CHAPTER 5. ENFORCEMENT: THE NEW SWAT TEAM

I. Introduction and Background: A Short History on Environmental Compliance and Enforcement in Ontario — Found, Lost, Found

In recent years, there has been increased international recognition of the importance of compliance and enforcement measures in achieving environmental management goals and objectives. The 1992 United Nations Conference on Environment and Development ("Rio Conference"), for example, emphasized this importance when it stated that:

> "Laws and regulations are among the most important instruments for transforming environment and development policies into action….It is essential to develop and implement enforceable and effective laws and regulations that are based upon sound social, ecological, economic and scientific principles. It is equally critical to develop workable programs to enforce compliance with the laws, regulations, and standards that are adopted….Each country should develop strategies to maximize compliance with its own laws and regulations. These strategies should include sanctions which are designed to punish infractions, obtain restitution and deter future violations. Methods for regularly reviewing compliance and for deterring violations must be implemented."[1]

Similar aims may be found in the North American Agreement on Environmental Cooperation (sometimes known as the Environmental Side Agreement to NAFTA) signed by Canada, Mexico and the United States in 1993. Each party to the agreement must achieve "high levels of environmental protection and compliance" with their respective environmental laws and regulations.[2] The agreement also obliges the parties to effectively enforce their respective environmental laws and sets out a non-exhaustive list of actions that may be deemed to constitute effective enforcement.[3]

These various international initiatives have reinforced interest at the national and sub-national level in ensuring compliance and enforcement with domestic environmental laws. In Canada, both the federal and provincial governments have developed the concepts of "compliance" and "enforcement" at the policy level. In general, "compliance" has been defined as "the state of conformity with the law." Measures that governments use to ensure compliance include written and verbal communication, consultation, monitoring, inspection, data review and enforcement. In general, "enforcement" has been defined as "activities that compel offenders to comply with their legislative requirements." Enforcement activities can include investigation of alleged violations, imposition of corrective measures, administrative responses to compel compliance and prosecution.[4]

In light of the above, the thesis of this chapter is very simple. In the decade before the current government took office, Ontario had developed a reasonable program of environmental compliance and enforcement under three different provincial governments. With the advent of the Conservative government, environmental compliance and enforcement efforts went into a — some would say rapid and precipitous — decline. As a result of a number of recent events — some insidious, some calamitous — the government has rediscovered the value of environmental compliance and enforcement efforts. The Soil, Water, Air Team (SWAT) is the name the government has given to its renewed effort to become active in environmental compliance and enforcement. The questions that linger are how effective is this initiative, how long will it last, and what about the rest of the Ministry of the Environment (MOE) — when will it be rediscovered?

II. Environmental Compliance and Enforcement Pre-SWAT: What We had Before We Lost it and Got it Back Again

The early 1980s in Ontario stand as an interesting parallel to what is occurring in the province two decades later with the advent of SWAT; a rediscovery of the value of effective environmental compliance and enforcement. In the last years of the Davis government, the province undertook a number of significant measures to improve compliance and enforcement efforts. These initiatives were carried on and expanded by both the Peterson and Rae governments. In retrospect, the years 1985-1995 stand out as a period of relative prosperity in terms of environmental compliance and enforcement initiatives compared to what occurred post-1995.

A. Before the Conservative years: Ten years of progress

1. Compliance

Effective compliance often is a function of the clarity and specificity of approvals issued to the regulated community under environmental laws. The more specific the legal obligation is on the regulated entity, the easier it is for the regulator to observe whether the entity is complying with the provision. Specific conditions of approval are also easier to enforce. However, historically the province appears to have preferred an approach to environmental regulation that favoured granting both the regulated and the regulator flexibility on how compliance with approvals would be achieved. The hallmark of this flexibility was the view held within the Approvals Branch of the MOE that implied conditions were sufficient to justify issuing an approval and ensuring compliance by a holder of an approval within the overall framework of the law.[5] In practice, this often meant that certificates of approval issued under provincial environmental laws contained few or no conditions.[6]

Beginning in the early to mid-'80s, Ontario began revising its approach by imposing express conditions in environmental approvals issued in areas as diverse as water, sewage, landfill sites and related areas.[7] A number of factors helped bring about this change in MOE's approach.

