

Ontario's Environment and the "Common Sense Revolution"



A Second Year Report

BOOKSHELVES: ENVIRONMENTAL LAW - Ontario's
environment and the common sense revolution
Canadian Institute for Environmental Law and
Policy; Winfield, Mark; Jenish, Greg
Ontario's environment and the "Common Sense
Revolution": a second year report

RN 16917

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 Second Year Report

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July 1997

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Cover Photo: Lake Erie near Port Dover, Ontario.

Printed in Canada on recycled paper by unionized labour.

Acknowledgements

The Canadian Institute for Environmental Law and Policy would like to thank those who contributed to the research or writing of this document : Sara Bjorkquist, M.A., Shelley Kaufman LL.B., M.E.S., Chantal Saxe, LL.B.

As well, thanks go to the reviewers and editors of this document as all too often their efforts receive less than deserved recognition in the realm of publishing, and without which, the world of information would be infinitely less comprehensible.

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ISBN 1-896588-16-6

TABLE OF CONTENTS

Introduction	4
Review of Initiatives affecting Ontario's Environment (by subject)	9
<i>Part I</i>	
ENVIRONMENTAL BILL OF RIGHTS & PUBLIC PARTICIPATION IN DECISION-MAKING .	10
STANDARDS SETTING & REGULATORY PROCESSES	16
LAND USE PLANNING	26
ENVIRONMENTAL ASSESSMENT	38
ENVIRONMENTAL SCIENCE & MONITORING	43
<i>Part II</i>	
AIR	47
WASTE MANAGEMENT	53
WATER	62
ENERGY	71
PESTICIDES	77
<i>Part III</i>	
FORESTRY	80
WILDLIFE, WILDERNESS AND PARKS	87
MINERAL AGGREGATES, PETROLEUM RESOURCES AND BRINE INDUSTRIES	101
<i>Part IV</i>	
MINING	106
TRANSPORTATION	109
UNDERGROUND STORAGE TANKS, BOILERS AND PRESSURE VESSELS	114
<i>Part V</i>	
SUMMARY & CONCLUSIONS	126
ENDNOTES	130
Appendix A: Provincial Initiatives: Jun/96 - Jun/97	141
Appendix B : Ministry Budgets	159
Glossary of Acronyms Used	165
Legislative Index	167

Introduction

The past two years have witnessed a series of fundamental changes to the laws and institutions which protect Ontario's environment, unlike any seen before in the history of the province. The mandate of the current government of Ontario commenced on June 8, 1995. The government was elected on a platform entitled the "Common Sense Revolution," whose key components were job creation, reduced government spending and government restructuring. It contained no references to environmental protection or natural resources management.

In practice, the implementation of the "Common Sense Revolution" in these areas, has been structured around three major themes: first, regulatory "reform" in the guise of sweeping amendments to virtually every statute in the province dealing with environmental protection or natural resources management; second, enormous reductions in the budgets, and consequently, human resources of the agencies charged with the protection of the province's environment and natural resources; and third, an extensive restructuring of roles and responsibilities between the province, municipal governments, and the private sector.

Regulatory Reform

Over the past two years, every significant Ontario statute related to environmental protection or natural resources management, with the exceptions of the *Environmental Bill of Rights* and the *Power Corporation Act*, has been the subject of major amendments. These amendments have 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.

Proposals for further major amendments to environmental and natural resources management statutes remained before the Legislature when it rose for the summer in June 1997. These include changes to the *Public Lands Act* and *Lakes and Rivers Improvement Act* to permit the delegation of decision-making regarding public lands and waterways to private individuals or firms. Proposals to amend the provisions of the *Farm Practices Protection Act* would expand the scope of the act to exempt "normal" farm operations from the requirements of municipal by-laws as well as common-law nuisance actions.

Budgetary 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 Ministry of Environment and Energy will lose 45% of its operating budget and 31% of its staff by the 1997-98 fiscal year, measured against its actual staff and expenditures for 1994/95. The Ministry of Natural Resources will see a 23% budgetary reduction (operating) and a loss of more than 40% of its staff over the same period. These reductions are outlined in Table 1 and Figure 1. Table 2 lists the changes to capital budgets over the same period.

In addition to the reductions to provincial agencies, municipalities have lost provincial support for curbside recycling, sewer and water infrastructure and a host of other activities. Provincial assistance for public transit operations is also to be withdrawn completely. 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 70% of their provincial funding. The Niagara Escarpment Commission, which is responsible for controlling development on the Escarpment, a UNESCO World Biosphere Reserve, has suffered a 36% cut to its budget over the past two years.

Further reductions in the budgets of provincial agencies were anticipated in November 1996.¹ However, these did not take place, and no further reductions, beyond those already announced, were presented in the government's May 1997 budget. A one-time payment of \$200 million to municipalities for sewer and water infrastructure was announced in that budget as a replacement for the terminated Municipal Assistance Program.

The reductions in the budgets of provincial and local agencies have translated into serious losses of capacity to develop and enforce environmental standards and monitor environmental conditions. This has been a major factor in the move to self-monitoring, and indeed, self-regulation systems for a range of industries including forestry, aggregates, petroleum, and mining.

Environmental research and monitoring activities, both inside and outside of the provincial government, have also been significant casualties of the government's budgetary reductions. Monitoring facilities have been closed, large numbers of scientific staff have been laid-off, long-term research programs terminated or severely curtailed, and routine testing services for drinking water quality and pesticide residues in food have ended. The loss of capacity in this area has been the subject of expressions of serious concern by the Canada-U.S. International Joint Commission in its 1996 8th Biennial Report on Great Lakes Water Quality under the *Great Lakes Water Quality Agreement*,² and the province's Environmental Commissioner³ in her 1996 Annual Report to the Legislature.

The loss of capacity resulting from budgetary reductions has also been evident in the area of environmental law enforcement. Over the past two years there has been a significant decline in the number of prosecutions initiated by Ministry of Environment and Energy. This decline is outlined in Table 3.

Table 1 : Operating Expenditures - Select Ministries 1993/94 to 1997/98 (in millions \$)						
Ministry	1993/94	1994/95	1995/96	Interim 1996/97	Plan 1997/98	Change 1995/96- 1997/98
Agriculture, Food & Rural Affairs	\$474	\$383	\$400	\$400	\$405	5.74
Citizenship, Culture & Recreation	\$370	\$408	\$363	\$312	\$280	(31.37)
Community & Social Services	\$9,165	\$9,364	\$8,816	\$8,025	\$7,848	(16.19)
Consumer & Commercial Relations	\$175	\$150	\$140	\$127	\$94	(37.33)
Economic Dev't, Trade & Tourism	\$416	\$463	\$385	\$219	\$201	(56.59)
Environment & Energy	\$390	\$272	\$239	\$160	\$150	(44.85)
Health	\$17,375	\$17,599	\$17,607	\$17,844	\$17,845	1.40
Native Affairs Secretariat	\$14	\$16	\$16	\$18	\$9	(43.75)
Natural Resources	\$502	\$478	\$519	\$426	\$369	(22.80)
Northern Development & Mines	\$83	\$54	\$66	\$40	\$41	(24.07)
Transportation	\$608	\$598	\$1,054	\$1,150	\$715	19.57

Source: Ontario Budget, Ontario Financing Report, May 1997

Table 2: Capital Expenditures - Select Ministries 1993/94 to 1997/98 (in million \$)						
Ministry	1993/94	1994/95	1995/96	Interim 1996/97	Plan 1997/98	Change 1995/96- 1997-98
Agriculture, Food & Rural Affairs	\$13	\$12	\$5	\$0	\$0	-100
Citizenship, Culture & Recreation	\$28	\$42	\$29	\$9	\$4	(78.57)
Community & Social Services	\$77	\$72	\$14	\$28	\$28	(61.11)
Economic Dev't, Trade & Tourism	\$113	\$117	\$113	\$9	\$0	(92.31)
Environment & Energy	\$162	\$271	\$238	\$203	\$154	(25.09)
Health	\$309	\$249	\$168	\$182	\$242	(26.91)
Native Affairs Secretariat	\$15	\$17	\$9	\$14	\$12	(17.65)
Natural Resources	\$95	\$54	\$47	\$33	\$25	(38.89)
Northern Development & Mines	\$208	\$240	\$163	\$181	\$193	(24.58)
Transportation	\$1,824	\$1,757	\$1,387	\$1,271	\$1,190	-28

Source: Ontario Budget, Ontario Financing Report, May 1997

Select Ministries' Operating Budgets

Change from 1994/95 to 1997/98

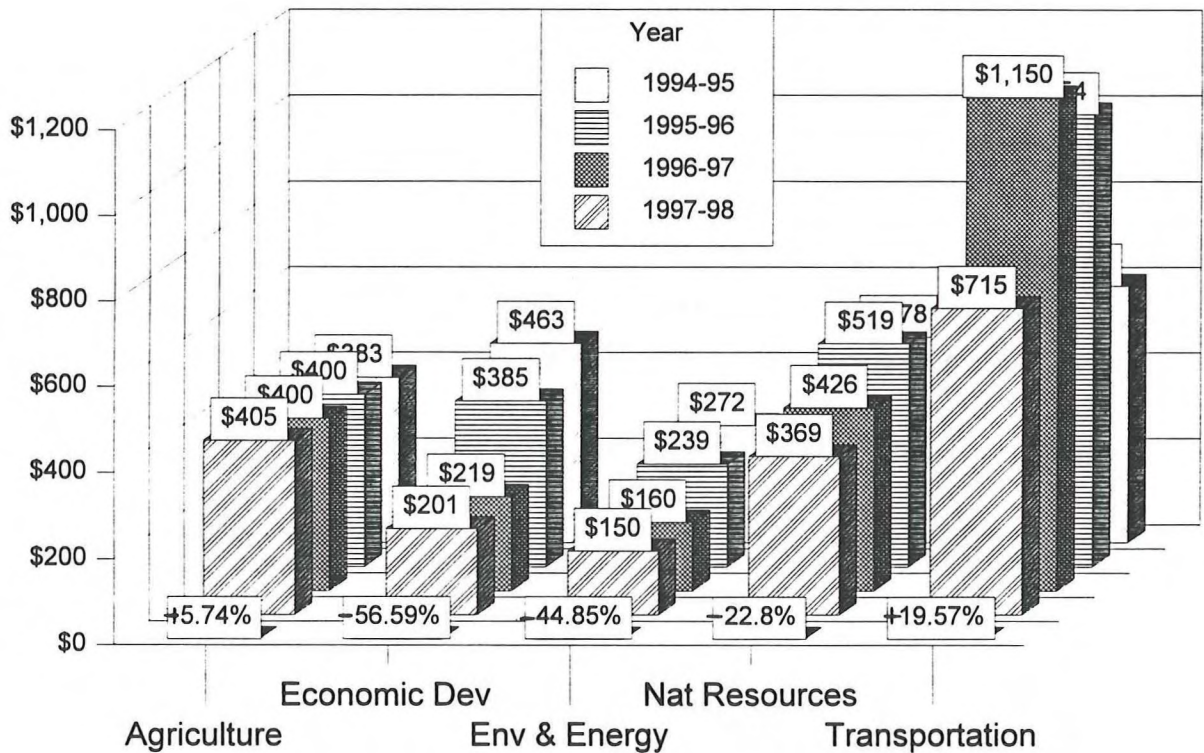


Figure 1: Change in operating expenditures of various ministries from 1994/95 to 1997/98.
Source: Ontario Budget, Ontario Financing Report, May 1997

Table 3: Ministry of Environment and Energy Enforcement Activities 1995 and 1996⁴

Activity	1995	1996
Total number of Crown Briefs received.	196	143
Total number of charges against individuals	615	343
Total number of charges against corporate defendants	430	409
Total number of convictions against corporate defendants	232	148
Total fines against Corporate defendants	\$1,845,279	\$750,535
Total number of convictions against individuals	280	189
Total fines obtained against individuals	\$1,220,225	\$453,499

Concerns regarding the Ministry's loss of capacity in the area of enforcement were further heightened in February 1997, when it was revealed that the agency was working to prepare defenses against lawsuits for "regulatory negligence" by individuals who suffer harm to their property or persons as a result of the Ministry's inability to adequately enforce the laws and regulations for whose administration it is responsible.⁵ There are also increasingly frequent anecdotal reports of failures on the Ministry of the Environment and Energy to take enforcement actions in the face of significant violations.⁶

Figure 2 shows the total value of corporate and individual fines recorded by the Ministry of Environment and Energy from 1985 to 1996. The 1996 total is the lowest recorded total value since the fiscal year 1987/88.⁷

Restructuring

While budgetary reductions and the weakening or elimination of environmental protection requirements from laws and regulations were the central features of the first year of the "Common Sense Revolution," the restructuring of the delivery of services between the province, municipalities and the private sector has been a defining feature of the second year.

The Provincial/Municipal Relationship

A wide range of provincial responsibilities have been transferred to municipal governments over the past year. These have included the operation of provincially owned sewer and water infrastructure and the regulation of septic systems. At the same time, the province has announced the withdrawal of provincial funding for public

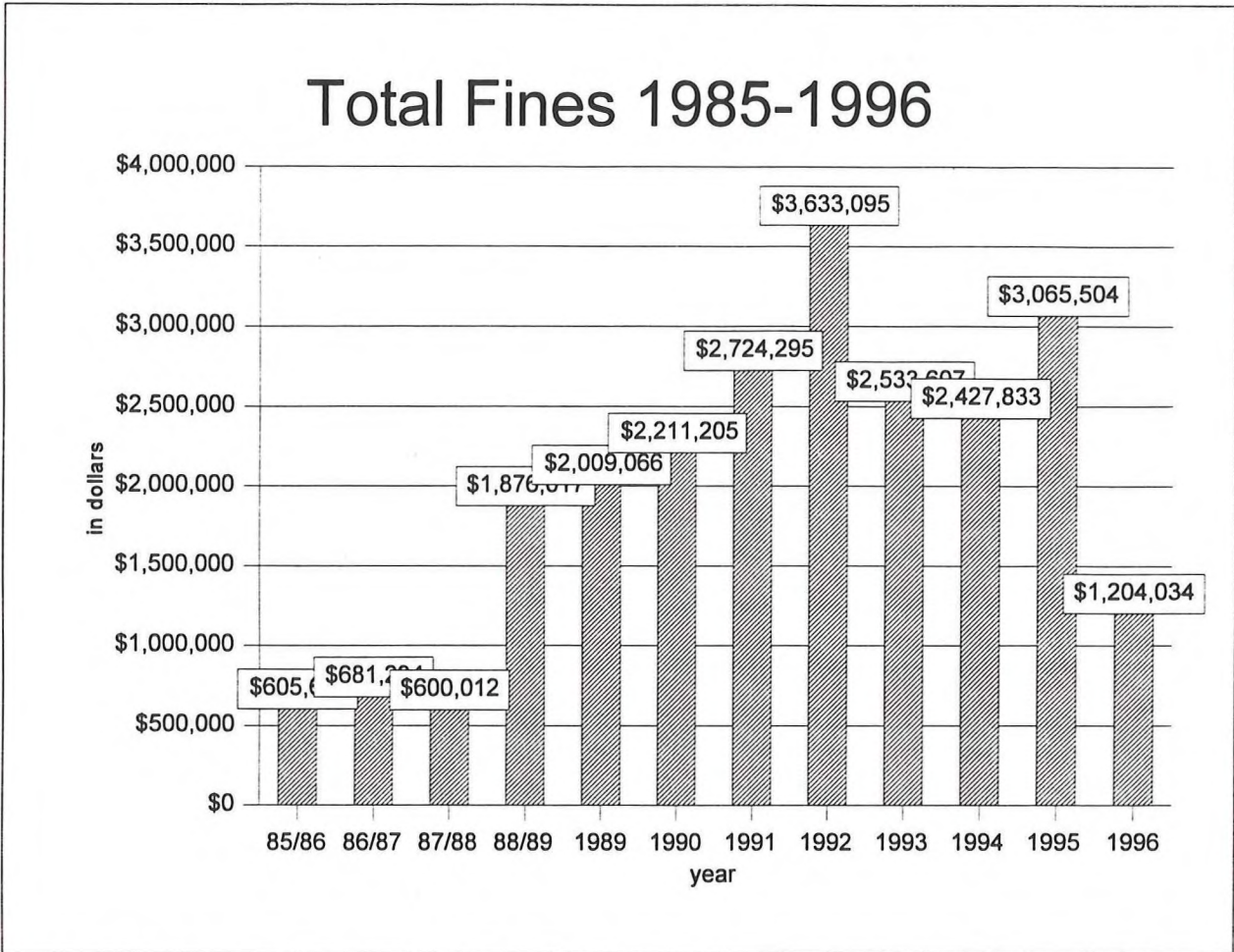


Figure 2: Total fines recorded by the Ministry of Environment and Energy 1985-96.

transit services, and the construction, operation and maintenance of sewer and water infrastructure, curbside recycling and a range of other activities.

The delegation of responsibility for the regulation of odour, noise, dust and other "nuisance" problems to municipal governments is also under consideration. The forced amalgamation of a large number of municipal governments, most notably, in Metropolitan Toronto, may also have a significant long-term effect on the quality and diversity of environmental programs which are delivered at the municipal level.

The Role of the Private Sector

The past year has also been 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 aggregates, petroleum, brine and forest industries which were previously regulated by the Ministry. Similar arrangements are under development regarding the closure of mines by the Ministry of Northern Development and Mines. In the case of the Ministry of Consumer and Commercial Relations, the regulatory functions of the Ministry related to

underground storage tanks, boilers, pressure vessels, fuels, elevators, amusement devices, and upholstered furniture have been transferred to a private organization called the Technical Standards and Safety Authority. The Authority's board of directors is dominated by representatives of the industries it is to regulate.

The government is considering further transfers of responsibilities to the private sector. The Ministry of Natural Resources, for example, is apparently moving towards the delegation of decision-making authority for public lands managed under Sustainable Forestry Licences to the licence holders. The Ministry has also entered into a perpetual co-management agreement with the hunting and conservation organization Ducks Unlimited, regarding the management of the province's public wetlands. The possibility for private sector "partnerships" or "sponsorships" regarding the operation of some of the province's provincial parks is being explored as well.

Serious questions regarding the implications of these transfers have been raised by the Environmental Commissioner,⁸ Provincial Ombudsman⁹ and others. 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* and *Freedom of Information and Protection of Privacy Act*, and mechanisms for public and legislative oversight and accountability, such as the Office of the Provincial Auditor.

Competition in the Delivery of Public Services

The province is considering other forms of restructuring as well. These include the introduction of competition into the province's market for the supply of electricity. Generators of electricity inside and outside of Ontario would be permitted to compete with Ontario Hydro for the supply of electricity to the province's industries and consumers. There are concerns that such competition would permit the province's sources of electricity supply to escape environmental protection requirements which currently apply to Ontario Hydro. These include acid rain control regulations under the province's Countdown Acid Rain program, discharge regulations under the Municipal-Industrial Strategy for Abatement (MISA) program and commitments made by Ontario Hydro's board of directors regarding carbon dioxide emissions affecting global climate change.¹⁰

The province is also considering permitting the private sector to compete with municipalities in the delivery of such municipal services as waste management and sewer and water services. This has led to concerns that the private sector may provide services in areas where these can be provided at low cost, and leave municipal governments having to provide services in the higher cost areas. Proposals to make provincial grants to municipal governments conditional on performance against "benchmarks" for service costs have also raised serious concerns regarding the delivery of municipal services.

Some Small Steps Forward

Unlike the first year of the "Common Sense Revolution," the second year has been marked by small steps forward in a few areas. These have included improved tax treatment for conservation lands and managed woodlots, the announcement of the designation of 28 new protected areas, and the strengthening of summer gasoline volatility limits to reduce smog. The Ministry of Environment and Energy has also indicated its intention to update and greatly strengthen many of its environmental standards, particularly with respect to air emissions. However, no action has been taken to implement these new standards to date.

In addition, significant changes have occurred in the Ministry of Environment and Energy's policy development processes following the replacement of Brenda Elliott by Norman Sterling as Minister in August 1996.¹¹ The pace at which changes have occurred to legislation and the reforms to the Ministry's regulations proposed in July 1996 has slowed considerably. In addition, the role of the Progressive Conservative Party of Ontario's Policy Council on the Environment in the policy formulation process appears to have been significantly curtailed. It was reported that during Ms. Elliott's period in office, many of her policy actions had been directed by the Premier's Office on the basis of proposals from the Party's policy council.¹²

The Structure of this Report

This report is divided into four major parts. The first deals with developments over the past year in such cross cutting areas as: the *Environmental Bill of Rights* and public participation in decision-making; standard setting and regulatory reform; land-use; environmental assessment; and environmental science and monitoring. Part II deals with the functional areas of the Ministry of Environment and Energy: air; water; waste management; pesticides; and energy. Part III deals with the functional areas of the Ministry of Natural Resources: forestry; parks, wilderness and wildlife; and non-renewable resources. Part IV deals with the functions of other relevant agencies, including the Ministries of: Transportation; Northern Development and Mines; and Consumer and Commercial Relations. Each chapter includes a brief overview of developments between the period of June 8, 1996 and June 8, 1997, along with a chronological table of events. In some cases, initiatives arising just prior to this period have been included due to their impact in year two. Finally, there is a brief overall conclusion summarizing key developments and their implications for the future of Ontarians and the quality of their environment.

Review of Initiatives affecting Ontario's Environment (by subject)

ENVIRONMENTAL BILL OF RIGHTS & PUBLIC PARTICIPATION IN DECISION-MAKING

Introduction

The past two year should have been a period in which significant improvements to public participation in environmental decision-making in the province were made. The *Environmental Bill of Rights*, (EBR) enacted in December 1993, was scheduled to move towards full application, with a large number of agencies and statutes becoming subject to its public participation, application for review and application for investigation provisions.¹³ However, the implementation of the EBR has met with serious problems since the 1995 election.

