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Thursday 26 April 2001

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Jeudi 26 avril 2001

**Standing committee on
public accounts**

Special Report,
Provincial Auditor:
Ministry of the Environment

**Comité permanent des
comptes publics**

Rapport spécial,
Vérificateur provincial :
Ministère de l'Environnement

Chair: John Gerretsen
Clerk: Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Thursday 26 April 2001

Jeudi 26 avril 2001

The committee met at 1030 in committee room 1, following a closed session.

SPECIAL REPORT, PROVINCIAL AUDITOR MINISTRY OF THE ENVIRONMENT

Consideration of section 3.06, operations division.

The Chair (Mr John Gerretsen): Good morning, everybody. I'd like to call to order the meeting of the standing committee on public accounts, dealing with section 3.06 of the 2000 special report of the Provincial Auditor, dealing with the operations division of the Ministry of the Environment.

Good morning, Deputy, and members of your staff. If you could make an opening statement and limit it to 15 minutes, we will then throw it open for questions for the committee members. Go ahead.

Ms Jan Rush: I want to begin by thanking the Provincial Auditor for the 2000 annual report. We see this report as a source of guidance on how and where we can continuously improve how we do our work of protecting Ontario's environment.

I want to assure the members of the standing committee on public accounts that the ministry is addressing all of the auditor's recommendations. We have already made considerable progress. We have moved decisively in several key areas, including: rigorous inspections, self-monitoring and compliance reporting for municipal water treatment plants; a strategic environmental SWAT team; tougher penalties and a renewed emphasis on mandatory compliance; and more comprehensive information management systems.

With the limited time I have this morning, I'd like to focus on what the ministry has done, and will do, to address the following issues: updating of certificates of approval, inspection coverage, resolving violations and managing inspections.

I am joined this morning by Bob Breeze, the associate deputy minister; Carl Griffith, assistant deputy minister, operations division; Dana Richardson, assistant deputy minister, corporate management division; and sitting with us is Wilf Ng, director, investigations and enforcement branch; John Stager, director, environmental SWAT team; Michael Williams, director, environmental assessment and approvals branch; Henry Krupa, director, legal services branch; and Tony Rockingham, director, air

policy and climate change branch. They will be happy to answer any questions you have on these issues or any others raised in the auditor's report.

The auditor has raised a number of issues relating to issuance of certificates of approval.

We are fundamentally changing the way we issue and amend certificates of approval. Our overriding goal is to ensure that certificates are up to date, accurate and, most importantly, complied with.

We are improving our approvals system through our program effectiveness review. The terms of reference for that review have been modified to incorporate the Provincial Auditor's recommendations. The review will be completed later this spring, with implementation beginning in the fall.

We have done extensive research on best practices in other jurisdictions as part of the program effectiveness review. To date, the review team has looked at approval practices in seven other jurisdictions, including the US Environmental Protection Agency, Alberta, Quebec and Michigan.

We are considering a number of options, including periodic reviews ranging from every three to 10 years. Review frequency would depend upon effects on human health and the environment.

We're also looking at expiry dates for certain types of approval, as well as internal auditing and the use of third-party reviews.

By April 2002, we will have media-specific protocols for updating certificates. For example, under the new drinking water protection regulation, approvals for municipal water treatment plants will now be consolidated into a single-site document that we will review and renew every three years.

Another example is our implementation of a comprehensive, site-wide air approvals program. We already have three pilot projects in place at GM, Cooper-Standard Automotive and Rockwell Automation. A protocol for documenting compliance with site-wide air standards was first developed in 1998. Approximately 100 consolidated air approvals were issued in 2000. As of March 1, 2001, any facility applying for a new or amended approval where a contaminant reaches one quarter of its health-based standard or half of its non-health-based standard will be required to consolidate all existing approvals.

A final example is the implementation of a pilot program to promote comprehensive, site-wide approvals and consolidated certificates for waste water. As of this month, any application for a sewage or sewage treatment facility that meets a set of predetermined criteria requires a comprehensive, site-wide certificate of approval.

I should mention here that our integrated divisional system, or IDS, is crucial to our improved system for updating certificates of approval. The IDS is a consolidated database for our operations division, including data on instruments, incidents, inspections, investigation and prosecutions. The first phase of the IDS, which deals with the certificate of approval process, went on-line in October 1999.

Moving on to inspection coverage, the auditor recommends that the ministry explore options and develop procedures for significantly increasing this coverage. We are placing a high priority on increasing our compliance inspection and enforcement activities while maintaining regular baseline inspections.

One of the keys to our enhanced compliance strategy is our environmental SWAT team. The SWAT team has 65 staff, including 30 inspectors. It focuses on problematic companies in targeted sectors of concern. This approach will not only result in a significant increase in the number of companies inspected, but it will also raise the overall level of compliance by Ontario sectors and companies.

The full complement of inspection staff has been hired and the initial three-week training has been completed.

The SWAT team has been conducting sector-based inspections since late fall 2000. To date, more than 70 inspections of hazardous and solid waste haulers, as well as electroplating and metal-plating operations, have been conducted. This has led to 29 ministry-issued field orders.

When in full operation, the environmental SWAT team is expected to carry out more than 1,000 strategically targeted inspections each year.

Our drinking water protection regulation has given impetus to the hiring of 25 new staff to inspect municipal water treatment plants to ensure that all facilities are meeting the requirements designed to protect human health and the environment.

In December 2000, we completed the first round of annual municipal water treatment plant inspections, involving all 659 facilities. This work uncovered deficiencies at 367 plants. We issued 311 orders to take action to assure plants meet our requirements.

The ministry is also reviewing options for enhancing baseline inspections with new technology supports. One area where we're moving ahead is investment in advanced computing and Web-based technologies to increase the productivity and efficiency of our inspections staff.

The ministry's commitment to tough enforcement is reflected in the total number of charges laid, convictions and fines issued in 1999 and 2000. The number of charges we issued increased by 51% in 1999 over 1998

levels. There was a 48% increase between 1999 and 2000. Convictions rose by 48% in 1999 and an additional 26% in 2000. As well, there was a 412% increase in the number of orders issued in 2000; 307 orders were issued in 1999, while 1,265 were issued last year.

The auditor calls on the ministry to improve inspections by better management of information, as well as by ensuring that inspections are consistently planned and conducted.

I should note that the review of the current inspections cycle is an important part of our annual work-planning exercise. It helps us set inspection priorities for the upcoming year.

The environmental SWAT team is adding a strong, strategic component to this work. Together with regional staff, the environmental SWAT team has identified and focused its inspections on high-risk sectors and facilities. This planning led to the 70 inspections I referred to a few moments ago: 30 for hazardous and solid waste haulers and 40 for metal- and electroplating facilities.

To ensure adequate record-keeping and reporting, the ministry has implemented the first of its inspection databases: the interim inspection system for water treatment facilities. This system is part of the ministry's e.NVIRO-NET information management strategy. It allows the ministry to track the progress of inspections, to record findings and to follow up on deficiencies, as well as to generate inspection reports. We are developing comparable systems for all facilities inspected by ministry staff.

Resolving violations complements inspections in our comprehensive compliance strategy. In this regard, the auditor has made recommendations to make our enforcement actions more timely and effective.

The ministry is making significant changes in the way we respond to violations. The recent program effectiveness review of our inspection program identified the need to clarify and reinforce the use of mandatory compliance measures.

In March 2000, field staff were directed to pursue more aggressive use of mandatory abatement actions. This includes field orders specifying actions and completion dates. Between 1999 and 2000, there was a 412% increase in the number of orders issued. Since March 2000, the number of orders issued per month has increased from 20 to 70.

