readily available to untrained homeowners. The latter proposal prompted an expression of concern by the Environmental Commissioner. She pointed out that agricultural applications of pesticides are on a much larger scale than domestic uses.<sup>236</sup>

In December 1997, proposed amendments to Regulation 914 to implement the changes contained in *Better, Stronger, Clearer: Environmental Regulations for Ontario* were posted on EBR Registry.<sup>237</sup> These were adopted in August and September 1998.

## **Budgetary and Personnel Reductions**

In June 1996, it was revealed that the Ministry of Agriculture and Food had eliminated the positions of inspectors who among other duties, arranged for the testing of foods for pesticide residues.<sup>238</sup>

In January 1997, it was revealed that the Ministry of Agriculture, Food and Rural Affairs had terminated an agreement with the Ministry of Environment and Energy to test food samples for pesticide residues. The situation left the MoEE with the potential for up to \$300,000 in unanticipated laboratory expenses, leading senior officials in the environment Ministry to direct staff to consider keeping pesticide residue testing to the "absolute minimum."<sup>239</sup> In response to questions in the legislature, the Minister of Environment and Energy stated that the government would not "in any way lessen the number of tests" being done on pesticides.<sup>240</sup>

By June 1997, the Ministry of Environment and Energy had reduced its staff assigned to the regulation of pesticide use by 55%, down to 17 from 31 positions in

1994/95.<sup>241</sup>

These reductions took place at a time when, over the course of four years, the budget of the Ministry of Agriculture, Food and Rural Affairs has not only remained in tact but has grown. For the 1999/2000 budget year, the operating budget is projected to reach \$365 million compared to \$263 million in 1995/1996. By comparison, in the same period, the Ministry of Environment's operating budget has fallen from \$226 million to a projected \$165 million.

Given the steadfast support to the agricultural industry in the province and the corresponding reduction in environmental monitoring capability in the province, agricultural operations could pose a significant threat to environmental quality in the years ahead. Major impacts to ground and surface water have been associated with pesticide and fertilizer application, hog farm and manure operations and agricultural runoff. These impacts may not be identified as a result monitoring reductions.

### **Biotechnology and the Commercialization of Genetically Engineered Crops in Ontario**

Following the lead of other jurisdictions, Ontario become eager to see the introduction of genetically engineered crops in Ontario, particularly pest resistant corn, and herbicide resistant soya. Serious concerns have been raised about the environmental implications of the commercialization of these crops. Pest resistant corn, for example, uses genes from the bacteria *bacillus thuringiensis* (bt) to produce a substance which is toxic to insects. However, bt is widely used by organic farmers as a biological pesticide. There is a major concern that the widespread exposure of pest populations to bt toxin as a result of the commercialization of pest resistant crops using bt toxin gene will result in the emergence of pest populations that are resistant to bt toxin. This would render bt useless as a biological pesticide. Concerns have also been raised about the impact of pesticide producing plants on non-target organisms, particularly beneficial or ecologically significant insects.<sup>242</sup>

## Endnotes

1. On Jun 10, 1997, the Premier of Ontario acknowledged in the legislature that more efforts have to be taken to tackle the problems of smog in Ontario. On July 11 1997, the Premier of Ontario urged the U.S. Great Lakes states to reduce their air emissions to help Ontario in its efforts at a meeting with the Governors of U.S. states bordering Great Lakes. On July 23, 1997 the Premier publicly criticized the Minister of Environment and Energy for failing to move quickly enough to develop a vehicle-emissions testing program for the province.
2. Federal-Provincial Working Group on Air Quality Objectives and Guidelines, *Science Assessment Summary Document*, (March 1999), pg.xi.
3. Ministry of the Environment, *Air Quality in Ontario 1996: A Concise Report on the State of Air Quality in the Province of Ontario* (Toronto: December 1998), figure 6.2.
4. International Joint Commission, *8th Biennial Report on Great Lakes Water Quality* (Washington and Ottawa: 1996).
5. International Joint Commission, *9th Biennial Report on Great Lakes Water Quality* (Washington and Ottawa, 1998).
6. See M.Winfield, *Response to Incineration Information Package* (Toronto: CIELAP, (Brief 95/3), September 1995).
7. EBR Registry No. RA8E0032, October 5, 1998.
8. EBR Registry No. RA8E0008.P.
9. See M.Winfield and R.Nadarajah, "Comments on MoE's Proposal for Standardized Approval Regulations and Approval Exempting Regulations," (Toronto: Canadian Environmental Law Association and Canadian Institute for Environmental Law and Policy, March 1998).
10. Ontario Regulation 524/98 (*Environmental Protection Act*).
11. EBR Registry No. RA8E0036, December 2, 1998.
12. *Summary Document for the Delivery Strategies - Draft*, Ministry of the Environment, April 9, 1998.
13. M.Mittelstaedt, "Ontario polluters unchecked, group says," *The Globe and Mail*, May 10, 1999.
14. EBR Registry Notice PA6E0014.P, October 10, 1996.
15. Dick, McGowan et. al., "Air Quality, in Swaigen and Estrin, *Environment on Trial* (3rd ed.). See Also Office of the Provincial Auditor, *1996 Annual Report*, pp.115-116.
16. Office of the Provincial Auditor, *1996 Annual Report*.
17. EBR Registry Notices PA8E0009-PA8E0017, March 31, 1998.
18. "Proposed Standards Information Package Information Overheads," January 1997, Standards Development Branch, Ministry of Environment and Energy.
19. M.Mittelstaedt, "Firms get first say on levels of toxics," *The Globe and Mail*, December 17, 1996.
20. Office of the Provincial Auditor, *1998 Annual Report*, pp.272-273.
21. EBR Registry Postings PA8E0009-RA8E0017, December 23, 1998.
22. EBR Registry Posting PA9E0002, January 22, 1999.
23. "Marchi mulls federal smog standards" *Globe and Mail*, April 8, 1996.
24. *Ibid.*
25. J.MacPhail, et.al., *Ontario Medical Association Postition Paper on Health Effects of Ground-Level Ozone, Acid Aerosols & Particulate Matter* (Toronto: Ontario Medical Association, May 1998), pg. 6.

26. *Continental Pollutant Pathways: An Agenda for Cooperation to Address Long-Range Transport of Air Pollution in North America* (Montreal: North American Commission for Environmental Cooperation, 1997); *Long-Range Transport of Ground-Level Ozone and Its Precursors* (Montreal: North American Commission for Environmental Cooperation, 1997).
27. *Open Doors - Ontario's Environmental Bill of Rights: Annual Report 1997* (Toronto: Environmental Commissioner for Ontario, April 1998).
28. *The IJC and the 21st Century* (Washington D.C. and Ottawa: International Joint Commission, 1997).
29. Acidifying Emissions Task Group, *Towards a National Acid Rain Strategy* (Ottawa: NAICC/Environment Canada, October 1997).
30. *Air Pollution Impacts of Increased Deregulation in the Electric Power Industry: An Initial Analysis* (Northeast States for Coordinated Air Use Management, January 1998).
31. *Emissions from Coal-Fired Electric Stations: Environmental Health Effects and Reduction Options* (Toronto: University of Toronto Institute for Environmental Studies and Pollution Probe, January 1998).
32. Ontario Ministry of the Environment, *Summary of Compendium of current knowledge on fine particulate matter in Ontario* (July 1998), pg.9. See also Ministry of the Environment, *Air Quality in Ontario 1996* (Toronto: December 1998), figure 3.1.
33. Federal-Provincial Working Group on Air Quality Objectives and Guidelines, *Science Assessment Summary Document*, (March 1999), pg.xi.
34. Ministry of the Environment, *Air Quality in Ontario 1996: A Concise Report on the State of Air Quality in the Province of Ontario* (Toronto: December 1998), figure 6.2.
35. Ministry of Environment and Energy, *Towards a smog plan for Ontario: A Discussion Paper*, June 1996 page 13.
36. *Press Release*, "Approval of Small Waste Oil Space Heater on Hold," March 19, 1998.
37. *Ontario Smog Plan: A Partnership for Collective Action* (Toronto: Ministry of the Environment, January 1997).
38. ECO, *Annual Report 1997*, pp.31-33.
39. *Ibid.*
40. *Our Future, Our Health!: The Consequences of Inaction* (Toronto: Ontario Environmental Protection Working Group, May 1998).
41. ECO *Annual Report 1997*, pg.32.
42. R.Brennan, "Ontario's vehicle-emission program put back by a year," *The Hamilton Spectator*, April 15, 1998.
43. ECO, *Annual Report 1998*, pg.46.
44. *Ibid.*
45. *Ibid.*, pg.47.
46. *Ibid*, pp.94-96.
47. *Report to Management: IIPA/SSFI Evaluation Findings and Recommendations* (Toronto: Ontario Hydro, July 1997).

48. Toronto Public Health, *Ontario's Changing Electrical Market: Implications for Air Quality & Human Health* (Toronto: City of Toronto, April 1999).
49. Brian McAndrew, "More Coal, More Pollution" *Toronto Star* August 14, 1997.
50. Ontario Hydro, *A Strategy to Manage Greenhouse Gas Emissions* 1995, page 2,7.
51. *Ibid.*
52. Ontario Hydro forecasts indicate that the utility will emit 30, 30 and 31 Mt of carbon dioxide per year over 1998, 1999 and 2000. For the year 2000 the estimate includes offsets which means the gross emissions are actually higher. See *Power System Implications of NAOP*, presentation to the Select Committee on Ontario Hydro Nuclear Affairs, October 18, 1997 by D. Patrick McNeil.  
  
Other forecasts suggest that gross carbon dioxide emissions from Ontario Hydro could approach 45 Mt during the nuclear restructuring. See could be much higher. See Brian McAndrew, "More Coal, More Pollution" *Toronto Star* August 14, 1997.
53. Peter Boisseau, "Hydro makes landmark swap" *Toronto Star*, December 10, 1997.
54. *Electricity Competition and Clean Air* (Toronto: The Ontario Clean Air Alliance, April 1998).
55. Natural Resources Canada, *The Greenhouse Gas Emissions Outlook 1996-2020*, Prepared for Joint Federal, Provincial, Territorial Energy and Environment Ministers Meeting, Toronto, December 12, 1996 (Updated: March 19, 1997), pp. 5 & 6; and Memo from Wally Geekie, Energy Sector, Natural Resources Canada to Jack Gibbons, May 2, 1997.
56. Acidifying Emissions Task Group, *Towards a National Acid Rain Strategy* (Winnipeg: NAICC/CCME, October 1997).
57. Pers comm., Dr. Martha Kostuch, member NAICC Acidifying Emissions Task Group, May 27, 1998. See also "Minutes of the Acidifying Emissions Task Group Meeting," May 24-25, 1997 and *News Release*, "Acid Rain Still a Problem" Prairie Acid Rain Coalition, May 26, 1997.
58. Acidifying Emissions Task Group, *Towards a National Acid Rain Strategy* (Ottawa: Environment Canada, October 1997).
59. Federal/Provincial/Territorial Ministers of Energy and Environment, *The Canada-Wide Acid Rain Strategy for Post-2000*, (Environment Canada, October 1998).
60. "Progress Report - Smog Task Group," (NAICC NOx/VOC Consultation Task Group) May 1998.
61. T.Blackwell, "Tories fear changes to gas: Federal limits on sulphur content said to be too costly," *The Hamilton Spectator*, October 1998.
62. These regulations were adopted in June 1999. See: Environment Canada, "Lower levels of sulphur in gasoline will result in cleaner air for all Canadians," *News Release*, June 7, 1999.
63. M.Mittelstaedt, "Sterling's flip-flop elicits anger," *The Globe and Mail*, November 7, 1998.
64. M.Mittelstaedt, "Canadian gasoline fuels smog, federal study says," *The Globe and Mail*, March 7, 1998.
65. "Sulphur reductions sought," *The Globe and Mail*, April 29, 1998.
66. Personal Observation, Greg Jenish, Project Officer, CIELAP; Member, Landfill Gas Sub-committee, Canada's National Climate Change Process.
67. "Elliot announces end of Ontario Waste Management Corporation," *News Release* August 31, 1995.

68. Ministry of Environment and Energy, Guideline A-7 - Combustion and Air Pollution Control Requirements for New Municipal Waste Incinerators, January 1996.
69. International Joint Commission, 8th Biennial Report on Great Lakes Water Quality (Washington and Ottawa: 1996).
70. International Joint Commission, 9th Biennial Report on Great Lakes Water Quality (Washington and Ottawa, 1998).
71. See M.Winfield, Response to Incineration Information Package (Toronto: CIELAP, (Brief 95/3), September 1995). See also M.Mittelstaedt, "Burning garbage could let loose toxic mercury, dioxin levels: study," The Globe and Mail, July 28, 1999.
72. See Ministry of Environment and Energy, Responsive Environmental Protection: Technical Annex July 1996.
73. See, for example, M.Winfield and G.Jenish, "Comments Regarding Responsive Environmental Protection: A Consultation Paper (Toronto: CIELAP (brief 96/10), October 1996).
74. Ministry of the Environment, "Draft Regulation: General - Waste Management, June 2, 1998.
75. Office of the Provincial Auditor, 1996 Annual Report.
76. Office of the Fire Marshal, Protecting the Public and the Environment by Improving Fire Safety at Ontario's Recycling and Waste Handling Facilities (Toronto: Ministry of the Solicitor General and Correctional Services, August 1997).
77. M.Winfield, Hazardous Waste Management in Ontario: A Report and Recommendations (Toronto: CIELAP, February 1998).
78. See, for example, R.Nadarajah, T.McClennaghan, and M.Winfield, "Submission to the Ministry of the Environment Re: EBR Notice RAE0023 Draft Waste Management Regulation (Toronto: CELA (Brief #352); CIELAP (Brief 3/98), September 1998).
79. EBR Registry No: RA8E0006, July 17, 1998.
80. EBR Registry No.RA7E0012.P.
81. *Philip Enterprises Inc and the Ontario Ministry of Environment and Energy*, Ontario Court of Justice General Division (file no.: 13800/96), June 10 and June 18, 1997.
82. See M.Winfield and R.Nadarajah, "Submission to the Ontario Ministry of Environment and Energy RE: EBR Notice RA70012.P: Amendments to Regulation 347" (Toronto: Canadian Environmental Law Association and Canadian Institute for Environmental Law and Policy, October 1997).
83. Ibid.
84. Ontario Regulation 128/98.
85. See Cabinet Office, 'Index of Records, FOI Access Request 98004, records 5, 8, 9, 19 and 20, December 1998.
86. EBR Registry No. RA8E0008.P.
87. Summary Document for the Delivery Strategies - Draft, Ministry of the Environment, April 9, 1998.
88. EBR Registry No. RA8E0017, April 3, 1998.
89. See Review Under the Environmental Assessment Act prepared by Ministry and Agencies of the Province of Ontario: Review of the Laidlaw Environmental Services Ltd. Environmental Assessment Hazardous Waste Landfill Expansion (Toronto: Province of Ontario, December 1996).
90. See J.Nichol and S.Nolen, "Dark days at Philip," McLean's, March 2, 1998
91. R.Leitner, "Taro clipped on cyanides," The Stoney Creek News, October 2, 1998.

92. "Gary Steacy Dismantling Ltd: Reasons for Decision and Decision" (Toronto: Environmental Assessment Board (File EP-97-93), December 1997)
93. Ibid.
94. ECO, Annual Report 1997 Supplement, Appendix C.
95. See EBR Registry No. IA8E1428, October 14, 1998, Environmental Assessment Board file 98-123, Material Resource Recovery SRBP Inc, Application for Amendment to Certificate of Approval for processing PCB wastes.
96. Pers. comm., Brennain Lloyd, Northwatch, May 1998. .
97. M.Osborne, "Environmentalists lose bid to block northern landfill," The Globe and Mail, July 14, 1999.
98. 1997 Annual Report of the Provincial Auditor of Ontario to the Legislative Assembly (Toronto: Queen's Printer for Ontario, November 1997).
99. M.Mittelstaedt, "Ontario likely to miss waste-reduction target," The Globe and Mail, February 20, 1998.
100. J.Jackson, "Resources, Not Garbage: Municipal Solid Waste in Ontario," background paper prepared for the Environmental Agenda for Ontario project, March 1999, pg.10.
101. Recycling Roles and Responsibilities: Final Report (Toronto; Recycling Council of Ontario, April 1998).
102. See Winfield and Jenish, Ontario's Environment and the "Common Sense Revolution:" A First Year Report.
103. Ministry of the Environment, Media Backgrounder "Environment Minister Norm Sterling today announced a plan to expand and improve the Blue Box program and increase other waste diversion initiatives," October 7, 1998.
104. Ibid.
105. Regulation 352/97.
106. Regulation 700/98.
107. "RE: Application for a review of the need for a new Act, policies and regulations relating to hazardous waste management," EBRO File Number. 98EBR004.R, April 20, 1998.
108. Winfield, Hazardous Waste Management in Ontario.
109. M.Winfield, Environmental Agenda for Ontario Background Paper: Hazardous Wastes and Toxic Substances (Toronto: CIELAP, March 1999).
110. Ibid.
111. Environment Canada, National Pollutant Release Inventory: 1996 Summary Report (Ottawa: July 1996), Table 2.
112. "Ontario becomes a haven for hazardous waste," The Toronto Star, March 22, 1999.
113. See, for example, J.Wilkes and K.Kilpatric, "Toxic fumes force 4,000 to flee fire sites," The Toronto Star, July 12, 1997.
114. "Tire yard a mess weeks after fire," The Globe and Mail, December 17, 1997; "Thomasburg fire said under control," The Globe and Mail, April 28, 1998,
115. "Etobicoke recycling site fire," The Toronto Star, Feb. 28, 1998.
116. Office of the Fire Marshal, Protecting the Public and the Environment by Improving Fire Safety at Ontario's Recycling and Waste Handling Facilities (Toronto: Ministry of the Solicitor General and Correctional Services, August 1997).



117. ECO, 1997 Annual Report.
118. Office of the Fire Marshal, Implementation Strategy for the Fire Marshal's Recommendations Contained in the Report "Protecting the Public and the Environment by Improving Fire Safety at Ontario's Recycling and Waste Handling Facilities", (Toronto: Ministry of the Solicitor General and Correctional Services, May 1998).
119. ECO, Annual Report 1997, pg.19.
120. WWF Canada "Action Alert: What is that Smelly Black Stuff on the Road?" July 1997.
121. Winfield, Hazardous Waste Management in Ontario, pp.IV.19-20.
122. M.Mittelstaedt, "Paper-mill waste marks country roads," The Globe and Mail, May 21, 1998.
123. Ibid.
124. M.Mittelstaedt, "Ontario to phase out use of paper-mill waste," The Globe and Mail, December 8, 1998.
125. See EBR Registry No.IA9E0365, March 18, 1999.
126. Ibid., see posting of Leave to Appeal, May 26, 1999.
127. ECO, Annual Report 1997, pg.19.
128. See, for example, R.Nadarajah, M. Winfield, and G. Ford, Comments on the Ministry of Environment and Energy's Proposed Standard Agreement Between Lenders and MoEE to Clarify Liability (Toronto: Canadian Environmental Law Association, May 1995).
129. See Guideline for the Use of Contaminated Sites (Toronto: MoEE, May 1996). See also Advisory Committee on Environmental Standards, Proposed Guideline for the Clean-up of Contaminated Sites in Ontario: Recommendations to the Minister of Environment and Energy (Toronto: MoEE, November 1994), and S. Silcoff, "New Soil clean-up rules may increase urban renewal," The Globe and Mail, July 13, 1996.
130. See G.Ford, R.Nadarajah, and M.Winfield, Key Issues in the Remediation of Contaminated Sites in Canada (Toronto: Canadian Institute for Environmental Law and Policy and Canadian Environmental Law Association, January 1997) - prepared for the Financial Services Task Force of the National Round Table on Environment and Economy.
131. EBR Registry No.RA8E0030, August 8, 1998.
132. R.Nadarajah, K.Cooper and M.Winfield, "Submission to the Ontario Ministry of Environment Re: EBR Notice RA8E0030: Criteria for the management of Excess Soil" (Toronto: CELA;CIELAP, November 1998).
133. Ministry of Natural Resources, Press Release and Fact Sheets, "New Regulations Guide Activities on Crown Lands," November 5, 1996.
134. T.Appleby, "Money talks to green group," The Globe and Mail, October 6, 1997.
135. R.Sheppard, "Show some respect to the donors," The Globe and Mail, January 30, 1997.
136. State of the Great Lakes 1997 (Chicago and Burlington: United States Environmental Protection Agency and Environmental Canada, July 1997).
137. International Joint Commission, The IJC and the 21st Century (Washington D.C. and Ottawa, October 1997).
138. Second Report of Progress Under the Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem 1995-97 (Toronto: Environment Canada and Ontario Ministry of the Environment, October 1997).
139. IJC, Eighth Biennial Report on Great Lakes Water Quality, 1996, pp.4-5.
140. IJC, 9th Biennial Report on Great Lakes Water Quality, 1998.

141. "\$35 million for environment," The Toronto Star, May 6, 1998.
142. International Joint Commission, *Remedial Action Plan Beacons in the Great Lakes Basin*, URL: <http://www.ijc.org/boards/annex/beacon/beacon.html>.
143. Ontario Public Service Employees Union, Nothing Left to Cut: A Field Report on the Activities of the Ontario Ministry of Environment and Energy (Toronto: January 1997).
144. Organic chemicals; inorganic chemicals; Iron and Steel; electric power generation; metal casting; pulp and paper; metal mining; and industrial minerals.
145. See, for example, the comments of Isobel Heathcote, Associate Professor, and Director, Institute of Environmental Policy, University of Guelph, and former Chair of the MISA Advisory Committee, to Rosemary Hiller, Program Development Branch, Ministry of Environment and Energy, November 6, 1995.
146. Red Tape Review Commission, Cutting Red Tape Barriers to Jobs and Better Government (Toronto: Cabinet Office, January 1997), pp.56-76.
147. Responsive Environmental Protection: A Consultation Paper and Technical Annex (Toronto: MoEE, July 1996).
148. Office of the Provincial Auditor, 1994 Annual Report (Toronto: Legislative Assembly of Ontario, 1994), pp.81-83.
149. EBR Registry No. RA7E0018.P - RA7E0026.P.
150. See, A.Mitchell and M.Winfield, letter to J.Hamdy, Sector Specialist, Ministry of the Environment, re: EBR Postings RA7E0018.P - RA7E0026, February 13, 1998.
151. ECO, 1997 Annual Report, pp.24 and 51.
152. EBR Registry Posting RA7E0013.P and RA7E0014.P.
153. M.Mittelstaedt, "Polluters given relaxed standards," The Globe and Mail, February 14, 1998.
154. ECO, Report 1998, pg.192.
155. Ibid., pp.1920193.
156. P.McKay, "Hydro dumping tonnes of toxins in lake," The Toronto Star, May 17, 1997.
157. Ibid.
158. J.Mahoney, "Groups urging probe of Hydro's dumping in Lake Ontario," The Globe and Mail, June 11, 1997.
159. Ibid.
160. See ECO, 1998 Annual Report, pg.273.
161. Review Team, Evaluation of Emissions from Ontario Hydro Admiralty Brass Condensers to the Great Lakes (Toronto: Ontario Hydro Nuclear, June 1997).
162. See, for example, The Toronto Star, August 16, 1997; The Toronto Star, April 25, 1998.
163. T.Spears, "Fish near Bruce plant glow with destinction," The Toronto Star, June 21, 1997.
164. EBR Registry No. PA8E0018-P8AE0020 and PA8E0023-PA8E0025.
165. See EBR Registry Number: PA5E0021.D. Decision posted Dec 9,97.
166. EBR Registry No: PA8E0029, June 16, 1998.
167. City of Toronto, Draft Sewer Use By-law, April 1999.
168. MMAH Press Release, "Panel Says Municipalities Should Pay for Transit, Sewer and Water Services," November 4, 1996.

169. The Hon. N. Sterling, Statement to the Legislature on *Water and Sewage Services Improvement Act*. First Reading, January 15, 1997.
170. On the establishment and role of the Ontario Water Resources Commission, established in 1955, see M.Winfield, The Ultimate Horizontal Issue: Environmental Politics and Policy in Ontario and Alberta 1970-1992 (Toronto: Ph.D. Thesis, Department of Political Science, University of Toronto, 1992), esp. ch.2.
171. S.Miller and R.Lindgren, Ontario Water Resources: The Need for Public Interest Regulation: Submission to the Ontario Ministry of Environment and Energy Re: Bill 107 (Toronto: Canadian Environmental Law Association and Great Lakes United, 1997).
172. Commission on Planning and Development Reform in Ontario, New Planning News, Vol.1, No.3, (December 1991).
173. See, for example, J.Swaigen, Toxic Time Bombs: The Regulation of Canada's Leaking Underground Storage Tanks (Toronto: Emond-Montgomery Publications Ltd., 1995), ch.9.
174. Personal Communication, Peter Rucpic, Communications Officer, Clean Water Agency, May 2, 1996.
175. News Release: "Government's Role in Operation of Water and Sewerage Treatment Systems to be Reviewed," office of Privatization, March 9, 1998.
176. 1996 Ontario Budget: Budget Papers (Toronto: Ontario Ministry of Finance, May 1996), p. 112.
177. B.McAndrew, "Communities get warning on drinking water," The Toronto Star, March 23, 1998.
178. Office of the Provincial Auditor, 1997 Annual Report, pg.125.
179. ECO, Second Annual Report, pp.19-20.
180. See, for example, ECO, 1996 Annual Report. See also Commission on Planning and Development in Ontario, New Planning News, Vol.1, No.3, (December 1991).
181. Ontario Regulation 122/98.
182. See M.Winfield, "Brief to the Standing Committee on Resources Development on Bill 107: *The Water and Sewerage Services Improvements Act, 1997*, (Toronto: Canadian Institute for Environmental Law and Policy, April 1997).
183. ECO, 1997 Annual Report, pg.25.
184. International Joint Commission, *Unsafe Dams? A Report by the IJC*, Conclusions.
185. Ibid., Recommendations.
186. M.Mittelstaedt, "Permit to export Lakes water draws U.S. fire," The Globe and Mail, May 1, 1998.
187. M.Mittelstaedt, "Permit to export Lakes water draws U.S. fire."
188. T.Talaga, "Critics rip water export plan," The Toronto Star, May 4, 1998.
189. P.Goodspeed, "Lake water sale put on hold," The Toronto Star, May 6, 1998.
190. H.Schoffield, "Water export off if conditions met," The Globe and Mail, May 8, 1998.
191. R.Mackie, "Permit to export lake water to be cancelled, Ontario says," The Globe and Mail, May 15, 1998.
192. *Ontario Regulation 285/99, The Water Taking and Transfers Regulation*.
193. Environmental Commissioner of Ontario, *Open Doors - Ontario's Environmental Bill of Rights / Annual Report 1997*, April 1998, Toronto, page 68.
194. Ibid.
195. Office of the Provincial Auditor, 1996 Annual Report (Toronto: Queen's Printer, October 1996), pp.121-122.

196. Office of the Provincial Auditor, 1998 Annual Report (Toronto: Queen's Printer, November 1998), pp.273-274.
197. New Release: "Elliot receives report of Advisory Committee on Competition in Ontario's Electricity System" Ministry of Environment and Energy, June 7, 1996.
198. News Release: "Province, Hydro Create Interim Competitive Electricity Market" Ontario Ministry of Energy, Science and Technology, January 16, 1998.
199. M.Mittelstaedt, "Ontario urged to restore access to information about Hydro," The Globe and Mail, June 10, 1999.
200. See Environmental Bill of Rights Posting RA9E0004, May 13, 1999.
201. Ibid
202. For example, AEP's NO<sub>x</sub> emission rate per kilowatt-hour of fossil generation is 2.2 times greater than Ontario Hydro's rate In 1995, the average NO<sub>x</sub> emission rate of Ontario Hydro's fossil generating stations was 3.83 lbs/mwh whereas the average NO<sub>x</sub> emission rate of AEP's fossil generating stations was 8.43 lbs/mwh. Natural Resources Defense Council et al., Benchmarking Air Emissions of Electricity Generators in the Eastern United States, (April, 1997), p. 23; and Ontario Hydro, 1996 Progress Report Towards Sustainable Development, pp. 21-22.
203. Natural Resources Canada, The Greenhouse Gas Emissions Outlook 1996-2020, Prepared for Joint Federal, Provincial, Territorial Energy and Environment Ministers Meeting, Toronto, December 12, 1996 (Updated: March 19, 1997), pp. 5 & 6; and Memo from Wally Geekie, Energy Sector, Natural Resources Canada to Jack Gibbons, May 2, 1997.
204. NAICC Acidifying Emissions Task Group, Towards a National Acid Rain Strategy (Winnipeg: CCME, October 1997).
205. Position Paper on Health Effects of Ground-Level Ozone, Acid Aerosols & Particulate Matter (Toronto: Ontario Medical Association, May 1998).
206. J.Mahoney, "Groups urging probe of Hydro's dumping in Lake Ontario," The Globe and Mail, June 11, 1997.
207. Ibid.
208. See ECO, 1998 Annual Report, pg.273.
209. Review Team, Evaluation of Emissions from Ontario Hydro Admiralty Brass Condensers to the Great Lakes (Toronto: Ontario Hydro Nuclear, June 1997).
210. See, for example, The Toronto Star, August 16, 1997; The Toronto Star, April 25, 1998.
211. T.Spears, "Fish near Bruce plant glow with destinction," The Toronto Star, June 21, 1997.
212. Ontario Hydro, Report to Management IIPA/SSFI Evaluation Findings and Recommendations, July 1997.
213. News Release "Ontario Hydro Moving Ahead on Major Overhaul of its Production Facilities" Ontario Hydro, August 13, 1997.
214. Select Committee on Ontario Hydro Nuclear Affairs, Report of the Select Committee on Ontario Hydro Nuclear Affairs, Legislative Assembly of Ontario, Toronto, December 1997.
215. Toronto Public Health Background, "Ontario's Changing Electrical Market: Implications for Air Quality and Human Health," April 6, 1999.
216. Brian McAndrew, "More Coal, More Pollution" Toronto Star August 14, 1997.
217. Ontario Hydro, A Strategy to Manage Greenhouse Gas Emissions 1995, page 2,7.
218. Ibid.

219. Ontario Hydro forecasts indicate that the utility will emit 30, 30 and 31 Mt of carbon dioxide per year over 1998, 1999 and 2000. For the year 2000 the estimate includes offsets which means the gross emissions are actually higher. See Power System Implications of NAOP, presentation to the Select Committee on Ontario Hydro Nuclear Affairs, October 18, 1997 by D. Patrick McNeil.
- Other forecasts suggest that gross carbon dioxide emissions from Ontario Hydro could approach 45 Mt during the nuclear restructuring. See could be much higher. See Brian McAndrew, "More Coal, More Pollution" Toronto Star August 14, 1997.
220. Peter Boisseau, "Hydro makes landmark swap" Toronto Star, December 10, 1997.
221. Companies like Enbridge Consumers and others have continued to support some Green Communities initiatives, personal communications, Jack Gibbons to Greg Jenish, June 23, 1999.
222. Canadian Energy Efficiency Alliance, *Energy Conservation, Building Labelling and the New Ontario Building Code / Participant Resource Kit*, December, 1996.
223. Personal Communications, Bruce Lourie to Greg Jenish, July 1998.
224. Personal Communications, Ann Boorah, Director, Housing Development and Buildings Branch, Ministry of Municipal Affairs and Housing to Greg Jenish, CIELAP July 7, 1999
225. See Environmental Bill of Rights Registry Decision RA8E0004, July 17, 1998.
226. Ibid.
227. Canada's national greenhouse gas inventory is current to 1996 only. Throughout the 1990s greenhouse gas emissions have been rising and are projected to exceed 1990 levels by 13% by the year 2000. In 1993 Ontario's total GHG emissions were : 171 kt eCO<sub>2</sub> ; in 1994: 172 kt eCO<sub>2</sub> ; in 1995: 179 kt eCO<sub>2</sub> according to *Trends in Canada's Greenhouse Gas Emissions*, Environment Canada, April 1997 . Other evidence of rising fossil fuel use and greenhouse gas emissions include Ontario Hydro's emission forecast and Transport Canada's fleet fuel consumption ratings:
- Ontario Hydro forecasts indicate that the utility will emit 30, 30 and 31 Mt of carbon dioxide per year over 1998, 1999 and 2000. For the year 2000 the estimate includes offsets which means the gross emissions are actually higher. See *Power System Implications of NAOP*, presentation to the Select Committee on Ontario Hydro Nuclear Affairs, October 18, 1997 by D. Patrick McNeil. Ontario Hydro's utility's carbon dioxide emissions had been falling, having dropped from 27 million tonnes in 1992 to 21 million in 1996. Ontario Hydro, *A Strategy to Manage Greenhouse Gas Emissions* 1995, page 2,7.
- From 1988 to 1998, the average fuel consumption of the Canadian new vehicle fleet has risen from 8.9 litres/100 km to 9.5 litres/100km. Transport Canada New Vehicle Fuel Consumption Guide 1998.
228. Personal Observation, Greg Jenish, Project Officer, CIELAP; Member, Landfill Gas Sub-committee, Canada's National Climate Change Process.
229. For a detailed commentary on Bill 146 see P.McCulloch, "Submission by the Canadian Environmental Law Association to the Standing Committee on Resources Development Regarding Bill 146, An Act to Protect Farming and Food Production," (Toronto: CELA, February 1998).
230. T.Walkom, "The whole hog," The Toronto Star, May 9, 1998.
231. 1992 Status Report on Ontario's Air, Water and Waste (Toronto: Ministry of Environment and Energy, unpublished), pg.45.
232. M.Winfield, Hazardous Waste Management in Ontario, Chapter VI.
233. For a detailed commentary on Bill 146 see P.McCulloch, "Submission to the Standing Committee Resources Development Re: Bill 146 *The Farming and Food Production Protection Act, 1998*" (Toronto: Canadian Environmental Law Association, 1998).
234. Proposed Changes to the Ontario Pesticide Licensing System (Toronto: Ontario Ministry of Environment and Energy, October 1995).

- 235. "Better, Stronger, Clearer: Environmental Regulations for Ontario," pp.24-27.
- 236. ECO, 1997 Annual Report Supplement, pg.5.
- 237. EBR Registry No. RA7E0037.P.
- 238. See M.Mittelstaedt, "Produce inspectors ranks cut to core," The Globe and Mail, June 15, 1996, and responding letter to the editor, The Hon. N.Villeneuve, Minister of Agriculture, Food and Rural Affairs, The Globe and Mail, June 26, 1996.
- 239. B.McAndrew, "Cutbacks could affect pesticide testing," The Toronto Star, January 30, 1997.
- 240. Legislative Debates, January 30, 1997.
- 241. OPSEU, Nothing Left to Cut, figure 9.
- 242. For an overview of these issues see, for example, "EPA Approves Bt Corn and Cotton," The Gene Exchange (Union of Concerned Scientists), Vol.6, No.2&3, December 1995. See also M.Mellon and J.Risler, eds., Now or Never: Serious New Plans to Save a Natural Pest Control (Washington D.C.: Union of Concerned Scientists, 1998).

# **Part 4 : Natural Resources Conservation**

## **Table of Contents**

Forestry .....	4 - 1
Wildlife, Wilderness and Protected Areas .....	4 - 11
Fisheries and Fish Habitat .....	4 - 25
Mineral Aggregates, Petroleum Resources and Brine Industries .....	4 - 29
Endnotes .....	4 - 33

# FORESTRY

## Introduction

The management of Ontario's forests has undergone enormous changes over the past four years. Major reductions to the budgets of the Ministry of Natural Resources' forest management programs were announced in the fall of 1995. These reductions have resulted in moves to transfer many of the Ministry's responsibilities for forest management on Crown Lands to the forest industry. Discussions between the government and the industry have included the extension of the tenure of forest companies on crown lands, and the delegation of regulatory decision-making on lands under tenure to companies holding Sustainable Forest Licences (SFLs).

The 1998 decisions of the Ontario Divisional Court and Court of Appeal regarding the Ministry of Natural Resources' failure to implement the requirements of the Class Environmental Assessment of Timber Management on Crown Lands and the *Crown Forest Sustainability Act*, the annual reports of the Environmental Commissioner of Ontario, and the Ministry of Natural Resources' own Forest Resources Assessments, have raised major questions regarding the degree to which the Ministry is managing the province's forests sustainably.

The government's March 1999 announcement regarding the outcome of the 'Lands for Life' process has major implications for the future of Ontario's forests. The government has stated its intention to protect 12% of the lands in the planning area from development. However, this commitment is subject to a number of major concessions to the forestry and mining industries, and other interests. With respect to forestry, the government has committed to: no long-term reduction in wood supply; no increases in the costs of the wood supply; potential exemptions for the biodiversity protection provisions of the *Crown Forest Sustainability Act* in areas where intensive silviculture is to be practiced; the potential extension of forest harvesting activities north of the 50th parallel; and \$21 million in new subsidies and compensation to the forest industry.

The issue of extended tenure for forest companies was not addressed in the government's announcements, but extensions of tenure, potentially to the point of virtual ownership, appear to be implicit as a quid pro quo to industry in the 'Lands for Life' process. This would make the establishment of additional protected areas in the future extraordinarily difficult, if not impossible, without financial compensation to tenure holders. In addition, according to government statements issued on March 29, any future expansion of parks and protected areas in Ontario will require the agreement of the forestry and mining industries.

Reforms to the tax treatment of managed forests on private lands were adopted in May 1997. These improved the administration of the managed forest program, and converted the program from a tax rebate to property tax reduction. This has benefitted



landowners, but has reduced tax revenues to municipalities.

## Forest Management

### *MNR Budgetary and Personnel Reductions*

Major reductions to the Ministry of Natural Resource's forest management budget were announced in October 1995. This included a \$19.1 million (47%) reduction for the implementation of the terms and conditions associated with the Class Environmental Assessment on the Timber Management on Crown Lands.<sup>12</sup> Funding for overall forest management activities were reduced by \$45.9 million by the 1997/98 fiscal year.

The staffing changes in the Forest Management Branch of the Ministry resulting from these reductions are outlined in Table 4.1.

**Table 4.1 : Changes in Human Resources in the Forest Management Branch**

	<b>1995 Person- years</b>	<b>1996 Person- years</b>	<b>Percentage Change</b>
Policy	60	19	- 68%
Stewardship	173	127	- 27%
Operations	637	287	- 55%
Compliance	139	83	- 40%
Science and Technology	377	148	- 61%
Information Management	49	27	- 45%
Industry Services	16	16	0%
Seed and Stock Production	77	44	- 43%
Public Education	NA	NA	-
Business Infrastructure support	13	13	0%
Core Competency	0	4	-
Totals	1541	768	- 50%

Source: *Forest Management Business Plan*, Forest Management Branch, MNR, May 1996

It is important to note that while the Ministry's compliance, monitoring, science and policy functions suffered cuts in personnel of between 27% and 68%, there were no cuts in personnel dedicated to "industry services."

### *The Role of the Forest Industry in Forestry Management*

As a result of these reductions, the Ministry stated that "Ontario's forest industries will take on more responsibility for forest management planning, forest operations, including forest renewal, collecting information about the forest, and some aspects of monitoring and compliance."<sup>3</sup>

The Ministry of Natural Resources Forest Management Branch's May 1996 Business plan specifically indicated that responsibility for the conduct of surveys and assessments, monitoring, inventory and data collection, conducting inspections for compliance, identifying areas where standards or guidelines have not been followed, and undertaking and paying for remedial work were to be transferred to the industry.<sup>4</sup> In effect, the Ministry would rely on forest company reports as its primary source of information on the state of the province's forests, and on industry compliance with Ministry requirements. Checks would be conducted by MNR staff on the basis of public complaints and periodic audits of a yet to be specified nature.<sup>5</sup>

A significant number of MNR district offices have been closed as a consequence of these changes. This has resulted, among other things, in the remaining staff being given responsibility for managing areas with whose history and landscape they are unfamiliar.<sup>6</sup>

### *Changes in the Forest Tenure System*

The Ministry of Natural Resources is also introducing major changes to the tenure system for the forest industry. All forest management units are being transferred to Sustainable Forest Licences (SFLs), which are intended to be long-term (i.e.: 20 years with automatic renewal if the licence conditions have been complied with), and grant the licensee more direct control over a forest. This development has been linked to amendments to the *Public Lands Act* and the *Lakes and Rivers Improvement Act* made through Bill 25, *The Red Tape Reduction Act*, enacted in December 1998. These permit the Minister of Natural Resources to delegate his or her responsibilities and decision making authority for managing public lands to third parties.<sup>7</sup>

It is anticipated that the management of public lands covered by SFLs will be delegated to the licence holders, giving the licensee control over decisions regarding activities on the land in question.<sup>8</sup> Members of the public would interact with the licensee instead of the MNR regarding resource management and land use issues. The result would transfer effective ownership and control of public lands to SFL licence holders. A December 1996 report on discussions between the government and the forest industry regarding these transitions included a recommendation that:

"Long term leases built from bilateral agreements between MNR and each company should be signed to ensure that the land identified above is tenured to the agreement of the holder in perpetuity, and is strongly resistant to the unpredictable land base erosion problems of previous tenure agreements..."

In her 1997 Annual Report to the Legislature, the Environmental Commissioner noted that in 1997 the MNR developed wood supply agreements that would grant

companies 'compensable tenure.' In addition, the Minister has confirmed his willingness to negotiate the length of tenure, based on scientific and business principles. The Commissioner noted that the overall direction of these initiatives appeared to be in response to pressures from the forest industry for perpetual tenure, and rights to compensation if tenured lands are re-allocated to such uses as remote tourism and parks.<sup>10</sup>

The development of an 'enhanced' tenure system was postponed pending the outcome of the 'Lands for Life' process,<sup>11</sup> launched in February 1997. The recommendations of the 'Lands for Life' Regional Round Tables were tabled in October 1998, and the government's response to the Round Table recommendations was presented in March 1999.

### *Forest Resources Assessments*

The first assessment of the province's timber supply under its new Forest Resources Assessment Policy (FRAP), was released in June 1997. The assessment concluded that the province's timber supply was projected to decline substantially over the next 60 years, while industrial demand for timber would continue to rise. The assessment also laid out some possible approaches to the problem. These included the creation of more replanted forest by dealing with the 'backlog' of harvested areas that have not been restocked; opening more Crown lands to timber harvests, including areas north of where timber harvesting activities are currently permitted; increasing investments in silviculture; improving forest management decision-making; and accepting limitations on timber supply.<sup>12</sup>

### **Forestry, Environmental Assessment and the *Crown Forest Sustainability Act*.**

In 1994, the Environmental Assessment Board delivered its decision on the Class Environmental Assessment of Timber Management on Crown Lands.<sup>13</sup> The changes in the structure and mandate of the MNR's Forest Management Branch have raised serious concerns about the Ministry ability to comply with the terms and conditions of the Board's decision. These concerns are compounded by the Bill 76 amendments to the *Environmental Assessment Act*, which permit the Minister of the Environment to amend Environmental Assessment Board decisions in light of changed circumstances or new information.<sup>14</sup>

### *MNR Roadless Areas Policy*

The Board's decision required the MNR to develop and implement a policy on roadless areas by May 1997. The Ministry released a draft policy in April 1997.<sup>15</sup> However, it stated that roadless areas would only be required to exist within wilderness parks. It did not indicate that the MNR plans to designate them anywhere else. This approach was criticized as being inconsistent with the intent of the Board's decision, which was to ensure the establishment of roadless areas within managed forests, as well as protected areas.<sup>16</sup>

The MNR Policy was finalized in May 1997, but gave little attention to maintaining roadless wilderness areas outside of parks.

### *Forest Management Planning Manual*

On September 11, 1996, two environmental organizations initiated a lawsuit seeking an injunction against the logging of old-growth pine forests in Temagami and elsewhere in the province, challenging the legality of the Ministry's forest management plans on the basis of the MNR's failure to publish and implement a Forest Management Planning Manual and ensure the sustainability of forests, as required by the *Crown Forest Sustainability Act*. The action also alleged that the government was in violation of several conditions of the Environmental Assessment Board's 1994 decision on Timber Management on Crown Lands.<sup>17</sup>

The Ministry announced the cabinet's approval of the Forest Management Planning Manual on November 4, 1996,<sup>18</sup> shortly after the environmental organizations were granted standing to pursue their case in the courts. The government's decision was posted as an exception to the public notice requirements of the Environmental Bill of Rights (EBR) on the basis that the Ministry had done equivalent public consultations. The Ministry's action in this regard was strongly criticized by the Environmental Commissioner in her 1996 Annual Report.<sup>19</sup>

### *Ontario Divisional Court Timber Management Decision*

In February 1998 a decision of the Ontario Divisional Court declared three Northern Ontario forest management plans to be "of no force and effect." The decision was a result of the action initiated in September 1996 by the Algonquin Wildlands League and others. The Court concluded that MNR had failed to comply with the requirements of the *Crown Forest Sustainability Act* and the decision of the Environmental Assessment Board in the Class Environmental Assessment of Timber Management on Crown Land in: approving work schedules without proof that the forest would be managed sustainably; approving plans which lacked any sustainability indicators; and arbitrarily extending timetables for phasing in new standards. At the request of the two environmental groups, the Court gave the province 12 months to bring the Elk Lake, Upper Spanish and Temagami plans into compliance with the Act.<sup>20</sup> This was intended to minimize the impact of the MNR's failure to comply with the law on forestry workers and communities.

In its decision, the Court stated that:

"...By omitting from the plans the process and measurements at the heart of the new statute, the Ministry has failed in a very fundamental way to comply with the statute... By ignoring the requirements of the Manual in respect of the impugned plans and work schedules, the Ministry has undermined the object and purpose of the statute...

"The nature and quality of noncompliance is extreme. This is not a case of honest disagreement as to whether the Ministry complied with the manual in

approving the plans. The Ministry did not even have the Manual ready before it approved the plans...

"Failure to comply with the Manual undermines complete the object and purpose of the legislation and works serious prejudice to the public interest in the sustainability of the Crown forest for future generations."<sup>21</sup>

An effort by the Ministry of Natural Resources and the forest industry to amend the judgement on the basis of the impact of the cuts to the Ministry's budget was rejected by the Court on May 20, 1998, with a solicitor/client cost award to the applicants, represented by Sierra Legal Defence Fund.<sup>22</sup> Once finally assessed, the award will likely exceed \$100,000.<sup>23</sup>

The Divisional Court's decisions striking down the three plans, providing the Ministry a one year grace period within which to revise the plans, and making a cost award to the applicants were upheld by the Ontario Court of Appeal in October 1998.<sup>24</sup> The Appeal Court concluded that:

"We agree with the Divisional Court's conclusion that the plans in question, prepared in accordance with s2.1 of Appendix VIII (of the Manual) clearly fell short of the sustainability standards required by the Act. In this regard, we have no reason to question the findings of the Divisional Court that the impugned plans failed to address issues such as Crown forest diversity objectives, landscape patterns, habitat for animal life and social and economic objectives, all of which were necessary to the requirements of s.68(5) of the Act."<sup>25</sup>

The three forest management plans were replaced by the Ministry by April 1999, and there are indications that the Ministry will re-draft other timber management plans to bring them into compliance with the requirements of the Timber Management Environmental Assessment Decision and the *Crown Forest Sustainability Act*.<sup>26</sup>

The February 1998 Court decision was followed by the publication of report by Wildlands League and Sierra Legal Defence Fund revealing a pattern of serious failure to enforce environmental regulations applicable to the forestry industry in Algoma Highlands.<sup>27</sup> An application for investigation was made under the *Environmental Bill of Rights* that the Ministry of Natural Resources investigate a sampling of 12 of the most recent violations in the highlands.

The Ministry of Natural Resources carried out an investigation and published its findings in November 1998. The investigation team uncovered a number of impacts resulting from poor forestry practices including: loss of stream banks, stream widening, increased stream temperature, algae growth, rutting, loss of stream cover, in stream accumulation of debris and debris dams, and the burial of streams and wet areas. The Ministry did not press charges in relation to the alleged violations. However, the investigation team recommended significant changes to the Ministry's forest management and enforcement practices. A Repair Order was also issued under the *Crown Forest*

*Sustainability Act.*<sup>28</sup>

### *MNR Cross Lake Road Conviction*

On December 11, 1996, a coalition of environmental groups filed a request for investigation with the Environmental Commissioner regarding the approval of a logging road by the MNR in the Cross Lake area of the Temagami Region in contravention of the *Environmental Assessment Act*.<sup>29</sup> Subsequently, in April 1997 the Ministry of Environment and Energy laid charges against the MNR for this action.<sup>30</sup> In September 1997, the Ministry of Natural Resources submitted a plea of guilty with respect to the charges and was fined \$1,200 for its violation of the Act.<sup>31</sup>

The fine was imposed despite the fact that the Crown prosecutor and the defendant (MNR) had jointly submitted that there should be no fine. The Court accepted argument from the intervenor environmental groups that the government should be treated like any other offended and not afforded special treatment.

### **Bill 26 Amendments to the *Forest Fires Prevention Act***

Bill 26, *The Government Savings and Restructuring Act, 1996*, amended the *Forest Fires Prevention Act* to repeal the provisions requiring that: a permit be obtained to light fires (other than for cooking or warmth) or to ignite fireworks; that a forest travel permit be obtained to enter areas designated as restricted travel zones due to the risk of forest fires; and that a work permit be obtained to carry on logging, mining, industrial operations, clear land, construct a dam, bridge, camp or operate a mill in or within 300 meters of a forest or woodland.

As with the Bill 26 amendments to the *Public Lands Act* and the *Lakes and Rivers Improvements Act*, the statutory requirements for these permits were replaced by regulations made by the Lieutenant-Governor in Council in November 1996. These removed permit requirements for burning wood, brush, and wood waste, in piles not more than 2 metres across and high, and more than 2 metres from flammable materials, burning up to 1 hectare of grass or leaves, incinerators, and activities such as mining, logging, land clearing, dam construction, or mill operations that result in the accumulation of slash or debris. Permits continue to be required for industrial slash pile burning, prescribed burns for site preparation or ecological maintenance, and other fires.<sup>32</sup>

### **Re-instatement of the Managed Forest Tax Rebate**

The re-instatement of the tax rebate was announced by the Minister of Natural Resources on February 9, 1996. The program permitted a 75% rebate on forest lands where a management plan has been developed by the landowner. Management plans were to include forestry activities, the protection of wildlife habitat, flood and erosion control and water resources management as well as harvesting.

The program was converted into the establishment of a new property class with a tax ratio of 0.25 of residential rates for managed forest lands, as part of a broader tax reform package for farm, conservation and managed forest lands enacted through Bill 106, *The Fair Municipal Finance Act, 1997*, in May 1997. The changes have benefitted landowners, but have also reduced tax revenues to municipalities.

## **Disposition and Sale of Crown Lands**

Over the past three years, the MNR has accelerated its efforts to sell public lands that are "no longer needed" and are not "ecologically significant." The Environmental Commissioner for Ontario reported that in 1995-96 the Ministry sold 151 properties with a market value of more than \$4 million. The MNR's current target for the sale of Crown land is currently approximately \$5 million/yr.<sup>33</sup>

In her April 1998 report to the Legislature, the Environmental Commissioner expressed concern that proposed amendments to the *Public Lands Act*, which were ultimately adopted through in December 1998 through Bill 25, the *Red Tape Reduction Act, 1998*, would remove limits on the maximum size and minimum price of parcels of public land for sale. Other changes to the Act delegated the power to authorize the sale of public lands from the Lieutenant-Governor in Council to the Minister of Natural Resources.<sup>34</sup> The Commissioner also noted that the EBR public notice and comment requirements do not apply to the sale of public lands.<sup>35</sup>

## **'Lands for Life'**

The 'Lands for Life' process was initiated in February 1997. The process was intended to allocate uses for public lands in the central region of Ontario, an area of 46 million hectares. Under the program, the Ministry of Natural Resources divided central Ontario into three large planning areas (Boreal West, Boreal East, and Great Lakes-St Lawrence). Regional round tables, one in each planning area, were to draft recommendations on how land and resources in their region should be allocated. The members of the Round Tables, who had to be residents of their area, were appointed by the Minister of Natural Resources. Three major land-uses were identified for the purposes of the process: natural heritage protection, which included parks and protected areas; remote tourism areas; and general industrial use, including forestry and mining. The Round Tables were originally scheduled to make their recommendations to the Minister of Natural Resources by March 1998.

In her April 1998 Annual Report to the Legislature, the Environmental Commissioner noted that the MNR's previous land use planning process for the region took more than 10 years to complete. The Commissioner also expressed concerns that the Round Tables' tight schedule did not allow MNR to enough time to compile detailed analyses of potential natural heritage areas, or to identify existing old growth forests.<sup>36</sup> The timelines for the delivery of the Round Table Reports were subsequently extended by the Minister of Natural Resources.

The Round Table reports were delivered to the MNR in October 1998. The reports recommended only a 1.6% increase in the amount of land classified as protected areas in the lands covered by the lands for life process. The Round Tables also recommended that 79.9% of the Crown Land in the Boreal West planning area, 94.7% of the Crown Land in the Boreal East planning area, and 48.9% of the Crown Land in the Great Lakes St. Lawrence planning area to designated for 'general' (i.e. industrial) use.<sup>37</sup>

The government announced its response to the recommendations of the 'Lands for Life' Round Table Reports in March 1999, stating its intention to protect 12% of the lands in the planning area from development. This was a significant increase over current levels and the recommendations of the Round Tables.<sup>38</sup>

However, this commitment is subject to a number of major concessions to the forestry and mining industries, and other interests.<sup>39</sup> With respect to forestry, the government has committed to:<sup>40</sup>

- no long-term reduction in wood supply;
- no increases in the costs of the wood supply;
- potential exemptions for the biodiversity protection provisions of the *Crown Forest Sustainability Act* in areas where intensive silviculture is to be practiced;
- the potential extension of forest harvesting activities north of the 50th parallel; and
- \$21 million in new subsidies and compensation to the forest industry.

The issue of extended tenure for forest companies was not addressed in the government's announcements, but extensions of tenure, potentially to the point of virtually ownership, appear to be implicit as a quid pro quo to industry in the 'Lands for Life' process. This would make the establishment of additional protected areas in the future extraordinarily difficult, if not impossible, without major financial compensation to tenure holders. According to government statements issued on March 29, any future expansion of parks and protected areas in Ontario will require the agreement of the forestry and mining industries.<sup>41</sup>

The government's announcements were accompanied by the release of the 1999 Ontario Forest Accord, signed by the representatives of the Partnership for Public Lands,<sup>42</sup> the forest industry and the Ministry of Natural Resources. The Accord states that the parties agree that parks and protected areas resulting from the Lands for Life process will exclude logging, mining and hydro-electric development;<sup>43</sup> endorse the general mapping 12% of the planning area as parks or protected areas;<sup>44</sup> and to establish an Ontario Forest Accord Advisory Board to support the collaborative implementation of the Accord.<sup>45</sup>

The parties also agreed that the MNR would make its best efforts to obtain appropriate modifications to the Timber Class EA and *Crown Forest Sustainability Act* and its regulations in order to permit intensive forest management practices (pending more precise definition of specific requirements), and the lengthening of the term of forest management plans.<sup>46</sup>





# WILDLIFE, WILDERNESS AND PROTECTED AREAS

## Introduction

Ontario's laws, policies and institutions related to wildlife, wilderness and protected areas have undergone a complete restructuring over the past four years. The changes in the MNR's approach to Forest Management, described in the following chapter, have major implications for wildlife and wilderness conservation in the province, as well.

The government's approach to fish and wildlife issues has been almost exclusively concerned with the interests of sport hunters and fishers. These interests have been given an overwhelming influence over the province's fish and wildlife policies through the Fish and Wildlife Advisory Board and the dedication of Fishing and Hunting licence fees to programs that reflect sport fishing and hunting interests. The role of sport fishing and hunting interest groups in the direct delivery of fish and wildlife programs has also grown, as illustrated by the MNR/Ducks Unlimited wetlands management agreement and the transfer of hunter education and licencing programs to the Ontario Federation of Anglers and Hunters. The one notable exception in this regard has been the January 1999 cancellation of the Ontario spring bear hunt.

The new *Fish and Wildlife Conservation Act*, enacted in December 1997, contains provisions for the protection of non-game species and wildlife in captivity. However, it also provides a framework for the continued transfer of responsibility for the operation of the province's fish and wildlife programs to non-governmental actors.

Major reductions have been made to the budget for Ontario's system of Provincial Parks. The parks system is under intense pressure to increase utilization and revenues. This is leading to actions which conflict with the goal of preserving and protecting Ontario's natural and cultural heritage.

The expansion of Wabikimi Provincial Park, begun in 1992, was completed in July 1997.

