

Ontario's Environment and the Common Sense Revolution :

A Four Year Report

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September 1999

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Printed in Canada.

Acknowledgements

The Canadian Institute for Environmental Law and Policy would like to thank the Joyce Foundation for their contribution to this project.

The authors would like to thank those who contributed to this effort by way of writing, reviewing, editing or providing advice : Anne Mitchell, Jack Gibbons, Jan Rabantek, Carla Roche, Cristina Giannetas and Neil Kumar.

Also, thanks go to individuals from the following organizations: the Toronto Environmental Alliance, the Canadian Environmental Law Association, the Sierra Legal Defense Fund, an Algonquin Wildlands League. Many government departments and agencies from the municipal to the federal level assisted by providing data and information as well.

The authors assume responsibility for the views expressed in this paper and responsibility for any inaccuracies or misconceptions that may arise.

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ISBN 1-896588-38-7

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INTRODUCTION

This report describes and analyzes the changes to Ontario's environmental laws, policies and institutions that took place over the four-year period from June 1995 to June 1999.

A new government of Ontario was elected on the basis of a platform entitled the 'Common Sense Revolution' in June 1995. The same government was elected for a second term in June 1999. The government's June 1995 platform made no mention of the environment or natural resources. There was only an indirect reference to the "appointment of an arms-length commission on red tape to review all current regulations affecting business. Any regulation that can't be justified will be eliminated within 12 months of a Harris government taking office."¹

During the 1995 election campaign, the Progressive Conservative Party indicated its intention to repeal a number of the previous government's environmental initiatives, including a ban on new municipal waste incinerators, and reforms to the land-use planning process.² At the same time, the Party committed itself to "work with organizations and communities to improve our provincial parks system and work toward the World Wildlife Fund's Endangered Spaces Campaign goal of completing a system of protected areas by the year 2000."³

The four years following the June 1995 election were marked by a dismantling of environmental laws and institutions without precedent in the province's history. The government of Ontario's environmental policies during this period were structured around three core themes:

regulatory "reform" in the guise of sweeping amendments to virtually every statute in the province dealing with environmental protection or natural resources management;

enormous reductions in the budgets and capacity of provincial and local agencies charged with the protection of the province's environment and natural resources; and

an extensive restructuring of roles and responsibilities between the province, municipal governments, and the private sector.

Regulatory 'Reform'

Between 1995 and 1997, major amendments were made to every significant provincial statute related to environmental protection or natural resources management, with the exceptions of the *Environmental Bill of Rights* and the *Power Corporation Act*. These 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.

The pace of legislative change slowed significantly in the government's third and fourth years. This was partially a result of the fact that many of the province's environmental and natural resources statutes had by then been amended to grant the cabinet or, in some cases, individual ministers, virtually unlimited authority to act through regulations.

However, there were a number of significant new legislative initiatives over the third and fourth years of the government's mandate. In December 1997 the government enacted the *Development Charges Act*. The Act limited the degree to which municipalities could require developers to internalize the costs of the infrastructure to serve new developments. This effectively required municipal governments to subsidize urban sprawl. Bill 146, the *Farming and Food Production Protection Act* was enacted in May 1998. This legislation provided a mechanism through which municipal by-laws intended to control environmental nuisances arising from 'normal' farm operations could be overturned in response to complaints by farmers.

October 1998 was marked by the passage of Bill 35, the *Energy Competition Act*. The Bill is intended to introduce competition into the electricity market in Ontario and divided Ontario Hydro into a number of entities including: the Ontario Electricity Generation Corporation with the utility's generating assets; the Ontario Hydro Service Corporation to operate Ontario Hydro's transmission and distribution infrastructure; and the Ontario Hydro Financial Corporation to hold Ontario Hydro's debt.

The Act provided for the incorporation of the Service Corporation and Generation Corporation under the *Business Corporations Act* as private corporations held by her Majesty in the right of Ontario. Among other things, this arrangement permitted the Generation Corporation and the Services Corporation to escape the requirements of the *Freedom of Information and Protection of Privacy Act* and other statutes and accountability mechanisms that normally apply to public entities.⁴

The Bill also created an Independent Market Operator (IMO) to operate the competitive market and provide the Ontario Energy Board with a regulatory function through requirements for licensing as a condition of market access. The Act made provision for the requirement of electricity suppliers to be in compliance with environmental performance standards as a condition of market access, but made no provision regarding the nature of these standards. Major concerns have been raised that unless specific measures to control emissions from new sources of supply are adopted, the introduction of competition into the electricity sector will result in major increases in air pollution.⁵ The extension of the application of the *Environmental Assessment Act* to the operations of some of Ontario Hydro's successor companies was announced in May 1999.

In December 1998 Bill 25, *The Red Tape Reduction Act*, an omnibus bill similar to the January 1996 Bill 26, *Government Savings and Restructuring Act*, was enacted. The Bill amended more than a dozen natural resources statutes: permitting the delegation of decision-making authority, over a wide range of activities on public lands, and affecting lakes and rivers, to "any person;" removing requirements for conservation authority approvals of aggregates extraction; and, facilitating the sale of public lands. Schedule 'C' of the Act, *Statute and Regulation Revision Act, 1998*, made provision for the adoption of revisions to statutes by the Chief Legislative Council, without approval by the Legislature.

