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GETTING ANSWERS ON THE PESTICIDE FIRE

On August 14, Environment Hamilton hosted a very successful public forum in Dundas to explore the root causes and environmental impacts of the Biedermann Packaging pesticides fire. A new EH committee is continuing the investigation.

The forum included a panel of representatives from the Hamilton District Office of the Ontario Ministry of the Environment, the Hamilton Conservation Authority, Hamilton Fire and Emergency Services, Biedermann Packaging, Environment Hamilton and the Toronto Environmental Alliance.

This was the first public opportunity after the fire for residents to obtain information,

raise concerns and ask questions of the various representatives. It was clear by the end of the evening that there remain many unanswered questions about the fire and its potential long term impacts on the environment.

In addition, many questions were raised about how the Biedermann plant is regulated, whether adequate information about the plant was available to

emergency services, and why the fire and its impacts were responded to in the ways used.

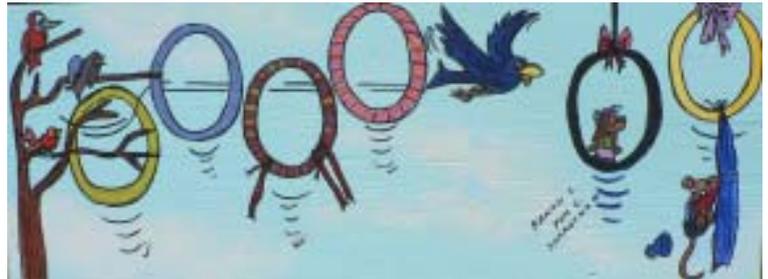
These questions served to underscore apparent gaps in the current regulatory regime for pesticides formulating facilities like the Biedermann plant.

As the forum drew to a close, attendees were invited by EH to

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WOODWARD SCHOOL WASTE SUCCESS

Cutting waste by 95 percent, saving families big dollars, and revitalizing an inner city school and neighbourhood



Last year EH's North Hamilton project staff visited the Woodward Elementary School staff to brainstorm how EH could contribute to the Woodward's environmental curriculum.

The school is deep in the city's industrial core, a stone's throw from the sewage treatment plant. Teachers wanted to introduce a "litter-less lunch" program.

EH staff organized a fundraising drive within the surrounding industrial community and collected over \$2,000 to purchase a litter-

less lunch kit for each child – a canvas bag, containers for sandwiches, juice and of course snacks.

We also arranged tours for the students to visit the city landfill site and both the composting and recycling depots, to educate the students on why they needed to reduce their garbage.

The results were dramatic. This school used to generate 40 bags of garbage in the lunch room and 50 garbage bags in the classrooms per month. Today only 4 garbage

bags are generated in the entire school per month.

The caretaker told EH staff that his job seems easier because the amount of waste is almost nothing and the older students oversee the recycling and composting, making sure the right items are placed in the correct bin.

Students are coming in on a daily basis telling the staff that their families did not put out any garbage that week. It appears that the teachings at school are

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participate in an on-going working committee. That committee has since had its first meeting and has initiated a host of short and long term efforts aimed at ensuring that an incident like the Biedermann fire is avoided in the future.

Committee members are already at work following up with various agencies to collect additional information about the incident. In addition, the committee has decided, by using tools in the provincial Environmental Bill of Rights, to pursue long term resolutions to the inadequacies inherent in the

regulatory regime for pesticides manufacturing facilities in Ontario. Committee efforts will also include exploring the potential for a community right-to-know by-law in Hamilton (see BOX for details).

Finally, the committee requested and the board of Environment Hamilton has agreed to write a letter to the province urging that it commit to the request from Hamilton City Council that a provincial inquiry into the Biedermann fire be undertaken.

Anyone else who is interested in joining the Biedermann Fire working group is encouraged to contact the Environment Hamilton office at (905) 549-0900.

COMMUNITY- RIGHT-TO- KNOW

The public forum in Dundas included an introduction to the concept of Community-Right-To-Know.

Lina Cino, a native Hamiltonian and toxics campaigner at the Toronto Environmental Alliance, was invited to the meeting to share her organization's experiences with campaigning for a CRTK by-law in the City of Toronto.

Lina explained the importance of a CRTK by-law as an effective way to allow community members to be able to obtain information about any hazardous substances that neighbouring industries might be storing on-site or releasing into the environment.

Efforts in Toronto have revealed that, under current government reporting requirements, over 40,000 polluters in the city are under no obligation to report on their releases. Many are also not required to report on their use, production and storage of hazardous chemicals.