First, the public was beginning to demand greater compliance with, and enforcement of, provincial environmental laws than had been the case in the 1970s.[8] Second, there was the view held by MOE district offices (responsible for inspecting and monitoring compliance with approvals) and the Legal Services Branch that it was more difficult, if not impossible, to assure effective compliance and enforcement in the absence of express conditions in certificates of approval.[9]

Third, the courts were expressing the opinion that all of the foundation material underlying an application for a certificate of approval dictated the scope of the approval and therefore should be expressly mentioned or incorporated by reference into the approval or the courts would do so. Accordingly, the courts were unwilling, for example, to uphold the legality of disposal of hazardous wastes not expressly applied for by applicants for a non-hazardous waste site approval. Applications for approvals that did not specify what specific types of wastes could be accepted by a non-hazardous waste site also had the effect of circumventing preventive measures such as public hearings that otherwise would be required if hazardous wastes were known to be included as part of the application. In addition, compliance and enforcement efforts were made more difficult where there was uncertainty about what waste types were permitted at a facility.[10]

Fourth, the change in government in 1985 may have had the effect of accelerating the movement to add conditions to approvals in order to increase and improve environmental compliance, though this is not entirely clear.[11]

Also during this period, the powers of inspection for purposes of administering the province's environmental laws increased dramatically to reinforce the emerging legal and policy developments noted above.[12]

Overall, this change in thinking during the 1985-95 period helped to significantly improve MOE's

definition of what constituted compliance[13] and its ability to assess and obtain compliance by the regulated community.[14] These factors also contributed to the effectiveness of new enforcement initiatives during the period (discussed below).

2. Enforcement

Commentators on environmental enforcement in Ontario in the late 1970s through to the early 1980s paint a similar picture that dovetails with the prevailing situation described above regarding compliance. According to Dianne Saxe, a former MOE prosecutor and now a lawyer in private practice:

> "Environmental prosecutions received very little emphasis in the 1970s and early 1980s. For more than a decade, regulators concentrated on administrative remedies, almost to the exclusion of prosecution. As late as 1984, the Province of Ontario launched only 54 prosecutions despite large numbers of known breaches. By 1985, environmental regulation which concentrated almost exclusively on negotiation and administrative remedies had proved to have limited effectiveness."[15]

Accordingly, the factors that drove improvements in MOE compliance initiatives in the early to mid-'80s also were factors with respect to enforcement. In 1980, senior management at the MOE made key decisions to create a number of specialists to assist in the enforcement of environmental laws and regulations. In late 1980, MOE created a Special Investigations Unit (SIU), whose 13 members were trained at the Ontario Police College. By 1984, MOE was looking into the establishment of a branch of the ministry to investigate and enforce environmental laws in the province. In 1985, Susan Fish, the last Minister of the Environment in the Davis government, announced that the province would establish a "world class" Investigations and Enforcement Branch (IEB) consisting of approximately 65 investigators in addition to support staff.[16]

By 1985, with the inception of the IEB, the MOE became increasingly enforcement oriented and the number of prosecutions increased dramatically from this year forward. The IEB had more staff that had obtained police training and were more experienced in conducting investigations and preparing Crown Briefs on a full-time basis. This compared with the situation in the early 1980s where the SIU and the abatement sections of MOE district offices were involved in prosecutions only on a sporadic basis.[17] Also during the post-1985 period, the powers of provincial officers investigating an offence were increased, the liability of officers and directors was expanded, and higher fine levels were adopted under Ontario environmental laws.[18]

If statistics on fines alone tell the enforcement story, there was a steady increase in fines obtained by MOE from the period 1985-86 ($600,000) to 1992 (over $3.6 million). After a drop in fines obtained for two years 1993-1994 ($2.5 million in fines on average each year), fines again increased in 1995 (to just over $3 million). In the five-year period ending in 1995, total fines obtained from enforcement actions averaged between 300-500 per cent higher each year when compared to 1985 levels.[19]

Indeed, a survey of corporations in this period conducted by Saxe identified the broader impact of this increase in enforcement activity on the behaviour of the regulated community. The survey provided:

> "empirical evidence to support the decision of environmental regulators to give greater emphasis to prosecution, both of corporations and of their officers and directors. The survey indicated that corporations which have been prosecuted report allocating significantly more of their resources to environmental protection than do corporations which have not been prosecuted."[20]

