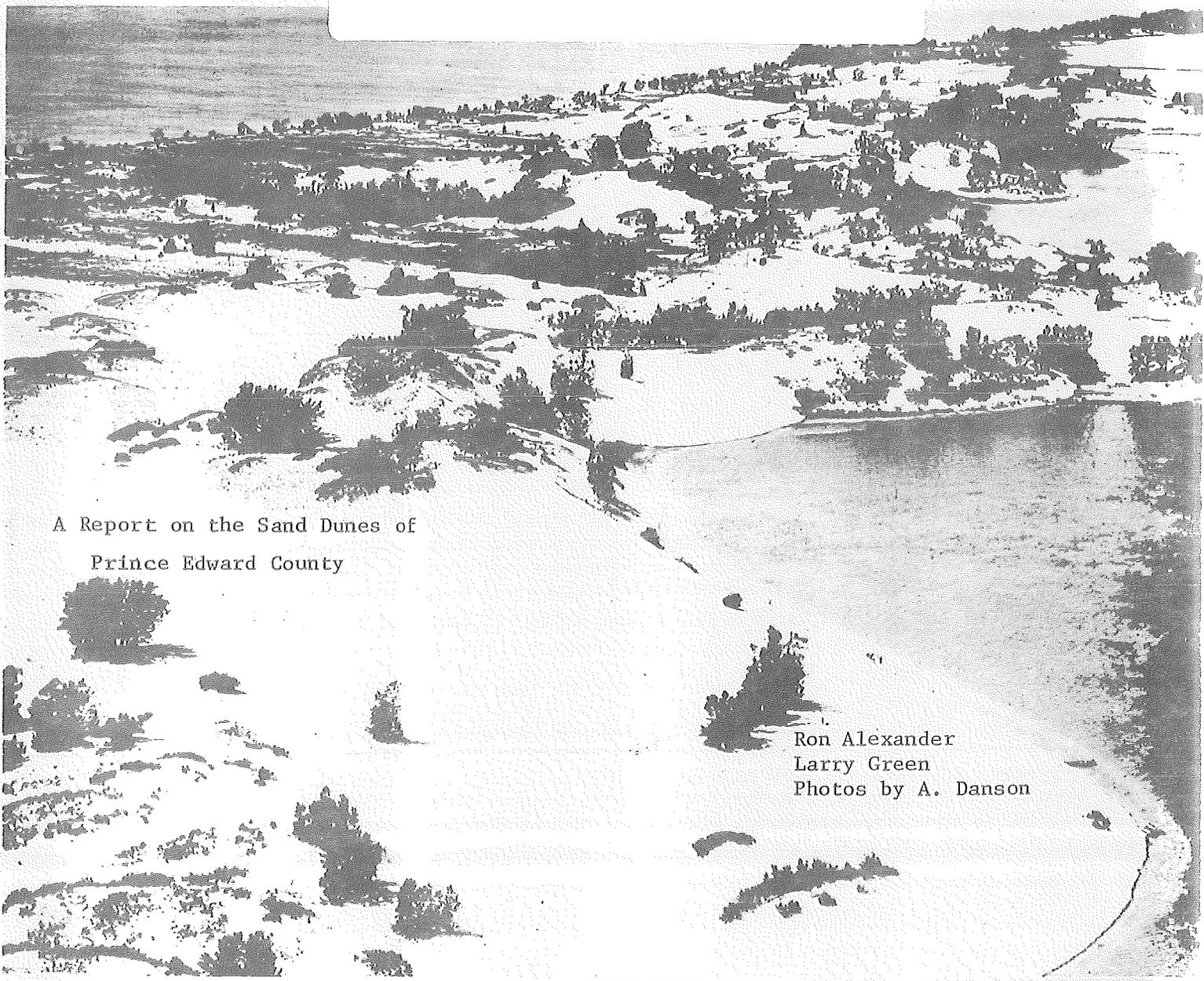


A FUTURE FOR THE SANDBANKS

Publication # 14
ISBN# 978-1-77189-715-0



A Report on the Sand Dunes of
Prince Edward County

Ron Alexander
Larry Green
Photos by A. Danson

CELA PUBLICATIONS:
Canadian Environmental Law Research Foundation;
Pollution Probe; Alexander, Ron and Larry Green
CELA Publication no. 14; A future for the sandbanks : a
report on the sand dunes of Prince Edward County

RN 10367

A FUTURE FOR THE SANDBANKS

A Report on the Sand Dunes of
Prince Edward County

prepared for:

Pollution Probe

and

Canadian Environmental Law Research Foundation

by: Ron Alexander
Larry Green

September 18, 1972

Photos: Andrew Danson

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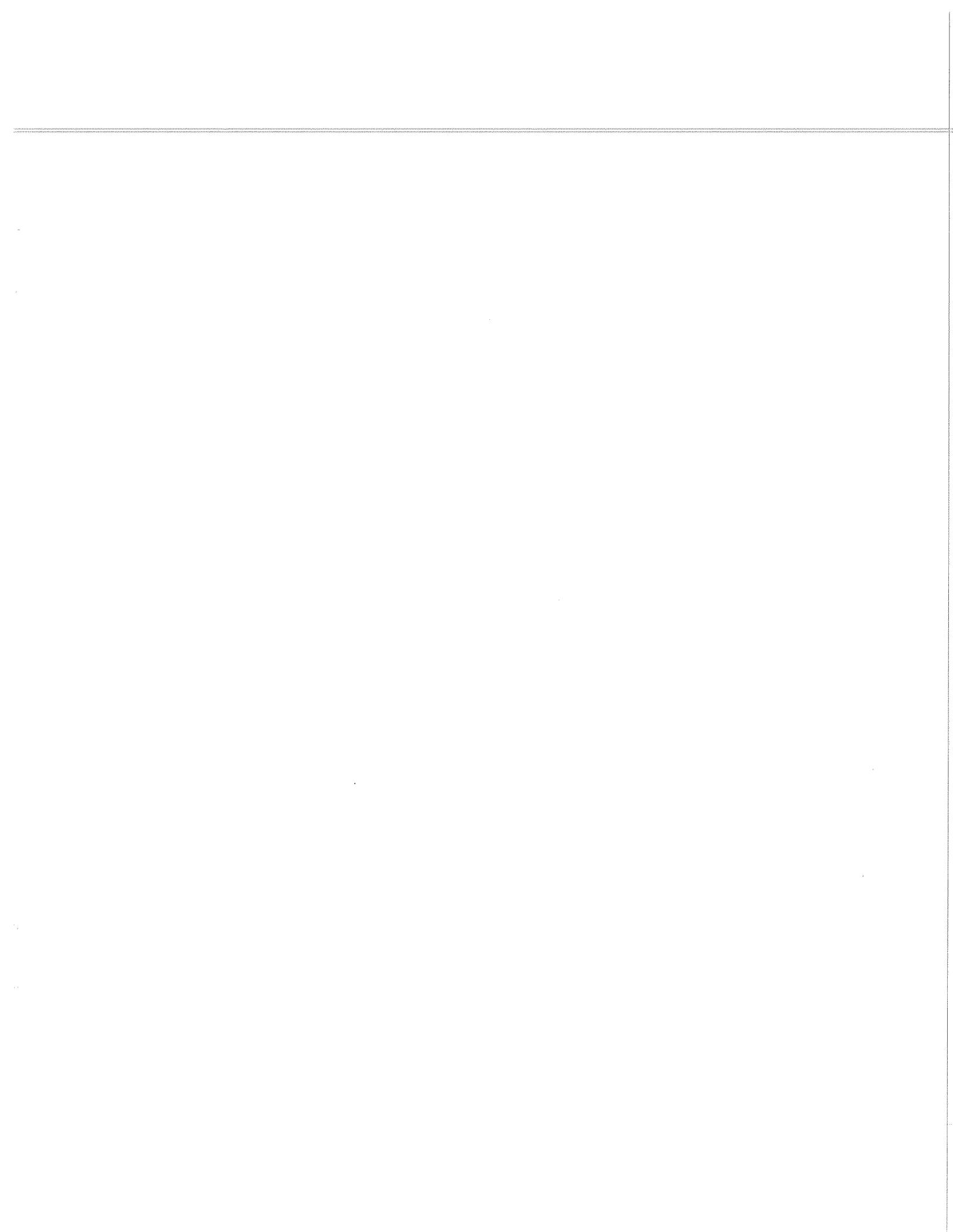


TABLE OF CONTENTS

- I. Introduction
- II. Formation of the Dunes
- III. History
- IV. Exchange of Land
- V. Public Protest
- VI. The Tovell Report
 - A) The Provincial Announcement
 - B) Analysis of the Report
 - C) Dune Stability
 - D) Environmental Impact
 - E) Alternative Sources
 - F) Tovell's Recommendations
- VII. Corporate Structure
 - A) Ownership
 - B) Board of Directors
 - C) Company/Government Relationships
 - D) Method of Production
 - E) Limiting Competition
- VIII. Tourism and Employment in Prince Edward County
- IX. Violation of the Law by Lake Ontario Cement and the Province of Ontario
- X. Conclusions and Recommendations
- XI. Tables
 - I. Directors Denison Mines
 - II. Directors Lake Ontario Cement
 - III. Directors Royal Ontario Museum
 - IV. Financial Data Denison Mines
 - V. Ownership Lake Ontario Cement
 - VI. Financial Data Lake Ontario Cement

TABLE OF CONTENTS

- XII. Appendix I
- XIII. Appendix II
- XIV. Appendix III Statement of Claim
- XV. Photos

1. INTRODUCTION

Environmental issues are never simple. They involve the many dimensions of politics and economics. The issue of the destruction of the sand dunes of Prince Edward County is no exception. In the following pages we will outline how the destruction of the sand dunes came about, how Stephen Roman's Denison Mines makes substantial profits by utilizing the dune sand, and how the Conservative Government of Ontario, which is linked to the corporate structure that profits from this destruction, failed to take the necessary steps to preserve this unique geological phenomenon.

It is our intention to demonstrate in this report that the sand banks issue is not just another case of environmentalists opposing progress. But like most environmental problems, the sand banks is one of political and economic complexity involving corporate and government inter-relationships, self-interest and complete disregard for environmental and social impact by those responsible in the present decision-making process.

It is our hope that in the future long range planning, sound resource management, and public participation in decision-making will replace the short-term planning, resource exploitation, and exclusion of the public from decision-making that characterize our present political system. It is important that the public have access to all relevant information and knowledge to participate fully in the decision-making process and that the public's voice be heeded. It is toward these ends that this report has been written and that a public campaign to save the sand banks has been undertaken.

II. FORMATION OF THE DUNES

The sandbanks of Sandbanks Provincial Park of Prince Edward County are unique in their formation and quality of the sands.