The good news for Toronto is that the city is on the brink of implementing a CRTK by-law.

The hope is that, with a by-law in place, the increased level of transparency regarding who is using or releasing toxic substances and where such facilities are located will create pressure for these players to substitute harmful substances with safer alternatives or to cease to use or release these chemicals.

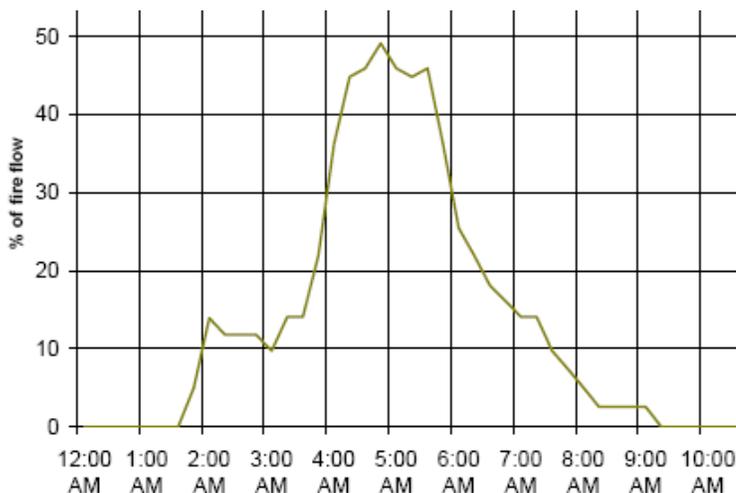


Biologist Joe Minor, an EH board member, waded through Spencer Creek shortly after the pesticide contamination occurred and collected fish and water samples, along with dozens of

photographs of the fish kill. Including this 20-inch trophy Brown Trout. The water sampling, analyzed with the assistance of Dr George Sorger, established high levels of toxicity, especially in a runoff pond on the edge of the creek near the Biedermann facility.

Dundas EH volunteer Glenn Rivers was able to use water gauge records to calculate that about 900,000 litres of douse water entered the creek over the seven hour peak period of the fire - up tp 50% of the entire creek flow at peak.

Fire flow as a percent of total Spencer Creek flows during the July 26 pesticide fire in Dundas



PROPERTY RIGHTS AND BANNING PESTICIDES

Environment Hamilton chair Mark Coakley spoke to city council on September 13 in support of the proposed ban on the cosmetic use of pesticides. Here is the text of his presentation:

I work as a litigation lawyer. A lot of my pro bono environmental law work has been against the city. I hope I won't ever need to do that again. And I am a homeowner who takes pride in my healthy, natural and beautiful lawn.

Some people have been throwing around the term "property rights" in the debate over cosmetic pesticides. Their attitude seems to be "I can do anything I want on my land and my neighbours be damned".

That attitude goes against Ontario law and tradition.

Property rights are not absolute. If they were, there would be no zoning, utility easements, or fire bylaws. Any homeowner could stage loud heavy-metal concerts on their front lawn every night.

"If a man chooses to put filth on his own land, he must take care not to let it escape onto his neighbour's land."

The traditional approach to property rights does not protect property use that interferes with a neighbour's property rights or with public health.

All rights must be balanced with responsibilities. We have legal and moral responsibilities to our neighbours. Common law property rights support this by-law.

First let's talk about trespass. Trespass usually refers to someone going onto someone else's property without permission. But



it also applies to someone who puts a foreign substance like pesticides onto someone else's property.

Because of spray drift, rainwater runoff, soil erosion, groundwater contamination, and sticking to the feet of people and dogs — almost all the pesticides put on one property will move onto someone else's property. That is trespassing.

It does not matter that some people claim pesticides are safe.

A Canadian judge wrote: "To throw a foreign substance on the property of another ... is an unlawful act ... This ... does not involve any question of whether or not the spray may have been toxic or non-toxic, because even to have thrown water, or garbage, or snow, or earth tipplings, or any substance on the property would equally have amounted to an act of trespass ..." [1]

In the past, most trespass cases dealt with substances that could be seen. Invisible poisons posed evidence problems. But new technology can identify even tiny amounts of chemicals, so pesticide trespass lawsuits are

now easier to win.

Let's talk now about nuisance. Nuisance is something that damages someone's land or interferes with their quiet enjoyment of their land.