What is perhaps equally important is that a permanent "enforcement culture" appeared to have been established within MOE[21] reflected in such ministry publications as *Offences Against The Environment*, which annually summarized statistics and trends in the enforcement of provincial environmental laws.[22]

B. Since 1995: A period of famine?

1. Compliance

The arrival of the Conservative government in 1995 signaled a sea change in MOE compliance philosophy, with many practices reverting back to the pre-1985 situation. In previous reports, CIELAP has documented in painful detail many of these changes, including deep cuts to the MOE budget, professional and support staff,[23] legislative amendments to streamline approvals or deregulate certain areas of activity,[24] and an emphasis on voluntary compliance measures as a substitute for governmental compliance initiatives.[25]

Two recent reports illustrate the cumulative effect of these initiatives on the adequacy of environmental compliance in Ontario. The first report is the 2000 Annual Report of the Provincial Auditor of Ontario.[26] The second is the 2000-2001 Annual Report of the Environmental Commissioner of Ontario.[27]

Reporting in December 2000, the Provincial Auditor noted several key compliance-related problems with the MOE's Operations Division, which is responsible for administering approvals, inspection and enforcement matters in the province.[28] First, the Provincial Auditor found that the MOE's systems were inadequate for assessing whether and to what extent the over 220,000 certificates of approval issued under provincial environmental laws since 1957 needed to be updated with new conditions and requirements. The number of existing certificates, and the almost 8,000 new certificates issued each year, make it impractical for MOE staff to closely monitor all site operators for compliance with the conditions of their approvals. As a result, MOE did not know the extent to which facilities were not meeting current environmental standards.

Second, the Provincial Auditor found that the costs to MOE of monitoring site operators for compliance can be significant, particularly for large operations. Consequently, the auditor suggested that there was a need to ensure that conditions of approval include self-monitoring requirements so that approval holders can report on their performance and demonstrate their compliance to MOE. For example, the province's effluent limit regulations for certain industrial sectors discharging wastewater to provincial waterways, which went into effect in the early to mid-'90s, contain obligations for large operators to test and report to MOE and the public on their effluents in order to ensure compliance with discharge parameters. However, the Provincial Auditor noted that these regulations generally only apply to the largest operators (about 190 in the province), which represent a small number (less than one percent) of the total certificates of approval that have been granted.

Third, the Provincial Auditor found that a reduction in MOE staff of 25 percent over the last four years had contributed to a 34 percent decrease in the number of ministry-initiated inspections conducted per year. The auditor noted that inspections are an important means of assessing a facility's level of compliance with legislative requirements and play a key role in promoting voluntary compliance. Prior to 1996, according to the auditor, MOE had a well-defined process in place for allocating available staff resources to ensure that the types of facilities inspected were based on priorities of highest risk. However, since 1996 inspections have decreased significantly, even in high-risk areas. For example, the auditor noted that from 1995-96 to 1999-2000, MOE-initiated inspections of hazardous and liquid industrial waste sites declined by more than 40 percent (2,000 to 1,190 per year).

Fourth, the Provincial Auditor found a number of discrepancies in MOE's management of inspection activities. These included the following concerns:

- only 50 percent of District offices visited maintained detailed reports on facilities planned for inspection, those actually completed and the results;

- none of the district offices visited maintained documentation on how the MOE's selection criteria had been applied to arrive at the final list of sites planned for inspection; and

- lack of consistency among district or area offices on whether their inspections were con-

ducted on a surprise basis or by appointment with facility operators. The auditor noted that surprise inspections have significant advantages for identifying violations as well as acting as a greater deterrent.

Fifth, the Provincial Auditor found problems with MOE information-tracking systems. For example, the MOE did not have an adequate tracking system to ensure that conditions of approval were complied with. As a result, MOE District offices did not have the information needed to initiate follow-up action, such as sending reminder notices or conducting inspections.

Overall, the Provincial Auditor concluded that the MOE did not have satisfactory systems and procedures in place to ensure compliance with provincial environmental legislation.

