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**THE MARGINALIZATION OF THE DEPARTMENT OF THE ENVIRONMENT:
ENVIRONMENTAL POLICY, 1971-1988**

**BY
THOMAS CONWAY**

**A dissertation submitted to
the Faculty of Graduate Studies and Research
in partial fulfilment of
the requirements for the degree of
Doctor of Philosophy**

Department of Political Science

**Carleton University
Ottawa, Ontario**

December 1992

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ABSTRACT

The Marginalization of the Department of the Environment: Environmental Policy, 1971-1988

**Ph.D. Dissertation
by Thomas Conway,
Carleton University,
Department of Political Science
September 1992**

This dissertation is the first systematic and comprehensive account of the origins and evolution of Canada's Department of the Environment (DOE) between the years 1971 and 1988. First, it shows how DOE, and the environmental policy it promoted, was increasingly marginalized within government generally and the environmental policy sector specifically. Second, it provides a more thorough explanation of this marginalization than has been offered by other implicit or explicit explanations in the Canadian and comparative environmental policy literature.

To explain the marginalization of DOE and federal environmental policy, the dissertation develops a unique approach to the study of public policy within "policy sectors." The "policy sector" approach assigns comparatively more explanatory weight to government organizations and their sectoral power relations than is typical of the Canadian public policy literature. It expands upon the observation, made by Claus Offe and others, that governments are "selective event-generating systems" or "sorting processes" set within the larger political economy.

The dissertation can then explain how environmental policy was often "sorted out" in the power relations of the federal environmental policy sector.

The concept of the "policy sector" is defined and discussed as a matrix or cluster of government organizations. These organizations are connected to each other by their vested interest in a policy area and their regular interactions. Government responses to public policy problems are shown to always involve interactions and relations of power among government organizations. This is because there are always several government organizations that are in some way involved in the problem area and control resources needed for a possible policy "solution." The policy sector is also seen to be closely associated with an "interest community" of non-governmental organizations (NGOs). These NGOs act upon, and are significantly shaped by, the characteristics of the policy sector and its government organizations.

The dissertation is composed of 4 Parts and a total of eight substantive chapters. Over one thousand primary documents were gathered for the research and 30 interviews were conducted on a "not for direct attribution" basis. The field research was conducted in 1990 and 1991.

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The author would like to thank all the people who have helped make the completion of this dissertation possible. Special thanks go to Professor Bruce Doern who went well beyond what could be expected of a dissertation Supervisor. His friendship, support and encouragement is a lesson in professional responsibility and human kindness. Also, thanks go out to Professor Glen Toner who never failed to provide support in a myriad of subtle ways. He was always available to help open a few doors and keep the life of a Ph.D. student on track. Professor Michael Whittington also served a very important role in the evolution of the ideas that went into the dissertation. My years as his Teaching Assistant in Canadian Politics were an important foundation.

Finally, thanks go out to my friends and colleagues within the Ph.D. program at Carleton University, Department of Political Science. My countless and inspiring discussions with Greg Albow and Patrick Gibson during our months at the National Library of Canada were especially important to keeping my research moving forward. In the end, however, the research could not have been completed without the generous cooperation of many long time employees of DOE and others who were interviewed for the dissertation. The people who "lived" DOE were remarkably candid about the

shortcomings of the department and of Canada's environmental record. But, those who remain active in environmental policy are deeply committed to the vital need for change and know how long and arduous the remaining environmental journey is for Canadians and for the planet.

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INTRODUCTION

The first International Earth Day was held on April 22, 1970, reflecting a growing world wide concern over the environment. A little less than six months later on October 8, Governor General Roland Michener, in a speech from the throne opening the 28th Parliament of Canada, announced the Trudeau government's intention to establish, "a department to be concerned with the environment and the husbanding of those renewable resources that are part of and dependent upon it with a mandate for the protection of the biosphere."

Prior to this, the federal government had been active in establishing environmental initiatives in other government departments. However, the outcome of these initiatives was an uncoordinated array of incremental policies and programs scattered throughout the Government of Canada. By 1970, there was a need for organizational change to bring about a better forewarning of important environmental issues and a more integrated and coherent approach to the development and implementation of federal environmental policy.

The Federal Department of the Environment (DOE) was officially launched as an organizational entity in June, 1971, to respond to the new pressures for coordinated action. A number of environmental statutes were also enacted in the early 1970s (see Appendix 1). But, by no

later than 1975, political and economic conditions in and outside Canada rapidly changed to the detriment of continued improvement on the "protecting of the biosphere". DOE contributed to some significant improvements in environmental policy, but immediately following this first wave of change it experienced neglect from the centre of government¹, and was marginalized within the "environmental policy sector" (see below and Chapter 1 for a definition and discussion of the "policy sector").

This dissertation examines the origins and evolution of DOE as the lead organization for federal environmental policy between 1971 and 1988. First, it demonstrates how DOE was increasingly marginalized within government generally and the environmental policy sector specifically. Second, it provides a more complete explanation of this "marginalization" than has been offered by other implicit or explicit explanations in the Canadian and comparative environmental policy literature. "Marginalization" is a relational concept meaning a persistent inability to prevail in important relations of power, and the general failure to achieve goals central to the mandate of the organization over time, including securing critical organizational resources.

The central thesis of the dissertation is that the marginalization of DOE occurred as a result of three interacting factors, or independent variables: the lack of

key organizational resources crucial to the conferring of power on a government organization, including support from the political centre²; the strong resistance to change of powerful organizations within the environmental policy sector, including clientele departments and business interests; and, the absence of a consistent and supportive relationship with an organized and influential sectoral interest group clientele.³

The substantiation of the thesis involves an implicit rejection in part of three other explanations for the evolution of DOE and federal environmental policy: first, those approaches stressing the lack of environmental values within government⁴; second, those approaches stressing the imperatives of capitalism and industrial processes; and third, those approaches stressing interest group pressure. All three of these approaches are commonly recognized in the literature and offer important insights into federal environmental policy. However, they also leave us with an incomplete understanding because of their neglect of one or more important explanatory variables. The "policy sector" approach developed in this dissertation is offered as a way of beginning to overcome this weakness. It allows us to incorporate the explanatory factors stressed in the literature to date, while also permitting us to think about and study government organizations and their policy sector interactions.

The dependent variable, the marginalization of DOE, is operationalized at three different levels: evidence of environmental policy failure during the period under study; case study examples of the outcomes of DOE's relations and struggles within government; and, three extensive chapter length case studies corresponding roughly with three broad category types of environmental policy (see below).

The independent variables are operationalized through a conceptual framework that allows us to consider DOE's organizational resources, and the "policy sector" as a set of constraining conditions and relations faced by the department within its mandate as lead organization for environmental policy (see Chapter 1). This includes relations with other federal government departments, the provincial governments, and business and environmental interests.

The concept of the "policy sector" is defined and discussed in Chapter 1 as a matrix or cluster of government organizations connected to each other by their vested interest in a policy area and their regular interactions. Government responses to public problems, including environmental problems, always entail interactions and interdependencies among departments which are in some way involved in the problem area and control resources relevant to a possible "solution". The policy sector is also closely associated with an "interest community" of non-governmental

organizations which act upon the sector and its government organizations. Depending on the characteristics of the sector, a lead government organization can encounter variable levels of constraint upon its activities.

In addition to the above, the main contribution of the dissertation is to provide the first systematic and comprehensive account of the origins and evolution of Canada's Department of the Environment. Also, new insights are offered into how the study of Canadian public policy must take into account the organizational power resources of government departments, and how the state functions in the context of ongoing sectoral policy making situations. It does this in part by presenting a way of understanding the theoretical and practical meaning of the "policy sector".

The dissertation is composed of 4 Parts and a total of 8 chapters. Part 1, composed of Chapter 1, is the conceptual framework for the dissertation. A context and rationale is provided by first introducing the three broad categories of environmental policy literature noted above. The discussion then proceeds to an explanation of the critical resources of government organizations, and of the policy sector conditions that they encounter.

Part 2, is composed of 2 chapters that analyze the organization and resources of DOE. Chapter 2 provides an overview of the department's formation, rise, and fall into a marginalized position within the environmental policy

sector by analyzing historical trends in critical organizational resources. Chapter 3 analyzes the impact that marginal status had on the internal politics, organizational cohesion, and resources of the various components of the department.

Part 3, also composed of 2 chapters, analyzes DOE's relationships with other government and non-government organizations within the environmental policy sector. Chapter 4 provides key examples of the sectoral conditions faced by DOE and of the character of the department's relations with other federal government departments and the provincial governments. Chapter 5 analyzes DOE's relations with environmental and business groups within the interest community of the policy sector.

Part 4, is composed of 3 case study chapters. There is some inevitable arbitrariness in the selection of the case studies, but we have tried to reflect three broad categories of environmental policy: policies that regulate existing industrial processes, such as with pollution control regulation; policies that monitor and constrain new development activities, such as with environmental impact assessment; and, policies for land and wildlife conservation and management.

Policies that regulate existing industrial processes, have attracted the most attention in the political science and public policy literature, and constitute a major portion

of environmental policy activities. The common characteristic of these policies is that they impinge directly on the management prerogative of the firm and affect the profitability of structured capital investment. This makes them especially contentious.

Within this category of policies, governments either set limits on the rate of exploitation of natural resources to feed existing mills or plants, or ensure that pollutants discharged from ongoing industrial processes are controlled within 'tolerable levels'. Quota and standard setting activities, usually combined with financial incentives and technology transfers, are undertaken by such organizations as the Fisheries Service and Environmental Protection Service of the federal government and DOE, and the Environmental Protection Agency in the United States. Examples of these types of policies in the federal government include: the Canadian Environmental Protection Act (CEPA), the Clean Air Act, the Ocean Dumping Control Act, the Fisheries Act, the Transportation of Dangerous Goods Act, and the Canada Shipping Act. Chapter 6 analyzes the evolution of pollution control legislation and the development of CEPA by DOE's Environmental Protection Service.

Policies that monitor and constrain new development activities, seek to be preventive rather than reactive as are pollution control regulation policies. They are the

source of some of the most recent and serious difficulties faced by environment agencies like DOE. The goal of such policies is to anticipate the worst environmental effects of developments and subsequently alter plans so as to avoid those effects. Conflicts among the various levels of government, industry, environmental groups, small business people, native communities and other members of the public over what is permissible development for particular spaces, are usually focussed on these policies.⁶ Governments have established 'rules of the game' by land use planning, land zoning, retaining crown lands, and establishing environmental impact assessment processes under organizations like the Federal Environmental Assessment and Review Office (FEARO). Chapter 7 maps the quest of DOE and FEARO to develop a federal environmental impact assessment process and later to legislate it.

Policies for land and wildlife conservation and management, have historically been the most publicly accepted component of environmental policies.' Public support for parks and wildlife conservation areas has been extensive because of the promise to protect wildlife habitat and endangered species. The scientific community at large has also continually argued for the maintenance of genetic diversity in the wilds so that it not be lost for all time. Parks Canada has been heavily involved in these types of policies as has the Canadian Wildlife Service (CWS).

Examples in the federal government include: the National Parks Act, the National Wildlife Act, the Historic Sites and Monuments Act, the Migratory Birds Convention Act, and the North American Waterfowl Management Plan. Chapter 8 describes CWS's development of the North American Waterfowl Management Plan, a relatively unique undertaking in wildlife conservation and management.

The field research for this dissertation was conducted in 1990 and 1991. The research sources included published secondary material, primary archival documents, and personal and telephone interviews. Over 1000 primary documents were gathered, many of them cited in the endnotes to the chapters. Official cabinet papers are not represented because of security restrictions, but confidential DOE memoranda, planning documents, and ministerial briefing papers were studied extensively.

Some 80 interviews were conducted, and over half of these were 2 hour personal interviews addressing a diversity of issues. The remaining contacts were shorter discussions over the telephone and in person regarding specific points of detail or clarification. Interviewees included past ministers of the environment, senior managers within the federal bureaucracy, and leaders within the business and environmental group communities.

Interviews were done on a "not for direct attribution" basis. Initial pre-tests determined that access to

information would have been severely restricted without a promise of confidentiality. In the context of political histories, this dissertation addresses quite recent history with many sensitive issues remaining unresolved today.

The historical period 1971 to 1988 corresponds with the launching of the new DOE and the end of the first term of the Mulroney Progressive Conservative government. While it may have been desirable to conduct a detailed study of the most recent period since 1988, access to archival documents could not be secured and interview access became very sensitive. Moreover, the rapidity of change in the environmental policy area in the present period makes an accounting of these very recent developments substantially more difficult.

ENDNOTES

1. See Bruce Doern, "The Department of the Environment as a Policy Guardian Agency: Issues, Constraints, Questions." A Paper Prepared for the Canadian Environmental Advisory Council, May, 1991. In this paper Doern discusses prospects for bringing DOE closer to the centre of government. The "centre of government" is discussed as the cabinet serviced by core central agencies which screen departmental proposals as to "core cross-cutting imperatives and values in the conduct of governing" (page 2). The core central agencies are the Privy Council Office (PCO), the Prime Ministers Office (PMO), the Department of Finance, and the Treasury Board Secretariat. For purposes of this dissertation, the cabinet and this core network of central agencies is what is meant by the "centre of government". The neglect of environmental issues at the centre, by cabinet and the central agencies, had an empirically verifiable impact on the way that DOE was treated in the hierarchy of government and on the department's relationships with other government organizations within the environmental policy sector. In the end, environmental policy outputs suffered in the 1971-1988 period.

2. The core resources of government organizations are discussed at some length in Chapter 1 and include: jurisdiction and mandate, budgets, knowledge and information, right of access to key decision forums of government, a collective identity around policy objectives, access to coalitions of common interest, and strong and stable political and bureaucratic leadership.

3. See Michael Whittington, "Department of the Environment." in Bruce Doern (ed.) Spending Tax Dollars: Federal Expenditures 1980-1981. (Ottawa: School of Public Administration, Carleton University, 1980), for an early discussion of this problem.

4. For purposes of this dissertation, the terms "environmental" and "sustainable development" values will mean the same thing and will be interchangeable. That is, values that encourage defence of nature and guard against human practices that threaten the quality of life for present and future generations, the well-being and diversity of ecosystems, and the long-term viability of local, national and international economies. This implies pursuing changes in the way decisions are made in governments, in business, in groups, and at the level of individual choice. What form these decisions must take are by necessity contingent on the issue or problem at hand. It is for this

reason that elaborate efforts to define what "sustainable development" is, are always disappointing. What matters is that the above noted values be seen to be taken into account and balanced with other legitimate policy values vying for attention in government and elsewhere. The World Commission on Environment and Development (WCED) captured the essence of this point as follows: "Yet in the end, sustainable development is not a fixed state of harmony, but rather a process of change in which exploitation of resources, the direction of investments, the orientation of technological development, and institutional change are made consistent with future as well as present needs. We do not pretend that the process is easy or straightforward." See WCED, Our Common Future. (New York: Oxford University Press, 1987), p. 9.

5. See: Tom Conway, "Taking Stock of the Traditional Regulatory Approach", in Bruce Doern (ed.) Getting it Green. (Toronto: C.D. Howe Institute, 1990); Donald Dewees, The Regulation of Quality: Products, Services, Workplaces, and the Environment. (Toronto: Butterworths, 1983); O.P. Dwivedi, Resources and the Environment: Policy Perspectives for Canada. (Toronto: McClelland and Stewart, 1980); D.P. Emad, "Environmental Law and Policy: A Retrospective Examination of the Canadian Experience", in Ivan Bernier and Andree Lajoi (eds.), Consumer Protection, Environmental Law and Corporate Power. (Toronto: University of Toronto Press, 1985); Peter Nemetz, "Federal Environmental Regulation in Canada", Natural Resources Journal. Vol. 26, (1986), pp. 551-608; Andrew Thompson, Environmental Regulation in Canada: An Assessment of the Regulatory Process. (Vancouver: University of British Columbia Westwater Research Centre, 1986); and, Kernaghan Webb, Pollution Control in Canada: the regulatory approach in the 1980s. (Ottawa: Law Reform Commission, 1986.)

6. See Canadian Environmental Advisory Council, Evaluating Environmental Impact Assessment. (Ottawa: Supply and Services, 1988), and William Couch, Environmental Assessment in Canada: 1988 Summary of Current Practice. (Ottawa: Canadian Council of resource and Environment Ministers, 1988).

7. See Janet Foster, Working for Wildlife: The Beginning of Preservation in Canada. (Toronto: University of Toronto Press, 1978), for a history of the early conservation movements in Canada.

PART 1

THE CONCEPTUAL FRAMEWORK

Chapter 1

A CONCEPTUAL FRAMEWORK FOR THE STUDY OF GOVERNMENT ORGANIZATIONS WITHIN POLICY SECTORS

A detailed study of environmental policy reveals three broad category types: policies that regulate existing industrial processes, such as with pollution control; policies that monitor and constrain new development activities, such as with land zoning and environmental impact assessment; and, policies for land and wildlife conservation and management, such as with the creation of parks, habitat sanctuaries, and the setting of hunting seasons and harvesting limits. These policies are always affected by several government departments that comprise a "policy sector" of interacting organizations. All policy sectors have one lead organization generally responsible for overall policy promotion, such as with DOE. If this organization is marginalized within the sector, the policy it promotes will also be marginalized as to its impact upon the overall affairs of the policy sector.

The comparative and Canadian environmental policy literature exhibits substantial agreement about environmental policy marginalization. Shortfalls in government performance have been commonly identified.¹ However, the explanations for this marginalization have

varied as to the independent or causal variables seen to be at play. A diversity of approaches leaves the literature with an appearance of fragmentation where many pieces to the puzzle have not yet been assembled. Most importantly, the environmental policy sector, as the site where policy becomes, or fails to become, concrete and implemented, has not been adequately researched.

This chapter sets out a conceptual framework for the study of lead government organizations and policy sectors. As a way of establishing a context and rationale, it first briefly introduces the environmental policy literature. Three literature categories are discussed regarding how they have failed to provide a complete explanation of environmental policy marginalization.

The conceptual framework is then set out in two sections each providing definitions and discussion. Section 1, discusses the resources of government organizations. It is the availability, or lack thereof, of these resources that shapes the ability of a lead sectoral department to promote policy. Section 2, discusses the policy sector conditions faced by a lead government department. Organizational resources are only one half of the framework, because these resources are never deployed in a vacuum. The conditions of the policy sector, and the resources controlled by other government organizations, always act as a constraint upon the policy promoted by any

one government department.

A LITERATURE CONTEXT FOR THE CONCEPTUAL FRAMEWORK

As noted in the Introduction to this dissertation, we can identify three broad categories of environmental policy literature: first, those approaches stressing the lack of environmental values within government; second, those approaches stressing the imperatives of capitalism and industrial processes; and third, those approaches stressing interest group pressure. Each of these categories carries forward informative traditions within the study of public policy. However, they have not yet provided a complete explanation of environmental policy marginalization because they have omitted important explanatory variables. These variables will later be drawn out in our conceptual framework on the resources of government organizations and the "policy sector".

Environmental Values

Explanatory approaches stressing the lack of environmental values within government, have been informed by an important and innovative scholarly tradition. Theorists such as Max Horkheimer, Herbert Marcuse, Theodore Adorno, and Michel Foucault, working within critical and

discourse theory, have sensitized us to the societal implications of dominant values and ideologies.² At the core of these works, from an environmentalist perspective, is an argument about how our beliefs in instrumental rationality, technology, and economic growth, blind us to the effects of our actions on nature and other men and women. As we see later, the "policy sector" concept takes this research into account with the idea of the "dominant policy sector paradigm".

There are many examples of these arguments as applied to the study of environmental policy writ large. Marcuse, for example, has argued that, "the struggle for existence and exploitation of man and nature become ever more scientific and rational", and this shows itself in the marginalization of certain public policy values.³

Neil Evernden, William Leiss, and Robert Paehlke have furthered this understanding within Canada.⁴ Evernden has argued, "In a society dominated by the technological vision there is no possibility of an environmental ethic".⁵ Paehlke, in his provocative exploration of environmentalism as a basis for a new politics, concluded, "The myth of urgent need for economic growth has so infused our society that a more restrained future seems terrifying at first glance. One can only hope that more people will think their way out of this assumption".⁶

These points are important contributions to our overall

understanding of environmental policy marginalization, but they have not given us much direction for thinking beyond the general effects of values and ideologies. The state is portrayed as a homogeneous development biased entity, but the question of how this bias is produced and reproduced within the policy processes of government is not elaborated upon beyond taking the initial step of describing environmental policy as occupying, "a marginal position within the administrative sphere as a whole", as does Torgerson.'

Additional examples can be cited on this point. John Dryzek argues, "the state as a whole has priorities which have little to do with environmental quality, which may be overridden when it clashes with these priorities".⁸ However, his analysis does not demonstrate how this 'overriding' and 'clashing' has actually taken place. This dissertation, by contrast, seeks to explore these marginalizing dynamics within the environmental policy sector over time.

Torgerson also concludes that, "those with an interest in resolving environmental problems must take the administrative sphere into account when themselves defining those problems and determining courses of action - either from inside or outside that sphere".⁹ But, he also restricts his analysis to what he calls the impact of the "administrative mind" in limiting what can ever be done

about the environment by the administrative state. Our understanding of the marginalization of environmental policy remains at an abstract conceptual level. The organizations, institutions and relations of government are identified as a problem, but this problem is not empirically demonstrated.¹⁰

Capitalism and Industrial Processes

Explanatory approaches stressing the imperatives of capitalism and industrial processes, are also descended from a long line of distinguished scholarship. Paehlke has noted that in explaining environmental policy they address themselves to the big "distributive questions of politics and economics" within the dominant materialist paradigm.¹¹

On the traditional political left, environmental policy literature has been informed by Marxism and the theorists of the state such as Poulantzas, Miliband, and O'Connor.¹² On the traditional political right, the literature has been informed by classical economics dating back from before Adam Smith.¹³ In the traditional political centre, scholars accept the market economy as a given, but also envisage an important regulatory role for government. All these works can be compared as to how they view the market economy in relation to environmental policy and its marginalization.

For the political left, there are limits placed on

environmental policy because the state must create the market conditions suitable for capital investment.¹⁴ The resources of capitalists amount to important public decisions being made by "private" individuals and groups.¹⁵ Ted Schrecker, in his Political Economy of Environmental Hazards, argues, "the 'business' role as a provider and controller of investment all but guarantees it a uniquely preferred status with respect to a broad range of government decisions".¹⁶ Environmental policy can never be allowed to challenge the bottom line of profit and, therefore, it is marginalized to the realm of symbolic politics.¹⁷

On the political right, by contrast, there is an argument for minimum government regulation except in support of the market economy. John Chant, Donald McFetridge, and Doug Smith have argued,

The "invisible" hand of Adam Smith argues that many individuals interacting through markets will provide the best allocation of society's resources. Implicit, however, is the assumption that property rights are well-defined and enforced. Where this assumption does not hold, private decision-making may not lead to the best allocation of society's resources. The types of property rights assigned to the environment - whether private, common, or centrally held - will be the crucial determinant of how much pollution is generated.¹⁸

The government's primary role in environmental policy, it is argued, should be to "enforce" property rights wherever feasible. Self-interested ownership will protect natural assets from careless and harmful use. Traditional

environmental regulation, by contrast, is seen to interfere with the market, creating inefficiencies in the use of scarce resources.

Moreover, because environmental policy has been dominated by traditional regulation it obstructs the very wealth creating market that would make it more successful. The information necessary for solving our environmental problems is highly decentralized throughout the market economy, and, by consequence, "efficient" environmental adjustments should be made there. Governments can never bring all the "efficiency" and "maximization" criteria together in a centralized form, and as a result tend to force inopportune and sub-optimal changes. Traditional environmental regulation has predictably failed contributing to deepening policy marginalization and loss of legitimacy.¹⁹ The idea, as the argument follows, is to let the profit maximization motive work towards meeting minimum environmental standards set by government.

In the political centre, the argument is somewhat more pragmatic. These works look at the way that specific industrial processes, within the "given" market economy, impact upon the ability of governments to act in environmental policy. Government is accepted as having a responsibility to regulate, but the fixed capital character of industrial processes is an outer limit on what can be done. For example, Kernaghan Webb has argued, "In the case

of continuous pollution discharges, there is no simple negligent behaviour to be corrected or stopped: long term (and expensive) design and equipment changes are usually in order".²⁰

Thus, environmental policy marginalization is a reflection of how an excruciatingly slow and painful adaptive process has been in constant conflict with the government's responsibility for the economy and jobs. This is an important point that must be a key part of any explanation of environmental policy marginalization.

These accounts of capitalism and industrial processes have raised important issues critical to any adequate explanation of environmental policy. However, like those accounts stressing values and ideologies, they have not disaggregated the state and demonstrated how past policy patterns have actually been produced and reproduced. The political left, as the first case, has portrayed the state as essentially a single organization which by necessity works towards maintaining the optimum conditions for capital. For this reason, much of the writing that informs this environmental policy literature came under criticism by neo-institutionalist scholars such as Theda Skocpol and Peter Hall.²¹

One exception to this pattern, although not dealing with environmental policy, is Rianne Mahon's study of the Canadian textile industry.²² In this work, she attempts to

show how the proper conditions for the "hegemonic fraction of capital" are produced and reproduced within the organizations of a disaggregated state. However, in our view, she also does not grant government organizations and policy sector conditions with enough independent explanatory power. Within her theoretical understanding, "the basic policy parameters are set by the broader relations of power as these are embedded in the policy making apparatus of the state", and, "the state does not have its own 'interests' unrelated to class".²³

By contrast, this history of DOE must view government organizations as having their own interests. These are then conditioned and constrained by relations of power with other organizations active within the policy sector. This is an important point of difference, because it would be very difficult to explain the life of DOE as representing the interests of an empirically identifiable "class fraction". For example, during the historical period of the department's most extreme marginalization it is much more reasonable to suggest that DOE was spending most of its time fighting for its own organizational survival.

Therefore, the approach taken within this dissertation does not require that we see a government organization working directly on behalf of a class interest. By contrast, it only requires that a government organization have some basis for existence within society, even if that

basis is only diffuse public opinion reflected at least potentially in electoral behaviour. As an active historical agent, the organization will then attempt to build on that base of support in its own interest as well as for other reasons, such as clientele or class interests. And indeed, the resources of some government organizations allow them to live beyond their initial base of public support in their own interest. Others, as the logic follows, may be severely constrained by organizational power relations at a time when the public is demanding their greater policy involvement.

However, the points made on the political left are important ones that we take into consideration in our conceptual framework. It is not surprising that the fortunes of any elected government, and the organizations supporting that government, fluctuate with economic conditions. Lindblom reminds us that, "much of politics is economics, and most of economics is politics".²⁴ But, to say that the state is dependent on the health of the economy for its own resources should not lead one to neglect politics within policy sectors. Instead, economic concerns, rather than "determining" politics and public policy in a strict sense, act more as a constraint criterion on policy making within policy sectors.

On the political right, as the second case, there is a similar problem with not disaggregating the state and giving us a concrete view of policy-making. The concern is with

property rights and the workings of the market and government is largely an add on to these core propositions. To the extent that government is discussed, it is viewed as the cause of much environmental degradation, while also being a necessary vehicle for correcting certain "market failure" problems in the area of pollution.²⁵

Both of these points are important ones. Governments do in fact create serious environmental problems through resource development subsidies and other activities that heavily discount the prospects of future generations. Governments are also necessary to create the conditions for the market and correct its worst failings. But, while this literature adds to our understanding on these two points, it does not address itself to the specifics of how policy sectors might be arranged towards better market based environmental policy. Instead we are given abstract theoretical accounts such as with the issue of tradeable permits.²⁶

In the political centre, where more effort has been made to consider what Webb calls the "perspective of the bureaucrat", the weight is still given to external industrial process constraints.²⁷ As noted, this is a critical issue, but we have not yet been shown how the existence of these constraints translates into the politics of the environmental policy sector. Instead, we are only taken to the point where the tension between jobs and

environmental policy has meant that regulators have found themselves between "the rocks and hard places".²⁸ How this core dilemma has been made worse by the marginalizing tendencies of the environmental policy sector has not been demonstrated.

Interest Group Pressure

Approaches stressing interest group pressure, are perhaps the most common in the study of environmental policy. Most argue that there is an unequal representation of interests which results in policy marginalization. The resources available to business make their voices loudest within policy sectors, and, by consequence, environmental policy is successfully resisted by those who have the most to lose. Ted Schrecker has noted, "the political resources of business in general, and of large corporations most particularly, are not just quantitatively superior to those of other parties to environmental conflicts; they are qualitatively distinct as well".²⁹

These accounts also stress that environmental policy in Canada has tended to have a particular form of interest representation which is a "negotiated" mode.³⁰ Andrew Thompson observed that,

the rules of environmental regulation are never clearly stated or certain, except in a purely symbolic sense. Instead, the norms of conduct are the

subject of negotiation between the regulator and the regulated right down to the moment of compliance or non-compliance.³¹

This negotiation process has resulted in the exclusion of other interests such as environmental groups. Jeremy Wilson concluded, "For its part, the state has shown little inclination to invite environmental groups to play a meaningful role in deliberations on key allocative decisions".³²

This category of literature provides very important insights into environmental policy which must be incorporated into any explanation of its marginalization. However, they also have fallen somewhat short of a complete explanation. This is because the overwhelming concern has been with the various interest groups to the point of neglecting an analysis of the government organizations interacting with those groups. The determinants of policy are placed disproportionately external to government and the environmental policy sector. A similar concern dominates comparative studies of environmental policy.³³

One important comparative example is David Vogel's study of environmental regulation in Great Britain and the United States.³⁴ Within his work, Vogel is in dialogue with other neo-institutionalist scholars who are broadly concerned with the determinants of state capacity. They developed various ways to talk about the ability of governments to implement policy changes in relation to

powerful interest groups. For example, Peter Katzenstein categorized capitalist governments as liberal, statist or corporatist with the "liberal" states of Britain and the U.S. being "weaker" in their directive capacities.³⁵

Similarly, John Zysman spoke of a state's capacity to direct economic interests as being dependent on the organization of the country's financial system and the government's control over it.³⁶

Vogel criticizes these works because they have treated national governments as homogeneous blocs with the same capacities across all policy fields. By contrast, he calls for an analysis that is sensitive to the differences across policy fields and concludes, "It is important to distinguish different patterns of policy making not simply among nations but within them".³⁷ This is the most valuable contribution of his book. He alerts us to the fact that policy fields differ in terms of the dominant mode of interest representation, and are also different in terms of the characteristics of the policy sector.

However, after making this observation Vogel remains within his primary concern for business/government relations. He never disaggregates the government organizations active within a policy field, and, as a result, we are presented with a policy field replica of the original problem that he identified with Katzenstein and Zysman. But, the neo-institutionalist studies have shown

that government organizations have "various mechanisms both to limit and to channel interest group participation".³⁸ These mechanisms, or capacities, will vary across policy fields. From this point logically follows the argument that the structures and organizations of the policy sector are vital to an understanding of public policy. This dissertation takes up this point and moves it forward.

Indeed, the "externalization" of independent variables characteristic of the environmental policy literature needs to be balanced with a study of the environmental policy sector and its lead government organization. Michael Harman and Richard Mayer remind us that "each organization within the state is a socially defined response to special sets of problems".³⁹ Mandates to respond to social problems are played-out through government organizations. Along with Claus Offe we can "conceptualize State-Organized governance as a selective event-generating system of rules, as a 'sorting process'".⁴⁰ How can we more fully account for how environmental policy has often been sorted-out, or "marginalized"?

The recent collection of essays edited by Robert Boardman has taken a valuable step towards answering this question.⁴¹ Several of these essays analyze the political and economic forces that tended to marginalize environmental policy in the Government of Canada up to the most recent historical period. They also discuss some of the critical

changes in environmental policy since the mid-1980s. However, because these accounts are essay length they are limited to being good general overviews of important explanatory variables. Paul Brown, for example, reminds us of the vital importance to environmental policy of organizational design and bureaucratic politics.⁴² But, he has not fully demonstrated how organizational issues, and bureaucratic power relations, acted to reproduce patterns in environmental policy within policy sectors over time. We are not provided with a good picture of how marginalization actually happened in concrete policy-making situations, and how the characteristics and conditions of the federal environmental policy sector contributed to specific instances of policy failure. This dissertation proposes to begin to fill this gap in the Canadian environmental policy literature. However, it must first turn its attention to some conceptual underpinnings. The remainder of this chapter provides a way of understanding policy sectors and lead government organizations within those sectors.

GOVERNMENT ORGANIZATIONS WITHIN POLICY SECTORS

One characteristic of much of the writing within political science to date is that the term "organization", while often used, is rarely defined.⁴³ This is not an insignificant omission because it can conceal important assumptions that shape how organizations as departments of

government are studied and understood. We will first turn our attention to a definition of "organization" and the related assumptions underlying the conceptual framework.

For our purposes, an "organization" will be defined, following Martin Albrow, as, "social units where individuals are conscious of their membership and legitimize their cooperative activities primarily by reference to the attainment of impersonal goals rather than moral standards".⁴⁴

This definition should be distinguished from a rational functionalist one.⁴⁵ Rational functionalist definitions associate the creation of an organization, and its subsequent existence, with primary and stable goals. An example of this, is seen in the approach of the theorist of functionalism Talcott Parsons for whom organizations are defined by the "primacy of orientation to the attainment of a specific goal".⁴⁶ The attainment of this goal is seen to be functional to the preservation of the social system as a whole.

However, the goals of government organizations, like DOE, are never totally clear nor necessarily always agreed upon. To view them as such, an organization study tends to downplay the lack of agreement over what goals should be pursued, and the activities undertaken to seek out the "right" goals in order to define and legitimize the existence of the organization.

Government organizations, including DOE as we will see, are created out of roughly defined political values and not out of clairvoyant ideas about system maintaining goals. They must define their own existence out of broad and frequently ambiguous policy and mandate statements, and are active "problem seekers" and "problem responders". Organizational goals vary over time and even the setting of goals is a critical problem for them. Organizations are active participants in their own history, and this history is not predetermined by a functional prerequisite.

Many other scholars have come to the same conclusion. Albrow notes, "that organizational goals tend to be general multiple and confused".⁴⁷ Cyert and March agreed some time ago that there are many sub-goals in any organization, many of which may be contradictory.⁴⁸ Crozier, in his study entitled The Bureaucratic Phenomenon, found that by no means are all organization members committed to the stated goals of the organization.⁴⁹ Smith reminds us that conflicts between specialists and generalists within government organizations are "a fact of modern government".⁵⁰

The strength of Albrow's definition is that it allows the incorporation of three aspects of government organizations within this dissertation: first, these organizations as collectivities of active individuals with relatively common values and objectives; second, organizations as units needing to resolve internal problems

of consensus and coordination around values and objectives; and third, organizations as active agents seeking and responding to problems in ways that make the organizations existence meaningful to other important players within the political system and policy sector at large.

This is what this dissertation will mean by the term "organization". The term "department", which is essentially "an administrative unit comprising one or more organizational components over which a minister has direct management and control", will be used interchangeably with the terms organization or government organization.⁵¹ The Department of the Environment will be discussed as one organization comprised of "organizational components".

Part One: The Resources of Government Organizations

Resources, which are always scarce, are the basis of organizational capacity and therefore must become a key focus of any organizational study. The effectiveness of any organization, including DOE, is dependent upon the availability of resources to "create acceptable outcomes and actions".⁵² Christopher Ham and Michael Hill have argued that, "state agencies derive power from their command of legal, financial, and organizational resources and are not merely instruments of capital".⁵³

The resources of a government organization are many and could constitute a very extensive list. Among those discussed at various points throughout this dissertation are: jurisdiction and mandate; budgetary resources; knowledge and information; right of access to key decision forums or processes; a collective identity around policy objectives; access to coalitions of common interest; and, strong and stable political and bureaucratic leadership. We will briefly define and discuss these organizational resources before continuing our discussion of other key concepts related to the policy sector.

Legal jurisdiction and mandate, is a critical resource for government organizations within liberal democracies where the rule of law prevails. Lindblom captured the idea succinctly when he wrote that with legal based authority

"cost of rule is reduced".⁵⁴ Legal jurisdiction, particularly in a federal state, conditions how, where, and for what purpose a government department can legislate policy, and deploy policy instruments. The main policy instruments available to government are exhortation, expenditure, taxation, regulation, and public enterprise.⁵⁵ Within this dissertation we frequently refer to two important aspects of jurisdiction and mandate which have had an extensive impact on the history of DOE: the constitutional division of jurisdiction between the federal and provincial governments; and the distribution of agency mandates within the federal government.

The importance of budgetary resources, is the reason that much of the politics of government departments surrounds the budget setting process and the control and allocation of financial resources.⁵⁶ Because money is a relatively liquid resource, it can be used to compensate for the lack of other critical organizational resources. For example, in the history of DOE, discretionary spending under enabling legislation became a critical instrument for achieving policy goals in areas where jurisdictional uncertainty vis a vis the provinces was present.

On this note, discretionary budgets become a very important issue in the history of DOE. Government organizations can tend to be left 'frozen' in fixed expenditures when slack or discretionary budgets are

reduced. For Pfeffer, this well known problem is discussed as the "10% rule". This simply states that organizations can be severely hampered by limiting "discretionary control over not more than (and frequently much less than) 10% of the organizations total budget".⁵⁷ The complete accuracy of the 10% threshold is not the important point, however, it is the general idea that is valid. In order to make changes under conditions where the discretionary budget is reduced through budget cuts or inflation, government organizations must reduce in one area in order to compensate. This can contribute to a failure to act decisively on important problems in the long run. As we will see, DOE went through many rounds of extensive budget cuts.

Knowledge and information, shapes the ability of a government organization to know what its problems are and how they should be responded to. If you are not capable of generating your own knowledge and information, you are dependent on the interpretations of other interests who may then restrict your activities. Gareth Morgan has argued, "if people define situations as real, they are real in their consequence".⁵⁸ In the history of DOE, the battle to stay ahead of escalating knowledge and information needs was always being waged.

Knowledge can be defined following Doern and Phidd as, "an amalgam of facts and values produced by intellectual-analytical processes and by social interaction among

decision makers, their "advisors" and interests in and out of government... It involves numerous sources of information".⁵⁹ Knowledge and information can be plentiful or scarce, highly centralized or highly decentralized. Knowledge and information on environmental problems has often, although not always, been both scarce in important ways and highly decentralized throughout the market political economy. High degrees of uncertainty, due to the complexity of the problems faced, has also left this knowledge and information open to dispute. Lindblom has noted, "Because in the real world analysis is not conclusive, in order to set policy people interact to exercise influence, control or power over each other".⁶⁰ In environmental policy and the history of DOE we have seen these processes at work. Moreover, the independent knowledge generating capacity of the department was often the first to go under DOE budget cuts.

Right of access to key decision processes, is a key resource for government departments because all organizations, to a greater or lesser degree, are dependent on the actions of organizations within their environment. As Pfeffer and Salancik have noted, "Interdependence is a consequence of the open-system nature of organizations - the fact that organizations must transact with elements of the environment in order to obtain the resources necessary for survival".⁶¹ The extent of a government department's right

of access to key decision processes within the state will, in the first instance, impact on its ability to maintain other key organizational resources.

Access to key decision processes also impacts on three additional factors: first, resolutions over who the decision making interests should be; second, what decision premises are adopted; and third, what values and objectives are taken as "important" within these processes. Within the complexity of modern government, decisions processes, which act as integrating forums, must screen out more than they include. Any policy decision would be impossible if they did not. The number of possible interests to consult, criteria to integrate, or issues to take on at the centre of government is almost endless. But, the "screening out" process is not apolitical. For this reason, politics is, in large part, about control over how decisions are approached and made. Much of the difficulty faced by DOE in the past has been related to "getting around the table" with other departments and agencies undertaking activities of importance to sustainable development issues and problems.

A collective identity around policy objectives, is an important government organizational resource which must be determined from an analysis of the discourse within the organization itself. When a collective identity around policy objectives is in place, less energy need be consumed in administering to the internal cohesion of the

organization. When there are large organizational schisms surrounding policy objectives, the government organization is usually weakened in its relations with other organizations.

If different policy objectives are clustered around relatively discrete, semi-autonomous organizational components, the problem is compounded. Managers of all government organizations will often attempt to breakdown these divergent ideational and organizational solidarities by merging the components or attempting to integrate them in some other way. These strategies are designed to force the generation of a more coherent and integrative set of policy objectives suitable to the circumstances faced by the department at that time. If these attempts fail, the organization may suffer a loss of some of its components with an attendant disruption in policy and program development and delivery. DOE, as this dissertation discusses at various points, suffered many rounds of such disruptions.

Access to coalitions of common interest, is an important resource for all government organizations as they deal with the relations of power which permeate policy sectors. A ready made network of interest groups and government organizations which can constitute allies, minimizes the time and cost required to create and recreate necessary coalitions. Morgan argues, "friends in high

places; sponsors, mentors; coalitions of people prepared to trade support and favours to further their individual ends; and informal networks for touching base, sounding-out, or merely shooting the breeze - all provide a source of power to those involved".⁶²

Government organizations vary considerably in their ability to take advantage of self-sustaining networks of common interest. The likelihood of a ready made network is highly dependent on the location of the organization within the political economy at large. For example, finance and energy departments have more readily found existing coalitions of common interest at their disposal than have environment departments. DOE often found itself "searching for friends" amongst business, universities, think tanks, and environmental non-government organizations.

Strong and stable political and bureaucratic leadership, is, in the final analysis, about who sets the overarching priorities of government and thereby significantly "calls the shots" for government organizations. The governing political party under the leadership of the Prime Minister gives or takes away primacy from a government organization. If the ministerial leadership of a department is weak, it is a sign that the department's concerns are not a priority at the centre of government. Also, if a department is not being heard at the centre its bureaucratic leadership will be left weakened

within the bureaucracy as a whole. As we will see, abandonment by the political centre, and the lack of senior and stable ministerial leadership, was a serious problem for DOE and federal environmental policy over time.

Part Two: The Conditions of the 'Policy Sector'

Government organizations are enabled or constrained by the availability of key organizational resources. For this reason, organization studies, as does this one, tend to spend a lot of time focusing on these resources as explanations for "success" or "failure".

However, the resources of a government department are not deployed in a vacuum. The study of public policy and government organizations must also be sensitive to wider political and structural conditions. Therefore, the idea of the "policy sector" requires elaboration. It is within the policy sector that public policies are produced and reproduced, and the policy sector is also affected by significant changes in public policy.

Governments attempt to alter the character of policy sectors whenever they seek significant policy change. This is because sectoral organizations are how society responds to public problems with public policy. Public policies are in turn embodiments of the interactions and interdependencies between organizations within the policy

sector.

It is for this reason that we can speak of a "policy sector" even in the case of the "environment" which is really almost everything. Governments always seek to "define down the problem area", and the sector is typified by regular interactions of government organizations which meet two criteria: first, they have a "legitimate" vested interest in the problem area as it is predominantly being defined; and second, they control organizational resources important to a "solution" to the problem or part of it.

The concept of the "policy sector" is defined as a matrix or cluster of government organizations which meet these two criteria and are involved in regular interactions. In addition, the policy sector is closely associated with an "interest community" of non-governmental organizations which must also meet these criteria and which act upon the sector and its government organizations.

Different policy sectors reveal different organizational characteristics. The size and complexity of the sector can also change over time depending on politico-economic trends and the core policy agenda of the governing political party and its cabinet. A lead policy organization encounters variable levels of constraint upon its activities depending on these characteristics of the policy sector.

In this sense, the "policy sector" is a historical concept accounting for how an interacting network of policy

producing government organizations, and related non-governmental organizations, can go through transformations over time. The sector may change in size, composition, and complexity as the problem area moves closer towards, or further from, the public's consciousness and the centre of government. For example, we can see how, in the late 1980s, the federal environmental policy sector grew, in terms of complexity and the number of interested organizations, as the environment rose to the top of the public opinion polls.

Every policy sector has three important attributes: a dominant policy paradigm, overarching administrative arrangements, and interorganizational resource dependencies.⁶³

A dominant policy paradigm, is the working package of ideas seen as "appropriate" to the policy sector and its core problems. Doern and Phidd define a policy paradigm as, "a series of principles or assumptions which guide action and suggest solutions within a given policy field".⁶⁴ The dominant policy paradigm acts as a form of "selective filter" narrowing down the problem area and the list of "acceptable" policy objectives. It also suggests what are the appropriate types of relations and balances of power between sectoral organizations. Along with the dominant policy paradigm there is one or more contending paradigm(s) that can be uncovered within every policy sector.

Historically, the dominant policy paradigm of the

federal environmental policy sector was associated with three general clusters of ideas and assumptions: management of the environment for economic growth; environmental policy as a social policy dependent on the prosperity offered by economic growth; and, protection against obvious threats to human health stemming from industrial activity. Dominant paradigms, such as this one, are experienced as constraints on some policy objectives while for others they are an asset. As a result, shifts in policy paradigms can lead to significant policy changes within a sector.

Overarching administrative arrangements, are the institutional structures and regularized policy processes of a policy sector. We can think of these arrangements as setting the rules of the game regarding "differentiation and control" within the sector. 'Differentiation' means how the activities of a sector are divided. 'Control' relates to who has legitimate access to resources that are critical to the sector.

For example, in Canada the constitutionally entrenched rules of federalism set out areas of administrative responsibility and resource control which have impacts across virtually all policy sectors. Other examples of administrative arrangements are: divisions in departmental mandates, regularized decision processes such as the budget process, audit and evaluation processes, cabinet and parliamentary committee processes, interdepartmental

consultation processes, and intergovernmental consultation processes, such as those surrounding the Canadian Council of Environment Ministers.

Administrative arrangements, like the dominant policy paradigm, are experienced as barriers or assets to organizations within the sector. For this reason, the arrangements are highly valued and are continually defended and contested. Canada's constitutional reform difficulties are highly indicative of this. Alan Cairns has noted, "There are biases in the rules of the game and attempts to modify the rules to influence outcomes are never ending".⁶⁵

Administrative arrangements can be set in law or arise as convention or traditional "rules of the game" established by past practice. Along with Peter Hall, we can think of these arrangements, "as a kind of social memory, imprinting the conflicts of the present with the institutional legacy of the past".⁶⁶

Policy sectors can vary a great deal as to the differentiation and control of the administrative arrangements. The federal environmental policy sector is typified by a high degree of differentiation across governments and departments and a relatively uncoordinated nonhierarchical system of control over vital sectoral resources. These administrative arrangements have led to considerable domain conflict and can be associated with what Doern and Phidd have called "horizontal" or "coordinating"

departments and agencies which seek to reach across many organizations important to a problem area.⁶⁷ DOE must be seen as a horizontal department seeking to coordinate a highly differentiated nonhierarchical policy sector.

Interorganizational resource dependencies, are relationships that evolve within a policy sector in an effort to mobilize or negotiate the resources required to address a policy problem.⁶⁸ Resource dependencies mean that sectoral organizations resistant to some policy objectives can freeze them out or significantly alter them by withholding cooperation and the critical resources which they control.⁶⁹

For example, the main conclusion of Richard French in his study of industrial planning in the Government of Canada was that there were three different planning agencies each pursuing different values and objectives in their joint responsibility to administer the planning function in the Government of Canada.⁷⁰ These were the Finance Planning System, The Treasury Board Planning System, and the Cabinet Planning System. Each withdrew key resources to stifle outputs from a broad policy sector which transcended the activities of many organizations.

