



CANADIAN INSTITUTE FOR
ENVIRONMENTAL LAW AND POLICY

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Good Morning, Mr. Chair, Ladies and Gentlemen

My name is Anne Mitchell. I am Executive Director of the Canadian Institute for Environmental Law and Policy (CIELAP). CIELAP was founded in 1970, with the mission to provide leadership in the research and development of environmental law and policy that promotes the public interest and sustainability. Our vision is a world where the right to a safe and healthy environment is a basic human right.

Thank you for giving me the opportunity to speak with you this morning on Bill 133, the Environmental Enforcement Statute Law Amendment Act, otherwise known as the Spills Bill. We are impressed and applaud the inclusion of a polluter pays related provision with a funding mechanism to clean up spills.

You will have received from the Clerk publications and maps which I hope will assist you in considering this Bill.

Mr. Chair, while we have not done a line by line analysis of Bill 133, we have monitored the Bill's process closely, we have spoken positively about the intent of the Bill, we have appeared in newspaper articles asking why it has not moved further faster, and citing the abysmal record of some Sarnia area companies as revealed in the recent SWAT report, as evidence of the need for the Bill. We have also reflected on the activities of Mr. Kinsella and the Coalition for a Sustainable Environment.

Our position on spills is one that I hope everyone in this room and all of the presenters – including those from industry - agrees with – and that is - spills are bad and should be avoided.

While this statement may seem trite and perhaps simplistic - that is in fact why we are in this room today.

While some may argue that the increased number of spills is a product of better record keeping and more enforcement – the current trend line – of increasing numbers of spills with larger volumes of pollutants released – is not the one we want to follow.

You have heard it before - Spills by MISA facilities increased in frequency between 2003 and 2004 by over 12%, with the average volumes of liquid spills increasing nearly 4 fold.

Obviously we need to stop spills be it into the air, land or water. Clearly, spills have the potential to harm human health and impact the environment. There is a need to clean up previous spills, better understand the cumulative impacts of even small spills and reduce the number of spills.

Advancing the Environmental Agenda

Our goal should be that the Great Lakes and rivers are swimable, fishable and drinkable for our grandchildren.

So what is the appropriate response from the Ontario Government, particularly the Ministry of the Environment? Ontarians expect their Government to ensure that the air, land and water are safe. It is the Government's responsibility to ensure that the air, land and water are safe. Therefore, the Government has to act.

The MOE is proposing to amend the Environmental Protection Act and the Ontario Water Resources Act to strengthen the administrative penalty provisions in these two Acts. The specific proposal is a new Environmental Penalties framework.

Mr. Chair, I am appalled by how the industrial special interests have lobbied against this Bill. There is no doubt there were many chuckles in Bay Street law offices and Boardrooms when Mr. Kinsella circulated the Coalition for a Sustainable Environment letterhead.

And while it is stereotypical to say many in the environmental community have no sense of humour – I will admit to finding nothing humorous about the lobby against this Bill. I find it disturbing and distressing. It is shocking that some Ontario industrial leaders have opened their cheque books to lobby against this Bill.

During the past few weeks I have had conversations with three different industrial leaders. Each has claimed that he supports the intent of the Bill. In one meeting it was pointed out that when industry is challenged it resorts to its old tricks – put up money to lobby against what industry does not like.

A more courageous act of leadership would be to stand up and say – “OK fellas” – because it is mostly fellas – “you and I know that for the sake of our grandchildren we need to stop spills and we need to clean up our act. How can we work with others who are also concerned about the future of their grandchildren to get a Bill that will work – that will result in reductions to the number of spills to our air, land and water.”

This is not happening. Instead, industry lobbied – and is lobbying hard – to subvert this Bill.

Obviously, environmental groups have to respond. And you are back to your classic – “us” and “them” – rather than people coming together to find a solution to an issue – how to stop spills.

Have we not learned anything over the years? What happened to “Choose Change”, we need to work together to clean up our environment. We need to establish better working relationships – regulatory agencies, industries being regulated and communities. How can we make sure that the proposals are bringing bad actors into compliance?

As well, environmental groups want the Bill strengthened. Facilities should have pollution prevention plans and should report on how they are doing. Where is consideration of extending coverage to non-MISA facilities?

The public has a right to know what is happening to the air they breathe, the water they drink, and to the land where they live, play and grow their food.

But above all, the Ministry of Environment needs to have the financial resources so that it can enforce its current legislation. We are pleased to see an increase for the MOE in the recent budget.

Mr. Chair, I think the main message I want to leave with you today is that the Ministry of Environment has been starved of resources. Environmental legislation has not been enforced and spills have increased. The polluter must pay.

The citizens of Ontario want the Minister to take action to stop spills. Our health, the environment and our grandchildren's future depends on action by this government.

I wish you every success in your deliberations.

Thank you, Mr. Chair.