The Environmental Bill of Rights
YOUR ENVIRONMENT, YOUR RIGHTS
Commissioner’s Message

In February 1994, Ontarians got a ground-breaking new law: the *Environmental Bill of Rights, 1993 (EBR)*. The EBR affirms that Ontario residents have a right to know about — and have a say in — decisions that affect the environment. The law also created a set of tools to provide public participation, transparency and accountability in the government’s decision-making process. These tools include applications for review and investigation, the Environmental Registry, and the position of the Environmental Commissioner of Ontario.

For more than 20 years, Ontarians have been able to use the EBR and its tools as a catalyst for important new environmental laws and policies. During my appointment as Commissioner, I have been privileged to see an ongoing dialogue unfold between the public and the government ministries entrusted with the stewardship of our common natural environment. Thousands of people use the Environmental Registry each year to comment on government initiatives, ranging from technical compliance rules to sweeping policies on land use. Communities and individuals have also had input into site-specific permits and licences, commenting on concerns such as local air and water quality, habitat protection, and noise. Ontarians have also used EBR applications and appeals to convince the government to overhaul legislation, change approvals, and bring in new environmental protections. We, as Ontarians, can be proud and celebrate how the EBR has contributed to improved environmental protection and conservation in our province. I urge all Ontarians to exercise their EBR rights, and to keep exploring new avenues towards protecting, conserving and restoring our natural environment.

This booklet, *The Environmental Bill of Rights: Your Environment, Your Rights*, describes your rights under the EBR. It also contains inspiring stories of Ontarians whose use of the EBR has helped bring about real change. I hope this booklet encourages you to learn more about your environmental rights and how you can be involved in improving the health of Ontario’s environment.

Gord Miller, Environmental Commissioner of Ontario

- Agriculture, Food and Rural Affairs
- Economic Development, Employment and Infrastructure
- Environment and Climate Change
- Labour
- Health and Long-Term Care
- Government and Consumer Services
- Municipal Affairs and Housing
- Northern Development and Mines
- Transportation
- Tourism, Culture and Sport
- Natural Resources and Forestry
- Energy
- Education
- Aboriginal Affairs
- Finance

*Removed in 1995*
Environmental Commissioner of Ontario oversees use of the EBR (see page 16)

Environmental Bill of Rights (EBR)

Environmental Registry (see page 8)

Applications for Review and Investigation (see pages 10 and 12)

Right to Appeal (see page 14)

Right to Sue (see page 20)

Whistleblower Protection (see page 20)

Ontario Government

Proposes environmental changes

Responds to public input

Responds to public’s concerns

Ontario Public

Responds with input

Raises environmental concerns

Questions government decisions

Takes legal action

Public Participation

Transparency

Accountability
The Roots and Fruits of the Environmental Bill of Rights (EBR)

"Environment on Trial" published in 1974, arguing the case for environmental rights legislation

Between 1979 and 1991, at least nine different private members' bills proposed an environmental bill of rights

Incinerator shut down after Hamilton residents use EBR applications

Noisy grain mill fined after Huron County residents use EBR application for investigation

Ontario Parks sewage works brought into compliance after EBR application for investigation

Over 14,000 Ontarians comment on land use planning strategy, thanks to Environmental Registry

Clean Water Act strengthened thanks to public comments on Environmental Registry

Government protects Oak Ridges Moraine after Ontarians use EBR applications for review

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Clean Water Act strengthened thanks to public comments on Environmental Registry
Public has access to over 40 reports by the independent Environmental Commissioner.

Government funds rehab of Kam Kotia abandoned mine after Ontarians use EBR application for investigation.

Public has had the opportunity to comment on over 30,000 proposals through the Environmental Registry.

Mississauga refinery agrees to cut air pollution after Ontarians request EBR leave to appeal.

Government overhauls species at risk law following EBR applications and ECO reports.

EBR passed in 1993.

EBR Task Force produced a report and draft bill.

New government elected and Ruth Grier appointed Minister of the Environment.

EBR Advisory Committee toured Ontario collecting feedback.

“Environment on Trial” published in 1974, arguing the case for environmental rights legislation.

Between 1979 and 1991, at least nine different private members’ bills were proposed an environmental bill of rights.

Task Force produced a report and draft bill.
You have the right to know about environmentally significant decisions in Ontario, and to have a say.

The Environmental Registry website links you to the Ontario government’s environmentally significant proposals and decisions.

