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CANADIAN INSTITUTE FOR ENVIRONMENTAL LAW AND POLICY

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

A Submission to the Toronto Citizen Hearing on Great Lakes - St Lawrence River Water Pollution

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prepared and submitted by

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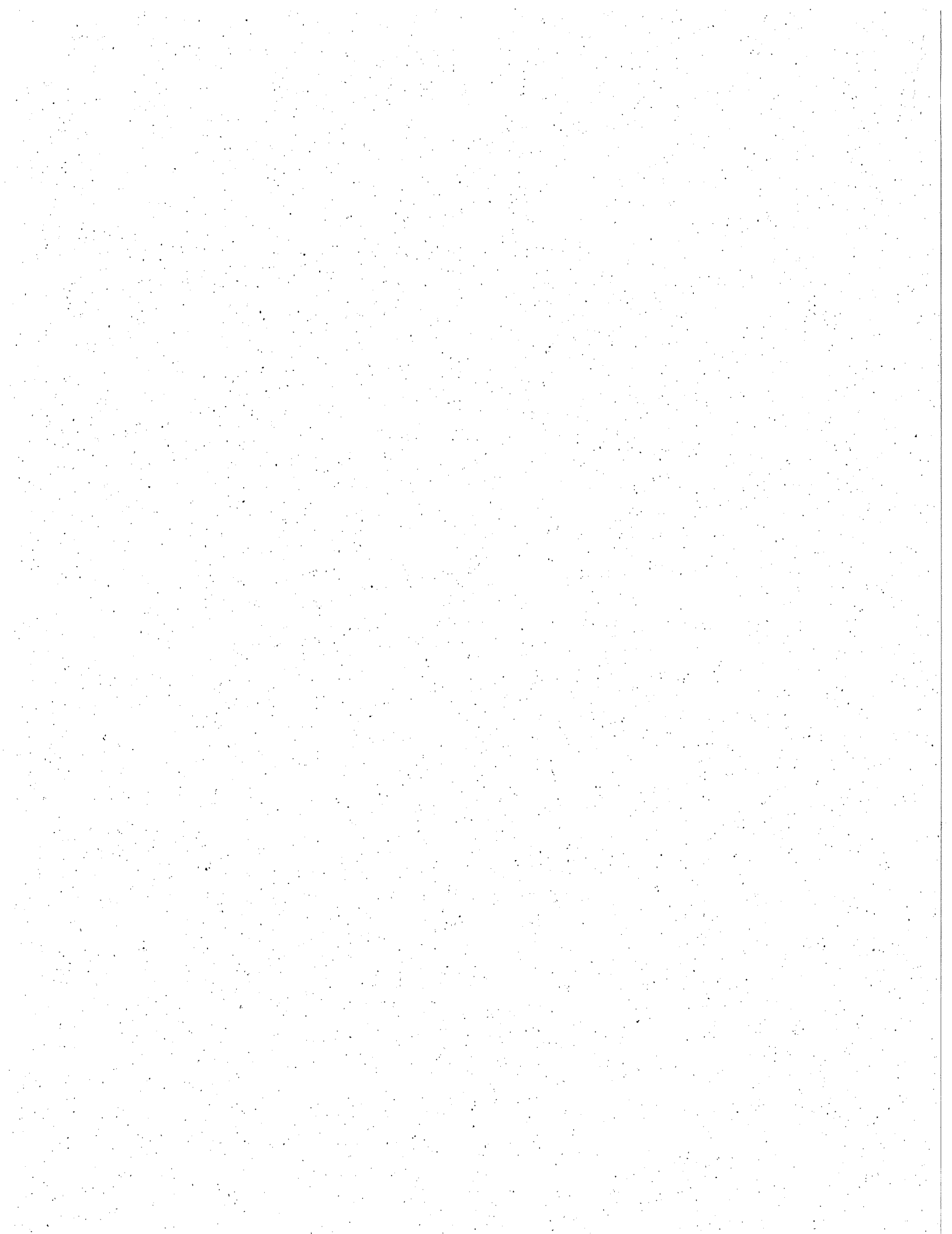
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of the

Canadian Institute for Environmental Law and Policy

September 28, 1998



**A Submission to the Toronto Citizen Hearing on Great Lakes - St Lawrence River
Water Pollution by the Canadian Institute for Environmental Law and Policy
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The Canadian Institute for Environmental Law and Policy (CIELAP) is a n independent research and education organization. The Institute provides leadership in the research and development of environmental law and policy that promotes the public interest and the principle of sustainability.

In the weeks ahead, the Institute will be providing the public with a review of the impacts of law and policy developments in Ontario on the Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem.

Over the past three years, the Canadian Institute for Environmental Law and Policy has been charting the changes to environmental law in policy in Ontario. This work has been published, each year, in the form of an annual report that is available to the public. Some of the findings of this research will represent the basis of our presentation this evening.