Reporting in September 2001, the Environmental Commissioner of Ontario made findings similar to that of the Provincial Auditor on MOE compliance programs, noting in particular that MOE's approach to ensuring compliance with provincial environmental laws is unclear and inconsistent. The commissioner also noted that the province's emphasis on voluntary compliance since 1995 has been less effective than mandatory compliance in achieving environmental goals.[29]

2. Enforcement

The arrival of the Conservative government in 1995 also signaled a sea change in MOE enforcement philosophy and practice. In its previous reports, CIELAP has also documented these changes. In CIELAP's *Fourth Year Report* (issued in 1999), for example, we noted that:

> "…the 1995-1999 period witnessed a precipitous decline in the province's environmental law enforcement activities. The total fines obtained by the [MOE] in 1998, the most recent year for which data could be obtained, were $863,840 - the lowest figure since 1986/1987, and less than one-third of the total for 1995. Fines fell, in part, as a consequence of the 28% reduction in [IEB] staff between 1995-1998."[30]

In last year's *Fifth Year Report*, CIELAP noted that the province had begun to reverse this decline[31] and, according to MOE figures, fines have begun to increase significantly in the last two years (1999 and 2000).[32]

Nonetheless, the overall MOE enforcement situation since 1995 has been a disturbing one as evidenced by recent reports issued by the Provincial Auditor and, more recently, by the Sierra Legal Defence Fund.

In December 2000, the Provincial Auditor noted several key enforcement-related problems with the MOE's Operations Division, which, as noted above, is responsible for enforcement matters in the province.[33] First, the Provincial Auditor noted that for environmental legislation to be effective, MOE needs to be taking enforcement action in an aggressive, appropriate and timely manner when violations are identified, particularly repeat violations. The auditor found that there were instances where provincial environmental officers did not follow-up on violations to ensure that the facility operator had subsequently corrected the deficiency and instances where they had responded inappropriately, such as using voluntary compliance measures when mandatory compliance was required.

Second, the auditor noted that in 1999 the MOE conducted an internal review of the effectiveness of its inspection and enforcement program that revealed concerns similar to the auditor's regarding the inappropriate use of voluntary compliance measures. The MOE internal review determined that in 69 of 100 inspection reports reviewed, violations were identified, including 22 considered significant by the MOE. However, enforcement actions taken included only one control order and no fines or charges. Only one request out of 19 made by environmental officers for facility operators to produce voluntary abatement action plans resulted in receipt by MOE of such a plan.

Third, the auditor also raised concerns that MOE guidelines allowed environmental officers the discretion to use voluntary measures even in cases of significant or repeat violations and in cases where corrective action had not been taken in a timely manner. The auditor noted that MOE's

internal assessment had indicated that approximately one-third of all violations identified were repeat violations. The auditor noted that it is the policy of other regulatory programs to prosecute if a violation found during a routine inspection has been identified on previous inspections.

Fourth, the auditor noted that MOE guidelines require environmental officers to focus their efforts in areas where the greatest environmental and human health benefit can be achieved. The Auditor found that MOE management and staff only considered violations as significant where an adverse effect, such as a spill, was evident. Violations considered minor by MOE included failure to comply with preventive measures outlined in environmental legislation, even though violations of such provisions may increase the risk of extensive damage to the environment and human health. The auditor pointed to the MOE's assessment of its inspection program conducted in 1999 in which 51 of 58 types of violations were considered minor. Violations considered to be minor included: failure to take or report samples of effluent or water quality; use of an uncertified operator; lack of a contingency plan should systems fail; and the operation of water and sewage facilities not in accordance with approval specifications. According to the auditor, however, the violations identified could, depending on the circumstances be significant. An example would be if the facilities were high risk and/or the operators had a past history of violations.

Fifth, the Provincial Auditor found that although fines imposed for violation of provincial environmental laws had averaged $1.5 million per year, in fact, more than $10 million in fines levied over many years remained unpaid. The auditor noted that the significant amount of unpaid fines compromised the extent to which enforcement measures act as an effective deterrent. (Ironically, in November 2000, the government enacted the *Toughest Environmental Penalties Act* (TEPA), which dramatically increased fines for those convicted of violating environmental laws. But if the government is not collecting the fines, how tough on offenders is that?)[34] Overall, the Provincial Auditor concluded that more stringent enforcement is required of provincial environmental laws.

The November 2001 report of the Sierra Legal Defence Fund (SLDF) focused on violations by industrial and municipal wastewater dischargers of provincial water-pollution control laws between 1996 and 1999.[35] The report documented more than 10,000 violations of provincial wastewater laws since 1995, including more than 3,200 violations in 1999 (compared to approximately 700 in 1995). The report also found that MOE laid charges against only six of 168 violating facilities for exceeding wastewater discharge limits in 1999 and only 11 facilities in total since 1995. Given the more than 10,000 violations, SLDF characterized the province's enforcement record as "abysmal" and noted that a program of continued reliance on voluntary action by violators had proven "extremely ineffective."

