



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



CANADIAN INSTITUTE FOR
ENVIRONMENTAL LAW AND POLICY
L'INSTITUT CANADIEN DU
DROIT ET DE LA POLITIQUE
DE L'ENVIRONNEMENT

ecojustice.ca
formerly Sierra Legal

August 26, 2008

The Honourable Dalton McGuinty
Office of the Premier
Legislative Building, Queen's Park
Toronto, Ontario
M7A 1A1

Dear Premier McGuinty:

Re: The Technical Standards and Safety Authority (TSSA)

The Canadian Environmental Law Association (CELA), the Canadian Institute of Environmental Law and Policy (CIELAP) and Ecojustice Canada are writing to you to request the government promptly take the necessary steps to ensure that the Technical Standards and Safety Authority (TSSA) is subject to the accountability structures that normally apply to government agencies in Ontario.

The explosion at the Sunrise Propane Industrial Gases facility in Toronto on August 10, 2008, has raised serious questions about the TSSA's exercise of regulatory authority over the company's operation. In addition, concerns have also been expressed about the TSSA's arms-length relationship with the Ministry of Small Business and Consumer Affairs. This has meant that the TSSA is able to escape the normal application of statutes that provide the basis for the public and the legislature to oversee the operations of the TSSA and to hold it accountable for its performance. These include the *Freedom of Information and Protection of Privacy Act*, the *Auditor General Act*, the *Ombudsman Act* and the *Lobbyist Registration Act*. Moreover, the TSSA is only subject to a limited application of the *Environmental Bill of Rights, 1993 (EBR)*. Section 42 of the *Technical Standards and Safety Act* states that the *EBR* only applies to the Act in relation to matters which the predecessor *Gasoline Handling Act* would have applied.

CIELAP raised concerns about the lack of an effective accountability framework for the TSSA over eight years ago in a report entitled "The 'New Public Management' Comes to Ontario." In the report, a copy of which is enclosed, CIELAP noted that the "gaps in formal accountability structures for the [TSSA] are of particular concern given the public safety nature of the TSSA's mandate and its relationship to the protection of other public goods, such as the environment." We would note that the accountability framework put in place for the TSSA by the previous government was the weakest amongst all the jurisdictions employing this model.

We are requesting the government take immediate steps to formally bring the TSSA under all of the statutes which would normally apply to government agencies. The Ministry of Small Business and Consumer Affairs should be made a “prescribed” ministry for purpose of the *EBR*. In addition, the government should extend the applicability of the *EBR* over all matters within the TSSA’s statutory mandate that could cause significant environmental effects.

In the longer term we urge the government to undertake a formal public review of the basic institutional design of the TSSA and its overall performance with a view to whether the TSSA’s functions should be brought back within the normal operation of a government ministry.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



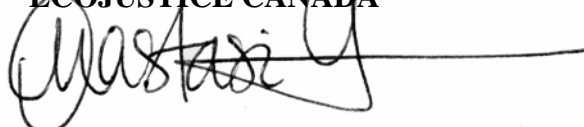
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- Hon. Chris Bentley, Ministry of Attorney General
- Hon. Harinder Takhar, Ministry of Small Business and Consumer Services
- Hon. John Gerretsen, Ministry of Environment
- Hon. Ted McMeekin, Ministry of Government Services
- Ann Cavoukian, Information and Privacy Commissioner
- André Marin, Ombudsman of Ontario
- Jim McCarter, Auditor General of Ontario
- Gord Miller, Environmental Commissioner of Ontario