Resource dependence is at the root of power relations within a policy sector. Following Emerson we can say that power exists when:

A depends upon B if he aspires to goals or gratification whose achievement is

facilitated by appropriate actions on B's part. By virtue of mutual dependency it is more or less imperative to each party that he be able to control or influence the other's conduct. At the same time, these ties of mutual dependence imply that each party is in a position, to some degree, to grant or deny, facilitate or hinder, the other's gratification."¹

Power is a relational and historical concept. The power wielded by any one organization will not be the same across all sectoral policy issues or for every time period. This is because the range of resources controlled by any one department will not be equally important to every policy problem. Other departments will also exercise resources within the policy sector. Therefore, power becomes relative to other organizations. Access to power fluctuates depending on what other sectoral organizations can do at any given time to hinder or facilitate activities within the sector.

Interorganizational resource dependencies are highly correlated with administrative arrangements. To alter the relations of dependency and power within a sector, a common strategy is to alter the administrative arrangements. A

change in policy paradigms can also lead to an alteration in power relations. The concept of 'sustainable development' may be an example of this on an international and national scale since the work of the World Commission on Environment and Development.

But, interorganizational resource dependencies also restrict alterations in paradigms and administrative arrangements. Organizations that control important resources and exercise a great deal of power within a policy sector can often successfully resist reforms in the sector's other two attributes.

The "Interest Community" and the Policy Sector

Acting upon every policy sector is an "interest community" which contests or defends the characteristics and policies of that sector. As we noted in our definition of "organization", government organizations are collectivities of individuals with "relatively common interests". Government officials must then deal with other non-governmental interest organizations (NGOs) pursuing their own aims within the sector.

For this reason, any study of policy sectors and public policy must have a means for conceptualizing non-governmental interests. The political science literature on interest groups is very extensive and therefore we need not

spend much time discussing it here, but we will briefly consider our specific handling of "interests" before summarizing our discussion of the conceptual framework.⁷²

For our purposes, "interests" can be defined broadly as those individuals and organizations concerned with and affected by a policy sector. The "interest community" is defined as those specific interests that have successfully claimed a representative voice within the policy sector. Their claim is based on the control of resources viewed as important by sectoral government organizations. These resources can range from large memberships with electoral significance, to financial resources and important policy relevant knowledge.

Coleman and Skogstad and Pross, among others, use the concept of the "policy community" which should not be mistaken for our concept of the "interest community".⁷³ This dissertation does not use the more common "policy community" term, because in our view it is not compatible with the "policy sector" concept developed here. The "policy community" concept includes government organizations and officials within its definition of the "community", and this is reminiscent of an early stage of pluralism whereby government was reduced simply to another interest in the ongoing processes of policy negotiation.⁷⁴ As a result, we are not provided with adequate conceptual or methodological tools for understanding the independent impact that

government organizations and policy sectors have on public policy and the character of NGOs.

A more complete picture of concrete policy making situations can be provided through thinking of an "interest community" interacting with a policy sector of interacting government organizations. We can still speak of a "community" of interests, however, because sectoral government organizations identify them as such according to assessments of the importance of those non-governmental interests. These assessments include: first, is the NGO critical to the policy problems and activities of the sector. That is, is the interest group "necessary" because of the resources it can mobilize, and/or can it demand a policy voice by making it very uncomfortable for a government organization to deny it one. And second, can the NGO help the government organization in pursuit of its own interests and goals which are never only about public policy. Many NGOs may simply be ignored and excluded by policy sector departments and agencies, and this means that government organizations are more than just other interests within the "policy community". They are important in deciding what and how NGOs get represented as we will see in Chapter 5.

This point relates back to Vogel's argument regarding how it is important to consider differences between policy fields within countries.⁷⁵ For example, in some policy

fields, such as monetary policy, it may be possible to speak in terms of a "policy community" of policy-making negotiators, because the banks and insurance companies are powerful interests within the "sub-government".⁷⁶ They have the organizational resources and power to demand that they be seen as such. But, in the case of environmental policy, we can see where a key part of the story is not only that business interests were able to demand preferred avenues of representation, but that some sectoral government organizations were able to exclude environmental groups in pursuit of their own organizational interests as well as in the interests of their powerful clientele.

The way that government departments organize, interact, and conduct their activities within the policy sector has a major impact on how NGOs must function if they hope to successfully influence public policy. However, we are not saying that the causal arrow is simplistically one way from government downwards, as this is obviously not true especially in the case of powerful business interests. But, we are saying that an approach to the study of public policy should be able to account for powerful determinations going both ways. Politico-economic structures and powerful interests place limits on policy sectors, but the organizations and attributes of policy sectors also shape and place constraints on NGOs. Our "policy sector" approach allows us to study the impact of government organizations

without foreclosing on the important role played by the interest community.

It is useful to identify two modes of interest representation within a policy sector: "closed conciliatory modes" and "open pluralistic modes".⁷ These are best seen as extremes on a scale. At the one end of the scale, the interest community tends to be dominated by the demands of a relatively small and "closed" number of powerful interests. At the other end of the scale, the interest community tends to be widened as to the "pluralistic" interests included in the ongoing policy debates. In this second case, members of the "attentive public" successfully demand access to the ongoing and regular representative avenues of the policy sector.^{7a}

The character and policies of the policy sector are more likely to be sustained when the interest community is "closed" and dominated by powerful interests. When a broader attentive public is incorporated, the policy sector is more likely to experience a period of reform. In the history of DOE, we can see where over time the tendency was to move gradually from the "closed" end of the scale to the "pluralistic". This was especially the case since 1986 when several highly publicized events increased the profile of the environment amongst the public and in government.

A range of interest mobilization activities can be undertaken by government organizations to shift the balance

of power within a policy sector. In the case of weaker sectoral government organizations, this strategic activity is usually aimed at mobilizing elements of the "attentive public" in support of their activities. Cairns points out, "It is common for one state actor to involve segments of society in competition primarily directed against another state actor".⁷⁹ In the history of DOE, we can see many instances where the department attempted to include environmental groups against the resistance of other sectoral organizations. DOE saw benefit in urging a more open pluralistic mode of interest representation.

SUMMARY

The first part of this chapter provided a contextual overview of the environmental policy literature. It noted how the federal environmental policy sector has not been fully studied. This is a significant weakness in the literature, because the policy sector is where a lead policy organization must function, and where policy becomes, or fails to become, concrete.

There are three common approaches to the explanation of environmental policy marginalization: those explanations remaining almost exclusively at the level of social values and ideas; those explanations giving absolute primacy to the imperatives of capitalism and industrial processes; and,

those explanations viewing policy as the product of interest group pressure. Each of these provides useful insights, but tends to discuss government in aggregate terms, and/or overly "externalizes" the explanatory factors accounting for environmental policy.

The second part of the chapter provided key concepts for the study government organizations within policy sectors. The most important resources of government organizations include: legal jurisdiction and mandate; budgetary resources; knowledge and information; right of access to key decision processes; a collective identity around policy objectives; access to coalitions of common interest; and, strong and stable political and bureaucratic leadership. Lead sectoral departments like DOE require a good balance of these resources to generate and promote policy within the policy sector. Without them they can be "frozen out" and marginalized.

The "policy sector conditions" that a lead government agency can encounter were then discussed. Every policy sector has three key attributes: a dominant policy sector paradigm, overarching administrative arrangements, and interorganizational resource dependencies. An interest community was also discussed as being closely associated with every policy sector. Different modes of interest representation can prevail at different times within a policy sector and range from a "closed conciliatory mode" to

an "open pluralistic mode". Also, interest mobilization activities are often undertaken by weaker sectoral organizations in an effort to 'balance' power within the sector.

ENDNOTES

1. See for examples: G.O. Barney, P.H. Freeman, and C.A. Ulinski, Global 2000: Implications for Canada. (Toronto: Pergamon Press, 1981); Canadian Environmental Advisory Council, Canada and Sustainable Development. (Ottawa: Supply and Services, 1987); Tom Conway, "Taking Stock of the Traditional Regulatory Approach", in Bruce Doern (ed.) Getting it Green. (Toronto: C.D. Howe Institute, 1990); Bruce Doern (ed.), Environmental Imperative. (Toronto: C.D. Howe Institute, 1990); O.P. Dwivedi, Resources and the Environment: Policy Perspectives for Canada. (Toronto: McClelland and Stewart, 1980); D.P. Emad, "Environmental Law and Policy: A Retrospective Examination of the Canadian Experience", in Ivan Bernier and Andre Lajoi (eds.) Consumer Protection, Environmental Law and Corporate Power. (Toronto: University of Toronto Press, 1985); Thomas Ilgen, "Between Europe and America, Ottawa and the Provinces: Regulating Toxic Substances in Canada", Canadian Public Policy. Vol. 11, No. 3, (1985), pp. 578-590; Law Reform Commission, Policing Pollution. (Ottawa: Law Reform Commission, 1982); Peter Nemetz, "Federal Environmental Regulation in Canada", Natural Resources Journal. Vol. 26, pp. 551-608; Ted Schrecker, Political Economy of Environmental Hazards. (Ottawa: Law Reform Commission, 1984); Science Council of Canada, Canada as Conserver Society: Resource Uncertainties and the Need for New Technologies. (Ottawa: Supply and Services, 1977); John Swaigen and Gail Bunt, Sentencing in Environmental Cases. (Ottawa: Law Reform Commission, 1985); Andrew Thompson, Environmental Regulation in Canada: An Assessment of the Regulatory Process. (Vancouver: University of British Columbia Westwater Research Centre, 1980); and, Kernaghan Webb, Pollution Control in Canada: the regulatory approach in the 1980s. (Ottawa: Law Reform Commission, 1986).

2. See: Michel Foucault, The Archeology of Knowledge. (New York: Harper Calophon Books, 1976) and The Order of Things: an archeology of the human sciences. (New York: Pantheon Books, 1971); J. Habermas, Towards a Rational Society: student protest, science, and politics. (London: Heinemann Educational, 1971); David Held, Introduction to Critical Theory: Horkheimer to Habermas. (Berkely: University of California Press 1980); M. Horkheimer and T. Adorno, The Dialectics of Enlightenment. (London: Verso, 1978); and, H. Marcuse, One Dimensional Man: Studies in Ideology of Advanced Industrial Society. (Boston: Beacon Press, 1964).

3. Marcuse, Ibid., p. 146.

. See: N. Evernden, The Natural Alien: humankind and environment. (Toronto: University of Toronto Press, 1985); William Leiss, The Domination of Nature. (New York: George Braziller, 1972); and, Robert Paehlke, Environmentalism and the Future of Progressive Politics. (New Haven: Yale University Press, 1989).

5. Evernden, Ibid., p.41.

6. Paehlke, Op. Cit., P. 133.

7. Douglas Torgerson, "Limits of the Administrative Mind: The Problem of Defining Environmental Problems", in Robert Paehlke and Douglas Torgerson, Managing Leviathan: Environmental Politics and the Administrative State. (Peterborough, Ontario: Broadview Press, 1990), p. 137.

8. John Dryzek, "Designs for Environmental Discourse: The Greening of the Administrative State?", in Paehlke and Torgerson, Ibid., p. 78.

9. Torgerson, Op. Cit., p. 116.

10. See Tom Conway, "The Concept of Sustainable Development", in Donald Rowat (ed.) The Crisis of Environmental Degradation. (Ottawa: Carleton University Press, 1989). In this article, I argue that this tendency stems from both anarchism and holism prevalent in much of environmentalism: "The tendency is to downplay distinct aspects of human social relations and organization. Following from this, the ecological crisis is seen as above capitalism and the politics of capitalist states, or, for that matter, the politics of planned economy states".

11. Paehlke, Op. Cit., p. 188.

12. See: Ralph Miliband, Marxism and Politics. (Oxford University Press, 1977); James O'Connor, The Fiscal Crisis of the State. (New York: St. Martin's Press, 1973); and, Nicos Poulantzas, State, Power, Socialism. (London: New Left Books, 1978).

13. See: William Baumol and Wallace Oates, The Theory of Environmental Policy. (Cambridge: Cambridge University Press, 1988); Walter Block (ed.), Economics and the Environment: a Reconciliation. (Vancouver: Fraser Institute, 1990); R. Coase, "The Problem of Social Cost", Journal of Law and Economics, Vol. 3, (1960), pp. 14-33; and, Donald Dewees, Instrument Choice in Environmental Policy. (Toronto: University of Toronto Press, 1980).

14. See H. Glasbeek, "Why Corporate Deviance is Not Treated as a Crime - The Need to Make 'Profits' a Dirty Word", Osgoode Hall Law Journal, Vol. 22, No. 3, (1984), pp. 393-440.

15. See Richard Kazis and Richard Grossman, Fear at Work: Job Blackmail, Labour, and the Environment. (New York: Pilgrim Press, 1982).

16. See Schrecker, Op. Cit., p. 23.

17. Similar accounts are applied to explain the depletion of natural resources in Canada. See: Donald MacKay, Heritage Lost: The Crisis in Canada's Forests. (Toronto: MacMillan, 1985); Patricia Marchak, Green Gold: The Forestry Industry of British Columbia. (Vancouver: University of British Columbia Press, 1982); and, Jamie Swift, Cut and Run: The Assault on Canada's Forest. (Toronto: Between the Lines, 1983).

18. John Chant, Donald McFedtridge, and Douglas Smith, "The Economics of the Conserver Society", in Block Op. Cit., p. 62.

19. Donald Dewees has stated this idea as clearly as anyone from this perspective when he said, "the role of uncertainty and imperfect information in environmental policies should not be forgotten. In a world of perfect and costless information, government could set effluent standards that would be just as efficient, and presumably just as effective, as market oriented policies. Just as economists have been soundly criticized for assuming away information problems in other areas, so proponents of regulation should be criticized for assessing that regulation might proceed as if the government were omniscient". See Donald Dewees, "Regulating Environmental Quality", in Dewees (ed.) The Regulation of Quality. (Toronto: Butterworths, 1983), p. 170.

20. Kernaghan Webb, "Between Rocks and Hard Places: Bureaucrats, the Law and Pollution Control", Alternatives, Vol. 14, No. 2, (1987), p. 3.

21. See: Peter Hall, "Patterns of Economic Policy: An Organizational Approach", in S. Bornstein et. al., The State in Capitalist Europe. (Winchester, Mass: G. Allen and Urwin, 1984); and, Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol, Bringing the State Back In. (Cambridge, New York: Cambridge University press, 1985).

22. See Rianne Mahon, The Politics of Industrial Restructuring: Canadian Textiles. (Toronto: University of Toronto Press, 1984).

23. Ibid. pp. 38-39.

24. Charles Lindblom, The Policy-Making Process. (Englewood Cliffs, New Jersey: Prentice Hall, 1980), p. 8.

25. See Block, Op. Cit.

26. See Robert W. Hahn, "Economic for Environmental Problems: How the Patient Followed the Doctor's Orders." Journal of Economic Perspectives. Vol. 3, No. 2, pp. 95-114, for one of the few exceptions to this rule. This work is heavily cited in the literature because it was the first to empirically study existing economic instruments in environmental policy. Hahn concluded that there were all kinds of problems with these approaches, but, as is typical of the economics literature, did not seriously investigate how these problems are produced and reproduced within environmental policy sectors. James Buchanan and Gordon Tullock, "Polluters' Profits and Political Response: Direct Controls Versus Taxes", The American Economic Review. Vol. LXV, No. 1, (1975), pp. 139-147, similarly concluded that economic instruments, such as tradeable permits, are not likely to be fully implemented because they go against the fundamental economic interests of the powerful business constituency. How business interests successfully resist these instruments within environmental policy sectors is not demonstrated and the discussion remains at the theoretical level.

27. See Webb, "Between the Rocks and Hard Places", Op. Cit..

28. Ibid.

29. Ted Schrecker, "Resisting Environmental Regulation: The Cryptic Pattern of Business-Government Relations", in Paehlke and Torgerson, Op. Cit., p.168.

30. See Conway, Op. Cit., Emad, Op. Cit., and Nemetz, Op. Cit..

31. Thompson, Op. Cit., p. 33.

32. Wilson, Op. Cit., p. 4.

33. See Richard A. Harris and Sidney M. Milkis, Social Regulation in the Reagan Era and Beyond: a tale of two agencies. (New York: Oxford, 1989).

34. David Vogel, National Styles of Regulation: Environmental Policy in Great Britain and the United States. (Ithaca: Cornell University Press, 1986).
35. Peter J. Katzenstein, Small States in World Markets: Industrial Policy in Europe. (Ithaca: Cornell University Press, 1985).
36. John Zysman, Governments, Markets, and Growth: Financial Systems and the Politics of Industrial Change. (Ithaca: Cornell University Press, 1983).
37. Vogel, Op.Cit. p. 268.
38. Ibid. p. 275.
39. Michael Harman and Richard Mayer, Organization Theory for Public Administrators. (Boston: Little, Brown and Company, 1986), p. 3.
40. Claus Offe, "Structural problems of the capitalist state", in K. Von Beyme (ed.), German Political Studies. Vol. 1, (London: Sage, 1974), p. 35.
41. Robert Boardman (ed.), Canadian Environmental Policy: Ecosystems, Politics, and Process. (Toronto: Oxford University Press, 1992). Also, see Robert Boardman, Global Regimes and Nation States: Environmental Issues in Australian Politics. (Ottawa: Carleton University Press, 1990), for some of his recent work dealing with the relationship between domestic and international environmental policy regimes. Many of the observations on Australia apply to Canada as well. Boardman notes, "In practice, the DOE has been constrained by the same kinds of limitations as its Australian counterpart. The department is only one of several environmental voices in the federal government." (page 199).
42. Paul Brown, "Organizational Design as a Policy Instrument: Environment Canada in the Canadian Bureaucracy", in Robert Boardman (ed.), Canadian Environmental Policy. Ibid..
43. Public policy textbooks written within a political science tradition tend to provide few of the conceptual tools necessary for the study of specific government organizations as active agents within the policy process. This is primarily because these works focus on questions of integration, coordination, and control within policy processes on a government wide level, or on the analysis of policy outputs as to their efficiency and effectiveness. These concerns, while obviously important, lead to the study of integrative processes and not with the relations of power between organizations within government. See Bruce Doern

and Richard Phidd, Canadian Public Policy: Ideas, Structure, Process. (Toronto: Methuen, 1988), and Leslie Pal, Public Policy Analysis. (Scarborough, Ontario: Nelson Canada, 1989), where some key concepts are provided, but where "organization" is not defined and specific government organizations are not the level of analysis.

44. Martin Albrow, "The study of organizations - objectivity or bias?", in Graeme Salaman and Kenneth Thompson (eds.) People and Organizations. (Bristol: Open University Press, 1973), p. 409.

45. See: Albrow Ibid.; Mats Alvesson, Organization Theory and Technocratic Consciousness: Rationality, Ideology and Quality of Work. (Berlin: Walter de Gruyter, 1987); Stewart Clegg, The Theory of Power and Organization. (London: Routledge and Kegan Paul, 1979); Ham and Hill, The Policy Process in the Modern Capitalist State. (London: Wheatsheaf Books, 1984); and, C. W. Mills, The Sociological Imagination. (Harmondsworth: Penguin, 1959), for critiques of functionalist approaches to organizations.

46. Graeme Salaman, "Classification of Organizations and Organization Structure: the main elements and interrelationships", in Graeme Salaman and Kenneth Thompson (eds.), Control and Ideology in Organizations. (Cambridge: MIT Press, 1980), p. 60.

47. Albrow, Op. Cit., p. 73.

48. See Richard Cyert and James March, A Behavioral Theory of the Firm. (Englewood Cliffs, N.J.: Prentice Hall, 1962).

49. See M. Crozier, The Bureaucratic Phenomenon. (Chicago: University of Chicago Press, 1964).

50. B. C. Smith, Bureaucracy and Political Power. (Sussex: Wheatsheaf Books, 1988), p. 146.

51. J.E. Hodgetts, The Canadian Public Service: A Physiology of Government. (Toronto: University of Toronto Press, 1973), p. 89.

52. See Jeffrey Pfeffer and Gerald Salancik, The External Control of Organizations: A Resource Dependence Perspective. (New York: Harper and Row, 1978), p. 78.

53. Ham and Hill, Op. Cit., p. 187.

54. Lindblom, The Policy-Making Process. (Englewood Cliffs, New Jersey: Prentice Hall, 1980), p. 46.

55. See Doern and Phidd, Op. Cit., p. 110.
56. See Bruce Doern, Allan Maslove, and Michael Prince, Public Budgeting in Canada: politics, economics, and management. (Ottawa: Carleton University Press, 1988).
57. Jeffrey Pfeffer, Power in Organizations. (New York: Longman, 1981), p. 106.
58. Gareth Morgan, Images of Organization. (Beverly Hills, California: Sage, 1986), p. 167.
59. Doern and Phidd, Op. Cit., p. 322.
60. Lindblom, Op. Cit., p. 43.
61. Pfeffer and Salancik, Op. Cit., p. 43.
62. Morgan, Op. Cit., p. 173.
63. For an example of similar terminology that finds its origins within organization theory and behavioural studies of private corporations, see Kenneth J. Benson, "A Framework for Policy Analysis", in David L. Roger and David A. Whetton and Associates, Interorganizational Coordination: Theory, Research and Implementation. (Des Moines, Iowa: Iowa State University Press, 1982), pp. 137-176.
64. Doern and Phidd, Op. Cit., p. 57.
65. Alan Cairns, "The Embedded State: State-Society Relations in Canada", in Keith Banting (ed.), State and Society: Canada in Comparative Perspective. (Toronto: University of Toronto Press, 1986), p. 58.
66. Hall, Op. Cit., p. 140.
67. Doern and Phidd, Op. Cit., p. 209.
68. This concept has been prominent in organization theory where there has been a concern with explaining the relations between organizations. The study of "interorganizational coordination" has led to a concern with resource dependencies as the basis of organizational relations. See; H.E. Aldrich, "Resource Dependence and Interorganizational Relations", Administration and Society. Vol. 17, (1976), pp. 419-454; Kenneth J. Benson, "The Interorganizational Network as a Political Economy", Administration Science Quarterly. Vol. 20 (1975), pp. 137-176; and, Pfeffer, Op. Cit.
69. Pfeffer and Salancik, Op. Cit., p. 41.

70. Richard French, How Ottawa Decides: Planning and Industrial Policy Making. (Toronto: Lorimer, 1984).

71. Richard Emerson, "Power-Dependence Relations", American Sociological Review. Vol. 27, (1962), p. 32.

72. The literature on 'interest' or 'pressure' groups in Canadian political science is extensive. See: William Coleman and Grace Skogstad, "Policy Communities and Policy Networks: A Structural Approach", in Coleman and Skogstad, Policy Communities and public Policy in Canada: a structural approach. (Mississauga, Ontario: Copp Clark Pitman Ltd., 1989); Paul Pross, Group Politics and Public Policy. (Toronto: Oxford university press, 1986); and, H. G. Thorburn, Group Representation in the Federal State: the Relationships Between Canadian Governments and Interest Groups. (Toronto: University of Toronto Press, 1985). These works all contain extensive bibliographies.

73. See Coleman and Skogstad, Ibid., and Pross, Ibid.

74. See Pross, Ibid., p. 119.

75. See Vogel, Op. Cit.

76. See Pross, Op. Cit., p. 119.

77. For a similar discussion see Coleman and Skogstad, Op. Cit.. Regarding the nature of the relations between interests within the environmental policy sector see: Conway, Op. Cit.; Schrecker, Op. Cit., (1984); and, Webb Op. Cit., (1986).

78. See Pross, Op. Cit., Chapter 5.

79. Cairns, Op. Cit., p. 58.

PART 2

DOE RESOURCES AND ORGANIZATION

Chapter 2

FORMATION, THE POLITICAL CENTRE, AND ORGANIZATIONAL RESOURCES

Out of the conditions of the 1960s, Canadians became more aware of many pressing social problems, including environmental degradation.¹ Assumptions about the ability of natural ecosystems to absorb pollution and rebound from unlimited exploitation were challenged.² In large part, these developments were made possible by a general economic affluence throughout the capitalist liberal democracies. For its part, DOE caught the tail end of a general trend towards a more proactive and expansive state.

The history of DOE between 1971 and 1988 can be divided into three time periods which reflect an early proactiveness and a subsequent decline into marginalization: 1971 to 1975, 1975 to 1986, and 1986 to 1988. The 1971 to 1975 period was one of optimistic expectations for the future, ambitious proposals for DOE role and mandate, and growth in key organizational resources. The 1975 to 1986 period was a time of abandonment by the political centre, declining organizational resources, and new and more complex environmental problems. Finally, the 1986 to 1988 period began to show some signs for a new wave of progress and optimism.

This Chapter analyzes DOE's formation from various organizational components within the federal government, and then its subsequent decline into marginalization. It takes as its primary focuss the department's organizational resources and how these resources were affected by general political economic trends. As noted in the Introduction, organizational resources are one of the three interacting independent variables that are used to explain DOE's marginalization within the envrionmental policy sector. The other two are the resistance of powerful organizations within the environmental policy sector, and the lack of a consistent and supportive interest group clientele. They are analyzed in later chapters.

The Chapter analysis begins with what we have identified as the "Mandate Debates" which preceded and followed the formation of DOE. A study of these debates reveals that early plans for a strong environment department were severely rolled back under economic and political pressures in the mid-1970s. DOE quickly experienced difficulties in gaining and maintaining key organizational resources, including: a credible mandate; access to key decision making forums within government; and, political support from the centre of government. The second section of the Chapter analyzes trends in other critical organizational resources, including: political and bureaucratic leadership; budgets; and, knowledge and

information. Research indicates that as key organizational resources were being seriously eroded, environmental problems were increasing in number, severity and complexity.

FORMATION AND THE MANDATE DEBATES

When DOE was created it resembled what Michael Whittington called, "a virtual patchwork quilt of odds and ends and sundry organizational "orphans" all loosely involved in the business of protecting, analyzing and managing the environment."³ At the core of the new organization was the Department of Fisheries and Forestry.

The organizational components of DOE were first brought together under Fisheries and Forestry. In 1970, an Environmental Quality Directorate was established, and, as Table 1 shows, in November of that year Order-in-Council PC 1970-2047 transferred many other environmental components of the federal government to that department. This ensemble did not officially become the Federal Department of the Environment until June, 1971. The new DOE included seven services: the Atmospheric Environment Service; the Environmental Protection Service; the Fisheries Service; the Land, Forest, and Wildlife Service; the Water Management Service; the Policy, Planning and Research Service; and, the Finance and Administration Service.

Table 1

Organizational Components Initially Transferred
to the Department of Fisheries and Forestry
Under PC 1970-2047

The Canadian Wildlife Service.

The Marine Services Branch, the Inland Waters Branch, and the Policy and Planning Branch from the Department of Energy, Mines and Resources (EM&R).

The Air Pollution Control Division and the Public Health Engineering Division from the Department of Health and Welfare (DHW).

The Meteorological Branch from the Department of Transport (DT).

The Canada Land Inventory and the Lands Directorate from EM&R (Later in 1971).

The Environmental Protection Service was the only entirely new component created at the formation of DOE. As a result of this melding, the department became not only a regulator faced with a list of pollution problem priorities, but also a service provider to a wide range of interests including fishermen, game hunters, tourism promoters, foresters, and transportation companies. Many of these roles left ample room for contradiction and conflict, as we will see in the next chapter.

During this period of organizational construction there was considerable debate about what the new DOE's mandate should be. The Throne Speech of October, 1970, envisaged an

elaborate role when it stated that Canada would have, "a department to be concerned with the environment and the husbanding of those renewable resources that are part of and dependent upon it, with a mandate for the protection of the biosphere".⁴ Evidence indicates that grand plans were also in the works within the Prime Ministers Office (PMO), the Planning Branch of the Treasury Board Secretariat (TBS), and within planning elements of DOE itself, mainly the Lands Directorate.

The PMO initially argued for going beyond a narrow environmental protection mandate and making DOE akin to an eco-system manager. These ideas were generated under the supervision of Buzz Nixon, an engineer and strong advocate of systems planning. The new department, it was recommended, should challenge basic economic planning assumptions and be able to fill the void of the "missing ecological feedback loop".⁵ The activities of other government departments which could have impact on "Air, Land, Water, Energy, Plants, or Animals" should be played through DOE as to environmental effects. DOE should then provide feedback to Cabinet and other government departments regarding "Goals, Policy, Strategy Formulation", "Monitoring, Data Processing and Storage, and Prediction", and "Eco-System Research". This, of course, should have some real impact on decision making within Cabinet and the environmental policy sector.

Proposals within the Planning Branch of the Treasury Board Secretariat were almost as grand and equally enamoured with rational planning concepts. They concluded that the mandate of the new department should be to "ensure for Canadians now and in the future, a desirable state of their physical environment".⁶ However, under the leadership of Douglas Hartle, the proposals were more clearly based in economics rather than the engineering training of Buzz Nixon. It was argued that a broad and powerful department was needed to instill in others the willingness to incorporate environmental costs into their economic feasibility calculations. Their document, marked confidential at the time, remarked:

the considerable side-effects are not being properly counted as costs, and as a result we probably produce and consume more of the products whose production contribute to environmental deterioration than we would if the full effects are taken into account.

The new department had to be able to act in ways to, "require alteration in the framework of laws, markets, etc., which govern production and consumption processes". An argument was even made for DOE to acquire substantial control over legislation which was, and still is, controlled by other departments within the environmental policy sector. DOE was to involve itself in the direct, "Regulation of other government departments and agencies regarding effects on the environment".

Within DOE optimism was equally high. One discussion paper trumpeted the new department as that which would, "attack the problems of the deteriorating quality of the Canadian and world environment".⁷ A renewable resource management role was envisaged, and DOE was portrayed as the counterpart to other federal departments concerned with monitoring and managing non-renewable resources. One long-standing senior official of DOE noted, "many in the department felt there should be a biological survey along with the geological survey. These types of surveys would then be the base for management of renewable resources". This concept was heavily promoted by geographers and resource planners who wanted to look at the relationship between resources and between users of resources rather than considering, "one pollution and one polluter at a time".⁸ For them it was more proper to talk of a "consolidated department of natural renewable resources".⁹ It was to be a department second to none in its understanding of the natural environment and human impacts upon it.

Trudeau From Enthusiasm To Retrenchment

As can be deduced from this "mandate debate", DOE was left suitably vague by the political interests which promoted its formation. Government organizations are often left to define their roles and to "problem seek" and

"problem respond". Prime Minister Trudeau was rather enthusiastic about what the environment department could do to define a role for itself in consort with the central agencies.

One senior official of the PMO argued that the Prime Minister was heavily influenced both by his "general affinity for the outdoors" and his "concern over public protests", including the "protests" of the establishment figures within the Club of Rome. The Club of Rome was comprised of thirty people from ten countries, including scientists, academics, economists, industrialists, and international and national civil servants, who gathered in the Academia die Lencei in Rome to discuss environmental problems of a wide sort. Their famous publication entitled Limits to Growth had a significant impact in government circles around the world.¹⁰ Trudeau met with representatives of the group at least three times in the months prior to the formation of DOE.¹¹

However, the Prime Minister's enthusiasm was dampened by the economic and political problems that he soon encountered. In response to a question in the House of Commons on 9 October 1970, he began a serious retrenchment from what his earlier signals regarding the new DOE had implied. He said that his proposal, "will not result in the creation of a super agency to be responsible for all matters relating to the environment."¹² His earlier enthusiasm

continued to drive comprehensive proposal writing within the central agencies and DOE, but the political elite was already in full retreat.

Pressure was being exerted by other sectoral departments and their industrial clientele. As to these differences of opinion, Trudeau went on to say, "the government is of the opinion that these differences are better debated and resolved by ministers in council and not by officials within a single department".¹³ Visionary proposals for DOE's mandate met with a quick demise under the weight of new economic and political trends in the 1970s. Trudeau's Cabinet had decided that environmental policy was not going to be allowed to be a loose cannon on deck as the government sought ways to keep the economy moving.

Senior Managers Take The New Signals

However, Trudeau was aided from very early on in the scaling down of plans for DOE. The department's first team of senior managers quickly came to support different ideas from those portrayed by the various planning officials. The department was not to be an "ecosystem" or "renewable resource manager" with significant horizontal economic review powers, but was to be something more akin to an "End of Pipe Service" concerned with specific incidents of

pollution. DOE's renewable resource components were also not going to be compelled to alter their previous activities to any large extent. They were to remain managers of renewable resources for purposes of economic exploitation.

These departmental goals were established at the first meeting of DOE senior management at Montebello Quebec in April, 1971. Robert Shaw, the first Deputy Minister, outlined what came to be known as the "Montebello Goals" and concluded that the Environmental Protection Service, the only new environmental protection component, should be about, "the outflow from a factory and not of the quality of the environment downstream".¹⁴ According to him, along with Jack Davis the first Minister of the Environment, DOE's focus should be on addressing immediate pollution problems where discernable gains in environmental quality and political popularity could be made. This entailed action on mercury, phosphates, and lead in gasoline.¹⁵ A very conservative calculation had been made regarding the department's political weight within the environmental policy sector.

Economic Circumstances and Further Marginalization

The down-scaling of DOE was also advanced by changing economic circumstances beginning in the mid-1970s. Rising unemployment, combined with high inflation and an energy

crisis, revealed serious structural problems with the Canadian economy and led to the federal governments 1975 wage and price control regime.¹⁶ The federal government also began to react late in the decade with a resource mega-project strategy of economic expansion on the heels of a second energy crisis.¹⁷ Resource exploitation dominated the concerns of the political centre, and as one PMO official noted, "the environment just seemed to disappear from the agenda".

Rising federal deficits also meant that the politics of government budgeting left clear winners and losers. Environmental problems continued to intensify, such as in the case of toxic chemicals and transboundary pollution, but the willingness to envisage a strong and proactive environment department declined. DOE became one of the persistent financial losers, and the separation of the fisheries component in 1979, only worsened the situation. We will have more to say about the impact of this organizational change in Chapter 3. Table 2 provides an overview of the evolution of environmental problems and public policy responses to them.

Table 2
Selective Historical Overview of Environmental Problems

	<u>Concern</u>	<u>Response</u>
Early 1900s	<ul style="list-style-type: none"> - Sawdust ashes in fisheries waters - Waterborne disease outbreaks 	<ul style="list-style-type: none"> - 1868 Fisheries Act - Boundary Waters Treaty - Creation of the IJC - Chlorine added to drinking water
1900 - 1930s	<ul style="list-style-type: none"> - Local environmental problems - Nuisance conditions 	<ul style="list-style-type: none"> - Addressed by local ordinances - Provincial health requirements
1940s - 1960s	<ul style="list-style-type: none"> - Postwar industrial expansion - Municipal growth - Air/Water pollution - Highly visible decline in environmental quality - Fish kills - Beach Closures 	<ul style="list-style-type: none"> - Largely Local/Provincial responses - First modern amendments to the Fisheries Act
1960s - 1970s	<ul style="list-style-type: none"> - Widespread pollution problems - Airsheds, river basins, lake systems - Rachel Carson - Silent Spring - first alarm about toxics - Threats to Lake Erie due to enrichment 	<ul style="list-style-type: none"> - Creation of DOE - Creation of Provincial Environment Departments - Clean Air Act - Environmental Contaminants Act - Canada Water Act
1980s	<ul style="list-style-type: none"> - Regional/National/ Global environmental problems - Widespread concern about toxics - Acid rain - Ozone depletion in upper atmosphere - Global warming - Waste crisis 	<ul style="list-style-type: none"> - Phosphorous controls - Canada-US Water Quality Agreement, 1972 - Ocean Dumping Control Act - Fisheries Act Amended - CEPA - International Protocols
*International Joint Commission		

The declining status of DOE was also revealed in many other ways after 1975, not the least of which was its complete absorption under another departmental heading in 1976. At that time, the Department of the Environment was lost to a Department of Fisheries and Environment headed by a Minister of Fisheries. Environment was relegated to a Ministry of State acquiring a junior minister in 1977. Not until September, 1979, when the Department of Fisheries was given a divorce, did DOE become a stand alone department once again. It was during this time, and in the midst of poor economic and political circumstances, that a White Paper exercise was launched to define a second "new" role and mandate for a largely demoralized and disorganized DOE.

A White Paper Exercise And The Mandate Debates Anew

The White Paper exercise consumed much energy within DOE but did not amount to anything significant in terms of the department's position within the environmental policy sector. However, the exercise was indicative of the change which took place within DOE, and the government in general, since the early formation period. Optimistic proposals for a broad influential department were replaced by a mandate which was to be more sensitive to changed federal-provincial relations, economic growth needs, and the push within the

business community for deregulation under increasing economic pressures.

By 1978, DOE was in fact looking for the things that it should not do rather than for those that it should. In one confidential internal discussion document, dated 15 August 1978 and entitled "Federal Environmental Responsibilities: Mandate of the Minister of the Environment", it was stated,¹⁸

The review of the Government's approach to environmental matters was undertaken at the request of the Prime Minister. It is timely in light of the changes in environmental problems being addressed, the general re-examination of the role of government in the current political and economic climate (particularly the reassessment of federal-provincial relations) and the decision to divide the existing Department of Fisheries and the Environment. The review will culminate in the publication of a White Paper on the Environment which will inform the public of the Government's views on environmental concepts and objectives, and will propose how to achieve them in partnership with the provinces.

In the early formation period, the constitutional division of powers within the Canadian federation was recognized, but did not pose a major barrier to the elaboration of optimistic mandates. But, by the time of the White Paper exercise, it was concluded,

Appropriate federal environmental responsibilities are those of data collection, scientific research, technology development, and information services which are required in part to support federal responsibilities but are

also valuable to the provinces in discharging their own responsibilities."¹⁹

The department was relegated to a knowledge and information organization. It was seen to be reliant on this organizational resource for any capacity it might have to alter the behaviour of other actors within the environmental policy sector. Otherwise, DOE was to have no teeth, and was not going to be allowed to become a problem in federal-provincial relations as efforts were under-way to get the economy moving.²⁰

On the question of federal-provincial environmental relations the new principles were recommended to be:

- focus on matters of clear federal responsibility;
- foster early and full consultation and coordination with the provinces in areas of common concern;
- maximum delegation to the provinces of administration relating to environmental matters under federal jurisdiction but entirely within a province - use provincial delivery systems to the maximum extent possible; and
- promote joint activities with the provinces where there are concurrent jurisdictions, using cost- or work-shared agreements wherever practicable.²¹

DOE was seen to be outside the, "mainstream of decision making regarding economic development, employment and growth, energy development, Canada-U.S. matters and other key issues of the future".²² Instead, the Minister of the Environment had to struggle to "extend influence beyond the

areas of his immediate control".²³ This was the case for all of DOE's policy sector relations.

Definitely Not Sitting on the Throne

Another indication of the marginalization of DOE was found in its total neglect within the government's Throne Speeches. Throughout the second half of the 1970s and early 1980s, the environment had simply fallen off the priority list.²⁴ Throne speeches mentioned the environment in the early 1970s, but with a minor exception in the 1980 speech, there is no mention of the environment and DOE as a priority until the late 1980s. These were clearly not warm waters for DOE as it sought to rethink its role and mandate after the split of Fisheries. The very allowance, by Trudeau, of this split, sent a strong signal about where the environment stood in the government's priority list. Moreover, the status of DOE was decreasing to its lowest point at a time when, on another front, the Berger Commission of Inquiry into the Mackenzie Valley Pipeline was rapidly taking on major environmental policy implications.

Viewing Berger from the Sidelines

The Berger Inquiry was the most significant environmental policy event in the second half of the 1970s, and yet DOE had little to do with it.²⁵ While DOE was limping badly, the Berger process was running environmental issues to the top of the political agenda.²⁶ The appointment of Justice Thomas Berger in 1974, was an intervention by the Prime Minister's Office. The proposal to build a pipeline through areas of the north that were not only ecologically sensitive but which also involved important Native Peoples land claims, was creating major political problems. The Department of Indian Affairs and Northern Development (DIAND) under Jean Chretien as Minister took the lead. DOE was firmly positioned outside the key decision forums.

Berger was seen by Chretien as someone who had credibility in the native and environmental group communities. But, at the same time, he was thought to be reliable and a low political risk because he was known to be ambitious for a future Supreme Court position. Both Trudeau and Chretien were shocked by Berger's ultimate decision to recommend, in May 1977, a ten year moratorium on the construction of the pipeline. However, they readily took credit for Berger's innovative hearings process which took him into virtually every native village in the pipeline's

proposed path. While DOE was a bystander in the process, it did profit from it. Afterwards, DOE was able to argue that environmental assessment processes had to be more regular, credible, and predictable within an environment department, as Chapter 7 discusses. The benefits of this argument were discernable, but painfully slow in arriving.

The 1980s and Environmental Disasters

The marginalization of DOE continued well into the 1980s and was advanced further by the deep 1981-1982 recession. The mid-1980s, however, were typified by some years of economic growth, and, perhaps most significantly, a series of high profile environmental disasters, such as: the October 1984 drowning of 10,000 Caribou in the Caniapiscau and Koksoak rivers in northern Quebec; the release of chemicals killing some 3,000 people in Bhopal India in December, 1984; the Polychlorinated Biphenyls (PCB) spill on the Trans Canada Highway near Kenora in March, 1985; and, the explosion and radiation leak from the Soviet Union's Chernobyl nuclear plant in April, 1986. Acid Rain, DOE's flagship issue, also continued to increase in public profile throughout the decade. The political centre became increasingly interested in Acid Rain because it was not seen as "just another environmental issue", but was also a major Canada-United States foreign policy issue.²⁷ All these

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events contributed to some reassertions of a DOE role, as we will see in later chapters.

POLITICAL LEADERSHIP AND BUDGETS

Further evidence of DOE marginalization can be found in ministerial leadership and budgets. For much of its existence, the department received inconsistent political leadership, and it is no accident that this occurred in association with severe budgetary problems. DOE went through 11 ministers between 1971 and 1989. Table 3 provides a list of Environment ministers and the time they served with DOE.

Table 3
Ministers of the Department of the Environment

<u>Ministers</u>	<u>Date Position Assumed</u>
Jack Davis	11 June 1971
Jeanne Sauve	8 August 1974
Romeo Leblanc (Minister of State, Fisheries)	8 August 1974
Jean Marchand	January 1976
Remeo Leblanc (as Department of of Fisheries and Environment)	30 June 1976
Len Marchand (Minister of State, Environment)	September 1977
Len Marchand	2 April 1979
John Fraser	4 June 1979
John Roberts	3 March 1980
Charles Caccia	12 August 1983
Suzanne Blais-Grenier	20 August 1984
Tom McMillan	20 August 1985
Lucien Bouchard	30 January 1989
Robert de Cotret	20 September 1990
Jean Charest	21 April 1991
Pauline Browne (Minister of State, Environment)	21 April 1991

Ministerial Musical Chairs

Blair Seaborn, the longest serving Deputy Minister from 1974 to 1982, served seven ministers at DOE throughout much of the "do nothing years". Seaborn, a career diplomat by training, including a peace keeping role in Vietnam, was sent to DOE on 31 Dec 1974 as a "departmental peace keeper". His skills became an asset because by late 1974 DOE was already a problem for the political centre. The Trudeau

government wanted to put the department into a holding pattern out of the way of its economic renewal agenda.²⁸ Seaborn had to prevent DOE from crumbling internally under the weight of total marginalization, while also keeping it out of trouble within the environmental policy sector.

Prior to the appointment of Seaborn, DOE enjoyed some good years of ministerial leadership between 1971 and 1974. Jack Davis, the first Minister of the Environment, was a relatively strong leader who benefited from rich federal coffers. He had few problems acquiring money for the department's initial expansion, and achieved some significant progress on first generation pollution problems, as Chapter 6 discusses. However, from 1974 to 1983, a succession of 8 ministers, all of whom had very limited experience, stayed with the department for very short periods of time. This was a strong signal indicating DOE's marginal status. Leadership of this type did not auger well during the "lean years" when the economy was showing signs of weakness, government revenues were down, and the politics of budgeting in Ottawa became more zero sum.

Along with Seaborn, the succession of ministers he served could only "fight fires". Jeanne Sauve lasted only a year and a half as Minister. Jean Marchand had been a powerful Liberal Minister as one of the "Three Wise Men of Quebec", but was on his way out of political life when he went to DOE. He lasted 6 months in the department. Romeo

LeBlanc was a more powerful and capable Minister, but had a specific agenda as "Minister of Fishermen". He considered himself only secondarily a Minister of the "abstract concept" of the environment and signed all of his correspondence as the "Minister of Fisheries".²⁹ He also led the Fisheries Service out of DOE, as we will see in the next chapter. Len Marchand, the first native Canadian appointed to Cabinet, became Minister of Environment in April 1979. Prior to this he had served as Minister of State for Environment under LeBlanc as Minister of Fisheries and the Environment. He remained, for the most part, a weak junior Minister in the power relations of Cabinet.

The short interlude of the Joe Clark Conservative government in 1979 showed some promise for DOE. Clark appointed the relatively capable John Fraser to the job of Minister. However, DOE lost the "environmentalist" Fraser in very short order when the Clark government was defeated in parliament in December 1979. John Roberts returned the Liberals to the Minister's chair, but he was very open about not wanting the job, and was far more interested in the constitutional issues dominating the political agenda of the day. The last Liberal, Charles Caccia, while being an environmentalist in his own right, was a junior Minister who only had one year to achieve his goals, although some of his achievements were significant, as noted in Chapters 6 and 7.

Throughout this period of ministerial musical chairs,

departmental budgets did not fair well. Knowledge and information capacities, which had been identified in the "white paper exercise" as DOE's new "influential" role, also suffered badly.

Budget Belt Tightening

In the early years, DOE enjoyed growing budgets because it was high on the government's priority list. However, as noted, circumstances for the department worsened after 1975, and this showed itself in budgets by no later than the 1977-78 fiscal year. The political centre had lost interest, and central agencies, in search of scarce resources, pressured DOE making it a comparative loser in federal budgetary politics. Figure 1 reveals current and constant dollar trends in DOE's budgets between 1973 and 1988, and Figure 2 reveals trends in person years (PYs) for the same period (Raw Data: Appendix 2).

Michael Whittington, in his 1980 article, noted that DOE's budget, "slipped from 1.6% of the federal budget in 1974 to 1.1% in 1979-1980 a relative decline of approximately 32%".³⁰ While the first few rounds of cuts were, in large part, absorbed through efficiency improvements, later rounds were much more difficult and began to threaten many DOE programs. In Chapter 1, we referred to the "10% rule" and noted that, "Government departments can tend to be left frozen in fixed expenditures when slack or discretionary budgets are reduced". A good indication of the significance of this "rule" is found in 1979 correspondence between Blair Seaborn and John Fraser regarding DOE's budgetary health.

Seaborn Sounds the Alarm

On 28 June 1979 Seaborn wrote to Fraser in a confidential memorandum and said,³¹

At our meeting last week, you expressed interest in the evolution of the financial situation of the department... the department has been "tightening its belt" regularly since 1975. Today it is operating most of the same programs - plus some new ones - with 88% of the resources it had in 1975 (in real terms). This no doubt indicates there was room for efficiency improvements in 1975, but most of these types of improvements have now been made and there is little likelihood of further significant gains without either (a)

effecting delivery of services, or (b) curtailing or eliminating programs.

