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Jeudi 24 août 2006

**Standing committee on
social policy**

Clean Water Act, 2006

**Comité permanent de
la politique sociale**

Loi de 2006 sur l'eau saine

Chair: Shafiq Qadri
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Thursday 24 August 2006

Jeudi 24 août 2006

The committee met at 0902 at St. John's Memorial Hall, Bath.

CLEAN WATER ACT, 2006
LOI DE 2006 SUR L'EAU SAINE

Consideration of Bill 43, An Act to protect existing and future sources of drinking water and to make complementary and other amendments to other Acts / Projet de loi 43, Loi visant à protéger les sources existantes et futures d'eau potable et à apporter des modifications complémentaires et autres à d'autres lois.

The Vice-Chair (Mr. Khalil Ramal): Good morning, ladies and gentlemen. Welcome to Bath, Ontario. We have about 15 presentations this morning. We have a tight and busy schedule for this morning's session. Every presenter has 10 minutes to speak and five minutes for questions. The questions will be divided among the three parties. I would recommend and wish that all the presenters stick to the time because so many presenters after them will want to present their own cases and issues.

MOHAWKS OF THE BAY OF QUINTE

The Vice-Chair: We're going to start with Chief R. Donald Maracle of the Mohawks of the Bay of Quinte, if you're ready. The floor is yours. You can start when you are ready.

Chief R. Donald Maracle: First of all, I would like to say good morning to everybody, and I would like to welcome all of you to the traditional territory of the Iroquoian people.

I bring greetings from the Mohawks of the Bay of Quinte to the members of the committee and thank you for the opportunity to make a presentation on the proposed Bill 43, the Ontario Clean Water Act.

The Mohawks of the Bay of Quinte believe that protection of source water is paramount to ensuring public health and safety in any community. The Mohawk community is the fourth-largest First Nation in the province of Ontario and the sixth-largest in Canada, with a population of 7,600 people and 2,100 on-reserve residents. The Tyendinaga First Nation is located in eastern Ontario, along the north shores of the Bay of Quinte, south of Highway 401, approximately 20 kilometres east of Belleville. The Mohawk territory is bounded on the east by Deseronto and encompasses some 7,275 hectares of

land, with 20 kilometres of shoreline. There are approximately 925 homes in the community, of which 260 in the southeastern end are serviced with municipal water. The remaining 665 homes are serviced by individual wells, holding tanks and septic fields. The typical topography of the area is shallow overburden on fractured limestone, which creates high vulnerability of contamination to a relatively shallow drinking aquifer.

For decades, the Mohawks of the Bay of Quinte have been experiencing water quality and quantity issues throughout the entire community. In an effort to address these issues and at the request of Indian Affairs, we undertook a hydrogeological study and groundwater well assessment study. The hydrogeological and groundwater well assessment studies found the following:

—The majority of the 770 homes that were the subjects of the study were determined to be GUDI wells, which means “groundwater under the direct influence” of surface water streams.

—The majority of the existing wells are less than 6.25 metres, or 20.5 feet, deep, which is non-compliant with Ontario regulation 903. However, it should be noted that the only suitable, drinkable aquifer is found in this shallow subterrain. The deeper aquifer is salty and is untreatable.

—Twenty-five per cent of the wells constructed are too close to septic fields or other potential sources of contamination.

—Thirty-nine per cent of the dug wells have unsealed casings.

—Thirty-six per cent of the drilled wells have inaccessibility issues such as well casings in enclosed pits.

—Seventy-five per cent of the drilled wells have less than 40 centimetres of casing above the ground.

—Seventy-one per cent of the wells dug and drilled had foreign materials present such as animals, insects and plant debris.

—Water shortages are prevalent throughout the entire community.

—It will cost approximately \$9 million to address the well deficiencies, which is a serious public health and safety concern in our community.

In addition, the hydrogeological study found that there are 61 abandoned drilled wells and 52 dug wells in the community that require decommissioning. This represents an entry point for contamination to the groundwater. The government of Ontario should work in

partnership with First Nations to provide funding to close and cap these abandoned wells. Any provincial funding aimed at remedial measures in municipalities should also be made available to First Nations communities. In the absence of funding, many of these conditions will go unaddressed and will continue to present a risk to the water supply of the First Nation and surrounding communities.

In the past, there was a program available in the province, but there's always a question about eligibility of First Nations people to apply for these programs. As a result, the decommissioning money didn't come to any First Nations community.

Tyendinaga has routinely sampled the well water for bacteriological and *E. coli* contamination since 2001. Well water sampling statistics have found a consistently high coliform and *E. coli* contamination count in over 50% of the wells. The Mohawk council is concerned that the quality of the water presents a major public health and safety concern. It is becoming increasingly difficult to rely on groundwater for a safe supply of potable water.

In addition to the well issues, we also have sanitation issues with septic fields in the community and the lagoon servicing Quinte Mohawk School. The issues surrounding septic fields include early failure and many are constructed too close to wells. These problems prevail despite an inspection procedure by the Health Canada environment health officer. Quinte Mohawk School is a federal school, constructed in 1973, which is serviced by a number of wells and a sewage lagoon. The school has an enrolment of approximately 350 students. The school wells have gone dry in the past and the lagoon does not meet any provincial environmental standards.

A capacity evaluation study concluded:

—The lagoon is operating in the absence of a liner to protect the groundwater.

—There is no disinfection. Sometimes the discharge goes on top of the ground, creating a public health concern.

—There is a potential to increase phosphorous loading along the Bay of Quinte, contrary to the Bay of Quinte remedial action plan objectives.

—Ministry of the Environment officials have stated that a director's order would be issued if the lagoon was operated off-reserve.