Large areas of the Temagami Region in Northeastern Ontario were re-opened to logging and mining activities by the government in June 1996, including a number of areas that the Temagami Comprehensive Planning Council had recommended be protected from development. Parts of the Temagami region were re-opened for mineral staking in the fall of 1998.

The government announced its response to the recommendations of the 'Lands for Life' Round Table Reports in March 1999. The 'Lands for Life' process had been established in April 1997 to determine the future uses of public lands in Central and Northern Ontario, an area encompassing 47% of the province's land area. The government stated its intention to protect 12% of the lands in the planning area from development, a

significant increase over current levels and the recommendations of the Round Tables.

However, this commitment is subject to a number of major concessions to the forestry and mining industries, and other interests. In the case of mining, according to statements issued by the Ministry of Northern Development and Mines, mineral tenure in new parks and protected areas is to be maintained, prospecting and exploration permitted in these areas, and land 'borrowed' from parks for mining purposes if significant mineral deposits are found. More than \$20 million in new subsidies to the mining industry are also to be provided. These arrangements were confirmed by the government in July 1999.

With respect to forestry, the government has committed to: no long-term reduction in wood supply; no increases in the costs of the wood supply; potential exemptions for the biodiversity protection provisions of the *Crown Forest Sustainability Act* in areas where intensive silviculture is to be practiced; the opening of the region north of the 51th parallel to logging activities; and \$21 million in new subsidies and compensation to the forest industry. The issue of extended tenure for forest companies was not addressed in the government's announcements, but extensions of tenure appear to be implicit as a quid pro quo to industry in the 'Lands for Life' process.

The government's 'Lands for Life' announcements also indicate any future expansion of parks and protected areas in Ontario will require the agreement of the forestry and mining industries. Commercial fur harvesting and sport hunting and fishing are to be permitted in most new protected areas, consideration given to the expansion of hunting in existing parks. Finally, the government's announcements failed to address the rights and interests of First Nations and Metis people in the planning area.

## **Forest Management and Biodiversity**

The changes in the Ministry of Natural Resources' approach to Forest Management, outlined in the following chapter, will have major implications for wildlife and wilderness conservation in the province, particularly with respect to the consideration of biodiversity conservation in forest management.

### **Bill 26 Amendments to the *Game and Fish Act***

Bill 26, *The Savings and Restructuring Act, 1996*, enacted in January 1996, amended the *Game and Fish Act* to permit the establishment of a separate account to hold the monies arising from activities such as fees collected or licenses issued under the *Act* (i.e. fishing and hunting license fees). Under the amendments, funds held in this separate account may be directed to the Minister or any person specified by the minister if it is "used for the management...of wildlife or fish populations..." or if the "payment will be used for a matter related to the activities of people as they interact with or affect wildlife or fish populations..." It can also be used to refund fees or royalties.

The Bill 26 amendments also provided for the establishment of an advisory

committee by the Minister to oversee the account and report on it annually to the Lieutenant-Governor in Council and the Legislature. In February 1996 the Minister of Natural Resources announced the establishment of the dedicated Fish and Game Fund provided for by the Bill 26 amendments to the *Fish and Game Act*.

The MNR's directions for Fish and Wildlife management were provided in its June 1996 Business Plan. The plan was intended to deal with the consequences of "expenditure reduction and government downsizing" and incorporated the dedication of the Fish and Game Fund.<sup>47</sup>

The plan outlined a major shift in the delivery of services, and licensing operations to non-governmental agencies and the private sector. Field assessment activities (i.e. wildlife monitoring and research) were to be "severely" curtailed, response to nuisance animal issues "divested" and direct involvement in the delivery of Remedial Action Plans on the Great Lakes "significantly" reduced.

The Fish and Game Fund was earmarked to replace the elements of the MNR's wildlife budget lost to budgetary reductions. Non-fish and wildlife related compliance (i.e. natural heritage conservation) efforts and costs were to be funded out of other MNR programs, although these were not identified.<sup>48</sup>

Serious concerns were expressed that the Fund would be used exclusively for the purpose of managing game species, and that individuals and organizations concerned with non-game species would be excluded from the Advisory Committee. There were also concerns that the creation of a dedicated fund would facilitate the "privatization" of fish and game management in the province.<sup>49</sup> The Fish and Wildlife Advisory Board was appointed in July 1996, and is dominated by representatives of sport fishing and hunting interests.<sup>50</sup>

The MNR's Fish and Wildlife Business Plan also indicated that there was to be greater involvement of "clients" in policy and program development.<sup>51</sup> This "client-centred" orientation has been manifested in a number of ways over the past few years. Examples have included the following:

#### *Opposing the Phase-Out of Lead Shot*

In a February 1996 speech to the Ontario Federation of Anglers and Hunters, the then Minister of Natural Resources stated that he opposed the rapid phase-out of lead shot from waterfowl hunting proposed by the federal government, and requested exemptions from the ban for woodcock hunters and upland hunters.

#### *Ducks Unlimited Wetlands Management Agreement*

In April 1997, the Minister of Natural Resources signed a "perpetual" agreement between the province and the hunting and conservation organization Ducks Unlimited. The agreement commits the Ministry to:

- consult with Ducks Unlimited in matters relating to the development of policy, programs and legislation that may affect wetlands and the delivery of wetland

- conservation initiatives;
- offer 99 year agreements to Ducks Unlimited for Crown lands on which wetland habitat restoration projects will be located;
- register conservation easements on the property before the sale of Crown lands to protect wetland values and the interests of Ducks Unlimited; and
- invite Ducks Unlimited to participate in resource planning initiatives for Crown and private lands that may affect wetlands conservation projects.

The agreement also specified roles and responsibilities for each organization in the areas of communications, environmental reviews, science transfer, information management and administration.

The agreement was unusual in that it appeared to give a private organization, whose mandate is to promote the sporting interests of its members, a privileged place in the Ministry's policy development and planning processes, and in the disposition of Crown lands.

#### *Lowering of Minimum Age for Hunting with a Firearm*

In September 1998, the Ministry of Natural Resources lowered the minimum age for hunting with a firearm from 15 to 12, under the "Hunter Apprenticeship Safety Program."<sup>52</sup>

#### *MNR Delegation of Hunter Training and Licencing*

In February 1999, the Ministry of Natural Resources announced that it was delegating its hunter training and Licencing programs to the Ontario Federation of Anglers and Hunters. Under the Agreement, the Federation will be paid a fee of between \$300,000 and \$350,000 over the next five years.<sup>53</sup>

#### ***The Fish and Wildlife Conservation Act, 1997***

The *Fish and Wildlife Conservation Act* was enacted in December 1997. The Act replaced the existing *Game and Fish Act*. The new Act included the following elements:

- provision for the protection and management of both game and "specially protected" species, at all life stages and to whole or parts of members of species regardless of place of origin;
- provisions dealing with wildlife in captivity;
- protection for black bears, including prohibitions on possession of a black bear gall bladder separated from the carcass, interference with black bear dens or bears in their dens;
- strengthened enforcement provisions;
- greater discretion for the Minister to make regulations previously made by the cabinet;

- provision for property owners to hire animal control agents to deal with nuisance wildlife; and
- provisions to "facilitate" new business relationships with the private sector, to assist in fish and wildlife management.<sup>54</sup>

The Act and the regulations made under it came into force on January 1, 1999.

Concerns were expressed that the legislation continued to advance the privatization of fish and wildlife resource management, lacks the legal mechanisms necessary to protect wildlife, allows for a wide range of ministerial discretion on the application of the act, defines "aquaculture" but does not define "conservation", limits the investigation of hunting, fishing and trapping activities, and was not strong enough to prevent the trafficking of animal parts.<sup>55</sup>

### *Wildlife Management Expenditures*

A one-time expenditure of \$10 million to improve fish and wildlife management was announced in the May 1998 budget.<sup>56</sup>

### *Provincial Auditor's 1998 Annual Report.*

In November 1998 the Provincial Auditor tabled his Annual Report to the Legislature. The report was highly critical of the Ministry's fish and wildlife programs, concluding that:

- the Ministry had not developed proper effectiveness measures to assess the program's success in achieving the sustained development of the province's fish and wildlife resources;
- the Ministry did not have adequate policies in place for the management of big game species (moose, deer and bear); and
- information from the assessment of fish populations and other data were often not available to assist management in managing regeneration, stocking and harvesting.<sup>57</sup>

### *Spring Bear Hunt Cancellation*

On January 15, 1999, the Minister of Natural Resources announced the cancellation of the spring bear hunt. The hunt would have operated between April 15 and June 15. The hunt was cancelled to prevent the orphaning of bear cubs by the accidental shooting of mother bears.<sup>58</sup> A compensation package of for outfitters of \$250 per hunter for the 1999 season was announced by the Ministry of Natural Resources in March 1999. A legal challenge to the cancellation of the hunt by the Ontario Federation of Anglers and Hunters, and the Northern Tourist Outfitters' Association, was rejected in May 1999. However, in July 1999 the government announced the extension of the fall bear hunt by two weeks.<sup>59</sup>

## Provincial Parks

The provincial parks system has been heavily affected by the "Common Sense Revolution." Major reductions in the operating and capital budget for the provincial parks system were announced in the fall of 1995 and the government's April 1996 budget.

### *Provincial Park Status*

In its April 1996 business plan, the Ministry of Natural Resources announced that 15 parks were targeted to be "no longer operated by MNR" (see Figure 4.1).

Batchawana Bay	Obatanga	Middle Falls
John E. Pearce	Pakwash	Potholes
Lake Nipigon	Peché Island	The Shoals
Lake on the Mountain	Peter's Woods	Tidewater
Mark S. Burnham	Port Bruce	Missinaibi

**Figure 4.1 : Preliminary List of Provincial Parks to be no longer operated by the MNR**

A further 12 parks (See Figure 4.2) were proposed to be operated with "partners" (i.e. private sector operators).<sup>60</sup>

Serpent Mounds Provincial Park was returned to the First Nation which owns the land on which the park is located in April 1996.<sup>61</sup> The Ministry entered into an operating agreement with a First Nation regarding Lake Nipigon Provincial Park in June 1997.<sup>62</sup> The deregulation and disposal of Peché Island Provincial Park was proposed in January 1999. Interest in acquiring the property as a park has been expressed by the City of Windsor.<sup>63</sup>

With the exception of Peter's Woods,<sup>64</sup> none of the remaining parks have been closed, although service has been cut back in some cases to save costs, and in others local communities have agreed to assist in operating parks.<sup>65</sup>

Caliper Lake	Kap-Kig-Iwan
Driftwood	Lake of the Woods
Fushimi Lake	Marten River
Greenwater	Mississagi
Inverhuron	Ojibway
Ouimet Canyon	Windy Lake

**Figure 4.2 : List of Provincial Parks to be co-operated by the MNR and private sector partners.**

### *"Ontario Parks" and Revenue Generation*

On May 1, 1996 of the creation of a new organization named 'Ontario Parks' was announced. Its mission was "to improve the delivery of programs and services in key parks to increase revenues and, in turn, sustain other parks." The framework included the creation of a special purpose account for retaining park revenues (i.e. fees, licenses, permits and rentals). In addition, a "board of directors" was to be appointed to advise the Minister of Natural Resources on the management and operation of the provincial parks system. It was to include representatives from the environmental, tourism, business, finance and education sectors.<sup>66</sup> The Board was appointed in September 1997.

The overall goal of the "Ontario Parks" program was to increase cost recovery on operating and capital expenditures from the present 45% to 70% over a five year period, with an increase in revenues from \$15 million to \$20 million. The long-term objective was to be to increase the financial self-reliance of the provincial parks system, and to operate the system "more like a business." The contracting out of services within provincial parks, such as road and ground maintenance, garbage disposal, janitorial services and snow removal were said to be under consideration.<sup>67</sup>

The provincial government stated that "the protection of significant elements of our natural and cultural landscape" and the provision of "strong leadership in natural and cultural protection" were to remain important objectives of the parks program.<sup>68</sup> However, the focus on revenue generation in the 'Ontario Parks' strategy has prompted expressions of concern that it may compromise the natural heritage protection mandate of the provincial parks system.<sup>69</sup> The Ministry's 1998-99 Business Plan, for example, clearly emphasized increasing the level of use of provincial parks.<sup>70</sup> No significant changes to legislation have been proposed or enacted to provide a clearer protection mandate to Ontario Parks. This is in contrast to the ecological integrity provisions contained in the *National Parks Act*, legislation in other provinces.

Concerns have also been raised regarding proposals for large scale recreational developments within parks which threaten natural and ecological integrity values. Proposed developments in Bronte Creek and Samuel de Champlain provincial parks have been specifically cited as being problematic in this regard.<sup>71</sup>

### *Bill 36 Amendments to the Provincial Parks Act*

Amendments to the *Provincial Parks Act* to implement the 'Ontario Parks' structure were enacted in June 1996 as part of Bill 36, the *Ministry of Natural Resources Statute Law Amendment Act*. The amendments permit park managers to enter into agreements with private partners, permit the Minister of Natural Resources, rather than the Lieutenant-Governor in Council, to set fees and charges related to the operation of provincial parks. In addition, the Bill dedicated all revenues generated by the parks system to the operation of provincial parks. Finally, the amendments permit the Minister of Natural Resources to authorize "any person" take on duties or powers that may be required to ensure the operation of a provincial park.

### *Nature's Best*



In February 1997, the MNR announced the creation of 4 new provincial parks, 5 park expansions and 18 new conservation reserves, totalling 77,500 hectares, under a program entitled *Nature's Best*.<sup>72</sup> Although this announcement was welcomed by environmental and conservation groups, there were concerns regarding its relationship to the wider *Lands for Life* land use planning program (described below) announced in April 1997.<sup>73</sup>

### *Wabakimi Provincial Park Expansion*

In July 1997, the MNR officially announced the new boundary of Wabakimi Provincial Park, north of Armstrong, making it the second largest park in Ontario. The park was expanded from 155,000 hectares to 892,061 hectares. The review of the boundary started in 1992.

### **Temagami**

On November 17, 1995, the Ontario Court, General Division, lifted the caution imposed in 1984 on the land titles for 110 townships in the Temagami region of Northeastern Ontario as a result of an aboriginal land claim. At the time, the Attorney-General stated that the government was "committed to the orderly re-opening of the land" for forestry and mining operations.<sup>74</sup> A land use proposal for the area was submitted to the government by the Temagami Comprehensive Planning Council in March 1996. The Council recommended that 56% of the area's old-growth red and white pine forests be opened for logging and that "the majority of the land base must be kept open for exploration and mineral development."<sup>75</sup> However, the report also recommended that a number of ecologically significant areas be protected.<sup>76</sup>

In response to the Council's report, the Minister of Natural Resources stated that, while acknowledging environmental concerns, the government wanted to "move as quickly as possible" to allow for increased logging and mining in the area.<sup>77</sup> On June 27, 1996, the Minister announced the government's final decision regarding land-use in the region.<sup>78</sup> While accepting the bulk of the Planning Committee's recommendations, the government opened to mineral exploration a number of areas which the Committee had recommended be protected, most notably, in the headwaters of the Lady Evelyn River System.<sup>79</sup>

The government's decision prompted a "rush" when the area was opened for the staking of mining claims on September 17.<sup>80</sup> The government's actions also resulted in widespread protests, culminating in 62 arrests at a logging road blockage between late August and early October. The government's policies regarding Temagami were subsequently criticized in a resolution of the International Union for the Conservation of Nature (IUCN) meeting in Montreal in October 1996.<sup>81</sup> Parts of the Temigami area, including the Skyline reserve, were re-opened for mineral claim staking in October 1998.<sup>82</sup>

### *Temagami and MNR Compliance with the Timber Class Environment Assessment and the Crown Forest Sustainability Act*

The protection for old growth white and red pine forests in the Temagami region was sought as part of the legal action initiated by the Sierra Legal Defence Fund, Wildlands League and the Friends of Temagami, regarding the MNR's compliance with the requirements of the *Crown Forest Sustainability Act* and the 1994 Terms and Conditions of the Class Environmental Assessment of Timber Management on Crown Lands, in September 1996.<sup>83</sup>

The groups' specific application for an injunction against the logging of forests in the Temagami region was rejected in October 1996.<sup>84</sup> However their overall claim regarding MNR compliance was accepted by the Ontario Divisional Court in February 1998. The Court gave the province 12 months to bring the Elk Lake, Upper Spanish and Temagami plans into compliance with the Act.<sup>85</sup> This decision was upheld by the Ontario Court of Appeal in October 1998.<sup>86</sup>

### *The Cross Lake Road*

On December 11, 1996, a coalition of environmental groups filed a request for investigation with the Environmental Commissioner regarding the approval of a logging road by the MNR in the Cross Lake area of the Temagami Region in contravention of the *Environmental Assessment Act*.<sup>87</sup> Subsequently, in April 1997 the Ministry of Environment and Energy laid charges against the MNR for this action.<sup>88</sup> In September 1997, the Ministry of Natural Resources submitted a plea of guilty with respect to the charges and was fined \$1,200 for its violation of the Act.<sup>89</sup>

## **Conservation Lands Taxation**

Significant changes to the property tax assessment regime for conservation, managed forest and farm lands were made through the *Fair Municipal Finance Act*, passed in May 1997. The reforms converted existing rebate programs into either an exemption from property taxation (conservation lands) or a new property class with a tax ratio of .25 of residential rates (farm and managed forest lands). Conservation lands are defined as endangered species habitat, areas of natural and scientific interest (ANSIs), provincially significant wetlands (classes 1-3), Niagara Escarpment natural zones, and lands which contribute to provincial conservation objects that are owned by non-profit conservation groups. Conservation Authorities are to be treated in the same fashion as any other landowner.<sup>90</sup>

While the announcement of the conservation lands program emphasized the need for long-term support for private landowners, in 1998 MNR staff placed a moratorium on adding new lands under the "Other Conservation Lands" portion of the program. This category was intended cover lands held for conservation purposes by land trusts and similar organizations. As a result, non-profit groups have had to pay taxes at full rates while the program is under review.

To qualify for the farm program, applicants must demonstrate that they are bona fide farmers with a certain income, and also must be members of the Ontario Federation of Agriculture or the Christian Farmers' Association. This may present barriers to organic farmers qualifying for the program. A large part of the managed forest program is administered by the Ontario Forestry Association and the Ontario Woodlot Association. The program and its materials retain a harvest emphasis, although it is intended for conservation and recreation purposes as well,<sup>91</sup> and many of the approved plans have wildlife habitat protection as their primary management goal.

## **Disposition and Sale of Crown Lands**

Over the past four years, the MNR has accelerated its efforts to sell public lands that are "no longer needed" and are not "ecologically significant." The Environmental Commissioner for Ontario reported that in 1995-96 the Ministry sold 151 properties with a market value of more than \$4 million. The MNR's current target for the sale of Crown land is currently approximately \$5 million/y.<sup>92</sup>

In her April 1998 report to the Legislature, the Environmental Commissioner expressed concern that proposed amendments to the *Public Lands Act*, which were ultimately enacted in December 1998,<sup>93</sup> would remove limits on the maximum size and minimum price of parcels of public land for sale. The amendments also delegated the power to authorize the sale of public lands from the Lieutenant-Governor in Council to the Minister of Natural Resources.<sup>94</sup> The Commissioner noted that the EBR public notice and comment requirements do not apply to the sale of public lands.<sup>95</sup>

The sale of public land will make the establishment of protected areas in the future more difficult, as the lands would have to be bought back, at market rates, in order to be incorporated into these areas. It will be important that that landscape, rather than just site-based assessments be made before lands are disposed of, to ensure the protection of natural heritage values.

## **Lands for Life**

The 'Lands for Life' process was initiated in April 1997. The process was intended to allocate uses for public lands in the central region of Ontario, an area of 46 million hectares. Under the program, the Ministry of Natural Resources divided central Ontario into three large planning areas (Boreal West, Boreal East, and Great Lakes-St Lawrence). Regional round tables, one in each planning area, were to draft recommendations on how land and resources in their region should be allocated. The members of the Round Tables, who had to be residents of their area, were appointed by the Minister of Natural Resources. The three major land-uses identified in the process were: natural heritage protection, which included parks and protected areas; remote tourism areas; and general industrial use, including forestry and mining. The Round Tables were originally scheduled to make their recommendations to the Minister of Natural Resources by March 1998.

Serious concerns were raised about the 'Lands for Life' process. These included the short time lines for such a massive planning undertaking, the fairness of the public consultation process, and the quality of the information made available to the public. Specific concerns included the lack of representation from members of the public from outside of the planning areas themselves, the lack of input from Southern Ontario, the weighting of the Round Tables' membership in favour of resource industries, and the lack of specific guidelines or policies on how the Round Tables are to arrive at their conclusions.<sup>96</sup>

In response to these concerns, the Ministry of Natural Resources increased consultation in Southern Ontario, issued some guidelines to the Round Tables, and extended the time line for the Round Tables to draft their recommendations until June 1998. However, in her April 1998 Annual Report to the Legislature, the Environmental Commissioner noted that the MNR's previous land use planning process for the region took more than 10 years to complete. The Commissioner also expressed concerns that the Round Tables' tight schedule did not allow MNR to enough time to compile detailed analyses of potential natural heritage areas, or to identify existing old growth forests.<sup>97</sup>

The Round Table reports were delivered to the MNR in October 1998. The reports recommended only a 1.6% increase in the amount of land classified as protected areas in the lands covered by the lands for life process.<sup>98</sup> The Round Tables also recommended that 79.9% of the Crown Land in the Boreal West planning area, 94.7% of the Crown Land in the Boreal East planning area, and 48.9% of the Crown Land in the Great Lakes St. Lawrence planning area to designated for 'general' (i.e. industrial) use.<sup>99</sup>

The government announced its response to the recommendations of the 'Lands for Life' Round Table Reports in March 1999, stating its intention to protect 12% of the lands in the planning area from development. This was a significant increase over current levels and the recommendations of the Round Tables.<sup>100</sup>

However, this commitment is subject to a number of major concessions to the forestry and mining industries, and other interests.<sup>101</sup> With respect to forestry, the government has committed to:<sup>102</sup>

- no long-term reduction in wood supply;
- no increases in the costs of the wood supply;
- potential exemptions for the biodiversity protection provisions of the *Crown Forest Sustainability Act* in areas where intensive silviculture is to be practiced;
- the potential extension of forest harvesting activities north of the 51th parallel; and
- \$21 million in new subsidies and compensation to the forest industry.

The issue of extended tenure for forest companies was not addressed in the government's announcements, but extensions of tenure, potentially to the point of virtual ownership, appear to be implicit as a quid pro quo to industry in the 'Lands for Life' process. This would make the establishment of additional protected areas in the future extraordinarily difficult, if not impossible, without major financial compensation to tenure holders.

In the case of mining, documents released by the Ministry of Northern Development and Mines stated that:

- the government will respect the existing rights of all forms of mining land tenure in new parks and conservation areas ;
- "low impact" staking and exploration will be allowed in unclaimed areas of provincially significant mineral potential located inside new parks and conservation reserves;
- park land may be 'borrowed' for mining while substituting it with land of equal natural heritage value, and restore land to parks when mining is finished; and
- more than \$20 million in new subsidies to the mining industry are to be provided.<sup>103</sup>

According to government statements issued on March 29, the establishment of new protected areas will require "mutual agreement" among the minerals industry, the forest industry and the Partnership for Public Lands.<sup>104</sup> This would effectively provide the forest and mining industries with a veto over any future expansion of parks and protected areas in Ontario. The government's statements also indicate that commercial fur harvesting and sport hunting and fishing are to be permitted in most of the new protected areas.<sup>105</sup>

It is important to note that elements the Ministry of Northern Development and Mines' announcements on March 29 regarding mining directly contradicted provisions of the 1999 Ontario Forest Accord, signed by the representatives of the Partnership for Public Lands,<sup>106</sup> the forest industry and the Ministry of Natural Resources. The Accord stated that mining would be excluded from parks and protected areas,<sup>107</sup> provided for interim protection from mining activities for areas proposed as parks or protected areas,<sup>108</sup> and stated that the Ontario Forest Accord Advisory Board would develop a strategy for additions to the parks and protected areas system.<sup>109</sup>

It has been pointed out that the protection of 12% of the planning area fell short of the 15-20% minimum identified environmental and conservation organizations involved in the 'Lands for Life' process as being required to complete the system of protected areas in Ontario.<sup>110</sup> This is of particular concern given the difficulties for the establishment of additional protected areas in the future created by the government's commitments to the forest and mining industries in the planning area.

In addition, international criteria for the definition of protected areas specifically require the permanent exclusion of mining, logging and hydroelectric development.<sup>111</sup> This criteria cannot be met by the 'protected' areas announced on March 29 as, according to the government's statements, mineral exploration and mining may be permitted within them. Mining activities in 'protected' areas were excluded from the federal government's 1997 minerals and metals policy.<sup>112</sup> This reflects the consideration that mining operations can have unremediable environmental impacts, such as acid mine drainage, over an area orders of magnitude larger than the mine site itself.<sup>113</sup> Indeed, the author of a leading text on mining law in Canada has noted that:

"Mineral exploration and mining are regarded as precisely the kinds of activity against which protection is needed, no matter how little is taken up

with actual mining."<sup>114</sup>

The failure of the government's announcements to address the situation of First Nations and Metis peoples in the planning area has also been identified as a major area of concern. The Canadian Environmental Law Association has pointed out that:

"For areas affected by land claims, for any unceded lands in the planning area, Ontario will be unable, as a matter of constitutional law, to displace the First Nations' rights. First Nations also have unceded traditional rights and treaty rights in much of the planning area to hunting, fishing, food gathering ceremonial and other activities, and Ontario cannot unilaterally displace the First Nations from these rights...

"The Accord and Strategy do contain rhetoric to the effect that existing rights of Aboriginal peoples are not affected by the Accord. However, there is no provision as to how traditional uses of the land will be protected; as to what will happen if planned forestry activities are inconsistent with traditional and Treaty rights to use the land. There is no recognition of the fiduciary duties owed to First Nations peoples by the province in accordance with recent Supreme Court of Canada jurisprudence such as the *Delgamuukw* decision."<sup>115</sup>

The 'Lands for Life' announcements have major implications for the future of public lands in Ontario. In effect, the government has proposed the partial protection of 12% of the land base. The remainder is to be assigned to industrial uses, from which it may be extremely difficult and expensive to retrieve lands for the creation of new protected areas, or to implement significant changes to forest management or land-use policies, in the future.

In July 1999, the government confirmed the following elements of its March 1999 'Lands for Life' announcements:<sup>116</sup>

- mineral exploration will be permitted in areas have very high mineral potential in new provincial parks and conservation reserves under controlled circumstances. If a site is to be developed for a mine, the area would be removed from the park or conservatoin reserve by deregulating, and another area would be added to the park or conservation reserve to replace the deregulated area;
- existing bait fishing, commercial fishing, commercial fur harvesting and wild rice harvesting will be permitted to continue indefinitely in existing provincial parks, except in wilderness and nature reserve parks and zones in parks, where these activities would be phased out by 2010. Where these activities occur in new parks, they would be permitted to continue indefinitely except in nature reserve parks and zones;
- sport hunting would be permitted in all new provicnial parks and park additions except in nature reserve parks and zones;

- existing authorized seasonal recreation camps will be permitted to continue indefinitely in new provincial parks and will be eligible for enhanced tenure, but not purchase of land;
- existing authorized tourism facilities and recreation trails will be permitted to continue in new provincial parks, subject to management prescriptions determined through management planning;
- the establishment of new tourism facilities may be considered in planning for individual conservation reserves; and
- efforts will be made to identify potential locations for future road crossings for forestry purposes prior to regulation of new provincial parks or conservation reserves.

The government also stated that "MNR will consider opportunities to provide additional hunting opportunities during park management planning for existing parks, including existing wilderness parks."<sup>117</sup>

# FISHERIES AND FISH HABITAT

## Introduction

A number of major changes affecting fisheries and fish habitat took place over the 1995-1999 period. In March 1996, the government adopted changes to the land-use planning process that significantly weakened the protection for wetlands and other important types of fish habitat. In November 1996, the Ministry of Natural Resources removed permitting requirements for a wide range of activities on public lands, and affecting shorelines, lakes and rivers. This was followed in September 1997 by the abandonment of the enforcement of habitat protection provisions of the Federal *Fisheries Act* by the Ministry.

The Ministry has entered into a self-monitoring agreement with the commercial fisheries industry, and has proposed similar arrangements for the baitfish industry. The Provincial Auditor's November 1998 Annual Report raised serious questions about the effectiveness of the Ministry's fish and wildlife management programs. A new *Fish and Wildlife Conservation Act*, replacing the *Fish and Game Act*, was enacted in December 1997.

Ontario's existing, naturally-occurring fish habitat and indigenous fish populations continue to be threatened in many parts of the province. Legislative, regulatory and program changes over the course of the 'Common Sense Revolution' have generally ensured that the pace of encroachment into wetlands and aquatic habitats will increase. While the province and federal government frequently sponsor remediation projects, these projects can rarely undo the kind of irrevocable changes brought by incursion of activities such as forestry, mining and land development. Looking to the future, planned legislation with enabling rights such as the 'right-to-fish' may make it extremely difficult to limit the over-use and demise of natural fish populations.

## Enforcement of the Habitat Protection Provisions of the Federal *Fisheries Act*

On September 19, 1997, the Ministry of Natural Resources announced that it was withdrawing from a 1989 agreement with the federal Department of Fisheries and Oceans to enforce the habitat protection provisions of the federal *Fisheries Act*. The Ministry stated that it would take further no action to enforce the Act in Ontario.<sup>118</sup>

The *Fisheries Act* contains strong provisions related to the protection of fish habitat, such as wetlands, streams and shorelines. These include a prohibition on the alteration or destruction of fish habitat without the permission of the Minister of Fisheries and Oceans.<sup>119</sup> Over the years, the Ministry of Natural Resources has undertaken numerous prosecutions under the Act.<sup>120</sup>

The Ministry of Natural Resource's action resulted from a dispute with the federal



government over the delegation of the power to authorize the alteration or destruction of fish habitat to the provinces. The provinces have sought the unconditional delegation of this power through amendments to the *Fisheries Act*. Ontario had also been seeking financial compensation for its activities related to the habitat protection provisions of the Act.

The federal government stated that it was unwilling to proceed with unconditional delegation. Amendments to the *Fisheries Act* introduced into Parliament in October 1996 would have delegated decision-making authority regarding fish habitat to the province. However, the delegation would have been subject to conditions regarding compliance with federal policies regarding habitat protection and requirements that the provinces report to the federal government and the public regarding their activities with respect to the administration and enforcement of the habitat protection provisions of the Act.<sup>121</sup>

When it withdrew from the enforcement of the Act in September 1997, the Ministry of Natural Resources indicated that it would resume its enforcement activities if the federal government committed to the delegation of decision-making authority related to habitat alteration and destruction, and to provide financial resources to support the Ministry's activities in relation to the Act.<sup>122</sup>

In addition, Environment Canada and the U.S.EPA's "State of the Great Lakes 1997" report had concluded that aquatic habitat and wetlands were in "poor" condition in the Great Lakes basin.<sup>123</sup> In the words of the House of Commons Standing Committee on the Environment and Sustainable Development, the Ministry of Natural Resource's action created a "huge hole in the Department's (Fisheries and Oceans) fish habitat program."<sup>124</sup>

As a temporary measure, the federal Department of Fisheries and Oceans brought in four federal Fisheries Officers from the Maritimes to enforce the habitat protection provisions of the Act in Ontario. These officials were to deal with the work previously handled by 215 provincial enforcement officers.<sup>125</sup> In May 1998, two of the four federal Fisheries Officers assigned to Ontario were withdrawn to their home regions.<sup>126</sup> At one point in over the summer of 1998, only one official, the Director of Conservation and Protection for the Department's Central and Arctic Region, based in Yellowknife, was available to enforce the habitat protection provisions of the Fisheries Act in Ontario.<sup>127</sup>

Between September and November 1988, eight federal Fisheries Officers and one Supervisor were reassigned from a number of regions to Ontario to carry out enforcement functions with respect to the habitat protection provisions of the Fisheries Act. These arrangements are designed to remain in place until March 2000.<sup>128</sup> In addition, in April 1998 the Department of Fisheries and Oceans announced its intention to restore the positions of some (25%) of the habitat biologists in Ontario cut through the February 1995 budget. These are to support the administration and enforcement of the habitat provisions of the Act.<sup>129</sup> The Department has also entered into agreements with 31 Conservation Authorities to carry out reviews of the impacts of proposed developments on fish habitat.<sup>130</sup>

A report tabled by the House of Commons Standing Committee on Fisheries and Oceans in November 1998 encouraged the resolution of the dispute over habitat

protection, and called for a structure to provide the Department of Fisheries and Oceans with the resources to adequately and efficiently complete the tasks associated with habitat management.<sup>131</sup>

## **Fish Habitat Protection and Land-Use Planning**

Major changes were made to the land-use planning process through the enactment of Bill 20, the *Land Use Planning and Protection Act, 1996*, and the adoption of a new Provincial Policy Statement in March 1996. These changes weakened environmental protection requirements.<sup>132</sup> Specifically with respect to fish habitat, the new Provincial Policy Statement provided for the protection of wetlands in a smaller area of the province, and removed requirements for impact studies of proposed developments in or adjacent to wetlands from the previous statement.<sup>133</sup>

In November 1996, the Ministry of Natural Resources announced new regulations to implement the January 1996 Bill 26 amendments to the *Public Lands Act* and the *Lakes and Rivers Improvement Act*. These regulations removed permit requirements for a wide range of activities likely to affect shorelines and fish habitat, including mineral exploration, the construction of shoreline structures like docks and boathouses, dredging, and the removal of aquatic plants.<sup>134</sup>

Wetlands, and other forms of important aquatic habitat, have also been affected by specific development activities. The Red Hill Creek Valley expressway in Hamilton, which is partially funded by the province, has been cited as a example of such development. The proposed alterations to fish habitat due to the have triggered a federal environmental assessment of the undertaking.<sup>135</sup>

## **Commercial Fisheries Management**

In January 1998, the Minister of Natural Resources signed an agreement with the Ontario Commercial Fisheries Association (OCFA) that would see the industry adopt a larger role in the management of the province's commercial fisheries. This agreement follows the pattern of other industry self-regulation arrangements adopted by the Ministry for such sectors as forestry and aggregates. Under the agreement the OCFA will: compile data from commercial fish harvest reports; administer royalties; monitor compliance; and cooperate with MNR projects.<sup>136</sup>

## **Baitfish Management**

In February 1999, the Ministry of Natural Resources proposed a "New business relationship" with the baitfish industry.<sup>137</sup> The administration of bait licensing (i.e. issuing, data collection, and harvest reporting) would be transferred to the Bait Association of Ontario (BAO). Increased bait license fees are to go into a Special Purpose Account to

finance the administration of the BAO. Specific duties to be assigned to BAO include:

- licence administration, including feed collection and submission to the Crown.
- commercial bait data management for compilation of provincial harvest records and summary statistics;
- expansion of industry's participation in fish stock monitoring and assessment; and
- expansion of the industry's role in compliance monitoring and policy development.

### ***The Fish and Wildlife Conservation Act***

In December 1997, Bill 139, the *Fish and Wildlife Conservation Act*, received Royal Assent. The Bill replaced the *Fish and Game Act*. The Bill included strengthened enforcement provisions. However, it has been criticized for continuing to advance the privatization of fish and wildlife resource management by permitting the delegation of Ministry functions to private individuals and entities, failing to provide for the protection of fish habitat, allowing for a wide range of ministerial discretion on the application of the Act and limiting the investigation of hunting, fishing and trapping activities.<sup>138</sup> The new Act and regulations made under it came into force on January 1, 1999.

### **Provincial Auditor's 1998 Annual Report**

In November 1998 the Provincial Auditor tabled his Annual Report to the Legislature. The report was highly critical of the Ministry's fish and wildlife programs concluding that:

- the Ministry had not developed proper effectiveness measures to assess the program's success in achieving the sustained development of the province's fish and wildlife resources;
- the Ministry did not have adequate policies in place for the management of big game species (moose, deer and bear); and
- information from the assessment of fish populations and other data were often not available to assist management in managing regeneration, stocking and harvesting.<sup>139</sup>

## **MINERAL AGGREGATES, PETROLEUM RESOURCES AND BRINE INDUSTRIES**

### **Introduction**

The Aggregates industry has emerged as one of the primary beneficiaries of the "Common Sense Revolution." Like other aspects of the MNR's mandate, the regulation of the non-renewable resource sectors - aggregates (pits and quarries), petroleum and brine, has been the subject of major structural changes. The ministry has adopted a similar approach to that taken with the forest industry, transferring its responsibilities for compliance monitoring, reporting and rehabilitation to these industries.

In addition, the aggregates industry has been the beneficiary of a number of specific land use planning decisions by the province. Requirements for Conservation Authority approval for aggregate extraction activities affecting waterways, shorelines and wetlands have been removed, and the government has proposed to permit aggregate extraction licences to override municipal by-laws.

With respect to the Niagara Escarpment, the government transferred responsibility for the protection of the escarpment from the Ministry of the Environment to the Ministry of Natural Resources, which is seen to be sympathetic to the interests of the aggregates industry. Approval requirements for expansions of pre-1975 extraction operations on the Escarpment have been removed, and the past president of the Aggregate Producers' Association appointed to the Niagara Escarpment Commission.

### **Budgetary and Staff Changes**

The MNR's June 1996 Business Plan for the non-renewable resource sector indicated that the program was to lose \$900,000 in funding and 18.35 full-time positions.<sup>140</sup> The Ministry indicated its intention to transfer the bulk of its regulatory and monitoring functions in relation to non-renewable resource industries to those industries as a result of these reductions.

### **Bill 52, *The Aggregates and Petroleum Resources Statute Law Amendment Act, 1996***

Bill 52, which amended the *Aggregate Resources Act*, *Petroleum Resources Act*, *Mining Act* and *Ontario Energy Board Act* was introduced in May 1996 and enacted in December of that year. The amendments implement the approach outlined in the Ministry's Business Plan for non-renewable resources.

### *Aggregates*

The Bill 52 amendments to the *Aggregate Resources Act* (ARA):

- replaced the existing statutory requirements for the contents approval of site plans for pits and quarries with a requirement for the filing of plans in accordance with standards to be set through regulations;
- replaced the existing requirements for public notice of license applications, with requirements to be established by regulation;
- granted the Minister complete discretion not to refer license applications to the Ontario Municipal Board for a public hearing, and permit the Minister to dictate the scope of a hearing if one is granted;
- provided for the establishment of a self-monitoring regime for the aggregates industry, transferring responsibility for site inspections, monitoring and reporting on compliance with the terms of site plans and licenses under the *Aggregate Resources Act* (ARA) to the industry;
- permitted the Minister to delegate "any person" as an inspector for the purposes of the ARA; and
- transferred the administration and delivery of the site rehabilitation program and associated Abandoned Pits and Quarries Fund to the Aggregate Producers Association of Ontario.<sup>141</sup>

Finally, the amendments increased fines, extended license suspension period, and provided longer time periods for the initiation of prosecutions under the Act. The permitting and disposition regarding aggregates on Crown Land was delegated to the Ministry of Transportation, which is the largest user of aggregate resources.<sup>142</sup>

The MNR released draft provincial standards for the operation of pits and quarries to accompany the ARA amendments in December 1996. These were heavily criticized by environmental organizations, due both to the fact that the standards were presented as non-binding guidelines, rather than regulations made under the ARA, and their weak requirements related to natural heritage protection, groundwater protection, public consultation, and compliance reporting by industry.<sup>143</sup> The standards were adopted as regulations under the ARA in June 1997.<sup>144</sup>

### *Petroleum Resources*

Similar amendments were also made to the *Petroleum Resources Act*. These permit the delegation of site inspection responsibilities to private sector individuals certified by the MNR. The Ministry is to audit the performance of operators in accordance with provincial standards. All approvals are to be consolidated into life-cycle well licenses. In addition, jurisdiction over compulsory pooling and unitization, and all appeals are transferred from the Ontario Energy Board (OEB) to the Mining and Lands Commissioner. The rationale for this transfer of jurisdiction is to improve the "investment climate"<sup>145</sup> for the industry. OEB hearings are more formal, and include the possibility of interventions by public interest organizations whereas the Mining and Lands Commissioner is seen to be more sympathetic to development interests.

New standards, similar to those established for aggregates, were adopted as regulations under the *Petroleum Resources Act* in June 1997.<sup>146</sup>

## **Aggregates and Land Use Planning**

Over the past four years, the aggregates industry has been the beneficiary of a number of decisions by the Cabinet to override local planning decisions under the *Planning Act*. In October 1996, for example, the government amended Peel Region's official plan to set aside 8,900 hectares solely for aggregates extraction in the town of Caledon. This action was widely criticized within the affected community for pre-empting a town-sponsored study on aggregates extraction in the municipality which was to be completed in April 1998, and resulted in the filing of 82 appeals with the Ontario Municipal Board regarding proposals to expand aggregate operations.<sup>147</sup> The provincial government justified the action on the basis of changes to the provincial policy statement on non-renewable resources which accompanied the March 1996 Bill 20 amendments to the *Planning Act*.<sup>148</sup>

### **Bill 25, *The Red Tape Reduction Act***

Schedule I of this omnibus Bill, enacted in December 1998, amended the *Conservation Authorities Act* to remove the requirement for Conservation Authority approval for changing, diverting or interfering with watercourses, wetlands, Great-Lakes St. Lawrence River shorelines, inland lakes, river and stream valleys, and hazardous lands for activities approved under the *Aggregate Resources Act* (i.e. aggregate extraction).

### **Bill 101, *The Red Tape Reduction Act #2***

Schedule M of this omnibus bill, which died on the order paper in December 1998, would have amended the *Aggregate Resources Act* permit site plans and licences issued under the Act to take precedence over municipal rules and by-laws.

## **Aggregates and Water Takings**

Over the past four years the Ministry of the Environment has granted approval for a number of very large water takings related to the operation of aggregate extraction facilities.

## **Aggregates and the Niagara Escarpment**

The aggregates industry has been the principle beneficiary of the province's actions over the past four years regarding the Niagara Escarpment. The Niagara Escarpment Commission and Plan were established largely to protect the Escarpment, which has been designated as a UNESCO World Biosphere Reserve, from aggregates development.

As described in the section *Land Use Planning*, in October 1996 regulations were enacted under the *Niagara Escarpment Planning and Development Act*, exempting aggregate pits and quarries operating on the Escarpment prior to 1975 from requirements

to obtain development permits to expand their activities, except where new operations involved the taking or discharge of water, or the construction of new buildings or structures.

Furthermore, in March 1997, responsibility for the administration of the Niagara Escarpment Commission and Plan was transferred from the Ministry of Environment and Energy to the Ministry of Natural Resources. The action was compared by the Coalition on the Niagara Escarpment to "putting Dracula in charge of the blood bank"<sup>149</sup> given the Ministry of Natural Resource's close association with the aggregates industry. In April 1998, the former President of the Aggregate Producer's Association was appointed to the Niagara Escarpment Commission.<sup>150</sup>

## Endnotes

- 1.This included the following reductions: information collection and management research and development (\$7.5 million); geographic information (\$3.6 million); effects and effectiveness monitoring (\$2.8 million); training and professional support (\$1.2 million) and public consultation and reporting (\$711,000). In addition, \$2.7 was removed from the budget for the sustainable forestry program.
- 2.Personal Communication, Frank Kennedy, Ontario Ministry of Natural Resources, April 1996.
- 3.Ministry of Natural Resources "Questions and Answers to the Restructuring Announcement," April 1996, pg. 6.
- 4.Forest Management Branch, Forest Management Business Plan (Toronto: MNR, May 1996).
5. Ibid.
- 6.Pers. Comm. Tim Gray, Executive Director, Wildlands League, June 1997.
- 7.Bill 25, *The Red Tape Reduction Act, 1998*, Schedule I.
- 8.Pers. Comm, Gray, June 1997.
- 9.Ministry of Natural Resources, "Forest Management Transition Team 6 Pack Final Report and Recommendations," dated December 1996, recommendation 40.
- 10.ECO, 1997 Annual Report, pg.39.
- 11.Ibid.
- 12.Ibid., pg.42.
- 13.EAB, Decision and Reasons for Decision: Class Environmental Assessment for Timber Management on Crown Lands (Toronto: April 1994).
- 14.*Environmental Assessment and Consultation Improvement Act., 1996*, s.114. See also s.15.2
- 15.Natural Heritage Branch, "Ontario's Approach to Wilderness: A Draft Policy" (Toronto: MNR, April 16, 1997).
- 16.For a detailed discussion of this issue see correspondence from R.Lindgren, Canadian Environmental Law Association, to Ms. Adair Ireland-Smith, Ministry of Natural Resources, Dated May 18, 1997.
- 17.M.Mittelstaedt, "Ontario logging challenged," The Globe and Mail, September 12, 1996.
- 18.EBR Registry Number RB6E001.E, November 4, 1996.
- 19.ECO, 1996 Annual Report, pg.28.
- 20.*Algonquin Wildlands League et. al. v. Minister of Natural Resources et. al.*, Ontario Divisional Court, (1998) 26 CELR (N.S.) 163, February 6, 1998.
- 21.Ibid.
- 22.*Algonquin Wildlands League et. al. v. Minister of Natural Resources*, Ontario Court, General Division, Court File 539/96, May 20, 1998.
- 23.Pers. Comm., Jerry DeMarco, Counsel, Sierra Legal Defence Fund, July 6, 1999.
- 24.*Algonquin Wildlands League et. al. v. Minister of Natural Resources*, Ontario Court of Appeal, October 27, 1998, Court Files C-29652 and C-29654.
- 25.Ibid., para 20.
- 26.Pers. comm., Jerry Demarco, Counsel, Sierra Legal Defence Fund, June 29, 1999.
- 27.Cutting Around the Rules: The Algoma Highlands Pay the Price for Lax Enforcement of Logging Rules (Toronto: Wildlands League and Sierra Legal Defence Fund, 1998).
- 28.ECO, Annual Report 1998, pg. 186.



29. "Road Illegal, groups claim," The Globe and Mail, December 12, 1996.
30. Ministry of Environment and Energy, News Release, April 17, 1997.
31. C. Ammerata, "MNR fined under Environmental Assessment Act," The North Bay Nugget, December 12, 1997.
32. MNR, Fact Sheet: Burning Guidelines, November 1996.
33. Ibid., pg.45.
34. Ibid.
35. Ibid.
36. ECO, 1997 Annual Report, pg.41.
37. Lands for Life: Consolidated Recommendation of the Boreal West, Boreal East and Great Lakes St. Lawrence Round Tables (Toronto: Ministry of Natural Resources, October 1998), Table 4.
38. Ministry of Natural Resources, *Background: Ontario's Living Legacy/New Parks and Protected Areas*, March 29, 1999.
39. For a detailed commentary on the 'Lands for Life' proposals, see P. Muldoon et.al., "The Lands for Line Proposals: A Preliminary Analysis" (Toronto: CELA, May 1999).
40. Ministry of Natural Resources, *Background: Ontario's Living Legacy/New Parks and Protected Areas*, March 29, 1999.
41. Ministry of Northern Development and Mines, *Ontario's Commitment to the Minerals Industry*, March 29, 1999.
42. Consisting of the Wildlands League, the Federation of Ontario Naturalists, and the World Wildlife Fund Canada.
43. Art.1.
44. Art.2.
45. Art.6.
46. Art.15.
47. Fish & Wildlife Management Business Plan: Overview of Fish & Wildlife Management Review (MNR June 1997).
48. Ibid., pp.7-8.
49. See, for example, Taylor, "Omnibus Bill Allows Sale of CA Land."
50. MNR, The Fish and Wildlife Advisory Board, July 1996.
51. Fish and Wildlife Business Plan: Overview, pg.6.
52. J. Ruimy, "Ontario to allow hunters at age 12," The Toronto Star, September 15, 1998.
53. B. McAndrew, "Hunting licensing to be privatized," The Toronto Star, February 27, 1999.
54. MNR, Fact Sheet, The Fish and Wildlife Conservation Act, 1997.
55. See D. McLaren, "Comments on Bill 139, The *Fish and Game Conservation Act, 1997*" (Toronto: CELA, December 1997)..
56. "\$35 million for environment," The Toronto Star, May 6, 1998.
57. *1998 Annual Report of the Provincial Auditor of Ontario to the Legislative Assembly* (Toronto: Queen's Printer, Fall 1998), pp.175-193.

58. Ministry of Natural Resources, Press Release, "Government To End Spring Bear Hunt," January 15, 1999.
59. Ministry of Natural Resources, Media Advisory, "MNR Expands Fall Bear Hunting Season," July 5, 1999.
60. Ministry of Natural Resources, Fact Sheet, Ontario Parks (May 1996).
61. "Province gives park to aboriginal band, The Globe and Mail, April 23, 1996). See also ECO, Second Annual Report, pg.35.
62. MNR News "Sand Point First Nation to Operate Lake Nipigon Provincial Park," June 3, 1997.
63. EBR Registry Number PB8E3017, February 2, 1999.
64. Peter's Woods is listed as "not operating" on the Ontario Parks website (www.Ontario parks.com).
65. Pers. Comm., Bob Moos, Ontario Parks, July 3, 1997. See also S.Silcoff, "Ontario plants business roots in parks," The Globe and Mail, June 27, 1996.
66. Ministry of Natural Resources, Fact Sheet, Ontario Parks. Also personal communication, Norm Richards, Managing Director, Ontario Parks, May 13, 1996.
67. Ibid.
68. Ibid.
69. See, for example, J.Rusk, "Ontario provincial parks starting to lease campsites," The Globe and Mail, August 5, 1996.
70. Ministry of Natural Resources, 1998-99 Business Plan, Key Performance Measures.
71. Endangered Spaces 1997-98 Progress Report: Ontario/Overview of 1997-98 (Toronto: World Wildlife Fund, 1998).
72. Nature's Best/Ontario's Parks & Protected Areas: the Framework & Action Plan (Peterborough: MNR, February 1997).
73. Per. Comm, Tim Gray, Wildlands League, June 1997.
74. D. Girard, "Orderly" Temagami logging will be allowed," The Toronto Star November 18, 1996.
75. D. Girard, "Report gives green light to logging in Temagami, The Toronto Star, April 18, 1996.
76. D.Girard, "Report gives green light to logging in Temigami," The Toronto Star, April 18, 1996, quoting the CPC Report.
77. Ibid.
78. MNR News Release, "Province Adopts Strategy to Enhance Environmental Protection in Temigami," June 28, 1996.
79. K.Unland, "Temigami Region Opened to Logging and Mining," The Globe and Mail, June 28, 1996.
80. Globe and Mail, September 13, 1996.
81. IUCN Assembly Resolution 1.95 "Temigami Forests of Northeastern Ontario."
82. EBR Registry No.RD7E0001, September 1, 1998.
83. T.Claridge, "Halt sought to Temigami logging," The Globe and Mail, September 25, 1996.
84. D.Downey, "Groups fail to stop logging but claim partial victory," The Globe and Mail., October 2, 1996.
85. *Algonquin Wildlands League et. al. v. Minister of Natural Resources et. al.*, Ontario Court General Division, Court File 539/96, February 6, 1998. Upheld on appeal by the Ontario Court of Appeal, October 27, 1998, Court File Nos: C-29652 and C-29654.
86. *Algonquin Wildlands League et. al. v. Minister of Natural Resources*, Ontario Court of Appeal, October 27, 1998, Court Files C-29652 and C-29654.

87. "Road Illegal, groups claim," The Globe and Mail, December 12, 1996.
88. Ministry of Environment and Energy, News Release, April 17, 1997.
89. C. Ammerata, "MNR fined under Environmental Assessment Act," The North Bay Nugget, December 12, 1997.
90. For a detailed commentary on Bill 106 see C. Baines and I. Attridge, "Submission to the Standing Committee on Financial and Financial Affairs Concerning the *Fair Municipal Finance Act, 1997* (Bill 106), (Toronto: The Georgian Bay Land Trust, April 1997).
91. Pers. comm., Ian Attridge, Research Associate, CIELAP, July 5, 1999.
92. Ibid., pg.45.
93. Bill 25, *The Red Tape Reduction Act, 1998*.
94. Ibid.
95. Ibid.
96. EBR Request for Review, R97008 - Review of the Lands for Life planning process and of the need for a new policy to correct the shortcomings of the Lands for Life process..
97. ECO, 1997 Annual Report, pg.41.
98. Lands for Life: Consolidated Recommendation of the Boreal West, Boreal East and Great Lakes St. Lawrence Round Tables (Toronto: Ministry of Natural Resources, October 1998), Table 4.
99. Ibid.
100. Ministry of Natural Resources, *Backgrounder: Ontario's Living Legacy/New Parks and Protected Areas*, March 29, 1999.
101. For a detailed commentary on the 'Lands for Life' proposals, see P. Muldoon et.al., "The Lands for Line Proposals: A Preliminary Analysis" (Toronto: CELA, May 1999).
102. Ministry of Natural Resources, *Backgrounder: Ontario's Living Legacy/New Parks and Protected Areas*, March 29, 1999.
103. Ministry of Northern Development and Mines, *Backgrounder: Ontario's Commitments to the Mineral Industry*, March 29, 1999; Ministry of Northern Development and Mines, *Press Release* "Hodgson Announces \$19 Million for Operation Treasure Hunt," March 29, 1999; Ministry of Northern Development and Mines, *Press Release*, "Hodgson Announces \$4 Million for Ontario Prospectors," March 29, 1999.
104. Ministry of Northern Development and Mines, *Ontario's Commitment to the Minerals Industry*, March 29, 1999.
105. Ministry of Natural Resources, *Backgrounder: Ontario's Living Legacy/New Parks and Protected Areas*, March 29, 1999.
106. Consisting of the Wildlands League, the Federation of Ontario Naturalists, and the World Wildlife Fund Canada.
107. The 1999 Forest Accord, Article 1.
108. Ibid, Art.2.
109. Ibid, Art.6.
110. "The Lands for Life Proposals: A Preliminary Analysis" (Toronto: CELA, May 1999), pp.14-17.
111. "IUCN Protected Areas Management Criteria" at <http://www.OntarioParks.com/iuc.html>
112. Government of Canada Minerals and Metals Policy (Ottawa: Natural Resources Canada, 1997).

113. See for example, More Precious than Gold: Endangered Species Discussion Paper on Mining and the Environment (Victoria: Environmental Mining Council of British Columbia, 1997).
114. B.J. Barton, Canadian Law of Mining (Calgary: Canadian Institute for Resources Law, 1993), pg.175,
115. CELA, "The Lands for Life Process", pg.24.
116. EBR Registry Notices PB7E4001(Great Lakes St.Lawrence), PB7E4002 (Boreal East), and PB7E4003(Boreal West), July 16, 1999.
117. Ibid.
118. See EBR Registry Number: PB7E4004.P, August 18, 1997, and EBR Registry Number: ????, September 19, 1997.
119. *Fisheries Act*, s.35.
120. J.Swaigen and M.Winfield, "Water," in J.Swaigen and D.Estrin, eds., Environment on Trail: A Guide to Ontario Environmental Law and Policy (Toronto: Emond-Montgomery Publishers and CIELAP, 1993).
121. See Bill C-62, *The Fisheries Act*, 1996.
122. See memorandum to staff from Ran Vancart, Deputy Minister, "MNR's Role in Fish Habitat Management under Section 35(2) of the Fisheries Act," August 14, 1997.
123. USEPA and Environment Canada, State of the Great Lakes, 1997.
124. Standing Committee on Environment and Sustainable Development, Enforcing Canada's Pollution Laws: The Public interest Must come First! (Ottawa: House of Commons, May 1998), pg.16.
125. Ibid.
126. Standing Committee on Environment and Sustainable Development, Enforcing Canada's Pollution Laws, pg. 16.
127. Pers. comm., Byril Kurtz, Department of Fisheries and Oceans, November 24, 1998.
128. Ibid.
129. Great Lakes Water Quality Board, "Review of Government Resources," Canada- Department of Fisheries and Oceans.
130. S.Kneisel, "Erosion Control: Conservation authorities fight to stay afloat even as their funding is pulled," Seasons, Summer 1999.
131. Standing Committee on Fisheries and Oceans, Central Canada's Freshwater Fisheries Report, Recommendation 14.
132. See Winfield and Jenish, Ontario's Environment and the Common Sense Revolution: A First Year Report, pp.11-16.
133. Winfield and Jenish, Troubled Waters: A Evaluation of the Performance of the Governments of Canada and Ontario under the 1994 Canada-Ontario Agreement on the Great Lakes Basin Ecosystem (Toronto: CIELAP, March 1999), section 3.2.1.
134. Ministry of Natural Resources, Press Release and Fact Sheets, "New Regulations Guide Activities on Crown Lands," November 5, 1996.
135. L.Prokaska, "Region urges province to fight feds on red hill," The Hamilton Spectator, June 2, 1999.
136. News Release: "Snobelen Signs Commercial Fishing Agreement," January 12, 1998.
137. EBR Registry Number PB8E6023, February 5, 1999.
138. See D.MCLAREN, "Comments on Bill 139," December 1997..