The SLDF report follows one the group produced in March 1999 in which it found that only three of 134 companies and sewage treatment plants that had violated water-pollution control requirements in 1996 had been successfully prosecuted by MOE. 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.[36]

Overall, there was a litany of changes to MOE enforcement capacity, initiatives and results after 1995. These included the following:

- budget and associated professional and administrative staff cuts;
- greater emphasis on voluntary compliance than on enforcement measures;
- highly fluctuating levels of prosecutions undertaken and of fines obtained;
- systemic failure to address significant and repeat violations;
- lack of supporting information from District environmental officers responsible for abatement, who themselves had suffered significant staff cuts;

- cessation after 1994 of the publication *Offences Against The Environment*;[37]

- forbidding investigators from talking to the media without first vetting questions through the MOE communications branch.[38]

If the above catalogue suggests anything, it is the breakdown of the "enforcement culture" within MOE that had been developing from 1985 to 1995.[39]

III. SWAT: Compliance and Enforcement Rediscovered

Given the battering MOE has taken on a variety of environmental fronts, especially following the events of May 2000 in Walkerton, it was perhaps not surprising that the government would "rediscover" the virtues of compliance and enforcement and respond in some dramatic manner to regain credibility with the public. The government's response was to announce in September 2000 the formation of a Soil, Water, Air Team (SWAT).[40] What follows is a summary of the purposes of SWAT, its record to date, and possible future directions.

A. Where compliance meets enforcement

The government's September 2000 statement announcing the formation of SWAT describes it as a "highly mobile and focused compliance, inspection, and enforcement…team to crack down on deliberate and repeat polluters and ensure they comply with Ontario's environmental laws." The team also was set up as a "separate inspection, compliance, and enforcement unit" within MOE, made up of 65 inspectors, investigators, environmental engineers, environmental-program analysts, scientists and lab technicians. SWAT investigators were to focus solely on the investigation and prosecution of environmental infractions identified by the team's compliance inspectors. The expectation at the time of the announcement was that SWAT would deter those who operate outside the law and improve environmental protection by focusing on areas of greatest concern, such as air, water quality, and hazardous wastes.

Interestingly, in announcing the formation of SWAT, the Minister of Environment (at the time the Hon. Dan Newman) stated that the government: "…will not tolerate companies or individuals who *intentionally* [emphasis added] break Ontario's environmental laws." As the minister (and certainly the MOE) should know, Ontario's environmental laws, with some exceptions, are not based on imposing liability on polluters only if they "intentionally" violate the law. The Supreme Court of Canada since the late 1970s has held that public-welfare legislation, including environmental legislation, establishes offences of strict liability. This means that once the Crown proves the commission of the offence beyond a reasonable doubt, the burden shifts to the defendant to demonstrate that it took all reasonable steps in the circumstances to avoid commission of the offence.[41] This is sometimes described as a "negligence with reverse onus" offence (i.e. once the Crown proves that the defendant did the act, the burden shifts to the defendant to show that it was not negligent in the circumstances).

Strict liability offences create a much lower standard of proof for the Crown to meet when protecting the public welfare. Indeed, without such a seminal development in the law, it is unlikely that environmental offences could ever be effectively dealt with in our courts since it would often be nearly impossible to prove the intent of the accused. The point of public-welfare type legislation, including environmental legislation, is to prevent damage to society's interests from a myriad of commercial or industrial activities. Usually only the most heinous of crimes (e.g. those found in the *Criminal Code of Canada*) require that the Crown prove that the accused "intend," or was "reckless" or "willfully blind" to the fact that its conduct would result in the act that is the subject of the offence.

By May 2001, the province had yet another Minister of the Environment, the Hon. Elizabeth Witmer, and yet another statement on the SWAT program. In a statement to the legislature, Ms. Witmer advised that the SWAT team would be a permanent unit within MOE.[42] In June 2001, the Minister re-affirmed this position.[43]

What is perhaps most important in the creation of the SWAT team is a recognition by the government that compliance and enforcement must work in tandem to protect the public interest.