To give further force to our compliance strategy, An Act to strengthen environmental protection and enforcement was passed in December 1998. This legislation gave the ministry enhanced enforcement powers, such as higher fines, greater ability to secure scenes where environmental offences have been committed and authority to use seized property against unpaid fines. All ministry investigators and abatement officers have now been trained in the use of these new enforcement tools.

In November 2000, the Toughest Environmental Penalties Act was passed, increasing fines and jail terms, as well as our ability to deter environmental offenders.

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To ensure appropriate action on violations and more timely follow-up, we use a monthly abatement enforcement activity report. It is produced by our investigations and enforcement branch. The report will serve as an indicator of the percentage of cases being closed expeditiously. A report for the first quarter of 2001 will be prepared in April 2001, based on this abatement/enforcement activity report.

I've just outlined a number of specific actions the ministry has undertaken or will undertake to address the concerns raised by the auditor. We recognize that more needs to be done and that we need to continuously improve the way we do our job, not just in the operations division but throughout the ministry.

With this in mind, the government asked Val Gibbons, a respected management consultant, to examine the way the Ministry of the Environment carries out its work. Ms Gibbons has presented us with a report that outlines the strategic shifts that are necessary to ensure that Ontario is at the forefront of environmental jurisdictions. We are carefully reviewing the Gibbons report to see how we can translate its recommendations into improved environmental protection for Ontario.

I'd like to thank the members of the standing committee for this opportunity to talk about how the Ministry of the Environment has responded to the operations division provincial audit. My staff are happy to answer questions you may have regarding the topics I have just discussed or any other matters related to the recommendations of the Provincial Auditor's report.

The Chair: Thank you very much. We now have about 25 minutes for each caucus, and I'll start with the official opposition.

Mr James J. Bradley (St Catharines): Is all that time to be used at the same time?

The Chair: Whatever you wish.

Mr Bart Maves (Niagara Falls): How many minutes?

The Chair: Twenty-five.

Mr Bradley: Some of the first questions may be general. When the new government took office, it was said by ministry staff that they were told in the regional offices and elsewhere to be business-friendly. Have you rescinded the suggestion that they be business-friendly?

Mr Carl Griffith: I don't recall that particular direction being given. If I could interpret that as, are the field staff to act in a very professional and courteous manner as they are doing their duty, yes, we try to do that. But our job is to go out and do an inspection, and if we find an issue we deal with it in the appropriate manner.

Mr Bradley: The interpretation of some ministry employees was that they were not—to put it in pretty common terms—to hassle polluters but rather to try to cajole them into complying, to seek their co-operation in compliance as opposed to ordering them to comply. That would have been the interpretation of some of the employees in the Ministry of the Environment. Naturally I won't name names, because I don't want the reprisals

against them that I know happen. Regardless of whether your ministry officials say they happen or not, I know those reprisals do happen.

So your suggestion would be that, in fact, that would be an inaccurate interpretation?

Mr Griffith: We do have quite a range of approaches and tools, and we do have compliance assistance approaches where we try to ensure that the environmental requirements are met, and that may be done through negotiation, through a more voluntary approach. We also have more formal and more rigorous mandatory approaches and tools that are available to the staff to apply where they feel it's most appropriate to use different approaches to get compliance.

Mr Bradley: When one looks at the speech from the throne—I don't have it in front of me at this time—and the section that deals with the environment, one could interpret that as saying the government is still on this bent of trying to be one happy family: "Let's seek co-operation with polluters, with those we regulate, as opposed to confrontation." Co-operation seems to be sought instead of confrontation, and rather than constant prosecution and constant investigation, the ministry endeavours to get people to comply through their own volition. Would it be fair to say that could be an interpretation of what we find in the speech from the throne?

Mr Griffith: I'd like, if I may, to pass that question to Bob Breeze, the associate deputy minister.

Mr Bob Breeze: I think what the speech from the throne was referring to is certainly maintaining strong enforcement presence and maintaining the regulations. The research of the Val Gibbons report, in effect, spoke to that, spoke to the need to maintain that strong visibility and credible presence out there. It talked in no way of backing away from that.

What the speech from the throne and the Val Gibbons report speak to is, how do we go beyond that? How do we begin to address the environmental issues out there that cannot be effectively addressed using the traditional command and control? How can we bring tools to the table that will take those minimum standards and get industry to move beyond those minimum standards toward continuous improvement, better end results?

I was part of the Val Gibbons team, and what we found was a striking change going on out there in best-practice jurisdictions. They're bringing a whole range of new tools to the table. The speech from the throne was speaking to all those new tools that we would bring forward.

Compliance assistance: jurisdictions—and the United States EPA are certainly leaders here—recognizing that a lot of small industries don't even know there's a regulation out there or they don't speak English. They need better assistance. There are 1-800 numbers being set up for each of the sectors, whether it's dry cleaning or printing, where a company can phone and can speak to people who can get them plain-language regulations, people who know the language of dry cleaning so they can speak one-to-one so that the dry cleaner knows

there's a regulation, knows how to comply, knows the impacts of the chemicals and knows the technologies that can solve those problems, and that helps them get through to compliance.

It never speaks to backing away on enforcing it, at the end of the day, if they don't comply, because you certainly would go in and enforce it. But providing those kinds of new tools—economic instruments are another example—a much greater reliance on tools that are specifically tailored to the problem at hand but, just to repeat, never backing away from the regulations that are in there and never backing away from the visibility of the inspectors.

Mr Bradley: In practice rather than in theory, is the investigation and enforcement activity of the Ministry of the Environment operating totally and completely without political interference?

Mr Griffith: Yes. The investigations are carried out completely independently.

Mr Bradley: What was the reaction of the ministry when you were involved in the middle of a prosecution—a waste management prosecution of some kind, I think—and a letter came from the co-chair of the Red Tape Commission suggesting that the matter not be proceeded with because the government was going to change the regulation anyway. What was the reaction of the ministry then? How would you deal with a letter of that kind coming forward? I don't know whether the letter went to the court or to the ministry; I can't recall. The chair of the Red Tape Commission carries a lot of weight, because the Red Tape Commission at that time was looking at getting rid of some regulations or modifying some regulations.

Mr Griffith: Is that a hypothetical situation?

Mr Bradley: No, it happened.

Mr Griffith: I'm not familiar with that particular incident, but again I would say that investigations are carried out on the merits of the particular case and the evidence that is discovered, and then through the legal proceeding within the enforcement branch and the interaction with our legal services branch.

Mr Bradley: There were two activities of government going on at the same time, one conflicting with another. The co-chair of the commission, whose mandate it was to get rid of certain regulations or to modify them, saw his mandate as suggesting that the Ministry of the Environment not proceed with prosecution if the law was going to change. A silly example would be that we're not going to have to stop for red lights next week, so we're not going to prosecute this week, because next week you might remove the law on the prosecution of red lights. This seemed to be a similar situation. It was not a catastrophe, but it was nevertheless a prosecution that was ongoing against somebody in violation of a waste management problem. I think you have a note that may provide you with some answer.

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Mr Griffith: Actually, what I was going to do was ask, if I may, Chair—the director of the investigations and enforcement branch could answer that question.

The Chair: Come forward, please, sir. Could you identify yourself, please, for the purpose of Hansard.

Mr Wilf Ng: My name is Wilf Ng. I'm the director of the investigations and enforcement branch. Thank you, committee Chair.

I would like to pick up on what Mr Griffith talked about, the investigation process. The process is independent of any political and external influences. The decision as to whether or not charges should be laid is based on the informed judgment of the investigators. Whether or not the charges should proceed would be at the prosecutorial discretion of the legal counsel. So the process is totally independent and each case would proceed on its own merit. It's not subject to any political interferences or external influences. At the end of the day, the legal counsel would have to decide whether the case would meet the charge-screening criteria before they move it forward. So we do have procedures in place to guide our investigators and legal counsel as to how they proceed on civil charges.