They consist of a long, narrow peninsula of glacial sand deposits, situated between Lake Ontario and West Lake, eleven miles from Picton. Much of the sand was washed ashore on the Lake Ontario side and blown inland from the beaches to form dunes.

The sands, being the result of glacial, wave, and wind action, are described as being among the finest in the world. Professor T. W. Dwight (formerly of the Department of Lands and Forests and the University of Toronto) has described the sands as being unique in the world for their smoothness and fine texture. He has had personal occasion to become familiar with sands in Prussia, central Sweden, the Sahara, the French Riviera, southern England, Florida, and eastern Texas.

The source of sands which once fed the build-up of dunes is now depleted. This can be witnessed by examining the beaches on the Lake Ontario side of the peninsula. There exist now only stony beaches. It is Professor Dwight's opinion, consequently, that the original source has been depleted and that no regeneration of dunes will occur.

III. HISTORY

Settlement began in the early 1800's with grants of land being issued by the Crown. These included parcels of land in Hallowell Township immediately adjacent to the peninsula containing the sand banks; however, the peninsula itself was never granted to any person and has to this date remained as public or Crown land.

These early residents cleared land and established homesteads; hotels were erected and the area prospered. However, unknowingly, the farmers in clearing the area for grazing in the 1840's had in fact removed the protective cover which had naturally stabilized the dunes until this time. With the vegetation covering now gone, the dunes were exposed to winds which caused them to move north and east. This shifting continued throughout the latter half of the 19th Century, inundating farm land and in some cases burying farm buildings and hotels.

In about 1922 the government became aware of the situation through communications from concerned residents of the area and embarked on a program of purchasing the former farm land and stabilizing the dunes via reforestation.

The program appears to have been fairly successful, although the government again became increasingly active in the area in the 1950's with a renewed reforestation program. This was done to solve the problem once and for all with modern reforestation techniques. Comparative surveys for the years 1922 and 1959 in fact show little change in position of the dunes due to shifting.

In 1915 the West Lake Brick Products Company Limited purchased lands in the area and made commercial use of the sands until approximately 1922, when it was forced to close due to the shifting sands. Lake Ontario Cement Limited began to excavate in this area by agreement on May 15, 1958, and used the sand for production of cement.

During the 1950's and 1960's private resorts and businesses based on tourism developed and flourished in the area, until today almost the entire shore of West Lake paralleling the West Lake Road is devoted to this industry. The major attraction to the area is the large, scenic dunes on the peninsula. West Lake itself is a small, sheltered, sandy-bottomed lake, ideal for recreation.

The Government of Ontario began to consider the area for parkland, and to that end a survey to establish boundaries for the proposed park was completed on January 15, 1959, by Mr. J. K. Brenner, O.L.S. However, it was not until April 20, 1970, that the Sandbanks Provincial Park was officially designated by regulations made under the Provincial Parks Act.

IV. EXCHANGE OF LAND

As discussed above, farmland previously granted by the Crown to settlers became inundated with sand, prompting government to again take an interest in the land for conservation and reforestation purposes. Large purchases of property were made by the government in 1922 and 1923, and eventually became what is now known as Sandbanks Provincial Park.

After the land was purchased in the 1920's, the Department of Lands and Forests began a reforestation program to stabilize the dunes on both Crown and privately held land.

There was, however, a section of land in the northwest corner of Lot I, Block H, which the government did not buy; this was 19 3/4 acres of land owned by the West Lake Brick Products Company Limited (Map Area A). The brick company was still operating in 1922, but it ceased to do so shortly afterwards.

The land was unused until July 5, 1939, when a local farmer by the name of Firman G. Cockburn purchased from the West Lake Brick Company for \$100. Considering the government's buying spree of the early '20's, it is unclear why this parcel of land was not purchased by them. The government was, however, still interested in the area, for an overall reforestation plan was developed and implemented by the Department of Lands and Forests between 1954 and 1957. The land which at this time belonged to Mr. Cockburn was reforested during this government program and remained in his possession until September 24, 1958, at which time Harvey J. McFarland purchased it for \$12,000. One month later on October 21, 1958, Mr. McFarland, a director of Lake Ontario Cement Limited, sold the land to the company for the same amount. Thus the company had knowingly purchased land which was already heavily wooded as a result of reforestation.

It was also during this period that the government was considering incorporating the Crown lands of the peninsula, together with the previously acquired farmland now covered with stabilized dunes, into a provincial

park. In fact, the surveyor's (Mr. J. K. Brenner, O.L.S.) report, designed to establish the park boundaries, was submitted to the government on January 15, 1959, a little over two months after the company had legally acquired the land in question. Indeed, the inference seems, then, that the company was well aware of Mr. Brenner's survey during 1958 and hastily closed their deal with Mr. Cockburn.

It should be stated that the company had an agreement with Cockburn as of May 15, 1958, to remove sand for twenty years from his land, which they eventually purchased on October 21, 1958. The company, however, took little time to firmly establish what lands they had bought, for it appears that the majority of sand removed by them was taken illegally from Crown lands. Examinations of the pit area on Crown land and the company land revealed to us that little excavation activity had occurred other than that evident on the Crown lands. The land purchased by the company from Cockburn was already well forested, whereas the Crown land consisted of large, partially exposed dunes of pure sand.

It seems that in the late '50's the express wish of the Crown was first to obtain all lands in order to stabilize the dunes, and then to turn the entire area into Sandbanks Provincial Park. These plans seem to have been greatly affected when Lake Ontario Cement suddenly purchased land in the soon to be designated dune area. It would be fair to say that it was lack of coordination among the various branches of the Department of Lands and Forests which led to their failure to obtain this additional area for inclusion in the proposed park.

In addition, there has been confusion over what the positions of the

company and the government were when the conflict first arose. A great deal of this confusion has arisen from a recent government statement which was released by Rene Brunelle, former Minister of Lands and Forests, on October 1, 1971. In that statement impressions are given that

- (a) the company had owned the land in question for a number of years prior to the reforestation program;
- (b) the government had somehow completed its reforestation project without the owners of the land having had any knowledge of the program;
- (c) the company rejected the land outright as being completely unacceptable to them.

However, as was shown above, the company had purchased the land well after the reforestation had been completed. The reforestation occurred in the years 1954 to 1957, and was carried out by the Crown on these private lands with the active consent and participation of the owners. Lawyer Barry Young, defeated Liberal candidate for Prince Edward-Lennox was told by company officials, Bruce Price, operations manager in Picton, and Robert McLean, former president, that the company would have continued to quarry its original lands had they been given permission to do so by the government.

Contrary to the impression conveyed by Brunelle's statement, the government decided that it would not allow LOCL to quarry the land that they had recently acquired because it had been stabilized by the reforestation program. Unlike the government of today, the provincial authorities at that time took the commendable position that the excavation in the area

was not compatible with the establishment of a provincial park. The company then assumed the official position that the reforestation had spoiled the sand for commercial use. They also advanced a questionable legal argument based on some old judgements in property law claiming ownership to accreted sand lying in front of their original parcel of land. (See Map Area B)

The argument was that in 1838 this property had actually formed part of the shoreline of West Lake, and by the law of accretion, the company, through the original owners in 1838, were now entitled to all drifted sands which had accumulated in front of their property. The same argument of course would apply to accreted sands in front of the Crown property.

Grant Ferguson, senior counsel for the Ministry of Natural Resources, claimed that there was a 50 percent chance that the company could retain its original land as well as acquiring the accreted sand adjacent to their property through court action. The government was sufficiently intimidated by this argument to avoid allowing the courts to decide the matter and instead, during a dune-top meeting between Kelso Roberts (the Attorney General of Ontario at that time) and Robert McLean (then company president), the company was given verbal permission to quarry sand on Crown lands. This Agreement was formalized on January 12, 1968, when the company deeded its fifteen acres back to the Crown and the government issued Crown Lease 2928 granting the company the right to excavate sand from 16.02 acres of Crown land (see Map). The lease was made retroactive to January 1, 1965 and was to continue in force until December 31, 2041, at a cost of \$1.00 per year.

Under the terms of the lease, the company may not excavate below the level of West Lake or remove trees from the area except with the written permission of the district forester; neither of these conditions have been met. (See photos 1 and 2.)

In summation, then, due to the timidity of the provincial legal advisors in testing a questionable legal argument by the company, the government gave up unique, dune-covered Crown lands to a commercial interest that had already been illegally removing sand from those public lands. And, furthermore, it was a commercial interest which had legally obtained title to a parcel of land only two months before the submission of a government surveyor's report that was intended to designate boundaries to turn the entire area into a scenic provincial park.

It is interesting to note that at no time during this period of negotiation and legal manoeuvres was the now famous "job question" discussed by either the government or the company. Yet, at present it is the only argument used by the government in defence of their policy.

The government originally opposed the company's presence at the sandbanks; however, it was only when they were confronted with the possibility of losing all the land that they acquiesced in granting excavation rights on the dunes.

For a government that had come this far (beginning with land purchases in the 1920's) to have forgotten their power of expropriation, is probably the saddest comment on the sandbanks issue.

V. PUBLIC PROTEST BEGINS

After the exchange of land was completed in 1968, there was, at first, little public reaction. Then, as the excavation of the dunes proceeded, tourists, park users, and environmentalists realized that these unique dunes which were so important to them were being trucked away for cement.

Public concern about the quarrying of the unique sand dunes on Crown land so close to a provincial park made the issue one of provincial importance during the summer and fall provincial election campaign of 1971.

In Prince Edward-Lennox the sandbanks was the most important, if not the only issue, and it therefore attracted the attention of all the candidates in the riding. Public pressure, both in Prince Edward County and elsewhere in the province, demanded that the issue be resolved immediately.

That pressure forced James Taylor to consult with several provincial cabinet ministers in order that a possible solution could be presented to the public. On September 24, Taylor announced in Picton that the province planned to acquire for public purposes the land on which Lake Ontario Cement was excavating.

After discussions with Lake Ontario Cement officials, Taylor was confident that the company would co-operate with the government to end quarrying on the dunes, and negotiation would proceed in an amicable way.

The land would be valued by two independent appraisers, and negotiations would proceed through the Department of Public Works to arrange a financial settlement. On the question of expropriation Mr. Taylor was evasive.

He said the land would be acquired by "expropriation if necessary", but not necessarily by expropriation .

It seemed, then, that the government would resolve the issue through negotiations without the use of its right to expropriate the lease.

A field trip was conducted by Gavin Henderson, Executive Director of the National and Provincial Parks Association, to impress on government and the company the need to "get on with the job" of negotiating a settlement to the sandbanks problem because the dunes are a magnificent recreation resource and a natural resource of national significance.