Three central themes have emerged from our research of provincial environmental regulation over the past three years. These include:

- revision of nearly every provincial statute dealing with environmental protection and natural resources management;
- large reductions in the budgets of provincial and local agencies responsible for resource and environmental protection;
- a restructuring of roles and responsibilities between the province, municipal governments and the private sector.

Moving specifically to the area of water related regulatory and policy changes, CIELAP has been charting what has changed in detail and most of it is likely to have a negative impact on water quality in Ontario, including the water quality of the Great Lakes.

Appendix A provides an indication of just how much has changed in just over three years. Some of the essential changes and trends in water quality regulation, in recent years, include:

- eliminating beach clean-up and restoration funds;
- the termination of drinking water testing programs;
- eliminating funds for Great Lakes clean-up;
- reducing Great Lakes science research capacity;
- reduced oversight of septic systems;
- elevating the permissible discharge levels for some facilities;
- terminating the ban on incineration;
- approval of large water takings with minimal review of impact;

- the easing of restrictions and removal of permit requirements on many alterations to water bodies;
- virtually abandoning habitat protection under the *Fisheries Act*.

One of the few moderately positive water-related developments has been the May 1997 announcement that the province would provide \$200 million to upgrade municipal sewage treatment plants and water works. This, however, has to be balanced against the budgetary reductions to the Ontario Clean Water Agency and its possible privatization.

In summary, water resources in the province are, and will continue, to be under an elevated level of stress in the months and years ahead. The sources of this stress are reduced regulatory oversight coupled with increased resource development.

A means to ensure that water resources in the province are not further burdened would be the renewal and strengthening of our commitment to the binational initiative known as the Great Lakes Water Quality Agreement.

In particular, many of the commitments in the existing Canada-Ontario Agreement have not yet been met or are behind schedule. The Institute urges the Great Lakes community, in this particular instance on the Canadian side, to renew and honour its commitment to "restore and maintain the chemical, physical and biological integrity of the waters of the Great Lakes Basin Ecosystem."

APPENDIX A

Developments in Laws, Policies and Regulations affecting Water Quality in Ontario (Sept 1995 to May 1998)

- Sep 26/95 Amendments proposed on the EBR to revise MISA Regulations.
- Sep 29/95 MoEE terminates MAC, ACES and EAAC committees.
- Oct 6/95 Cutbacks of \$31.8 M from the Ontario Clean Water Agency. Conservation Authorities' transfer payments cut \$1.2 M in both 1995-96 and 1996-97;
- Oct 9/95 EA Exemption granted to the City of Toronto Western Beaches stormwater storage tunnel.
- Dec 1/95 Projected MoEE budget cutbacks for the 1996/97 : urban and rural beach cleanup / restoration (\$8.2 M); home green-ups including water conservation (\$8.4 M).
- Jan 29/96 Bill 26, the *Government Savings and Restructuring Act* enacted. The *Lakes and Rivers Improvement Act* and the *Conservation Authorities Act* are amended.
- Apr 11/96 Cost-savings measures : The Ontario Clean Water Agency budget reduced \$111.4 M in 1996-97 and \$142.5 M in 1997-98; CA transfer payments cut \$5.4 M in 1996-97 and \$7.4 M in 1997-98.
- Jun 17/96 New ground and surface water standards are announced as part of MoEE proposed landfill standards.
- Jul 31/96 *Responsive Environmental Protection* proposes changes to : sewage treatment plants regulation; Ground Source Heat Pumps Regulation to restrict the use of methanol; MISA AOX regulation; reduce monitoring frequency for facilities surpassing effluent limits.
- Sep 96 MoEE and MoH terminate drinking water quality analysis service to municipalities.
- Nov 4/96 Who Does What Panel recommends municipalities pay for sewer and water systems.
- Nov 5/96 MNR adopts regulations to guide activities on Crown land. The new regulations reduce the need for work permits by 80%. Affected activities include : dredging, damming, building docks and controlling aquatic plants (100 square metres of vegetation annually can be removed in waters in southern Ontario without a permit).
- Jan 17/97 Municipalities are to be responsible for water and sewer works.
- Jan 20/97 Bill 107, The *Water and Sewage Services Improvement Act* introduced.
- Feb 26/97 Finalization of Sewer System guidelines.
- Feb 3/97 The *Red Tape Reduction Act (Ministry of Natural Resources)*, 1997 goes to 1st Reading. The RTRA would also amend the *Lakes and Rivers Improvement Act* and *Conservation Authorities Act*
- Feb 97 MoE cancels funding for Great Lakes cleanup programs. The government now wants the private sector, industries, municipalities and concerned citizens to finance cleanup programs.
- Mar 8/97 MoEE announces that Ontario's fish appear to be getting safer to eat.
- May 6/97 In the 1997 budget, \$200 million is allocated for municipal sewer and water services.
- May 17/97 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.
- May 27/97 Bill 107, The *Water and Sewage Services Improvement Act* receives Royal Assent.
- Jun 10/97 Request for Investigation is filed over 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.
- May 21/97 MoEE revises MISA Iron and Steel Manufacturing Sector guidelines.
- May 28/97 Passage of Bill 107 transfers ownership and operation of provincially owned sewer and water infrastructure to municipalities and the regulation of septic systems to municipalities and the Ministry of Municipal Affairs and Housing.
- Oct 31/97 Second Progress Report of Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem is released. The report acknowledges that certain commitments under the Agreement have not been met due to budget cuts at both levels of government.
- Nov 25/97 The Provincial Auditor criticizes : water or sewage expansion projects without first maximizing water conservation; documentation filing and grant overpayment need to be better monitored.
- Nov 27/97 Ministry releases document "Better, Stronger, Clearer: Environmental Regulations for Ontario." Proposed changes related to water include:
- o ban the use of methanol as a heat transfer fluid in heat pumps;