Source Water Protection: As a First Nation, we are more susceptible to contamination of the water supply due to landfilling and heavy industrial, agricultural and commercial operations in the surrounding communities. For example, we are immediately downstream from the impacting influences of the Richmond landfill facility, which is currently seeking expansion approval from the Ministry of the Environment. The Richmond landfill site is located in the headwaters of the Marysville Creek, which traverses our community as it flows into the Bay of Quinte. The Ontario government review team recommended that the Richmond landfill expansion should not be approved since it is located in an area that is highly susceptible to groundwater contamination.

The Canadian Environmental Assessment Agency was unable to complete a transboundary contamination investigation since Waste Management Inc. failed to produce information that was requested.

The Ontario government should enact legislation to prevent landfill sites locating in areas where prevalent fractured bedrock and layered limestone exist. It is recognized that these geological conditions make the areas highly susceptible to contamination.

0910

Currently, Tyendinaga is working in partnership with the Quinte Conservation Authority, the Ministry of the Environment and Environment Canada to undertake a water source protection pilot project. The activities concentrate on ground and surface water sampling, identifying potential sources of contamination, public awareness workshops and database training.

There needs to be a holistic approach taken to water source protection, which is critically fundamental in ensuring safe drinking water for public consumption. There are a number of contaminated industrial sites in the adjacent municipalities that are no longer operating which may affect the Bay of Quinte watershed and require immediate remedial measures and action. There is a lack of accountability on the plan to remediate these contaminated sites.

There are a number of areas where enhanced funding is required to properly mitigate the issues. First, it must be recognized that the First Nations will require funding from both Canada and Ontario to conduct scientific studies to understand the watershed, to develop water quality databases and to remediate sources of contamination. This could also include filling in abandoned drilled and dug wells, collecting water samples for statistical analysis to document the surface and groundwater quality to develop better land use planning practices.

Second, First Nations lack the capacity to inspect well construction, water treatment systems and septic tanks. Funding for capacity development is crucial to ensure that First Nations have trained environmental inspectors to provide advisory and inspection services.

Third, there are overlapping constitutional, jurisdictional and treaty issues that require clarity to address the legislative capacity on matters related to drinking water standards, inspection and remediation orders. For example, there need to be regulatory standards for well and septic field contractors undertaking work on First Nations land. There is no regulation that applies and hence no enforcement to ensure that on-reserve well construction meets Ontario regulation 903 standards or septic field installations meet provincial standards.

Fourth, municipalities and First Nations will require funding from Ontario to remediate abandoned landfill sites. There are small sites in the surrounding municipalities that will require funding to ensure monitoring and proper closure.

In addition, the Mohawks of the Bay of Quinte have not been provided with any funding to be adequately consulted on Bill 43, the Ontario Clean Water Act.

Therefore, these comments are provided on a without-prejudice basis to any aboriginal treaty inherent or historical right that the Mohawks of the Bay of Quinte may wish to assert now or in the future.

The conclusion is that the former Prime Minister of Canada, Paul Martin, commented to the House of Commons about the shameful conditions under which First Nations live. The lack of potable drinking water in First Nations communities is shameful and a major public health and safety concern.

The governments of Ontario and Canada must work co-operatively on a government-to-government basis with First Nations governments to implement measures and programs that will improve the drinking water and protect the source water for First Nations communities.

The Vice-Chair: Thank you, Chief, for your presentation. You have five minutes for questions. We're going to start with Mr. Barrett.

Mr. Toby Barrett (Haldimand–Norfolk–Brant): We appreciate the presentation—an excellent brief, here. I guess I have a couple of questions on the Richmond landfill. I was wondering how far away it is from your territory. I just wonder if you have any idea, with respect to other native communities across Ontario—I can think of a number of landfills here and there that seem to be awfully close to native communities. Sometimes, that's how that happens. I know down our way—I represent New Credit and Six Nations—the Tom Howe dump is right next to the New Credit reserve. I can think of a number of either existing landfills along the Grand River—Brantford for one, which is right by the side of the river—or proposed landfills. The Edwards landfill is about two miles from the Grand River, again proposed to receive Toronto garbage, given the potential for Toronto garbage to no longer be going to Michigan. I think of the Green Lane landfill outside of London, fairly close to the Oneida community down that way.

Have you seen any trends like this as far as location, either adjacent to communities or adjacent to significant watersheds or, in this case, as you've indicated, on top of limestone rock and there's a potential there for leachate to travel?

Chief Maracle: First of all, if the government of Ontario approves the expansion of the Richmond landfill site, the source water protection law will have no credibility with the public whatsoever. It's located in a—

Failure of sound system.

Chief Maracle: If the Ontario government passes Bill 43, there will be—shut it off and I'll just talk.

Failure of sound system.

Chief Maracle:—credibility with the Ontario clean water initiative. Everybody knows that the Richmond landfill site is in the headwater of a creek. It's contrary to Ontario policy to locate landfill sites in limestone areas. Where we're at in the process is that Waste Management is petitioning the minister to have a scoped environmental hearing before the Environmental Review Tribunal. I reiterate the Adams mine: The site was so poor that the government passed specific legislation to prevent

that from happening, and the same measures are required with the Richmond landfill site.

So there needs to be some pre-screening about landfill sites to make sure that if you're even going to think about putting a landfill site in an area, make sure there's lots of clay and some natural attenuation features. It makes no sense to put the public through the expense and anxiety when sending a message to the public that the Ontario government is considering approving landfill sites in areas that are not suitable. The environmental assessment process needs to be more responsible and accountable for good practices.

In terms of the question about landfill sites, we belong to the Association of Iroquois and Allied Indians, and I'm also familiar with Chief General from Six Nations. Just about every First Nation community is fighting some sort of landfill site because they have downstream impacts from the site.