Mr Bradley: My supplementary question to that involves the conflicting branches, if you will, of government, one being the Red Tape Commission, which I have a lot of problems with. As I see it, and it's a subjective view, the enemy of the Ministry of the Environment is the Red Tape Commission. How did your ministry view the Red Tape Commission, at least one of the co-chairs of the Red Tape Commission, interfering in one of the ongoing prosecutions or court cases? You must recall that, I would think.

Mr Ng: No, I don't recall that incident. But I want to reiterate that the branch process is an independent one, and we're not subject to any external or political influences. At the end of the day, whether the charges would proceed or not would have to stand the test of the day.

Mr Bradley: Thank you very much, sir. I'm going to shift gears, to your water treatment blitz once there was a major problem. In other words, Walkerton occurred and you suddenly decided to go back to some significant and frequent inspections of the water treatment plants. How many sewage treatment plants were inspected while you took every breathing body you could find to inspect the water treatment plants? How many sewage treatment plants were inspected during that period of time?

Mr Griffith: I haven't memorized the work plan for last year, and the number. We are typically on about a one-in-four cycle, which means that at least once every four years all the sewage treatment plants would be inspected. What I can do is get back to the member with the actual number that were inspected last year.

Mr Bradley: Would it be safe to say that during that period of time, when you were having to find people to do the inspection of the water treatment plants, it's likely

that sewage treatment plants, at the very least, were a distinct second or third priority for inspection?

Mr Griffith: I can indicate that we adhered pretty much to the work plan that had been developed, and while certain extra resources were put on to the inspection of the water treatment facilities, other inspections carried on.

Mr Bradley: Where did you get the staff to do the inspection of the water treatment plants when the specialized team for this purpose had in effect been dismantled? In any event, even if you had that team in place, with the so-called blitz that took place it would have been impossible for them to do it. So where did you get the staff to do that? Some may be outside the ministry, but if you got them from the ministry, who did the job they were doing before? If you took somebody out of a regional office or out of another job to do the inspection, who was doing their job while the inspection was taking place?

Mr Griffith: The inspectors who carried out the water treatment inspections—it was a combination of using redeployment of some resources across the division, and we also availed ourselves of individuals who had retired who were qualified inspectors. We brought them back on a short-term basis to assist with that inspection.

Mr Bradley: How many of those people would have been hired only on, as you referred to it, a short-term basis? A percentage. It's unfair to ask you for precise numbers.

Mr Griffith: I'm sorry, I don't have those numbers with me but, again, we can provide that information.

Ms Dana Richardson: My name is Dana Richardson. I'm the ADM of the corporate management division. Over this past year we actually did acquire in-year additional resources to assist in Operation Clean Water and also for our SWAT team. In total, we had approval for an additional 142 staff over the year and an additional \$29 million in our budget in-year over the past year. We have now fully staffed up our SWAT team. We have also managed to hire additional inspectors and other functions that help support the inspection function in the operations division to support Operation Clean Water as well.

Mr Bradley: There was a cabinet document that was leaked that my friend from Rosedale—

Ms Marilyn Churley (Toronto-Danforth): It's Toronto-Danforth now.

Mr Bradley: —sorry, from Toronto-Danforth always says, “leaked to the NDP,” so I'll say, “leaked to the NDP,” because she would correct me—shared with the media and the other opposition parties that suggested you would need in excess of 500 staff to appropriately deal with environmental problems in the province. You chose instead what I would consider to be a public relations exercise—I'm not saying it's not without some merit; don't get me wrong—and that's this SWAT team, because you put them into uniforms. “Call up CFTO and they'll be down with their cameras. The Sun will be there to take a picture,” and it'll appear as though something is happening, and indeed something may be happening.

Why didn't you select to put in place the in excess of 500 staff that the cabinet document made reference to as being necessary to do a half-decent job of dealing with environmental problems in the province?

Mr Griffith: Let me answer and then I will call upon John Stager, the director of the SWAT team. SWAT is certainly a very unique entity to Canada, and I believe North America, in terms of its staff who are fully dedicated to inspections and enforcement. We are looking at using the best technology and better information management tools. It is very much an innovative and experimental approach, and we are looking to see what the results of this approach are. We're very confident in its ability to get the results we want, but with the permission of the Chair, if I could have the director of the SWAT team.

The Chair: Sure.

Mr John Stager: My name is John Stager. I'm the director of the environmental SWAT team. As you will recall, the environmental SWAT team is really part of the Blueprint commitment to get tough on polluters. In terms of our specific mandate, we have a very strong enforcement mandate within the ministry as part of the overall enforcement mandate.

But specific to the environmental SWAT team, we are there specifically to deal with problem sectors and problem polluters which, to me, is a very strong mandate. It's certainly not conducting inspections of all companies and in all sectors. It is a very strategy-oriented approach to doing inspection work. We will take the time and effort, and we have taken the time and effort, to select the sectors and the polluters within sectors where we feel there are either real or potential problems that need to be addressed.

The way we approach the work of the environmental SWAT team is to focus on problems. We talk about “flagrant” and “repeat” violators. That is very much a focus of the environmental SWAT team. We are there to try and catch the people who are trying to take shortcuts. If they are not willing to play by the rules environmentally, those are the kinds of groups and individuals we are taking a very strong approach to with the mandate we have.

Mr Bradley: People involved in enforcement as opposed to people involved in cost-cutting—I understand a government may choose cost-cutting as a priority, and that's fine. I put that on the table. But people involved in enforcement will often say it's the day-to-day, non-glamorous, no-photo, let's say tough slogging in regional and district offices and various divisions of the ministry, that it's having those staff, an intensive number and an intensive investigation going on that is really effective, and that a SWAT team, while as I say it's a great public relations exercise and also—don't get me wrong—may do some good work, in fact in the long run what is more effective is to have staff in your regional offices, in your district offices across the province, do their investigations and enforcement on a day-to-day basis. They may not have the photographer there, they may not have special

uniforms, but they do the job and find the polluters and solve problems.

1100

Mr Stager: If I could define our mandate a bit more in response to the question, we are certainly not looking at our role as being separate from the work of the districts. We work together very much as a team in the way we deliver on our mandate. However, having said that, we have a very specific role within that overall mandate. Our role is to look very specifically at problem areas, problem sectors, problem companies, problem individuals. That is a very important role in terms of an enforcement mandate within the ministry, to take that kind of approach to doing our business.

We will work very closely with the districts in identifying these areas of problem sector/problem polluters, but we also identify the fact that they have a great deal of responsibility of their own. We will work with them in identifying problem areas. We will go out and we will do the inspection work, and in fact we have been doing a great deal of inspection work to date out in the field, conducting inspections in the two areas our deputy had mentioned, the metal-plating sector and the waste haulers, which to us are very significant problem areas that need to be addressed.

Mr Bradley: I think most would people agree they are significant problems, among other problems that are out there.

One of the ways the ministry can improve, because ministries are always striving to improve their performance within the mandate provided by government, within the fiscal constraints put on the ministry by government and within the policies of the government, one of the tools that would be helpful to you, I think, if you look at it in a positive sense, and I'm sure you do, will be the Walkerton inquiry testimony and information that has come from the Walkerton inquiry, with we hope some good recommendations that government will be able to implement. I think that will be very positive when that comes out.

