

"SCIENTIFIC, TECHNICAL AND COST PROPOSAL
FOR LEGISLATIVE REVIEW STUDY PERTAINING
TO SOURCES OF POLLUTION FROM LAND USE ACTIVITIES

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Foundation

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SCIENTIFIC AND TECHNICAL PROPOSAL

FOR

LEGISLATIVE REVIEW STUDY PERTAINING TO SOURCES OF POLLUTION FROM LAND USE ACTIVITIES

I. DESCRIPTION OF TASKS TO BE UNDERTAKEN

II. TASK SCHEDULE

A. SUMMARY REVIEW OF LEGISLATION AND REGULATIONS

This task will require identification, description and evaluation of relevant statutes, regulations and by-laws in terms of statute purpose, body responsible for administration and enforcement, subject matter and areas covered, key provisions and prohibitions, specific areas covered by regulation, and other principal features where appropriate. This material to be supplementary to any material already developed by Legal Services, DOE. It is proposed to identify non-statutory programs, policies and guidelines in this segment of the review because of their often crucial interface with legislated requirements, rather than to leave discussion of these non-statutory aspects to a separate section. It is expected that line ministries and agencies will provide such materials and amplification of such programs where necessary. A schematized chart for summary reference regarding Act name, administering body, enforcement mechanism and area affected could be prepared for pollution from land use activities modelled on that outlined under APPENDIX I (attached to this proposal)

assigned
15 man days

B. SUMMARY REVIEW OF CASE LAW

Judicial and quasi-judicial interpretation of key provisions of relevant statutes, regulations and by-laws is necessary to flesh out the development of the regulatory scheme in meeting goals and objectives set out or intended by the legislation. This aspect will require normal library research in appropriate case and statute citators. This is supplementary to enforcement review outlined below. (Task #2 under STATEMENT OF WORK). Such case law review will also be instructive and invaluable in partially fulfilling obligatory requirements under Tasks #6 and #7 under STATEMENT OF WORK.

assigned
5 man days

C. SUMMARY REVIEW OF SCHOLARLY RESEARCH

This task will require summary explication of the salient views of scholarly opinion in journals, treatises, etc. on the state of the legislative/regulatory control art in areas outlined for study. Where possible selected interviews with specialists will be conducted.

assigned
5 man days

I. DESCRIPTION OF TASKS TO BE UNDERTAKEN (cont.)

II. TASK SCHEDULE

(NOTE: The description of tasks to be undertaken)
under A & C above is in fulfillment of)
Tasks 1,3 and in partial fulfillment of)
Tasks 2,4,5,6,7,8 under STATEMENT OF WORK.)

D. REVIEW OF REGULATORY ENFORCEMENT PROGRAMS

Completion of this task will require that the following be undertaken:

With respect to municipal laws under consideration a schedule of meetings will be arranged with appropriate administrators, municipal solicitors, by-law enforcement officers and/or police officers (where by-laws of a municipality in the areas outlined for study are enforced by the police) to obtain the views of those officials most closely associated with the day-to-day implementation of existing control mechanisms. In preparation for such meetings it is expected that background information will be provided to the contractors, including such information as previous budget allocations for selected or agreed periods, regarding the respective areas of study under consideration; including projected allocations; certified copies of by-laws presently in force and in force for selected or agreed periods previously, with dates in force so certified; annual reports (or the municipal equivalent) and other reports on programs regarding relevant areas of concern; data on human resources available for administration and enforcement for selected or agreed periods, including current and projected levels; general data on volume of public complaints, methods of administrative follow-up, prosecutions undertaken, convictions registered, fines levied, appeals, subsequent monitoring if any, for selected or agreed upon periods, etc. Basic general information of the type just described must be made available to the contractors in advance of meetings with appropriate officials, to the maximum extent practicable. It is expected that where supplementary meetings are necessary they will be granted. It is further expected that where necessary the contractors will be provided reasonable access to appropriate files and records at local offices during normal business hours.

assigned
25 man days

A MAXIMUM OF
3 MUNICIPAL-
ITIES TO BE
SELECTED.

A similar procedure to be arranged for the Federal and Provincial enforcement review with appropriate administrators, legal services officers and federal and provincial inspectors. It is assumed that information developed and provided by Legal Services,

assigned
15 man days

I. DESCRIPTION OF TASKS TO BE UNDERTAKEN (cont.)

II. TASK SCHEDULE

D. REVIEW OF REGULATORY ENFORCEMENT PROGRAMS(cont.)

DOE and its provincial counterpart will be sufficient and made available in a timely fashion. It is expected that supplementary information will be provided to the contractors where necessary.