James Taylor was elected in Prince Edward-Lennox, so it appears that the people of the area collectively support an end to quarrying on the dunes.

NEGOTIATIONS CONTINUE

On November 25th, Dr. R. T. Potter, Minister of Health and MPP for Quinte assured everyone that "attempts are being made to find an alternative source. But it can't be done overnight". One month had elapsed since the Conservatives were re-elected, but the sandbanks issue still had not been resolved as promised in September. This was the first indication of many delays that would result in the issue remaining unresolved nearly a year later.

Individual protest, letters to the editors of various papers continued through the winter. Finally, on February 15, 1972, James Taylor, MPP for Prince Edward-Lennox announced that an alternative site near Picton

had been offered to Lake Ontario Cement by the government. Preliminary analysis indicated that the sand - from the Ridge Road esker - would be suitable for the company's cement making process.

The site that the government offered the company did not resolve the issue. A company spokesman said that Lake Ontario Cement's Picton operation required very high quality sand - white, fine, and with a high silica content - and that the question of economics had to be considered.

The government was not willing to pressure the company into accepting the site unless the company was "completely satisfied".

Private citizens, conservation associations, and anti-pollution groups such as P.A.C.E. in Belleville once again began to lobby for an end to the quarrying because they had come to believe that negotiations, supposedly underway since September, had never taken place.

VI. THE TOVELL REPORT

A.) The Provincial Announcement

This renewed public pressure led Leo Bernier, Minister of Natural Resources, to announce, on March 1st, that the Ontario Government "will take over the sand dunes next to Sandbanks Provincial Park in less than three months".* The Minister explained that a geologist, Dr. Walter Tovell, Associate Director of the Royal Ontario Museum, had been appointed to advise the government in the ~~final stages of the negotiations with the company for the leased~~ land. Bernier said it would be Tovell's job to suggest what, if

* The Globe and Mail, March 1, 1972

any, financial arrangements would be made with the company.

On July 13th, four and a half months after Bernier's announcement that the government would take over the dunes, Bernier released the Tovell Report - which, he said, the government "accepts in principle". Once again suspicions were raised that negotiations were not taking place and that the government planned to allow the quarrying to continue.

The report, for which the government had paid \$3,000, contained a scant four pages of written text, one map, and ten photographs, none of which were done at the time of the study.

It contained several factual errors and omissions, and provided no technical or economic data to indicate what alternative sites could be feasibly utilized by the company.

B.) An Analysis of the Report

A thorough discussion of the report's deficiencies is presented below in order to assist the government in reviewing their policy towards the dunes.

The first paragraph of the report indicates that a copy of the contract that Tovell signed on April 14, 1972, can be found in the report, marked Exhibit 1, but it is conspicuously absent.

While most government studies are prefaced by several paragraphs indicating the specific instructions that are to be carried out by the investigator and complied with in the report,

here the author simply explains that he was asked to

investigate the physical and aesthetic effects on the environment of the area and in particular the effects on the Sandbanks Provincial Park if Lake Ontario Cement Limited continues to remove sand from the site

and

look into the feasibility of providing Lake Ontario Cement Limited with an alternative site for suitable sand in exchange for the surrender of rights of the company at their present site.

These responsibilities are substantially different from those outlined by Bernier on March 1st, and indicate that negotiations were not taking place at all.

In the ensuing paragraphs we will show that Dr. Tovell did not carry out the task which he established for himself.

The only on-site investigation that Tovell did, took place on April 20-21 - hardly adequate time to study the "physical and aesthetic effects on the environment" or evaluate the potential alternative sources of raw material in the area.

C.) Dune Stability

Evidence that his investigation was inadequate appears in several paragraphs throughout the report.

Although he states categorically that the "dunes are transitory in nature", he cannot even provide an estimate of the amount of sand, if any, moved into Lake Ontario Cement's pit by wind action.

Additional evidence can be found in the report to challenge his

theory that the dunes are still unstable. Figure 2, a copy of the Brenner Plan (site survey) of 1958 is the only map presented in the report. It must be assumed, therefore, that the government, when it agreed to grant the lease to Lake Ontario Cement Limited in 1968, accepted the 1958 site survey as being accurate. The author must also believe that the survey is accurate to the present, or he would have presented additional cartographic evidence that the site had, in fact, changed in the fourteen years since the Brenner survey.

A comparison of Figure 2 (the Brenner Plan) and Figure 12 (the Richardson graphic showing the edge of sand drift in 1922) reveals some startling similarities. The solid brown line marked "1958" in Figure 2 indicates the furthest southerly advance of the dunes. The incursion of the dunes on the first concession on the southeasterly side of West Lake and on the road running 30o 40' SE is identical to the incursion shown by the 1922 Richardson graphic. The West Lake shoreline in both Figures is identical.

It can be concluded that the dunes are not now shifting and that they are not likely to blow into West Lake. The dunes are, in fact, stable - except for the quarrying being done by Lake Ontario Cement Limited.

The Tovell argument that the 300 acres of dunes are bald and drifting has no basis in fact. The dunes both in the park and

on the Lake Ontario Cement leased land were stabilized by clumps of poplar and willow, some natural, but most planted on the dune tops to allow the root systems to spread out about 6 to 12 inches under the dune surface to stabilize them. This program appears to have also been effective.

The evidence Dr. Tovell presents indicates that the dunes are unstable on a geological scale but not within the period of several human generations.

D.) Environmental Impact

Even though Dr. Tovell was required to study "the physical and aesthetic effects" of the excavation on the environment and the park, he offers little evidence that he did.

Nowhere in his study does he assess the environmental impact of altering a dune environment to a swamp-like one. Nor does he assess the visual and acoustic effects on people using the park and adjacent resort. Surely, these should have been prime considerations in any report on the sand dunes.

A rudimentary ecological survey conducted recently by Pollution Probe concluded that the environment had been altered in at least four ways.

1. Pioneering trees, shrubs, and grasses (some planted) had been removed from the dunes within the quarry boundaries. Subsequently, their root systems had been removed or transected, which would ultimately cause the dunes to be

unstabilized. (See photo 1)

2. Dunes over one hundred feet high had been removed, leaving several areas of depression below the level of the lake to fill with water. (See photos 1 and 2.)
3. In these large depressions water nearly 18" deep in places accumulated and stagnated, providing conditions conducive to the growth of swamp grass, marsh weeds, and algae, all of which were found in abundance. The algae build-up, growth, and decay produced excellent breeding grounds for mosquitoes. (See photo 2.)
4. Cliff swallows nesting along the eastern boundary between the park and quarry site were being disturbed.
5. Visitors to both the park and Sandbanks Beach Resort perceived both the excavation and the resultant pit as being environmentally and aesthetically damaging. Many expressed deep concern over the problem, which, they said, was disturbing their enjoyment of the dunes, the park, West Lake and their holiday.

This perception is obviously very different from geologist Tovell's who says that

From a geo-environmental point of view, a bald sand dune that is 15 feet high is not very different from one that is 60 or 100 feet high. . . .

He offers no comparison of high dunes and a swamp-like depression.

The above discussion of environmental impact provides evidence that not only had the environment of the dune area been drastically altered, but the people who use the area feel that the park and adjacent resort had been seriously affected by the excavation and resulting open pit.

E.) Alternative Sources

Tovell was instructed "to look into the feasibility of providing Lake Ontario Cement Limited with an alternative site for suitable sand in exchange for the surrender-of-rights of the company at their present site". He and Dr. Vagners (a provincial geologist with the Ministry of Natural Resources) spent less than a day sampling material from various sites on the Ridge Road esker southwest of Picton that are potential alternatives to the dune quarry.

Although the text indicates that a copy of a report by Vagners which outlines the physical and chemical properties of the esker samples can be found in the report, it has been omitted.

In the report two objections are made to the use of sand from the Ridge Road esker. One is environmental, which could be legitimate if it were not for the destruction being caused by excavation of the sand dunes. The second is based on a claim by Lake Ontario Cement officials that the chemical properties of the Ridge Road esker sand are such that it is not suitable for the purpose of making cement. But at the same time Tovell

fails to point out that the dune sand used by Lake Ontario Cement is from the same esker, and that it contains alkalis which are objectionable in the production of cement.

Tovell only discusses three alternative sites; the "Ridge Road" esker, sand dredged from Weller's Bay, and extension of the dune quarry itself, even though the government knew of at least seven other potential sources of raw material. An eighth, the company's own limestone quarry, was also not evaluated.

In order to provide a further basis for discussion of alternative sites, we have included a discussion of the seven sites recommended to the government on September 7, 1971, by Dr. D. F. Hewitt of the Department of Mines, and an evaluation of the Lake Ontario Cement limestone quarry.

The use of limestone in the production of cement should be understood prior to any further discussion of alternative sources.

The cement produced by Lake Ontario Cement is a mixture of mainly calcium limestone with certain proportions of silica and alumina. The limestone quarried by Lake Ontario Cement at this time is deficient in silica and alumina, and the concentrations of these compounds may be increased by the addition of shale, clay, or sand. Presently, Lake Ontario Cement is using sand to boost the silica and alumina content of their cement. However, shale or clay would be just as suitable.

Another large cement company in the area has the same deficiency problems associated with its limestone. However, upon examination of the sand of the sandbanks, they found it to be inadequate for their purposes. Dr. Hewitt of the Ministry of Mines describes the sand as being objectionable to the production of cement in that chemical analyses have shown alkali to be present. It has been the experience of the Canada Cement Lafarge Limited that clay overburden is a much more suitable additive to their process, and furthermore, an expert in the area has described Prince Edward County, the location of Lake Ontario Cement, as being abundant in clay deposits. It seems obvious, then, that from both points of view, a more suitable source of silica would be the use of clay overburden.

With regard to the use of an alternative sand source, there appear to be a number of possibilities.

First, the much talked of esker sands found in the Ridge Road esker which runs southwest of Picton. These sands are part of the original glacial deposits from which the famous sandbanks were formed. The esker sands have a similar chemical composition to these dune sands and would only require a simple screening process in order to produce an adequate supply of sands for the company.

Secondly, there are available sufficient quantities of sand mixed with gravel in the Cherry Valley found near Picton. Again, this would only require screening to separate out the larger fractions.

A third source of sand could be dredgings from the Niagara Bar. Mr. T. D. Howes of the Great Northern Pulp and Paper Group Limited has informed both the Minister of Natural Resources and the President of Lake Ontario Cement Limited that his company would be able to provide sand to the company's plant site in Picton for \$2.00 per ton. Dr. Hewitt of the Ministry of Mines has examined this sand and has stated that it would be suitable for Lake Ontario Cement's purposes.