However, for the inquiry to know what's going on, people have to be able to appear without intimidation. I see Steve Clancy, who is the president of OPSEU Local 308, representing 11 of 14 workers in the Peterborough district office, contends that the environment ministry employees who were planning to voice their concerns to a meeting of the Walkerton inquiry changed their minds because of intimidation by a manager.

If the information is to be available to the inquiry, and I think the inquiry can be a positive step—despite the fact that the Attorney General got up and passed this bill and said everything was going to be fine and nobody would be intimidated, we have an accusation of intimidation. How are you dealing with individual managers in terms of your instructions to them as it relates to people under them providing testimony to the Walkerton inquiry?

Ms Richardson: Mr Chair, I'd like to answer that question.

Amendments were made to the Public Inquiries Act over the past year that specifically provide protection to individuals who are testifying or are asked to participate in an inquiry. We are fully compliant with the provisions of that act and we will continue to be so.

Mr Bradley: Have you investigated this specific complaint? This is an allegation; I understand that. I don't work on the basis of accepting one or the other. This is a very serious allegation that's been made. Have you investigated this specific case, the reason being not only this specific case, but others will look and say, "Well, if there's a manager somewhere who's intimidating some employee, by gosh, in our area maybe we'd better be a bit more mute in our criticism."

Ms Richardson: I cannot speak to the specifics of that particular incident, but we do take these things very seriously and we are endeavouring to make sure that every manager in every office complies fully with the Public Inquiries Act.

Mr Bradley: There is great concern, as you know, among employees and among everybody except a government—I don't even want to make it partisan and say "the government"—that people are going to be free to speak. I don't know how you ever really make them entirely free to speak, because everybody knows what they said and people can be dealt with subtly who are too critical. That's why I was interested in whether you were investigating this case. I don't expect you're necessarily going to give me the results of that at this moment. But it does scare me, because I think those ministry officials—put aside the fact it might embarrass the government. What's going to be useful ultimately is that it's going to help you and us as a Legislature to have the ministry do an even better job than it does today.

Ms Richardson: We are participating fully in the inquiry and encouraging our staff to come forward to testify at the inquiry as well.

The Chair: You've got two minutes left, Mr Bradley.

Mr Bradley: Time goes by when you're having a good time, I guess.

Air standards: I've heard it trumpeted you have new air standards, and that's wonderful, wonderful, and there's going to be this monitoring taking place. Are the companies going to be monitoring themselves?

Ms Richardson: I'd like to ask Tony Rockingham to join us.

Mr Tony Rockingham: I'm the director of air policy and climate change. The member has asked a question about the monitoring and reporting regulation that came into effect for the electricity sector in May 2000. It requires companies to monitor and to report publicly on named pollutants, and for the electricity sector there are some 28 pollutants that are named in the regulation. So those companies have to provide reports publicly. Those reports are based on estimates made by the company or measurements made by the company of the emissions from their facilities. The regulation provides guidance on the estimation techniques that are acceptable to government, although the facility's owner or manager can apply

to the Ministry of the Environment for some variation on those estimation techniques if those are more appropriate for the particular circumstances.

Mr Bradley: But it is self-monitoring. You do not do the monitoring. Do you do any checks on the monitoring? You know, how you go in, and with water you can take some samples. Does your ministry routinely do checks on these monitoring—

Mr Rockingham: There will be auditing done of the monitoring information, but I think probably the more important thing is that the information will be put into the public domain so that a variety of people can look at the information. We expect that pressure will lead companies to be even more careful than they have been, for example, when they have been reporting to the federal government under the National Pollutant Release Inventory.

However, I can assure you that the ministry will be doing audits. The regulation requires that the facilities keep records for a period of seven years, which will allow the ministry officials to basically recreate the estimations that have been supplied to the public domain. The facilities must keep on record the data they used in providing the estimates, the emission rates or the calculations that were done, and the assumptions that were behind those. So yes, there will be auditing of the information provided, and as well, that will be on a random basis but also could be issues-driven. We would expect that if two companies with similar operations report very different emission levels, then we would look into that to see what the basis for that difference is.

Mr Bradley: An incinerator, for instance.

The Chair: We'll have to move on now at this stage. Ms Churley.

Ms Churley: Thank you for joining us this morning. I'm sure you're all well aware that I'm very critical of what's been happening in the Ministry of the Environment—I've made no secret of that and I won't today—in terms of the cuts. I'm certainly very aware that staff morale is quite low. Probably people in opposition hear more about that than those in government, I don't know, but they say they don't hear it. My questions are going to be around some of the cuts that have happened and the impact.

I wanted, first of all, to go back to where in your presentation you mentioned that the charges laid and the convictions and orders issued—you gave us numbers for 1999. I can tell you that the enforcement statistics in charges laid went from 2,158 in 1992 to only 758 in 1996. What I'd like you to do is paint for me a picture; tell me, going back to 1995, the charges laid, convictions and orders, and then right through 1996, 1997, 1998. They did start to go up again in 1999, but could you give me those figures for 1995, 1996, 1997 and 1998?

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Mr Ng: I cannot make any specific comment on what happened in 1995.

Ms Churley: You don't have the numbers with you?

Mr Ng: I do have the numbers with me, but I have no specific information as to how the numbers decreased in 1995 and then started to rise again in 1998.

Ms Churley: Can you give me the numbers for 1995?

Mr Ng: For the number of charges laid?

Ms Churley: Yes.

Mr Ng: It was 1,045. This was the total number of charges laid.

Ms Churley: And convictions?

Mr Ng: The total number of convictions was 504.

Ms Churley: That was for 1995?

Mr Ng: That was in 1995.

Ms Churley: And orders issued?

Mr Ng: There is no information on orders in that table.

Ms Churley: What about 1996?

Mr Ng: For the total number of charges?

Ms Churley: Yes.

Mr Ng: That number was 758.

Ms Churley: Convictions?

Mr Ng: There were 366.

Ms Churley: Orders?

Mr Ng: Again, the order information was not included in this table.

Ms Churley: I see. And 1997?

Mr Ng: The total number of charges was 951.

Ms Churley: Convictions?

Mr Ng: Four hundred and eighteen.

Ms Churley: And again, orders are not included in your data?

Mr Ng: That is correct.

Ms Churley: OK. And 1998?

Mr Ng: It was 805 for the number of charges and 414 for the number of convictions.

Ms Churley: And again, no orders?

Mr Ng: And no orders.

Ms Churley: That's helpful. Thank you very much.

Have you been asked to do a cut across the board again in the ministry? I suppose you can't comment on what's going to be in the budget before the budget—

Interjection: We cannot.

Ms Churley: Would you tell me whether you think you could function with another cut to the ministry? Would it be of great concern to you if you have to make another cut?

Ms Rush: I think that's a hypothetical question.

Ms Churley: OK. I guess we'll be talking about that in May.

The reason I am asking these questions is that, of course, I'm very concerned, as I'm sure you are as well, about the impacts other cuts would have. Despite the SWAT team, we are all well aware of the massive cuts that have been made in each division and the impact that has had. For instance, I have a document here from May 1996. The document says that just at that point—the savings plan—the ministry would eliminate 752 positions, 279 of them in the operation division. It talks about the number of changes that will make, and says things like, "These measures will have an obvious impact on

our work plan,” and goes on to talk about some of the things your ministry would no longer be able to do that you used to do. This is something that was raised; it’s not new to you. Not just leaked documents but internal ministry documents show that every time there’s been a cut, not surprisingly, you had to make some corresponding decisions within the ministry on what you weren’t going to do.

What I’m asking you is, have some of the things that have been cut due to cuts in staff been brought back?

Ms Richardson: I obviously can’t comment on that particular document, not having seen it, and if it’s something before the inquiry, I can’t comment on it. But what I can comment on—

Ms Churley: It’s not before the inquiry. This is a public document that we’ve talked about before.