In addition, over the past year, the government has made amendments to a wide range of statutes, including the *Environmental Protection Act* and the *Aggregate Resources Act* which reduce opportunities for public participation in decision-making. There is also growing concern that the transfers of responsibilities and privatizations, which are occurring as elements of the government's restructuring efforts, may result in decisions which were previously subject to the EBR, and other public accountability and oversight mechanisms, no longer being subject to these requirements.

Environmental Bill of Rights

The EBR provides Ontario residents with mechanisms to participate in decisions the government of Ontario makes about the environment. Under the EBR, the position of Environmental Commissioner is established as an Officer of the Legislature to oversee and report on the Bill's implementation.

Environmental Commissioner's Reports

The Environmental Commissioner, Appointed in May 1994, issued her First Annual report under the EBR in June 1996.¹⁴ The Commissioner also tabled a "Special Report" to the Legislature in October 1996,¹⁵ and delivered her Second Annual Report in April of 1997.¹⁶ These reports all reflected a number of common themes regarding the government's adherence to the requirements of the EBR. These 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."¹⁷

The Commissioner's report included a number of major recommendations regarding the approach of ministries to the implementation of the EBR and, their environmental decision-making in general. These included:

- providing better information in EBR registry notices;
- recognizing that the posting of proposals on the registry is the minimum legal requirement and providing additional opportunities for public consultation whenever possible;
- ending the use of omnibus-style legislation except for housekeeping matters;
- stressing the strengthening of environmental protection as an explicit goal of current and future regulatory amendments; and
- providing adequate resources to enforce regulations and regularly report on enforcement activities.

In response to the Commissioner's report, the Premier stated that although the government is trying to do things different from its predecessors, it still brings a very

strong environmental commitment to public policy.¹⁸

The EBR and Responsive Environmental Protection

In the meantime, as part of its July 1996 proposals for the reform of its regulatory framework, the Ministry of Environment and Energy¹⁹ 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.²⁰ The Ministry also proposed to remove EBR registry public notice requirements for the approval of pesticides with new active ingredients on basis that an as yet to be established "national" system will provide equivalent public notice.²¹ As of June 1997, these proposals had not been implemented.

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 1996.²² This resulted in the Ministry of Environment and Energy laying charges against the Natural Resources Ministry under the *Environmental Assessment Act* in April 1997.²³ Then, 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.²⁴

Amendments to Specific Legislation

In addition to the problems identified by the Environmental Commissioner in the application of the Environmental Bill of Rights, over the past year, the government has also amended a number of environmental and natural resources statutes in ways which reduce opportunities of public participation in environmental decision-making. The Bill 57 amendments to the *Environmental Protection Act* and the *Ontario Water Resources Act*, enacted in June 1997, for example, give the cabinet the power to exempt from existing statutory requirements for public hearings such undertakings as the approval, alteration, expansion, or extension of a landfill serving more than 1,500 people, or of a site for the disposal of hazardous or liquid industrial wastes.²⁵

Similarly, under the former *Aggregates Resources Act*, the Minister of Natural Resources was required to refer license applications to the Ontario Municipal Board for a public hearing upon request of an objector, unless the Minister was of the opinion

that the hearing request was frivolous or vexatious, or failed to disclose a substantial interest warranting a hearing. Under the Bill 52 amendments to the Act passed in December 1996, the Minister has much more discretion to refuse to refer a matter to the Board for a hearing.²⁶

Privatization/Restructuring Initiatives

The government's wide ranging initiatives to reassign responsibilities among agencies, between the province and municipal governments, and to privatize some of its functions may also have major impacts on the rights of the public to participate in decisions which may affect the environment. This is of particular concern where decision-making authority for the setting of standards, or the granting of approvals, is transferred to a municipal government or a private entity. Examples of such transfers include the privatization of the functions of the Technical Standards Division of the Ministry of Consumer and Commercial Relations to a "Technical Standards and Safety Authority" (TSSA), through Bill 54, *The Safety and Consumer Statutes Administration Act*²⁷ and the devolution of responsibility for the regulation of septic systems from the Ministry of Environment and Energy to municipalities through Bill 107, *The Water and Sewage Services Improvement Act*. There are also proposals from the Ministry of Natural Resources to transfer decision-making authority over public lands to the holders of Sustainable Forest Licenses for such lands. These developments are described in detail in the appropriate sections of this report.

As decisions to issue approvals or, in some cases, establish policies would no longer be made by provincial government agencies, such actions would no longer be automatically subject to the requirements of the EBR. Nor would such decisions be automatically subject to oversight by the Environmental Commissioner. Similarly, it is unclear how the Request for Investigation, Request for Review, or Whistleblower Protection provisions of the Bill would apply. The EBR contains provisions permitting Ministers to delegate their duties under the Bill to third parties.²⁸ This could provide a means of bringing delegated decisions by third parties under the EBR's purview. However, this has not been done, for example, in the case of the TSSA and the *Gasoline Handling Act*. Similar concerns have been raised regarding the applicability the *Ombudsman Act* and the *Freedom of Information and Protection of Privacy Act* under such circumstances. The privatization or transfer of responsibilities may also put activities beyond the reach of oversight by the Provincial Auditor, and indeed, the Legislature itself.

The Next Steps

The Ministry of Environment and Energy is expected to propose amendments to its regulations under the *Responsive Environmental Protection* initiative in the summer and fall of 1997.

Chronology of Changes to EBR, Public Participation Policies and Regulations

- May 14/96 Changes are introduced by the Minister of Natural Resources for the regulation of the aggregates, petroleum and brine (salt solution mining) industries through Bill 52, *Aggregate and Petroleum Resources Statute Law Amendment Act*.
- Jun 3/96 Minister of Environment introduces Bill 57, *The Environmental Approvals Improvement Act*.
- 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;
 - allow a 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.
- Jun 96 Environmental Commissioner of Ontario delivers first Annual Report.
- July 31/96 The Ontario government releases *Responsive Environmental Protection : A Consultation Paper*. A number of the recommendations, if adopted would make changes to Ontario's Environmental Bill of Rights.
- 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.

- Dec 11/97 Filing of an EBR Request for Investigation made regarding the construction of a logging road near Cross Lake.
- Jan 20/97 Bill 107, *The Water and Sewage Services Improvement Act* introduced to the legislature.
- 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 18/97 MoEE charges against MNR regarding the construction of a logging road near Cross Lake.
- 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.
- 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.
- 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.

STANDARDS SETTING & REGULATORY PROCESSES

Introduction

Over the past two 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 exceptions of the *Environmental Bill of Rights* and the *Power Corporation Act*, has been significantly amended. Consistent with themes first established through Bill 26, *The Government Savings and Restructuring Act, 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.

In addition, in July 1996, the Ministry of Environment and Energy proposed major revisions to all 78 regulations administered by the Agency in a document entitled *Responsive Environmental Protection*. In October 1996, the Ministry also proposed a three-year program to update its environmental standards. "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.

Major regulatory "reform" initiatives have been undertaken elsewhere within the government as well. These have included the delegation of the regulatory functions of the Technical Standards Division of the Ministry of Consumer and Commercial Relations to a private organization named the Technical Standards and Safety Authority. In addition, the regulation of septic systems has been delegated by the Ministry of Environment and Energy to municipalities and the Ministry of Municipal Affairs. The forestry, aggregates, petroleum, and brine industry have been placed on self-monitoring programs by the Ministry of Natural Resources. These initiatives are dealt with in detail in the relevant chapters of this report.

Bill 57 and *Responsive Environmental Protection*

Bill 57, The Environmental Approvals Improvement Act

In June 1996, the then Minister of Environment and Energy, the Hon. Brenda Elliott, introduced Bill 57, *The Environmental Approvals Improvement Act*. This legislation, which was finally 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. This could include, for example, the waiving of existing statutory requirements for public hearings before the approval of major landfills or hazardous waste disposal sites. In addition, the Bill permits the cabinet to make regulations controlling or prohibiting virtually any activity which falls under the jurisdiction of the *Environmental Protection Act* and *Ontario Water Resources Act*. In effect, the amendments permit the cabinet to repeal almost any provision of these statutes, and replace it with whatever it chooses to put in place.

Other provisions of Bill 57:

- permit the cabinet to "deem" environmental approvals to exist without the actual review of applications by the Ministry;
- establish 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;
- provide for the delegation to municipalities of the power to grant approvals under the *Environmental Protection Act*;
- permit 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.²⁹

Bill 66, The Government Process Simplification Act (Ministry of Environment and Energy)

A companion piece of legislation, Bill 66, the *Government Process Simplification Act (Ministry of Environment and Energy)*, was also introduced in June 1996. This Bill proposed changes to number of statutes regarding the structure and process of hearings before the Ontario Energy Board, Environmental Appeal Board, and Joint Boards under the *Consolidated Hearings Act*. The amendments would permit the Appeal and Energy Boards to sit as one member panels, and permit the Appeal Board and Joint Boards to appoint representatives of classes of parties. The Bill also proposed amendments the *Pesticides Act* to allow the classification of pesticides by "a person designated by the Minister." The Bill passed Second Reading on June 25, 1996, but has made no further progress through the legislative process.

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 proposed undertakings follow.

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 SO₂ 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 SO₂ 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,³⁰ who were initially given only 45 days to comment on the Ministry's initiative. This period was extended by a further month by the Hon. Norm Sterling following his appointment as Minister 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.³¹ The Ministry's approach to the process was subsequently heavily criticized by the Environmental Commissioner in both her October 1996 Special Report and April 1997 Annual Report to the Legislature.

As of June 1997, no action had been taken to implement the REP proposals. It was expected that a White Paper on the proposals would be released in May or June 1997, indicating which proposals the Ministry would proceed with. However, there have been more recent suggestions that the Ministry will simply post proposed changes to individual regulations on the EBR registry with brief public comment periods.

Ministry of Environment and Energy Standards Review

In October 1996 the Ministry of Environment and Energy (MoEE) announced its intention to undertake a comprehensive revision of its air and water standards over the following three years. The revision of air standards was to be the highest priority.³² A major controversy emerged in December 1996 when it was revealed that industries likely to be affected by the new standards had been given an opportunity to review them prior to their release for public comment.³³

Specific proposals for revisions to standards for a number of air contaminants were released by the Ministry for public comment in January 1997. These would significantly strengthen the Ministry's requirements for a number of substances,³⁴ provided that they were incorporated into regulations, and new and existing certificates of approval.³⁵ However, it has been reported that the proposed standards have met with very strong resistance from industry, and no action has been taken on their implementation to date.

The "Red Tape" and Agencies, Boards and Commissions

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

The "Red Tape Review Commission" delivered its report in January 1997.³⁶ The Commission's 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 to new regulations, sunset clauses in new regulations, the establishment of a "regulatory watchdog committee" formed of MPP's and "representatives of the private sector,"³⁷ and the need for public servants to put customer (i.e. regulatee) service first.³⁸

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.³⁹ The Niagara Escarpment Commission and the Ontario Energy Board were to remain unchanged.⁴⁰ Consistent with the provisions of Bill 57, the Commission also recommended the elimination of the Environmental Compensation Corporation.⁴¹

In addition, the Commission recommended the elimination of the Toronto Waterfront Regeneration Trust and the North Pickering Development Corporation.⁴² The latter 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.⁴³ 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.⁴⁴

Regulatory "Reform" by Agencies Other than the Ministry of Environment and Energy

Regulatory reform initiatives by the Ministry of Consumer and Commercial Relations regarding underground storage tanks, boilers and pressure vessels, the Ministry of Natural Resources regarding forestry, aggregates, petroleum and brine, and the Ministry of Northern Development and Mines regarding mines are dealt with in the relevant chapters of this report.

The Next Steps

The amendments to the Ministry of Environment and Energy's regulations based on the *Responsive Environmental Protection* are expected to be released for public comment over the late summer and fall of 1997.

Chronology of Changes to Standards Setting and Regulatory Processes

- May 16/96 *The Safety and Consumer Statutes Administration Act* is introduced. If passed, it will significantly alter the way underground storage tanks and other activities are regulated (see section *Underground Storage Tanks*).
- 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.

Sep 20/96 Ministry of Municipal Affairs and Housing releases *1997 Building Code Proposals* which outlines 650 proposed amendments to the code. For more detail, see *Energy* section.

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 Report.

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 *EBR* section for comments relating to standards and process).
- 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, opposite editorial, page A-9.
- 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
 - the promotion of 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 it associated equipment;
 - upholstered and stuffed devices;
- Jun 5/97 Bill 57, The *Environmental Approvals Improvement Act* is given royal assent.

LAND USE PLANNING

Introduction

The first year of the "Common Sense Revolution" was highlighted by the repeal of the previous government's environmentally progressive Bill 163 amendments to the *Planning Act* through Bill 20, the *Land Use Planning and Protection Act*. In year two, the focus has been on municipal amalgamation and restructuring initiatives, and the opening of public lands to a wide range of previously regulated activities. In the longer term there is a move towards delegation of control over all activities on public lands to the holders of Sustainable Forestry Licences for those lands and other private sector actors. Conservation Authorities and the Niagara Escarpment Commission continue to be heavily affected by the government's initiatives. More positively, there have been changes to improve the tax treatment of conservation lands and managed forest lands.

Municipal Restructuring/Amalgamation/Downloading/Who Does What?

The Planning Act

Major amendments were made to the *Planning Act* in March 1996. These changes repealed the structures put in place by the previous government in response to the report of the Commission on Planning and Development Reform in Ontario, and were largely seen to weaken environmental protection requirements.⁴⁵ The *Planning Act* amendments also largely removed the Ministries of Environment and Energy and of Natural Resources from the municipal land-use planning process.

Although the Bill 20 amendments to the *Planning Act* were intended to give municipalities more control over the planning process, over the past year, the Minister of Municipal Affairs has overridden local planning decisions on a number of occasions in favour of particular economic interests. This has been especially true with respect to aggregates industry,⁴⁶ and is discussed in more detail in the section, *Mineral Aggregates, Petroleum Resources, and Brine Industries*.

Municipal Amalgamation

Over the past year, the government has also moved to require the amalgamation of many municipalities around the province. The most prominent of these initiatives has been the amalgamation of the six lower-tier and one upper-tier municipal governments forming Metropolitan Toronto into a single "City of Toronto."⁴⁷ 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.⁴⁸ Existing innovative approaches to program delivery may also be lost through the amalgamation process and the resulting standardization of programs throughout the amalgamated entity.

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 to be transferred to municipal governments through Bill 107, the *Water and Sewage Services Improvement Act*⁴⁹ introduced as part of the "Mega-week" package, and enacted in May 1997.

While the withdrawal of subsidies for new sewer and water and road infrastructure may have the effect of curbing urban sprawl, there are also serious concerns regarding the possibility of the privatization of municipal sewer and water services,⁵⁰ and the approval of inappropriate uses of septic systems to support new development.⁵¹ The future provision of public transit systems has also been thrown into question given removal of provincial funding for such services.

Municipal Act Amendments

In March 1997 the government released proposals for amendments to the *Municipal Act*.⁵² Among other things, the government's proposals include barring municipalities from preventing the private sector competing with municipal governments in the delivery of such services as public utilities (e.g. water, sewage and electricity), waste management, or transportation systems other than public highways (e.g. buses, taxis or other forms of public transit).⁵³ There are concerns that this would allow the private sector to deliver services in areas where costs are low, and leave municipal governments having to provide services in areas with higher costs.

Proposals to make provincial grants to municipal governments conditional on performance against "benchmarks" for service delivery costs have also raised serious concerns regarding the delivery of municipal services. Such standards would significantly constrain the ability of municipal governments to provide innovative services in such areas as waste management, sewer and water infrastructure and public transit.⁵⁴

Public Lands

Public lands constitute 87% on Ontario's total land area.⁵⁵ 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 a structure which permits the cabinet to make regulations defining when approvals will be required.

In November 1996, regulations were adopted to implement these changes. Mineral exploration activities on public lands were completely de-regulated, including clearing, mechanical stripping, bulk sampling, drilling and blasting, moving heavy equipment and drilling rigs and building trails.⁵⁶ 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.⁵⁷

Furthermore, in April 1997, the Ministry of Natural Resources announced a "Lands for Life" initiative, which is 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, by the spring of 1998.⁵⁸

Strengthening the security of tenure for holders of Sustainable Forest Licences under the *Crown Forest Sustainability Act* is emerging as a major theme of the program. There are also indications that the Ministry of Natural Resources is considering the delegation of all management and approval responsibilities for crown lands covered by licences to the licence holders.⁵⁹ Amendments to the *Public Lands Act* and the *Lakes and Rivers Improvement Act* proposed through Bill 119, introduced in February 1997, would permit the delegation of the Minister's decision-making authority to "any agency, authority, corporation or person."⁶⁰ It has also been reported that MNR staff are under pressure to increase non-tax revenues from public lands through sales of such lands.⁶¹

Taxation and Conservation

The government has introduced a number of changes to the tax system which affect land-use and environmental conservation. The land transfer tax rebate for new homes introduced in the government's May 1996 budget was retained in the May 1997 budget. This rebate of up to \$1,725 per new home encourages urban sprawl by subsidizing the purchase of homes in new developments.

More positively, through Bill 106, the *Fair Municipal Finance Act*, passed in May

1997, significant changes have been made to the property tax assessment regime for conservation, managed forest and farm lands. Coming into effect on January 1, 1998, the reforms will convert existing rebate programs into either an exemption from property taxation (conservation lands) or a new property class with a tax ratio of .025 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.⁶²

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" over the past two years. Provincial capital and operating support to Authorities has declined by approximately 70%.⁶³ 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.⁶⁴

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 Lake Simcoe, and Credit Valley Authorities have been reported to be particularly hard hit in this sense.⁶⁵ 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 4.

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.⁶⁶

Table 4: Effect of Provincial Changes on Conservation Authorities

Conservation Authority:	Percentage of Staff Lost	Discontinued Programs¹	Additional Revenue sought from Lands²
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

Niagara Escarpment Commission

The Niagara Escarpment is internationally recognized as a World Biosphere Preserve 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 1995. The Plan effectively "zones" the Escarpment into protective and use categories, and limits the uses which may be undertaken within these zones. In addition, all major new land uses or developments within the plan area require a "development permit" from the NEC.

Like the province's Conservation Authorities, the Niagara Escarpment Commission has been heavily affected by budgetary reductions over the past two years, amounting to a loss of approximately 36% of its budget measured against the 1994/95 fiscal year⁶⁷ and a reduction in staff from 38 positions to 22.⁶⁸ Five of the Commission's fifteen Commissioners whose tenure expired in August 1996 were not re-appointed. All had been strong advocates for environmental protection along the Escarpment.⁶⁹

As a consequence of the resulting vacancies, in May 1997, the Commission was, for the first time in its history, unable to deal with a development permit request as it could not establish a quorum of nine with its ten remaining members.⁷⁰ The vacant seats on the Commission were filled in June 1997.⁷¹ However, a number of the new appointees were associated with organizations which had worked against the protection of the Escarpment from development in the past.

The integrity of the Escarpment plan has been under attack in a number of other ways as well. In August 1996, the Ministry of Environment and Energy proposed to exempt 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.⁷² The proposal affected several quarries operating 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.⁷³

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, and incorporated into regulation in October 1996.⁷⁴ However, the modified decision was widely criticized as effectively leaving the original exemption proposal intact.⁷⁵

It was subsequently revealed in May 1997, that the then Minister of Environment and Energy, the Hon. Brenda Elliott had advised, in March 1996, a quarry operator to continue expanding a pit on the Escarpment, despite the court decision requiring it to obtain a development approval from the Commission.⁷⁶ The Minister's action was revealed in the course of a private prosecution regarding the expansion of the pit in

question.⁷⁷

There have also been indications that the province is considering delegating administration of the Niagara Escarpment Plan from the Niagara Escarpment Commission to the municipalities in the plan area.⁷⁸ Such a move was seen as being likely to undermine the integrity of the Plan, as municipal governments along the Escarpment have been among the strongest advocates of development within the plan area. Furthermore, over the past two years, there has been a series of decisions to remove small areas from the Escarpment Plan Area and return them to the jurisdiction of the local municipalities.⁷⁹

Concern over the future of the Escarpment heightened when it was revealed in March 1997 that responsibility for the administration of the Escarpment Plan and the Commission was to be transferred from the Ministry of Environment and Energy to the Ministry of Natural Resources. The transfer, which was widely interpreted as a personal defeat for the Minister of Environment and Energy, the Hon. Norm Sterling, was compared by a coalition of environmental organizations with "putting Dracula in charge of the blood bank,"⁸⁰ given the Natural Resources Ministry's close association with the Aggregates industry.

Farm Practices Protection Act Amendments

In January 1997, the Ministry of Agriculture, Food, and Rural Affairs, announced a formal review of the *Farm Practices Protection Act*.⁸¹ The Act, proclaimed in 1988, exempts farmers from common-law nuisance actions arising from "normal" farming practices resulting in odour, noise or dust.

A new Act to replace the existing statute was introduced into the legislature in June 1997.⁸² The proposed new act would retain the existing exemption for "normal" agricultural operations from common-law nuisance actions, and add a new exemption from the requirements of municipal by-laws as well. The Bill did not pass second reading before the Legislature rose for the summer.

Contaminated Site Remediation Guidelines

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).⁸³

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.⁸⁴

The Next Steps

The Regional Round Tables under the Lands for Life Program are expected to report in the Spring of 1998 on future uses of Crown land in the province. In addition, the government is expected to move the *Farm Practices Protection Act* amendments introduced in June 1997 forward in the fall 1997 session of the Legislature.

Chronology of Changes to Land Use Policies and Regulations

- 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.
- Aug 96 A proposed exemption is posted on the EBR Registry for pre-1975 pits and quarries on the Niagara Escarpment. The exemption would eliminate the need for certain pits and quarries to obtain development permits for future extraction activities.
- Aug 96 The terms of five Niagara Escarpment Commissioners expire without renewal.
- Oct 17/96 Exemption from future permit requirements granted for pre-1975 pits and quarries on the Niagara Escarpment.
- 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.