What do you think?
www.EBR.gov.on.ca

“A bait ban that just targeted the rusty crayfish would be impractical, considering how difficult it is to distinguish species of crayfish.”

“I am disappointed that most of your proposed changes are directed at motor vehicle operators and not cyclists.”

“The requirement that aggregate operations be located ‘close to market’ should be removed from the Provincial Policy Statement.”

You can submit comments either by letter or online.

On the Environmental Registry, you will also find ministries’ Statements of Environmental Values (SEVs), which describe how they will integrate environmental values with social, economic and scientific ones.

Each ministry must consider its SEV and your comments when making environmentally significant decisions.

The Environmental Registry is operated by the Ministry of the Environment.
“As a conservation scientist, I use the Environmental Registry to learn about and comment on government decision making concerning the environment. The Statement of Environmental Values for each ministry, in particular, offers a critical reminder of their responsibilities with regard to environmental sustainability and cumulative effects.”

Cheryl Chetkiewicz, Ontario Northern Boreal Landscape Leader, Wildlife Conservation Society Canada

“The Environmental Registry, backed by the research from the Environmental Commissioner of Ontario, is a critical tool to improve the broad public understanding of, and participation in, important environmental policy decisions affecting communities across the province.”

Terry Rees, Executive Director, Federation of Ontario Cottagers’ Associations

Commenters have helped inform and improve many environmental decisions, including:

- Plans for provincial parks
- Regulations for managing waste pharmaceuticals
- The Mining Act
- Guidelines for transit planning
- Numerous companies’ Permits to Take Water
Applications for Review

You can ask the government for a new environmental policy, act or regulation, or changes to existing ones

For example, Ontarians have used applications for review under the *Environmental Bill of Rights (EBR)* to request:

- An overhaul of the *Endangered Species Act*
- Changes to a water bottling company’s *Permit to Take Water*
- A review of how road salt is applied
- A new act to regulate the *exploration and mining of uranium*
- A comprehensive *land use planning system for northern Ontario*
- An act to *protect cyclists and improve urban air quality*

Since this tool was created under the *EBR*, Ontarians have submitted over 600 applications for review. Although ministries often deny the requests, because applications spark public debate, many have resulted in improved environmental protection and conservation.

**EBR IN ACTION!**

Improving the Rehabilitation of Ontario’s Aggregate Pits and Quarries

Ric Holt and Ed James were frustrated that gravel, sand and stone pits and quarries were not being adequately rehabilitated in Ontario. They turned to the *EBR* and in 2003 submitted an application on behalf of Gravel Watch (a non-profit environmental organization) requesting a review of the *Aggregate Resources Act*. The Ministry of Natural Resources agreed to the request, conducted a review, and concluded that there were indeed weaknesses in its oversight of aggregate rehabilitation. The ministry produced a report agreeing with Ric and Ed’s concerns and took various steps to strengthen the monitoring and enforcement of rehabilitation.
Eliminating Restrictions on the use of Outdoor Clotheslines

Andrew Moeser and Nalin Sahni were University of Toronto law students when they noticed that restrictive rules were preventing some homeowners from using outdoor clotheslines to dry their laundry – a simple energy-saving action. So in 2007 they submitted an application for review asking the Ministry of Energy to pass a new regulation that would make such restrictions invalid. The ministry agreed to their request and as a result, restrictive covenants and agreements that ban the use of outdoor clotheslines are now illegal.
Applications for Investigation

Think somebody is breaking an environmental law?
You can ask the government to investigate

If you believe that a person, company or group is violating an environmental act, regulation or instrument (permit, licence or approval), under the *Environmental Bill of Rights (EBR)* you can ask the government to investigate the alleged violation.

For example, Ontarians have asked the government to investigate:

- **Industrial noise** coming from a neighbouring agricultural mill
- **The discharge of untreated sewage** in several provincial parks
- **Damage to cougar habitat** caused by commercial forestry operations
- **Leachate** leaking from a landfill and contaminating local water sources

Since this tool was created, Ontarians have submitted over 230 applications for investigation. Although ministries often deny applications, they frequently visit the sites of alleged contraventions and act on issues raised in applications.

Addressing Noise and Particulate Emissions

“In 2000, the Canadian Environmental Law Association (CELA) represented clients who were suffering serious health impacts caused by noise and particulate emissions from a business operation. Despite numerous complaints to municipal and provincial governments, the pollution continued unabated for almost 30 years. After CELA’s clients requested an investigation under the *EBR*, the Ministry of the Environment laid charges and the company was convicted and fined. This case highlights the profound and immediate impact that the *EBR* can have in ensuring prompt government action to prevent environmental harm.”