Bill 82, *An Act to Strengthen Environmental Protection and Enforcement* was also enacted in December 1998. The Act introduced administrative monetary penalties for offenses under the *Environmental Protection Act*, *Ontario Water Resources Act* and *Pesticides Act*, and strengthened the penalty and enforcement provisions of the Acts. A second Omnibus 'Red Tape Reduction' bill, Bill 101, which would have made amendments to seven natural resources statutes, including the *Niagara Escarpment Planning and Development Act*, died on the Order Paper with the end of the Legislative session at the end of the year.

The Ministry of the Environment presented proposed 'revisions' to its environmental regulations in July 1996.⁶ These affected almost every regulation administered by the Ministry, and proposed to remove a wide range of environmental protection requirements, including elements of the Municipal-Industrial Strategy for Abatement (MISA) industrial water pollution control program, and controls on the management of hazardous wastes. The Ministry's proposals were re-iterated in November 1997,⁷ although some proposed changes to air pollution control regulations were dropped. Specific proposals regarding the province's municipal solid and hazardous waste management regulations were presented by the Ministry in June 1998.⁸

In September 1998, the Ministry of the Environment proceeded with the implementation of the first "Approval Exemption Regulations" (AERs) for a range of air and water pollution related activities. Under these regulations specified activities are exempted from the approval requirements of the *Environmental Protection Act* and *Ontario Water Resources Act*. "Standardized Approvals" (SARs) which allow activities to take place without Ministry approval, subject to specific conditions, have been proposed as well. Major revisions to the pesticide regulation system were adopted in August and September 1998.

For its part, the Ministry of Natural Resources removed approval requirements for most activities on public lands in November 1996. Approval requirements for many undertakings affecting waterways were also removed at that time. Self-monitoring and regulation systems have been adopted by the Ministry for the aggregates, petroleum, forestry, commercial fisheries and fur industries and proposed for the baitfish industry.

The impact of the government's changes to environmental legislation, such as the *Environmental Assessment Act* are becoming increasingly apparent. This has been especially clear in the area of approvals for waste management facilities. Major undertakings, such as the Taro industrial waste landfill in Stoney Creek, approved in July 1996, and the expansion of the province's only commercial hazardous waste landfill in

Sarnia in September 1997, have been approved without public hearings before the Environmental Assessment Board. The scope of the review of other large scale projects, such as the Adams Mine Landfill in Kirkland Lake, approved in August 1998, has been significantly curtailed.

Budgetary and Personnel 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 government's May 1999 budget indicates that, by the end of the 1998/99 fiscal year, the Ministry of Environment and Energy will have lost 38% of its operating budget and 93% of its capital budget,⁹ as measured against its actual budget for the 1994/95 year. These losses are outlined in Tables 1.1, 1.2 and Figures 1.1(a), 1.1(b). Figures provided by the Ministry indicate that staffing levels fell from 2208 to 1494 over the period 1994/95 to 1997/98, a loss of 32%.

The Ministry's operating budget has recovered slightly from the low of the 1997/98 fiscal year, at which point it had fallen by 45% against the 1994/95 year. The slight increase in expenditures for the 1998/99 fiscal year reflected the costs of the "Drive Clean" program, and the establishment of a \$10 million fund for "analysis of the critical issues that climate change presents for Ontario's environment and economy."¹⁰

The operating budget of the Ministry of Natural Resources shows a rise of 9% over the period 1994/95 to 1998/99, while its capital budget will fall by 44%, as illustrated in Tables 1.1, 1.2 and Figures 1.1(a), 1.2 (b). However, the apparent increase in the Ministry's operating budget is a result of one-time, in-year, funding approvals in the 1998/99 fiscal year. These included: additional fire-fighting resources (\$70M); the Living Legacy program (\$30M); and commercial fisheries licence buy-outs on the Bruce Peninsula (\$14M). The government's May 1999 budget shows a planned continuing decline in the MNR's budget to \$364M for 1999/2000, the lowest level since 1994/95, and a reduction of 24% against that year. The Ministry's staff declined from a total of 6,639 in 1994/95 to 4,643 in 1997/98,¹¹ a loss of 30%.

In its 1998 budget, the provincial government stated that it intended to increase spending on environmental matters by \$35 million over the next four years. This was to include \$20 million for land acquisition in the Niagara Escarpment and other sensitive

Figure 1.1 (a)

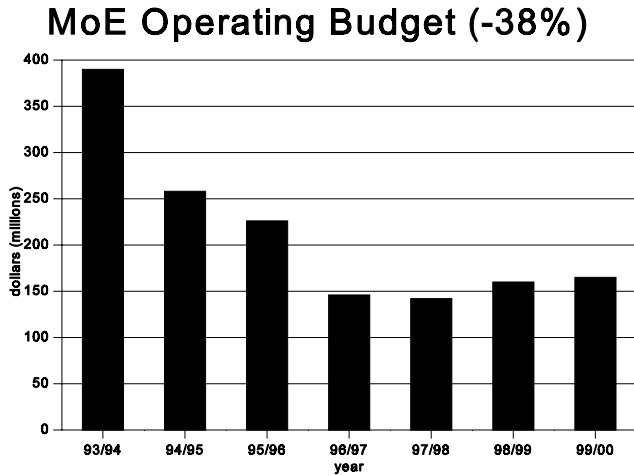


Figure 1.1 (b)