Ms Richardson: What I certainly can comment on is that over the past decade there have been many changes to the Ministry of the Environment as far as resourcing and staffing are concerned, and we have to examine in some detail what the sources of those changes actually were. For example, when OCWA was created, 980 positions moved outside the ministry but over to the Ontario Clean Water Agency. That shows up as a decrease in our staffing, but actually they are in another arm of government, an agency.

Ms Churley: If I may interrupt, that decrease showed when we were in government, not post-1995.

Ms Richardson: There are a number of other similar kinds of shifts that are organizational shifts. For example, when the Ministry of Energy joined with the Ministry of the Environment, that showed as an increase, and then it was split from the Ministry of the Environment several years later. Once again, that showed a change in the number of staff and the resources in the ministry.

Ms Churley: So you’re saying these cuts didn’t happen?

Ms Richardson: What I’m saying is that there are a number of different times in the history of the ministry when there have been cuts. In 1994-95, 1995-96 and 1996-97, there were cuts to the ministry. The focus of those cuts was initially to focus on our administrative and technical staff. The core business of the ministry, the front-line inspections in the ministry, were the focus of the least amount of downsizing and cuts at that time. That is certainly something that has been on the public record, as in our previous estimates discussion.

Ms Churley: First of all, just for the record, it’s quite correct that when OCWA was created—I remember the governing party used it at the time to attack the NDP by saying we fired almost 1,000 people when in fact you’re quite correct, and the record shows, that those people were transferred to dealing exclusively with water. That shows up in the records prior to 1995. In 1994, under the NDP, I believe 100 positions not were refilled. But again, for the record, those positions built up in the NDP were more than ever before in the history. I just want to say for the record that it doesn’t make sense to compare the numbers that existed in the ministry under the NDP

government with the numbers we have now. The record speaks for itself on that. The reason I ask these questions is that I guess I’m trying to help you here. I think we need more staff, and all the records show that.

I want to ask you some specific questions, for instance—and you referred to this earlier—about a draft cabinet submission, which has already been referred to, that said there are 111 industrial plants that your ministry realized were out of compliance, most of them for more than two years, and that they are polluting waterways that are the source of drinking water for many communities. At that time the draft submission said the ministry was not doing anything about it because it couldn’t. I want to know, is this an example of the kind of problems the auditor identified, and what specific steps have you taken to deal with those 111 industrial sites that are out of compliance?

Ms Richardson: As I mentioned earlier, over the past year we have received approval for increased resources. A large number of those resources were our SWAT team. I’m not sure exactly which industries are flagged in that document, but, as John Stager has mentioned, what we are looking at with the SWAT team is focusing on the major polluters and taking a very tough enforcement approach in dealing with them. So we have obtained resources to do those kinds of things.

Ms Churley: Would you say that all those plants have now been inspected and brought back into compliance?

Ms Richardson: I don’t know that kind of detail.
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Ms Churley: Does anybody have the answer to that question? Can I have a clarification first, as well: the SWAT team, as I recall it, is not doing the water inspections. They’re out there doing more high-profile things. So it’s people you brought in on a short-term contract who are doing the water inspections, I take it. The SWAT team is doing other things.

Mr Griffith: Yes, the SWAT team is doing other things.

Ms Churley: Right. Can I have a further clarification as to how many and who these people are who are actually doing the water inspections?

Mr Griffith: I’m sorry, I don’t have in front of me the exact number of inspectors that are doing it.

Ms Churley: Could I have that information sent to me, how many are doing it and how many are actual temporary workers brought in and who are on staff?

Mr Griffith: Yes.

Interjection.

Ms Churley: OK. Sorry to interrupt. So just in terms of these 111 industrial plants that are out of compliance.

Ms Richardson: I actually have a chart with some of that information that Mr Griffith doesn’t have. In our efforts this year to get increased resources and staffing, we did obtain approval for 68 new staff in what we’re calling Operation Clean Water.

Ms Churley: Sixty-eight, OK.

Ms Richardson: Fifty-four of those staff were for inspection and enforcement activities, six for certificates

of approval, three for certification and licensing, and five for project management coordination.

Ms Churley: So are they permanent now?

Ms Richardson: No, these are not permanent staff. We have about 18 months' worth of funding for this project.

Ms Churley: OK. I wanted to come to the Gibbons report, because I have some concerns about the direction this report may be taking us. I guess I wanted to ask a few questions about that. One of the things that I noticed in the report is that it doesn't talk—well, it does mention once, I believe, that significant money would be involved in making such a transition. Have you taken that into account, significant resources?

Mr Breeze: I was part of the Gibbons team. We didn't quantify how many resources would be required. We recognized and identified in the report that additional resources would be needed, but we didn't actually provide a quantification.

Ms Churley: Would you not advise the government, though, that unless significant resources were provided, to not even go down this road?

Mr Breeze: The report says very clearly that additional resources are required, but it didn't quantify them.

Ms Churley: I know you were involved in writing this report. It seems to me that it's an all-out attack on command and control regulation. The starting part of this report is that things are bad and are not working, but there's no mention in this report why we are in the state that we are in now, that is, the gutting of the MOE and the direction to not enforce environmental laws. The premise of the report is, it seems to me, "Command and control bad; we've got to start looking at other directions."

My concern with this, of course, is that we could end up, with the way it could be cherry-picked and the direction that this government seems to be going, like a TSSA approach. Basically you have almost a privatized ministry that's overseeing the private sector and everybody else looking after the environment. There are some real dangers in this report if you have the kind of government in control that is actually trying to get out of the business.

I want to ask you a question: why? On what did you base your "Command and control is bad and it's time to move on"? What did you base that on?

Mr Breeze: The report and all of our analysis showed that command and control as a base is absolutely essential; that enforcement that's seen, enforcement that's credible, enforcement that's fast is an absolutely essential part of any program. What the report spoke to is that, in and of itself, it's insufficient. We need to go beyond to get to continuous improvement. We can't wait until the next standard for the next chemical is developed. We need to get companies working before standards are developed to move into continuous improvement, to continually decrease the concentrations of contaminants that are out there.

The report is absolutely clear that command and control enforcement is a base and it has to stay there. Everything is about moving beyond that base, not eroding the base.

Ms Churley: The report, and you were involved in it, does talk about moving beyond command and control quite frequently. This is the thing that alarms me in it. There is no evidence the command and control regime hasn't worked successfully in the past if you look at things like the pulp and paper cleanup, leaded gasoline, the acid rain cleanup. The thing, again, that alarmed me about this report is that it seemed to just point to all of the things that aren't working and didn't approach the kinds of things around so-called command and control that do work. Let me put it this way: can you supply me with the terms of reference for this? It wasn't included in the study.

Mr Breeze: The report wasn't conducted by the ministry. The report was conducted by an independent team, headed up by Val Gibbons. There are terms of reference for Val's report and they're actually included in the report.

I want to go back, though, to eroding command and control and to repeat, in the report we recognize that command and control does work, that command and control is absolutely essential and that it cannot be eroded, but it was established as a baseline. When we said "beyond," it didn't mean beyond to replace. It meant leave it in place, maintain it as a strong component, but put other things on top of it to push toward continuous improvement. Let's get focused on end results. Let's move beyond single chemical; let's get into multi-chemical. Let's move beyond one medium; let's look at multimedia. Let's move beyond just looking at arbitrary municipal boundaries and let's look at boundaries that make good environmental planning sense. Let's look at watershed management. It is in no way talking about backing off on the enforcement.