Seaborn then went on to inform the Minister of the types of budget cuts the department had endured. He noted that in 1976 the total department budget was \$234.7 million, and that while the budget had risen to \$283.8 million, it had in constant terms actually declined by 11.5%.³² This was indicative of a general trend which saw the department's budget eroded through inflation after 1975. He also noted that a larger share of the budget was being expended in salaries. . The jump was from 52% to 60% with 600 less person years (PYs).

The decline in budgets and PYs were then assigned to 4 large X-budget exercises throughout the 1970s: one in 1975-76 with a loss of \$2.3 million and 73 PYs; one in 1976-77 with a loss of \$5.0 million and 171 PYs; one in 1978-79 with a loss of \$6.2 million and 16 PYs; and one in 1979-80 with a loss of \$33.6 million and 350 PYs. Seaborn then reminded the Minister that the split of Fisheries and Oceans from DOE in 1979 led to two additional diversions of resources from the Environment Component to the Fisheries Component, an issue that we address in the next chapter.

Approximately two months later, on 13 August 1979, Seaborn sent a follow-up confidential memorandum to Fraser.³³ In that memo he noted, regarding the Environmental Services of the Department, that,

Within the Environmental Services, for example, the increased operating budget of 9.7% since 1975/76 actually has 13.8% less spending power. In combination with the 46.4% reduction in the purchasing power of the capital budget this has meant an inability of managers to replace obsolete equipment and to acquire new more sensitive equipment.

Three days later, on 16 August 1979, Seaborn became even more direct and presented three scenarios to the Minister regarding the possibility of any further cuts. He had good reason to anticipate these cuts, because in June, 1979, Conservative Finance Minister Sinclair Stevens announced the intention of the government to "review its programs and activities".³⁴ For the past 5 years "review" had meant cuts for DOE and Seaborn wrote,

I felt, however, that it was particularly necessary to arm you for the forthcoming discussion in Jasper since it is likely there will be further budgetary reductions. As a department, we carried out a review of programs in which we assessed the relative impact of further reductions of 5%, 10% and 15% of current budgetary levels.

Seaborn concluded that a 5% cut, although possible, would be very difficult and entail some trouble with client groups. However, a reduction of 10 to 15% was said to guarantee a cutting of programs which could not be "disguised and which will be of major concern to various publics". Further, there would be a need for a "significant realignment of federal-provincial responsibilities" with a net reduction in "the capacity of Canada to address

environmental problems". He then argued that, "Despite the need for financial restraint, there is an ongoing demand for increased services and we cannot ignore the requirement to address new problems and priorities as they relate to environmental quality".

Departmental priority setting exercises, discussed in Chapter 4, had indicated the urgent need to act on acid rain, toxic substances, migratory birds negotiations, and biological control of forest pests. However, Seaborn argued that these new programs would not be approachable without serious consideration given to budget belt tightening. He noted, "Most of these cannot be undertaken without new resources. Many are of such high concern that the department will have to undertake them even at the expense of directing resources from other programs". This usually meant fewer knowledge and information activities, and, according to the "mandate debates", this would lead to even less "influence" for DOE.

Reducing Knowledge

During the budget cutting episodes concerns were being expressed internally over serious knowledge and information reductions. One 1979 briefing paper from the Science Advisors Office noted, "As individual services have been progressively reduced in their own scope and flexibility,

the total Department's willingness to look spontaneously in new directions, and capacity to adapt to changing circumstances, has been diminishing".³⁵

The budget cuts resulted in several serious set-backs, including:³⁶ the Science Advisor's Directorate being shut down; the Science Advisor being retained only as a personal advisor to the Deputy Minister; the Advanced Concepts Centre, initially intended as a centre for the exploration of social values and natural resources, being closed; research on energy questions, including nuclear energy, renewable energy, and energy conservation, being discontinued; relations with universities being heavily down-sized; and, perhaps most significantly, environmental quality monitoring being severely weakened. One senior science component official, who survived all these cuts, noted, "the science of DOE began to fall off badly in 1976. Part of the problem was that the department had to justify its science expenditures in instrumental terms throughout the various waves of "contracting-out" and "make-or-buy" initiatives undertaken by the government". Another official observed, "the department was always asked to justify science expenditures relative to bread and butter and a clear clientele group".

The Blais-Grenier Disaster

These budget and knowledge and information trends worsened after the return of the Conservatives to Government in 1984. Suzanne Blais-Grenier, the first Minister of the Environment appointed by Prime Minister Brian Mulroney, was nothing short of a disaster on both counts. The most harmful act of her tenure was that she adopted, with almost religious fanaticism, the new Conservative Government's paranoia over the federal bureaucracy. The new Cabinet was highly suspicious of what was seen to be the "Liberal" bureaucracy, and Blais-Grenier did not even take the briefings of her senior DOE officials.

In the Conservative government's 1984 budget cuts, Blais-Grenier was also the most enthusiastic. She volunteered 25% of the PYs of the Wildlife Service and Parks Service before ever determining what other ministers were willing to contribute to the government wide reductions. As one Senior Official noted, "The department then had to live under this public relations disaster for the rest of the 1980s. There was a lot of public mistrust."

DOE received some 5,000 protest letters contributing to a huge public relations disaster for the Mulroney government.³⁷ The Neilson Task Force on Program Review later conducted a special study of DOE in large part because of the public backlash.³⁸ This study was an additional

challenge to the department's credibility. DOE suddenly found itself under the critical scrutiny of the political centre rather than being neglected by it. We will have more to say on these developments in Chapter 4.

Budget Pain Continues Through The 1980s

The remainder of the 1980s presented DOE with more budget pain. In 1985/86 the budget declined significantly in current and constant terms. Moreover, the decline in constant terms continued until 1988/89 even though the demands on the department were increasing rapidly throughout this period. Environmental problems were becoming more complex, and the environmental disasters referred to above began to alarm the public. The department was being squeezed between the political realities of the environmental policy sector, and public demands to do more as soon as possible.

After the disaster of Blais-Grenier, there appeared to be no place to go but up, but the return to healthier times was slow in coming. The appointment of Tom McMillan meant that there was another junior Minister at the helm, although his achievements ended up being substantial considering what he had to work with. Budget belt tightening had already been taken to its extreme, and McMillan was left to promote initiatives that did not cost much money, such as the acid

rain campaign and early initiatives on toxic substances legislation, as we will see in Chapter 6. He also tried to improve relations with environmental groups to repair the damage done by Blais-Grenier, and to mobilize power for DOE within the environmental policy sector, as we will see in Chapter 5.

The decade of the 1980s ended with the tenure of Lucien Bouchard who was Minister for just over a year. He left the Cabinet over the impending failure of the Meech Lake Accord and formed the Bloc Quebecois, a separatist party within Parliament. However, because he was a close friend of the Prime Minister, Bouchard was able to continue the recovery of DOE that was started during the McMillan years. Public opinion became a vital source of support for the department's new initiatives, and budgets increased in current and constant terms for the 1989/90 fiscal year.³⁹ The decline in PYs was also halted, and Bouchard became the first Minister of the Environment to sit on the Planning and Priorities Committee of Cabinet. A Cabinet Committee on the Environment was also created in 1989.

CONCLUSION

This Chapter has described the early formation of DOE from several organizational components that had been scattered throughout the federal government. The

Environmental Protection Service was the only newly created component of the department. During the formation period, there was considerable debate in the federal government about what DOE's role and mandate would be. Initial expectations under public pressure were for an "ecosystem" or "renewable resource manager" with influential horizontal economic review powers, but these were rolled back in favour of an "end of pipe service" focussing on specific pollution problems where short term political and environmental gains could be made.

The department's early defeats on role and mandate meant that it was also going to suffer severe setbacks in promoting environmental policy. The analysis of DOE's White Paper exercise, its exclusion from the proceedings of the Berger Commission, and its absence from the government's Throne Speeches demonstrated this trend. Environmental policy, and its bureaucratic champion, was largely abandoned by the political centre as the Trudeau government pursued economic expansion through resource mega-projects.

The marginalization of DOE and environmental policy was hastened by the decline and weakening of all the key organizational resources analyzed in this Chapter, including: support from the political centre of government, jurisdiction and mandate, access to key decision processes within government, political and bureaucratic leadership, budgets, and knowledge and information capacities. The

department had 11 ministers between 1971 and 1989, most of them junior with very limited power around the Cabinet table. Budgets began to level off after 1975 and markedly declined after 1977 even as environmental problems increased in severity and complexity. These waves of setbacks did not ease until after 1986 when public opinion led to a renewed concern over environmental policy in the political centre of government, and some improvements in key organizational resources.

In the next chapter we continue our discussion of DOE's key organizational resources. The chapter analyzes how marginalization hastened by resource decline affected the internal politics, organizational cohesion, and independent resources of the various components of the department. The other two interacting independent variables, the resistance of powerful organizations within the environmental policy sector, and the lack of a consistent and supportive interest group clientele, are discussed in Chapters 4 and 5.

ENDNOTES

1. See Michael Whittington, "Department of the Environment", in G. Bruce Doern (ed.) Spending Tax Dollars: expenditures 1980-1981. (Ottawa: School of Public Administration, Carleton University, 1980).

2. See Rachel Carson, Silent Spring. (Boston: Houghton Mifflin, 1962), and O.P. Dwividi, "The Canadian Government's Response to Environmental Concern", in O.P. Dwividi (ed.), Protecting the Environment: Issues and Choices - Canadian Perspectives. (Toronto: Copp Clark, 1974).

3. See Whittington, Op. Cit., p. 99.

4. See Speech from the Throne, Prime Ministers Office, October 8, 1970, p. 1.

5. These quotations come from a series of briefing charts put together within the Prime Ministers Office (PMO). These charts set out, in graphic form, options and recommendations for the new department. They were given to the author by a senior PMO official who took part in the process leading to the creation of the DOE proposals.

6. See Treasury Board, "The Role and Functions of the Department of the Environment and Renewable Resources: A Conceptual Framework", Planning Branch of the Treasury Board Secretariat, November 1970.

7. See Environment Canada, "The Department of the Environment", Lands Directorate, 1970.

8. This quotation is from a personal interview with an ex-Lands Directorate official who was involved in early discussions on the mandate of DOE.

9. Interview as above.

10. See Donella H. Meadows et. al., The Limits to Growth: a report for the Club of Rome's Project on the Predicament of Mankind. (New York: Universe Books, 1972).

11. Interview with a senior PMO official.

12. See House of Commons, Debates, October 9, 1970.

13. Ibid.

14. See Environment Canada, Environment Canada Chronologies: 1970-1990. April 1991, Section A.

15. See Tom Conway, "Taking Stock of the Traditional Regulatory Approach", in G. Bruce Doern (ed.) Getting it Green. (Toronto: C.D. Howe Institute, 1990).

16. See: Bruce Doern and Richard Phidd, Canadian Public Policy: Ideas, Structures, Process. (Toronto: Methuen, 1983), chapter 15; Richard French, How Ottawa Decides. (2nd. ed.) (Toronto: James Lorimer, 1984); Richard W. Phidd and G. Bruce Doern, The Politics and Management of Canadian Economic Policy. (Toronto: Macmillan of Canada, 1978); and, David Wolfe, "The Rise and Demise of the Keynesian Era in Canada: Economic Policy, 1930-1982", in M. Cross and G. Kealey (eds.), Modern Canada, 1930-1980. (Toronto: McClelland and Stewart, 1984).

17. See Bruce Doern, "The mega-project episode and the formulation of Canadian economic development policy", Canadian Public Administration. Vol. 26, No. 2, (1983), pp. 219-238, and Bruce Doern and Glen Toner, The Politics of Energy: The Development and Implementation of the NEP. (Toronto: Methuen, 1985).

18. See Environment Canada, "Federal Environmental Responsibilities: Mandate of the Minister of the Environment", August 15, 1978. This document became one of the key working papers outlining the dominant views held within the department at that time. An interview with a senior department official conducted by the author established this fact.

19. Ibid.

20. This theme came out in many of the interviews with past senior managers of the department.

21. See Environment Canada, "Federal Environmental Responsibilities", Op. Cit. These points were also confirmed within many of the interviews conducted by the author.

22. Ibid.

23. Ibid.

24. See G. Bruce Doern and Richard Phidd, Op. Cit., Chapter 10.

25. This was established in all the personal interviews with past senior managers of the department.

26. See Francois Bregha, Bob Blair's Pipeline: The Business and Politics of Northern Energy Development Projects, (Toronto: James Lorimer and Company, 1979), and Martin O'Malley, The Past and Future Land: An Account of the Berger Inquiry into the Mackenzie Valley pipeline, (Toronto: Peter Martin Associates Limited, 1976).
27. See Stephen Clarkson, Canada and the Reagan Challenge, (2nd ed.) (Toronto: McClelland and Stewart, 1986), and Don Munton and Geoffrey Castle, "The Continental Dimension: Canada and the United States", in Robert Boardman (ed.) Canadian Environmental Policy: Ecosystems, Politics, and Process, (Toronto: Oxford University Press, 1992).
28. This point was established in several interviews with past ministers and senior officials of the department.
29. This was confirmed in several interviews with senior officials of the department.
30. See Michael Whittington, Op. Cit., p. 101.
31. See Environment Canada, "Financial Situation of the Department", memorandum sent by the Deputy Minister to the Minister of the Environment, 28 June 1979.
32. Ibid.
33. See Environment Canada, "Financial Situation of the Department", memorandum sent by the Deputy Minister to the Minister of the Environment, August 13, 1979.
34. See Environment Canada, "Program Review", memorandum sent by the Deputy Minister to the Minister of the Environment, August 16, 1979.
35. See Environment Canada, "Highlights of Successive Changes (Reductions) in the Office of the Science Advisor". The exact date of this briefing note is not known although it was part of the process where Seaborn briefed Fraser regarding the budgetary state of the department in 1979.
36. This briefing note is also not dated, but is clearly part of the briefing exercise referred to above. See Environment Canada, "Impact of Resource Reductions Imposed Since 1975/76 on the Corporate Planning Group and the Office of the Science Advisor".
37. This estimate was provided by two senior officials of the department.

38. See Task Force on Program Review, Programs of the Minister of the Environment. (Ottawa: Supply and Services, 1986), and Environmental Quality Strategic Review: A Follow-on Report. (Ottawa: Supply and Services, 1986).

39. For a good discussion of the changes that took place in public opinion on the environment, see Herman Bakvis and Neil Nevitte, "The Greening of the Canadian Electorate: Environmentalism, Ideology, and Partisanship", in Robert Boardman (ed.), Canadian Environmental Policy: Ecosystems, Politics, and Process. (Toronto: Oxford University Press, 1992).

Chapter 3

INTERNAL ORGANIZATION AND THE POLITICS OF A "HOUSE DIVIDED"

Abandonment by the political centre, and the decline of key organizational resources, contributed heavily to DOE's marginalization within the environmental policy sector. However, throughout the history of the department, the struggle to define a mandate and sustain resources overarched internal organizational difficulties as well. DOE was put together from a complex mix of "organizational orphans" and was then left to bring itself together on the margins with minimal direction from the political centre. Political struggles over divergent policy objectives gave the department the look of a "house divided" and led to multiple organizational disruptions. And later, when resource reductions hit hard, political struggles increased several fold in scope and intensity.

The origins of this internal politics can be found in a March, 1971 memo sent by Deputy Minister Robert Shaw to departmental senior management.¹ Shaw informed the managers that he wanted to retain the "existing missions" of the organizational components under four "technical Assistant Deputy Ministers". These "existing missions" were to fit into the organization chart as:

- Atmospheric Environment to include the former Meteorological Service and Air

Pollution Control;

- Fisheries, to include the former Fisheries Service and the operational functions of the Fisheries Research Board;
- Lands, Forests and Wildlife to include the former Forestry Service, the Wildlife Service, and (pending approval of its transfer) the Canada Land Inventory;
- Water management to include the operational elements of the Water Programme.²

The only new component of the department was to be the Environmental Protection Service, "to include the former Public Health Engineering group and develop several new environment oriented branches".³ The various "technical ADMS" of these "missions" would report to a Senior Assistant Deputy Minister who would chair the Departmental Management Committee.

The decision to retain the "original missions" reflected that DOE was to be an amalgam of existing "resource based" components with an environmental protection add on. One DOE discussion paper, requested during Blair Seaborn's term as Deputy Minister, analyzed these determinative beginnings as follows,⁴

Most of the departmental problems appear to stem from the political nature of its origin. Functional divisions of other departments were turned over as units to the new department without consultation with senior administrative or technical staff as to alternative organizational changes which could have resulted in a more tightly knit Environment body. Lack of overall environmental philosophy and clear policies as to priorities together with uncertainties as to how

the power framework as distinct from the organizational charts will emerge, has led to some frustration on the operating level.

This chapter extends our analysis of DOE's history into three major problems of internal organization and politics: first, the split of the Fisheries Service, and later the Forestry Service, from the department and the inclusion of the Parks Service; second, the disputes surrounding policy objectives within the Environmental Conservation and Protection side of the department; and third, problems of integrating the Atmospheric Environment Service into the environmental programs of the department. These internal problems exacerbated the many external problems that DOE encountered within the environmental policy sector. Centrifugal forces within DOE were unusually dominant and powerful, and the political centre did not act to resolve this shortage of a common purpose and identity. Political neglect sent strong signals that DOE was marginalized within the policy sector, and its divisive internal organization and politics added to an image of weakness during sectoral struggles over organizational resources and influence.

THE RENEWABLE RESOURCE MANAGERS: FISHERIES, FORESTRY, AND THE PARKS SWAP

The Fisheries Service, which had its official formation within DOE on 11 June 1971, would come to split from the department in April 1979. As compensation for this split, DOE was given the Parks Service in a transfer from the Department of Indian Affairs and Northern Development under P.C. 1979-1617. However, not long after this "swap" the Forestry Service also split from the department. At the core of these organizational upheavals was an internal friction between resource management functions and environmental conservation and protection functions. These problems were compounded by battles over organizational resources which, as we saw in the last chapter, were in sharp decline after 1975.

The Fisheries Service

The Fisheries Service was primarily concerned with management of the fisheries resource for maximum economic return. Its inclusion within DOE stemmed from early interest in a broad renewable resource mandate for the department, and the Fisheries Act was vital to any ability of the federal government to act on water pollution. Also, a majority of the federal government's scientific, technical, and operational capacities on water pollution

were within the Fisheries Service, and, for Jack Davis, environmental issues and fisheries issues could be usefully linked in the interests of fishermen.

When Davis became Minister of the Environment, he was primarily concerned with problems of fish marketing and pollution in fisheries waters. Fishermen were encountering severe fluctuations in national and international markets, and there were too many fishermen and not enough demand for fish. The solution, as the Fisheries Service saw it, was to increase Canada's capacity to manage the resource off its coastline. The environment became one important argument for the expansion of fisheries jurisdiction beyond the existing 10 mile boundary in order "to manage the stock in an environmentally renewable way".

Davis lobbied to extend Canadian fisheries jurisdiction to a 200 mile coastal limit. At the 1972 United Nations Conference on Human Settlements, Davis's "main concern" was to begin to foster an international acceptance of the extension later undertaken by Canada in January 1977.⁵ As one senior DOE official put it, "there was no question that fisheries drove the priority agenda and this showed up in other concerns such as regulatory actions on phosphate and mercury pollution in fisheries waters".

The overwhelming concern with the fisheries economy led to continual friction between DOE's organizational components. Fisheries officials used the support of the

Minister to push hard for a high profile within departmental budgeting, and they also sought strict action on water pollution. One senior DOE official noted, "they felt that water pollution was their area of responsibility and that you were never going to be able to really know the risk of pollution." Other DOE officials who were trying to manage the level of pollution from multiple "users", or were negotiating pollution reduction agreements with industry, saw strict enforcement of the Fisheries Act as untenable given the political and economic conditions they encountered.⁶ Moreover, continually stressing the needs of the fishery always entailed a loss of scarce resources for their programs, as we see below.

The organizational culture of the Fisheries Service was revealed in an important DOE document dated 14 January 1972 and entitled, "Department of the Environment: Preliminary Statement of Goals for 1980".⁷ In that document, organizational components of the department, as requested by senior management, set out the main policy objectives which they proposed to bring to DOE. Fisheries outlined several broad policy objectives which were to define its activities, and the first priority was to, "Provide management of the nation's fisheries resources to optimize net benefits to Canada".⁸ This was to entail the following specific programs:

- Maintain a capability to assess demand on fisheries resources, and to regulate

their exploitation to provide an optimum sustained economic return to Canada;
 - Achieve an equitable return of benefits from anadromous fish of Canadian origin that enter international waters or territorial seas of other nations;
 - Achieve Canadian management of living aquatic resources found predominantly adjacent to continental shelves and slopes;
 - Increase Canada's share of the fish harvest from adjacent continental shelves and slopes from one third to one half of the total yield.⁹

Fisheries would remain a government service primarily concerned with the economic interests of the fisheries clientele, and Figure 3 reveals a preponderance of field operations towards that end.

Another priority policy objective was, "the removal of adverse effects of pollution upon aquatic life".¹⁰ One senior DOE official noted, "Even before the formation of the department there were major struggles between EM&R and Fisheries regarding how to deal with pollution. These struggles carried over into the new DOE". Insofar as the Fisheries Service was concerned, the strength of DOE was the habitat and pollution provisions of the Fisheries Act and these should be deployed accordingly. To the extent that they were not, serious problems resulted, because, as another DOE official recalled the argument, "fish are the "miner's canary" for the human race. Sick fish meant we were all in trouble."

It was not long after the formation of DOE that Fisheries revealed its frustration with what it considered to be a "demotion" from Fisheries and Forestry to one component within the new department.¹¹ In January 1973, DOE went through its first of many major reorganizations intended to placate the discontent. The department was changed to contain two major services one of them being Fisheries and Marine under Ken Lucas as senior ADM, and the other being Environment. Lucas was an aggressive promoter of the interests of the Fisheries Service and was a strong advocate of strict pollution control under the Fisheries Act. His stand on many issues of importance to the department did not make Deputy Minister Blair Seaborn's job

any easier during the "dark years" of marginalization.

Trudeau, the "Minister of Fishermen" and the Split

The struggle between the Fisheries side and the Environment side occupied a lot of Seaborn's time. Upon his appointment as Deputy Minister in December 1974, he had asked the Prime Minister what he wanted to do with the Fisheries Service and Trudeau responded, "I want to keep it as one department".¹² For Seaborn, this meant "an enormous preoccupation with intense fighting in the management committee of the department".¹³ However, by 1977, Trudeau reversed his earlier decision, and was to acquiesce to Romeo Leblanc's desire to have a separate Fisheries Department.

Seaborn's efforts to retain Fisheries did not last the tenure of Romeo Leblanc because the Minister was primarily the "Minister of Fishermen".¹⁴ According to Leblanc, and his Fisheries officials, the 1973 DOE reorganization still did not provide enough profile for the fisheries industry within government. Fisheries, as the argument followed, needed greater autonomy from the Environment side, and Leblanc was the ideal Minister to provide for this. After his appointment in January 1976, he promptly signed his correspondence as the "Minister of Fisheries" and reorganized the department once again so that it became the "Department of Fisheries and the Environment". In so doing,

Fisheries and Marine was given priority. Seaborn, the Deputy Minister, was told to involve himself only with the Environment side of the department, and Lucas, as Senior ADM of Fisheries and Marine, reported directly to Leblanc.

In Leblanc's view, it had been a serious mistake to integrate a specific clientele in an "abstract concept of the environment".¹⁵ He thought that Fisheries should be pulled from DOE altogether because it was a clientele department with serious problems in its industry. The implications of this, as one senior DOE official put it, was that, "Fisheries had terrible problems therefore warranted major resources. If there had been huge environmental problems then resources would have went there." DOE's political leadership regarding a range of pressing environmental protection issues, outside the specific concerns of the fisheries industry, remained weak at best and non-existent at worst.

The steady movement towards a Fisheries and Environment split in April 1979 had other consequences for the department as well. It consumed an enormous amount of senior management energy over an extended period of time. A 1974 discussion paper on "Inhouse Operations" argued,

At the Deputy and Assistant Deputy Minister level, it would appear that a disproportionate amount of effort has been directed towards justification of the organization, rather than to the internal communications, policy planning and operations.¹⁶

Several senior managers had to conclude in retrospect that they could, "remember the administrative and management issues better than the substantive issues because they had to spend so much time at them". One was even more blunt when he commented, "internally DOE was awful, every issue was a jurisdictional conflict".

Two additional effects proved very significant. The first of these was the serious threat to the legislative base of DOE's Environmental Protection Service. The second, was the siphoning-off of budgetary resources from other components of the department. As Chapter 6 discusses, the Fisheries Act was DOE's core pollution control legislation, and the exodus of Fisheries and Marine in April 1979 left the administration of the Act open for debate.¹⁷ This uncertainty remains an important aspect of the post-separation relations between DOE and Fisheries.

As for the resource impacts, Figure 4 provides a look at trends in budgets across DOE components from 1973 to 1978 (Raw Data: Appendix 4). It shows that Fisheries budgets expanded from 25.1% of the total DOE budget in 1972-73 to 38.8% of the budget in 1977-78 just prior to the split. This expansion came at a time when DOE was being generally marginalized within the environmental policy sector, and therefore, other DOE organizational components had to "find" the resources. One senior DOE official noted, "there was a massive reallocation of resources to fisheries. Many of us

had enthusiastically supported fisheries boundary extension but Treasury Board did not offer-up the resources."

The Parks Swap and the Funding Controversies

The transfer of Parks Canada to DOE in 1979, right after the split of Fisheries, was intended to compensate the department for its loss. However, Parks was an independent minded organization which had, as one official noted, "operated very much on its own". It was also a heavily operational organization, as seen in Figure 5, with significant capital budgets (Raw Data: Appendix 5). It came

into the organization with a great deal of suspicion about whether it was simply going to be a cash cow for a department that was seriously under-funded.

The fears of Parks management were not unfounded throughout the mid 1980s. Figure 6 indicates that between 1980 and 1985 the Service experienced a significant budgetary decline relative to the other DOE components (Raw Data: Appendix 6). DOE management used Parks resources to compensate for shortfalls, and this precipitated considerable internal upheaval.¹⁸

The extent of the internal battles was revealed in a confidential memorandum sent by the ADM Parks, Al Davidson, to Deputy Minister Genevieve Ste. Marie in March 1985.¹⁹ At that time, Parks had been in DOE for almost 6 years and continued to argue strongly against filling resource gaps through transfers from the Service. Davidson said that Parks had already given up 58 PYs and related monies and that significant expansions in new park sites and facilities required that resources be "found" internally "to the tune of 300 PYs".²⁰ This was at a time when "Treasury Board imposed reductions of some 380 PYs and 23 million dollars on Parks", and an "A-Base review" had already shown the Service to be in a "shortfall of 380 PYs and about \$300 million in

our maintenance program".²¹ He concluded,

If it is decided to escape T.B. authority by a hidden process to "transfer" by overutilizing PYS in Corporate and underutilizing in Parks, it should be remembered that T.B. and legislative authority are needed for salary money transfers. If in the final analysis, some further cuts in Parks are decided on I will be forced to make these explicit in service to the public terms in order that the relative value of the projects proposed to be funded and cut, can be judged.²²

This rather overt threat by Davidson was not one to be taken lightly. Parks was a very popular area of activity for the government and individual ministers. It had a relatively large and vocal clientele base including individual Members of Parliament who had parks within or adjacent to their constituencies, small tourist business operators, environmentalists, and native Canadians. The administration of the National Parks Act always appeared as a joy to ministers because they could fly around the country and open parks without having to make significant commitments of resources. Parks managers found themselves in the unlikely position of having to say "no more Parks", because they were always forced to fund the new parks from existing resources.

The Forestry Service Up and Out

The friction between resource management and environmental conservation and protection expanded into relations with the Forestry Service as well. At the same time that Fisheries was leaving the Department in April 1979, the Forestry Service was reorganized upwards into a full service with its own Assistant Deputy Minister. It was concluded that leaving Forestry within the Environmental Management Service meant an inadequate profile for an important national industry.²³ In the end, this logic pushed the remaining "renewable resource service" out of DOE.

The friction between the Forestry Service and DOE's environmental protection components started early.²⁴ Like the Fisheries Service, Forestry was primarily concerned with economic expansion, and it saw itself as demoted within one large environment department. However, because forestry is a provincial jurisdiction, the Service took on the form of a research organization in support of industry and the provinces.

The Forestry Service's support of development created its greatest problems within the department on the issue of pesticide spraying. It was active in not only testing pesticides for their effects on the forests and wildlife but also provided subsidies to the provinces for the actual

spraying. This was after the publication of Rachel Carson's Silent Spring, a book which heavily influenced environment officials.²⁵ One senior manager noted, "the fighting at times became very fierce", and by 1974, a long range planning document of the Environmental Management Service concluded that, "the CFS should terminate its subsidies to the provinces for pesticide spraying".²⁶

However, the internal friction caused by Forestry's presence within DOE was never totally resolved. By September 1984 Order-in-Council P.C. 1984-3200 transferred the Service to Agriculture Canada where it assumed a higher profile. Not surprisingly the effects on the DOE were not benign. Figure 6 above shows that leading up to the separation of Forestry, the Service's proportion of the departmental budget increased over 70% while that of other services remained flat or declined.

The Management Response

Internal friction and organizational splits surrounding the "renewable resource" components made the life of senior DOE management very difficult. Management energy and initiative had to be directed inward rather than outward towards the pressing problems and politics of the environmental policy sector. Blair Seaborn and Jacques Gerin in the 1970s and early 1980s, and Genevieve Ste. Marie

after 1986, struggled at considerable cost to bring the department together. The struggle was continued with Tom McMillan as Minister. The conditions faced by McMillan and Ste. Marie, a new team at the helm in 1986, required that they find ways to help the department without spending any money. This in part involved a concerted effort to consolidate a highly fractured and demoralized organization.

Management's response involved three decisions. First, the Environmental Protection Service was combined with the Environmental Conservation Service because, as we discuss below, these services were always acting separately or in conflict. Second, "Parks Canada" was changed to the "Parks Service" because, as one senior manager noted, "no one knew they were part of DOE and Parks never referred back to Environment Canada". Finally, steps were taken to integrate the Atmospheric Environment Service into the department's environment programs. AES was a self-contained organization with a head office in Downsview Ontario and had very weak links to environmental policy. All of these efforts were designed to create three large, integrated, and relatively equally sized services: Parks, Atmospheric Environment, and Conservation and Protection. Figure 7 addresses this reorganization in its portrayal of service budgets, 1987-1991 (Raw Data: Appendix 7).

THE ENVIRONMENTAL CONSERVER AND PROTECTOR: USE PLANNING OR REGULATORY STANDARDS?

In 1985 an internal DOE management review had recommended combining Environmental Conservation with Environmental Protection. The new component created by McMillan and Ste. Marie and finalized in April 1988, became the Environmental Conservation and Protection Service (ECP). Components within the Conservation Service had arrived at DOE with organizational cultures and objectives which did not easily integrate into the new department. Even more important, however, was that the Inland Waters Directorate,

the largest group within Conservation, and the Environmental Protection Service, did not agree as to core policy objectives on water pollution. The friction surrounding DOE's water programs created very serious problems for senior management, and further constrained the department in its policy sector activities.

Inland Waters and Use Planning

The Inland Waters Directorate was and remains the largest group within DOE's Environmental Conservation. The Directorate was created on April 1972 from components that were previously part of Energy, Mines and Resources (EM&R). It also contained the well known Canada Centre for Inland Waters created by EM&R in 1967. One senior manager described this Centre as, "essentially like a university campus conducting research in support of Canadian water quality objectives such as those set under the International Joint Commission". By 1971 EM&R had not yet gone through its monumental growth of the 1970s and early 1980s, and was still essentially a research organization with a relatively small bureaucratic hierarchy. These traditions had a major impact on the organizational culture and policy objectives of DOE's Inland Waters Directorate, and this was revealed clearly in the 1972 "Preliminary Statement of Goals" document cited above.²⁷

In that document, management of Inland Waters stated that they planned to provide DOE with strong research capacities which would allow them to continue to fulfill their obligations under the Canada Water Act. The objectives of the organization included developing "fully integrated federal-provincial data collection networks", and "information systems providing adequate knowledge and understanding of social and economic implications of current and future water demand and use". These objectives were to assist in the completion and implementation of "federal-provincial (and international) water management plans for major rivers, lakes, harbours, estuaries, and coastal waters".²⁸

Inland Waters also stressed that the Department should not try and set regulatory standards for water quality. A 1974 Environmental Management Service planning document put it this way, "IW views standards as virtually meaningless because they cannot be enforced".²⁹ Instead, the proper course of action was said to be setting general objectives for ambient environmental quality and then planning the various "uses" of the water resource within those objectives. This required ambitious cooperation with the provinces, the United States government, and industry.

The commitment of Inland waters to "use planning" meant that it was heavily involved in areas of provincial jurisdiction, and highly dependent on its scientific

knowledge and the federal spending power. The provinces and industry could be swayed by good science and shared costs, but their response was always captured by the adage cited by one senior manager as, "come with money or don't come at all". If money or research capacities declined, as they did within DOE after 1975, use planning was severely curtailed as to what could be "enabled" under the Canada Water Act. Moreover, the "cooperative arrangements" of Inland Waters did not always sit well with the Environmental Protection Service which sought to do exactly what Inland Waters advised against, that is set regulatory standards.

EPS "White Knights" and the Coordination Problem

EPS was established as a regulatory standards setting organization. It was formed within DOE in 1972 out of the Air Pollution Control and Public Health Engineering divisions of the Department of Health and Welfare, elements of the Water Sector of EM&R, and most significantly, the Water Pollution Control Division and Environmental Quality Directorate of the Department of Fisheries and Forestry. Fisheries components ended up being influential within EPS because of the support of key senior managers such as Ken Lucas. Numbers and expertise of personnel also favoured Fisheries as did the availability of the core Fisheries Act as one of the only solid pieces of legislation available to

DOE.

Shortly after the formation of EPS, managers of the new component stated that they planned to achieve the following objectives: the setting of "maximum acceptable levels of air quality"; enforcing "strict control of automobile emissions"; establishing "stationary source emission standards for all major contaminants that constitute a significant danger to the health of persons", and ensure that "environmental protection systems" were put in place to protect water quality based on the idea of "best practicable technology".³⁰ Further, the Service was going to perform a leadership role within the environmental policy sector so as to "minimize all adverse environmental effects from all Federal Government Works", and develop "legislation (e.g. Environmental Contaminants Act), regulations, guidelines, systems and capabilities to evaluate, regulate and control adverse effects of environmentally toxic or hazardous materials".³¹

While the strong regulatory plans of EPS were never attempted in practice, as we will see in Chapter 6, the scene was set for internal struggles with Inland Waters. As far as Inland Waters was concerned, EPS personnel were going to be the "White Knights slaying the evil dragon polluters" and getting in the way of inevitable negotiations with the provinces and industry. The provinces for their part exaggerated the ensuing conflict because they did not want

EPS involved at all with local industry where investment and jobs were involved. EPS management, by contrast, saw EMS as uncooperative in providing its regulatory personnel with adequate feedback on ambient environmental quality. As one senior DOE manager put it, "The Inland Waters Directorate was not cooperative in giving good feed-back to EPS water people. The two groups worked in isolation".

The "isolation" of EPS and Inland Waters presented very serious coordination problems for DOE. Figure 8 reveals that the entire Environment Side of the department, including Inland Waters, EPS and other components such as the Lands Directorate and the Wildlife Service, was far more a headquarters operation than either Fisheries or Parks. Of the personnel in the field a vast majority of them were also from Inland Waters and not EPS. For its part, EPS was a very small organization comprising never more than 8% of DOE budgets up to 1987 as we saw in Figure 6 above. It was very difficult for the Service's regulators to find out what was going on in the field without the help of Inland Waters. Meanwhile, Inland Waters was isolated from the "best practicable technology" knowledge resident within EPS.

These problems of coordination and conflict proved a very serious liability for DOE's water protection programs. Scarce resources were not well used, and, as one senior manager argued, "Not until they were united under one service did they begin to work well together". By that time, however, organizational resources were at their lowest point, sectoral marginalization was at its most extreme stage, and other problems within Environmental Conservation and Protection continued to consume senior management time and energy.

The Smaller Orphans: Lands And Wildlife

DOE lacked unifying policy objectives that could help integrate the Lands Directorate and the Wildlife Service as well. The Lands Directorate entered DOE's Environmental Management Service as perhaps one of the leading organizations on questions of resource use planning. They administered the Canada Land Inventory which was the first of its kind in the world. They were also, as we will see in Chapter 7, the core component around which Jack Davis began to build DOE's environmental assessment and review process.

However, because the Lands Directorate was a very small component and was operating in an area of clear provincial jurisdiction, it was not able to develop a legislative base. This meant that it was highly exposed to the Fisheries related budget transfers and other cuts. Moreover, the inability of the department to build an initiative around land use policy meant that Lands was prey to other government departments who wanted to assume that role. As one senior official put it, "Lands was continually moved around the organization and concealed so as to protect it from other departments, like agriculture, which saw it as their responsibility". Over time, Lands was allowed to whither severely.

The Wildlife Service, by contrast with Lands, entered DOE with a very long history behind it, a vocal clientele

base, and two pieces of legislation under which to function. We will discuss the Migratory Birds Convention Act and the Canada Wildlife Act in Chapter 8. However, the Wildlife Service was also a very small organization. When it entered DOE, Wildlife management had very serious concerns about having their resources reduced. They were also wary of being submerged under a broader departmental agenda which did not share its long traditions. The Service had built up a considerable base of ecosystem knowledge and a tradition of cooperation with the provinces and non-governmental organizations. As one senior official outside the Wildlife Service put it, "they were the only real ecologists we had".

The concerns of the Wildlife Service were often proved valid. The worst of its experiences occurred under the tenure of Blais-Grenier as Minister who, as mentioned in the last chapter, was quite free in offering up the Service's budgets in the first round of Conservative government expenditure cuts in 1984-85. The cumulative effect of these types of experiences only furthered the tendency of the Service to see itself as distinct but also vulnerable. As one past Wildlife manager noted, "The Wildlife Service was a small organization which tended to have a fortress mentality". This "mentality" has never been easy for DOE management to overcome.

THE WEATHER SERVICE AND ENVIRONMENTAL PROGRAMS

The third pillar of DOE, after it was reorganized into three "relatively equally sized services", was the Atmospheric Environment Service (AES). AES was moved to DOE from the Department of Transport at its formation.

Early in the DOE story there was always left open the prospect that AES could simply be rolled back into Transport, which in the early period appeared more logical. Or, alternatively, it could be given to some other department such as National Defence or Fisheries. It was originally placed, as the Meteorological Service of Canada, within Fisheries and Marine in 1874 under a Director. In 1936 it was moved as the Meteorological Division to the then new Department of Transport. This was intended to balance its services between water and air travel. In 1956 it became the Meteorological Branch within Transport. The first act of integrating it into an environmental agenda was to change its name to the Atmospheric Environment Service in the run up to its move to DOE in 1971.

AES always appeared to many in DOE as detached from the mandate of the department. One of the reasons for this was that its work was located primarily in its Downsview offices in Toronto and in far flung field offices. It was not a Ottawa headquarters operation like EPS for example. Its detachment also arose out of the fact that AES was primarily

the provider of a service. Particularly in the 1970s, it was not seen by itself or by others as important to environmental programs.

These AES characteristics concerned DOE management who were being repeatedly spooked by internal organizational struggles and splits. A key question became how to integrate the "Weather Service", as it was labelled, into DOE's environmental protection programs. By late 1970, this question took on even greater significance because DOE could not afford another resource loss of the magnitude of the Fisheries split. If AES was to be moved out, the department would become a much smaller entity in the calculus of power within the environmental policy sector. Major efforts were undertaken by various ministers and senior management, particularly Tom McMillan and Genevieve Ste. Marie, to keep AES in.

The extent of the challenge could be seen through an analysis of what AES proposed to bring to DOE at its formation. It was going to continue to provide information, consultation and advice on weather to a wide range of users from individuals to "the specialized needs of forestry, agriculture, fishing, construction, and tourism".³² The main concern of the Service was to continue to improve on its weather "prediction systems", and environmental concerns were at best incidental to its plans. In 1971 an Atmospheric Research Directorate was formed, but it was not

until the major acid rain and global warming initiatives in the 1980s that environmental programs took on any significance for AES. DOE senior management had to continually guard against the potential for organizational splits on this front as well.

Some of the slow and painful changes that AES went through within DOE can be grasped from a report given to Deputy Minister Blair Seaborn by Jim Bruce, the ADM of AES, in August 1981. Bruce had been ADM for about a year and had returned to AES after a thirteen year absence. He noted that the change from the "meteorological branch" of 1967 to the "atmospheric environment" agency he was now heading "was not just cosmetic". It signalled he said, "a real expansion in our responsibilities to include research and monitoring of air quality and an active participation in the department's roles in environmental assessment."³³ These changes did not come easily.

At the insistence of DOE senior management, AES was more fully integrated into the department through its lead scientific role in the early stages of the acid rain program. Later on, AES management saw this integration as a way to maintain and secure resources. We already noted in Chapter 3 that acid rain was the only real flagship issue that DOE had at its disposal in the lean years after 1975, but especially in the early 1980s. Later, AES science was integrated even more fully through the global warming issue

of the late 1980s. The Service also became the key player in advising the government and DOE on how to respond to key environmental disasters such as Chernobyl.

The more that the climate and atmospheric research programs gained in importance, the less detached could AES be from the rest of DOE. Moreover, the budgetary life of the Service was frequently tied to environmental accidents and emergencies. AES would immediately rush in in the wake of such emergencies to ask for funds and frequently would get them. Its expenditures were of a fixed capital variety and therefore were not easily retrenched after the political effects of a catastrophe had died down. As a result, AES discovered a budgetary stake in the environment, but this had not always been the case.

CONCLUSIONS

This Chapter discussed the internal organization and politics of DOE. In the early days, decisions were made to retain the "existing missions" of the department largely as they had always been. DOE was put together from a complex mix of organizational orphans, and was then left to bring itself together on the margins of government with minimal direction from the political centre. The resulting internal political struggles around divergent policy objectives gave the department the look of a "house divided" and led to

multiple organizational disruptions. The internal upheaval was worsened as organizational resources became increasingly scarce, and the overall effect was to add to the problem of DOE's marginalization within the environmental policy sector.

The most significant organizational disruptions were the loss of the Fisheries and Forestry Services. The "splits" spelled the end of any dreams for a broad and integrated renewable resource department, and led to the loss of many key organizational resources. Prime Minister Trudeau, who had originally supported keeping Fisheries in DOE, lost interest in environmental policy and finally gave Romeo LeBlanc permission to move Fisheries out. The "Parks swap" led to even more political struggles as DOE managers moved scarce resources from the Parks capital budget into other under-funded components of the department.

The department also suffered from an inability to discover a set of policy objectives that could coordinate its Environmental Conservation and Protection programs. This proved serious, because for 15 years the "use planning" objectives of Inland Waters clashed with the "regulatory standards" objectives of EPS and led to a huge loss of effectiveness in DOE's field operations. These problems were complicated by difficulties in integrating the Lands Directorate and the Wildlife Service as well.

The integration of AES also posed a major challenge.

The possibility always existed that DOE would lose its "third pillar" to another federal department that had the attention of the political centre. If it had not been for acid rain and global warming in the 1980s, and the budgetary windfalls from environmental disasters, this may very well have happened. AES, however, had found a stake in DOE, and did not campaign to get out.

ENDNOTES

1. The memorandum was marked "CONFIDENTIAL" and was sent to the "Director, Personnel Branch" who was at that time trying to generate an organizational chart for the new department. The distribution list for the memo included all senior managers of the various organizational components attached to the new department. At the time the memo was sent, Shaw was actually still sending his messages on the stationery of the "Office of the Deputy Minister of Fisheries and Forestry".

2. Ibid.

3. Ibid.

4. See Environment Canada, "Preliminary Report, Inhouse Operations: Department of the Environment", June 24, 1974. The document was part of one of many internal management reviews scattered throughout DOE's history regarding the difficulties of coordination and unity in the department. The paper went on to discuss divisions within the department around what it called:

- a) A service function - providing other departments, agencies and private industry with data as gathered by it.
- b) Management of some natural resources as to ensure the highest economic return.
- c) Bush fire problems of the environment.
- d) Attendance at and participation in international meetings.
- e) Fundamental and applied research in environmental and ecological matters.

Of these divisions, this Chapter concentrates on the first three. Division a) was really dealing with the difficulty of integrating AES into the department because it was a highly autonomous organization. Division b) addressed the friction between resource management and environmental protection roles. Division c) addresses disputes within Environmental Conservation and Protection whereby some saw EPS as a "bush fire" fighter whereas others would have preferred to "use manage".

5. This was established in several interviews conducted with officials who were involved in this early period.

6. These other components were found within what is now the Conservation and Protection side of the department. Inland Waters, for example, was more interested in considering the needs of all users, including those uses causing pollution, and finding a way to balance those needs while ensuring the long term viability of ecosystems. EPS adopted the "prevention at source" and "best practical technology" positions originating with the strong Fisheries influence within that Service, but had to deal with the reality of actually trying to implement pollution control policies and programs. What they found, of course, was that negotiation with polluters, with all the limitations that implied, was often unavoidable, as we will see in Chapter 6.

7. See Environment Canada, "Department of the Environment: Preliminary Statement of Goals for 1980", January 14, 1972. Each of the organizational components of the department dispatched their "goals" list with covering memorandum to Mr. V. Spence, Acting Director of the Planning Branch, and these were then bound into this document for management planning purposes. The fact that this process worked in such a fractured way, with highly autonomous components revealing where they were going to go as separate bodies, is a striking reflection of the difficulties the department was to face. Many of the components appeared to have little if anything in common and some were still in a full economic development mode, although this would change in accordance with the "greening" learning curve all government organizations were to go through, to one extent or another, over the subsequent two decades.

8. Ibid.

9. Ibid.

10. Ibid.

11. The extent of the dissatisfaction within Fisheries was a theme revealed in virtually every interview with veterans of the department. In many cases interviewees wanted to discuss it when it was not to be the topic of the interview. It was clearly a major preoccupation for the entire organization.

12. This was established in interviews with people who were close to the issue at the time.

13. Many of the interviewees discussed at some length the degree of conflict around the Departmental Management Committee table. One said that it "became quite brutal, vicious really".

14. This was a well known concern of Leblanc. He really wanted to be a full Minister of Fisheries and not a Secretary of State for Fisheries under an Environment Department. Senior officials of the department had to accept this reality and save resources for other components of the department where they could.

15. LeBlanc's feelings on this issue were established in several interviews.

16. Environment Canada, "Inhouse Operations", Op. Cit.

17. This point came out in interviews with EPS officials. The activities of EPS were, for the most part, built around the Fisheries Act. Uncertainty about its availability virtually froze activities until the issue was resolved, in part, through an agreement with Fisheries. The latest effort to resolve the uncertainty was the development of CEPA.

18. The difficulty of integrating Parks into the department came out in many of the interviews conducted for the dissertation.

19. Memorandum from Assistant Deputy Minister Parks Canada to the Deputy Minister of Environment Canada, March 28, 1985.

20. Ibid.

21. Ibid.

22. Ibid.

23. Ministers such Jack Davis and Romeo Leblanc had always neglected the Forestry Service. Their concern was for the Fisheries and they determined that Forestry was a marginal federal government concern in relation to the provinces. However, in early 1979 the Trudeau government was becoming more interested in showing a higher federal government profile in several areas of national importance. The profile of Forestry was raised even further in the early 1980s under Trudeau and again after 1984 with the Mulroney Conservative government.

