



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

November 7, 2006

BY FAX

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

Dear Mr. Miller:

**RE: O.REG. 276/06: E.A. EXEMPTION FOR ONTARIO'S INTEGRATED POWER
SYSTEM PLAN
EBR APPLICATION FOR REVIEW FILE # R2006004**

We are writing to update your office on the ongoing failure by the Ministry of the Environment (MOE) to comply with its EBR obligations respecting the above-noted matter.

As you know, CELA filed an EBR Application for Review of O.Reg.276/06 with your office on June 20, 2006. It is our understanding that your office forwarded a copy of the Application for Review to the MOE on June 21, 2006.

Shortly thereafter, we received a letter of acknowledgement from the MOE (attached), which advised that the MOE's response to the Application for Review would be provided to us by August 21, 2006.

Unfortunately, this letter represents the only correspondence that we have received from the MOE to date in relation to the Application for Review. In particular, we have not received the MOE's response to the Application by the prescribed deadline, nor have we received any explanation from the MOE as to the reasons for delay, nor have we been advised when we can expect to receive the MOE response now that the deadline has expired.

In our view, the MOE's non-response to this Application for Review clearly represents serious non-compliance with section 70 of the EBR, which prescribes a 60 day deadline for the MOE's response. In addition, we view this inexcusable delay as a continuation of the MOE's non-compliance with the EBR when O.Reg.276/06 was originally passed in contravention of mandatory EBR requirements for public notice and comment, as you have noted in your media release dated June 19, 2006.

As you know, the province's long-term electricity planning exercise – which O.Reg.276/06 purports to exempt from coverage under the *Environmental Assessment Act* (EA Act) – is a matter of considerable public interest and profound environmental significance. More importantly, as the MOE delays its response to CELA's Application for Review, the Ontario Power Authority is currently continuing to develop the components of the Integrated Power

System Plan in accordance with directives from the Minister of Energy, but outside of the EA Act.

For these reasons, we regard this as an extremely urgent situation which warrants your immediate intervention to uphold the integrity of the EBR, and to ensure governmental accountability for its acts and omissions in relation to O.Reg.276/06.

Accordingly, we hereby request that your office take all necessary steps, and contact all necessary provincial officials, to ensure that MOE responds forthwith to CELA's Application for Review. In the circumstances, we would further suggest that your office give consideration to the issuance of a special report regarding this matter, particularly since your next Annual Report will be not be released until October 2007.

Please contact me if you have further questions or comments, and we look forward to your reply to this request.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



Richard D. Lindgren
Counsel

cc. Jim Lewis, Director, MOE Information Management and Access Branch
Mark Winfield, Pembina
Jose Etcheverry, David Suzuki Foundation
Shawn-Patrick Stensil, Greenpeace Canada

**Ministry of
the Environment**

Information Management and
Access Branch

12th Floor
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**Ministère de
l'Environnement**

Direction de la gestion et de l'accès en
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June 22, 2006

Michelle Swenarchuk
Executive Director, Canadian Environmental Law Association
130 Spadina Avenue, Suite 301
Toronto, Ontario
M4V 2L4

and

Richard Lindgren
Counsel, Canadian Environmental Law Association
130 Spadina Avenue, Suite 301
Toronto, Ontario
M4V 2L4

Dear Michelle Swenarchuk and Richard Lindgren

RE: Application for Review of MOE recent decision regarding the designation, then exemption of Integrated Power System Plans under the Environmental Assessment Act.

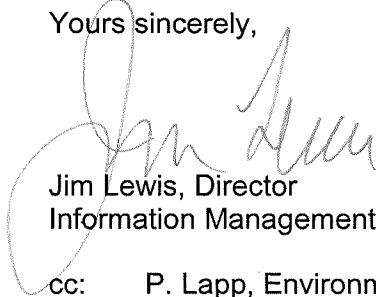
EBRO File Number: 06EBR004.R

The Ministry of the Environment received your Application for review, which was forwarded to us by the Environmental Commissioner on June 22, 2006.

Staff of this Ministry will consider the information provided in your application. You will be sent a notice of the decision as to whether a review will be conducted, along with the rationale for this decision, by August 21, 2006.

If you have any questions on the above, please contact Cathy Clarke of the Environmental Bill of Rights Office at (416) 314-4151.

Yours sincerely,



Jim Lewis, Director
Information Management and Access Branch

cc: P. Lapp, Environmental Commissioner's Office (file #:R2006004)
EBRO file

RECEIVED JUN 22 2006

Environmental
Commissioner
of Ontario



Commissaire à
l'environnement
de l'Ontario

Gord Miller, B.Sc., M.Sc.
Commissioner

Gord Miller, B.Sc., M.Sc.
Commissaire

June 21, 2006

Michelle Swenarchuk
Canadian Environmental Law Association
301-130 Spadina Ave
Toronto, Ontario
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Richard D. Lindgren
Canadian Environmental Law Association
301-130 Spadina Ave
Toronto, Ontario
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Dear Applicants:

Re: Application for Review, File No. R2006004

Thank you for your Application for Review received on June 20, 2006. Pursuant to section 62(1) of the *Environmental Bill of Rights, 1993*, your Application was referred to the Minister of the Environment for consideration on June 21, 2006. Within twenty days of receiving your Application, the Minister should provide you with an acknowledgement of its receipt.

Subsequent to the receipt of the Application, the Minister has sixty days within which to consider the matter and decide whether a review is warranted in the public interest. The Minister is required to provide a written decision whether a review will be conducted, together with a brief statement of the reasons for that decision.

In the event that a review is conducted by the ministry, you will be provided with notice of the outcome of the review within thirty days of its completion.

Please note that the Environmental Commissioner cannot change ministry decisions about Applications. However, the Environmental Commissioner reviews how ministries receive and handle Applications and makes recommendations about this to the Legislature in his annual report.

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