(NOTE: The description of tasks to be undertaken under D)
(is in fulfillment of Task #2 and in further partial)
(fulfillment of #4,5,6,7,8 under STATEMENT OF WORK.)

E. REVIEW FOR CASE STUDIES

This task will require assimilation of material gleaned from Tasks A-D above. It is proposed to approach this task in one of two alternative manners. The first approach would involve the selection of one law (federal, provincial or municipal) and working with material developed from Tasks A-D, review in some depth, and where time and information permits, that single law's impact on the appropriate land use category. There would thus be nine mini-case studies that might look like the following:

assigned
20 man days

- a) Urban Areas--Impact of Town of Ancaster height by-law
- b) Transportation Corridors--Impact of Highway Traffic Act
- c) Extractive Operations--Impact of Ontario Mining Act
- d) Agriculture--Impact of Ontario Drainage Act
- e) Recreational Areas--Impact of Ontario Conservation Authorities Act
- f) Forested Areas--Impact of Ontario Public Lands Act
- g) Liquid, Solid and Deepwell Disposal Areas--Impact of Ont. Env. Protect. Act(Waste Management Provisions)
- h) Shoreline Landfilling Activities--Impact of Navigable Waters Protection Act
- i) Lakeshore and Riverbank Erosion--Impact of Ontario Conservation Authorities Act

This first approach has the value of adding flesh and contour to the interface between law and water quality/land use problems on a highly specific basis. However, its microcosmic advantage is also its macrocosmic disadvantage. It would be the subject of a separate study or studies beyond the time and resource frame of this study to assess in a similar fashion to that outlined above, all federal, provincial and municipal laws and their individual and collective impact on the nine enumerated land use categories. For this reason a second approach could be adopted.

I. DESCRIPTION OF TASKS TO BE UNDERTAKEN (cont.)

II. TASK SCHEDULE

E. REVIEW FOR CASE STUDIES (cont.)

The second approach would involve the development of a simple matrix chart which would grant an arbitrary +, -, negligible or cannot be determined designation to the impact of all legislation on a particular land use category. Related or auxiliary charts would delineate cumulative and collective impacts to the extent feasible. The advantage to this second approach is that a comprehensive, if simplified schematic, provides the decision-maker with information immediately and graphically understandable.

(NOTE: The description of tasks to be undertaken under)
(Task E is in fulfillment of #6 under STATEMENT OF)
(WORK.)

F. COMPARATIVE REVIEW

Early dialogue, periodic exchanges of information and meetings where necessary with U.S. contractors will be essential to satisfactory completion of #8 under STATEMENT OF WORK. One approach for a standardized format for comparing different legislative and regulatory approaches in both countries has already been hinted at with respect to a schematized chart. (See Task A SUMMARY REVIEW OF LEGISLATION AND REGULATIONS and APPENDIX I). Details of this approach must necessarily await formation of that dialogue.

assigned
5 man days

G. DISCUSSION AND FINAL WRITE-UP PERIOD

This task will require final pulling together of information obtained from the above enumerated tasks as well as canvassing final views from appropriate officials and experts. Further consultation with scientific advisors already connected with the International Joint Commission Reference Group will especially be required during this period with respect to diffuse sources of pollution under #4 and #7 of STATEMENT OF WORK.

assigned
10 man days
(for G & H below)
But
to cover period
up to comple-
tion/delivery
date of six
months from
award of contract

H. RECOMMENDATIONS

This task will require assimilation of information obtained from Tasks A-G above.

TOTAL 100 man days

III. LIST OF PERSONNEL

J. F. Castrilli
(see attached resume)

IV. ECONOMIC BENEFIT & CANADIAN CONTENT

All monies generated from this project will remain
in Canada.

V.

COSTING

Salaries

1 Researcher...100 working days, \$100 per diem	\$10,000	
Canada Pension Plan... @ 3%		
Unemployment Insurance	<u>300</u>	
		\$10,300

Operating Expenses without use
of Government Facilities

*Travel	\$ 1,200	
Telephone	450	
Xeroxing	500	
Postage	150	
Supplies	300	
Special Purchase (bylaws, journals)	150	
Overload typing (120 Hours @ \$6.00)	720	
Miscellaneous	200	
Printing (final)	<u>100</u>	\$ 3,770

TOTAL #1 \$14,070

Operating Expenses with use
of Government Facilities

* Travel	\$ 1,200	
Telephone	150	
Xeroxing	300	
Special purchase	150	
Overload typist	385	
Contingency	200	
Printing	<u>100</u>	\$ 2,485

TOTAL #2 \$12,785

*Subject to change depending on municipalities chosen and site of meetings with U.S. contractors or would prefer to bill directly submitting out of pocket expenses directly to the Department of Environment.