B. The record so far

Despite the great fanfare that accompanied the September 2000 announcement establishing the SWAT team, information on what it has accomplished had been comparatively thin up until the fall of 2001. In late 2001, the MOE established a website on the activities of the SWAT team that has filled out the picture somewhat.[44]

In June 2001, Minister Witmer stated that the SWAT team operated by "strategically targeting sectors of concern." The Minister's June 2001 announcement noted that the SWAT team had conducted a "blitz" of 38 septic haulers in which the team found numerous infractions including: lack of vehicle markings; operation of septic-waste hauling without a certificate of approval; and improper record keeping. The team handed out 18 tickets under the *Provincial Offences Act* (carrying up to a maximum fine of $500). Two cases of illegal dumping of septic waste were being reviewed by MOE for possible prosecution that could, upon conviction, attract bigger fines under *TEPA*. According to the minister, "this recent crackdown sends a message to septic waste haulers: there will be consequences if you do not meet…environmental obligations."[45] A late December 2001 MOE announcement updating the earlier investigations indicated that the province found "close to a 100 percent non-compliance rate" in this sector and up to seven cases had been referred to the IEB for further review.[46]

In August 2001, Minister Witmer announced the results of the SWAT team's province-wide inspection sweep of the electro-metal plating sector. The team selected and inspected 70 key companies in this sector and found 51 of them — 73 percent — to be in violation of provincial environmental laws. The team found numerous infractions including: improper venting of air emissions; improper storage of waste on site; and possible illegal discharge of waste. As a result, SWAT issued 51 provincial officer orders, 10 *Provincial Offences Act* ticket notices and referred two cases to the IEB for further review and possible prosecution. Minister Witmer noted at the time that the message being sent to electro-metal platers was "non-compliance is unacceptable."[47]

To date, the SWAT team has conducted more than 700 inspections in such areas as pesticide applicators, septic-waste haulers, hazardous liquid industrial and solid waste haulers, electro-metal platers, hazardous-waste transfer and processing facilities, and recycling in the industrial, commercial, and institutional sectors.[48]

In the case of the septic hauling, electro-metal plating and pesticide applicator inspection sweeps, the government has published some general information on compliance and enforcement "outputs" and "outcomes" achieved, including the number of inspections conducted, compliance rates observed and enforcement responses undertaken.[49] What the MOE has yet to provide is more comprehensive information on compliance and enforcement outcomes[50] or resulting improvements in overall environmental quality in these sectors either generally or on a company-by-company basis. An attempt in August 2001 by CIELAP to obtain more comprehensive information about SWAT performance through a *Freedom of Information Act* request was, at the time of writing, unsuccessful. (We have included the questions asked of MOE as part of this chapter.)[51]

C. What the future holds

Since life seems to operate in cycles, perhaps it should not be surprising that environmental compliance and enforcement does so as well. On its face, the SWAT initiative appears to be a tentative first step toward the resurgence of vigorous environmental compliance and enforcement measures in Ontario.

Certainly, MOE front-line staff members believe that the SWAT team has been highly effective particularly because of the commitment of senior management, training, resources and manpower to the program. They contrast the SWAT team with the current unsatisfactory situation in MOE District Abatement offices where environmental officers are responsible for a broad range of issues and therefore cannot develop adequate expertise

in specific areas. MOE front-line staff members would like to see the SWAT team concept formalized and expanded to all aspects of abatement, investigation and enforcement work as well as being fully integrated with District offices. They believe that the result would be specialized groups of officers working in conjunction with investigation and enforcement personnel to take a proactive approach to examination of all priority sectors, including water and sewage.[52]

If SWAT is to move in that direction one of the first things that will have to happen is that members of the team become truly permanent members of the civil service. According to evidence given during the Walkerton Inquiry by a member of the IEB, all members of SWAT are on contracts of two years or less in duration.[53] This hardly squares with Minister Witmer's statement in May 2001 that SWAT is a permanent unit within MOE.

The final issue of concern is that SWAT may be an island of effectiveness in a still largely dysfunctional MOE. The funding and staff cuts that have so devastated the ministry over the last six years have not been restored. Thus the question that remains is, having rediscovered compliance and enforcement as a virtue to be embraced, will the government follow through and recognize that in the long run SWAT by itself is not sufficient or sustainable if the MOE remains a starved remnant of its former self? MOE may have been down so long that SWAT looks like up to the government; but without more resources devoted to the rest of the ministry, it won't look that way to the Ontario public.