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 permissable (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, *Fair Municipal Finance Act*, is introduced to the legislature introduced. The legislation should improve tax treatment of conservation lands, managed woodlots and farmland.
- Jan 20/97 Bill 107, *The Water and Sewage Services Improvement Act* introduced to the legislature.
- Jan 28/97 Ontario Ministry of Agriculture, Food and Rural Affairs Posting on *Farm Practices Protection Act*.
- Jan 97 Ministry of Natural Resources announces the elimination of the Managed Forest Tax Rebate Program. The Ministry states that in light of current tax reform proposals, this program is no longer necessary for environmental protection. The program will be replaced by a system which reduces the tax rate on eligible lands through the regular property tax process. The tax rate for eligible forests lands will be set at 25 per cent of local residential tax rates.
- 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.

- 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.
- 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.
- 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.
- April 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 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 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 insufficiently large to form a quorum. Under the current government, the Commission board has been reduced from 17 to 10 members.

May 27/97 Bill 106 *Fair Municipal Finance Act* Receives Royal Assent.

Jun 12/97 Appointment of seven Niagara Escarpment Commissioners.

Jun 97 *Farm Practices Protection Act* amendments introduced.

ENVIRONMENTAL ASSESSMENT

Introduction

The Ontario *Environmental Assessment Act*, enacted in 1975, has been described as one of the most progressive pieces of environmental legislation in the world. It has been widely regarded as a benchmark against which the adequacy of other jurisdictions' environmental assessment processes are measured.⁸⁵ However, in recent years, the Ontario process has come under increasing criticism. Proponents, particularly municipalities seeking approvals for new landfills, have complained that the process is excessively time consuming. Public interest intervenors have also found participation in the process challenging, particularly after the government permitted the *Intervenor Funding Project Act* to expire in April 1996.

These concerns were reinforced by a small number of assessments of very large undertakings, whose hearings extended over several years. The assessments of the Ontario Waste Management Corporation's proposed hazardous waste treatment and disposal system, and the MNR's management of Timber on Crown land were particularly noteworthy in this sense.

Over the years, the Ministry of Environment undertook a number of efforts to improve the efficiency of the Environmental Assessment (EA) process. These administrative measures did not involve amendments to the Act itself. At the same time, a number major of problems which had been identified with the process by CIELAP's predecessor, the Canadian Environmental Law Research Foundation (CELRF)⁸⁶ and MoEE's own Environmental Assessment Advisory Committee,⁸⁷ were left unaddressed. These included:

- failure to phase in the application of the *Environmental Assessment Act* to the private sector;
- failure to enhance the application of the *Environmental Assessment Act* to government policies and programs;
- failure to ensure the consideration of cumulative effects and the ecosystem approach in the environmental assessment process; and
- failure to ensure the implementation of terms and conditions through monitoring and reporting requirements.

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.⁸⁸

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.

Among the Bill's key provisions:⁸⁹

- the replacement of 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;
- permit the Minister to amend the terms and conditions of approvals in light of changed circumstances or new information,⁹⁰ and the Lieutenant-Governor in Council to vary class environmental assessment decisions as they apply to new proponents.⁹¹

Under the amendments, the scope of the environmental assessment process is likely to be significantly narrowed. Indeed, the process could cease to be an environmental planning process, rather, there would be a focus on the review of the immediate and direct environmental impacts of proposed undertakings. Issues related to the need for undertakings and the availability of less environmentally harmful alternatives seem likely to be removed from the process. 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.⁹²

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 will present 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 include: 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.

The Bill also failed to consider the re-establishment of the Environmental Assessment Advisory Committee, abolished in September 1995. This is 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.

Forestry and Environmental Assessment

The Ministry of Natural Resource's forest management activities have been at the centre of a number of legal actions related to the *Environmental Assessment Act*. In September 1996, a coalition of environmental organizations initiated an action against the Ministry alleging that it had failed to comply with conditions attached to the 1994 Environmental Assessment Board decision on Timber Management on Crown Land.⁹³ This case was heard in May 1997.

In addition, in December 1996, the Sierra Legal Defence Fund, Wildlands League, and Temagami Lakes Association filed a request for investigation under the *Environmental Bill of Rights* regarding the construction of an access road to Cross Lake in the Temagami Region. On April 17, 1997, the Ministry of Environment and Energy announced that it had laid four charges against the MNR under the Act with respect to the incident.⁹⁴

Chronology of Changes to Ontario's Environmental Assessment Process

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.

Sept 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 *Environmental Assessment and Consultation Improvement Act, 1996*. 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 *Environmental Assessment Act* regarding construction of Cross Lake Road.

May 14/97 The case launched by Sierra Legal Defense Fund and Algonquin Wildlands League (Sept 11/97) regarding MNR compliance with Terms and Conditions of Class Environmental Assessment of Timber Management on Crown Lands is heard in Ontario Divisional Court.

May 28/97 Regulations made under *Consolidated Hearings Act*, *Environmental Protection Act*, and *Ontario Water Resources Act* dealing with environmental assessments. Regulations under the *Environmental Protection* and *Water Resources Act* eliminate statutory requirements for public hearings under those acts for undertakings subject to the *Environmental Assessment Act*, or which fall under a Class Environmental Assessment.

ENVIRONMENTAL SCIENCE & MONITORING

Introduction

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 two years. The Premier⁹⁵ and the Minister of Environment and Energy⁹⁶ have insisted that the government's actions will not result in damage to the environment or human health. The only way in which these claims can be assessed is through the results of environmental monitoring programs.

Budgetary Reductions and Program Terminations

Despite these considerations, the province's environmental monitoring, research and science activities have been among those most heavily affected by the budgetary reductions and program terminations of the past two years. The termination of most funding for environmental research external to the government (i.e. universities) was among the government's earliest actions.⁹⁷ Research programs on environmental technologies, energy efficiency and waste management were also eliminated.⁹⁸

More recently, the enormous reductions in the budgets of the Ministries of Environment and Energy (MoEE) and of Natural Resources (MNR) have resulted in the lay-off of large numbers of scientific personnel, the termination of long-term research projects, and the potential closure of key research facilities. Specific measures have included:

- a reduction in the number of MoEE Air Quality Monitoring Stations from 35 to 20 facilities;⁹⁹
- 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;¹⁰⁰
- a 53% reduction in MoEE groundwater and hydrogeology staff;¹⁰¹
- a 21% reduction in MoEE aquatic, aquatic toxicology and ecosystem science staff;¹⁰²

- the termination of drinking water testing services for municipalities by the Ministries of Environment and Energy and of Health;¹⁰³
- 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;¹⁰⁴
- 61% of the science and technology staff of the Ministry of Natural Resources' Forest Management branch have been laid off;¹⁰⁵
- fish and wildlife field assessment programs delivered by MNR are to be "significantly impacted," by restructuring, especially the Science, Technology and Transfer Units, Fisheries Assessment Units, and Great Lakes Assessment Units;¹⁰⁶ and'
- testing services for pesticide residues provided to the Ministry of Environment and Energy by the Ministry of Agriculture, Food and Rural Affairs have been terminated.¹⁰⁷

The province's weakening 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. The Provincial Auditor also 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.¹⁰⁸

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 is projected against a 1991-92 baseline.¹⁰⁹

In its report, the IJC also noted that programs under the *1994 Canada-Ontario Agreement on 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."¹¹⁰ The COA agreement is the primary vehicle for the

implementation of Canada's obligations under the *Great Lakes Water Quality Agreement*.

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.¹¹¹ However, the report was subsequently released by the Minister of Environment and Energy.¹¹² 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.¹¹³

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,¹¹⁴ the Minister stated that such a report would be "a waste of taxpayers' money."¹¹⁵ However, there have been more recent indications that the Minister may be reconsidering this view.

Research and Development Challenge Fund

In the government's second budget, the Finance Minister announced that an R&D Challenge Fund was to be 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.

Environmental Technology Advisory Program

In May, Environment Minister Norm Sterling announced a 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 program will initially focus on evaluating methods for treating water and wastewater, air pollution control, site remediation and the 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.

Chronology of Changes to Environmental Science and Monitoring

- 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.
- Oct 15/96 Provincial Auditor's Report released. The report criticizes the province management of hazardous waste, air pollution and water resources issues.
- 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.
- 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.

AIR

Introduction

The province has taken two very specific measures to combat deteriorating air quality in the Province of Ontario (described below) over the past year. However, there have been no new initiatives put forward by the provincial government in 1996 or the first half of 1997 that would cause a substantial reversal of the present conditions. These conditions include excessive levels of smog and ground level ozone on many days in the most populated regions of the province, continuing high levels of acidic atmospheric emissions and a continuing build-up of greenhouse gases in the atmosphere.

Ontario Smog Management Plan

Smog conditions arise from the reaction of volatile organic compounds and nitrogen oxides in the presence of sunlight to form ground level ozone. Smog also include or can be worsened by particulate matter, humidity and other acidic atmospheric emissions. Most parts of southern Ontario experience high levels or exceedances of the ground level ozone standard on a regular basis in the summertime. For example, the City of Toronto, which is one of the worst locations for this condition, experiences about 37 days per year in which levels exceed the standard set by Environment Canada.¹¹⁶ The Canadian Council of Ministers of the Environment (CCME) estimate that smog-induced respiratory problems could impose costs of \$10 billion to \$30 billion by the year 2020.¹¹⁷

In June 1996, the Ministry of Environment and Energy released *Towards a smog plan for Ontario : A Discussion Paper*. The paper states that the province is still 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 include: reducing transboundary pollution; reducing the Ontario government's own emissions; reducing transportation emissions; reducing industrial, commercial municipal emissions; environmentally-friendly products; and public education.¹¹⁸

While most of the action in year two concentrated on discussions with U.S. states about reduction potentials (about 50% of smog causing emissions in southern Ontario arise in the U.S.) two measures announced, a gasoline volatility revision and a proposed change in particulate standards, may mitigate some elements of smog conditions.

Gasoline Volatility

In February 1997, the Ministry of Environment and Energy announced that it had

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. Fugitive emissions of hydrocarbons during re-fuelling or from leakage contribute to the formation of photochemical smog.

Particulates

In May 1997, the Minister of Environment and Energy announced a proposal to improve the standards governing airborne particulate matter which contributes to smog. Particulates are a lung irritant particularly for persons with respiratory impairments such as asthma. The particulate size subject to review and possible regulation are those up to 10 microns in diameter. 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 had 30 days to comment. To date, no action has been taken to implement this new standard.

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 has been considering establishing a comprehensive vehicle inspection and maintenance program for several years. A pilot program had been operating in Mississauga since April 1995 but was discontinued in October of 1996. The Minister of Environment and Energy toured a vehicle inspection and maintenance program in Georgia in April 1997 while on an 11 state tour to discuss mutual U.S.-Ontario pollution issues but no announcement was forthcoming about the creation of a comprehensive and mandatory Ontario program.

As of June 3, 1997 the Ministry of Environment and Energy stated that it is "considering options for a vehicle emissions inspection and maintenance program for cars, trucks and buses." However, no further action has been announced on this issue by the Ministry of Environment and Energy despite, by its own admission, that "...smog not only aggravates a wide range of serious health problems such as asthma and other respiratory diseases, it can also increase mortality rates..."¹¹⁹

It should be noted that some of the actions needed to implement the Ontario Smog Management Plan may be counteracted by the effects of the efforts of the government to deregulate in the energy sector (see *Energy* section for this discussion).

Greenhouse Gas Emissions

In terms of greenhouse gas (GHG) emissions, Ontario appears to be close to achieving the target of GHG emission stabilization by the year 2000 according to a forecast in autumn 1996.¹²⁰ This however is not the result of deliberate action by the province and is almost certainly not sustainable in the face of an economic expansion. Emission stabilization, if achieved, will be the result of a lower level of economic activity than previously forecast and a reliance on nuclear generated electricity (instead of coal fired generation). In order for emission stabilization to be sustainable, the province would need to rely on a mixture of regulations, quotas, interventions, fiscal reform, sustainable restructuring, energy efficiency and fuel switching measures. Actions to date have been insufficient to ensure that GHG stabilization is reached and maintained. For more detail on greenhouse gas emissions, see *Energy* section.

Acid Precipitation

Acid precipitation, has re-emerged as an issue with the realization that many acidified lakes are not recovering as much as previously thought.¹²¹ An issue which is likely to compound this troublesome development is the ongoing deregulation of electrical utilities in the United States. It is feared that increased use of coal fired power, one of the cheapest forms of electricity generation, could make any future progress in strengthening limits on acid precipitate difficult and may even cause previous gains to wither. As a consequence, utility deregulation in the U.S., the introduction of competition in the Ontario electricity market and the likelihood of electricity imports from the U.S. will raise the question of the fate of the *Countdown Acid Rain* program by which the province's current generating system (Ontario Hydro) is bound. This program's target is to reduce total Ontario SO₂ emissions from the 1980 level of 1,772 kilotonnes (kt) per year to 885 kt per year by 1994 and to 795 kt per year after that.¹²² Sulphur dioxide (SO₂), nitric oxide (NO) and nitrogen dioxide (NO₂) are the most significant contributors to acid precipitate and arise from the burning of hydrocarbons, most notably coal. Ontario Hydro's five coal fired plants make it one of the largest emitters of acid precipitates in the province.¹²³

Incineration

Following the 1995 changes to incineration policy (a new guideline on combustion and air pollution control requirements for new municipal solid waste incinerators to be implemented through air Certificates of Approval) the Ministry of Environment and Energy has proposed through the July 1996 *Responsive Environmental Protection* initiative to develop similar guidelines for woodwaste combustors, biomedical waste incinerators, crematoria, and sewage sludge incinerators.¹²⁴

While air emission standards would be better incorporated into regulations rather than discretionary guidelines, in the short term, the Ministry's intention to develop new air emission standards for woodwaste combustors, biomedical waste incinerators, crematoria, and sewage sludge incinerators has been welcomed.¹²⁵ To date, there has

been no announcement indicating that the proposed standards have been issued.

Although the Ministry proposed action on the foregoing types of incinerators, the Ministry did not indicate that it was prepared to strengthen the regulation of hospital incinerators. This, despite the identification of the incineration of municipal solid waste in hospital incinerators¹²⁶ as a problem area by MoEE staff¹²⁷. Hospital incinerators operational before December 31, 1985 are exempted from Part V, Section 27 of the EPA, permitting them to accept off-site wastes from other hospitals for incineration. These incinerators are currently allowed to operate without air pollution controls. Hospital Incinerators have been identified as major sources of a wide range of hazardous air contaminants in the Great Lakes basin.¹²⁸

The Next Steps

It would be encouraging to see some movement on smog issues, some concrete actions on greenhouse gas emission reduction and measures to tighten the limits on acid precipitation causing emissions, however no substantial legislative or policy initiatives are likely to be announced in the near future. A revised particulate standard could still be announced before the end of the year. Discussions with U.S. representatives on smog issues are likely to continue. For several years, a comprehensive vehicle emission testing program has been identified as a highly probable development in the province, but action is still awaiting. A further compounding factor for all air-related environment impacts could be the impending introduction of competition in Ontario's electricity market as well other energy markets in North America.

Chronology of Changes to Air Related Policies and Regulations

- Jun 17/96 Proposals for the control of atmospheric discharges from landfills are released by the Ministry of Environment and Energy as part of proposed landfill guidelines (see also Jun 17/96 under *Waste Management*).
- Jun 96 The Ministry of Environment and Energy releases *Towards a smog plan for Ontario: A Discussion Paper*. 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 *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 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 *Meeting the Challenge of Climate Change: 1996 Update on Initiatives in Ontario to Reduce Greenhouse Gas Emissions*. 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.

WASTE MANAGEMENT

Introduction

The limits on material consumption and waste generation continued to be relaxed throughout 1996 and 1997 as a consequence of amendments to Ontario's waste management regime and material diversion systems. The amendments appear to form three principal directions that the government seems intent on pursuing: 1) the move to a more market-based, laissez-faire approach to diversion and recycling; and, 2) an easing of disposal regulations on many materials and wastes; and 3) the construction of a regime which will more readily allow increases in, or availability of, waste disposal capacity. These currents, over the longterm are bound to undermine targets such as the Canadian Council of Ministers of the Environment's goal of a 50% diversion from disposal of materials in the waste stream by the year 2000 (baseline 1988 levels).

Reduced Funding for Reduce, Re-Use, Recycle

The period 1996-1997 could prove to be the apex of curbside recycling in Ontario. The program is now about 10 years old, its genesis being 1986-1988. By 1997, 600 Ontario municipalities had established curbside collection programs which collectively serve 3,500,000 households.¹²⁹ Also by 1997, all provincial subsidies have ceased as has, it appears, the direct financial support from industry through its sponsorship organization Corporations in Support of Recycling.¹³⁰ Over its lifespan, municipalities have made \$375 million in contributions, the province \$208 million and industry \$41 million.¹³¹ Almost all of the operating costs will now need to be derived from municipal sources. Unfortunately material sales account for no more than about one-fifth of the system's operating costs.

While many review the Blue Box Program's performance in strictly economic terms and declare it a failure by not now being self-supporting, an important point is missed by this analysis. Curbside recycling's central requirement of source separation has had the effect of generating a great deal of contemplation on the part of society about the materials it has in its midst, how much it consumes and how it consumes. As the 'easier' to recycle materials such as glass, metals and paper fell out of the waste stream and into 3Rs programs, producers of waste and managers of waste were left wondering what could be done with the remaining segment. Some innovative programs sprung up targeting materials such as wet and dry organic waste, leathers, rags, and even street litter, Christmas trees and election signs. In this light, the Blue Box has been an outstanding success in capturing the public's imagination with regard to the frontier of waste diversion and material management.

The current Environment Minister recognizes this and regards the Blue Box as an outstanding success, as evident by his remarks in June, 1997: "Once people understand the problem, they learn how the little things they can do, collectively, can make a real difference. That's what has made the blue box program so successful in

diverting recyclable materials away from landfills."¹³²

Waste Management, Diversion and Recycling and Regulatory "Reform"

Myriad changes to Ontario's recycling system and waste management regime have been proposed in the MoEE's July 1996 *Responsive Environmental Protection* initiative. Some of these changes, in brief, include:

Proposed Changes to Curbside Recycling

A proposed amendment to Ontario's *3Rs Regulations* (101/94 and 103/94) would diminish the broad range of materials and total material mass collected by this waste diversion system. This change would allow municipalities to reduce the number of items which they are required by regulation to recycle. Currently, there are 5 materials that cities over 5000 people are mandated to collect. These are aluminum food or beverage cans, glass bottles and jars, newsprint, P.E.T. (plastic) bottles, steel food or beverage cans. A supplemental but optional list of 12 materials includes cardboard, boxboard, corrugated cardboard and other items. The proposed change could allow municipalities to choose 7 materials from a single combined list of 17 materials. Municipalities would likely choose whatever are most attractive and cost-effective for them to recycle.

Waste & Packaging Audits and Reduction Work Plan Regulations (Regs 102 and 104)

The Ministry notes that some stakeholders¹³³ have proposed that these regulations be withdrawn and sought input on this issue.¹³⁴ These regulations were the subject of extensive consultations with stakeholders, and, according to Ministry staff, no major irritants have been identified with these regulations.¹³⁵ Opening a recently adopted regulation under these circumstances would be inconsistent with the principles of the *Environmental Bill of Rights*.¹³⁶ Furthermore, MoEE staff state that waste and packaging reduction has consistently saved institutional, commercial and industrial waste generators money and increased operational efficiencies.¹³⁷

Refillable Beverage Containers

Ontario has had refillable beverage container regulations since 1976 under the *Environmental Protection Act* (Regulations 357 and 340 for soft drinks and 344 and 345 for milk containers). However, the creation of the Blue Box system of curbside recycling has been informally regarded as the justification for the Ministry of Environment and Energy not actively enforcing the refillable beverage container regulations. The regulations had become horrendously complex and somewhat arbitrary as a consequence of amendments made after negotiation with the soft drink industry. For example, the refillable container quota that each soft drink manufacturer was to meet was set at 30% of sales on a monthly basis but was formerly 75%. Currently refillable container usage is estimated at somewhere between 1-5% of all container types.

The MoEE has indicated that some stakeholders have proposed that this regulation be withdrawn and sought input on this issue.¹³⁸ On the other hand, the Ministry staff have also noted the need to continue to require the use of recyclable or refillable containers, and the need to maintain the current ban on detachable opening devices.¹³⁹

The regulation is an important statement by the province on the responsibility of soft drink manufacturers for the post consumer management of their containers. Deposit-refund systems and refillable container use requirements also reduce litter, and provide for full-cost internalization of post consumer management costs by producers.¹⁴⁰

Need for Substitution if Regulations Revoked

The current Ontario government has not yet moved to implement any producer take-back, producer-obligation or product stewardship initiatives. This, despite there being some indication that the Minister of Environment and Energy favours such models according to comments made by the Minister¹⁴¹ and that so many of these models are operating effectively or under implementation in other Canadian jurisdictions. A partial list of industry-financed, producer take-back schemes across Canada include: used tires in Saskatchewan, New Brunswick and Nova Scotia, used oil and oil containers in Manitoba, Saskatchewan, Alberta; used oil in British Columbia and under development in Nova Scotia and New Brunswick; paint residuals and containers in British Columbia as well as a regulation under development for pesticide residuals and containers, solvents and pharmaceuticals.

Additional Changes Proposed to Ontario's Recycling System

It has been proposed that many critical aspects of Ontario's waste diversion and recycling system undergo some revision, including approvals processes, definitions of materials and wastes, use of certificates, composting programs and other matters. The following are proposed amendments which though not in effect at this time, may come into effect in the near future.