Other sources of sand as outlined by Dr. Hewitt include Potsdam sandstone, a pure variety of silica which is found near Kingston, Ontario, and also silica fines as produced by a commercial silica operation. Examples of these are St. Canut, P.Q., and Midland, Ontario, operated by Indusmin Limited.

It should be pointed out that there has been an impression created that the Lake Ontario Cement Limited located its operations in the Picton area due to the ample supply of sand found at the sandbanks - this is not true. The company's primary reason was the great resources of limestone (100 years) which are present there. The limestone deeper in the Lake Ontario Cement quarry contains sufficient quantities of silica and alumina, which would make the use of additives unnecessary.

Tovell creates the impression that if Lake Ontario Cement is forced to use other material as a substitute for sand from the dunes, its

operations might well be jeopardized through additional costs. Lake Ontario Cement is not a marginal operation, but a profitable, stable firm that could easily absorb the cost of acquiring raw material from another source.

The report does not contain any technical data on the type of material needed for Lake Ontario Cement's cement production facilities, nor does it contain any data on the alternatives recommended by Tovell. Neither is there an independent study of the economic impact on Lake Ontario Cement of a shift in source of raw material. Without this information the report cannot be considered complete and should, therefore, not be acceptable to the government.

F.) The Tovell Recommendations

Recommendations and conclusions are based on a brief three pages of text which is inadequate and contains factual errors. It is not surprising, then, that the recommendations do not resolve the sandbanks problem, but appear to aggravate it.

Tovell asserts that his concerns are twofold:

- (1) that the Lake Ontario Cement lease be surrendered, and
- (2) that the flow of raw materials on which Lake Ontario Cement's Picton plant bases its operation is not interrupted.

The latter seems to have been uppermost in his mind when he was developing his recommendations.

The second recommendation would allow the company to finish excavating the quarry site and would not solve environmental or economic problems. To further expedite the quarrying (destruction) of the dunes, Tovell recommends that the province waive the requirements of the Pits and Quarries Act which will apply to Hallowell township on September 1st. This would allow Lake Ontario Cement Limited to violate yet another provincial statute and eliminate any potential restoration of the site by the company. The environmental destruction and disturbance of park users would continue unabated for the life of the quarry.

The third recommendation, that quarrying be extended to the park boundary to obtain a 'quicker surrender of the lease', is illogical. How can an extension of quarrying rights bring about an earlier surrender of the lease? The right to take more sand would only increase the time needed by the company to exhaust the sand on the leased land. It would not assist in the search for an alternative site, but would prolong that process. Similarly, the extension of the lease to allow quarrying to the water's edge would extend the time needed and would create even further environmental damage.

Clearly, the third alternative, re-negotiation and extension of the lease, and Recommendation #3, the extension of quarrying rights, open the door to the possibility in two to three years of an extension of the quarrying into the park itself!

The Tovell report was, from its inception, designed to create the impression that quarrying by Lake Ontario Cement Limited would not leave a permanent scar on the dunes. It was structured so that it can be concluded that the dunes are still shifting and, therefore, the original dunes will gradually regenerate even if the dunes are not as high.

The report has provided sufficient rationale for the government to allow Lake Ontario Cement Limited to continue quarrying the dunes without the fear of long-term environmental damage.

The government has not only disregarded the right of this generation to enjoy the dunes, but it has denied the right of future generations to enjoy a magnificent natural resource.

In the light of all these considerations, the Tovell report should be rejected and the quarrying should be immediately stopped. The problem could then be resolved by expropriation of the Lake Ontario Cement Limited lease. But because the government has attempted, for nearly a year, to assist Lake Ontario Cement Limited (without their cooperation) to find an alternative, the government should force the company to accept one of the alternatives previously recommended or find their own source.

VII. CORPORATE STRUCTURE

To clarify some of the factors that possibly influenced the provincial government's position on the sandbanks, we provide a detailed summary of the corporate structure involved and the relationship of that structure

to the Progressive Conservative Government of Ontario.

A.) Ownership

Denison Mines has a controlling interest - 54.7% of the stock - in Lake Ontario Cement Limited (see Table V.). In turn, Lake Ontario Cement Limited has controlling interest in a cement manufacturing company and several distribution firms (see Figure I and Section E.).

B.) Board of Directors

The directors of Denison Mines (see Table I) include such noted Conservatives as Stephen Roman; former national leader, George Drew; H. A. Willis, and Toronto realtor, B. E. Willoughby.

Lake Ontario Cement has on its Board of Directors (see Table II) former Conservative Cabinet Minister Michael Starr; highway contractor, Harvey J. McFarland of Belleville, and Toronto financier, Charles Burns, prominent friends of the Ontario Progressive Conservative Party.

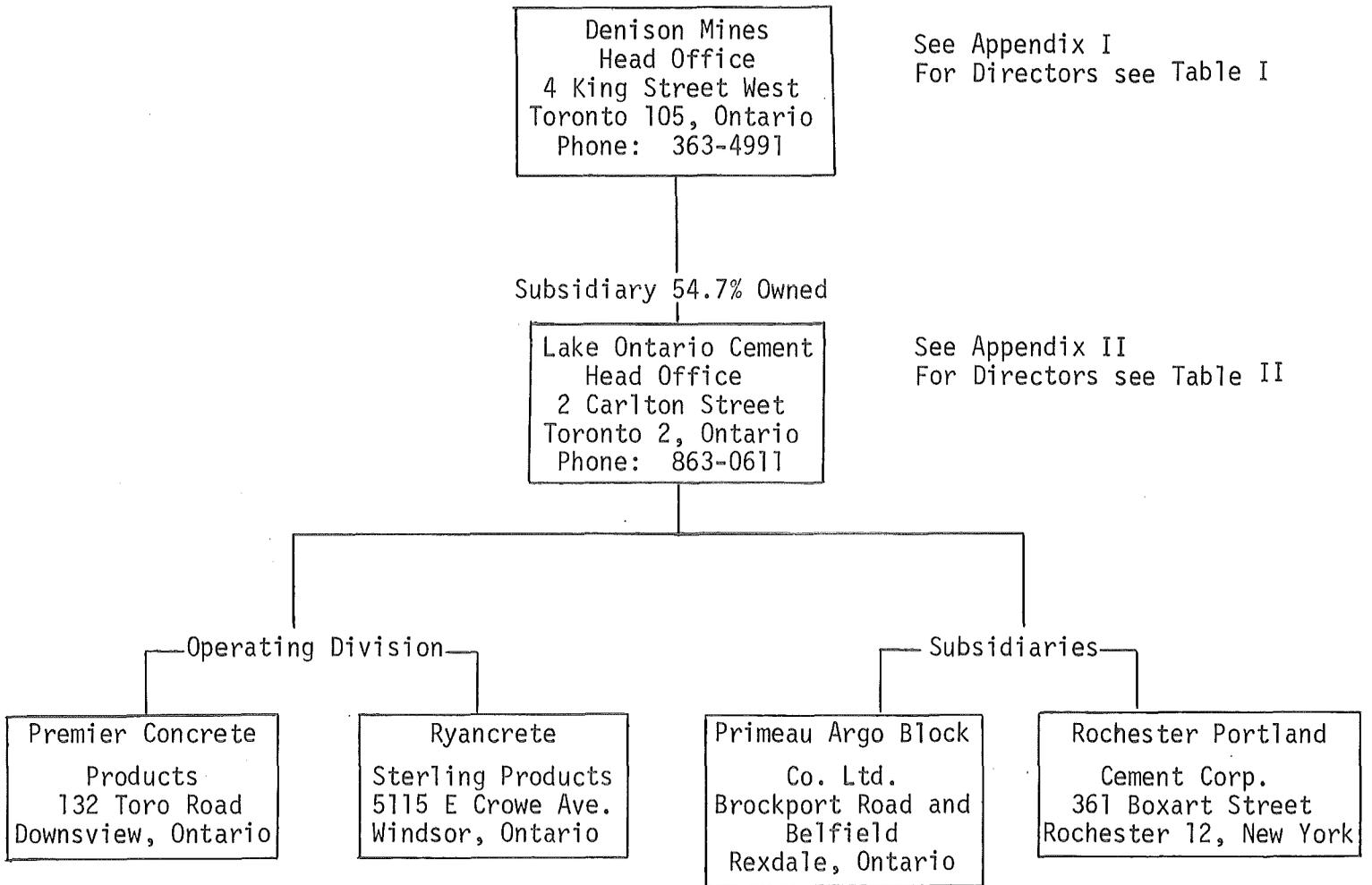
C.) Company/Government Relations

These political relationships offer a possible explanation for the original lease granted to Lake Ontario Cement by Ontario Conservative Government for \$1.00 a year and their refusal to terminate the lease despite irreversible damage to the dunes.

It is conceivable that even Dr. Walter Tovell may not have been able to escape these government/corporate inter-relationships.

CORPORATE STRUCTURE

Figure I



Furthermore, it is interesting to note that Stephen Roman, Chairman of the Board of Denison Mines and Federal Conservative Candidate for York North, is also a member of the Board of the Royal Ontario Museum. As such, he is one of the men responsible for appointing a permanent director of the Museum.

It is difficult to believe that all these factors are merely coincidental, and that they did not have an influence on the development of government policy towards the dunes.

It is obvious at any rate that the public interest has not been served and that the sand continues to disappear into Lake Ontario Cement bags.

D.) Method of Production

To provide an understanding of how the dune sand increases Lake Ontario Cement's profit, we provide a brief resume of the method of production used.

The Picton cement manufacturing plant is one of the largest and most modern in the world. A dry process method is used. Limestone, the main ingredient, is quarried directly from company-owned land around the plant. Lake Ontario Cement estimates that at present consumption rates the limestone reserves will last for 75 years. To augment the silica and alumina content of this limestone, dune sand is used. Limestone deeper in the quarry is suitable for cement production without additives.

The sand used is easily removed by front-end loaders from the "picturesque" sand dunes which "grace" the edge of Sandbanks Provincial Park and the shores of West Lake. An aggregate operation crushes and grinds the rock which is then mixed with sand, iron ore, and additives and burned in a kiln fired by a mixture of coal and natural gas. Lake Ontario Cement established long-term contracts for these fuels during 1971. The burning produces clinkers which are ground in mills with gypsum to produce cement.

There are three rotary kilns on the Picton site as well as storage silos for raw materials. Cement is bagged or shipped bulk by lake tankers and trucks to distribution depots at Picton, Windsor, Toronto, Rome, Ithaca and Rochester.

E.) Limiting Competition in the Cement Industry

In addition to the dune sand, Lake Ontario Cement Limited had various other techniques for improving its competitive position, all of which demonstrate that the company has a complete disregard for the public interest.