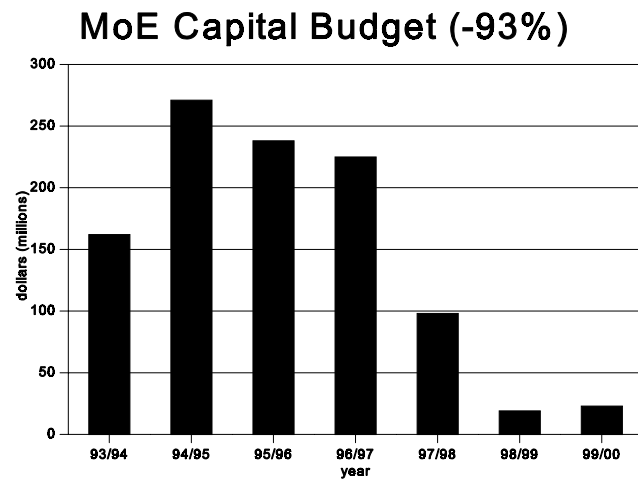


Figure 1.2 (a)

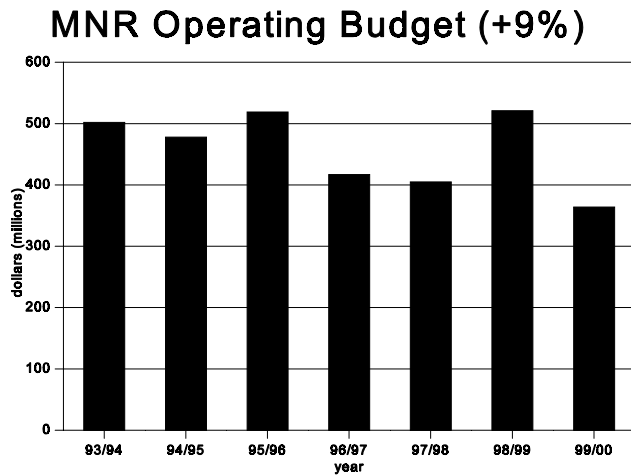


Figure 1.2 (b)

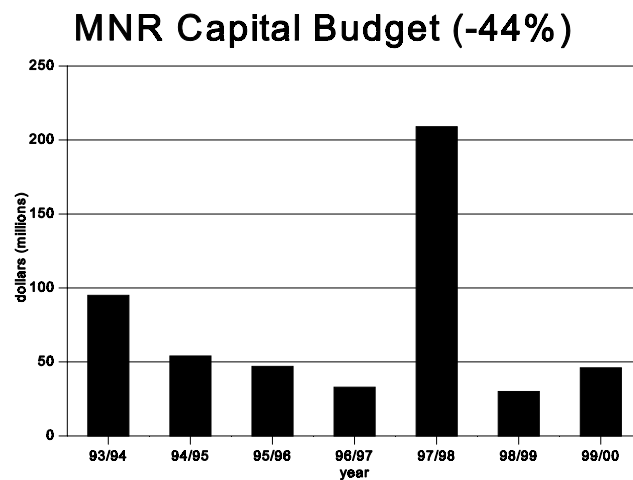


Table 1.1 : Operating Expenditures - Select Ministries 1994/95 to 1999/00 (in millions \$)							
Ministry	1994/95	1995/96	1996/97	actual 1997/98	interim 1998/99	plan 1999/00	Change: 94/95 to 98/99%
Agriculture, Food & Rural Affairs	\$409	\$263	\$324	\$306	\$317	\$365	-22
Citizenship, Culture & Recreation	\$363	\$302	\$282	\$344	\$393	\$393	8
Community & Social Services	\$9,364	\$8,816	\$7,965	\$8,047	\$7,707	\$7,677	-18
Consumer & Commercial Rel.	\$150	\$140	\$123	\$92	\$134	\$126	-11
Economic Dev't, Trade & Tour.	\$463	\$385	\$245	\$194	\$157	\$175	-66
Energy, Science and Technology	\$14	\$13	\$11	\$69	\$334	\$146	2,286
Environment	\$258	\$226	\$146	\$142	\$160	\$165	-38
Health	\$17,599	\$17,607	\$17,760	\$18,284	\$18,925	\$20,173	8
Native Affairs Secretariat	\$16	\$16	\$17	\$10	\$10	\$12	-38
Natural Resources	\$478	\$519	\$417	\$405	\$521	\$364	9
Northern Development & Mines	\$54	\$66	\$52	\$62	\$82	\$127	52
Transportation	\$598	\$1,054	\$879	\$709	\$627	\$539	5

