



## **Backgrounder**

### **Environmental Commissioner of Ontario**

### **Special Report – Doing Less with Less**

*As an independent officer of the Legislative Assembly of Ontario, Gord Miller, the Environmental Commissioner of Ontario (ECO), monitors and reports on compliance by provincial ministries with the Environmental Bill of Rights (EBR). This special report was submitted to the Speaker of the Legislative Assembly on April 24, 2007*

#### **MOE and MNR have large and expanding mandates**

Ontarians rely on MOE to protect Ontario's air and water quality and its ecosystems. They also expect MNR to be the primary steward of Ontario's wildlife, forests, wetlands, aquatic life and sand and gravel resources. Together, the ministries must be able to track the health of Ontario's natural environment, identify instances of environmental degradation, and take action to prevent or mitigate such degradation. They must also set rules and procedures, and carry out education, inspections and enforcement.

MOE's mandate has expanded in many directions; for example, air issues alone have grown to encompass regulation of acid gas emissions and ozone depleting substances, oversight of the Drive Clean Program and most recently, climate change. MNR similarly must deal with increasingly complex issues; timber management has become sustainable forest management, with many planning requirements. Fish and game issues have shifted and expanded to cover wildlife conservation, species at risk, biodiversity and invasive species.

#### **Operating budgets for MOE and MNR have declined since 1992**

MOE's operating budget decreased throughout most of the 1990s, hitting its lowest level in 1997/98 and 1998/99. Thereafter, MOE's operating budget began to recover, but much of the increase was dedicated to responding to drinking water protection following the Walkerton tragedy. After adjusting for inflation, the buying power of MOE's 2006/2007 operating budget is approximately 34 per cent lower than it was in 1992/1993.

The decrease in MNR's operating budget between 1992/1993 and 2004/2005 was approximately 35 per cent, expressed in inflation-adjusted terms. Despite recent new funding that was almost entirely transferred through to forestry companies to respond to a crisis in that industry, MNR's 2006/2007 operating budget remains approximately 18 per cent lower than in 1992/1993.

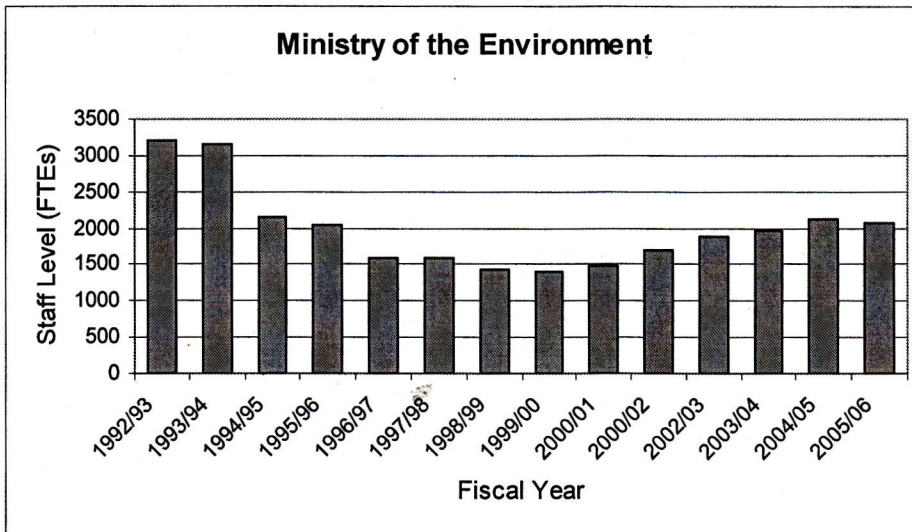
**MOE and MNR receive declining share of overall provincial budget**

MOE's and MNR's planned operating budget for 2006/2007 is about 0.32 per cent and 0.73 per cent respectively of the overall operating budget of the Ontario government. In the early 1990s, MOE's and MNR's operating budgets had been as high as 0.63 per cent and 1.15 per cent respectively, of the Ontario government operating budget.