Recyclable Material

The definition of "recyclable materials" was suggested to be in need of renewal under the government's *Responsive Environmental Protection* initiative. Municipal waste and hazardous materials falling within this category would be exempted from the regulatory requirements for transportation, handling and approvals under Part V of the EPA. The specific proposed expansions include: municipal waste materials which are immediately available for wholesale/retail sale; waste materials shipped directly to a manufacturing site and fed entirely into a process that manufactures a product for a "realistic market demand;" and specific materials including blue box materials, wastes in schedule 2 of regulation 101, clean wood chips for mulch/landscaping, clean crushed brick for use in paths/walkways, tire crumb for use in track/play surfaces, clean wood for use in fireplace logs. Some hazardous materials would be included: hazardous recyclable materials immediately available for

wholesale/retail sale and shipped directly to site of use; hazardous recyclable materials shipped directly to a manufacturing sites and fed directly into a process that manufactures a product for a realistic market demand; specific materials including: batteries (Cd,Ni,Hg,Pb) thermostats (Hg), photoprocessing wastes, printed circuit boards, metal bearing sludges sent for smelting, waste oils sent for re-refining.

Recovery : The Fourth 'R' ? - Waste Derived Fuel and Non-Hazardous Solid Waste

In summer 1996, the Ministry also proposed to expand the definition of waste derived fuel to permit the burning of non-hazardous solid waste. The current definition only permits the burning of hazardous and liquid industrial wastes which meet specific criteria for heavy metal, PCB and halogen content, flash points, and value as fuel. The proposed change would permit the burning of non-hazardous solid wastes in cement kilns and industrial boilers. Such waste would have to meet specific thermal values or be listed waste, such as wood or tires. Such freedoms could open the door to the possibility of widespread disposal of municipal solid waste as fuel. This would compete directly with recycling operations for a supply of high energy content secondary materials (e.g. paper and plastics).¹⁴² In addition, the burning of supplemental fuels in cement kilns has already been strongly associated with emissions of a wide range of other major contaminants.¹⁴³

There are also serious concerns regarding the types of materials which the Ministry is apparently considering including as "non-hazardous solid waste." "Creosote-impregnated waste materials," such as utility poles and railway ties¹⁴⁴ were placed on the Priority Substances List for assessment of being "toxic" substances for the purposes of the *Canadian Environmental Protection Act* (CEPA). The CEPA assessment of these products was inconclusive.¹⁴⁵

Changes to Ontario's Waste Management Regime

Under the Ontario government's July 1996 regulatory streamlining proposal *Responsive Environmental Protection*, some of the most sweeping changes to Ontario's waste management regulations ever considered were offered for public consultation.

It has been proposed that virtually every aspect of the waste management regulatory regime undergo some revision, including approvals processes, definitions of subject wastes, use of certificates, standards for landfills and incinerators. The following are proposed amendments which though not in effect at this time, may come into effect in the near future.

Class I and II Approvals

The current *Environmental Protection Act* requires public hearings by the Environmental Assessment Board before the approval of the use, operation, establishment, alteration, enlargement of a waste disposal site for disposal of hauled liquid industrial or hazardous waste, or any other waste, which the Director ascertains,

having regard to its nature and quantity, is the equivalent of the domestic waste of not fewer than 1,500 people.¹⁴⁶

The Ministry proposes to narrow the scope of undertakings for which public hearings are mandatory through the classification of the following activities as class II approvals: the burning of liquid industrial waste generated off-site as fuel; the processing of hazardous waste generated off-site; the incineration of hazardous and liquid industrial wastes generated on site; the establishment and operation of mobile non-incineration hazardous waste destruction systems and sites.

1.2 Class III Approvals

A large number of activities may come under the standardized approvals process. This involves no possibility of public hearings, and apparently little or no direct scrutiny by the Ministry prior to the "deeming" of a certificate of approval to exist. Some of the activities in this category would include: engineered fill sites; soil conditioning sites for sewage biosolids and pulp and paper mill biosolids; scrap yards; used tire sites (<5,000 tires); and waste derived fuel sites; on-site hazardous waste storage sites (including PCBs); burning of hazardous and liquid industrial wastes generated on site as fuel; and hazardous waste transfer stations, including PCBs.

Serious problems have been identified with the legal and policy implications of "deeming" Certificate of Approvals to exist under "permit by rule" systems. The granting of a Certificate of Approval provides statutory authorization to the proponent, or in other words, an effective bar against common law actions directed at the proponent by occupiers and owners of neighbouring or downstream lands which may be harmed by the proponent's operation. These common law rights of the owners and occupiers should not be removed unless there is adequate provincial oversight of the approval and operation of facilities to ensure that they do not cause damage to the environment, property or human life.

Furthermore, concerns have been expressed regarding the need for compliance monitoring once facilities have been approved under a permit by rule system. This is of particular concern given the staffing reductions being experienced by the Ministry. It has also been argued that the lack for a formal Certificate of Approval may make enforcement actions by MoEE difficult.¹⁴⁷

Class IV Approvals

The MoEE is proposing to exempt completely from the waste approvals and regulation requirements of Part V of the EPA the following activities: sites receiving "recyclable material" (includes hauling "recyclable material"); mobile waste processing; inert agricultural, residential or industrial fill sites; and derelict motor vehicle site; hazardous waste sites or haulers forming a "manufacturer controlled network,"; on-site waste processing other than combustion or land application.

Although these exemptions appear to be intended to promote the recycling of

wastes, they raise a range of extremely serious problems. They will, in combination with the proposed redefinitions of "recyclable materials," "inert fill" and "agricultural wastes" exempt a wide range of activities from the regulatory system.

Incineration

The MoEE has proposed to develop guidelines for woodwaste combustors, biomedical waste incinerators, crematoria, and sewage sludge incinerators. Guidelines are a helpful step where none exist, however the promoting of the alternatives to incineration of these for types of wastes, with the exception of crematoria, would be more consistent with the 3Rs hierarchy. This would include, for example, the control of industrial discharges to sewers to eliminate toxic contamination of sludge so that it can be safely used as a soil conditioner.

Incineration of Municipal Solid Waste in Hospital Incinerators

The Ministry's proposals contained in *Responsive Environmental Protection* ignore a major issue identified by MoEE staff, namely the incineration of municipal solid waste in hospital incinerators.¹⁴⁸ Hospital incinerators operational before December 31, 1985 are exempted from Part V, Section 27 of the EPA, permitting them to accept off-site wastes from other hospitals for incineration. These incinerators are currently allowed to operate without air pollution controls. Hospital Incinerators have been identified as major sources of a wide range of hazardous air contaminants in the Great Lakes basin.¹⁴⁹

Selected Waste Depots

Standards for "selected waste" and "pesticide container" depots have been targeted for consolidation and simplification. This is to involve the removal of some administrative and operational requirements which it regards as "excessive." It is also proposed to expand the types of waste that can be collected at these facilities.

The proposal to weaken standards in this area is of serious concern given the Ministry's proposals to expand the allowable wastes for collection to include pharmaceuticals, sharps (presumably surgical, although undefined), solids (undefined), pesticides, paints, batteries and "similar small quantity wastes" from industrial generators. These categories include wastes which are hazardous, potentially toxic, or contaminated with potentially pathogenic or infectious materials.

The Ministry is also proposing to weaken administrative and operational requirements at pesticide container depots despite the noted lack of compliance monitoring by the Ministry of such facilities.¹⁵⁰

Hazardous Waste

The Ministry has proposed to exempt hazardous recyclable materials from the

waste management approvals requirements of the EPA and generator registration and manifesting requirements of regulation 347. The materials in question are, by definition hazardous.

No provision appears to be going to be made to ensure that these materials, are handled, stored, processed and residuals disposed of in a safe and appropriate manner. At the same time, MoEE's project HAUL has indicated continuing serious problems with the handling and disposal of hazardous and liquid industrial wastes.

Furthermore, Ontario is a signatory to the May 1996 Canadian Council of Ministers of the Environment policy on pollution prevention.¹⁵¹ This includes a definition of pollution prevention which excludes off-site recycling activities. The Ministry should, therefore, be focussing its effort on the reduction of hazardous wastes at source, rather than promoting the off-site recycling of hazardous wastes, particularly through the de-regulation of such activities.

Batteries

The Ministry proposes to "formalize" the "administrative exemption" (not defined) from the requirements of Regulation 347 for lead-acid battery recycling activities. The Ministry also proposes to expand this exemption to include all batteries. Lead acid batteries contain hazardous substances (e.g. lead) and their recycling has been long associated with serious environmental problems.¹⁵²

A blanket exemption is being proposed for all other battery recycling activities, despite the fact that batteries may contain a wide range of hazardous substances, including mercury, cadmium, and nickel which are classified as "toxic" substances for the purposes of the *Canadian Environmental Protection Act*. The Ministry appears to be making no provision to ensure that these materials are safely handled, processed, and disposed of despite the number of serious offenses under the EPA and OWRA involving battery recycling in the past few years.¹⁵³

Metal Bearing Sludges

Precious metal-bearing waste destined for reclamation facilities would be exempted from the subject waste requirements and the waste management requirements of Regulation 347. "Precious metal bearing waste" is not defined. However, it seems likely to contain a wide range of toxic or otherwise hazardous components. The Ministry provides no indication of how it intends to ensure that these materials are handled or processed safely, and residual handled appropriately.

Agricultural Wastes

The definition of agricultural waste would be expanded to permit the application of the following materials to agricultural lands: manure and animal bedding from stockyards, meat packing plants, riding stables, racetracks, fairs, and exhibitions; dead fish, aquatic plants, animals, or settleable tank or impoundment solids, from

aquaculture operations. This raises the obvious possibility of contamination of surface or groundwater by pathogens from manure and bedding, and from dead fish, plants, animals and other wastes from aquaculture operations; the release of organisms (e.g. plants (or seeds), microorganisms, fish (eggs or fry in aquaculture wastes) which may become pests or disrupt existing ecosystems; and potential human occupational exposure to pathogens associated with manure, bedding or aquaculture wastes.

Soil Conditioning

The Ministry proposes to use "standardized approvals" for the utilization of biosolids, such as sewage and pulp and paper mill sludge, as a soil conditioner. Serious problems, including odours, visual impacts, and soil and ground and surface water contamination have been identified with such practices in the province.¹⁵⁴ The spreading of these materials on agricultural lands appears to be being employed as an inexpensive disposal option. These issues should be investigated and addressed before any consideration is given to the expansion of the use of these materials as soil conditioners or the simplification of the approval requirements for such uses.

Deep Well Disposal

A positive development is the Ministry's proposals to strengthen the regulatory controls on the deep well disposal of oil field brine.

Next Steps

Many of the proposed amendments to Ontario's waste management, diversion and recycling systems and regulations listed above were part of the Ministry of Environment and Energy's *Responsive Environmental Protection* initiative. It was originally the government's intent to release the outcome of the entire regulatory review as a white paper in the spring of 1997. It is more probable now that the government will release amendments over a series of occasions in the upcoming months.

Chronology of Changes to Waste Policies and Regulations

- Jun 3/96 Minister of Environment introduces Bill 57, *The Environmental Approvals Improvement Act*. The Bill provides for:
- the dissolution of the Ontario Waste Management Corporation and repeal of the *Ontario Waste Management Corporation Act*;
(for a fuller description of Bill 57 see June 3 listing under *Standards Setting and 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.
- 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 pollution programs. This signals that the Ontario government is retreating from a 1994 agreement it made 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.

WATER

Introduction

Ontario's waters have been heavily affected by all three major themes of the "Common Sense Revolution" - dramatic budgetary reductions, regulatory "reform," and the "restructuring" of the delivery of services between the province, municipal governments and the private sector. This is despite the problems with water quality, especially surface and groundwater in southern Ontario, highlighted in the MoEE's 1992 *Status Report on Ontario's Air, Water and Waste*, released in January 1997.

Budgetary Reductions

As noted earlier, the MoEE is scheduled to lose almost 45% of its operating budget and 30% of its staff by the 1997-98 fiscal year, measured against its actual expenditures and staff complement for 1994-95. The Ontario Public Service Employees Union provided figures for staff reductions related to water as of December 31, 1996.¹⁵⁵ These figures are outlined in Table 6.

Table 6: MoEE Water Related Staff Reductions (OPSEU AND AMAPCEO) Dec 1996

Issue	Original Staff	Surplussed Staff	%Surplussed
Water and Drinking Water	113	48	42%
Groundwater and Hydrogeology	28	15	53%
Watershed Management	12	3	25%
Wastewater	15	5	33%

In addition to the reductions in the MoEE's own budget, there have been major reductions in provincial transfer payments to municipalities and Conservation Authorities for their water resources management activities. The phasing out of the *Municipal Assistance Program*, which provided capital support for municipal sewer and water infrastructure by the end of the 1997/98 fiscal year, was announced in April 1996. The program provided up to \$140 million/year in assistance to municipalities.

A one-time transfer of \$200 million to municipalities for sewer and water infrastructure support was announced in the government's May 1997 budget. This is to accompany the transfer of provincially-operated sewer and water facilities to municipalities through Bill 107, the *Water and Sewage Services Improvement Act*, which received Royal Assent in May 1997.

Provincial capital and operating support to Conservation Authorities is to decline by an estimated 70% by the 1997/98 fiscal year, and many authorities are anticipating the complete withdrawal of provincial assistance. The impact of these reductions on the activities of a number of Authorities is provided in Table 4 in the section *Land-Use Planning*.

As noted earlier, the International Joint Commission expressed serious concerns about the impact of budgetary reductions in Ontario related to Great Lakes programs, and their implications for Ontario's ability to fulfil its obligations under the 1994 *Canada-Ontario Agreement on the Great Lakes Basin Ecosystem* in its 8th Biennial Report under the *Great Lakes Water Quality Agreement* (GLWQA).¹⁵⁶ In addition to reductions in funding for sewer and water infrastructure and aquatic science, the province has also laid-off the coordinators for the Remedial Action Plans for the Ontario Areas of Concern identified under the GLWQA,¹⁵⁷ and for the Lake-wide Management Plans (LaMPS) under the Agreement.

Municipal Restructuring/Downloading

Bill 107 - the Water and Sewage Services Improvement Act

The enormous cuts in the province's budget for water-related activities have been accompanied by a major restructuring of responsibilities between the province and municipal governments. 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 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.¹⁵⁸

The Bill, which was enacted in May 1997, has 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 second component of the Bill transferred responsibility for the regulation of septic systems from the Ministry of Environment and Energy to municipalities, or in the case of areas without municipal organization, the Ministry of Municipal Affairs and Housing. The Bill also made provision for the delegation of the inspection responsibilities to persons or bodies designated by municipalities, provided that they meet qualifications to be prescribed by regulation. This provision would appear to open the door to the privatization of these inspection functions.

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.¹⁵⁹

Notwithstanding this provision, the Bill has prompted widespread concern that it will 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.¹⁶⁰ The possibility of privatizations 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.¹⁶¹

It was also 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 in the province by the Commission on Planning and Development Report in Ontario¹⁶² and others.¹⁶³

In addition, 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 have been transferred from the Ministry of Environment and Energy to the Municipal Affairs Ministry carry out its new responsibilities.¹⁶⁴

Drinking Water Testing

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.¹⁶⁵

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.

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. Legislation to permit the implementation of these proposed reforms, Bill 57, *The Environmental Approvals Process Improvement Act* was enacted in June 1997. It is discussed in detail in the section *Standards Setting and Regulatory Process*.

The elements of the Ministry's July 1996 proposals related to water included:

- 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 planing 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.¹⁶⁶

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 Auditor¹⁶⁷ and others. However, the establishment and implementation of such standards is likely to be difficult with cancellation of Clean Water Agency's *Municipal Assistance Program*. As of June 1997 no action had been taken towards the development of discharge standards for sewage treatment plants.

Many of the MoEE's proposals for the "reform" of the MISA program regulations for industrial dischargers to the province's waterways were re-iterated by the Red Tape Review Commission in its January 1997 report.¹⁶⁸ As of the end of June 1997, no action had been taken to implement the Ministry and Commission's reform proposals.

Implementation of *Public Lands Act* and *Lakes and Rivers Improvement Act* Amendments

As described in the section *Land Use Planning*, 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. As noted in the section *Wildlife, Wilderness and Parks*, the Ministry of Natural Resources will also reduce its role in Remedial Action Plans for Areas of Concern identified under the *Great Lakes Water Quality Agreement*.

Ontario Hydro 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.¹⁶⁹ It was also reported that although the utility was aware of these discharges, it failed to report them under the province's MISA industrial water pollution control program.¹⁷⁰ The following month it was reported that fish near Hydro's Bruce nuclear facilities had levels of radioactivity nine times higher than those of fish in Lake Ontario.¹⁷¹

In response to these developments, the Minister of Environment and Energy stated that the discharges from the Pickering station were not harmful to humans, and disputed claims that copper and zinc were persistent and bioaccumulative substances.¹⁷² 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.¹⁷³

An review team on the releases released its report in June 1997.¹⁷⁴ 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 on environmental accountability and awareness, poor judgements has 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.

The Next Steps

Proposed amendments to regulations under the Ministry of Environment and Energy's *Responsive Environmental Protection* initiative are expected to be made public in the summer and fall of 1997

Chronology of Changes to Water Policies and Regulations

- 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 *Standards Setting and Regulatory Processes*).
- Jun 17/96 New ground and surface water standards are announced as part of MoEE proposed landfill standards (see Jun 17/96 under *Waste Management*).
- 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 AOX by 2002 and removal of the reference to a goal of zero AOX; 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 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:

- 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;
- 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;

Dec 19/96 Bill 86, *The Better Local Government Act*, receives Royal Assent.

Jan 17/97 Ministry of Environment and Energy announces that through Bill 107 municipalities are to be responsible for water and sewer works. 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.

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 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 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.

Apr 22/97 Doug Galt, the Parliamentary Assistant to the Minister of Environment and

Energy identifies two watershed projects as examples of Ontario's support for the Great Lakes Watershed Initiative. The Initiative attempts to identify pollution prevention efforts in urban areas around the Great Lakes and is being undertaken by the Council of Great Lakes Governors. These watershed projects were designated by the province as exemplar, however neither project is currently being financially supported by the province.

- May 6/97 In the 1997 budget, \$200 million is allocated for municipal sewer and water services.
- May 17/97 It is uncovered that condensers and cooling apparatus at Ontario Hydro's Pickering Nuclear Generating Station have released more than 1000 tonnes of copper and zinc into Lake Ontario over the past 25 years. The releases arise from corrosion and scouring of metal cooling tubing and were not reported to the Ministry of Environment and Energy, Ontario Hydro's directors or the public.
- 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.
- July 8/97 Release of Review Team evaluation on Emissions from Ontario Hydro's Admiralty Brass Condensers to the Great Lakes.

ENERGY

Initiatives announced in year one of the term of the present Ontario government continued to define the changes to the regulatory framework governing energy in Ontario. Three key developments include the report of the Advisory Committee on Competition in Ontario's Electricity System, *A Framework for Competition*, the MoEE's 80 regulation review outlined in the July 1996 consultation paper *Responsive Environmental Protection* and the preliminary outcomes in the Ministry of Municipal Affairs and Housing's Review of the Ontario Building Code.

Ontario Hydro and Electrical System Competition

In June 1996, then Minister of Environment and Energy Brenda Elliott received the report of the Advisory Committee on Competition in Ontario's Electricity System, *A Framework for Competition* which called for the privatization of most of Ontario Hydro's thermal and hydro-electric generating stations, and the consolidation of municipal electric utilities as well the introduction of competition into the Ontario electricity marketplace. By May 1997, the Ontario government suggested that it is preparing to open Ontario's electricity market to competition by dividing Ontario Hydro into two separate publicly-owned companies. One entity would manage the transmission system, and the other, the production capacity of the existing Ontario Hydro.¹⁷⁵

Greenhouse Gas Emissions

Several significant environmental issues are raised by such a dramatic restructuring of the near-monopoly Ontario Hydro has on electrical generation in the province. Foremost are the fate of the corporate environmental commitments made by Ontario Hydro regarding greenhouse gas emissions and acidic atmospheric emissions. In January 1995, Ontario Hydro's Board of Directors made a commitment to stabilize, then reduce, the utility's emissions of greenhouse gases. Ontario Hydro committed to:

- 1) stabilize its net greenhouse gas emissions at its 1990 level by the year 2000; and,
- 2) reduce its net greenhouse gas emissions by 26%, relative to its 1988 level, by 2005.¹⁷⁶

It should be emphasized that the second component of this target is more stringent than is typically recognized. The most commonly adopted "2005" target is that established by the Toronto *Conference on the Changing Atmosphere*, which was a 20% reduction from 1988 levels by the year 2005.

The nuclear segment of Ontario's system of electricity generation has to date assisted the province in meeting greenhouse stabilization and reduction measures by

displacing coal-fired electricity generation. Some of the nuclear facilities are expected to retire in the near future and if replaced by hydrocarbon-powered generation as expected, greenhouse gas emissions from this sector will begin to rise significantly.¹⁷⁷

Acid Precipitate Emissions

Another set of commitments to which the province's current generating system (Ontario Hydro) is bound is the *Countdown Acid Rain* program. This program's target is to reduce total Ontario SO₂ emissions from the 1980 level of 1,772 kilotonnes (kt) per year to 885 kt per year by 1994 and to 795 kt per year after that.¹⁷⁸ Sulphur dioxide (SO₂), nitric oxide (NO) and nitrogen dioxide (NO₂) are the most significant contributors to acid precipitate and arise from the burning of hydrocarbons, most notably coal. Ontario Hydro's five coal fired plants make it one of the largest emitters of acid precipitates in the province.¹⁷⁹

Fate of Environmental Commitments

Given that these commitments are in place, a question arises as to whether they will be upheld under whatever new electrical system configuration arises in Ontario. Notably, the question arises, would domestic and outside suppliers of electricity to Ontario's marketplace (if competition proceeds) be bound by the same environmental commitments as a condition of selling into the market?