Source: 1999 Ontario Budget, Budget Papers, May 1999

Table 1.2 : Capital Expenditures - Select Ministries 1994/95 to 1999/00 (in million \$)							
Ministry	actual 1994/95	actual 1995/96	actual 1996/97	actual 1997/98	interim 1998/99	Plan 1999/00	Change 94/95 to 98-99 %
Agriculture, Food & Rural Affairs	\$12	\$5	\$0	\$1	\$0	\$0	-100
Citizenship, Culture & Recreation	\$42	\$29	\$9	\$7	\$6	\$16	-86
Community & Social Services	\$72	\$14	\$116	\$51	\$30	\$22	-58
Economic Dev't, Trade & Tour.	\$117	\$113	\$11	\$3	\$2	\$2	-98
Energy, Science & Technology	\$0	\$0	\$0	\$0	\$23	\$17	n/a
Environment	\$271	\$238	\$225	\$98	\$19	\$23	-93
Water Protection Fund	n/a	n/a	n/a	n/a	\$15	\$185	n/a
Health	\$249	\$168	\$175	\$106	\$172	\$504	-31
Native Affairs Secretariat	\$17	\$9	\$13	\$11	\$10	\$12	-41
Natural Resources	\$54	\$47	\$33	\$209	\$30	\$46	-44
Northern Development & Mines	\$240	\$163	\$168	\$173	\$176	\$225	-27
Transportation	\$1,757	\$1,387	\$1,279	\$1,186	\$902	\$824	-49

Source: 1999 Ontario Budget, Budget Papers, May 1999

areas, \$10 million to improve fish and wildlife management, and a \$5 million endowment for a foundation to attract contributions for cleaning up the Great Lakes. However, it is important to note that the budget also indicated that the operating and capital budgets of the Ministries of the Environment and of Natural Resources were to fall by more than \$100 million over 1998/99 fiscal year.

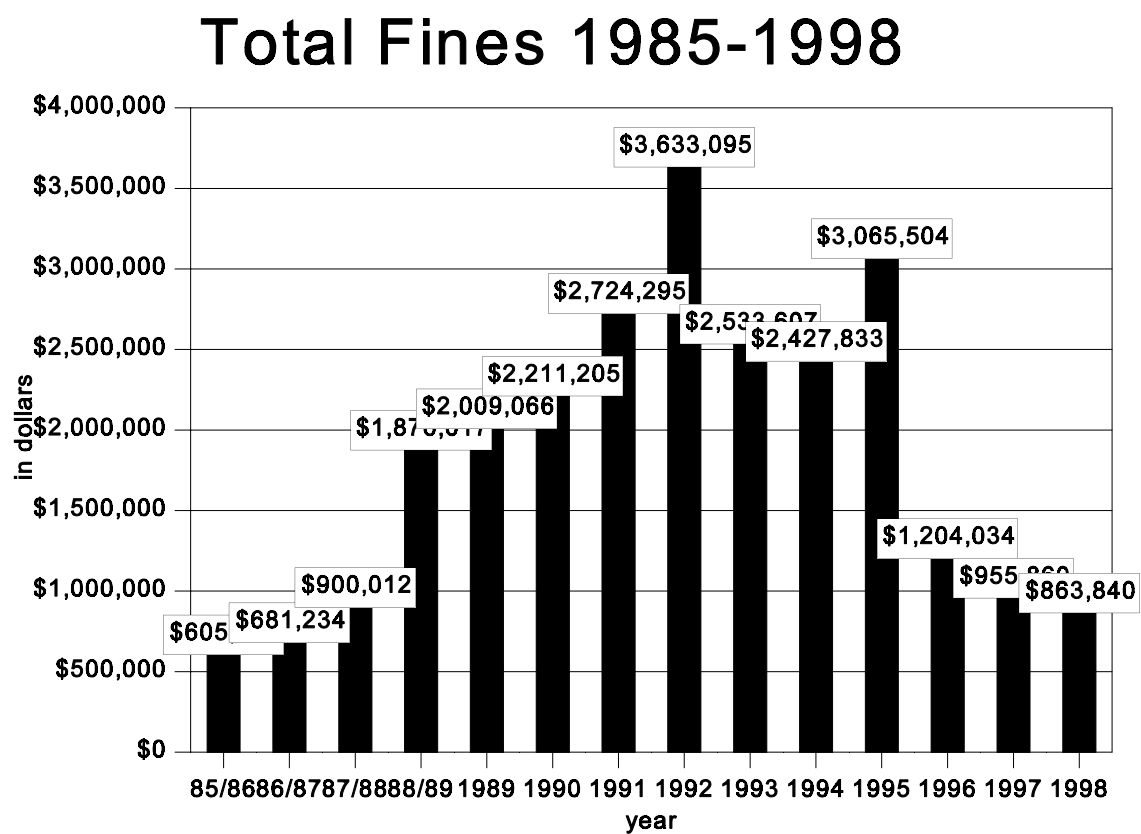
Provincial transfers to municipalities for a range of environmentally related activities, including curbside recycling and household hazardous waste collection programs were terminated in the government's first year in office. The provincial government indicated its intention to withdraw provincial support for sewer and water infrastructure and public transit services in January 1997. However, it stated that it would provide one-time capital grants for sewer and water infrastructure and public transit services during the transition period. 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 approximately 70% of their funding from the province.¹²

The most dramatic evidence of the impact of the budgetary and personnel reductions to provincial agencies is the precipitous decline in their environmental law enforcement activities. This is outlined for the Ministry of the Environment in Table 1.3 and Figure 1.3. The total fines obtained by the Ministry for 1998, the most recent year for which data could be obtained, were \$863,840 - the lowest figure since 1986/87, and less than one third of the total for 1995. Fines fell, in part, as a consequence of the 28% reduction in Investigation and Enforcement Branch staff over the period 1995-1998.