The Ready-Mix Concrete Case

An investigation conducted by the Federal Department of Consumer and Corporate Affairs resulted in charges being laid against thirteen Ontario cement companies for violations of the Combines Investigation Act. The Attorney General of Canada alleged that these companies had contravened Section 32 (1)(c) of the Act by conspiring

and agreeing to prevent or lessen competition by limiting production, transportation, sale and supply of cement in the Toronto area between January 1, 1961 and August 31, 1968.

After several delays, the case finally came before Justice Osler in the Supreme Court of Ontario on April 17, 1972. The evidence presented by the Crown was so incriminating that all the parties pleaded guilty on the advice of their counsel, Charles Dubin and Arthur Martin.

Fines totaling \$245,000 were levied against the following companies:

Dufferin Materials & Construction Limited	\$35,000
S.D. & M. Materials Limited	35,000
St. Mary's Cement Limited	35,000
*Lake Ontario Cement Limited	30,000
Richvale Ready-Mix Limited	30,000
Kilmer Van Nostrad Co. Limited	20,000
King Paving & Materials Limited	15,000
Teskey Ready-Mix Limited	15,000
A.B.C. Ready-Mix Limited	7,500
Custom Concrete Limited	7,500
General Concrete Limited	7,500
McCowan Mobile Mix Company Limited	7,500

Community Building Supplies Limited was discharged because it had become bankrupt.

Any person who is guilty of an offense under Section 32 (1) is liable to imprisonment for two years. However, in the event that a corporation is convicted, the courts may, under the Criminal Code of Canada, impose a fine in an amount within its discretion. Considering the fact that the conspiracy took place over an eight year period, the penalties assessed were indeed light - amounting to little more than a license to limit competition.

The Building Supplies Case

Further investigation revealed that fifteen corporations engaged in the distribution of building supplies in Ontario had contravened Section 32 (1)(c) of the Combines Investigation Act between January 1, 1960, and November 30, 1968.

In this case the Attorney General decided that the public interest could best be served by obtaining an Order of Prohibition under Section 30 (2) of the Act. On June 2, 1972, the Supreme Court of Ontario issued an Order against the following fourteen corporations:

Arman Limited

Blair Supply

H. Boehmer & Co. Limited

Builders Supply Limited

S. H. Dellow Limited

Dominion Coal & Wood Limited

Dufferin Material & Construction Limited

King Paving and Materials Limited

*Lake Ontario Cement Limited
Roman Building Supplies Limited
S.P. & M. Materials Limited
St. Mary's Cement Limited
Thornhill Building Supply Limited
Webster & Sons, Limited

The effect of this Order is to prevent any of the defendant corporations or their Directors from committing similar offences in the future. Section 30 (1) was written into the Act to provide for stronger penalties than Section 32 (1) does alone because the courts have a more lenient attitude towards corporate crime than they do towards individual criminal action.

Marketing Techniques

Lake Ontario Cement markets its products through several associate companies and two operating divisions (Fig. 1). This technique called "forward integration" allowed Lake Ontario Cement Limited to sell its products to its associate companies and operating divisions at lower prices than it does to independent firms. In effect this limits the ability of independent firms to compete with Lake Ontario Cement's associates. In the Toronto market four major cement companies and their subsidiaries account for 70% of the cement sold.

These facts indicate that Lake Ontario Cement has, through various techniques outlined above, virtually eliminated competition in the

cement industry. Therefore, the company's argument that the sand from sand dunes is needed for competitive reasons is misleading. The sand is needed only to increase the profits of Lake Ontario and its shareholders.

VII. TOURISM AND EMPLOYMENT IN PRINCE EDWARD COUNTY

A recurring argument in this issue has been that jobs at the cement plant are more important than the preservation of the dune sand. The following discussion of employment will show how that argument is misleading and simplistic and that quarrying in Prince Edward County will actually in the future undermine the areas declining economic base.

In 1969 the Regional Development Branch of the Provincial Department of Treasury and Economics undertook a study of two provincial parks located in Prince Edward County to assess the income generative powers of tourism and recreation. The study noted that although Prince Edward County was suffering from population out-migration and low personal incomes, it was endowed with areas of great scenic quality and recreation potential.

The province considers tourism as a means of raising incomes and developing a stronger economic base in declining areas like Prince Edward County.

The traditional economic base of the region, agriculture, is quickly eroding, while tertiary service industries like retailing and tourism are growing, unlike primary resource industry, which is static.

The answer to the area's economic and employment problems, while not simple, does not lie in the destruction of the scenic and recreational assets of the County. Iain C. Taylor, the study's author, concludes that

Resource based sand and cement quarrying are not known for their capability of supporting ancillary manufacturing employment and are either capitalizing on a depleting natural resource or creating considerable visual blight. . . .

In contrast to the static primary industry of cement manufacturing which will eventually decline, the service sector of the county is one which has been growing. It is the tertiary industries, such as restaurants, gas stations, and retailing establishments that benefit most directly from tourist expenditures. The study estimates that park-generated tourist expenditures amounted to \$800,000 in the region, while they amounted to \$350,000 in Prince Edward County.

Although the cement company provides 235 jobs during peak production, income generated in the county from tourism provides 65 man years of work. These jobs, unlike those in the cement industry, are from a renewable, sustainable resource - vegetation, scenery, climate and water. If these resources are devalued or destroyed the economic position of the area will worsen considerably in the future. The cement company will not be permanent, when it has depleted the natural resources of the area. At the same time, other economic potential will be destroyed.

Only through adequate long term planning and proper management can the resources of the county provide and sustain a sound economic base that

will remain viable far into the future. The province has the responsibility and the power to undertake this type of long-range planning necessary for all areas of the province. It is the province alone that can control short-term destructive economic development while providing a stronger economic base for the region by decentralizing its own departments and services from Toronto to areas such as Prince Edward County. Educational and research facilities, retirement homes, regional government offices, and craft industries could provide much needed employment to the area without undermining the environment and tourist sector of the economy.

In the future economies that grow slowly and are based on sustainable resources will prove to be both environmentally and economically sound.

IX. VIOLATION OF THE LAW BY LAKE ONTARIO CEMENT LIMITED
AND THE PROVINCE OF ONTARIO

Presently, the legality of the sandbanks excavations is being challenged by the Environmental Law Association. It is their opinion that

- (a) the government breached a trust imposed on it under Section 2 of the Provincial Parks Act and
- (b) the company, in carrying out its excavations, contravened several other Ontario statutes and has therefore violated the terms of its lease.

The provisions of the statutes claimed to be violated by both parties are given below.

Beach Protection Act

The Beach Protection Act, R.S.O. 1970, c.40, s. 3, provides that no person (even if he is the owner of land) shall remove sand by any means from any bed, bank, beach, shore, or waters of any lake, river, or stream, unless he is the holder of a license to do so issued by the Minister of Mines and Northern Affairs.

Lake Ontario Cement Limited does not have such a license, and pursuant to the provisions of Section 10 of the Act, the Environmental Law Association wrote to the Attorney General of Ontario requesting permission to prosecute Lake Ontario Cement Limited. This request was received by the Attorney General on May 30th, 1972. However, to date, no reply has been received nor even has acknowledgement been made of the receipt of this request.

Pits and Quarries Control Act, 1971

Under the Pits and Quarries Control Act, 1971, the Lieutenant Governor in Council may designate certain areas (townships) of the province to which the Act may apply. Upon designation, an operator of a pit or quarry in the area designated must apply to the Minister of Mines and Northern Affairs for a license to continue.

The Township of Hallowell in the County of Prince Edward (location of excavation and Sandbanks Provincial Park) was one of many that was designated on March 1, 1972. However, s. 20 provides that the Act shall not apply to operators already operating until six months after the designation date. Section 6 of the Act provides that the Minister shall refuse to issue a license to operate a pit or quarry where, in his opinion,

the operation of the pit or quarry would be against the interest of the public. Consideration of any application for a license must, under the provisions of the Act, take account of the preservation of the character of the environment, the availability of the natural environment for the enjoyment of the public, and the nature and location of other land use that could be affected by the pit or quarry operation.

If such legislation is to be applied in September, then why does the government allow the company to continue its excavation now? The only answer there can be is that it is obvious to the government that the remaining sand will soon be gone, and the problem will have disappeared by itself.

The Provincial Parks Act

Section 2 of the Provincial Parks Act states that all provincial parks are dedicated to the people of the Province of Ontario and others who may use them for their healthful enjoyment and education, and that the provincial parks shall be maintained for the benefit of future generations in accordance with this Act and the regulations.

In a civil action in the Supreme Court of Ontario, the Environmental Law Association claimed that the Government of Ontario breached the trust created by Section 2 of the Act, by allowing Lake Ontario Cement Limited to carry on sand quarrying immediately adjacent to the park.

Environmental Protection Act

The Environmental Protection Act, S.O. 1971, c. 86, as amended, provides that no person shall permit the emission of a noise which is likely to cause impairment of the quality of the natural environment. On July 19, 1972, Lake Ontario Cement Limited and Triad Truckways Limited, the trucking firm which hauls for Lake Ontario Cement Limited, were jointly charged with breach of this section of the Act.

If the company is acting in an illegal manner, the lease may be void, and in any event the government has a duty and an excuse (should they still feel they need one) to put an end to the dune destruction.

X. CONCLUSIONS AND RECOMMENDATIONS

The sand dunes of Prince Edward County are an irreplaceable part of Ontario's natural heritage. It is, therefore, imperative that their scenic beauty and recreational potential be preserved for the enjoyment of present and future generations.

The Ontario Government has not recognized their importance and has allowed the highest and most attractive of these dunes to be destroyed by a commercial interest. Originally, it was the intention of the government to first stabilize the dunes beginning in the 1920's and then to preserve the area for all to enjoy by incorporating the dunes into Sandbanks Provincial Park. However, for three basic reasons this commendable program was not completed.

Firstly, due to poor planning and lack of coordination of the Ministry of Natural Resources, the government failed to obtain a nineteen acre parcel of land in the dune area, thus allowing a commercial interest a foothold in the dunes.

Secondly, government timidity in contesting a questionable legal argument advanced by Lake Ontario Cement's lawyers, resulted in the Attorney General virtually giving away a section of the dunes which had been preserved for over a century.

And thirdly, there exists strong evidence to suggest that members of the government have close relationships with company officials.