Ms Churley: But then in that case we're talking about the same thing, because if that's all you're saying, which is not my reading of the report, this is nothing new. The report was written in such a way that this was a very big discovery, but you would know from working in this field—I note you haven't been there for a long time—that this is a 30-year-old policy discussion that took place in the Robarts-Davis era. It's a similar exercise that took place in the 1960s and 1970s.

It's nothing new. It's like reinventing history, which is also what alarmed me about the report. It seems to imply we've discovered this great new direction to go. In fact, I would say again that my reading of the report—the approach that, for instance, our government was taking, which is the vertical approach as opposed to the horizontal and command and control. The Planning Act would have been a good example of that, a multi-ministry approach to the environment. It isn't just pollution control, which is all this report looks at, but it's across the board. We were in fact going in that direction. The Environmental Assessment Act, which has been gutted,

and other things—we were moving in that direction that supports the premise that you do have the horizontal, but the command and control is a very important part of that.

We were going in that direction. This government took that away. I don't quite understand, then, what the difference is between what was already happening—that was gutted by this government, from what you're saying—to where you're recommending we go.

Mr Breeze: There are some fundamental new shifts out there, and I'll pick one of them: co-operative agreement.

Ms Churley: Oh, you mean volunteerism and self-regulation. You see, that's my concern.

Mr Breeze: A lot of terminology has said “voluntary initiatives,” but we called them “co-operative agreements” because a company would enter a co-operative agreement voluntarily, but once it was in, it would be bound by a legally binding and enforceable contract. What would be happening within a co-operative agreement—and this is really new out there; there are only two or three jurisdictions that are doing it—is you provide abroad what some people have called a bubble permit for a facility, you give the company a measure of flexibility, not flexibility on standards—the base standards stay there—but flexibility perhaps on paperwork, flexibility on getting only one certificate of approval for the facility, as opposed to 54 different certificates of approval.

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But we demand something back under co-operative agreements. We demand full transparency to the public—this is new in the report as well—that jurisdictions weren't talking about, that every piece of information, compliance information, reporting information, is out on a Web site and absolutely available. So in a co-operative agreement, what we end up getting back is full transparency and then a step further than that. We ask that you sign on to continuous improvement, that you legally sign this binding contract that you're going to reduce the overall contamination to the environment by 5%, perhaps 10% per year, and it continues and it continues. If a company doesn't live up to those provisions in the co-operative agreement, the co-operative agreement comes undone and they lose the flexibilities they have gained.

When I talk about flexibility—I want to come back at that again—we're talking about paperwork flexibility, easing of the administration constraints. In no way are we talking about easing up on the environment standards. They absolutely have to be there.

The jurisdictions that have done those—Oregon and New Jersey as examples—are pulling companies up so that they're not just looking at the impacts of their singular facilities, but they're being forced into looking at the whole life cycle of products, and that's getting bound into the contract as well, where they have to look at the whole life cycle.

The Vice-Chair (Mr John Cleary): Ms Churley, your time is up. Mr Gill.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Thank you, Mr Chair. I want to go back. I think we touched on a number of charges, a number of convictions from 1995-98. If you have some data, I want to go back to 1991 up to 1995 just for reference purposes before we start the discussion.

Mr Ng: I'm afraid I don't have those numbers with me today, but I can undertake to provide that information to you.

Ms Churley: I've got the numbers here.

Mr Gill: OK. I would like to have them, if you want to table them.

Ms Churley: I don't know if they're in this file, but if I can find them I'd be pleased to share them with you.

Mr Gill: Sure.

Mr Bradley: Always happy to share good news.

Mr Gill: It seems to be saying, while I'm still waiting for that—my friends on the opposite side seem to reflect that—that perhaps more numbers of staff and more money thrown at the system or given to the ministry relate directly to a better quality of air, water, life in Ontario. Any comments on that?

Mr Ng: Thank you, member of the committee. If I may, I'd also like to read into the record our enforcement statistics in 1999 and 2000, because the information that I passed on before stopped in 1998. In 1999, the total number of charges laid was 1,216. The total number of convictions was 611. In the year 2000, the total number of charges laid was 1,796 and the total number of convictions was 770.

That is in keeping with what the deputy had mentioned earlier on in her speech, that our enforcement staff had been on an upward trend in the past two years.

Mr Maves: You're right, Jim. We do like to pass on good news.

Mr Ng: Also, I would like to read into the record that among the fines handed out in 2000 is \$3 million, and in 1999 that was \$1.5 million. So that translates into a 100% increase.

Having said that, I want to get back to the question you raised earlier, as to whether additional resources would enhance our enforcement capability. Resources are one of the many reasons why we can enforce our enforcement capability, but at the same time we need to look at the way to streamline our internal process. We need to look at other ways to deliver our programs, where we can partner with other agencies to get involved in program delivery. So more people would help, but that's not the only reason we would be able to do better. We would need to look at other factors as well.

Mr Gill: Considering that every day we are talking more and more global free trade, regional free trade, NAFTA and FTA and everything else, how do we compare, if we have that measurement, from the environmental point of view: Ontario versus BC, versus other provinces, states, Mexico?

Mr Breeze: Perhaps I can speak from the results of the best-practices review we conducted with Val Gibbons. What we found was an incredibly dedicated and

competent Ministry of the Environment. We found there were clear and strong elements in place that can be built from. We found in the review that there were some areas where we were not leaders. I spoke earlier of co-operative agreements. We've begun to move. We've made some really good steps on co-operative agreements, but there are some real opportunities to use co-operative agreements in a broader way that will pull industry into ongoing, continuous improvement, that will get more end-result focused, less focused on the minutiae of step-by-step telling companies what to do, but ensuring the end results are absolutely there. So the elements are there and the team is there. I think with the Gibbons report we'll be able to, as the minister has said, make MOE into a model ministry.

Mr Gill: But we don't have a quantitative measurement as to where we stand in terms of other jurisdictions? There's no so-called standardized testing?

Mr Breeze: I don't believe there's standardized testing to compare any ministry or agency across different areas. It's just divided up and managed so differently as you look across jurisdictions that to get that kind of measurement would be very difficult.

Mr Gill: I know with the current environmental standards being improved and new systems being applied, some of the existing C of A's may not be current. What are we doing in terms of moving toward making them current? How soon do we expect they'll all be made current?

Mr Michael Williams: My name is Michael Williams. I'm the director of environmental assessment and approvals.

I'd like to respond to that question by telling you that we have already begun our review of the certificates of approval to ensure they're updated. We're doing it on the basis of looking at sectors and priorities. We've made significant progress in the field of drinking water and hazardous waste. We're trying to get them current and accurate and ensure there's good compliance.

I want to tell you that under the drinking water protection regulation, for example, all municipal water treatment plants will be issued a new certificate of approval this year. There are approximately 700 municipalities that are now required to submit engineering reports on the state of their facilities. We will be reviewing each and every one of them. We will be consolidating all of those approvals and issuing new ones. Currently, out of the 700 we have approximately 450 filed that we have under review, and we expect to begin issuing those new updated certificates in the very near future.

I can also tell you that in the area of hazardous waste we have undertaken reviews there. We've completed a review of 137 certificates of approval for hazardous waste sites. They are up to date and in place.

We also have found it extremely beneficial to look at the Provincial Auditor's findings in this area to help us further review the need to update the outstanding historical certificates of approval. We're doing that through other means, such as updating our information

systems. We're continually trying to improve on that. We're also tapping into the benefits of lessons learned from other jurisdictions. In the not-too-distant future, the work we've done in the area of drinking water perhaps will carry forth into some of the other sectors, such as waste, such as the air arena, where we are now looking at having permits or approvals that expire and will be renewed on certain bases; for example, on a three- to 10-year period. We're looking at how we might do that to ensure they will all remain current.

