



Conservation Ontario Submission to the Walkerton Inquiry

On Managing the Environment: A Review of Best Practices

Introduction

The comments contained herein are largely referenced, first, to the Strategic Shifts, and, second, to the recommendations contained in the Executive Summary of Managing the Environment.

Strategic Shifts

Over-Arching Shift: towards a strategic approach to managing the environment.

Comment: the transition from a single ministry “command and control” model to a government wide approach to managing the environment will require a serious and sustained application of political will. The ability of an entrenched bureaucracy to resist change should not be underestimated. The Province must accept that the responsibility for environmental management is government wide, not just the job specification for the Ministry of the Environment.

Strategic Shift #1: towards a high-level, government-wide vision and goals with implementation shared across different departments.

Comment: the need for a clear environmental vision for the government is critical. In the case of water, Conservation Authorities have been advocating for years the need for a Provincial Water Policy Framework that cuts across government departments and would bring a level of coordination at the provincial level that Conservation Authorities seek to achieve at the community level.

Strategic Shift #2: towards a new and broader emphasis on strategies to promote continuous improvement in environmental performance and accountability across all sources of pollution.

Comment: to make this shift work means far more attention has to be paid to monitoring using carefully chosen indicators that produce knowledge, not just data. An example

would be the increasing use of biomap monitoring programs to give a cost-effective evaluation of the change in water quality and the organisms that are contained therein. The monitoring program must measure change and enable adaptation of policies and programs to achieve “continuous improvement” in environmental conditions and accountability of those responsible for preventing pollution (including agencies and industry). This is called “adaptive environmental management” and is a key element of watershed management planning. It is crucial for ensuring that limited public resources (both people and money) are utilized effectively.

Strategic Shift #3: towards a place-based approach with boundaries that make environmental sense and facilitate a cross-media, cumulative approach (such as watershed management).

Comment: watershed management as an example of a “place-based” approach is the model Conservation Authorities have been using since 1946. The watershed approach has allowed coordination of environmental management programs at the community level that simply doesn’t exist amongst provincial agencies. The key is to build upon the Conservation Authority model, define what works on a watershed basis and what requires a different approach and/or better integration with watershed management e.g. air pollution.

From a water protection perspective, the watershed is the appropriate unit for managing surface and ground water and the factors influencing its quality and quantity. The water cycle acts as one transport mechanism for land and air pollution within the watershed. Modelling on a watershed basis provides a relevant and appropriate context for decisions regarding priority management actions and for regulatory permitting/licensing. In relation to “continuous improvement” (Strategic Shift #2), the place-based approach is at a scale that enables production of a plan, implementation of the plan (i.e. management actions), monitoring the effectiveness of the plan (including changes in environmental conditions) and evaluation and updates to the plans.

Strategic Shift #4: towards a comprehensive, more flexible set of regulatory and non-regulatory tools and incentives.

Comment: it is correctly noted that the Ministry has to move beyond traditional compliance. However, the existing culture of “Command and Control” is real and not about to go away overnight. Rather than driving people in a direction they don’t want to go, the “C & C” adherents should be streamed into those areas where that philosophy continues to make sense and to maintain the strong regulatory backbone. New people will have to be recruited, or current staff with the ability to adapt to the new vision be reassigned, to develop the “outreach” type programs. Dealing more effectively with non-point source emissions opens up the entire area of stewardship programs with private landowners where community partnerships are critical. The Province has to set the standards – it doesn’t have to do all the work.

Strategic Shift #5: towards an approach based on shared responsibility with the regulated community, NGOs, the public, and the scientific/technical community.

Comment: the ministry has in the last decade formed several partnerships with C.A.'s, recognizing their watershed boundaries, their capability, their knowledge of local issues and their decentralized structure as the best way of monitoring and managing resources. Shared responsibility is a basic premise for successful implementation of watershed management plans and in fact, was one of the founding principles for C.A.s that is still very relevant today.

Expanding the role and responsibilities of C.A.s in managing the environment must however, be supported by a clear articulation of objectives, goals and deliverables, as well as the assistance of Ministry transition teams, and appropriate mechanisms to ensure sustainable funding over the long term. The Province's delegation of hazard land management to Conservation Authorities is an excellent example of the results that can be achieved by cooperative arrangements. This provides a viable working model for similar arrangements for other responsibilities.

Recommendation #1: while we generally agree with the implementation/transition structure and processes as proposed, there are two other elements that need to be brought into the process.