24. In many ways these conflicts were among the most virulent encountered within the department. Several interviews revealed that they hit at the core of the values held by most of the officials who could be attracted to an environment department. Pesticide use and forestry exploitation rates were fundamental issues that had major structural consequences for the economy and ecological

consequences for the natural environment.

25. Rachel Carson, Silent Spring. (Boston: Houghton Mifflin, 1962).

26. See Environment Canada, "Senior Assistant Deputy Minister's Review of the Environmental Management Service's Activities", dated 1974.

27. See Environment Canada, "Preliminary Statement of Goals", Op. Cit.

28. Ibid.

29. See Environment Canada, "Review of the Environmental Management Service", Op. Cit.

30. See Environment Canada, "Goals for 1980", Op. Cit.

31. Op. Cit.

32. Environment Canada, "Goals for 1980", Op. Cit.

33. See Memorandum from Assistant Deputy Minister to Deputy Minister, "Situation Report AES 1980/81", August 17, 1981.

PART 3

THE POLICY SECTOR AND THE INTEREST COMMUNITY

Chapter 4

THE POLITICS OF SECTORAL RESISTANCE TO CHANGE

The ability of DOE to plan, set priorities, and achieve goals was dependent both on its own limited resources and the resources controlled by other organizations within the environmental policy sector. Chapter 1 noted that the policy sector comprises many interacting government organizations that have successfully claimed a "vested interest" because of the critical organizational resources they control. How DOE managed its relations with these other organizations is a very important part of its history. As a lead policy agency, the department had to attempt to overcome strong sectoral resistance to change, but it lacked many of the key organizational resources that could give it the power and the right "to be in everyone else's business".

DOE encountered very difficult policy sector conditions whenever it pushed for policy change. The administrative arrangements, resource dependencies, and dominant policy sector paradigm aided other government organizations in their politics of sectoral resistance to change. In the end, existing policy practices were largely reproduced, and DOE was marginalized.

This chapter is a discussion of DOE's important organizational relations and the policy sector conditions it

encountered. It focuses on the dissertation's second independent variable, the "resistance to change of sectoral government organizations", and the analysis is divided into three sections.

Section 1, analyzes DOE's planning and priority setting exercises, and how the department internally interpreted and defined its capacities within the environmental policy sector. This "inward looking outward" perspective on sectoral relations and conditions, reveals that DOE senior management, after an assessment of departmental legislative capacities and other key organizational resources, elected to step back from ambitious policies and programs. They saw little room for manoeuvre, and tended to concede a marginal status within government in the 1975-1986 period. It is within this section that we also elaborate on the legislation administered by DOE.

Section 2 provides brief examples of how DOE's mandate unfolded in relation to four other sectoral government organizations: Indian Affairs and Northern Development; Transport; Energy, Mines and Resources; and, Industry Science and Technology. When DOE officials attempted to respond to environmental problems they regularly bumped into these organizations and were met with cold shoulders and strategies of containment. In the end, interdepartmental experiences contributed heavily to DOE's self-assessments of marginal status within the sector.

Section 3 provides an overview of federal-provincial environmental policy relations. The specific dynamics of these relations are analyzed in detail in other chapters, but some empirical generalizations are provided here. It is impossible to talk about the history of DOE and federal environmental policy unless in some relation to the provinces. Provincial governments always appeared as a major policy sector constraint needing to be faced and managed by DOE across its entire mandate. The department's internal planning assessments were heavily conditioned by anticipations of provincial responses.

LEGISLATION AND PLANNED CAUTION

From very early on after the formation of DOE there began several waves of planning and priority setting exercises. Together they provide important evidence about how the department was interpreting its capacities to respond to its policy burden. Changes in these exercises over time reflected a setting-in of political realities and a discouraging acceptance of marginal status within the environmental policy sector. Caution prevailed, and as one past Minister of the Environment put it, "The department's officials were always traumatized by DOE's lack of jurisdiction and legislation."

DOE's planning went through four phases: first, an

early formative phase called the "Main Chances Exercise" and intended to integrate DOE into the parliamentary and bureaucratic reporting network; second, a "10 Year Plans" exercise beginning in approximately 1972 and continuing into the late 1970s; third, the "strategic planning" required under the Trudeau government's "envelope system" in the early 1980s; and fourth, a more recent priority setting phase typical of the mid to late 1980s.

The problems that were encountered by DOE in the environmental policy sector are revealed most clearly in the "Ten Year Plans" exercise. The first ten year plan was ready by February 1974, and was surrounded by extensive, and at times very heated, internal debate. Its primary purpose was to put DOE on some clearly identifiable course of action. A lack of unifying policy objectives was said to be contributing to further decline in support from the political centre of government, internal organizational warfare, and increased marginalization vis a vis other government departments within the policy sector.

One important discussion document generated within this exercise, dated 12 December 1972 stated:

Environment Canada needs an up-to-date general strategy or plan. It would give departmental managers a clearer grasp of the department's overall direction, and guide program planning. It would give Cabinet and central government agencies (PCO, Treasury Board, Finance) an overview of what the department proposes to do, it would show how Canada stands in relation to international

obligations, particularly those arising from the U.N. Stockholm Conference of June 1972.¹

Early discussions on "overall direction" produced an impressive list of policy objectives for this document. However, by as early as 1972, the 10 year plans exercise revealed a disturbing contradiction between two separate decision processes ongoing within the department: first, the policy objectives promoted within the various services of the organization; and second, the interpretations of senior managers regarding DOE's organizational capacities to act upon the various policy objectives within the environmental policy sector.

The discussion document went on to outline senior management's "Action Plan", and stated that to achieve its objectives DOE would act as,

- 1) a voice of knowledge and information on the natural environment;
- 2) a draughtsman of environmental requirements;
- 3) the international negotiator on environmental matters;
- 4) the manager of the fisheries;
- 5) the cooperator with the provinces in managing the water, air, lands, forests, and wildlife;
- 6) the enforcer of last resort;
- 7) the watchdog of pollution control at federal facilities.²

In many ways this designation of "policy means", as opposed to earlier proposals for the mandate of the department, discussed in Chapter 2, and the more optimistic pronouncements of the "Main Chances Exercise", was the most

telling part of the 10 year plan.³ The Action Plan proposal reflected a belief in the limited capacity of the department within the policy sector. Its legislative base was seen as highly uncertain, and spending, as Chapter 2 noted, was also a declining prospect for buying cooperation.

Each of the department's services responded to the ten year Action Plan discussion document. Two of these responses are telling of the contradictions being encountered between the department's two separate internal decision processes.

Management of the Environmental Protection Service (EPS) expressed the view that the list of policy objectives provided by the document was impressive, but that "they may not be achievable by the department alone because of constraints on our legislative base."⁴ For them the issue was one of the department suffering from trying to simultaneously do too much and too little. Too much, by trying to be all things to all people when it could not deliver in its relations with other government organizations and industry, and too little because,

The perceived role of the department as an "enforcer of last resort" would tend to emasculate the powers of the Minister to fulfil his obligations ... the approach proposed in the action plan may be judged by many as abdication....⁵

From EPS's perspective there was a growing discrepancy at play. Political leadership and senior DOE management were not being assertive around the legislative resources

the department did have at its disposal. The Service sought more action under the Fisheries Act, and more forcefulness in dealing with industry, other federal government departments, and the provinces. One long-standing EPS official noted, "the Fisheries Act was our only really solid base for action, without it you needed to spend a lot more time in cajoling industry, the clientele departments, and the provinces because you were not on a solid foundation". The discussion document was said to read like an, "explanation of and an apology for the limitations real or imaginary of the department's present and future activities".

A similar reply was received from the Fisheries Service of the department.⁶ Management of this Service commented,

In this direction there is a great danger of ending up with an "inaction plan". The Outline assigns regulatory responsibility almost exclusively to the provinces retaining for the federal authority informational/prescriptive and monitoring functions only - with weak references to a role of "enforcer of last resort".

To this they added:

The possibility of utilizing the powers provided by the Fisheries Act for pollution control and abatement directly by the federal government in respect of national waters and of securing the additional powers necessary for similarly effective action in respect of the land and atmosphere, appears not to have been seriously considered.

For Fisheries, as for EPS management, the department

was making a conscious decision to abdicate all of its legislative ambitions. In their view, the department should assume a greater role in enforcing environmental quality objectives for water, air, and land. This would require developing new legislation and or bringing legislation over from other government departments. The failure to become more assertive revealed a lack of political toughness, and led to a tendency to continue to expound grand policy objectives without laying the foundation for their future fulfilment. Fisheries concluded,

One has serious misgivings about the traditional liberal doctrine manifest in the Outline that society's environmental problems arise from simple ignorance and that all that is necessary for realization of the good life is full and free information, objective insight, comprehensive education and a free market place. This is gross oversimplification.

Therefore, from very early on in the history of the department and its planning exercises, DOE capacities within the environmental policy sector became contentious. Long lists of policy objectives were not matched by departmental capacities. Management chose a cautious approach, and the ensuing contradiction resulted in serious morale problems within the organization that persisted and became more severe in the "dark years" between 1975 - 1986. One internal discussion paper, drafted late in 1975, revealed an intense frustration on the horizon as follows,

The point I am trying to make is that we

are being judged publicly, and it would appear by the central agencies of the federal government, against a set of objectives both explicit and implicit that, because of jurisdiction and institutional constraints, are largely unattainable though our efforts...the institutional and legislative constraints imposed on this department prevent it from assuming a national environmental management role.'

DOE was short on legislative foundations, and the conditions of the policy sector were working against it in the power relations it was encountering.

The Legislative Foundations

The passing of the Environmental Contaminants Act and Ocean Dumping Control Act in December 1975 was the last gasp of federal environmental legislation for almost 13 years. The Canadian Environmental Protection Act was not passed until June, 1988, although major legislative shortfalls were commonly acknowledged in the interim. Senior management took this as just one more clue as to what DOE's capacities were going to be within the environmental policy sector.

The legislative resources of the department can be seen in Table 4. The Table shows the relevant legislation as of 1990, but also indicates the acts superseded by the Canadian Environmental Protection Act (CEPA) in 1988. The Fisheries Act, the Canada Water Act, and the Clean Air Act were the most important pieces of legislation for DOE

prior to 1988, but since then CEPA has become a pillar of the department, as we will see in Chapter 6.

Table 4

The Legislative Resources of DOE

Direct Role

Migratory Birds Convention Act
 Canada Water Act
 Fisheries Act (Sections 36-42)
 Department of Transport Act (Canals)
 International Rivers Improvement Act
 Canada Wildlife Act
 Canadian Environmental Protection Act (CEPA)
 Canadian Environmental Week Act
 Game Export Act
 Heritage Railway Stations Protection Act
 Historic Sites and Monuments Act
 Mingan Archipelago National Park Act
 National Battlefields at Quebec Act
 National Parks Act
 National Wildlife Week Act
 Weather Modification Information Act

Advisory Role

Motor Vehicle Safety Act
 Arctic Waters Pollution Prevention Act
 Navigable Waters Protection Act
 Northern Inland Waters Act
 Pest Control Act
 Transportation of Dangerous Goods Act
 Canada Shipping Act

Acts Superseded by CEPA

Clean Air Act
 Environmental Contaminants Act (ECA)
 Ocean Dumping Control Act

Source: Conway (1990)

The three dominant pieces of legislation prior to 1988

were medium based. That is, they were concerned with controlling pollution within a specific physical medium of water or air. The Environmental Contaminants Act (ECA) was a substance based piece of legislation. It was intended to control the use and disposal of particular chemical substances which could enter the environment and travel through ecosystems in a number of different ways. The ECA went almost nowhere in terms of implementation.⁶ CEPA is intended as an advance on this type of legislation. Product based legislation, an area of strong federal jurisdiction, is generally not administered by DOE, and instead the department has an advisory role to play. Examples of these types of acts include the Motor Vehicles Safety Act, administered by Transport Canada, and the Pest Control Products Act, administered by Agriculture Canada.

The legislative foundations of the department should be further sub-divided. The Fisheries Act, as Chapter 2 and 6 discuss, assigned potentially very strong regulatory powers to the federal government. It allowed DOE, at least in theory, to develop regulations to prevent the dumping of harmful pollutants into water frequented by fish. This Act underpinned much of the activities of the Environmental Protection Service. However, from very early on in the history of DOE, politicians and senior management did not, for various reasons, deploy this Act to any great extent, as we see in our discussion about the provinces below and in

Chapter 6.

The Canada Water Act and the Clean Air Act, by contrast, were "enabling" rather than "regulatory" pieces of legislation. They authorized or "enabled" the Minister to reach agreements with the provinces and industry on environmental problems. These acts were based on the spending power of Parliament and the knowledge and information capacities of the administering department. These enabling acts can be quite effective when budgets are comparatively rich, and/or new knowledge and information can appeal to the provinces or industry under technology transfer agreements, but the decline of these two organizational resources renders these acts much less operational. Chapter 2 and 3 showed how DOE budgets and knowledge and information declined sharply after 1975.

From Plans to Priorities

Due to the failure to advance the legislative foundations and other resources of the department, not much changed in the ten year planning of DOE. Between the release of the early discussion paper in 1972 and the completion of the first Strategic Plan in 1974, senior management had stuck with its determination that the legislative resources and other capacities of the department were limited.⁹ One senior official argued as late as the

early 1980s that, "the department was just not a major player". Another argued that the philosophy quickly became, "keep the public happy, but do the minimum". A long-standing middle level manager argued that, "the senior management who took over in the mid 1970s were good at not spending money and good at staying out of trouble".

The first completed plan argued that the means of the department to achieve its objectives were still essentially identical to the earlier discussion paper listing.¹⁰ Moreover, because there was no willingness to use regulatory powers under the Fisheries Act, you needed to spend increasing sums of money under enabling legislation. The plan called for some \$5.6 billion dollars in spending over ten years. This could simply not be accepted by the political centre of government and, in the end, by senior management of the department itself.¹¹

This experience had a tremendous impact on the later planning exercises of the department. Planning papers were significantly scaled down and became "Priority Issues Papers". A Draft Strategic Plan, dated 6 April 1981, noted the stark realities this way, "The government has established three overall priorities for the duration of its present mandate: the constitution, energy, and economic development".¹² It went on to argue that, "To achieve its objectives the department must rely heavily on the quality of information it provides to other departments, provincial

and territorial governments, and the public".¹³ Other options were largely foreclosed.

In the last of DOE's plans under the Liberal government's envelope system, specific "priorities" rather than grand "plans" began to emerge. In many ways these priorities reflected a new and more realistic strategic thinking on behalf of the department. Very high priority issues were said to be toxic substances, acid rain, the forest sector, water management, climate change, protection of natural heritage, and the North. The selection of acid rain and toxic substances as the top two priorities indicated a decision to promote issues that improved the public profile of DOE. The 1984-1989 strategic Plan captured the idea as follows,

"Seven Priority issues have been selected to receive special attention over the next several years. This selection was based on issues which have, or are likely to have, significant environmental, economic and social impact; which have a high degree of public concern; and which present opportunities for positive federal action".¹⁴

One ex-senior DOE official noted, "Environment was always looking for these issues to make themselves into something". The toxic substances issue, in particular, set in motion an initiative to secure one solid piece of environmental protection legislation for the department.

This new strategic thinking did, in fact, lead to the development of CEPA in 1988. The new legislation was

intended to correct weaknesses in the foundations of the department. The very fact that CEPA could be passed through Parliament proved that DOE was growing some muscle. We will discuss this further in Chapter 6. The extent to which CEPA will solve the schism between plans and legislation within the environmental policy sector, however, is yet to be seen.

DOE AND ALL THE OTHER FEDS

DOE's experiences in dealing with other sectoral government organizations contributed mightily to its self-assessments of marginal status during its planning exercises. The battle for political support and resources within the environmental policy sector was intense, and DOE usually lost. Moreover, one to one relationships with other government departments at the level of specific policies and programs hammered home the department's predicament as to its sectoral policy burden.

We have already seen how DOE was neglected by the centre of government: it was not mentioned in government throne speeches; it was positioned on the sidelines looking in at the Berger Commission; Prime Minister Trudeau, who had previously insisted that Fisheries stay as part of DOE, allowed Romeo LeBlanc to take it out of the department at considerable resource cost; ministerial musical chairs and the appointment of Blais-Grenier as Minister by the Mulroney

government; and the A base reviews and multiple waves of budget cuts, among others. All of these developments sent strong signals to other federal government departments and agencies that DOE was easy prey and could be shunted aside regarding the production and reproduction of their policies and programs.

DOE was also seen by many senior bureaucratic officials as at best a nuisance factor. After the Blais Grenier budget and public relations disasters, discussed in Chapter 2, the Neilson Task Force on Program Review furthered this perception. The Task Force was created by the Mulroney government to look into streamlining the federal bureaucracy, and these types of reviews had in the past meant very bad news for DOE. Ironically, however, the Task Force also played a major part in altering the image of the department within government.

The Task Force launched a special department study, in contrast to the other sector wide studies, to pull DOE into line.¹⁵ This special status can in part be explained by the rise in public concern over the environment after 1986, discussed in Chapter 2. There was also a prevalent perception that DOE was inept and a political loose cannon. The Task Force provided recommendations that were taken to cabinet by Tom McMillan as Minister.

These developments, along with others such as the work of the World Commission on Environment and Development, led

to a three part initiative on environmental issues in the immediate post-1986 period. In December 1986, Cabinet approved a Federal Environmental Quality Framework, an economy-environment partnership consultation strategy, and a proposal for a draft Environmental Protection Act, later to become CEPA. Signals were sent to other government organizations that DOE was becoming a bureaucratic player to be taken seriously. However, interdepartmental relations prior to these developments were not nearly as good and were far more indicative of the overall history of DOE.

One Treasury Board budget analyst captured the mood of federal government departments regarding DOE when he said, "DOE was far too long filled with too many people who thought they could practice pie in the sky environmentalism where everything was possible". DOE was simply not seen to be a good economic department under a dominant policy paradigm that envisaged all sectoral activities as subservient to a narrow conception of economics. The resistance of other government organizations within the environmental policy sector amounted to an enormous political struggle on several fronts for DOE.

Brief examples of the division of mandates between DOE and four other departments can serve as way of clarifying the policy sector conditions it encountered prior to 1986: Indian Affairs and Northern Development (DIAND) and the Ministry of Transport (MOT) in the mid-1970s period; Energy,

Mines and Resources (EMR) in the late 1970s and early 1980s period; and Industry Science and Technology (ISTC) and its predecessors in the 1970s and 1980s. Administrative arrangements and power relations with other government organizations, such as Fisheries, Forestry, and Agriculture, can also serve as important examples of the conditions faced by DOE officials, but they are analyzed in various ways in Chapter 3 and Part 4 of the dissertation.

Everything "North" is Northern Affairs

The division of DOE's mandate from DIAND's in the mid 1970s, at that time the Department of Indian and Northern Affairs (DINA), is a prime example of the constraints faced by DOE officials in the environmental policy sector. DINA was structured around three program areas, Conservation, Indian and Eskimo Affairs, and Northern Affairs, each of which had different working relationships with DOE.

DOE's relations with DINA's Conservation Program were generally good because DOE had a similar outlook on important conservation issues and was seen by it as a service agency. Conservation, which was essentially the Canada Parks Service prior to it becoming part of DOE, relied on DOE for research and advice on renewable resource and environmental protection issues. The Canadian Wildlife Service, for example, provided wildlife research and

management advice, and conducted other specialized research services under contract with Parks.

Indian and Eskimo Affairs similarly used DOE as a service, but in different ways. The department was used for research and advice on matters of indigenous trapping and hunting, commercial and domestic fishing, and renewable resource development projects. More importantly, however, DOE became a major ally in defence of the rights of native peoples to subsistence harvests of migratory birds. As we see in Chapter 8, the United States government and hunting groups argued that the native harvests of ducks and geese in Canada's North were responsible for the population decline of these birds, a position that proved to be untenable in light of the research done by the Wildlife Service.

Relations with the Northern Affairs Program, however, were not nearly as benign. As far as DINA was concerned, administration of Canada's northern territories was the core of its mandate and was only its responsibility in conjunction with the territorial governments. Northern Affairs was a quasi-provincial government service, and many of DOE's conflicts with the Program took on the character of federal-provincial jurisdictional turf wars.

Northern Affairs possessed its own horizontal powers, and was responsible for coordinating the activities of federal government departments in the Yukon and the NWT. It was also responsible, in conjunction with MOT, for the

administration of the Arctic Waters Pollution Prevention Act. These unique characteristics contributed to continuous friction whenever DOE tried to act within its mandate on a national basis. Many of the most pressing environmental problems were found in the fragile ecosystems of the northern territories, and on these issues DOE usually ran into a stone wall.

The constraints that DOE officials experienced regarding DINA were addressed directly by one confidential DOE document that noted, "There is some degree of coordination with DINA required in connection with virtually every facet of all DOE programs...Working relationships with the Northern Affairs Program are, in general, not satisfactory".¹⁶ DOE encountered DINA across its entire mandate and conflicted with the development agenda of Northern Affairs, including issues surrounding the Berger Commission.

On these matters, DOE was successfully marginalized in part because of the signals DINA was receiving from the political centre. In the mid to late 1970s, a very high priority was being placed on development in the North, and DINA had established a very elaborate committee system to coordinate federal activities on a range of issues, many with important environmental implications. DOE management argued that these, "taxed DOE's ability to contribute".¹⁷ The end result was continuing concern about, "the weight

given to DOE input to the various committees".¹⁸ One senior DOE official described the situation this way, "DIAND's relations with us were a constant struggle because they wanted to run their own show and we could usually do little about it".

The containment of DOE, as we will see in Chapter 7, arose most clearly in the Environmental Assessment and Review Process (EARP). DOE concluded, "DINA was very reluctant to recognize that the EARP process was approved by Cabinet and is a government-wide process".¹⁹ Northern Affairs delayed EARP for as long as it could, and pushed hard for self-assessment of environmental impacts on a range of resource development projects. DINA also refused "to give notice in advance of mega-projects so that there was time for baseline studies", and resisted DOE involvement on water management and land use issues because they were seen as additional obstructions to its development mandate.²⁰ On one very critical issue it was concluded,

DOE has had very little effective impact on environmental matters into DINA's process of issuing licenses, permits, leases, and drilling authorizations under the Canada Oil and Gas Land Regulations.²¹

We will have more to say on this issue in our EMR example below.

Trying to Arrange Transportation

Mandate divisions between DOE and the Ministry of Transport (MOT) constitute a somewhat different example of the problems faced by DOE. Struggles between the two departments tended to arise out of detailed policy and program activities within specific commercial sectors, rather than around a general geographical space. MOT strongly and effectively resisted DOE's efforts to integrate environmental concerns into a range of transportation issues of importance to its clientele. The Transport department was not about to have transportation arranged by anyone else but itself, not even a little.

In the mid-1970s, MOT was a large department encompassing Marine, Air, and Surface Services as well as the Arctic Transport Agency and the Transport Development Agency. The Minister of Transport was also responsible for Air Canada, Canadian National Railways, the Canadian Transport Commission, the National Harbours Board, the Northern Transportation Company Limited, and the St. Lawrence Seaway Authority. In each of these service areas, specific policy and program decisions had very significant environmental implications. The quality of DOE's relationships with the Transport services varied, but rough waters were much more common than smooth sailing. Part of this could be explained by the size of the two departments

in terms of personnel, but much of its was explained by ambiguities in the division of mandates between the two departments.

There were numerous areas of interface and overlap between DOE and MOT including: automobile emission controls; control and clean-up of oil spills in navigable waters; enforcement and legal action resulting from environmental emergencies in navigable waters; environmental assessments of major projects such as new harbours and airports; impacts of high flying aircraft on the stratosphere or ozone layer; transportation of dangerous goods; and ice reconnaissance and weather forecasting. Each of these areas of dependency required difficult and time consuming negotiations whenever DOE attempted to move on them. Transport controlled many key organizational resources which DOE had to find some way to win over, but MOT was rarely tolerant of DOE interference.

One confidential DOE briefing document, dated 4 July 1975, discussed the sectoral constraints as follows,

a client-oriented and traditional (freedom of the seas and all that) attitude by some elements in MOT results in legitimate requirements of other departments being given a very low priority.²²

DOE encountered MOT whenever it tried to develop program responses to a range of specific pollution problems. The discharge of vessel wastes in fisheries waters, and cargo controls on the volume of potential pollutants that could be

carried on any one time, became very contentious issues. Transport would argue that it had responsibility under the Canada Shipping Act, and DOE should back off.

MOT was also one of the lead agencies opposing implementation of the federal EARP process, as we see in Chapter 7. On this point, and regarding MOT's efforts to develop a national transportation policy in the mid-1970s, DOE senior management was briefed as follows,

Indications are that MOT are not taking environmental impact assessment and energy conservation too seriously in spite of their official agreement to abide by the EARP process. As you are aware, the May 13 Cabinet submission on the new Transportation Policy paid only lip service to environmental assessment, appears to assume accelerated extraction and export of resources for the short and medium term, and is basically an economically oriented document; to the detriment of environmental matters. The submission was approved by Cabinet without the addition of a principle referring to the importance of environmental considerations and energy conservation that we had been pressing strongly for.²³

DOE attempted a series of agreements with MOT to clarify the statutory and general program responsibilities of the two departments. Efforts were made to establish a cooperative and coordinated approach to major environmental problems related to transportation. However, more often than not the relationship remained one of DOE attempting to arrange transportation with a horse drawn cart as MOT stormed by in a gas guzzling sports car. In that regard,

Energy, Mines and Resources (EMR) was more often than not in agreement with MOT.

Energy has Money to Burn

Throughout the late 1970s and early 1980s, DOE's activities in relation to EMR became the extreme example of the department's marginalization within the environmental policy sector. EMR itself was brought closer to the centre of government only after the first energy crisis in 1973. After the crisis, and in line with the Trudeau government's resource led economic development strategy, EMR's policy functions were strengthened. It became a department almost exclusively for energy development, and later for mega-projects.²⁴

DOE had from the outset urged the need for environmental assessments of energy projects, but its EARP procedures were under continuous attack and were underdeveloped. At the same time, the Trudeau government was giving EMR money to burn and sending numerous signals to other government departments to get out of the way. As a result, DOE's impact on energy issues was virtually nil.

DIAND was also seen to be in bed with EMR. The tendency was for sectoral departments to gang up on DOE in defence of their common interests in energy development. No government organization was going to welcome a "new" range

of troublesome interests and concerns within their policies and programs, especially when they did not have to.

In 1979 and 1980, EMR reached its pinnacle culminating in the National Energy Program (NEP).²⁵ The Program at best paid lip service to environmental precautions and encouraged wholesale energy development through spending and the tax system. One exchange between DOE and EMR in 1978 and 1979 captured the tone of the relations between the two departments at a time when EMR was king.

In 1978 DOE produced a study of offshore oil and gas development that was intended to, "serve as a basis for constructive interdepartmental discussion".²⁶ It set out what was seen to be the evidence on the environmental problems and threats of offshore oil development and was sent to EMR for comment in late 1978. EMR's response was less than kind and illustrated its total contempt for any suggestion that environmental issues should be thrust into the government's energy development agenda. EMR's response from its Coordinator of Environmental Affairs on 27 November 1979 dismissed DOE as follows,

At this stage, I am not asking for, nor am I interested in, great baseline studies or philosophical statements about environmental capacities, etc. Also, I am not too interested in the rigours of the process of environmental screening or how individuals wish to define it, or whether a project should go to FEARO for formal review. Those that qualify for a Panel are few and readily identifiable.²⁷

EMR officials were being sent signals from their own senior management and the political centre to keep the ball rolling on energy development. One past EMR policy officer put it this way, "we could not believe the level of advocacy coming out of DOE that had no sense of economics, people just could not be bothered". The dominant policy sector paradigm was in full swing and this characterized the EMR-DOE power relations on a range of environmentally important issues. Part of this must be explained by DOE's weakness in economic and policy analysis. Another part must be explained by the fact that EMR was given the nod by the political centre. DOE was clearly marginal to this alliance.

Other EMR program areas were equally hostile to DOE involvement. In matters of nuclear energy DOE was simply not a factor at all. One DOE official concluded that, "there was simply no way we could play a role in that one". These issues were in the hands of quasi-independent agencies that were placed firmly outside the EARP process, as we will see in Chapter 7, and guarded with enthusiasm by EMR. Atomic Energy Canada Ltd. (AECL) and the Atomic Energy Control Board (AECB) were not about to let DOE in on their health and safety and environmental regulatory functions even as advisors. DOE's silence on nuclear issues was based on a continuous political judgement that nuclear energy was too big and technical an issue to take on under sectoral

conditions of declining organizational resources and scientific capacity.

Industry Has Other Problems

DOE's relations with the department of Industry, Science and Technology (ISTC) in the 1970s and 1980s is also a revealing example. ISTC, and its predecessors the Departments of Regional Industrial Expansion (DRIE), Regional Economic Expansion (DREE), and Industry Trade and Commerce (ITC), developed a reputation for not allowing environmental concerns to get in the way of industry's other problems. For example, ITC became the vocal "lobby within" in urging a go slow approach to regulating the pulp and paper industry in the 1970s. In short, ISTC was very good at protecting its most environmentally damaging industries over any DOE initiatives.

DOE had decided that the pulp and paper industry would be the primary regulatory target after 1971. It was by far the heaviest polluter of Canada's waters, specifically "those frequented by fish". No other industrial sector was even close in terms of volume of effluents and urgency and visibility of effects.²⁸ The politics of this regulation became very difficult between DOE and ITC and impacted heavily upon the tone of all their other relations. ITC also lobbied hard in defence of the chemical industry when

it was being challenged by the Environmental Contaminants Act (ECA) in 1975. The ECA proved unworkable, as we noted above and discuss in Chapter 6, and this served to deepen the tension and conflict between the two departments.

The pulp and paper industry lobby, not surprisingly, pushed for the lowest common denominator in regulations emanating from DOE. The Canadian Pulp and Paper Producers Association included not only the new technologically advanced plants, but also the old polluting plants that were going to be very costly to bring into line with regulatory standards. The Association, and individual company executives, pressured federal ministers, ITC, and the provincial governments to force DOE to temper its regulatory demands.

ITC and the provinces became very expert at portraying the pollution problems as less significant than they were, and the "economic climate" as being unsuitable for action "at this time". This contributed heavily to regulatory compromise and minimal action for many years. DOE was able to make some environmental gains with ITC around the Pulp and Paper Modernization Program, but this program was primarily an economic competitiveness initiative intended to help the industry compete with foreign competition.²⁹

As for DREE and the regional domain, its approach was also one of attempting to prevent the incorporation of environmental issues into its relationships with the

provinces. For example, DOE attempted to have DREE add environmental conditions to the general regional development agreements (EKDAs) that it had with the provinces. The resistance experienced by DOE was intense and continued under the aegis of DRIE in the mid 1980s.

In correspondence in 1986 between the deputy ministers of DRIE and DOE, the views of DRIE can be seen very clearly. The DRIE Deputy Minister indicated that, "we are prepared to support the inclusion of references to reflect the importance of environmental considerations in Schedule A of the ERDAs, provided that the provinces agree".³⁰ However, DOE was not going to get strict wording, "aimed at illustrating a clear commitment to balance between economic and environmental considerations". DRIE considered this attempt to balance environmental and economic criteria as a, "misapplication of a major federal-provincial economic instrument (the ERDAs) to implement federal environmental objectives". The dominant policy sector paradigm instructed that environment and economy were separate, and they should largely stay that way according to DRIE.

The same correspondence reserved its strongest opposition to DOE on the issue of the, "industrial potential of the environmental protection industry". DOE had submitted a proposal to cabinet that it assume a role in promoting these industries for the good of environmental policy, and DRIE protested strongly against what it saw as

infringement on its mandate. The DOE proposal reflected in part a realization of the growing importance of these industries, and in part a tactical move by DOE to gain more leverage with DRIE.

In the end, DOE was compelled to back off when DRIE/ISTC agreed to make the environmental industries sector the subject of one of its, "industrial sector initiatives".³¹ The impact of this over time has been to alter the balance of power within ISTC, and to lead it to react less defensively to some environmental policy initiatives. Suddenly, part of its clientele had an interest in the environment.

ISTC remained suspicious of DOE after 1986, but the opposition had to be less overt and aggressive. Environmental issues were being pulled closer to the political centre, and ISTC, like other departments in the policy sector, wanted to make sure that it could benefit from increasing its own "environmental activities". The Industry Department's posture became one of waiting and watching carefully as DOE's standing in government improved. At the same time, it sought to keep DOE in check regarding the division in departmental mandates. One ISTC policy officer noted, "We just want to make sure DOE is not trying to do something ISTC should be doing".

THE PROVINCES ARE EVERYWHERE

Relations with the provincial governments played a major role in shaping DOE's plans and activities across its entire mandate. They were literally everywhere. Virtually every chapter of the dissertation touches upon and fills out the specifics of these administrative arrangements and power relations. As already noted, this is because DOE and federal environmental policy cannot be discussed and analyzed except in some relation to the provincial governments.³² One senior DOE manager put it this way, "We could often ignore some firms in our regulatory battles, but you could never ignore the provinces, and industry knew this".

The Canadian Constitution Acts left ample room for intergovernmental conflict over environmental policy. The constitution, as Table 5 shows, did not assign environmental jurisdiction to either level of government. Environmental policy in practice is a concurrent jurisdiction derived indirectly from other constitutional powers.³³ But, it is the provincial control over natural resources that has provided that level of government with considerable leverage regarding DOE's mandate.

Table 5Legislative Powers of Parliament and Provincial Legislatures
Relevant to the Management of Environmental AffairsPowers of Parliament:

- federal lands and Indian reserves (includes administration of any non-provincial territories);
- taxation and spending (taxation powers and leverage through expenditure policies);
- interprovincial and international trade and commerce (environmental control is an indirect result of regulating trade under federal authority);
- census and statistics (information used to influence national standard setting);
- navigation and shipping; seacoast and inland fisheries (indirect vehicles for federal environmental regulation);
- agriculture and immigration (concurrent with provinces);
- criminal law (allows Parliament to legislate the protection of human life and safety; facilitates the development of national standards);
- railways and other works and undertakings of an inter- or extra-provincial nature, and works of multi-provincial or national importance (environmental control is an indirect result of regulating certain industries or transportation modes);
- treaty powers (the federal government is the sole Canadian signatory authority and implements Empire treaties); and
- general powers - laws for the Peace, Order and Good Government of Canada (Parliament can exercise authority under emergency, residual and national dimension doctrines).

Exclusive Powers of the Provincial Legislatures:

- public lands; the exploration for, development, conservation and management of non-renewable natural resources and forestry resources in the province; the development, conservation and management of sites and facilities in the province for generation and production of electrical energy;
- property and civil rights;
- local works and undertakings;
- municipal government and facilities;
- all matters of a local or private nature;
- education; and
- agriculture and immigration (concurrent with Parliament).

* Source: Constitution Act, 1867, Part VI, "Distribution of Legislative Powers", as amended by subsequent Constitution Acts to and including the Constitution Act, 1982.

In Chapters 2 and 3, we analyzed several federal-provincial power relations that contributed to the marginalization of DOE within the environmental policy sector, including: by as early as 1972 the Trudeau government was already sending signals that DOE should go soft on environmental regulation in favour of peaceful economic relations with the provinces; in 1974, and under increasing fiscal pressure, the order came down from the political centre to sign accords with the provinces that diminished the federal presence in environmental matters; the white paper exercise of 1978 defined a new role and mandate for DOE that reflected a decision to defer to the provinces; conflicts between the Environmental Management Service and the Environmental Protection Service originated in large part with EMS's desire to avoid regulatory battles with the provinces typical of the EPS "white knights"; the complaints of the Fisheries Service that DOE was not nearly forceful enough with the provinces on Fisheries Act regulations; the split of the Forestry Service from DOE was undertaken to give the federal government a higher profile vis a vis the provinces in a large and important resource sector; and, the Lands Directorate and the Federal Lands Policy withered in part because of provincial arguments about the "feds staying out of our jurisdiction in land".

Some additional empirical generalizations about federal-provincial environmental policy relations are

provided below. The character and quality of the relations tended to vary across three factors: first, the different types of legislation administered by DOE; second, the policies and programs for water pollution, air pollution, environmental impact assessment, and wildlife management; and third, the larger and smaller provinces.

We'll Regulate and Enforce and You Can Bring Money

The relations between DOE and the provinces tended to be captured well by the adage often heard from provincial officials, "we'll regulate and enforce and you can bring money". DOE tended to encounter relatively extreme resistance whenever it attempted to regulate activities falling within provincial boundaries. The provinces preferred that the federal government act through enabling legislation whenever it sought to address environmental problems of national or cross-provincial importance. On local environmental problems, the provincial governments varied as to whether they wanted "the feds in our business" at all. This was particularly the case regarding water pollution, but also held true in other areas of the department's mandate, such as environmental impact assessment and wildlife management, as we see in chapters 7 and 8.

DOE's efforts in water pollution consumed a large part

of the resources set aside for environmental protection and yet was the area where provincial sectoral constraints proved most severe. As noted above and discussed extensively in Chapters 2, 3 and 6, DOE moved on water pollution through the Fisheries Act, a potentially very powerful regulatory piece of legislation. The Act was used in the "end of pipe" control of polluting emissions harmful to fish, and tended to involve firms that were the chief employers of small and medium size communities, such as in the case of the pulp and paper industry. It could also involve industries connected to municipal sewage systems where the provincial governments became especially defensive. Any regulatory action by the federal government was usually met with strong resistance from a coalition comprised of industry, the provinces, and, as we saw above, some federal government departments. The provinces were usually the most vocal.

However, the provinces did differ as to the extent of their resistance to federal involvement in regulating, monitoring and enforcing environmental standards. But, in general, federal-provincial conflicts tended to increase as provincial capacities to respond on their own grew through the 1970s and 1980s.

Quebec asserted its autonomy on environmental matters in an across the board fashion. Provincial environment officials became very assertive over the independent

administration of Fisheries Act provisions within Quebec's boundaries. Heated battles also arose over any attempt by the federal government to involve itself in development projects through the federal Environmental Assessment Review Process. Moreover, environmental policy could not easily be distinguished from the various constitutional reform initiatives occurring throughout the 1970s and 1980s.

Ontario, by contrast, tended to exhibit far more cooperation with DOE while at the same time competing for public political credit as to who could move farther and faster. Officials from both governments participated in some of the more successful DOE initiatives surrounding the Canada Water Act and Great Lakes water quality. But, conflicts did develop around Ontario's complaint that because it had more organizational capacities than DOE in many areas, "why do the feds want to get involved anyway?" Ontario, as the argument followed, could take care of itself and would implement national standards more effectively than the federal government at any rate.

Alberta and British Columbia tended to be sensitive about federal involvement in regulating environmental standards within resource industries. Alberta, as can be imagined, was especially protective regarding any incursions into the oil and gas industry, its primary economic base. It also did not appreciate federal regulation of the pulp and paper industry which provincial politicians and

officials defended with some considerable zeal.

British Columbia protected the forest industry with a great deal of energy as well. Some of the most severe battles faced by Jack Davis were with British Columbia politicians and public servants who wanted the federal government out of the economic heart of the province, particularly regarding issues of sustainable harvesting and pulp and paper industry pollution. Like Alberta, B.C. wanted base line national guidelines which they would implement, and perhaps go beyond, where and when it was feasible and in the province's interest to do so. Sometimes, however, it was in the interest of these provinces to cooperate with the federal government and DOE, and this provided some balance to the relations that evolved.

The smaller provinces of the Prairies and the East tended on average to be more cooperative regarding federal involvement within provincial boundaries, with the exception of Newfoundland which became conflictual over some issues. Manitoba, for example, established a solid reputation for cooperation on environmental policy matters across the board. The smaller governments were often happy to see DOE carry the load for their provinces in meeting basic water and air quality standards. However, on the issue of large scale resource development projects and environmental impact assessment, relations began a turn for the worse in the

1980s, as we see in Chapter 7.

Several efforts were launched by DOE over its history to stabilize and make more predictable its administrative arrangements and policy relations with the provinces. Chapter 2 noted that negotiations were launched under a 1974 cabinet decision to develop federal-provincial environmental accords. In 1975, seven provinces signed accords, but Newfoundland, British Columbia and Quebec did not reach an agreement with DOE. Newfoundland declined largely on constitutional grounds as did Quebec. British Columbia would not sign because it was not happy with federal activities under the Fisheries Act.

DOE's review of the accords in 1983 concluded that they, "have demonstrably not been essential to good environmental performance nor have they been conducive in themselves to cooperation or the development of further specific agreements. Their value is mainly symbolic".¹⁴ In short, the relations between DOE and the provinces remained for the most part determined by other economic and political dynamics. But, one important effect of the accords was to legitimize the general withering of DOE's independent regulation and compliance capacities after 1975, as we implied in Chapter 2 and discuss in Chapter 6. Under the accords, one could always argue that, "the provinces were handling it", although often nobody was.

There were some important exceptions to federal-

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provincial turf battles over environmental matters. DOE encountered major resource dependencies vis a vis the provinces across its entire mandate, but under the enabling provisions of the Canada Water Act (CWA) some of these were overcome. The provisions of the Act were applied primarily to Great Lakes water quality issues and some significant early gains were made in cooperation with Ontario, as noted above.

DOE and the province worked closely in 1972 to limit phosphates, and other products such as wetting agents, water softeners, and industrial cleaners, that were having a massive detrimental effect on the Lakes. Money was also procured under the Act to conduct research on residual mercury resulting from the operation of chlor-alkali plants. But, enabling legislation, as noted in Chapters 2 and 3, tended to be highly susceptible to limits in discretionary budgets and new knowledge and information, both of which began a steep decline in DOE after 1975. The provinces would argue, as many DOE officials said, "if you can't come with money, don't come at all". This slowed the pace of water quality improvement.

Similar dynamics surrounded the Canada Air Act (CAA), but on average air issues tended to be comparatively less controversial than water issues in federal-provincial relations. This is because these problems were seen as less scientifically and technically complex, at least in their

early form as "black smoke". Further, air pollution could be more quickly identified by the public as a threat to human health, thereby compelling intergovernmental cooperation and action.

A couple of other dynamics were at play regarding air issues. The capacities of the Atmospheric Environment Service were something the provinces needed and could not hope to reproduce. As Chapter 6 notes, the provinces often sought federal involvement to set national air quality standards to prevent a pollution haven effect from developing between provinces. The CAA, and DOE's officials responsible for air pollution, were also much clearer on delegating enforcement authority to the provinces and this ruffled fewer feathers and made conflicts less likely. However, as air pollution problems became increasingly international and complex in the 1980s, surrounding such issues as acid rain and global warming, relations became more difficult to manage adding to DOE's overall policy burden within the burgeoning environmental policy sector.

Relations with the provinces surrounding the Federal Environmental Assessment and Review Process (EARP) never came close to approaching the level of cooperation that surrounded the CWA and CAA enabling provisions. EARP was watched very closely by provincial politicians and officials who feared federal government interference in resource development projects. Many of these projects implied some

impact upon federal jurisdiction, such as in the case of the Fisheries Act and "waters frequented by fish".

Federal-provincial conflicts over EARP were relatively less intense in the 1970s, because EARP was still very fledgling. But, by the mid 1980s, the stakes increased dramatically. As we see in Chapter 7, the June 1984 EARP Cabinet Guidelines Order triggered a new awareness about the potential of federal environmental impact assessment. Federal Court rulings on the Order, regarding the Rafferty-Alemeda and Old Man River Dams, appeared to the provinces as their worst case scenarios coming true. For DOE, the resulting intensification of provincial resistance meant another taxing constraint.

DOE's involvement in wildlife management attracted less attention in federal-provincial relations, but is perhaps the most extreme case of constraint on DOE. As Chapter 8 discusses regarding migratory birds, whenever the Canadian Wildlife Service (CWS) attempted to act it ran up against provincial jurisdiction over wildlife habitat. This forced the CWS to work closely with the provinces, and partnership arrangements became a prerequisite for any progress at all.

Many of the legislative resources of DOE ended up being unworkable in part because of federal-provincial dynamics. As Chapter 6 discusses, part of the impetus for the Canadian Environmental Protection Act (CEPA) was to correct shortfalls in federal environmental legislation regarding

relations with the provinces.

CEPA included provisions designed to assert a more substantial federal presence in environmental regulation. DOE capacities to monitor and enforce were to be improved in the post-accords period. However, the provinces, through intense back room pressure, were able to insert the concept of "equivalency agreements" into CEPA. "Equivalency" essentially means that federal regulations under CEPA were not to apply if a province had similar standards in place. But, as the history of DOE would suggest, equivalency agreements are very difficult to negotiate within the administrative arrangements and resource dependencies of the environmental policy sector. If DOE cannot reach agreements with the provinces, the conditions for conflict and constraint remain. The dominant policy sector paradigm is also continually reinforced by the regional interests of the provincial governments who "are closer to the need for jobs".

CONCLUSIONS

This chapter analyzed DOE's policy "burden" within the environmental policy sector. The department's ability to plan, set priorities, and achieve its goals was shown to be highly dependent on the organizational relations and conditions of the policy sector. Other federal government

departments and the provincial governments control resources vital to the sector, and rarely saw any incentive to cooperate with DOE. Sectoral policy practices, reinforced by the dominant policy sector paradigm, were largely reproduced up to 1986 and a period of gradual transition.

Section 1, looked at how DOE internally interpreted its capacities to respond to the sectoral policy burden. An "inward looking outward" analysis of the department's planning and priority setting exercises showed that senior management elected for a very conservative approach to sectoral relations. Legislation was seen as lacking and few other prospects for aggressive action and change were available. As time passed, "grand plans" were scaled down to "priority issues" intended to help improve the profile of the department within the policy sector. A higher political profile was seen as essential to mobilizing power vis a vis other government organizations who had been resistant to change.

Section 2, looked specifically at DOE's relations with other federal government departments. Four examples were provided to illustrate how DOE had to attempt to coordinate and achieve goals within a sector typified by a relatively uncoordinated and nonhierarchical system of control over vital resources. This enormous constraint was made more difficult by the signals being sent by the political centre and the dominant policy sector paradigm of economic

development. Other federal government departments were not about to incorporate a new range of policy values and interests if they were not forced to. Environment was seen as marginal.

Section 3, provided an overview of DOE's relations with the provincial governments. The provinces varied in terms of the resistance they offered to the department's initiatives, but federal-provincial conflict in general tended to intensify in the late 1970s and 1980s. Money and new knowledge and information declined as a way of buying peace and cooperation, and conflicts surrounding regulation and environmental impact assessment were constant challenges. In short, the provinces were a major constraint across DOE's entire mandate, and sectoral conditions only worsened as the provincial governments improved their own environmental policy capacities.

ENDNOTES

1. See Environment Canada, "Outline of an Action Plan for Environment Canada", December 12, 1972. It is marked "For internal use only" and became one of the key discussion documents at the beginning of the "Ten Year Planning Exercise".

2. See Environment Canada, "Summary Listing of the Outline of the Action Plan". Marked for "internal use only". Dated 1972.

3. Regarding the earlier planning exercises one long-standing senior official commented, "We thought we would be able to identify the problems and bring in policies to address them...I guess you would have to conclude it failed."