- Payments to be as follows: \$1,000 advance and \$1,000/per month plus expenses incurred per month thereafter.

- Balance of payment to be made on completion and delivery.

ENVIRONMENTAL RESPONSIBILITIES
Provincial and Municipal Laws

STATUTE	ADMINISTERING MINISTRY OR AGENCY	ENFORCED OR CARRIED OUT BY	AREA AFFECTED
<i>Air Pollution Control Act</i>	Now incorporated in the <i>Environmental Protection Act</i>		
<i>Beach Protection Act</i>	Natural Resources	Mines Division	sand, gravel, stone around and under water
<i>Beds of Navigable Waters Act</i>	Natural Resources	Municipalities	water
<i>Conservation Authorities Act</i>	Natural Resources	Conservation Authorities Branch, local Conservation Authorities	water, land, air, noise, planning
<i>Drainage Act</i>	Agriculture and Food		water
<i>Endangered Species Act</i>	Natural Resources	Wildlife Branch; enforced by Conservation Officers, Deputy Conservation Officers, RCMP, Ontario Provincial Police (OPP)	animals
<i>Energy Act</i>	The Energy Ministry is responsible for energy policy considerations. Consumer and Commercial Relations (CCR) is responsible for operational considerations.	Anti-pollution provisions enforced by inspectors of the Energy Branch of CCR	water (spills during oil and gas production); Energy and Environmental Impact

*Citizens' complaints about breaches of any statute administered by the Ministries of Natural Resources and Environment may be addressed to those Ministries' Legal Services Branches.
 Natural Resources: G.H. Ferguson, Director, 6th Floor, Whitney Block, 99 Wellesley St. West, Toronto, (416) 965-2748.
 Environment: J.N. Mulvaney, Director, 12th Floor, 135 St. Clair Ave. West, Toronto, (416) 965-7156.

ENVIRONMENT ON TRIAL

<i>Environmental Protection Act</i>	Environment*		any contaminant of the natural environment
<i>Expropriations Act</i>	Justice, and the Ministry administering the Act under which the expropriation has been authorized	Inquiry Officers	land use planning
<i>Fish Inspection Act</i>	Natural Resources	Theoretically enforced by Conservation Officers, but not enforced because no regulations exist under the Act See Federal Act	water, ingestion of fish and crustaceans by humans
<i>Game and Fish Act</i>	Natural Resources	Conservation Officers, Deputy Conservation Officers	animals
<i>Gasoline Handling Act</i>	Consumer and Commercial Relations	Gasoline Section	spills of oil and gasoline
<i>Highway Traffic Act</i>	Transportation	local police and opp, Oversize and Overweight Permits Bureau re heavy trucks	air (emissions), vehicle noise, littering, nuisances created by vehicles servicing pits and quarries
<i>Industrial Safety Act</i>	Labour	Inspectors from the Industrial Safety Branch	noise (occupational hearing loss)
<i>Lakes and Rivers Improvement Act</i>	Natural Resources	Engineering Services Branch	water
<i>Legal Aid Act</i>	Justice and Attorney General Legal Assessments: Law Society of Upper Canada Financial Assessments: Community and Social Services	Local Area Directors Area Committees	

ADMINISTRATION OF THE ENVIRONMENT

STATUTE	ADMINISTERING MINISTRY OR AGENCY	ENFORCED OR CARRIED OUT BY	AREA AFFECTED
<i>Lands Day Act</i>	To prosecute, consent of the Attorney General of Ontario is needed	municipal councils, police	stuiday noise
<i>Mining Act</i>	Natural Resources	Division of Mines	water, land
<i>Municipal Act</i>	Treasury, Economics, and Inter-governmental Affairs (TEIGA)	Municipal councils pass by-laws authorized by the Act. Police, municipal By-Law Enforcement Officers and Building Inspectors enforce the by-laws.	urban problems in general; water, noise, land, air, land use planning
<i>North Georgian Bay Recreational Reserve Act</i>	Natural Resources	Parks Division	North Georgian Bay land use
<i>Ningava Escarpment Planning and Development Act</i>	Treasury, Economics, and Inter-governmental Affairs (TEIGA)	Regional Planning Branch	planning; parks greenspace
<i>Ontario Municipal Board Act</i>	Attorney General	Ontario Municipal Board (OMB)	land use planning, pits and quarries
<i>Ontario Planning and Development Act</i>	TEIGA	Plans Administration Branch	land use planning
<i>Ontario Water Resources Act</i> See Water Chapter for regulations covering water wells, pleasure boats, marinas and a wide variety of other subject matters	Environment	Water Supply and Pollution Control Water Resources Water Management	water
<i>Ontario Water Resources Commission Act</i>	see <i>Ontario Water Resources Act</i>		