Municipalities have responsibility for the waste that they generate. They can't simply ship it to somebody's backyard and have a political deal with the Ontario government to dump that garbage, and then it becomes an impacting environmental concern for another community.

There are a number of sites that are not suitable, and there needs to be an assessment done. It's high time now that Ontario implement other technology to dispose of garbage.

On whether or not the American border will close, that still remains a decision to be made in Washington. I think there needs to be a careful analysis done to see if it violates the provisions of the North American free trade agreement.

The Vice-Chair: Mr. Tabuns.

Mr. Peter Tabuns (Toronto–Danforth): Chief, thanks very much for coming in this morning and making that presentation. I understand the scope of the fight that your nation is engaged in to protect clean water in this area. If this act is adopted and funds are not made available to local authorities like yourselves, will you actually be able to take action to protect the quality of the groundwater in your community?

Chief Maracle: I suppose if the Ontario government doesn't want to follow the law regarding public obligation, then one of the considerations will be to take the Ontario government to court to make the government follow the law. Waste Management is trying to sidestep the obligation of public consultation which the Environmental Assessment Act requires. The government should never entertain that kind of abuse of the public. That is what's happening right now, and the people who sit at those desks in Queen's Park have an obligation and duty to the public to make sure that that doesn't happen. So we now call upon the government to look into this matter and to make certain that there's public obligation and that, if it's a bad idea, kill it.

With regard to the Richmond landfill site, the government should be responsible and accountable and should simply say no, because it's in a poor location, and not refer it to an Environmental Review Tribunal hearing.

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The Vice-Chair: Parliamentary assistant from the Ministry of the Environment, Mr. Wilkinson.

Mr. John Wilkinson (Perth–Middlesex): It's good to see you again, Chief. It's always nice to be in the Bay of Quinte. As a boy who was raised in Trenton and went to high school in Belleville, it's always good to be close to home.

I'll definitely ensure that your comments are passed along to the minister. But since I have you here, and just specifically on the Clean Water Act, I just want to get your sense, and you have compelling testimony about how we're all drawing the same drinking water. The idea of the bill is to get the people who are drawing from the same source, whether it's the Great Lakes or surface water or the aquifer, together and they plan together as a community to keep that water safe at the source. I know that there are jurisdictional issues that we have to deal with, but I get a sense, then, that as long as we can come to a mutually respectful agreement—would it be right to say that you would be interested in being part of this process with everybody else who's in the same watershed? Is there a problem from a jurisdictional point of view? O'Connor was telling us, you know, it's obviously voluntary on behalf of First Nations, but they should feel welcome to be part of that process. So what do we need to do to make sure that can happen? The people here are all drawing from the same—

Chief Maracle: First of all, it's not an issue of political will. There is a constitutional obligation to consult and for us to represent our own views before a government on a government-to-government basis. That's what the treaty relationship calls for.

Mr. Wilkinson: Right.

Chief Maracle: So it's not really a political decision, but usually what happens is that when there is funding to remediate something, the provincial government has always used the convenient excuse that it's somebody else's jurisdiction and somebody else's problem.

The law does not prevent Ontario from helping or assisting First Nations communities. As a matter of fact, I think most of the land that all these municipalities and towns have been built on throughout Ontario and all the resources—I mean, that still is a very serious, unsettled issue between the native people and the crown. There are issues about whether there were surrenders, whether there were proper treaty accommodations, whether or not the crown even fulfilled their obligations under those treaties to First Nations people. So if you're looking at an initiative to protect public health, it's absolutely imperative that everybody co-operate in the measures that are being implemented, and that includes the Ontario government.

The Vice-Chair: Thank you, Chief. Thank you very much for the presentation.

SCOTT REID

The Vice-Chair: The second presentation will be by Scott Reid, M.P. for Lanark-Frontenac-Lennox &

Addington. Welcome, sir. You can start when you're ready. As has been mentioned, you have 10 minutes.

Mr. Scott Reid: Thanks very much.

The Vice-Chair: I believe you are familiar with the procedure.

Mr. Reid: Yes, I am. As a member of Parliament, I get to sit on committees, and I've actually been a witness before a provincial legislative committee and also before federal committees, so I'm sure it's the same procedure as usual.

First of all, let me welcome you to Bath, which is in the federal riding of Lanark-Frontenac-Lennox & Addington, and to say that I hope you've enjoyed your overnight stay. I'm told you were in Milhaven last night. An overnight stay in Milhaven: I've stayed at the same inn you're at and it can be very enjoyable, especially if you get a chance to get out and look over the lake in the morning.

I'm here to talk today, and I hope you've all now received a copy of the presentation I'm making, about a proposed amendment to the Clean Water Act that would allow for greater respect for the rights of property owners. I'll simply read to you from the presentation that I have and then I'll take your questions.

Protecting our water supply from dangerous pollutants is clearly a noble goal and one of great importance to residents across Ontario. In the pursuit of the same, however, the Clean Water Act as it is currently worded places significant and, I believe, unnecessary burdens on rural Ontario's property owners. I've been an advocate since long before I was elected in 2000 for a moderate, practical version of property rights, which I believe to be entirely in keeping with the practical and just nature of the society that we enjoy here in rural Ontario and, by extension, across the entire country.

The Clean Water Act can easily be amended, I believe, to accommodate this version of property rights. Today I will suggest such an amendment to the bill. The right of property, as I understand it, is the right to access the full value of that property and the right to full compensation for this value in the event the property is expropriated or its full value diminished as a result of public policies which place restrictions on the use or enjoyment of that property. Therefore, property rights ought not to be entrenched in the law in such a manner as to restrict the government's ability to pursue any project whatever that the Legislature has judged to be in the public interest, including projects that have the effect of diminishing the value of private ownership of a given object or property.

