



November 28, 2017

Sent via e-mail

The Honourable Kathleen Wynne
Premier of Ontario
Legislative Building, Queen’s Park
Toronto ON M7A 1A1
E-mail: premier@ontario.ca

Dear Premier Wynne,

Re: Review of the *Environmental Bill of Rights, 1993*

We write to express our serious concern with respect to the integrity and quality of the ongoing review of Ontario’s *Environmental Bill of Rights, 1993* (“EBR”). The EBR is one of Ontario’s most important environmental laws. When it was enacted in 1993, with the support of all three parties, it positioned Ontario as a leader in respect to environmental protection, transparency, and public participation in environmentally significant decision-making. Nearly 25 years later, the EBR is showing its age and is in dire need of reform.

Our organizations supported the consultations your government launched last fall on the long-overdue review of the EBR. The Ministry of Environment and Climate Change committed to reviewing the EBR in 2010, in response to requests submitted by the Canadian Environmental Law Association and Ecojustice. In good faith, we actively participated in the process and

encouraged our supporters across the province to submit comments. The vast majority of public comments call for meaningful amendments to update the EBR, building on lessons learned over the past decades. In particular, more than 19,000 people requested that the EBR be amended to recognize that all Ontario residents have a basic human right to a healthy environment. It has now been a full year since the public consultation concluded, and the MOECC has yet to publish any response.

Based on discussions with Ministry staff, we understand the Ministry may focus its recommendations almost exclusively on policy reform rather than amendments to the Act itself. Such a response would conflict with the mandate of the review, which was to review the EBR and the regulations under it, not just practices and policies. Such a response would also conflict with the vast majority of public comments, and recommendations for reform that have been made by two successive Environmental Commissioners of Ontario and the Ontario Environmental Review Tribunal. A response focused on policy reform rather than statutory amendments would bring into question the legitimacy of the consultation process that the public and civil society groups waited more than six years to participate in.

As set out in greater detail in the comments submitted by our respective organizations during the consultation process, as well as the enclosed list of key priorities for legislative and regulation changes, some of the most pressing amendments needed to the EBR include:

- legal recognition of the human right to a healthy environment,
- improved access to environmental information,
- removing barriers to the meaningful exercise of appeal rights under section 38 of the EBR, and
- updating the Act's purposes and principles to reflect modern environmental law and human rights principles such as the precautionary principle and the principle of environmental justice.

We call on you to ensure the EBR review process concludes with integrity by charting a course towards comprehensive reform of the Act – in line with the recommendations of civil society groups and other stakeholders, two Environmental Commissioners of Ontario, and the Environmental Review Tribunal, as well as the vast majority of public comments. A commitment to meaningful action is necessary to ensure respect for Ontarians' right to live in a healthy environment, improve the quality and legitimacy of environmental decision-making, and promote sustainable development.

Yours truly,

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Ecojustice

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Executive Director
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CC: Dianne Saxe, Environmental Commissioner of Ontario
Chris Ballard, Minister of the Environment and Climate Change
Patrick Brown, Leader of the Official Opposition
Andrea Horwath, Leader of the NDP