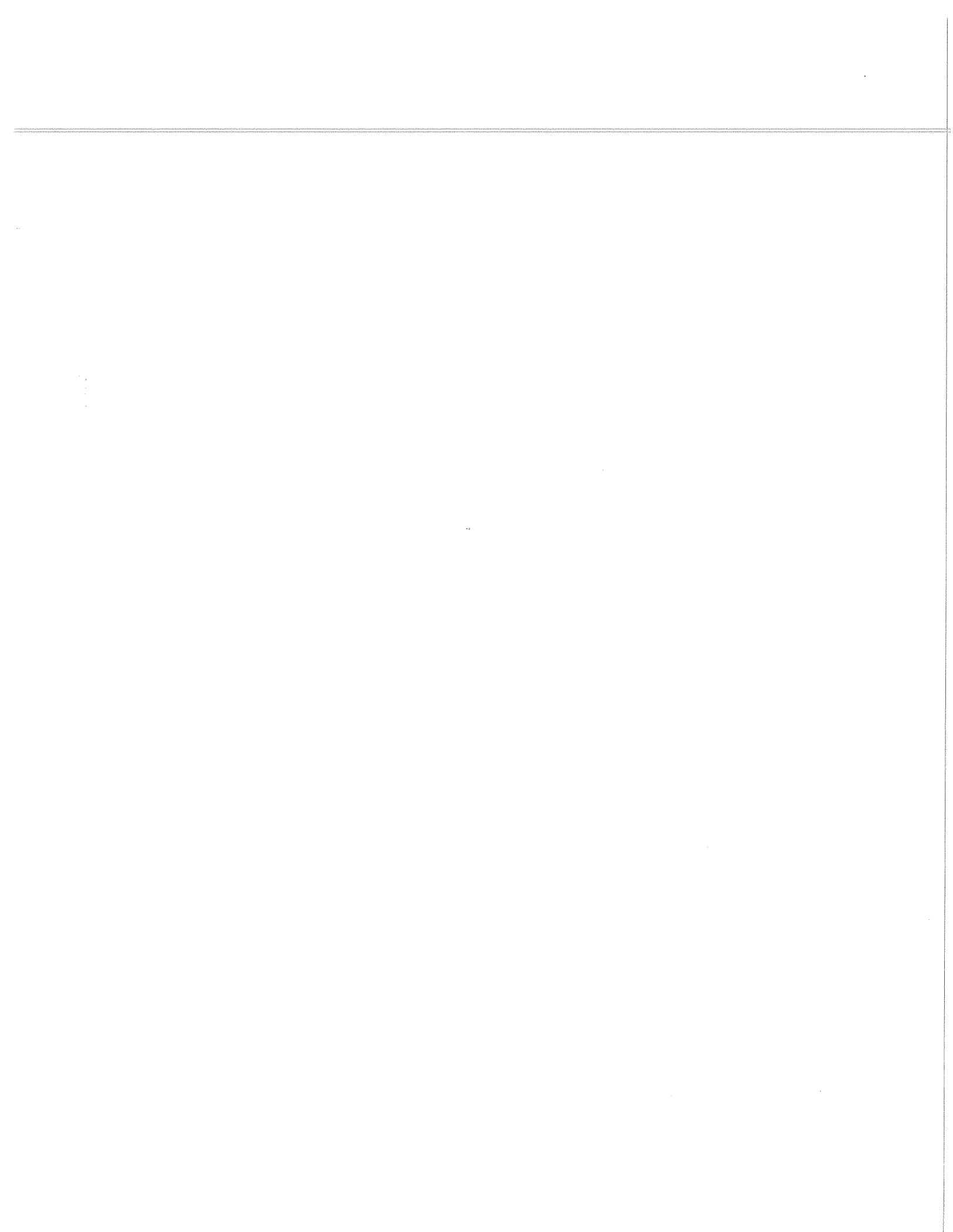
Therein lies the tragedy of the destruction of the sand dunes.

Recommendations

In order that the dunes may be preserved and that the public may be given a voice in the decision making process that will determine the future of the dunes, we offer the following recommendations:

1. That Crown Lease #2928 with Lake Ontario Cement Limited be cancelled immediately.
2. That the provisions of the Pits and Quarries Act due to apply to Hallowel Township on September 1st, be enforced in full and that Lake Ontario Cement's quarry sites not be exempted.

3. That the leased area be immediately incorporated into Sandbank Provincial Park.
4. That a committee composed of five interested citizens and five government representatives be established to devise a plan for restoration of the dune area and to limit future alteration.
5. That Sandbanks Provincial Park be designated as a "Nature Reserve" under Section 15 of the Provincial Parks Act to preserve the areas unique physiographic and geological features.



DENISON MINES LIMITED

DIRECTORS

TABLE I

Stephen B. Roman
K.C.S.G., LL.D.
Chairman and Chief Executive Officer

Chairman & President Roman Corp. Ltd.
Chairman & President Romandale Farms Ltd.

Director The Guaranty Trust Co. of Canada
Crown Life Insurance Co.
Canadian Nuclear Association
International Mining Corp.
Campeau Corp. Ltd.
Perini Corp.
Mogul of Ireland Ltd.
Pacific Tin Consolidated Corp.
World Food and Agricultural Foundation
Resperin Corp. Ltd.
Royal Ontario Museum

Conservative Candidate
Federal Riding York North

Charles F. W. Burns

Chairman Burns Bros. & Denton Ltd.
Chairman Burns Bros. & Denton Inc.
Chairman Crown Life Insurance Co.

Director Argonaut Football Club
Algoma Central Railway
All Canadian-American Investments Ltd.
Mogul of Ireland Ltd.
Canada Permanent Trust Co.
Canada Permanent Mortgage Corp.
General Accident Assurance Co. of Canada
The Jockey Club Ltd.
Lake Ontario Cement Ltd.
Scottish Canadian Assurance Corp.
Telegram Publishing Co. Ltd.
Metropolitan Toronto Redevelopment
Advisory Council

LAKE ONTARIO CEMENT LIMITED

DIRECTORS

TABLE II

W. H. Evans
Chairman

Former Chairman Honeywell Controls Ltd.

W. M. Bateman
President

Peter Barry

President The Monroe Savings Bank
Former Mayor Rochester, N. Y.

Charles F. W. Burns

See Table I

John D. Fowler
Executive Vice President

W. H. Jaquels

Former President Rochester Portland Cement Co.

E. B. McConkey

See Table I

Harvey J. McFarland

President H. J. McFarland Construction Co.
Director Guaranty Trust Co.
Roman Corp. Ltd.

John A. Mullin, Q. C.

See Table I

James G. Pickard
Former Vice Chairman

The Hon. Michael Starr, P.C.

Presiding Officer Citizenship Court Toronto
District
Former Federal Minister of Labour, P. C. Govt.

LAKE ONTARIO CEMENT LIMITED

OFFICERS

W. M. Bateman
President

J. D. Fowler
Executive Vice President

D. R. T. White
Vice President Administration, Finance
Secretary

B. T. Price
Vice President

C. A. Gibbs
Assistant Treasurer

R. P. Suckerland
Assistant Secretary

ROYAL ONTARIO MUSEUM

BOARD OF DIRECTORS

TABLE III

Noah Torno
Chairman

Gerald E. Boyce

Dr. William S. Monk

Roy G. Cole

Mrs. William M. Meyers

John W. Allen

Professor Fernand Ouellet

Dr. John R. Evans, M.D.

Mrs. W. O. Randall

C. Malim Harding

Walter Reeves

Mrs. W. B. Harris

Stephen B. Roman

John E. Langdon

Warren Seyffert

Mrs. W. L. C. McGill

Clair Stewart

Mr. Richard G. Meech, Q.C.

Col. D. B. Weldon

DENISON MINES LTD.

FINANCIAL DATA

TABLE IV

<u>Year</u>	<u>Net Income</u>	<u>Total Assets</u>
1971	\$10,188,000	\$ 96,297,000
1970	8,240,000	89,296,000
1969	12,717,000	110,988,000
1968	12,772,000	99,608,000
1967	9,905,000	98,447,000

The company owns a producing uranium mine at Elliot Lake in the Algoma-Blind River area, Ontario; a European marketing division; a mining exploration division active in Canada and elsewhere; a coal division; an industrial division with interests in companies engaged in production of cement and construction materials; an oil and gas division with interest in western Canada; a financing subsidiary, and important shareholdings in other companies.

Consolidated net income for the year ended December 31, 1971, amounted to \$10,188,297 compared with \$8,239,622 in the previous year. In 1971 earnings from uranium operations improved, oil and gas income set a new record, and earnings from cement operations increased substantially to a new record level, the company stated.

Lake Ontario Cement Ltd., 55% owned by Denison, had record sales of \$26,443,000 and record earnings of \$1,269,894 in 1971. This all-time record for the cement subsidiary was cited as a highlight of 1971 in the annual report which appeared January 21, 1972.

LAKE ONTARIO CEMENT LTD.

OWNERSHIP DETAILS

TABLE V.

Shares Authorized:

Common	Par Value \$1.00	5,000,000
--------	------------------	-----------

Note: 31,500 shares reserved for issuance under option plans.

Shares Issued and Outstanding:

Common	4,223,461
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Shareholders:

Denison Mines Ltd. - 54.7% - 2,309,505.4 shares.

To the knowledge of directors and senior officers of the company, no other person beneficially owned more than 10% of outstanding common shares as of December 31, 1971.

Therefore, Denison Mines Ltd. has controlling interest in Lake Ontario Cement Limited.

LAKE ONTARIO CEMENT LTD.