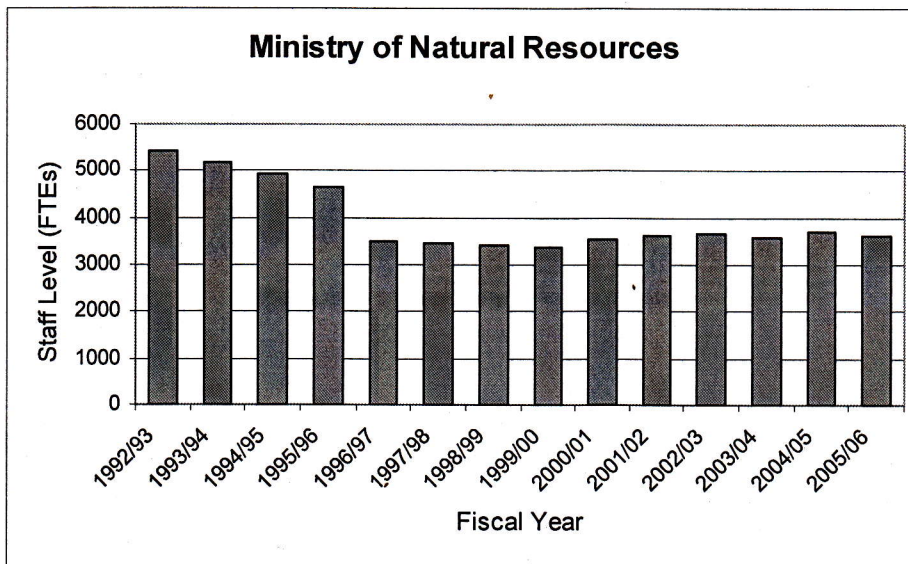
**Evidence of declining expertise**

The ECO observes that chronic underfunding has led to a gradual decline in expertise within MOE and MNR. Restructuring and reprioritizing exercises have resulted in core activities being outsourced, specialists becoming generalists and experienced staff including scientists being cut.

**Staffing levels mirror changes in operating budgets**



**Figure 1:** MOE staff levels 1992/1993 to 2005/2006. Totals are measured in full-time equivalent positions, as reported at fiscal year-end. Source: MOE



**Figure 2:** MNR staff levels 1992/1993 to 2005/2006. Totals are measured in full-time equivalent positions, as reported at fiscal year-end. Source: MNR

### Consequences for environmental programs

Past Annual Reports of the ECO have described many examples of capacity problems at MOE and MNR, including the following:

- MOE has downloaded control of noise, dust and odour problems to municipalities that may lack the resources, expertise or legal authority to take effective action. In a number of cases, frustrated complainants have managed to convince MOE to take action by resorting to applications under the *Environmental Bill of Rights*.
- MNR's already small budget for acquiring properties of high ecological significance has remained virtually frozen for the past decade, while land values in Southern Ontario have increased dramatically and inflation has eroded the purchasing power of the fund.
- MNR has very limited capacity to monitor fish populations, including valuable sport fish species, such as lake trout, which are vulnerable to overfishing. In 2003/2004, the ECO reported that the ministry has long-term population data for less than two per cent of the lakes inhabited by this species.
- MOE relies on a 15-year-old, rudimentary inventory of waste disposal sites that inhibits its ability to monitor and properly regulate Ontario's landfill sites. The ministry has indicated that it lacks the staff and financial resources to update and enhance the database.

In the preparation of this Special Report, the ECO also scrutinized several core programs of MOE and MNR. Some of the findings are highlighted below:

### **MNR's Parks Program**

MNR is responsible for managing Ontario's protected areas, including 329 provincial parks, 292 conservation reserves and 10 wilderness areas, up from eight provincial parks 25 years ago. Over the past 25 years, the number and total area of protected areas has increased dramatically, and visitor numbers have gone up also, but spending on parks has not kept pace, despite rising fees. Compared to other similar Canadian and U.S. State park systems, Ontario has been spending substantially less per campsite, less per visit and less per hectare, despite the highest cost-recovery rate. One consequence is that natural heritage education programs offered in parks are often funded by volunteer organizations. Parks planning, monitoring and maintenance of infrastructure are all areas of concern. For example, the majority of provincial parks do not have approved management plans.

