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2002

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

September 12, 2002

Mr. Keith West, Director  
Ministry of Environment  
Waste Management Policy Branch  
135 St. Clair Avenue West, 7th Floor  
Toronto, Ontario  
M4V 1P5

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*Via Fax and Mail*

Dear Mr. West:

**Re: Waste Diversion Act, 2002**

I wish to thank the Ministry of Environment's Waste Management Branch for holding an information session on the *Waste Diversion Act, 2002*. The session on August 14, 2001, was both informative and useful.

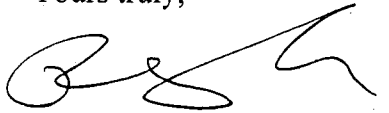
As I indicated to you, the Canadian Environmental Law Association is very concerned about the Ministry's decision to exempt the *Waste Diversion Act, 2002* from the *Environmental Bill of Rights, 1993 (EBR)*. The Ministry has not provided a compelling rationale as to why the Act should not be subject to the *EBR*, to the same extent as other provincial environmental legislation.

We appreciate that subsection 26(4) of the *Waste Diversion Act, 2002* stipulates that section 16 of the *EBR* applies with necessary modifications to a waste diversion program under consideration by the Minister. However, this provision simply requires notice of a waste diversion program to be posted under the *EBR*. The other provisions under the *EBR*, for example the right of the public to seek a review of a statute, regulation or policy and the right to request an investigation will not apply since the Act is not a prescribed statute.

We are very concerned that the failure to prescribe the *Waste Diversion Act, 2002*, under the *EBR* will exclude Ontarians from an opportunity to exercise their public participation rights in the environmental decision making process. As you are no doubt aware, there has been a great deal of interest from a wide range of organizations and persons regarding the *Waste Diversion Act, 2002*.

Accordingly, we believe that it is critical that the MoE ensures that the public participation opportunities provided under the *EBR* extend to this important piece of legislation. We would, therefore, strongly urge the Ministry of Environment take the appropriate steps to ensure that the *Waste Diversion Act, 2002* is a prescribed statute under the *EBR*

Yours truly,



Ramani Nadarajah  
Counsel

**CANADIAN ENVIRONMENTAL LAW ASSOCIATION**

cc: Mr. Gord Miller, Environmental Commissioner of Ontario