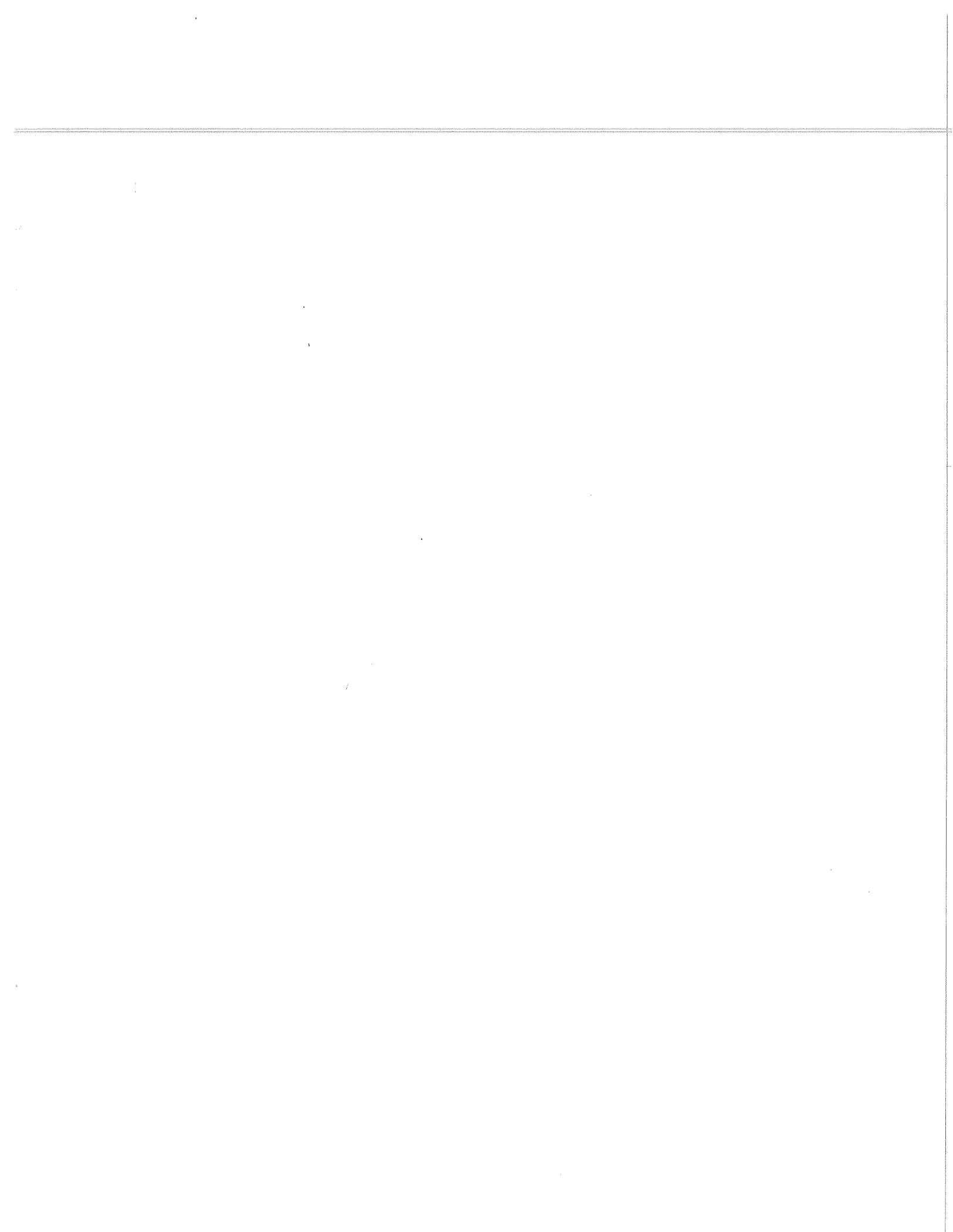
FINANCIAL DATA

TABLE VI.

<u>Year</u>	<u>Net Sales</u>	<u>Net Earnings</u>	<u>Total Assets</u>
1971	\$26,443,000	\$1,270,000	\$35,809,000
1970	22,617,000	535,000	34,791,000
1969	21,736,000	942,000	35,488,000
1968	20,931,000	1,132,000	35,407,000
1967	19,542,000	1,114,000	36,193,000

The company owns and operates a Portland Cement plant at Picton, Ontario and distributes ready-mixed concrete, building supplies and related products in southern Ontario and New York State.

Lake Ontario Cement Limited's sales were up 17% in 1971 and net earnings increased by 138%.



Appendix I

DENISON MINES LTD.

Solicitors

Fraser & Beatty,
328 Bay Street,
Toronto, Ontario
Phone: 863-4511

Auditors

Eddis & Associates,
110 Yonge Street,
Toronto, Ontario
Phone: 363-3235

Bankers

The Royal Bank of Canada,
20 King Street West,
Toronto, Ontario
Phone: 367-5151

Partners

W. G. Ruckea
D. A. McIntosh
C. F. Farwell
J. A. Mullin

Partners

J. F. Broadhead
R. M. Mix
A. S. Levitt
H. C. Rogers
R. W. Green
R. C. Morton

Directors

W. Earle McLaughlin
John H. Coleman
J. K. Finlayson
Edwin C. McDonald
J. Angus Ogilvy
D. S. Anderson
T. N. Beaupre
T. J. Bell
G. H. Blumenauer
G. Allan Burton
A. B. Christopher
F. M. Covert
The Right Hon.
Lord Crowther
The Hon.
Paul Desruisseaux
J. E. L. Duquet
C. W. Gibbings
Willard G. Grant
Sir Charles E. M. Hardie

The Royal Bank of Canada

Directors (cont'd)

George Heffelfinger
David S. Holbrook
L. G. Lumbers
P. L. P. MacDonnell
J. C. MacKeen
F. C. Mannix
A. F. Mayne
T. R. McLagan
F. M. McMahon
J. P. Monge
Paul Pare
A. L. Penhale
Herbert C. Pinder
Carl A. Pollock
Claude Pratte
Charles I. Rathgeb
P. R. Sandwell
Ian D. Sinclair
E. P. Taylor
P. N. Thomson
John A. Tory
W. O. Twaits
Colin W. Webster
Edward C. Wood
C. N. Woodward

Registrar & Transfer Agent

Guaranty Trust Co. of Canada,
366 Bay Street,
Toronto, Ontario
Phone: 863-5000

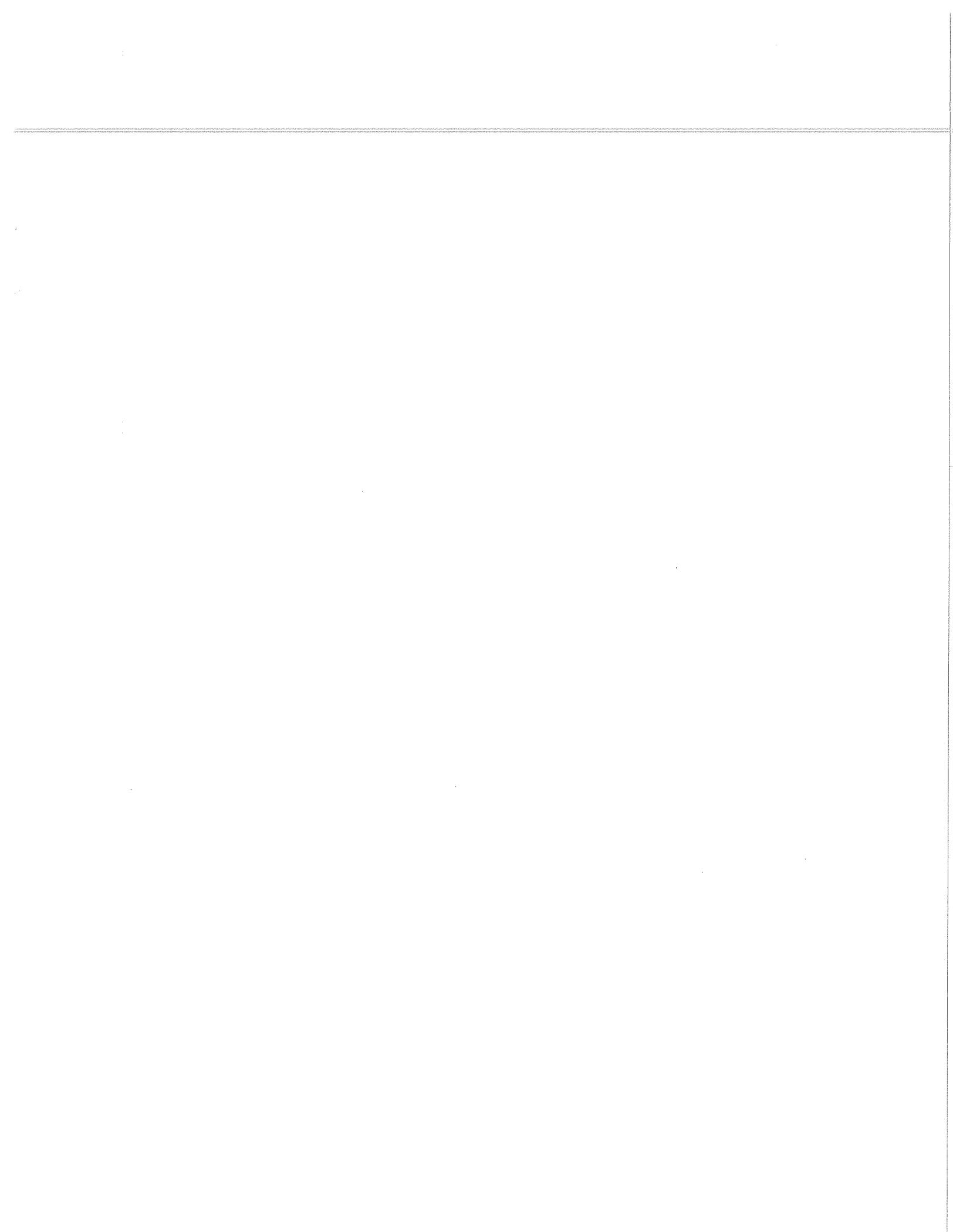
Directors

Allan B. Ramsay
J. P. Bassef
R. R. Belanger
John G. Bennett
G. R. Chater
Henry E. Dynes
The Hon. E. D. Fulton
Brig. Gen. W. P. Gilbride
W. B. Gunning
C. O. Hurly
C. S. Lee
W. A. Major
J. P. Mahley
David B. Mansur
J. W. McCutcheon
Geo. H. Nelms
H. J. O'Connell

Guaranty Trust Co. of Canada

Directors (Cont'd)

J. J. Olscamp
J. J. Rankin
Stephen B. Roman
W. S. Row
J. B. Sangster
Andrew Sarlos
Gordon R. Sharwood
W. J. Shea
F. T. Sherk
E. L. G. Smith
W. F. Spry
R. F. Wilson
The Hon. A. A. Wishart



