

Front

**REGULATORY FRAMEWORK
SYNTHESIS REPORT
ENVIRONMENTAL AUDIT
EAST BAYFRONT AND PORT INDUSTRIAL AREA**

THE CANADIAN INSTITUTE FOR ENVIRONMENTAL LAW AND POLICY

MARCH 30, 1990

CIELAP Shelf:
Canadian Institute for Environmental Law and
Policy
Regulatory Framework Synthesis Report:
Environmental Audit East Bayfront And Port

RN 27292

CHAPTER 6

OVERVIEW OF THE REGULATORY FRAMEWORK

Governments play a major role in determining the state of the environment of the East Bayfront and Port Industrial Lands. However, this role is characterized by both gaps and overlaps of responsibility between different levels of government and different agencies. There is no single level of government or agency responsible for the environmental management of the East Bayfront and the Port Industrial Lands and the legal framework is comprised of statutes, regulations, guidelines and policies promulgated by the federal and Ontario governments and by-laws of the relevant municipalities. The framework is complicated because of the sharing of constitutional authority among various levels of governments over aspects of the area.

Some of the major governmental actors in the study area include the federal departments of Environment, Public Works, Transport and Fisheries and Oceans. Federal departments have jurisdiction over navigation, shipping, fisheries, harbour activities and, to some extent, water quality. The Toronto Harbour Commission, which was created by federal statute, is also an important actor. The THC is a major landowner with the responsibility for operating the port and developing its land holdings. Provincial government actors in this area include the Ministries of Environment, Natural Resources and Municipal Affairs who have authority with respect to air, soil and water quality, wetlands, implementation of fisheries regulations and planning oversight. The municipalities with authority in this area are the Municipality of Metropolitan Toronto, which establishes overall planning direction and regulates sewer use, and the City of Toronto, which has authority with respect to planning, zoning and building. The Metropolitan Toronto and Region Conservation Authority, which works as a provincial/municipal partnership, was established under the Conservation Authorities Act¹ which empowers the Authority to develop, implement and coordinate watershed management plans. MTRCA's waterfront planning authority is limited by its exclusion from Toronto's Central Waterfront.

This chapter addresses the basis for governmental action affecting the quality of the environment on the study lands. Such a review is a starting point, but tells only part of the story about how agencies operate in practice and, more importantly, about who is accountable for the state of the environment in the area. A full exploration of the question of accountability should be left for the Phase II study.

THE CONSTITUTIONAL CONTEXT

Authority to legislate over environmental matters was not explicitly attributed to either the federal or provincial governments by the Constitution Act, 1867². The Constitution gives the provinces broad legislative powers to affect the environment through the ownership of lands and other natural resources within the province and through a number of specific categories of legislative power such as authority over local works and undertakings. In addition, provinces are empowered to create municipalities and delegate to them any of the powers given to the provinces by section 92 of the Constitution. Because municipalities are creations of the provinces, the scope of their authority is limited by provincial law.

The federal government has legislative authority under the Constitution to make laws pertaining to environmental quality. Federal powers over shipping, harbours, fisheries and criminal law, all specifically assigned under the Constitution, have often been used to support environmental legislation. In addition to these specific powers, the federal government has the power to pass laws for the "Peace, Order and good Government of Canada".³ This power may be relied upon in limited circumstances, for example, where a national emergency exists, where a matter arises that did not exist in 1867 or where issues are of national concern, such as where pollution extends beyond provincial boundaries.⁴

THE REGULATORY FRAMEWORK

A. Overview

By and large, the regulatory framework governing the environment of the East Bayfront and Port Industrial Area is made up of different, and sometimes overlapping, instruments for air quality, surface and groundwater quality, site decommissioning and clean-up, natural heritage and the built environment. There is no legal instrument which deals in a comprehensive way with the various components of the study area in particular, or of the environment in general. The framework is composed of laws and other instruments that are directed at environmental protection and those that are directed at land use planning.