On the other hand—and this is relevant in the context of the Clean Water Act—it is the general public and not an unfortunate few who should bear the costs of all worthwhile social goals, including the worthwhile goal of source water protection. This cost should be borne through the general tax system, to the extent that it is necessary to draw upon the general revenues of the province in order to compensate property owners for payments made in compensation for losses to the value of

their property as a consequence of the application of the Clean Water Act or of its regulations.

I could discuss at length a number of serious concerns that I have regarding the enforcement process outlined in the act. It's particularly alarming, for example, to read section 54, which grants inspectors the right to enter property and remove virtually any evidence they desire, with no warrant and without the consent of the owner.

The enforcement powers detailed in section 55 effectively grant inspectors the ability to shut down any existing practice in which a landowner may be engaged.

Section 56 states that a permit inspector—and I quote the act—“may cause to be done any thing required” by these enforcement orders, even before landowners have had the opportunity to comply with such an order. An inspector needs only to be of the opinion that a farmer will not comply with an order, competently or promptly, to seize that farmer's livestock or seal off his fields. These measures all have the effect of providing for unnecessary confiscation and coercion, rather than encouraging co-operation and reasonable compliance.

While these and other measures of the proposed Clean Water Act are deeply concerning, I believe that these matters could largely be addressed by ensuring that landowners are provided with full, just and timely compensation for any losses incurred as a result of the act's enforcement.

As currently worded, the bill specifically states in section 88 that landowners shall receive no form of compensation for damages resulting from the act, including the loss of the value of property, which is defined as “injurious affectation” under the Expropriations Act. The bill includes a provision prohibiting compensation derived by means of contract or tort decisions. The result of this is that the full costs of any measures imposed by the act on a landowner, including potentially devastating prohibitions on property use, are to be borne solely by that landowner, even when the costs were largely avoidable or when they have been imposed without reason or justification.

I believe that the problems I have outlined above could be overcome if the following amendment were added to the wording of the bill. The amendment that I propose would ensure that landowners receive fair compensation in the event that compliance measures impose burdensome costs. The amendment reads as follows:

Section 88 is replaced with the following: “All persons who incur damages as a result of this act and its regulations, including an expropriation and/or injurious affectation, are eligible to receive full, just and timely compensation in accordance with the Expropriations Act.”

The existing provisions of the Expropriations Act ensure a reasonable, detailed process to provide compensation in those legitimate cases in which an individual has willingly or unwillingly undertaken a substantial financial sacrifice for the public good. I do not think that anyone would argue that better source water is not a worthwhile social goal. So let's try to ensure that society

as a whole is responsible for bearing the costs of achieving this goal.

Thank you.

The Vice-Chair: Thank you, Mr. Reid, for your presentation. Now we can open the floor for questions. We're going to start with Mr. Tabuns for the first question.

Mr. Tabuns: Mr. Reid, thank you very much for that presentation, and also for your help with the protection of Mitchell Creek near Desert Lake. A local there told me you've been very supportive.

Mr. Reid: We haven't quite resolved that one yet.

Mr. Tabuns: I understand that.

Mr. Reid: But we'd like to.

Mr. Tabuns: Which is great.

With this whole approach to protection of property owners by ensuring that the costs to protect groundwater are covered by society as a whole, would you say that you support the direction of this bill?

0930

Mr. Reid: Do I support improving the protection of groundwater? As a general principle, the answer is yes. I don't have the technical expertise—for example, I lack knowledge of geology and a number of the issues that would be relevant to this—to say whether this is the right general direction to go, the specific things that are being done. I haven't done the right kind of research, for example, to comment on whether the kinds of source water protection boards that are being created—I'm not using the right term, but you know what I mean—are necessarily the right way or the wrong way of going about it. One could go on and on in that vein, but I guess the general question can be answered by the statement I made at the very beginning, in which I described this as a noble goal. The goal itself is entirely appropriate.

The Vice-Chair: Mr. Wilkinson.

Mr. Wilkinson: Thanks for coming in to see us today. Three quick things, just issues of clarity, because we've been dealing with this, and I want to ask you a question in your new role as part of the government.

The minister indicated on Monday that we're looking at amending the bill from the whole idea of a permit official to one of risk management to ensure that we consult with people first, and that the carrot is a lot bigger than the stick, although we do agree that if there is an imminent, significant threat to the drinking water from which everyone is drawing, sometimes in those extreme cases we do have to have the power to be able to make sure that our water is not being contaminated.

There had been some question about expropriation without compensation. A review of the bill shows that there is no expropriation without compensation in the bill. You have to read the bill in total. If you just pull out some sections, it causes a problem.

My question is about our relationship with the federal government. We're in the process of renegotiating the Canada-Ontario agreement in regard to the Great Lakes. There have been a lot of issues raised about the cost of this bill. I'm just wondering, in your sense as a member of the federal government, do you see that source

water—which I think is going to be a big issue here in Ontario—is something that should be on the table for negotiation between our two levels of government to ensure that there are adequate resources to make sure that we can deal with the issues as they're uncovered by the community as they look to mitigate any significant threats to their drinking water?

Mr. Reid: I would imagine that there may be a federal role if any boundary waters are affected.

Mr. Wilkinson: Like the Great Lakes.

Mr. Reid: That's right. To that extent, I suspect, although I don't know, that our treaty obligations might require a federal role. As I say this, I should offer up the fact that I'm not an expert in that area either. To the extent that fisheries is affected—there is, of course, a continuing Great Lakes fisheries; a little bit in Lake Ontario, more so in Lake Erie—there would probably be a federal role because, again, fisheries is under federal jurisdiction. Constitutionally, with the exception of aboriginal lands and military bases, the responsibility would be under the province, but I certainly think that a co-operative approach is always the best one.

