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May 7, 2008

Premier Dalton McGuinty
Legislative Building, Room 281
Queen's Park
Toronto, ON
M7A1A1

Via Fax To: (416) 325-9895

Dear Premier McGuinty,

Re: Amendment of Bill C-64 to Protect Human Health and the Environment

The Canadian Environmental Law Association and Ecojustice (formerly Sierra Legal) have been working closely to defend municipal pesticide by-laws since the Town of Hudson's by-law was challenged and subsequently upheld by the Supreme Court of Canada in *Spraytech v. Hudson*. We also worked closely together in defending Toronto's pesticide by-law before the Courts in *Croplife Canada v. City of Toronto*.

We write concerning Bill C-64, *The Cosmetic Pesticides Ban Act, 2008*, which we strongly support. However, we wish to raise two specific concerns and provide recommendations to you that we believe will result in both improved clarity around rule-making concerning pesticides and greater protections for human health and the environment.

First, although we have heard through the media and from other sources that this is not the government's intention, subsection 7.1(5) of the Bill as currently drafted has the potential to render municipal by-laws completely inoperative where they address "the use, sale, offer for sale or transfer of a pesticide that may be used for a cosmetic purpose." We recommend that this section be deleted entirely and that the Bill remain silent on this issue. Section 14 of the *Municipal Act, 2001* and the developing body of

caselaw are more than adequate to deal with any conflicts arising between municipal by-laws and Provincial regulation of pesticides. Further, Provincial regulation of pesticides ought to be the floor from which municipalities can regulate further in accordance with local needs. We believe that such a direction would be consistent with the intent of the legislature when the *Municipal Act* was most recently amended, bolstering local regulatory powers to protect human health and the environment.

Second, the delegation of rulemaking under subsection 7.1(2)5 (“other prescribed uses”) is very open-ended, allowing for exceptions to the intended ban for any purpose. In our view, the exceptions provided in section 7.1(2)1-4 are broad enough. Subsection 7.1(2)5, however, has the potential to authorize exceptions that would run counter to the overall purposes of a bill designed to prohibit pesticide uses. For example, this subsection could, in future, be used to allow for the setting of thresholds for applying controlled products to control weeds. Although this government is committed to reducing pesticide use in Ontario, subsequent governments could, through prescribing excepted uses, render the purpose of these amendments to the *Pesticides Act* meaningless. We recommend that this subsection also be deleted from the Bill in order to ensure that pesticide use in Ontario is reduced over the long-term.

We look forward to the enactment of *The Cosmetic Pesticides Ban Act, 2008* and in the meantime, remain available to discuss the matters raised in this letter or any other matters raised by the Bill with you or your staff.

Yours very truly,



Joseph F. Castrilli



Justin S. Duncan

cc. Hon. John Gerretsen, Minister of the Environment, via fax to: (416) 314-6748