An important area of environmental protection that does not fit easily into the following categories is environmental impact assessment. At the federal level, projects on federal lands or initiated or funded by federal departments must comply with the 1984 Environmental Assessment and Review Guidelines Order. This requires the initiating department to carry out an "initial environmental evaluation" of the project's potential environmental impacts and, if there are likely to be significant impacts, it requires the convening of a panel to review a full

environmental impact statement. The public can participate in this review, which only results in a set of recommendations to the relevant Minister. Until a recent series of court cases established its mandatory nature, the Guidelines Order was not often fully complied with. There is also a question about the extent to which the THC is required to comply. For most provincial and municipal projects, the Ontario Environmental Assessment Act must be followed. Private sector projects can be designated to follow the EA process (as occurred with the proposed Trintek energy-from-waste plant on the waterfront). This Act requires a proponent to evaluate the environmental impacts of the project and its alternatives. This evaluation is submitted for broad governmental review and public comment and very often a public hearing is held before the Environmental Assessment Board. The Board, or the Minister if there is no hearing, must approve the project before it can proceed.

B. Air Quality

Legislation governing air quality has been enacted at both the federal and provincial levels. At the federal level, the Canadian Environmental Protection Act (CEPA)⁵ provides the federal Ministers of the Environment and of Health and Welfare with authority to control and regulate many aspects of environmental protection, however, few specific or enforceable standards or controls have been established. National Ambient Air Quality Objectives have been set for several common pollutants.⁶ Although unenforceable, these objectives are intended to encourage uniformity among provincial legislation. The federal government also has power to enact enforceable emission standards for stationary sources and standards for emissions from new motor vehicles.⁷ A public comment period is provided for regulations before they are finalized.

At the provincial level, the Ontario Environmental Protection Act (EPA)⁸ authorizes the province to adopt measures to protect and conserve the natural environment. Regulations passed under the statute⁹ address the control of air pollution from industrial sources, air quality criteria, vehicle emissions, the sulphur content of fuel consumed in Metro Toronto, ferrous foundries and asphalt paving plants.

Under the EPA, Ministry of the Environment (MOE) approval is needed to build or modify facilities that release pollutants into the air. "Certificates of Approval" approve the control technology to be used.¹⁰ In order to obtain a Certificate, dischargers must satisfy the MOE that they can meet the air quality standards in Regulation 308 and that they will not violate the general prohibition on discharging contaminants into the natural environment.¹¹ Public hearings are not required before certificates of approval for air pollution sources can be issued, but public meetings are now held as a matter of Ministry

policy.

In addition, the Ministry has established policies and guidelines for the control of many types of industrial sources and specific pollutants.¹² Of particular relevance to the Port Industrial area are the 1987 policy prescribing combustion conditions and emission controls for energy from waste incinerators and the policy statement requiring private sector EFW facilities to be designated under the Environmental Assessment Act and the 1973 Guidelines for Buffer Zones Surrounding Sewage Treatment Plants which establish a minimum buffer zone for such plants for the purpose of minimizing odours.¹³

The Ministry is proposing to overhaul its air pollution laws in its Clean Air Program (CAP).¹⁴ It will fundamentally change air pollution regulation by replacing the air quality standards in Regulation 308 with bottom-of-the-stack emission limits. Dischargers will be able to meet these limits in any way they choose, but different levels of technology will be required depending on the toxicity or other characteristics of the emissions.¹⁵ The revised regulation will contain up-dated air pollution models, including a model relevant to the Waterfront area, designed especially for sources located along a lakeshore. These revisions were first proposed in 1983 and CAP was released in 1987. Since then, no further documents have been circulated for public review.

C. Surface Water Quality

Like air quality, water quality laws exist both at the federal and provincial levels.¹⁶ At the federal level, the Fisheries Act¹⁷ provides a mechanism by which the federal government can control water quality. The Act prohibits the discharge of substances into waters which may be harmful to fish or fish habitat and the Ministry is authorized to require plans for undertakings which might cause harmful effects.¹⁸ Under this Act, the federal government has the power to establish concentration standards for specific pollutants.¹⁹ Despite the broad nature of these powers, this act is poorly enforced.

The Canadian Council of Ministers of the Environment (CCME),²⁰ in its earlier manifestation as the Canadian Council of Resource and Environment Ministers, developed and promoted Canadian Water Quality Guidelines for major water uses including drinking water, recreational water quality and aesthetics, freshwater aquatic life, agricultural uses and industrial uses.²¹

At the provincial level, the "Blue Book" on Water Management of the Ministry of the Environment is the primary tool used for protecting water quality. This book sets out the goals, policies, objectives and implementation procedures for managing

surface and groundwater quality and quantity. The Water Quality Objectives are used to set effluent requirements which are then incorporated into "certificates of approval", granted under the Ontario Water Resources Act (OWRA)²² for the establishment or modification of wastewater treatment plants.