I do want to talk a little bit about expropriation without compensation, because you raised it in your comment. The bill doesn't talk about expropriation in that sense. Expropriation, when it involves taking the title to land, is very well covered in Ontario. That's why I made reference to the Expropriations Act, which is a fine piece of legislation. The problem is the removal of the use from property owners. You noticed I used farmers as my example, but there are other examples: campground owners, people who run sawmills and so on. What tends to happen under provincial legislation—this has been the pattern for the past few years—is that what I would phrase as the use and enjoyment of property or effectively part of the value of property is taken away from that property. Property ought not to be understood as merely title but as the bundle of rights and obligations associated with an object of value; typically, a piece of land.

When you leave someone with the title but you say, for example, "You have to have a setback on your land. You can no longer allow your cattle to graze within a certain distance of the water, and you have to put up the fence at your own expense to keep them out," you're effectively expropriating some of the value. Just two days ago, I was talking to a farmer from this district who told me that he'd lost about 10% of the use of his land because of a setback; no compensation. That's the kind of thing that concerns me. It has happened under other pieces of provincial legislation; federal legislation too. All I'm saying here is that by putting the wording I've suggested into section 88 of the act, that particular kind of expropriation of partial value, of the use and enjoyment of property without compensation, would be ended, and the excellent provisions of the Expropriations Act would come into effect with regard to this piece of legislation.

The Vice-Chair: Thank you very much. Mr. Barrett?

Mr. Barrett: Thank you, MP Reid. Your work on property rights is well known. As you've indicated, the Expropriations Act does require compensation if land is taken. Again, how do you define a taking with this particular piece of legislation? I may be disagreeing with Mr. Wilkinson. We do have an opinion from research with respect to section 83 of this legislation and its impact on compensation. However, you're referring to section 88. I refer specifically to subsection 88(6), where nothing done in compliance with the Clean Water Act can be considered an expropriation. Again, this means, in my view, that regulations, designations, are not considered as expropriation. So if it's not an expropriation, well, you don't get any compensation, to the point of, say, lack of enjoyment of that property, to use that term.

So we are concerned about backdoor expropriation. We have received a research opinion on section 83. We're waiting for an opinion on section 88. Just based on your presentation, we may ask research to do a bit more work on this other form of taking, the taking of enjoyment or the taking through putting a restriction on your land. They don't buy it from you, they don't lease it, but they put a restriction on it and, essentially, the value of that land has been diminished without any compensation.

Any further comment on that?

Mr. Reid: Actually, maybe I can. The way one establishes a value typically under an Expropriations Act—most of the provincial Expropriations Acts, and the federal one as well, follow fairly closely a single model. What they say is that you would determine the value by looking at what a willing buyer and a willing vendor would have achieved as a reasonable price prior to the particular restriction coming into effect. So if that's affected, then a restriction on land use is something of value; the value can actually be assigned in a dollar figure and paid out.

When restrictions are placed that don't have the effect of affecting value, then there's no need for limitations on this. I think sometimes people imagine that when you provide for this kind of compensation, you're going to hamstring government or make the costs of reasonable measures impossible for government to bear. That's not the case. It's really when existing practices are affected that you find that compensation is necessary.

I also must say that in general, when governments are faced with the obligation of actually costing out what the measures are going to be, the tendency is that they come back and put the research in, the bureaucrats put the research in, to make sure that they find the lowest-cost solution. We've seen with some of the previous acts that have been passed—I would cite the Nutrient Management Act as an example—that there was a lack of that kind of thought as to what is the lowest-cost solution, because the costs were off the books with the government, so that it wasn't necessary for the public servants who were designing the regulations to think them through, as they would have to if those were costs that would be coming out of the budget and therefore would be competing with all the other worthwhile goals that the government had in mind.

The Vice-Chair: Thank you very much, Mr. Reid, for your presentation.

Mr. Barrett: On a point of order, Mr. Chair: I indicated I did have a question for research. We have received the report on section 83. I think it was yesterday that we asked for a determination on subsection 88(6), whether this legislation does provide compensation for the value of property that's expropriated. But further to that and based on MP Reid's presentation, I have I guess a third request now to research on this expropriation. The request is, does this Clean Water Act provide compensation if full value of property is diminished as a result of public policies which place restrictions on the use or enjoyment of the property? That distinction is not, say, a lease or a sale or a physical taking. But as Mr. Reid has explained, and I've used his phrase on page 1, if we can determine if this legislation does—

The Vice-Chair: Sure. Research will look into it and provide every member of the committee with a copy.

0940

Mr. Wilkinson: I thank the member for asking for that. Since research is working on it and since MP Reid brought this up, I would commend to research to look at the question of the Nutrient Management Act that was brought in by another government and the question of the creation of, I think, 15-metre buffer strips on either side of a watercourse and whether or not that act made provision for that—the necessity to put up fencing to prevent cattle from being in a waterway, that type of stuff. I'd be interested to see that. Historically, we'd ask you to look at that as well, because MP Reid brought that up and that would, I think, be quite informative.

Mr. Barrett: I would concur with that, because this legislation supersedes the Nutrient Management Act.

The Vice-Chair: I want to remind all members that the research department is going to summarize all the points and is also going to clarify any points for everyone.

Thank you very much.

LEEDS AND GRENVILLE LANDOWNERS ASSOCIATION

The Vice-Chair: The next presentation will be by the Leeds and Grenville Landowners Association. If they are here, they can come forward for their presentation. Welcome. You can start when you're ready.

Ms. Jacqueline Fennell: Thank you very much for the opportunity to speak with you folks today. I'm Jacqueline Fennell. I represent the Leeds and Grenville Landowners Association. I'm also speaking on behalf of the Prince Edward-Hastings-Northumberland Landowners Association.