In 1611, a British judge said: "Every man must so use his own property, as not to do damage to another." [2]

Another old British case said: "If a man chooses to put filth on his own land, he must take care not to let it escape onto his neighbour's land." [3]

A recent Ontario case said: "He who causes a nuisance cannot avail himself of the defence that he is merely making a reasonable use of his own property. No use of property is reasonable which causes substantial discomfort to others or is a source of damage to their property." [4]

It is not a defence to say that the activity causing the nuisance is legal, or that other people are doing the same.

What about property owners who enjoy using cosmetic pesticides? Isn't stopping them from doing what they enjoy a kind of nuisance? No. Allowing controversial chemicals to leave your property - like having a heavy metal concert on your lawn at night - is not "quiet enjoyment".

With nuisance, you have to prove harm. The long-term health risks from pesticides are a form of harm, but in court they pose evidence problems.

But the short-term health risk is easy to prove. Acute pesticide poisoning is caused by inhalation, eating, or direct contact with skin. The effects are immediate. Hamilton has over 65 reported cases of acute pesticide poisoning per year. More than half are kids. [5]

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TO MARKET, TO MARKET...

Farmers' markets present many benefits to participating growers, the local economy, consumers and the environment. Farmers' markets offer farmers a higher return on expenditure for their products, greater control over their economic lives, an alternate source of revenue, and an opportunity to diversify areas of expertise – in agriculture and business, community support and networking, and direct-sales marketing.¹

Farmers' markets also help strengthen the local economy. A dollar spent locally "is usually spent 6 to 15 times before it leaves the community. From \$1, you create \$5 to \$14 in value within that community".² In addition, consumers drawn to the farmers' markets typically spend more money at the stores and restaurants that surround the market, further fuelling local economic growth.³



Farmers' markets create new job opportunities, particularly for farm families who often staff the produce stand. Farmers' markets have major potential for safeguarding jobs: a study in Ontario found that "a total of 24,000 people are directly involved in preparing and selling the goods we find in [the province's 127] farmers' markets".⁴

Consumers benefit from the atmosphere and experience of farmers' markets; confidence in and knowledge of growing location and agricultural methods employed; access to fresher, healthier food; and strengthening of local community networks.

Farmers' markets also help alleviate some pressure on the environment: the distance food travels is vastly reduced, resulting in a decrease in greenhouse gas emissions; the food requires considerably less packaging resulting in less waste; and the markets open new sales venues for farmers employing more ecologically sustainable methods of production including organic.⁵

According to the City of Hamilton Agricultural Economic Impact Study, the average farm

size in Hamilton is 142.1 acres and 69% of area farmers operate 129 acres or less.⁶ Smaller fruit and vegetable farms and market gardens, usually less than 300 acres, are often inclined to market their food locally because they are not dependent on the wholesale buyers for the majority of their income.

Farmers' markets are fun, spirited places where people are far more inclined to have conversations with strangers, friends and family members than in the grocery stores. Hamilton has two farmers' markets. The Hamilton Farmers' Market, located at Jackson Square has 69 vendors, but only six farms (buyer beware!) and the Centre Mall Farmers' Market, located behind Centre Mall at

Ottawa St. and Barton St. is smaller, but has more farm stands. Check out our Eat Local Map for more information on these markets and the many other farm gate stands in and around Hamilton.

[1] Simon Bullock, *The Economic Impact of Farmers' Markets*, Friends of the Earth Trust, 2000

[2] Tim Mitchell, *Choices for Sustainable Living*, Northwest Earth Institute

[3] David Gurin, *Farmers Markets: Opportunities for Preserving Agriculture in the Greenbelt*, Friends of the Greenbelt Foundation Occasional Paper Series, September 2006

[4] Cummings, H., Kora, G., and Murray, D., *1999 Farmers' markets in Ontario and their economic impact*, University of Guelph

[5] Stephen Bentley and Ravenna Barker, *Fighting Global Warming at the Farmers' Market: The Role of Local Food Systems in Reducing Greenhouse Gas Emissions*. A FoodShare Research in Action Report, April, 2005

[6] City of Hamilton Agricultural Economic Impact Study, City of Hamilton, 2006

PESTICIDE BYLAW

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Pesticides getting onto my property harms my property, especially since it is used by kids and a pregnant woman.

I ask you to protect residential areas from chemical trespass and chemical nuisance. This responsible by-law supports traditional property rights.