In 1986, the MOE initiated a Municipal/Industrial Strategy for Abatement (MISA) program aimed at controlling municipal and industrial discharges into surface water. Regulations have been enacted to require industrial facilities that discharge directly into surface waters to monitor and report their waste water discharges. Regulations are now being developed that will require dischargers to meet effluent standards attainable by the best available pollution abatement technology that is "economically achievable." Once the effluent limits have been set, emphasis will then shift to the development of water quality standards to ensure the protection of the receiving waters. MISA has also undertaken a number of programs pertaining to discharges to sewers and will eventually require all such dischargers to also employ the best available control technology economically achievable.

In the meantime, municipalities regulate discharges into municipal sewer systems by industry through by-laws. Many Ontario communities, including Metropolitan Toronto, have their own sewer use by-laws and enforcement officers.

The Metropolitan Toronto and Region Conservation Authority (MTRCA) has few powers which are relevant to water quality. MTRCA's only relevant authority in the study area is implementing the Improved Lakefill Quality Control Program.

Dredging activities can also affect water quality. The MOE has issued dredging guidelines. Moreover, the MTRCA project to address sediment accumulation in the Keating Channel for flood control purposes was subject to environmental review under the provincial Environmental Assessment Act.

D. Groundwater Quality

Provincial water quality objectives are relevant, not only to the management of surface waters as described above, but also to groundwater quality.²³ Groundwater quality objectives have been established for human drinking water use and agricultural use including irrigation.²⁴ MOE policy is aimed at the reduction or prevention of the contamination of groundwater by proposed or existing regulated and unregulated activities, such as spills and leaks and industrial sites such as those in the Toronto Port Industrial lands. The MOE's policy for addressing unregulated sources of groundwater contamination provides only that "all reasonable measures shall be undertaken to reduce or prevent the contamination of ground water from such sources."²⁵

E. Site Decommissioning and Remediation

There are no formal laws dealing specifically with site decommissioning and clean-up in Canada. Instead, Environment Canada and the MOE approach each project on a case-by-case basis.²⁶

To provide a common framework for clean-ups in Ontario, the MOE released guidelines in February 1989. Although the guidelines are unenforceable, the MOE has authority arising from the provisions of the EPA to ensure that clean-up is undertaken and is conducted in a way that will minimize environmental harm.²⁷

Basically, the MOE Guidelines involve four phases: (i) planning a clean-up; (ii) designing and implementing a clean-up plan; (iii) verification of clean-up; and (iv) signing off the clean-up.²⁸ The guidelines also suggest that clean-up criteria above background levels may be developed, provided that the criteria are protective of human health and the environment. In addition, the Occupational Health and Safety Act applies to protect workers involved in clean-up projects that involve exposure to toxic chemicals.

The EPA requires that Ministerial approval be obtained before land can be used if that land has in the past 25 years been used for the disposal of waste.²⁹ Regulations deem soils with PCB concentrations above 50 ppm to be PCB waste and to require special disposal sites.³⁰ Ontario has also recently adopted PCB interim soil guidelines³¹ and guidelines for contamination of soil and groundwater at abandoned coal tar sites.³² These latter guidelines are likely appropriate for the former coal tar distillation plants and briquetting plants located on the Toronto waterfront lands.

Municipalities also become involved in terms of the proposed future land-use of a site to be cleaned up.

F. Natural Heritage

A number of legislative and policy mechanisms are aimed at the protection of wildlife and their habitats. The federal Migratory Birds Convention Act,³³ is aimed at the protection of migratory birds and, to a lesser extent, their habitats. While weaknesses in the drafting of the Act have reduced its effectiveness, it has on occasion proven to be useful. For example, the federal Department of the Environment recently invoked the Act to prevent the Hamilton Harbour Commission from dismantling dike work which was the nesting ground for common terns.³⁴

In contrast, the federal Fisheries Act³⁵ has the potential to be one of the most powerful tools available to government to protect fish habitat. The federal Act is implemented in part by the provinces but clearly gives the federal government a wide scope of authority to protect fish habitat through its approval and enforcement powers. Yet these sweeping powers are rarely used.³⁶

In 1986, the federal government produced a policy for the management of fish habitat including strategies to achieve habitat protection.³⁷ Through conservation of existing habitat, restoration of damaged habitat, and the development of new habitat, the policy aims to prevent a net loss in habitat.