A competitive environment is destined to effect the composition of environmental impacts from Ontario's own network of power generating capacity as well. Changes in the composition of generating capacity in the Province will alter the emissions and impacts from this activity. For example, a net environmental benefit may result if less reliance is placed on nuclear generating capacity by way of the production of less radioactive waste and all of its attendant social, environmental and economic consequences. If however, Ontario Hydro's coal-fired production increases (as is forecast under a competitive environment given that it is the lowest cost form of generation) then increased atmospheric emissions of greenhouse gases, sulphur dioxide and nitrogen oxides may result. This will not bode well for Ontario's greenhouse gas emission targets or acid precipitation reduction measures.

The other aspect of a competitive environment that raises environmental concerns is the likelihood of increased levels of output from electrical generating stations leading to a higher level of atmospheric emissions. This scenario is likely to occur as utilities attempt to increase sales or compete for markets. Higher atmospheric emissions would result as coal-fired electricity from within or outside the province is most apt to be the type of electricity that competes for Ontario's consumers.

Electricity De-Regulation and Ontario's Smog Management Plan

As with greenhouse gases and acid emissions, emissions of smog precursors such as particulate matter and nitrogen oxides have a strong possibility of rising in a de-regulated electricity market. *Towards a smog plan for Ontario : A Discussion Paper*

identifies: the United States as being responsible for about 50% of Ontario's ground level ozone; the need for U.S. industrial sources to take action; and, the need for U.S. standards to be made more stringent. If de-regulation results in more electricity imports from the U.S. or more coal-fired power from within Ontario then smog conditions will almost certainly worsen.

Responsive Environmental Protection

In July 1996, the Ontario government released its consultation paper entitled *Responsive Environmental Protection*. Recommendations in this paper which dealt with energy regulations included the removal of all exemptions under the Ontario Energy Board (OEB) General Regulation relating to transactions that have been completed; the revocation of the now obsolete Ontario Hydro Exemption Regulation; and amendments to the Efficiency Standards Regulation for various new products.

New Products / Energy Efficiency

Changes to *Energy Efficiency Act Regulation 82/95* would broaden the number of products which are captured by the regulation and re-categorize some of the products and standards. These changes align Ontario's *Energy Efficiency Act* with the United States' *National Appliance Energy Conservation Act*. The amendment to 82/95 will add 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 will also establish new standards for three products: electrically heated storage water heaters, parking lot and area dusk-to-dawn lighting and cobra-head type roadway lighting. Updating these standards has not yet been announced.

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%.¹⁸⁰

The public and interested stakeholders were asked to comment on the proposal. A wide array of stakeholders including gas and electrical utilities, some home builders, manufacturers, consumers and environmental organizations, and energy supplier and service companies stepped forward to voice concern or outright opposition to the proposals. The Canadian Energy Efficiency Alliance became a major focal point of this

effort whereas the Greater Toronto Homebuilders' Association was the principal organization standing in favour of the proposals.

Following the issuance of the discussion paper and a public comment period, the MMAH asked major stakeholders to submit the names of nominees to sit on independent technical review committees to advise the Minister on proposed changes to the OBC. Each of the committees strongly recommended maintaining the energy conservation and minimum insulation standards in the Code.

The Ministry of Municipal Affairs and Housing is not bound to accept the recommendations of the independent code committees. In fact, the Minister seemed prepared to disregard the committees' advice in a reference in his speech to the Greater Toronto Homebuilders' Association in January 1997. Minister Leach assured the audience that they should be happy with the new building code. However, since that time there are some positive signs that the Minister of Municipal Affairs and Housing will leave most of the Ontario Building Code's energy efficiency measures in tact.¹⁸¹

The process is expected to complete over the summer of 1997 with a new Ontario Building Code being released in the fall of 1997, which would take effect on March 1, 1998.

Next Steps

It would be encouraging to see regulatory initiatives to curtail energy related contributions to smog, greenhouse gas emissions and to strengthen existing limits on acid precipitation emissions, however no substantial legislative or policy initiatives were announced between July 1996 and June 1997.

A further compounding factor for all of these environment impacts could be the impending de-regulation of Ontario's electricity market as well as other energy markets in North America unless binding emission limiting actions were taken. A white paper on the future of Ontario's electrical system and whether it will be opened to competition should be expected before the end of 1997.

Any changes flowing from the proposals outlined in *Responsive Environmental Protection* are expected to appear on the Environmental Bill of Rights Registry over the remainder of 1997 and 1998.

The release of a new Ontario Building Code should be expected in the fall of 1997.

Chronology of Changes to Energy Related Policies and Regulations

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 14/97 The Ontario government considers a plan to open Ontario's electricity market to competition by dividing Ontario Hydro into two separate publicly-owned companies. One entity would manage the transmission system and one, the production capacity of the existing Ontario Hydro.

The release of a white paper on the future of Ontario's electricity system was anticipated by June 1997. No announcements have been made to date.

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.

PESTICIDES

Introduction

The control of the use of pesticides and the monitoring of food and the environment for their presence has been significantly curtailed over the past two years. Major changes have also been proposed in the regulatory framework for pesticide use in Ontario.

Budgetary and Personnel Reductions

The Ministry of Environment and Energy has reduced its staff assigned to the regulation of pesticide use by 55% over the past two years, from 31 positions to 17.¹⁸² It was also revealed in June 1996, 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.¹⁸³

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."¹⁸⁴ 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.¹⁸⁵

Pesticides and Regulatory "Reform"

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

- the removal of pesticide application permit requirements for pesticide applications that "pose little environmental risk;"
- the removal of EBR registry public notice requirements for approval of pesticides with new active ingredients on the basis of an as yet to be established "national" system that will provide equivalent public notice. Amendments to the *Pesticides Act* to be made through Bill 66, the *Government Process Simplification Act* (Ministry of Environment and Energy) introduced in June 1996, would permit the delegation by the Minister of the classification of pesticides for the purposes of the Act. This appears to be intended to permit implementation of the proposed "national" system.

- a move to simplify (eliminate?) requirements for public notice (i.e. signs) where integrated pest management (IPM) practices in place. This is despite the consideration that IPM may still involve the use of pesticides.

More positively, the province proposed to introduce recertification requirements every five years for licensed exterminators, add new requirements for unlicensed assistants to take basic health and safety training, and amend Regulation 914 to permit the recycling, rather than burial, of empty pesticide containers.¹⁸⁶

Amendments to the regulation were placed on the EBR Registry in August 1996. These dealt with the disposal of empty containers, use restrictions for structural pesticides, custom sprayers, tank mixing and use of less than label rates, and the granting of equivalent licenses. The proposed amendments also provided exemptions from licensing requirements for the use of:

- wood preservatives and tree wound dressings;
- insecticide baits in plastic or metal containers presealed by the manufacturer; and
- products containing only soaps, mineral oil, boracic acid, borax, diatomaceous earth or silicon dioxide as active ingredients and silica aerogel products.

The Ministry also proposed to amend the regulation to provide exemptions from licensing and notification requirements for use of:

- schedule 3,4 and 6 pesticides to control roots in sewer systems;
- schedule 3,4 and 6 pesticides for injection applications into trees, stumps and utility poles; and
- schedule 4 and 6 pesticides as animal repellents for personal protection.

As of June 1997, no action had been taken to implement these proposals. Ministry staff have indicated that the regulatory amendments may be adopted in November 1997.¹⁸⁷

The Next Steps

Proposed amendments under the Ministry of Environment and Energy's *Responsive Environmental Protection* initiative are expected to be presented in the summer and fall of 1997.

Changes to Policies governing Pesticide Use

- June 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:
- allow the Minister of Environment and Energy to amend the *Pesticides Act* to allow classification of pesticides by the Minister or a delegate.
- (full description of the effects of Bill 66 under *Environmental Bill of Rights*)

and Public Participation in Decision-Making, Jun 5/96).

- 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 pesticide regulation include:
- 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 become recertified every five years;
 - requiring at least \$1 million in third party liability for pest control businesses; and
 - 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 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.

FORESTRY

Introduction

The management of Ontario's public forests has undergone an immense transformation over the past two years. The Forest Management Branch of the MNR has suffered major cuts to its budget and personnel. The forest industry is being placed on a system of self-monitoring and reporting. In the longer term, there are initiatives intended to strengthen the tenure of forest companies on public lands, and even to transfer the management of public lands covered by Sustainable Forest Licences to licence holders.

Budgetary and Personnel Reductions

Since June 1995, the MNR has lost approximately 24% of its budget and more than 40% of its workforce. The staffing changes in the Forest Management Branch of the Ministry are outlined in Table 5.

Table 5: Changes in Human Resources in the Forest Management Branch

	1995 Person- years	1996 Person- years	Percentage Change
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 have suffered cuts in personnel of between 27% and 68%, there have been no cuts in personnel dedicated to "industry services."

The Branch's May 1996 Business plan indicates 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 are to be transferred to the industry.¹⁸⁸ In effect, the Ministry will be relying 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 may be conducted by MNR staff on the basis of public complaints and periodic audits of a yet to be specified nature.¹⁸⁹

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.¹⁹⁰ The Ministry is to close its tree nurseries, as seed and seedling production is to be transferred to the forest industry as well.

Changes in Forest Tenure System

The Ministry 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 (greater than 5 years), 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* proposed in the MNR's February 1997 *Red Tape Reduction Act* (Bill 119). These permit the Minister of Natural Resources to delegate his or her responsibilities and decision making authority for managing public lands to third parties.¹⁹¹

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.¹⁹² 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. It has been reported that a report on discussions between the government and the forest industry regarding these transitions has been completed, but it has not been made available to the public.¹⁹³

The MNR's *Lands for Life* initiative for long-term planning of the use of public lands, announced in April 1997, described in detail in the section *Land Use Planning*, will be the vehicle for determining which public lands will be designated for forestry use, and therefore subject to control by SFL holders.

Class Environmental Assessment on Timber Management Implementation

In 1994, the Environmental Assessment Board delivered its decision on the Class Environmental Assessment of Timber Management on Crown Lands.¹⁹⁴ The changes in the structure and mandate of the MNR's Forest Management Branch have raised serious concern's about the agency's 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 to amend an Environmental Assessment Board decision in light of changed circumstances or new information.¹⁹⁵

The Board's decision also required the MNR to develop and implement a policy on roadless areas by May 1997. The Ministry released a draft policy in April 1997.¹⁹⁶ However, it stated that roadless areas will only be required to exist within wilderness parks. It did not indicate that the MNR plans to designate them anywhere else. This approach has been 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.¹⁹⁷ The Policy was finalized in May 1997.

Crown Forestry Sustainability Act Implementation

The implementation of the requirements of the 1994 *Crown Forest Sustainability Act* has also been a source of controversy. On September 11, 1996, a number of environmental organizations initiated a lawsuit seeking an injunction against the logging of old-growth pine forests in Temagami and elsewhere in the province, on the basis of the MNR's failure to publish and implement a Forest Management Planning Manual, as required by the 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.¹⁹⁸

On November 4, 1996 the Ministry announced the cabinet's approval of the Forest Management Planning Manual.¹⁹⁹ The 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 heavily criticized by the Environmental Commissioner in her 1996 Annual Report.²⁰⁰ The Sierra Legal Defense Fund and Wildlands League's case against the MNR was heard by the Ontario Divisional Court on May 14, 1997. A decision is pending.

Forest Fires Prevention Act Amendments

In January 1996, the *Forest Fires Prevention Act* was amended through Bill 26, the *Government Savings and Restructuring Act, 1996* to give the Minister of Natural Resources and cabinet greater discretion to determine when fire permits would be required. In November 1996, regulations were announced exempting a wide range of activities from permit requirements. Requirements were removed 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.²⁰¹

Managed Forest Tax Assessments

See discussion in the section *Land Use Planning*.

The Next Steps

The *Lands for Life* Regional Round Tables are to report on future uses of Crown land in the spring of 1998. A decision on the Sierra Legal Defence Fund/Wildlands League challenge regarding the implementation of the Terms and Conditions of the Class Environmental Assessment of Timber Management on Crown Land and the *Crown Forest Sustainability Act* is expected by the end of summer.

Chronology of Changes to Forestry Policies and Regulations

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 :

- in the development of policies, standards and guidelines for forest management;
- in the development and implementation of ecological land use plans;

Forest industries will be responsible for:

- silviculture, pre and post harvest activities;
- surveys and assessments, road and bridge construction;
- monitoring, inventory and data collection;
- wood measurement, seed and seedling production;
- preparing forest compliance plans;
- conducting inspections of their operations;
- identifying areas where standards and guidelines have not been followed;
- undertaking and paying for remedial work;
- ensuring that staff are properly certified and re-certified.

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. The government contends the strategy will protect old growth sites and resolve land-use issues in Temagami. 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.

Sept 11/96 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 *Crown Forest Sustainability Act*.

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.

Nov 4/96 Forest Planning Manual published by the Ministry of Natural Resources.

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:

- 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.

Nov 19/96 Royal assent given to Bill 76 which amends the *Environmental Assessment Act*.

Jan 97 Ministry of Natural Resources announces the elimination of the Managed Forest Tax Rebate Program. The Ministry states that in light of current tax reform proposals, this program is no longer necessary for environmental protection. The program will be replaced by a system which reduces the tax rate on eligible lands through the regular property tax process. The tax rate for eligible forests lands will be set at 25 per cent of local residential tax rates.

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.

- April 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 Ministry of Natural Resources 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.
- Apr 16/97 Draft MNR Policy on Wilderness released.
- May 97 MNR Policy on Wilderness adopted.

WILDLIFE, WILDERNESS AND PARKS

Introduction

As with other aspects of the Ministry of Natural Resource's mandate, parks, protected areas, and wildlife management have been heavily affected by the cuts to the Ministry's budget, and the resulting lay-offs and restructuring. There is a heavy emphasis on revenue generation and cost recovery in the provincial parks system, and fish and wildlife management has been reoriented almost exclusively to serve sport fishing and hunting interests. In addition, the government's decision to open the Temagami Region in North Eastern Ontario to logging and mining activities has prompted a major controversy.

There have been some positive actions in this area, most notably, the designation of 28 new protected areas in February 1997, and improved tax treatment of conservation lands. These developments prompted the World Wildlife Fund of Canada to upgrade Ontario's rating under its "Endangered Spaces Campaign from last year's "F" to a C-. See Figure 3.

Parks and Protected Areas

Ontario Parks

Ontario Parks, the branch of the MNR responsible for the management of Ontario's provincial parks released its business plan in June 1996. The plan reflects the amendments to the *Provincial Parks Act* to permit revenue retention, corporate sponsorships and the delegation of the operation of provincial parks to "any person" that were enacted in June 1996 through Bill 36, *The Ministry of Natural Resources Statute Law Amendment Act*.

There is a strong emphasis on increased revenue generation. This is to compensate for the \$9 million reduction the operating budget and \$3.3 in capital budget for the provincial parks system to be in place by the 1996/97 fiscal year.²⁰² The business plan also indicates that Ontario Parks will seek corporate sponsorships through sponsorship agreements. As of January 1997, more than 100 responses had been received to a prospectus sent to businesses to develop major corporate partnerships.²⁰³ The focus on revenue generation has prompted expressions of concern that it may compromise the natural heritage protection mandate of the provincial parks system.²⁰⁴

A Board of Directors for Ontario Parks, with five to eight members from outside of the provincial government, is to be appointed to advise the Minister of Natural Resources on the operation of the parks system. Its members are expected to be nominated in the fall of 1997.²⁰⁵

T e r r e s t r i a l



Ontario

overall grade

C-

Assessment of progress by the Ontario government in terrestrial protected areas system completion.

Overview of 1996-97

Following two years that were characterized by a disappointing lack of action, Ontario undertook some new initiatives in early 1997 that will hopefully lead to an increase in protected area designations. A series of programs that are directly aimed at protected area designation, along with the announcement of the regulation of a number of long-awaited sites, are welcome signs that action on the Premier's commitment to the Endangered Spaces Campaign goal has begun.

Headlines of the past year

- ☺ Twenty-seven parks and protected areas were established in the past year. These sites were announced in February 1997 as part of the launch of the government's new "Nature's Best" program. Some of the larger sites, including the 48,000 hectare Jog Lake wetland complex in the Hudson Bay Lowlands, are significant examples of Ontario's rich natural heritage.
- ☹ The government rejected significant candidate protected areas recommended by the local Comprehensive Planning Council for the Temagami region in northeastern Ontario.
- ☺ Changes to the provincial property tax system and to regulations governing conservation easements have simplified the process for establishing or caring for protected areas on private land.
- ☺ Ontario granted two million dollars to the Nature Conservancy last year for the acquisition and protection of significant privately held natural areas in southern Ontario.
- ☹ The Madawaska Draft Land Use Plan proposes to permit logging, mining and road building on provincially significant areas of natural interest on Crown land. Such sites would no longer meet Endangered Spaces Campaign protection standards.

Looking ahead to 1997-98

- Ontario needs to make significant progress on protected area initiatives in order to complete the province's protected areas system.
- The government must finalize the 895,000 hectare Wabakimi protected area, through the completion of discussions with First Nations and other concerned parties.
- A significant protected area is still required in the Algoma Highlands, an example of relatively undisturbed forested land, with a significant old growth component, north of Sault Ste. Marie.

Figure 3: 1997 Ontario Report Card from World Wildlife Fund's Endangered Spaces Campaign

Bill 119 Amendments to the Provincial Parks Act

Bill 119, the *Red Tape Reduction Act (Ministry of Natural Resources)*, 1997, introduced in February 1997, proposed to amend the *Provincial Parks* act to increase maximum fines for violations to \$25,000. Mining and prospecting activities in provincial parks are also to be prohibited through the amendments, although this prohibition is to be subject to regulations made under the Act.

Park Transfers

In April 1996 the MNR announced that 15 parks were to be "no longer operated" by the Ministry, and that a further 12 were to be operated with "partners" (i.e. private sector operators). The Ministry has entered into an operating agreement with a First Nation regarding Lake Nipigon Provincial Park.²⁰⁶ 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.²⁰⁷ Serpent Mounds Provincial Park has been returned to the First Nation which owns the land on which the park is located.²⁰⁸

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*.²⁰⁹ Although this announcement was welcomed by environmental and conservation groups, there are concerns regarding its relationship to the wider *Lands for Life* land use planning program (described in the section *Land Use Planning*) announced in April 1997. In particular, no reference was made to the WWF *Endangered Spaces Campaign* goals in the MNR announcement, and it is unclear if any further protected areas will be identified through the *Lands for Life* process.²¹⁰

There are also major concerns regarding other land use planning decisions, particularly the draft Madawaska Highlands Land Use Plan,²¹¹ which proposed to permit logging, mining, and road building on provincially significant areas of natural interest on Crown land. Such sites would no longer meet *Endangered Spaces Campaign* protection standards.²¹²

Wabakimi Provincial Park Expansion

In December 1996, the Ministry announced the final public review of the proposed boundary for the expansion of Wabakimi Provincial Park from 155,000 Hectares to nearly 900,000 hectares. A summary of "key park values" for the park was also released, emphasizing woodland caribou, landscape features, watershed integrity, aboriginal values, canoeing and remote tourism. However, as of June 1997, the final Park boundary had yet to be finalized, although this has been stated to be scheduled to occur in the near future.²¹³

Conservation Lands Taxation

See discussion of improved tax treatment of conservation lands through Bill 106, *Fair Municipal Finance Act*, under *Land Use Planning*.

Fish and Wildlife Management

The MNR also released a business plan for fish and wildlife management in June 1996. The plan is intended to deal with the consequences of "expenditure reduction and government downsizing" and incorporates the dedication of revenues from fines, royalties and license fees, as per the January 1996 Bill 26 amendments to the *Game and Fish Act*.²¹⁴

There is to be a significant 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) are to be "severely" curtailed, response to nuisance animal issues is to be "divested" and direct involvement in the delivery of Remedial Action Plans on the Great Lakes will be "significantly" reduced. Non-fish and wildlife related compliance (i.e. natural heritage conservation) efforts and costs are to be funded out of other MNR programs, although these are not identified.²¹⁵

The Ministry's remaining activities are overseen by a Fish and Wildlife Advisory Board. This was appointed in July 1996, and is dominated by representatives of sport fishing and hunting interests.²¹⁶ The MNR's Fish and Wildlife Business Plan indicates that there is to be greater involvement of "clients" in policy and program development.²¹⁷

This "client-centred" orientation has been manifested in a number of ways over the past year. In June 1996, the Ministry amended regulations under the *Game and Fish Act* to exempt those who sell or purchase legally obtained hides of black bear, deer, or moose, or antlers of caribou, deer or moose which have been tanned, treated, altered or manufactured into commercial products, from section 51 of the Act, which prohibits the sale of a game animal without a license.²¹⁸ In December 1996 sport fishing activities in 48 lakes were expanded on the advice of the Fish & Wildlife Advisory Board.²¹⁹

Furthermore, 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 specifies roles and responsibilities for each organization in the areas of communications, environmental reviews, science transfer, information management and administration.

The agreement is unusual in that it appears 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.

The Fish and Wildlife Conservation Act, 1997

On June 9, 1997, the *Fish and Wildlife Conservation Act* was introduced for First Reading. The Act would replace the existing *Game and Fish Act*. The new Act includes 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;
- 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.²²⁰

No further progress was made on the Bill before the Legislature rose for the summer in June.

Temagami

In April 1996, the Temagami Comprehensive Planning Council released its report

and recommendations for land use in the Temagami region of Northeastern Ontario. While recommending that 56% of the area's old growth red and white pine forests be opened for logging, and the "majority of the land base be kept open for exploration and mineral development," the report also recommended that a number of ecologically significant areas be protected.²²¹

On June 27, 1996, the Minister of Natural Resources announced the government's final decision regarding land-use in the region.²²² 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.²²³

The government's decision prompted a "rush" when the area was opened for the staking of mining claims on September 17.²²⁴ 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 1996.²²⁵

Protection for old growth white and red pine forests in the region was also sought as part of the legal action initiated by the Sierra Legal Defense 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 1996.²²⁶ The specific application for an injunction against the logging of forests in the Temagami region was rejected on October 1.²²⁷ The full case was heard by the Ontario Divisional Court in May 1997. A decision is pending.