[1] *Friesen v. Forest Protection Ltd.*, New Brunswick, 1976]

[2] *Tenant v. Goldwin*, England, 1703]

[3] *Ballard v. Tominson*, England, 1885]

[4] *Russel v. Ontario Malleable Iron Co.*, Ontario High Court, 1952]

[5] Based on numbers from Ontario Poison Information Center from 2005, compiled by Professor David Boyd and the David Suzuki foundation.

EH CALLS FOR MORE KARST PROTECTION

The Eramosa Karst protected area should be expanded to help ensure the long-term viability of the best example of karst topology in Ontario. About 485 acres in upper Stoney Creek have been designated a provincially significant Area of Natural and Scientific Interest (ANSI).

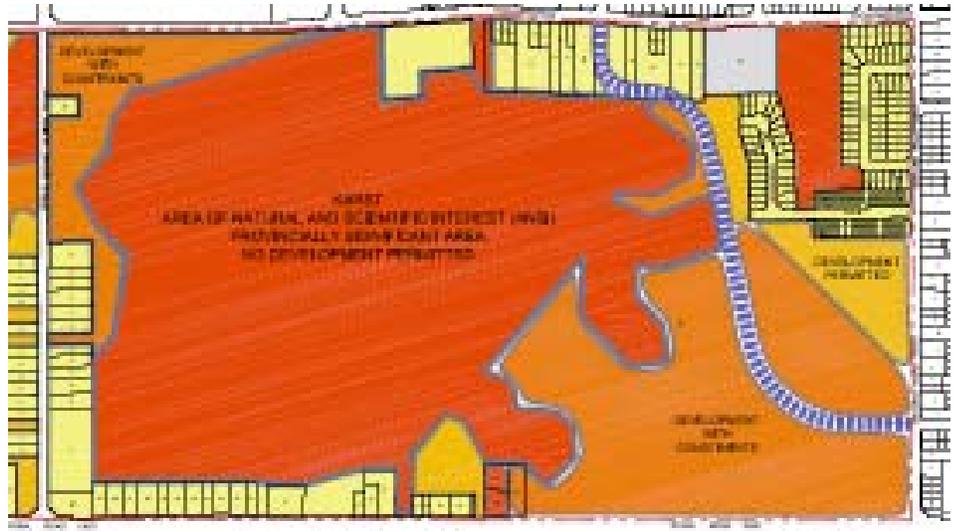
Only 190 acres of this geological feature has been deeded to the Hamilton Conservation Authority for permanent protection.

In early September, EH's Brenda Johnson and Board member Joe Minor urged the city's planning committee to support protection of an additional 80 acres.

Minor told councillors that "the prudent thing would be to include this area in the protected area because it's a moving water function and this is the area that's immediately upstream."

He also pointed to biological features of the karst area, especially the partly unknown ecological communities living in the large caves that characterize karst topology. That's a good reason not to use the 80 acre upstream area for housing.

"The things that are living in those caves would like a reliable supply of water, and they would like for it to be as clean as



The protected karst area is between Highland and Rymal, Upper Mt Albion and Second Road West. EH supports adding the area in the lower right corner, including the proposed winding road, to the protected zone

possible," he explained. "And development which puts a lot of hard paving, large surfaces, digging and disruption of sub-surface features, can both impact the quantity and the quality of the water that reaches those caves."

Minor noted that more housing subdivisions can be found all across the province, but the Eramosa Karst is unique and irreplaceable.

"This park is going to be a gem, and it's going to be really interesting to the people who come here, whether or not we add this area on it. But when they get

here are they going to see that Hamilton did the best it could?" he asked.

Speaking on behalf of EH, Brenda Johnson also urged more protection of the area. She noted that the Provincial Policy Statement adopted after the first portion was set aside now says that "development and site alterations shall not be permitted in significant areas of natural and scientific interest".

The city committee agreed with the EH presentations, despite objections from the Hamilton Halton Home Builders Association, and obvious reservations from the representative of the Ontario Realty Corporation – the provincial agency that owns the 80 acres.

It's now up to the provincial government to transfer ownership to the Conservation Authority.

The city has put its planning procedures for the area on hold until December in hopes that Queen's Park will do the right thing. EH has also written to Premier McGuinty to urge him to do so.

CALLING ALL VOLUNTEERS!

Help us spread the word about climate change! Our Climate Challenge Project is in need of some volunteer power! Do you have: a few hours to spare, a background in education, a flair for public speaking? Program Manager, Beatrice Ekwa Ekoko is looking for help in developing a workshop to educate the public about climate change.

Have you ever made a movie? We'd like to produce a short film about the Climate Challenge for use at speaking engagements.