*Ramani Nadarajah, Counsel, Canadian Environmental Law Association*
Fixing Bad Drainage Planning

Diether Dabis, a farmer, and Christine Kaiser-Reid, the owner/operator of a resort and trailer park in Ramara Township have been frustrated. Since 1998, they have endured property flooding, erosion and pollution caused by an artificial drainage system. After some efforts to fix the problem were unsuccessful, Diether and Christine submitted an application in 2004, asking the Ministry of the Environment to investigate alleged contraventions of several Acts. The ministry agreed to expand the scope of an ongoing investigation, and found the drainage system “dysfunctional and unstable.” The EBR application was successful in convincing the Ministry of the Environment to issue Orders; the ministry ordered the Township of Ramara and Lafarge Canada (a quarry operator in the area) to undertake remedial actions, including apply for approvals under the Ontario Water Resources Act. Diether and Christine, however, remain frustrated that the ministry has not followed up to ensure that its Orders were effectively executed.

Nudging an Asphalt Maker into Compliance

In May 2012, Lynda Lukasik and Don McLean noticed something curious: McAsphalt Industries, Canada’s largest asphalt maker, had begun operating an asphalt blending and storage facility in Hamilton even though it hadn’t yet obtained the air emissions approval required by law. So the pair submitted an application for investigation under the EBR on behalf of the non-profit organization Environment Hamilton. The Ministry of the Environment decided to conduct the investigation and found that the facility was indeed operating without a valid approval, violating the Environmental Protection Act. The ministry ordered the company to cease operations until an approval was issued, which ultimately included terms and conditions like installing equipment to control emissions. The ministry committed to monitoring and inspecting the facility.
You can challenge ministry decisions on licences, permits and other instruments.

The *Environmental Bill of Rights (EBR)* gives you the right to appeal (i.e., challenge) government decisions about certain instruments (e.g., licences, permits and other approvals) that may affect the environment.

However, you must first get permission (i.e., seek leave) from the appropriate appellate body – usually the Environmental Review Tribunal – to appeal the decision. The appellate body will decide whether your request to appeal meets the *EBR* requirements to proceed.

Since this *EBR* tool was created, Ontarians have sought permission to appeal more than 175 decisions.

For example, Ontarians have requested leave to appeal:

- A Permit to Take Water issued to the developers of a subdivision in Ottawa
- An approval granted to a cabinet maker in Hamilton to discharge pollutants into the air
- Amendments to a landfill’s approval to add a gas flare, a temporary flare, and an expanded well field to its operations
Challenging the Approvals of a Cement Plant to Burn Tires, Bones and other Wastes

In 2006, the Ministry of the Environment issued approvals to Lafarge Canada Inc. to burn tires, bone meal, plastics and other wastes at its cement plant in Bath, west of Kingston. Concerned about potential air, water and human health impacts, in January 2007, members of the rock band The Tragically Hip and several environmental organizations (Lake Ontario Waterkeeper, Clean Air Bath, and the Loyalist Environmental Coalition) sought – and won – the right to appeal the approvals. Lafarge, however, challenged the Environmental Review Tribunal’s decision to proceed to a hearing. The company and the Ministry of the Environment argued that the ministry’s decision to issue approvals was reasonable and did not require a consideration of its Statement of Environmental Values (SEV) – which includes such concepts as the precautionary principle and cumulative effects. The courts rejected these arguments.

Because these Ontarians exercised their EBR right to seek leave (permission) to appeal Lafarge’s approvals, in the end the cement plant did not go ahead with its plan to burn tires and other wastes as fuel. More importantly, the courts made clear that ministries must consider their SEVs when issuing approvals, permits and other instruments prescribed under the EBR.

“This is our air and our water, these things belong to us. Every licence to pollute, every environmental impact, must be considered carefully and publicly. These are our environmental rights, rights as important as any others, rights that must be respected.”