It seems very interesting to me that we're here today talking about clean water as, when the landowners' associations in Leeds and Grenville first began, a very big concern in rural Leeds and Grenville and rural Ontario was what our government was going to be doing to monitor water or to ensure water safety. Of course,

everyone was concerned that there were going to be meters put on our wells and all sorts of things. Here today we're talking about something that is much more intrusive and much worse than a meter on a well could ever have been. So I congratulate you on being able to surpass the terrible thoughts that we had, because you've done a wonderful job of making things much worse in rural Ontario.

Speaking about drinking water and its protection, of course we do want everyone to have clean water; we're not in any way against that. But what the Clean Water Act, Bill 43, is doing is targeting rural Ontario individual property owners, creating a whole new bureaucracy of people who are going to be permit officials who are going to be coming on to our property whether we like it or not, possibly excavating and changing the layout of our property—all sorts of things like that. We somehow are being seen by the folks in the city as the problem, when I have statistics here where the top eight polluters are all cities.

These are 2003 statistics. It's very interesting that we're here near Kingston, because Kingston is on here a few times. Here in Eastern Ontario, we hear all the time about Kingston bypassing its waste systems and putting its waste into Lake Ontario, which subsequently comes down the St. Lawrence River. Anyway, I'll go through this list. We have Ravensview waste water treatment, city of Kingston; Lakeview water pollution control plant—the company name is the Ontario Clean Water Agency; waste water treatment plant, city of Cornwall; Clarkson water pollution control plant, Ontario Clean Water Agency; east end water pollution control plant, city of Sault Ste. Marie; Kingston West water pollution control plant, city of Kingston; west end water pollution control plant; Sault Ste. Marie waste water treatment plant; city of Cornwall landfill site, city of Cornwall.

Something rings true here, that the people in the rural areas are not the problem; the people in the cities are. The Clean Water Act is all about attacking people in the country and making us responsible for the problems of the cities, and that is only creating anger and detest for, unfortunately, most of yourselves as well as the people in the cities, because it is creating a divide between the country and the city. This Clean Water Act, Bill 43, is only helping to make that happen.

I would suggest that you already have legislation to keep our water clean, if you would only use the legislation you have: a section of the Environmental Protection Act, which clearly protects all water in Ontario. In essence, there is no greater protection for the environment than what is already legislated in the Environmental Protection Act.

Section 14 states, "Despite any other provision of this act or the regulations, a person shall not discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect."

The definition of a contaminant in the EPA is as follows:

“‘contaminant’ means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that ... may cause an adverse effect....”

The partial definition of an adverse effect in the EPA is as follows:

“‘adverse effect’ means one or more of,...

“(c) harm or material discomfort to any person,

“(d) an adverse effect on the health of any person,

“(e) impairment of the safety of any person,...

“(g) loss of enjoyment of normal use of property, and

“(h) interference with the normal conduct of business....”

Bill 43 is nothing more than something to pass your time and make you all feel like you’re doing something good when you could just use the legislation that you already have and enforce it. So I would suggest to you that rural Ontario and the landowners’ associations all over Ontario are not going to abide by Bill 43—you’ve already heard this—in its current state. I understand that these hearings are supposed to make everyone feel all warm and fuzzy, that you are asking for everyone’s input, but I do have a copy of a report marked “Confidential” that was just recently circulated amongst bureaucrats or politicians—I’m not exactly sure. But if this is completely open and honest with everyone, we wouldn’t have confidential reports circulating.

I’ve probably not taken my full 10 minutes, but I think I’ve said all I have to say. That is why there is no handout for you, simply because it is not acceptable and we will not tolerate Bill 43.

The Vice-Chair: Thank you, Ms. Fennell, for your presentation. We open the floor for questions. We’ll start with Mr. Wilkinson.

Mr. Wilkinson: Thanks, Jacqueline, for coming in. We’ve been going across the process. Where we are of course is—the bill is introduced, and then, after it has been debated by the whole House at second reading and before we amend the bill or look at any amendments from any of the three parties, we actually go out and have public hearings. That’s what we’re doing right now. You have that whole process that creates a bill, and then you have to get out and talk to the people. So that’s what this process is. It’s all about democracy and making sure that this is transparent.

Remember O. Reg. 170. I know there are concerns about that, and we’ve done a lot of work since we’ve formed government to deal with that. If you try to have this one-size-fits-all approach for the whole province in regard to water, you end up having it not fair. So what Justice O’Connor was telling us about was, you want to get the people together who drink the same water from the same source, whether it’s the Great Lakes or the aquifer or a river, because they all have a common interest, and get them to work together to figure out where they’re getting their water, make sure it’s not being wasted—know how much is coming in, how much is going out—and then try to figure out whether there are

any places where you have to be really, really careful to make sure that you’re not tainting that water.

I’m from a very rural riding. Everybody knows you don’t taint your well and you don’t taint your neighbour’s well. So you have to know where those significant spots are. Then together as a community, the idea is to make sure that they are protected, because it’s cheaper to keep the water clean in the first place than have to do all that treatment or, heaven forbid, get the water contaminated.

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The issue was about the authority of the government, if there was a significant threat. One of the amendments the minister was talking about was, “Well, we have to go to a risk-based.” Whether it’s a farm or whatever, you go out and try to figure out what’s the best way of working co-operatively to make sure that that threat to the common drinking water is getting reduced. I know you’ve been hearing different things about the bill, but that’s kind of the intention of it, so I don’t see the imposition of that as being unreasonable, if the people who are sharing the water together are the ones who are coming up with the plan to keep it safe.

Ms. Fennell: I thank you for your question. I find it interesting that we go back to the rural folks.

Mr. Wilkinson: Actually, it’s all of Ontario; it’s just not rural.