4. See Environment Canada, "Analysis of Departmental Action Plan", January 15, 1973. On the front of the document is a memo from Les Edgeworth, Assistant Deputy Minister (ADM) of EPS, to Evan Armstrong ADM of Finance and Jean Lupien Senior ADM of DOE.

5. Ibid.

6. See Environment Canada, "Memorandum" entitled "Outline of an Action Plan for Environment Canada: A review by the Fisheries Service". The memo was sent by the Senior Assistant Deputy Minister of the Fisheries and Marine Service to Dr. E.R. Tinney, Director General of Policy and Planning on January 16, 1973.

7. See Environment Canada, "Whither We Goeth?". This document was a reply to the completed action plan of 1975. Its specific origins and date within the department are not known, but it was established through interviews that it expressed a widely held sentiment within the department.

8. Ibid.

9. See Environment Canada, "A Ten Year Action Plan for Environment Canada, 1975-1985", February, 1974.

10. Ibid.

11. Ibid.

12. See Environment Canada, "Draft Strategic Plan", April 6, 1981.

13. Ibid.

14. See Environment Canada, "1984-1989 Strategic Plan", Op Cit.

15. See Study Team Report to the Task Force on Program Review, Improved Program Review: Environment. (Ottawa: Minister of Supply and Services, 1986).

16. See Environment Canada, "Briefing Notes for the Deputy Minister: Indian and Northern Affairs", July 4, 1975.

17. Ibid.

18. Ibid.

19. Ibid.

20. Ibid.

21. Ibid.

22. See Environment Canada, "Briefing Notes for the Deputy Minister: Ministry of Transport", July 4, 1975.

23. Ibid.

24. See G. Bruce Doern and Glen Toner, The Politics of Energy. (Toronto: Methuen, 1984).

25. Ibid.

26. See Environment Canada, "EMR Review of: " A Study of Environmental Concerns: Offshore Oil and Gas Drilling and Production", February 12, 1979. This memorandum was written by the author of the study after DOE received EMR's scathing comments.

27. See the letter sent from EMR by R.G. Skinner, Coordinator, Office of Environmental Affairs, to Jag Maini, Chairman, Energy Review Group, DOE, on November 27, 1979.

28. See William F. Sinclair, Controlling Pollution From Canadian Pulp and Paper Manufacturers: A Federal Perspective. (Ottawa: Environment Canada, 1988).

29. See K. E. de Silva, The Pulp and Paper Modernization Program: An Assessment. (Ottawa: Economic Council of Canada, 1988).

30. See the letter from Deputy Minister of Regional Industrial Expansion to Deputy Minister of Environment, August 19, 1986.

31. See Industry Science and Technology Canada, Environmental Industries Sector Initiative Workplan for 1989-1990. (Ottawa: ISTC, 1989).

32. This is true within all major federal policy sectors and has been extensively discussed and debated in the political science literature. For examples see: S.I. Bushnell, "Constitutional Law, Property Rights, and the Control of Natural Resources", Canadian Bar Review, Vol. 58, (1980), pp. 157-169; John Richards and Larry Pratt, Prairie Capitalism: Power and Influence in the New West. (Toronto: McClelland and Stewart, 1979); Richard Simeon, The Division of Powers and Public Policy. (Toronto: University of Toronto Press, 1986); and, Garth Stevenson, Unfulfilled Union: Canadian Federalism and National Unity. (3rd ed.) (Agincourt, Ontario: Gage Educational, 1988). For a recent account in the area of environmental policy, see Grace Skogstad and Paul Kopas, "Environmental Policy in a Federal System: Ottawa and the Provinces", in Robert Boardman (ed.), Canadian Environmental Policy: Ecosystems, Politics, and Process. (Toronto: Oxford University Press, 1992).

33. See Dale Gibson, "Constitutional Jurisdiction over Environmental Management", University of Toronto Law Journal, Vol. 23, pp 54-87.

34. See Environment Canada, "Federal-Provincial Relations Within Environment Canada: An Overview", Intergovernmental Affairs Directorate, March, 1982.

Chapter 5

CLIENTELE SUPPORT AND INTEREST COMMUNITY DILEMMAS

Another major problem faced by DOE throughout its history was found in its relations with the interest community of the environmental policy sector. Comparatively speaking, DOE lacked a consistent and supportive relationship with an organized and influential interest group clientele. This became a major constraint in power relations with other sectoral organizations, such as the Energy and Transport departments, that could always seem to draw on alliances with vested interests.¹ As noted in Chapter 1, the ability of a government organization to achieve its goals within a policy sector is largely dependent on a self-sustaining network of allied sectoral interests.

DOE's relations with its most likely clientele, the environmental non-government organizations (ENGOS), revealed a constant internal tension. The ENGOS were pushed and pulled as the department grappled with a serious dilemma: the environmental groups were DOE's most promising source of interest community support for environmental programs, and yet they were also the harshest public critics of the department. Some DOE officials fixated on the ENGO tendency to turn on them or their Minister with politically

damaging media attacks. However, others sought alliances with the groups in search of a better balance of power within the environmental policy sector.

DOE's relations with business interests were also very problematic. The department required the cooperation of business in many of its environmental programs because of the economic and political importance of that constituency. However, business interests tended to see DOE as an economically illiterate department, and an adversary in many high profile areas of its mandate. This presented the department with a second serious dilemma: business was simultaneously a necessary participant in many DOE initiatives, and the most conservative force favouring a go slow position on environmental policy.

DOE was caught between two interest community extremes: the media driven demands of the ENGOS, and the business demand that policy change be gradual. Walking the "fine green line" between these two typical positions proved debilitating, because neither side was ever content with the balancing act, and both claimed a feeling of alienation from the department. DOE also felt alienated from the interest community, which it could never seem to satisfy, and often responded by pulling back. This exacerbated the department's decline into a marginal status within government and the environmental policy sector.

This chapter analyzes DOE's relations with the sectoral

interest community, and completes our discussion of the dissertation independent variables. The lack of a supportive clientele contributed mightily to the marginalization of the department and the environmental policy it sought to promote. The analysis is divided into three sections.

Section 1, provides a brief overview of the organizational diversity of the ENGOS, and the political tactics that they employed within the environmental policy sector. A basic understanding of the ENGOS is necessary for grasping the first "dilemma", and the push and pull dynamic that ensued between DOE and the groups.

Section 2, looks at DOE's relations with business. Business interests could often ignore the department and tended to enjoy privileged access to ministers and department officials. However, at times, business was also challenged by DOE as it sought to take advantage of new economic and political circumstances favouring environmental policy change. Whenever challenged, business moved to have economic concerns thrust into the debate, and DOE minimized as a threat to vested interests. The analysis of this second "dilemma" also allows us to carry forward the discussion of the last chapter regarding the resistance to change of powerful organizations within the sector.

Section 3, looks at the evolution of DOE's policy towards the ENGOS in relation to the concerns of business.

Perhaps the most striking aspect of this evolution was that it remained largely undocumented and lacked an institutional memory. It became formal and institutionalized only in the second half of the 1980s when the policy sector shifted to a more open pluralistic mode of representation.

THE ENGOS: DIVERSITY AND FRAGMENTATION

Throughout much of its history, DOE was unable to benefit from the presence of a broadly representative ENGO voice. The ENGOS were organizationally diverse and fragmented, and lacked a central coordinating body. With few exceptions, the groups fell into one of two broad types: those that viewed DOE as largely marginal to their primary goals; and, those that saw no reason to trust any government organization at all.

There were three main reasons for ENGO diversity and fragmentation: the free rider problem; the character of environmental problems in the 1970s and early 1980s; and, philosophical diversity.²

The free rider problem involves a situation in which ordinary Canadians are able to benefit from the work of the ENGOS, that is the public goods they produce, without ever having to join or pay fees to the groups.³ As a result, a vast majority of ENGOS stood on very tenuous financial ground, and often simply disappeared. Unsympathetic ENGO

observers within government and business argued that the groups were an unreliable fad that would pass.

Environmental problems in the 1970s and early 1980s had an impact on the ENGOS in a related way. As Chapter 2 noted, environmental policy during this period was dominated by local and regional problems, and this encouraged single or local issue environment groups. ENGOS of this type would often rise and decline with the life cycle of the local problem, and the resources of the groups remained highly dependent on spontaneous public reaction and participation.⁴ Community support often proved fickle, and the ENGOS appeared even more unstable as a result.

Activists within local environment groups tended to spend all of their time and money on the immediate problem at hand. One prominent Canadian environmentalist noted, "in the 1970s we would be working away on our local and regional problem and did not even know if there were other groups doing the same in other parts of the country". Groups were divided by the sheer geographical size and diversity of the country, and this discouraged organizational links between them.⁵

Philosophical diversity was also prominent within and amongst the groups. We can identify at least four different types of philosophies: conservationism; environmentalism; preservationism; and, ecologism.⁶ Any one ENGO was usually a mix of these value systems with one being

dominant. Further, each of these philosophies presented DOE with a different set of challenges regarding relations with the ENGOS, and made the entire situation more unpredictable.

The Conservationists

Conservationism has had a very long history within Canada and several influential ENGOS.⁷ One key to understanding the development of this philosophy is that it was born out of disputes within the political and economic establishment of the 19th century. Conservationists, including many prominent community leaders, developed conservative positions in defence of commerce and leisure activities undertaken within wilderness areas, such as sport fishing, hunting, trapping, bird watching, and touring. The formation of the Royal Commission on Fish and Game, set-up in the 1880s and reporting in 1892, and the Federal Commission of Conservation, established in 1909 by Wilfred Laurier and Clifford Sifton, reflected a growing popular concern.⁸

Since the late 1970s, conservationism has shown up in well known works by the Club of Rome, specifically Limits to Growth, and the Science Council of Canada's, Canada as a Conserver Society.⁹ It has also dominated within several prominent Canadian ENGOS such as the Canadian Wildlife Federation, Ducks Unlimited Canada, Nature Conservancy of

Canada, and the Canadian Nature Federation. Each of these groups is a mix of philosophical positions, but their strong tendencies towards conservationism heavily influenced their political tactics within the environmental policy sector, and their historical relations with DOE.

In comparative terms, the conservationist groups have always been the rich kids on the ENGO block. This is a result of their relatively more conservative traditions and politics. Their financial independence has allowed them to adopt strong autonomous policy positions vis a vis DOE, and they earned preferred access to decision makers.¹⁰ The leadership of these groups generally avoided going public within the media about their concerns and complaints. They preferred to work quietly through consultations, general public education, research on specific environmental problems, and the private acquisition of habitat. The tendency to treat the media as a last resort lent them a more sympathetic DOE ear. Other ENGOs compensated for their less plentiful resources, and the lobbying power of business, through high profile media tactics. They were generally less concerned about angering DOE officials.

However, there were three main reasons why DOE's relations with the conservationist groups remained resistant to institutionalization. Firstly, the relative conservatism of these groups did not mean that they always avoided seriously challenging the department on politically

sensitive issues. This was seen, for example, with the Canadian Wildlife Federation and its court challenge of the Rafferty-Alameda Dams, discussed in Chapter 7. Cases like this became major political controversies, attracted wide media coverage, and significantly challenged ministers and officials. In the end, these and other events gave support to those within DOE who subscribed to the ENGO "pit bull" theory, and urged the department to avoid becoming too chummy with even the most conservative ENGOs.

Secondly, the conservationist groups tended to see many components of DOE as unimportant to their major goals at any rate. As one long-time conservationist noted, "We had no idea what those guys were doing over there. We just had nothing to do with them, and only wished we had their resources". The department's marginalization within the environmental policy sector had set a catch 22 situation in motion: the lack of a strong clientele weakened DOE in the power relations of the sector, and yet DOE's marginal status made it a less attractive lobbying target and ally for many of the established and stable ENGOs. Conservationists were at least as likely to lobby other federal government departments or the provincial governments where many major development initiatives took form.

Thirdly, the Parks and Wildlife services were the primary DOE contact points for conservationist groups, and they had unique histories within the department. The Parks

Service, as Chapter 3 discussed, did not become a part of DOE until 1979, when DOE-ENGO relations slowly began to change. Prior to the "Parks Swap", conservationists looked to the department responsible for Indian Affairs and Northern Development where Parks had been, and DOE could not benefit from those more traditional relationships. The Wildlife Service for its part, was a very small component of the department, and worked, as Chapter 3 and 8 discuss, independently of the rest of the department. This further fractured DOE's collective memory about how to interact with the ENGOS.

The Environmentalists

Environmentalism is a far more recent development than conservationism dating back primarily to the late 1960s and early 1970s.¹¹ Environmentalists focussed on urban and industrial pollution issues and, as Toner notes,

The 1970s was a conflictual period. The "first wave" of environmentalism gave rise to a series of pointed and vehement confrontations, as newly formed groups and coalitions challenged governments and industry over a wide range of pollution and development issues. The growth in environmental consciousness was triggered in part by the publication of works such as Rachel Carson's Silent Spring ...¹²

The history of the environmentalist groups also closely paralleled the history of DOE itself. They went through a

late 1960s and early 1970s period of growth, a decline into marginalization after 1974-75, a late 1980s period of massive membership expansion, and a shift in focus towards national and global environmental problems in addition to local and regional ones.¹³ Environmentalists played a major role in encouraging the Trudeau government to create DOE, and drew their early strength from 1960's demands for political, social and economic reforms. In Canada, we find environmentalism thriving within many prominent ENGOS such as Green Peace, Friends of the Earth, Pollution Probe, and Energy Probe.

The dilemma that DOE faced vis a vis the ENGOS in general, reached its apex with the environmentalist groups. Firstly, in the "lean years" of the 1970s, many environmentalists were forced to expend all of their time and energy on group survival at the local and regional level. These problems usually implied contacts with local or provincial government, and political organization at a national level did not logically follow.

Secondly, environmentalists appeared to DOE officials as the perennial blue ribbon winners in the "pit bull breeders cup". Many of the groups, although adhering to legitimate liberal democratic political practices, took their fight for change directly to the public via the media. Their screams of protest, publicity stunts, and harsh criticisms of government and business, regularly caught DOE

flush on the chin. The use of the media was a strategy designed to compensate for limited capacities to participate in other traditional lobbying practices, but many DOE officials did not see this side of the argument.

There was, however, a range of political orientations and tactics at play amongst the environmentalist groups. Some groups sought to swim against the current of mistrust and pursued more traditional avenues of access to DOE decision makers. But, DOE's own lack of resolve on these relations, and the antipathy of business towards environmental advocacy, made this road a difficult one to travel. The experience of these constraints forced many environmental activists back to media driven publicity stunts.

The Newer Challenges

Ecologism and preservationism are more recent bodies of thought and have presented DOE with somewhat different challenges. Preservationism originated as a radical faction within conservationism. More recently, it has evolved on its own towards favouring no growth solutions rather than the sustainable use and best technology solutions supported by conservationists.¹⁴

Ecologism is also still in its infancy. It holds little faith in the environmental intentions of government

or industry, and supports a complete transformation of society. Anarchist and return to nature solutions are seen as the only way to turn back man's ecological degradation. Writings within "deep ecology" have developed these ideas most fully.¹⁵

At the core of preservationism and ecologism is a belief that non-human life has its own intrinsic value and a right to remain undisturbed by man. As Toner notes, the argument is made that man should, "move away from our philosophical roots in anthropocentric reasoning towards a new biocentric philosophical foundation...humans have no right to reduce the richness and diversity of nature except to satisfy vital needs".¹⁶ These views have dominated in a few small groups such as Earth First, and have also influenced the conduct of other environmentalist and conservationist ENGOS. But, adherents of what O'Riordon has labelled "ecocentrism" remain a small minority.¹⁷

Preservationists and ecologists impacted on DOE beyond what their small numbers would seem to have warranted however. Sympathetic DOE officials were often put on the defensive as ministers and senior bureaucrats were challenged in high profile media events. Matters became even worse when Earth First type activists threatened illegal acts of civil disobedience. Unsympathetic DOE officials pointed to these events as the classic example of "how it will never be possible to satisfy the ENGOS". The

ENGOS that did attempt to develop relations with DOE came under extremist attacks for having participated in a "sellout of nature". Government and industry were portrayed as partners in the destruction of the natural world.

In sum, the diversity and fragmentation of the ENGO community added another degree of difficulty to the sectoral conditions faced by DOE. Some ENGOS simply saw DOE as marginal to their primary goals, while others saw no value in institutional arrangements with any government organization, and preferred the role of independent critic. It did not logically follow for many ENGOS, particularly the local environment groups, that DOE should be their representative within government circles. A peak ENGO organization did not emerge in the 1970s, and there was no strong and vocal interest community support for DOE policies and programs.

BUSINESS: A CONSERVATIVE FORCE TO CONTEND WITH

DOE encountered vested interests across virtually its entire mandate, and, from policy creation to program implementation, business was by far the most effective at demanding that it be heard. For this reason, virtually every chapter of this dissertation either directly or indirectly refers to this core interest community relation. However, some general properties of DOE-business relations

can still usefully be identified within three time periods: the early 1970s; 1975 to 1985; and, the late 1980s. Glen Toner has noted a similar flow of events,

In general, business tends to be a conservative force, and, with few exceptions, throughout the 1970s and the recessionary early 1980s, made only marginal and grudging adjustments to business practices in pursuit of environmental objectives. The first wave of environmental regulation in the early '70s focused some industry attention on pollution problems, but it was only with the advent of environmental concerns into the societal mainstream in the late 1980s, that business turned its attention to the issue in a major way.¹⁸

In the early 1970s period, business was caught off guard and had to play catch up as DOE and environmental policy experienced explosive growth. It quickly secured privileged access to ministers and DOE officials, but relations with the department grew strained as new policies and regulations were pushed forward by broader political pressures. Jack Davis, as Chapter 2 and 6 discuss, encountered major problems with his early regulatory initiatives, and as one senior DOE official noted, "Business always said, what are you going to do? How will it impact on our industry? Give us some more time for new investment or you are going to drive us into the ground."

In the post-1975 period, business largely had its own way with environmental policy. From 1975 to 1978, wage and price controls were in place to bring down double digit

inflation. In 1979 to 1981, the second energy crisis hit home with a doubling of oil prices. Then in 1982, the worst recession since the 1930s added a further blow. It was not difficult for business to argue that it should not be hit with new environmental policy demands. As discussed in Chapters 2 and 4, these arguments found a sympathetic ear in the Trudeau cabinet. The ENGOS were less politically significant within the country, and the public began to focus on the country's mounting economic problems.

In the second half of the 1980s, business was again challenged by a rejuvenation of DOE and environmental policy. Governments were encouraged to move on environmental policy by several important political developments discussed in previous chapters. Environmental policy could no longer be seen as totally marginal because reform was threatening. Some business enterprises, the fledgling environmental protection industries, even saw it in their economic interest to support stricter environmental policy and regulation.¹⁹

Battles With Business

Business won most of its battles with DOE in large part because of its internal cohesion and sheer lobbying power. Its uniting goal was always the profitability of individual companies and plants, and its lobbying resources were never limited by the ENGO free rider problem. Regionally concentrated industries such as pulp and paper, asbestos, or oil and gas, also enjoyed the strong support of provincial governments which especially resented the activities of the Environmental Protection Service (EPS). As one senior DOE official noted, "Business-government relations were the big problem for EPS. What we saw was considerable use of the provincial governments by industry. This was a very effective counter-attack." Other federal government departments also threw their hat into the ring in support of clientele industries.

Another reality in DOE-business relations was the inevitable dependence that any social regulator has on the regulated. Regulators always require up to date information on the economic conditions faced by an industry, and the specifics of the production processes within a plant or class of plants. In a capitalist liberal democracy, this information can only come from the regulated industry itself. The regulating department cannot simply take it.

DOE's dependence on industry was reflected in the

industrial "task force" approach used by EPS in developing pollution control standards. One EPS official noted, "the fact is, we need the very industry we are regulating." Regulatory task force members were usually nominated by the main industry associations. In return for cooperation, business sought considerable control over the process, and this was reflected in the exclusion of the ENGOS from consultations. Another senior EPS official noted, "the environment groups were simply not a factor, they were not consulted at all in the early days".

EPS regulators were usually led towards the lowest common denominator of regulatory standards. Plants within an industrial sector are very complex, are at different stages of modernization, and are not equally profitable.²⁰ These are real structural barriers that limit the regulator, cannot be known by him or her in their entirety, and are debated as to the risks and trade-offs involved. The information provided by the regulated industry also forms the basis for negotiation, and the uncertain gamble is one of "driving plants into the ground" and "putting jobs at risk". Information obscurities thereby become a strategic advantage to the industry that is resisting further regulatory pressures.

In most cases EPS regulators pushed as far as they dared. The regulatory process, as Chapter 6 discusses, involved heated battles over "best practical technology" or

"best feasible technology" to prevent pollution discharges from going into the air and water. Progress varied across industrial sectors, but most gains were made in the early period of the 1970s. However, from the mid-1970s on, EPS regulators were under strict instructions to back off the industries that claimed economic duress, and to defer to the provinces on regulatory compliance.

Business opposition to DOE regulation intensified during the forging and implementation of the Environmental Contaminants Act (ECA) in 1975. The ECA was virtually neutered through the intense lobbying of the chemical industry. The legislation required the pre-testing of new chemicals for their impact on public health and the environment, but it had virtually no teeth and was given little administrative support. It was the continuing dissatisfaction with this law, and the exponential increase in toxic substances found in the air and water, that later contributed to the passage of the Canadian Environmental Protection Act (CEPA) in 1987.

The ECA struggle helped set the stage for the "dark years" between 1975-1985. The Fisheries Act amendment battles of 1977, also discussed at length in Chapter 6, was the low point in this second period for DOE. Business, supported by the provinces, launched a massive lobby to turn back reforms designed to make the Act more flexible for regulations. The department subsequently went into retreat

until the late 1980s.

However, DOE's relations with the business community were not always of the regulatory type. EPS had a long history of difficult relations with industry because the Service's job required that it move those who were not willing to move. The struggles that ensued tended to sour the overall picture of DOE-business relations.

The Parks Service, by contrast, faced a business constituency that was far more varied in its reactions to Parks policy. Some business interests clearly worked against setting aside park lands because of the loss of access to raw resources, but there were numerous small tourist businesses that prospered in and around Canada's national parks and wanted more of them. Parks tended to find itself surrounded by three clusters of interests: environmentalists and native Canadians who sought maximum parks protection of lands and wildlife except for subsistence purposes; local workers and small businesses who saw the park as a source of jobs and tourist business; and, the resource industries who wanted the parks, or at least a part of them, open for resource extraction.

The Federal Environmental Assessment and Review Office (FEARO) also experienced somewhat different relations with business. FEARO's job, as Chapter 7 discusses, was to oversee the Environmental Assessment and Review Process (EARP), and in attempting to do so it was seen as "resisting

change" unlike EPS which was seen as "forcing it". Business wanted other federal government departments and the provincial governments to contain the EARP upstart. They especially resisted efforts to bring the ENGOS and public consultations into EARP as a means of more fairly balancing policy values within the process.

Finally, the Atmospheric Environment Service (AES) had the most straightforward relations with business, because it was a clear service provider at no cost to the user. The media, transportation, and tourist industries, among others, all benefited from AES activities. The Service was barely noticed when it wanted to expand its activities, but, as with all "free services", it encountered opposition when it wanted to reduce or introduce user fees. As one AES official noted, "in the early 1980s when we tried to introduce the concept of user fees we met a storm of resistance from the television and radio stations."

Therefore, even in the AES case, business could retain its overwhelming posture towards DOE as a whole: ignore it when it doesn't "force or resist change", and demand that it move slow and see the economic argument when it does act. Moreover, seeing the economic side was rarely viewed to be compatible with an "irrational" ENGO involvement. DOE officials had to be almost surreptitious in their efforts to build a clientele base that, they hoped, would give the department more political weight within the environmental

policy sector.

THE ENGO POLICY?

DOE cannot be said to have had a general institutionalized policy on the ENGOS until well into the 1980s. Instead, the department had a amalgam of veiled and fledgling "policies" that were of two basic types: the isolated positions adopted by individual ministers and senior officials; and, the incremental approaches developed within DOE services and around key issues such as Acid Rain. In each case there were calculations made as to how far relations with the ENGOS could be pushed. Business and other government departments were easily alerted, and the ENGOS could never "fully be trusted".

Jack Davis began the department's long tradition of pushing and pulling the ENGOS. His early concern with the environmentalist point of view led to the formation of the Canadian Environmental Advisory Council (CEAC) in 1972. CEAC was composed of leading environmentalists who were to advise the Minister on threats to the environment, and possible policy responses. The Council also played a significant role in formalizing DOE's relations with the ENGO community. However, for most of the 1970s CEAC budgets were extremely small, and, as one senior environmentalist noted, "CEAC could not do much for us and many of the groups

even thought of it as a body designed to coopt them".

The department's early regulatory struggles drew Davis's attention away from the ENGOS and towards relations with business. His appointment of Robert Shaw as Deputy Minister revealed this primary concern. Shaw had been Canada's senior official at Expo '67 in Montreal, and Davis was attracted by his business contacts. One ex-senior manager of the department noted, "Jack Davis wanted someone who could get out there and explain the department's goals in business language to the business community."

Romeo Leblanc, for his part, considered the environment groups as an impossible constituency for a department with no possible clientele. The Fisheries Service, which did have a clientele, was in his view not about interest groups that wanted environmental programs, but about serving the fisheries industry. This involved water protection programs, and the Service could "better serve" its clientele if it could get a divorce from DOE's "abstract" environment side. Similar dynamics surrounded the Forestry Service as "natural resource manager".

The pulp and paper regulatory story is a prime example of how DOE-ENGO relations simply did not take root in the 1970s. Vast amounts of DOE resources, and the Minister's time, were consumed in this regulatory process, and yet the ENGOS were not in the picture at all. ENGOS were out of sight and out of mind as regulators participated in endless

power plays with industry, other federal government departments, and the provincial governments. One EPS official noted, "the environmental groups were just seen as additional complications in the process."

Fortunately, senior managers of the department did vary in their response to the ENGOS. While Robert Shaw had little time for them, Blair Seaborn's sympathies were less uniform and changed over time between the mid-1970s and the early 1980s. In the 1970s he, like the ministers he served, was caught up in endless regulatory battles with industry and the provinces. But, by the end of the decade, the ENGOS appeared to him as attractive allies, particularly around the flagship issue of acid rain.

The "Non-Policy" of Surreptitious Assistance

Seaborn was instrumental in having CEAC assist the ENGOS in building coalitions and creating a central organization. Under the direction of John Fraser, he started distributing funds to the groups through, as one past recipient put it, "questionable contracts with the Communications Directorate". ENGOS were ostensibly to produce a report on a specific subject, but the real goal was to provide surreptitious financial contributions towards their general maintenance. This was done on a "need to know" basis because many MPs within the Clark government, as

well as some DOE officials, resisted any involvement with the groups. The logic was that delicate negotiations with industry could only be derailed.

Jacques Gerin, as Deputy Minister from 1982-1986, was also sympathetic towards the ENGOS. He continued the Fraser-Seaborn tradition of surreptitious "communications contracts", and did everything he could to add resources to the pot at a time when DOE itself was under an intense resource squeeze. Charles Caccia, in his year as Minister, supported his Deputy to the fullest, and additional means were found to absorb the photocopying and long-distance telephone charges of the groups. But, after 1984, as noted in Chapter 2, Gerin ran headlong into Suzanne Blais-Grenier's budget cutting enthusiasm. The Minister forced senior management to spend all of its time fighting the internal turf wars and external public relations disasters that followed her every decision. The funding of the ENGOS could never be formally institutionalized.

The failure to institutionalize DOE's relations with the groups had implications beyond the tenure of Gerin and Blais-Grenier. One prominent environmentalist noted, "DOE never had an institutional memory about the groups. Every time there was a new team at the helm we would have to start all over again." This phenomenon was seen most clearly while Genevieve Ste. Marie was Deputy Minister even though her Minister, Tom McMillan, proved to be relatively

supportive of the ENGOs overall.

When Ste. Marie took over the department she expressed a great deal of concern over the surreptitious funding of the Fraser-Seaborn-Gerin tradition. As far as she was concerned these arrangements transcended Treasury Board guidelines at a time when the Mulroney Conservative government was promoting a big business agenda and watching the bureaucracy like a hawk. She elected to put an end to the funding with, as one environmentalist put it, "Absolutely no consultation at all. There was a tremendous feeling of "I told you so" throughout the ENGO community".

In response to the ENGO protest, Ste. Marie agreed to reinstate some "legitimate funding" that was going to be "basically equivalent". However, when she contacted the DOE regional offices regarding how much they had been spending under the old arrangements, managers were afraid to admit the totals. This was because the previous funding arrangements had already been announced as "a breach of T.B. guidelines". One senior DOE official concluded, "they under-estimated the commitment and it later added to about \$150,000. Even this put some government MPs in the embarrassing position of having to complain when some regional ENGO received \$500 and was so happy it went to the press to publicly thank the department." Advocacy was to be opposed no matter how insignificant.

Tom McMillan did attempt to improve relations with the

ENGOS in other ways however. After taking over the department, McMillan appointed Elizabeth May, a prominent Canadian environmentalist, as a policy advisor and "ambassador to the ENGOS". May was promised that the department would have 2 million dollars to help support the environment groups. But, in the end, there was no budgetary room to manoeuvre and only the original \$150,000 was free of existing program commitments. The strategy became one of helping the smallest groups who were working on important regional issues but could not raise adequate resources on their own. McMillan, as Chapter 2 discussed, had to attempt to make progress on initiatives that did not cost much money.

Services, Issues and Special Relationships

Attitudes towards the ENGOS also varied across services and core issues within DOE. For example, the Environmental Assessment and Review Process (EARP), as Chapter 7 discusses, was an area where the department sought a more institutionalized process of ENGO involvement. Ray Robinson, as Chairman of FEARO, wanted the ENGOS to serve as a public monitoring mechanism for the EARP process, and was strongly resisted by other federal government departments and the provincial governments. But, Robinson's earlier period as Assistant Deputy Minister of EPS illustrated less

concern for ENGO consultations and funding. In large part, this was because business and government resistance to ENGO involvement in environmental regulatory issues could be far more extreme.

The Parks Service was also somewhat of an exception to DOE's distinctly limited ENGO relations. As noted above, when Parks came into DOE in 1979 it exposed the department to a different way of interacting with some of the more established conservationist ENGOs. Parks officials contracted ENGOs for a wide range of projects, and after severe capital budget cuts, accepted voluntary parks work from local groups. ENGO cooperation was won over through a strategy of consultations and the odd dispersal of project funds. The Wildlife Service, as Chapter 8 discusses at length, developed similar practices although it ventured even further down the road towards full "partnerships" with the conservationist ENGOs.

The Acid Rain story is the clearest example of an issue area deviation from the general pattern of DOE-ENGO relations. As noted in Chapter 2, Acid Rain was a flagship environmental problem for the department in the "dark years" after 1975. Under this initiative the department slowly built up new practices by its support of the Acid Rain Coalition of environment groups. John Fraser had originally encouraged the Coalition idea as a domestic lobby for fear that the issue might fall off the Trudeau government's

agenda after 1979. But, John Roberts, and later Tom McMillan, expanded the idea and launched a Coalition lobby of American Congressional and Senate representatives. This was a strategy that went well beyond both traditional ENGO funding practices and the typical Canadian approach to quiet diplomacy with the American government. As one prominent environmentalist put it, "the Acid Rain Coalition benefited from this being DOE's core agenda. They were an exception along with the CEN."

The Canadian Environmental Network (CEN) was a product of DOE's internal efforts to economize its fledgling and uneven relations with the ENGOS. Under Blair Seaborn's management, CEAC was encouraged to help the environment groups get organized for DOE consultations on toxic contaminants legislation held throughout 1981 and 1982. This led to the ENGOS establishing in 1982 an initial national steering group that received relatively more generous funding. From the beginning it served an important, albeit fledgling, communications clearing house function for DOE. The group later became more important during the CEPA and EARP legislation consultations, and in 1987, it was formally incorporated as the Canadian Environmental Network.

However, in areas such as Pulp and Paper regulation, the sudden arrival of the ENGOS around the table in the early 1980s sent negotiations into a deep freeze. Industry

representatives felt that the "new way of doing things" left them at a disadvantage because DOE was, as one EPS official put it, "seen to be in league with the ENGOs". This was to some extent true, because DOE officials were beginning to use environmentalists as an asset in regulatory politics. But, a more substantial break in DOE's approach to the ENGOs and public consultations had to await 1984 and what came to be known as the Niagara Process. Prior to this, business remained highly effective in resisting ENGO involvement, and was not yet forced by public opinion to see things differently. DOE was walking on a very thin green line as it edged closer to the groups in search of allies.

Toxics, the Niagara Process and "New Rules of the Game"

When Charles Caccia became Minister in 1983, he handed his officials a list of about 25 items he wanted addressed. Two of these were improved legislation on toxic substances, primarily a continuation of efforts to reform the Environmental Contaminants Act (ECA), and a conference on jobs and the environment. Later these two initiatives were rolled into what became known as the Niagara Process. The experience of this process significantly shaped all DOE's future public consultations.

The Niagara Institute, a private organization specializing in conference planning, was asked to run the

Niagara Process. Initially, business interests were resistant to getting involved with the Institute's plans, but were later won over by shifting public opinion towards pollution, and DOE's assurances that their interests would receive a prominent billing. It was decided that the first Niagara event would be a discussion on "plant modernization", signalling that environmental protection measures were going to take industry profitability openly into account.

The Process reached a starting point while Suzanne Blais-Grenier was Minister, but was given its major impetus from the top when Tom McMillan took over. MacMillan, as Chapter 2 notes, wanted to be seen to be doing something when he could not hope to regain DOE's lost budgets, and the Niagara Process and reforms of the ECA fit the bill. But, in January of 1985, the initial meeting of about fifty representatives drawn from business, the ENGOS, labour, and the federal and provincial governments, ground to a halt. All sides presented extreme negotiating positions as they felt each other out. Glen Toner concluded that, "there was a serious problem with language, participants from different groups simply did not speak the same language, they did not have the same understanding of the problem, nor did they have the basis to trust each other".²¹

However, it was decided to give the exercise another try. This was done by setting up four working groups which

were given four months to prepare reports: Group 1, was to prepare a "Niagara Manifesto"; Group 2, was to work on establishing common language; Group 3, was to work on data sources to provide the meetings with a common information source; and Group 4, was to address the specific problem of toxic substances rather than a general issue.²²

Not surprisingly, the first three groups were able to come up with some general results, but the fourth ran into the power politics so common to DOE's regulatory history. Business interests, mainly the large chemical companies, felt that DOE was being too much of an advocate with its "cradle to grave solution", and the ENGOS were still perceived as far too much of a lose cannon in the entire process, particularly as talk turned too real economic issues and real plants and production processes. One senior DOE official noted, "the real strength of the Niagara Process was not that we were achieving much on toxics but that people at least began to talk, it was a watershed that the rules of the game had changed".

The process of change was also greatly effected by Tom McMillan in a somewhat accidental way. As Chapter 6 discusses, in August, 1985, a mass of black oily substance was found floating near the bottom of the St. Clair River downstream from a Dow Chemical plant. The media coverage was extensive and McMillan felt enormous pressure to be seen to be doing something. But, when he turned to his officials

and asked what he could do about the "Toxic Blob", the answer was "nothing!" under the existing laws.

McMillan responded to the "Blob" incident with a toughly worded speech that indicated that he wanted new legislation on toxics as soon as possible. The stakes were raised from reform of an old piece of legislation that had rarely posed any serious threat to industry, to an entirely new kettle of fish. Suddenly, it became necessary for business to be around the table at all times so that it could attempt to manage the alliances for "fast change" that were developing.

After several intense rounds of consultations and negotiations, the Niagara process did yield a first draft statute that eventually became the Canadian Environmental Protection Act (CEPA). The final CEPA took two additional rounds of consultations that drew much from the Niagara lessons. The consultations allowed what one prominent environmentalist called, "a fair hearing for environmentalists at least initially, because they were given money to participate". Another lesson for all concerned was that the mode of representation within the environmental policy sector had become more open and pluralistic for the foreseeable future.

Other Influences for a Pluralistic Mode of Representation

DOE had become more sensitive to the rights and value of the ENGOS as a result of the Niagara Process. Other influences also converged in an uncoordinated and interactive way to encourage change. DOE became more rigorous in its relations with the ENGOS without having to face the opposition of a uniform business bloc. Three developments took on particular importance and contributed to a more open pluralistic mode of representation within the sectoral interest community.

Firstly, the articulation and popularization of the sustainable development concept by the World Commission on Environment and Development (WCED), supplied the intellectual starting point for diverse interests to come together on environmental policy issues. One example of this was the National Task Force on Environment and Economy, and the many Roundtables that followed from its recommendations.²³ The ENGOS were integrated into these organizations to an unprecedented extent. The new Niagara "rules of the game" were in full play on the back of increasing public support for environmental protection.

Secondly, several large industrial sectors, such as grocery chains and communications, slowly began to publicly differentiate themselves from the "dirty" industries in the second half of the 1980s. The environmental protection

industries also began a slow but steady pattern of growth that could only be spurred by more, and not less, government regulations for environmental protection.²⁴

And thirdly, green consumerism began to have a direct market impact on the worst polluting industries, such as chemicals and pulp and paper, forcing them to take more progressive stands on environmental protection. This included a trend towards auditors, lenders, and securities regulators increasingly monitoring companies as to their current and future environmental liability within the market place and the courts. These pressures, in the end, will be far more significant than what any one regulatory department of government can hope to achieve.

Because of these and other less significant developments, it became easier for DOE to seek and benefit from alliances with the ENGOS. The power relations of the environmental policy sector gradually shifted more in the department's favour as a result. However, history has given us ample reason for caution as to future predictions. The ENGOS remain dependent on voluntary financial contributions, and DOE, in the end, equally depends on a favourable wave of public opinion that could ebb. Further, there are many serious environmental problems yet to be faced that promise to raise the stakes for all concerned with no predetermined outcome. The ENGOS will not only be allies of the department, but will continue to challenge it and as a

result strain relations.²⁵ The department will also come under intense pressure to limit its support of advocacy when the issues cut closer to the "economic bone".

CONCLUSIONS

DOE's dilemmas within the interest community of the environmental policy sector at times appeared almost insurmountable. The ENGOS for their part were unable to overcome their diversity and fragmentation to begin to communicate with the department and see common interests. DOE officials were also wary of getting too close to the "pit bull ENGO clientele" while business and other government organizations were watching closely. In the end, this had a discernable impact on environmental policy failure during the period under study, weakened the department in its sectoral power relations, and severely limited how far DOE could go in promoting major policy initiatives.

It was only under the pressure of changing public opinion in the second half of the 1980s that the department's room for manoeuvre began to widen. At that time, toxic contaminants scares, transformations in the ENGO community, and other influences allowed the department to slowly begin building new institutionalized relationships with the environmental groups. Elements of the business community also began to see DOE less uniformly as an

adversary and more as a significant player in the changing context of sustainable development. Some industries even saw benefit in strict environmental policy change while others were forced to participate in a more open pluralistic mode of representation because the public demanded change through politics and in the market place of "green consumerism". DOE moved closer to the centre of government, and environmental policy, such as CEPA, was suddenly on the government's order paper.

However, the next Part of the dissertation provides additional case study evidence that the history of DOE up to 1988 was primarily one of marginalization. The three case studies of Part 4 span the three broad category types of environmental policy: policies that regulate existing industrial processes, such as with pollution control regulation; policies that monitor and constrain new development activities, such as with environmental impact assessment; and, policies for land and wildlife conservation and management. They also consider in detail the impact that limited organizational resources, policy sector resistance, and the lack of a strong and supportive clientele had on the capacity of DOE to achieve major goals within its mandate.

ENDNOTES

1. See Michael Whittington, "The Department of the Environment", in G. Bruce Doern, ed. Spending Tax Dollars. (Ottawa: School of Public Administration, Carleton University, 1980), Chapter 5. This is an early perspective on DOE's lack of a clientele.
2. For discussions of these problems the way leading environmentalists saw them, see Donald Chant, "A Decade of Environmental Concern; a retrospective and prospective", Alternatives, Vol. 10, No. 1, (Spring/Summer 1981), pp. 36-40, and Probe Post, "The Environment and Environmentalism: Our Progress, Problems and Prospects", Probe Post, Vol. 11, No. 4, (Winter 1989), pp. 10-40.
3. See Mancur Olson, The Logic of Collective Action. (Cambridge, Mass: Harvard University Press, 1971). This is a classic in the development of the "free rider problem" idea. Also see Claus Offe and Helmut Wiesensthal, "Two Logics of Collective Action", in Claus Offe (ed.) Disorganized Capitalism. (Cambridge: Cambridge University Press, 1985).
4. See Tom Conway, "Challenges Facing Canadian Environmental Groups in the 1990s", in Brian Tanguay and Alain Gagnon (eds.) Democracy With Justice: essays in honour of Khayyam Zev Paltiel. (Ottawa: Carleton University Press, 1992).
5. Ibid.
6. See Tom Conway, "The Concept of Sustainable Development", in Don Rowat (ed.) The Crisis of Environmental Degradation. (Ottawa: Carleton University Press, 1989), Robert Pahlke, Environment and the Future of Progressive Politics. (New Haven: Yale University Press, 1989), and Glen Toner, "The Canadian Environmental Movement: A Conceptual Map". Unpublished Paper, Carleton University, 1991, for discussions of the philosophies and historical evolution of the environmental groups.
7. See Pahlke, Ibid., chapter two.
8. See Janet Foster, Working for Wildlife: The Beginning of Preservation in Canada. (Toronto: University of Toronto Press, 1978).
9. Science Council of Canada, Canada as a Conserver Society. (Ottawa: Science Council, 1977), and Donella H. Meadows et. al. The Limits to Growth: a report for the Club of Rome's Project on the Predicament of Mankind. (New York:

Universe Books, 1972).

10. See Glen Toner, "Whence and Whither: Engos, Business and the Environment". Unpublished Paper, Carleton University, 1990, pp. 19-20.

11. See Conway, "Challenges", Op. Cit., and Toner, Op. Cit..

12. See Toner, "Whence and Whither", Op. Cit., p. 3.

13. See Conway, Op. Cit., and Toner Ibid..

14. See Toner, "The Environmental Movement", Op. Cit., p. 4.

15. Ibid., pp. 6-7 and Bill Devall and Gerge Sessions, Deep Ecology: Living As If Nature Mattered. (Salt Lake City: Peregrine Smith Books, 1985).

16. See Glen Toner, "The Canadian Environmental Movement", Op. Cit., p. 5.

17. See Timothy O'Riordon, Environmentalism. (London: Pion Limited, 1981). For similar accounts see David Pepper, The Roots of Modern Environmentalism. (London: Croom Helm, 1984) and Michael Redclift, Sustainable Development: exploring the contradictions. (New York: Methuen 1987).

18. See Glen Toner, "A Background Report on Business in the '90s". Unpublished Paper, Carleton University, 1991, pp. 3-4.

19. See Toner, Ibid., p. 16-17.

20. See Tom Conway, "Taking Stock of the Traditional Regulatory Approach", in G. Bruce Doern (ed.) Getting it Green. (Toronto: C.D. Howe Institute, 1990).

21. See Toner, "Whence and Whither" Op. Cit., pp. 9-12.

22. Ibid., p. 10.

23. See Michael Howlet, "The Round Table Experience: Representation and Legitimacy in Canadian Environmental Policy-Making", Queen's Quarterly. Vol. 97, No. 4 (Winter 1990), pp. 580-601.

24. See Paul Brown, "Target or Participant? The Hatching of Environmental Industry Policy", in Robert Boardman (ed.) Canadian Environmental Policy: Ecosystems, Politics, and Process. (Toronto: Oxford University Press, 1992).

25. For a discussion of recent developments in the environmental lobby, see Jeremy Wilson, "Green Lobbies: Pressure Groups and Environmental Policy", in Robert Boardman (ed.) Canadian Environmental Policy. (Toronto: Oxford University Press, 1992).

PART 4

CASE STUDIES OF MAJOR ENVIRONMENTAL POLICIES

Chapter 6

THE REGULATION OF EXISTING INDUSTRIAL PROCESSES: EPS AND ITS STRUGGLES FROM FISH TO CEPA

As we saw in Chapter 3, the only completely new organizational component at the formation of DOE was the Environmental Protection Service (EPS). EPS was assigned the responsibility of being the "regulatory arm" of the new department. The difficulties it encountered in trying to set environmental standards and control pollution from industry and other sources speaks volumes about the difficulties faced by DOE as a whole throughout its history. EPS became the "point man" in an apparently endless sectoral struggle where resources were always wholly inadequate and resistance was experienced on several fronts simultaneously.

This Chapter begins our extensive analyses of the three broad category types of environmental policy referred to in the Introduction. It analyses DOE's efforts to "regulate existing industrial processes". The next two chapters focus on the other categories of environmental policy: "policies that monitor and constrain new development activities", and "policies for land and wildlife conservation and management".

The Chapter has three sections each of which address a different time period in the history of EPS pollution control regulation. The first section, is an analysis of

DOE's early regulatory mandate and the first political battles with industry and other government organizations within the environmental policy sector. It concludes with the promulgation of the Environmental Contaminants Act (ECA) in 1975 as a first response to the "new" toxic contaminants. The second section, discusses the post-1975 regulatory defeats suffered by EPS. Of primary interest is the intense federal-provincial conflict that surrounded the Fisheries Act reforms in 1977. After this struggle, DOE's regulatory activities went into almost total withdrawal for a decade. The third section, discusses the more recent changes in DOE's regulatory agenda which were inspired by growing public concern over pollution, particularly toxic contaminants. It maps DOE's efforts to develop the Canadian Environmental Protection Act (CEPA) as a response to past pollution control problems, and concludes with a discussion of the organizational resources of EPS as environmental regulator.

The Chapter analysis revolves around three factors. The first factor is changes in environmental problems. EPS's regulatory agenda was altered over time as a direct result of the type and complexity of the pollution problems being encountered, and how the media and the general public were interpreting priorities. We can see, for example, how the impetus for the ECA, and later for CEPA, was that existing legislation was not adequate for addressing the

"new" toxic contaminants. Toxics were becoming an increasing public health threat and attracting broad media and public concern, particularly as related to Great Lakes water quality and the coastal fisheries.

The second factor is the difficulty in regulating fixed capital investment and powerful industrial interests. Much of the history of EPS environmental regulation can be explained by the character of the industrial processes and interests targeted for regulation. Companies with heavy fixed capital investment in industrial processes cannot change over night, often because of technological or financial limits. Time delay, with all of its environmental implications, becomes associated with the environmental regulatory process. Moreover, political power exercised by industrial interests, and aided by federal government departments and the provincial governments, added to the regulatory delay, particularly as related to job blackmail in single industry towns.¹

The third factor, is the limited resources of EPS as environmental regulator throughout its first twenty years. EPS as "regulatory arm" has never possessed the resources adequate to the range of battles being waged. Leadership from the political centre has been akin to a boxing coach ordering his fighter to contest the three round fight with one arm tied behind his back. Resource scarcity, including the lack of money and staff for enforcement and knowledge

gathering, has contributed mightily to a situation where environmental regulation has never lived up to expectations in the history of DOE.²

TRADITIONAL REGULATION AND THE EARLY LEGISLATIVE MANDATE

Traditional environmental regulation first evolved around what one ex-senior DOE official called, "the first generation industrial pollution problems such as sewage, stack gas, and mercury and lead".³ There was general acceptance throughout the liberal democracies that government needed to defend the public from pollution that had definite public health implications.⁴ Officials looked for the quickest means to achieve needed improvements in drinking water, air quality, and the "quality of fish as food".