139. *1998 Annual Report of the Provincial Auditor of Ontario to the Legislative Assembly* (Toronto: Queen's Printer, Fall 1998), pp.175-193.

140. *Pathways for Change: Investigating Alternative Mechanisms for Delivery of MNR's Non-Renewable Resources Programs: Aggregate Resources and Petroleum Resources: Summary of the Business Plan* (MNR, 1996).

141. For detailed comments on Bill 52 see R.Lindgren "Submission by the Canadian Environmental Law Association to the Standing Committee on General Government Regarding Bill 52, *Aggregate and Petroleum Resources Statute Law Amendment Act, 1996*" (Toronto: Canadian Environmental Law Association, September 1996).

142. *Pathways to Change: A Summary of the Business Plan*, pg. 14.

143. Canadian Environmental Law Association, Coalition on the Niagara Escarpment, Federation of Ontario Naturalists, Save the Ganaraska Again, Save the Oak Ridges Moraine, and Uxbridge Conservation Association, "Submission to the Ministry of Natural Resources Regarding Proposed Provincial Standards under Bill 52 *Aggregate Resources Act*, February 1997).

144. MNR *News Release*, "New Act Sets Out Tough Standards for Aggregate and Petroleum Industries," June 27, 1997.

145. *Pathways for Change: Summary of the Business Plan*, pg.8.

146. MNR *Press Release*, "New Act Sets Out Tough Standards for Aggregate and Petroleum Industries," June 27, 1997.

147. See T. Appleby, "Town traded for gravel, furious residents say," *The Globe and Mail*, March 6, 1997. See also C.Smith, "Leach crushes Caledon plans for gravel pits," *The Toronto Star*. November 30, 1996.

148. *Ibid*.

149. M.Mittelstaedt, "Groups fear exploitation of Niagara Escarpment," *the Globe and Mail*, March 18, 1997.

150. T.Boyle, "Opposition criticizes appointments," *The Toronto Star*, April 16, 1998.

# **Part 5 :**

## **Mining, Transportation and Public Safety**

### **Table of Contents**

Mining .....	5 - 1
Transportation .....	5 - 7
Underground Storage Tanks, Boilers and Pressure Vessels .....	5 - 16
Endnotes .....	5 - 19

# MINING

## Introduction and Overview

The mining industry emerged as a major beneficiary of the "Common Sense Revolution." The requirements of the *Mining Act* regarding the closure of mines were significantly weakened through Bill 26, *The Savings and Restructuring Act*, in January 1996. In addition, controls on most prospecting activity under the *Public Lands Act* were eliminated in November 1996, and prospectors were granted an exemption from environmental liability under the *Environmental Protection Act* in December 1995. Furthermore, the government imposed a mining tax freeze, and maintained subsidies to the industry while laying off most of the Ministry of Northern Development and Mines staff responsible for overseeing mine closure.

The government's March 1999 response to the 'Lands for Life' Round Table reports included a number of major concessions to the forestry and mining industries, and other interests. In the case of mining, statements issued by the Ministry of Northern Development and Mines indicated that mineral tenure in new parks and protected areas is to be maintained, prospecting permitted in these areas, and land 'borrowed' from parks for mining purposes if significant mineral deposits are found. More than \$20 million in new subsidies to the mining industry are also to be provided. According to statements issued by the government any future expansion of parks and protected areas in Ontario will require the agreement of the mining and forest industries. The government's statements regarding mining activities the new protected areas were confirmed in July 1999.

## Bill 26 Amendments to the *Mining Act*

The Bill 26 amendments to the *Mining Act* significantly weakened the Act's provisions related to the closure and remediation of mines in the province. In particular, the Bill 26 amendments:

- weakened the Act's provisions for the approval of mine closure plans by the Ministry of Northern Development and Mines (MNDM);
- eliminated the requirement that mining companies post realizable financial securities to ensure that if they go bankrupt the taxpayer does not have to pay for the closure of their mines;
- exempted information related to the financial assurances for mine closures provided by mining companies from freedom of information requests;
- removed the requirements for the delivery of annual reports on implementation of closure plans to the MNDM by mining companies;
- exempted holders of mining claims from liability for pre-existing mine hazards; and
- exempted proponents who voluntarily surrender mining lands from any future environmental liabilities even if they arise as a result of the proponent's actions.<sup>1</sup>

At the same time, the budget for the MNDM's Mine Remediation Branch was

reduced by \$1.3 million/yr and fourteen staff members laid off.<sup>2</sup>

The Ministry of Northern Development and Mines has estimated that there are already more than 5,000 abandoned mines in Ontario,<sup>3</sup> and estimates of the cost of their remediation range from \$300 million<sup>4</sup> to \$3 billion.<sup>5</sup> Effectively, the Bill 26 amendments to the *Mining Act* reversed the effect of amendments made to the Act in 1989<sup>6</sup> to ensure that the public did not assume the costs of remediating additional abandoned mines.

A draft regulation to implement the Bill 26 amendments to the mine closure provisions of the *Mining Act* was circulated by the Ministry in May 1997. It provided details on the contents of closure plans to be filed by mine operators, and the "corporate financial test" which is to replace the financial assurance requirements of the previous *Mining Act*. A draft non-binding Mine Rehabilitation Code has also been circulated by the Ministry.

Amendments to the *Mining Act* adopted through Bill 120 *The Red Tape Reduction Act* (Ministry of Northern Development and Mines), in December 1997 permit the delegation of approval of mine closure plans to any person designated by regulation. These amendments appear to be linked to the Bill 26 amendments to the *Mining Act*. The provision may also be intended to permit the establishment of a self-regulation system for mine closure similar to that set up for pressure vessels, underground storage tanks, elevators and other devices through the Technical Standards and Safety Authority.

## **Mineral Exploration on Public Lands.**

In November 1996 the Ministry of Natural Resources announced new regulations under the Bill 26 amendments to the *Public Lands Act*. These removed permitting requirements for mineral exploration on public lands, including clearing, mechanical stripping, bulk sampling, drilling and blasting, moving heavy equipment and drilling rigs and building trails.<sup>7</sup> Public lands constitute 87% of the province's total land surface.<sup>8</sup> Regulations regarding mineral exploration in ecologically sensitive areas were adopted in June 1998.<sup>9</sup>

### *Temagami*

The Mining industry has also been favoured by a number of specific land-use decisions by the province. The most significant of these was the government's decision to reject, in June 1996, the recommendations of the Temagami Community Comprehensive Planning Council that sensitive wetlands in the headwaters of the Lady Evelyn River System be protected from mining activities.<sup>10</sup> More generally, the decision to open the Temagami Region to mining activities set off what was described as the "biggest - and the last - staking rush ever" in September 1996.<sup>11</sup> Parts of the Temigami area, including the Skyline reserve, were re-opened for mineral claim staking in October 1998.<sup>12</sup>

## **MISA Metal Mining Sector Regulation Amendments**



In September 1996 the Ministry of Environment and Energy amended the MISA regulation for the Metal Mining Sector to "clarify" the non-application of the regulation to closed mine sites. In addition, the Ministry amended the regulations to "clarify the point that there are no discharge limits set on seepage from waste rock and slag storage sites" (i.e. Acid Mine Drainage). Companies are required to report on storm water control in relation to such sites.<sup>13</sup>

In December 1997, the Ministry posted proposals on the EBR Registry to amend the MISA Metal Mining Sector Regulation to reduce the frequency of chronic toxicity monitoring, reduce the frequency of discharge monitoring from daily to three days per week, and remove effluent limits for substances that are not used, produced or stored at a facility.<sup>14</sup> These amendments have yet to be implemented.

The weakening of the MISA regulations affecting the Metal Mining and Industrial Minerals sectors was a major goal of the mining industry's submission to the Ministry of Environment and Energy's Regulatory Review Process. Among other things, the industry pressed for the elimination of the effluent acute toxicity testing requirements, the pH adjustment requirements, complete exemptions for operators using Best Available Treatment Economically Achievable (BATEA) pollution control technologies, and the exemption of the salt industry from lethality limits.<sup>15</sup>

Information obtained by through a Freedom of Information request indicated that approximately 25% of Ontario's operating metal mines failed the MISA acute toxicity test requirements for their effluent between August and September 1997.<sup>16</sup> Data obtained by the Sierra Legal Defence Fund showed that 19 Ontario metal mining facilities in Ontario regulated through the MISA program were involved in cases of significant non-compliance with MISA requirements in 1997.

In her April 1999 Annual Report, the Environmental Commissioner noted a marked increase in the Ministry of the Environment's use of 'Program Approvals' with only two such approvals being granted in the period 1994-1997, and nine being issued in 1998. 'Program Approvals' permit companies to operate and emit pollutants at levels higher than regulated limited, on the basis that the polluter is undertaking a program that will eventually result in the company's achieving compliance.<sup>17</sup>

Each of the nine Program Approvals granted in 1998 were provided to companies that had failed to comply with pollution limits established by the MISA regulations. The Commissioner noted that the companies in question had negotiated generous phase-in periods to comply with the requirements of the MISA regulations, and that the use of 'Program Approvals' in this way may weaken the impact of the regulations, and signal a retreat by the Ministry from the enforcement of regulatory controls.<sup>18</sup>

Information obtained by CIELAP through a freedom of information request indicated that as of September 1998, there were eight program approvals in place, and one proposed in relation to facilities regulated under the MISA metal mining sector regulations. The facilities included: Algoma Ore Division (Sault St. Marie); Cameco Canada Mining (Sault St. Marie); Inco Coppercliff, Crean Hill Mine, Garson Mine, Nolin Creek and Whistle

Mine (Sudbury); and Inco Port Colborne (proposed).<sup>19</sup> A program approval has also been proposed for Cameco Corporation's Port Hope facility.<sup>20</sup>

### **Environmental Liability Exemption for Prospectors**

In addition to the Bill 26 amendments to the *Mining Act*, prospectors were granted immunity from environmental liability for pre-existing mine hazards under the *Environmental Protection Act* through a regulation announced on December 13, 1995 by the Ministry of Environment and Energy. This regulation seemed intended to permit and promote prospecting on unremediated abandoned mine sites.

### **Mining Tax Freezes and Subsidies**

In its May 1996 budget, the government announced a five-year freeze on all mining taxes and *Mining Act* related fees and licenses.<sup>21</sup> The government also announced its intention to amend the *Corporations Tax Act* to incorporate the expansion of the accelerated depreciation allowance for new and expanded mines provided in the February 1996 federal budget.<sup>22</sup>

The Ontario Mineral Incentive Program (\$3 million/yr) was eliminated, removing a small subsidy to the mining industry in 1996. The Ontario Prospectors Assistance program (\$2 million/yr) has been retained.<sup>23</sup> This was despite the 22% cut to the budget of the Ministry of Northern Development and Mines, and the lay-off of all but two of the Ministry's fourteen mine closure inspectors.<sup>24</sup>

### **'Lands for Life'**

The government announced its response to the recommendations of the 'Lands for Life' Round Table Reports in March 1999. The 'Lands for Life' process was established in April 1997 to determine the future uses of public lands in Central and Northern Ontario, an area encompassing 47% of the province's land area. The government stated its intention to protect 12% of the lands in the planning area from development, a significant increase over current levels and the recommendations of the Round Tables.<sup>25</sup>

However, the commitment is subject to a number of major concessions to the forestry and mining industries, and other interests. In the case of mining, documents released by the Ministry of Northern Development and Mines state that mineral tenure in new parks and protected areas is to be maintained, prospecting permitted in these areas, and land 'borrowed' from parks for mining purposes if significant mineral deposits are found. More than \$20 million in new subsidies to the mining industry are also to be provided.<sup>26</sup> In addition, the Ministry's documents state that any future expansion of parks and protected areas will require the "mutual agreement" of the mining and forest industries.<sup>27</sup>

Following the March 29, announcement the Ministry of Northern Development and

Mines sent a contract to every mining claim holder in Ontario, requesting that those who had been "parked" or otherwise affected by the 'Lands for Life' announcements sign and return the contract. However, the Prospectors and Developers Association of Canada (PDAC) posted a notice on its website, urging mining claim holders not to sign the contract, stating that a legal opinion obtained by the Association suggested that their existing rights could be jeopardized by doing so.<sup>28</sup>

The Ministry of Northern Development and Mines has moved to withdraw lands affected by the 'Lands for Life' announcement from staking under the *Mining Act*.<sup>29</sup> However, the Ministry has stated that areas designated as having "Provincially Significant Mineral Potential" "will be re-opened to exploration and staking under regulations to be developed for such areas."<sup>30</sup>

It is important to note that the Ministry of Northern Development and Mines' announcements on March 29 directly contradicted provisions of the 1999 Ontario Forest Accord, signed by the representatives of the Partnership for Public Lands,<sup>31</sup> the forest industry and the Ministry of Natural Resources. The Accord stated that mining would be excluded from parks and protected areas,<sup>32</sup> provided for interim protection from mining activities for areas proposed as parks or protected areas,<sup>33</sup> and stated that the Ontario Forest Accord Advisory Board would develop a strategy for additions to the parks and protected areas system.<sup>34</sup>

International criteria for the definition of protected areas specifically require the permanent exclusion of mining, logging and hydroelectric development.<sup>35</sup> This criteria cannot be met by the 'protected' areas announced on March 29 as, according to the government's statements, mineral exploration and mining may be permitted within them. Mining activities in 'protected' areas were excluded from the federal government's 1997 minerals and metals policy.<sup>36</sup> This reflects the consideration that mining operations can have unremediable environmental impacts, such as acid mine drainage, over an area orders of magnitude larger than the mine site itself.<sup>37</sup>

In July 1999, the government confirms the elements of the March 1999 'Lands for Life' announcements regarding mining, stating that mineral exploration will be permitted in areas having very high mineral potential in new provincial parks and conservation reserves under controlled circumstances. If a site is to be developed for a mine, the area would be removed from the park or conservation reserve by deregulating, and another area would be added to the park or conservation reserve to replace the deregulated area.<sup>38</sup>

# TRANSPORTATION

## Overview

There have been very few developments over the past four years to guide Ontario's transportation system to a more environmentally sustainable basis. Most developments will, or have had, the opposite effect. The most significant indicator in the past four years, of Ontario moving toward a less environmentally sustainable transport system, was the January 1997 announcement that the province would be retreating entirely from the funding of public transit. This decision removed \$718 million annually from the capital and operating budgets of municipal transit agencies across the province (at a later date some capital funding was restored).

In tandem with the de-funding of public transit were a series of changes to the land use planning system which will lead to greater urban sprawl, lower density settlements and a greater dependence on the personal vehicle for mobility. Most notable of these were *Bill 20 - The Land Use Planning and Protection Act*, enacted in March 1996 and changes to the Provincial Policy Statement.

Of the actions that were initiated to reduce the air pollution impacts of the road-based transport system in Ontario, several of the most substantial were initiated by the federal, not the provincial government. These included regulations to reduce the sulphur and benzene content of gasoline. Though the Ontario government publicly endorsed the lower sulphur content initiative, it was later revealed that several cabinet ministers had, privately, petitioned the federal government to delay the implementation of this action. One redeeming action on this front, was the move by Ontario government, early in its mandate, to reduce the summertime volatility of gasoline, thereby making a potential contribution to reducing smog.

The only significant environmental protection initiative undertaken by the province in the transportation area was the establishment of a vehicle inspection and maintenance program, Drive Clean. While the initiative will achieve some real environmental and public education benefits it could have been producing benefits much earlier and on a much wider basis. The program was significantly delayed in its implementation, having been announced early in the government's mandate but not produced until virtually the end of the mandate. Furthermore, according to the province's Environmental Commissioner, its emission-reducing benefits are unlikely to match the increase in emissions stemming from the province's changes to transit and land use policy changes.

Despite cancelling a great deal of municipal-level support to road and highway development and maintenance, funding still flowed to a number of large and small road projects across the province. The largest and most controversial of these was the commitment to fund and build the Red Hill Creek Expressway in Hamilton. Northern road projects were funded extensively through the Northern Ontario Heritage Fund Corporation. Meanwhile, Highway 407 was completed and sold, and although this venture was billed as

a model for government to reduce its capital costs, it is apparent that substantial public investment is required to underwrite such projects.

A variety of lesser measures implemented by the new government demonstrated its decidedly liberal approach to personal vehicle use relative to that of previous governments. These included: the cancellation of the photo radar highway speed control system in the opening days of its mandate; an on-going attempt to 'police' gasoline prices, particularly the price hikes that occur during peak vehicle usage periods; and the frequently suggested amending of the maximum speed limit on Ontario's 400-series highways from 100 km/h to 120 km/h.

There were no developments of any significance over the past four years that could be attributed to the provincial government that would support lower impact transportation modes, such as : rail enhancements and applications (freight or passenger) that would reduce emissions; expanded cycling infrastructure within communities; or better integration of cycling and walking with transit, rail and bus. The Greater Toronto Service Board, instituted in this period is technically charged with transit integration across the region but is considered too weak to affect any positive changes.

In summary, the transportation system in Ontario continues to develop along the path it was set in the 1950s -- a high reliance on the personal vehicle as the primary mode of transportation and the continual expansion of a road network to support an ever expanding vehicle population. It has been emphasized that this path is not only environmentally unsustainable but is proving to be financially unsustainable as well.<sup>39</sup> Nonetheless, the current provincial government has indicated that roads and personal motor vehicles will be given priority in transportation policy. This focus will continue to lead to substantial land use changes, habitat destruction, drainage pattern alterations, energy consumption in excess of basic needs and a chronic, worsening air quality situation in southern and central Ontario.

## **The De-funding of Public Transit**

### *Public Transit Funding Reductions*

In its first year, provincial support for public transit was significantly affected by the "Common Sense Revolution." Operating subsidies for GO transit services are to be reduced by \$20 million/yr by the 1997/98 fiscal year. In addition, the capital expansion program for GO Transit was cancelled. Reductions in municipal transit operating subsidies of \$16 million was announced for the 1995/96 and 1996/97 fiscal years. The province also withdrew its financial support for the proposed Eglinton Avenue subway line in Toronto (\$42 million).

The Ministry of Transportation's Business Plan of May 1996 outlined a commitment to increase funding to the municipal transit network in the 1996-97 fiscal year. However, on January 15, 1997 the Ontario government announced that it was eliminating \$718 million in municipal transit support (see Figure 4.3) thereby placing the entire burden of

system financing on municipalities.<sup>40</sup> Particularly hard hit by the announcement were the TTC and GO transit systems. The TTC was left with a shortfall of \$95.8 million/year and GO Transit \$110 million/year. These developments came after several years of funding reductions to both agencies.<sup>41</sup>

The GO transit system alone carries 120,000 people each weekday (34 million passengers per year)<sup>42</sup> which has the effect of replacing 100,000 vehicles, on a daily basis, that would otherwise be on the roads (based on the typical occupancy rate).

**Table 4.3 : Provincial Transportation Expenditures by the province terminated in 1996-97**

<b>Municipal Transit (1996-97)</b>	<b>Reductions</b>	<b>Cumulative</b>
Operating	\$217 million	
Capital	\$391 million	
	-----	
Sub total	\$608 million	\$608 million
GO Transit (1996-97) capital and operating	\$110 million	
	-----	
<b>Transit Subtotal</b>	\$110 million	\$718 million
Airports (1996-97)	\$ 7.6 million	
Ferries (1996-97)	\$ 10 million	
	-----	
	\$ 17.6 million	\$735.6 million
<b>Total transportation reduction (excluding roads)</b>		<b>\$735.6 million</b>

Source: Ministry of Transportation News Release and Backgrounder, Jan 15, 1997

While TTC ridership remains high in 1999 because of currently strong economic conditions, concern exists that future financial pressures for the TTC could be significant.<sup>43</sup> Competition for funding, that would support TTC capital and operating expenses, from within the municipal budget could become intense in the years ahead. An economic downturn could greatly compound these pressures.

### *Transit Initiatives and their Funding*

Aside from continuing its support to the very capital-intensive Sheppard Subway Line in North York, it appeared that the province would abandon transit support altogether as early as 1997-98. In place of direct support, the province started to encourage a variety of advertising-based revenue-generating initiatives. Toward this end, the Minister of Transportation declared his support for expanded use of GO Transit vehicles as advertising media.

## *Support for Public Transit : A Final Funding Blitz?*

A year after announcing the termination of support to municipal transit, the provincial government made one final step to shore up the financial sustainability of municipal transit systems in Ontario before exiting entirely from the activity. In early 1998, the Minister of Transportation, announced that it was helping municipalities establish capital reserve funds.<sup>44</sup> The funds are to help repair and replace aging transit vehicles in the years ahead as municipal transit authorities adapt to the complete withdrawal of the provincial government.

## **The Future of Transit**

### *Calls for Transit Privatization*

The government of Ontario was advised to go beyond merely advertising on GO Transit vehicles. The Government Task force on Agencies, Boards and Commission's January 1997 *Report on Operational Agencies* recommended that "the government review commercialization options for GO Transit to determine the most cost-effective method for delivering rail and bus services." Effectively, the Taskforce called for a review of its operations and their suitability for privatization. During the first term of the Common Sense Revolution government, no plans for the privatization of municipal transit systems have proceeded.

### *Transit System Integration*

A transit integration plan for the Greater Toronto Area has been sorely needed and regularly discussed at the GTA municipality level and the provincial level for a number of years. During the 1995-1999 period, discussions continued and some limited action was taken.

Following the amalgamation of the cities and boroughs that made up Metropolitan Toronto, a committee to review the design of a Greater Toronto Services Board was struck. In a report in 1997 called *Getting Together*, the committee called for greater transit integration under a proposed Greater Toronto Services Board.<sup>45</sup>

On December 18, 1998, *Greater Toronto Services Board Act*, 1998 received Royal Assent. The Act came into force on January 1, 1999 and created a board to review integration issues, most notably transportation, for municipalities in the Greater Toronto Area. While one of the intended roles of the Board was to oversee transit integration in the GTA, the body has been characterized as too "weak" to achieve the objective.<sup>46</sup> The Board was finally structured in such a way that reaching a decision on significant issues such as amending the transit "funding formula" or amending "planning strategies" will be difficult.<sup>47</sup> If the Board was readily in control of funding it would have a lever to exert some control over the integration of each municipality's transit system. Inadequate integration or even inadequate information about transit system integration can constitute a barrier to use and expansion of transit.

## Transit and Urban Form

Beyond the reductions in financial support, transit systems will have to contend with the difficulties in serving sprawling urban forms across Ontario. Many of the measures put in place by the current Ontario government are bound to create lower density urban environments (see section *Land Use Planning*). Low density areas are much more difficult and much less cost-effective for transit systems to serve than medium or high density urban developments.

### *Land Use Planning Changes That Promote Sprawl / Vehicle Use*

Bill 20 *The Land-Use Planning and Protection Act*, and the new provincial planning policy statement that accompanied it repealed many of the key elements of the planning reform legislation and provincial policy statement put in place by the previous government. These had been developed from recommendations of the Commission on Planning and Development Reform in Ontario and were intended to promote urban intensification and reduce urban sprawl.

If urban landforms continue to expand at the residential and population density of current typical developments, then servicing these areas with transit is likely to be unfeasible. The expansion of such landform will discourage modes of transport which have the ability to be more energy efficient and less pollution intensive.

## Gasoline Emissions : Provincial Action Limited, often Obstructive

In March 1998, it was documented that gasoline sulphur levels were higher in Ontario than anywhere else in North America and even most other parts of the world.<sup>48</sup> Sulphur dioxide is a by-product of fuel combustion and a significant lung irritant. The MoE estimates that up to 1800 premature deaths are caused by air pollution each year.<sup>49</sup> According to the Environment Canada study, released in February 1998, average gasoline sulphur levels in Ontario were 533 ppm as compared to the Canadian average of 343 ppm (see Table 4.4).<sup>50</sup> The US average is 260 ppm while the average in California is 30 ppm.<sup>51</sup>

**Table 4.4 : Sulphur content of gasoline in Canada in the mid-1990s.**

Canada (1995)	343 ppm	Ontario (1996)	533 ppm
Atlantic (1995)	276 ppm	Quebec (1995)	364 ppm
Prairies (1995)	228 ppm	B.C. (1995)	273 ppm

Source : Environment Canada

In November 1998 it was revealed that the Ontario Ministers of the Environment, Economic Development and Trade and Transportation had written to the federal Minister of the Environment, opposing a federal initiative to dramatically lower the sulphur content of gasoline sold in Canada.<sup>52</sup> The government of Ontario had publicly stated its support for the federal initiative.<sup>53</sup>



## *Fuel Standards Revisions*

The Ministry of the Environment announced a program to revise many of its standards, including air quality standards, as a major project in October 1996.<sup>54</sup> The updating of standards for toxic air pollutants was identified as a priority for this effort.

There have been eleven changes to standards to date, of which two pertain to fuel. Strengthened summer gasoline volatility limits were adopted in February 1997 and a new Allowable Air Quality Criteria (AAQC) for PM10 adopted in November 1997. The former measure has a reasonable potential to make a contribution to reducing smog conditions; the latter less so. In her Annual Report for 1997 the Environmental Commissioner stressed that the PM10 Criteria were guidelines and not standards and are not enforceable. As well, a compliance was not established to ensure that the guideline would be met.<sup>55</sup>

PM10 does not necessarily relate solely or specifically to fuel composition as there are many sources of particulate matter however, fuel composition and use are large contributors of airborne particulate matter. A movement toward fewer road vehicles and cleaner fuels would assist in meeting this guideline. For example, diesel fuel is much higher in particulate content than gasoline which in turn has a higher content than natural gas.<sup>56</sup> The Province's performance in these areas has not been particularly strong.

## **Drive Clean reaches the starting block**

### *Vehicle Inspection and Maintenance Program*

Early in its mandate, the province announced that it would establish a vehicle inspection and maintenance program more comprehensive than a pilot program that had been operating. A pilot program had been operating in Mississauga since April 1995 and was discontinued in October of 1996. In April 1997 the Minister of Environment and Energy stated that "We're putting together a vehicle inspection and maintenance program for Ontario but we are not rushing into it without carefully considering all options."<sup>57</sup>

In August 1997, The Minister announced the program as "Drive Clean." The program, was to begin to be implemented for the summer of 1998. However, little progress was made and in April 1998, the Minister acknowledged that the government would not be proceeding with the program in 1998.<sup>58</sup> The implementation of the program was put off until the Spring of 1999.

Under the program, cars and light trucks that are greater than 3 but less than 20 years old must pass an emissions test at the time of their registration renewal date. Initially, the program applies only to those subject vehicles in the Greater Toronto Area and the Regional Municipality of Hamilton. The program may be extended to various centres in Southern Ontario over time. Under the program, if a vehicle's emissions does not conform to the model year standards, the vehicle could be subject to repairs up to \$200. Vehicles that are heavily emitting due to engine wear are apt to escape the most necessary repairs as the maintenance required would exceed the \$200.00 limit. No provision has been made

for the repair or removal of these vehicles from the road.

Heavy-duty trucks and buses were initially exempted from the Drive Clean program.<sup>59</sup> Heavy-duty trucks and buses produce a significant proportion of road-based emissions of all types. The government has stated its intention to phase in the program for these vehicles in September 1999.

The Environmental Commissioner expressed concern in her 1999 report that the program's environmental benefits are likely to be undermined by the many land-use, municipal and transportation changes, that the Ontario government has made. The Commissioner indicated that "Drive Clean is limited in the results it can achieve..." and that "Even if Drive Clean operates successfully, MOE and other ministries must turn their attention to reducing the number of cars on the road by curbing urban sprawl and expanding public transportation."<sup>60</sup>

## **Infrastructure Impacts**

### *Highway and Municipal Road Funding Reductions*

Initially, there was a positive beginning, in the very first year of the Common Sense Revolution by way of significant reductions in provincial funding for highways and municipal road building.

- A reduction of \$74 million was announced in municipal road funding in the Minister of Finance's July 21, 1995 Economic Statement, although all provincial grants to municipalities were subsequently consolidated into an unconditional grant program; hence the impact of this reduction at the municipal level may vary.
- In April 1996, it was announced that funding for provincial highway infrastructure would be reduced by \$70.5 million/yr by 1997/98. The remaining funding was to be focused on the maintenance of existing infrastructure, rather than expansion.
- A reduction to the Northern Highways program was also announced in October 1995 (\$9.75 million). The elimination of provincial funding for the Sultan Road near Chapleau (\$7 million) and the Northern Ontario Resources Transportation Program (\$3.2 million) were announced as well.
- Reductions of \$50 million in highway capital and \$25 million in highway operating funding for municipalities were announced on January 15, 1997.

These reductions appeared likely to have the effect of reducing urban sprawl by eliminating provincial subsidies for the road infrastructure necessary for urban expansion. Nonetheless, the province will still spend \$600 million per year on highways. The transportation ministry also approved the commercialization of roadway signage to generate revenue to offset highway costs.

Furthermore, the province continued to provide major funding to a number of environmentally destructive highway projects, including \$100 million for the Red Hill Creek Expressway (see Backgrounder, Figure 4.5) in Hamilton, but also Highway 407 on both sides of the GTA, and Highway 416 near Ottawa. In addition, in its May 1996 budget the government restored some funding for provincial highways and municipal roads, notably \$100 million for provincial highway repair, and an additional \$40 million for Northern Road repair.

Many of these projects which will help ensure that: the vehicle population continues to rise; land uses change; habitats and drainage patterns are irrevocably altered; and that fuel is consumed and emissions discharged in excess of what they need to be in order for Ontarians to remain mobile.

### *Red Hill Creek Expressway*

This four-lane highway development project near and in Hamilton has provoked controversy for over a decade because of its likely impact on the Red Hill Valley which includes extensive wetland and other environmentally significant areas. The province has helped to move the project closer to completion by offering at least \$100 million in support and by limiting the extent of the project's environmental assessment review to just design changes and not the assessment of need or alternatives to the project.<sup>61</sup> In May 1997, the Minister of Environment and Energy approved the plans for Hamilton-Wentworth's Red Hill Creek Expressway.

In May 1999, it was determined that the federal government would conduct an environmental assessment to the project given its potential impact on fish habitat in the Red Hill Creek and other environmental concerns.<sup>62</sup>

### *Ontario's Electronic Toll Road*

Ontario's first and only electronic toll road, Highway 407, opened in the Spring of

**Figure 4.5 : Red Hill Valley Backgrounder**

A Joint Hearing Board granted approval to the project in 1985. The East-West section is mostly complete. The North-South Section through the Valley commenced in 1990 but also ceased that year as the province withdrew funding. In March 1997, the MoEE granted the Region an Environmental Assessment Act exemption to allow it to make changes to the North-South section (essentially allowing the Region to proceed under a slightly modified design). The North-South section is slated for construction within a year and the province has maintained its commitment to its funding portion. The project's potential impacts include altered drainage courses and wildlife habitat as well as neighbourhood impacts at highway's terminus.

*Source:* Red Hill Creek Expressway North-South Section Draft Summary Report Volume 1. November 1997 Ministry of Transportation and Region of Hamilton-Wentworth.

#### **Red Hill Valley Natural Heritage Features:**

- Home to Red Hill Creek which in turn is home to 18 species of fish including brown trout, northern pike and chinook salmon.
- Contains evidence of settlement by aboriginals, United Empire Loyalists and early European newcomers.
- 65 kinds of breeding birds; 169 migratory birds; 11 types of amphibians and reptiles; 43 butterfly species; 140 types of moth; 20 mammals including deer, mink foxes and coyotes. Black terns and common moorhens travel through its marshes.
- Red Hill Valley Revitalization Project began in 1995 and attempts to return the Red Hill Valley to its status as a vital ecosystem.
- 640 hectares in size.

*Source:* Trails of the Red Hill Valley, Hamilton Region Conservation Authority.

1997. Proponents refer to it as a cost-effective way to build infrastructure and a model of public-private cooperation. Critics, on the other hand, point to the high level of debt guaranteed by the province that financed the project. In October 1996, the Provincial Auditor cited a number of concerns about the highway including that: it may not produce enough revenue from drivers to pay for itself; no equity was provided from the private sector consortium to build the road; it failed to create the public-private partnership envisaged when the project started; the contracts for maintenance of, versus construction of, the highway should have been separated; and that taxpayers will assume operating and ownership risks right from the start instead of after 30 years as originally planned.

Tolls could be used to more accurately capture the full cost of road construction and operation (ie. including environmental and health costs). Road pricing, if properly applied, could also be used to strengthen the attractiveness of transit relative to the personal vehicle. These concepts were highlighted in the 1998 report<sup>63</sup> of the Environmental Commissioner of Ontario as well as in the 1995 final report of the Ontario Roundtable on Environment & Economy's Transportation Collaborative<sup>64</sup> but have not been advanced comprehensively in Ontario.

### **Life, Liberty and the Pursuit of 120 kmh**

A variety of measures implemented by the new government demonstrated its decidedly liberal approach to personal vehicle use relative to that of previous governments. One of the swiftest implementations of the new government was the abolition of the photo radar highway speed control system on July 5, 1995. The system had been in place for less than a year and was credited with helping to reduce excessive speeds on Ontario highways speed limits by some transportation and policing agencies.<sup>65</sup> Some jurisdictions had experienced a one-third drop in serious injuries from traffic accidents with the introduction of photo radar.<sup>66</sup>

The abolition of photo radar was soon followed by queries from the Parliamentary Assistant to the Minister of Environment and Energy directed to the Minister of Transportation about the possibility of raising the speed limits on Ontario's 400 series highways from 100 kmh to 120 kmh.<sup>67</sup> Such a move would be of concern for both transportation safety and air quality reasons. In terms of energy use and hence air emissions, for example, a standard vehicle is far more energy-consuming at velocities above 100 kmh than between 80 kmh and 100 kmh.<sup>68</sup>

Throughout its first mandate, the "Common Sense" government made repeated efforts to 'police' gasoline prices, particularly the price hikes that occur during peak vehicle usage periods. The effort was mostly pretence as the province has very few tools to control or restrict consumer prices in this way.

## UNDERGROUND STORAGE TANKS, BOILERS AND PRESSURE VESSELS

### Introduction and Overview

The *Safety and Consumer Statutes Administration Act, 1996* (the SCSAA), which was proclaimed in force on July 22, 1996, provided for the creation of a non-profit, private organization to deliver the technical standards and safety programs of the Ontario Ministry of Consumer and Commercial Relations (MCCR). These include programs related to boilers and pressure vessels, elevating and amusement devices, hydrocarbon fuels (natural gas, propane, fuel oil and gasoline) and equipment, and upholstered and stuffed articles. As of May 5, 1997, delivery of these programs and services have been carried out by the newly established *Technical Standards and Safety Authority* (TSSA). Details of the transfer are outlined in an Administrative Agreement, as required by the SCSAA, that was signed by the TSSA and MCCR Minister David Tsubouchi on January 13, 1997.

The transfer of responsibilities from the MCCR to the TSSA represents one of the most sweeping privatizations ever undertaken in Canada, involving major regulatory, administrative and law enforcement functions. In effect, virtually the entire Technical Standards and Safety Division of the MCCR has been privatized. However, to date, the transfer has been the subject of little public attention or scrutiny.

A preliminary review of the TSSA presented by CIELAP is its Second Year Report on Ontario's Environment and the 'Common Sense Revolution'.<sup>169</sup> The review raised a number of major legal and policy concerns regarding the creation and structure of the Authority. Serious questions regarding the implications of these transfers have also been raised by the Environmental Commissioner,<sup>70</sup> Provincial Ombudsman<sup>71</sup> and Information and Privacy Commissioner.<sup>72</sup>

There are particular concerns that, as the functions of the TSSA are no longer be carried out by provincial government agencies, they escape the application of such statutes as the *Environmental Bill of Rights*, *Freedom of Information and Protection and Privacy Act*, *Ombudsman Act*, *Environmental Assessment Act*, and the *French Language Services Act* and mechanisms for public and legislative oversight and accountability, such as the Provincial Auditor. Although the TSSA, carries out law enforcement activities, it is also unclear whether the *Canadian Charter of Rights and Freedoms* applies to their actions.

Some accountability measures were incorporated into the TSSA/MCCR Agreement. These included requirements for business plans and annual reports to be tabled in the Legislature,<sup>73</sup> and for third party audits to be provided as part of the annual report requirements.<sup>74</sup> In addition, under section 6 of the SCSAA, the government maintained the authority to revoke the powers of the corporation when certain conditions are met.

While these measures are laudable, they do not adequately address the issues raised by the fact that an agency mandated to exercise the regulatory powers of the

provincial government will escape oversight by the Legislature and its Officers in a number of important ways. It is also unclear the extent to which the Minister will accept responsibility to the Legislature for the TSSA's actions, or simply attempt to direct blame for errors or wrongdoing towards the TSSA Board of Directors.

Although the Minister maintains the legislative authority to revoke powers given to the Authority,<sup>75</sup> this procedure is unlikely following the transfers of authority and staff. As the TSSA has absorbed the staff of the Technical Standards Division of the MCCR, there is no government capacity left in place to resume the functions delegated to the authority. Consequently, the significance of this safeguard is limited.

CIELAP's preliminary analysis concluded that the TSSA suffers from a number of other structural problems which may prove difficult to overcome. The Agency itself is a hybrid of public and private functions and authorities. It is a private agency charged with the administration and enforcement of public law. It is given authority by the Legislature to require membership by its regulatees, and to collect and retain membership and other fees.

Furthermore, the Authority is currently structured around a fundamental conflict of interest, in that its board of directors is dominated by representatives of the economic interests it is supposed to regulate. Despite this inherent conflict, the TSSA and its Board were given no clear mandate to ensure the protection of public safety in the execution of their duties.

Questions also arise with respect to how the principles of natural justice which would normally apply to a public decision-making body will apply to the TSSA. This issue will likely only be resolved through litigation.

## **Recent Developments**

It is widely anticipated that the MCCR/TSSA transformation may provide the model for similar changes to the regulatory functions of other provincial government agencies, including the Ministry of the Environment. Attempts have been made in the MCCR/TSSA Agreement and SCSAA to address some areas of concern with the TSSA regime, such as accountability and access to information. In addition, TSSA staff appear sensitive to many of the issues which have been raised by CIELAP's analysis.

In October 1998, the Ministry of Consumer and Commercial Relations proposed amendments to the *Technical Standards and Safety Act*. Among other things the legislation would have designated the TSSA as the responsible authority for the posting of *Environmental Bill of Rights* notices for the *Gasoline Handling Act*.

A study published in April 1999 for the Environmental Agenda for Ontario project recommended that the legislation creating the TSSA, and any other private entity to which regulatory functions are delegated, be amended to apply the requirements of the *Environmental Bill of Rights*, *Ombudsman Act*, *Freedom of Information and Protection of*

*Privacy Act, Audit Act, Environmental Assessment Act, and French Language Services Act* to these bodies. The study also recommended that the legislation creating such 'delegated regulatory organizations' be amended to permit the responsible Minister or cabinet to give policy direction to their boards of directors, in a manner similar to section 10 of the former *Power Corporation Act*.<sup>76</sup> This would establish a clear line of accountability between the TSSA Board of Director and the Minister and cabinet, and between the Minister and cabinet and the Legislature.<sup>77</sup>

## Endnotes

1. For a detailed discussion of the impact of the Bill 26 amendments, see Winfield and Jenish, *Brief to the Standing Committee on General Government Regarding Bill 26*.
2. A. Robinson, "Ontario to shut mine closing arm," *The Globe and Mail*, October 25, 1995.
3. *The State of Canada's Environment* (Ottawa: Minister of Supply and Services, 1991), pg.11-16.
4. Robinson, "Ontario to shut mine closing arm."
5. Tom Spears, "Waste clean-up will need \$3 billion and 20 years," *Ottawa Citizen*, October 25, 1990.
6. *An Act to Amend the Mining Act* (Bill 71), 1989.
7. See Ministry of Natural Resources Press Release and Fact Sheets, "New Regulations Guide Activities on Crown Land," November 5, 1997.
8. M. Mittelstadt, "Ontario cuts need for mining permits," *The Globe and Mail*, November 13, 1997.
9. EBR Registry No. RD8E001, September 3, 1998.
10. K. Unland, "Temigami logging, mining approved," *The Globe and Mail*, June 29, 1996.
11. Carl Forbes, President, Strike Minerals Inc., quoted in P. Bethour, "Miners get set for staking marathon," *The Globe and Mail*, September 13, 1996.
12. EBR Registry No. RD7E0001, September 1, 1998.
13. EBR Registry No. RA5E0027, September 26, 1996.
14. EBR Registry No. RA7E0023.P.
15. Mining Association of Ontario submission to the Ministry of Environment and Energy Regulatory Reform Project, March 12, 1996.
16. Ministry of the Environment Response to CIELAP Freedom of Information request. Ministry reference SDB981270, September 8, 1998.
17. ECO, *Report 1998*, pg.192.
18. *Ibid.*, pp.192-193.
19. Ministry of the Environment Response to CIELAP Freedom of Information request. Ministry reference SDB981270, September 8, 1998.
20. EBR Registry Posting IA7E1339, September 4, 1997.
21. The Hon. E. Eves, Minister of Finance, Budget Speech, May 7, 1996, pg. 28.
22. *1996 Ontario Budget: Budget Papers*, pp.19-20.
23. Personal Communication, Dick Cowan, Ontario Ministry of Northern Development and Mines, May 24, 1996.
24. A. Robinson, "Ontario to shut mine closing arm," *The Globe and Mail*, October 25, 1995.
25. Ministry of Natural Resources, *Background: Ontario's Living Legacy/New Parks and Protected Areas*, March 29, 1999.
26. Ministry of Northern Development and Mines, *Background: Ontario's Commitments to the Mineral Industry*, March 29, 1999; Ministry of Northern Development and Mines, *Press Release* "Hodgeson Announces \$19 Million for Operation Treasure Hunt," March 29, 1999; Ministry of Northern Development and Mines, *Press Release*, "Hodgeson Announces \$4 Million for Ontario Prospectors," March 29, 1999.
27. MNDM, *Ontario's Commitments to the Minerals Industry*.



- 28.PDAC "Lands for Life Cautionary Announcement," <http://www.pdac.ca/lands.htm>.
- 29.E-mail Communication, John Gammon, MNDM, May 7, 1999, cited in CELA, The Lands for Life Process, note 22.
- 30.Memo from John Gammon, Assistant Deputy Minister, Mines and Minerals Division, MNDM, May 7, 1999, re: Ontario Living Legacy - New Parks and Conservation Reserves.
- 31.Consisting of the Wildlands League, the Federation of Ontario Naturalists, and the World Wildlife Fund Canada.
- 32.The 1999 Forest Accord, Article 1.
- 33.*Ibid*, Art.2.
- 34.*Ibid*, Art.6.
- 35."IUCN Protected Areas Management Criteria" at <http://www.OntarioParks.com/iuc.html>
- 36.*Government of Canada Minerals and Metals Policy* (Ottawa: Natural Resources Canada, 1997).
- 37.See for example, *More Precious than Gold: Endangered Species Discussion Paper on Mining and the Environment* (Victoria: Environmental Mining Council of British Columbia, 1997).
- 38.EBR Registry Notices PB7E4001(Great Lakes St.Lawrence), PB7E4002 (Boreal East), and PB7E4003(Boreal West), July 16, 1999.
- 39.See generally "The Road to Sustainable Transportation in Canada" The National Round Table on Environment and Economy 1997 and "Transport minister calls for halt to rising automobile traffic" by Vicki Barnett in the *Calgary Herald*, page E3, Jan 30, 1998.
- 40.Ministry of Transportation Press Release "Province reduces duplication in the delivery of public transportation services" Jan. 15 1997.
41. Ministry of Transportation "Municipal Transit Backgrounder", January 1997
- 42.Martin Mittlestaedt "Transit costs unloaded on Ontario cities, towns" *Globe and Mail*, Jan 16, 1997.
- 43.Capital and operating grant reductions put pressure on various points inside and outside the TTC. Within the TTC it can put pressure on increasing the fare; at the municipal government level, transit needs to compete with other services to obtain support from the municipal budget. The fare increases most recently have not had a noticeable impact on ridership, primarily because economic conditions are strong and ridership is high. However many pressures lie ahead. The provincial capital grant will soon disappear and if economic conditions are not as robust there could be severe pressure to raise fares and cut costs and service. A number of 'psychological' barriers to raising fares are very close to being reached. The adult token fare is \$1.70; the adult monthly pass is \$88.50. If these prices were to move to or above \$2.00 and \$100.00 respectively, then ridership could be discouraged. Furthermore, the TTC has undergone a significant period of adjustment, particularly to adjusting to decreasing operating and capital grants, over the past decade (operating grants have fallen from \$272M in 1991 to \$146M in 1998 while fare have risen from \$1.07 in 1991 to \$1.30 in 1992 to \$1.60 in 1998 to \$1.70 in 1999. Continuing this trend into the future could present severe pressures on service and system reliability. Conversation with Bob Hughes, Senior Marketing Analyst, Toronto Transit Commission on June 25, 1999.
44. See "Province Commits Funds to Assist Municipalities with New GO Transit Responsibilities" (March 13/98) and "Municipalities to Receive Provincial Funds to Help With New Transit and Airport Responsibilities" (March 9/98) at <http://www.newswire.ca/government/ontario/english/releases>
- 45.William Walker "Improved transit urged for GTA" *Toronto Star*, June 18, 1997.
46. Comments by Milt Farrell, chair of the task force that led to recommendations for a Greater Toronto Services Board. See "Toronto Reconsidered: Planning for the next century" by John Barber and James Rusk, *Globe and Mail*, July 8, 1999.

47. The Greater Toronto Service Board has 40 members from across the GTA. This, rather large size coupled with its voting structure appears designed to limit significant change : "Where we want there to be two-thirds majority is on issues such as the funding formula [for transit] and such as on the planning strategies." according to the Minister of Municipal Affairs and Housing. See James Rusk "Law would streamline Toronto planning" *The Globe and Mail*, Friday June 26, 1998.
48. M.Mittelstaedt "Canadian gasoline fuels smog, federal study says" *Globe and Mail*, March 7, 1998.
49. *Letter from the Minister, Ontario's Smog Plan: A Partnership for Collective Action*, Steering Committee Report, Ministry of the Environment, January 1998.
50. M.Mittelstaedt "Canadian gasoline fuels smog, federal study says" *Globe and Mail*, March 7, 1998.
51. Ibid.
52. T.Blackwell, "Tories fear changes to gas: Federal limits on sulphur content said to be too costly," *The Hamilton Spectator*, October 1998.
53. M.Mittelstaedt, "Sterling's flip-flop elicits anger," *The Globe and Mail*, November 7, 1998.
54. EBR Registry Notice PA6E0014.P, October 10, 1996.
55. Environmental Commissioner of Ontario, *Open Doors - Ontario's Environmental Bill of Rights / Annual Report 1997*, April 1998.
56. *Clean Vehicles and Fuel for British Columbia / A Policy Paper*, Ministry of Environment, Lands and Parks. 1995. Page 20.
57. *New Release* : "Sterling to assess Georgia's vehicle emission testing program" Ministry of Environment and Energy, April 17, 1997.
58. R.Brennan, "Ontario's vehicle-emission program put back by a year," *The Hamilton Spectator*, April 15, 1998..
59. The public information pamphlet "Psssst! Want some advice on how to pass your Drive Clean test" from the Ministry of the Environment indicates that : " A similar program for heavy-duty trucks and buses will follow." but does not specify a timeframe.
60. Environmental Commissioner of Ontario *Open Doors / Report 1998*, Office of the Environmental Commissioner, Toronto, April 1999.
61. Mark McNeil "Streamline environment review: region" *Hamilton Spectator*, Mar 8, 1997.
62. *News Release* "Environmental Review Panel Announced for Red Hill Creek Expressway" Canadian Environmental Assessment Agency, Ottawa, Ontario, May 6, 1999.
63. Environmental Commissioner of Ontario , *Open Doors / Ontario's Environmental Bill of Rights Report 1998*, Toronto, Ontario, April 1999, page 99.
64. See generally the Final Report of the Ontario Roundtable on Environment and Economy's Transportation Collaborative, Toronto, Ontario, 1995.
65. In 1994, the year photo radar was introduced, speeding declined in the areas it was introduced and highway deaths declined 16 per cent over the previous year according to the Ministry of Transportation. Excessive speed had been the most contributing factor in fatal accidents in 51% of deaths in 1989; 44% of deaths in 1990; 56% of deaths in 1991; 42% in 1992; 28% in 1993 and 25% in 1994 according to the Ontario Provincial Police. See M.Mittlestaedt "Taking more than a passing glance at photo radar" *The Globe and Mail*, Thursday June 22, 1995.
66. After the introduction of photo radar in west London, England, traffic accident related serious injuries fell from 297 to 187. The Ontario Provincial Police indicated that this would be expected as "the faster you drive the harder you crash." See Wallace Immen, "Photo radar: how it catches speeders" *The Globe and Mail*, Tuesday May 17, 1994.

67. See *Ontario Hansard* "Members' Statements / Speed Limits" Mr Doug Galt (Northumberland) to Hon. Al Palladini (Minister of Transportation), Wednesday April 10, 1996.
68. J. Gibbons, G. Jenish et. al. *Carbon Dioxide Reduction Options for Ontario: A Discussion Paper*. Toronto: Canadian Institute for Environmental Law and Policy 1994, pg 63.
69. M. Winfield and G. Jenish, *Ontario's Environment and the "Common Sense Revolution"* (Toronto: CIELAP, July 1997), pp.114-125.
70. ECO, *Annual Report 1996*.
71. Ombudsman Ontario, *Annual Report* (Toronto: June 1996), pg.3.
72. Information and Privacy Commissioner, *1998 Annual Report* (Toronto: June 1999) [www.ipc.on.ca/web\\_site.ups/intro/frames.htm](http://www.ipc.on.ca/web_site.ups/intro/frames.htm).
73. MCCR/TSSA Agreement, Section 5.
74. MCCR/TSSA Agreement, Schedule "C"
75. MCCR/TSSA Agreement, s.6.
76. *The Power Corporation Act* was repealed through the *Energy Competition Act, 1998*.
77. See M. Winfield and P. Muldoon, *Democracy and Environmental Accountability in Ontario* (Toronto: Environmental Agenda for Ontario, April 1999).

## CONCLUSIONS

The June 1995 election has emerged as the most important watershed in environmental protection for Ontario of the post-war era. The four years following the election witnessed a dismantling of environmental laws and institutions without precedent in the province's history.

During this period, major amendments were made to every provincial statute dealing with the environment or natural resources management, with the exception of the *Environmental Bill of Rights*. These changes, often made through omnibus bills that amended dozens of statutes at once, weakened or removed environmental protection requirements, greatly expanded the discretion of ministers and the cabinet in decision-making, removed requirements for public participation in decision-making, and permitted the delegation of decision-making authority over the environment and public resources to private entities and individuals.

At the same time, there were major reductions in budgets of provincial and local agencies charged with protection the environment and managing the province's natural resources. In the case of the Ministry of the Environment, for example, by the end of the 1998/99 fiscal year the Ministry had lost 38% of its operating budget measured against a 1994/95 base year.<sup>1</sup> As of the end of the 1997/98 fiscal year the Ministry had lost 32% of its staff relative to 1994/95.

Many provincial responsibilities related to the environment were downloaded onto municipalities and conservation authorities, ranging from the regulation of septic systems, to the implementation of Remedial Action Plans for heavily degraded Areas of Concern identified in the *Canada-U.S. Great Lakes Water Quality Agreement*, with little or no provision of additional resources. At the same time, ongoing provincial funding for many environmentally important municipal services, such as public transit systems, was largely eliminated.

A wide array of industries previously regulated by the province were moved to self-monitoring and self-regulation systems for some or all of their operations. These include the forestry, aggregates, mining, petroleum, commercial fisheries, and fur sectors. The public safety functions of the Ministry of Consumer and Commercial Relations, dealing with underground storage tanks, pressure vessels, boilers, elevators and a host of other installations, were transferred to a private entity whose board of directors is dominated by representatives of the regulated industries. A similar arrangement was made with respect to the electrical safety functions of Ontario Hydro.

Major intergovernmental commitments were abandoned over the 1995 to 1999 period. The most prominent of these was the July 1994 *Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem* (COA). Support for many key COA functions was withdrawn, including the positions of the coordinators for many of the provincially- led Remedial Action Plans. There is no reference to COA or other Great Lakes commitments

in the Ministry of Natural Resources' current Business Plan, even though the agency was a COA signatory. The Ministry also withdrew, on one month's notice, from an agreement with the federal Department of Fisheries and Oceans to enforce the habitat protection provisions of the federal *Fisheries Act*.

Ontario was once a leader in efforts to deal with environmental problems facing the whole of Canada. This position has changed dramatically since 1995. Over the past four years, the province has sought to block, with varying degrees of success, national initiatives on acid rain, smog, the sulphur content of gasoline, and climate change.

Within its own borders, the province seemed to abandon any notion of long-term environmental or ecosystem based planning or management. Major revisions to the land-use planning process were made in March 1996, for example, with little apparent thought to their implications for such things as infrastructure costs or air quality. Similarly, the *Energy Competition Act* has been adopted with no clear indication as to how the province intends to deal with the major increases in air pollution that a competitive electricity market is likely to produce without strong environmental controls.

### **The 'Common Sense Revolution' and Ontario's Environment - The Beneficiaries**

A number of specific economic interests have emerged as the principle beneficiaries of the government of Ontario's environmental and natural resources management policies over the 1995-1999 period. Primary resource extraction industries such as mining, aggregates, forestry, and agri-business figured prominently within this group. Many of these sectors were placed on self-regulation systems or, as was the case with mineral exploration on public lands, regulatory controls were simply removed for certain activities.

Many also benefitted from specific policies adopted by the government. In the case of the aggregates industry, for example, local land-use decisions have been overridden by the provincial government to facilitate aggregates extraction. Similarly, Bill 146, the *Farming and Food Production Protection Act*, appears to have been intended to deal with the concerns of industrial hog producers that municipalities might enact by-laws to control the environmental and health impacts of their operations.<sup>2</sup>

Homebuilders and developers continue to benefit from policies intended to promote and facilitate new home construction and, by implication, urban sprawl. These policies have included the March 1996 revisions to the land-use planning system, the continuation of the \$20 million/year Land Transfer Tax Rebate program, and the adoption of the *Development Charges Act*.

The waste management industry has benefitted significantly from the changes to the environmental approvals process. Between 1996 and 1999, a number of major undertakings were approved, including the 15 to 20 year expansion of the province's only hazardous waste landfill, without public hearings. The government also failed to apply the *Environmental Assessment Act* to other major projects, such as the establishment of a permanent low level PCB destruction facility. In addition, it used its new powers under the

Bill 76 amendments to the Act to narrow the scope of the review of others, including the Adams Mine Landfill proposal in Northeastern Ontario. Ministry oversight of waste management operations has been significantly reduced as a result of budget cuts, despite a long history of illegal waste storage and disposal operations in the province.

## **The Decline of Environmental Quality in Ontario**

The past two years have seen growing evidence of the impact of these changes to Ontario's environmental laws and institutions on the quality of Ontario's environment, which is beginning to show a measurable decline. Imports of hazardous wastes into the province from the United States, for example, have grown dramatically, rising by a factor of four, from 56,000 tonnes in 1993 to 246,000 tonnes in 1997.<sup>3</sup> The quantities of hazardous and liquid industrial wastes being transferred off-site for disposal from Ontario sources have also increased sharply, with a 50% growth reported through the provincial Waste Manifest System, from 1.4 million tonnes, to over 2.1 million tonnes between 1994 and 1997.<sup>4</sup> Federal National Pollutant Release Inventory (NPRI) data shows a 92% increase in transfers of NPRI reported substances in waste between 1994 and 1996 in Ontario.<sup>5</sup>

Air emissions from Ontario Hydro facilities have risen dramatically in Ontario as a result of increased reliance on coal-fired generation as a replacement for nuclear generating facilities 'laid-up' as part of the utility's Nuclear Asset Optimization Plan (NAOP). Emissions of nitrogen oxides and sulphur dioxide (acid rain and smog precursors), rose 58% and 68% respectively over the period 1996-1998, on an average basis, from Ontario Hydro's coal-fired operations.<sup>6</sup> Emissions of particulates and heavy metals from Ontario Hydro facilities have likely increased by similar amounts over the same period.<sup>7</sup>

There are other indications of declining air quality as well. The Ministry of the Environment has stated, for example, that: "Improvements in air quality have levelled off and in some areas particulate levels are rising again. Long-standing particulate problems persist in a number of urban centres."<sup>8</sup> In addition, the Ministry has noted an ongoing increase in ground level ozone,<sup>9</sup> and a growth in median concentrations of some volatile organic compounds, such as benzene, toluene and xylene, since 1995.<sup>10</sup>

The Ontario Medical Association has estimated that there are approximately 1,800 premature deaths in Ontario each year due to poor air quality.<sup>11</sup> Other estimates have placed the figure as high as 6,000 premature deaths per year.<sup>12</sup>

## **Ontario's Environment and the 'Blueprint'**

The government of Ontario's June 1999 election platform, entitled the 'Blueprint' contained a few specific commitments with respect to the environment. The most

significant promise was to implement the March 29 'Lands for Life' announcement regarding the creation of new parks and protected areas.<sup>13</sup> The government also stated that it would introduce the "toughest penalties in the country" for environmental offences and create an "environmental SWAT team" to enforce environmental laws.<sup>14</sup>

More ominously, the government's platform stated that the 'Red Tape Commission,' set up in 1995, would continue to function.<sup>15</sup> The 'Blueprint' also stated that the government would combine the province's environmental laws into "one clear, comprehensive and easily enforced set of environmental laws"<sup>16</sup> and pass a "Heritage Hunting and Fishing Act" to "legislate the right to hunt and fish in Ontario."<sup>17</sup> Notably, the 'Blueprint' contained no commitments regarding such major issues as air and water quality or hazardous waste reduction, despite the evidence of growing problems in these areas.