<i>Pesticides Act</i>	Environment	Pesticide Control Service, Pesticides Review Board	pesticides (air, land, water, animals, ingestion by humans)
<i>Petty Trespass Act</i>	Attorney General	OPP and local police	land (snowmobiles)
<i>Petroleum Resources Act</i>	Natural Resources	Petroleum Resources Section of Mineral Resources Branch	water (spills during oil and gas production)
<i>Pits and Quarries Control Act</i>	Natural Resources	Pits and Quarries Supervisor, in the Industrial Minerals Section of the Mineral Resources Branch	pits and quarries (noise, air pollution, aesthetics)
<i>Planning Act</i>	TEIGA	Municipal councils pass by-laws authorized by the Act. Police, municipal By-Law Enforcement Officers and Building Inspectors, local planning boards, committees of adjustment, municipal councils, the OMB, etc., enforce these by-laws	same as <i>Municipal Act</i>
<i>Power Commission Act</i>	Hydro-Electric Power Commission of Ontario (HEPCO)		water, littering, energy
<i>Provincial Parks Act</i>	Natural Resources	Parks Division, enforced by district foresters or park superintendents, OPP	planning (parks)
<i>Public Health Act</i> See text for a variety of regulations covering many areas of concern, e.g., slaughter houses, summer camps, etc.	Health	Local Boards of Health headed by Medical Officers of Health	air, land, water, noise
<i>Public Lands Act</i>	Natural Resources	Division of Lands	water, littering and land use related to Crown lands

STATUTE	ADMINISTERING MINISTRY OR AGENCY	ENFORCED OR CARRIED OUT BY	AREA AFFECTED
<i>Public Parks Act</i>	TEGA	Pollution provisions are enforced by local police.	water, littering, planning (parks)
<i>Public Utilities Act</i>	TEGA	in TCO and municipal councils	water, littering, energy
<i>Tourism Act</i>	Industry and Tourism		water, trailer camps
<i>Waste Management Act</i>	Now incorporated in the <i>Environmental Protection Act</i>		
<i>Weed Control Act</i>	Agriculture and Food	Soils and Crops Branch and by county, regional municipality, and municipal weed inspectors	pesticides
<i>Wilderness Areas Act</i>	Natural Resources	Parks Division	planning (parks)
<i>Wolf and Bear Bounty Act</i>	Repealed. But county councils may and still do unilaterally impose bounties on wolves without the aid of the subsidy formerly provided by the provincial government under the Act.		
Federal Laws			
<i>Aeronautics Act</i>	Transport (civilian aircraft) National defence (military aircraft)	civilian aircraft: address complaints to: Regional Administrator CATA, Box 7, Toronto-Dominion Centre, Toronto 1, or phone (416) 369-3718 Senior Planner, Official Plans Section, TEGA	aircraft noise, low-flying aircraft, unlicensed aircraft, etc. land use planning around airports

<i>Atomic Energy Control Act</i>	Energy, Mines and Resources Atomic Energy Control Board —an independent Board answering to Parliament through the Minister of Energy, Mines and Resources	military aircraft: Base Operations Officer, c/o the nearest Canadian Forces Base Radiation Protection Bureau of the Environmental Health Directorate of the federal Department of Health; sometimes also the Ontario Health Ministry	aircraft noise, low-flying aircraft, etc. air, land, water (radioactive isotopes, uranium, thorium)
<i>Canada Labour Code</i>	Department of Labour	designated inspectors	noise, air, man directly, combustible dust, flammable substances, air-borne contaminants, radiation, explosives related to federal works and undertakings
<i>Canada Shipping Act</i>	Transport	Steamship Inspectors; Pollution Prevention Officers; for offices in Ontario see <i>Canada Shipping Act</i> heading in Water chapter.	air and all Canadian waters (oil, garbage, smoke, and pesticides)
<i>Canada Water Act</i>	Environment Canada		water (phosphates)
<i>Central Mortgage and Housing Corporation Loans</i>	CMHC	adoption of <i>National Building Code</i> Standards into provincial statutes, municipal by-laws, or contracts	land use planning, noise, water: 1. incentive loans to municipalities for construction of sewage treatment facilities; 2. suggested standards for building construction (<i>National Building Code</i>)
<i>Clean Air Act</i>	Environment Canada	No regulations exist to make this Act enforceable.	air (fuels)