Mr Gill: Do we have any sort of deadline we're working toward when they might be all made current?

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Mr Williams: We have a deadline with respect to the drinking water program. We're going to get them all current and as best we can reach the target date of December 2002. That's the date in the regulation by which all plants must be upgraded. It is possible that in doing some of the upgrades there will be significant capital works that will be required to be undertaken, so it may not physically be possible for every plant that needs an upgrade to have been done by that date, but we expect in that priority sector to have that done in that time frame. As I mentioned, the hazardous waste ones are already done with the 137.

The other time frames we have with respect to the air approvals that are issued are longer. We have all of the historical records we need for the air approvals. I might add that the approvals program has been ongoing since the inception of the Environmental Assessment Act and the Ontario Water Resources Act requirements since 1957, so I'm sure you can appreciate there's a significant number out there.

We are looking at staging the rest of the work because of the volume that's there, and we're going to do it on a risk assessment base such that we'll look at those facilities that have certificates that have the potential to have the greatest impact on human health and on the environment, and we'll be working through them first.

Mr Gill: If I may, my friend has the numbers.

Ms Churley: No, I don't have them here with me. You really want those numbers for this committee, do you?

Mr Gill: I'm quite interested in it because I want to see the trend line. I'm concerned because I don't think, personally speaking, manpower alone is the answer to our woes—

Ms Churley: That's clear.

Mr Bradley: What is?

Mr Gill: —that it's that simple.

Mr Bradley: It's very important.

The Vice-Chair: Could we get the ministry to forward them to committee members?

Ms Churley: To clarify for you, I have with me 1992, where the charges laid were 2,158, and convictions, I believe, were 504. That was in 1992. That's way up even above your 2000 numbers. But I'll try to get the rest for you.

Mr Gill: I think we must keep in mind the efficiencies and the new methodology. It's not always the personnel. It's not always the money you throw at the system that's going to make—I'm more of a practical numbers man. I know how these things work. There's always the efficiency factor you must count.

Ms Churley: So our government was more efficient, then.

Mrs Julia Munro (York North): Thank you very much for giving us the opportunity to hear about what steps the ministry is taking in response to some of these issues.

I'd like to talk a little bit about the question of management from the sense of compliance. The auditor made reference to the fact that the vast majority of companies in Ontario obviously comply with the standards. Do you have any sense of what kind of percentage we're talking about in terms of rates of compliance? I'm just looking at a really ballpark idea here. Is that possible? Would we have any idea?

Ms Rush: We're checking.

Mr Stager: I don't have the numbers overall for the ministry for compliance, but from an environmental SWAT team perspective in the two sectors we've been working in, keeping in mind that again we have a mandate within our group of problem areas, problem sectors, we're typically finding a non-compliance rate in excess of 50% with the companies we're looking at. But you'd have to put that in perspective, understanding that we do a lot of research within our sectors trying to identify a company, for example, or a polluter that we anticipate we will find a problem with. It probably is not representative of the sector, but in terms of the companies and the sectors we're focusing on, because we're looking for problems, typically we found in excess of 50% non-compliance.

Mrs Munro: My point here is the fact that obviously because you're dealing with a very specialized group, you would be looking at a rate that would, just by the very nature of your mandate, be much higher than what you would see in the overall provincial numbers.

Mr Breeze: I'll approach it more broadly and, again, from the perspective of the Managing the Environment report. One of the elements that came out of best-practices jurisdictions was their capacity to effectively marshal all the data, information and knowledge in a way that informed effective decision-making, not just informed effective decision-making of government officials or government but across the province, all stakeholders. We found that transparency of information, that transparency of decision-making, and not in a way that would be difficult for the public to access.

What we found was a real move toward the use of Web sites where all the information was provided on a real-time basis. Anyone could go in and access it and find out how the environment is in their immediate neighbourhood, to ask a really specific question. If you go into some of the leading jurisdictions—and I was astounded by some of them; the US EPA Web site, where you can

go in and click on your area, the neighbourhood where you live, and get very clear indicators of the environmental health, and not described in a way that's so hard the public can't understand but in thermometers, red meaning it's not in great shape and green meaning it is in great shape.

But if the public wants to burrow down, they can. They are provided with software tools where they can actually go in and create their own reports. In a way, we are seeing a shift away from the big, fat state-of-the-environment report that was static, that was two years old and that was really experts speaking at people, and a shift toward people being able to generate their own reports and understand how the environment is actually impacting on them.

To come specifically to your question on compliance, one of the really powerful parts of those Web tools is that you can actually go in there and click and find out which companies are in your area and how many there are. Then you can click on the company and get their certificates of approval. You can get the compliance results for the last three or four years. You can see how they complied. You can see whether the company next door to you is complying or not. That puts the public in a much more powerful position to be able to respond and push local officials, push companies to make that change. When you couple that with the co-operative agreements I talked about earlier—and you tier those co-operative agreements to get more and more public involvement—when you've got the information in the public's hands, when you've got the public at the table making part of the decision, you can pressure companies into making those steps.

What you can put over top of it, and some leading jurisdictions are, is third-party audits. The Provincial Auditor spoke about third-party audits. You put them in place, and not only does the public have that kind of awareness, but they have the third-party audits they can rely on as well, with the MOE inspections and enforcement strongly overseeing all of it. A knowledge management system is absolutely critical to harness all that information and get it out so we can all use it to make better decisions.

Mrs Munro: I guess that's really where my question was going, because it seemed to me that obviously at the end of the day the object here is compliance. If we are looking at the kinds of things you've talked about, clearly the opportunity to sort of marry the new technologies with the base you talked about earlier in terms of the traditional command and control, then I'm going to assume it would be your expectation that by looking at those other jurisdictions, we are moving in the direction where we can expect that kind of increased level.

Mr Breeze: Absolutely. You said the objective is compliance. I would even add to that and say the objective is beyond compliance: continuous improvement. Let's get people on a track where they're continuously improving beyond the standards, so we don't have to wait until the next standard is developed; they're

already in there reducing the concentrations of contaminants across the board—multi-chemical approaches, not chemical by chemical.

Ms Rush: Dana had a comment.

Ms Richardson: In fact, we have started down this path in the ministry in the last year or so. We have new investments in technology to assist us in making more information available to the public. We are taking a much more proactive, Web-based approach, so that that information is much more accessible to the public. We are marrying that with our work-processing kinds of technology, our integrated divisional system. For example, over the past year the public did have much greater access to the air-quality index and the smog alerts. We actually set up an e-mail account for people who wanted to regularly find out what was happening in their area, what was happening to them, and last year during smog season 1,200 subscribers signed up for that service.

We also put up regularly over the past summer and fall the results of our water inspections so that, municipality by municipality, people could actually see the compliance of the inspection of their water treatment plants.

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Those are some examples of the kinds of information we're already starting to make available. As we improve our system, which we're calling e.NVIRO-NET, we are actually going to have as the first principle that it's public information that we want to share much more broadly, not only for our own decision-making purposes, but also to have that broader deterrent effect and the continuous improvement effect that is mentioned specifically in Val Gibbons's report.

Mrs Munro: Is it premature to ask whether you can see some kind of results in terms of—you mentioned the number of people who signed up to get reports throughout the smog season. I think—and this is more of an intuitive sense—that the greater the opportunity that public awareness is increased, the less chance, if you want, or risk someone is going to take in non-compliance. I wonder if this is a premature question to ask, or have you seen it in other jurisdictions?

Mr Breeze: Yes, you begin to see it in other jurisdictions, where it isn't just a question of something coming into a government file; it's something that, when it's produced, is out in everyone's hands, and everyone can see whether compliance is being achieved or not being achieved—ultimate transparency.