Gord Downie, member of The Tragically Hip
The Environmental Commissioner of Ontario (ECO)

Upholding Ontario’s *Environmental Bill of Rights (EBR)* and educating the public

The Environmental Commissioner of Ontario (ECO) is:

- An officer of the Legislative Assembly of Ontario
- Ontario’s environmental watchdog
- Objective, independent and non-partisan

The ECO Reports to the Legislative Assembly

Annual Reports cover:

- Environmentally significant decisions the government makes
- How the *EBR* is working and how the public is involved in decisions
- Other important and emerging environmental issues
- Recommendations to the government

The ECO’s mandate was expanded in 2009 to report on Ontario’s progress:

- Reducing greenhouse gas emissions
- Improving energy conservation

The ECO’s Special Reports cover many topics, such as:

- Biodiversity
- “Eco fees”
- Climate change adaptation
- Endangered species protection
ECO Outreach and Education

• Speeches and exhibits at conferences
• Facilitating dialogue through round tables and discussion papers
  • Topics have included soil carbon, waste management, land use planning and aggregates.
• Public Information and Outreach Officer addresses over 1,000 queries/year
  • 1-800-701-6454 / (416) 325-3377
  • commissioner@eco.on.ca
• Resource Centre available for public research
  • Books, reports, journals, periodicals, newspapers
  • Full-time librarian (416) 325-0363
  • 1075 Bay Street, Suite 605, Toronto
• Internet
  • www.eco.on.ca
  • www.youtube.com/EcoComms
  • Ont_ECO
  • OntarioEnvironmentalCommissioner
The Environmental Bill of Rights in Action

For more than 20 years, the various tools created under Ontario’s *Environmental Bill of Rights* have worked together to help inform government decision making and bring about increased environmental protection and conservation. Here are some examples of how applications, reports tabled by the Environmental Commissioner of Ontario (ECO) and public comments submitted on Environmental Registry proposals have helped inform environmentally significant decisions.

### Increased Protection for the Oak Ridges Moraine

**August 2001**

40 people comment on an *ENVIRONMENTAL REGISTRY* notice proposing a strategy to protect the Oak Ridges Moraine

**August 2001**

The ECO recommends that the Ministry of Municipal Affairs and Housing develop a protection strategy for the Oak Ridges Moraine

**March 2000**

Two Toronto councillors, the Federation of Ontario Naturalists and the Save the Oak Ridges Moraine Coalition submit *APPLICATIONS FOR REVIEW* requesting a new policy, act or regulation to protect the Oak Ridges Moraine, an ecologically important geological landform

**November 2001**

230 people comment on an *ENVIRONMENTAL REGISTRY* notice proposing legislation to protect the Oak Ridges Moraine

**December 2001**

Government passes the *Oak Ridges Moraine Conservation Act*
Improving the Legislative Framework for Ontario’s Protected Areas

**2001**
The Algonquin Wildlands League and the Federation of Ontario Naturalists submit an **APPLICATION FOR REVIEW** asking MNR to design a comprehensive review of the *Provincial Parks Act*

**2001**
Environmental Defence Canada submits an **APPLICATION FOR REVIEW** asking the Ministry of Natural Resources (MNR) to review the 1954 *Provincial Parks Act*

**2002**
The ECO recommends that MNR create a new legislative framework for provincial parks and protected areas

**2004**
More than 2,700 people comment on an **ENVIRONMENTAL REGISTRY** notice proposing a review of protected areas legislation

Government passes the *Provincial Parks and Conservation Reserves Act, 2006*
Other Rights under the *Environmental Bill of Rights (EBR)*

In addition to the tools described earlier in this booklet, the *Environmental Bill of Rights (EBR)* offers a number of other – less frequently used – means to help protect Ontarians’ right to a healthful environment.

### The Right to Sue for Harm to a Public Resource or for a Public Nuisance

You can sue someone who has contravened an environmentally significant act, regulation or instrument (permit or licence), causing harm to water, air, land, wildlife or another public resource. Also, you can sue for damages if a public nuisance that harms the environment causes you personal injury or economic loss.

You should consult a lawyer for details about how to sue for harm to a public resource or for a public nuisance. For the names of Ontario lawyers who practise environmental law, contact the Law Society of Upper Canada’s “Law Society Referral Service”.

www.lsuc.on.ca . (416) 947-3330 . 1-800-268-8326

### Whistleblower Protection

You have legal protection under the *EBR* if your employer has taken reprisals (i.e., dismissed, disciplined, penalized, coerced, intimidated or harassed, or attempted to coerce, intimidate or harass you) because you exercised your rights under the *EBR*. For example, you have legal protection from reprisal if you report spills, unlawful emissions or other hazardous activities at your workplace.

The *EBR* also protects you for disobeying an employer to comply with laws and regulations subject to the *EBR* (e.g., for turning off a valve to stop an illegal discharge of effluent into a river).