EPS environmental regulation became technology based as it is in other liberal democratic countries. This approach seeks to develop standards in accordance with the "best practical technology" available to limit the amount of pollution that escapes into the environment. In theory, only after all technologically practical steps are taken will any environmental damage be accepted. In reality, as we will see, the situation became more complex than that.

Early environmental protection legislation was written as a blunt prohibition on all polluting emissions. After

the 1960s, total prohibitions began to be replaced by legislation which allowed for "control regulatory regimes".⁵ Essentially, this was the legal recognition that some level of pollution was bound to occur from all human production and consumption. The realistic goal was to set standards and "control" this pollution within technological limits and the capabilities of the natural environment to cleanse the pollution from its systems.

Prosecutions, however, were still to be associated with environmental statutes and regulations. But, in Canada, industries that have breached environmental standards have rarely experienced legal sanctions.⁶ Determining what the environmental problems are, responding with "best practical technology", setting standards in accordance with technological capabilities, monitoring emission levels, and prosecuting for non-compliance, has never been a simple stepwise procedure.

The complexity of the regulatory process has meant that traditional environmental regulation has functioned around "compliance agreements" of various forms between industry and EPS officials. EPS has been compelled towards a great deal of flexibility in these agreements, because of the three analytical factors noted above: first, the growing number and complexity of pollution problems placing tremendous demands on EPS; second, structured industrial processes and interest pressure leading to concerns about

employment and investment if standards are rigidly enforced rather than negotiated over time; and third, a lack of adequate EPS organizational resources limiting what can be done to enforce standards and address new problems.

Prior to 1988, as discussed in Chapter 4, DOE moved on pollution primarily through a three pronged legislative mandate: the Fisheries Act (FA), the Clean Water Act (CWA), and the Clean Air Act (CAA). The Fisheries Act was the core regulatory piece of legislation, and amendments to it in 1970, prior to the formation of DOE, allowed the new EPS regulators to set "control regulatory regimes" rather than attempting to enforce "blanket prohibitions".

Jack Davis and Water Pollution

There was no illusion about what was to occupy most of EPS's time in the early period, that being water pollution and the Fisheries Act. Jack Davis as Minister was very concerned with fisheries issues, as Chapter 2 noted, and he was acutely aware that a majority of DOE's capacities as environmental regulator resided on the water side.

This focus on water pollution was also encouraged by the Fisheries Service and early senior management of the department. But, by as early as 1965, the International Joint Commission had already urged the Canadian and United States governments to act on sewage in the Great Lakes.'

Moreover, by 1969, the degradation of Lake Erie had become very advanced, and the Cuyahoga river, running through Cleveland Ohio, literally caught fire due to it running chocolate brown with oil and other flammable industrial wastes, sending a chill through all observers. Also in 1969, the Fisheries Service had to ban fishing in Placentia Bay, Newfoundland, and by 24 March 1970 commercial fishing in Lake St. Clair and tributary rivers was halted due to mercury pollution.

Jack Davis indicated his concerns about these frightening trends in the Commons Debates of 20 April 1970 when he stated,

Anything that harms fish...may be harmful to man himself. It follows that the living resources in water are our first line of defence. Healthy fish mean a healthy environment and a healthy fishery is undoubtedly the best insurance policy we can buy in our battle against pollution in water.⁸

Davis also indicated an intention to be very tough on polluting industries. In a speech to the House of Commons on 15 October 1970, entitled "Shaping our Environment in the 70s", Davis argued,

There is real urgency here. We have to act on the environmental front quickly and with determination. We have to move ahead of events, rather than from crisis to crisis. Our Critical Path, in other words, must be laid out ahead of time. We must have a plan to preserve the quality of our environment. We must preserve our wildlife and our fish and our trees. We must renew our renewable resources as quickly and as effectively

as we know how...

Industry, therefore, must keep its poisons to itself. Canada's cities and towns must do likewise.'

How to proceed to regulate was not a clear-cut issue however. EPS, as Chapter 3 noted, was largely a headquarters organization which, because it was new, needed to spend considerable time in orienting itself. It had to discover what the range of pollution issues were throughout the regions of the country, and what the priorities, under conditions of limited resources, should be. The strategy adopted within the organization was to set up industry-government task forces to determine the nature of the problems. As one senior EPS official noted, "when we consulted on regulations, mainly only industry was involved up until 1981".

The selection of these industries was not a particularly scientific enterprise, but it did reveal a certain realism. One official who was involved in the process stated, "it was very difficult for us to organize our early response because there was so much going on". Another noted, "we decided to concentrate on the big industries that used some sort of chemical process". Priorities were to be set by making an assessment of the ecological seriousness of the problem and then an informed judgement about the likelihood of success in addressing it. There was no use consuming limited time and resources on losing propositions.

Whether a pollution problem was judged to be a "losing proposition" or not depended upon four basic decision criteria. Many pollution problems were simply not tackled because: first, the media and public were not yet providing the problem with a high enough profile to mobilize a political response; or second, the industry lobby would have been simply too strong to overcome; or third, the technology of the industrial process was too complex and difficult to transform at an acceptable level of risk to investment and jobs; or fourth, DOE simply did not have the organizational resources to act on that specific problem within the power relations of the environmental policy sector.

One senior EPS official who was involved in this early priority setting exercise noted three examples of early decisions: organic chemicals, municipal sewage discharges, and the steel industry. EPS's conclusions were that in organic chemicals, "we did not develop regulations because of the tremendous technical difficulties". In the area of municipal sewage, "when we tried to move on large industries linked to municipal sewage systems, the battles with the provinces really began". In the steel industry, "we backed-off because it was all in one provincial jurisdiction. Ontario wanted to handle its own problems". Industry, a few key provinces, and other federal government departments often united to make the case for "jobs", their clientele, and organizational jurisdiction.

Jack Davis's most serious difficulties were linked with water issues. As one ex-senior DOE official noted, "Davis led a concerted charge on water pollution". The "concerted charge" was very difficult to maintain, because the media tended to politicize the issues and force the Minister to spread himself thin. Media coverage was a two edged sword, it could aid you if it gave public profile to one of your priorities, while it could hurt you if it drew you away from a problem that required that you always be around to keep the ball rolling.

Early progress, however, was made with such achievements as the signing of the Canada-U.S. Great Lakes Water Quality Agreement in April, 1972, and the securing of major funds for sewage treatment loans under the Sewage Containment and Treatment Program approved by Cabinet on 18 October 1973. But, clear strides forward remained far more the exception than the rule. As one manager noted, "we always had major difficulties measuring the effectiveness of regulatory interventions". EPS remained an under-resourced organization with no where near the necessary information gathering, pollution measurement, and enforcement capacities.

Toxic Chemicals and the ECA

Although there were some notable successes in the early period, DOE was only two years old when a discussion process was launched for the development of new environmental regulatory legislation. By this time EPS was becoming acutely aware that toxic chemicals were posing a serious threat to the environment and human health, and yet the Fisheries Act, and other existing legislation, was not well adapted to deal with this threat. One internal DOE discussion paper, dated 22 June 1972, stated the problem as follows,

media based legislation would not deal with the substance in all its physical states (i.e. solid, liquid or gas)...Considering what we have been told about the pervasiveness of many environmental contaminants and their irretrievability in many cases, it is apparent that existing federal controls need expanding.¹⁰

The Environmental Contaminants Act (ECA) was to be DOE's response to the "new" toxic chemicals coming into the market at an ever increasing pace. Proclaimed on 2 December 1975, the ECA was to protect human health and the environment through the control of existing harmful substances and the prevention of new ones. Because toxic contaminants become widely dispersed in the environment, last long periods of time in their harmful state, are largely irretrievable once they escape, travel up the food

chain in complex ways, and cause biological changes in animals even in trace concentrations, it was wiser to try and control the release of them rather than react after the fact. Further, knowledge about the real human health risks of toxic chemicals was and is frighteningly thin. The government stated that the Act,

moves Canada further along the road from pollution clean up and role back toward the prevention phase of managing our use of the environment. The Act provides the power to acquire information about substances that may be harmful to human health and the environment and to take measures in consultation with provinces to prevent or control their use.¹¹

The road to the development and implementation of this type of substance based legislation was a rough one to travel.¹² The difficulties were revealed in a discussion document sent by Jack Davis to the provincial Ministers of the Environment on 18 April 1973.¹³ In that document, Davis proposed legislation, "to prevent the widespread harm to the environment or danger to human health which will result if the release of certain substances (both existing and new) to the environment is not controlled". But he also acknowledged the very real complexity of trying to employ this legislation within Canadian federalism when he stated, "The power to implement controls under the Act is intended to be residuary".

The federal government was not going to try to move in areas where another level of authority was "best able to do

so". Instead, Davis and DOE wanted to, "require industry to furnish information on substances of concern in order that their hazards and benefits can be evaluated and recommendations made for controlling their release or escape to the environment if deemed necessary". Otherwise, DOE only wanted to move when, "there is no power to implement such controls under other federal or provincial legislation", or when, "a province, which has the power, fails to act".

THE DO NOTHING YEARS AND THE 1977 FISHERIES ACT AMENDMENTS

The ECA and the Ocean Dumping Control Act, also passed in 1975, were developed just before the ground began shaking violently under DOE. The department, and EPS regulators in particular, could not escape the increasing economic problems being faced by the country, and the Trudeau government's decision to reduce the "regulatory burden on the economy".

The government's concerns over economic matters meant that federal pollution control statutes were in many cases not implemented. For example, combined prosecutions under the Canada Water Act, Environmental Contaminants Act, Clean Air Act, and Ocean Dumping Control Act amounted to a very negligible number which never surpassed ten.¹⁴ Enforcement under the Fisheries Act was also quite negligible although

there was more action in the Pacific Region.¹⁵ These developments are very significant regarding pollution problem areas where enormous short falls were commonly acknowledged.

The post-1975 period also saw the implementation of the 1974 Cabinet Decision authorizing and encouraging federal-provincial accords in the area of environmental protection. Uncertainty about federal-provincial jurisdiction, a desire for inter-governmental cooperation, and increasing budgetary pressures, all pointed towards a retrenchment of DOE activities. DOE, with EPS taking the lead, developed the idea of "one window of delivery" where the federal government would establish "base standards" and the provinces would see to their implementation.¹⁶ This, of course, meant that EPS's enforcement capacities would be allowed to wither, and as one ex-senior DOE official put it, "The message got through. If EPS had tried rigorous enforcement, they would have got their fingers rapped".

By 1975 accords had been signed with all the provinces except Newfoundland, British Columbia, and Quebec. The impact of the accords could be seen most clearly in a confidential memo sent by Bob Slater, Assistant Deputy Minister of EPS, to Jacques Gerin, Deputy Minister of DOE, on 9 July 1982. In that memo Slater reviewed the impact of the accords regarding "protection of the federal fisheries from pollution".¹⁷ At the time, EPS was experiencing

increasing public concern over water quality and fisheries management issues, and began to rethink its post-1974 "one window of delivery" policy. Slater noted,

Fisheries and Oceans Officials, who have been under severe pressure relative to fisheries resource management problems, have quite naturally attempted to deflect concerns from their activities in the fish habitat area by criticizing Environment Canada for not fulfilling its role to implement the pollution provisions of the Fisheries Act. Although we do not consider this position to be entirely valid, to be fair, we must recognize that during the 70's the federal government did place considerable emphasis on the disentanglement of federal provincial roles, with a specific emphasis on non-duplication. In retrospect we may have left too much of the enforcement aspect to the provincial government and in effect become too soft in our delivery of the water pollution provisions of the Fisheries Act.¹⁸

Problems were also experienced in administering to the Environmental Contaminants Act. One 1979 Canadian Environmental Advisory Council background document noted that, "some 300 new chemicals appear on the market each year. If each of these were screened for possible environmental and health effects, a judgement would have to be made on one chemical every 29 hours".¹⁹ But, EPS had experienced considerable reductions in resources, as chapters 2 and 3 noted, not the least of these in the areas of science and investigation. The document continued, "To adequately screen one chemical for health effects alone by present techniques requires two years of testing and costs

an average of \$250,000... The Environmental Protection Service lacks the resources to be able to administer the Environmental Contaminants Act effectively." One DOE official commented, "almost immediately after the passing of the ECA we saw weaknesses".

However, when the ECA was developed, it was argued by Jack Davis that Canada needed the Act because the United States Environmental Protection Agency was in the process of developing its own. Canada needed to guard against becoming a haven for polluting industries and the careless handling of toxic contaminants. Davis, in his 25 April 1973 discussion document to the provincial environment ministers, made this point,

the majority of manufactured goods exported from Canada will have to comply with the U.S. requirements for testing...U.S. chemical producers will not, in general, be subject to the U.S. controls where products are intended for export to Canada, and without a similar Canadian Act, there is a danger of Canada being a pollution haven.²⁰

But, with the lack of EPS capacities for controlling toxic substances, Canada actually ended up relying heavily on the administration of toxic chemicals legislation in the United States. Davis anticipated that this might happen when he continued,

It will be desirable that a Canadian Environmental Contaminants Act provide sufficient flexibility to recognize the test procedures specified by the U.S. Act so as to eliminate unnecessary test expenses for Canadian companies.²¹

Ironically, because of extensive U.S. ownership in the Canadian economy, Canada could ride, at least in part, on the U.S. for the testing, monitoring and control of toxic chemicals.

Reforms to Protect Fish

But even with the moves to become less of a "regulatory burden", establish "one window of delivery", and adjust to budget cuts, DOE did launch a reform of the Fisheries Act in 1977. The reform initiative was, in large measure, intended to improve the habitat provisions of the Act, but it also included pollution control initiatives. Ken Lucas, as ADM of the Fisheries Service, remained as strong an advocate of the fishery as he was during his time with Jack Davis as Minister. Romeo Leblanc supported his ADM's continuing efforts to promote federal jurisdiction related to the Fisheries Act, even as many other parts of DOE were "on the fall".

EPS, for its part, supported the Fisheries Act reform drive because it wanted a more flexible means to deal with new and changing pollution priorities. Whereas the 1970 Amendments had allowed for control regulatory regimes rather than blanket prohibitions, the Act still, in EPS's view, needed to incorporate more flexibility to address pollution on a site specific basis. This was a further legislative

elaboration of the negotiated form of regulation referred to earlier. Regulatory measures were to be able to be developed around specific industrial processes and the market conditions of the firm. But there was also provision for requiring mandatory reporting and clean-up of pollution spills harmful to fish.

The response of industry and the provinces to the Fisheries Act reform initiative was not kind. As one senior DOE official put it, "because the Fisheries Act is a powerful piece of legislation, the provinces went wild because of the strength of the new provisions". But it was not so much the pollution provisions that attracted the ire of the provinces, but the habitat provisions. The Fisheries Service sought new capacities to deal with development activities having a deleterious effect on the life support systems of fish. The provinces saw this as a major infringement on their jurisdiction, and, as one DOE official put it, "the media got involved and blamed the conflict on the pollution provisions when actually most of the heat came from the habitat provisions". One official added, "part of the reason for this increased conflict was also the expansion of the provincial environment ministries". Competition had become more intense.

It was in this period that Romeo Leblanc lost any remaining enthusiasm he may have had for the environment side of DOE. His fights with the provinces were in many

ways a distraction from his primary concern over the fishery. As one ex-senior DOE official put it, "after the Fisheries Act amendments Leblanc did not want anything to do with EPS". EPS was left in a situation where, "we did not do anything on regulation for almost a decade". Leblanc did not want to risk anymore politically unattractive wars, and the Trudeau government, as a whole, had other major policy initiatives to pursue, as earlier chapters have noted. The federal withdrawal from environmental regulation was advanced to its most extreme point.

Soon after the 1977 Fisheries Act amendments, EPS also experienced uncertainty regarding the administration of the Act. Chapter 3 discussed how in April 1979 the Fisheries Service split from DOE taking many important organizational resources with it. Fortunately for EPS, an agreement was reached regarding DOE's continued administration of the pollution provisions. But, this was to be an interim arrangement with an indefinite time table. Raymond Robinson, then Assistant Deputy Minister of EPS, discussed this issue in a confidential DOE discussion document, dated 30 March 1979, sent to Blair Seaborn. He noted,

The federal water pollution control program has relied heavily on the pollution provisions of the Fisheries Act as a legislative base. With the departmental split, the environment side will continue to administer these provisions of the Fisheries Act. This is an interim arrangement pending introduction of new legislation that deals more comprehensively and

adequately with the federal government's responsibility for environmental protection of Canadian waters.²²

However, the development of "new legislation" was to be a long time in coming. The political and economic conditions were not kind to the idea of new environmental policy initiatives. Uncertainty became like a lingering illness for an EPS already suffering from serious marginalization.

Environmental Disasters and New Opportunity

It took a series of environmental disasters to breathe life into the next environmental policy initiative.²³ In late 1978, information about Love Canal in New York State began to surface. In November 1979, 21 railroad cars carrying toxic chemicals derailed at Mississauga, Ontario, leading to the evacuation of 250,000 people. Also in 1979, there were media reports of a prolonged die-off of gulls, ducks and shorebirds on the Toronto waterfront, dioxins were found in Lake Ontario fish and in herring gull eggs in several locations in the Great Lakes basin, and the level of toxic contamination of the Niagara River had reached crisis proportions due to groundwater run-off from hazardous wastes sites. The public was soon to express increased concern about these and other incidents.

By the early 1980s, DOE was also becoming more aware of the importance of building a policy agenda around high

profile public issues. Toxic contaminants, as Chapter 4 discussed, arose as a top priority in Departmental planning exercises, and by as early as 24 January 1979, a new Toxic Chemicals Management Program was formed. Senior management were receiving an increasing number of reports regarding what was on the average Canadian's mind. One such report, The Canadian Trend Report for the last half of 1982, summed up the type of feedback being received when it stated, "As Canada's economic crisis extends into 1983, the public is making no compromises on the environment."²⁴ By the first half of 1983, conclusions were that, "Toxic chemicals and their suspected adverse affects on human health continue to dominate the major topics."²⁵

As a result of these rapidly changing conditions, DOE began rethinking its position on federal-provincial regulatory responsibilities. A new legislative reform initiative for the Environmental Contaminants Act was also launched. John Fraser planted the seeds for these activities as early as 1979. He wanted DOE to become more assertive regarding its environmental responsibilities to the Canadian public. But, the formal triggering of the ECA legislative reform process had to await the arrival of Charles Caccia who actively pushed DOE's legislative agenda in the year he had at his disposal. The downfall of Suzanne Blais-Grenier meant that the process could resume in earnest once again, even though departmental resources had been

significantly depleted during her tenure. Tom McMillan, after 1985, realized that with no new departmental resources forthcoming, he could at least attempt to keep the idea of improved environmental protection legislation moving through the environmental policy sector. As discussed in Chapter 5, part of the plan was to proceed with the Niagara Process of public consultations.

THE "TOXIC BLOB" AND THE CEPA RESPONSE

Tom McMillan became Minister of the Environment at a time when public consultations to reform the Environmental Contaminants Act were already ongoing. Parallel federal initiatives on toxic contaminants had also been running for some time. For example, the Liberal government, by order of Cabinet in January, 1984, had established a new Interdepartmental Committee on Toxic Chemicals to better coordinate federal activities. However, it was not long after McMillan arrived in office that virtually all federal government initiatives on environmental regulation were transformed.

The death of the ECA reform drive, as Chapter 5 noted, followed closely on the heels of the August, 1985 discovery of what came to be known as the "toxic blob". A mass of black oily substance was found floating near the bottom of the St. Clair River downstream from a Dow Chemical plant.

It was later found that the "blob" contained a veritable witch's brew of contaminants threatening the drinking water of nearby Windsor, Detroit, and other communities. Later, the cause was identified as a leak from a waste containment system at Dow's plant. The media coverage was extensive.

The Dow "toxic blob", however, had the impact it did because it followed soon after several other high profile events which increased the public's awareness of toxic contaminants. Less than a year earlier, in December 1984, the Union Carbide pesticide plant leak in Bhopal India had killed and injured many people. Early in 1985, a flat-bed truck carrying a large transformer from Quebec for storage in Alberta, splashed PCB contaminants over the road and surrounding vehicles while travelling through Northern Ontario near Kenora. Finally, in April of 1985, the Inquiry on Federal Water Policy, appointed in January of 1984 to examine the role of the federal government in water management, issued a preliminary report on its public hearings. The landmark final report of the Inquiry, commonly known as the Pearce Report and entitled Currents of Change, was released in September of 1985 and called for, among other important actions, better water quality protection.²⁶

These events made life very difficult for the new Environment Minister. McMillan felt enormous pressure to be seen to be doing something about an endless bombardment of

environmental bad news. But, when he turned to his officials and asked what he could do about the "toxic blob", the answer, as one senior manager put it, was "nothing!" Environmental legislation did not empower him to act, and McMillan "was amazed that as Environment Minister he could not move at all!"

This frustration was critical in triggering what became a key DOE initiative during the McMillan tenure. McMillan responded to the toxic blob incident with what one senior manager called, "a very strong statement that blew the ECA amendment process out of the water for those who had been working gradually within that process". McMillan stated his intention to get tough with polluters through a new generation of legislation. This startled many industry groups, and changed entirely the rules of the game between participants in the Niagara consultation processes, as Chapter 5 discussed. The stakes had been raised, and some three years later, in June 1988, the Canadian Environmental Protection Act (CEPA) was passed by Parliament.

CEPA and Another Struggle?

The development of CEPA, as previous experience had forewarned, was not a simple process. Many within EPS were very unsure of whether the initiative should even be undertaken. As one senior manager noted, "the development

of legislation and the effort needed to push it through the process is very time consuming, and usually nothing else can get done". EPS officials were worried, given the political and economic conditions of the day, that an enormous expenditure in time and resources may be wasted on a policy sector struggle with only a marginal chance for success. However, a massive growth in public concern and an improving economy soon convinced many within the Service that the battle may be winnable.

The CEPA idea was given a substantial boost by the feedback that the Conservative government was getting from pollsters. By the winter of 1985, Decima, the Conservative pollster, informed the government that it was in serious trouble. It noted,

Public perception of the government has declined to the lowest point since its election. Dissatisfaction has increased significantly in the government's handling of inflation, federal-provincial relations and efforts to protect the environment. It could be concluded that there is the perception that the PC government is a "big business" government and places only secondary importance to social issues such as universality, taxation inequities, health and social services including the protection of the environment.²⁷

The report continued,

Environmental protection is not perceived as just another service...but as a basic right...Canadians value their natural heritage; they are greatly disturbed when any attempt to lessen existing environmental protection

programs is contemplated or implemented; and it appears that questions concerning the environment are likely to become increasingly more sensitive and emotional at the political level due to their interrelationship with human health.²⁸

Public views had definitely hardened, and the federal government, along with business, was being seen as part of the problem and not part of the solution. Another Decima poll, conducted a year later, added to the evidence when it concluded, "the relative assessment offered of the performance of the federal government, along with that of business, is lower than that provided for other levels of government and people in general".²⁹ The federal government needed to show that it could get tough on polluters, and DOE environmental regulators were gradually being brought in from the cold of marginalization.

One of the key goals for DOE in the CEPA initiative was to assert a more substantial federal presence in environmental regulation. The department was under intense pressure to rethink its "one window of delivery" policy which had been instituted after the Fisheries Act reform battles in the late 1970s. Experience had shown that in many cases neither the provinces nor the federal government had been willing to act on important pollution problems. EPS was also left without adequate feedback from the provinces as to how well regulatory efforts at that level were going. CEPA was going to be a key means for rebuilding

EPS capacities which had been allowed to wither badly, and Part II of the Act provided information gathering powers to force industry and the provinces to provide feedback regarding environmental regulations under federal jurisdiction. Table 6 provides a breakdown of the components of CEPA.

TABLE 6

COMPONENTS OF THE CANADIAN ENVIRONMENTAL PROTECTION ACTPART I:

Environmental Quality Objectives, Guidelines and Codes of Practice. (Regulations cannot be made under this part.)

PART II:

Toxic Substance Provisions providing for:

- information gathering;
- controls on substances new to Canada;
- broad regulatory authority;
- interim orders for emergencies;
- clean-up of unauthorized releases;
- ministerial authority to direct remedial measures;
- export and import controls;
- control of lead in gasoline.

PART III:

Nutrient Control in cleaning agents (previously Part III of the Canada Water Act).

PART IV:

Federal Subjects regulatory authority to control (pursuant to the provisions under the Act):

- federal departments, boards and crown corporations;
- federal lands;
- federal works or undertakings with federal legislative authority.

PART V:

International Air Pollution (previously in the Clean Air Act).

PART VI:

Ocean Dumping Control (previously the Ocean Dumping Control Act).

PART VII:

General Provisions for:

- boards of review;
- agreements with the provinces;
- powers of inspectors;
- penalties and legal issues.

PART VIII:

Consequential Amendments and Repeal of Predecessor Legislation.

PART IX:

Act Proclaimed In Force.

The first draft of CEPA was strengthened considerably through a major public consultation process undertaken by DOE. Departmental senior managers, who had become more sensitive to the use of public opinion as ally, were urged by Members of Parliament to provide for public input, and they made use of the opportunity. By December 1986, when the process was launched, DOE had accumulated a pool of experience on consultations, such as with the Niagara Process earlier in the 1980s. A key characteristic of the of the CEPA consultations was to provide funding for environmental groups. This allowed for a greater degree of balance in a process where industry and the provinces were very vocal. On 25 November 1987, Tom McMillan discussed his experiences in the public consultations with the Legislative Committee on CEPA Bill C-74. He stated,

Bismarck once quipped that "laws are like sausages - it's better not to watch them being made."....I am inclined to agree with Bismarck. But the process is crucial, nevertheless, and I look forward to working with you in it...

Consultations led to substantial improvements in the bill. Cases in point are the inclusion of: the Ocean Dumping Control Act; greater opportunities for citizen involvement; increased public accountability of the Minister and of the government as a whole; the first ever definition of "environment" in federal legislation; a Priority Substances List; and biotechnology. The public called for all those changes and many others, and we responded. I am particularly grateful for the advice of environmental groups.³⁰

Sectoral Power Relations Continue

The entire federal-provincial calculus, however, was significantly altered by what one ex-senior official involved in the development of CEPA called, "a last minute agreement with the provinces to include the idea of equivalency agreements in the Act". The provinces became very active at the political level, and with the Department of Justice, to attempt to control what they saw as a concerted federal charge into the environmental regulatory field. Much of this lobbying occurred above the public consultation process that had been ongoing and was nearing completion. One senior official noted, "Quebec officials argued particularly hard for the equivalency agreements in defence of jurisdiction, other provinces jumped on board". Industry also encouraged greater checks on federal regulatory activities, and wanted to ensure that, where regulations were instituted, there was only one level of government to deal with and not two. The argument for achieving cost efficiencies through avoiding regulatory overlap, became a powerful one to resist.

If an equivalency agreement existed, federal regulations under CEPA were not to apply to that province. What constituted "equivalent" standards was to be negotiated between EPS officials and the provincial regulators. According to CEPA's Enforcement and Compliance Policy,

agreements were to stipulate that every failure by industry or others to comply with equivalency regulations must be followed-up by a provincial enforcement action. If the province failed to implement the equivalency regulations, DOE reserved the right to develop and enforce federal regulatory standards under CEPA.

However, the history of environmental regulation teaches us that these types of remedial measures are never easy in a highly political environment. Moreover, DOE officials were soon to discover how difficult it could be to negotiate equivalency agreements to begin with. Technical complexity and sectoral power politics can be used to extend the process of negotiation indefinitely. As one ex-senior official noted, "CEPA may never work because of the success the provinces had in putting into place equivalency agreements. They became a Trojan Horse. If you cannot reach agreements you cannot act".

The CEPA Potential

However, DOE's CEPA agenda was not totally usurped. EPS officials did achieve some important advances. One of the key motivations behind CEPA was to establish better enforcement and compliance procedures.³¹ In the past, "compliance agreements" had run into problems in the courts of law because by design they are inconsistent across

industries, firms, and plants. This inconsistency was challenged on grounds of due process and equality before the law. The courts did not illustrate comfort with an approach which, as noted above, reflected the difficult circumstances faced by EPS regulators. EPS officials sought to make headway into resolving this problem.

In the end, CEPA was released with a companion Enforcement and Compliance Policy. The Policy attempted to show how regulatory procedures would be more firmly grounded in the law. It also sought to address, in a highly visible way, public concerns about the legitimacy and effectiveness of the regulatory process from the federal governments perspective. Under the Policy, and within the powers of CEPA, regulatory inspectors were to be given the right to conduct inspections of firms and review materials, substances, records, books, and electronic data relevant to the administration of the Act. If a violation was discovered, the inspector could choose one of a number of courses of action depending on the severity of the case.

A "letter of warning" or "compliance direction" was to be issued for a minor violation when it was expected that the firm would undertake a prompt correction. If the offence was more severe, the inspector could request a "ministerial order", a "court injunction", or proceed to prosecution. A formal investigation, including search and seizure of pertinent evidence and information, could proceed

when the case was deemed to be severe. Records of inspections, letters of warning, compliance directions, investigations, and other enforcement actions, were to remain on the "compliance record" of the firm. The consistent application of these procedures was intended to meet the due process and equality before the law requirements of the courts and encourage industry to keep a good record.

The Lingering Issue of EPS Resources

However, EPS officials still had to deal with the legacy of the environmental regulatory process. Regulatory procedures, no matter how demanding on paper, could not be instituted without the political will to commit resources and to act. The advances made in the CEPA process, did not make the complexity of the pollution problems, nor the old polluting industrial plants, disappear over night. The DOE "regulatory arm" had always been left woefully short of key resources and organizational capacities with which to wage the inevitable struggles for change. The resolution of these weaknesses remained very much an open question after June 1988.

Lingering issues included the fact that EPS had always been largely a headquarters organization without the needed science and investigation personnel. When CEPA was passed

by Parliament, it included a Priority Substances List containing 44 substances which must be investigated and scientifically tested for toxicity.

Environmental groups and the Canadian Environmental Advisory Council (CEAC) had anticipated problems in this area and sought, as one official put it, "a jump-starting of the regulatory process by coming forward with 10 regulations with the passing of CEPA". Some groups even demanded a schedule for the regulation of listed priority substances. The CEAC option did not appear possible given the powers at play within the legislative process, and the second option was opposed by EPS because, as another official put it, "it would have required continual revision of the Act to update and revise schedules and substances lists". A compromise was reached around specifying a Priority Substances List which would be tackled as soon as possible. But, as previous experience indicated, the environmental regulatory process is very demanding on science and investigation. Regulations can be seriously delayed if the regulator cannot bring solid capacities in these areas to bear in the process, although these are not the only necessary ingredients.

Another lingering issue was the political, economic, and legal capacities of EPS in the regulatory process. Due to the historic shortage of these strengths, EPS had always been at a considerable disadvantage in negotiations and

political struggles with industry and other sectoral government organizations. Environmental regulation includes a lot of process complexity and requires considerable political and policy process expertise to achieve success. The new CEPA also incorporated the requirement for a "Regulation and Impact Assessment Study" (RIAS) to determine the socio-economic impacts of proposed regulations. These RIAS studies embody extensive economic complexity. Finally, multiple drafts of regulations must be produced for public consultations and they must be defensible in legal terms. A massive shortfall in any of these organizational capacities could mean, as one ex-senior DOE official put it, "another decade of stagnation".

CONCLUSIONS

This Chapter has analyzed DOE's experiences in regulating "existing industrial processes". It demonstrated the serious constraints that EPS encountered in attempting to control pollution, including: the complexity of environmental problems, the fixed capital character of industrial processes, the resistance of industrial interests and government organizations within the environmental policy sector, and shortages in organizational resources.

EPS's regulatory capacities remained very weak, and DOE's marginal status within the environmental policy sector

made the strengthening of those capacities a very unlikely prospect. This was demonstrated in events surrounding the Environmental Contaminants Act, the Fisheries Act reforms, and later the lingering problem of resources to implement and enforce the Canadian Environmental Protection Act. In the second half of the 1980s circumstances began to improve for DOE, but the department's regulatory history prior to 1986 was reflected in a string of demoralizing pollution control defeats. Based on our previously established understanding of DOE's resources and the conditions of the environmental policy sector, these defeats could have been anticipated.

ENDNOTES

1. See Richard Krazis and Richard L. Grossman. Fear at Work: Job Blackmail, Labour, and the Environment. (New York: Pilgrim Press, 1982).
2. There is by now a considerable list of works which have addressed shortfalls in federal environmental regulation. For examples, see Tom Conway, "Taking Stock of the Traditional Regulatory Approach", in G. Bruce Doern (ed.) Getting it Green. (Toronto: C.D. Howe Institute, 1990), and the many references of Chapter 1.
3. Ibid.
4. For discussions of experiences in other liberal democratic countries, see Paul Portney (ed.) Public Policies for Environmental Protection. (Washington: Resources for the Future, 1990) and David Vogel. National Styles of Regulation: Environmental Policy in Great Britain and the United States. (Ithaca: Cornell University Press, 1986).
5. See Kernaghan Webb. Pollution Control in Canada: the regulatory approach in the 1980s. (Ottawa: Law Reform Commission, 1986).
6. See Law Reform Commission. Policing Pollution. (Ottawa: Law Reform Commission, 1982) and John Swaigen and Gail Bunt. Sentencing in Environmental Cases. (Ottawa: Law Reform Commission, 1985).
7. See Environment Canada, Environment Canada Chronologies, 1970-1990. April 1991.
8. This quotation appeared often in DOE internal documents. It became a key rallying cry regarding use of the Fisheries Act in environmental regulation.
9. See Department of Fisheries and Forestry, "Notes for a Speech in the House of Commons on the Speech from the Throne, Thursday, October 15, 1970".
10. See Environment Canada, "Second Draft Statement on Legislation", June 22, 1972. This discussion document was sent to all members of the "Cross Mission Task Force on Environmental Contaminants" from the "Legal Sub-Committee" which had been established to consider options for new legislation.
11. See the March, 30, 1979 discussion paper sent by Raymond Robinson to Blair Seaborn. Op. Cit.

12. See J. Castrilli, "Control of Toxic Chemicals in Canada: An Analysis of Law and Policy", Osgoode Hall Law Journal. Vol. 20, (1982), pp. 322-401.

13. See Environment Canada, "Working Paper on Proposed Environmental Contaminants Act for Inter-departmental Discussion and Discussion with Provincial Authorities", April, 18, 1973.

14. It is very difficult to get reliable data on formal legal undertakings and prosecutions. This is an estimate provided by several DOE regulatory officials.

15. See Webb Op. Cit.

16. See Conway, Op. Cit.

17. See Environment Canada, "Protection of the Federal Fisheries from Pollution", July 9, 1982.

18. Ibid.

19. See CEAC, "Ecotoxicity in Canada", 1979. The document was prepared by Donald A. Chant and Ross H. Hall.

20. Op Cit.

21. Ibid.

22. Op. Cit.

23. See Environment Canada, Environment Canada Chronologies, 1970-1990, April 1991.

24. See the Canadian Trend Report, Environment, for the last half of 1982, page 93.

25. See The Canadian Trend Report, Environment, for the first half of 1983, page 80.

26. P.H. Pearse, F. Bertrand, and J.W. MacLaren. Currents of Change: final report/ Inquiry on Federal Water Policy. (Ottawa: Supply and Services, 1985).

27. See Environment Canada, "Ministerial Briefing Paper", February 5, 1986 for the source of these quotations.

28. Ibid.

29. See Decima Research, "Preliminary Report Re: Results of August Nationwide Survey". Sent by Decima to Environment Canada on September 24, 1987.

30. See Environment Canada, "Notes for remarks by The Honourable Tom McMillan, P.C., M.P., Federal Minister of the Environment, to the Legislative Committee on Bill C-74, The Canadian Environmental Protection Act", Ottawa, Canada, November 25, 1987.

31. See Conway Op. Cit.

Chapter 7

MONITORING AND CONSTRAINING NEW DEVELOPMENTS: THE "POLITICS OF DISCRETION" AND THE QUEST FOR EARP LEGISLATION

The Environmental Assessment and Review Process (EARP) of the federal government is a case in point of the fundamental problem facing all environment departments: how to move policy towards "prevention" rather than "reaction". The EARP story presented in this Chapter reveals the many difficulties that DOE encountered in attempting to monitor and constrain new development activities. The Process came under intense scrutiny by other government organizations within the environmental policy sector, because they sought to resist environmental policies that threatened to intercede in their activities. The "politics of discretion" was always present regarding who should have the final say as to what policies, programs, and projects should be initiated or sponsored by government.

"Policy learning" is also a key part of the EARP story because there was only limited knowledge and experience to rely on. The Process went through a long series of incremental attempts at reform. As new information came to light, and new problems were encountered, DOE pushed for improvements as best it could given its marginal sectoral status. However, efforts to reform EARP always encountered

limits in knowledge and experience about how best to proceed, and never escaped a coldly pragmatic look at the "politics of discretion" within the environmental policy sector.

The quest to develop a legislative base for EARP is a recurring theme in the incremental reform efforts. Prior to 1992, EARP was not a legislated process, but was based on various Cabinet Decisions and Orders. Each time the Process was put through yet another round of scrutiny and revision DOE officials attempted to push the idea of legislation. These efforts were repeatedly repulsed within the environmental policy sector because EARP was tied up with everything else that was DOE throughout much of its history, including: the problems of limited organizational resources, lack of support from the political centre, and vulnerability to the ever present pressures for economic development. In the context of the economic interests of federal government departments and the provinces, EARP more often than not appeared as the squealing mouse caught-up in the industrial machinery.

The Chapter proceeds in three sections each addressing a specific period in the life of EARP. The first section discusses the build-up to the first Cabinet Decision on EARP in 1973, and then considers three aspects of the early period following the Decision: first, the uncertainties within DOE regarding how best to proceed with the Process;

second, the resistance exhibited by other government organizations regarding discretion over their activities; and third, the difficulties faced by the early administrators of EARP, including the Lands Directorate and the Federal Environmental Assessment and Review Office (FEARO). The section concludes with a discussion of the first reform initiative in the mid-1970s.

The second section discusses the EARP reforms embodied in the 1977 Cabinet Amendments. It outlines the limited extent of this reform and how DOE officials were driven by policy learning about the process. The second EARP reform, incorporated within the 1978 Government Organization Act, is also considered along with some reasons why legislation could not be achieved during this period in the life of EARP.

The third section discusses the final major reform of the non-legislated EARP in the 1984 Cabinet Guidelines Order. The recent Federal Court cases interpreting the Order are presented as a watershed in the history of the Process and as key events which gave the quest for EARP legislation a new life.

FORMATION, DISCRETION AND THE LEARNING CURVE

Every federal government department and agency, excluding crown corporations and certain regulatory

agencies, have important responsibilities under the EARP process as it exists in Canada today. They determine, in an "Initial Assessment", the "environmental significance" of the federal projects they are initiating or sponsoring. "Federal projects" are considered to be those that are initiated by federal departments and agencies, those for which federal funds are to be used, or those involving federal lands and jurisdiction.¹

All environmental impact assessment (EIA) processes require some element of initial "self-assessment" by the sectoral department because of the sheer number and complexity of the decisions taken by government. No single environment department could do all the required "initial assessment" work. The issue then becomes one of determining to what extent the "self-assessment" stage is monitored regarding adherence to the letter and spirit of the EIA process. When a department or agency initiating or sponsoring a project deems it to have potentially significant environmental impacts it is supposed to ask the Minister of the Environment to establish an Environmental Assessment Panel (EAP). The EAP reviews the proposal and recommends appropriate actions which can include allowing the project, disallowing the project, or allowing the project with modifications.

DOE's Federal Environmental Assessment and Review Office (FEARO) administers to the Assessment Panel stage of

the process. Panel members are provided with support as they review scientific evidence and consult with experts and the general public. FEARO then attempts to encourage integration of panel findings into the project planning and implementation undertaken by the initiating or sponsoring department.

Prior to the formation of the EARP process, however, Canada, like other industrialized countries, had largely avoided taking the environment into account in project planning and implementation. The modern era of natural resource development led to the opening of hinterlands on a massive scale. The federal government encouraged these developments through various policies, programs, and projects intended to encourage regional development, national integration, and job creation. There was an emphasis on mega-projects with very high financial, social, and environmental costs.

Major infusions of economic benefit were seen to override these costs. A long series of dams and diversions, mines and smelters, pipelines and paper mills, chemicals and nuclear plants, were considered first as positive additions and only later as "minor" problems requiring "mitigation" and "compensation" for their worst effects. Displacement of native Canadian communities, destruction of animal habitat, and pollution side-effects, such as mercury contamination of fish resulting from dam diversions, were simply not

accounted for.² By the early 1970s total disinterest in these costs became a much less feasible option.

Canada's EARP process benefited from the initial flurry of government activity on the environment in the early 1970s. On 25 May 1972, the Trudeau Cabinet authorized the Canadian delegation to the Stockholm Conference on Human Settlements to state that Canada "considers study of the environmental effects of major development projects to be of a high priority."³ About two weeks later, on 8 January 1972, the Cabinet noted its intent to establish in the near future a process that would subject all projects initiated by the Federal Government, with the exception of Crown Corporations and certain regulatory agencies, to a screening as to their effects on the environment.⁴

The American Scare

The first EIA process, however, was established in the United States some three years before the Canadian EARP was started. In 1969 President Nixon signed into law the National Environmental Policy Act (NEPA) as the basis for EIA. The process of assessment was then developed further in the Executive Orders and Regulations (1978) of the Council on Environmental Quality (CEQ). Both NEPA and the Orders and Regulations had a tremendous impact on the development of EARP in Canada in large part because we had

not yet accumulated a pool of experience on environmental assessment. As in other areas of environmental policy, Canadian governments had to be concerned with how American EIA policy could effect interests in this country.

American EIA had many characteristics which influenced Canadian EARP administrators, but two were of major importance. The first of these was that EIAs under NEPA are based on a "legal requirement". Government initiatives which have potentially "significant" environmental impacts on the quality of the human environment must enter the process. Individuals and groups were able to use this aspect of NEPA to stall or prevent developments that they believed were environmentally damaging. Not surprisingly, this led to a long line of time-consuming and expensive court litigations. The result was tremendous resistance from other U.S. government agencies and successive Presidential Administrations.

The second characteristic relates to the "coverage" and "scope" of the American process. EIAs under NEPA were not only to consider the "environmentally significant" effects of specific development projects, but could also cover legislative proposals and major programs. The scoping of these assessments could also be comparatively broad considering not only "environmental effects" but related "aesthetic, historic, cultural, economic, social, and health effects" as well. As one senior DOE official noted, "NEPA

was really a sustainable development initiative long before its time". This admirable ambition clashed with dominant value systems in government and put very heavy demands on fledgling EIA capacities. These factors, combined with the major litigation problems referred to above, provided many interested observers with early indication that NEPA may not be as successful as many had hoped.

DOE officials involved in developing the Canadian process were spooked by these experiences.⁵ They were not at all certain about what an alternative process should be, but as one senior official noted, "the U.S. experience was far more significant to us than any experience we had here in Canada". The American EARP was seen as indicative of what could happen when a process was entrenched in law before everything was worked through. Look and learn before you leap, and don't stick your head out too far for fear that powerful sectoral forces may overreact to your efforts and cut it off. Wait until the conditions for change within the environmental policy sector are improved and then go for legislation.

Davis and the Early Retreat

However, Jack Davis as the first Minister of the Environment remained very bullish on the idea of EIA. He wanted to pursue the possibility of a legislative basis for

EARP even before his officials saw their way clear. Davis also sought to encourage his cabinet colleagues to be open to the idea. For him it was obvious that the most effective route to environmental protection was prevention. He was also acutely aware of the implications many developments had for water quality and, as a result, the "quality of fish as food".

Not surprisingly, an interdepartmental committee of Deputy Ministers, convened to look at the question of EARP, promoted the idea of a cautious approach far more vigorously than anyone else. Early assessment panels, it was argued, should be made-up of bureaucrats who would treat the assessment process more informally. They were, however, to be more sensitive to environmental impacts as a "statement of principles" and reach administrative compromises around those principles. As one ex-DOE official who was involved in the formation of EARP noted, "they did not want anything too demanding, they wanted flexibility". For them the ideal process was one that could be managed largely within the confines of their own organizations and they encouraged their Ministers to move with caution.

The position being adopted by the bureaucratic hierarchy was revealed clearly in a memo dispatched by Gordon Osbaldeston, Secretary of the Treasury Board, to Robert Shaw, Deputy Minister of DOE, on 4 September 1973.⁶ In that memo, Osbaldeston noted that while he agreed with

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the DOE proposal that the EARP process should, "to the extent possible" determine the "environmental effects of major development projects", he was not sure that the need for "balance" was yet being properly addressed. On this note Osbaldeston continued,

In this regard, we do not think the proposal adequately takes into account certain concerns raised at the meeting of the Interdepartmental Committee on the Environment, June 29, 1973. These concerns are noted in the Summary of Discussion of the meeting but, in particular, I am referring to the general recommendation of other departments that the Environmental Assessment Panel be constituted on an interdepartmental basis.

More specifically, our view is that the 'proponent' department or agency should be intimately involved in all steps of the assessment and review process and participate in the assessment panel.'

Osbaldeston then went on to reveal his uneasiness with the coverage and scope of EARP when he noted,

I am also concerned with the open-ended nature of the proposed assessment and review process (all environmental effects of all major federal projects and activities) and the consequent effects on both the management process and the financial requirements within and without the federal government."

Retreat from the fledgling idea of a legislated EARP came in the form of the 20 December 1973 Cabinet Decision which created the Process. The Decision established that EARP was to be based on self-assessment, as all EIA processes must to some extent be.' Federal government

departments and agencies were to develop their own screening procedures and apply them to their own proposals. Crown corporations and key regulatory agencies would only be "invited" to participate, and policy adopted by Cabinet would not fall under EIA coverage. Projects deemed to have potentially "significant" environmental impacts were to be referred to the Minister of the Environment for review, but the assessment panel was to be comprised only of bureaucrats from DOE and the initiating department. Public reviews would not yet have a major role to play, and socio-economic factors were not to be part of EIA scope.

Cabinet Ministers had obviously agreed with the argument that because little was known about EIA, caution should be the order of the day. EARP was to be left suitably vague, and not overly rigorous in terms of monitoring and follow-up, so that it could be gradually worked through the power politics of the environmental policy sector. The coverage and scope of the Process should also not be such that the government's major development initiatives could be "unnecessarily" detained through bureaucratic red tape. A stock of experience at some later date may allow for formal legislation with fewer unknown qualities and quantities.¹⁰

Organizing for EARP: The Lands Directorate and FEARO

Davis sought to use the Lands Directorate as the vehicle for his early EIAs. As we noted in Chapter 3, the Lands Directorate brought together a considerable base of knowledge regarding land use planning and the relations between the environmental mediums of land and water. It already had the Lands Inventory, a key information source, and a solid tradition of cooperation with industry and the provinces. This cooperation was seen as essential to a successful EARP.