We're also always looking for enthusiastic volunteers to help us staff our information booths at various events. Upcoming is the Rockton Fall Fair from October 5th to 7th.

Contact Emily Chandler at: echandler.eatlocal@gmail.com or (905) 949-0900 if you're able to help us out!

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WOODWARD SUCCESS STORY

being transferred to the homes.

Woodward also printed an environmental newsletter that contained recipes for nutritious snacks. Other articles pointed out the cost savings of drinking boxes and making your own juice.

Reports indicate that the average family with two children in the school is saving over \$100 per month making their children's lunches rather than buying drinking boxes, lunchables, fruit roll ups etc.

The waste reduction program has not been without its administrative challenges. Although Woodward staff introduced a green cart in the lunch room, there was no compost pick up at this location.

Staff were voluntarily taking the brown bags home in the trunks of their cars. The Board of Education also provides only limited recycling opportunities so again staff were taking the extra items home with them to put in their own blue boxes.

EH invited the head of the city's Public Works division to visit Woodward School, meet the staff and hear about the successful "litter-less lunch" program. In response, Scott Stewart offered free city pickup of the school's compost as well as the extra recycling material not currently

Now in its third year, the EH North Hamilton project is funded by the Hamilton Community Foundation, and works with numerous neighbourhoods to help them tackle and solve the environmental issues that they see as important to their neighbourhoods.

offered through the Board of Education's recycling program. Mr. Stewart also offered to send his staff to Woodward to initiate a beautification program for the school yard/ city park that surrounds the school area. He calls Woodward School his champion pilot project.

The success at Woodward has generated requests for EH staff to visit other schools to introduce this program, but that is also presenting administrative challenges. The city was unsuccessful in their bid for the Board of Education's contract.

The winning contractor doesn't recycle glass, drinking boxes or styrofoam and the Board hasn't adopted the green cart initiative, citing health and labour issues.

Although Woodward's project can continue, other potential schools may have to be put on hold.

EH has since met with the staff of the waste division at the Board of Education who seems to be trying to catch up with today's standards of recycling. EH was assured that we can expand our program but composting and extended recycling will have to be looked at with each new school.

Currently Woodward Elementary School is the shining star amongst the schools and deserves a standing ovation for the leadership and enthusiasm displayed by both the staff and students who want to make their neighbourhood and community a better place to live.

The sad part is this project should be the norm in all schools.



Woodward School has a number of windows in the gymnasium that have been boarded up. As part of the beautification project a grade 5 teacher and her class painted murals to replace the humdrum looking boards. The murals on the outside of the building have changed the look of this school. Visitors comment on how wonderful it looks as well as the neighbours. This same staff member painted 3 portables - each with a different theme. One is a forest, one an ocean and the third is a garden. Each child was encouraged to paint a creature or plant that could be found in each setting. The portables are breathtakingly beautiful and not surprisingly no vandalism was reported when the students returned this September. Since the students painted the portables themselves, they have taken ownership of them.

CLIMATE CHALLENGE SUCCESSSES

Over 900 Hamiltonians have taken the EH climate pledge this summer, promising to take a number of specific steps to reduce their personal greenhouse gas emissions. Staff and volunteers did door to door canvassing in Corktown, Durand, Westdale and Dundas and found other willing participants during the Locke Street Festival, neighbourhood events in Durand and the North End and the annual Dundas Cactus Festival.

Sixteen possible pledges are offered to participants, but we are finding many Hamiltonians who have already taken up all at least half of these personal actions to combat climate change. This suggests that it is not any lack of citizen enthusiasm that is holding back the achievement of the Kyoto targets or more ambitious (and necessary) steps.

A major boost to the campaign was an invitation from Revenue Canada to come into their downtown Hamilton buildings and recruit their staff for the climate pledge. The EH climate brochure was distributed to employees in advance, and those who agreed to participate – the vast majority – picked up their free Union Gas energy kits in the lunchrooms from EH volunteers and staff. Many expressed their particular delight at finding a Buy Local, Buy Fresh map in their package showing where to find locally produced food in Hamilton.

The project continues to hold free showings of "An Inconvenient Truth", the award-winning film produced by former US vice-president Al Gore. If you know of any group interested in a showing, please contact us.

Earlier in the year, we held screenings for over 30 faith

groups in the Hamilton area, and on the last weekend in September, representatives of many of those groups will be gathering at EH's invitation for a conference at Melrose United Church to discuss further steps to address climate change. EH will be explaining opportunities to receive one or more of eight EH-designed workshops that focus on specific ways of achieving CO2 reductions.