In addition, 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*.²²⁸ Subsequently, in April 1997 the Ministry of Environment and Energy laid charges against the MNR for this action.²²⁹

Next Steps

Reports from the *Lands for Life* Regional Round Tables on the future use of Crown Land are expected in the spring of 1998. The *Fish and Wildlife Conservation Act, 1997* will move toward being enacted.

Chronology of Events affecting Wildlife, Wilderness & 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 20/96 Ministry of Natural Resources announces a rabies prevention program in the greater Toronto area. The program aims to vaccinate raccoons, skunks and foxes through live-trapping and vaccinated bait.
- 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.
- 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 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 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:
- 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 11/96 A Request for Investigation is filed under the Environmental Bill of Rights concerning the construction of a logging road near Cross Lake.
- 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 17/96 Ministry of Natural Resources announces three-year study of the walleye population in Lac Seul. The study is designed to ensure that current regulations are sufficient for longterm protection of the lake's walleye population.
- 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 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.

- Jan 97 Ministry of Natural Resources announces the elimination of the *Managed Forest Tax Rebate Program*. The Ministry states that in light of current tax reform proposals, this program is no longer necessary for environmental protection.
- 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, Ottertail 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.

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 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 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.
- Apr 8/97 The Ministry of Natural Resources states it will provide 2,000 opportunities for youth in the province for the summer 1997. The Summer Experience Program will deploy youth workers in areas such as fish and wildlife management, Ontario Parks, field work and customer service.
- Apr 17/97 The Ministry of Natural Resources is charged with contravening the Comprehensive Land Use Plan for the Temagami Region by allowing the construction of a road to Cross Lake. The Ministry of Environment and Energy which formally laid the charges, found the MNR had contravened the *Environmental Assessment Act*.
- 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.
- April 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.

June 9/97 The *Fish and Wildlife Conservation Act* is introduced to the legislature for first reading.

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 is adopting a similar approach to that taken with the forest industry, and 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, particularly with respect to the Niagara Escarpment.

Budgetary and Staff Changes

The MNR's June 1996 Business Plan for the non-renewable resource sector indicates that the program is to lose \$900,000 in funding and 18.35 full-time positions²³⁰ as outlined in Table 7.

Table 7: Changes in Staffing in the MNR's Non-Renewable Resource Section

Area	Full-Time Equivalents Lost
Aggregates (Private)	9.95
Aggregates (Crown)	6.40
Petroleum	2.00

Further cuts to MNR staff in this area are anticipated over the next year.²³¹

Bill 52, *The Aggregates and Petroleum Resources Statute Law Amendment Act, 1996*

Bill 52, which amends 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;
- permit the Minister to delegate "any person" as an inspector for the purposes of the ARA; and
- transfer the administration and delivery of the site rehabilitation program and associated Abandoned Pits and Quarries Fund to the Aggregate Producers Association of Ontario.²³²

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 is to be delegated to the Ministry of Transportation, which is the largest user of aggregate resources.²³³

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.²³⁴ The standards were adopted as regulations under the ARA in June 1997.²³⁵

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"²³⁶ 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 1997.²³⁷

Aggregates and Land Use Planning

Over the past year, 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. The move 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. It has resulted in the filing of 82 appeals with the Ontario Municipal Board regarding proposals to expand aggregate operations.²³⁸ 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*.²³⁹

Aggregates and the Niagara Escarpment

The aggregates industry has also been the principle beneficiary of the province's actions over the past two 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 gravel pits operating on the escarpment prior to 1975 from requirements to obtain development permits to expand their activities, except where new operations would affect the water table.

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 decision was the subject of widespread criticism due to the MNR's long-standing efforts to promote the interests of the aggregates industry.²⁴⁰

Chronology of Changes to Aggregates, Petroleum and Brine Regulations

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 water table is affected.

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.

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.

MINING

Introduction

The Mining industry has continued to be a major beneficiary of the "Common Sense Revolution." In the government's first year, the mine closure provisions of the *Mining Act* were significantly weakened through Bill 26, and prospectors were granted exemptions from environmental liability for pre-existing mine hazards. This year, mineral exploration activities on public lands were almost completely de-regulated. In addition, despite the government's widespread budgetary reductions, a number of subsidy programs for the mining industry were maintained.

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 completely de-regulated mineral exploration on public lands, including clearing, mechanical stripping, bulk sampling, drilling and blasting, moving heavy equipment and drilling rigs and building trails.²⁴¹ Public lands constitute 87% of the province's total land surface.²⁴²

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.²⁴³ 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 1996.²⁴⁴

Bill 26 Amendments to the *Mining Act* Implementation

The Bill 26 amendments to the *Mining Act* effectively gutted 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.²⁴⁵

The Ministry of Northern Development and Mines has estimated that there are already more than 5,000 abandoned mines in Ontario²⁴⁶ and that the estimated cost of their remediation ranges from \$300 million²⁴⁷ to \$3 billion.²⁴⁸ Effectively, the Bill 26 amendments to the *Mining Act* reversed the effect of amendments made to the Act in 1989²⁴⁹ to ensure that the public did not assume the costs of remediating additional abandoned mines.

A draft regulation to implement the Bill 26 amendments was circulated by the Ministry in May 1997. It provides 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.

Mining Industry Subsidies

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,²⁵⁰ the Ministry has maintained a number of subsidy programs to the Mining industry. These include the \$2 million/yr Ontario Prospector's Assistance Program.²⁵¹ In addition, the government has frozen hydro rates and all taxes and fees under the *Mining Act* for a five year period.²⁵²

Chronology of Changes to Mining Policies and Regulations

- 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 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:

- the repeal of most fire, travel and work permit provisions;
- 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;

Feb 3/97 The *Red Tape Reduction Act (Ministry of Natural Resources)*, 1997 goes to 1st Reading. The Act will make the following 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;

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.

Provincial Parks Act:

- mining and prospecting activities which are prohibited in provincial parks will be clarified.
- maximum fines will be increased to \$25,000;

TRANSPORTATION

Introduction

The transportation system in Ontario is unlikely to make a contribution to air quality improvement in the near future given the developments in 1996-1997. This period was marked by initiatives that are likely to lead to service diminishment and lost ridership for transit systems, as well as increased automobile use with little to reduce the environmental impacts of automobile usage. Two measures, a gasoline volatility regulation and a proposed particulate standard, could slightly diminish the impact on air quality of increased automobile usage (see section *Air* for these initiatives).

Transit and its Future

On January 15, the Ontario provincial government announced that it was eliminating \$718 million in transit spending (see Table 8) and passing the responsibility for this function to the municipal level.²⁵³ Particularly hard hit by the announcement were the TTC and GO transit systems. The TTC operates the transit system within Metropolitan Toronto while GO operates a regional train and bus service within an approximate 100 kilometre radius of Toronto. To make up the shortfall from the provincial withdrawal, the TTC will need to make up \$95.8 million/year and GO Transit \$110 million/year. This follows several years of funding reduction to both agencies.²⁵⁴

Table 8: Transportation Spending Amounts by the province in 1996-97 which will not continue:

Municipal Transit (1996-97)	
Operating	\$217 million
Capital	\$391 million
Sub total	\$608 million
GO Transit (1996-97)	
capital and operating	\$110 million
Transit Subtotal	\$718 million
Airports (1996-97)	\$ 7.6 million
Ferries (1996-97)	\$ 10 million
Total transportation reduction (excluding roads)	\$735.6 million

While GO and the TTC could continue to offer reasonable service in at least the higher population density areas that they serve, many smaller and medium-sized communities and suburban areas will have difficulty reconciling the withdrawal of support. Servicing low density areas has generally required the highest level of financial support from the province.

It seems probable that the revenue shortfall will need to be made up by either increased fares or reduced services. If either or both of these cases arise, it is likely that ridership will be lost. The GO transit system alone carries 120,000 people each weekday (34 million passengers per year)²⁵⁵ 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).

If this transit restructuring leads to more personal vehicle ownership and use, as it likely will, emissions of carbon dioxide, carbon monoxide, nitrogen oxides and volatile organic carbons will almost certainly increase. An increase in these emissions would arise as a consequence of personal vehicle transport being more emission intensive than transit, based on average occupancies. These emissions contribute to one or more of photochemical smog, climate change and acid precipitation. The Greater Toronto Area and indeed much of the Lake Ontario Basin already has frequent bouts of poor air quality. Increased emissions would make it worse.

Transit Initiatives and their Funding

Aside from continuing its support to the very capital-intensive Sheppard Subway Line in North York, the province has shown no inclination to get involved financially in any new transit projects. In place of direct support, it appears that the province would prefer to encourage a variety of advertising-based revenue-generating initiatives to offset the cost of transit and other transportation initiatives. Toward this end, the Minister of Transportation declared his support for expanded use of GO Transit vehicles as advertising media. The government of Ontario has, however, been advised to go beyond this level of commercialization of GO Transit. The Government Taskforce on Agencies, Boards and Commissions' 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 made a call for its privatization.

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.

Transit System Integration

A transit integration plan for the Greater Toronto Area (as has been suggested by *Getting Together*, the report of the committee reviewing the design of a Greater Toronto Services Board)²⁵⁶ and indeed for the province would be a welcome development. A longstanding reluctance of many citizens with regard to the use of transit has been the poor level of information about transit system integration available or in fact the actual poor level of integration that exists between many systems.

Highway Funding

Other revisions to Ontario's transportation network that were announced on January 15 include reductions of \$50 million in highway capital and \$25 million in highway operating funding for municipalities. 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.

Red Hill Creek Expressway

This four-lane highway development project 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 review to just design changes and not the assessment of need or alternatives to the project.²⁵⁷ In May 1997, the Minister of Environment and Energy approved the plans for Hamilton-Wentworth's Red Hill Creek Expressway.

Electronic Toll Road

Ontario's first and only electronic toll road, Highway 407, opened in the Spring of 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. Tolls could be used to more accurately capture the full cost of transportation system construction and operation (ie including environmental and health costs) across the province though there is no action pending in this area. 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.

Vehicle Inspection and Maintenance Program

The province has been considering establishing a vehicle inspection and maintenance pilot project as a full-fledged program (rather than on a pilot project basis) since the time of the previous government's mandate. The current minister, his predecessor, others in the ministry and even other ministers have speculated on the possibility on a number of occasions. A pilot program that had been operating in Mississauga since April 1995 was discontinued in October of 1996. Comments about the affordability of such a program made by Management Board Chair, Dave Johnson, suggest that implementation decisions are being made primarily on a fiscal basis, not a health or environmental protection basis.²⁵⁸

The current environment minister, Norm Sterling even toured a vehicle inspection and maintenance program in Georgia in April 1997 while on an 11 state tour to discuss mutual U.S.-Ontario pollution issues. No announcement was forthcoming however about the creation of a comprehensive Ontario program.

As of June 3, 1997 the Ministry of Environment and Energy stated that it is "considering options for a vehicle emissions inspection and maintenance program for cars, trucks and buses."

Next Steps

Many in the province eagerly await a decision on the fate of a province-wide mandatory vehicle inspection and maintenance program. No specific timetable or plan has been announced.

A transit integration plan for the Greater Toronto Area would have to await the creation of a proposed Greater Toronto Services Board.

Chronology of Changes to Transportation Policies and Regulations

- 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.

UNDERGROUND STORAGE TANKS, BOILERS AND PRESSURE VESSELS¹

Introduction

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). 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. This review aims to highlight some of the chief concerns which arise from the creation of a private body to administer and enforce public safety legislation in Ontario.

The New Regime

On May 16, 1996 in his Notes for a Statement to the Legislature, then Minister of the MCCR, Norman Sterling, stated that he would be "introducing legislation in this House to support our government's mandate of redefining the role of government in the delivery of programs and services to the public, while reducing red tape that hinders economic growth." The Bill introduced that day is now the *Safety and Consumer Statutes Administration Act, 1996*.

The SCSAA allows for the creation of a new safety organization to oversee the regulation of boilers and pressure vessels, elevating and amusement devices, hydrocarbon fuels (natural gas, propane, fuel oil and gasoline) and equipment, and upholstered and stuffed articles. The Act also allows certain regulated industries to enter into self-management agreements with the government. Real estate agents, travel agents and wholesalers, motor vehicle dealers and cemetery operators will be allowed to fulfil the functions currently belonging to the MCCR Business Division.

This discussion focuses on the public safety aspect of the transfers. Effectively, the new TSSA has replaced the MCCR Technical Standards and Safety Division. The

¹. This chapter is based on research conducted by Shelley Kaufman, LL.B., M.E.S.

TSSA is now responsible for such activities as licensing, registration and certification, reviewing engineering designs, inspection, enforcement and compliance, professional development and training, and promoting national harmonization of safety codes and standards. The provincial government remains responsible for the development of amendments to the relevant legislation, changes to the relevant regulations, standards setting and overseeing public safety policy.

The Ontario government's rationale for pursuing this delegation process is that a self-funded, not-for-profit safety organization can reduce the financial burden on the taxpayer while enhancing public safety. As stated in its brochure on the TSSA:

"The Ontario Government believes that some services can be delivered more effectively, efficiently, and appropriately by the private sector than the public sector."²⁵⁹

The government argues that the new structure will be more efficient in addressing new issues, allow the government to focus on preserving the public interest and setting safety standards, create more flexibility to work with other jurisdictions on harmonization, and ensure that technologies required by regulators are acquired. The government also states that the organization may reduce the risk of public safety being damaged by reductions in government funding levels, as the TSSA is required to use all of the revenues it generates to support its regulatory and administrative functions.

In June 1996, an Industry Working Group was formed. Its membership reflected the industries affected by the SCSAA, then Bill 54. The role of this group was to work with MCCR to establish the new safety organization by creating the self-funded corporation, reach agreement with MCCR on related administrative agreements, and oversee the transfer to the new organization.

The TSSA was incorporated on August 30, 1996 and its Board of Directors has held several meetings since that date. Since its incorporation, the letters patent of the TSSA have been amended several times to make room for the development of the initial Board of Directors. The Board will consist of 15 members made up of the following:

- 10 regulated industry representatives;
- 1 non-industry representative;
- 1 government representative;
- 2 consumer representatives; and
- the CEO.

The Board, in addition to its responsibilities set out in the Act and the Agreement, will be responsible for corporate governance and strategic policy development

The task of identifying and discussing safety issues in the industry sectors will fall to eight Industry Advisory Councils (IAC). These councils, six of which are to evolve

from the Technical Standards Division's existing Councils, will represent each of the regulated sectors. The IACs are voluntary, sector-specific, and industry led. They will be encouraged to reflect the interests of all sector stakeholders, as they are to fulfil a dual role of ensuring protection of the public interest while supporting the continued growth of their industries. In relation to the TSSA, their role will be to advise the CEO and staff of the TSSA, provide a forum for information sharing between TSSA and industry, act as a coordinating body for public education, and establish the necessary technical and other advisory committees.

A February 11, 1997 TSSA hand-out prepared for a stakeholder meeting suggests that there will also be a consumers advisory panel in addition to the IACs. This panel and the IACs will liaise with the CEO and Board. The TSSA will have four divisions encompassing administrative services, fuels safety, boilers and pressure vessels safety, and elevating and amusement devices safety.

The terms of the relationship between the TSSA and the government are set out in the Administrative Agreement. As of May 5, 1997, the TSSA has been designated as the sole authority to deliver the delegated legislative responsibilities. The government has stated that 95% of the current staff of the Technical Standards Division of the MCCR have been transferred to the TSSA.²⁶⁰

Analysis and Assessment

On first reading, the contents of the SCSAA and its related Administrative Agreement suggest that the process merely involves a delegation of responsibilities in the name of efficiency. However, the concrete impact of this agreement must be recognized. As of May 5, 1997, a private organization has become responsible for administering the statutes which ensure that the ferris wheels and elevators which the public rides are safe and that propane tanks or underground gasoline storage tanks do not leak or explode.

These are significant responsibilities, which have major impacts on the everyday lives of the public. While such activities may seem innocuous, and generally go unnoticed, if there were no safety standards and inspectors to ensure that elevators, boilers and pressure vessels operated as they should, the consequences would be headline news.

Limited examples of programs similar to that initiated in Ontario do exist, such as the German TUV (Technical Inspections Association, Inc.) which the government states is the model on which the TSSA is based.²⁶¹ In Alberta, the Boilers Safety Association and the Petroleum Tank Management Association of Alberta (PTMAA) are both operational and perform similar tasks to the new TSSA. At the Federal level, Transport Canada is in the process of delegating responsibility for its air navigation system to a new private sector corporation called NAV Canada.

However, it is important to note that the TSSA delegation goes much further than

that involved with the PTMAA or NAV Canada. In the case of the TSSA, enforcement functions have been delegated in addition to licensing responsibilities.

The novelty of these types of privatizations in Canada must be acknowledged. These new organizations are concrete manifestations of the recent trend by governments to off-load responsibilities in a drive towards "efficiency". While efficiency may be a valid objective, questions have to be raised as to whether it is being pursued at the expense of the public interest. The TSSA may act as a prototype for future delegations in Ontario. Consequently, its structure and functions must be analyzed carefully, in order to ensure that safety, accountability and other important principles, are not compromised en route to a more "efficient" form of government.

Institutional and Structural Issues

Several institutional and structural concerns arise out of the objectives of the Act and the resulting organization. The TSSA is clearly a private organization yet it is charged with many public responsibilities. The organization is given statutory authority to raise revenue through the requirement that firms in the industries which it is to regulate become members. It is also given a mandate to represent the province in intergovernmental standard setting activities. In addition, the TSSA is charged with responsibility for the enforcement of the statutes through which the industries under its jurisdiction are regulated. In this context, the authority's institutional structure gives rise to a number of serious potential problems.

Conflict of Interest

The TSSA Board of Directors

"the board is composed of industry, non-industry, government and consumer representatives, so that business and public interests will be represented."²⁶²

Notwithstanding the "representational" board concept, one of the defining features of the TSSA is the degree to which it appears to institutionalize conflicts of interest as an organizing principle. The overwhelming majority of the directors are to be elected by the members, who are to be the regulated parties under the various statutes.

Prior to February 6, 1997, ten members of the TSSA Board represented the various regulated industries, along with one non-industry representative. One of these initial members has since resigned. The twelfth member, TSSA president and CEO John Walter, was the Assistant Deputy Minister of the MCCR Technical Standards Division before his appointment. Three ministerial appointments were made on February 6, 1997. Ms. Rosalie Daly Todd and Ms. Joyce Feinberg are the two consumer representatives. Ms. Sue Cork, a government representative, is also the MCCR liaison person.

Despite the obvious potential for conflict of interest on the part of the industry nominated TSSA directors, no conflict of interest provisions are found in the MCCR/TSSA Agreement or the SCSAA. While the Board must provide the Minister with its conflict of interest by-laws in accordance with paragraph 6(7) of the Agreement, any such provisions will be self-defined and imposed.

It is likely to be difficult for the small number of consumer and governmental representatives on the board to play an effective role in the face of such an overwhelming majority of industry representatives. While it is recognized that the other Board members reflect the various industries affected by the delegated legislation, this only emphasizes the difficult task facing the non-industry directors. It will be their responsibility to represent consumer interests in relation to all of the affected sectors. These board members must also ensure that no brokering or trade-offs occur among the industry sector representatives.

Purpose and Board Mandate

The problem of the institutionalization of conflict of interest in the TSSA board structure is compounded by the consideration that there is no clear statement, either in the SCSAA or the MCCR/TSSA Agreement, that the Board has a duty to protect the health and safety interests of the public. The Preamble to the Agreement and subparagraph 3(4)(a) merely refer to the creation of a "fair, safe and informed marketplace, that supports a competitive economy."

This purpose appears to be at least as much client (i.e. regulatee)-focused as safety-oriented. There is no clear requirement that public safety and the public interest take precedence over the economic interests of the regulated industries. Indeed, the conflicts of interest inherent in the composition of the Board, combined with the absence of a duty imposed on the Board to ensure public safety, may create an atmosphere in which efforts to provide for public safety and to protect the public interest are impeded.

Issues of Legal and Political Accountability

The TSSA structure also gives rise to a wide range of serious issues of accountability in both legal and political terms. The TSSA is a private corporation with interests independent of government and, as noted earlier, no clear direction to uphold the public interest in its operations. In recognition that the accountability of this private corporation is an important issue, some accountability measures have been incorporated into the TSSA/MCCR Agreement. These include requirements for business plans and annual reports to be tabled in the Legislature,²⁶³ and for third party audits to be provided as part of the annual report requirements.²⁶⁴ In addition, under section 6 of the SCSAA, the government maintains 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 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. Furthermore, as the TSSA is a private organization, rather than an agency of the provincial government, the TSSA will no longer be subject to oversight by the Provincial Auditor, Ombudsman, Freedom of Information and Privacy Commissioner or the Environmental Commissioner.

Each of these agencies play a major role in holding the government accountable for the exercise of the authorities granted to it by the Legislature, ensuring the appropriate and cost-effective use of public funds, and providing for the fair treatment of Ontario residents by the provincial government and its agencies. Concerns over the impact of the TSSA structure on the rights of Ontarians under the province's *Environmental Bill of Rights* have already been raised by the Environmental Commissioner in her 1996 Annual Report.²⁶⁵ Similar concerns regarding transfers of this nature were also raised by the provincial Ombudsman.²⁶⁶

Although the Minister maintains the legislative authority to revoke powers given to the Authority,²⁶⁷ 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 severely limited.

