

June 14, 2001

Premier Mike Harris to testify June 29

The Walkerton Inquiry has announced that Premier Mike Harris will testify on Friday, June 29. No dates have been published for when former Environment Ministers Brenda Elliot and Norm Sterling will testify, but it is expected they will testify prior to Harris during the week of June 25.

Get prepared for meetings with Val Gibbons

The Ministry of the Environment (MOE) has announced it plans to implement the *Managing the Environment* report, written by Val Gibbons. It has established an Implementation and Transition Secretariat, headed by Bob Breeze.

Val Gibbons and other senior staff are holding information meetings across the province with ministry staff.

OPSEU produced an analysis of the Val Gibbons report when it came out in February
<http://www.opseu.org/walkerton/gibbons.htm>

Prior to your workplace's meeting with Gibbons, hand out to all OPSEU members:

- 1) Our analysis of the Val Gibbons report <http://www.opseu.org/walkerton/gibbons.htm>
- 2) The executive summary of OPSEU's *Renewing the Ministry of the Environment* report. ([link](#))

OPSEU believes the evidence from the Walkerton Inquiry shows that the Ministry must be rebuilt and strengthened so that it can fully carry out its responsibility to protect Ontario's environment.

We don't believe the solution is to dilute and offload this responsibility to other public organizations and the private sector. This is what the Val Gibbons report suggests. Among other things, it talks about the MOE moving away from direct front-line enforcement and compliance. We believe that testimony from the Walkerton Inquiry shows that exactly the opposite is needed: more resources should be put into front-line enforcement and compliance.

Six questions to ask Val Gibbons

Members have asked their union to suggest questions to ask Val Gibbons when she comes to their workplaces. OPSEU held six workshops across the province with MOE staff in February and March when preparing our *Renewing the Ministry of the Environment* report <http://www.opseu.org/walkerton/RenewMOErept.pdf> for the Inquiry. The following questions are based on what members told us:

- 1) Staff told OPSEU that no other agency, body or ministry is better placed to be responsible for the protection of the environment in Ontario than the MOE. The MOE sets and enforces provincial standards so that every citizen of Ontario, no matter where they live, has the right to a clean and healthy environment.

The *Managing the Environment* report says: "the Ontario government should give careful consideration to the creation of an arms-length operating agency for operational/program delivery of environmental management." (Managing the Environment, Executive Summary, p.g. 24)

If this recommendation is implemented, won't this move responsibility and accountability for protecting the environment out of the MOE? If so, what public organization will be ultimately responsible and accountable to the people of Ontario for a clean and healthy environment?

- 2) At every one of the six workshops that OPSEU held with MOE staff, staff said that there aren't enough people to do the work. Staff are carrying very heavy workloads in this ministry. Is the ministry going re-build its staffing complement by hiring more staff?
- 3) There is general agreement from everybody, that the MOE lost a lot of scientific expertise in the cuts of 1996 and '97. See the January, 1998 briefing document quoted in the <http://www.opseu.org/walkerton/pipeline8.htm> Is the ministry going to re-build in a systematic way its scientific and research capacity?
- 4) There is general agreement that training isn't sufficient in the ministry. Is the MOE going to start a comprehensive training program of its staff and all new hires?
- 5) Staff are hampered by lack of tools and equipment. Sometimes the equipment is old and falling apart. Other times there aren't enough tools, equipment, cars to go around. Is the ministry going to rebuild its inventory of tools, equipment and other supports that staff need to do their job well?
- 6) Staff told OPSEU that they believe the MOE must take an ecosystem approach to protect the environment. This is the MOE's mandate as spelled out under the Environmental Bill of Rights. There is general agreement that there is a need for a comprehensive source protection strategy when it comes to water. When is the ministry going to develop and implement with the appropriate players such a strategy?

Sterling asked to make notification amendment in 1997

As reported on CBC radio June 11 and as reported in *the Pipeline* May 17

<http://www.opseu.org/walkerton/pipeline7.htm>, former Environment Minister Norm Sterling was asked in 1997 to amend legislation so that private labs immediately notified health units of adverse drinking water test results.

Former Minister of Health Jim Wilson wrote Sterling in August 1997 "to request an amendment to the Ontario Water Resources Act (OWRA) or assurances from the Ministry that adverse drinking water test results from drinking water systems under the jurisdiction of the OWRA, are immediately brought to the attention of the local medical officer of health."

Sterling wrote back to Wilson's successor, Elizabeth Witmer, in November 1997, saying, in effect, that such an amendment wasn't necessary because the responsibility to report on the part of both operators and the private labs "is clearly delineated in the [Ontario Drinking Water] Objectives."

In Witmer's reply, she reminded Sterling that the Medical Officer of Health has the legislative authority to judge whether water is safe for human consumption. She wrote: "the importance of the local medical officer of health receiving early notification ... cannot be overstated."

The letters are significant evidence because they show the government was warned three years before the e-coli outbreak in Walkerton about the need to legislate the reporting requirements of labs and operators.

The exchange of letters between Sterling and the two Ministers of Health was examined at the Walkerton Inquiry May 7 and 8. As reported in *the Pipeline* May 17, it was conscientious civil servant, Chuck Le Ber, who raised the concerns at the Ministry of Health which resulted in the initial letter from Wilson to Sterling.

Le Ber was being told by health units that with the privatization of routine drinking water testing, they weren't being notified by the private labs of adverse test results.

A joint MOH-MOE committee of scientists, the Drinking Water Co-ordinating Committee, produced an amendment around notification procedures in June 1998. It was not followed up on until August 2000, when the MOE responded to the Walkerton tragedy with a regulation on safe drinking water.