From very early on, however, it was evident that Lands was not equipped to do the job. It was a headquarters operation with no capacity in the regions, and, as they found out, insufficient technical know-how relative to the complexity of the issues being faced. The Directorate sought to compensate by learning as much as possible from the U.S. experience and applied methods originating with EIAs in that country.¹¹

But, as one senior official noted, "there was a realization that the existing departmental policy and approach was just not sufficient." Jack Davis also began to lose some of his enthusiasm for EARP when the first major report by Lands regarding a second bridge over Vancouver's Burrard Inlet recommended the project be denied. He quashed the report because the bridge project was simply too close to

home.¹² This would be a problem repeatedly faced by DOE as it sought to insert its EIA agenda into the mainstream of sectoral decision making.

The Lands Directorate participated in the formation of FEARO which was to replace it as the administrator of EARP. FEARO was created on 1 April 1974 and was intended as a quasi-independent organizational component within the structure of DOE. On 10 January 1974, Davis dispatched a proposal to Treasury Board requesting a new senior management position to head-up the FEARO creation.¹³ At that time FEARO itself was being called a "Panel" and Davis stated,

It is proposed that an Environmental Assessment Panel be established within the Department, reporting to the Minister for policy, and to the ADM, Environmental Management Service for administrative purposes only. It is proposed that the Chairman and Chief Executive Officer be established at the SX-2 level. One new position within the senior management category is required.¹⁴

He then went on to define the role intended for FEARO,

The Government has adopted a new policy and program which, in brief, requires all government departments and agencies to prepare an environmental assessment for projects, programs and activities that they are developing, or that come under their control, and which are likely to have a significant effect on the environment. The assessments will be reviewed by an Environmental Assessment Panel established by the Department of the Environment and reporting to the Minister...It is to manage this process and to chair the

Panel that this senior management position is required.¹⁵

It did not take long for many within DOE to realize that FEARO would not be the easy answer to EARP problems. Because no mention had been made of an administrative body for EARP in the 1973 Cabinet Decision, FEARO was left without a solid base of authority. The concept of "self-assessment" left the organization as the proverbial poor child looking in through the candy store window. Other sectoral departments were not about to volunteer to open the lid to the candy jar. Add to this a lack of other key organizational resources, and FEARO was left as a weak secretariat prevented from doing anything more than providing basic administrative support duties for assessment panels. The budget of FEARO, as Chapter 3 showed, constituted only .3% of DOE's total budget at the end of the 1970s. The Lands Directorate had also been a very small administrative body with only 1.3% of DOE's budget in the 1972/73 fiscal year divided between all of its activities as well as EARP. This trend was obviously going to continue with FEARO.

The extent to which the learning curve had to be climbed on these matters could be seen soon after the formation of FEARO. On 25 April 1974, Read Logie, the first Chairman of FEARO, dispatched a memo to Robert Shaw outlining the resources that the new organization would need. In that memo Logie revealed a startling ability to

predict the future, perhaps without even knowing it, when he stated,

Even though I detest alphabet soup, expressions like Environmental Assessment and Review Process are such mouthfuls that I have to propose brewing up some more soup. I would suggest that the Environmental Assessment and Review Process become EARP; that the Steering and Coordinating Committees become SCC; and that the Environmental Assessment Panel become EAP, even though this places the Chairman under the hazard of being known as CHEAP.¹⁶

Fortunately for Logie, EAP became FEARO and the Chairman was simply called the Chairman.

However, the underlying point should not be missed. FEARO's early resources amounted to only 10 PYs and \$172,000 dollars as issued by Dr. Tener, ADM of Environmental Management Service.¹⁷ Logie did not seem to see a problem with this when he went on to say,

I do not want a panel with a large fixed membership. I think I need for the Panel:

- 1) an energy expert, who thinks environmentally;
- 2) a construction engineer, who also thinks environmentally;
- 3) a biologist, who thinks pragmatically.

I also need on my staff, but not necessarily on the Panel, a liaison officer, to establish and to maintain the many contacts with the other departments and, where required, with the provinces and with environmental assessment project managers. All these people must be top notch personally and professionally, because the Panel will live or die by the credibility that it creates for itself by its performance.¹⁸

FEARO was clearly not going to be a major force for a new environmental policy thrust. A decline in EARP's "credibility" was not long in coming.

In fact, it was not much more than a year later that problems with EARP and FEARO began to appear with greater frequency. The extent and character of these problems is captured well by two memos sent to Blair Seaborn, as the new Deputy Minister, and Logie in 1975. In the first of these memos, dated 19 December 1975, Ghislain M. Gauthier, Chairman of the Quebec Council of Regional Directors, informed Seaborn that,

In the Quebec Region, EARP has until now, benefitted from favourable prejudice in the other federal and provincial ministries. The time has come to show more "leadership" and in certain cases more firmness.

This would require our regional officers to play a more dominant role. Following the flutter created by certain projects in the region, such as St. James Bay and the Sarnia-Montreal Pipeline, the public expects the governments to proceed with public hearings in the course of construction of large projects.

The provincial officers seem well disposed to act, but require active moral and technical assistance from our Ministry. It is essential that our officers be assured administrative support required to this end.¹⁹

By this time it had become very clear that the resources of FEARO were not nearly up to the task of providing this support. Further, with self-assessment proceeding without monitoring, and very few avenues for public involvement, the

credibility of EARP was lagging badly.

In the second memo dated 7 April 1975, Andre A. Grignon, Director, Federal and Provincial Programs Branch, expressed his concerns to Logie. He specifically addressed the failure of EARP to cover Crown Corporations and Regulatory Agencies and noted,

It is now obvious that only "inviting" Proprietary Corporations and Regulatory Agencies to participate in the EARP is insufficient. As indicated in the attached document, a large number of those Corporations and Agencies are precisely those which should be involved in EARP on a priority basis. Examples are those Proprietary Corporations involved in transportation by land, air and sea, and Regulatory Agencies such as the National Energy Board and the Canadian Transportation Commission.²⁰

The way up the policy learning curve indicated that it was not enough to simply "invite" organizations to participate, sectoral policy discretion would not be surrendered that easily.

THE 1977 REFORMS, PUBLIC PARTICIPATION AND THE RUN-UP TO THE GUIDELINES ORDER

It was not long after complaints over EARP started arriving from the regions and the Federal-Provincial Relations Branch that senior DOE management launched the first of several bids to reform the Process. Numerous internal documents addressed the disappointing performance of the early EARP. The extent and nature of DOE's concerns

were brought out most clearly in a discussion document sent by Blair Seaborn to the Members of the Interdepartmental Committee on the Environment on 14 January 1976.²¹ We can discuss this document as indicative of the problems that DOE was trying to correct through the first major reform initiative.

In that document Seaborn reminded the Interdepartmental Committee that they had deferred previous DOE proposals for reform of EARP until "a later date" and that the time had come to "reconsider them".²² He had a substantial list of problems that he wanted addressed and they met with extensive debate beginning some two years before the amendments were decided upon by Cabinet in 1977.

One of the chief concerns expressed by Seaborn was the limited extent of public involvement in the Process and the role this involvement could play in improving the accountability of EARP. Of the four major points addressed in the discussion paper, two of them dealt specifically with this issue. Seaborn stated,

The existing Cabinet decision constrains panel membership to staff from the Department of the Environment except for one representative from the department initiating or sponsoring the projects. Since specialists in environmental affairs are not confined to the Department of the Environment, it is recommended that panel membership be opened to all qualified individuals in the Public Service. In certain circumstances it is also recommended that individuals outside the public service be eligible for Panel

appointment.²³

By the mid-1970s DOE was becoming more aware of the role that public involvement could play in mobilizing support for its agenda within the relations of power of the environmental policy sector. Exposing the process to public scrutiny was the most likely way to ensure its integrity and greater accountability at the initial self-assessment stage. On this note Seaborn added,

Panels formed to review federal projects are directed by the Cabinet decision to seek public reaction to these unless instructed otherwise by the Minister of the Environment. In addition to this approach, it would be desirable to make the public aware of significant federal projects much earlier in the planning cycle than the Panel Review Stage. If the public were better informed early in the development of projects, many concerns that might result from misinformation or lack of information could be avoided. As a matter of policy, therefore, it is recommended that federal departments and agencies make every effort to seek public response to their projects early in the planning stage while vital decisions are still adjustable.²⁴

The recommendations for reform did not stop there. Seaborn wanted to go further yet to strengthen the monitoring and follow-up of the process and enhance its accountability. As far as DOE was concerned there was no way to assess how well EARP was doing because only those projects deemed "environmentally significant" were referred to the Department. What proportion these constituted of the total projects being initiated or sponsored could not be

assessed. No one knew how many projects were entering the Process or how many "significant" ones were avoiding the Panel review stage. He recommended,

that the Department of the Environment, in cooperation with other departments and agencies, strengthen the existing review mechanism to provide the Minister with information on federal projects environmentally assessed by initiating departments but not submitted for review.²⁵

Part of the effort to make EARP more accountable was the provision of information upon which the Process could be judged in public forums.

Finally, Seaborn was interested in delineating more clearly the responsibilities of DOE and FEARO in the Process. Specifically, he addressed the financial responsibilities of FEARO. One of the major constraints on the Process had proven to be the limited resources available for FEARO to initiate reviews, provide for monitoring and follow-up, and inform the public. In response to this problem Seaborn sought to reinforce the "polluter pays" principle in EARP whereby the initiator or sponsor of the program should be responsible for covering costs associated with Process compliance. He was primarily concerned with allocating costs to non-government proponents and noted,

Although federal departments and agencies shoulder the cost of implementing the Environmental Assessment and Review Process for projects initiated directly by them, no firm policy exists for allocating the environmental assessment costs of

projects conceived by a non-federal government proponent but sponsored, or financed, by a federal agency.²⁶

The recommendation then set out a schedule of cost related responsibilities. By doing this, it was hoped that one substantial barrier to the process, regarding the capacities of FEARO, could be overcome.

These proposals for reform reflected clearly the policy learning of the first few years of EARP. DOE felt that it was now time to have the Process reflect more closely accumulated experience. However, even by this time it was becoming more evident that the conditions faced by DOE in the second half of the 1970s were not going to be the same as those faced in the first half of that decade. We saw in Chapter 1 how the history of DOE could be seen as an early rise, a fall after 1975, and only recently a new opportunity for rising again. Seaborn's proposals for EARP amendment hit the environmental policy sector during the department's fall.

Worst still for EARP amendments was that severe structural problems in the economy were becoming very evident. The Nixon Shocks of 1971-72, the first oil crisis of 1973, and "stagflation", a combination of high unemployment with rising prices, hit hard in the mid-1970s.²⁷ The Ottawa bureaucracy resembled one huge traffic jam clogged with issues of foreign ownership, manufacturing competitiveness, science and technology, trade relations,

and regional development. The marginal EARP process was definitely in the slow lane. The stress was on economic development and major resource mega-projects were not long in arriving. Legislation for EARP, receiving some discussion within DOE, was to be, once again, a non-starter.

Sectoral Resistance Continues

The extent to which DOE officials experienced resistance to EARP could be seen in a memo from Blair Seaborn to Romeo LeBlanc dated 12 November 1976.⁸ In that memo Seaborn impressed upon the Minister that while he also wanted to, "develop a new approach based on legislation" the time was not right. Leblanc had expressed his concern over the "self-assessment approach in our present process", but Seaborn had to conclude that the best he could get was a "memorandum to Cabinet recommending changes to the existing environmental assessment process". It was the only option that would gather the needed support from other "federal departments and agencies". On this note he made his case to the Minister,

It has taken a considerable amount of time to develop the procedures for, and promote an understanding of, the existing process since it deals with very complex questions. A number of important projects have just recently been referred to the Environmental Assessment Panel. It will take some time to determine how adequately the process can deal with these. The

experience gained over the next months should significantly add to the information base needed to assess the process as well as establish the need for new approaches. The amendments suggested in the memorandum to Cabinet will facilitate this process appraisal.²⁹

DOE was still on a steep learning curve and was sensitive to how far they could push EARP within the environmental policy sector.

The post 1975 period, as mentioned in Chapter 4, was also a period when DOE was delegating much of its environmental compliance and enforcement activities to the provinces. The federal government was seeking provincial cooperation with its economic development initiatives and did not want any sore spots preventing this new partnership from arising. Issues marginal to the Trudeau Government's economic policies or constitutional reform efforts "should under no circumstances become a hindrance".³⁰ We saw in Chapter 4 how this led to an order from Cabinet that a hands-off policy on the environment was in effect. As one ex-official of DOE noted, "EARP was not going to be allowed to get involved with major developments in which the provinces had a significant interest".

In the late 1970s several provinces were also actively developing their own EIA processes. Much of this activity can be explained, in good measure, as anticipation of federal actions impacting on provincial jurisdiction. By 1978 Quebec had established its EIA process through a

significant amendment to the Environmental Quality Act. Throughout the 1980s, all the other provinces would see their efforts to develop EIA come to fruition. Along with these provincial initiatives came much greater likelihood of conflict between the federal and provincial governments over EIAs. It also meant that those opposing the federal EARP could point to the provinces and say "let them handle it".³¹

More Marginal Reform

The difficulties faced by DOE were reflected in the marginal EARP reforms that were adopted by Cabinet on 8 February 1977. FEARO was allowed to recruit Assessment Panel members from outside government, but as with the original 1973 Decision, there was no mention of an administrative body with clear authority to coordinate and monitor the Process. One confidential DOE document put it this way,

In effect, this amendment limited itself to modifications of the panel composition and stated that existing review mechanisms should be strengthened without specifying how this should be done.³²

Self-assessment was confirmed as the basic principle of EARP, and public involvement was not going to play much of a role in monitoring its implementation. One senior DOE official noted, "it did not take long before we began to

notice that not much had changed. The pre-panel assessment stage of the process had not adequately been addressed. Projects were still able to slip through the cracks." Almost immediately another round of efforts towards reform had to begin.

A new thrust for reform came in the form of the 1979 Government Organization Act which, as we saw in Chapter 3, separated Fisheries from DOE. The Act gave DOE certain horizontal powers within the federal government and is therefore an important development in the EARP story, although it is rarely given much attention. It stated that the Minister of the Environment,

shall initiate, recommend and undertake programs and co-ordinate programs of the Government of Canada, that are designed...to ensure that new federal projects, programs and activities are assessed early in the planning process for potential effects on the quality of the natural environment and that a further review is carried out of those projects, programs, and activities that are found to have probable significant adverse effects, and the results therefore taken into account.³³

After the 1973 and 1977 Cabinet Decisions, DOE's role in EARP was generally recognized, but its efforts to monitor the process had been made near impossible because it could not appeal to any specific horizontal powers. Other government organizations within the environmental policy sector were able to claim that EARP was the equal responsibility of them all. While this is no doubt the

ideal in theory, in reality it never works that way. The final responsibility for any policy process must reside somewhere, and early Cabinet Decisions did not help clear the air on this issue. Other departments and agencies less committed to the environmental issue consistently argued they were meeting their obligations in-house and would appeal to DOE only for its "technical expertise".³⁴

Trudeau, Part Friend and Part Foe

The origins of the new DOE powers can be traced in part to manoeuvres by DOE Officials and in part to early discussions between Prime Minister Trudeau and Leonard Marchand, Minister of State, Environment. In one letter sent by Trudeau to Marchand on 9 November 1978, the Prime Minister expressed his support for the Environment Department and stated,

I believe the Government Organization Act should empower the Minister of the Environment, with the approval of the Governor in Council, to set environmental guidelines for departments to follow in drafting legislation, setting regulations, issuing permits and other program activities. It would be the responsibility of the Minister of the Environment to advise his colleagues on the environmental questions and on the implementation of the environmental guidelines.³⁵

On the specific question of EARP within these horizontal powers, Trudeau continued,

At the same time those guidelines should inform the Environmental assessment and Review Process, (which should be given a legislative base patterned on its current procedures and methods of operation). A separate organization to administer that Process on behalf of the Minister also should be established in legislation.³⁶

All of these new powers, however, were to be severely constrained by the Trudeau government's economic and federal-provincial policies. We already saw in Chapter 2 how Trudeau's legacy on the environment could be seen as initial support followed in short order by retrenchment and disinterest in the face of economic and constitutional concerns. In this case Trudeau explicitly ordered that,

In exercising your new horizontal powers, and in particular in developing the Environmental Assessment and Review Process, you will need to ensure that the objectives of the Government to reduce the regulatory burden on the private sector is respected and emphasized. In its operation to date EARP has demonstrated it can be effective while remaining small in size and avoiding red tape and delay. You should build in safeguards to the new system to ensure that it continues to operate in this manner and does not succumb to bureaucratic tendencies to expand for the sake of expansion or to create a regulatory behemoth.³⁷

At the same time that Trudeau was promoting horizontal powers for DOE he was willing to enshrine many of the past problems of the Process. He did not want EARP becoming "regulatory" and a "burden" on the economy, and his concern for federal-provincial peace was revealed in his call for a

delegation of DOE programs "to the provinces".³⁸ However valid many of these concerns may have been at the time, they served as powerful rallying points for other sectoral organizations that sought to resist the interference of EARP in their discretionary activities. His call for horizontal powers was a step forward, but in large part he preempted any early gains that could be realized from them.

A new wave of efforts at EARP reform had to await the results of the 1979 federal election. We already discussed in Chapter 2 how the arrival of John Fraser to the Minister's chair was a pleasant surprise for DOE officials and environmental groups. Among the policy areas that Fraser sought to move on was EARP. He kept hopes for a legislated EARP alive within DOE and this had impacts beyond his short tenure.

The arrival of John Roberts as Minister of DOE meant that EARP was not going to receive the same level of attention that it had with Fraser. Chapter 2 noted that Roberts took on other issues as his main priorities, not the least of which were the Liberal constitutional reform initiatives. However, the work of DOE officials on EARP continued. In particular, Robert's tenure saw the conducting of yet another inter-departmental review of EARP which was to culminate in recommendations to Cabinet. In the context of the recession of the early 1980s, however, this work did not meet with smooth sailing.

THE CABINET GUIDELINES ORDER AND ITS AFTERMATH

By mid-1983 the EARP consultations under John Robert's tenure were, for the most part, complete. However, it is indicative of the difficulties faced by EARP throughout much of its history that, as with the 1975 recommendations made by Seaborn, the political and economic conditions for reform were again "on the fall". By 1983 Canada was still reeling from the worst recession since the "Dirty 30s" and economic issues were again flooding the environmental policy sector. Yet at that time Raymond Robinson, appointed Executive Chairman of FEARO in early 1982, had to provide Robert's with his recommendations regarding where to go with EARP.

Resistance Another Time Over

In a memo from Robinson to Roberts, dated 30 June 1983, the Chairman provided the Minister with a briefing on DOE's "inter-departmental consultations on the EARP Review".³ According to Robinson, the point had been reached where definitive statements could be made about the positions taken by "senior officials in the departments consulted". He then went on to review these positions and provide the Minister with several issues which needed his attention and advise, not the least of which was, once again, the question of legislation.

Robinson addressed many of the reform issues that had been adopted by Seaborn some 8 years earlier, although the focus of the debates reflected policy learning since that time. DOE was still seeking to tighten-up the initial assessment stage, broaden the scope of public reviews, improve monitoring and follow-up, widen the coverage, and deal with questions of funding the Process. On most of these issues progress over the first decade had been marginal, and Robinson informed the Minister that,

As a general observation, I have to conclude that most of the senior officials prefer retaining as much flexibility as possible in any new regime. In particular EMR and Transport are not persuaded that any basic change is needed although they naturally support our proposed tightening of the terms of reference for panel reviews and greater administrative control of panels.⁴⁰

The policy learning of the previous ten years was not going to lead to automatic EARP changes, and this was because the politics of discretion was alive and well.

In general Robinson had to conclude that on each of the reform issues identified by DOE as priorities, other sectoral departments were not going to volunteer to climb on board. On the question of initial assessment he noted that "EMR and DOT believe the present system is adequate and requires no real change".⁴¹ Similarly, on the scope of the Process it was concluded that many of the major departments did not want EARP to consider more than the "biophysical and

directly related social impacts". Coverage should continue to exempt "Crown Corporations and regulatory agencies", and there was "less enthusiasm for a post-assessment role for Environment Canada as overseer of the implementation of panel reports".⁴²

On the issue of public participation, the findings were equally disappointing. DOE had, by the late 1970s, as Chapter 5 showed, undertaken efforts to establish better relations with environmental groups. Other sectoral departments were not as enthusiastic about these efforts because of the impact they could have on the balance of power within the policy sector. On this issue Robinson concluded that many departments, "do not like the suggestion that they be required to undertake public consultation during the screening process. They want discretion in this matter."⁴³ Similarly, the "intervener funding" of public participation drew "concerns about the allocation and administration of funding" and arguments about the "need to follow tight procedures and to establish demanding criteria." Robinson summed-up his observations by saying,

A major sticking point is any attempt to introduce a review mechanism, especially one open to receive complaints from the public, to second guess the judgement of initiating departments on whether a project should be referred to you for public review. As noted above, there is even opposition on the part of Transport and EMR to a requirement for public consultation during the initial screening process although regular publication, after the event, of initial

screening results would be acceptable...
I am morally certain that continued
insistence on this point would provoke
'strong opposition from EMR, probably
supported by Transport."

On the question of EARP legislation the situation was even more bleak. Robinson was not convinced, based on the experience of his first interdepartmental EARP battle, that DOE should even attempt to proceed with a legislative agenda. The best he could do was point to sectoral departments that were "least hostile" rather than to those who were supportive of the idea. He was sure that under the conditions that dominated the policy sector at that time, DOE could never demonstrate the "need for legislation to senior officials from major departments". Instead he wanted to know the Minister's view, "on whether the Cabinet Submission should maintain our present emphasis on the legislative option, with an Order-in Council as a fall-back, or whether the paper should highlight the Order-in-Council approach with legislation as an option for the record."⁴⁵

It did not take long to see that the "legislation option" was going to remain only "for the record", at least for the foreseeable future. Less than two months later John Roberts was no longer Minister and concerns over the state of the economy remained paramount. In fact, any further movement at all on EARP had to await the appointment of Charles Caccia as Environment Minister, and the run-up to the 1984 general election.

Caccia's Year and the "Laurel and Hardy" Event

As Chapter 2 discussed, Charles Caccia took over as Minister in 1983 well aware that he had only one year to work with. He knew that there would be a general election in 1984, and wanted to push as much of DOE's environmental policy agenda forward as he could. One of the areas he set to work on was EARP, and he found that some Liberal Ministers were beginning to awaken to the fact that the environment was becoming a major issue for the voting public.

Caccia accepted the general DOE assessment that legislation was not a realistic option, particularly in the time he had at his disposal. While there was some softening of views within the Trudeau government, he did not, as with his predecessors, have the political muscle within Cabinet to force EARP legislation over the objections of senior bureaucrats and intransigent ministers. According to him, one of the main problems faced by EARP was that the Process, after some 10 years, remained largely unwritten and vague, and he wanted to have it codified as "an administrative code of practice".⁴⁶ The Robinson recommendation to proceed with an Order-In Council submission to Cabinet was a compromise that went some distance to meeting Caccia's main concern while holding out some prospect for success in a new round of EARP reforms.

The Guidelines Order was passed by Cabinet in June of 1984, but not until after a Laurel and Hardy like event which would later prove to be significant in the evolution of EARP. As one senior DOE official noted, "We thought we were just codifying something that was already happening within government informally, but ended up getting a lot more". The story surrounded the rush to get the Guidelines Order to the last meeting of the Trudeau Cabinet in 1984.

DOE sent a rough draft of the Order to the Department of Justice within what many in FEARO thought was adequate time to put it into formal language. However, a long series of sloppy drafts returned to sender, and confusions as to how the Process should be represented in written text, led to a situation whereby, as one senior DOE official put it, "there was no time left to work it out. The result was an Order with a character and sound which went well beyond even our original proposal!" Another official added, "we thought it was going to have good administrative force, like a Treasury Board policy directive which would be an advance at this level because we had so little before, but it ended up taking on a broader legal meaning". As we will see, it took some four years for the real extent of the "legal meaning" to come home to all concerned, although there was uneasiness within the environmental policy sector soon after the Order was issued.

The Components of the Order

The Order proved to be a significant step in the evolution of EARP for at least three important reasons in addition to the basic fact that it formally "codified" the Process. First, it required each initiating department to ensure that a proposal "shall be subject to an environmental screening or initial assessment to determine whether, and the extent to which, there may be any potentially adverse environmental effects from a proposal".⁴⁷ In carrying out this screening the initiating department is to be assisted by FEARO which for the first time was given formal recognition as "responsible directly to the Minister for the administration of the Process".⁴⁸

In Section 12 of the Order, it is stated that a number of results can follow from the initial assessment stage, including: the proposal being allowed to "automatically proceed"; the proposal being "referred to the Minister for public review by a Panel" because it has "potentially adverse environmental effects"; the proposal being allowed to proceed with mitigating steps taken with "known technology"; the proposal being subject to further study due to "unknown" environmental effects; and, the proposal being "modified or "abandoned" because of "adverse environmental effects".⁴⁹ However, even if a determination is made by government officials that the environmental effects are

"insignificant" or not "adverse", Section 13 contemplates a review being undertaken if "public concern about the proposal is such that a public review is desirable".⁵⁰ This would later prove to be a very important addition.

Second, if a public review is considered necessary, Section 22 required that the Assessment Panel shall meet three criteria; first, that it be "unbiased and free of any potential conflict of interest relative to the proposal under review"; second, that it be "free of any political influence"; and third, that it "have special knowledge and experience relevant to anticipated technical, environmental, and social effects of the proposal under review".⁵¹ These criteria meant a broadening of public access to the panel review stage, and a Process less directly controllable within the confines of specific government departments. FEARO provides the Panel with necessary administrative support, and Section 30 states that the Panel may issue the guidelines for "preparation of an Environmental Impact Statement", and that it may "consult the public and any department" of government.⁵²

Third, the Order required that the Minister issue the terms of reference for public reviews to the public, and that these terms shall include "an examination of the environmental effects of the proposal" and "an examination of the directly related social impacts of those effects".⁵³ This gave some avenue for increasing the scope of the

Process. Further, with the approval of the Minister and the initiating department the review may also consider "general socio-economic effects" and a "technology assessment of the need for the proposal". During the consideration of these matters the Panel shall undertake "public hearings" in a "non-judicial and informal but structured manner" where witnesses can be "questioned". The Review Panel shall also "conduct a public information program to advise the public of its review and to ensure that the public has access to all relevant information that any member of the public may request".³⁴ This amounted to public involvement and scrutiny being given a substantial push forward with some discernable effects on the balance of power over EARP issues within the environmental policy sector.

However, the impact of the Guidelines Order, as noted above, was not to be immediately experienced in its full force. The 1984 general election saw Charles Caccia removed from the Minister's chair and Suzanne Blais-Grenier take over. We already saw in Chapter 2 some of the implications this had for DOE, and EARP and FEARO were not able to escape the worst effects of this low point in the department's history. As one senior DOE official noted, "she was very naive and did not realize that she also had to serve an environmental clientele". This was at a time when EARP, along with many other environmental policies, were beginning

to attract broader public concern.

McMillan's Opportunities

The arrival of Tom McMillan to the Minister's chair brought some movement once again to DOE's EARP reform agenda. Chapters 2 and 6 noted that while McMillan did not carry a lot of weight in Cabinet, and was not able to recover the resources lost to the department in the first round of Conservative government cuts, he could at least attempt to move on some legislative fronts. These were the Canadian Environmental Protection Act and EARP.

McMillan's attempts to promote EARP legislation throughout his tenure received assistance from four politically significant events. First, the 1984 Conservative Party election commitment that there should be EARP legislation. This aspect of the Conservative platform was encouraged by John Fraser who remained active on environmental policy matters after he was no longer Minister. The Mulroney government had to face this commitment every time they were challenged by environmental groups to act on EARP. The demands of these groups, as Chapter 5 noted, were being supported by a broadening public opinion that more needed to be done for the environment.

Second, the recommendation by the Royal Commission on the Economic Union and Development Prospects for Canada, the

MacDonald Commission, that EARP be given a statutory basis.⁵⁵ The Commission argued that environmental values needed to be better integrated into economic decisions, and that provisions for public input, intervener funding, and monitoring for compliance could improve the legitimacy of the EIA Process.

Third, early realization by some government officials that the Guidelines Order may in fact have more legal weight than was at first thought. In anticipation of the possibility of strict court rulings on the Order, there were calls for a better balancing of Ministerial discretion with public and judicial scrutiny of the Process, and for more flexible mechanisms for federal-provincial cooperation on EIAs. Federal-provincial conflict, something the Conservative government had sworn to avoid upon coming to power, was bound to be the result of any court rulings requiring the federal government to take unilateral action on EIAs impacting on major provincial undertakings. Legislation, if it could build some of these safeguards in, did not appear as worthy of maximum resistance as it once had.

Fourth, the work of the World Commission on Environment and Development, the Brundtland Commission (1987), which, through the concept of "sustainable development", called for better resource management and environmental protection measures in all governments around the world. Our Common

Future, the high profile final report of the Commission, contributed further to the public's interest in seeing something done about the environment."

Even with these encouragements, however, the road towards EARP legislation remained rough. As one ex-senior DOE official noted, "McMillan wanted to go ahead immediately with draft legislation but could only get a discussion paper out of Cabinet. It was months of work before we could get the discussion paper made public". By 1987 many of the key concepts, regarding what DOE wanted the EARP legislation to look like, were in place. The Canadian Environmental Advisory Council also produced its review of EARP advising the Minister to proceed with a legislated Process, but the 1988 election put everything on hold once again."

The Second Tory Term, the Court "Shocks" and
The "New Need" For Legislation

The Conservative victory in the "free trade" election of 1988 led to the appointment of Lucien Bouchard as Minister of the Environment. Chapter 2 noted that Bouchard appeared as an aggressive Minister willing to take some risks in promoting DOE's environmental policy agenda, but it was not this that had the most effect on the EARP story in the most recent period. Soon after the re-election of the Conservatives, a series of Federal Court rulings began to change the calculus of EARP in significant ways encouraging substantial renewed impetus to the idea of a legislated process. One confidential DOE document argued that the litigations have had the practical effect of "legislating" EARP, and "forcing decisions makers to comply with the letter of the Order, be clear in the articulation of their decisions, and ensure that procedures are public".³⁸ A brief summary of three of the most important court rulings, occurring in 1989 and early 1990, will serve as useful background to recent EARP legislation initiatives.³⁹

In the first decision, on 10 April 1989, Mr. Justice Bud Cullen of the Federal Court of Canada ruled on a suit launched by the Canadian Wildlife Federation. The Federation sought the quashing of the International River Improvements Act license for two dam projects, known as the Rafferty-Alameda Dams, on the Souris River in Saskatchewan.

The application to set aside the license was based on the argument that the Minister had not complied with the federal government's own EARP Guidelines Order. Justice Cullen agreed and concluded that the Rafferty-Alameda Dams must be subject to an EIA because they impacted on a number of areas of federal responsibility, including international relations, transboundary water flows, migratory birds, interprovincial affairs, fisheries, and federal lands. Justice Cullen's ruling was particularly important because it resolved any remaining doubt within government over whether or not the Guidelines Order was in fact legally enforceable. It also opened a can of worms in federal-provincial relations.

In the second decision, again dealing with the Rafferty-Alameda Dam projects, Mr. Justice Francis Muldoon of the Federal Court of Canada granted a second Canadian Wildlife Federation action. After the Initial Environmental Evaluation determined that there would be "moderate" environmental effects of the dam projects, Lucien Bouchard issued a new license. Justice Muldoon ruled that in doing so the Minister had failed to comply with Section 12 of the Guidelines Order. His rationale was that the authors of the initial appraisal had used the term "moderate" environmental effects, a term not specified in the Guidelines Order. He ordered that an environmental assessment panel be appointed by 30 January 1990 to conduct a full EIA, although he did

not quash the license outright because under the Guidelines Order the Minister is not bound to follow the recommendations of an EAP at any rate. Construction of the Dams proceeded under considerable public protest.

The third decision is the Federal Court of Appeal's reversal of an earlier court decision on Alberta's Oldman River Dam project. In contrast to the Rafferty-Alameda case where the Environment Minister was responsible for the International River Improvements Act, this case involved the Navigable Water Protection Act (NWPA) under the authority of the Minister of Transport, and the Fisheries Act under the authority of the Minister of Fisheries and Oceans. The original court decision had ruled, in June, 1989, that the Transport Minister was without authority to require an EIA because neither the NWPA nor the Department of Transport Act gave the Minister an environmental mandate. Similar reasoning was applied to the Minister of Fisheries, the Fisheries Act, and the Department of Fisheries and Oceans Act.

In the appeal launched by the Friends of the Oldman River Society, the Federal Court of Appeal ruled, in March 1990, that both the Minister of Transport and the Fisheries Minister were bound by the EARP Guidelines Order. This meant that NWPA was applicable to a provincial project, and that even though there was no license issued under the Fisheries Act, the Minister of Fisheries had a decision-

making authority and was therefore subject to the Guidelines Order. This was a substantial broadening of the requirements of the Order and brought an entirely new scale to the issue of EARP.

After these key court decisions the issue of EARP legislation received a new push forward. On 8 June 1990, the federal government introduced Bill C78, The Canadian Environmental Assessment Act. Resistance to legislation within the environmental policy sector was substantially curtailed by the federal court rulings which were enforcing a strict reading of the Guidelines Order. Increasing public concern over the environment also aided DOE's promotion of legislation for EARP. In 1992 new legislation for environmental assessment was passed by Parliament.

CONCLUSIONS

This Chapter has analyzed DOE's incremental efforts to develop and reform the EARP process which was to "monitor and constrain new development activities". Many of the department's EARP initiatives faced considerable uncertainty regarding how to even go about conducting an environmental impact assessment process. "Policy learning" became a major aspect of EARP's history because there was only limited experience to rely on.

Even more important, however, was the fact that EARP

became the object of intense scrutiny within the environmental policy sector. Other sectoral government organizations resisted any environmental policy designed to monitor activities falling in whole or in part within their jurisdictions. They were very successful at the "politics of discretion" that marginalized EARP within the environmental policy sector.

FEARO's limited resources only exacerbated the problem, and a legislative base for EARP never materialized in the 1971-1988 period. It was only the Federal Court rulings and other significant political events in the post-1988 period that finally led to EARP legislation passing Parliament in 1992. The "quest for legislation" was finally ended although the struggles to monitor and constrain new development activities will continue.

ENDNOTES

1. There are several good FEARO Occasional Papers that outline the EARP process. See for examples: David Marshall et. al., "Environmental Management and Impact Assessment", March 1985; Raymond Robinson, "The Federal Role in Environmental Assessment", April 1985; and, W.J. Couch et. al. "Environmental Impact Assessment in Canada", 1981. Also see, F. Curtis, "Federal EIA in Canada", Environmental Impact Assessment Review. Vol. 8, (1988), pp. 97-106.

2. There are many studies which have discussed the outward expansion of development into the Canadian hinterland and its implications. See: H.G.J. Aitken, "Defensive Expansionism: the State and Economic Growth", in Easterbrook and Watkins (eds.) Approaches to the Study of Economic History. (Toronto: University of Toronto Press, 1964; Harold Innis, Problems of Staple Production in Canada. (Toronto: Ryerson, 1933); A.R.M. Lower, The North American Assault on the Canadian Forest: A History of the Lumber Trade Between Canada and The United States. (Toronto: Ryerson, 1938); Donald MacKay, Heritage Lost: The Crisis in Canada's Forests. (Toronto: Macmillan, 1985); Patricia Marchak, Green Gold: The Forestry Industry of British Columbia. (Vancouver: University of British Columbia Press, 1982); H.V. Nelles, The Politics of Development: Forest, Mines and Hydro-Electric Power in Ontario, 1841 - 1941. (Toronto: Archer Books, 1974); and, Jamie Swift, Cut and Run: The Assault on Canada's Forests. (Toronto: Between the Lines, 1983).

3. See Environment Canada, Environment Canada Chronologies 1970-1990, (Ottawa: Environment Canada, 1991).

4. Ibid.

5. This was a common theme in all the interviews conducted for this Chapter.

6. The memo was received by the DOE Secretariat on 6 September 1973. Osbaldeston outlined for two pages some of the concerns he had with the EARP idea.

7. Ibid.

8. Ibid.

9. The character and content of the Decision was addressed in several interviews.

10. From interviews it was concluded that DOE officials were playing somewhat of a waiting game under the assumption that the Cabinet would come to strengthen EARP.

11. One senior DOE official who was with the Lands Directorate in this early period, described a "learn as you go" EARP approach with heavy borrowing from U.S. EIA methodologies.

12. This sequence of events was established in several separate interviews.

13. See Environment Canada, "Proposal on the Environmental Assessment Panel" sent by Environment Minister Jack Davis to the Treasury Board, January 10, 1974.

14. Ibid. It was not until Davis's "Panel" was established did it begin to be referred to more clearly as a permanent office within the organization of DOE, that being FEARO.

15. Ibid.

16. See Environment Canada, "Environmental Assessment Panel", April 25, 1974, which reveals Logie's early thinking on EARP. His views would later come to change substantially due to policy learning within DOE.

17. Ibid.

18. Ibid.

19. See Environment Canada, "Environmental Evaluation Process", December 19, 1975. The memo was sent by Ghislain M. Gauthier of the Quebec Region in response to Seaborn's October 2, 1975 internal DOE initiative to institute new procedures for application of the EARP Process.

20. See Environment Canada, "Review of the Environmental Assessment and Review Process", memo sent by Andre D. Grignon, Federal-Provincial Programs Branch, to Reed Logie, April 7, 1975.

21. Environment Canada, "Amendments to the Environmental Assessment and Review Process: Submission to the Interdepartmental Committee on the Environment", January 14, 1976.

22. Ibid.

23. Ibid.

24. Ibid.

25. Ibid.

26. Ibid.

27. See G. Bruce Doern and Richard Phidd, Canadian Public Policy: Ideas, Structures, Process. (Toronto: Methuen, 1988), mainly Chapter 15.

28. See Environment Canada, "Proposed Cabinet Memorandum Recommending Amendments to the Environmental Assessment and Review Process", November 12, 1976. The document included, "Briefing Notes for Minister on Memorandum to Cabinet".

29. Ibid.

30. This point was validated in several follow-up interviews.

31. This discussion of provincial EIA legislation was drawn from a confidential internal EARP review document. See "Departmental Environmental Assessment Policy Review", May 2, 1991. Similar points were made in several interviews.

32. Ibid.

33. See Environment Canada, Environment Canada Chronologies: 1970-1990, Environment Canada, April 1991.

34. This point was established in several interviews.

35. This confidential letter, sent by the Prime Minister, responded to Marchand's proposals regarding the separation of Fisheries from Environment and provided instruction on a range of issues regarding the second "new" DOE.

36. Ibid.

37. Ibid.

38. This was a major theme of the letter when the Prime Minister stated: "Your emphasis on the role of the provinces also is well placed. I would ask you to go further in that regard and work with the Federal-Provincial Relations Office to elaborate more specifically which responsibilities of your new Department should be delegated to the provinces, and whether there is an argument for the complete transfer of any of those responsibilities to the provinces."

39. See Environment Canada, "EARP Review - Status Report", June 30, 1983. A discussion document, marked restricted, was also attached and simply entitled, "The Federal Environmental Assessment and Review Process".

40. Ibid.

41. Ibid.

42. Ibid.

43. Ibid.

44. Ibid.

45. Ibid.

46. The Minister's views on this issue were noted in several interviews.

47. This analysis is informed by several interviews and by the May 2, 1991 document entitled, "Departmental Environmental Assessment Policy Review", Op. Cit.

48. Ibid.

49. Ibid.

50. Ibid.

51. Ibid.

52. Ibid.

53. Ibid.

54. Ibid.

55. See the Royal Commission on the Economic Union and Development Prospects for Canada, Report. (Ottawa: Supply and Services, 1985), Vol. 11.

56. World Commission on Environment and Development. Our Common Future. (New York: Oxford University Press, 1987).

57. See Canadian Environmental Advisory Council, Preparing for the 1990s: Environmental Assessment: an integral part of decision making. (Ottawa: Supply and services, 1988), also Evaluating Environmental Impact Assessment. (Ottawa: Supply and Services, 1988).

58. See the May 2, 1991 document, "Departmental Environmental Assessment Policy Review", Ibid.

59. This analysis was informed by several interviews and the briefing document cited above.

CHAPTER 8

**WILDLIFE CONSERVATION AND MANAGEMENT:
THE CWS AND ITS SECTORAL RESOURCE "PARTNERS"**

The Canadian Wildlife Service (CWS) is, in many ways, a tiny miniature replica of DOE itself. Like other DOE organizational components, though arguably even more so, CWS was highly dependent on the cooperation of other sectoral organizations and interests before it could develop and implement policy. The Service has proud traditions that long predate DOE, but it has always been a small resource weak organization and has been highly susceptible to the politics of DOE budget cuts. And above all, CWS faces a daunting jurisdictional problem. When it acts, it is truly always in everyone else's business... in their farms, forests, and woodlots because that is where the wildlife resides. Other sectoral organizations were very cautious about allowing the CWS into their mandated areas of activity.

Taken to their extreme, these typical DOE problems have had unique implications for the character of the CWS. More by necessity than by choice, the Service has had to measure organizational success not only as a factor of how well it managed its own resources, but how well it mobilized the resources controlled by others. Since the formation of DOE, CWS efforts have been directed towards building

"partnerships" with policy sector organizations and interests that control resources necessary for a "solution" to wildlife problems. One product of these efforts to date is the North American Waterfowl Management Plan (NAWMP).

This Chapter analyzes the NAWMP as the prime example of CWS efforts designed to overcome resource shortages for "wildlife conservation and management". It is also our final chapter length case study of the dissertation dependent variable. The key point of the NAWMP story is that because of the complexity of environmental problems, and the number of sectoral organizations and interests which are always involved, all environmental policy ends up being about mobilizing sectoral resources within "partnerships" and bridging policy interests. This idea does not override the requirement of the lead policy sector organization achieving clear results, but it does shed light on what future federal environmental policy may need to look like.

The Chapter proceeds through three sections. The first section, outlines in brief the character, resources, and problems of the CWS. It serves as a necessary backdrop to understanding why an NAWMP policy initiative was perhaps the only solution for the CWS under the policy sector conditions it faced. The second section, discusses how a continued worsening of wildlife problems triggered the Canadian Waterfowl Management Plan (CWMP) process in the late 1970s as a precursor to the NAWMP. The CWMP was actually where

most of the sectoral "partnership building" took place before Canada could present a united front to the United States. Finally, the third section, discusses the NAWMP and the early financial challenges it faced. The search for resources to implement the Plan in Canada required further ongoing policy sector struggles and partnership building.

THE CWS AND ITS PROBLEMS

The Canadian Wildlife Service entered DOE at the formation of the new department, and this did not sit well with Service personnel, many of them scientists working virtually alone in remote areas of Canada. CWS staff were widely viewed throughout the Canadian wildlife management community as leaders in matters of wildlife ecology. As one ex-CWS official noted, "we belonged to what we considered to be a unique organization accustomed to doing things a particular way. The idea of a big department of the environment was seen as a threat to all of that".

On 1 January 1973, the CWS was moved into the Environmental Management Service (EMS) along with the Inland Waters Directorate, the Canadian Forestry Service, and the Lands Directorate. The Service was organized around three branches: Migratory Birds, Wildlife Management, and Advise and Support. It followed EMS through its changes to the Environmental Conservation Service, and later, its melding

with EPS to form the Environmental Conservation and Protection Service.

CWS always enjoyed a comparatively stable "clientele" base that played a major part in defining its character. Some of Canada's oldest conservationist groups used the Service as a contact point within government, as Chapter 5 discussed. Historically, these groups tended to be homogeneous in their concern for wildlife as a resource use issue. By the 1980s, this clientele calculus began to change when nature preservation groups became more vocal and insisted upon a better balance in CWS activities. One ex-CWS manager noted, "the whole constituency changed underneath us and we no longer knew them as well as we once did".

There was always a lingering question about the effectiveness of CWS in the politics of DOE and the environmental policy sector. The Service's scientific personnel were well known in their fields of study and activity, but, as one CWS official put it, "they had a lot of difficulty communicating with the rest of the department and getting support". To DOE senior management, wildlife issues seemed rather pale by comparison with many other environmental problems. It was an up hill struggle all the way and budgets were never flush, as Chapters 2 and 3 discussed.

These struggles were somewhat eased by the

sensitivities of Environment Ministers. To politicians, the CWS had political significance which went well beyond its size in organizational terms. A vocal clientele of sportsmen and related entrepreneurs always appeared to be watching, and wildlife issues could never be left off the DOE order paper entirely. But, as Chapter 3 noted, the CWS became more vulnerable to the politics of DOE and the environmental policy sector after the arrival of Suzanne Blais-Grenier as Minister. The Conservative government's 1984 budget cuts hit the CWS particularly hard, and the wildlife constituency protested vehemently to some effect. Blais-Grenier, as one DOE official put it, "simply had no idea what she was doing and what the political results would be". Previous ministers had been more aware and therefore more wary.

The Legislative Base and the "Value" of Waterfowl

The Migratory Birds Convention Act (MBCA) and the Canada Wildlife Act (CWA) are the two major pieces of legislation administered by the CWS.¹ The MBCA has always occupied the vast majority of time and effort going back to the signing, by Britain on behalf of Canada, of the 1916 Convention on Migratory Birds with the United States.

At the turn of the century, there was a rapid increase in recreational uses of game species of migratory birds,

primarily ducks and geese. Governments were put under intense pressure by wildlife groups to become more active in the management of these birds to prevent their decline. Waterfowl, in particular, were seen to have significant economic benefits on both sides of the border and these benefits needed to be sustained through government action. The goal of the Migratory Birds Convention was to commit both governments to maintaining population levels.

The MBCA was passed by Parliament in 1917 to allow Canada to fulfil its obligations under the Convention. It authorized the federal Cabinet to make regulations to protect birds, nests, and eggs of specific bird species from being molested or destroyed. Regulations were developed under the Act to set the hunting season, forbid marketing and export of birds, and establish Migratory Bird Sanctuaries. The Act also empowered game officers to enforce the regulations under the Act. However, the consistent and chronic shortage of game officers meant that police forces, such as the RCMP, assumed a critical role in enforcement of the MBCA, adding to their many other duties.

The Migratory Birds Convention and the MBCA did not address all the wildlife issues being faced by the country. The first half of the century brought further increases in recreational uses of wildlife, although successes were achieved in slowing the decline of migratory birds. The CWS was always significantly constrained as to what could be

done about new stresses on wildlife. Pressure for action was always present, but primary responsibility for management of wildlife resided with the provincial governments dating back to Section 92 of the British North America Act (Constitution Act 1867), and under the Transfer of Natural Resources Act (1930) for the Prairie Provinces. While transboundary issues clearly allowed federal involvement with migratory species, much of the habitat of wildlife, including that of migratory birds, was within provincial jurisdiction.

In 1966, the Parliament of Canada attempted to move on new wildlife problems through approval of a Canadian National Wildlife Policy. It placed emphasis on wildlife issues falling outside the range of the MBCA, including problems of endangered species, and wildlife within national parks, the Northwest Territories, and the Yukon. In 1973, the Canada Wildlife Act (CWA) was proclaimed to enable implementation of the Policy.