- (i) a commitment from all levels of MOE staff including field operations is essential.
- (ii) a strong public signal needs to be sent that the government is committed to these new directions. So far the process has been entirely internal with essentially no public consultation. The appointment and announcement of a carefully chosen External Advisory Council in the near future will show positive movement in this regard.

Recommendation #2: basically agree with the caveat that visions only become reality if the resources are allocated to achieve same.

Recommendation #3: Conservation Authorities have no difficulty with the concept of an "arms-length operating agency for operational/program delivery of environmental management" since that is a good description of Conservation Authorities themselves. We suggest that while new arrangements may be necessary for some environmental functions (e.g. airsheds), for watershed management the operating model already exists.

Recommendation #4: Conservation Authorities would welcome the opportunity to participate in pilot projects aimed at testing new ways of implementing an "integrated approach to environmental compliance assurance", particularly program delivery and compliance with private landowners and non-point source pollution issues. A critical component for successful implementation of such pilot projects would be the early involvement of C.A.s in the actual development of them to ensure that effective pilots are being contemplated.

Recommendations #5, #6, #7: Agree.

Recommendation #8: In designing the monitoring and reporting system, there must be a binding commitment that the resources to operate it are there for the long term.

Recommendation #9: Risk analysis is a necessary component of managing the environment. One of the areas where risk analysis should be applied by the Ministry and as evidenced through Part II of the Walkerton Inquiry, is in protection of drinking water supplies. Watershed management planning, including source area protection, is the essential first barrier of a multiple barrier approach to protecting drinking water quality and managing risks.

Recommendation #10: Agree: like visions, policies are only useful if implemented.

Summary and Conclusions

The Executive Summary of the report captures the findings of the project team and outlines the major strategic shifts necessary for the Ministry of the Environment to become a 'leading edge' organization.

These strategic shifts speak to a complete re-engineering of the way the ministry does its business, a revision of its mandate and a 'sharing' of its traditional responsibilities with all stakeholders. The recommendations call for a ministry that recognizes its limitations and moves towards a cooperative functionality. This would include enforcement activities, certification, monitoring and reporting, and data analyses (knowledge creation).

The report indicates that there is "an absence of a vision" while saying that the Ministry to date has not "made progress towards articulating this vision". Conservation Authorities would agree and it is our view that without the support of cabinet/the minister's office (i.e. provision of a vision/direction along with the authority, resources and funding), to effect these changes, senior managers will individually continue to operate in a vacuum.

Many of the recommendations would appear to dictate a change in direction from recent years. Regulation review "Stronger, Better, Clearer" was about the reduction of red tape, about the development of Standard Approval Regulations, revenue generation from data, about alternative service delivery (ASD), and a revision of environmental regulations that were viewed as government inhibitors to a strong economy. Approval, reporting, investigation and enforcement activities and or requirements were relaxed; self-regulation and due diligence promoted within industry. Communications became centralized, controlled in order to provide a "one window/one voice" message. Though these same mechanisms (particularly ASD) are promoted in this report, there is an apparent shift towards tough aggressive enforcement complete with court-based penalties, strict reporting requirements, transparency around monitoring and data access, open communication and public involvement. It appears that there is also an assumption that this shared responsibility is acknowledged and accepted by the identified stakeholders and that they are ready and able (have the knowledge, experience and funding) to take on these

challenges. As one of the stakeholders, Conservation Authorities look forward to the opportunity to assist in delivery.

The report does an excellent job of identifying the issues that prohibit the MOE from moving forward. To overcome these barriers, there must be visible support for implementation of the report recommendations. The government must demonstrate a sincere desire to make the changes and efforts must move beyond the establishment of an “implementation team”. The message that has to be passed to provincial senior managers along with the authority, resources and budgets is that they are to assist the implementation team in effecting the necessary changes.

Additionally, a focussed strategy to ensure that stakeholders are prepared to accept operational roles that have traditionally resided within MOE will be required. Making the recommended shifts will require dedicated transition teams to guide stakeholders in the assumption of duties, regulatory requirements and practical operational issues. This commitment must come from more senior executive staff. Experienced technical and operational personnel are the people that will make it happen. This was a shortcoming of recent role shifts articulated in the Planning Act (provincial to municipal). The technical, regulatory, and operational assistance was not and still is not present. The day-to-day demands on MOE technical staff at present severely limit the Ministry’s ability to provide that assistance. This situation worsens daily as more and more experienced technical and operational staff leave the ministry.

Ontario's Conservation Authorities support implementation of *Managing the Environment* and the adjustments it suggests for increased effectiveness of the Ministry of the Environment. Conservation Authorities would like to be part of the process and believe they can bring valuable experience to the table.