- amend the Water Wells regulation to improve the transmission of water well data; increase licensing fees for well drillers and contractors/technicians; and provide new standards for well construction;

Amend the MISA Regulations to:

- reduce the frequency of chronic toxicity testing semi-annually to annually;
- remove effluent limits for substances that are not used, produced or stored on site;
- reduce daily monitoring requirements for some parameters if site performance surpasses permitted limits for 12 consecutive months;
- permit the transmittal of data in alternative formats;
- amend the Pulp and Paper Sector Regulation to remove the requirement that facilities submit plans on the elimination of AOX, and advance the date for the AOX limit of 0.8kg/tonne to December 1997 from December 1999.
- retain the Marinas Regulation, which the Ministry had proposed to repeal in July 1996, and supplement it with a voluntary Code of Practice developed by the Marina Industry.

- Dec 9/97 Approval of Interim Provincial Water Quality Objective for hexachlorocyclopentadiene (0.06 ug/L).
- Dec 24/97 Planned revisions to permitted discharge limits for organic and inorganic manufacturing sector under MISA.
- Dec 30/97 Proposed amendments to MISA discharge regulations for 8 industrial sectors would : reduce the monitoring frequency; reduce monitoring requirements; remove effluent limits for some substances; and remove kraft pulp mill reporting requirements for zero discharge of AOX.
- Jan 31/98 Discharge limits raised for two companies (GE Plastics and Geon Canada) to allow change in production.
- Feb 4/98 New Building Code Regulations for septic system management transfers supervision of smaller on-lot sewage systems to the *Building Code Act* for "one-window" permitting purposes; and introduces new certification requirements for installers/inspectors.
- Mar 9/98 MoE refers the Ontario Clean Water Agency (OCWA) to the Office of Privatization.
- Mar 23/98 44 water treatment plant operators in 23 communities in southwestern Ontario are warned by the MoE that their drinking water testing programs are inadequate. In 1996, the MoEE and MoH terminated their municipal water testing programs.
- Mar 29/98 Ontario Hydro receives its second assessment of its program to repair its brass condenser cooling equipment. Some dates have slipped but overall the program is said to be on track.
- Mar 31/98 Revisions to Water Standards for Cadmium, Carbaryl, Trivalent and Hexavalent Chromium, and Arsenic.
- Apr 3/98 MoE asserts that 1800 tonnes of copper and zinc released from Ontario Hydro Nuclear Generating Stations have had no measurable effect on drinking water quality or fish life near the plant.
- Apr 30/98 Three former Premiers of Ontario (Davis, Peterson and Rae) join a campaign to complete the funding for a Great Lakes environmental research centre at the University of Windsor.
- May 1/98 Revelation that MoE granted a Certificate of Approval under the *Ontario Water Resources Act* to take up to 10 million litres of water per day from Lake Superior over a period of five years.
- May 6/98 Nova Group, the company that was awarded a permit to take 600 million litres of water from Lake Superior for Export to Asia, announces it will abandon the project because of its controversy.
- May 8/98 Michigan Congressman Bart Stupak introduces a non-binding House resolution that would have the US Congress block the sale of Great Lakes water for export to Asia.
- May15/98 Province moves toward a policy that would ban transfers of water from one drainage basin to another.
- May/98 The 41st conference of the International Association of Great Lakes Research is told that more and better early-warning environmental monitoring systems are urgently needed. Issues covered:
- Biological systems respond to the hazards associated with the complex mixtures of toxic pollutants that exist in the environment. These systems need monitoring;
 - How political restructuring and reduced funding could harm the ecological health of the Great Lakes shoreline in Ontario;
 - The devastating impact of lampreys on the lake trout.
- May20/98 Ontario Hydro Nuclear has submitted three separate proposals to the MoE to re-test its treatment equipment allowing them to meet the effluent requirements of the Clean Water Regulation.