The Department of Fisheries and Oceans is currently working on a strategy to develop a process which would allow harbour commissions to incorporate fish habitat management plans directly into their existing plans.³⁸ Areas critical for habitat protection would be identified and classified in terms of their importance as fish habitat.

As part of the 1988 joint Canada-Ontario Fisheries Agreement, the Ontario Ministry of Natural Resources is currently developing a Proposed Strategic Plan for Ontario Fisheries known as SPOF II. This plan is to develop an ecosystem approach to help protect healthy aquatic ecosystems and rehabilitate those that are now degraded.

The Ontario Planning Act offers the Municipality of Metropolitan Toronto and the City of Toronto some opportunity to protect the natural heritage of the study area.³⁹ The Metro Official Plan provides guidance for official plans of its constituent municipalities. Thus, the City of Toronto Official Plan must be consistent with the Metro plan. The provisions of official plans are then implemented through City zoning by-laws. The Metro Toronto Official Plan includes a "Valley Land Impact Zone", which is designed to restrict development in flood- or erosion-prone areas. The effect may be to help maintain natural and environmental sensitive areas but has little impact on the study area lands. Recommendations have been made to strengthen this planning tool.⁴⁰

The City of Toronto has developed a plan, still awaiting approval of the Minister of Municipal Affairs, which includes official plan amendments for the Central Waterfront. The Central Waterfront Plan adopted by the City of Toronto Council in June 1988⁴¹ includes policies for Environmental Resource Areas (ERAs) on the Leslie Street Spit and Toronto Islands. These are defined as sites that contain unusual, rare, significant or sensitive environmental features and are to be maintained and managed for conservation, public enjoyment and compatible recreation uses. The Plan also includes proposals for two new open space zones one

of which would permit parks, marinas and related uses and the other to be applied to specific open space areas and waterlots. With respect to the waterfront lands, the second type of zone is proposed for much of the North Shore of the Outer Harbour, the THC's Outer Harbour Marina, and the Outer Harbour's waterlots.

G. Built Heritage

Two Provincial statutes directly bear on preserving the built environment - the Ontario Heritage Act⁴² and the Planning Act.⁴³ The purpose of the Heritage Act is to protect significant historic, architectural, and archaeological resources.

The Ontario Heritage Act empowers municipalities to include heritage in an Official Plan and, under Part IV, empowers municipalities to identify and maintain a registry of important buildings. Part V permits municipalities to create heritage conservation districts and to establish guidelines for protecting the character of those districts.

Properties designated under Part IV cannot be altered or demolished without application for a permit and a review by the Toronto Historical Board. Changes that are not in keeping with the building's history must be approved by City Council. Similarly, a heritage permit approved by City Council is required for alterations, additions, and demolition within heritage conservation districts. Advice on heritage issues is sought by councils from the Local Architectural Conservation Advisory Committee (LACAC).

Despite these powers, demolition of a heritage building cannot be permanently enjoined by a municipality, but only delayed for 180 days. Individual buildings within heritage conservation districts cannot be designated suggesting they have less protection under this form of preservation. It is not possible to designate heritage landscapes or land owned by the Provincial or federal governments. The Ontario Heritage Act is under review currently to address some of these concerns.

Section 2 of the Planning Act stipulates the Minister of Municipal Affairs must be cognizant of and respect heritage resources, but the Act's real strength is that it empowers municipalities to establish an Official Plan and zoning restrictions. Zoning differs from historic designation because it tends to be broad-brushed, i.e., areas of permissible uses and restrictions are established in which each property owner is treated similarly. An application cannot be refused as long as it complies with established zoning. However, zoning can preserve buildings by restricting uses, establishing design guidelines, and limiting development over broad areas.

CONCLUSIONS

It is clear that the laws, policies, and guidelines governing the East Bayfront and Port Industrial Area are changing. The above description attempted to give just a snapshot of the regulatory framework at it stands at this time. Simplified, this framework is characterized by overlap and duplication by different levels of government, by joint action on some issues and by failure to exercise authority that is already in place. A more detailed review of administrative decision-making in practice is necessary to fully understand the question of accountability for the state of the environment in the study area.