## Conclusions

The period between June 1995 and June 1999 witnessed the reversal of two significant long-term trends in the province's history. The first, and most apparent, was the gradual strengthening of the protection of Ontario's environment and the conservation of its natural resources that had taken place over the previous half-century.<sup>18</sup> Instead, the period saw a dismantling of environmental laws and institutions without precedent in the history of the province.

Secondly, the approach over this period of weakening public safety, health and environmental protection requirements, particularly in relation to primary resource extraction activities, such as mining, forestry, and agriculture, seems likely to deepen the province's economic reliance on these sectors. This is a dependency that previous governments of Ontario, dating from before the time of Confederation, have sought to reverse.<sup>19</sup>

A different approach, which emphasizes the importance of the protection of the health and environment of Ontario residents, would not only provide a more sustainable basis for Ontario's economy, but also allow the province to avoid significant costs in the future. Among the most important of these would be health care costs due to pollution. Reductions in emissions of smog precursors in Ontario, for example, have been estimated to be likely to result in health care savings of between \$398 million and \$1.2 billion by 2015.<sup>20</sup> The health and environmental savings from a 75% reduction in sulphur dioxide emissions in the United States and Eastern Canada, including Ontario, by the same date, have been placed at between \$900 million and \$8 billion.<sup>21</sup>

Similarly, the promotion of more compact forms of urban development could generate significant long-term savings through reduced costs for infrastructure maintenance, air pollution and losses of ecologically or agriculturally significant lands. It has been conservatively estimated that \$1 billion a year could be saved within the Great Toronto Area alone through the adoption of more compact development patterns typical of those found in older neighbourhoods in every town and city in Ontario.<sup>22</sup>

As the 1999 smog season comes to an end, Ontario needs to keep in mind that failure to act on the environmental challenges facing the province may mean between 7,200 and 24,000 premature deaths over the next four years<sup>23</sup>. It will also likely mean more disasters like the 1997 Plastimet fire, and a growing reputation as one of North America's leading pollution havens. These are outcomes that no one in Ontario wants to see.



## Endnotes

1. In the 1997/98 fiscal year the Ministry's operating expenditures reached a low of \$142 million, a 45% reduction against its operating expenditures for 1994/95.
2. T.Walkom, " The whole hog," The Toronto Star, May 9, 1998.
3. M.Winfield, Environmental Agenda for Ontario Background Paper: Hazardous Wastes and Toxic Substances (Toronto: CIELAP, March 1999).
4. Ibid.
5. Environment Canada, National Pollutant Release Inventory: 1996 Summary Report (Ottawa: July 1996), Table 2.
6. M.Mittelstaedt, "Report blames electric emissions for foul air in southern Ontario" The Globe and Mail April 6, 1999.
7. B.McAndrew, "Hydro's foul air emissions on rise," The Toronto Star, 1999.
8. Ontario Ministry of the Environment, Summary of Compendium of current knowledge on fine particulate matter in Ontario (July 1998), pg.9. See also Ministry of the Environment, Air Quality in Ontario 1996 (Toronto: December 1998), figure 3.1.
9. Federal-Provincial Working Group on Air Quality Objectives and Guidelines, Science Assessment Summary Document, (March 1999), pg.xi.
10. Ministry of the Environment, Air Quality in Ontario 1996: A Concise Report on the State of Air Quality in the Province of Ontario (Toronto: December 1998), figure 6.2.
11. The Health Effects of Ground-Level Ozone, Acid Aerosols and Particulate Matter (Toronto: Ontario Medical Association, May 1998).
12. D.Suzuki et.al., Climate of Change: Taking Our Breath Away (Vancouver: David Suzuki Foundation, 1998).
13. Blueprint: Mike Harris' Plan to Keep Ontario on the Right Track (Toronto: Progressive Conservative Party of Ontario, April 1999), pp.32-33.
14. Ibid., pg.33-34.
15. Ibid., pg.14. The extension of of the 'Red Tape Commission' was announced on July 2, 1999. See Office of the Premier, "Crime Control Commission and Red Tape Commission to Continue their Work," Press Release, July 2, 1999.
16. Ibid., pg.34.
17. Ibid., pg.34.
18. See M.S. Winfield, 'The Ultimate Horizontal Issue: Environmental Policy Experiences of Ontario and Alberta, 1971-1993,'Canadian Journal of Political Science, XXVII:1, March 1994.
19. See H.V. Nelles, The Politics of Development: Forests, Mines and Hydro-Electric Power in Ontario, 1849-1941 (Toronto: Macmillan, 1974).
20. Dr. J.Gray, Testimony of the Ontario Medical Association to the Standing Committee on Resource Development Re: Bill 35, the Energy Competition Act, August 19, 1998, pg.2.
21. NAICC Acidifying Emissions Task Group, Towards a National Acid Rain Strategy (Winnipeg: CCME, October 1997), pg.50.
22. P.Blais, The Economics of Urban Form (Toronto: Greater Toronto Area Task Force, 1996).
23. This range (7,200 to 24,000) was developed from two available estimates, the Ontario Medical Association (1,800 x 4) and the Suzuki Foundation (6,000 x 4).



# **APPENDIX A**

## **Ontario Provincial Environmental Protection Initiatives :**

### **Chronology of Events (1995-1999)**

## TABLE OF CONTENTS

ENVIRONMENTAL BILL OF RIGHTS & PUBLIC PARTICIPATION IN DECISION-MAKING .....	A.1
ENVIRONMENTAL APPROVALS & ENVIRONMENTAL ASSESSMENT .....	A.4
ENVIRONMENTAL STANDARDS & REGULATORY PROCESSES .....	A.9
LAND USE PLANNING .....	A.17
General and Southern Ontario Issues .....	A.17
Niagara Escarpment Commission .....	A.21
Ministry of Natural Resources and Public Lands .....	A.23
ENVIRONMENTAL SCIENCE & MONITORING .....	A.26
AIR QUALITY .....	A.30
WASTE MANAGEMENT .....	A.40
WATER .....	A.50
ENERGY .....	A.61
PESTICIDES & AGRICULTURE .....	A.69
FORESTRY .....	A.71
WILDLIFE AND PROTECTED AREAS .....	A.78
FISHERIES AND FISH HABITAT .....	A.91
MINING .....	A.94
MINERAL AGGREGATES, PETROLEUM RESOURCES AND BRINE INDUSTRIES .....	A.97
TRANSPORTATION .....	A.99
UNDERGROUND STORAGE TANKS, BOILERS AND PRESSURE VESSELS .....	A.105

## ENVIRONMENTAL BILL OF RIGHTS & PUBLIC PARTICIPATION IN DECISION-MAKING

- Nov 29/95      *Ontario Regulation 482/95* promulgated. Effect is to exempt the Ministry of Finance from the Environmental Bill of Rights, and temporarily suspend specific public notice requirements for cost-cutting measures for the next ten months.
- Jan 17/96      The Environmental Commissioner of Ontario presents "Special Report to the Speaker of the Legislature". In it, she criticizes the government for violating the spirit and intent of the *Environmental Bill of Rights* through the promulgation of Regulation 482/95.
- Apr 1/96      *Intervenor Funding Project Act* expires.
- Jun 3/96      The Minister of Environment and Energy tables the *Environmental Approvals Improvement Act* in the legislature. The Act is intended to alter the environmental approvals process and a variety of acts and bodies:
- the shut-down of the Environmental Compensation Corporation;
  - the repeal of the Ontario Waste Management Corporation Act;
  - the creation of authority for the MoEE to recover administrative cost from activities such as waste generator registration and manifests, water well records and permits to take water.
- Jun 96      Environmental Commissioner of Ontario delivers first Annual Report. Commissioner highlights failures of Ministries to post environmentally significant decisions on the EBR registry; failures to provide Ontarians adequate time, information and opportunities for comment on proposed decisions that are posted; and failures of Ministries to assess and report on the environmental implications of proposed decisions.
- July 31/96      The Ontario government releases *Responsive Environmental Protection : A Consultation Paper*. A number of the recommendations, if adopted would make changes to the application of Ontario's Environmental Bill of Rights.
- Oct 10/96      Environmental Commissioner Eva Ligeti issues a special report citing the Ontario government for cutting environmental regulations without giving the public an adequate opportunity for comment. Criticisms include:
- ministries are not posting environmentally significant decisions on the Environmental Registry;
  - public comment periods are unreasonably short or provided during inconvenient times; and
  - ministries are failing to assess and report potential environmental effects of decisions.
- Dec 11/96      Filing of an EBR Request for Investigation made regarding the construction of a logging road near Cross Lake.
- Jan 16/97      The first successful appeal under the Ontario Environmental Bill of Rights announced. Five applications were received in June 1996 to appeal the air and sewage approvals issued to Petro-Canada by the MoEE. Sulphur dioxide emission levels were subsequently reduced 20%.
- Mar 10/97      The Ministry of Natural Resources posts on the EBR Registry *Instrument Regulation for Prescribed MNR Legislation* which proposes to define what MNR policies, standards and legislation will be posted.
- Apr 22/97      Environmental Commissioner of Ontario Eva Ligeti releases second annual report detailing the adherence of the Ontario government to its stated environmental values and vision. Commission states "Ministries demonstrated an alarming lack of environmental vision in

1996." Report highlights Ministries of Environment and Health decision to terminate drinking water testing services for municipalities, "dissolution" of the province's acid rain program, and the Ministry of Natural Resources' move to self monitoring systems for the aggregates industry.

- Jun 11/97 Filing of an EBR Request for Investigation regarding Ontario Hydro's discharge of more than 1000 tonnes of copper and zinc into Lake Ontario from its Pickering Nuclear Generating Station and other facilities.
- Dec 30/97 Decision posted on EBR registry not to proceed with removal of 'minor' approvals for EBR notice requirements, as proposed in the July 1996 "Responsive Environmental Protection" document.
- Apr 27/98 Environmental Commissioner for Ontario tables Third Annual Report: "Open Doors - Ontario's Environmental Bill of Rights." The Commissioner states "I regret to report that in the past year there has been little substantive improvement in the actions taken by provincial ministries toward protecting the environment." Major areas of concern included Air Quality, Forest Management, Environmental Monitoring, Voluntary Agreements, Conservation Authorities and Watershed Management, the Plastimet Fire.
- Sep 1/98 Classification Regulation for Class I Instruments under the *Mining Act* adopted under the *Environmental Bill of Rights*.
- Jan 14/99 Ministry of Municipal Affairs and Housing proposes to classify standards for septic systems as regulations for the purposes of the *Environmental Bill of Rights*, and Minister's rulings on the use of innovative sewage technology as Class I Instruments.
- Feb 19/99 Ministry of Municipal Affairs proposes Instrument Classification Regulation under the *Environmental Bill of Rights* for *Planning Act* instruments.
- Apr 28/99 *Environmental Commissioner of Ontario Eva Ligeti delivers her annual Report to the Legislative Assembly. The report documents how the "Ontario government has redefined its role in relation to environmental protection" and in particular documents "the decline of Ontario's capacity to protect the environment." Select examples from the report include:*  
*Statements of Environmental Values. A number of ministries have not dedicated attention and resources to carrying out the commitments contained in their SEVs :*  
*The Ministry of Health : commitment to support the elimination of carcinogens and toxics implicated in the environmental causes of cancer has been weak;*  
*Management Board Secretariat : has been deficient in the area of preparing environmental reports and consulting with the public prior to selling environmentally significant public lands;*  
*Ministry of Transportation : lacks commitment to carry out its promise to reduce transportation related air emissions.*  
*Environmental Protection Standards. The Commissioner reports that "Evidence of the deterioration of the province's environmental protection standards is widespread":*  
*Ministry of Natural Resources is noted for its reduced staffing and reliance on industry self-monitoring programs;*  
*Ministry of the Environment was supposed to update its 70 provincial air quality standards, after two years only nine guidelines have been produced and no enforceable standards;*  
*Ministries of Municipal Affairs and Housing and of Transportation have done little to support environmentally sustainable land use and transportation;*  
*Specific Program Performance. :*  
*Climate Change: lack of effort and lack of analysis by ministries to support their GHG reduction strategies;*  
*Drive Clean: behind schedule; impact minimal relative to all smog-causing agents; program weaknesses need to be corrected;*

*Blue Box: not as strong at beverage container return as most other systems in Canada and still costing municipalities more than its revenue;*

*Lands for Life: poor public participation process; shifting goals;*

*Standardized Approval Regulations: loss of EBR rights, rights to appeal / seek reviews; concern that public will be frustrated by inability to comment.*

*Hazardous Waste : MoE is not supporting its SEV which calls for pollution prevention ahead of pollutant management; heavy reliance on voluntary initiatives; lack of adequate response to legitimate issues raised; better reporting needed.*

*Dombind: the rules governing 'recycling' of waste pulp liquor need strengthening and clarification;*

#### *Ministry Compliance with 1997 ECO Recommendations*

*Groundwater Protection Strategy: no formal strategy yet; mixed performance by ministries involved; MoE taking some action.*

*Crown Land Sale Consultation : partially met; generally land strategy to be posted but no specific details.*

*Air Standards Development: Slow to no progress; guidelines instead of standards for: ethylene dichloride, carbon tetrachloride, and 1,4 dichlorobenzene; no point of impingement standards to be attempted for methylene chloride or tetrachlorethylene;*

*Roadless Wilderness: MNR is still very slow in clarifying this policy; internal working group assembled; fall of 1998 report deadline missed; failed to provide insight to the Lands for Life process.*

## ENVIRONMENTAL APPROVALS & ENVIRONMENTAL ASSESSMENT

- Sep 29/95      Environment and Energy Minister Brenda Elliott announced the termination of the Environmental Assessment Advisory Committee (EAAC) which provides forum to comment on the EAA's rules and application to specific projects.
- Apr 1/96      *Intervenor Funding Project Act* expires.
- Jun 3/96      Minister of Environment introduces Bill 57, *The Environmental Approvals Improvement Act*. The Bill provides for:
- the exemption by the Lieutenant-Governor in Council of any person from any provision of the *Environmental Protection Act* or *Ontario Water Resources Act* or any regulation made under those Acts;
  - the dissolution of the Environmental Compensation Corporation;
  - the dissolution of the Ontario Waste Management Corporation and repeal of the *Ontario Waste Management Corporation Act*;
  - the Lieutenant-Governor in Council to prohibit, regulate or control any thing or activity related to the Act;
  - the Lieutenant-Governor in Council to deem a certificate of approval to exist under the *Environmental Protection Act*;
  - the prohibition of any action against the Crown arising out of any exemption from an approval requirement under the *Environmental Protection Act* or *Ontario Water Resources Act*; and
  - an amendment giving the Ministry of the Environment and Energy authority to administer fees to recover administrative costs.
- Jun 13/96      The Minister of Environment and Energy proposes changes to the *Environmental Assessment Act* through Bill 76 by introducing the amendments (scheduled to take effect by 1997). These amendments will have the effect of:
- significantly narrowing the scope of the Act and the environmental assessment process;
  - granting the Minister of Environment and Energy a great deal of discretion over the application of the environmental assessment process, the granting of hearings and their contents;
  - ensuring less consistency in the application of the Act;
  - imposing strict time frames for all key steps in the decision-making process; and
  - doing nothing to lower the barriers to entry into the environmental assessment process by citizens.
- July 31/96      Ministry of the Environment releases *Responsive Environmental Protection* discussion paper. Proposes extensive changes to the environmental approvals process, including the introduction of 'Standardized' approvals and "Approval Exemption Regulations" (AERs).
- Sep 11/96      Two organizations, the Sierra Legal Defense Fund and Algonquin Wildlands League file a suit against the MNR alleging non-compliance with requirements of a Class Environmental Assessment on Timber Management on Crown Land and the *Crown Forest Sustainability Act*.
- Dec 31/96      Ministry of Environment and Energy announces that Bill 76, the *Environmental Assessment and Consultation Improvement Act, 1996* will be proclaimed on January 1, 1997. Key elements include:
- terms of reference in an EA can now be legally binding;
  - regulated timeframes for each step of an EA process;
  - the Minister can order mediation to resolve disputes.
- Feb 14/97      Ministry of Environment and Energy releases draft Guide to Preparing Terms of Reference for Individual Environmental Assessments.



Mar 10/97	The Ministry of Environment and Energy posts a proposed policy on the EBR Registry to use mediation as a means to resolve issues in Environmental Assessment processes. This provision flows from the changes to the Act arising from Bill 76, the <i>Environmental Assessment and Consultation Improvement Act, 1996</i> . The provision: allows the Minister to appoint anyone as mediator including an EA Board; requires that time limits be set for mediation with a maximum timeframe of 60 days.
Apr 17/97	The Ministry of Environment and Energy lays charges against the Ministry of Natural Resources under the <i>Environmental Assessment Act</i> regarding construction of Cross Lake Road.
May 14/97	A hearing is held in Ontario Divisional Court to determine whether the Minister of Natural Resources Chris Hodgson violated the <i>Crown Forest Sustainability Act</i> and the <i>Environmental Assessment Act</i> . The dispute arose from allegations made by two organizations, Algonquin Wildlands League and Friends of Temagami, that the Minister exceeded his jurisdiction by approving plans and work schedules without providing for the sustainability of Crown forests.
May 28/97	Regulations made under <i>Consolidated Hearings Act</i> , <i>Environmental Protection Act</i> , and <i>Ontario Water Resources Act</i> dealing with environmental assessments. Regulations under the <i>Environmental Protection Act</i> and <i>Water Resources Act</i> eliminate requirements for public hearings under those acts for undertakings subject to the <i>Environmental Assessment Act</i> , or which fall under a Class Environmental Assessment.
Jun 5/97	Bill 57, The <i>Environmental Approvals Improvement Act</i> is given royal assent. The Bill provides for: the exemption by the Lieutenant-Governor in Council of any person from any provision of the <i>Environmental Protection Act</i> or <i>Ontario Water Resources Act</i> or any regulation made under those Acts; the dissolution of the Environmental Compensation Corporation; the dissolution of the Ontario Waste Management Corporation and repeal of the <i>Ontario Waste Management Corporation Act</i> ; the Lieutenant-Governor in Council to prohibit, regulate or control any thing or activity related to the Act; the Lieutenant-Governor in Council to deem a certificate of approval to exist under the <i>Environmental Protection Act</i> ; the prohibition of any action against the Crown arising out of any exemption from an approval requirement under the <i>Environmental Protection Act</i> or <i>Ontario Water Resources Act</i> ; and an amendment giving the Ministry of the Environment and Energy authority to administer fees to recover administrative costs.
Jul 97	The Ministry of Environment and Energy posts a second draft of a regulation governing timelines for Environmental Assessment Processes on the EBR Registry.
Sep 13/97	Ministry of Natural Resources submits a plea of guilty with respect to the charges laid against it, under the <i>Environmental Assessment Act</i> , for the construction of an access road to Cross Lake and is fined subsequently (in December 1997) \$1200.
Nov 25/97	The Provincial Auditor Erik Peters submits his annual report to the Ontario Legislature. The Auditor highlights the lack of monitoring and enforcement with respect to terms and conditions imposed on approvals through the environmental assessment process and suggests that the process deserves better monitoring.
Nov 27/97	Ministry of the Environment releases discussion document "Better, Stronger Clearer: Environmental Regulations for Ontario." Proposals related to approvals include: removal of public hearing requirements under Environmental Protection Act and Ontario Water Resources Act for 'demonstration' projects.

removal of rules of practice regulation of EAB under Environmental Assessment Act (under the *Statutory Powers Procedures Act*, the Board can now make its own rules of procedure).

revoking obsolete exemption regulations made under the EAA;

delaying proposed removal of EBR notification requirements for certain instruments of little environmental significance;

'simplified' procedures for 'manufacturer controlled networks' for waste approvals;

'Standardized' approvals for a range of waste management related activities including PCB storage and transfer sites;

exemptions from waste approval requirements for battery and precious metal bearing sludge recycling activities.

Dec 4/97      Environmental Assessment Board approves use of scrap metal smelting furnace in Northumberland County to destroy low level PCB's. The facility is the first permanent PCB destruction facility to be approved in Ontario. In its decision the Board expressed concern over the province's failure to designate the undertaking under the *Environmental Assessment Act*, its implications for non-incineration PCB destruction technologies, the inability of public interest intervenors to participate effectively in the hearing due to the lack of intervenor funding, and the operator's lack of previous experience in the handling of hazardous wastes.

Dec 5/97      Ministry of the Environment centralizes approvals functions by transferring the issuing of all waste-related provision certificates of approval from MoE regional offices to the MoE Approvals Branch.

Dec 97        The Ministry of Environment announces the scope of the Environmental Assessment Board hearing for the Adams Mine waste disposal proposal. The Board will hear evidence on two issues about the site: its hydrogeology and surface water characteristics and leakage containment.

Feb 1/98      Ministry of the Environment posts proposal for Standardized Approvals Regulations (SARs) and Approval Exemption Regulations (AERs) for a 45 day public comment period. SAR regulated activities would not be required to obtain a certificate of approval, but would be subject to conditions laid out in the SAR regulation. Exempted activities would not be subject to any approval requirements at all.  
Proposed activities for SARs include:

**Air**

modifications to equipment resulting in less than 10% change in emissions  
combustion equipment for space heating or industrial processes;  
emergency generators  
sterilizers  
arc welding.

**Water**

water and sewage work modifications  
temporary water takings  
pumping stations

**Waste**

municipal waste transfer stations  
utilization of biosolids (sewage sludge) on agricultural lands.

Proposed AERs include

**Water**

area drains  
bottled water plants

stormwater management facilities

**Air**

area sources (sandblasting, drilling, construction, crushing screening, storage, sewage treatment, irrigation of farmland with effluent, special events)  
ventilation systems  
food preparation exhaust systems  
air conditioners  
mobile equipment used in construction and maintenance.

- Feb 7/98 The Ontario Divisional Court declares three Northern Ontario timber management plans to be "of no force and effect." The panel who heard the case gave the province 12 months to bring the Elk Lake, Upper Spanish and Temagami plans into compliance with the *Crown Forest Sustainability Act* and Terms and Conditions of the Class Environmental Assessment of Timber Management on Crown Lands. The most contentious actions by the Ministry of Natural Resources included:
- approving work schedules without proof that the forest would be managed sustainably;
  - approving plans which lacked any sustainability indicators and frequently allowed for clear-cutting; and
  - timetables for phasing in new standards were arbitrarily extended.
- Feb 11/98 The Red Tape Commission and the Ministry of Municipal Affairs and Housing announce that they will initiate an industry consultation to explore the feasibility of a 'one-window' approach to building regulations and approvals. Such an approach will continue to limit the amount of review that the Ministry of the Environment has of land development projects and speed the approval of urban sprawl.
- Apr 29/98 Environmental Commissioner for Ontario tables annual report in the Legislature. In her report the Commissioner expresses concern that polluters may be able to avoid liability in the civil courts under the Ministry of the Environment's proposed 'standardized' approval system if they are sued under the common law causes of action such as negligence, nuisance and trespass, or the public nuisance provisions of the EBR. This avoidance of liability may arise as polluters will be able to claim they were acting under legislative authority and thus have permission to discharge pollution.
- May 10/98 Ontario Court rejects application to amend its February 1998 decision regarding the failure of the Ministry of Natural Resources to comply with the requirements of the *Crown Forest Sustainability Act* and the Environmental Assessment Board's decision regarding the Class Environmental Assessment of Timber Management on Crown Lands. The Court grants the original applicants in the case, the Wildlands League and the Friends of Temagami, a costs award of \$127,000 in relation to the Ministry's application.
- Jun 2/98 Ministry of the Environment posts proposals for major changes to Regulation 347 on the EBR Registry. The proposals include 'standardized' approvals for on-site storage of hazardous wastes, including PCBs, expanding exemptions from approval requirements for hazardous waste 'recycling' activities, and eliminating requirements for public hearings prior to the approval of expansions of hazardous or municipal solid waste disposal facilities.
- June 20/98 The Adams Mine garbage proposal is the first major environmental assessment under the new *Environmental Assessment Act*. Under this new regime, the assessment process was streamlined so that proponents of a project no longer have to study alternatives to their proposal.
- June 22/98 Community members in and near Kirkland Lake hope that an appeal to the provincial cabinet regarding the conversion of Adams mine to municipal waste landfill, will allow time for Notre Developments (the project proponent) to seek alternative waste disposal methods.

June 29/98	Ministry of the Environment adopts revised Fee Schedule for Certificates of Approval under the <i>Environmental Protection Act</i> and <i>Ontario Water Resources Act</i> .
July 2/98	Community residents and local councillors in Northeastern Ontario raise concerns regarding the recent approval of the Adams Mine Waste Proposal by the Environmental Assessment Board. David Ramsay, Liberal MPP for Timiskaming (a community near the site) contends that the project is very high-risk and that it is being driven by short-term economic imperatives, which are not properly accounting for environmental/social concerns.
Aug 26/98	The Ontario cabinet approves the conversion of the Adams mine pit in Kirkland Lake to a privately operated landfill. The site is expected to serve mainly Toronto residents as well as York Region. Environmental groups fear the decision will undermine waste diversion initiatives.
Sept 30/98	First of AERs (Approval Exemption Regulations) for air and water, proposed in February 1998 come into effect.
Oct 27/98	February 1998 decision of Divisional Court regarding MNR compliance with <i>Crown Forest Sustainability Act</i> and Terms and Conditions of Class Environmental Assessment of Timber Management on Crown Lands upheld by Ontario Court of Appeal.
Dec 2/98	Ministry of the Environment proposes following regulatory exemptions from Approval requirements: <div data-bbox="373 884 1443 1608" data-label="List-Group"> <div>Air</div> <ul style="list-style-type: none"> <li>contaminants from the grounds of a race track, if the emission of contaminants is attributable to the racing of horses, dogs, or motorized or non-motorized vehicles;</li> <li>emissions of contaminants from the grounds or premises upon or in which a special amusement, entertainment, charitable, political, education, artistic, musical or sporting event is held, if the emission of contaminants is attributable to the special event;</li> <li>natural gas or propane gas dispensing units;</li> <li>emission of contaminants from a shooting range, if the contaminants are attributable to the firing of a gun or guns;</li> <li>any equipment, apparatus, mechanism or thing that is used for the ventilation of emissions resulting from vehicles, trains, forklifts, etc used in warehouses and enclosed storage areas; and</li> <li>any equipment, apparatus, mechanism or thing that is used solely to mitigate the effects of an emergency declared to exist under the <i>Emergency Plans Act</i>.</li> </ul> <div>Water</div> <ul style="list-style-type: none"> <li>the establishment, alteration, extension or replacement of, or a change in a water or sewage works that is used solely to mitigate the effects of an emergency declared to exist under the <i>Emergency Plans Act</i>;</li> <li>the taking of more than 50,000 litres a day to mitigate the effects of an emergency under the <i>Emergency Plans Act</i>; and</li> <li>the taking of water and establishment, alteration, or replacement of drains, pump devices and appurtenances for the collection and disposal or drainage from building foundations.</li> </ul> </div>

## ENVIRONMENTAL STANDARDS & REGULATORY PROCESSES

- Sep 12/95      The Ontario Round Table on Environment and Economy is disbanded. Office closed on November 17/95. ORTEE's mandate was the establishment of a sustainability strategy for Ontario.
- Sep 29/95      Environment and Energy Minister Brenda Elliott announced the termination of three committees: the Advisory Committee on Environmental Standards; the Environmental Assessment Advisory Committee and the Municipal Industrial Strategy for Abatement Advisory Committee. The committees, in brief, performed the following functions:  
                  MISA: advised on pollutant limits in industrial waste water.  
                  EAAC: forum to comment on the EAA's rules and application to specific projects.  
                  ACES: specific contaminant guideline establishment e.g. tritium.
- Nov 29/95      Government introduces Bill 26 the *Government Savings and Restructuring Act*. This Bill includes major amendments to more than 40 statutes, including *the Freedom of Information and Protection of Privacy Act*, *Mining Act*, *Public Lands Act*, *Fish and Game Act*, *Lakes and Rivers Improvements Act*, *Forest Fires Prevention Act*, *Conservation Authorities Act* and *Municipal Act*. The amendments greatly expand cabinet and ministerial discretion in decision-making, remove statutory requirements for approvals, and weaken opportunities or requirements for public participation in decision-making.
- Nov 29/95      MPP Frank Sheehan appointed to chair the Red Tape Review Commission. It will review all 45,000 regulations in effect in the Province and attempt to streamline or eliminate as many as possible within 12 months. The Commission's mandate includes no reference to ensuring that regulations necessary to protect the environment are retained.
- Jan 29/96      Bill 26, the *Government Saving and Restructuring Act* enacted:  
                  the *Freedom of Information and Protection of Privacy Act* amended to make it easier to reject requests that are considered frivolous or vexatious;  
                  the *Municipal Freedom of Information and Protection of Privacy Act* amended to make it easier to reject requests that are considered frivolous or vexatious;  
                  Both sets of amendments require the establishment of fees for both applying for, and retrieving information.
- Feb 5/96      New fees for both applying for, and retrieval of information set under freedom of information acts adopted.
- Jun 3/96      Minister of Environment introduces Bill 57, *The Environmental Approvals Improvement Act*. The Bill provides for:  
                  the exemption by the Lieutenant-Governor in Council of any person from any provision of the *Environmental Protection Act* or *Ontario Water Resources Act* or any regulation made under those Acts;  
                  the dissolution of the Environmental Compensation Corporation;  
                  the dissolution of the Ontario Waste Management Corporation and repeal of the *Ontario Waste Management Corporation Act*;  
                  the Lieutenant-Governor in Council to prohibit, regulate or control any thing or activity related to the Act;  
                  the Lieutenant-Governor in Council to deem a certificate of approval to exist under the *Environmental Protection Act*;  
                  the prohibition of any action against the Crown arising out of any exemption from an approval requirement under the *Environmental Protection Act* or *Ontario Water Resources Act*; and  
                  an amendment giving the Ministry of the Environment and Energy authority to administer fees to recover administrative costs.

- Jun 5/96 Minister of Environment and Energy introduces Bill 66, *Government Process Simplification Act* which proposes to amend the *Consolidated Hearings Act* and *Environmental Protection Act*. This could:
- permit Ontario Energy Boards and Environmental Appeal Boards to sit in panels of one member;
  - be further amended so that prosecutions under the Act or its regulations will no longer require ministerial approval;
  - amend the *Ontario Energy Board Act* to allow the Minister (rather than the Lieutenant Governor) to refer a request for inquiry to the board and to require a hearing into the reasonableness of gas rates under section 13;
  - allow the joint board and the Environmental Appeals Board to designate one person to represent a group of people with the same interest;
  - allow the Minister of Environment and Energy to amend the *Pesticides Act* to allow classification of pesticides by the Minister or a delegate.
- Jul 31/96 Ontario government releases a discussion paper entitled *Responsive Environmental Protection* which makes over 80 recommended changes to environmental regulation. The recommendations include revising the Environmental Bill of Rights Classification of Proposals for Instruments Regulation to eliminate notice requirements for proposals with minimal environmental impact. For specific recommended changes to regulations see Jul 31/96 under *Air, Water, Energy, Pesticides* and *Waste*.
- Aug 31/96 Premier Harris announces changes to the Provincial Cabinet. The Minister of Environment and Energy, Brenda Elliott MPP for Guelph is replaced by Norm Sterling MPP for Carleton who was previously acting as Minister of Consumer and Commercial Relations.
- Sep 5/96 Ministry of Environment and Energy announces a 30-day extension to the public consultation period on proposed reforms to Ontario's environment and energy regulations (*Responsive Environmental Protection*). The extension reflects the enormity of the undertaking and the reaction by many stakeholders that the government's original timeframe was insufficient to allow a proper review of the proposed changes.
- Oct 10/96 Ministry of Environment and Energy puts policy proposal entitled "Proposed Three Year Plan for Standard Setting" on Environmental Bill of Rights Registry for 30-day public comment period. The plan identifies standards that need to be established over the next three years in the areas of air, soil, ground, drinking and surface water, sediment, tissue residue, sewage sludge, and compost.
- Oct 10/96 Environmental Commissioner Eva Ligeti issues a special report citing the Ontario government for cutting environmental regulations without giving the public an adequate opportunity for comment. Criticisms include:
- ministries are not posting environmentally significant decisions on the Environmental Registry;
  - public comment periods are unreasonably short or provided during inconvenient times; and
  - ministries are failing to assess and report potential environmental effects of decisions.
- Oct 15/96 Provincial Auditor Erik Peters criticizes the conduct of the Ministry of Environment and Energy in a number of areas:
- the use of the Hazardous Waste Information System. The Auditor reports that the ministry should be taking steps to identify registered generators of hazardous waste who do not report disposals;
  - his main criticism on air pollution abatement stems from a 1992 review conducted by the MOEE that showed that 226 of 289 air pollutant standards required reduction, reassessment, or further review, and this review was not followed up on by the ministry;
  - the Ministry of Environment and Energy's handling of its water well information

system is deficient. Of 200,000 well records submitted to the MOEE over the past 12 years, only about 30,000 have been entered into the water well information system; and groundwater quality is not monitored systematically throughout the province.

- Nov 13/96 Premier Harris defends the Ontario government regulatory streamlining initiative at the Ministry of Environment and Energy Technology Transfer Conference in Toronto. The Premier declares that there are too many needless regulations.
- Jan 29/97 Release of the Red Tape Commission releases Final Report. Recommends extensive changes to environmental regulations, weakening many requirements, particularly with respect to waste management.
- Feb 26/97 Ontario Government announces that five agencies are to be eliminated and another 35 with similar mandates are to be combined. One of the five to be eliminated is the Environmental Compensation Corporation which the government claims will be made obsolete after proposed changes to the *Environmental Protection Act* proceed. The Environmental Compensation Corporation makes decisions about compensation for those affected by toxic spills. Other changes:  
 The Ontario Municipal Board is to be consolidated with the Assessment Review Board and the Board of Negotiations and renamed the Property and Planning Tribunal;  
 The Environmental Assessment Board (including the Niagara Escarpment Hearing Office) and Environmental Appeal Board are to be consolidated into the Environmental Appeals Tribunal;  
 Others to undergo consolidation with other agencies: Game & Fish Hearing Board, Farm Practices Protection Board, Ontario Drainage Tribunal, Building Code Commission, Fire Code Commission;  
 Those to remain relatively unchanged at the time of the announcement include: the Animal Care Review Board, the Conservation Review Board, Crown Timber Board of Examiners, Niagara Escarpment Commission and the Ontario Energy Board.
- April 4/97 Charges laid against Inco Limited were dismissed in court as Ministry of Environment and Energy prosecutors failed to appear. The charges (five in total) relate to a massive sulphur dioxide gas leak on November 16, 1995 which sent dozens of residents of Sudbury to hospital with breathing problems. This is the second time that charges have been dismissed on this basis which reflects the serious resource shortage at the MoEE for dealing with enforcement and prosecution matters. The MoEE is attempting to re-introduce the charges against Inco Limited.
- Apr 22/97 Release of the Environmental Commissioner of Ontario's 1996 annual report (See *Environmental Bill of Rights & Public Participation in Decision-making* section).
- Apr 23/97 Mr. Norm Sterling, Minister of Environment and Energy states: "That is why we [Ontario] are re-regulating, not deregulating as some would suggest....The fact is this government is not deregulating. We are simplifying and improving our regulations to set tough environmental standards and we will be vigilant in ensuring that these standards are met." in a letter to the Windsor Star.
- May 21/97 A policy proposal is posted on the Environmental Bill of Rights Registry to establish an interim ambient air quality criterion for inhalable particulates (PM<sub>10</sub>) of 50 micrograms/m<sup>3</sup> (24 hour average).
- Jun 5/97 Bill 57, The *Environmental Approvals Improvement Act* is given royal assent.
- Jun 10/97 Release of the Annual Report of the Ontario Ombudsman. In the report, the Ombudsman cites the Ontario government's delegation of decision-making authority to private sector bodies and the promotion of industry self-regulation as causes for concern, particularly the

Technical Standards and Safety Authority.

- Jun 27/97 Linda Stevens transferred from position of deputy minister at the Ministry of Environment and Energy to Cabinet Office. The position of Deputy Minister of the Environment remains vacant until October 1997.
- Nov 4/97 Ontario Environment Minister writes to federal Environment Minister Christine Stewart regarding the MoE's opinion that National Pollutant Release Inventory data does not provide an accurate indicator of environmental health. Furthermore, the data should not be used for reporting purposes (e.g. "Taking Stock/North American Pollutant Releases and Transfers") by the Commission for Environmental Cooperation in the MoE's opinion.
- Nov 25/97 The Provincial Auditor Erik Peters submits his annual report to the Ontario Legislature. Among the key points:
- the measuring of, and reporting on the Province's waste reduction targets needs to be strengthened;
  - the province needs to work with municipalities on reducing the cost of collecting and processing recycled materials as well as implementing a full costing approach for waste disposal;
  - the provincial goal of 50% waste diversion from disposal should be incorporated into the Ministry of the Environment's Waste Reduction Branch's business plan;
  - the Ministry should expedite the resolution of issues surrounding refillable soft drink containers and address municipal concerns;
  - the environmental assessment process requires better monitoring of the compliance with EA Act decision terms and conditions;
  - water or sewage expansion projects should not be funded by the province unless municipalities have implemented and maximized water conservation; documentation filing and grant overpayment need to be better monitored as well.
- Nov 27/97 The Minister of the Environment releases "Better, Stronger, Clearer Environmental Regulation in Ontario" - a package of 38 amendments to the province's environmental regulations. These amendments evolved from the initial proposals contained in the August 1996 "Responsive Environmental Protection" initiative and will be implemented by summer 1998. The amendments will take place in the regulatory areas of: air quality, approval of technologies, energy, environmental assessment, the Environmental Bill of Rights, pesticides, spills, waste management and water quality. Some of the regulations amended include:
- air quality (Vehicles and Fuels, Acid Rain, Air Regulation);
  - approval of technologies (Technology Demonstration);
  - energy (Energy Efficiency Standards Regulations);
  - environmental assessment (EA Rules of Practice);
  - the Environmental Bill of Rights (Classification of Proposals of Instruments, Application of the EBR Act);
  - waste management (Deep Well Disposal, General Waste, Mobile PCB Destruction, PCB Waste Management, Recycling and Composting, Disposable Milk Containers, Waste Audits & Reduction Work Plans and Packaging & Packaging Reduction Work Plan) Refillable Containers at least at this date undergo no revision;
  - water quality (Water Wells, Regulations under MISA)
- Final amendments are to be posted on the Environmental Bill of Rights of Registry by June 1998.
- Jan 98 Final Agreement between Dofasco and the Ministry of the Environment posted on EBR Registry. Agreement commits Dofasco to "all reasonable efforts to meet several targets for reducing air and water emissions and solid waste production. In exchange, the Ministry of the Environment will use "all reasonable efforts" to exempt Dofasco from the requirement under Regulation 347 to manifest its shipments of hazardous and liquid industrial wastes on public roads.



Feb 11/98	The Red Tape Commission and the Ministry of Municipal Affairs and Housing announce that they will initiate an industry consultation to explore the feasibility of a 'one-window' approach to building regulations and approvals. Such an approach will continue to limit the amount of review that the Ministry of the Environment has of land development projects and speed the approval of urban sprawl.
Mar 31/98	Proposals for revisions of standards for 10 hazardous air pollutants and 4 drinking water contaminants posted on EBR registry. Some of the proposed air standards have been weakened significantly from the proposals presented by the Ministry in January 1997.
Apr 27/98	Environmental Commissioner for Ontario tables Third Annual Report: "Open Doors - Ontario's Environmental Bill of Rights." The Commissioner states "I regret to report that in the past year there has been little substantive improvement in the actions taken by provincial ministries toward protecting the environment." Major areas of concern included Air Quality, Forest Management, Environmental Monitoring, Voluntary Agreements, Conservation Authorities and Watershed Management, the Plastimet Fire.
May 11/98	Information and Privacy Commissioner of Ontario orders the Ontario Ministry of the Environment to provide the Sierra Legal Defence Fund with a list of companies with violations of their operating permits as well as companies who have been convicted of an environmental offence. The MoE originally offered the information at a cost of \$19,868 but was ordered to provide at the cost of photocopying the information (about \$3000). The MoE has: 4,650 pages on water quality violations; 9,735 pages on air quality violations. Formerly, the MoEE published this information in a format that made it easily publicly accessible. The last time was 1993/94.
Jun 17/98	Ontario Environmental Protection Working Group releases <i>Our Future, Our Health: The Consequences of Inaction</i> . The report synthesizes details actions, inaction and regulatory changes likely to make province's problems related to smog, acid rain and waste management worse.
Jun 26/98	Amendments to the <i>Election Finance Act</i> (Bill 36) receive Royal Assent. The Bill raises the expenditure limits for Party election campaigns and removed limits on certain types of spending.
Jul 23/98	1998-99 Business Plans for Ontario government ministries released to the public.
Jul 27/98	Public release of 1996 National Pollutant Release Inventory Data. Data shows decline in releases of pollutants to the environment, but a dramatic increase in transfers of pollutants in waste. The Ontario Minister of the Environment asserts that there are "serious flaws, inconsistencies and misinterpretations" in the National Pollutant Release Inventory system.
Aug 1/98	Three Party agreement between Environment Canada, MoEE and Dofasco Inc. adopted. Establishes voluntary targets for abatement in areas of air, water and waste management in exchange for commitments to reduce regulatory requirements.
Nov 3/98	Ministry of the Environment proposes initiative: "Recognizing and Encouraging Voluntary Actions (REVA)." Policy proposes reduced oversight for facilities on the basis of promises of good environmental performance, and that no new standards will be imposed without "quid pro quo" concessions to industry.
Nov 3/98	Provincial Auditor tables 1998 Annual Report: <i>Ministry of the Environment</i> Report is critical of Ministry of the Environment's failure to act on the Auditor's 1996 recommendations regarding the revision of the province's standards for hazardous air pollutants.

*Ministry of Natural Resources*

the Ministry had not developed proper effectiveness measures to assess the program's success in achieving the sustained development of the province's fish and wildlife resources;  
did not have adequate policies in place for the management of big game species (moose, deer and bear); and  
information from the assessment of fish populations and other data were often not available to assist management in managing regeneration, stocking and harvesting.

- Nov 7/98 It is reported that the head of the 'Red Tape Commission' urged the Ministry of the Environment to drop its prosecution of a company that violated a provincial regulation prohibiting the dumping of waste from outside of the approved service area of a landfill.
- Nov 23/98 Environment Minister Norm Sterling introduces the *Environmental Statute Law Amendment Act*. The Act, if passed, would allow the MoE to:  
seize licence plates and permits from vehicles used to commit environmental offences;  
streamline the process by which environmental officers issue compliance orders in the field;  
apply new monetary penalties for minor environmental infractions;  
secure areas and facilities to ensure evidence is protected;  
extend provisions for control of illegal dumping and cleanup to people who broker illegal waste disposal; and  
use more modern investigative aids and techniques.  
No new resources were announced to ensure that this legislation could be put to its full utility.
- Dec 14/98 *The Balanced Budget and Taxpayer Protection Act, 1998* introduced. The Bill requires a balanced provincial budget for each year, except in cases of emergencies, and requires a referendum or provision in a party election platform to increase certain taxes.
- Dec 16/98 Bill 101 *Red Tape Reduction Act #2* Introduced. Schedule M amends a number of natural resources acts including the following:  
*Aggregate Resources Act*  
permit site plans and licenses to take precedence over municipal rules and by-laws;  
permit regulations under the Act to adopt technical standards by reference.  
*Fish Inspection Act*  
permit arrest of persons involved in illegal sale of contaminated fish products.  
increase maximum penalties, and extend period of time over which prosecutions can be undertaken.  
*Forest Fires Prevention Act*  
provide authority to require that people who cause fires pay for fire suppression;  
various minor amendments.  
*Fish and Wildlife Act*  
remove requirement that pelts of fur bearing animals be marked "sealed."  
*Niagara Escarpment Planning and Development Act*  
"streamline" plan amendment process, reduce timelines, eliminate hearings in certain circumstances.  
allow the Minister or hearing officers to dismiss notices of appeal of development permits where these are "frivolous, not made in good faith, made for purpose of delay or without merit on land-use planning grounds;  
allow Commission decisions to be confirmed without approval by the Minister if they are the same as hearing officers reports;  
extend the review period for the plan from five to ten years and "clarify" the ministers authority to prescribe the terms of reference for a plan review.  
*Oil, Gas and Salt Resources Act*  
minor amendments;

permit adoption of technical standards by reference.

*Public Lands Act*

permit unregistered letters patent to be cancelled, allowing for the faster execution of land sales.

Bill 101 died on the order Paper when the Legislative session ended on December 18, 1998.

Dec 18/98 Bill 82, *An Act to Strengthen Environmental Protection and Enforcement* receives Royal Assent.

introduces administrative monetary penalties for offences under the *Environmental Protection Act* and *Ontario Water Resources Act*  
strengthens penalty and enforcement provisions.

Dec 18/98 Bill 25, *Red Tape Reduction Act, 1998*. Receives Royal Assent.  
Schedule I of the Bill amends a number of MNR statutes including:

*Conservation Authorities Act*

Removes requirement for Conservation Authority permission for changing, diverting or interfering with watercourses, wetlands, Great-Lakes St. Lawrence shorelines, inland lakes; river and stream valleys, hazardous lands, for activities approved under the *Aggregate Resources Act*; and  
removal of the requirement for provincial approval of Conservation Authority Regulations

*Lakes and Rivers Improvements Act*

permit delegation by cabinet and minister of approvals under the Act to conservation authorities, or other agencies or bodies;  
permit the minister to approve plans for a dam, after the dam has been constructed; and  
weaken the current prohibition in the Act against pollution.

*Public Lands Act*

provides for the delegation of the Minister's duties under the Act to "any person."  
removes limits on size or dollar value of public lands that can be leased or sold.  
provides statutory authority for the implementation of the 'Lands for Life' land-use planning process. Land-use plans outlining uses in specific zones will be subject to approval by the Minister following a 30 day public comment period.

The Bill also consolidated the *Trees Act*, *Woodlands Improvement Act*, *Forest Trees Pest Control Act*, and amended the *Crown Forest Sustainability Act*, *Forest Fires Prevention Act*, *Mining Act*, *Provincial Parks Act*, and the *Surveys Act and the Surveyors Act*.

Schedule 'C' of the Act, *Statute and Regulation Revision Act, 1998*, makes provision for the adoption of revisions to statutes by the Chief Legislative Council, without approval by the Legislature.

Dec 18/98 *Greater Toronto Services Board Act, 1998* receives Royal Assent. The Act goes into being on January 1, 1999 and creates a board review integration issues, most notably transportation, for municipalities in the Greater Toronto Area.

Dec 18/98 *Lobbyist Registration Act* receives Royal Assent.

Feb 24/99 Revealed that the Ministry of the Environment had developed a delivery strategy for its operational staff, directing them not to respond to public complaints about a wide range of environmental problems, or to direct such complaints to other agencies and municipalities. Specific examples included problems arising from: activities related to agriculture; construction and demolition; diesel generators; gravel pits and quarries; mobile sources; oil from vehicles; septic systems; boating; sewers; drinking water quality; road salt; inert fill; pop bottles; industrial, institutional and commercial waste source separation; recycling and composting regulatory requirements; tire disposal sites with less than 5,000 tires; litter; abandoned vehicles; inquires about pesticide use; and residential pesticide use.

- Mar 1/99      It is revealed the Ministry of the Environment laid only three charges and issued just one warning in 1996 despite having evidence of 1024 violations of provincial water quality regulations and guidelines. The revelation (*Ontario's Water Polluters: The Ontario Waste Water Discharge Violations Report*) was made by the Sierra Legal Defence Fund and is based on a Freedom of Information Request.
- Mar 2/99      Ministry of Natural Resources announces plans to train 500 volunteer nature 'guardians,' to assist with the enforcement of the laws administered by the Ministry. The decision follows the 1998 report of the Provincial Auditor, which raised questions over the ability of the Ministry to adequately enforce its laws.
- Mar 22/99     Former Attorney General Ian Scott criticizes the Ontario government for allowing the successor corporations to Ontario Hydro to escape the requirements of the *Freedom of Information and Protection of Privacy Act* through provisions of Bill 35, *The Energy Competition Act*.
- Apr 21/99     Ontario environmental organizations release "An Environmental Agenda for Ontario." The document outlines recommendations for environmental improvement in six areas:  
Protecting Human Health;  
Food, Water, Materials and Energy;  
Building Sustainable Communities;  
Protecting and Restoring Nature; and  
Strengthening Democracy.
- May 14/99     Revealed by the Canadian Institute for Environmental Law and Policy that fines levied against polluters convicted of violating Ontario's environmental laws have dropped to their lowest level in more than a decade. The 1998 total for fines levied was \$863,840 compared to \$3,065,504 in 1995.
- May 18/99     Environmental Commissioner of Ontario recommends an independent review of the province's air quality protections. The recommendation was made in response to an application for investigation by the Sierra Legal Defense Fund.

## LAND USE PLANNING

### General and Southern Ontario Issues

Jul 13/95	Agriculture Minister announces the province will be withdrawing \$15 million in funding for the purchase of agricultural covenants to protect the Niagara Fruit Belt from urban development.
Oct 6/95	Government-wide operating budget reductions released by the Office of the Premier. The reductions were detailed for each of the years 1995-96 and 1996-97 but do not represent all the reductions that will take place. Effects to land use policy and protection due to cuts to the Ministry of Environment and Energy: reduce conservation and planning spending by \$0.68 M for both years; cuts to Ministry of Natural Resources; conservation authorities' operating transfer payments cut by \$1.2 M in both years.
Nov 15/95	Interim report of the Golden Task Force on the Greater Toronto Area. If recommendations proceed sweeping changes could be introduced to the area's land use, service delivery, tax structure and administration.
Nov 16/95	Government introduces Bill 20, the <i>Land Use Planning and Protection Act</i> . The Bill will repeal many recommendations of the Commission on Planning and Development Reform in Ontario implemented through Bill 163.
Dec 13/95	Province announces it will market surplus government land throughout Ontario for productive development.
Jan 2/96	A revised draft Provincial Policy Statement to accompany Bill 20 is released by Minister of Municipal Affairs.
Jan 26/96	Ministry of Housing releases a consultation paper entitled "Back to Basics" which focuses on streamlining and simplifying the Building Code. Among other things, the paper proposes the removal of energy efficiency requirements from the Code.
Jan 29/96	The Ontario Legislature enacts Bill 26, the <i>Government Savings and Restructuring Act</i> and in so doing amends many acts governing land use including: the <i>Public Lands Act</i> : amends work permit provisions; reduces capacity of courts to order restoration; the <i>Municipal Act</i> : easier municipal restructuring, land annexation, and service cost or user fee implementation; the <i>Conservation Authorities Act</i> : new provisions allow the dissolution of CAs and easier sale of CA lands. Limitations placed on scope of CA activities and funding.
Jan 29/96	Ministry of Environment and Energy releases its review of its land use planning process. If recommendations are adopted, it would create an approach consistent with Bill 20: the MoEE would shift its emphasis away from the review of site-specific applications to involvement in official plan policy formulation.
Mar 26/96	Bill 20, the <i>Land Use Planning and Protection Act</i> enacted. Reverses reforms adopted in 1995 to implement recommendations of Commission on Planning and Development reform in Ontario.
Apr 11/96	Ontario government releases "Interim Report on Business Planning and Cost Savings Measures" which outlines the re-shaping of government through "new business directions" for ministries and "cost-savings measures" that the province is implementing. Each ministry is responsible for carrying out its own business plan within the financial constraints that it is assigned. Effects of this initiative on land use:

the Ministry of Municipal Affairs and Housing will become the principal or only body to deal with land use proposals;  
 Conservation Authorities transfer payments will be cut \$5.4 M in 1996-97 and \$7.4 M in 1997-98.

- May 7/96 Ontario Budget unveiled which includes the suspension of the Land Transfer Tax on the purchase of new houses and the restoration of previously-eliminated funding for road construction.
- May 22/96 Ministry of Municipal Affairs and Housing announces proclamation of Bill 20, *The Land Use Planning and Protection Act*. Major changes under this legislation include:  
     streamlining the process by cutting approval times in half; and  
     eliminating the requirement that planning decisions "be consistent with" provincial policies, and replacing it with the old requirement that decisions "have regard to" provincial policies.
- Jun 20/96 Ministry of Environment and Energy releases a revised soil cleanup guideline, *Guideline for Use at Contaminated Sites in Ontario*, which is intended to provide more specific and workable directions on managing and re-using contaminated sites.
- Oct 23/96 The Ministry of Municipal Affairs and Housing approves Peel Region's first official plan. Under the plan, the region has agreed to incorporate provincial policies on several issues including:  
     the extraction of mineral aggregate resources for long-term use;  
     support for the region's desire to protect the environment;  
     support for the Caledon Community Resources Study which assesses future mineral aggregates in the region. This may result in the refinement of mineral aggregate policies; and  
     there will be no moratorium on new aggregate operations in "high potential" areas.
- Oct 96 Municipal Affairs and Housing Minister Al Leach removes a freeze on aggregate extraction covering 8,000 hectares in the Caledon Region. Seventy appeals of the decision are filed with the Ontario Municipal Board.
- Nov 4/96 The Who Does What Panel recommends to the Ministry of Municipal Affairs and Housing that municipalities should deliver and pay for sewer and water systems. The panel recommends that the province:  
     transfer ownership of its sewer and water treatment facilities to appropriate municipalities;  
     discontinue sewer and water grant and loan programs; and  
     continue to set and enforce performance-based environmental standards and promote conservation.  
 The panel also recommends that while municipalities should decide on the method of charging for sewer and water services, users should be charged the full cost of providing them. The panel also recommends that the province:  
     continue to transfer to municipalities ownership of provincial highways that serve primarily local needs, provided municipalities are granted a revenue source to help with highway upkeep; and  
     discontinue transit financial support but play a role in setting safety standards, coordinating broader transportation planning and helping with inter-municipal coordination and integration.
- Jan 16/97 Bill 106, *Fair Municipal Finance Act*, is introduced to the legislature. The legislation should improve tax treatment of conservation lands, managed woodlots and farmland.
- Jan 20/97 Bill 107, *The Water and Sewerage Services Improvement Act*, is introduced. The Bill would provide for the transfer of the ownership and operation of provincially owned and operated sewer and water infrastructure to municipalities. The Bill would also transfer responsibility for

the regulation of most septic systems to the municipalities or the Ministry of Municipal Affairs.