The government could have addressed some of these issues by taking such steps as naming the Provincial Auditor as the TSSA's corporate auditor, and making it clear in the SCSAA that the TSSA was to be subject to the *Environmental Bill of Rights*, *Freedom Information and Protection of Privacy Act* and *Ombudsman Act*. However, the government failed to do so. Rather, it is clear that in the process of attempting to create more efficient and effective service through privatization, the government has reduced the ability of the public and the Legislature to monitor and oversee its actions and the activities of its agents for which it is ultimately responsible.

Principles of Natural Justice

The granting of the authority to issue licenses and other forms of approvals to the TSSA raises several other issues. In Alberta, for example, the government delegated responsibility for the regulatory aspects of underground storage tanks to the Petroleum Tank Management Association (PTMMA) in 1994. In an article on Alberta's first Designated Regulatory Organization, the question was raised as to where the principles of natural justice and procedural fairness fell in such an organization.²⁶⁸ The same questions must be raised with respect to the Ontario TSSA.

Widely accepted principles of natural justice in Canadian jurisprudence require that those affected by governmental decisions have the right to know and to answer the cases against them, to bring evidence and make argument and, the right to an

unbiased decision-maker.²⁶⁹ These principles emerged to deal with situations in the public sphere similar to those which are likely to arise under the exercise of the TSSA's delegated authority.

However, while new "private" bodies like the TSSA have significant power to affect an applicant's ability to earn a livelihood, precedents to suggest that private decision-making is subject to the same process standards as applicable to public decision-making bodies are limited. The SCSAA and the TSSA/MCCR Agreement are silent on this issue. In the absence of any statutory provisions, the issue may only be resolved if cases seeking judicial review of TSSA decisions are brought before the Courts. The principles of natural justice have been applied in the cases of self-governing professions in Canada, such as in medicine, and this may provide a precedent for their application in the case of the TSSA.

Access to Information and Protection of Privacy

The TSSA structure raises serious questions regarding public access to information and the protection of privacy with respect to information held by the TSSA. Part 7 of the Agreement deals, in part, with the transfer of information and part 11 addresses records and access issues.

These provisions make it clear that the *Freedom of Information and Protection of Privacy Act* (FOIPPA) will not apply to the TSSA, even to records that formerly belonged to the MCCR. Once the transfers have taken place, all information becomes the property of the TSSA. The Agreement requires that the TSSA develop and make public an access to information and protection of privacy code, which has been released in draft form.

However, the TSSA code provides wider exemptions for the protection of business information from freedom of information requests than the FOIPPA. Furthermore, there is no oversight by the Legislature's Freedom of Information and Protection of Privacy Commissioner, and no mechanism provided for appeals of rejected access to information requests. Finally, the code provides no statutory protection for the privacy of records transferred to the Authority.

There is also a concern that the holding back by the government of certain information could limit the TSSA's ability to act in full knowledge in the administration of its duties. If, for example, records of past poor operating practices are kept from the TSSA, this information will not be available to support TSSA decisions regarding approvals or appropriate levels of inspection and oversight for particular applicants.

Prosecutions and Enforcement

Part 12 of the Administrative Agreement addresses litigation issues. This section makes it clear that the Administrative Authority will be responsible for the conduct of

prosecutions under the statutes which it is to administer. Although the law permits the initiation of private prosecutions,²⁷⁰ the handing over of responsibility for prosecutions to a private body appears to be unprecedented in Ontario. Independence and fairness in prosecutorial decisions is a fundamental principle of the Canadian justice system.

It is unclear how this principle will be upheld when the board of directors of the agency which is to initiate prosecutions is dominated by representatives of interests are the likely defendants in any enforcement action taken by it. Furthermore, within the government all prosecutors are considered accountable to the Attorney-General for their actions. It is unclear, on the other hand, who prosecutors acting on behalf of the TSSA would be answerable to.

While the TSSA has the authority to retain membership fees, all fines must be forwarded to the Ministry of Finance.²⁷¹ It appears that administrative penalties, imposed under the responsibility of the Director, on the other hand, can bring in revenue which can be retained by the Authority. Administrative penalties can be effective and efficient if used appropriately. However, the arrangement within the TSSA provides strong incentives to apply administrative penalties rather than initiate prosecutions, even for serious violations.

Additional Concerns

Regulatory Negligence and Insurance

Regulatory negligence suits give the public an avenue to sue government for failing to properly enforce its own rules and regulations. While the government appears to maintain some ultimate responsibility for the safety of the public, limitations on its liability, as set out in the Agreement, raise additional questions as to where liability will ultimately be found.

At the same time, it should be recognized that members of the public can still sue the TSSA for damages. Furthermore, in its capacity to be sued, it may not have the same protection as the provincial government. Public authorities have a discretionary right to implement enforcement programs on the basis of established public policy and budgetary resources.²⁷² However, as a private entity, the TSSA may not be able to avail itself of this public policy defence against regulatory negligence actions. Consequently an action against the TSSA may have a greater chance of success than one initiated against the province. A successful suit might raise other issues which do not arise in actions against the Crown, particularly the possibility that a large damage award might bankrupt the TSSA.

The MCCR/TSSA Agreement has extensive provisions regarding the type of insurance which the authority must carry and the kind of protection it must provide for the Minister. Part 15(5) of the Agreement discusses the procedure in the event that the Minister imposes a new regulatory or legislative obligation on the Authority giving rise to exposure for which insurance is not available. The Authority has the

power to identify, with the Minister, appropriate measures to resolve such potential liability issues. However, the Agreement does not appear to require coverage for regulatory negligence, or coverage to deal with the known worst-case outcomes in the areas under the Authority's jurisdiction.²⁷³

Divided Authority

Under the new SCSAA the government retains responsibility for the development of new legislation and the adoption of new regulations, while the TSSA has responsibility for the delivery of programs. Although there are mechanisms in place for consultation between the TSSA and MCCR on required changes to legislation and regulations, the practical result of this divided authority may simply be an additional level of decision-making.

Harmonization and Jurisdictional Flexibility

The government claims that a benefit of the TSSA structure will be greater flexibility in dealing with other jurisdictions on matters of standards harmonization. However, it is unclear why it would be easier for a private organization to deal with governmental organizations from other jurisdictions. Indeed, they may be reluctant to deal with a private entity given the conventions of confidentiality and mutual trust which exist in the context of intergovernmental negotiations.

Financial Issues

Section 12(4) of the Act makes it clear that any money collected by the administrative authority in carrying out its delegated functions is not public money and that the administrative authority may use it for its own purposes.

Several of the schedules set out the consideration to be paid to the Ministry by the TSSA. For example, Schedule "D" sets out the consideration for Ministry Assets and Intellectual Property, and Schedule "J" outlines the types of services the TSSA will have to pay the government to perform. These include its ongoing legal, policy and regulatory roles. Schedule "I" sets up the fee setting process.

Questions which arise with respect to these issues include whether the consideration itself is adequate. It is unclear how the public can be assured that the government is getting good value for turning over its assets, particularly in light of the degree to which the TSSA's activities are not subject to review by the Provincial Auditor. Furthermore, while the TSSA is to be required to pay for services provided by the government, it is not clear what is to be done if the authority does not, or cannot, pay.

Language of Service

Certain provisions in the Act and Agreement address French language concerns.²⁷⁴ It will be important to monitor whether the same services that would be available to

an individual through the government in either language under the *French Language Services Act* and other government policies, are also made available under the TSSA regime.

Amendments

Part 20 of the MCCR/TSSA Agreement deals with amendments to it. There are no requirements for public consultation or review by a legislative committee prior to amendments being made to the Agreement. Nor are any mechanisms provided for a public review of the effectiveness or efficiency of the TSSA structure at some point in the future.

Summary and Conclusions

The transfer of the Ontario Ministry of Consumer and Commercial Relations' Technical Standards and Safety Division to the Technical Standards and Safety Authority constitutes an unprecedented exercise in privatization in the Canadian experience. The arrangement gives rise to several legal and policy questions.

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 in this analysis.

However, notwithstanding these considerations, the TSSA suffers from a number of serious 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. This arrangement raises major questions of accountability, as despite its exercise of public authorities and duties, the agency, as a private entity, will escape most of the oversight and accountability structures of the Legislature and its Officers.

Furthermore, the Authority is structured around a fundamental conflict of interest. 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 are given no clear mandate to ensure the protection of public safety in the execution of their duties.

Serious 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. Concerns also exist regarding the capacity of a private agency of this nature to deal with public regulatory bodies in other jurisdictions, the degree to which minority language services will be provided, and a host of freedom of information and protection of privacy issues.

A continued effort must be made to watch the progress of the MCCR/TSSA transformation, as the Ontario initiative may provide the model for actions by other governments. In particular, it is important to ensure that the instruments which society has chosen to use to monitor and oversee government behaviour and actions not be undermined. Furthermore, the protection of public health and safety remain the first consideration in the public interest regulation of economic activities.

Chronology of Changes to Underground Storage Tank Regulation

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;

SUMMARY & CONCLUSIONS

The two years following the June 1995 provincial election have been marked by sweeping changes to Ontario's environmental and natural resources laws, regulations and policies, enormous cuts in the budgets of environmental and natural resources agencies, and the wide-ranging restructuring of the roles and relationships between the province, municipal governments, and the private sector.

Few, if any of these changes are likely to result in improved protection of Ontario's environment or the more environmentally sustainable management of the province's natural resources. This point was highlighted by the Environmental Commissioner in her April 1997 Second Annual Report.²⁷⁵ Many of the government's initiatives appear poorly considered, and are proceeding with inadequate consultation and discussion of their implications with stakeholders, including other levels of government. They appear to be driven by fiscal considerations and a belief that environmental protection requirements constitute "barriers to growth," rather than environmental criteria.

The first year of the "Common Sense Revolution" was characterized by the announcement of major reductions in the budgets of provincial environmental and natural resources agencies, resulting in cuts in transfer payments to municipalities, Conservation Authorities and other bodies, and the introduction of amendments to virtually every statute in the province dealing with the environment and natural resources. These amendments have generally followed the pattern set through Bill 26, *The Government Savings and Restructuring Act, 1996*, of weakening environmental protection requirements, increasing ministerial and cabinet discretion in decision-making, limiting or removing opportunities for public participation in decision-making, and exempting the Crown from liability for the consequences of the removal of environmental protection requirements from previously regulated activities.

The defining features of the second year of the "Common Sense Revolution" have been the government's moves to restructure the roles and responsibilities of the province, municipalities, and other private sector actors in the protection of the province's environment and the management of its natural resources. A wide range of responsibilities, including the regulation of septic systems and the operation of provincially owned sewer and water treatment plants has been downloaded onto municipal governments. At the same time, the government has terminated programs for the support of sewer and water infrastructure, public transit, residential recycling and other programs delivered by municipal governments.

There are also a number of initiatives under way to transfer significant provincial regulatory functions and the management of public lands and resources to the private sector. Self-monitoring regimes have been established for the aggregates, petroleum, and forestry industries, and the closure of mines. The regulatory functions of the Technical Standards Division of the Ministry of Consumer and Commercial Relations regarding underground storage tanks, fuels, pressure vessels, boilers, elevators, amusement devices and upholstered furniture have been transferred to a private

organization, the Technical Standards and Safety Authority (TSSA). The Authority's board of directors is dominated by representatives of the industries which it is to regulate, and has been provided with no clear mandate to protect public safety or the environment in the execution of its duties.

The Ministry of Natural Resources appears to be moving towards the delegation of decision-making authority regarding public lands and waterways to forestry companies holding Sustainable Forest Licenses for those lands, and other private sector actors. This initiative would privatize the management, and effective ownership, of much of the province's public lands. These constitute 87% of Ontario's total land surface. The Ministry has also entered into a "perpetual" agreement which gives the hunting and conservation organization Ducks Unlimited a major role in the co-management of wetlands on public lands.

These transfers raise serious concerns. Significant doubts exist regarding the capacity of municipal governments to undertake their new responsibilities effectively. This is particularly true in light of the government's wider moves on municipal restructuring and amalgamation, and reductions in transfer payments to local governments. This has led to concerns over the possibility of the privatization of municipal services and infrastructure, particularly with respect to sewer and water systems. Experience with such privatizations in other jurisdictions, especially England, has not been positive in terms of cost, and the impacts on social welfare, environmental quality and public health.

The transfer of such a wide range of public functions to private actors, especially in the natural resources area, is also of serious concern. Questions must be raised about the fate of the public interest in the management of the province's natural resources and public lands when private economic interests are granted such extensive control over these public assets. This is particularly true given the likelihood of little or no effective oversight by public agencies.

There are also serious concerns regarding the removal of decision-making processes from the requirements of laws that provide for public accountability, and the protection of members of the public from unjust or unfair decisions implicit in these transfers. The *Environmental Bill of Rights*, *Freedom of Information and Protection of Privacy Act*, and *Ombudsman Act* are particularly important in this context. Decisions and activities are also removed from the jurisdiction of the Legislature's Officers, including the Environmental Commissioner, Provincial Auditor, Ombudsman, and Freedom of Information and Protection of Privacy Commissioner and, in some cases, the Legislature itself. These institutions play a major role in ensuring oversight of the government's behaviour and accountability in the protection of public resources. Both the Environmental Commissioner and Ombudsman have highlighted these concerns in their recent Annual Reports to the Legislature.

Other aspects of the province's restructuring initiatives are sources of concern as well. The proposed introduction of competition into electricity generation, and the delivery of municipal services, are of particular significance. The province is reported

to be considering permitting generators of electricity inside and outside of Ontario to compete with Ontario Hydro for the supply of electricity to the province's industries and consumers.

This raises the possibility that the province's sources of electricity supply would escape environmental protection requirements which currently apply to Ontario Hydro. These include acid rain control regulations under the province's Countdown Acid Rain program, discharge regulations under the Municipal-Industrial Strategy for Abatement (MISA) program and commitments made by Ontario Hydro's Board of Directors regarding carbon dioxide emissions affecting global climate change. The proposals that the private sector be permitted to compete with municipalities in the delivery of municipal services, including waste management and sewer, water and electrical utilities, have led to concerns that the private sector may provide services in areas where these can be provided at low cost, and leave municipal governments having to provide services in the higher cost areas.

At the end of the second year of the "Common Sense Revolution," distinct classes of winners and losers with respect to its environmental aspects are emerging in the province. Among those who have benefitted from the "revolution" have been the aggregates industry, whose economic interests have been served by the government's decisions regarding the Niagara Escarpment, and to override specific land-use decisions by municipal governments limiting aggregates development. In the case of mining, significant subsidies to the industry have remained in place, while most of the Ministry of Northern Development and Mines mine closure inspectors have been laid-off as a cost-cutting measure. The forest industry appears poised to gain virtual ownership of the public lands upon which it conducts its operations.

Other beneficiaries of the "Common Sense Revolution" include the homebuilding industry, which has been aided by the Land Transfer Tax Rebate on new homes, and proposed changes to the Building Code. The province's management of fish and wildlife has been almost completely re-oriented towards the interests of sport fishers and hunters, and a sportsmen's organization has been granted special status in the Ministry of Natural Resources planning, policy development and land disposition activities through a perpetual agreement with the Ministry. Conventional industrial agricultural producers are to receive expanded protection for their activities through the *Farm Practices Protection Act*, despite growing evidence of serious environmental impacts, especially on surface and groundwaters in Southern Ontario.²⁷⁶

Prominent among the losers are municipal governments, who have had major provincial responsibilities downloaded onto them, at the same time that the province has withdrawn financial support for a wide range of environmentally related activities. Nor has the province hesitated to override municipal decisions in order to favour particular economic interests, such as the aggregates industry. Conservation Authorities have also suffered significantly under a combination of budgetary reductions and restrictions on their mandates.

Members of the public have lost many of their rights to participate in environmental

decisions, obtain access to government information, and seek redress when they are harmed as a result of government decisions. The Legislature and its Officers have also lost ground in terms to their ability to oversee the government's actions, and to hold it to account for their consequences.

Significant features of Ontario's natural environment are also suffering as a result of the government's direction. The Niagara Escarpment, a UNESCO World Biosphere Reserve, and the Temagami Region in Northeastern Ontario have been the most obvious victims in this sense. However, non-game fish and wildlife species, shorelines and other environmentally significant areas, the sustainability of the province's forests and the conservation of the biodiversity within them, and the integrity of the provincial park system, have been jeopardized by the developments of the last two years as well.

Taken as a whole, the government's actions are likely to result in a major reduction in the quality of Ontario's environment and place the health and safety of Ontarians at greater risk than was the situation two years ago. In addition, serious questions must be now raised about Ontario's ability to fulfil its intergovernmental and international environmental obligations. The status of the province's commitments under the 1994 *Canada-Ontario Agreement on the Great Lakes Basin Ecosystem*, which is the primary vehicle for the implementation of Canada's obligations under the Canada-U.S. *Great Lakes Water Quality Agreement*, are in especially serious doubt. Failure to fulfil these obligations will make it difficult, if not impossible, to conclude future agreements to deal with other pressing transboundary issues, such as hazardous air pollutants and smog precursors.

Ontario faced serious environmental problems before the election of the current government. Many of these challenges were documented by the Ministry of Environment and Energy itself in a draft 1992 state of the environment report²⁷⁷ which was released in response to freedom of information requests in January 1997. Among the leading issues identified by the Ministry were deteriorating urban air quality, continuing damage resulting from acid rain, serious, and in many cases worsening, surface and groundwater quality problems, particularly rising levels of bacterial contamination and nutrient levels, and the continuing generation of significant amounts of hazardous wastes.

The government of Ontario's current agenda has done little to address these challenges. Indeed, in many cases, its actions over the past two years are almost certain to make them worse. A fundamentally different approach is required to ensure the well-being of present and future generations of Ontarians.

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Appendix A: Provincial Initiatives: Jun/96 - Jun/97

Provincial Legal, Regulatory and Budgetary Initiatives: Jan 96 - Mar 97

Chronology of Provincial Legal and Regulatory Changes

- May 7/96 Finance Minister Ernie Eves unveils first budget of the conservative government. For detailed staff and service changes to the Ministry of Environment and Energy and Ministry of Natural Resources see section on Budget and Staff Changes and appendix A. Announced in the budget is a tax refund of up to \$1,725 to first time purchasers of a newly constructed home if the agreement of purchase and sale is completed on or before March 31, 1997. The rebate, coupled with other measures has the potential to encourage urban sprawl.
- 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.
- 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.
- 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.

- May 22/96 Ministry of Municipal Affairs and Housing announces proclamation of Bill 20, *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.
- 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 License (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 License (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 :
- in the development of policies, standards and guidelines for forest management;
 - in the development and implementation of ecological land use plans;
- Forest industries will be responsible for:
- silviculture, pre and post harvest activities;
 - surveys and assessments, road and bridge construction;
 - monitoring, inventory and data collection;
 - wood measurement, seed and seedling production;
 - preparing forest compliance plans;
 - conducting inspections of their operations;
 - identifying areas where standards and guidelines have not been followed;
 - undertaking and paying for remedial work;
 - ensuring that staff are properly certified and re-certified.
- 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.
- 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 before deciding whether to adopt its recommendations.
- 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 by citizens into the environmental assessment process.
- 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 is provisions are ineffective.
- Jun 17/96 Ministry of Natural Resources announces new system to allows hunters to apply more quickly for a deer hunting tag by telephone.
- Jun 20/96 Ministry of Natural Resources announces a rabies prevention program in the greater Toronto area. The program aims to vaccinate raccoons, skunks and foxes through live-trapping and vaccinated bait.
- 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.
- 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.

- Jun 29/96 Ontario adopts a strategy which it claims will protect old growth sites and resolve land-use issues in Temagami. 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 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 2/96 Ministry of Natural Resources celebrates 50th anniversary of *Conservation Authorities Act*. When enacted, the Act was considered to be a landmark piece of legislation because it addressed the problems of flood damage, soil erosion and insecure water supplies.
- Jul 4/96 Ministry of Natural Resources offers reduced camping and day-use fees to encourage persons with disabilities to use provincial parks.
- Jul 19/96 Taro Aggregates Ltd. receives approval under the *Environmental Assessment Act* to establish a landfill site in Stoney Creek.
- 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.
- 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 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; and
 - amendments to the Efficiency Standards Regulation for various new products.
 - designation of 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.
 - 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 become recertified every five years;
 - requiring at least \$1 million in third party liability for pest control businesses; and
 - replacing underground disposal of pesticide containers with new recycling requirements.
 - 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 AOX by 2002 and removal of the reference to a goal of zero AOX; and
 - reducing monitoring frequency for facilities surpassing effluent limits.
 - 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.
- Jul 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.
- 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.
- Aug 29/96 Ministry of Natural Resources plans aerial distribution of vaccine-baits to immunize foxes against rabies.
- Aug 29/96 Federal Environment Minister Sergio Marchi criticizes the Ontario Government for its sweeping rollbacks of environmental legislation. A day later, Environment and Energy Minister Brenda Elliot says Federal Environment Minister Sergio Marchi's criticisms of Ontario's regulatory reform proposal are baseless.
- Aug 31/96 Premier Harris announces changes to the Provincial Cabinet. The Minister of Environment and Energy, Brenda Elliot 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 Natural Resources announces that squirrel and game-bird hunters will get an extra day of hunting this year.
- 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.
- Sep 5-17 /96 Ontario Provincial Police arrest 35 protesters in Temagami and charge them with mischief.
- 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.
- 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.
- 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.

- 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 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.
- 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 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 that 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.
- 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 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.

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.

Oct 96 Minister of Municipal Affairs and Housing 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.

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 (see January 29, 1996), in particular:

- 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.