ENDNOTES

1. Conservation Authorities Act, R.S.O. 1980, c. 85.
2. 30 & 31 Vict., c. 3, [U.K.].
3. Ibid, opening words of s. 91.
4. Labatt Breweries of Canada Limited v. The Attorney General of Canada et al., (1980) 1 S.C.R. 914, 944.
5. Canadian Environmental Protection Act, R.S.C. 1985, c. 16, (4th Supp.), amended 1989, c. 19.
6. These objectives were originally established under the Clean Air Act which was repealed by the CEPA. In July 1989 these objectives were placed under the CEPA. (Canada Gazette, Part 1, 12 August 1989).
7. An example of such a standard, now under the CEPA, is the Secondary Lead Smelter National Emission Standards Regulations. The federal government has also established emission standards for new mobile sources including automobiles and trucks through the Motor Vehicle Safety Act, R.S.C. 1985, c. M-10. Regulations under this Act set standards for vehicle emissions of carbon monoxide, nitrogen oxides, hydrocarbons, and diesel particulates. Air pollution from ships is regulated under the Canada Shipping Act, R.S.C. 1985, c. S-9, as amended, and the Regulations issued thereunder. Lead in gasoline has been regulated under the Fuels provisions, ss. 46 and 47 of the CEPA, supra n. 4.
8. Environmental Protection Act, R.S.O. 1980, c. 141, amended by bill 143, 1981; bill 52, 1983; Chap. 68, 1986; Chap. 54, 1988.
9. Regulation 308 (General Air Pollution), Reg. 296 (air quality criteria), Reg. 311 (Motor Vehicles), Reg. 312 (sulphur content), Reg. 295 (ferrous foundries), and Reg. 297 (asphalt paving plants).
10. In the past, an economical, and hence popular, approach to meeting the air quality standards was the use of tall stacks. While this approach improved air quality in vicinity of the source, it did not resolve long-range transport pollutant problems such as acid precipitation and ozone, nor did it protect from the long-term accumulation of trace contaminants.
11. Supra n. 7, s. 13.

12. For example, a regulation dealing with mobile PCB destruction facilities has been enacted, resulting from a 1985 Board of Inquiry. Another important regulatory action is the control on major sources of acid gas emissions under the Countdown Acid Rain Program. In addition, the Ministry has adopted a policy dealing with the combustion conditions and emission controls on energy from waste incinerators (Policy 01-01 and 01-03, Ontario Ministry of the Environment, April 1987), and a policy requiring all private sector EFW plants be subject to the Environmental Assessment Act. One private sector EFW project in the Toronto waterfront area, the Trintek project, has been designated under the Act.

13. Ontario, Ministry of the Environment. "Guidelines for Buffer Zones Surrounding Sewage Treatment Plants". Discussion papers of November 1973 and 14 September 1972.

14. Ontario Ministry of the Environment, "Stopping Air Pollution at Its Source", Discussion Paper, 1987.

15. For the most toxic or persistent contaminants, abatement technology will have to produce the "Lowest Achievable Emission Rate". For other contaminants, dischargers will have to use "Best Available Control Technology, Economically Achievable".

16. The CEPA and EPA deal with certain aspects of water quality. In addition, three sets of water quality standards exist: The Canadian Water Quality Objectives, the Provincial Water Quality Objectives, and the International Joint Commission Water Quality Objectives. The three sets are inconsistent in the range of parameters listed and in the stringency of levels for such parameters.

17. Fisheries Act, R.S.C. 1985, F-14, amended R.S.C. 1985, c. 31 (1st supp.), ss. 34, 35 and 95 to 97; amended R.S.C. 1985, c. 35 (1st supp.), ss 1 to 8; amended R.S.C. 1985, c. 1 (2nd supp.), s. 213(1), amended R.S.C. 1985, c. 27 (2nd supp.), s. 10; amended R.S.C. 1985, c. 40 (4th supp.), s. 2.

18. Ibid, Section 36(3).

19. For example, Chlor-Alkali Mercury Liquid Effluent and Petroleum Refinery Liquid Effluent. See also Part III of the CEPA which deals with discharges of "Nutrients", supra, n. 2.