### **MOE's Inspections Programs**

Ontario has an impressive list of laws designed to protect the environment, but an effective inspection program is needed to ensure that these laws are enforced. MOE staff are able to inspect only about two to four per cent of all regulated facilities per year, so many facilities may go decades without seeing an inspector. Targeted inspection sweeps by MOE have found extremely high rates of non-compliance across most sectors.

### **MOE's Water Well Inspections**

MOE is responsible for ensuring that standards are met for water well construction, disinfection and abandonment, among other things. Given the importance of groundwater to millions of Ontarians, the public would expect MOE to have a program to guard against improper well construction and inadvertent water contamination. As of early 2007, MOE does not have staff dedicated to investigating private drinking water well construction, repair or abandonment operations on an on-going basis.

### **MNR's Fish and Wildlife Monitoring Programs**

MNR is responsible for the protection and management of animal and plant species in Ontario, including advising planners and builders of infrastructure about the habitat values of lands proposed for development. The ministry conducts population inventories of less than 10 per cent of Ontario's mammalian species, and there is evidence of limited capacity to monitor even high priority species such as moose, black bear and white-tailed deer. MNR relies heavily on third parties for monitoring and assessment of bird populations and habitat. The ministry also has a very limited capacity to inventory and monitor sport fish species and habitats.

### **MOE's Oversight of Municipal Sewage Systems**

MOE is responsible for regulating the discharge of sewage into Ontario waters, including oversight of construction and maintenance of sewage treatment plants, monitoring and reporting on performance trends and enforcing compliance. MOE has acknowledged that outdated Certificates of Approvals for sewage treatment plants are a systemic problem. MOE does not require municipalities to enact sewer use bylaws, and has not verified whether adequate plans are in place to control combined sewer overflows in all of the municipalities

with combined sewers. MOE has not released an up-to-date, comprehensive summary of sewage treatment plant performance data since 1993.

#### **MOE's Approvals Program**

As one of its core functions, MOE issues Certificates of Approval (Cs of A) to regulate activities that may have an impact on the environment. The ministry receives approximately 8,000 applications for new or amended Cs of A each year, but has been able to process only 6,500 to 7,000 applications a year. There are frequent concerns raised by industry about delays in obtaining Cs of A for innovative or complex technologies. As well, MOE is struggling to cope with the widespread problem of outdated Cs of A, allowing many facilities to operate under outdated conditions, no longer reflective of current standards of environmental protection.

#### **MNR's Oversight of Sand and Gravel Extraction**

MNR is the lead agency responsible for managing Ontario's aggregate resources. The ministry has acknowledged that it has been coping with limited and decreasing capacity for inspection and enforcement obligations. Some individual inspectors are responsible for as many as 600 aggregate sites - far more than one inspector can realistically oversee. The ministry has also acknowledged that "Lack of staff and visibility in the field by inspectors has resulted in an increase in illegal operations and numerous complaints to MNR field staff." The most recently published inventory of Ontario's aggregate resources dates back to 1992, and it appears that resources are not available to update it, though it is acknowledged to be a critical planning tool.

#### **MNR's Enforcement of Conservation Laws**

MNR's conservation officers enforce the province's fish and game laws, as well as a wide range of other legislation covering the management of fire, parks, endangered species, the forest industry and aggregates. There has been roughly a 20 per cent cutback in field enforcement staff numbers over the past 14 years, even though the legislated responsibilities have expanded greatly. For example, Lake Ontario's sport and commercial fisheries (including the Niagara River and the St. Lawrence to the Quebec border) are patrolled by two conservation officers. In northern Ontario, constraints on funds to cover gasoline and other basics are limiting field presence of conservation officers, making it harder to deter poaching.