- Jan 28/97 Ontario Ministry of Agriculture, Food and Rural Affairs Posting on *Farm Practices Protection Act*. Ministry proposes to expand exemption for agricultural activities from environmental laws.
- Feb 3/97 Ministry of Municipal Affairs and Housing implements a new policy (effective Feb. 1, 1997) geared to protect the economic interests of Ontario's major airports. The policy will prevent new residential development and other sensitive land uses near airport lands above 30 NEF/NEP (airport noise contour mapping - Noise Exposure Forecast/Noise Exposure Projection). The policy is in response to previous situations where noise problems in an area resulted in federal restrictions on airport operations.
- Apr 1/97 The Ontario government announces that it will extend the land transfer tax refund (up to \$1725) offered to first-time home buyers upon the purchase of a newly built home. While the refund may encourage new home purchases it also may encourage urban sprawl as it applies only to newly built homes.
- May 27/97 Bill 106 *Fair Municipal Finance Act* receives Royal Assent. This legislation will revise the property tax assessment of conservation, managed forest and farm lands. Some of its provisions offer certain landowners an incentive to undertake conservation initiatives.
- May 28/97 Passage of Bill 107. The Bill provides for the transfer of the ownership and operation of provincially owned sewer and water infrastructure to municipalities and regulation of septic systems to municipalities and the Ministry of Municipal Affairs.
- Dec 8/97 Bill 98, the *Development Charges Act* receives royal assent. The Bill which was introduced on November 15, 1996 will:  
provide new means to limit the contributions of land developers to community benefits such as parks;  
place limits on the use of development charges by municipalities to recoup the costs imposed by new developments;  
require that existing municipal infrastructure be available for servicing new developments (in effect promoting urban expansion at the expense of compact urban form and infilling);  
These provisions seem likely to facilitate and promote low density urban sprawl-type developments.
- Dec 10/97 The Ministry of Natural Resources issues a request for proposals from parties knowledgeable about real estate to assist in the development of a disposition strategy for lands controlled by the MNR. The subject lands are located throughout the province.
- Dec 12/97 Finance Minister Ernie Eves informs municipalities that they will need to make a further \$565 million in spending reductions. At the same time, municipalities are undertaking more responsibilities from the province. Areas relating to environmental protection that could be impacted by financial restructuring include transit, water and sewage works operation and conservation areas.
- Dec 17/97 Bill 146, the *Farming and Food Production Protection Act* is referred to the Standing Committee on Resources Development.
- Jan 1/98 The cities and borough of the Municipality of Metropolitan Toronto are officially amalgamated into the City of Toronto.
- Jan 27/98 An attempt at financing \$400 million in sewage treatment facilities in Hamilton-Wentworth fails as the Ministry of Finance refuses to let the arrangement proceed on the basis that the deal's tax deferral structure was too generous for investors. Such deals involving private financing of public works infrastructure have been made possible by amendments to the

*Municipal Act.*

- Feb 4/98 Ministry of Municipal Affairs and Housing announces new Ontario Building Code Regulations for septic system management "Regulation to Amend Ontario Regulation 403/97 made under the *Building Code Act*, 1992." The new regulation will take effect April 6, 1998 and:  
transfer authority for regulating smaller on-lot sewage systems to the *Building Code Act* for "one-window" permitting purposes;  
introduce new certification requirements for installers/inspectors.  
These changes have been brought as a consequence of Bill 107 amendments to the *Environmental Protection Act* regarding the regulation of septic systems.
- Feb 11/98 The Red Tape Commission and the Ministry of Municipal Affairs and Housing announce that they will initiate an industry consultation to explore the feasibility of a 'one-window' approach to building regulations and approvals. Such an approach will continue to exclude the Ministries of the Environment, Natural Resources and Agriculture, Food and Rural Development from the planning process, and limit the role of Conservation Authorities, weakening the protection of environmentally significant areas and important agricultural lands.
- Feb 11/98 The province announces its intent to seek input by May 8, 1998 on a new *Municipal Act*. The Act if adopted will have wide ranging ramifications on the urban environment, natural environment and service impacting on the natural environment. The Act would give municipalities certain general powers and areas of responsibility called Spheres of Jurisdiction. These include the following:  
health, safety, protection and well-being of people and the protection of property;  
public utilities;  
waste management;  
highways, including parking and traffic on highways;  
transportation systems such as transit, ferries and airports;  
the natural environment;  
culture, parks, recreation and heritage;  
economic development;  
nuisance, noise, odour, vibration, illumination and dust;  
drainage and flood control;  
structures including fences and signs;  
parking (other than on highways); and  
animals.
- Although municipalities already have authority in many of these areas, the amendments would permit its broader exercise in these areas. However, eight general limitations would be imposed on the exercise of these powers::  
municipalities would not be able to regulate in a more restrictive way than a provincial regulation;  
municipalities would not be able regulate in certain defined areas of exclusive provincial jurisdiction such as workplace health and safety;  
municipal by-laws would be subject to any procedural requirements and limits contained in specific provisions of the new Municipal Act or any other Act;  
municipalities would not be able to regulate or prohibit privately-owned systems under the "public utilities", "waste management", and "transportation systems other than highways" spheres of jurisdictions;  
municipalities would not be able to grant any person a monopoly on carrying on any business, trade or occupation, unless specifically authorized to do so;  
municipalities would not be able to set up corporations or purchase shares in a company;  
municipalities would only be able to exercise their authority within their geographic boundaries with some exceptions;  
and, of course,  
municipal bylaws would not be able to conflict with federal or provincial bylaws.
- Such a reworking of municipal roles and responsibilities calls into question the innovative role



that some municipalities have played in past, in particular setting standards that are more stringent than the province or acting when the province would not act. Anti-smoking municipal by-laws would unlikely be permissible. Information concerning municipal solid waste and diversion could become difficult to obtain if taken out of municipal hands. Private 'transit' operators could put pressure on the most lucrative routes driving municipal systems to the brink of infeasibility. Parks and conservation authority management could become very non-uniform. Traffic control systems will become unique to every municipality thereby reducing the uniformity of driving conditions across the province, potentially leading to unpredictable situations, diminished public safety and increased threat of spills to the environment.

- Mar 13/98 The proposal for a Greater Toronto Services Board is released by Minister of Municipal Affairs and Housing Al Leach. The proposed structure would make the body primarily a service coordinating agency with no executive powers other than the oversight of GO Transit. On GO Transit issues a 2/3 majority would decide municipal contributions to the transit system's operating and capital budgets. The 30 member board would have:
- 14 elected councillors from the City of Toronto;
  - 5 from Peel Region;
  - 4 from York Region;
  - 3 from Durham Region;
  - 2 from Halton Region; and
  - 2 from Hamilton-Wentworth;
- The Board will not have any direct decision making authority over matters such as waste disposal, sewer and water infrastructure or any other such common, region-wide issues. The Board can however offer advice on such matters. The combined region wide population is 4.5 million.
- May 5/98 Provincial Budget. Land Transfer Tax Rebate program extended.
- May 11/98 Bill 146, *The Farming and Food Production Protection Act*, receives Royal Assent.
- June 26/98 Municipal Affairs Minister, Al Leach, discusses a proposed law that would create a coordinating agency for planning in the GTA. The proposed law would coordinate strategic planning, economic development and tourism, and social assistance programs in the city. The law is to be introduced in the Ontario legislature in late September.

### **Niagara Escarpment Commission**

- Dec 1/95 Niagara Escarpment Commission budget is reduced \$0.7 M as part of MoEE projected operating budget cutbacks for the 1996/97 fiscal year.
- Aug 13/96 Ministry of Environment and Energy posts a proposed exemption on the Environmental Bill of Rights Registry that would eliminate the need for pits and quarries on the Niagara Escarpment, that were in existence before June 1975, to obtain development permits for expansion. The proposal affects more than 40 quarries on the Escarpment.
- Aug 96 The terms of five Niagara Escarpment Commissioners expire without renewal.
- Oct 17/96 Exemption from future permit requirements for expansions granted for pre-1975 pits and quarries on the Niagara Escarpment as per August 1996 proposals.
- Mar 5/97 The Ministry of Natural Resources announces that Regulation 136/96 was approved without revision. The regulation exempted lands from Development Control on the Niagara Escarpment near the Town of Hamilton.
- Mar 97 Responsibility for the administration of the *Niagara Escarpment Planning and Development*

*Act* and the Niagara Escarpment Commission transferred from the Ministry of the Environment to the Ministry of Natural Resources. Transfer is compared to putting "Dracula in charge of the blood bank," given the strong ties between MNR and the aggregates industry.

- May 15/97      The Niagara Escarpment Commission is unable to deal with a development permit request as the number of eligible and available board members was insufficient to form a quorum. Under the current government, the board has been reduced from 17 to 10 members.
  
- Jun 12/97      Appointment of seven Niagara Escarpment Commissioners, some of whom have called for the dissolution of the Niagara Escarpment Plan and the abolition of the designation of the escarpment as a World Biosphere Preserve by the United Nations.
  
- Aug 27/97      Norman Seabrook is appointed to the Niagara Escarpment Commission. The appointee has stated publicly that the Niagara Escarpment Commission should be abolished and that the United Nations Biosphere Reserve status is illegitimate.
  
- Apr 16/98      Government appoints David Arnill to the Niagara Escarpment Commission. Mr Arnill is the former campaign manager for Energy Minister Jim Wilson and the past president of the Aggregate Producers of Ontario.
  
- June 98        Niagara Escarpment Commission votes to reject advice of planning staff and approval a major tourist development on lands designated Escarpment Protection Area within the Niagara Escarpment Plan Area. Approval is criticized for setting a precedent for resort developments in the rural parts of the Plan Area.
  
- Dec 16/98      Bill 101 *Red Tape Reduction Act #2*) Introduced. Schedule M amends a number of natural resources acts including:  
                  *Niagara Escarpment Planning and Development Act*  
                  "streamline" plan amendment process, reduce timelines, eliminate hearings in certain circumstances.  
                  allow the Minister or hearing officers to dismiss notices of appeal of development permits where these are "frivolous, not made in good faith, made for purpose of delay or without merit on land-use planning grounds;  
                  allow Commission decisions to be confirmed without approval by the Minister if they are the same as hearing officers reports;  
                  extend the review period for the plan from five to ten years and "clarify" the ministers authority to prescribe the terms of reference for a plan review.  
                  Bill 101 died on the order Paper when the Legislative session ended on Dec 18, 1998.

## Ministry of Natural Resources and Public Lands

- Jan 29/96      The Ontario Legislature enacts Bill 26, the *Government Savings and Restructuring Act* and in so doing amends many acts governing land use including:
- the *Public Lands Act*: amends work permit provisions; reduces capacity of courts to order restoration;
  - the *Municipal Act*: easier municipal restructuring, land annexation, and service cost or user fee implementation;
  - the *Conservation Authorities Act*: new provisions allow the dissolution of CAs and easier sale of CA lands. Limitations placed on scope of CA activities and funding.
- Nov 5/96      Ministry of Natural Resources adopts regulations to guide activities on Crown land. The new regulations reduce the need for work permits by 80% in an effort to save over \$1 million. The regulations frequently except activities related to mineral exploration and logging but attempt to capture whatever activities remain. The regulations reflect many of the relaxations brought about by Omnibus Bill 26 (enacted on January 29, 1996), in particular they include:
- the repeal of most fire, travel and work permit provisions;
  - the elimination of many permitting requirements when constructing, altering or using a dam, dock or other water works (some larger buildings still require a permit);
  - the permitting of many types of bridges, culverts, agricultural drains, trenching and dams on private or municipal lands without a work permit; on Crown lands, bridges, culverts and dams do require a permit but agricultural drains and trenching for private residences are exempt;
  - the use of regulations in place of statutory obligations which severely reduces the capacity of courts to order restoration in the case of damage to the natural environment;
  - the majority of activities on public lands and waters being made immediately permissible (fewer activities remain captured by the permitting process);
  - new trails through Crown land will mostly not require a permit; permit exemptions are clearly granted for trails for mineral exploration, timber or other resource extraction;
  - dredging, controlling aquatic plants, building docks and boathouses and laying submarine cable are free from permitting requirements if they are private (as opposed to commercial) and if they are intended for a log salvage operation;
  - 100 square metres of vegetation annually can be removed in waters in southern Ontario without a permit;
  - only exceptional burning will be captured by permit requirements (industrial slash pile burning and ecologically prescribed burns). All other small-scale incinerations are automatically permitted.
- Jan 16/97      Bill 106, *The Fair Municipal Finance Act* introduced. The Bill would improve the tax treatment of conservation lands, farm lands and managed forest lands.
- Feb 3/97      The *Red Tape Reduction Act (Ministry of Natural Resources)*, 1997 goes to 1st Reading. If passed, the following amendments will be made to the *Public Lands Act*:
- a land use planning process will be set up that allows for participation by stakeholders and controls activities that may be inconsistent with approved land use plans;
  - the need for order in council approvals will be removed and authority will be delegated to the Minister;
  - the Minister may order the transfer of administration and control of public lands to other government bodies; and
  - administrative fees will be set by the Minister, rather than established by regulation.
- Conservation Authorities Act*:
- authorities will be allowed to enter into agreements to permit exploration and extraction of oil and gas reserves on land adjacent to authority land;
  - authorities would be permitted to lease land for terms of up to five years without approval;
  - maximum fines for violations of the regulations will be increased from \$1,000 to

\$10,000, and from \$100 to \$1,000;  
anyone convicted of constructing a building or dumping fill may be ordered by the court to restore the site to its previous state (or to pay for the authority to do the work if the order is not complied with); and  
the Lieutenant Governor in Council would no longer be required to approve appointments of members to a Conservation Authority.

Apr 97      The Ministry of Natural Resources prepares to launch a year-long consultation and planning process for Crown lands called *Lands for Life* (process and committees officially launched on June 17/97). The program has three elements:  
              *Nature's Best* - a plan to create a network of protected wilderness areas in Ontario;  
              Resource-Based Tourism Policy - a plan to identify resources for use by the tourism industry;  
              Forest Management - a plan to attempt to ensure that forests are managed sustainably.  
Three roundtables have been proposed to undertake the consultation:  
              Great Lakes - St Lawrence;  
              Boreal East; and  
              Boreal West.  
Their composition will be determined and appointed by the Minister and are expected to include 8-12 people. The consultation is scheduled to complete by the spring of 1998. The critical issue of forest industry tenure on Crown lands is being held outside of this process and is subject to discussions between the province and the industry only. It is expected to be determined after, not before this planning process.

May 97 The *Fair Municipal Finance Act* receives Royal Assent.

Dec 10/97      The Ministry of Natural Resources issues a request for proposals from parties knowledgeable about real estate to assist in the development of a disposition strategy for public lands controlled by the MNR. The subject lands are located throughout the province.

Oct 30/98      MNR releases the consolidated Lands for Life Recommendations. Lands for Life was established in the Spring of 1997 to determine the fate of 47% of the province's landbase, mostly in the central to north of the province. Three Round Tables conducted consultations over approximately a year. Criticisms were levied that the process was heavily weighted in favour of industrial forestry, mining and hunting interests. The recommendations included:  
              79% of the Crown land be open to forestry, mining and all other resource extraction industries;  
              completion of a park system that has "minimal impact on forestry or mining sectors";  
              703,000 ha of new parks/protected areas (total area covered under the recommendations is 46 million hectares);  
              five new land use designations: stewardship areas, enhanced management areas, heritage waterways, Great Lakes heritage coastlines and general use areas;  
              support for resource based tourism;  
              angling allowed everywhere;  
              hunting in most new provincial parks and everywhere else;  
              snowmobile / all terrain vehicle use virtually everywhere.

Nov 11/98      Ministry of Natural Resources announced a "Strategic Lands Initiatives" to streamline, refocus and expand its Crown land disposition program. The Ministry states that it has disposed of 99 properties which accounted for 1,899 hectares of land with a value of just over \$8 million in 1997/98.

Dec 16/98      Bill 101 *Red Tape Reduction Act #2*) introduced. Schedule M amends a number of natural resources acts including:  
              *Public Lands Act*  
                  permit unregistered letters patent to be cancelled, allowing for the faster execution of land sales.

Bill 101 died on the order Paper when the Legislative session ended on December 18, 1998.

- Dec 18/98      Bill 25, *Red Tape Reduction Act, 1998*. Receives Royal Assent.  
Schedule I of the Bill amends a number of MNR statutes including:  
*Public Lands Act*  
        provides for the delegation of the Minister's duties under the Act to "any person."  
        removes limits on size or dollar value of public lands that can be leased or sold.  
        provides statutory authority for the implementation of the 'Lands for Life' land-use  
        planning process. Land-use plans outlining uses in specific zones will be subject to  
        approval by the Minister following a 30 day public comment period.
- The Bill also consolidated the *Trees Act*, *Woodlands Improvement Act*, *Forest Trees Pest Control Act*, and amended the *Crown Forest Sustainability Act*, *Forest Fires Prevention Act*, *Mining Act*, *Provincial Parks Act*, and the *Surveys Act and the Surveyors Act*.
- March 29/99      Government Responds to Lands for Life Round Table Recommendations. Increases protected areas in planning area to 12%, but makes major concessions to the forestry and mining industries.

## ENVIRONMENTAL SCIENCE & MONITORING

- Oct 6/95 Government-wide operating budget reductions released by the Office of the Premier. Effect on the Ministry of Environment and Energy:  
reduce environmental research grants \$1.0 M in 1995-96 and 1996-97; Reductions to Ministry of Natural Resources:  
science, management, Great Lakes, aboriginal and field programs \$10.2 M in each of 1995-96 and 1996-97.
- Dec 1/95 The Ministry of Environment and Energy announces some projected operating budget cutbacks for the 1996/97 fiscal year. Programs terminated:  
environmental research and public education \$2.3 M
- April 11/96 MNR Business Plan released. Cuts by 1997/98 include:  
Streamlined Data Acquisition and Management \$6.5 M;  
Reduced Resource Management Staffing \$18.1 M; and  
Streamlined Forest Management Activity \$45.9 M.
- Jun 96 The release of the International Joint Commission 8th Biennial Report.
- Sep 96 The Ministry of Environment and Energy and the Ministry of Health terminate the provision of drinking water testing services to municipalities.
- Mar 14/97 The Ministry of Environment and Energy acknowledges that a state of the environment report for the province was discontinued after partial completion in 1995. The partially completed report cites problems with high levels of ground level ozone, fecal coliform in water and unchecked land development as needing attention.
- Apr 22/97 The release of the Environmental Commissioner of Ontario Second Annual Report. See detailed listing in section *Environmental Bill of Rights & Public Participation in Decision-Making*.
- May 6/97 Finance Minister Ernie Eves delivers the Progressive Conservative government's second budget. In the budget, an R&D Challenge Fund is established. The Fund will provide tax credits and some direct support to industries conducting research and development primarily in advanced technology. Environmental Sciences is listed as one of four target areas after Natural Sciences and Engineering, Mathematics and Health Sciences. All disciplines, however, are eligible to apply to the Fund.
- May 14/97 Environment Minister Norm Sterling announces an environmental technology advisory project sponsored by the MoEE. Under the project, Ministry experts will be made available to provide written evaluations of new technologies. It is intended that this will give investors or buyers of the technology the confidence to proceed with its development or implementation. The project will initially focus on:  
evaluating methods for treating water and wastewater;  
air pollution control;  
site remediation and handling and treatment of hazardous waste;  
Ontario-based companies with technologies that are generally unproven, or unproven in Ontario, are eligible to apply for this service.
- May 97 Ministry of Environment and Energy announces a number of programs to speed the approval of, and promote new environmental technologies:  
the New Environmental Technologies Evaluation (NETE) program will review the potential for a particular technology's application in Ontario. The review, if positive, will speed up the placement of the technology in site-specific applications;  
Environmental technology development may also be supported through the R&D

Challenge fund which provides tax breaks for companies undertaking research development in several areas of science and engineering.

- Jul 29/97 Release of report by the Commission for Environmental Cooperation "Taking Stock/North American Pollutant Releases and Transfers - 1994." The province of Ontario is ranked third in North America behind Texas and Tennessee as a source of release and transfer of matched NPRI and TRI substances. Ontario is also the leading recipient of waste exports from the United States. Canadian facilities are found on average, to generate twice the amount of pollutants than their American counterparts.
- Jul 97 Environment Canada and U.S. EPA Release "State of the Great Lakes 1997." Report summarizes state of the Great Lakes Basin Ecosystem. Key conclusions:  
aquatic community health: mixed/improving;  
aquatic habitat and wetlands: poor;  
state of human health in the Great Lakes basin, as reflected by human exposure to persistent toxic substances: mixed/improving;  
and toxic contaminants: mixed/improving.
- Jul 97 The "1996 Report on Federal Provincial Agreements for the Eastern Canada Acid Rain Program" by Environment Canada concluded that "even with full implementation of the U.S. Acid Rain Program, 791,000 km<sup>2</sup> is still expected to receive acid deposition in excess of critical loads or threshold levels."
- Oct 97 The International Joint Commission publishes "The IJC and the 21st Century." The Commission states that transboundary air pollution problems will continue to worsen in the next century, threatening the health of wildlife and human populations in the area. Government down-sizing in Canada and the U.S. has decreased the level and extent of environmental monitoring along the border. Down-sizing has also undermined the capacity of governments to cooperate and coordinate to address environmental problems in the areas that are of common interest.
- Nov 97 Environment Canada produced an executive summary for "The Canada Study: Climate Impacts and Adaptation." Global Circulation Models simulations predict an average annual warming of 2-5 C by the end of the 21<sup>st</sup> century. Increased air pollution will negatively affect human health and concurrent climate change will lead to an increase in the frequency of extreme weather events and high pollution episodes.
- Mar 27/98 Board members appointed to province's Ontario Research and Development Challenge Fund. The Ontario government will contribute \$500 million over 10 years. Board members' backgrounds include: medicine, banking, electronics research, systems design engineering, pathology, agri-food biotechnology, biotechnology, materials research and environmental science. As well, six members of the board will come from the Ontario government departments of: Ontario Jobs and Investment Board; Energy Science and Technology; Finance; Economic Development, Trade and Tourism; Education and Training and Agriculture, Food and Rural Affairs.
- Apr 1/98 New elementary school curriculum adopted. Environmental content significantly reduced.
- Apr 8/98 Ontario government announces intention to review the possibility of privatizing ORTECH which has, in past, conducted research on environmental modelling, clean-up technology and waste materials.
- Apr 29/98 Environmental Commissioner for Ontario tables Third Annual Report: "Open Doors - Ontario's Environmental Bill of Rights." The Commissioner states "I regret to report that in the past year there has been little substantive improvement in the actions taken by provincial ministries toward protecting the environment." Comments on environmental monitoring issues include that crucial environmental data is not being collected in such areas as:  
*Ministry of the Environment:*

- loading of toxic substances into Ontario's lakes and rivers;
- presence of persistent toxic substances in sewage treatment plant effluent;
- total loadings of raw sewage spills into waterways;
- the condition of the 1 million plus septic systems in the province; and
- emissions of inhalable particulates.

*Ministry of Natural Resources:*

- no analysis of figures for harvested forest areas since 1991;
- does few population surveys of small game species or non-game wildlife;
- has no population estimates for most wildlife species that are vulnerable, threaten or endangered;
- is not analyzing data on big game mortality, and its not producing provincial or regional reports; and
- has weak information on rare species in Northern Ontario.

Apr 30/98 Three former Premiers of Ontario (Davis, Peterson and Rae) join a campaign to complete the funding for a Great Lakes environmental research centre at the University of Windsor. \$3.6 million is needed to complete the project when the provincial government withdrew a prior funding commitment in 1995.

May 8/98 In Ottawa, a forum called "Understanding and Coping with Weather Disasters" draws the conclusion that extreme weather events are becoming more frequent. Storm damage magnitude is increasing as well. Recent flooding and ice storms in eastern Ontario were cited as examples.

May 98 At the 41<sup>st</sup> conference of the International Association of Great Lakes Research, delegates were told that more and better early-warning environmental monitoring systems are urgently needed. Issues covered:

- Biological systems respond to the hazards associated with the complex mixtures of toxic pollutants that exist in the environment today. These systems need monitoring;
- How political restructuring and reduced funding could harm the ecological health of the Great Lakes shoreline in Ontario;
- The devastating impact of lampreys on the lake trout.

Jun 26/98 The Ontario MoE and Environment Canada co-fund the establishment of an air quality monitoring station in Windsor, Ontario, in large part, to monitor the effects of transboundary air pollution, particularly the emissions of the Detroit Edison coal-fired power generating station at Conners Creek in Detroit, Michigan. The station will continually monitor sulphur dioxides, nitrogen oxides, inhalable particulate matter and mercury.

Jul 27/98 Public release of 1996 National Pollutant Release Inventory Data. Data shows decline in releases of pollutants to the environment, but a dramatic increase in transfers of pollutants in waste. The Ontario Minister of the Environment asserts that there are "serious flaws, inconsistencies and misinterpretations" in the National Pollutant Release Inventory system.

Jul 98 International Joint Commission releases 9th Biennial Report on Great Lakes Water Quality. Report notes that despite significant progress, society has not gone far enough in its efforts to restore the Lakes. The report stresses the need to achieve 'virtual elimination' of persistent toxic substances, along with concerns over land use patterns, shoreline development, habitat modification, biological contamination and nutrient input.

Oct 6/98 North American Commission for Environmental Cooperation releases second "Taking Stock" report based on 1995 NPRI and TRI data. Ontario again ranked third largest source of releases and transfers of pollutants in Canada and U.S., after Texas and Louisiana.

Dec 7/98 Reported that government of Ontario considering amalgamation of scientific and technical staff from the Ministries of the Environment, Natural Resources, Northern Development and Mines and Agriculture into a central research agency.



April 1/99      Ontario adopts new Secondary School Curriculum.

## AIR QUALITY

Sep 8/95	Minister of Municipal Affairs disallows City of Toronto anti-idling by-law. The by-law was intended to curb smog by reducing emissions from vehicles at rest.
Oct 24/95	Ontario Minister of Environment and Energy endorses national clean air standards proposed by the Task Force on Cleaner Vehicles and Fuels. Proposal includes the promotion of: fuel efficient/alternate fuel vehicles; inspection and maintenance programs; low emission vehicles by 2001; and new fuel standards.
Nov 20/95	Minister of Environment and Energy endorses National Action Plan and Voluntary Challenge Registry (the federal government's approach to greenhouse gas reduction) at a meeting of Canada's environment and energy ministers.
Jun 3/96	Introduction of Bill 57, the <i>Environmental Approvals Improvement Act</i> .
Jun 96	The Ministry of Environment and Energy releases <i>Towards a Smog Plan for Ontario: A Discussion Paper</i> . The plan is a "call to action" outlining ways in which the Ontario government intends to tackle the goal of a 45% reduction in nitrogen oxides and volatile organic compounds.
Jul 31/96	Ontario government releases a discussion paper entitled <i>Responsive Environmental Protection</i> which makes over 80 recommended changes to environmental regulation. The recommendations include revising the Environmental Bill of Rights Classification of Proposals for Instruments Regulation to eliminate notice requirements for proposals with minimal environmental impact. Recommendations impacting air quality regulations include: a general air regulation which would consolidate 20 air quality regulations into four; the consolidation of five ozone-depleting substances regulation into one regulation; and harmonization of federal and provincial regulations on production of ozone-depleting substances. many proposals to regulate or amend regulations governing incinerators.
Sep 10/96	Energy and Environment Minister Norm Sterling calls on the federal government to release a report detailing threats to air quality in Ontario from U.S. sources.
Oct 1/96	Ministry of Environment and Energy announces that a pilot study testing vehicle emissions for air pollutants will conclude at the end of October. The study, which began in April 1995, gave drivers free inspections at the CleanAir Centre in Mississauga. Data from the study will be reviewed but the ministry has not committed itself to setting up a permanent program.
Dec 12/96	Ministry of Environment and Energy releases its report <i>Meeting the Challenge of Climate Change: 1996 Update on Initiatives in Ontario to Reduce Greenhouse Gas Emissions</i> . In it, initiatives undertaken by Ontario to reduce GHG emissions and to respond to the threat of climate change are outlined. New initiatives include: the development of options for a vehicle emissions inspection and maintenance program for Southern Ontario; development of guidelines for the control of methane gas from landfills; completion of an action plan to reduce greenhouse gas emissions from government buildings and vehicles by 40 per cent by the year 2000. Despite these initiatives, Ontario and Canada will not meet the year 2000 GHG stabilization target.
Jan 16/97	The first successful appeal under the Ontario Environmental Bill of Rights is announced. Five applications were received in June 1996 to appeal the air and sewage approvals issued to Petro-Canada by the MoEE. Sulphur dioxide emission levels were subsequently reduced by

20%.

- Feb 25/97 The Ministry of Environment and Energy announces that it has revised the Gasoline Volatility Regulation (Reg. 271/91) to reduce emissions by lowering summertime gasoline volatility requirements in Southern Ontario from 72 kiloPascals (kPa) to 62 kPa. This amendment was previously agreed to at the CCME meeting of October 23, 1995.
- Apr 21/97 Minister of Environment and Energy Norm Sterling travels to 11 US states to seek cooperation on the issues of smog and toxic cleanup. The Minister cites his intent as being: "to enlist state support so that we can keep the pressure on our two national governments for stricter standards for pollution control." In March, the Minister had written to US Environmental Protection Agency Administrator Carol Browner about smog issues.
- May 21/97 The Minister of Environment and Energy Norm Sterling announces a proposal to improve the standards governing airborne particulate matter which contributes to smog. The particles subject to review and regulation are those up to 10 microns in diameter which can cause lung damage when inhaled. The proposed interim ambient air criterion would be:  
no more than 50 micrograms of PM10 per cubic metre of air over a 24-hour period. The proposal was posted on the Environmental Bill of Rights Registry; citizens and organizations will have 30 days to comment.
- Jun 3/97 Minister of Environment and Energy announces *Partners in Air*, a "student-led air quality initiative." Under the program students will monitor air quality, use their findings in the classroom and exchange findings with other students in the program over the Internet.
- Jun 10/97 The Premier of Ontario acknowledges in the legislature that more efforts have to be taken to tackle the problems of smog in Ontario.
- Jul 11/97 At a meeting with the Governors of U.S. states bordering Great Lakes, Premiers of Ontario and Quebec solicit U.S. support to combat transboundary air pollution. The Premier of Ontario urges the U.S. Great Lakes states to reduce their air emissions to help Ontario in its efforts.
- Jul 23/97 Ontario Premier Mike Harris publicly criticizes Minister of Environment and Energy Norm Sterling, for failing to move quickly enough to develop a vehicle-emissions testing program for the province.
- Jul 97 The Ministry of Environment and Energy releases "Draft Guideline for Preparing a Source Inventory and Dispersion Modelling Report" a guide for demonstrating compliance with section 5 of Regulations 346 General - Air Pollution.
- Jul 97 The "1996 Report on Federal Provincial Agreements for the Eastern Canada Acid Rain Program" by Environment Canada concluded that "even with full implementation of the U.S. Acid Rain Program, 791,000 km<sup>2</sup> is still expected to receive acid deposition in excess of critical loads or threshold levels. "
- Aug 14/97 Ontario Hydro reveals that the coming increase in fossil fuel use (because of NAOP nuclear shut-down) will greatly increase emissions of carbon dioxide and acid gas emissions (nitrogen oxides and sulphur dioxide).
- Aug 22/97 The Minister of Environment and Energy announces a vehicle emissions testing program called "Drive Clean" (see also retraction on Apr 17/98). Under the program, heavy duty trucks and buses would be the first to have their emissions tested. The next phase would see cars and light trucks in the Greater Toronto Area and in Hamilton have their emissions tested. Within a period of five years, the program would extend to various centres from Windsor to Peterborough. Under the program:  
vehicles would be tested every time they change ownership or at every other years'

licensing renewal for cars and light trucks that are 4-19 years old;  
if the vehicle's exhaust does not conform to the model year standards, the vehicle  
could be subject to repairs up to \$200.

The program is aimed at reducing volatile organic compounds, nitrogen oxides and particulates.

Aug 97 The International Cooperative Programme on Assessment and Monitoring of Acidification of Lakes and Rivers released "The Nine Year Report: Acidification of Surface Water in Europe and North America - Long term Developments (1980s and 1990s)." The report concluded that Quebec and Midwest North America had shown either no signs of water quality recovery or had experienced an increase in acidification despite declining sulphur concentrations.

Aug 97 The Office of the Ontario Fire Marshall releases "Protecting the Public and Environment by Improving Fire Safety at Ontario's Recycling and Waste Handling Facilities." The report found that there was strong potential for fires at sites where waste, recyclable materials and hazardous materials are stored. These combustibles pose unique fire, explosion and environmental risks making more stringent government regulatory controls necessary.

Sep 97 The Commission for Environmental Cooperation prepared "Continental Pollutant Pathways: An Agenda for Cooperation to Address Long-Range Transport of Air Pollution in North America." The report makes it clear that long-range persistent air pollutants pose significant threats to human health and the environment. Pollution prevention, achieved through trilateral cooperation between Canada, the U.S., and Mexico, is the best strategy for significantly reducing emissions from present levels.

Oct 97 The Acidifying Emissions Task Group reported in "Towards a National Acid Rain Strategy" that by 2010, 95,000 lakes in southeastern Canada will remain damaged by acid rain. The health of forests in the area will be compromised and the level of biodiversity in the acidified lakes will be reduced. In addition, particle pollution was found to have detrimental effects on human health by increasing the incidence of respiratory problems and diseases. The Task Force concludes that a 75% reduction in permitted emissions from sources in Eastern Canada and the United States is required to halt the environmental and health damage being caused by acid rain.

Oct 97 The Commission for Environmental Co-operation prepared "Long-Range Transport of Ground level Ozone and its Precursors: Assessment of Methods and Quantify Transboundary Transport Within the Northeastern United States and Eastern Canada." The report expresses concern that any further closing of monitoring stations will jeopardize the ability to track emission reductions and their affects on ozone levels. Ozone and its precursors enter Canada from the U.S. mainly from the Ohio Valley into southern Ontario and up the northeast corridor of the U.S. into the Atlantic Provinces.

Nov 18/97 PM10 standard is implemented on an interim basis. It is classified as interim as a 'national' standard is to be developed through the CCME.

Nov 27/97 Release of "Better, Stronger Clearer: Environmental Regulations for Ontario". Specific elements dealing with air issues intend to:  
consolidate the Gasoline Volatility Regulation, Motor Vehicles Regulation and Recovery of Gasoline Vapour in Bulk Transfers Regulation into one regulation.  
consolidate the four Countdown Acid Rain regulations into one and reduce reporting requirements from quarterly to annual reports. The regulations apply to the four largest sources of acidifying emissions in Ontario: Ontario Hydro, Inco, Falconbridge and Algoma Steel.  
consolidate Ambient Air Quality and General - Air Pollution Regulations;  
revoke obsolete Air Contaminants from Ferris Foundries Regulation;  
retain Hot Mix Asphalt Facilities regulation and supplement with an industry code of practice. The Ministry had proposed to replace this regulation with a SAR;  
retain the Lambton Industry Meteorological Alert Regulation, and supplement with

a contractual agreement with the Lambton Industrial Society. The Ministry had proposed to repeal this regulation.  
retain the Sulphur Content of Fuels Regulation and the Boilers Regulation. The Ministry had proposed to repeal these regulations and replace them with a SAR.

- Nov 97 Environment Canada produced an executive summary for "The Canada Study: Climate Impacts and Adaptation." Global Circulation Models simulations predict an average annual warming of 2-5 C by the end of the 21st century. Increased air pollution will negatively affect human health and concurrent climate change will lead to an increase in the frequency of extreme weather events and high pollution episodes.
- Dec 6/97 The MoE wins the right to prosecute Inco Limited over a massive sulphur dioxide leak to the atmosphere in Sudbury in November 1995. The charges were temporarily in doubt after a hearing on April 4/97 in which the MoE did not appear as it had requested the relocation of the trial to Provincial Court.
- Dec 10/97 Ontario Hydro becomes the first company in Canada to purchase credits for carbon dioxide emission reductions made outside of the country. The utility purchased 10,000 tons of carbon dioxide reduction credits from the Southern California Edison electric utility. The purchase was viewed as lending support to the concept of an international emissions trading program, one of the options under discussion at the Kyoto Conference on Climate Change.
- Dec 18/97 Ministry of the Environment releases the study "Air Quality in Ontario 1995." The report indicates that:  
between 1970 and 1995 carbon monoxide decreased by 87%;  
between 1970 and 1995 sulphur dioxide decreased by 86%  
between 1970 and 1995 total suspended particulates decreased by 54%; and  
between 1974 and 1995 nitrogen oxides were reduced by 46% and nitrogen dioxide by 22%.
- Dec 30/97 EBR posting proposing to consolidate four Countdown Acid Rain regulations into one and reduce reporting requirements from quarterly to annual reports. The regulations apply to the four largest sources of Acidifying emissions in Ontario, Ontario Hydro, Inco, Falconbridge and Algoma Steel.
- Dec 30/97 EBR posting of decision not to proceed with proposed SAR for Hot Mix Asphalt Facilities and to retain existing regulation 349 and supplement with an industry code of practice.
- Jan 20/98 Ministry of Environment launches Ontario's Smog Plan. The goal of the plan is to reduce smog causing emissions by 45% by 2015. The plan attempts to rely upon:  
a vehicle inspection and maintenance program called "Drive Clean" (which was announced but never implemented);  
public involvement in smog reduction efforts;  
efforts in the U.S. to reduce transboundary pollution; and  
developing strategies for particulate emission reduction.  
Environmental and public health organizations criticize the plan as being grossly inadequate with reference to its slow time line, reliance on voluntary action by industry, lack of source/sector targets, and lack of monitoring and reporting mechanisms.
- Jan 98 The Institute for Environmental Studies (University of Toronto) and Pollution Probe release "Emissions for Coal-Fired Electric Stations: Environmental Health Effects and Reduction Options." The report concludes:  
emissions of several key pollutants from coal-fired electric stations are at levels which represent a threat to human health and the environment. This threat remains despite emission reductions which have already been achieved.  
over 90% of each of the five pollutants investigated are generated in the region defined as the Ohio Valley/Great Lakes States. Emissions from this region have a

direct impact on air and water quality in Ontario. Government action in Canada and the U.S. is required to achieve the coal station emission reductions necessary to obtain acceptable air quality standards to protect human and ecosystem health.

- Jan 98 The Northeast States for Coordinated Air Use Management (NESCAUM) prepared "Air Pollution Impacts of Increased Deregulation in the Electric Power Industry: An Initial Analysis." NESCAUM is concerned that deregulation will result in "significantly increased power production at low-cost, highly polluting coal-fired plants." Deregulation will also cause a boost in smog levels unless NO<sub>x</sub> and CO<sub>2</sub> emission caps are established.
- Feb 27/98 Ontario Hydro decides against installing the modern air pollution control equipment at its Lennox Power Generating Station near Kingston. The equipment would reduce levels of nitrous oxides. Recently, Ontario Hydro has elected to install emission control devices at its Lambton and Nanticoke stations.
- Mar 3/98 It is revealed that gasoline sulphur levels are higher in Ontario than anywhere else in North America and even other parts of the world. As a consequence, automakers say they will not agree to the provincial plan for smog reduction until gasoline refining improves. Average sulphur levels for various jurisdictions were:
- |                         |                        |
|-------------------------|------------------------|
| Canada (1995) 343 ppm   | Ontario (1996) 533 ppm |
| Atlantic (1995) 276 ppm | Quebec (1995) 364 ppm  |
| Prairies (1995) 228 ppm | B.C. (1995) 273 ppm    |
- The US average is 260 ppm while the average in California is 30 ppm. The MoE estimates that 1800 premature deaths are caused by air pollution each year. Sulphur dioxide is a significant lung irritant.
- Mar 13/98 Environment Canada and Ontario Ministry of Environment fail to file full submissions with the U.S. Environmental Protection Agency before the 120 day consultation period for a proposed tougher limit on smog expired. Environment Canada filed a letter while, the MoE suggested that it might comment at a later date. Ontario is one of the regions of Canada most impacted by transboundary sources of smog.
- Mar 19/98 Minister of Environment places a hold on the approval of any new small space heaters that burn waste oil pending "public input on the environmental impact of the heaters." The MoE estimates that about 10 million litres of oil per year are disposed of this way each year in the province.
- Mar 31/98 Proposals for revisions of standards for 10 hazardous air pollutants posted on EBR registry. Some of the proposed air standards have been weakened significantly from the Ministry's January 1997 proposals. See "Standards Setting and Regulatory Processes" for more detail.
- Apr 17/98 Premier indicates that a possible delay of up to one year to initiate "Drive Clean" the province's vehicle emission testing program is unacceptable. The MoE had indicated that it would be operating by Spring 1999.
- heavy trucks and buses were to be tested this summer across southern Ontario followed by cars and light trucks in Hamilton and the Greater Toronto Area in autumn;
- by the year 2000 vehicles in 13 cities were to be subject to mandatory testing.
- April 23/98 Speech from the Throne makes vague references environmental protection : "Understanding the role that a clean environment plays in attracting jobs and investment, your government is determined to improve our air and water quality through initiatives such as Drive Clean." The Drive Clean program has still not yet been implemented.
- Apr 29/98 The International Joint Commission calls upon the Canadian and U.S. governments to make a major reduction in the sulphur content of gasoline. Ontario gasoline has the highest sulphur content (550 ppm) in the western world. The IJC calls for the current California standard of an annual average of 30 ppm and a maximum of 80 ppm by the year 2001, and not later than

2005.

- Apr 29/98 The Environmental Commissioner of Ontario releases her annual audit of Ontario government environmental policies and programs. Air quality programs were identified as being particularly deficient: "even if all of the ministry's proposed pollution-control activities are carried out, 20 years from now Ontario's air quality will be worse than it is today. Notable points include:
- even where the government has adequate regulation, they tend to go under-enforced as a result of substantial budget cuts;
  - Ontario's Smog Plan has almost no details as to how it will achieve one-half of the required reduction in smog agents;
  - the MoE is relying heavily on voluntary actions by industry to meet air quality targets;
  - new technology exists to cut air emissions but the government has no plan to phase out the older equipment in use under certificates issued in past;
  - the vacating from the municipal transit sphere by the provincial government;
  - Ontario Hydro's new heavier reliance on coal.
- May 8/98 Ontario Hydro announces that it has sold emission credits worth \$500,000 to a Connecticut company (Hartford Co-generation Ltd) in order for that company to achieve its state-directed emission targets. 500 tonnes of nitrogen oxides were sold under the Pilot Emission Reduction Trading Project. The credits were reviewed in Canada by the PERT Project. and approved in the US by the Connecticut Department of Environmental Protection. Ontario Hydro created the credits by reducing nitrogen oxide emissions through the use of new burners and other modification to its Nanticoke and Lambton generating stations in 1995 and 1996.
- May 12/98 The Ontario Medical Association (OMA) states publicly that it is dangerous to breath the air during smog episodes when air pollution exceeds provincial guidelines. In summer, emissions from automobiles, equipment and plants combine with sunlight to produce smog conditions which reduce lung function, worsen asthma symptoms and even cause premature death. The OMA called for:
- equivalent of California standards for sulphur in gas (no more than 30 ppm). Ontario is currently at about 550 ppm;
  - reduced acid emissions from coal-fired electricity stations; and
  - a complaint under the US Clean Air Act to reduce emissions emanating from US sources.
- May 13/98 Toronto City Council unanimously endorses a plan to reduce smog. The plan could involve the following measures on smog prone days:
- suspension of road paving and pesticide spraying activities;
  - shutting off lawnmowers and other gasoline-powered equipment;
  - asking Ontario Hydro to reduce its atmospheric emissions; and
  - reducing the amount of sewage sludge incineration at the city's main waste treatment plant.
- May 15/98 Province issues first smog alert of the season. The episode is the earliest smog incident since 1988. A rating of 50 is considered poor, the day's rating is 59 (scale is 0 to 100 with 100 the worst). The year's above average temperature trend suggests that more smog days may lay ahead if the trend continues.
- July 7/98 In 1995, the Canadian Council of Ministers of the Environment (CCME) concluded that a sulphur level of 200 parts per million (ppm) should be a target for gasoline. In July of 1998, a survey of gas stations across the country determined that Ontario was the province with the highest level of sulphur content in gasoline and that Imperial Oil was the gasoline company with the highest levels of sulphur, both substantially higher than 200 ppm. The major concern that arises from high levels of sulphur is their contribution to smog--a problem that the Ontario Medial Association (OMA) claims to be responsible for approximately 1,800 premature deaths in the province. The OMA would like to see the gasoline sulphur content

at 30 ppm.

- July 7/98 Minister of the Environment announces the Ontario Smog Patrol program. First, drivers of vehicles that visibly emit smoke will be given a warning that they need to have their vehicle emissions tested and get the vehicles repaired. Later, offending drivers will be fined approximately \$300 for a light-duty vehicle and \$500 for a heavy-duty vehicle. Critics argue that this program is masking the delay of the Drive Clean program.
- July 10/98 Ontario's Environment Minister, indicates that Ontario's Drive Clean program, which will apply to Ontario vehicles as well as visiting U.S. vehicles, and that Ontario will refuse to import electricity from companies that do not meet the province's air quality standards.
- July 13/98 Environmental Practices Guide adopted to supplement Regulation 349 (Hot Mix Asphalt Facilities). Guide is intended to reduce air pollution associated with hot mix asphalt facilities.
- July 15/98 Twenty-three Ontario truckers are issued warnings as part of the Ontario Smog Patrol. The primary objective of the program is to 'clean up' approximately 2.5 million vehicles throughout the province that are over 10 years old and/or have inadequate pollution control equipment. Fines of \$300 for personal vehicles and \$500 for commercial vehicles are to be issued in August when equipment to test emissions levels is acquired.
- July 16/98 Major increases in emissions of sulphur dioxide reported from the U.S. electric utility sector for 1996.
- July 17/98 Ontario Premier is criticized for not attending the Annual State Governors and Canadian Premiers meeting on the Great Lakes. The meeting was viewed as an opportunity for Ontario to state position regarding the control of smog entering Ontario from the United States.
- July 25/98 Council of Great Lakes Governors rejects requests from Canada's Ambassador to the United States, and the Premier of Quebec to support tougher air pollution regulations in the United States.
- Aug 21/98 MoE announces that 7,000 automotive repair shops have been contacted about operating as an emissions testing centre under the province's Drive Clean Program. The program's implementation has been significantly delayed but is slated to commence in April 1999. Details can be found in the August 1997 brief entitled "Ontario's Drive Clean Program", released by the Ministry of the Environment.
- Aug 22/98 Environment Minister, Norm Sterling, announces that Ontario's Drive Clean program will no longer be managed by a private sector company (SHL Systemhouse Inc.). Critics argue that this announcement illustrates that the Minister has not taken any substantial action to ensure the implementation of this program or improve the province's air quality.
- Sep 8/98 MoE signs letter of understanding with 15 projects under the Pilot Emission Reduction Trading (PERT) Program.
- Sep 9/98 The MoE announces that Ontario Hydro has been continuing to meet its emission caps for acid gases (215 kilotonnes) under Regulation 355/90. Concern has been expressed that as a result of the Nuclear Asset Optimization Plan, Hydro's emissions would exceed its cap (See Feb 10/99).
- Sep 28/98 US EPA announces new plan requiring major reductions in Nitrogen Oxide emissions in 22 eastern states.
- Sept 30/98 First air AERs (Approval Exemption Regulation) come into effect. See entry under approvals for details.



- Oct 5/98 Ministry of the Environment posts proposal to transfer responsibility for the administration and operation of the Lambton Industry Meteorological Alert program to the Lambton Industrial Society. LIS will monitor ambient SO<sub>2</sub> concentrations and weather conditions; notify the Ministry spills action centre when concentrations are such that a LIMA needs to be initiated or terminated; and will notify the affected industries. The air monitoring station at Port Huron Ontario will be removed as part of the proposal.
- Oct 7/98 David Suzuki Foundation releases a report concluding that air pollution causes the premature deaths of 16,000 Canadians per year.
- Oct 18/98 Bill 35, *The Energy Competition Act, 1998*, receives Royal Assent. Bill is intended to introduce competition into the electricity market in Ontario. The Bill divides Ontario Hydro into three entities:  
     Ontario Electricity Generation Corporation with generating assets;  
     Ontario Services Corporation to operate transmission and distribution infrastructure;  
     and  
     Ontario Hydro Financial Corporation to hold Ontario Hydro's debt.
- Service Corporation and Generation Corporation are to be incorporated under the *Business Corporations Act* held in right of her majesty in Right of Ontario. Among other things, they will escape application of *Freedom of Information and Protection of Privacy Act* and other accountability mechanisms that apply to public entities.
- Financial corporation continued as corporation without share capital made up of its board of directors.
- Bill also creates an Independent Market Operator (IMO) another corporation without share capital made up of its board of directors, to operate the market.
- The Bill creates an Electrical Safety Authority, to assume electrical safety regulation functions of Ontario Hydro. It is a delegated regulatory organization similar to the Technical Standards and Safety Authority.
- The Ontario Energy Board is provided with a regulatory function through requirements for licensing as a condition of market access.
- The Act makes provision for the requirement of electricity suppliers to be in compliance with environmental performance standards as a condition of market access, but makes no provision regarding the nature of those standards.
- Oct 19/98 Energy and Environment Ministers announce *Canada-Wide Acid Rain Strategy for Post-2000*. The Strategy contains no specific reduction goals or timetables. In October 1997, the Acidifying Emissions Task Group of the National Air Issues Coordinating Committee concluded that a 75% reduction in current regulatory limits for sulphur dioxide emissions was necessary to halt damage to lakes and human health.
- Oct 19/98 Ontario Ministers of the Environment, Transportation and Economic Development write to the federal environment Minister opposing lowering permitted sulphur content of fuel to 30 ppm by 2005.
- Oct 20/98 Ministry of the Environment expands regulatory exemptions from approval processes to include air conditioning units of any size; and equipment for the transfer of outdoor air into a building.
- Nov 3/98 Provincial Auditor tables 1998 Annual Report:  
     *Ministry of the Environment*  
 Report is critical of Ministry of the Environment's failure to act on the Auditor's 1996 recommendations regarding the revision of the province's standards for hazardous air

pollutants.

- Nov 20/98      Proposal to exempt certain modifications to boilers from requirements of Regulation 338 (Boilers). Minister states this is to facilitate combustion efficiency improvements.
- Dec 2/98      Ministry of the Environment proposes following regulatory exemptions from air Approval requirements:
- contaminants from the grounds of a race track, if the emission of contaminants is attributable to the racing of horses, dogs, or motorized or non-motorized vehicles;
  - emissions of contaminants from the grounds or premises upon or in which a special amusement, entertainment, charitable, political, education, artistic, musical or sporting event is held, if the emission of contaminants is attributable to the special event;
  - natural gas or propane gas dispensing units;
  - emission of contaminants from a shooting range, if the contaminants are attributable to the firing of a gun or guns;
  - any equipment, apparatus, mechanism or thing that is used for the ventilation of emissions resulting from vehicles, trains, forklifts, etc used in warehouses and enclosed storage areas; and
  - any equipment, apparatus, mechanism or thing that is used solely to mitigate the effects of an emergency declared to exist under the *Emergency Plans Act*.
- Dec 23/98      Ministry of the Environment adopts revised air standards for 9 substances (1,4 Dichlorobenzene, Acetaldehyde, Carbon Tetrachloride, Ethylene Dichloride, Formaldehyde, Methylene Chloride, Tetrachloroethylene, Styrene, Trichloroethylene). In some cases, new standards are unchanged from existing standards (1,4, Dichlorobenzene, formaldehyde, Tetrachloroethylene (Pol), Styrene, Methylene Chloride).
- Jan 22/99      Ministry of the Environment invites input on revision of air standards for 18 substances (Acrylonitrile, Ammonia, Chlorine, Chloroform, Ethylbenzene, Ethyl Ether, Hydrogen Chloride, Isopropylbenzene, methanol, Methyl Ethyl Ketone, Methyl Isobutyl Ketone, Mineral Spirits, n-Heptane, n-Hexane, Propylene Oxide, Toluene, Vinylidene Chloride, and Xylenes).
- Feb 10/99      Premier and Minister of the Environment announce intention to join US EPA court action to force 22 states to comply with nitrogen oxide standards announced in September 1998.
- Feb 17/99      Reported Ontario Hydro approaching Countdown Acid Rain program regulatory caps for emissions of SO<sub>x</sub> and NO<sub>x</sub> as a result of implementation of August 1997 Nuclear Asset Optimization Plan. SO<sub>x</sub> emissions have risen 15% and NO<sub>x</sub> emissions by 30% between 1997 and 1998.
- Apr 1/99      The first day of implementation of Ontario's Drive vehicle inspection and maintenance program.
- Apr 22/99      Ministry of Environment posting (EBR # RA9E0003) indicates its intent to adjust the emission standards under its Drive Clean program in a manner that would harmonize them with those of the US EPA. The standard revision will be made by amendment 86/99 to Ontario Regulation 361/98 under the Environmental Protection Act.
- May 18/99      Environmental Commissioner of Ontario recommends an independent review of the province's air quality protections. The recommendation was made in response to an application for investigation by the Sierra Legal Defense Fund.

## WASTE MANAGEMENT

Jul 5/95	Ontario government announces the dismantling of the Interim Waste Authority.
Jul 31/95	Ontario government formally posts its proposal to repeal the ban on new municipal solid waste incinerators on the <i>Environmental Bill of Rights</i> environmental registry. Proposal includes new emission standards for incinerators. Ontario Government proposes exemption order under the <i>Environmental Assessment Act</i> so that municipalities will not be required to consider incineration as an alternative in waste management planning.
Aug 19/95	Ontario Northland Transportation Commission given approval to actively plan for use of Kirkland Lake abandoned mine for waste disposal.
Aug 31/95	The wrap-up of the Ontario Waste Management Corporation.
Oct 6/95	Government-wide operating budget reductions released by the Office of the Premier. Cutbacks affecting waste management include: redesign municipal recycling support program (\$3.22 M); elimination of OWMC and three advisory committees: ACES, EAAC, MISA total \$0.8 M.
Oct 20/95	Minister of Environment and Energy announces that the Ontario government will review the Environmental Assessment process for waste disposal sites. A possible outcome of the review could be the exemption of new landfills from the EA process.
Dec 1/95	The Ministry of Environment and Energy announces some projected operating budget cutbacks for the 1996/97 fiscal year. Terminated programs include: recycling, reduction, reuse support (\$5.6 M); household hazardous waste funding (\$0.2 M); home green-ups (\$8.4 M);
Dec 13/95	Ministry of Environment and Energy lifts ban on new municipal solid waste (MSW) incinerators.
Dec 18/95	Minister of Environment and Energy announces a new policy governing the liability of lenders when they assume a site with environmental damage. An exemption from environmental liability has been granted to lenders for the clean-up of sites of which they take possession.
Jan 2/96	A new guideline for emissions from new municipal solid waste incinerators issued by the Minister of Environment and Energy. Limits are performance-based and require continuous stack monitoring.
Jan 11/96	The MoEE announces new guidelines on the EBR Registry: "Guidelines for the Utilization of Biosolids and Other Wastes on Agricultural Land." These will amalgamate former guidelines for sewage sludge with draft interim guidelines on the agricultural application of waste other than sewage sludge.
Jun 3/96	The Minister of Environment and Energy tables the <i>Environmental Approvals Improvement Act</i> in the legislature. The Act is intended to alter the environmental approvals process and a variety of acts and bodies: the repeal of the Ontario Waste Management Corporation Act and the shut-down of the Environmental Compensation Corporation; the repeal of the Ontario Waste Management Corporation Act; the creation of authority for the MoEE to recover administrative cost from activities such as waste generator registration and manifests, water well records and permits to take water.

(for a fuller description of Bill 57 see Jun 3/96 listing under *Environmental Standards & Regulatory Processes*).

- Jun 17/96 Ministry of Environment and Energy announces new landfill standards to guide ministry approvals. The proposed standards emphasize community input and include requirements for siting, design, operation, monitoring, protecting ground and surface waters, controlling landfill gas, contingency planning and financial assurance. Changes to the environmental assessment process however could mean that community input provisions are ineffective.
- Jul 19/96 Taro Aggregates Ltd. receives approval under the *Environmental Assessment Act* to establish a landfill site in Stoney Creek.
- Jul 96 Ministry of Environment and Energy releases a revised soil cleanup guideline (*Guideline for Use at Contaminated Sites in Ontario*).
- Jul 31/96 Ontario government releases a discussion paper entitled *Responsive Environmental Protection* which makes over 80 recommended changes to environmental regulation. The recommendations include revising the Environmental Bill of Rights Classification of Proposals for Instruments Regulation to eliminate notice requirements for proposals with minimal environmental impact. Recommendations impacting waste management regulation include:  
designating standards and approval requirements according to four classes of facility, based on potential environmental risk;  
establishing comprehensive and specific standards for the design and operation of landfills;  
revising the definition of "recyclable material" and harmonizing the federal and provincial definitions of "hazardous waste";  
consolidating all waste management requirements into a single regulation; and  
setting of approval requirements for mobile PCB destruction facilities.
- Oct 31/96 Ministry of Environment and Energy confirms that the Ontario Cabinet will not intervene in last year's decision to reject Redland Quarries landfill site proposal. The proposal called for quarry lands in the town of Flamborough to be converted into a 26-million-tonne industrial waste landfill site. Residents had been fighting the proposal for 10 years.
- May 21/97 Ministry of the Environment and Energy issues an exemption order which allows municipalities to not consider municipal waste incinerators as an alternative in current municipal waste management plans for the purposes of the *Environmental Assessment Act*.
- Jun 10/97 Ontario Court decision that only "unusable leftovers" from processing or recycling operations should be considered 'waste.' The Court also concluded that 'chop line residue' (PVC wire coating) did not meet this definition and was therefore exempt from the waste management requirements of the *Environmental Protection Act*. The Ministry of the Environment had argued before the court that the material was a hazardous waste and should be regulated as such. The Court decision greatly expands the scope of the exemptions for 'recycling' from Ontario waste management regulations.
- Jun 12/97 Ministry of Transportation posts decision on EBR registry stating that it will no longer test, prior to approval, materials used to minimize dust during road construction and on unpaved rural roads. Instead, the Ministry will depend on the list of dust suppressants issued by the Ministry of Environment. However, the MoE's list comes with the disclaimer: "The MoE does not endorse any of the following products nor does it guarantee that the products are environmentally benign."
- Jul 6/97 Ontario Environment Minister Norm Sterling announces that the MoEE will spend \$18 million to clean up the hazardous materials, including low level radioactive wastes, left behind at the Deloro Mine north of Belleville. Mine wastes have been leaching into the Moira River that flows south into the Bay of Quinte at Lake Ontario.