- 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.
- Nov 13/96 Environment and Energy Minister Norm Sterling and federal Industry Minister John Manley announce the opening of a new environmental industry virtual office in Ontario. The virtual office, which is the first in Canada, provides one-window access to information via the internet.
- Nov 15/96 Ministry of Municipal Affairs and Housing approves the new official plan for the Blind River Area. The plan allows the Minister to delegate consent granting authority to the local planning boards. This means that officials in the Blind River Area will no longer need to submit approval applications on local land severance and zoning matters to the province.
- Nov 96 Ministry of Natural Resources outlines proposed changes to the *Forest Fires Prevention Act* under Bill 22. The changes are designed to simplify the regulation and use of fire by the public and to reduce the number of permits required for burning.
- 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 12/96 Ministry of Environment and Energy releases a report *Meeting the Challenge of Climate Change: 1996 Update on Initiatives in Ontario to Reduce Greenhouse Gas Emissions* outlining initiatives undertaken by Ontario to reduce Greenhouse emissions and respond to the threat of climate change. 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.
- Dec 17/96 Ministry of Natural Resources announces three-year study of the walleye population in Lac Seul. The study is designed to ensure that current regulations are sufficient for longterm protection of the lake's walleye population.
- Dec 27/96 Ministry of Natural Resources expands recreational lake trout fishing in south-central Ontario. As of January 1, 1997 48 lakes will be open to trout fishing.
- 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;
- 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 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.
- 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%.
- Jan 17/97 Ministry of Environment and Energy announces that through Bill 107 municipalities are to be responsible for water and sewer works. 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 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.
- Jan 22/97 Ministry of Natural Resources announces changes in fines and enforcement powers under forthcoming Ontario Parks legislation, the *Red Tape Reduction Act (Ministry of Natural Resources), 1997*. The changes are part of the government's plans to reduce 'red tape' in the province.
- 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.
- Jan 97 Ministry of Natural Resources announces the elimination of the Managed Forest Tax Rebate Program. The Ministry states that in light of current tax reform proposals, this program is no longer necessary for environmental protection. The program will be replaced by a system which reduces the tax rate on eligible lands through the regular property tax process. The tax rate for eligible forests lands will be set at 25 per cent of local residential tax rates.
- Jan 97 Ministry of Natural Resources announces the elimination of the Conservation Land Tax Reduction Program (1987). The MNR states that in light of current tax reform proposals, this program is no longer necessary for environmental protection.
- 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 *Provincial Parks Act*:

- maximum fines will be increased to \$25,000; 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; and
- remove requirement that Area Charges be determined by regulation and make Minister responsible for setting them.
- *Forest Fires Prevention Act* will be amended to allow Minister to declare Restricted Fire Zones.
- Consolidation of 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 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.

- 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 MCCR;
 - Joyce Feinberg: experience with MoEE, MCCR;
 - Rosalie Daly Todd: Consumers' Assoc. of Canada counsel;
- These appointments continue the process of industry self-management put in place by *The Safety and Consumer Statutes Administration Act*.
- 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.
- 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.
- Feb 26/96 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;
 - sewer designs meet minimum CSO controls;
 - provide additional controls where beaches are impaired;
 - the level of treatment, disinfection of effluent and monitoring criteria.
- 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.

- 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 pollution programs. Environmentalists accuse the Ontario government of violating a 1994 agreement it made 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 5/97 The Ministry of Natural Resources announces that Regulation 136/96 was approved without revision. The regulation exempted some lands from Development Control on the Niagara Escarpment near the Town of Hamilton.
- 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.
- 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 *Environmental Assessment and Consultation Improvement Act, 1996*. 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.
- Mar 10/97 The Ministry of Natural Resources posts several policy and standard proposals on the EBR Registry:
- Instrument Regulation - Prescribed MNR Legislation: proposes to define what MNR policies, standards and legislation will be posted;
 - Proposed Provincial Standards and associated regulations for Bill 52 under the *Oil, Gas and Salt Resources Act*: would govern drilling, facility, production, storage and reporting standards;
 - Proposed Provincial Standards and associated regulations for Bill 52 under the *Aggregate Resources Act*: would govern site and operation standards and compliance reporting requirements;
 - Greenborough Esker Area of Natural and Scientific Interest Management Plan: a management plan to allow resource management (aggregate, timber) to occur within the area;
 - Nipigon District Land Use Guidelines Amendment 97-1: allows Black Bay Peninsula to form part of a Sustainable Forest License.
- 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 cited problems with high levels of ground level ozone, fecal coliform in water and unchecked land development as needing attention.
- Mar 27/97 The Ministry of Natural Resources announces a toll-free number for forest fire reporting.
- 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.
- 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 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 contend that Ohio has exceeded its share of total allowable catch of the fish for a third year in a row. MNR has asked that Ohio report by September. If Ohio does not implement tighter measures, then MNR will look into additional responses.
- Apr 8/97 The Ministry of Natural Resources states it will provide 2,000 opportunities for youth in the province for the summer 1997. The Summer Experience Program will deploy youth workers in areas such as fish and wildlife management, Ontario Parks, field work and customer service.
- April 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. The charges being dismissed 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 The Environmental Commissioner of Ontario submitted her 1996 annual report to the legislature and released its details to the public. The report, which is intended to review the environmental performance of the Ontario government, cited hasty cutbacks, closed-door decision-making, omnibus-style legislation and a variety of other actions as demonstration of an "alarming lack of environmental vision." Specific examples of areas in which the province had become particularly deficient included:
- the testing of drinking water quality;
 - acid precipitation monitoring programs;
 - inspection of pits and quarries;
- Apr 22/97 Doug Galt, the Parliamentary Assistant to the Minister of Environment and Energy identifies two watershed projects as examples of Ontario's support for the Great Lakes Watershed Initiative. The Initiative attempts to identify pollution prevention efforts in urban areas around the Great Lakes and is being undertaken by the Council of Great Lakes Governors. These watershed projects were designated by the province as exemplar, however neither project is currently being financially supported by the province.
- 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.
- Apr 97 The Ministry of Natural Resources contravened the Comprehensive Land Use Plan for the Temagami Region by allowing the construction of a road to Cross Lake. The Ministry of Environment and Energy formally charged MNR with contravening the *Environmental Assessment Act*.
- Apr 22/97 Three Wildlife Management Units (WMUs) are added to the areas in Ontario designated for the annual turkey hunt, which runs from April 25 to May 16. Minister of Natural Resources Chris Hodgson declared "We are pleased to continue this work with the Ontario Federation of Anglers and Hunters and other partners." Persons are eligible to hunt wild turkey upon completion of a mandatory wild turkey education seminar, passing an MNR exam and by holding a wild turkey license, valid Outdoors Card and small game

license tag. The MNR issued 4200 wild turkey licenses last year.

- Apr 23/97 Minister of Natural Resources Chris Hodgson announces that improvements to the moose tag draw system will be announced shortly and that there is only one month left to apply for the 1997 Adult Moose Validation Tag Draw. For the first time:
- the 1997 Hunting Regulations Summary will include the Moose Hunter's Fact Sheet and the Deer Hunter's Fact Sheet;
 - hunters will have access to the necessary regulations, season dates, tag quotas and draw results in one convenient booklet.
- The Minister remarked "The moose and deer fact sheets contain information which hunters will find useful when applying for the big game draws. All of these items used to be separate publications, but combining them into one booklet will be much more convenient for the hunters." In 1997, 20,567 adult moose validation tags will be available.
- 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, opposite editorial, page A-9.
- 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 29/97 The World Wildlife Fund (Canada) releases its *1996-97 Endangered Spaces Progress Report* 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 two/three policy developments by the Ontario government which:
- announced favourable tax treatment for sustainable land management which includes 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;
- April 97 The Ministry of Natural Resources announces 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.

- 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
 - the promotion of 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.
- May 6 97 The Province releases 1997-98 Budget and Business Plans for ministries.
- 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.
- May14/97 The Ontario government announces that it is preparing to open Ontario's electricity market to competition by dividing Ontario Hydro into two separate publicly-owned companies. One entity would manage the transmission system and one, the production capacity of the existing Ontario Hydro. The approach and schedule for this initiative are likely to be:
- the release of a white paper by the government in June 1997 with more details of its intentions;
 - public consultations would proceed through the summer;
 - the government would introduce legislation in the Autumn of 1997;
 - tentatively, it is not proposed that any components be sold or privatized.
- May14/97 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 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 insufficiently large to form a quorum. Under the current government, the Commission board has been reduced from 17 to 10 members.

May 27/97 Bill 106 *Fair Municipal Finance Act* Receives Royal Assent.

May 97 MNR Policy on Wilderness adopted.

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 5/97 Bill 57, The *Environmental Approvals Improvement Act* is given royal assent.

June 9/97 The *Fish and Wildlife Conservation Act* is introduced to the legislature for first reading.

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.

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 12/97 Appointment of seven Niagra Escarpment Commissioners.

Jun 27/97 Aggregates and Petroleum Standards under Bill 52 come into effect.

July 8/97 Release of Review Team evaluation on Emissions from Ontario Hydro's Admiralty Brass Condensers to the Great Lakes.

Appendix B : Ministry Budgets

1. Ministry of Environment and Energy (MoEE) 1995/96 Fiscal Year

MoEE Operating 1995-96 Budget Reductions
Announced October 6, 1995

Reduce Environmental Research Grants	\$1,000,000
Reduce Environmental Monitoring, Analytical Testing and Standards Development	\$1,852,000
Downsize Boards and Committees	\$791,000
Reduce Program Administration and Support	\$4,117,000
Redesign Municipal Recycling Support Program (Blue Box)	\$3,220,000
Reduce Energy Conservation Grants	\$700,000
Reduce Conservation and Planning Spending	\$680,000
Reduce Regional Operations Program Delivery Spending	\$1,402,700
Redesign Compensation for Emergency Response Program	\$650,000
Sunset Ontario Waste Management Corporation and MAC, EAAC, and ACES	\$440,000
Total 1995/96 Operating Reduction	\$14,850,700

MoEE Capital Budget Reductions
Announced October 6, 1995

Reduce Municipal Assistance Plan (Clean Water Agency)	\$31,800,000
Total 1995/96 Capital Reduction	\$31,800,000

Total Reductions to MoEE 1995/96 Budget	\$46,650,700
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2. Ministry of Environment and Energy (MoEE) 1996/97 Fiscal Year

MoEE Operating 1996/97 Reductions
Announced November 29, 1995

Eliminate Municipal recycling, reduction, reuse support (Blue Box)	\$5,600,000
Eliminate Municipal Landfill/waste Facility Assistance	\$3,600,000
Eliminate Municipal Household Hazardous Waste Funding	\$200,000
Eliminate Miscellaneous Waste Grants to	

Municipalities	\$850,000
Eliminate Urban Beaches Restoration	\$3,500,000
Eliminate Rural Beach Clean-Up	\$4,700,000
Eliminate Green Communities Program	\$1,660,000
Eliminate Home Green-ups Program	\$8,430,000
Eliminate Energy Education and Training	\$455,000
Eliminate Energy Standards Development	\$220,000
Eliminate Institutional, Residential and Community Energy Management Programs	\$527,000
Eliminate Public Education Grants	\$691,000
Eliminate Support to Non-Governmental Organizations	\$735,000
Eliminate Environmental Research Program	\$1,600,000
Reduce Grant Programs	\$2,720,000
Reduce Support to Canadian Council of Ministers of the Environment	\$230,000
Reduce Support to Environmental Compensation Corporation	\$50,000
Reduce Support to Environmental Appeal Board	\$70,000
Reduce Support to the Ontario Energy Board	\$510,000
Reduce Support to the Niagara Escarpment Commission	\$700,000

Total 1996/97 Operating Reductions **\$37,324,100**

MoEE Capital 1996/97 Reductions
Announced April 11, 1996

Reduce Municipal Assistance Plan (Clean Water Agency)	\$111,400,000
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Total 1996/97 Capital Reduction **\$111,400,000**

Total Reduction to MoEE 1996/97 Budget **\$148,724,100**

3. Ministry of Environment and Energy 1997/98 Fiscal Year

MoEE 1997/98 Operating Budget Reductions
Announced April 11, 1996

Redesign of Evaluation and Compliance	\$25,300,000
Focusing on Core Business	\$15,900,000
Better Management	\$17,100,000

Total 1997/98 Operating Reduction **\$58,300,000**

MoEE Capital 1997/98 Budget Reductions
Announced April 11, 1996

Reduce Municipal Assistance Plan

(Clean Water Agency)	\$142,500,000
Total 1997/98 Capital Reduction	\$142,500,000
Total Reduction to MoEE 1997/98 Budget	\$200,800,000

1. Ministry of Natural Resources 1995/96 Fiscal Year

MNR Operating Budget Reductions Announced October 6, 1995

Reduce Fire Management	\$530,300
Timber Environmental Assessment/Sustainable Forestry	\$19,039,700
Close Tree Nurseries	\$380,500
Reduce Parks Ontario Staff	\$64,400
Reduce operating Grants to Conservation Authorities	\$1,200,000
Reduce Aboriginal Programs	\$1,871,000
Downsize and Re-Engineer Field Operations	\$1,151,800
Eliminated Selected Operations Programs	\$1,012,200
Reduction in Great Lakes Management Program	\$459,700
Reduction in Policy and Planning Activities	\$1,259,900
Reduce Corporate Support and Management	\$1,512,200
Reduce Science and Information Resource Activities	\$2,925,600

Total 1995/96 Operating Reduction **\$31,278,500**

MNR Capital Budget Reductions Announced October 6, 1996

Delays in Conservation Authorities Program	\$1,920,000
Delays in Parks Program	\$1,417,000
Airfleet Reductions	\$186,000
Delays in Land Acquisition Program	\$22,000
Cancel Muskoka Floor Damage Control Program	\$150,000
Delays in Forest Renewal Program	\$20,000
Delays in Forest Infrastructure Program	\$30,000
Defer Fire Infrastructure	\$161,600
Defer Telecommunications Improvements	\$196,000
Defer Water Control Programs	\$27,200
Delays in Roads/Bridges Program	\$467,100
Delays in Fisheries Infrastructure Programs	\$263,000
Delays in Field Infrastructure Programs	\$111,200

Total 1995/96 Capital Reduction **\$4,971,100**

Total MNR 1995/96 Budget Reduction **\$36,249,600**

2. Ministry of Natural Resources 1996/97 Fiscal Year

MNR 1996/97 Operating Budget Reductions Announced April 11, 1996

Streamline Forest Management Activity	\$34,600,000
Implement New Provincial Parks Business Plan	\$9,100,000
Withdrawal from Land-Use Planning	\$3,200,000
Rationalize Provincial Parks	\$5,200,000
Wind Down Temagami Comprehensive Planning Council	\$300,000
Streamline Data Acquisition and Management	\$2,000,000
Reduce Air Fleet	\$700,000
Rationalize Fire Program Bases	\$4,000,000
Reduce Resource Management Staffing	\$13,400,000
Reduce Regulatory Permitting	\$3,200,000
Eliminate Game and Fish Hearing Board	\$10,000
Internal Administrative Savings	\$13,900,000
Reduce Grants to Conservation Authorities	\$5,400,000
Eliminate Freight Equalization to Commercial Fishers	\$60,000
Rationalize Minor Transfer Payments	\$300,000

Total 1996/97 Operating Reductions **\$95,370,000**

MNR Capital 1996/97 Budget Reductions

Reductions to Parks, forest management, air fleet,
land acquisition, telecommunications and
transfers to Conservation Authorities **\$12,100,000**

Total Reductions to MNR 1996/97 Budget **\$107,470,000**

3. Ministry of Natural Resources 1997/98 Fiscal Year

MNR Operating Budget Reductions Announced April 11, 1996

Streamline Forest Management Activity	\$45,900,000
Implement New Provincial Parks Business Plan	\$9,100,000
Withdrawal from Land-Use Planning	\$3,200,000
Rationalize Provincial Parks	\$5,200,000
Wind Down Temagami Comprehensive Planning Council	\$300,000
Streamline Data Acquisition and Management	\$6,500,000
Reduce Air Fleet	\$1,500,000
Rationalize Fire Program Bases	\$4,000,000
Reduce Resource Management Staffing	\$18,100,000
Reduce Regulatory Permitting	\$3,200,000
Eliminate Game and Fish Hearing Board	\$10,000
Internal Administrative Savings	\$16,700,000
Reduce Grants to Conservation Authorities	\$7,400,000
Eliminate Freight Equalization to Commercial Fishers	\$60,000
Rationalize Minor Transfer Payments	\$400,000

Total 1997/98 Operating Reductions	\$121,570,000
MNR 1997/98 Capital Budget Reductions Announced April 11, 1996	
Reductions to Parks, forest management, air fleet, land acquisition, telecommunications and transfers to Conservation Authorities	\$15,800,000
Total Reductions to MNR 1997/98 Budget	\$137,370,000

Glossary of Acronyms Used

ACES	- Advisory Committee on Environmental Standards
AOX	- Adsorbable Organic Halides
B	- Billions of dollars, Canadian
CA	- Conservation Authority
CCME	- Canadian Council of Ministers of the Environment
CEPA	- Canadian Environmental Protection Act
CFC	- Chlorofluorocarbons
CFIP	- Community Fisheries Involvement Program
CWIP	- Community Wildlife Involvement Program
CoA	- Certificate of Approval
COA	- Canada-Ontario Agreement on the Great Lakes Basin Ecosystem
EA	- Environmental Assessment
EAAC	- Environmental Assessment Advisory Committee
EBR	- Environmental Bill of Rights
EPA	- Environmental Protection Act
FOIPPA	- Freedom of Information and Protection of Privacy Act
GHG	- Greenhouse Gas
GLWQA	- Great Lakes Water Quality Agreement
GO	- Government of Ontario (Transit)
IAC	- Industry Advisory Councils
IFPA	- Intervenor Funding Project Act
IJC	- International Joint Commission
IUCN	- International Union for the Conservation of Nature
LaMPS	- Lake-wide Management Plans
M	- Millions of dollars, Canadian
MAC	- MISA Advisory Committee
MCCR	- Ministry of Consumer and Commercial Relations
MISA	- Municipal-Industrial Strategy for Abatement
MMAH	- Ministry of Municipal Affairs and Housing
MNDM	- Ministry of Northern Development and Mines
MNR	- Ministry of Natural Resources
MoEE	- Ministry of Environment and Energy (Ontario), also OMEE
MOU	- Memorandum of Understanding
MPPs	- Members of Provincial Parliament
MTO	- Ministry of Transportation (Ontario)
NAFTA	- North American Free Trade Agreement
NEC	- Niagara Escarpment Commission
NEF	- Noise Exposure Forecast
NEP	- Noise Exposure Program
NPRI	- National Pollutant Release Inventory
OBC	- Ontario Building Code
OEB	- Ontario Energy Board
OECD	- Organization for Economic Cooperation and Development
OWRA	- Ontario Water Resources Act
PCB	- Polychlorinated Biphenols
PERC	- Perchloroethylene

PTMAA	-	Petroleum Tank Management Association of Alberta
REP	-	Responsive Environmental Protection
SCSAA	-	Safety and Consumer Statutes Administration Act
SFL	-	Sustainable Forestry License
TSSA	-	Technical Standards and Safety Authority
TTC	-	Toronto Transit Commission
TSS	-	Total Suspended Solids
UNESCO	-	United Nations Education, Science, and Cultural Organization
US EPA	-	United States Environmental Protection Agency
VCR	-	Voluntary Challenge and Registry

Legislative Index

Aggregate and Petroleum Resources Statute Law Amendment Act . . .	4, 101, 103-104
Aggregate Resources Act	10, 101, 103, 105
Better Local Government Act	65, 68
Canadian Environmental Protection Act	56, 59
Conservation Authorities Act	29, 36, 69, 97, 108
Consolidated Hearings Act	14, 17, 22, 74, 78
Crown Forest Sustainability Act	28, 41, 82-86, 92, 98
Energy Act	124
Energy Efficiency Act	73
Environmental Approvals Improvement Act	14, 22, 25, 60, 65, 67
Environmental Assessment Act	12, 38-40, 61, 82, 86, 92, 99
Environmental Assessment and Consultation Improvement Act	38, 41
Environmental Protection Act	10, 12, 14, 18, 22-24, 54, 56, 64, 67, 75, 78
Fair Municipal Finance Act	28, 35, 37, 90
Farm Practices Protection Act	1, 32, 33, 35
Fish and Wildlife Conservation Act	91, 92, 100
Forest Fires Prevention Act	82, 85, 98
Forest Tree Pest Control Act	85, 98
Forestry Act	85, 98
Freedom of Information and Protection of Privacy Act	7, 13, 119-120, 127
French Language Services Act	123
Game and Fish Act	90, 91 94
Gasoline Handling Act	13, 124
Government Process Simplification Act	14, 17, 22, 74, 77, 78
Government Savings and Restructuring Act	82, 100, 126
Intervenor Funding Project Act	38, 40
Lakes and Rivers Improvement Act	1, 28, 66, 69, 81, 97
Land Use Planning and Protection Act	26, 33
Mining Act	98, 101, 104, 106, 108
Ministry of Natural Resources Statute Law Amendment Act	87
Municipal Act	27, 65
Natural Resources Act	94
Niagara Escarpment Planning and Development Act	103
Oil, Gas and Salt Resources Act	105
Ombudsman Act	13, 119, 127
Ontario Energy Board Act	14, 23, 75, 101, 104
Ontario Waste Management Corporation Act	22, 60
Ontario Water Resources Act	12, 16, 18, 22, 67
Operating Engineers Act	124
Parks Assistance Act	97
Pesticides Act	14, 17, 18, 23, 77, 78
Petroleum Resources Act	98, 101-103, 108
Planning Act	26, 103
Power Corporation Act	1
Provincial Parks Act	35, 85, 87, 89, 97
Public Lands Act	1, 28, 35, 66, 81, 97, 106, 108

Red Tape Reduction Act	35, 69, 81, 85, 89, 97, 108
Safety and Consumer Statutes Administration Act	13, 22, 114, 124
Water and Sewage Services Improvement Act	13, 15, 27, 35, 62, 63, 68, 70
Woodlands Improvement Act	85, 98