Table 1.3 : Ontario Ministry of Environment Enforcement Activity, 1995-1998

Activity	1995	1996	1997	1998
Total number of Crown Briefs received.	196	143	145	204
Total number of charges against individuals	615	343	491	353
Total number of charges against corporate defendants	430	409	463	452
Total number of convictions against corporate defendants	232	148	215	243
Total fines against corporate defendants (1000s of \$)	\$1,845	\$750	\$760	\$622
Total number of convictions against individuals	280	189	203	171
Total fines obtained against individuals (in 1000s of \$)	\$1,220	\$453	\$195	\$241

Figure 1.3 : Total fines recorded by the Ministry of Environment 1985-98



In February 1999, it was revealed that the Ministry of the Environment had developed a delivery strategy for its operational staff, directing them not to respond to public complaints about a wide range of environmental problems, or to direct such complaints to other agencies and municipalities. Specific examples included problems arising from: activities related to agriculture; construction and demolition; diesel generators; gravel pits and quarries; mobile sources; oil from vehicles; septic systems; boating; sewers; drinking water quality; road salt; inert fill; pop bottles; industrial, institutional and commercial waste source separation; recycling and composting regulatory requirements; tire disposal sites with less than 5,000 tires; litter; abandoned vehicles; inquiries about pesticide use; and residential pesticide use.¹³

A March 1999, analysis of the Ministry's 1996 law enforcement activities by the Sierra Legal Defence Fund indicated that only three of 134 companies and sewage treatment plants that had violated water pollution control requirements had been successfully prosecuted by the Ministry.¹⁴ A similar analysis of air pollution infractions indicated that in 1997 there were 1,224 violations of air pollution regulations, resulting in four charges. In 1998 there were 3,354 violations, resulting in two charges.¹⁵

A number of other incidents over the past two years have indicated serious gaps in the province's capacity to monitor activities which may threaten the health, safety or environment of Ontarians. The most prominent of these occurrences was the four-day long, July 1997 fire at the Plastimet PVC recycling facility in Hamilton.¹⁶ The Ontario Court, General Division's February 1998 decision¹⁷ regarding the Ministry of Natural Resource's failure to comply with the *Crown Forest Sustainability Act* and the Terms and Conditions of the Class Environmental Assessment of Timber Management on Crown Lands, raised similar questions about the management of the province's natural resources. The Ministry's primary defence in the case was that it lacked the resources necessary to comply with the requirements of the Act, and the Terms and Conditions of the Class Environmental Assessment.

Restructuring

The Provincial/Municipal Relationship

A wide range of provincial responsibilities have been transferred to municipal governments over the past four years. The withdrawal of provincial funding for municipally delivered environmental services, including curbside recycling and household hazardous waste collection, and the upgrading of sewer and sewage treatment systems to deal with combined sewer overflows, was announced in the fall of 1995. The 'Mega-week' announcements of January 1997 included the withdrawal of provincial funding for public transit services (approximately \$700 million/yr) and sewer and water infrastructure (approximately \$140 million/yr). The government subsequently announced a series of one-time grants in these areas to deal with transitional issues.

The transfer of responsibility for the operation and maintenance of provincially-owned water and sewage treatment facilities and the regulation of septic systems to municipalities was also announced in January 1997. These steps were provided for

through Bill 107, the *Water and Sewerage Services Improvements Act, 1997*, enacted in May 1997. Responsibility for dealing with odour, noise, dust and other 'nuisance' environmental problems has effectively been downloaded to municipalities as well. This is a result of the adoption of Approval Exemption Regulations for many sources of these problems by the province. The Ministry of the Environment's 'Delivery Strategy' also directed Ministry staff to refer many types of public complaints about environmental issues to municipalities.¹⁸ No additional resources were provided to municipalities to deal with these demands.

Support by provincial agencies for the management of conservation lands, and environmental protection in land-use planning decision-making was withdrawn as a consequence of March 1996 amendments to the *Planning Act*. These amendments also weakened requirements that municipal planning decisions be consistent with provincial land-use policies, and environmental protection provisions within those policies. At the same time, the provincial government did not hesitate to override important or innovative local environmental decisions in favour of particular economic or institutional interests. This included disallowing a vehicle anti-idling by-law enacted by the former City of Toronto,¹⁹ adopting regulations to prevent municipalities from charging product manufacturers or importers for the costs of dealing with their products or packaging through municipal recycling programs²⁰ or imposing deposits on containers sold through the Liquor Control Board of Ontario,²¹ blocking municipal efforts to protect ecologically sensitive areas from aggregates development,²² and establishing barriers to the adoption of municipal by-laws to control the environmental and health impacts of agricultural operations.²³

Finally, the province forced the amalgamation of a number of municipalities against the clearly expressed wishes of their municipal councils and residents. The most prominent example of such actions was the amalgamation of the six municipalities making up Metropolitan Toronto into a single City of Toronto in January 1998.²⁴ In this case, opposition to the province's proposals was stated by all of the affected local councils, and by seventy-six per cent of Toronto residents who voted in a municipally-sponsored referendum on the subject.²⁵

Industry Self-Regulation

The final two years of the government's first mandate were 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 forestry, aggregates, petroleum, brine, commercial fisheries and fur industries which were previously regulated by the Ministry. Parallel arrangements have been proposed for the baitfish industry. A similar system has been under consideration regarding the regulation of the closure of mines by the Ministry of Northern Development and Mines since the enactment of amendments to the *Mining Act* through Bill 26 in January 1996.