Ms. Fennell: Let me just finish my comment. I appreciate that it’s all of Ontario, but the focus seems to always be on the rural side of things: we don’t want to pollute our wells, we don’t want to have our septic systems not working properly etc. As I said, the city of Kingston, the city of Cornwall, the city of Toronto, all along the Great Lakes—and I’m sure there are others but I, unfortunately, just know more about this area—are constantly polluting and they’re affecting more people than if, for instance, I were to pollute my well. That would affect five people. If I had some people over, it might affect 10. When the city of Kingston dumps hundreds of thousands of litres or whatever you would call it of waste into the St. Lawrence River, that affects the drinking water of every single city from Kingston south. They’re affecting a lot more people than me or you in the rural area. We would never harm our own wells. Why would we do that to ourselves? The city of Kingston doesn’t care because it doesn’t affect them. It goes on down, and the people on Wolfe Island and the people in Brockville or wherever it might be have the effects of that.

My suggestion to you is, when you fix the problems of the cities, which are much bigger and which affect many more people—because of course the city people always want everyone to know that they are more populous, there are more people there, they have more votes—then you come and you maybe will ask us to fix ours. We don’t even have a problem. But anyway, we’ll work with you to go that way. But when you fix the problem in the cities, because they do affect most of the people, that is where your efforts should be attended to. How many hundreds of thousands of dollars—or millions, prob-

ably—are you going to spend on permit inspectors to come around the countryside and check on wells? I can guarantee you won't do anything to Kingston, Cornwall or any of these places because you authorize them, with permits, to dump their sewage into those rivers. So don't come to the people and tell us there's a problem with our water when you are authorizing cities to dump their waste into the waterways.

The Vice-Chair: Ms. Scott.

Ms. Laurie Scott (Haliburton–Victoria–Brock): Thank you very much for your presentation; very impassioned. I think you've really described what we're hearing: the anger in rural Ontario. We're all for clean water, but it's the way it's being presented. It's confrontational. It has built up the anger in the community. We don't know for sure what it says; definitions are vague. I'm just trying to clarify for the government that Jackie speaks really well about what's going out there. We're going to have confrontations. They're not going to comply. We're all in this together. The agricultural community, the rural landowners, have done nutrient management plans; they've done environmental farm plans. They've done a lot. They are good stewards of the environment.

There is existing legislation—we had this discussion earlier and Jackie has brought it up again—within the EPA, within the Ontario Water Resources Act, to do this without bringing in another piece of legislation. “Legislative fatigue” is what we heard from municipalities.

Jackie, do you think there's any hope that we can make a lot of amendments that need to be made to this bill or do you think the government should go back to the drawing board on Bill 43?

Ms. Fennell: It is a very long bill so I have to honestly say that I haven't read the whole thing. I said before, and like you just reiterated, there already is legislation to protect the water. I think this is just an exercise in creating jobs and something for everyone to do. It's unfortunate, but that is the way this appears. A lot of people don't even know about the existing acts that are there. If that came to light to everyone, this would seem even more redundant, I think.

I'm all for clean water. I'm not against that. Rural people are not against clean water, and it's not that we're angry because, gosh, we don't want to make the water clean. We're not making it dirty to begin with. We own the property. It is in our best interests to keep that property at its best, whether it be farmland or whether it be my house, my lot, my well, my septic. It's not that we're angry with the idea of clean water; we're angry with the idea that we're the ones who are being focused on when the cities are the ones that are being the polluters.

Ms. Scott: Thank you very much.

The Vice-Chair: Mr. Tabuns.

Mr. Tabuns: Jackie, thanks for your presentation today. I appreciate you taking the time. I had an opportunity last night to meet with some of the folks in Tyendinaga township about their concerns with the Richmond landfill and the destruction of their ground-

water, with the leachate coming out from that dump. So I would assume that you would support strong environmental action to protect rural groundwater from landfills and other such operations.

Ms. Fennell: Yes. I know they're having the same issue back in Ottawa with the Carp landfill. No one wants to live beside a dump, I guess, or for a dump to get bigger. That's a whole different issue, I think, once you get on to landfill because—wow.

Mr. Tabuns: No, I think it's in here.

Ms. Fennell: Okay. We obviously need a landfill but no one wants to have their property affected by that, and I know the Chief was speaking about that earlier. I think if you go after the big polluters, the big corporations, the big cities, this is where your problem is. Just leave the rural individuals, farmers—leave everybody alone because we're not the ones who are creating the problem.

The Vice-Chair: Thank you, Jackie, for your presentation.

CATARAQUI REGION CONSERVATION AUTHORITY

The Vice-Chair: The next presentation will be by Cataraqui Region Conservation Authority.

Welcome to the standing committee on social policy. You can start whenever you're ready.

Mr. Steve Knechtel: Thank you and good morning. Thank you for the opportunity to be here. My name is Steve Knechtel. I'm the general manager and secretary-treasurer of the Cataraqui Region Conservation Authority. Sometimes during the presentation I'll refer to this as the CRCA or the Cataraqui area.

Also, I should take this opportunity, before I forget, to welcome you to our jurisdiction, which extends from Napanee on the west, along Lake Ontario, past Bath to Kingston and along the St. Lawrence to Brockville and then north to Newboro on the Rideau Canal, which is the break point between the waters flowing to Lake Ontario and the St. Lawrence and those northerly to the Ottawa River.

With me is Rob McRae, who is the source water protection project manager with our conservation authority.

On Tuesday you heard a submission from Conservation Ontario, which represents the 36 conservation authorities across the province. The CRCA supports the comments made by Conservation Ontario. Our purpose today is to demonstrate local support for source water protection planning and to suggest some revisions to the proposed Clean Water Act.

We have distributed a handout summarizing our presentation; I think it's blue-coloured. A written submission that proposes specific changes to the text of the act will be sent later.