The CWA authorizes the Minister of the Environment to promote and recommend measures for wildlife conservation, and cooperate with the provinces on wildlife research and conservation initiatives. However, this enabling legislation, like others administered by DOE, has always been highly dependent on the amount of money that the CWS could bring to the table in negotiations with the provincial governments and other interested parties. As one ex-CWS

official noted, "the CWS agenda was in and out like an accordion. In good times, when there was more money, the agenda would expand to other wildlife issues around the CWA, the rest of the time the order would come down to concentrate on the issues where you were most solid around the MBCA".

Habitat, Forests and Farms

However, the problems and constraints found in conflicting clientele demands, the provinces, and budgets, were not the only ones faced by the CWS. Within the environmental policy sector there were always many contradictory forces at play, the two most significant surrounding forestry and agricultural policies.

For example, the CWS always played an important role in EPS's programs to study the effects of toxic substances on wildlife, yet for much of the early period of DOE, as Chapter 3 noted, the Forestry Service helped fund the chemical spraying of Canadian forests. One DOE official observed, "Forestry would help in the pesticide spraying of a forest one day and the Wildlife Service would go out and count the bird kills the next".

Other forestry practices aided by the federal and provincial governments were very harmful to wildlife as well. The most damaging of these was the allotting of

forest industry cutting rights without consideration being given to the value of the habitat to wildlife already being overstressed and threatened by development. Moreover, governments often involved themselves in subsidizing forest harvests which would not otherwise have been economically viable. Tragically, the low grade tree harvests, from the perspective of the forest products industry, often involved the destruction of some of the most important remaining animal habitat.

One internal CWS discussion paper, entitled "Problems Facing Wildlife Habitat Management on Canadian Forest Lands", discussed these policy sector problems when it noted that,²

it is ironic that agencies that have no direct responsibility for wildlife often have more influence over wildlife than those that have. This situation is well illustrated in Canada, where provincial forestry agencies influence wildlife habitat over vast areas far more than the influence of the responsible wildlife agencies...it may be more important for wildlife agencies to influence the actions of other resource management agencies than to manage wildlife directly.

The paper also discussed the many sectoral bridges that the CWS and other wildlife agencies would need to build to ensure more effective wildlife policy and practice. It continued,

In Canada, as in many states, government departments charged with the management or conservation of natural resources have been divided into independent

agencies responsible for only one resource; e.g. water, timber, recreation wildlife. Each is given a mandate to manage that one resource, and any side effects on other resources are given scant attention. It is increasingly evident that this approach has usually resulted in mediocre management of even the dominant resource(s) (e.g. timber) and is particularly hard on those of apparently lesser status or "value" (e.g. wildlife).

Agricultural policies were at least as damaging to wildlife management goals. The federal and provincial governments spent numerous billions of dollars to encourage the outward expansion of agricultural lands for many reasons which, at the time, appeared sound. However, this outward expansion, on a subsidized private ownership basis, regularly entailed the drainage and loss of thousands of acres of wetlands. These wetlands were vital wildlife habitat but were only marginal and unproductive agricultural lands that required ongoing, if erratic, state subsidization to make them viable for the farmer trying to make a living.

OLD PROBLEM AND NEW APPROACH: THE CANADIAN PLAN

The limited resources of the CWS, and the inherent policy sector complexity and contradictions of wildlife management, were ever present constraints faced by Wildlife officials. By the mid-1970s, it became clear that an intensification of the central wildlife problem, the loss of habitat, was going to add to the difficulties.

CWS officials became alarmed because waterfowl habitat for breeding, nesting, brood raising, moulting, migration, and overwintering was continuing to be destroyed at an alarming rate. The impact on waterfowl populations became a central policy concern because of demands by CWS clientele and the provinces. They argued that something more needed to be done to sustain the industry that had built up around the harvesting of these birds. One DOE document arising out of the CWMP process discussed the problem and noted,

Drainage of wetlands, destruction of natural cover for urban, rural and industrial expansion and the conversion of natural areas to other land uses have reduced the quantity and quality of original habitat available to waterfowl populations. For example, in the Atlantic provinces 65% of the tidal and brackish marshes have been drained for agricultural purposes; 70% of waterfowl habitat has been lost along the St. Lawrence River and lower Great Lakes; in the Prairies, wetland losses have been as high as 40%; and 70% of the Marshes associated with the Fraser River estuary have been lost to industrial and urban development.³

The declining waterfowl population also led to a wide range of heated controversies about the hunting of waterfowl. American hunters were beginning to complain loudly, through organizations such as Ducks Unlimited and via the United States Fish and Wildlife Service, that too many ducks were being killed in Canada, particularly by native subsistence harvesters. The CWS, by contrast, argued that while some 80% of waterfowl were "produced" in Canada,

80% of the "mortality" of birds through hunting occurred in the United States. One DOE document noted the figures from the CWS perspective,

The recreational harvest of ducks in Canada is estimated to average about 3.9 million per year... This compares with approximately 20.5 million taken annually in the United States.⁴

Under these trends, there was a great deal of pressure on the CWS to begin developing new waterfowl initiatives. In the late 1970s, Len Marchand, as Environment Minister, and his U.S. counterpart, Interior Secretary Andrus, instructed the CWS and the U.S. Fish and Wildlife Service to cooperate to develop a North American Plan. At the March 1979 North American Wildlife and Natural Resources Conference in Toronto, they specifically ordered the two services to begin the development of separate national waterfowl management plans as a first step towards the development of a North American Plan.

Marchand's "Short Process"?

Marchand's initiative committed the CWS to what was thought to be a "short process". One CWS official involved in the development of the Canadian Waterfowl Management Plan noted, "we thought that it would take us a few months and we could then get on with negotiations with the U.S.". However, as previous experience in environmental policy

should have forewarned, what resulted was a lengthy process where extensive efforts had to be launched to bring the provinces and a wide range of policy sector interests on side.

Not the least of the problems faced, was that the CWMP was a federal initiative moving through federal-provincial networks in the early 1980s at the same time as the struggles surrounding the Trudeau government's constitutional patriation initiative. The economic recession of the early 1980s also made the prospect of spending large sums of money to win sectoral allies an unlikely proposition.

The CWS faced some rather familiar problems regarding the positions developed by the provinces. Provincial governments, particularly in the Prairie Provinces where most of the Canadian waterfowl are produced and are increasingly threatened, sought to develop their own plans for sustaining waterfowl harvests. One CWS official noted, "there was even the prospect that the entire federal role in the area of migratory birds could be surrendered".

Alberta was the most aggressive in asserting provincial jurisdiction and it lead an early charge by the Prairie Provinces against the federal CWMP initiative. The challenge surrounded interpretations of the 1930 Transfer of Natural Resources Act which, Alberta argued, entailed special provincial "wildlife ownership" rights. One letter,

sent by Mr. H. Boyd, Director of the Migratory Birds Branch of CWS, on 23 April 1979, to Mr. Gordon Kerr, Assistant Deputy Minister of the Alberta Department of Recreation, Parks and Wildlife, addressed this claim. In that letter, Boyd argued at some length,

Our correspondence of 22 February 1979 with "Federal-Provincial Jurisdiction Over Wildlife" did not take into account the absolute ownership of wildlife because ...

As custodians designated by law to safeguard those resources for benefit of all Canadians, present and future, it appears impossible to reconcile and might even be considered repugnant to imply local ownership of migratory species.

...there is no absolute property in wild animals while living because they are neither goods nor chattel...

Should there be disagreement with this interpretation, there appears to be only one solution, that would be to require the Supreme Court of Canada to establish by reference if the property in all species of migratory wildlife, while situated with the territory of a province, is vested in the Crown in right of the province.

...I find it difficult to conceive that a migratory species would be deemed a matter of mere local or private nature while within a province.⁵

However, CWS dealt with this challenge not only by exerting Federal authority over migratory species, but by allowing other provinces to make their claim that all provinces must be equal regarding the constitutional division of powers. James Patterson, a CWS official who took a leading role in the CWMP process, addressed this dynamic in a memo, dated 5 March 1981, sent to A.G.

Laughrey, then Director General of the Canadian Wildlife Service. Patterson advised,

I believe that the federal government would be at a strategic disadvantage in trying to debate the acceptance of the Waterfowl Management Plan unilaterally with the prairie provinces, or for that matter, with the Western Wildlife Advisory Committee. Because the prairie provinces are implying that the Natural Resources Transfers Acts give them a special status with regard to migratory birds, I believe the other provinces and territories would have as much to say as the federal government.⁶¹

Fortunately for the CWS, there were other dynamics at work as well. The provincial governments, like the federal government, were under intense pressure from wildlife groups to act constructively to resolve the waterfowl decline problem. This pressure had been the reason that they originally sought some federal leadership in the late 1970s. Gradually, they were once again recognizing a coordinating role for the federal government. This role was essential in negotiations with the United States to develop a North American Plan. No solution to the waterfowl problem could be developed on a separate national basis, it was, unavoidably, an international issue. As a result, a certain policy sector balance of power was established that compelled cooperative "partnership" arrangements.

The Economics of Partnership Building

In the end, however, economics played the most significant role in building the partnerships around the CWMP. Because the CWS was so restricted regarding what it could do alone, it spent considerable time designing ways to integrate the issue of waterfowl into an economic debate which had value for all the necessary participants. It was perhaps this aspect of the CWMP initiative which could be seen as something of a new measure of success that attracted the provinces and wildlife conservation groups. One DOE discussion document addressed one of the core economic concerns at play,⁷

Canada, and the prairie farmers in particular, bear most of the cost of producing waterfowl but the major economic benefits of the harvests are on the U.S.A.. No effective way has been found to distribute costs across the border.

Since 1972, the federal government had assisted the provincial governments in compensating prairie farmers for waterfowl related crop damage. CWS was also involved in crop damage prevention programs. However, by the late 1970s, the provinces and farmer's groups were pressing for an increase in federal contributions. To meet these demands, new financial mechanisms needed to be found which could not only address crop damage issues but also increase

the maintenance of wetland habitat on private and provincial lands. The question was, how do you establish a "user pay" mechanism that is not only national but transcends international boundaries? If one could be found, it would be a very attractive proposition for federal and provincial politicians and Canadian wildlife conservation groups. First, however, Canadians had to get their own Plan together.

Because of the budget squeeze being experienced by the CWS and provincial wildlife organizations, it was important that money be generated from diverse sources. In an April 1985 DOE discussion document on wildlife management in Canada, the CWS strategy of highlighting the economic and partnership issues could be seen clearly. Means were being found to make advances in wildlife conservation and management without a dependence on vast amounts of public resources which were not going to be forthcoming. It noted,

Canadian sportsman and naturalists have demonstrated that they want, and are willing to pay for, greater efforts in wildlife conservation. At the same time, the need to reduce government deficits places tight restrictions on public funds for all government programs and services, and wildlife conservation programs are no exception. Fortunately, the contribution by wildlife-related activities to the Canadian economy shows there is good potential for greater private sector involvement in undertaking and funding wildlife conservation actions.⁸

Policy Sector Power Relations is Not a Short Process

In the end, the Canadian Plan still took some 7 years to develop. An Overview of the Plan released in March 1983, demonstrated what it took to begin to assemble the sectoral "partners" for the North American Plan negotiations.

On the issue of winning provincial cooperation, it was concluded that the CWMP should not be seen as a "Federal Waterfowl Plan", but as one "whose content and objectives are shared by federal, provincial and territorial governments along with private organizations as a basis of concerted waterfowl conservation activities". The Plan was not a rigid mechanism but instead was an umbrella under which specific habitat initiatives could be developed. The provinces and wildlife conservation interests were to be active participants regarding the development and administration of these initiatives. This included the National Habitat Coalition, a network composed of 37 conservation organizations representing an increasingly diverse CWS constituency, which was very active in the development of the Plan.

The environment/economy bridge was also travelled. The Plan noted,

A recent survey conducted by Statistics Canada has demonstrated the social and economic benefits of waterfowl to Canadians. In 1981, over 2 million Canadians made special trips to observe, feed photograph or study waterfowl while

about half a million Canadians hunted waterfowl. On waterfowl hunting alone, Canadians spent more than \$230 million. In another study, economists have estimated that the waterfowl resource in Canada is worth at least \$1.2 billion.¹⁰

All Canadians interested in wildlife issues were invited to put money into the pot and help reproduce the economic benefits of waterfowl. A Canadian commitment of resources would lay the foundations for U.S. money to flow across the boarder as well. The CWS acknowledged that, "The efforts required to maintain and enhance waterfowl habitat in Canada are beyond the capability of public agencies alone. Long-term solutions will require the coordinated action of governments, private organizations and private individuals".¹¹

THE NEXT STEP: THE NORTH AMERICAN PLAN AND ITS FINANCING

The development of the NAWMP took only a fraction of the time that it took to develop the CWMP. On 15 March 1984, Charles Caccia, as Minister of the Environment, captured the dynamics at play in a letter to provincial environment ministers when he noted, "Development of the first draft of the North American Plan will be an administrative process of amalgamating the Canadian and U.S. waterfowl management planning documents".¹² The vast majority of the "partnership building" in both countries had

taken place under the national sectoral plans processes. When these were completed, a rapid development of the general principles of the North American Plan became possible. The NAWMP was signed by Tom MacMillan, as Minister of the Environment, and U.S. Secretary of the Interior, Donald Hodel, on 14 May 1986.

As in Canada, the U.S. side of the NAWMP had been sold on economic arguments. One CWS official, in a speech to a U.S. audience to promote the Plan, outlined the prevalent arguments,

There are many vested interests in seeing the North American Waterfowl Management Plan successfully implemented. A 1981 national survey on the Value of Wildlife in Canada demonstrated that Canadians spent \$1 billion on activities related to the use and enjoyment of waterfowl. This annual expenditure supports 40,000 jobs in Canada. I am sure that the waterfowl-generated economic activity in the United States is many times greater than this.¹³

U.S. participants were being encouraged to see that while wildlife habitat in both countries was in urgent need of protection, it was in Canada that most of the breeding habitat existed. If the NAWMP was to restore duck populations, a major concern for U.S. hunting groups such as the relatively wealthy Ducks Unlimited, it would require "coordinated actions to protect and enhance" this Canadian habitat.¹⁴

Most U.S. participants agreed in general terms with

these assessments. The press release announcing the first discussion document for the Plan stated that, "Roughly three-quarters of the nearly \$1 billion expenditure to finance Canadian projects for the 15-year plan will come from U.S. private and government funding. The U.S. will spend an additional \$475 million to finance U.S. projects under the plan".¹⁵ As in Canada, this money was to be a mixture of public and private funds. The U.S. government as well as the Canadian, was not about to be committed to large and potentially escalating costs if this could be avoided. The "user" of the resource was to produce a healthy share of any financing that would be forthcoming. George Finney, another CWS official active in the CWMP process, addressed these issues in a 21 March 1988 DOE discussion document,

The plan called for expenditures of about \$1.5 billion; that in itself was enough to get Ottawa's and Washington's attention. The emphasis of the plan is on the retention and restoration of habitats and this translates into how land and water is used. Many branches of governments at all levels perceived potential impacts, some good, some bad (by their definitions) on their program areas.¹⁶

Ongoing Struggles Are To Be Expected

As with most international agreements, a verbal commitment of funds was not necessarily a coherent financing plan in practice. The federal government was to contribute

a \$100 million share of the \$250 million dollars committed in Canada, but these resources still needed to be "found". The speech to the U.S. audience noted above outlined the circumstances,

In February of 1986, the Federal Cabinet authorized the Minister of Environment to sign the North American Waterfowl Management Plan on behalf of Canada. Put in the terminology of the United States Congress, this Cabinet decision was the equivalent of an Authorization Bill. The next step in Canada is to work towards the appropriation of the federal government's share to implement the Plan.¹⁷

During the CWMP process the federal government had determined that new mechanisms would need to be found to finance any future waterfowl initiatives. The Department of Finance, for its part, had always strongly resisted earmarking government revenues for specific government programs, and the NAWMP was not going to be an exception. This left the entire idea of private contributions to the government led plan a difficult issue, not to mention the government's own portion of the proposed funding.

In anticipation of this NAWMP financing problem, Wildlife Habitat Canada (WHC) was created with Cabinet approval and became operational in 1984. It was to become, "a national, non-profit corporation dedicated to the conservation, restoration and enhancement of wildlife habitat in Canada".¹⁸ The federal government provided an initial \$3 million to aid with start-up costs, and allowed

for the creation of the Canadian Wildlife Habitat Conservation Stamp. The Conservation Stamp must be purchased by hunters, appears on hunting licenses, and became the core ongoing funding source for the organization. An "arms length" status was established and allowed for a linking of public and private funds specifically assigned to habitat initiatives.

However, the creation of WHC was not in itself the entire solution. CWS, as so often in its history, was left scrambling for the resources necessary to fill the federal government's part of the bargain under the new NAWMP. Ongoing funding from government tax revenue had not yet been secured, and this set a range of efforts in motion which in the end required more policy sector partnership building.

Unlikely Sectoral Alliances

Ironically, the next major partnership involved Agriculture Canada, a not infrequent culprit in the loss of waterfowl habitat. In February of 1987, DOE prepared a Memorandum to Cabinet requesting an annual appropriation of \$15 million for habitat related projects. However, before the Cabinet Memorandum was submitted, the Privy Council Office suggested that the Minister of the Environment submit a proposal to the Conservative government's soon to be created Western Diversification Office (WDO) for funding of

its habitat initiatives. The argument was that clear economic benefits for the prairie region were derived from habitat conservation, restoration and enhancement, and therefore the WDO office would be the appropriate place to look for funding on that portion of its programs.

In August, 1987, the Prime Minister announced the creation of WDO and released the government's "Framework for Diversification in Western Canada". The document noted,

There is an increasing economic and environmental focus on western Canada's wetlands and wildlife, especially waterfowl. Poor wetlands management not only endangers western wildlife but it is having a negative impact on prairie agriculture by increasing soil erosion and soil and water degradation. Wildlife-related activities now represent a significant economic sector which could be put at risk unless remedial action is taken.¹⁹

The CWS proposal, however, was rejected by the new WDO.

In rejecting the proposal the Deputy Minister responsible for the WDO wrote to Genevieve Ste. Marie, then Deputy Minister of DOE, and argued,

I do not feel that the extent of your departmental proposal embodied in the Wildlife Renewal Agenda, specifically the level of funding required from the Western Diversification Fund, is consistent with the principles for discussion that were mentioned in the paper entitled A Framework for Diversification in Western Canada.²⁰

DOE was asked to go back to the drawing board and come up with something that required a "smaller amount of funding", and demonstrated "cooperative funding with the Department of

Agriculture".

In the final analysis, funding for the "Prairie Habitat Joint Venture" portion of the NAWMP was acquired through linking the Plan with Agriculture Canada's Soil Conservation Initiative. The Agriculture Department agreed to support DOE's contention that while all other funding proposals had been "preempted", the agriculture/waterfowl proposal should not be for several good reasons. These reasons were captured well in briefing notes submitted to Tom MacMillan on 3 March 1988,

The perception that the Soil Conservation Initiative alone discharges the federal government's commitment to the Waterfowl Plan is erroneous. The only reason for the United States' interest in sending money to Canada for the implementation of the Prairie Habitat Joint Venture is their interest in producing more waterfowl. Environment Canada is the only agency that can attract U.S. funding for a combined soil conservation and waterfowl habitat initiative in the Canadian west. If Environment Canada is not a player with funding on the table...

Canada will have foregone an opportunity to bring \$60 million per year for land use conservation into the prairies.²¹

Economic arguments were again used to bridge the gap. However, this did not resolve the problem of actually getting the U.S. funds flowing across the boarder.

The "First Step Project" and Convincing Congress

The U.S. policy making process was no less complex in terms of appropriating the required financing for the NAWMP. Intense lobbying efforts undertaken by U.S. wildlife groups and, less overtly, CWS officials, were required to get the first wave of U.S. government funds flowing from Congress. In order to encourage this funding, CWS officials agreed to a situation whereby, on a one time only basis, Canada would provide more than its one quarter share of the resources called for under the Plan. Under this "First Step Project", the Canadian sectoral "partners" came up with 50% for the Prairie Habitat Joint Venture via Wildlife Habitat Canada.²²

Some three years later legislation was passed in the U.S. Congress to provide for long range NAWMP financing. The flow of these resources into Canada, however, would remain an ongoing touchy political issue for the individual joint ventures developed under the Plan. Many problems have been resolved, but, as with all environmental policy, the bridging of policy sector interests and the resolution of problems continues.

The NAWMP like the CWMP left ample room for the building of "Joint Ventures" which draw together the various "partners" involved. Three major ventures were developed under the auspices of the North American Waterfowl

Management Plan Committee: the Black Duck Joint Venture in Eastern Canada, the Arctic Goose Joint Venture, and the Prairie Habitat Joint Venture, which is the major initiative developed thus far. All of these ventures, as the NAWMP calls for, seek to conserve, restore and enhance waterfowl habitat and thereby increase bird populations. This is to be done through projects to induce farmers and ranchers to manage the land with waterfowl production in mind. Local governments and other government land managers are also encouraged to regulate land use with greater concern for waterfowl.

The success of these ventures, as the history of CWS activities would indicate, will require ongoing effort to keep the sectoral partners rolling in the same direction. Under conditions where it will continue to be very difficult for any single agency, perhaps particularly the CWS, to embark upon major wildlife habitat initiatives, these types of cooperative ventures would appear to be the only avenue open to achieve results. Because the Plan is so new, it is yet to be seen how far this specific process can take the Service towards the achievement of its objectives. But, put in the context of the dogged pursuit of first a Canadian and then a North American management plan, there are good grounds for optimism. The CWS was always ahead of its time in its endemic awareness of ecological issues. It may also have had no choice but to be ahead of its time in making

small resources and many policy sector partnerships go a long way.

CONCLUSIONS

This Chapter has analyzed the evolution of the North American Waterfowl Management Plan in order to demonstrate how the conditions of the environmental policy sector structured policy decisions. The Canadian Wildlife Service (CWS) was a tiny miniature replica of DOE as a whole. Its resource weakness meant that it was highly dependent on the cooperation of other sectoral organizations and interests before it could develop and implement policy.

These typical DOE problems saw the CWS experience many discrete policy setbacks which, compared to the first two chapter length case studies, seem somewhat small and unknown. However, the compact example of the CWS served to sharpen our analysis of the stark reality of the federal environmental policy sector. CWS problems began on the fragile outer edges where ecology and economy meet, but travelled upwards from bio-physical realities into the conditions of the policy sector where administrative arrangements, resource dependencies, and the dominant policy paradigm shaped what could ever possibly be done with environmental policy. A myriad set of organizations and interests brought power to bear from Treasury Board

officials to American hunters.

In the end, "partnerships" needed to be constructed around a mutual economic interest and a opportune balance of sectoral power. CWS had the jurisdictional advantage of being the lead organization for dealing with the Americans, and it thereby claimed a central role in an initiative where no one policy sector organization could hope to have moved alone. The NAWMP model arose as one possible policy response to this typical DOE state of affairs. The completion of the Plan required that the department have an organizational resource leverage, but it also demanded a creative "bridging" of the sectoral "partners" who could also bring organizational resources to bear.

ENDNOTES

1. See Environment Canada, "Environment Canada's Perspective on the Management of Wildlife In Canada: A Discussion Paper on Issues and Initiatives", April 25, 1985, and "Environment Canada's Mandate", January 1984.
2. See Environment Canada, "Problems Facing Wildlife Habitat Management on Canadian Forest Lands", February, 1981.
3. See Environment Canada, "Waterfowl Management Plan for Canada: An Overview", March, 1983.
4. Ibid.
5. See Environment Canada, "Ownership of Wildlife", letter sent to Mr. Gordon Kerr, ADM, Alberta Department of Recreation, Parks and Wildlife, by Mr. H. Boyd, Director, Migratory Birds Branch, CWS, April 23, 1979.
6. See the memo entitled "Waterfowl Management Plan for Canada", dated March 5, 1981, and prepared by J. H. Patterson for Mr. A.G. Loughrey.
7. See Environment Canada, "Waterfowl Management and Crop Depredation", April 29, 1980.
8. Environment Canada, "Environment Canada's Perspective on the Management of Wildlife in Canada", April 25, 1985.
9. Environment Canada, "Waterfowl Management Plan for Canada: An Overview", March 1983.
10. Ibid.
11. Ibid.
12. See the letter "Canadian Position on the North American Waterfowl Management Plan" sent by Charles Caccia to the provincial Environment Ministers on March 15, 1984.
13. The speech was entitled "Statement by Dr. James H. Patterson on the North American Waterfowl Management Plan", September 10, 1987.
14. Ibid.
15. The CWS press release was entitled "Billion Dollar Canada-U.S. Waterfowl Management Plan Released for Public Comment", December 2, 1985.

16. See Environment Canada, "The North American Waterfowl Management Plan", March 21, 1988.

17. See the "Statement by James H. Patterson on the North American Waterfowl Management Plan". Ibid.

18. See Environment Canada, "Submission Guidelines: Habitat Conservation, Restoration and Enhancement", Wildlife Habitat Canada, January 1988.

19. See the Ministerial briefing paper entitled "North American Waterfowl Management Plan - Evolution and Rationale of Funding Proposal to the Western Diversification Office", March 3, 1988.

20. Ibid.

21. Ibid.

22. See the "Statement By Dr. James Patterson on the North American Waterfowl Management Plan", Ibid.

CONCLUSIONS

This dissertation has examined the origins and evolution of DOE as the lead organization for federal environmental policy between 1971 and 1988. It demonstrated how the department, and the environmental policy it promoted, was marginalized within the environmental policy sector. In so doing, it also provided a more complete explanation of this marginalization than has been offered by other implicit or explicit explanations in the Canadian and comparative environmental policy literature. This was accomplished by developing the theoretical and practical meaning of the "policy sector".

The central thesis of the dissertation was that DOE's marginalization occurred as a result of three interacting independent variables: first, the lack of key organizational resources crucial to the conferring of power on a government organization, including support from the political centre; second, the strong resistance to change of powerful organizations within the environmental policy sector, including clientele departments and business interests; and third, the absence of a consistent and supportive relationship with an organized and influential sectoral interest group clientele.

These three independent variables were investigated throughout the four parts of the dissertation. Part 1, set

out a conceptual framework for the analysis of DOE's organizational resources and the conditions and relations of the environmental policy sector. It was this conceptual framework that provided new insights into how the study of Canadian public policy must account for organizational resources and how the state functions in the context of "policy sectors". Part 2, began the operationalization of the conceptual framework and empirically analyzed DOE's resources and internal organization. Part 3, discussed the conditions and organizational relations encountered by DOE within the environmental policy sector. Part 4, applied the overall thesis and conceptual framework to chapter length case studies of the three broad category types of environmental policy. The various levels of evidence allowed us to see clearly how the lack of critical organizational resources interacted with the relations and conditions of the environmental policy sector to marginalize DOE and limit its ability to promote major environmental policies.

The development of the policy sector approach, and the substantiation of the thesis, was shown to be an improvement upon three other alternative explanations of federal environmental policy: first, those approaches stressing the lack of environmental values within government; second, those approaches stressing the imperatives of capitalism and industrial processes; and third, those approaches stressing

interest group pressure. These sub-bodies of literature provided valuable insights into certain aspects of environmental policy, and indirectly DOE's marginalization, but were also shown to be incomplete for three primary reasons.

All three approaches had the following characteristics in common: first, they stressed one independent variable to the exclusion of all other explanatory factors; second, they typically "externalized" the explanatory variables from government itself; and third, they did not give adequate explanatory weight to policy sectors and their government organizations. As a response, this dissertation took up the point that all governments are "selective event-generating systems" or "sorting processes" set within the larger political economy. How environmental policy was often "sorted out" within government became a key driving force for the development of the conceptual framework. The framework allowed an accounting of not only dominant values, capitalism and industrial processes, and interest group pressure, but also of all three of these factors being played out through the policy shaping dynamics of government organizations within policy sectors.

The concept of the "policy sector" was defined and discussed as a matrix or cluster of government organizations connected to each other by their vested interest in a policy area and their regular interactions. Government responses

to public policy problems was shown to always involve interactions and relations of power among government organizations which are in some way involved in the problem area and control resources relevant to a possible "solution". The policy sector was also seen to be closely associated with an "interest community" of non-governmental organizations which act upon, and are significantly shaped by, the characteristics of the policy sector and its government organizations. Lead policy organizations, like DOE, encounter different levels of constraint upon their activities depending upon the characteristics of their sector across three key attributes common to all policy sectors: the dominant policy paradigm, the administrative arrangements, and the interorganizational resource dependencies. The federal environmental policy sector was seen to entail severe constraints for a resource weak DOE as it sought to promote environmental policies.

Evidence of DOE's marginalization and policy difficulties was included throughout Parts 2, 3 and 4 of the dissertation. Part 2 provided evidence of environmental policy failure in conjunction with its consideration of the department's resources and internal organization.

Chapter 2 analyzed DOE's formation and the evolution of its critical organizational resources. The Chapter showed how initial expectations for a broad and powerful environment department were severely curtailed because of

policy sector resistance and worsening economic conditions after 1975. The department's early defeats on role and mandate, and its inability to secure other critical organizational resources, led to severe environmental policy setbacks. The analysis of DOE's White Paper exercise, its exclusion from the proceedings of the Berger Commission, and its absence from the government's throne speeches was ample evidence of this trend. DOE was quickly placed on the margins as many critical organizational resources were eroded or weakened, including: support from the political centre of government, jurisdiction and mandate, access to key decision processes within government, political and bureaucratic leadership, budgets, and knowledge and information capacities.

Chapter 3 continued the analysis of Part 2, and demonstrated how divergent policy objectives within the department gave it the look of a "house divided". The political centre did not provide coherent policy direction and support, and internal political struggles worsened as organizational resources became increasingly scarce. Valuable resources were consumed on internal organizational survival rather than promoting environmental values within the policy sector. The "splits" of Fisheries and Forestry both revealed and deepened the department's marginalization, and spelled the end of any dreams for a broad and integrated renewable resource department. Many key organizational

resources were lost during the "splits", and DOE was left to struggle even harder to define a new role and mandate for itself during inopportune economic and political times.

Part 3 provided case study examples of the outcomes of DOE's relations and struggles within the environmental policy sector.

Chapter 4, demonstrated how DOE always encountered other sectoral government organizations which controlled resources vital to environmental policy. The federal departments of Indian and Northern Affairs, Transport, Industry, and Energy, and the provincial governments, among others, rarely saw any incentive to cooperate with DOE's initiatives. Their sectoral resistance to change was largely successful at reproducing ongoing policy practices throughout the 1971 to 1988 period. This was made possible by the signals being sent by the political centre, DOE's limited organizational resources, and the characteristics of the environmental policy sector. The dominant policy paradigm separated environment and economy and made the former dependent on the latter, and the administrative arrangements led to a highly differentiated nonhierarchical system of control over vital policy resources.

Chapter 5 discussed some of the other problems DOE encountered within its policy sector. The department's interest community dilemmas appeared insurmountable throughout the 1971 to 1988 period. The ENGOS, which were a

logical clientele for DOE, were unable to overcome their diversity and fragmentation to begin to communicate effectively with the department and see common interests. DOE was also very timid and did not want to get too close to the environmental groups while powerful business interests and other sectoral government organizations were strongly resisting environmental advocacy of any kind. Meanwhile, the department's regulators all too often got too close to the business interests that favoured the status quo in environmental policy. DOE needed business cooperation and involvement, but this was won over at the price of a closed conciliatory mode of interest representation that largely excluded ENGO advocacy. The lack of consistent and supportive ENGO participation in turn added to DOE's chronic marginalization and recurring setbacks in the power relations of the environmental policy sector.

Part 4 provided the chapter length case studies of the three broad category types of environmental policy. The three chapters considered in some detail the impact that limited organizational resources, policy sector resistance, and the lack of a strong and supportive clientele had on major environmental policies.

Chapter 6 analyzed DOE's experiences in regulating "existing industrial processes". It discussed the severe constraints that EPS encountered in attempting to control pollution, including: the complexity of environmental

problems; the fixed capital character of industrial processes; the shortages in organizational resources; and, the resistance of business interests and policy sector government organizations. EPS's regulatory capacities remained very weak, and DOE's marginal status within the environmental policy sector made the strengthening of those capacities a very unlikely prospect. The ENGOS were also largely excluded from EPS's consultations in order to win business cooperation in the regulatory negotiations of a "closed conciliatory mode of representation". These problems contributed mightily to failures and setbacks surrounding the Environmental Contaminants Act, the Fisheries Act reforms, and later the lingering problem of resources to implement and enforce the Canadian Environmental Protection Act.

Chapter 7 analyzed DOE's efforts to develop and reform the EARP process which was to "monitor and constrain new development activities". EARP was the object of intense scrutiny within the environmental policy sector. Other federal government departments within the policy sector, and the provincial governments, resisted any environmental policy designed to monitor activities falling in whole or in part within their jurisdictions. They were very successful at the "politics of discretion" that marginalized EARP between 1971 and 1988, and FEARO's limited resources only exacerbated the problem. Public participation in EARP was

also hotly resisted as a way of enforcing and monitoring policy implementation. It was only the Federal Court rulings surrounding the Rafferty-Alameda and Oldman River Dams, and other significant political events in the post-1988 period, that finally led to substantial reform and the federal EARP legislation of 1992.

Chapter 8 analyzed the evolution of the North American Waterfowl Management Plan in order to sharply demonstrate, through a smaller and more self-contained example, how the conditions of the environmental policy sector shaped policy decisions. The Canadian Wildlife Service (CWS) was a tiny miniature replica of DOE as a whole. Its resource weaknesses meant that it was highly dependent on the cooperation of other sectoral organizations and wildlife ENGOs before it could develop and implement policy. These typical DOE problems saw the CWS experience many policy setbacks and, in the end, "partnerships" needed to be constructed around an opportune balance of power within the policy sector, and a common interest in the economic "value" of waterfowl. The CWS had the strategic advantage of being the lead organization for dealing with the Americans, and it needed this organizational resource, or jurisdictional power base, to assume leadership and promote workable policy. The relatively tiny CWS had always needed to find and assert an organizational resource leverage and then join the "partners" who controlled other critical sectoral resources.

While the purpose of this dissertation was to explain the marginalization of DOE and environmental policy between 1971 and 1988, it also speaks to what federal environmental policy needs to look like in the coming years. DOE's room for manoeuvre in environmental policy began to widen in 1986. Toxic contaminants scares and changing public opinion, among other developments, broke down some of the strong sectoral resistance to environmental policy advocacy and change. The mode of representation within the policy sector also became more open and pluralistic with positive impacts on the balance of power within the environmental policy sector. However, there is still a long way to travel.

Canada's Green Plan, released in 1990, is one significant step in our journey. But, the road towards sustainable development will remain rough and uneven, and the only way to put the journey into perspective is to realize that the desired "destination" is really one of "policy process". In the end, sustainable development values must be seen to be consistently taken into account and balanced with other legitimate policy values vying for attention within government. There is no "fixed state" of sustainable development, but instead there are myriad policy-making situations wherein the "sustainable solution" is by necessity contingent on the issues or problems at hand.

However, there are some constants in the sustainable development equation. This results from the fact that there are no simple or voluntarist solutions for sustainable development. This dissertation demonstrated that governments must build strong environment departments to be held accountable for monitoring and, at times, directing the sustainable development journey. These departments will need to control the key organizational resources that will allow them to be influential in the new "partnerships for change". In an ideal world, every organization, group, and individual would automatically incorporate sustainable development values, but this will not be the case. Resistance to change within policy sectors and elsewhere will remain a fact of life, although hopefully we will see less resistance in the future than we saw in the history of DOE, 1971-1988.

The policy sector approach which allowed us to see the myriad difficulties faced by DOE can also be used to study other government organizations, policy sectors or major policy initiatives of government. The approach revealed that the resources of government organizations, the conditions of the policy sector, and sectoral power relations are important variables for explaining public policy. A consideration of these variables, as Chapter 1 noted, is needed to bring balance to the environmental policy literature and the general literature on "policy

communities" which have overly externalized explanatory variables from government.

The policy sector approach can be especially useful for studying departments having major horizontal coordination responsibilities within government. The federal departments of Industry, Science and Technology and Consumer and Corporate Affairs are examples. These types of organizations expend tremendous amounts of time and resources on the sectoral power relations that they inevitably encounter. Government organizations which are to be "coordinated" do not surrender their autonomy easily and sectoral politics significantly shapes public policy as this dissertation has demonstrated. The policy sector approach could also be used to study central agencies, such as the Treasury Board Secretariat, which have responsibility for major cross-cutting functions within government.

Investigating the organizational resources controlled by these government organizations, and the sectoral conditions they encounter, will shed light on their capacities to shape public policy.

The policy sector approach can also provide important insights into the more recent history of environmental policy. The Federal Governments Green Plan released in 1990 is nothing if not the product of myriad sectoral power relations where many government organizations attempted to shape a major cross-cutting public policy initiative. The

policy sector approach can reveal these important power relations and the role that the interest community, public opinion, and broader political economic circumstances played in them. Moreover, the Federal Green Plan called for the implementation of sustainable development in the Government of Canada which is a prime ongoing topic for the policy sector approach. Government organizations will continue to defend their own policies and programs against DOE's interpretation of what sustainable development is and how it should be achieved.

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APPENDIX 1**Organizational and Policy Changes in the Area of
Environmental Protection and Conservation in
The Federal Government of Canada Prior
to the Formation of DOE****1961**

The Resources for Tomorrow Conference is held in Montreal. It is the first time that federal and provincial governments, industry, and universities met to discuss natural resource use issues. The Canada Land Inventory was established out of this conference. It also led to the formation of the Canadian Council of Resource Ministers.

1966

The Agricultural Rehabilitation and Development Act establishes the Canada Land Inventory.

Water programs are concentrated in the Department of Energy Mines and Resources (EM&R).

The Department of Indian Affairs and Northern Development is created and includes a conservation program area including National Parks and Historic Parks and Sites. National Parks began with early efforts to secure Banff National Park stemming back to 1885. The Historic Sites and Monuments Board first met in 1919.

1967

The Canada Centre for Inland Waters is established with components being drawn from water programs in EM&R, the Fisheries Research Board, and the Public Health Engineering Division of National Health and Welfare.

1969

An Air Pollution Control Division is established within the Health Directorate of National Health and Welfare (NH&W).

The Government Organization Act, 1969 establishes a new Department of Fisheries and Forestry by merging the Fisheries Department with the Forestry Branch of the Department of Forestry and Rural Development. The Forestry

Branch originates from 1899 and the Canadian Forestry Service is located in the old Department of the Interior until 1930 when forest resources are transferred to the provinces.

1970

The Motor Vehicle Safety Act is proclaimed enabling emission control standards.

The Fisheries Act is amended with new provisions for pollution prevention and control.

The first Earth Day is Celebrated on April 22.

The Canada Water Act is proclaimed.

Other Acts of this year include: the Northern Inland Waters Act; the Arctic Waters Pollution Prevention Act; the Navigable Waters Protection Act; the International Rivers Improvements Act; and the Canada Shipping Act.

The Canadian Saltfish Corporation is established.

The Canadian Forestry Advisory Council is established.

The Environmental Quality Directorate is established within the Department of Fisheries and Forestry. This is the forerunner of the Environmental Protection Service within DOE.

Governor General Roland Michener announces the Trudeau Government's intention to establish a new environment department.

Order-in-Council 1970-2047 transfers to the Minister of Fisheries and Forestry:

- the Canadian Wildlife Service from the Department of Indian and Northern Affairs and Northern Development. The Service originates from 1947 as the Dominion Wildlife Service but finds its origins in the Migratory Birds Convention signed with the United States of America in 1916;
- Marine Services Branch, Inland Waters Branch, and Policy and Planning Branch from EM&R;
- Air Pollution Control Division and the Public Health Engineering Division from NH&W;
- the Meteorological Branch from the Department of Transport. Meteorological Services find their origin in the Atmospheric Environment Service established in an early form in 1871.

Government Organization Act, 1970 establishes the legal basis for a department of the environment.

1971

The Clean Air Act receives royal assent.

The Montebello Conference is held by senior management of the proposed new Department of Environment to set down the directions to be taken.

Order-in-Council PC 1971 - transfers to the Minister of Fisheries and Forestry the Canada Land Inventory from Department of Regional Economic Expansion (DREE) and the Resources and Land Use Unit from the EM&R.

In June the Department of the Environment has its official beginning and incorporates five resource Services:

- the Atmospheric Environment Service;
- the Environmental Protection Service;
- the Fisheries Service;
- the Land, Forest, and Wildlife service; and
- the Water Management Service.

Also included are the Policy Planning and Research Service and the Finance and Administration Service. The Fisheries and Forestry Advisory Councils are also included and there are plans to establish an Environmental Advisory Council, established in 1972.

APPENDIX 2Net Budget Resources, 1973 - 1989

The following figures have been recalculated backwards to include only those organizational components included within the department as of 1990. This means that Parks Canada is included and Forestry, and Fisheries and Oceans are excluded.

<u>Year</u>	<u>Person-Years</u>	<u>Budget</u> (Current \$M)	<u>CPI</u>	<u>Budget</u> (Constant \$M)
73/74	9,744	209.2	47.6	209.2
74/75	10,010	241.8	52.8	218.0
75/76	10,403	298.5	58.5	242.9
76/77	10,778	344.6	62.9	260.8
77/78	10,849	411.9	67.9	288.8
78/79	10,906	438.5	73.9	282.4
79/80	10,870	430.9	80.7	254.2
80/81	10,534	481.7	88.9	257.9
81/82	10,562	540.8	100.0	257.4
82/83	10,573	657.3	110.8	282.4
83/84	10,575	700.8	117.2	284.6
84/85	10,406	738.2	122.3	287.3
85/86	10,294	726.9	127.2	272.0
86/87	10,323	745.3	132.4	267.9
87/88	10,217	768.9	138.2	264.8
88/89	9,897	796.2	143.8	263.6
89/90	9,964	871.1	155.0	276.4

CPI: The Consumer Price Index is calculated using 1981/82 as 100.0. The Constant Dollar column is calculated as follows:

$$\text{Constant Dollar} = (47.6/\text{CPI}) * (\text{Current Dollars}).$$

Source: Estimates of the Government of Canada.

APPENDIX 3Person Years by Category in the Fisheries
and Marine Program, 1971-1979

	1971/2	72/3	73/4	74/5	75/6	76/7	77/8	78/9
>Executive/ Management	14	14	15	21	21	31	27	31
>Science and Professional	716	744	848	849	899	917	921	937
>Admin and Foreign Service	195	201	237	303	313	347	330	372
>Technical	1693	1745	1848	1769	1843	1908	1871	1893
>Admin Support	587	599	645	628	663	656	725	710
>Operations	1093	1102	1171	1149	1022	1045	1102	1025
Total	4298	4405	4764	4719	4761	4904	4976	4967

Source: Estimates of the Government of Canada.

APPENDIX 4Service Budgets Within DOE Prior to the Separation of
Fisheries and Marine, 1972-1978

*percentage of total DOE budget

*current dollars in millions

	72/73	73/74	74/75	75/76	76/77	77/78
ADMIN	5.5 11,567	4.6 13,294	3.7 13,258	4.0 17,058	3.7 19,200	4.1 21,999
EPS	4.2 8,700	5.9 16,952	6.3 22,813	6.3 27,051	5.9 30,333	6.2 33,691
AES	25.3 52,645	22.0 63,717	19.6 70,943	18.8 80,239	18.6 96,172	18.2 98,584
WATERS/EMS*	22.6 47,105	30.5 88,411	26.5 96,048	24.0 102,371	22.6 116,859	22.3 120,490
FORESTRY	12.5 25,969					
FISHERIES	25.1 52,336	26.8 77,610	33.6 121,924	35.0 149,676	38.7 199,614	38.8 209,992
MARINE**		10.3 29,837	10.3 37,436	12.0 51,562	10.5 54,156	10.4 56,122
WILDLIFE	3.6 7,413					
LANDS	1.3 2,732					

* Starting in the 1973/74 fiscal year Waters became the Environmental Management Service (EMS) along with the Forestry Service, the Wildlife Service and the Lands Directorate. Lands was also at this time beginning to take responsibility for Environmental Impact Assessment which would later become the Federal Environmental Assessment Review Offices (FEARO) in government estimates after 1978/79.

**The Marine Sciences Service is separated from Fisheries for estimates reporting purposes in 1973/74.

Source: Calculated from the Estimates of the Government of Canada.

APPENDIX 5

Person Years by Category in the Parks Service:
Intermittent Years 1980-1989

	80/81	82/83	84/85	86/87	88/89
>Executive/ Management	14	13	43	54	46
>Science and Professional	437	395	392	371	274
>Admin and Foreign Service	573	545	541	609	622
>Technical	714	973	859	984	862
>Admin Support	838	644	635	715	696
>Operations	2,599	2,488	2,420	2,199	2,173
Total	5,175	5,058	4,890	4,932	4,673

Source: Estimates of the Government of Canada

APPENDIX 6Service Budgets Within DOE.
1980-1987

*percentage of total DOE budget

*current dollars in millions

	80/81	81/82	82/83	83/84	84/85	85/86	86/87
ADMIN	4.1 21,618	5.5 32,917	5.1 37,216	5.0 42,369	5.0 445,22	4.9 35,422	4.9 36,428
FEARO	.3 1,362	.3 1,472	.4 2,530	.3 2,347	.3 2,370	.5 3,738	.5 3,742
EPS	7.0 36,958	6.6 39,497	6.5 47,231	6.6 56,039	7.1 63,119	7.8 56,672	8.0 59,800
AES	20.0 106,092	22.1 132,323	21.6 157,058	21.7 183,585	19.6 174,105	26.4 191,727	26.2 195,355
ECS*	16.6 87,858	15.1 90,593	18.9 137,237	16.4 139,228	15.9 141,373	18.8 136,325	18.2 135,789
CFS	9.5 50,325	9.2 54,915	9.1 65,066	17.3 146,320	16.4 145,123	**	
PARKS	42.5 224,983	41.1 245,405	38.2 277,904	35.9 303,695	35.7 316,267	42.1 303,080	42.2 314,235

* After the Forestry Service separates from EMS in April 1979 the rest of Environmental Management becomes the Environmental Conservation Service (ECS).

** The Canadian Forestry Service leaves DOE for Agriculture Canada.

Source: Calculated from the Estimates of the Government of Canada.

APPENDIX 7Service Budgets Within DOE:
1987-1991

*percentage of total DOE budget
 *current dollars in millions

	87/88	88/99	89/90	90/91
ADMIN	4.3 32,063	4.4 34,670	4.1 36,005	4.1 39,878
FEARO	.5 3,894	.5 4,006	.7 5,717	.5 3,789
C&P	27.2 208,773	27.0 215,279	28.8 251,031	32.8 318,729
AES	26.6 204,546	26.1 207,520	24.8 216,123	22.8 222,257
PARKS	41.4 318,228	42.0 334,760	41.6 362,239	39.8 387,245

Source: Estimates of the Government of Canada

APPENDIX 8

Person Years by Category in the Environmental
Services Program: 5 Year Intervals 1971 - 1986
and Fiscal Year 1988/89

	71/2	76/7	81/2	86/7	88/9
>Executive/ Management	12	37	38	165	154
>Science and Professional	1,990	2,141	1,954	1,580	1,593
>Admin and Foreign Service	252	525	497	543	616
>Technical	2,491	2,467	2,126	1,650	1,555
>Admin Support	1,186	1,099	883	782	743
>Operations	373	368	201	84	72
Total	6,304	6,637	5,699	4,804	4,733

Source: Estimates of the Government of Canada

END

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FIN