In the case of the Ministry of Consumer and Corporate Relations, in May 1997 the regulatory functions of the Ministry related to underground storage tanks, boilers, pressure vessels, fuels, elevators, amusement devices, and upholstered furniture were transferred

to a private organization called the Technical Standards and Safety Authority (TSSA). The Authority's board of directors is dominated by representatives of the industries it is to regulate.²⁶ The Independent Market Operator and Electrical Safety Authority are similar entities created through Bill 35, *The Energy Competition Act, 1998*.

Serious questions regarding the implications of these transfers have been raised by the Environmental Commissioner,²⁷ Provincial Ombudsman,²⁸ and Information and Privacy Commissioner.²⁹ 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, Freedom of Information and Protection and Privacy Act, Ombudsman Act, Environmental Assessment Act*, and the *French Language Services Act* and mechanisms for public and legislative oversight and accountability, such as the Provincial Auditor. Although some of these entities, such as the TSSA, carry out law enforcement activities, it is also unclear whether the *Canadian Charter of Rights and Freedoms* applies to their actions.

Similar issues exist with respect to the successor companies to Ontario Hydro created through the *Energy Competition Act*. The Act provided for the incorporation of the Ontario Electricity Service Corporation and Ontario Generation Corporation under the *Business Corporations Act* as private corporations held by the Crown in Right of Ontario. As private corporations these entities also escape the application of statutes such as the *Freedom of Information and Protection of Privacy Act* that apply to public bodies.³⁰

The Evidence of Harm

The past two years have seen growing evidence of the impact of these changes to Ontario's environmental laws and institutions. Imports of hazardous wastes into the province from the United States, for example, have grown dramatically, rising by a factor of four, from 56,000 tonnes in 1993 to 246,000 tonnes in 1997.³¹ The quantities of hazardous and liquid industrial wastes being transferred off-site for disposal from Ontario sources have also increased sharply, with a 50% growth reported through the provincial Waste Manifest System, from 1.4 million tonnes, to over 2.1 million tonnes, between 1994 and 1997.³² Federal National Pollutant Release Inventory (NPRI) data shows a 92% increase in reported transfers of NPRI reported substances in waste between 1994 and 1996 in Ontario.³³

Air emissions have risen dramatically in Ontario as a result of increased reliance on coal-fired generation as a replacement for electricity supplied by nuclear generating facilities 'laid-up' as part of the utility's Nuclear Asset Optimization Plan (NAOP). Emissions of nitrogen oxides and sulphur dioxide (acid rain and smog precursors), rose 58% and 68% respectively over the period 1996-1998, on an average basis, from Ontario Hydro's coal-fired operations.³⁴ Emissions of particulates and heavy metals from Ontario Hydro facilities have likely increased by similar amount over the same period.³⁵ NAOP was developed in response to reports raising major safety concerns regarding Hydro's nuclear operations.³⁶

The Ministry of the Environment has also noted that: "Improvements in air quality

have levelled off and in some areas particulate levels are rising again. Long-standing particulate problems persist in a number of urban centres.³⁷ In addition, the Ministry has noted an ongoing increase in ground level ozone,³⁸ and an increase in median concentrations of some volatile organic compounds, such as benzene, toluene and xylene since 1995.³⁹

There have also been a significant number of reports, from independent and authoritative bodies, highlighting the extent of the environmental challenges facing the province. These included an October 1998 report from the North American Commission on Environmental Cooperation,⁴⁰ indicating that the province was the third largest source of releases to the environment and transfers to disposal of pollutants in Canada and the United States.⁴¹ As shown in Table 1.4, Ontario's 1995 releases and transfers of pollutants were exceeded only by those of the states of Texas and Louisiana.

Province/ State	Total Releases & Transfers in (kg)
Texas	151,082,326
Louisiana	74,495,761
Ontario	74,278,803
Ohio	71,555,943
Pennsylvania	56,361,058
Alabama	49,861,913
Illinois	49,704,025
Tennessee	48,249,163
Michigan	47,645,356
Indiana	46,399,630
North Carolina	41,490,654
Florida	35,686,897

Table 1.4 - Largest sources of NPRI / TRI substances in North America - 1995

Other reports from the Commission on Environmental Cooperation,⁴² Environmental Commissioner for Ontario,⁴³ Ontario Medical Association,⁴⁴ International Joint Commission,⁴⁵ the Acidifying Emissions Task Group of the National Air Issues Coordinating Committee,⁴⁶ the North East States for Coordinated Air Use Management,⁴⁷ and the University of Toronto⁴⁸ have stressed the province's air pollution problems and their impacts on human health.