- Jul 11/97 A fire begins at a plastics recycling operation in Hamilton known as Plastimet. The fire burns for nearly 72 hours before it is brought under control. The MoEE is criticized for the length of time it took (12 hours) to respond with on-site testing and monitoring. Details of the incident:
- 650 persons were evacuated due to smoke hazard (benzene);
  - water entering Hamilton Harbour from the fire site has 2000 times the normal level for zinc;
  - chromium, lead and cadmium are also of concern;
  - during and after the blaze, concerns are raised about levels dioxins and furans in the immediate vicinity;
  - for the most part, the province has resisted getting involved, preferring instead to regard the incident as a municipal matter.
- Jul 29/97 Release of report by the Commission for Environmental Cooperation "Taking Stock/North American Pollutant Releases and Transfers - 1994." The province of Ontario is ranked third in North America behind Texas and Tennessee as a source of release and transfer of matched NPRI and TRI substances. Ontario is also the leading recipient of waste exports from the United States. Canadian facilities are found on average, to generate twice the amount of pollutants than their American counterparts.
- Aug 20/97 The Office of the Fire Marshall submits its report to the Minister of the Solicitor General and Correctional Services on fire safety at recycling and waste handling facilities. The report is a follow-up to the July 1997 Plastimet fire. Some of the twelve recommendations in the report include:
- new recycling facilities should be monitored much more closely for compliance with local zoning by-laws and fire safety requirements;
  - facilities without a Regulation 347 Certificate of Approval should require similar identification and control measures;
  - examining the establishment of a provincial contingency fund;
  - update the fire code provisions for storage and handling of flammable liquids;
  - increase fines and allow municipalities to retain fine revenue;
  - develop a coordinated training plan for and with fire experts and recycling facility operators;
  - the recycling industry should set up an industry-wide council and code of conduct;
  - more resources are needed for local fire departments to handle such situations.
- Aug 26/97 Aquatech Blue Ltd., an oil recycling firm is charged with dumping waste oil containing toxic materials in Toronto Harbour. Previously it had been convicted of discharging metal-based releases into sanitary sewers. The Ontario government seeks extradition of three US citizens charged with the Lake Ontario dumping.
- Aug 29/97 A spill at a manufacturing unit in Guelph dumps 3000 litres of an industrial lubricant into the water supply system prompting health officials to warn northern half of the city i.e. about 50,000 people, not to use the water.
- Sep 97 Ministry of the Environment grants approval for 1.9 million cubic metre expansion of the Laidlaw hazardous waste landfill at Sarnia, Ontario. This is expected to provide landfill capacity for approximately 20 years. Although the undertaking was designated under the *Environmental Assessment Act*, a public hearing was not required by the Minister before the Environmental Assessment Board prior to the approval of the facility.
- Oct 6/97 Amendments to Fire Code announced. The province will adopt an Ontario version of Part 4 of the National Fire Code which attempts to ensure that flammable and combustible liquids are properly stored. No changes are announced which relate to the recommendations of the Ontario Fire Marshal (See Aug 20/97) in the wake of the Plastimet Fire.
- Oct 21/97 Ministry of the Environment posts proposed amendments to Regulation 347 on EBR

environmental registry. Proposed amendments include:

- redefine 'waste' to include residues from recycling operations;
- exempt 'chop line' residue (wire recycling residue) recycling from the requirements of the regulation;
- exempt photochemical recycling activities from the requirements of the regulation;
- exempt the use of spent 'pickle' liquor in sewage treatment plants from the requirements of the regulation; and
- exempt wood waste recycling sites from the requirements of the regulation.

- Oct 29/97      The *Fire Protection and Prevention Act* is proclaimed into law. The Act moves in the opposite direction of the recommendations made by the Ontario Fire Marshal in the wake of the Plastimet Fire in Hamilton in July 1997. The Act sets out to reinforce the voluntary fire-fighting system and private sector participation in prevention and education as well as more local autonomy. The August 20th Fire Marshal's report called for more provincial supervision, more resources for training and information exchange among fire departments and the establishment of a provincial contingency fund. Under the new act, municipalities and residents will be left to "determine the level of fire service they need."
- Oct 97          In the "1997 Annual Report of the Provincial Auditor of Ontario to the Legislative Assembly" it was revealed that the MoEE has not assessed the waste reduction programs it established in 1989, since 1994. The province currently diverts 32% of its waste, leaving only two years for it to reach its goal of 50% diversion by 2000. Assessment is necessary to adjust strategies or develop appropriate action plans so that goals can be achieved on a timely basis.
- Nov 18/97      MoE issues a Certificate of Approval to burn waste derived fuel at a maximum rate of 23,000 litres per year with a maximum storage capacity of 13,650 litres. The proponent is Frank Kelly & Sons Garage Ltd. and the site is the Town of Mitchell.
- Nov 25/97      The Provincial Auditor Erik Peters submits his annual report to the Ontario Legislature. Several environmental programs are targeted:
  - the measuring of, and reporting on the Province's waste reduction targets needs to be strengthened;
  - the province needs to work with municipalities on reducing the cost of collecting and processing recycled materials as well as implementing a full costing approach for waste disposal;
  - the provincial 50% reduction goal should be incorporated into the Waste Reduction Branch business plan;
  - the Ministry should expedite the resolution of issues surrounding refillable softdrink containers and address municipal concerns.
  - the environmental assessment process demands better monitoring of the process and compliance with EA terms and conditions;
  - water or sewage expansion projects should not be funded by the province unless municipalities have implemented and maximized water conservation; documentation filing and grant overpayment need to be better monitored as well;
- Nov 27/97      Ministry releases document "Better, Stronger, Clearer: Environmental Regulations for Ontario." Specific proposals related to waste management include:
  - revoke a regulation permitting eight waste disposal sites to receive Liquid Industrial Wastes. None of the sites currently receive such wastes;
  - amend the regulation governing deep well disposal to bring oil field brine disposal under the *Environmental Protection Act*, eliminate the oil field brine exemption, and consolidate the requirements into a revised general waste regulation;
  - amend definition for agricultural wastes, waste-derived fuel, and clarify the management requirements for biomedical waste and asbestos waste;
  - simplify approval and administrative requirements for "manufacturer controlled networks," to promote "product stewardship";
  - introduce four classes of approvals: Class I: mandatory hearings under EPA and as required under EAA; Class II: Discretionary hearing under EPA; Class III:

Standardized Approvals; and Class IV: exemptions from waste approval requirements.

numerous changes related to hazardous waste management including:

- reducing reporting requirements for small movements of hazardous wastes;
- amending the definition of a "site" (presumably to include all facilities within a given municipality as proposed in July 1996);
- remove generator registration requirements for registerable solid waste;
- exempt battery and precious metal bearing waste recycling activities from regulatory requirements;
- modify (weaken) the definition of PCB wastes and establish standardized approvals for PCB storage and transfer sites;

numerous changes related to municipal solid waste management:

- amend Recycling and Composting Municipal Waste Regulations to allow two stream collection systems, amend the 50 metre buffer requirement, and allow food composting at leaf and yard composting facilities;
- revoke regulations related to the types of disposable containers than may be used to package milk;
- retain refillable and non-refillable soft drink container regulations;
- amendment of the Waste Audits and Waste Reduction Workplan Regulations and Packaging Audits and Packaging Reduction Workplan Regulations to "streamline" the regulations, "increase their flexibility" and "reduce the paper burden on the regulated community;"

Proposed changes related to spills include:

- proposal to eliminate reporting requirements for notification of "insignificant" spills under the *Environmental Protection Act*.

Dec 2/97      Minister of the Environment and Energy approves 3 environmental assessments for the following three waste related undertakings:  
                 Green Lane Landfill in the Township of Southwold.  
                 Adams Mine Landfill in the township of Boston.  
                 Ridge Landfill site in the Township of Harwich.

The scope and timeline for the Environmental Assessment Board hearing the Adams Mine waste disposal proposal will be limited to two issues about the site: its hydrogeology and surface water characteristics and leakage containment.

Dec 2/97      A fire in Brantford at tire yard consumes 7000 tires. MoE orders to have the tire number reduced both before and after the fire were not obeyed. As of Dec 16/97 12,700 were still on site.

Dec 4/97      Environmental Assessment Board approves use of scrap metal smelting furnace in Northumberland County to destroy low level PCB's. The facility is the first permanent PCB destruction facility to be approved in Ontario. In its decision the Board expressed concern over the province's failure to designate the undertaking under the *Environmental Assessment Act*, its implications for non-incineration PCB destruction technologies, the inability of public interest intervenors to participate effectively in the hearing due to the lack of intervenor funding, and the operator's lack of previous experience in the handling of hazardous wastes.

Dec 5/97      Ministry of the Environment centralizes approvals functions by transferring the issuing of all waste-related provision certificates of approval from MoE regional offices to the MoE Approvals Branch.

Feb 10/98     Proposal for SARs posted on EBR registry for:  
                 municipally operated waste transfer or processing facilities handling up to 300 tonnes/day;  
                 use of municipal sewage sludge (biosolids) as a soil conditioner.  
Under the SAR proposal neither type of activity would be required to obtain a Certificate of

Approval under the *Environmental Protection Act* if they complied with conditions set out in the SAR.

- Feb 18/98 Canadian Institute for Environmental Law and Policy releases report "Hazardous Waste Management In Ontario: A Report and Recommendations." The report highlights major gaps in the available information and regulatory framework for hazardous waste management in Ontario. A request for review of the province's hazardous waste regulations and policies is filed under the *Environmental Bill of Rights* on the basis of the report's findings.
- Feb 19/98 The Ministry of the Environment releases figures for the provincial waste diversion rate. The province is currently diverting 32% of its waste from landfill, however, the goal is to achieve a rate of 50% by the year 2000. The Minister indicated that the province is still committed to the goal but that the province is unlikely to meet the target by that year.
- Feb 26/98 The Minister of Environment announces that the province will act soon to clean up a landfill site in Egremont Township. The site contains 33,000 buried tires. Citizens in the area have launched a lawsuit against the province. The Minister recognizes that the problems with the site demonstrate the shortcomings of environmental law in trying to stop illegal actions. He indicates that his ministry is "looking at ways of amending the law to give our environmental officers a much stronger hand in dealing with bad actors."
- Mar 16/98 Minister of Environment announces agreement between the County of Grey and the MoE to recycle 20,000 tires from a waste tire site in Egremont Township. The site is a fire and groundwater safety hazard.
- Mar 19/98 Minister of Environment places a hold on the approval of any new small space heaters that burn waste oil pending "public input on the environmental impact of the heaters." The MoE estimates that about 10 million litres of oil per year are disposed of this way each year in the province.
- Mar 30/98 A landfill site (Greenlane Environmental) may be considered eligible to expand in southwestern Ontario despite its manager having been convicted of issuing death threats against MoE inspectors and the owner's history of fines for environmental violations (\$45,000.00) including accepting waste from outside his licensed jurisdiction and filling the site beyond its approved capacity. In addition, the owner's Elgin County waste transfer station is being investigated for receiving liquid wastes beyond its license. The owner is proposing to double its current 500 tonne per day limit. The owner has close ties to the Provincial Progressive Conservative Party.
- Mar 30/98 The Ministry of Environment orders further clean-up at the site of the Plastimet plastics recycling site in Hamilton as a consequence of continued high levels of dioxins, furans, and heavy metals after the July 1997 fire. Previous clean-up orders have not been complied with.
- Mar/98 Amendments adopted to Regulation 347 to declare residues from recycling operations to be waste, and to exempt recycling of four waste types from waste approvals and regulatory requirements: chop line residue; pickle liquor used in sewage treatment plants; photochemical wastes; and wood chips.
- Apr 10/98 Metropolitan Toronto's Keele Valley landfill site may face a class action lawsuit from 30,000 nearby landowners. The suit would seek \$600 million in damages from nuisance odours, dust and gases. The facility handles waste from York, Durham and Toronto.
- Apr 20/98 Ministry of the Environment rejects CIELAP's Request for Review of the province's laws and policies related to hazardous wastes under the *Environmental Bill of Rights*, stating that a review would "not be in the public interest."
- Apr 28/98 Thomasburg tire fire. Fire involving more than 1,000 tires requires six fire departments more



than two hours to bring under control. Some homes are evacuated as a result of the fire.

- Apr 30/98 Report submitted by the Recycling Council of Ontario to the Minister of the Environment concerning Blue Box financing and LCBO deposit return systems. The report lists a number of options one of which is to employ user fees on municipal solid waste (for disposal) as means of encouraging consumers to divert recyclable materials to the Blue Box).
- May 2/98 City of Toronto Council bans wine and spirit containers from its Blue Box collection program. The Council also approves a recommendation that residents be advised to return their empty bottles to the LCBO store where they bought them.
- May 20/98 The owner of Plastimet Inc. and the owner of its site drop their legal challenge of the MoE's clean-up order and agree to undertake legal and financial responsibility for the clean-up of the site. The owners also plan to apologize to the community.
- May 21/98 Domtar Limited's dust suppressing product Dombind is causing elevated dioxin levels in the environments near the roads on which it is sprayed according to a Ministry of the Environment investigation. Levels varied widely with one test above the acceptable provincial limit for dioxin. 100 million litres per year of the product, which is a pulp and paper waste liquor, are sprayed on Ontario gravel-top roads.
- May 1998 Ministry of the Solicitor General and Correctional Services, Office of the Fire Marshal, release implementation strategy for the Fire Marshal's recommendations contained in the report "Protecting the Public and the Environment by Improving Fire Safety at Ontario's Recycling and Waste Handling Facilities" made in the aftermath of the July 1997 Plastimet Inc. fire. The implementation strategy fails to implement key recommendations contained in the original report.
- Jun 6/98 Environmental groups such as Pollution Probe as well as the oil industry, urge the Ontario government to decrease the use of oil heaters that are operated by car dealerships and service stations. The groups contend that the heaters release high levels of toxins and that the used oil should be funnelled to recycling plants that can clean the liquid so that it may be reused in cars. Auto dealers say that the heaters are economic for them and that they are not a significant source of pollution.
- Jun 16/98 Ministry of the Environment posts proposed revisions to the Model Sewer Use By-Law on the EBR Registry. The new Model By-Law includes new standards for certain persistent toxic pollutants, but removes standards for some metals, and removes prohibitions on the disposal of certain types of hazardous waste in sanitary and storm sewers.
- Jun 16/98 MoE will remove 20,000 illegally dumped tires after citizen complaints/civil suit launched against the province. The Ministry states that tests will be performed at the site and if problems develop, contaminated water will be taken to a toxic waste disposal site.
- Jun 2/98 Ministry of the Environment posts proposals for major changes to Regulation 347 on the EBR Registry. The proposals include 'standardized' approvals for on-site storage of hazardous wastes, including PCBs, expanding exemptions from approval requirements for hazardous waste 'recycling' activities, and eliminating requirements for public hearings prior to the approval of expansions of hazardous or municipal solid waste disposal facilities.
- Jun 20/98 The Adams Mine garbage proposal is the first major environmental assessment under the new *Environmental Assessment Act*. Under new regime, the assessment process was streamlined so the proponents of the project did not have to consider alternatives, such as recycling or waste reduction, to their proposal.
- Jun 22/98 Community members in and near Kirkland Lake hope that an appeal to the provincial cabinet regarding the conversion of Adams mine to municipal waste landfill, will allow time for Notre Developments (the project proponent) to seek alternative waste disposal methods.

Jun 26/98	The Ontario Ministry of the Environment proposes changes to model sewer-use by-law. The new by-law includes new standards for persistent organic pollutants, but drops standards for some metals and removes general prohibitions on the disposal of hazardous wastes and waste blood from the model by-law.
Jul 2/98	Community residents and local councillors in Northeastern Ontario raise concerns regarding the recent approval of the Adams Mine Waste Proposal by the Environmental Assessment Board. David Ramsay, Liberal MPP for Timiskaming (a community near the site) contends that the project is very high-risk and that it is being driven by short-term economic imperatives, which are not properly accounting for environmental/social concerns.
Jul 9/98	Controversy emerges in Ontario communities over the use of a recycling byproduct--sludge. Land application is preferred method of generators. Some farmers have allowed the spreading of sludge on their farms. Questions arise about the effectiveness of the material, its odour and appearance of land where sludge has been spread.
Jul 13/98	Great Lakes United commences public hearings on the restructuring of the Great Lakes Water Quality Agreement amidst the contention that government cutbacks and industry pressures have led Canadian and American governments to shift to 'risk management' instead of virtual elimination of persistent toxic substances.
Jul 17/98	Regulation 348 revoked. Permitted disposal of hauled liquid industrial wastes at eight municipal landfills.
Jul 27/98	Public release of 1996 National Pollutant Release Inventory Data. Data shows decline in releases of pollutants to the environment, but a dramatic increase in transfers of pollutants in waste. The Ontario Minister of the Environment asserts that there are "serious flaws, inconsistencies and misinterpretations" in the National Pollutant Release Inventory system.
Aug 8/98	MoE proposes criteria for management of excess soil. Among other things provisions would permit deposit of contaminated soil on clean sites zoned industrial, and in ecologically significant areas.
Aug 14/98	MoE proposes to revoke Regulation 344 - Disposable Containers for Milk and amend Regulation 345 - Disposable Paper Containers for Milk under the <i>Environmental Protection Act</i> (remove restrictions on milk packaging that are 2 litre and under in size).
Aug 26/98	The Ontario cabinet approves the conversion of the Adams mine pit in Kirkland Lake to a privately operated landfill. The site is expected to serve mainly Toronto residents as well as York Region. Environmental groups fear the decision will undermine waste diversion initiatives.
Oct 7/98	Environment Minister announces plan to alter the funding and guidance of, and expand the Blue Box waste diversion system. The plan includes the formation of a waste diversion organization that will attempt to guide municipalities on cost control as well as sponsor new waste diversion initiatives. The province intends to seek contributions from the food, beverage and consumer products industries to assist financing Blue Box operations and has begun by securing \$4 million from the Liquor Control Board of Ontario.
Oct 13/98	Reported that the Ministry of the Environment instructed Philip Services Corporation to stop disposing of a chemical sludge from Detroit in its Taro landfill, while the Ministry of the Environment investigates the practice. The landfill is not approved for hazardous waste disposal.
Nov 4/98	Regulation made exempting establishment of hazardous waste disposal site (i.e. landfill) at the Deloro Abandoned Mine site from a requirement for a public hearing under Part V of the <i>Environmental Protection Act</i> .

Dec 8/98	Ministry of the Environment states that it has given Normapac Inc. (Formerly Domtar) 30 days to develop a plan to end the use of "Dombind," phasing out its use over two years.
Jan 20/99	Philip Services Corp. disbands Taro Landfill Community Liaison Committee. The establishment and operation of the Committee is one of the Terms and Conditions of the facility's Certificate of Approval.
Jan 22/99	Report by Ontario Ministry of Agriculture, Food and Rural Development, concludes that spreading of paper mill sludge (a mixture of waste fibres, ink, clay and water) on farmlands is "of no benefit to agriculture."
Feb 3/99	Ministry of the Environment states it can find no evidence that the Taro landfill in Stoney Creek Ontario violated its Certificate of Approval by accepting hazardous wastes.
Mar 1/99	Draft Certificate of Approval granted for Adams mine landfill in Kirkland Lake.
Mar 5/99	Ministry of the Environment extends Certificate of Approval for use of paper mill sludge as a soil conditioner for an additional two years.
Mar 18/98	Revealed that hazardous waste imports into Ontario have risen by a factor of four between 1993 and 1997. Manifested waste quantities of domestically generated waste have risen by 50% between 1994 and 1997.
Mar 18/99	Coalition seeks judicial review of the government's approval of the Adams mine landfill.
Mar 20/99	Normapac Inc. agrees to phase out the production of Dombind, a pulp and paper waste liquid used as a dust suppressant. Dombind had been found to contain levels of dioxin 15-20 times provincial standards.
Apr 24/99	Notre Development receives its certificate of approval for the Adams Mine Landfill. A judicial review of the environmental assessment process leading to the approval was unsuccessful at nullifying the EA.
May 3/99	Trial of Aquatech Blue delayed. The company was charged, in August 1997, with illegally discharging chemical industrial waste into Lake Ontario. The case had previously been delayed by the departure of the original Ministry of Environment prosecutor.

## WATER

- Sep 26/95      Amendments proposed on the EBR to revise MISA Regulations. Provisions include exemption from MISA effluent requirements for mine tailings.
- Sep 29/95      Environment and Energy Minister Brenda Elliott announces the termination of MAC (the Municipal Industrial Strategy for Abatement Advisory Committee) and two other committees. MAC provided independent advice on pollutant limits in industrial waste water developed under the MISA program.
- Oct 6/95      Government-wide operating budget reductions released by the Office of the Premier. Cutbacks to MoEE capital budget include:  
                     \$31.8 M from the Ontario Clean Water Agency in the 1995-96 year. More reductions are detailed on April 11, 1996.  
                     Reductions to Ministry of Natural Resources:  
                     Conservation Authorities' operating transfer payments \$1.2 M in both 1995-96 and 1996-97; this reduction is increased on April 11, 1996.
- Oct 9/95      Exemption from the Environmental Assessment Process granted to the City of Toronto Western Beaches stormwater storage tunnel by the Minister of Environment and Energy.
- Dec 1/95      The Ministry of Environment and Energy announces some projected operating budget cutbacks for the 1996/97 fiscal year. The following programs terminated include:  
                     urban and rural beach cleanup/restoration (\$8.2 M);  
                     home green-ups including water conservation (\$8.4 M).
- Jan 29/96      Bill 26, the *Government Savings and Restructuring Act* enacted by the Ontario legislature. Summarized briefly are the changes to:  
                     the *Lakes and Rivers Improvement Act*: reduce or eliminate permitting requirements when constructing, altering or using a dam or other water works; permits for virtually any activity on public lands and waters unless the minister responsible has prescribed regulations to the contrary;  
                     the *Conservation Authorities Act*: new provisions permit the dissolution and facilitate the sale of CA lands. Limitations placed on scope of CA activities and funding sources.
- Apr 11/96      Ontario government releases "Interim Report on Business Planning and Cost Savings Measures" which outlines the re-shaping of government through "new business directions" for ministries and "cost-savings measures" that the province is implementing. Each ministry is responsible for carrying out its own business plan within the financial constraints that it is assigned. Effects of this initiative on water-related policies, institutions and regulations:  
                     The Ontario Clean Water Agency which manages municipal assistance for sewers and water treatment will have its budget reduced \$111.4 M in 1996-97 and \$142.5 M in 1997-98;  
                     Conservation Authorities transfer payments will be cut \$5.4 M in 1996-97 and \$7.4 M in 1997-98.
- Jun 3/96      Minister of Environment introduces Bill 57, *The Environmental Approvals Improvement Act*. The Bill provides for:  
                     the exemption by the Lieutenant-Governor in Council of any person from any provision of the *Environmental Protection Act* or *Ontario Water Resources Act* or any regulation made under those Acts;  
                     the prohibition of any action against the Crown arising out of any exemption from an approval requirement under the *Environmental Protection Act* or *Ontario Water*

*Resources Act.*

(for a fuller description of Bill 57 see section on *Environmental Standards & Regulatory Processes*).

- Jun 96      The release of the International Joint Commission 8th Biennial Report. The report highlights the impact of budgetary reductions and weakening of environmental laws on Great Lakes restoration programs. Ontario is specifically cited in the report for its actions over the preceding year.
- Jul 31/96      Ontario government releases a discussion paper entitled *Responsive Environmental Protection* which makes over 80 recommended changes to environmental regulation. The recommendations include revising the Environmental Bill of Rights Classification of Proposals for Instruments Regulation to eliminate notice requirements for proposals with minimal environmental impact. Recommendations impacting water quality regulations include:  
controlling municipal discharges through a performance-based regulation for sewage treatment plants;  
updating the Ground Source Heat Pumps Regulation to restrict the use of methanol;  
removing the requirement in the *Municipal-Industrial Strategy for Abatement's* Pulp and Paper Regulation for the pulp and paper sector to submit reports on how to reach zero AO<sub>x</sub> by 2002 and removal of the reference to a goal of zero AO<sub>x</sub>; and  
reducing monitoring frequency for facilities surpassing effluent limits.
- Sep 96      The Ministry of Environment and Energy and the Ministry of Health announce that will be terminating the drinking water quality analysis service that they previously offered to municipalities.
- Nov 4/96      The Who Does What Panel recommends to the Ministry of Municipal Affairs and Housing that municipalities should deliver and pay for sewer and water systems. The panel recommends that the province:  
transfer ownership of its sewer and water treatment facilities to appropriate municipalities;  
discontinue sewer and water grant and loan programs; and  
continue to set and enforce performance-based environmental standards and promote conservation.  
The panel also recommends that while municipalities should decide on the method of charging for sewer and water services, users should be charged the full cost of providing them.
- Nov 5/96      Ministry of Natural Resources adopts regulations to guide activities on Crown land. The new regulations reduce the need for work permits by 80% in an effort to save over \$1 million. The regulations:  
eliminate of many permitting requirements when constructing, altering or using a dam, dock or other water works; some larger buildings still require a permit;  
most bridges, culverts agricultural drains, trenching and dams do not require work permits on private or municipal lands; on Crown lands, bridges, culverts and dams do require a permit but agricultural drains and trenching for private residences are exempt;  
dredging, controlling aquatic plants, building docks and boathouses and laying submarine cable are free from permitting requirements if they are private (as opposed to commercial) and if they are intended for a log salvage operation;  
100 square metres of vegetation annually can be removed in waters in southern Ontario without a permit.  
remove permit requirements for mineral exploration on Crown lands.
- Jan 17/97      Ministry of Environment and Energy announces transfer of provincially operated water and sewer works to municipalities. The Minister states that the province will continue to set and enforce performance standards and ensure that water quality continues to be safeguarded despite the acknowledgement that the Ministry's investigation and enforcement resources

have been severely diminished after several budgetary reductions.

- Jan 20/97 Bill 107, The *Water and Sewage Services Improvement Act* introduced to the legislature. The Bill provides for the transfer of provincially operated sewer and water works to municipalities and the downloading of the regulation and approval of most septic systems to municipal governments, or the Ministry of Municipal Affairs in areas without municipal organization.
- Feb 3/97 The *Red Tape Reduction Act (Ministry of Natural Resources)*, 1997 goes to 1st Reading. If passed, the following amendments will be made to the *Conservation Authorities Act*:  
authorities will be allowed to enter into agreements to permit exploration and extraction of oil and gas reserves on land adjacent to authority land;  
authorities would be permitted to lease land for terms of up to five years without approval;  
maximum fines for violations of the regulations will be increased from \$1,000 to \$10,000, and from \$100 to \$1,000;  
Conservation Authorities are important guardians of natural drainage systems. The impact of development on CA lands could be quite negative for water quality and flood management.
- If passed, the RTRA would also amend the *Lakes and Rivers Improvement Act* so that:  
debt collection will be consolidated through municipal taxes (to allow Minister to recover money spent by province on public health and safety issues caused by unsafe dam structures);  
the Minister will be given explicit power to enter into cost-sharing agreements;  
the Minister's orders and approvals will be explicitly made binding on the original recipient and any successor or assignee;  
the Minister will be authorized to issue stop work orders on unauthorized dams while compliance issues are resolved; and  
maximum fines for violations of the Act will be increased.  
Regrettably, the Ministry may be unaware of a large number of dam and waterway alterations or constructions as a result of the scaling back of the permitting process. These developments also continue the trend of placing a large measure of decision-making authority with the minister.
- Feb 26/97 The Ministry of Environment and Energy announces the finalization of: Determination of Treatment Requirements for Municipal and Private Combined and Partially Separated Sewer Systems (Procedure F-5-5). The procedure specifies:  
that each municipality or operating authority develop a pollution prevention or control plan;  
that sewer designs meet minimum combined sewer outflow controls;  
additional controls be provided where beaches are impaired;  
the level of treatment, disinfection of effluent and monitoring criteria.
- Feb 97 Ministry of Environment cancels funding for Great Lakes cleanup programs. Since the mid-1980s the ministry has spent \$280 million on rehabilitating the most polluted parts of the Great Lakes. The government now wants the private sector (industries, municipalities, concerned citizens) to finance cleanup programs. This signals a retreat by the Ontario government from a 1994 agreement with the federal government in which they pledged to cooperate to eliminate 60 per cent of the pollution at the 16 "hot spots" by the year 2000 and to try to completely rehabilitate eight of them.
- Mar 8/97 Ministry of Environment and Energy announces that Ontario's fish appear to be getting safer to eat in terms of their contaminant levels. Some fish from some lakes have shown a consistent decline in contaminant accumulation.
- May 6/97 In the 1997 budget, \$200 million is allocated for municipal sewer and water services.
- May 17/97 Revelation that Ontario Hydro's Pickering Nuclear Generating Station has released more than 1,000 tonnes of copper and zinc into Lake Ontario over the past 25 years. The

emissions are toxic and bioaccumulative and arise from the scouring of brass (copper-zinc) condenser tubes in the plant's heat exchanger systems. The discharges were never reported, but should have been, under the Municipal Industrial Strategy for Abatement regulations. It is also thought to violate the MISA Power Generation Sector Regulation (Regulation 215/95). The problem had been known to exist since at least 1981.

- May 21/97 Ministry of the Environment and Energy makes a decision on the "Draft Effluent Limits regulation for the MISA Iron and Steel Manufacturing Sector" to control industrial wastewater discharges. The proposed major features are:  
Maximum daily and monthly average loading limits for up to 12 parameters.  
All process and cooling water must not kill fish or water fleas.  
All process effluents must be within pH range of 6.0 to 9.5 at all times.
- May 27/97 Bill 107, *The Water and Sewage Services Improvement Act* receives Royal Assent.
- Jun 5/97 Bill 57, *The Environmental Approvals Improvement Act*, receives Royal Assent.
- Jun 10/97 A Request for Investigation under the Environmental Bill of Rights is filed concerning Ontario Hydro's metal emissions from corroding condensers.
- Jun 21/97 It is reported that levels of radioactivity in fish near Ontario Hydro's Bruce Nuclear Generating Station on Lake Huron are 9 times higher, and rising, than the levels of radioactivity in fish in Lake Ontario.
- Jul 6/97 Ontario Environment Minister Norm Sterling announces that the MoEE will spend \$18 million to clean up the hazardous materials, including low level radioactive wastes, left behind at the Deloro Mine north of Belleville. Mine wastes have been leaching into the Moira River that flows south into the Bay of Quinte at Lake Ontario.
- Jul 8/97 Release of the "Report on the Evaluation of Emissions from Ontario Hydro's Admiralty Brass Condensers to the Great Lakes." The report indicates that over the past 25 years, 1,813 tonnes of metals predominately copper and zinc, have been discharged to the Great Lakes by Ontario Hydro electricity generating stations. The releases exceed the Provincial Water Quality Objective for copper and would likely have a toxic impact on aquatic life.
- Jul 97 Environment Canada and U.S. EPA Release "State of the Great Lakes 1997." Report summarizes state of the Great Lakes Basin Ecosystem. Key conclusions:  
aquatic community health: mixed/improving;  
aquatic habitat and wetlands: poor;  
state of human health in the Great Lakes basin, as reflected by human exposure to persistent toxic substances: mixed/improving; and  
toxic contaminants: mixed/improving.
- Aug 18/97 York Region and Metro Works Department step up testing and monitoring the Don River system in the wake of a sewage spill from 200,000 homes (22 million litres) into German Creek, a tributary of the Don River. An application is filed in January 1998 under the Environmental Bill of Rights for a provincial review. The spill is being linked to rapid urban development in York Region.
- Aug 26/97 MoE approves a mine water treatment system for River Gold Mines Ltd. located in Jacobson Township. The treatment system will treat a maximum flow of 12.6 L/sec of excess mine water containing suspended solids, ammonia, and some heavy metals.
- Aug 26/97 Aquatech Blue Ltd., an oil recycling firm is charged with dumping waste oil containing toxic materials in Toronto Harbour. Previously it had been convicted of discharging metal-based releases into sanitary sewers. The Ontario government seeks extradition of three US citizens charged with the Lake Ontario dumping.

- Aug 28/97 Ministry of Environment and Energy establishes a \$200 million fund to assist municipalities to upgrade water and sewage systems. The Fund was established in response to a recommendation from the Who Does What Panel and will make funding available to municipalities over the next 3 years. The funds are intended to be used by municipalities to upgrade their water and sewage systems in response to specific health and environmental problems. The Fund appears to be intended to replace the \$140 million/yr Municipal Assistance Program, whose termination was announced in the April 1996 budget.
- Sep 15/97 MoE approves the drainage water the underground working to be discharged in the existing water settling pond in the Township of Beatty. The water treatment will be the sedimentation of suspended solids. The volume of water that will be pumped per day is estimated at 82,000 litres/day meaning a retention time of 12 days. If the water does not meet the standard, McWatters Mines Inc. will take measures such as building another pond.
- Sep 30/97 MoE approves a permit allowing Hamilton Sod/Greenhorizons to take 1,135,000 litres per day or 250,000 Imperial gallons per day, 30 days per year from a dugout pond located in Glanbrook. The water will be used for irrigation of a sod farm.
- Oct 9/97 Unimin Canada Ltd. submits proposal to the Ministry of Environment requesting a permit to take water from Midland Bay. Water will be used to suppress dust on active rock stockpiles and will be removed from the bay at a daily maximum rate of 720,000 L.
- Oct 31/97 Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem Second Progress Report is released jointly by Environment Canada and the Ontario Ministry of the Environment. The report indicates that zero discharge has been achieved for five toxic substances: aldrin/dieldrin, chlordane, DDT, toxaphene and mirex at least in terms of these products not being imported to, sold or used in the province (residual of these compounds could still be active in the environment). Other highlights of the report include:
- reduced discharge levels for some Tier 1 compounds;
  - 50% of required remedial actions completed;
  - 5000 hectares of wetlands protected and rehabilitated;
  - almost 30% of stored high level PCBs destroyed.
- The report also acknowledges that certain commitments under the Agreement have not been met due to budget cuts at both levels of government.
- Oct 97 The International Joint Commission publishes "The IJC and the 21st Century." The Commission states that transboundary air pollution problems will continue to worsen in the next century, threatening the health of wildlife and human populations in the area. Government down-sizing in Canada and the U.S. has decreased the level and extent of environmental monitoring along the border. Down-sizing has also undermined the capacity of governments to cooperate and coordinate to address environmental problems in the areas that are of common interest.
- Nov 5/97 Madsen Gold Corp. applied for a permit allowing it to augment water taken from Beaverdam Lake for industrial purposes in Madsen with water from Russett Lake at a rate of 360,000 Imperial gallons per day (1,634,400 lpd) for 244 days seasonally for five years. The Ministry of the Environment and Energy approves this with the following conditions:
- Should the quantity of water change, an amendment is required.
  - Copy of permit must be posted.
  - Company must ensure all staff are knowledgeable about the permit.
  - No more than 10% of the natural flow of Russett Lake at outlet.
  - Water for augmentation of water levels in Beaver Dam Lake.
- Nov 20/97 The Ontario Ministry of Environment has asked an environmental group for financial assistance to help stop hazardous chemical leaking from an abandoned mine at Deloro mine site in Eastern Ontario.
- Nov 25/97 The Provincial Auditor Erik Peters submits his annual report to the Ontario Legislature. Several environmental programs undergo criticism:



water or sewage expansion projects should not be funded by the province unless municipalities have implemented and maximized water conservation; documentation filing and grant overpayment need to be better monitored as well.

- Nov 27/97 Ministry releases document "Better, Stronger, Clearer: Environmental Regulations for Ontario." Proposed changes related to water include:  
ban the use of methanol as a heat transfer fluid in heat pumps;  
amend the Water Wells regulation to improve the transmission of water well data;  
increase licensing fees for well drillers and contractors/technicians; and provide new standards for well construction;  
Amend the MISA Regulations to:  
reduce the frequency of chronic toxicity testing semi-annually to annually;  
remove effluent limits for substances that are not used, produced or stored on site;  
reduce daily monitoring requirements for some parameters if a sites performance surpasses permitted limits for 12 consecutive months;  
permit the transmittal of data in alternative formats;  
amend the Pulp and Paper Sector Regulation to remove the requirement that facilities submit plans on the elimination of AOX, and advance the date for the AOX limit of 0.8kg/tonne to December 1997 from December 1999.  
retain the Marinas Regulation, which the Ministry had proposed to repeal in July 1996, and supplement it with a voluntary Code of Practice Developed by the Marina Industry.
- Nov 27/97 The Ministry of Environment and Energy has received a proposal from Agrium Products Inc. for the establishment of an open-pit mine in Cochrane Ontario. Approval is sought for dewatering activity which will occur in two stages:  
open pit dewatering for bulk sampling of ore body at 4,900,000 L/day for 60 days;  
mining ore body, dewatering working area of the pit at 5,800,000 L/day for 13 years.
- Dec 9/97 Ministry of the Environment approves an Interim Provincial Water Quality Objective for hexachlorocyclopentadiene. The Interim PWQO is 0.06 ug/L.
- Dec 23/97 MoE renews the existing permit allowing Aquafarms 93 in Osprey Township to take water from 3 boreholes and from Beaver River for fish farm operations and for bulk water sales.
- Dec 24/97 Ministry posts on the Ontario Environmental Bill of Rights Registry a number of planned revisions to permitted discharge limits for organic and inorganic manufacturing sector firms under the MISA. The proposals raise the permissible discharge limits for a number of facilities.
- Dec 30/97 Ministry posts proposed amendments to MISA discharge regulations for 8 industrial sectors (Electric Power: Iron and Steel; Industrial Minerals; Inorganic Manufacturing; Metal Casting; Metal Mining; and Organic Chemicals) The amendments would:  
reduce the monitoring frequency for chronic toxicity from semi-annually to annually (provided three years of monitoring have been completed an enough data collected to ascertain safety of effluent);  
reduce monitoring requirements from daily to three days week if sites surpass monthly average loading limits for 12 consecutive months; and  
remove of effluent limits for substances that are not used, produced or stored on the site. Requires monitoring of effluent for parameter once per year.  
The proposal for the pulp and paper sector would remove the requirement that kraft pulp mills submit reports on how to achieve goal of zero discharge of AOX. The proposal also indicates that the Ministry may advance date that mills are required to reach a loading limit of 0.8kg AOX per tonne of pulp by December 31, 1999.
- Jan 31/98 The Ontario Ministry of Environment announces that it is raising discharge limits for two companies (GE Plastics and Geon Canada) to allow for a change in production. The

amendments involve, in one case, a 63% increase in dissolved organic carbon, a 241% increase in oil and grease discharges and a 38% increase in phenolics. These amendments were originally posted on the Environmental Bill of Rights Registry on Dec 24/97.

- Feb 4/98 Ministry of Municipal Affairs and Housing announces new Ontario Building Code Regulations for septic system management "Regulation to Amend Ontario Regulation 403/97 made under the *Building Code Act*, 1992." The new regulation will take effect April 6, 1998 and:  
transfer authority for regulating smaller on-lot sewage systems to the *Building Code Act* for "one-window" permitting purposes;  
introduce new certification requirements for installers/inspectors.
- Feb 98 The International Joint Commission releases "Unsafe Dams? A Report by the IJC" The Report concludes:  
that some regulated facilities are not subject to comprehensive government safety inspections and oversight by governments is unsatisfactory;  
in Canada, "there does not appear to be any way of obtaining regular government safety inspections for Regulated Facilities."  
without government oversight there is "no effective means of ensuring accountability for activities that can put the lives and property of Canadian and United States citizens in jeopardy."  
The report recommends regular, periodic, complete and independent on-site inspections by qualified experts; timetables for the implementation of all inspection report recommendations; establishment and testing of emergency action plans; and public access to all reports and documentation relating to safety issues.
- Mar 9/98 The Minister with Responsibility for Privatization and the Minister of Environment announce 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. OCWA operates and maintains 123 municipal water treatment facilities and 234 municipal waste treatment facilities.
- Mar 23/98 44 water treatment plant operators in 23 communities in southwestern Ontario are warned by the MoE that their drinking water testing programs are inadequate. The minimum standards for drinking water have been violated. In 1996, the MoEE and MoH terminated their municipal water testing programs. Locations included:  
Towns of Wingham, Exeter, Petrolia, Seaforth, Durham, Hanover, North Perth and East Perth;  
Villages of Bayfield, Blyth and Zurich;  
Townships of Goderich, Ashfield, Colborne, East Wawanosh, Morris, Tuckersmith, Teaswater-Culross, Sarawak, Derby, Brant, Kincardine and Bruce.
- Mar 29/98 Ontario Hydro receives its second assessment of its program to repair its brass condenser cooling equipment. The program flows from recommendations from the July 1997 report "Evaluation of Emissions from Ontario Hydro Admiralty Brass Condensers to the Great Lakes." Some dates have slipped but overall the program is said to be on track.
- Mar 31/98 Ministry posts proposed revisions to Provincial Water Standards on EBR Registry, including:  
proposed Provincial Water Quality Objectives for Cadmium (based on Canadian Water Quality Guideline);  
proposed Provincial Water Quality Objectives for Carbaryl (based on Canadian Water Quality Guideline);  
proposed Provincial Water Quality Objectives for Trivalent and Hexavalent Chromium (based on Canadian Water Quality Guidelines);  
proposed Provincial Water Quality Objectives for Arsenic (based on Canadian Water Quality Guidelines);  
scientific criteria documents for development of Interim Provincial Water Quality Objectives for Molybdenum, Vanadium, and NDMA.

- Apr 3/98 A Ministry of Environment investigation concludes that the release of 1800 tonnes of copper and zinc from Ontario Hydro's Pickering Nuclear Generating Stations has had no measurable effect on drinking water quality or fish life near the plant. The investigation was carried out in response to an EBR request.
- Apr 30/98 Three former Premiers of Ontario (Davis, Peterson and Rae) join a campaign to complete the funding for a Great Lakes environmental research centre at the University of Windsor. \$3.6 million is needed to complete the project when the provincial government withdrew a prior funding commitment in 1995.
- May 1/98 Permit granted to Nova Group by the Ontario Ministry of the Environment to take water from Lake Superior takes effect. The permit allows for a maximum taking of 600 million litres per year for the next five years and is intended for export to Asia. This permit possibly violates the International Boundary Waters Treaty with the U.S. government as well as a long-standing policy against water exports from the Great Lakes Basin. Environment Minister Norm Sterling issued the permit without consultation with either federal environment or provincial natural resources departments and defended the permit as an action that will not cause significant environmental damage.
- May 6/98 Nova Group, the company that was awarded a permit to take 600 million litres of water from Lake Superior for Export to Asia, decides to relinquish the permit because of the controversy that it generated.
- May 8/98 Michigan Congressman Bart Stupak introduces a non-binding House resolution that would have the US Congress block the sale of Great Lakes water for export to Asia. The transaction that the resolution refers to is the proposal by Nova Group (see May 1/98) to export 590 million litres of water per year from the lake to Asia. Canada has asked that the issue be referred to the International Joint Commission rather than quashing the proposal with a ban on exports.
- May 15/98 Province moves toward arriving at a policy that would ban transfers of water from one drainage basin to another. This in effect should quell any possibility of an export of water from the Great Lakes basin as was proposed by the Nova Group (See May 1/98). The Minister implies that the Ontario government would be more comfortable having the federal government implement a bulk water export ban.
- May 20/98 Ontario Hydro Nuclear has submitted three separate proposals to the Ministry of the Environment to re-test its treatment equipment allowing them to meet the effluent requirements of the Clean Water Regulation. The company has informed the Ministry that this re-testing is necessary to consistently meet all the effluent limits imposed by the regulation at its: Pickering Generating Station; Bruce Nuclear Generating Stations A & B; and Darlington Generating Station.
- May 98 At the 41<sup>st</sup> conference of the International Association of Great Lakes Research, delegates were told that more and better early-warning environmental monitoring systems are urgently needed. Issues covered:
- Biological systems respond to the hazards associated with the complex mixtures of toxic pollutants that exist in the environment. These systems need monitoring;
  - How political restructuring and reduced funding could harm the ecological health of the Great Lakes shoreline in Ontario;
  - The devastating impact of lampreys on the lake trout.
- June 16/98 Ministry of the Environment posts proposed revisions to the Model Sewer Use By-Law on the EBR Registry. The new Model By-Law includes new standards for certain persistent toxic pollutants, but removes standards for some metals, and removes prohibitions on the disposal of certain types of hazardous waste in sanitary and storm sewers.
- July 8/98 The reappearance of a deep-water sculpin fish in Lake Ontario, leads scientists to believe

that the quality of the lake has been improving. This species of fish has not been seen in the lake in approximately 50 years.

- July 13/98 Great Lakes United commences public hearings on the restructuring of the Great Lakes Water Quality Agreement amidst the contention that government cutbacks and industry pressures have led Canadian and American governments to shift to 'risk management' instead of virtual elimination of persistent toxic substances.
- Jul 98 International Joint Commission releases 9th Biennial Report on Great Lakes Water Quality. Report notes that despite significant progress, society has not gone far enough in its efforts to restore the Lakes. The report stresses the need to achieve 'virtual elimination' of persistent toxic substances, along with concerns over land use patterns, shoreline development, habitat modification, biological contamination and nutrient input.
- Sep 1/98 During the upcoming second phase of public information meetings, residents in York and Durham regions will have the opportunity to voice their opinions regarding the long-term water supply project for York Region. In order to meet the region's demand for water, the project would require the pumping of water from Lake Ontario through stations in the Durham region. Key concerns to be addressed during the assessment process include the protection of threatened or endangered wildlife, and the potential displacement of people, businesses or significant historical sites in the areas.
- Sep 8/98 Data obtained by Canadian Institute for Environmental Law and Policy through Freedom of Information request shows that 25% of Ontario metal mines failed (between August and December 1997) requirement of MISA regulations that their discharges not be acutely toxic (i.e. lethal) to fish.
- Sep 30/98 First water AERs (Approval Exemption Regulation) come into effect.
- Dec 2/98 Ministry of the Environment proposes following regulatory exemptions from water Approval requirements:  
the establishment, alteration, extension or replacement of, or a change in a water or sewage works that is used solely to mitigate the effects of an emergency declared to exist under the *Emergency Plans Act*;  
the taking of more than 50,000 litres a day to mitigate the effects of an emergency under the *Emergency Plans Act*; and  
the taking of water and establishment, alteration, or replacement of drains, pump devices and appurtenances for the collection and disposal or drainage from building foundations.
- Dec 18/98 Bill 25, *Red Tape Reduction Act, 1998*. Receives Royal Assent.  
Schedule I of the Bill amends a number of MNR statutes including:  
*Conservation Authorities Act*  
Removes requirement for Conservation Authority permission for changing, diverting or interfering with watercourses, wetlands, Great-Lakes St. Lawrence shorelines, inland lakes; river and stream valleys, hazardous lands, for activities approved under the *Aggregate Resources Act*; and  
removal of the requirement for provincial approval of Conservation Authority Regulations  
*Lakes and Rivers Improvements Act*  
permit delegation by cabinet and minister of approvals under the Act to conservation authorities, or other agencies or bodies;  
permit the minister to approve plans for a dam, after the dam has been constructed; and  
weaken the current prohibition in the Act against pollution.
- Dec 18/98 Ministry of the Environment proposes Regulation under *Ontario Water Resources Act* to prohibit transfers of surface water out of defined (Great Lakes St. Lawrence, Nelson River

and Hudson Bay/James Bay) Ontario water basins. Exemptions are provided for water which is used to manufacture a product which is then transferred out of the basin, and for potable water contained in consumer sized containers, not more than 20 litres in volume.

- March 1/99      Sierra Legal Defence Fund Reports that only three of 134 companies and sewage treatment plants that had violated water pollution control requirements had been successfully prosecuted by the Ministry.
- Mar 8/99      Canadian Institute for Environmental Law and Policy releases report on progress of Canada and Ontario governments under the July 1994 *Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem*. Report concludes that most of the commitments made in COA will not be met by the time of the Agreement's expiry in March 2000.
- May 1/99      Revealed by the Sierra Legal Defense Fund that water pollution occurrences in Ontario are rising while enforcement remains weak. In 1997, there were 2000 water pollution violations in Ontario, twice as many as the previous year. The number of facilities violating standards increased 17% over 1996 (154 up from 132). Seventy of the facilities that were on the list in 1996 were on again in 1997.
- May 3/99      Great Lakes water levels reach their lowest point in a decade. Record dry and warm temperatures in 1998 are cited as the cause. Concern is expressed for fish habitat and navigability as well as hydro-electricity and some industrial activities.
- May 3/99      Trial of Aquatech Blue delayed. The company was charged, in August 1997, with illegally discharging chemical industrial waste into Lake Ontario. The case had previously been delayed by the departure of the original Ministry of Environment prosecutor.
- May 15/99      Ontario Regulation 285/99, The Water Taking and Transfers Regulation, made under the Ontario Water Resources Act, is gazetted. The regulation was made in response to the proposal for a large scale water taking and export from Lake Superior in May 1998 and severely restricts inter-basin transfers of water.

## ENERGY

- Jul 26/95 Minister of Environment and Energy opens the hourly electricity market to spot market electricity sales on an experimental basis.
- Oct 3/95 Minister of Environment and Energy announces that a 5-year rate freeze is being instituted at Ontario Hydro.
- Oct 6/95 MoEE energy conservation grants are reduced \$0.7 M as part of government-wide operating budget reductions announced by the Office of the Premier. The Ministry of Environment and Energy will have its operating budget reduced by \$14.9 M in each of the years 1995-96 and 1996-97.
- Oct 24/95 Minister of Environment and Energy endorses national clean air standards proposed by the Task Force on Cleaner Vehicles and Fuels. Proposal includes the promotion of: fuel efficient and alternate fuel vehicles; inspection and maintenance programs; low emission vehicles by 2001; and new fuel standards.
- Nov 2/95 Minister of Environment and Energy announces the establishment of the Advisory Committee on Competition in Ontario's Electricity System.
- Nov 28/95 Advisory Committee on Competition in Ontario's Electricity System appointed.
- Dec 1/95 The Ministry of Environment and Energy announces some projected operating budget cutbacks for the 1996/97 fiscal year:  
     Green Communities (\$1.7 M);  
     home green-ups (\$8.4 M);  
     energy education, training, standards development & conservation (\$1.2 M);  
     Ontario Energy Board (\$0.5 M).
- Dec 22/95 Minister of Environment and Energy requests Ontario Energy Board to seek stakeholder input on exempting utilities from their prior OEB approval requirements.
- Jan 10/96 Positions of five board members of Ontario Hydro revoked by the Minister of Environment and Energy. The members were considered to be the strongest advocates of environmental protection on the board.
- Jan 19/96 Ontario Divisional Court Judge overturns the Environment Minister's decision of Jan 10, 1996 to relieve five Ontario Hydro Board members of their positions.
- Jan 26/96 Ministry of Housing releases a consultation paper entitled "Back to Basics" which focuses on streamlining and simplifying the Building Code and removing energy efficiency provisions.
- May 96 The Advisory Committee on Competition in Ontario's Electrical System submits report to the Ontario Government.
- May 96 The Ontario Energy Board issues a response to the Minister of Environment and Energy's request regarding its views and the views of stakeholders on exemptions for certain OEB approvals.
- Jun 5/96 Minister of Environment and Energy introduces Bill 66, *Government Process Simplification Act* which proposes to amend the *Consolidated Hearings Act* and *Environmental Protection Act*. This could:  
     permit Ontario Energy Boards to sit in panels of one member;  
     amend the *Ontario Energy Board Act* to allow the Minister (rather than the Lieutenant Governor) to refer a request for inquiry to the board and to require a hearing into the

reasonableness of gas rates under section 13. (A more complete description of Bill 66 is listed in the section *Environmental Bill of Rights and Public Participation in Decision-Making*).

- Jun 7/96      Advisory Committee on Competition in Ontario's Electricity System advises that more competition in the electricity system will end Ontario Hydro's monopoly and increase competition among power generators. The Ministry of Environment and Energy promises consumers and industry representatives a chance to review and comment on the report, *A Framework for Competition*, before deciding whether to adopt its recommendations. The Committee's report proposes:
- the privatization of most of Ontario Hydro's thermal and hydro-electric generating stations; and
  - the consolidation of municipal electric utilities.
- Jul 31/96      Ontario government releases a discussion paper entitled *Responsive Environmental Protection* which makes over 80 recommended changes to environmental regulation. The recommendations include revising the Environmental Bill of Rights Classification of Proposals for Instruments Regulation to eliminate notice requirements for proposals with minimal environmental impact. Recommendations that would affect regulations governing energy in the province include:
- removing all exemptions under the Ontario Energy Board (OEB) General Regulation relating to transactions that have been completed;
  - revocation of the now obsolete Ontario Hydro Exemption Regulation;
  - amendments to the Efficiency Standards Regulation for various new products.
- Sep 20/96      Ministry of Municipal Affairs and Housing releases nearly 650 amendments to the Ontario Building Code for public consultation. The amendments, intended to cut 'red tape', include:
- the option for home builders to greatly reduce or eliminate insulation coverage in new homes; and
  - replacing various energy conservation provisions in the Code since 1985 with mandatory labelling systems (similar to EnerGuide labels on appliances) despite advice that the labelling systems would be largely ineffective in the home market.
- May 17/97      Revelation that Ontario Hydro's Pickering Nuclear Generating Station has released more than 1,000 tonnes of copper and zinc into Lake Ontario over the past 25 years.
- May 22/97      Ministry of Municipal Affairs and Housing Building Code Committees report back on changes proposed to the Ontario Building Code. The Committees recommend:
- maintaining the requirement to design buildings to incorporate energy efficiency;
  - withdrawing the proposal to use labels to indicate a home or building's energy efficiency level;
  - maintaining energy efficiency as one of the major objectives of the code;
  - including minimum standards for energy efficiency on the code;
  - maintaining insulation levels at current levels;
- The recommendations were filed with the Director of the Housing Development and Buildings Branch, however the final decisions on the proposed changes are expected to be made by the Minister's Office.
- Jun 11/97      Filing of an EBR Request for Investigation regarding Ontario Hydro's discharge of more than 1800 tonnes of copper and zinc into Lake Ontario from Pickering Nuclear Generating Station.
- Jun 21/97      It is reported that levels of radioactivity in fish near Ontario Hydro's Bruce Nuclear Generating Station on Lake Huron are significantly higher than levels in fish in Lake Ontario. The difference is approximately 9 times and rising. The findings have implications for Ontario Hydro's plan to store more used radioactive fuel on site and for Ontario's electricity supply as the Bruce Station has provided, in past, almost one quarter of Ontario's electricity.
- Jul 8/97      Release of the "Report on the Evaluation of Emissions from Ontario Hydro's Admiralty Brass

Condensers to the Great Lakes." The report indicates that over the past 25 years, 1,813 tonnes of metals predominately copper and zinc, have been discharged to the Great Lakes by Ontario Hydro electricity generating stations. The releases exceed the Provincial Water Quality Objective for copper and would likely have a toxic impact on aquatic life.

