

December 18, 2008

The Honourable John Gerretsen
Minister of the Environment
12th Floor, 135 St. Clair Avenue West
Toronto, ON M4V 1P5

Dear Minister Gerretsen,

RE: EBR Posting (EBR# 010-4642) Proposal for Amending Ontario Regulation 153/04

The Canadian Brownfields Network (CBN) shares and supports your objectives to continue to improve protection of human health and the environment while removing barriers to Brownfield redevelopment. An efficient Brownfield redevelopment program not only contributes to improvements to human health and environmental protection but also supports other key Ontario strategies such as Places to Grow and Urban Intensification. The economic benefits of redevelopment are also well understood and of increased importance during this period of economic uncertainty.

It is with these common goals in mind that we are writing to you today to share a significant concern with the Brownfield reforms currently under consideration. A number of our members in Ontario have been working closely with the Ontario Ministry of the Environment (MOE) and other stakeholder groups to review and provide meaningful comments to the proposed amendments to the Brownfield regulations.

During formal Brownfield Stakeholder meetings over the past few years and in recent meetings, we have consistently indicated that “uncertainty of regulatory process” is one of the leading barriers to Brownfield redevelopment. It is on this basis that we provide the following perspective.

Through our discussions with the MOE, we understand that the intent of the Brownfield Legislative Reform Package is to contribute to improving the Provincial Brownfield process, however, it is our opinion that any improvements will be overshadowed by a number of significant shortcomings in the proposed changes. We are concerned that these shortcomings will add unintended complexity and additional barriers to Brownfield redevelopment, and thereby discount the intended benefits of the proposed improvements.

Today a Brownfield can be redeveloped to Generic Standards (Tier 1) or to a Property Specific Risk Assessed Standard (Tier 3 - comprehensive). Unfortunately, the current MOE property specific risk assessment process in the Province does not function in a streamlined and effective manner leaving our members with long timelines (years) and significant uncertainty with potential outcomes. As a result, risk assessment is often not the preferred option regardless of its advantages.

Recognizing the need for a better alternative, the proposed Brownfield Legislative Reform Package provides a third remediation option called a Modified Generic Risk Assessment (Tier 2) option which is meant to streamline the process in certain situations. It is contemplated that this Modified Generic Risk Assessment (Tier 2) process will also be frequently required in many urban settings,

where the majority of Brownfield opportunities are located, as the alternative to the proposed more stringent revised Generic Standards (Tier 1). This new risk assessment approach has long been an anticipated enhancement to the Brownfield regulations.

In consultation with MOE at various current stakeholder meetings, our members' preliminary review of the proposed Modified Generic Risk Assessment (Tier 2) model indicates that it will not provide a meaningful alternative for the majority of Brownfield redevelopment projects. The net result of the proposed reforms then, is a significantly more stringent Generic Standards (Tier 1) process or the Property Specific Risk Assessed Standard (Tier 3 – comprehensive) process that is currently not functioning effectively. It is our opinion that these proposed complexities will result in fewer Brownfield redevelopment projects rather than more, resulting in a net environmental and economic loss as a result of lost opportunities. In addition, the application of the revised Generic Standards (Tier 1) (more stringent lower standards) will further promote the “dig and dump” remediation strategy, a less sustainable approach associated with increased soil relocation volumes. It has been the hope of all Brownfield stakeholders, including the MOE and CBN, that more innovative and sustainable remediation options would reduce the use of dig and dump strategies to a minimum.

As mentioned we have common goals to improve health and environmental protection while encouraging the redevelopment of Brownfields. We want to make the proposed Brownfield Legislative Reforms work in support of these goals, however significant enhancements are required to the proposed Tier 2 model, in particular, prior to the implementation of the reform package to decrease uncertainty and reduce barriers to redevelopment.

We are eager to work with the MOE on these enhancements and would welcome the opportunity to meet with you in early January 2009 to better articulate our concerns and assist in developing workable solutions that achieve our mutual goals prior to the close of the formal consultation period on February 3, 2009.

Thank you for your consideration and we look forward to meeting with you in the New Year.

Sincerely,



Bonnie Prior
Chair, CBN Executive Committee
Canadian Brownfields Network



Angus Ross, Spokesperson
Canadian Brownfields Network

c.c.

The Honourable Michael Bryant, Minister of Economic Development
The Honourable George Smitherman, Minister of Energy and Infrastructure
The Honourable Sandra Pupatello, Minister of International Trade and Investment
The Honourable Jim Watson, Minister of Municipal Affairs and Housing
Peter Wilkinson, Chief of Staff to the Premier