A report by the Office of the Fire Marshal in the aftermath of the July 1997 Plastimet PVC fire raised serious questions about the adequacy of the province's regulation of waste 'recycling' and handling sites.⁴⁹ Similar issues were identified by the Canadian Institute for Environmental Law and Policy in a February 1998 report on the management of hazardous wastes in Ontario.⁵⁰ The extent of the gaps in environmental science and monitoring capacity within the province, resulting from budgetary reductions at the provincial and federal levels, is also becoming increasingly apparent.

The Government's Response

Despite a growing body of evidence regarding deteriorating environmental conditions in the province, the government of Ontario's actions to improve environmental protection over the 1995 to 1999 period were extremely limited. Summer gasoline volatility limits were lowered in February 1997, an 'interim' Acceptable Ambient Air Quality Criteria (AAQC) for PM₁₀ (particulate matter) was adopted in November 1997,⁵¹ and an 'interim' ban on the approval of new waste oil burning space heaters adopted in March 1998.⁵²

New standards for nine hazardous air pollutants were adopted in December 1998,

although the improvements over existing standards were marginal.⁵³ The Ministry of the Environment stated its intention to phase out the use of waste 'black liquor' (also known as 'Dombind') from pulp mills as a dust suppressant in the same month.⁵⁴ This was agreed to by the company concerned in March 1999. Bill 82, also adopted in December 1998, strengthened the enforcement powers available to the Ministry of the Environment. However, no additional resources were provided to support its implementation.

The government's much publicized 'Drive Clean' vehicle inspection and maintenance program started to become mandatory on April 1, 1999. However, the program will initially be limited to the Greater Toronto Area and Region of Hamilton-Wentworth, and excluded heavy trucks and buses during its first phase.

In January 1999, the Minister of Natural Resources announced the cancellation of the annual spring bear hunt in Ontario. The provisions of the *Fish and Wildlife Conservation Act*, enacted in December 1997 came into force in the same month. The new legislation replaced the *Fish and Game Act*, and provided protection for non-game species, and for wildlife held in captivity. However, the new Act has been criticized for granting excessive discretion to the Minister of Natural Resources, and permitting the delegation of Ministry functions to private individuals and entities.

The government announced its response to the recommendations of the 'Lands for Life' Round Table Reports in March 1999. The 'Lands for Life' process had been established in April 1997 to determine the future uses of public lands in Central and Northern Ontario, an area encompassing 47% of the province's land area. The government stated its intention to protect 12% of the lands in the planning area from development, a significant increase over current levels and the recommendations of the Round Tables, which had been presented in October 1998.⁵⁵

However, this commitment is subject to a number of major concessions to the forestry and mining industries, and other interests. In the case of mining, according to statements issued by the Ministry of Northern Development and Mines, existing mineral land tenure in new parks and protected areas is to be maintained, prospecting and exploration permitted in these areas, and land 'borrowed' from parks for mining purposes if significant mineral deposits are found. More than \$20 million in new subsidies to the mining industry are also to be provided.⁵⁶

With respect to forestry, the government has committed to: no long-term reduction in wood supply; no increases in the costs of the wood supply; potential exemptions for the biodiversity protection provisions of the *Crown Forest Sustainability Act* in areas where intensive silviculture is to be practiced; and \$21 million in new subsidies and compensation to the forest industry.⁵⁷ The issue of extended tenure for forest companies was not addressed in the government's announcements, but extensions of tenure appear to be implicit as a quid pro quo to industry in the 'Lands for Life' process. Statements made by the government indicate any future expansion of parks and protected areas will require the "mutual agreement" of the mining and forest industries.⁵⁸ Finally, commercial fur harvesting and sport hunting and fishing are to be permitted in most new protected areas.⁵⁹

It is important to note that elements the Ministry of Northern Development and Mines' announcements on March 29 regarding mining directly contradicted provisions of the 1999 Ontario Forest Accord, signed by the representatives of the Partnership for Public Lands,⁶⁰ the forest industry and the Ministry of Natural Resources. The Accord stated that mining would be excluded from parks and protected areas,⁶¹ provided for interim protection from mining activities for areas proposed as parks or protected areas,⁶² and stated that the Ontario Forest Accord Advisory Board would develop a strategy for additions to the parks and protected areas system.⁶³

The government's statements regarding mining activities in new parks and conservation reserves were re-affirmed in July 1999, along with its position regarding the continuation of bait fishing, commercial fishing, commercial fur harvesting and sporting hunting in these areas. The government also stated that it would consider the expansion of hunting activities within existing provincial parks.⁶⁴

Intergovernmental and International Environmental Commitments

The enormous reductions in the budgets and resources of the province's environmental and natural resources agencies have had a major impact on the province's ability to fulfil its obligations under agreements with other levels of government.

The Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem

In its 1996, 8th and 1998, 9th *Biennial Reports on Great Lakes Water Quality*, the International Joint Commission expressed concern over the effects of the Ontario government's actions on the province's ability to fulfil its responsibilities under the 1994 *Canada-Ontario Agreement Respecting the Great Lakes Ecosystem Basin* (COA).⁶⁵ The Agreement is the primary instrument for the carrying out of Canada's obligations under the Canada-U.S. *Great Lakes Water Quality Agreement*.