"It was a communications statement"

Former Deputy Minister Linda Stevens testified at the Walkerton Inquiry May 28 and 29. Stevens was the deputy minister at the Ministry of Environment and Energy from August 1995 to August 1997.

Commission Counsel Paul Cavalluzzo questioned Stevens about the budget reductions of 1995, 1996 and 1997. In July of 1995, Cabinet office directed the MOEE to cut its budget by \$55.3 million.

In November of 1995, MOEE was directed to cut its budget by a further \$200 million. This was known as "the 40/20 plan". It amounted to a 40 per cent cut in 1996 and a 20 per cent cut in 1997. The MOEE submitted its budget for 1996 and 1997 (called a "business plan") to Management Board of Cabinet on January 22, 1996.

Cavalluzzo took Stevens through about eight internal government documents, including the business plan of January 22, 1996, which warned that the cuts could lead to an increased risk to human health and the environment. Most of these documents have been previously entered into evidence. See the May 28th *Pipeline* <http://www.opseu.org/walkerton/pipeline8.htm>

Some of the key things we learned from Linda Stevens' testimony.

- ❑ According to Stevens, neither she, nor Environment Ministers Brenda Elliott and Norm Sterling, tried to re-negotiate with Cabinet Office the amount of the budget cuts MOEE was told to make.

- ❑ Brenda Elliot, Minister of Environment and Energy from June, 1995 to August, 1996, was advised that the cuts would lead to an increased risk to human health and the environment.
- ❑ Norm Sterling, Minister of Environment and Energy from August, 1996 to June, 1999 was informed of the potential impacts of the cuts to human health and the environment.
- ❑ Cabinet was informed, through the MOEE's budget submissions and Management Board of Cabinet's analysis of them, of the potential impacts of the cuts.
- ❑ The MOEE's August 24, 1995, budget submission regarding the \$55.3 million cut stated: "These reductions will have an adverse impact on the delivery of environmental protection service levels which in turn will increase public health and safety risks."
- ❑ The MOEE's January 22, 1996, business plan regarding the \$200 million cut stated: "The risk to human health and the environment may increase as a result of improper or illegal actions which are neither detected nor controlled through orders and prosecutions as a result of decreased compliance and enforcement activities."
- ❑ The February 5, 1996 analysis by Management Board of Cabinet of the business plan called it a "realistic assessment of impacts." It went on to advise: "Overall reaction of the public with respect to perceptions of environmental quality deserves emphasis. This plan will quite severely impair the ability to respond to these perceptions." This analysis was produced for cabinet ministers who were members of two cabinet committees: Management Board of Cabinet and the Policy and Priorities Board.
- ❑ The marketing and communications spin for the cuts was drafted by ministry staff, political staff in the Minister's office, and staff from Cabinet Office and the Premier's Office.
- ❑ The MOEE's January 22, 1996, business plan included a marketing and communications plan. It stated: "there is broad public acceptance of some 'current plan for future gain' as far as the spending cuts are concerned. However, there is also a strong public expectation that the government will protect the environment and will ensure a safe and secure energy supply." It listed as a "communications objective": "rationalize the spending reductions to target audiences as largely positive." It listed as a "key message": "while the ministry will become leaner and more efficient, there will be no compromise on environmental protection."
- ❑ A minute from the cabinet meeting of February 28, 1996, following up on a Policy and Priorities Board meeting of February 22, 1996, shows that cabinet authorized the MOEE to proceed with the cuts.
- ❑ Stevens was not aware of the ministry doing any study on the capability and capacity of private labs to analyze drinking water samples, prior to the privatization of routine drinking water testing in July, 1996. This work had previously been done by MOEE labs. The privatization resulted in the closure of three regional MOEE labs in 1996.

Commission Counsel Paul Cavalluzzo asked Stevens about the January, 1996 marketing and communications plan: “Now would you agree with me after having referred to at least eight documents, many of which you have seen describing impacts on the long term health of the environment and indeed to human health itself, that this statement ... where it says there will be no compromise on environmental protection, is not accurate?” (Walkerton Inquiry, May 28, p.g. 233)

Stevens didn't answer the question directly at first. Cavalluzzo put it to her again a little while later: “But would you agree with me that where it says no compromise on environmental protection, it's just inaccurate. It may be a nice marketing message, but it's inaccurate?” (Walkerton Inquiry, May 28, p.g. 235.)

Stevens replied: “It's a communications statement.” She went on to say that while there were risks, in the eyes of the senior management team, they were “manageable risks.” (Walkerton Inquiry, May 28, p.g. 235).

Cavalluzzo questioned Stevens about the MOEE's public business plan of May, 1996. It stated in part: “Without lowering the current high level of environmental protection in Ontario, these reforms will remove barriers that do not protect the environment and get in the way of job creating economic activity.” It made no mention of the risks outlined in the confidential business plan of January, 1996.

Cavalluzzo asked Stevens three times if she agreed with him that the ministry's statement was inaccurate: “... if you're increasing the risk ... how could the ministry make the statement to the public that it is not lowering the current high level of environmental protection? You must agree with me that that's not accurate?” (Walkerton Inquiry, May 28, p. 248)

Stevens would not admit that the ministry's statement was inaccurate. She replied at various times that you had to look at the actual reforms in the business plan, and that the ministry was doing everything it could to maintain its core functions.

How to get in touch with us

To get on our e-mail list or talk to us about the Inquiry, contact Megan Park at 1-800-268-7376 ext. 207 or mpark@opseu.org.

Check regularly www.opseu.org/walkerton/index.htm and the Walkerton Inquiry website at www.walkertoninquiry.com.

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