What it will allow for as well—and it's one of the shifts we talked about in the Val Gibbons report—is moving away from government doing it all and making sure that everyone is involved in the solution. It allows getting information in local hands. It allows local people to be part of the decision-making. Earlier, I mentioned the co-operative agreements. The ultimate extension of a co-operative agreement is that if you gave additional flexibility to companies, you could require that the public not only have the information but that they have to be at the table when the decision is made. So they're part and

parcel of the decision, as opposed to being told what has happened afterwards.

Mrs Munro: Does that raise issues, in terms of the public, with regard to risk management? Is that going to be part of that kind of discussion?

Mr Breeze: Absolutely. There's one section in the report where we deal with broad-based risk analysis. What we found in best-practice jurisdictions is that it's not just communication in risk analysis, it's involvement. And it isn't involvement at the end, when you've developed the standards and say, "Do you like it?" It's involvement right up front about what approach we need to take as we develop this standard in full consultation as you go all the way through the process, so that when you get to the end of the day, the public and local municipalities have been involved and accept the ultimate results.

Mrs Munro: Thank you.

The Vice-Chair: Anyone else on the government side?

Mr Ted Arnott (Waterloo-Wellington): I'm looking at, I guess, the executive summary of Managing the Environment, the Val Gibbons report. One of the key recommendations is the whole idea of ensuring we have a government-wide approach to protecting the environment and not just one ministry vocally trying to do the whole thing.

What kinds of practical steps do we need to take to make that happen? I know we have a cabinet committee chaired by the Minister of the Environment. In the past we've had, I guess, interministerial committees that have tried to encourage that kind of approach. But there must be other ways you have in mind—Mr Breeze, you're smiling.

Mr Breeze: Certainly, in writing the report, we thought an environment committee would be a critical part of that, making sure that in activities across the province that are coming through, that in fact environmental issues are addressed. So any activity could be called through the environment committee to make sure, as I said, that environmental issues are being addressed.

The appointment of my position as the new associate deputy minister, that position did not exist before. My responsibility isn't just to work with the Ministry of the Environment. It's to work across all of the ministries, and I've already begun that. I've met with several assistant deputy ministers in other ministries in talking about how we are going to work together across all government to make sure there's a consistent approach, that environment is considered in all the decision-making.

Mr Maves: It quite often happens actually across many of our ministries. The auditor has been doing his reports for years, and he did some reports on the Ministry of the Environment in the late 1980s, the early 1990s and the mid-1990s. As happens across all ministries, when they get a report by the Provincial Auditor and receive recommendations from the Provincial Auditor, most often those ministries thank the auditor for his report and either say, "We disagree with this recommendation and

we're not going to implement the change he wants," and they have a specific reason why, or they take the recommendation to heart and commit to adopting some changes in order to address the recommendation made by the auditor.

The auditor quite often, a year or two or three years later, will look back at some of these ministries, or he'll go back and do another audit and find out, in effect, that none of the changes were actually made at the end of the day.

I noticed in the report you've made several commitments in several areas to indeed take his recommendations to heart and committed to adopting changes. What I'm curious about is—because I don't want to come back in two years and find a report from the auditor that says, "They didn't in fact adopt the changes they were going to"—do you have timelines in mind or in place when you're going to have some of these changes implemented by?

Ms Richardson: We certainly have taken these recommendations into our annual planning process and, depending on the various recommendations, we have different timelines for the different types of projects underway. For example, Michael Williams mentioned some very specific deadlines for actually updating the Cs of A, which was one of the comments made by the Provincial Auditor. We have actually mapped out a timeline for each individual one. It's not the same timeline for each one.

Mr Maves: I understand that.

The Vice-Chair: Mr Maves, your time is up.

Mr Maves: That's it?

The Vice-Chair: Your time's up.

Mr Erik Peters: I hate to infringe on the time of the members.

The Vice-Chair: No, that's what they said. The time is up for each party.

Mr Maves: Is the auditor going to complete the comments there?

Mr Peters: If I may, the purpose of the hearing is for the committee to write a report in the end. It's just some information that might be helpful in providing the researcher with additional information.

There was a lot of discussion on the new information that is available through the Web site and other compliance information. I was wondering what tools would be available to outside-the-government stakeholders to actually act on the information. For example, in a case of non-compliance, what happens if somebody finds any information that there's non-compliance? That was number one.

The other one was, in a tangible way, if there's any action taking place on the deposits that companies are supposed to make where we identified about \$90 million outstanding. The other area was in 1998, where \$10 million in fines had been outstanding since 1985. I was wondering if you could elaborate on that possibly.

Ms Rush: Perhaps Michael could answer the financial assurance question first.

Mr Williams: The question I will address is in the matter concerning financial assurance which the auditor has raised.

I want to begin by saying that the financial assurance provisions, just so all the members are aware, are very important provisions that are attached to the certificates of approval. They're designed to provide an avenue for funding for future cleanup and long-term care of facilities, such as landfill and contaminated sites. It's for those reasons, where we have those kinds of situations, that it is very important that financial assurance be in place.

The ministry has worked and has an action plan in place to deal with the issue of financial assurance that the auditor has raised. His findings were very helpful to us. We've already implemented the recommendations that are contained in that. We have improved the administrative procedures to ensure that the financial assurance requirements are met. We've reviewed our existing financial assurance policy, which includes a review and update of appropriate forms of security, and we put in place a plan to collect all of the outstanding monies to which the auditor referred a moment ago. We'll be doing that through our improved data management system so that we'll be able to flag exactly what financial assurance is due, what the dates are and what certificates it contains.

But let me just directly answer what the progress is to date on this and give you a timeline for completion.

In the report, there were several hundred certificates of approval that were examined and thought to be having an outstanding amount of financial assurance attached to them. I believe the figure was \$90 million that was quoted. The ministry began an immediate review, once we had that information, in discussions with the auditor. Our review indicated that 553 certificates of approval were in the area that had financial assurance requirements, and when we went through each and every one of those particular certificates, we arrived at a bottom line number of 116 which were actually believed to be deficient and delinquent around those requirements.

Each one of those 116 deficient certificates was reviewed. As a result of that review, 53 either no longer required the financial assurance because the companies were no longer in business and it wasn't appropriate to have it or they had complied with the financial assurance requirements. There were several million dollars collected as a result of that.

I think probably what's of more interest to the committee here today is that there are still 60 remaining delinquent certificate of approval holders, and we are in confidential discussions with them, as we speak, around the province to ensure that the financial requirements in those certificates will be met and complied with as expeditiously as possible. In some cases, we have reached agreement as to the amount that should be on file. In other cases, the owner is assessing the liabilities and the comments we have made and is negotiating the terms of financial assurance. The third situation we have is where owners are not going to agree with the

assessment and they will launch an appeal. They have a right to do that, and they would appeal before the Environmental Review Tribunal.

I can assure the members of this committee that we will vigorously defend the ministry position, should there be any appeals. I can also tell you in terms of timing, we expect to have those remaining 60 delinquent accounts dealt with within this year. The amount of money we're talking about based on efforts to date would lead us to conclude that there is approximately \$7 million to \$9 million still outstanding. As I said, we will have that dealt with very shortly this year.

The Vice-Chair: I'd like to thank the ministry staff for appearing today.

I have two requests for you from the committee members. Each one of the committee members would like to have the opening remarks. Also, what Ms Churley had asked for, that that information be sent to the committee members.

Once again, thank you for appearing. I'd thank the committee members too. I guess we should adjourn. It's 12 o'clock. Thank you very much.

The committee adjourned at 1203.

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