An assessment of the performance of the Parties to the Agreement published by the Canadian Institute for Environmental Law and Policy in March 1999 concluded that "it is clear that most of the goals and objectives in the Agreement will not be met by the time of its expiry in March 2000."⁶⁶ The report highlighted the impact of budgetary reductions to agencies and programs essential to the fulfilment of Ontario's obligations under the Agreement, including the lay-off of the Coordinators for many of the provincially-led Remedial Action Plans for Areas of Concern identified in the *Great Lakes Water Quality Agreement*, in January 1997. The report also noted that the Ministry of Natural Resources had disbanded its Great Lakes Branch, and that there was no mention of COA or Great Lakes commitments in the Ministry's current Business Plan.

Fisheries Act Enforcement

In September 1997 the Ministry of Natural Resources terminated its enforcement of the habitat protection provisions of the federal *Fisheries Act*, on one month's notice to the federal government. The Ministry had responsibility for the enforcement of these

provisions of the Act under an arrangement with the federal Department of Fisheries and Oceans. The enforcement of the Act was also a commitment contained in the *Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem*.

In May 1998, a report by the House of Commons Standing Committee on Environment and Sustainable Development described the Ontario government's action in this regard as leaving a "huge hole"⁶⁷ in the protection of fish habitat, such as streams and wetlands, in the province. In September 1998, eight federal fisheries officers and one supervisor were assigned to Ontario on a temporary basis to enforce the habitat provisions of the Act. Over the summer of 1998, only one official, based in Yellowknife, had been left responsible for the enforcement of the Act in the province.⁶⁸

Blocking National Initiatives on Acid Rain, Smog, Sulphur Content of Gasoline and Climate Change

Despite the Government of Ontario's repeated statements that reducing air pollution was its priority environmental issue,⁶⁹ the province took steps to block a number of major intergovernmental initiatives on the subject. Ontario's representatives played a central role in undermining the consensus on the National Air Issues Coordinating Committee's Acidifying Emissions Task Group in favour of additional action to reduce emissions that cause acid rain.⁷⁰ The Task Group's report indicated that a 75% reduction in permitted levels of acidifying emissions in Eastern Canada was required to halt the continuing damage to water bodies and human health.⁷¹ A Canada-Wide Acid Rain Strategy was agreed to by the federal and provincial energy and environment ministers in October 1998.⁷² However, it contained no specific targets or timetables for reducing acidifying emissions.

The province played a similar role in halting the development of a National Smog Management Plan. Efforts towards the development of the plan were stalled in the summer of 1997 when Ontario and British Columbia indicated that they would be unable to prepare and consult on their Regional Smog Management Plans prior to the fall 1997 joint energy and environment ministers' meeting.⁷³

In November 1998 it was revealed that the Ontario Ministers of the Environment, Economic Development and Trade and Transportation had written to the federal Minister of the Environment, opposing a federal initiative to dramatically lower the sulphur content of gasoline sold in Canada.⁷⁴ The government of Ontario had publicly stated its support for the federal initiative.⁷⁵ Gasoline sold in Ontario has one of the highest sulphur content levels in the world.⁷⁶

Ontario representatives have also sought to block progress on the development of any specific conclusions or recommendations in the issues tables established by the federal government to develop an implementation strategy for Canada's obligations under the Kyoto Protocol under the Framework Convention on Climate Change.⁷⁷ In addition, there are indications that the \$10 million for analysis of climate change issues announced in the May 1999 budget may be used as to develop a defence against actions the federal

government might request that Ontario undertake as a consequence of Canada's Kyoto commitments.

Environmental Education

One of the most significant, and least noticed, environmental initiatives of the government has been the changes to province's elementary and secondary school curricula. In April 1998 the government adopted a new elementary school curriculum. The environmental content of the new curriculum was significantly reduced. An evaluation of the new curriculum by the Ontario Society for Environmental Education concluded that its environmental content averaged less than five percent of learning outcomes for all grades except Grade 7. The Society concluded that there are few and only fragmented requirements for awareness or knowledge building on environmental subjects in lower grades.⁷⁸

A new secondary curriculum was adopted in March 1999.⁷⁹ Its environmental content has also been reduced. These changes to the elementary and secondary school curricula may represent one of the most important changes in environmental policy undertaken by the province, as in the long term it will result in a population that is less aware of the environmental challenges facing Ontario society.

The Structure of this Report

This report is divided into three sections. The first is this introduction. The second consists of brief overviews over the past four years in the following areas: Environmental Bill of Rights & Public Participation in Decision-Making; Environmental Assessment & Approvals; Standards Setting & Regulatory Processes; Land Use Planning; Environmental Science, Monitoring And Education; Air Quality; Waste Management; Water; Energy; Pesticides & Agriculture; Forestry; Wildlife, Wilderness and Protected Areas; Fisheries and Fish Habitat; Mineral Aggregates, Petroleum Resources and Brine Industries; Mining; Transportation; Underground Storage Tanks, Boilers and Pressure Vessels. The final section is an overall conclusion, summarizing the key events and their implications for the future of Ontarians and the quality of their environment.

A complete chronology of environmental events and changes to Ontario environmental laws, regulations and policies between June 1995 and June 1999 is included in Appendix A.

Recommendations for the reform of environmental laws, policies and regulations presented by the province's environmental community through the Environmental Agenda for Ontario Project, are presented in Appendix B.

Endnotes

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