To make use of this whistleblower protection, contact the Ontario Labour Relations Board.

www.olrb.gov.on.ca . (416) 326-7500 . 1-877-339-3335
Learn More about Your Rights under the
Environmental Bill of Rights

The *Environmental Bill of Rights: Your Environment, Your Rights* gives a brief overview of the tools available to you under the *Environmental Bill of Rights (EBR)*. It also shares some of the successes of the *EBR* and how some Ontarians have used these tools to improve environmental protection and conservation in Ontario.

For more details about the *EBR* and how you can take action, read *Ontario’s Environmental Bill of Rights and You* online or contact the Environmental Commissioner of Ontario.

Where to Get More Information

Environmental Commissioner of Ontario
1075 Bay Street, Suite 605
Toronto, ON M5S 2B1

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<th>Phone</th>
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Links to new policy, act and regulation notices on the Environmental Registry

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ONTARIO’S ENVIRONMENTAL BILL OF RIGHTS

A BEGINNING

WHEREAS ONTARIO’S ENVIRONMENT - ITS AIR, LAND, WATER, PLANT AND ANIMAL LIFE, AND ECOLOGICAL SYSTEMS - HAS INHERENT VALUE; AND

the environment should be used wisely, protected and conserved, and where necessary, restored for the benefit of present and future generations; and

the people should have the means to ensure that this goal is achieved;

THE LEGISLATURE OF ONTARIO HAS PASSED
THE ENVIRONMENTAL BILL OF RIGHTS
WHICH GIVES THE PEOPLE OF THIS PROVINCE:

The Right to information on policies and actions that could significantly affect the environment;

The Right to have those policies and actions formally reviewed and publicly reported;

The Right to initiate investigations into situations or activities believed to be environmentally harmful and to take court action to prevent or remedy such harm;

The Right to greater protection as employees who take action to protect the environment;

The Right to have an Environmental Commissioner who shall act on their behalf to scrutinize the government to ensure that it meets its environmental responsibilities under this Bill.

THESE RIGHTS WILL ENABLE US AND FUTURE GENERATIONS TO ENJOY AND VALUE ONTARIO’S NATURAL ENVIRONMENT.

Date of Proclamation: February 15, 1994

Premier
Premier ministre

Renewed Commitment: February 2014

Premier
Première ministre

Minister
Ministre

Minister
Ministre
LA CHARTE ONTARIENNE DES DROITS ENVIRONNEMENTAUX

UN DOSSIER À SUIVRE

ATTENDU QUE L’ENVIRONNEMENT DE L’ONTARIO (L’AIR, L’EAU, LES SOIS, LES VÉGÉTAUX, LES ANIMAUX ET LES ÉCO SYSTÈMES) A UNE VALEUR INTRINSÈQUE;

que l’environnement est un bien qu’il faut utiliser judicieusement, qu’il faut protéger et qu’il faut, lorsqu’il y a lieu, remettre en état pour qu’en profitent la population actuelle et les générations à venir, et

que la population de l’Ontario doit avoir les pouvoirs nécessaires pour veiller au respect de l’environnement;

L’ASSEMBLÉE LÉGISLATIVE DE L’ONTARIO À PROCLAMÉ UNE CHARTE DES DROITS ENVIRONNEMENTAUX QUI CONFÈRE À LA POPULATION ONTARIENNE :

le droit d’être informée des politiques et des activités susceptibles d’avoir des retombées importantes sur l’environnement;

le droit de demander un examen public et un rapport de ces politiques et de ces activités;

le droit de demander l’ouverture d’une enquête sur des actes présumés dangereux pour l’environnement et le droit d’avoir recours à la justice pour empêcher que de tels actes se produisent ou pour en réparer les dégâts;

le droit de signaler les délits environnementaux commis par des employeurs sans encourir de représailles de ceux-ci;

le droit d’être représentée par un Commissaire à l’environnement chargé de veiller à ce que le gouvernement assume ses responsabilités en vertu de la Charte.

GRÂCE À CES DROITS, LA POPULATION DE L’ONTARIO POURRA JOUIR D’UN ENVIRONNEMENT SAIN ET EN FAIRE SA FIERTÉ.

Date de proclamation : le 15 février 1994
Engagement renouvelé : février 2014

Ontario
The Environmental Bill of Rights: Your Environment, Your Rights

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ISBN (PRINT) 978-1-4606-5087-5
ISBN (ONLINE) 978-1-4606-5088-2
REVISED January 2015

Cette publication est aussi disponible en français
This publication can be viewed online at www.eco.on.ca