Appendix II

LAKE ONTARIO CEMENT LIMITED

Solicitors

Davies, Ward & Beck,
110 Yonge Street,
Toronto, Ontario.
Phone: 836-0900

Partners

R. A. Davies,
D. A. Ward

Auditors

Eddis & Associates
110 Yonge Street,
Toronto, Ontario
Phone: 363-3235

Partners

See Appendix I

Bankers

The Royal Bank of Canada,
20 King Street West,
Toronto, Ontario.
Phone: 367-5151

Directors

See Appendix I

Registrar & Transfer Agents

Guaranty Trust Co. of Canada,
366 Bay Street,
Toronto, Ontario
Phone: 863-5000

Directors

See Appendix I

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Photo # 1

2 August 1972

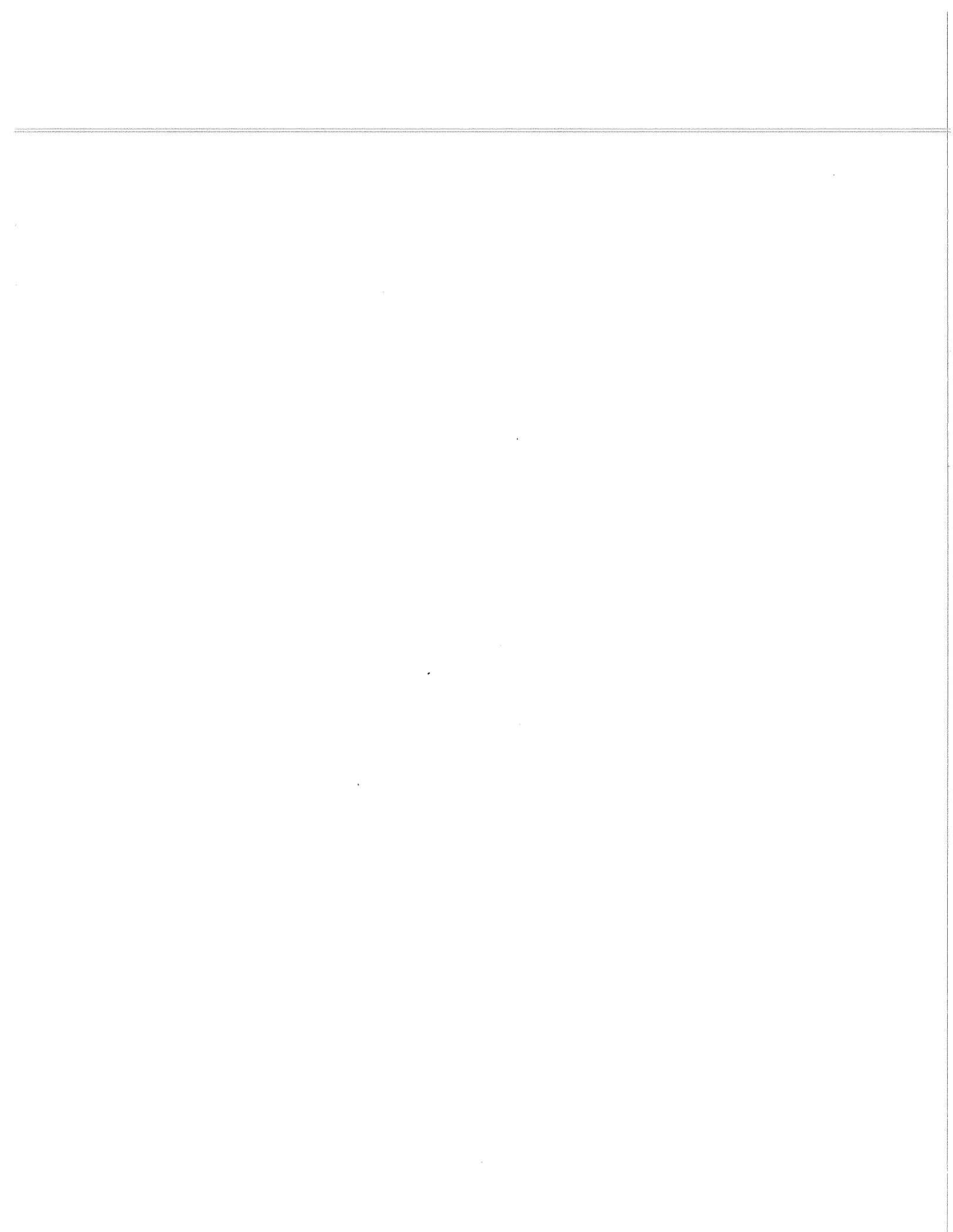
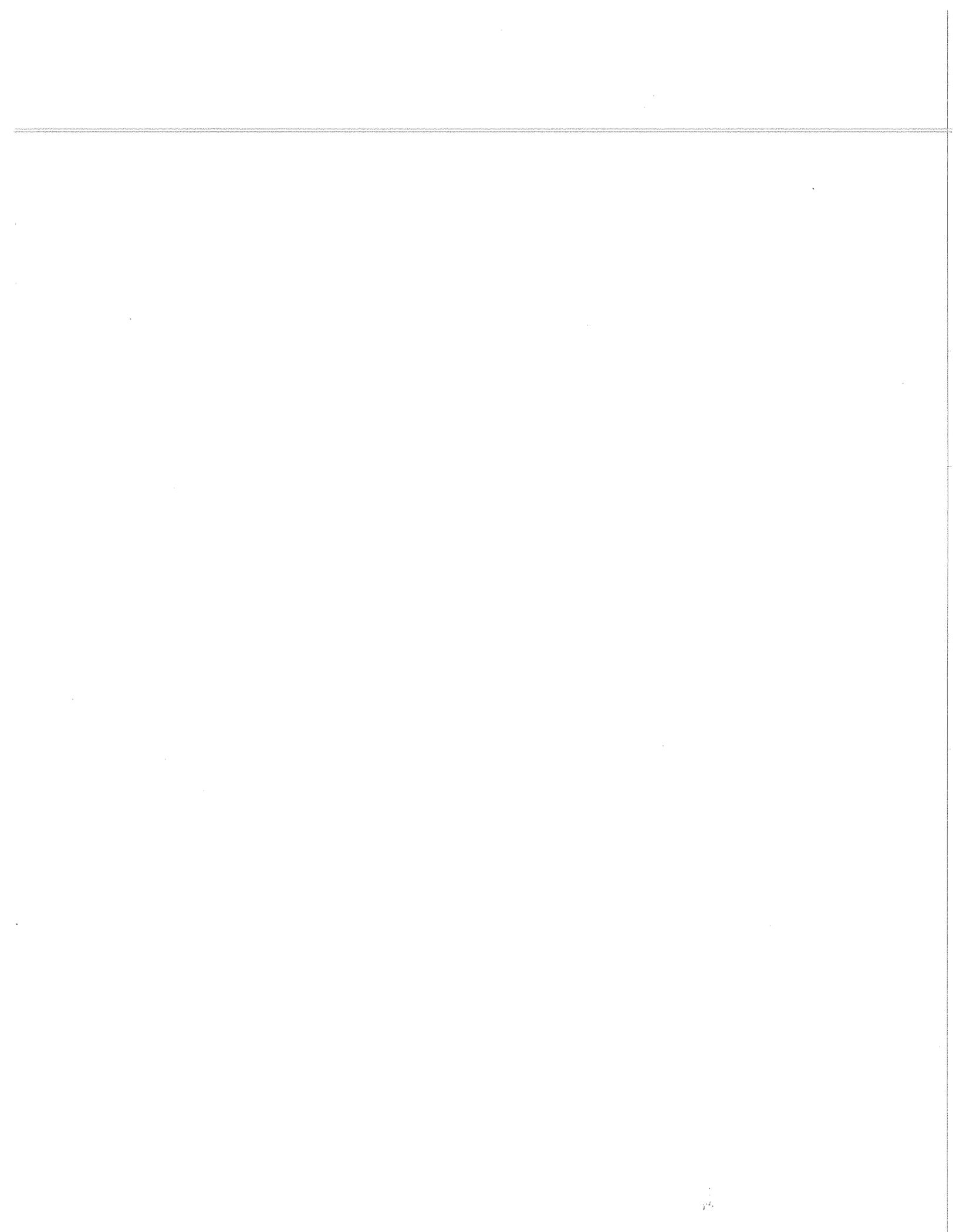
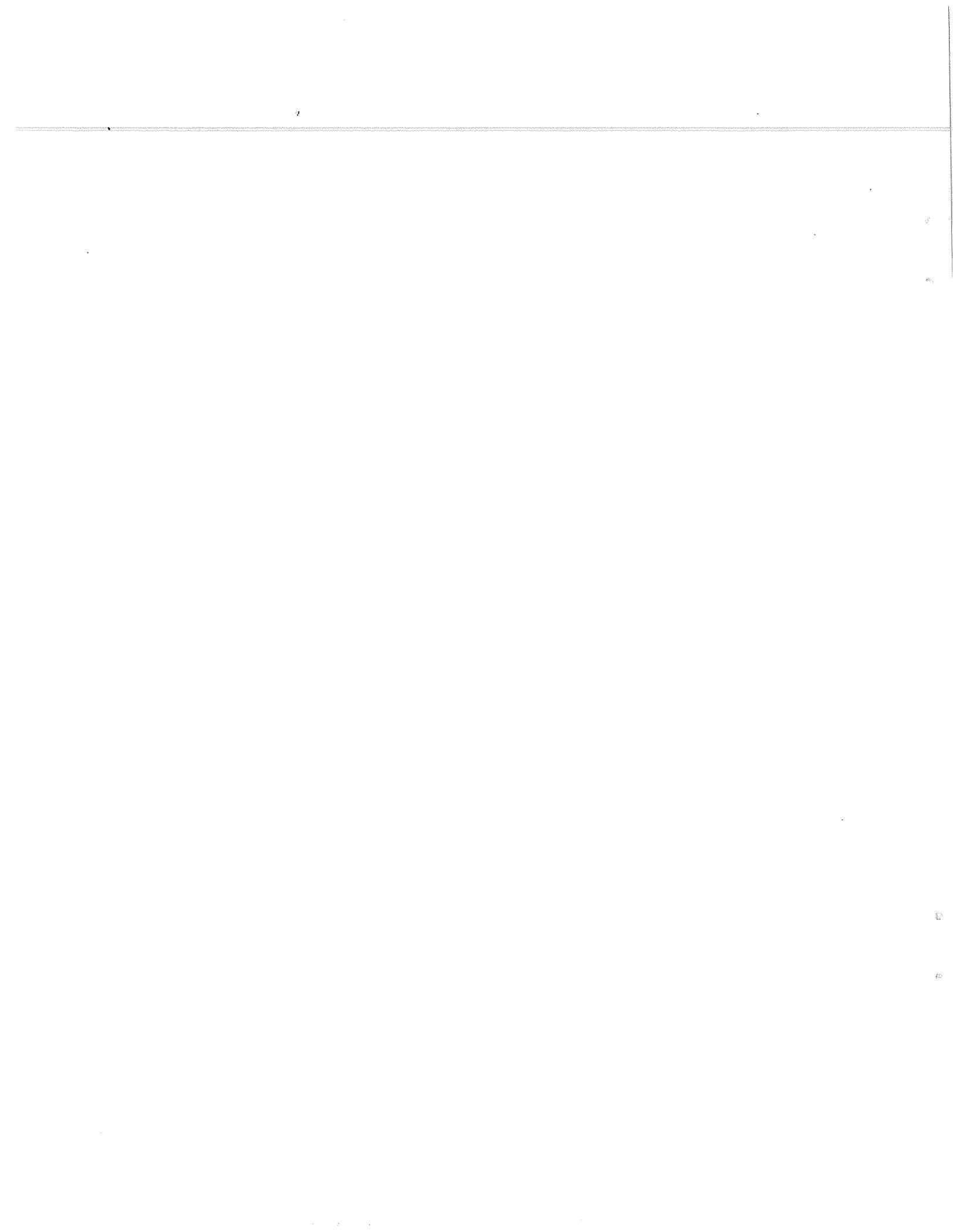




Photo # 2

2 August 1972





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