- Aug 1/97      It is revealed that a spill of radioactive tritium from Ontario Hydro's Pickering Nuclear Generating Station contaminated ground water in the vicinity 18 years ago (1979) and that the spill was never reported.
- Aug 2/97      Ministry of Environment and Energy presents Ontario Hydro with a draft order that would require it to eliminate the cause of increased tritium levels at its Pickering Nuclear Generating Station, clean up or contain previous tritium leaks and disclose any other potential contamination at this or any of its other facilities.
- Aug 13/97     Release of "Report to Management IIPA/SSFI Evaluation Findings and Recommendations." This report finds Ontario Hydro's nuclear operations at three plants (Pickering A&B, Bruce A&B and Darlington) to be operating at a "minimally acceptable level." Ontario Hydro announces that it is preparing to undertake a massive overhaul of its nuclear generating capacity in the province (the Nuclear Asset Optimization Plan). The plan will cost \$5 to \$8 billion over four years and temporarily shutdown 7 of 20 reactors.
- Aug 14/97     Ontario Hydro reveals that the coming increase in fossil fuel use (because of nuclear shut-down) will greatly increase emissions of carbon dioxide and acid gas emissions (nitrogen oxides and sulphur dioxide).
- Sep 15/97     The Ontario legislature forms the Select Committee on Ontario Hydro Nuclear Affairs to scrutinize Ontario Hydro's nuclear recovery plan and the serious assertions made about Hydro in the recent Independent Integrated Performance Assessment (IIPA) report on nuclear safety at the utility.
- Oct 10/97     The Provincial Cabinet is reorganized. The Ministry of Environment and Energy separates into two different entities. Norm Sterling remains the Minister of the Environment while Jim Wilson becomes the Minister of Energy, Science and Technology.
- Nov 6/97      Ministry releases White Paper on restructuring Ontario Hydro. The paper proposes to create a competitive market in the year 2000 for wholesale and retail customers.
- Nov 27/97     Ministry releases document "Better, Stronger, Clearer: Environmental Regulations for Ontario." Proposed changes related to energy include:  
    repeal of regulations related to electric stationary water heaters under the *Energy Efficiency Act*, as this type of heater is no longer permitted for sale or lease in Ontario;  
    establish energy efficiency standards for gas-fired room heaters; wall furnaces; and fluorescent lamps;  
    establish uniform systems of accounting for utilities regulated by the Ontario Energy Board;  
    Remove obsolete exemptions related to completed transactions regulated by the Ontario Energy Board; and  
    permit the Ontario Energy Board to set its own rules of procedure.
- Nov 97        Environment Canada produced an executive summary for "The Canada Study: Climate Impacts and Adaptation." Global Circulation Models simulations predict an average annual warming of 2-5 C by the end of the 21st century. Increased air pollution will negatively affect human health and concurrent climate change will lead to an increase in the frequency of extreme weather events and high pollution episodes.
- Dec 1/97      Richard Dicerni, a former Deputy Minister of Environment and Energy, is appointed Vice-President, Corporate and Environmental Affairs, for Ontario Hydro.



Dec 10/97	Ontario Hydro becomes the first company in Canada to purchase credits for carbon dioxide emission reductions made outside of the country. The utility purchased 10,000 tons of carbon dioxide reduction credits from the Southern California Edison electric utility. The purchase was viewed as lending support to the concept of an international emissions trading program, one of the options under discussion at the Kyoto Conference on Climate Change.
Dec 31/97	Ontario Hydro fails to meet a deadline for filing information with the Atomic Energy Control Board on its plan to improve nuclear plant operating performance at its Bruce B nuclear facility.
Dec 97	Report of the Ontario Legislature's Select Committee on Ontario Hydro Nuclear Affairs concludes that the failure to properly manage nuclear assets, through prudent preventative maintenance or other methods, is unacceptable, regardless of rationale. A more formal approach is necessary to ensure that safety standards are maintained at a high level. Any replacement power obtained from the Ohio Valley, while making repairs, would result in increased emissions of greenhouse gases and transport of other pollutants in Ontario.
Jan 1/98	Ontario Hydro begins shutdown of three reactors at its Pickering A facility. Each reactor can produce 540 megawatts of power and will be laid up until at least the year 2000.
Jan 16/98	The province and Ontario Hydro announce the establishment of an interim market for replacement electricity. The interim market will open up the supply side of Ontario Hydro to other generators. "Energy from competitively-priced renewable sources such as small hydroelectric, solar and wind power will be selected over non-renewable sources." Given the large economies of scale and purchasing power of coal fired facilities, this type of power is likely to be more "competitively-priced." Also to be factored into decisions would be transmission and operational factors. These factors would tend to favour large established producers including Ontario Hydro. As well, purchase contracts are short (2-4 years) which limits the ability to invest in renewable infrastructure.
Jan 20/98	Minister of Energy, Science and Technology Jim Wilson establishes the Market Design Committee to restructure Ontario's electricity industry. The committee will advise the government on market rules, powers and responsibilities of the regulatory agency. The committee will be guided by the Government's White Paper <i>Direction for Change: Charting a Course for Competitive Electricity in Ontario</i> which sets out principles to ensure that the market is fair and equitable to all operators and includes the consideration that environmental protection measures be incorporated into the market design.
Jan 28/98	Floyd Laughren is appointed to the Chair of the Ontario Energy Board.
Jan 98	The Institute for Environmental Studies (University of Toronto) and Pollution Probe release "Emissions for Coal-Fired Electric Stations: Environmental Health Effects and Reduction Options." The report concludes: emissions of several key pollutants from coal-fired electric stations are at levels which represent a threat to human health and the environment. This threat remains despite emission reductions which have already been achieved. over 90% of each of the five pollutants investigated are generated in the region defined as the Ohio Valley/Great Lakes States. Emissions from this region have a direct impact on air and water quality in Ontario. Government action in Canada and the U.S. is required to achieve the coal station emission reductions necessary to obtain acceptable air quality standards to protect human and ecosystem health.
Jan 98	The Northeast States for Coordinated Air Use Management (NESCAUM) prepared "Air Pollution Impacts of Increased Deregulation in the Electric Power Industry: An Initial Analysis." NESCAUM is concerned that deregulation will result in "significantly increased power production at low-cost, highly polluting coal-fired plants." Deregulation will also cause a boost in smog levels unless NO <sub>x</sub> and CO <sub>2</sub> emission caps are established.

Feb 3/98	Minister of Energy Science and Technology establishes Electricity Transition Committee to advise minister on proposed changes to Ontario's electricity system. Specifically, the Committee will solicit input from affected stakeholders. The Committee is chaired by David McFadden, a partner in the Toronto law firm Smith Lyons and Arthur Kroeger, Chancellor of Carleton University.
Feb 19/98	The President of Ontario Hydro makes an unprecedented appearance before hearings of the Atomic Energy Control Board to offer reassurances that it will not again miss a deadline for filing information on its nuclear plant operating performance improvement commitments. The utility missed a filing deadline on December 31, 1997.
Feb 98	The Ontario Ministry of Housing moves away from its original proposal to dramatically reduce the insulation requirements for new homes contained in the Ontario Building Code. The standard for new homes will be set at R17 above grade and R8 below grade.
Feb 27/98	Ontario Hydro decides against installing the modern air pollution control equipment at its Lennox Power Generating Station near Kingston. The equipment would reduce levels of nitrous oxides. Recently, Ontario Hydro has elected to install emission control devices at its Lambton and Nanticoke stations.
Mar 6/98	Ontario Hydro receives its second progress report of its program to repair its brass condenser cooling equipment. The program flows from a recommendation from the report "Evaluation of Emissions form Ontario Hydro Admiralty Brass Condensers to the Great Lakes" (see Jul 8/97). The progress report indicates that some dates have slipped but overall the program is on track.
Mar 18/98	Ontario Hydro affirms its earlier decision to mothball the final two nuclear reactors at its Bruce A Nuclear Generating Station. Bruce A reactors may restart in 2003. The Bruce B plant is attempting to improve its performance.
Mar 22/98	Minister of the Environment rejects a request by the Town of Pickering, Ajax, Whitby, Uxbridge, Durham Region, Durham Nuclear Awareness and concerned residents for an environmental assessment on the future of the Pickering nuclear power station. 18,000 Pickering residents had voted for an assessment in the November 1997 municipal election.
Mar 27/98	Ontario Hydro's Pickering Nuclear Generating Station is granted a one year operating licence (a five year licence was requested). Many local interests requested a maximum 9 month licence given Ontario Hydro's nuclear operating performance. Ontario Hydro and is required to report back in six months.
Mar 31/98	Union Gas Ltd. asks the Ontario Energy Board to financially penalize Pollution Probe for generating negative media reports about its water heater deregulation proposal. Union Gas is seeking permission from the board to shift its water-heater rental business to an unregulated affiliate. Pollution Probe estimates that reorganization could cost ratepayers \$27.1 million in additional charges each year and is worried that higher rates will encourage the use of electric water heaters, leading to higher emissions of pollutants from coal-fired electric power plants.
Apr 3/98	A Ministry of Environment investigation concludes that the release of 1800 tonnes of copper and zinc from Ontario Hydro's Pickering Nuclear Generating Stations has had no measurable effect on drinking water quality or fish life near the plant. The investigation was carried out in response to an EBR request.
Apr 22/98	The Ontario government receives a proposal for industry self-regulation from the Ontario Energy Marketers Association (the province's natural gas brokers). While the plan applies primarily to consumer relations, the concept is consistent with many other schemes in which governments turn over the management of concerns about environment, health, safety and the public interest to private sector bodies (usually the same bodies that caused the concern

for environment, health, safety and the public interest in the first place).

- Apr 25/98 A 100 litre spill of radioactive heavy water causes a station emergency declared at Ontario Hydro' Darlington Nuclear Generating Station triggering standby of provincial nuclear emergency response. Concern is expressed for workers who may have been exposed to high levels of radiation.
- May 8/98 Ontario Hydro announces that it has sold emission credits worth \$500,000 to a Connecticut company (Hartford Co-generation Ltd) in order for that company to achieve its state-directed emission targets. 500 tonnes of nitrogen oxides were sold under the Pilot Emission Reduction Trading Project. The credits were reviewed in Canada by the PERT Project. and approved in the US by the Connecticut Department of Environmental Protection. Ontario Hydro created the credits by reducing nitrogen oxide emissions through the use of new burners and other modification to its Nanticoke and Lambton generating stations in 1995 and 1996.
- May 20/98 Ontario Hydro Nuclear has submitted three separate proposals to the Ministry of the Environment to re-test its treatment equipment allowing them to meet the effluent requirements of the Clean Water Regulation. The company has informed the Ministry that this re-testing is necessary to consistently meet all the effluent limits imposed by the regulation at its: Pickering Generating Station; Bruce Nuclear Generating Stations A & B; and Darlington Generating Station.
- May 21/98 The Atomic Energy Control Board criticizes Ontario Hydro for a spill of 400 kilograms of radioactive heavy water in April 1998 (see above). The Board concluded that the spill could have been avoided had the utility expedited its nuclear operations improvement plan.
- May 29/97 Ontario Energy Board issues decision approving Union Gas Ltd.'s proposal to deregulate the water-heating rental activity. This could lead to shift to electric water heaters whose energy source (coal-fired electricity) is more emission intensive. The OEB declined to penalize Pollution Probe for releasing to the media Union Gas Ltd.'s proposal.
- June 6/98 Bill 35 *The Energy Competition Act* that would split Ontario Hydro into two companies, thereby creating a competitive provincial electricity market, is to be introduced into legislature. The bill is expected to rewrite the *Power Corporation Act* and the *Ontario Energy Board Act*. The proposed law will also give government regulatory power to direct the restructuring of Ontario Hydro and the creation of a competitive market.
- June 6/98 Calgary's TransAlta Corp. wins a contract to build a \$400-million co-generation power plant in Sarnia Ontario. Co-generation involves the production of electricity and steam, resulting in a process that has been described as energy efficient and cost effective. The project is scheduled to be completed by 2001.
- June 16/98 Pollution Probe states that the Ontario Energy Board's decision to allow Union Gas to increase water heater rental prices will negative ramifications on energy conservation.
- July 9/98 A report produced by the provincial government indicates that electricity prices will not rise as a result of Ontario Hydro's restructuring. The report indicates that Hydro's current debt will be covered in two ways. First, money will be generated from a series of charges instead of municipal taxes to be imposed on Genco and Servco. If this does not fully cover the debt, then a special fee--Competition Transition Change fee, will be imposed on consumers and electricity producers.
- July 10/98 Ontario's Environment Minister, indicates that Ontario's Smog Plan, chk which will apply to Ontario vehicles as well as visiting U.S. vehicles, and that Ontario will refuse to import electricity from companies that do not meet the province's air quality standards.
- July 16/98 Major increases in emissions of sulphur dioxide reported from the U.S. electric utility sector

for 1996.

July 17/98	Efficiency Standards for fluorescent lamps, gas-fired wall furnaces and gas-fired room heaters adopted under the <i>Energy Efficiency Act</i> , and standards references for electric water heaters, dusk to dawn luminaries, and cobra-head type luminaries.
July 17/98	Regulation 933 (water heaters) revoked under the <i>Power Corporation Act</i> . Water heaters now regulated under the <i>Energy Efficiency Act</i> .
July 17/98	A working group made up of citizens, government representatives and special interest groups, is formed and asked to advise Ontario Hydro during an environmental review process of the Pickering nuclear power plant. The Atomic Energy Control Board ordered the review process.
Aug 21/98	The Atomic Energy Control Board (AECB) finds that Ontario Hydro failed to follow regulations regarding the operations of four nuclear power stations. AECB suggests that some of the problems are related to lack of employee compliance with procedures as well as outdated training manuals. Despite lax operating and maintenance practices, both the AECB and Ontario Hydro say that risk to the public is low.
Aug 29/98	Ontario's new Nuclear Emergency Plan, adopted on April 15 1998 as a working guide for responses during a nuclear emergency, makes headlines. The plan has two key features that set it apart from its 1986 predecessor. First, to the satisfaction of anti-nuclear energy groups, this document explicitly addresses the possibility of a severe nuclear accident. A second and more controversial feature, is the inclusion of a policy that would encourage the venting of radioactive materials gathered at a reactor, when meteorological conditions would likely carry the pollutants over the Great Lakes and into regions of the United states.
Date N/A	A report by the Market Design Committee, an advisory group to the government on the issue of creating a competitive energy market, finds that in order to create such a market, Ontario Hydro must be broken into more pieces than currently planned. The report determined that the current plan still allows Ontario Hydro to exercise too much power over the market and limits government involvement. Consequently, the report concludes that under this plan, Ontario consumers would not receive the benefits of a truly efficient and competitive market.
Sep 9/98	The MoE announces that Ontario Hydro has been continuing to meet its emission caps for acid gases (215 kilotonnes) under Regulation 355/90. However, emissions of SOx and NOx have risen dramatically as a result of the implementation of the August 1997 Nuclear Asset Optimization Plan. Hydro's emissions were well below the cap prior the NAOP implementation.
Oct 18/98	Bill 35, <i>The Energy Competition Act, 1998</i> , receives Royal Assent. Bill is intended to introduce competition into the electricity market in Ontario. The Bill divides Ontario Hydro into three entities: <ul style="list-style-type: none"><li>Ontario Power Generation Corporation with generating assets;</li><li>Ontario Services Corporation to operate transmission and distribution infrastructure;</li><li>and</li><li>Ontario Hydro Financial Corporation to hold Ontario Hydro's debt.</li></ul> <p>Service Corporation and Generation Corporation are to be incorporated under the <i>Business Corporations Act</i> held in right of her majesty in Right of Ontario. Among other things, they will escape application of <i>Freedom of Information and Protection of Privacy Act</i> and other accountability mechanisms that apply to public entities.</p> <p>Financial corporation continued as corporation without share capital made up of its board of directors.</p> <p>Bill also creates an Independent Market Operator (IMO) another corporation without share</p>

capital made up of its board of directors, to operate the market.

The Bill creates an Electrical Safety Authority, to assume electrical safety regulation functions of Ontario Hydro. It is a delegated regulatory organization similar to the Technical Standards and Safety Authority.

The Ontario Energy Board is provided with a regulatory function through requirements for licensing as a condition of market access.

The Act makes provision for the requirement of electricity suppliers to be in compliance with environmental performance standards as a condition of market access, but makes no provision regarding the nature of those standards.

- |            |  |
|------------|--|
| Feb 17/99  | Reported Ontario Hydro approaching Countdown Acid Rain program regulatory caps for emissions of SO <sub>x</sub> and NO <sub>x</sub> as a result of implementation of August 1997 Nuclear Asset Optimization Plan. SO <sub>x</sub> emissions have risen 15% and NO <sub>x</sub> emissions by 30% between 1997 and 1998. |
| Mar 22/99  | Former Attorney General Ian Scott criticizes the Ontario government for allowing the successor corporations to Ontario Hydro to escape the requirements of the <i>Freedom of Information and Protection of Privacy Act</i> through provisions of Bill 35, <i>The Energy Competition Act</i> .                          |
| April 1/99 | Successor corporations to Ontario Hydro under Bill 35 come into being.   |

## PESTICIDES & AGRICULTURE

- |            |  |
|------------|--|
| Feb 96     | Consultation paper on <i>Farm Practices Protection Act</i> released by the Ministry of Agriculture, Food and Rural Affairs.  |
| Jun 5/96   | Minister of Environment and Energy introduces Bill 66, <i>Government Process Simplification Act</i> which proposes to amend the <i>Consolidated Hearings Act</i> and <i>Environmental Protection Act</i> . This could:<br>allow the Minister of Environment and Energy to amend the <i>Pesticides Act</i> to allow classification of pesticides by the Minister or a delegate.   |
| Jul 31/96  | Ontario government releases a discussion paper entitled <i>Responsive Environmental Protection</i> which makes over 80 recommended changes to environmental regulation. The recommendations include revising the Environmental Bill of Rights Classification of Proposals for Instruments Regulation to eliminate notice requirements for proposals with minimal environmental impact. Recommendations impacting pesticide regulation include:<br>replacing the provincial pesticides classification system with a national system;<br>decreasing the number of different pesticide licenses from 53 to 15;<br>requiring licensed exterminators to become recertified every five years;<br>requiring at least \$1 million in third party liability for pest control businesses; and<br>replacing underground disposal of pesticide containers with new recycling requirements. |
| Aug 13/96  | Amendments to Regulation 914 placed on the EBR Registry dealing with a host of pesticides, their use, containers and licensing.  |
| Jan 28/97  | Ontario Ministry of Agriculture, Food and Rural Affairs Posting on <i>Farm Practices Protection Act</i> . <i>Ministry proposes to expand exemption for agricultural activities from environmental laws.</i>  |
| Jan 30/97  | Ministry of Environment and Energy reveals that it does not have the financial resources to undertake the testing of pesticide samples due to budgetary reductions.  |
| Jun 26/97  | Bill 146, the <i>Farming and Food Production Protection Act</i> receives first reading. The Bill, if enacted, would maintain current prohibition in the <i>Farm Practices Protection Act</i> barring neighbours of farms from undertaking actions in relation to nuisances which arise as a result of 'normal' farm practices, and adds a mechanism through which the Farm Practices Protection Board can overturn municipal by-laws that attempt to control such nuisances.   |
| Sept 19/97 | Premier attends unveiling of one of 75 Ontario developed transgenic grape vines at Chateau des Charmes vineyard in Niagara. The grape has been given genes from arabidopsis, a Canadian wild plant related to broccoli and cauliflower.  |
| Sept 24/97 | Bill 146, the <i>Farming and Food Production Protection Act</i> passes Second Reading.   |
| Nov 13/97  | Ministry of Agriculture, Food and Rural Affairs (OMAFRA) posts a proposal on the EBR Registry to alter its Statement of Environmental Values (SEV). OMAFRA proposes to alter its SEV to reflect the priorities in its business plan which are: to foster competition, increase exports and encourage investment.   |
| Nov 27/97  | Ministry releases document "Better, Stronger, Clearer: Environmental Regulations for   |

Ontario." Proposed changes related to pesticides include:  
 prohibition of the burial of empty pesticide containers and the required recycling of agricultural and commercial containers made of plastic or metal;  
 elimination of the sections of Regulation 914 dealing with obsolete pesticides that are no longer available; and  
 consolidation and clarification of the sections of Regulation 914 on fumigants.  
 simplify the licensing system and reduce the number of types of licences;  
 upgrade training requirements for exterminators; and  
 eliminate exterminator licences requirement for the use of some "low risk" pesticides.  
 introduce Standardized Approvals for applications of "low risk" pesticides.

Dec 17/97 Bill 146, the *Farming and Food Production Protection Act* is referred to the Standing Committee on Resources Development.

Dec 24/97 The Ministry of Environment proposes changes to grower certification requirements under regulation 914 of the Pesticides Act. If the proposals are accepted, all growers, including assistants, using Schedule 2 and 5 (commercial) pesticides would require certification. In addition, agriculturalists using Schedule 3 (low toxicity) pesticides would require certification beginning in April 1, 1998.

May 11/98 Bill 146, *The Farming and Food Production Protection Act*, receives Royal Assent.

Aug 1/98 Amendments to Regulation 914 under the *Pesticides Act* to:  
 clarify requirements re: fumigants;  
 limit ability to bury empty pesticide containers; require, where appropriate and dependent on type of pesticide, containers be rinsed and recycled and reused; all pesticide wastes to be disposed of in compliance with Part V of the *Environmental Protection Act*.  
 clarifications on restrictions on use of structural pesticides;  
 limit applications by certified agriculturalists to lands other than their own;  
 permit granting of applicator's licenses on the basis of equivalent out-of-province training and certification;  
 remove licence requirements for specific low toxic, innocuous products including:  
     tree wound dressings;  
     pesticides to be injected into trees;  
     pole and stump wood preservatives;  
     dog and bear personal repellants;  
     sealed bait stations; and  
     products containing a single active ingredient soap, mineral oil or silicon dioxide.

Sep 16/98 Amendments to Ontario Pesticide Licensing System adopted:  
 number of licences reduced from 53 to 18;  
 exterminator's licenses required for pesticide extermination businesses;  
 proposal for exterminator re-certification every 5 years dropped;  
 proposal for licensing of assistants to exterminators dropped, except where not supervised by a licenced exterminator;  
 no requirements for renewal of technician status; and  
 requirement for comprehensive insurance set at \$1 million.

## FORESTRY

- Oct 6/95      Government-wide operating budget reductions released by the Office of the Premier. Reductions to Ministry of Natural Resources:  
                  fire management \$0.5 M;  
                  sustainable forestry/environmental assessment implementation program \$19.1 M;  
                  nursery closures \$0.4 M.
- Jan 29/96      Bill 26, the *Government Savings and Restructuring Act* enacted by the Ontario legislature. The Bill contained amendments to the *Forest Fire Prevention Act* as summarized below:  
                  repeal fire, travel and work permit provisions which will allow people into and activities to take place in forest fire prevention zones in an unregulated manner.
- Feb 9/96      Managed Forest Tax Rebate Re-Instatement announced.
- April 3/96      Introduction of Bill 36, the *Ministry of Natural Resources Statute Law Amendment Act*.
- Apr 11/96      Ontario government releases "Interim Report on Business Planning and Cost Savings Measures" which outlines the re-shaping of government through "new business directions" for ministries and "cost-savings measures" that the province is implementing. Each ministry is responsible for carrying out its own business plan within the financial constraints that it is assigned. Effects of this initiative on forestry policy and practices:  
                  streamline forest management to reduce budget by \$34.6 M in 1996-97 and \$45.9 M in 1997-98;  
                  wind down the Temagami Comprehensive Planning Council to save \$0.3 M in 1996-97 and again in 1997-98;  
                  reduce fire fighting operations by \$4.0 M in 1996-97 and again in 1997-98;
- May 17/96      New Burning Guidelines announced under the *Forest Fires Prevention Act*. The new standards eliminate the requirement to obtain a fire permit for "small fires." This includes:  
                  burning piles of wood brush, or wood by-products, so long as the pile is less than two metres in height and the fire is two metres away from any flammable material;  
                  burning grass or leaves if the total area to be burned is less than 1 hectare;  
                  burning in incinerators so long as they are closed devices and at least five metres from any forest and two metres from any flammable material; and cooking fires.
- May 28/96      The Ministry for Natural Resources announces that it will restructure forest management in the province. Implementing the Forest Management Business Plan means that the MNR will:  
                  reduce its direct involvement in forest management operations;  
                  shift new and/or additional responsibilities to forest industries along with the costs of meeting those responsibilities;  
                  concentrate on managing information required for forest management;  
                  no longer consider forest management a core ministry business;  
                  rely on forest company reports as its primary source of information when verifying compliance;  
     Details include:  
                  all current management units to be covered by a Sustainable Forest Licence (or equivalent);  
                  SFLs will be longterm licensing arrangements (greater than 5 years) that will afford the licensee more direct control over a forest as well as greater responsibilities;  
                  forest companies with the existing Forest Resource Licence (short term, limited responsibility) will be bumped up to an SFL;  
                  independent audits will be used to determine sustainable practices if ever deemed required;  
     Forest industries will be involved :



	<p>in the development of policies, standards and guidelines for forest management;</p> <p>in the development and implementation of ecological land use plans;</p> <p>Forest industries will be responsible for:</p> <ul style="list-style-type: none"> <li>silviculture, pre and post harvest activities;</li> <li>surveys and assessments, road and bridge construction;</li> <li>monitoring, inventory and data collection;</li> <li>wood measurement, seed and seedling production;</li> <li>preparing forest compliance plans;</li> <li>conducting inspections of their operations;</li> <li>identifying areas where standards and guidelines have not been followed;</li> <li>undertaking and paying for remedial work;</li> <li>ensuring that staff are properly certified and re-certified.</li> </ul>
Jun 28/96	<p>Ontario government releases its land-use strategy for Temagami. The strategy permits logging of 35 per cent of the old-growth forests in Temagami. The government contends the strategy will protect old growth sites and resolve land-use issues in Temagami. Highlights of the strategy include:</p> <ul style="list-style-type: none"> <li>a limited prohibition on clearcutting of some of Temagami's old growth red and white pine;</li> <li>mineral exploration activity in the Temagami area with some limited prohibitions; and</li> <li>the creation of Protected and Special Management Areas where resource extraction will be prohibited or carefully managed.</li> </ul>
Sept 11/96	<p>Two organizations, the Sierra Legal Defense Fund and Algonquin Wildlands League file a suit against the MNR alleging non-compliance with the requirements of a Class Environmental Assessment of Timber Management on Crown Land and the <i>Crown Forest Sustainability Act</i>.</p>
Sep 25/96	<p>Two environmental organizations (Algonquin Wildlands League and Friends of Temagami) seek a court order which would prevent further logging of old growth red and white pine in Temagami's Owain Lake Forest.</p>
Oct 2/96	<p>Ontario Court General Division refused to grant a court order sought by two environmental organizations that would have temporarily stopped logging in Temagami's Owain Lake Forest.</p>
Nov 4/96	<p>Forest Planning Manual published by the Ministry of Natural Resources.</p>
Nov 5/96	<p>Ministry of Natural Resources adopts regulations to implement Bill 26 amendments to the <i>Forest Fires Prevention Act</i>, <i>Public Lands Act</i>, and <i>Lakes and Rivers Improvements Act</i>. The regulations</p> <ul style="list-style-type: none"> <li>the repeal of most fire, travel and work permit provisions.</li> <li>the elimination of many permitting requirements when constructing, altering or using a dam, dock or other water works; some larger buildings still require a permit;</li> <li>most bridges, culverts agricultural drains, trenching and dams do not require work permits on private or municipal lands; on Crown lands, bridges, culverts and dams do require a permit but agricultural drains and trenching for private residences are exempt;</li> <li>using regulations in place of statutory obligations severely reduces the capacity of courts to order restoration in the case of damage to the natural environment;</li> <li>the majority of activities on public lands and waters are permissible; fewer activities remain captured;</li> <li>new trails through Crown land will mostly not require a permit; permit exemptions are clearly granted for trails for mineral exploration, timber or other resource extraction;</li> <li>dredging, controlling aquatic plants, building docks and boathouses and laying submarine cable are free from permitting requirements if they are private (as opposed to commercial) and if they are intended for a log salvage operation;</li> </ul>

100 square metres of vegetation annually can be removed in waters in southern Ontario without a permit; only exceptional burning will be captured by permit requirements (industrial slash pile burning and ecologically prescribed burns). All other small-scale incinerations are automatically permitted.

- Nov 19/96 Royal assent given to Bill 76, amending the *Environmental Assessment Act*. Bill includes provisions which may provide mechanism for cabinet to modify Terms and Conditions of Environmental Assessment decisions, including the Class Environmental Assessment of Timber Management on Crown Lands.
- Dec 11/96 A Request for Investigation is filed under the Environmental Bill of Rights concerning the construction of a logging road near Cross Lake.
- Jan 16/97 Bill 106, *The Fair Municipal Finance Act*, introduced. Bill would improve the tax treatment of conservation, farm and managed forest lands.
- Feb 3/97 Bill 199, the *Red Tape Reduction Act (Ministry of Natural Resources)*, 1997 goes to 1st Reading. If passed, *The Crown Forest Sustainability Act, 1994* will be amended to:  
 clarify that assets of the Forest Renewal Trust Fund are Crown assets;  
 remove the requirement that Area Charges be determined by regulation and make Minister responsible for setting them;  
 allow the Minister to declare Restricted Fire Zones by amending the *Forest Fires Prevention Act*;  
 consolidate the *Forestry Act*, the *Forest Tree Pest Control Act*, and the *Woodlands Improvement Act* (all of which deal with forestry on private land) into one act (the *Forestry Act*). Under the new act, maximum fines for violation of county and regional municipality tree-cutting by-laws will be increased to \$20,000;  
 amend the *Public Lands Act* and *Lakes and Rivers Improvements Act* to permit delegation of decision-making to third parties.
- Apr 16/97 Draft MNR Policy on Wilderness released.
- Apr 17/97 The Ministry of Natural Resources is charged by Ministry of the Environment with contravening the *Environmental Assessment Act* by allowing the construction of a road to Cross Lake.
- Apr 97 The Ministry of Natural Resources prepares for a year-long consultation and planning process for Crown lands called *Lands for Life* (launch of process and committees on June 17, 1997). The program has three elements:  
*Nature's Best* - a plan to create a network of protected wilderness areas in Ontario;  
 Resource-Based Tourism Policy - a plan to identify resources for use by the tourism industry;  
 Forest Management - a plan to attempt to ensure that forest's are managed sustainably.  
 Three roundtables have been proposed to undertake the consultation:  
 Great Lakes - St Lawrence;  
 Boreal East; and  
 Boreal West.  
 Their composition will be determined and appointed by the Minister and are expected to include 8-12 people. The consultation is scheduled to complete by the spring of 1998. The critical issue of forest industry tenure on Crown lands is being held outside of this process and is subject to discussions between the province and the industry only. It is expected to be determined after, not before this planning process.
- May 14/97 A hearing is held in Ontario Divisional Court to determine whether the Minister of Natural Resources, Chris Hodgson, violated the *Crown Forest Sustainability Act* and the

*Environmental Assessment Act*. The dispute arises from the allegations made by two organizations, Algonquin Wildlands League and Friends of Temagami, that the Minister exceeded his jurisdiction by approving plans and work schedules without providing for the sustainability of Crown forests.

- May 27/97 The Ministry of Natural Resources proposes and adopts a Wilderness Area Policy. The policy fails to satisfy a longstanding obligation of the MNR to establish a policy for roadless wilderness areas under the Class Environmental Assessment on Timber Management. The implementation of a roadless area policy is very likely to conflict with the Lands for Life land tenure process.
- Jun 17/97 The minister announces nomination of 40 persons as members of the three regional round tables as part of the Lands for Life process devised for the management of Crown lands in Ontario. These committees are to make recommendations on the use of Crown lands in their respective areas. Concerns over the process include:  
land uses may be designated for large portions of Ontario on a perpetual basis (between 37 and 46 million hectares or about 47% of Crown lands in Ontario;  
that the process includes no objectives for protected areas;  
As this process is continuing, the MNR is also in discussions to allocate up to 60% of non-protected public lands to "intensive forestry" and to strengthen the tenure of forest companies on public lands.
- Sep 13/97 The Ministry of Natural Resources submits a plea of guilty with respect to the charges laid against it, under the *Environmental Assessment Act*, for the construction of an access road to Cross Lake.
- Oct 10/97 The Provincial Cabinet is reorganized. John Snobelen becomes the Minister of Natural Resources. Chris Hodgson vacates Natural Resources but retains Mines and Northern Development.
- Dec 15/97 The Ministry of Natural Resources accepts the Prescribed Burn Planning Manual as containing the guidelines for planning and conducting prescribed burns in Ontario. Each plan will include:  
a statement of objectives to be achieved;  
a burn prescription that will meet the objectives;  
a list of all areas of concern;  
a description of the methods used to notify the public;  
a description of ignition, suppression, safety and support measures;  
an outline of the requirements for a post-burn analysis.
- Dec 19/97 The Ministry of Natural Resources approves the inception of the Forest Resource Assessment Policy as the successor to the Forest Production Policy (1972). The new policy provides an analytical framework within which forest resource use decisions are to be made and ensures that assessments of Ontario's Crown forest resources will be updated every five years.
- Dec 19/97 The Ministry of Natural Resources approves a policy directed towards classifying the Seed Zones of Ontario more accurately by using information from the Ontario Climate Model. The control of tree seed and stock transfer helps to maintain genetic diversity and the high effectiveness of artificial regeneration programs by ensuring the use of well adapted plant material.
- Jan 30/98 Minister of Natural Resources extends deadline for Lands for Life roundtable reports. Originally the recommendations were to be submitted to the minister by March 1998 but now are requested by June 30, 1998. The recommendations from these consultations could determine the fate of between 37 and 46 million hectares or about 47% of Crown lands in Ontario. Timber, tourism or parks are the three designated land use options.

- Feb 7/98 An Ontario Divisional Court declares three Northern Ontario timber management plans to be "of no force and effect." The panel that hears the case gives the province 12 months to bring the Elk Lake, Upper Spanish and Temagami plans into compliance with the *Crown Forest Sustainability Act*. The most contentious actions by the Ministry of Natural Resources included:
- approving work schedules without proof that the forest would managed sustainably;
  - approving plans which lacked any sustainability indicators and frequently allowed for clear-cutting; and
  - timetables for phasing in new standards were arbitrarily extended.
- Apr 28/98 Publication of report by Wildlands League and Sierra Legal Defence Fund indicating pattern of serious failure to enforce environmental regulations applicable to forestry industry in Algoma Highlands. Publication of report is accompanied by the filing of a request for investigation under the *Environmental Bill of Rights*.
- Apr 29/98 Environmental Commissioner for Ontario tables Third Annual Report: "Open Doors - Ontario's Environmental Bill of Rights." The Commissioner states "I regret to report that in the past year there has been little substantive improvement in the actions taken by provincial ministries toward protecting the environment." Comments on specific issues include the following:
- Forest Management*
- despite its budget and staff being cut in half, the Ministry of Natural Resources is faced with increasing pressures from rising demand for wood, the need to complete the provincial parks system, and conflicts between forestry, tourism and natural heritage values.
  - report is critical of the pace of the 'Lands for Life' process and lack of adequate public consultation in this program to determine the uses for 46% of the province's land area.
  - The Commissioner also expresses concern over some of the approaches to forest management being adopted or considered by the Ministry of Natural Resources including: tenure in perpetuity for forestry companies; compensation if the land licences to companies is later re-allocated; industry self-monitoring of compliance with forestry regulations; and streamlining the sale of crown lands.
- May 1/98 Minister of Natural Resources John Snobelen signs the Canada Forest Accord. The accord helps ensure that forest industries sustain a competitive position in a global market. Ontario's contributions to advance the accord include:
- the longterm tenure for forest companies on Crown land that is to be allocated through the Lands for Life process;
  - efforts to understand and define forest management;
  - attempting to complete a system of parks in the province;
  - trying to understand climate change impacts on forests;
  - improving public information.
- May 10/98 Ontario Court rejects application to amend its February 1998 decision regarding the failure of the Ministry of Natural Resources to comply with the requirements of the *Crown Forest Sustainability Act* and the Environmental Assessment Board's decision regarding the Class Environmental Assessment of Timber Management on Crown Lands. The Court grants the original applicants in the case, the Wildlands League and the Friends of Temagami, a costs award of \$127,000 in relation to the Ministry's application.
- July 31/98 Minister of Natural Resources receives Lands for Life Recommendations (see Oct 30/98 for further details).
- Oct 27/98 Ontario Court of Appeal upholds February 1998 decision of Ontario Divisional Court regarding MNR compliance with the *Crown Forest Sustainability Act* and Terms and Conditions of the Class Environmental Assessment on Timber Management on Crown Lands.

- Oct 30/98 MNR releases the consolidated Lands for Life Recommendations. Lands for Life was established in the Spring of 1997 to determine the fate of 47% of the province's landbase, mostly in the central to north of the province. Three Round Tables conducted consultations over approximately a year. Criticisms were levied that the process was heavily weighted in favour of industrial forestry, mining and hunting interests. The recommendations included:
- 79% of the Crown land be open to forestry, mining and all other resource extraction industries;
  - completion of a park system that has "minimal impact on forestry or mining sectors";
  - 703,000 ha of new parks/protected areas (total area covered under the recommendations is 46 million hectares);
  - five new land use designations: stewardship areas, enhanced management areas, heritage waterways, Great Lakes heritage coastlines and general use areas;
  - support for resource based tourism;
  - angling allowed everywhere;
  - hunting in most new provincial parks and everywhere else;
  - snowmobile / all terrain vehicle use virtually everywhere.
- Dec 16/98 Bill 101 *Red Tape Reduction Act #2*) Introduced. Schedule M amends a number of natural resources acts including:
- Forest Fires Prevention Act*
- provide authority to require that people who cause fires pay for fire suppression;
  - various minor amendments.
- Bill 101 died on the order Paper when the Legislative session ended on December 18, 1998.
- Mar 29/99 Government responds to 'Lands for Life' Round Table Recommendations. Announces protection of 12% of planning area. Major concessions to the forest industry include: no long-term reduction in wood supply; no net increase in cost of wood supply; application of intensive silviculture including potential exemptions from *Crown Forest Sustainability Act* biodiversity protection requirements; forest industry veto over creation of future protected areas; \$21 million in compensation and subsidies to the forest industry.
- Apr 6/99 MNR posts decision to proceed with amending the Forest Renewal Trust Agreement (FTRA) established under the *Crown Forest Sustainability Act*. The FTRA will be amended as follows:
- "5.02(c) Where the Minister determines that there is a surplus of funds in one or any individual management unit account licensed to a single sustainable forestry license holder, the Minister may instruct the Trustee to transfer such surpluses between or among the individual management units to that sustainable licence holder."
- Careful oversight of this mechanism (ie. public notification of fund transfers) will be required to ensure that all parties are in agreement, including the public, that renewal activities have been carried out properly and that the transfer of funds is deserved in light of drastic MNR inspection, compliance and enforcement resource cuts.
- Apr 22/99 Ministry of Natural Resources posts a decision (EBR # PB8E6006) to establish a new policy and procedure to govern the retrieval of sunken logs from Ontario's waterways. The policy update reflects the "growing interest in providing wood fibre to Ontario forest companies and in manufacturing specialty wood products from logs that have been submerged."
- July 16/99 Ministry of Natural Resources announces 'decision' on March 29/99 'Lands for Life' proposals. Key elements include:
- mineral exploration will be permitted in areas have very high mineral potential in new provincial parks and conservation reserves under controlled circumstances. If a site is to be developed for a mine, the area would be removed from the park or conservatoin reserve by deregulating, and another area would be added to the park or conservation reserve to replace the deregulated area;
  - existing bait fishing, commercial fishing, commercial fur harvesting and wild rice harvesting will be permitted to continue indefinitely in existing provincial parks,

except in wilderness and nature reserve parks and zones in parks, where these activities would be phased out by 2010. Where these activities occur in new parks, they would be permitted to continue indefinitely except in nature reserve parks and zones;

- sport hunting would be permitted in all new provincial parks and park additions except in nature reserve parks and zones;
- existing authorized seasonal recreation camps will be permitted to continue indefinitely in new provincial parks and will be eligible for enhanced tenure, but not purchase of land;
- existing authorized tourism facilities and recreation trails will be permitted to continue in new provincial parks, subject to management prescriptions determined through management planning;
- the establishment of new tourism facilities may be considered in planning for individual conservation reserves; and
- efforts will be made to identify potential locations for future road crossings for forestry purposes prior to regulation of new provincial parks or conservation reserves.

The government also states that "MNR will consider opportunities to provide additional hunting opportunities during park management planning for existing parks, including existing wilderness parks."

## WILDLIFE AND PROTECTED AREAS

Aug 95	The MNR releases a proposed land use plan for the Temagami Region which would open virtually all of the lands outside of provincial parks to mining, forestry, and other forms of development.
Oct 6/95	Government-wide operating budget reductions released by the Office of the Premier. These reductions are in addition to those made in July. Reductions to the Ministry of Natural Resources: park staff reductions \$0.06 M in 1995-96 and 1996-97; more reductions announced on April 11, 1996
Nov 17/95	Cautions placed on land titles in Temagami Area lifted.
Nov 95	The Minister of Natural Resources dispatches correspondence to Federal Environment Minister opposing the time line for the phase-out of lead shot for water fowl hunting.
Jan 5/96	"Temagami Area Draft Land Use Proposal" placed on EBR Registry. The Comprehensive Planning Council will submit its recommendations to the MNR on March 1, 1996.
Jan 29/96	Bill 26, the <i>Government Savings and Restructuring Act</i> enacted by the Ontario legislature. Bill amends the <i>Game and Fish Act</i> to permit the creation of an account separate from the consolidated revenue fund to manage monies collected from fees and licenses; expenditures at Minister's discretion.
Feb 23/96	Minister of Natural Resources makes a number of fish and game policy announcements: MNR is seeking delay in implementation of federal lead shot ban; two fishing rods per angler now effective on Lake Erie; and pursue changes to allow the hunting of migratory birds with raptors.
April 3/96	Bill 36, the <i>Ministry of Natural Resources Statute Law Amendment Act</i> introduced. The Bill includes amendments to the <i>Game and Fish Act</i> and the <i>Provincial Parks Act</i> .
Apr 11/96	Ontario government releases "Interim Report on Business Planning and Cost Savings Measures" which outlines the re-shaping of government through "new business directions" for ministries and "cost-savings measures" that the province is implementing. Each ministry is responsible for carrying out its own business plan within the financial constraints that it is assigned. Effects of this initiative on the protection of wilderness: streamline forest management to reduce budget by \$34.6 M in 1996-97 and \$45.9 M in 1997-98; reduce park financing \$9.1 M in 1996-97 and again in 1997-98; consolidate or close 60 of the Province's 251 parks to save \$5.1 M in 1996-97 and again in 1997-98; wind down the Temagami Comprehensive Planning Council to save \$0.3 M in 1996-97 and again in 1997-98;
Apr 17/96	Temagami Comprehensive Planning Council Report Released.
Apr 28/96	Lease on Serpent Mounds Provincial Park expires. Province does not attempt to extend.
Apr 31/96	World Wildlife Fund Canada issues the Province of Ontario an "F" in its Endangered Spaces Campaign (an effort which seeks to protect ecologically significant areas in the province).
May 1/96	Ontario Parks announcement: the creation of an agency to: "improve the delivery of programs and services in key parks to increase revenues and, in turn, sustain other parks."

- Jun 5/96 Regulation 257/96, exemption from s.51 of *Game and Fish Act* for sale of hides of black bear, deer, moose, or cast antlers of caribou, deer or moose promulgated.
- Jun 28/96 Ontario government releases its land-use strategy for Temagami. The strategy permits logging of 35 per cent of the old-growth forests in Temagami and also lifts a 24 year-old mining ban in the area. Highlights of the strategy include:  
a limited prohibition on clearcutting of some of Temagami's old growth red and white pine;  
mineral exploration activity in the Temagami area with some limited prohibitions; and  
the creation of Protected and Special Management Areas where resource extraction will be prohibited or carefully managed.
- Jun 96 Bill 36 enacted. Amends *Provincial Parks Act* to permit delegation of park operations to "any person."
- Jun 96 The Ministry of Natural Resources releases a summary of the Ontario Parks Business Plan. The Plan will become part of the MNR's corporate business plan. The division of responsibilities will be:  
Ontario Parks will develop policies for the planning, management and development of the provincial parks system.  
Ontario Parks will participate in the identification and acquisition of candidate sites for inclusion into Natural Heritage Areas.  
The MNR will ultimately determine whether sites are added.  
The MNR will develop policies for ecological sustainability and a system of Natural Heritage Areas for the province.  
The Ontario Parks Business Plan will:  
allow the Minister to establish a new board of directors chaired by the Deputy Minister of Natural Resources. It will have 5-8 members from outside the Ontario government;  
introduce revenue retention (to improve customer service and financial accountability, encourage entrepreneurialism and allow for greater merchandising opportunities within parks;  
will allow Ontario Parks to set or change park fees and charges subject to Minister approval;  
require that parks are more dependent on fees for their revenues;  
allow Ontario Parks to receive corporate sponsorship and private donations for land acquisition or facility upgrading and enter into corporate sponsorship agreements (the acceptance of donations is pending negotiations on tax receipting).  
These changes are intended to promote natural and cultural protection, move the park system toward financial self-reliance, improve park business practices and product marketing and involve private sector contracting.  
The current park system includes 265 provincial parks (of which 106 are operating parks), occupies 6.2 million hectares and attracts 8.5 million visitors per year.
- Jun 96 The Ministry of Natural Resources unveils its Fish and Wildlife Management Business Plan. The policy change is precipitated foremost by "expenditure reduction and Government downsizing" and incorporates the "dedication of revenues from fines, royalties and license fees prescribed by the Game and Fish Act." Plan includes:  
a significant shift in delivery of products and services to the non-government sector and increased participation by clients (anglers and hunters) in resource management;  
increased non-government role in delivery of services, embracing beneficiary pay and accountability and more local decision-making;  
new staffing and funding for delivery of hunting and fishing licensing services and the likelihood of contracting outside agencies (lodges, fur managers, hunting groups) to deliver and manage recreational licenses;  
field assessment programs to be severely curtailed (ie. science, fisheries and Great



Lakes assessment units);  
oversight by The Fish and Wildlife Advisory Board (see below).

- Jul 2/96 Ministry of Natural Resources lists appointees to The Fish and Wildlife Advisory Board (created under the *Natural Resources Act* in November 1995). The Board was created to provide advice on re-investing revenue from fish and wildlife license fees, royalties and fines. Board members, their residence and affiliation are:  
Phil Morlock, Whitney (Canadian National Sportfishing Foundation);  
Charles Alexander, Dryden (Ontario Fed. of Anglers and Hunters);  
Gary Ball, Peterborough (Hunting Heritage / Hunter Futures Board);  
Walt Crawford, Elora (Trout Unlimited Canada);  
Sandy Dickson, Atikokan (Canoe Canada Outfitters);  
Brian Dykstra, Marten River (Beaverland Camp);  
Sandi Johnson, London (Ontario Fed. of Anglers and Hunters);  
Pat Kennedy, Haliburton (Haliburton Highlands Outdoors Assoc.);  
Jack Newton, Huntsville (Ontario Hunt Clubs Association);  
George Purvis, Gore Bay (commercial fishing operator);  
Duncan Sinclair, Aylmer (Ducks Unlimited).
- Jul 4/96 Ministry of Natural Resources offers reduced camping and day-use fees to encourage persons with disabilities to use provincial parks.
- Aug 12/96 Natural Resources Minister Chris Hodgson officially opens the Hillardton Marsh Provincial Wildlife Area. The Marsh is a wetland habitat populated by wildlife and waterfowl.
- Sep 25/96 Two environmental organizations (Algonquin Wildlands League and Friends of Temagami) seek a court order which would prevent further logging of old growth red and white pine in Temagami's Owain Lake Forest.
- Oct 2/96 Ontario Court General Division refused to grant a court order sought by two environmental organizations that would have temporarily stopped logging in Temagami's Owain Lake Forest.
- Oct 96 Ministry of Natural Resources releases fact sheet on red and white pine in Ontario. In it, the MNR announces it has adopted a Conservation Strategy For Old Growth Red and White Pine Ecosystems in Ontario.
- Nov 5/96 Ministry of Natural Resources adopts regulations to implement Bill 26 amendments to *Public Lands Act*, *Lakes and Rivers Improvements Act*, and *Forest Fires Prevention Act*. The regulations:  
the repeal of most fire, travel and work permit provisions;  
the elimination of many permitting requirements when constructing, altering or using a dam, dock or other water works; some larger buildings still require a permit;  
most bridges, culverts agricultural drains, trenching and dams do not require work permits on private or municipal lands; on Crown lands, bridges, culverts and dams do require a permit but agricultural drains and trenching for private residences are exempt;  
using regulations in place of statutory obligations severely reduces the capacity of courts to order restoration in the case of damage to the natural environment;  
the majority of activities on public lands and waters are permissible; fewer activities remain captured;  
new trails through Crown land will mostly not require a permit; permit exemptions are clearly granted for trails for mineral exploration, timber or other resource extraction;  
dredging, controlling aquatic plants, building docks and boathouses and laying submarine cable are free from permitting requirements if they are private (as opposed to commercial) and if they are intended for a log salvage operation;  
100 square metres of vegetation annually can be removed in waters in southern Ontario without a permit;

only exceptional burning will be captured by permit requirements (industrial slash pile burning and ecologically prescribed burns). All other small-scale incinerations are automatically permitted.

- Dec 12/96 Ministry of Natural Resources announces final public review of proposed boundary for the expansion of Wabakimi Provincial Park. The MNR proposes to add over 700,000 hectares to the 155,000 hectare park, making it the largest provincial park in the forested region of Ontario. Ministry of Natural Resources releases summary of "key park values" for expansion of Wabakimi Provincial Park. The key values focus on woodland, caribou, landscape features, watershed integrity, Aboriginal values, canoeing and remote tourism.
- Dec 27/96 Minister of Natural Resources Chris Hodgson announces efforts to expand recreational lake trout fishing in south-central Ontario. As of January 1, 1997 48 lakes will be open to trout fishing. Another 6 lakes that are stocked by the MNR (dubbed "put, grow and take" by the MNR) the length of the fishing season will be expanded. Additional provisions include permission to use two fishing lines per angler and to use live bait but the catch is limited to two fish per day.
- Jan 9/97 Ministry of Natural Resources announces it provided \$515,000 in funding to its Community Fisheries Involvement Program (CFIP) in 1996. CFIP supports volunteers in 242 fishery improvement projects across Ontario. The 1996 contribution was the highest amount the MNR has ever invested in the program.
- Jan 16/97 Bill 106, *The Fair Municipal Finance Act*, introduced. The Bill would improve the tax treatment of conservation, farm and managed forest lands.
- Jan 20/97 Ministry of Natural Resources announces that it provided \$191,000 to the Community Wildlife Involvement Program (CWIP) in 1996. The money was spent to fund volunteers working on 140 CWIP projects in Ontario. These projects included:  
the erection of osprey platforms by the Friends of Charleston Lake;  
wild turkey trapping and relocations performed by the South-Central Big Game Association.
- Jan 21/97 Ministry of Natural Resources announces it will take measures to restore the elk population in Ontario. The MNR has formed elk restoration technical and advisory committees to undertake the task. Initial plans call for 50 elk to be obtained from Elk Island National Park in Alberta.
- Feb 3/97 Bill 119, the *Red Tape Reduction Act (Ministry of Natural Resources)*, 1997 goes to 1st Reading. If passed, the following amendments will be made to the *Provincial Parks Act*:  
changes in fines and enforcement powers; and  
mining and prospecting activities which are prohibited in provincial parks will be clarified.  
If passed, the *Parks Assistance Act* will be repealed.  
The Act will make amendments to the *Public Lands Act*:  
a land use planning process will be set up that allows for participation by stakeholders and controls activities that may be inconsistent with approved land use plans;  
the need for order in council approvals will be removed and authority will be delegated to the Minister;  
the Minister may order the transfer of administration and control of public lands to other government bodies; and  
administrative fees will be set by the Minister, rather than established by regulation.  
Conservation Authorities Act:  
authorities will be allowed to enter into agreements to permit exploration and extraction of oil and gas reserves on land adjacent to authority land;  
authorities would be permitted to lease land for terms of up to five years without approval;

maximum fines for violations of the regulations will be increased from \$1,000 to \$10,000, and from \$100 to \$1,000;  
anyone convicted of constructing a building or dumping fill may be ordered by the court to restore the site to its previous state (or to pay for the authority to do the work if the order is not complied with); and  
the Lieutenant Governor in Council would no longer be required to approve appointments of members to a Conservation Authority.

*Lakes and Rivers Improvement Act:*

debt collection will be consolidated through municipal taxes (to allow Minister to recover money spent by province on public health and safety issues caused by unsafe dam structures);  
the Minister will be given explicit power to enter into cost-sharing agreements;  
the Minister's orders and approvals will be explicitly made binding on the original recipient and any successor or assignee;  
the Minister will be authorized to issue stop work orders on unauthorized dams while compliance issues are resolved; and  
maximum fines for violations of the Act will be increased.

The Act will make the following amendments to the *Mining Act*:

references to boring permits will be removed (these are covered under the *Petroleum Resources Act*); and  
the areas in which the issuing of oil and gas exploration licenses and production leases are restricted to will be redefined.

If passed, the *Mining Act* will undergo several amendments. The Crown Forest Sustainability Act, 1994 will be amended to:

clarify that assets of the Forest Renewal Trust Fund are Crown assets;  
remove the requirement that Area Charges be determined by regulation and make Minister responsible for setting them.  
allow the Minister to declare Restricted Fire Zones by amending the *Forest Fires Prevention Act*,  
consolidate the *Forestry Act*, the *Forest Tree Pest Control Act*, and the *Woodlands Improvement Act* (all of which deal with forestry on private land) into one act (the *Forestry Act*). Under the new act, maximum fines for violation of county and regional municipality tree-cutting by-laws will be increased to \$20,000.

Feb 27/97      The Ontario government announces 4 new parks, 5 park expansions and 18 new conservation reserves.

New parks include: Tide Lake and Maynard Lake near Kenora, White Lake Peatlands between Thunder Bay and Sault Ste Marie, Blue Jay Creek on Manitoulin Island.

Expansions include: Mississagi River, Obabika River, French River, Hardy Lake and Charleston Lake.

New conservation reserves: Painted Rock, Miles Bay, Greenwood Lake, Shook Lake, Jog Lake, Tikamaganda Lake, Ranger North, Mac's Bay, Indian Bay South, Matabitchuan River, Narrows Island, Ottetail Creek, Rabbit Lake West, Temagami Island north, White Bear Forest, Torrance Barrows, Clear Lake, Kaladar Jack Pine Barrens.

The changes will add 77,500 hectares to the province's base of 6,300,000 hectares of protected areas (1.2% expansion). No target for adding to the province's protected areas was identified.

Apr 3/97      Minister of Natural Resources Chris Hodgson announces the Nipissing-French River area as the location for the release of 50 new elk into Ontario next February. Elk disappeared from Ontario in the 1800s because of over-harvesting and habitat loss and were re-introduced in the 1930s in the Nipissing-French River area. Partners with the MNR in this effort are: the Ontario Federation of Anglers and Hunters, Ontario Fur Managers Federation, The Safari Club International, Parks Canada and 5 other organizations. Five other release areas may be pursued based on the success of this pilot project.

- Apr 16/97 Draft MNR Policy on Wilderness released. Policy is widely criticized as providing inadequate protection for wilderness areas.
- Apr 17/97 The Ministry of Natural Resources is charged by the Ministry of the Environment with contravening the *Environmental Assessment Act* by allowing the construction of a road to Cross Lake.
- Apr 24/97 Minister of Natural Resources Chris Hodgson signs the first-ever perpetual agreement between a province and the conservation organization Ducks Unlimited Canada. The agreement specifies roles and responsibilities for each organization in the areas of wetland policy, wetland management, use of Crown lands, private land stewardship, communications, environmental review, science transfer, resource planning, information management and administration. This initiative effectively points toward the private management of a public resource on a scale unprecedented and attempts ensure that this arrangement will be perpetual.
- Apr 97 The Ministry of Natural Resources prepares for a year-long consultation and planning process for Crown lands called *Lands for Life*. The program has three elements:  
*Nature's Best* - a plan to create a network of protected wilderness areas in Ontario;  
 Resource-Based Tourism Policy - a plan to identify resources for use by the tourism industry;  
 Forest Management - a plan to attempt to ensure that forest's are managed sustainably.  
 Three roundtables have been proposed to undertake the consultation:  
 Great Lakes - St Lawrence;  
 Boreal East; and  
 Boreal West.  
 Their composition will be determined and appointed by the Minister and are expected to include 8-12 people. The consultation is scheduled to complete by the spring of 1998. The critical issue of forest industry tenure on Crown lands is being held outside of this process and is subject to discussions between the province and the industry only. It is expected to be determined after, not before this planning process.
- Apr 29/97 The World Wildlife Fund (Canada) releases its *1996-97 Endangered Spaces Progress Report* which charts progress on Canada's commitment to ensure the protection of representative sections of all of Canada's natural regions. The province of Ontario received a 'C-', up from an 'F' the previous year. The improvement in grade arises from policy developments by the Ontario government which:  
 provided favourable tax treatment for sustainable land management including a reduced rate for eligible woodlands and an elimination of taxes on provincial wetlands, ANSIs and other lands (see January 1997, *Land Use Planning*);  
 Also cited in a reasonably favourable light is the Ontario government's application of ecological principles, strategy development (*Nature's Best*). Initiatives below grade included:  
 although the government created new parks, park expansions and new natural area reserves totalling 29 new sites and 82,083 hectares, (announced on Feb 27, 1997) this rate is still considered behind schedule;  
 the annual rate of progress in new protected site designation;  
 the Madawaska Highlands Draft Land Use Plan which proposes to permit logging and mining in ANSIs on Crown Land;
- May 8/97 Funding is increased for the Community Fisheries Involvement Program (CFIP) and the Community Wildlife Involvement Program (CWIP) according to the MNR. The funding arises from fish and wildlife license fees, royalties and fines which are now diverted to an account separate from general revenue under an amendment contained in Bill 26 the *Government Savings and Restructuring Act*. Mr Hodgson remarked "This is the first part of that money. I look forward to announcing more such projects as the year progresses." These programs (CFIP & CWIP) support the work of volunteer organizations which assess, evaluate, monitor and restore wildlife habitats, particularly those capable of supporting populations of game

animals and sport fish.