20. Formerly the Canadian Council of Resource and Environmental Ministers (CCREM).

21. CCREM, 1987. The guidelines for recreational water quality and aesthetics and freshwater aquatic life are relevant for this study insofar as discharge of contaminated groundwater may create a deterioration of surface water quality.

22. Ontario Water Resources Act, R.S.O. 1980, c. 361, as amended by Bill 144, Bill 51, 1983; c. 68, 1986; c. 54, 1988.

23. Ontario Ministry of the Environment, "Water Management Goals, Policies, Objectives and Implementation Procedures of the Ministry of the Environment", November 1978, revised May 1984.

24. Ibid. The application of Recommended Maximum Concentrations of Trace Elements in Irrigation Waters may be relevant to phytotoxic impacts of groundwater in the Designated Area and any future land use involving revegetation.

25. The MOE has a policy for the resolution of groundwater quality interference problems caused by deterioration of groundwater quality resulting from release of contaminants. This policy states in general terms that the Ministry will decide on a case-by-case basis, what, if any, level of cleanup is required. Ontario Ministry of the Environment, "Guidelines for the Resolution of Groundwater Quality Interference Problems", November 1986.

26. Ontario Ministry of the Environment, Waste Management Branch, 1989. "Guidelines for the Decommissioning and Clean-up of Sites in Ontario". The federal government is expected to release guidelines in the fall of 1990 and to announce a clean-up fund of approximately \$275 million in April, 1990.

27. Environmental Protection Act, supra n. 5, ss. 5, 6, 12, 13, 14, 16, 17, 27, 39, 45, 145; See also the Environmental Assessment Act, supra n. 7, ss. 14, 20, 29; and the Ontario Water Resources Act, supra n. 17, ss. 16, 18, 24.

28. Supra n. 23, 1989, page 4.

29. Supra n. 5, s. 45.

30. Ontario Ministry of the Environment. Waste Management - PCB Regulation under the Environmental Protection Act, O. Reg. 11/82, amended by Reg. 575/84.

31. The guidelines were recommended by the CCME in 1987. The revised maximum acceptable concentration of PCBs in soil at industrial/ commercial sites in Ontario was recommended as 25 ppm

by MOE. The federal government, through the CCME, has also promulgated maximum acceptable interim guidelines for polychlorinated dibenzo-o-dioxins (PCPD) and polychlorinated dibenzofurans (PCDF) in soils. The cleanup guidelines of 1 ppb of 2,3,7,8, - tetrachlorodibenzo-p-dioxin or toxic equivalent in residential soil has been recommended for provincial acceptance.

32. The PAH guidelines were developed by the CCME. Canadian Council of Resource and Environment Ministers, 1988. "Proposed Interim Guidelines for PAH Contamination at Abandoned Coal Tar Sites. Prepared by the Ad Hoc Federal-Provincial Working Group on Interim PAH Guidelines.

33. Migratory Birds Convention Act, R.S.C. 1985, Chap. M-7, amended R.S.C. 1985, c. 31 (1st supp.), s. 38, amended R.S.C. 1985, c. 40 (4th supp.), s. 2.

34. Steve Curtis, personal communication, February, 1990. [This note subject to confirmation by authors of report on Natural Heritage.]

35. Fisheries Act, supra n. 12.

36. For example, while the Act provides that all undertakings affecting fish or fish habitat are subject to federal approval, no municipality has sought approval for the discharge of wastewater, therefore, every municipal outfall could be considered illegal. Serge Metikosh, personal communication, February 1990. [This note subject to confirmation by authors of report on Natural Heritage.]

37. [to be supplied by Suzanne Barrett, et. al.]

38. [to be supplied by Suzanne Barrett, et. al.]

39. Planning Act, 1983, S.O. 1983, c. 1, as amended.

40. The Parks and Open Space Study for the Metropolitan Plan Review recommends several changes that would strengthen the protection of natural areas. They include replacing the "Valley Land Impact Zone" with an Environmental Impact Zone that would encompass both the valleys and the waterfront. This approach could be used to protect areas on the waterfront, such as the Cherry Beach and North Shore area, that have significant wildlife values.

41. This Plan comprises Official Plan Amendment (OPA) No. 436 adopted through By-Law 527-88 and Zoning By-Law 528-88. It is

presently before the Minister of Municipal Affairs awaiting a decision on approval.

42. Ontario Heritage Act, R.S.O. 1980, c. 337.

43. *Supra*, n. 36.