We will also be participating in the KAIROS sponsored Canadian Ecumenical Justice Initiatives Conference in mid-October in Ancaster and the two-day Anglican Diocesan Synod being held in Hamilton in mid-November.

Our climate change work is being funded by the Ontario Trillium Foundation and the Hamilton Community Foundation, as well as donations from

individuals. Our partner in this work is the Conserver Society of Hamilton and District.

2 QUESTIONS

1. Do you think politicians are doing a good job dealing with climate change?
2. How many times in the last six months have YOU called or written to even one of your elected representatives?

It's unlikely that politicians are going to do what you want them to do if you don't at least ensure that they know what you want them to do.

A good citizen standard might be a phone call or a letter (even a short note) once a week (at least once a month) to one of your elected officials.

EH CHALLENGES INCINERATOR ASSESSMENT

Environment Hamilton is challenging the recent decision of the Ontario Ministry of the Environment to only order a low level environmental assessment of the sludge incinerator proposed by Liberty Energy for east Hamilton.

Our recent letter praises the Ministry for belatedly recognizing that this is primarily a waste management facility rather than an electricity generator, but disagrees with the limits placed on the new assessment by classifying the facility as a 'second stream' project with "predictable environmental effects that can be readily mitigated".

We noted that "the technology in question is unproven in Ontario" and point out that "no other facility exists at this scale using this technology in Ontario."

"Further, the proponent in question does not have a proven track record with this technology; it is our understanding that the proponent currently has no other facility of this magnitude in operation anywhere else in the world."

The company is proposing to incinerate 500,000 tonnes of sludge per year, most of it trucked into Hamilton from across southern Ontario.

Our letter pointedly asks: "Does the Ministry have the information necessary for it to conclude at this stage that the potential environmental impacts of this facility are both predictable and readily mitigated? Or was it the proponent who was left to determine which stream they fit into?"



1200 TREES INVENTORIED IN DUNDAS

Dundas residents love their trees, and we had over 100 people get in touch with us when we announced we were bringing the Trees Count inventory to town.

Dundas was chosen for this project because it's one of Hamilton's oldest communities, and some of the trees in its historic downtown core were planted more than 150 years ago.

The goal of the project was to inventory at least 1000 trees

VOTE FOR CLEAN ENERGY

Polling shows the environment and stopping global warming is a top concern for Canadians. This Ontario election is the time to make it a top priority for politicians. How?

WWF-Canada, The Pembina Institute, Greenpeace, Ontario Clean Air Alliance and Sierra Club of Eastern Canada have called on all political parties to adopt clean, climate-friendly energy policies.

Please consider the need for a clean, climate-friendly energy system in Ontario when you decide who to vote for. The information is posted on the web at www.voteforcleanenergy.ca.

They are offering virtual lawn signs and emphasizing that 'renewable is doable'.

Call or write your local candidates about their energy policy. Write letters to your local newspapers. Grab some Vote For Clean Energy Flyers and distribute them in your neighborhood.

during ten weeks of the summer – and we exceeded our goal on all fronts. We managed to survey 1200 trees, and had an active group of about 50 volunteers - double the number involved with past Trees Count projects.

Trees Count is a survey tool devised by the University of Toronto's Forestry department. After a brief training session, volunteers learn how to gather more than 30 pieces of visual data to determine the health of a tree. This includes identifying the species, diameter and tree height, and examining root growth and the condition of the bark and canopy.

The information is used to help

communities put together a stewardship plan for their urban forest. This year's Trees Count also promoted the city's street tree planting program, where homeowners can apply to have a tree planted at no charge in their front yard.

Results of the survey will be presented to the community early next year.

This was Environment Hamilton's sixth Trees Count and we hope to run more tree inventories across the city next year.

If you think your neighbourhood needs a tree inventory, contact project manager Julia Kollek at 905-549-0900.



Name: _____

Address: _____

Telephone#: _____ Email: _____

Annual membership \$25.00

Student/Unwaged \$15.00

Membership fee: _____

Donation: _____

TOTAL enclosed: _____

I would like to volunteer

Mail to: Environment Hamilton
1130 Barton Street East, Suite 207, Hamilton, ONT L8H 7P9

Please make cheques payable to Environment Hamilton

Website www.environmenthamilton.org

Email contactus@environmenthamilton.org Phone (905) 549-0900