- May 27/97 The Ministry of Natural Resources proposes and adopts a Wilderness Area Policy. The policy fails to satisfy a longstanding obligation of the MNR to establish a policy for roadless wilderness areas under the Class Environmental Assessment on Timber Management. The implementation of a roadless area policy is very likely to conflict with the Lands for Life land tenure process.
- May 97 Bill 106, *The Fair Municipal Finance Act* receives Royal Assent.
- Jun 9/97 Bill 139, the *Fish and Wildlife Conservation Act* is introduced to the legislature for first reading. If passed, the new Act would:
- raise the maximum penalty for offence to \$100,000;
  - raise the time limit on prosecution from six months to two years;
  - include wildlife possession prohibitions;
  - increase court powers to suspend licences;
  - add a new category of protected species;
  - prohibit the possession of black bear gall bladders separate from the animal itself;
- Concerns are expressed that the legislation :
- continues to advance the privatization of fish and wildlife resource management;
  - lacks necessary legal mechanisms to protect wildlife;
  - allows for a wide range of ministerial discretion on the application of the act;
  - defines "aquaculture" but does not define "conservation";
  - will limit the investigation of hunting, fishing and trapping activities;
  - is not strong enough to prevent the trafficking of animal parts.
- Jun 17/97 The minister announces nomination of 40 persons as members of the three regional round tables as part of the Lands for Life process devised for the management of Crown lands in Ontario. These committees are to make recommendations on the use of Crown lands in their respective areas. Concerns over the process include:
- land uses may be designated for large portions of Ontario on a perpetual basis (between 37 and 46 million hectares or about 47% of Crown lands in Ontario;
  - that the process includes no objectives for protected areas;
- As this process is continuing, the MNR is also in discussions to allocate up to 60% of non-protected public lands to "intensive forestry" and to strengthen the tenure of forest companies on public lands.
- Jul 8/97 The Minister of Natural Resources changes the designation of Boundary Waters-Voyageur Waterway as a Canadian Heritage River. The Boundary Waters-Voyageur Waterways is a series of lakes and rivers crossing two watersheds and stretching from the mouth of Pigeon River on Lake Superior to Lac la Croix in Quetico Provincial Park.
- Jul 15/97 Four new members are to join the Northern Ontario Heritage Fund's board of directors. The new members are Patrick Chilton, John Hodder, Janis Ryder and Alan Spacek.
- Jul 22/97 The minister re-appoints all of the 11 members of the Fish and Wildlife Advisory Board. The members are almost exclusively from fishing and hunting interests and represent no conservation interests. The board is asked to provide advice on potential revenue sources as well as continued expansion of fishing and hunting opportunities.
- Jul 25/97 The ministry officially announces the new boundary of Wabakimi Provincial Park, north of Armstrong, making it the second largest park in Ontario. The park has been expanded from 155,000 hectares to 892,061 hectares. The review of the boundary started in 1992.
- Jul 29/97 The Minister of Natural Resources sets up a Big Game Management Advisory Committee, comprised of qualified hunters, to improve hunting opportunities in Ontario. This committee will assist the government on big game species management and ensure that allocation of hunting opportunities is done on a fair and equitable basis.

- Sep 13/97 The Ministry of Natural Resources submits a plea of guilty with respect to the charges laid against it, under the *Environmental Assessment Act*, for the construction of an access road to Cross Lake.
- Sep 17/97 The minister announces an 11 member Board of Directors for Ontario Parks replacing the Provincial Parks Advisory Council. Frank Miller, a former Premier of Ontario, will chair the new Board of Directors.
- Oct 10/97 The Provincial Cabinet is reorganized. John Snobelen becomes the Minister of Natural Resources. Chris Hodgson vacates Natural Resources but retains Mines and Northern Development.
- Dec 10/97 The Ministry of Natural Resources issues a request for proposals from parties knowledgeable about real estate to assist in the development of a disposition strategy for lands controlled by the MNR. The subject lands are located throughout the province.
- Dec 18/97 Royal Assent of Bill 139. Ministry of Natural Resources replaces the *Game and Fish Act* with the *Fish and Wildlife Conservation Act*. For highlights of the new legislation see Jun 9/97.
- Jan 30/98 Minister of Natural Resources extends deadline for Lands for Life roundtable reports. Originally the recommendations were to be submitted to the minister by March 1998 but now are requested by June 30, 1998. The recommendations from these consultations could determine the fate of between 37 and 46 million hectares or about 47% of Crown lands in Ontario. Timber, tourism or parks are the three designated land use options.
- Mar 18/98 Minister of Natural Resources announces that admission fees and revenues collected at provincial parks will be used to directly fund park operations. This development flows from revisions to parks legislation (*Provincial Parks Act*) and organizational and operational over the past several years (formation of Ontario Parks).
- Apr 15/98 Spring Bear Hunt opens. Ministry of Natural Resources statistics indicate that an average of 274 bear cubs starve to death each year because their mothers are shot. Hunting female bears with cubs, or the cubs is prohibited. Over the past two years, only two hunters have been charged and only one convicted and fined \$750 of a possible \$25,000. The province derives \$1.5 million in licensing fees from the Spring Bear Hunt.
- Apr 27/98 The MNR announces more wild turkey hunting opportunities due to increased bag limit, season extensions and expanded hunting areas.
- Apr 28/98 Publication of report by Wildlands League and Sierra Legal Defence Fund indicating pattern of serious failure to enforce environmental regulations applicable to forestry industry in Algoma Highlands. Publication of report is accompanied by the filing of a request for investigation under the *Environmental Bill of Rights*.
- Apr 29/98 Environmental Commissioner for Ontario tables Third Annual Report: "Open Doors - Ontario's Environmental Bill of Rights." The Commissioner states "I regret to report that in the past year there has been little substantive improvement in the actions taken by provincial ministries toward protecting the environment." Comments on specific issues include the following:  
*Forest Management*  
 despite its budget and staff being cut in half, the Ministry of Natural Resources is faced with increasing pressures from rising demand for wood, the need to complete the provincial parks system, and conflicts between forestry, tourism and natural heritage values.  
 report is critical of the pace of the 'Lands for Life' process and lack of adequate public consultation in this program to determine the uses for 46% of the province's land area.  
 The Commissioner also expresses concern over some of the approaches to forest

management being adopted or considered by the Ministry of Natural Resources including: tenure in perpetuity for forestry companies; compensation if the land licences to companies is later re-allocated; industry self-monitoring of compliance with forestry regulations; and streamlining the sale of crown lands.

- Apr 29/98 World Wildlife Fund releases its progress report on Canada's effort to conserve natural spaces (Endangered Spaces Campaign). The province of Ontario did not add to its protected spaces over the past year, though some private conservation efforts were made (1000 hectares). As a consequence, the province received a D+.
- May 10/98 Ontario Court rejects application to amend its February 1998 decision regarding the failure of the Ministry of Natural Resources to comply with the requirements of the *Crown Forest Sustainability Act* and the Environmental Assessment Board's decision regarding the Class Environmental Assessment of Timber Management on Crown Lands. The Court grants the original applicants in the case, the Wildlands League and the Friends of Temagami, a costs award of \$127,000 in relation to the Ministry's application.
- June 8/98 Conservation officers seize 540 kilograms of fish, two bears and two bear gall bladders as part of the province's conservation program to ensure that visitors to Ontario are obeying provincial fish and wildlife laws. Bear parts are usually sold on the black market for as much as \$10,000 a piece.
- June 16/98 Draft regulations under the *Fish and Wildlife Conservation Act* published (Area Descriptions; Fish Licensing; Hunting; Possession, Buying and Selling of Wildlife; Trapping; Wildlife in Captivity; Wildlife Schedules; Open Seasons).
- June 26/98 Regulation adopted to modify the staking of mining claims in environmentally sensitive areas under the *Mining Act*.
- July 31/98 Minister of Natural Resources receives Lands for Life Recommendations (see Oct 30/98 for further details).
- Sep 3/98 Ministry of Northern Development and Mines states intention to re-open the Lake Temagami and Skyline Reserve of the Temagami Land Use Plan in the fall of 1998. Staking activity to be subject to Staking in Designated (environmentally sensitive) Areas regulation adopted in June 1998.
- Sep 9/98 Revised draft regulations under the *Fish and Wildlife Conservation Act* re-published (Area Descriptions; Fish Licensing; Hunting; Possession, Buying and Selling of Wildlife; Trapping; Wildlife in Captivity; Wildlife Schedules; Open Seasons). Most regulations are carried over from the *Fish and Game Act*. Regulation on Wildlife in Captivity is new.
- Sep 15/98 Ministry of Natural Resources revealed to have lowered the minimum age for hunting with a firearm from 15 to 12, beginning September 15/98 under the "Hunter Apprenticeship Safety Program."
- Oct 27/98 Parts of Temagami Area re-opened for the staking of mining claims.
- Oct 27/98 Ontario Court of Appeal upholds February 1998 decision of the Ontario Divisional Court regarding MNR failure to comply with the requirements of the *Crown Forest Sustainability Act* and the Terms and Conditions of the Class Environmental Assessment of Timber Management on Crown Lands.
- Oct 30/98 MNR releases the consolidated Lands for Life Recommendations. Lands for Life was established in the Spring of 1997 to determine the fate of 47% of the province's landbase, mostly in the central to north of the province. Three Round Tables conducted consultations over approximately a year. Criticisms were levied that the process was heavily weighted in favour of industrial forestry, mining and hunting interests. The recommendations included:

79% of the Crown land be open to forestry, mining and all other resource extraction industries;  
 completion of a park system that has "minimal impact on forestry or mining sectors";  
 703,000 ha of new parks/protected areas (total area covered under the recommendations is 46 million hectares);  
 five new land use designations: stewardship areas, enhanced management areas, heritage waterways, Great Lakes heritage coastlines and general use areas;  
 support for resource based tourism;  
 angling allowed everywhere;  
 hunting in most new provincial parks and everywhere else;  
 snowmobile/all terrain vehicle use virtually everywhere.

- Nov 3/98 Provincial Auditor tables 1998 Annual Report:  
*Ministry of Natural Resources*  
 the Ministry has not developed proper effectiveness measures to assess the program's success in achieving the sustained development of the province's fish and wildlife resources;  
 does not have adequate policies in place for the management of big game species (moose, deer and bear); and  
 information from the assessment of fish populations and other data were often not available to assist management in managing regeneration, stocking and harvesting.
- Nov 11/98 Ministry of Natural Resources announced a "Strategic Lands Initiatives" to streamline, refocus and expand its Crown land disposition program. The Ministry states that it has disposed of 99 properties which accounted for 1,899 hectares of land with a value of just over \$8 million in 1997/98.
- Dec 16/98 Bill 101 *Red Tape Reduction Act #2*) Introduced. Schedule M amends a number of natural resources acts including:  
*Fish and Wildlife Act*  
 remove requirement that pelts of fur bearing animals be marked "sealed."  
 Bill 101 died on the order Paper when the Legislative session ended on December 18, 1998.
- Jan 1/99 The province's new *Fish and Wildlife Conservation Act* takes effect. The Act includes:  
 changes to enforcement provisions;  
 provisions for protecting private property from nuisance animals;  
 the capacity to permit falconry; and  
 provisions for wildlife in captivity and wildlife rehabilitation.
- Jan 1/99 MNR regulations under the *Fish and Wildlife Conservation Act* come into effect: Fish Licensing - Ont. Reg. 664/98; Hunting - Ont. Reg. 665/98 ; Possession, Buying and Selling of Wildlife - Ont. Reg. 666/98; Trapping - Ont. Reg. 667/98; Wildlife in Captivity - Ont. Reg. 668/98; Wildlife Schedules - Ont. Reg. 669/98; Open Seasons - Ont. Reg. 670/98.
- Jan 15/99 Ontario Natural Resources Minister announces the cancellation of the Ontario Spring Bear Hunt. The hunt would have operated from April 15 to June 15. Hunt was cancelled to prevent the orphaning of cubs by the accidental shooting of female mother black bears.
- Jan 21/99 Ontario government launches appeal of Ontario Court ruling that Ontario Metis have aboriginal hunting and fishing rights under the Canadian Constitution.
- Feb 2/99 Ministry of Natural Resources proposes to deregulate and dispose of Peche Island Provincial Park. A proposal has been received from the City of Windsor to acquire the Peche Island properties.
- Feb 27/99 Ministry of Natural Resources announces that hunter training and licencing in the province is to be turned over to the Ontario Federation of Anglers and Hunters. Under the



arrangement OFAH will be paid a fee of between \$00,00 and \$350,000 over the next five years.

Mar 4/99 Ministry of Natural Resources announces compensation for outfitters over cancellation of Spring Bear Hunt of \$250 per hunter, based on Spring 1998 hunting season.

Mar 11/99 Ministry of Natural Resources decides not to pursue prosecution of wolf researcher John Theberge, for allegedly violating the conditions of his scientific collector's permit.

Mar /99 Ministry of Natural Resources proposes to introduce ring-necked pheasants into Ontario. Ring-necked pheasants are not indigenous to Ontario.

Mar 29/99 The Ministry of Natural Resources posts, on the EBR, notice of its final call for public on "Ontario's Living Legacy - Proposed Land Use Strategy". The strategy will determine the fate of Crown lands and resources in the Boreal West, Boreal East and Great Lakes-St Lawrence planning areas (of the Lands for Life planning process). The Strategy would have the following features:

- new protected areas are proposed to complete the provincial parks system within the planning area and protect 12.0% of the land and water base;
- exceptions to permitted uses in provincial parks and conservation reserves within the planning area;
- a strategy to address the land use needs of the resource-based tourism industry;
- a strategy for consulting with Aboriginal peoples concerning land use planning and resource management;
- new land use categories with associated policies, and identification of the areas where these policies would apply; and,
- how the "Strategy" would be implemented.

The "Strategy" proposes exceptions to the application of several existing policies, in particular the Ontario Provincial Parks Planning and Management Policies (1992) and the Conservation Reserves Policy and Procedure (1997). The principal proposed exceptions to the existing provincial policies on provincial parks and conservation reserves (which would only apply within the planning area), can be summarized as follows:

- mineral exploration would be permitted in areas having very high mineral potential in new provincial parks and conservation reserves under controlled circumstances. If a site is to be developed for a mine, the area would be removed from the park or conservation reserve by deregulating it, and another area would be added to the park or conservation reserve to replace the deregulated area;
- existing bait fishing, commercial fishing, commercial fur harvesting and wild rice harvesting would be permitted to continue indefinitely in existing provincial parks, except in wilderness and nature reserve parks and zones in parks, where these activities would be phased out by 2010. Where these activities occur in new parks, they would be permitted to continue indefinitely except in nature reserve parks and zones;
- sport hunting would be permitted in all new provincial parks and park additions except in nature reserve parks and zones;
- existing authorized seasonal recreation camps will be permitted to continue indefinitely in new provincial parks and will be eligible for enhanced tenure, but not purchase of land;
- existing authorized tourism facilities and recreation trails will be permitted to continue in new provincial parks, subject to management prescriptions determined through management planning;
- the establishment of new tourism facilities may be considered in planning for individual conservation reserves; and,
- efforts will be made to identify potential locations for future road crossings for forestry purposes prior to regulation of new provincial parks or conservation reserves. (This primarily applies to proposed waterway provincial parks.)

The public is given a 30 day comment period to respond to this posting.

- Mar 31/99 MNR posts notice of a proposal to make consistent its regulatory compliance strategies across its 29 administrative units.
- Apr 16/99 The Ministry of Natural Resources posts notice of its intent to streamline and amalgamate regulations under the *Fish and Wildlife conservation Act, 1997*. Sixty regulations are to be converged into fifteen with substantive changes to approximately 20% according to the MNR. Substantive changes include the areas of:
- wildlife in captivity, such as falconry and the rehabilitation of wildlife; and
  - providing direction on matters such as trapping through regulation rather than legislation.
- The removal of statutory obligations from environmental protection legislation and/or replacement with regulations / guidelines has been a consistent pattern throughout the past four years.
- Apr 22/99 Ministry of Natural Resources posts a decision (EBR # PB8E6006) to establish a new policy and procedure to govern the retrieval of sunken logs from Ontario's waterways. The policy update reflects the "growing interest in providing wood fibre to Ontario forest companies and in manufacturing specialty wood products from logs that have been submerged."
- Apr 20/99 MNR announces expanded turkey hunt for southern and eastern Ontario.
- July 16/99 Ministry of Natural Resources announces 'decision' on March 29/99 'Lands for Life' proposals. Key elements include:
- mineral exploration will be permitted in areas have very high mineral potential in new provincial parks and conservation reserves under controlled circumstances. If a site is to be developed for a mine, the area would be removed from the park or conservatoin reserve by deregulating, and another area would be added to the park or conservation reserve to replace the deregulated area;
  - existing bait fishing, commercial fishing, commercial fur harvesting and wild rice harvesting will be permitted to continue indefinitely in existing provincial parks, except in wilderness and nature reserve parks and zones in parks, where these activities would be phased out by 2010. Where these activities occur in new parks, they would be permitted to continue indefinitely except in nature reserve parks and zones;
  - sport hunting would be permitted in all new provicnial parks and park additions except in nature reserve parks and zones;
  - existing authorized seasonal recreation camps will be permitted to continue indefinitely in new provincial parks and will be eligible for enhanced tenure, but not purchase of land;
  - existing authorized tourism facilities and recreation trails will be permitted to continue in new provincial parks, subject to management prescriptions determined through management planning;
  - the establishment of new toursim facilities may be considered in planning for individual conservation reserves; and
  - efforts will be made to identify potential locations for future road crossings for forestry purposes prior to regulation of new provincial parks or conservation reserves.
- The government also states that "MNR will consider opportunities to provide additional hunting opportunities during park management planning for existing parks, including existing wilderness parks."

## FISHERIES AND FISH HABITAT

- Jun 25/96 MNR plan to manage commercial fish resources means that Aboriginal communities will need a license to fish. The Ministry of Natural Resources will issue licenses to two Aboriginal communities in the waters around the Bruce Peninsula. The licensing requirement comes after a 1993 court case which accepted the Crown's right to regulate fishing for the purpose of conservation and resource management.
- Mar 8/97 Ministry of Environment and Energy announces that Ontario's fish appear to be getting safer to eat in terms of their contaminant levels. Some fish from some lakes have shown a consistent decline in contaminant accumulation. Testing patterns are somewhat inconsistent however.
- Apr 10/97 Minister of Natural Resources Chris Hodgson writes to senior fishery officials in Ohio criticizing that state's management of yellow perch in Lake Erie. Ontario contends that Ohio has exceeded its share of total allowable catch of the fish for a third year in a row. The MNR has asked that Ohio report by September. If Ohio does not implement tighter measures, then MNR will look into additional responses.
- May 8/97 Funding is increased for the Community Fisheries Involvement Program (CFIP) and the Community Wildlife Involvement Program (CWIP) according to the MNR. The funding arises from fish and wildlife license fees, royalties and fines which are now diverted to an account separate from general revenue under an amendment contained in Bill 26 the *Government Savings and Restructuring Act*. These programs (CFIP & CWIP) support the work of volunteer organizations which assess, evaluate, monitor and restore wildlife habitats, particularly those capable of supporting populations of game animals and sport fish.
- Jun 5/97 The Minister of Natural Resources announces withdrawal of fee for fish stocking licence in Ontario.
- Jun 9/97 Bill 139, the *Fish and Wildlife Conservation Act* is introduced to the legislature for first reading. If passed, the new Act would:
- raise the maximum penalty for offence to \$100,000;
  - raise the time limit on prosecution from six months to two years;
  - include wildlife possession prohibitions;
  - increase court powers to suspend licences;
  - add a new category of protected species;
- Concerns are expressed that the legislation :
- continues to advance the privatization of fish and wildlife resource management;
  - lacks necessary legal mechanisms to protect fish habitat;
  - allows for a wide range of ministerial discretion on the application of the act;
  - defines "aquaculture" but does not define "conservation";
  - will limit the investigation of hunting, fishing and trapping activities;
  - is not strong enough to prevent the trafficking of animal parts.
- Jun 21/97 It is reported that levels of radioactivity in fish near Ontario Hydro's Bruce Nuclear Generating Station on Lake Huron are significantly higher than levels in fish in Lake Ontario. The difference is approximately 9 times and rising.
- Jul 22/97 The minister re-appoints all of the 11 members of the Fish and Wildlife Advisory Board. The members are almost exclusively from fishing and hunting interests and represent no conservation interests. The board is asked to provide advice on potential revenue sources as well as continued expansion of fishing and hunting opportunities.
- Aug 18/97 Ministry of Natural Resources states its intention to withdraw from the enforcement of the *Fisheries Act* due to a dispute with the federal government over the delegation of the

authority to authorize the alternation or destruction of fish habitat to the province.

- Aug 26/97 Ministry of Natural Resources position on salmon stocking in the Great Lakes is challenged by University of Guelph zoologist. It is charged that the continued stocking of salmon in Great Lakes poses a serious risk to the Lakes' natural stocks of fish and creates artificial "fish ponds." The stocked species are creating competition for habitat and food with native species which could lead to native species demise.
- Sept 18/97 The Ontario Ministry of Natural Resources terminates the federal-provincial joint agreement for fisheries habitat management and protection in Ontario. In effect this means that the OMNR will no longer be applying or enforcing Section 35(2) of the federal *Fisheries Act* when reviewing plans and proposals that are likely to harm fish habitat. Specifically, projects of land developers and extractive industries (mining, forestry and aggregates) are now unlikely to undergo a review of their impact on fish habitat.
- Nov 28/97 The Ministry of Transportation approves the use of the "Fisheries Manual Part 2" to address fisheries concerns on provincial highway undertakings by providing guidelines on selecting and designing appropriate fisheries avoidance, mitigation and compensation measures.
- Dec 18/97 Royal Assent of Bill 139. Ministry of Natural Resources replaces the *Game and Fish Act* with the *Fish and Wildlife Conservation Act*. For highlights of the new legislation see Jun 9/97.
- Dec 29/97 The 1998 Recreational Fishing Regulations Summary will be made available in January. As of April 1, 1998 an export permit will be required for exporting lake sturgeon from Ontario under the application of the Convention on International Trade in Endangered Species.
- Jan 12/98 Minister of Natural Resources signs agreement with the Ontario Commercial Fisheries Association (OCFA) that will see the industry adopt a larger role in the management of the province's commercial fisheries. This agreement follows the pattern of other industry self-regulation agreements. Under it the OCFA will:
- compile data from commercial fish harvest reports;
  - administer royalties;
  - monitor compliance;
  - cooperate with MNR projects.
- Mar 3/98 Aquatic experts of the Lake Erie Committee of the Great Lakes Fishery Commission denounce a proposal by the Ontario Federation of Anglers and Hunters to allow greater phosphorous levels in Lake Erie in order to boost primary production and ultimately fish stocks. Lake dynamics are considered by many experts to be much complex, including the need to look at the effect of nutrient cycling, fish harvesting and the introduction of non-indigenous organisms such as the zebra mussel.
- Apr 1/98 Ontario Minister of Natural Resources responds to the federal government announcement that it will spend \$6 million on a lamprey control program in the Great Lakes in fiscal year 1998-99. The minister believes longer term funding is required. The federal government's action are spurred by its treaty commitments with the United States. A chemical lampricide which attacks young lamprey is the key component of the program.
- Apr 15/98 The Red Hill Creek Expressway project, a highway development near Hamilton which has been approved by the provincial government, is the object of a request for a review by the federal department of fisheries and oceans. The project would have an impact on Red Hill Creek and its fish habitat (see Transportation Section) but the federal minister indicates that the project is at too preliminary a stage to undertake a review.
- May 25/98 House of Commons Standing Committee on Environment and Sustainable Development tables report on the enforcement of federal environmental law entitled *Putting the Public Interest First*. Among other things, the report is highly critical of the Ontario Ministry of Natural

Resource's September 1997 withdrawal from the enforcement of the habitat protection provisions of the federal *Fisheries Act*, describing this action as leaving a "huge hole" in the protection of fish habitat in Ontario.

- July 8/98      The reappearance of a deep-water sculpin fish in Lake Ontario, leads scientists to believe that the quality of the lake has been improving. This species of fish has not been seen in the lake in approximately 50 years.
- Nov 26/98      Fisheries Management Plan announced for the Grand River. The Plan will attempt to improve the Grand River as a fish habitat and is supported by the MNR, the Grand River Conservation Authority and a collection of angling groups.
- Dec 16/98      Bill 101 *Red Tape Reduction Act #2*) Introduced. Schedule M amends a number of natural resources acts including:  
*Fish Inspection Act*  
    permit arrest of persons involved in illegal sale of contaminated fish products.  
    increase maximum penalties, and extend period of time over which prosecutions can be undertaken.
- Jan 21/99      Ontario government launches appeal of Ontario Court ruling that Ontario Metis have aboriginal hunting and fishing rights under the Canadian Constitution.
- Feb 5/99      Ministry of Natural Resources proposes "New business relationship" with the baitfish industry. The administration of bait licensing (i.e. issuing, data collection, and harvest reporting) to the Bait Association of Ontario (BAO). Increased bait license fees are to go into a Special Purpose Account to finance the administration of the BAO. Specific duties to be assigned to BAO include:  
    licence administration, including feed collection and submission to the Crown.  
    commercial bait data management for compilation of provincial harvest records and summary statistics;  
    expansion of industry's participation in fish stock monitoring and assessment; and  
    expansion of the industry's role in compliance monitoring and policy development.

## MINING

Sep 26/95	Proposal posted EBR Registry to "clarify" requirements of MISA Metal Mining Sector Monitoring and Effluent Regulation for post-closure monitoring of mine discharges. Amendments eliminate requirements for post-closure monitoring and exempt mine tailings from MISA requirements.
Oct 6/95	Budgetary reductions to the Ministry of Northern Development and Mines: mine-site rehabilitation program redesign \$1.3 M in 1996-97.
Oct 24/95	Ministry of Northern Development and Mines announces the replacement of the current mine closure review process with a self-regulating system.
Dec 13/95	Minister of Environment and Energy announces regulation exempting prospectors from environmental liability under the <i>Environmental Protection Act</i> .
Jan 29/96	Bill 26, the <i>Government Savings and Restructuring Act</i> enacted by the Ontario legislature. The Bill amends the <i>Mining Act</i> to reduce obligations for reporting, financial assurance, mine closure, decommissioning and rehabilitation. The Bill also amends work permit provisions of <i>Public Lands Act</i> and reduces capacity of courts to order restoration;
May 7/96	In its first budget, the Ontario government announces a freeze on all mining taxes and <i>Mining Act</i> related fees and licenses. The government also announced its intention to amend the <i>Corporations Tax Act</i> to incorporate the expansion of the accelerated depreciation allowance for new and expanded mines provided in the February 1996 federal budget.
Jun 28/96	Ontario government releases its land-use strategy for Temagami. The strategy permits lifts a 24 year-old mining ban in the area.
Sep 17/96	Prospecting activity in the Temagami region is intense as land cautions are lifted. The claims staking covers an area of over 617,000 hectares and attracted about 600 prospectors.
Nov 5/96	Ministry of Natural Resources adopts regulations to implement Bill 26 amendments to the <i>Public Lands Act</i> , <i>Lakes and Rivers Improvements Act</i> , and <i>Forest Fires Prevention Act</i> . The regulations exempt most activities related to mineral exploration from permit requirements.
Feb 3/97	<p>The <i>Red Tape Reduction Act (Ministry of Natural Resources)</i>, 1997 goes to 1st Reading. The Act will make the following amendments to the <i>Public Lands Act</i>:</p> <ul style="list-style-type: none"> <li>a land use planning process will be set up that allows for participation by stakeholders and controls activities that may be inconsistent with approved land use plans;</li> <li>the need for order in council approvals will be removed and authority will be delegated to the Minister;</li> <li>the Minister may order the transfer of administration and control of public lands to other government bodies; and</li> <li>administrative fees will be set by the Minister, rather than established by regulation.</li> </ul> <p><i>Conservation Authorities Act</i>:</p> <ul style="list-style-type: none"> <li>authorities will be allowed to enter into agreements to permit exploration and extraction of oil and gas reserves on land adjacent to authority land;</li> <li>authorities would be permitted to lease land for terms of up to five years without approval;</li> <li>maximum fines for violations of the regulations will be increased from \$1,000 to \$10,000, and from \$100 to \$1,000;</li> </ul> <p>The Act will make the following amendments to the <i>Mining Act</i>:</p> <ul style="list-style-type: none"> <li>references to boring permits will be removed (these are covered under the</li> </ul>

*Petroleum Resources Act*); and  
the areas in which the issuing of oil and gas exploration licenses and production leases are restricted to will be redefined.

*Provincial Parks Act:*

mining and prospecting activities which are prohibited in provincial parks will be clarified.

maximum fines will be increased to \$25,000;

- Jul 6/97 Ontario Environment Minister Norm Sterling announces that the MoEE will spend \$18 million to clean up the hazardous materials, including low level radioactive wastes, left behind at the Deloro Mine north of Belleville. Mine wastes have been leaching into the Moira River that flows south into the Bay of Quinte at Lake Ontario.
- Aug 26/97 MoE approves a mine water treatment system for River Gold Mines Ltd. located in Jacobson Township. The treatment system will treat a maximum flow of 12.6 L/sec of excess mine water containing suspended solids, ammonia, and some heavy metals.
- Sep 15/97 MoE approves the drainage water the underground working to be discharged in the existing water settling pond in the Township of Beatty. The water treatment will be the sedimentation of suspended solids. The volume of water that will be pumped per day is estimated at 82,000 litres/day meaning a retention time of 12 days. If the water does not meet the standard, McWatters Mines Inc. will take measures such as building another pond.
- Nov 5/97 Madsen Gold Corp. applied for a permit allowing it to augment water taken from Beaverdam Lake for industrial purposes in Madsen with water from Russett Lake at a rate of 360,000 Imperial gallons per day (1,634,400 lpd) for 244 days seasonally for five years. The Ministry of the Environment and Energy approves this with the following conditions:  
Should the quantity of water change, an amendment is required.  
Copy of permit must be posted.  
Company must ensure all staff are knowledgeable about the permit.  
No more than 10% of the natural flow of Russett Lake at outlet.  
Water for augmentation of water levels in Beaver Dam Lake.
- Nov 20/97 The Ontario Ministry of Environment has asked an environmental group for financial assistance to help stop hazardous chemical leaking from an abandoned mine at Deloro mine site in Eastern Ontario.
- Nov 27/97 The Ministry of Environment and Energy has received a proposal from Agrium Products Inc. for the establishment of an open-pit mine in Cochrane Ontario. Approval is sought for dewatering activity which will occur in two stages:  
open pit dewatering for bulk sampling of ore body at 4,900,000 L/day for 60 days;  
mining ore body, dewatering working area of the pit at 5,800,000 L/day for 13 years.
- Dec 18/97 Bill 120, the *Red Tape Reduction Act (Ministry of Northern Development and Mines)*, 1997 receives royal assent. Bill 120 permits the delegation of approval of mine closure plans to any person designated by regulation. These amendments appear to be linked to the Bill 26 amendments to the *Mining Act*. The provision may also be intended to permit the establishment of a self-regulation system for mine closure similar to that set up for pressure vessels, underground storage tanks, elevators and other devices through the Technical Standards and Safety Authority.
- Apr 15/98 The Ontario Ministry of the Environment appeared in court to begin to explain why the cleanup of the former Deloro gold mine site has not proceeded. Last year, \$10 million was supposed to have been committed by the province to the cleanup. The charges were laid by the Environmental Bureau of Investigation and the Sierra Legal Defence Fund. The hearing will resume on May 26, 1998.
- June 26/98 Regulation adopted to modify the staking of mining claims in environmentally sensitive areas

under the *Mining Act*.

- Sep 1/98 Classification Regulation for Class I Instruments under the *Mining Act* adopted under the *Environmental Bill of Rights*.
- Sep 3/98 Ministry of Northern Development and Mines states intention to re-open the Lake Temagami and Skyline Reserve of the Temagami Land Use Plan in the fall of 1998. Staking activity to be subject to Staking in Designated (environmentally sensitive) Areas regulation adopted in June 1998.
- Sep 8/98 Data obtained by Canadian Institute for Environmental Law and Policy through Freedom of Information request shows that 25% of Ontario metal mines failed (between August and December 1997) requirement of MISA regulations that their discharges not be acutely toxic (i.e. lethal) to fish.
- Oct 27/98 Parts of Temagami Area re-opened for the staking of mining claims.
- Mar 29/99 Government responds to 'Land for Life' recommendations. Announces protection of 12% of planning area. All existing mining land tenure within new protected areas to be secured; mineral prospecting to be allowed in new protected areas; protected areas to be "borrowed" if significant deposits found; mining industry veto over creation of new parks or protected areas; subsidy program for prospecting program to be increased from \$2 million to \$4 million/yr; \$19 million to be spent on geological surveys to identify new mineral deposits.
- July 16/99 Ministry of Natural Resources announces 'decision' on March 29/99 'Lands for Life' proposals. Key elements include:
- mineral exploration will be permitted in areas have very high mineral potential in new provincial parks and conservation reserves under controlled circumstances. If a site is to be developed for a mine, the area would be removed from the park or conservatoin reserve by deregulating, and another area would be added to the park or conservation reserve to replace the deregulated area.



## MINERAL AGGREGATES, PETROLEUM RESOURCES AND BRINE INDUSTRIES

- May 14/96      Changes are introduced by the Ministry of Natural Resources for the regulation of the aggregates, petroleum and brine (salt solution mining) industries. These changes are to be implemented through Bill 52, *Aggregate and Petroleum Resources Statute Law Amendment Act* and would amend the *Aggregate Resources Act*, *Petroleum Resources Act*, *Mining Act*, and the *Ontario Energy Board Act*. Responsibility for site inspections and monitoring are to be "transferred" from the MNR to these industries. The government is also proposing to shift from "complex", to more streamlined, legislation and regulations, backed by technical standards. Details include:
- self-monitoring by the mineral aggregates industry;
  - responsibility for day-to-day site inspections and monitoring for compliance with the terms of site plans and licenses under the *Aggregate Resources Act* is to be "transferred" from the MNR to the aggregates industry;
  - the proposal to transfer responsibility for the administration and delivery of the rehabilitation program associated with the Abandoned Pits and Quarries Rehabilitation Fund to the industry.
  - increased fines, extended license suspension periods, and longer time periods for the initiation of prosecutions under the Act;
  - increased fines under the *Petroleum Resources Act*;
  - requirements for life-cycle well licenses will be established to replace the current system of well permits, which only address the regulatory functions associated with drilling.
- Aug 13/96      Ministry of Environment and Energy posts a proposed exemption on the Environmental Bill of Rights Registry that would eliminate the need for pits and quarries on the Niagara Escarpment, that were in existence before June 1975, to obtain development permits for expansion.
- Oct 17/96      Regulation finalized that would eliminate the need for pits and quarries on the Niagara Escarpment, that were in existence before June 1975, to obtain development permits for expansion, except where the taking or discharge of water is involved.
- Oct 23/96      The Ministry of Municipal Affairs and Housing approves Peel Region's first official plan. Under the plan, the region has agreed to incorporate provincial policies on several issues, including:
- the extraction of mineral aggregate resources for long-term use;
  - support for the region's desire to protect the environment.
  - support for the Caledon Community Resources Study which assesses future mineral aggregates in the region. This may result in the refinement of mineral aggregate policies; and
  - there will be no moratorium on new aggregate operations in "high potential" areas.
- In effect this removes a freeze on aggregate extraction covering 8,000 hectares in the Caledon Region. More than eighty appeals related to this decision are filed with the Ontario Municipal Board.
- Oct 96          Municipal Affairs and Housing Minister Al Leach removes a freeze on aggregate extraction covering 8,000 hectares in the Caledon Region. Seventy appeals of the decision are filed with the Ontario Municipal Board.
- Dec 19/96      Bill 52 *Aggregate and Petroleum Resources Statute Law Amendment Act* receives royal assent.
- Mar 10/97      The Ministry of Natural Resources posts several policy and standard proposals on the EBR Registry:
- Proposed Provincial Standards and associated regulations for Bill 52 under the *Oil*,

*Gas and Salt Resources Act* which would govern drilling, facility, production, storage and reporting standards;  
 Proposed Provincial Standards and associated regulations for Bill 52 under the *Aggregate Resources Act* which would govern site and operation standards and compliance reporting requirements;

- Jun 27/97      Aggregates and Petroleum Standards under Bill 52 come into effect.
- Oct 9/97      Unimin Canada Ltd. submits proposal to the Ministry of Environment requesting a permit to take water from Midland Bay. Water will be used to suppress dust on active rock stockpiles and will be removed from the bay at a daily maximum rate of 720,000 L.
- June 30/98    The Sierra Legal Defence Fund will be appealing the acquittal of United Aggregates Ltd., a limestone quarry operator who, allegedly on the advice of the Ontario's previous Environment Minister Brenda Elliot, violated a court order that barring the expansion of its quarry on the Niagara Escarpment.
- Dec 16/98    Bill 101 *Red Tape Reduction Act #2*) Introduced. Schedule M amends a number of natural resources acts including:  
                  *Aggregate Resources Act*  
                  permit site plans and licenses to take precedence over municipal rules and by-laws;  
                  permit regulations under the Act to adopt technical standards by reference.  
                  *Oil, Gas and Salt Resources Act*  
                  minor amendments;  
                  permit adoption of technical standards by reference.  
                  Bill 101 died on the order Paper when the Legislative session ended on December 18, 1998.
- Dec 18/98    Bill 25, *Red Tape Reduction Act, 1998*. Receives Royal Assent.  
                  Schedule I of the Bill amends a number of MNR statutes including:  
                  *Conservation Authorities Act*  
                  Removes requirement for Conservation Authority permission for changing, diverting or interfering with watercourses, wetlands, Great-Lakes St. Lawrence shorelines, inland lakes; river and stream valleys, hazardous lands, for activities approved under the *Aggregate Resources Act*; and  
                  removal of the requirement for provincial approval of Conservation Authority Regulations.

## TRANSPORTATION

- Jun 95            Toronto subway expansion temporarily halted. The Province retracts funding for Eglinton Avenue Line but maintains support to the Sheppard Line. Metro Toronto uncertain about its ability to finance even this line in the face of other fiscal restraints.
- Jul 5/95           Photo radar system of highway speed control abolished.
- Jul 21/95          Government-wide ministry spending reductions released by the Minister of Finance. Cuts are to capital and operating budgets for the 1995-96 fiscal year:  
                          municipal road budget cut by \$74 M;  
                          GTA rapid transit budget cut \$42 M;  
                          provincial highway and other MTO initiatives \$69 M;  
                          reduce GO Transit grant \$15 M.
- Aug 29/95        Transport Minister announces that the MTO will defer the development of new GO Transit commuter rail services.
- Oct 6/95           Reductions to the Ministry of Transportation for the 1995-96 and 1996-97 fiscal years:  
                          municipal transit operating subsidies \$16 M;  
                          GO Transit operating subsidy \$3.8 M;  
                          service, staff, board and program reduction \$19.6 M.
- Oct 24/95        Ontario Minister of Environment and Energy endorses national clean air standards proposed by the Task Force on Cleaner Vehicles and Fuels. Proposal includes the promotion of: fuel efficient and alternate fuel vehicles; inspection and maintenance programs; low emission vehicles by 2001; and new fuel standards.
- Nov 30/95        Five year, \$100 million funding announced for the Red Hill Creek Expressway in Hamilton-Wentworth.
- Dec 8/95           Funding announced for the completion of Highway 416 between Ottawa and Highway 401.
- May 7/96           The Conservative government announces in its first budget, that it will restore some of the previously eliminated funding for highways and roads, and the Northern highway program.
- May 96           Ministry of Transportation announces an increase in minimum and maximum fines for transport trucks which are operating at increased loads or in poor maintenance as well as increased inspection and enforcement activities. This initiative may help reduce the likelihood of spills of hazardous materials and environmental contaminants.
- May 14/96        The provincial government announces that its focus for highway funding will be on repairing and preserving the existing highway network. The government is increasing highway funding by \$140 million over last year. In fiscal year 1996/97, \$490 million will be spent on highways in southern Ontario, and \$138 on Northern highways. The province will also provide an extra \$60 million to repair highways that are being transferred to municipal control and roads that link to provincial highways.
- Oct 1/96           Ministry of Environment and Energy announces that a pilot study testing vehicle emissions for air pollutants will conclude at the end of October. The study, which began in April 1995, gave drivers free inspections at the CleanAir Centre in Mississauga. Data from the study will be reviewed but the ministry has not committed itself to setting up a permanent program.
- Nov 4/96           The Who Does What Panel recommends to the Ministry of Municipal Affairs and Housing that the province:  
                          continue to transfer to municipalities ownership of provincial highways that serve

primarily local needs, provided municipalities are granted a revenue source to help with highway upkeep; and  
discontinue transit financial support but play a role in setting safety standards, coordinating broader transportation planning and helping with inter-municipal coordination and integration.

Over the longterm removal of highway development subsidies or the implementation of toll systems could have a positive environmental impact. However, these changes must be viewed in the context that provincial support to transit systems is also being greatly reduced and that is likely to lead to greater dependence on the personal vehicle.

- Jan 15/97      Ministry of Transportation announces that the province is eliminating \$718 million in transportation spending and passing responsibility for local transportation onto municipalities. Municipalities will soon be required to fully fund:  
                    municipal transit (i.e., the TTC);  
                    GO Transit;  
                    municipal airports; and  
                    those highways and ferries that primarily serve local needs.  
As a result of the withdrawal of provincial spending, the TTC will need to make up \$95.8 million/year and GO Transit \$110 million/year. It is likely that this will cause increased fares and/or reduced service which could reduce ridership, cause more personal vehicle use and therefore lead to higher air emissions from the transportation sector.
- Mar 11/97      The Minister of Environment and Energy approves the plans for Hamilton-Wentworth's Red Hill Creek Expressway. The project has provoked controversy because of its likely impact on the Red Hill Valley which includes extensive wetland and other environmentally significant areas.
- May 14/97      Minister of Transportation reiterates that the province will spend \$628 on highway maintenance this year as originally announced in the budget of May 6, 1997. The total amounts to \$140 million more than the previous year.
- May 14/97      The Ministry of Transportation accepts a policy that has been designed to mitigate some aesthetic problems associated with run-off that have occurred in Southwestern and Central Ontario. The MTO will identify a location for a demonstration project where Air Cooled Iron Blast Furnace Slag (ACBFS) is to be used as road building material to study its environmental effects and ability to moderate the run-off problem.
- Jun 4/97        MoEE posts on EBR registry decision to issue an exemption order to the Regional Municipality of Hamilton-Wentworth from the requirements of the *Environmental Assessment Act* for the construction of the Red Hill Creek Expressway (North-South section).
- Jun 6/97        Statistics Canada reports that, Canada-wide, transit use has slipped to its lowest level since 1970 and has been declining since 1988.
- Jun 12/97      Ministry of Transportation posts decision on EBR registry stating that it will no longer test, prior to approval, materials used to minimize dust during road construction and on unpaved rural roads. Instead, the Ministry will depend on the list of dust suppressants issued by the Ministry of Environment and Energy. However, the MoEE's list comes with the disclaimer: "The MoEE does not endorse any of the following products nor does it guarantee that the products are environmentally benign."
- Jun 18/97      The report "Getting Together" which outlines a blueprint for the Greater Toronto Services Board suggests that one of the main reasons for the GTSB should be to integrate the 17 separate transit systems with the GTA. It recommends that the Board should be able to:  
                    integrate all GTA transit systems into a seamless web;  
                    coordinate decision-making authority among transits;  
                    approve transit proposal including subway developments;  
                    set financing but allow municipalities to appeal to the OMB;

prescribe solutions when municipalities disagree;  
assume sole responsibility for GO Transit.

- Aug 22/97 The Minister of Environment and Energy announces a vehicle emissions testing program called "Drive Clean" (see also retraction on Apr 17/98). Under the program, heavy duty trucks and buses would be the first to have their emissions tested. The next phase would see cars and light trucks in the Greater Toronto Area and in Hamilton have their emissions tested. Within a period of five years, the program would extend to various centres from Windsor to Peterborough. Under the program:
- vehicles would be tested every time they change ownership or at every other years' licensing renewal for cars and light trucks that are 4-19 years old;
  - if the vehicle's exhaust does not conform to the model year standards, the vehicle could be subject to repairs up to \$200.
- The program is aimed at reducing volatile organic compounds, nitrogen oxides and particulates.
- Sep 10/97 Provincially appointed transition team overseeing Toronto amalgamation orders a 15% reduction (\$31 million) in the budget of the Toronto Transit Commission (TTC). To do so, the Commission would have to:
- raise fares 5 to 10 percent;
  - eliminate more bus routes;
  - eliminate special fares for seniors and students;
  - tighten eligibility for Wheel-Trans (disabled) service;
- The TTC has, over the past several years, eliminated 1,250 positions, eliminated service and raised fares.
- Nov 19/97 The National Round Table on Environment and Economy releases "The Road to Sustainable Transportation in Canada." The report indicates that the transportation system could have a major negative impact on the environment if subsidies are not removed and pricing is not reflective of true cost. It recommends: public awareness about the risks of the status quo; a national strategy for sustainability; targets for emission reduction; and vehicle inspection and maintenance programs.
- Nov 28/97 The Ministry of Transportation approved the use of the "Fisheries Manual Part 2" to address fisheries concerns on provincial highway undertakings by providing guidelines on selecting and designing appropriate fisheries avoidance, mitigation and compensation measures.
- Jan 20/98 Ministry of Environment launches Ontario's Smog Plan. The goal of the plan is to reduce smog causing emissions by 45% by 2015. The plan attempts to rely upon:
- a vehicle inspection and maintenance program called "Drive Clean" (which was announced but never implemented);
  - public involvement in smog reduction efforts;
  - efforts in the U.S. to reduce transboundary pollution;
  - developing strategies for particulate emission reduction;
- Environmental and public health organizations criticize the plan as being grossly inadequate with reference to its slow time line, reliance on voluntary action by industry, lack of source/sector targets, and lack of monitoring and reporting mechanisms.
- Jan 28/98 The Toronto Transit Commission announces that ridership is up. A total of 379 million trips were made in 1997 (9.9 million more trips than expected). The increase is being managed mostly through attempting to extend the life of existing buses, subway and street cars rather than procuring new ones. The increase is largely credited to an increase in economic activity not improvements in service or integration. Such measures will be required to ensure that transit use does not erode.
- Jan 30/98 According to the federal transport minister, Canadian roads already support 18 million vehicles currently but private vehicle traffic is expected to grow between 50 and 100 percent over the next 25 years unless something is done about it. The minister made a call to limit

the growth rate since the existing road network can not support the growth and even if the nation could afford to expand the infrastructure (which it can not) the environment could not support it.

- Feb 18/98 Seven more kilometres are added to Highway 407 (a six lane toll road north of Toronto) on its easternmost flank. The highway now ends in Markham but is intended to continue, with 10 lanes, into Durham Region. Markham Council has voted to restrict traffic exiting the highway for fear of its impact on the city. The long term plan will see this highway stretch 154 kilometres from the Queen Elizabeth Way in Burlington to the Highway 115/35 near Bowmanville.
- Mar 3/98 It is revealed that gasoline sulphur levels are higher in Ontario than anywhere else in North America and even other parts of the world. As a consequence, automakers say they will not agree to the provincial plan for smog reduction until gasoline refining improves. Average sulphur levels for various jurisdictions were:
- |          |        |         |
|----------|--------|---------|
| Canada   | (1995) | 343 ppm |
| Ontario  | (1996) | 533 ppm |
| Atlantic | (1995) | 276 ppm |
| Quebec   | (1995) | 364 ppm |
| Prairies | (1995) | 228 ppm |
| B.C.     | (1995) | 273 ppm |
- The US average is 260 ppm while the average in California is 30 ppm. The MoE estimates that 1800 premature deaths are caused by air pollution each year. Sulphur dioxide is a significant lung irritant.
- Mar 5/98 Minister responsible for Privatization, Rob Sampson, suggests that Ontario residents may be eligible to purchase shares in Highway 407. This, despite the fact that Ontario residents largely financed its construction and in effect already own it. Unresolved issues surrounding its privatization include:
- how a private consortium could afford to take over the current 69 kilometre section with its \$1.5 billion debt and afford to finance the 24 kilometre western extension;
  - whether any private consortium could undertake such a project without public debt guarantees or public subsidy;
  - how much any private body could own the road given that the province will always retain ownership of its right-of-way;
- The original financing of the road has already been criticized by the provincial auditor as placing the risk with taxpayers and the benefits with the private sector. In order to sell the road to any private consortium it is expected that the government would have to guarantee traffic volume, restrict development near other roads or lower the speed limits of nearby roads to limit competition.
- Mar 9/98 Minister of Transportation announces that \$70 million will be made available to municipalities to set up capital reserves for transit responsibilities. The province has terminated all grants to municipal transit systems.
- Mar 13/98 Minister of Transportation announces that the province will consider providing GO Transit with half of the \$200 million promised for restructuring pending the passage of the Greater Toronto Services Board legislation. The province has terminated all grants to municipal transit systems. GO Transit is being transferred to the municipalities of the GTA and Hamilton-Wentworth. The funding establishes a capital reserve in each of the municipalities.
- Apr 15/98 The Red Hill Creek Expressway project, a highway development near Hamilton which has been approved by the provincial government, is the object of a request for a review by the federal department of fisheries and oceans. The project would impact fish habitat but the federal minister indicates that the project is at too preliminary a stage to undertake a review.
- Apr 17/98 Premier indicates that a possible delay of up to one year to initiate "Drive Clean" the province's vehicle emission testing program is unacceptable. The MoE had indicated that it

would be operating by Spring 1999.

heavy trucks and buses were to be tested this summer across southern Ontario followed by cars and light trucks in Hamilton and the Greater Toronto Area in autumn;

by the year 2000 vehicles in 13 cities were to be subject to mandatory testing;

The delay draws criticism from suppliers of testing equipment who expected the program to be underway much sooner.

- Apr 29/98 The International Joint Commission calls upon the Canadian and U.S. governments to make a major reduction in the sulphur content of gasoline. Ontario gasoline has the highest sulphur content in the western world.
- May 12/98 Ontario Medical Association calls for lowering the sulphur content in Ontario gasoline (See also Air Quality section).
- May 21/98 Domtar Limited's dust suppressing product Dombind is causing elevated dioxin levels in the environments near the roads on which it is sprayed according to a Ministry of the Environment investigation. Levels varied widely with one test above the acceptable provincial limit for dioxin. 100 million litres per year of the product, which is a pulp and paper waste liquor, are sprayed on Ontario gravel-top roads.
- May 25/98 In June, Toronto planners will release a report that insists that city taxpayers pay \$23 million to cover the transit costs of those living in outlying regions. Toronto pays for nearly half of GO transit costs, yet 85% of users live outside of the city. Regional officials and transportation experts have urged Toronto mayor Mel Lastman to consider the importance of public transit to the economy of Toronto before proposing changes to funding distribution.
- May 25/98 Residents of Markham Ontario living near the eastern terminus of highway 407 at McCowan Rd. voice concerns about increased traffic and noise pollution caused by the toll road. Large trucks, forced to exit at McCowan, have been using local roads to connect to other major routes. The highway has been constructed farther east to Markham Rd. but the interchange remains closed to protect historic Markham Village.
- Jun 24/98 Due to population increases in areas north of Toronto and traffic congestion in York region, the Ministry of Transportation has developed a plan to extend highway 404, and widen roads linking it to highway 400. Environmental assessment approval has been granted on all aspects of the project which is expected to be completed by spring 2000.
- Aug 29/98 Transportation Minister, Tony Clements, discusses the need for a national highways policy (similar to the United States policy) and for the expansion and improvements of highway infrastructure in Canada. His main concern is that if provincial and federal governments do not begin to act on this matter, the country will suffer economically and trade between Canada and the U.S. will be hindered.
- Dec 18/98 *Greater Toronto Services Board Act*, 1998 receive Royal Assent. The Act goes into being on January 1, 1999 and creates a board review integration issues, most notably transportation, for municipalities in the Greater Toronto Area.
- Apr 1/99 The first day of implementation of Ontario's Drive vehicle inspection and maintenance program.
- Apr 22/99 Ministry of Environment posting (EBR # RA9E0003) indicates its intent to adjust the emission standards under its Drive Clean program in a manner that would harmonize them with those of the US EPA. The standard revision will be made by amendment 86/99 to Ontario Regulation 361/98 under the Environmental Protection Act.

## UNDERGROUND STORAGE TANKS, BOILERS AND PRESSURE VESSELS

- May 16/96      Minister of Consumer and Commercial Relations Norm Sterling introduces Bill 54 *The Safety and Consumer Statutes Administration Act*. The legislation proposes to:
- allow non-profit industry self-management authorities to assume responsibility for registration and accreditation of members, investigation of consumer and business complaints, suspension of registrations and prosecutions of violations;
  - create a technical standards and safety authority to make regulatory recommendations for the affected industries;
  - allow for the above in the areas of gasoline and other hydrocarbon handling, motor vehicle dealers, real estate agencies and brokers, travel agencies, and cemetery operators.
- The division of responsibilities is to be such that the authorities will deliver safety programs but oversight of these bodies and legislative responsibility for public safety rests with the MCCR.
- Jul 24/96      *The Safety and Consumer Statutes Administration Act* (Bill 54) is proclaimed. In so doing the Act will create the Technical Standards and Safety Authority (TSSA). This non-profit, non-government organization will deliver safety programs and services in four main areas: boilers and pressure vessels, elevators, hydrocarbon fuels and equipment, and upholstered items. The TSSA may make recommendations to the Ontario government on changes to the *Energy Act*, *Gasoline Handling Act*, the *Operating Engineers Act* and others or their regulations. The body is to be funded by member and license fees. Its board composition will include representatives from industry, government and non-industry stakeholders.
- Feb 6/97      Minister of Consumer and Commercial Relations David Tsubouchi appoints board members to the Technical Standards and Safety Authority. These are:
- Sue Corke: currently a Director of Standards at Ministry of Consumer and Commercial Relations;
  - Joyce Feinberg: experience with Ministry of Environment and Energy and the Ministry of Consumer and Commercial Relations;
  - Rosalie Daly Todd: Counsel for the Consumers' Association of Canada;
- These appointments continue the process of industry self-management put in place by *The Safety and Consumer Statutes Administration Act*.
- May 4/97      The Minister for Consumer and Commercial Relations announces that, effective May 5, 1997, the industry-funded, not-for-profit Technical Standards and Safety Authority (TSSA) will assume the delivery of certain functions currently handled by the MCCR. The areas in which the TSSA will assume responsibilities include:
- licensing, registration and certification;
  - reviewing engineering designs;
  - inspection, enforcement and compliance;
  - professional development and training programs; and
  - promoting national harmonization of safety codes and standards;
- For the following industrial activities:
- boilers and pressure vessels;
  - elevating and amusement devices;
  - hydrocarbon fuels (natural gas, propane, fuel oil and gasoline) and its associated equipment;
  - upholstered and stuffed devices.
- Jun 10/97      Release of the Annual Report of the Ontario Ombudsman. In the report, the Ombudsman cites the Ontario government's delegation of decision-making authority to private sector bodies and the promotion of industry self-regulation as causes for concern, particularly the Technical Standards and Safety Authority.



- Oct 21/98      Ministry of Consumer and Corporate Relations proposes amendments to the *Technical Standards and Safety Act*. Bill would designate TSSA as responsible authority for posting of EBR notices for *Gasoline Handling Act*.
- June/99        Freedom of Information and Protection of Privacy Commissioner expresses concern over impact of delegation of government responsibilities to private entities on freedom of information and protection of privacy in her Annual Report.