

Briefing Note: Managing the Environment: A Review of Best Practices (a.k.a. The Gibbons Report on the Future of the Ontario Ministry of the Environment)

March 2001

Background

In June 2000, Ontario Premier Mike Harris asked Valerie Gibbons, a former deputy Minister of several Ontario Government Ministries, to conduct a management review of the Ontario Ministry of the Environment. The review was part of the government's response to the Walkerton disaster.

The report was tabled on February 7, 2001. The report's release was accompanied by a Press Release from the Premier's Office, indicating the Premier's support for its directions. The following day Dan Newman was replaced by Elizabeth Witmer as Minister of the Environment, as part of a general cabinet shuffle.

The report and its release are central elements of the government's efforts to manage the impact of Walkerton disaster on its political fortunes. In particular, the report lays the groundwork for an extensive restructuring of the Ministry of the Environment's functions which, along with the restructuring and potential privatization of the delivery of drinking water, will likely form the major elements of the government's response to the findings of the O'Connor Inquiry into the disaster. The report's contents are positioned to define the government's approach to environmental issues for the remainder of its current mandate, and if fully implemented would significantly limit the options of future governments, particularly in the area of the Ministry of the Environment's operational responsibilities.

The Report's Contents

General Observations

The report addresses both the horizontal (i.e. cross-sectoral policy) and vertical (operational/pollution prevention and control) dimensions of the Ministry of the Environment's mandate and functions.

The report is remarkable for its ahistorical approach and lack of empirical evidence to support its conclusions or recommendations. The report, for example, identifies problems within Ministry (e.g. lack of capacity for policy development, emerging issue identification, lack of science capacity) but speaks as if this has always been the case, rather than recognizing that there were

capacities that the Ministry had, but have been lost as a consequence of the policy decisions and budgetary reductions of the past five years.

Similarly, the report “discovers” the horizontal nature of environmental policy issues, but fails to recognize that these aspects of environmental policy have been widely recognized in Ontario at least since the late 1960’s. It also overlooks the degree to which the current government has dismantled laws and institutions intended established by previous governments (PC, Liberal and NDP) to address these questions.

The Environment as a Horizontal Policy Issue

The most positive aspect of the Gibbons report is the degree to which it recognizes horizontal nature of environmental policy issues, and acknowledges the need for government wide-engagement on environment and consideration of environmental matters in operational and policy decisions of non-environmental agencies.

This is however, essentially a re-discovery the point realized in late 60’s and early 70’s by the creators of Canada and Ontario’s environmental laws and institutions. In Ontario, this view was most strongly reflected in the Davis government’s 1975 Environmental Assessment Act and the Rae Government’s 1995 reforms to Land-Use Planning Process. Both of these initiatives were significantly weakened by the current government during its first term in office.

The Vertical Dimensions of the Ministry’s Mandate

The report’s proposed directions with respect to the vertical, operational dimensions of the Ministry of the Environment’s mandate are much more disturbing.

In effect, the report proposes a continuation of the Ministry’s current move towards industry self-regulation as per the REVA (Rewarding Environmental Voluntary Action) initiative.

The broadly, although not proposing a immediate transition, the report lays groundwork for the future transfer of Ministry’s operational functions to a special operating agency along the lines of existing Ontario Delegated Administrative Authorities (similar to Alberta Delegated Administrative Organizations), such as the Technical Standards and Safety Authority (TSSA)

However, the report provides no empirical evidence from the comparative cases it examines to support claims that the approaches from those jurisdictions, which it proposes to follow, would actually improve environmental protection in Ontario.

(i.e. has environmental protection improved in jurisdictions such as Massachusetts, New Jersey or New Zealand?)

Suggested Response

In conjunction with other environmental organizations in Ontario addressing this issue, particularly the Canadian Environmental Law Association, welcome the report's acknowledgement of horizontal/cross-sectoral nature of environmental issues.

- Recognize this as re-discovery of something all previous Ontario governments of the modern era (Robarts, Davis, Peterson and Rae) understood about environmental policy
- Highlight the degree to which the current government has dismantled laws and institutions established by previous government to address this dimension of the issue.
- The key test in this area will be in government's ability to translate this recognition into action. The acid test will be around the government's recent proposals for major highway expansions.

Express serious concern re: the report's directions on the operational aspects of the Ministry of the Environment's mandate

- Highlight the degree to which the report fails to present any empirical evidence to support the claim that its proposed reforms would improve environmental protection in Ontario.
- Highlight problems in Ontario and other jurisdictions experiences with the types of reforms proposed.
- The bottom line is that the report does not address the fundamental problem, which is that the Ministry is \$100 million/yr and 1,000 people short of where it needs to be to do its job properly, and no amount of creative management 'restructurings' are going to be able to change this fundamental reality.