STATUTE	ADMINISTERING MINISTRY OR AGENCY	ENFORCED OR CARRIED OUT BY	AREA AFFECTED
<i>Criminal Code</i> 1. disturbing the peace, ss. 171, 172 2. mischief, s. 38 3. nuisance, s. 176 4. attempt, s. 24 5. threatening, s. 745	Attorney General of Ontario	police forces local Crown Attorneys	not usually used in environmental cases but has great potential in noise, odour and other pollution cases
<i>Expropriation Act</i>	Public Works	Hearing Officers	land use planning
<i>Fisheries Act</i> 1. Pulp and Paper Effluent Regulations 2. Chlor-Alkali Mercury Regulations	Environment Canada	Federal inspectors; anti-pollution provisions not enforced in Ontario but private prosecutions are encouraged by sharing fines with complainants.	all Canadian waters: 1. suspended solids, w.o.d. 2. mercury 3. generally, any substance deleterious to fish
<i>Food and Drugs Act</i>	National Health and Welfare	designated Inspectors	man directly (ingestion of food, drugs, hormones, vitamins, amino acids)
<i>Fish Inspection Act</i>	Environment Canada	Inspectors appointed under the Act or by the Ontario government	water (fish, other marine animals and plants)
<i>Government Harbours and Piers Act</i>	Transport	Staffing of harbours is done directly through the Ministry.	land use planning around harbours, potential to prevent oil spills
<i>Hamilton Harbour Commissioners Act</i>	Hamilton Harbour Commission	same; potentially also municipal by-law enforcement officers and local police	water, land use planning
<i>Harbour Commissions Act</i>	Local harbour commissions	same; see above.	water, land use planning

<i>Hazardous Products Act</i>	Consumer and Corporate Affairs, National Health and Welfare	Hazardous Products Inspectors appointed under the Act	air, land, water, man directly (hazardous products including radioactive substances)
<i>Lord's Day Act</i>	To prosecute, consent of the Attorney General of Ontario is needed.	municipal councils, police forces	Sunday noise
<i>Migratory Birds Convention Act and Regulations</i>	Indian Affairs and Northern Development	Ontario Conservation Officers and Deputy Conservation Officers appointed by Ontario Ministry of Natural Resources; RCMP	water, land (ban on dumping oil or any other harmful substance in waters or areas frequented by designated migratory birds)
<i>Motor Vehicle Safety Act</i>	Transport	designated Inspectors	noise, air (emissions from cars, trucks, snowmobiles at manufacturing and import levels only)
<i>National Harbours Board Act</i>	Transport	National Harbours Board	water and land use planning around harbours
<i>National Housing Act</i>	See Central Mortgage and Housing Corporation Loans, above.		
<i>National Parks Act</i> 1. Garbage Regs. 2. Water and Sewage Regs. 3. Fishing Regs. 4. Traffic Regs. 5. Signs Regs. 6. General Regs.	Indian Affairs and Northern Development	Park wardens, police	garbage, effluent, trade wastes and miscellaneous land water wastes in national parks
<i>Navigable Waters Protection Act</i>	Transport	1. Pollution Prevention Officers in all major and most minor ports (Steamship Inspectors) 2. District Marine agents (Perry Sound and Prescott only)	water: 1. prohibition of dumping of wastes 2. Ministerial authorization of structures and works

STATUTE	ADMINISTERING MINISTRY OR AGENCY	ENFORCED OR CARRIED OUT BY	AREA AFFECTED
<i>Nuclear Liability Act</i>	Atomic Energy Control Board	Courts Nuclear Damage Claims Commission	
<i>Pest Control Products Act</i>	Agriculture	Inspectors appointed by Plant Products Division of Production and Marketing Service of this Department	pesticides (in air, land, water and direct human consumption)
<i>Pesticide Residue Compensation Act</i>	Agriculture	designated inspectors	land (farm products)
<i>Radiation Emitting Devices Act and Regulations</i>	Health and Welfare	designated inspectors	man directly (x-ray equipment and other radiation-emitting devices)
<i>Railway Act</i>	Transport, through Canadian Transport Commission	designated "inspecting engineers"	noise
<i>Toronto Harbour Commissioners Act</i>	Toronto Harbour Commission	same; potentially also city by-law enforcement officers and local police	water, air and land use planning around harbour