I'd like to talk about a watershed-based approach. Source water protection needs to be done in a more watershed-based approach than that which is currently proposed in the Clean Water Act. Additionally, the act focuses on protecting water for municipal drinking water

systems and on the use of regulatory implementation tools. We suggest that this focus is too narrow. There's also a need to consider non-municipal water supplies and the use of implementation tools such as research, education and stewardship programs.

First, I'd like to talk a little bit about watershed-based plans. The provincial government has endorsed a broad-based approach to water management. In 1993, the province stated that a fragmented approach is "difficult, costly, and not particularly effective," and in 2005, that the watershed is "the ecologically meaningful scale for planning." We agree with that.

Groundwater, surface water, land use and land management practices are all connected and they all affect the health of a watershed. What occurs upstream affects what happens downstream.

Our preliminary source protection work over the past couple of years or suggests that there are major risks to drinking water that fall outside of the vulnerable areas identified in Bill 43. As well, the source for municipal drinking water supplies on the Great Lakes system, which supplies a large population of the province, is influenced by activities far upstream of intake protection zones. It is essential, therefore, that we prepare source protection plans for watersheds.

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With respect to non-municipal drinking water supplies, about one in five residents in the Cataraqui area relies upon non-municipal drinking water. This includes surface intakes and wells that supply drinking water for schools, libraries, community centres and homes outside of serviced areas. The source of this drinking water is almost always a shared resource, be it an aquifer, a lake or a stream. Source water protection is the only component of a multi-barrier approach that can ensure protection of this water, especially where it is heavily used or vulnerable to contamination. As others have stated, everyone in the province has the right to safe, clean drinking water. We believe that it is therefore critical that non-municipal drinking water supplies be included within the Clean Water Act.

A provincial technical experts committee concluded: "Large municipal systems may not be the most urgent priority for implementing the primary barrier of source protection.... By contrast, private rural wells had an unacceptable frequency of microbiological contamination."

It is important to determine the true condition of drinking water in Ontario and for the community to develop sound and practical long-term solutions.

A little bit about implementation tools: In order for source protection to be successful in Ontario, we will need to use a full suite of implementation tools, both voluntary and regulatory. The proposed act already provides for regulatory tools such as permits and zoning. It needs to also include voluntary tools, such as education programs and stewardship. Each source water protection plan should make use of the full range of options available.

We know from experience that the carrot approach is often more successful than the stick approach. Conser-

vation authorities have been very successful with our watershed stewardship initiatives. For example, we deliver programs that provide education, financial help and technical advice to landowners who are looking to improve conditions along streams on their property. The landowner we help with planting a stream bank buffer makes an improvement to water quality for all landowners along the stream—as well, it benefits their own property—and learns something about the environment.

Long-term and sustainable funding: Long-term and sustainable funding is required to support plan implementation. However, we believe it will save money in the long term.

Source water protection is a preventive approach that avoids the high costs of cleaning up contamination or finding new sources of water. There will be some implementation costs. They will vary depending on the findings of each source protection plan. Some of this can be done or addressed by using and strengthening existing programs, rather than creating new ones. The costs will need to be shared in a fair and open manner.

The province has a track record of contributing funds for initiatives with broad public benefits, whether they are for research, planning, stewardship or monitoring. Continued and enhanced funding is needed, especially for municipalities and others that have few mechanisms to generate funds on their own.

We support Conservation Ontario's idea of a stewardship fund, administered provincially, that could be used to implement voluntary tools. The Clean Water Act needs to reflect the role of the province in supporting implementation activities.

I'd like to provide some closing remarks. We support the proposed role for conservation authorities as coordinators of source water protection planning, monitoring and reporting. This is a natural extension of our watershed management work.

The CRCA has over 40 years of experience dealing with local communities to plan for natural resources on a watershed basis. We have established working relationships with individual landowners, municipalities and stakeholder groups, and we have the technical and communications skills that will be needed to successfully coordinate this program. We believe that source water protection is important for watershed management in Ontario and has clear benefits for our economy, society and the natural environment.

The standing committee, from our perspective, needs to consider a watershed-based approach to source water protection, one that would include non-municipal supplies of drinking water and a full range of implementation tools. We are optimistic that the Clean Water Act will receive third reading during the next session and that the provincial government will commit long-term and sustainable funding for the program.

Conservation authorities support the general intent of the Clean Water Act. We are proud to be involved with this program and look forward to continued work with our community partners to protect drinking water. Clean

and plentiful water is essential for the province of Ontario.

Thank you for the opportunity to make this presentation.

The Vice-Chair: Thank you, Mr. Knechtel, for your presentation. We move now to the question period. We'll start with Ms. Scott.

Ms. Scott: Thank you very much for your presentation. You've hit a lot of points that we've heard throughout the week. The source water protection: You've highlighted that it should be a provincial responsibility. You mentioned stewardship funds. We all agree with that.

If you don't see any of these amendments come through, do you think we are actually going to accomplish anything with Bill 43, the Clean Water Act, as it stands right now? Because the present government is downloading it onto the municipalities and the land-owners, and they can't pay for it. I just wanted your comment on what amendments you'd like to see where this bill would actually accomplish its goal of source water protection.

Mr. Knechtel: I think, as mentioned previously, there are a number of existing programs that are being used today, and I suspect that they would continue. So we are working toward source water protection. I think what we need, though, is some input to allow us to do a better job of what's being done.

I won't get into the discussion of existing funding. Conservation authorities are already discussing with the province what we feel is underfunding of our existing programs.

The Vice-Chair: Mr. Tabuns.

Mr. Tabuns: Yes, Mr. Chair. I have a question and then I have a request for research. With your permission, I'll ask my question and then go to the research.

The Vice-Chair: Sure.

Mr. Tabuns: This question of funding: You mentioned just this second that you are already dealing with a problem of underfunding of your existing activities. If this bill is adopted as written and there's no provision for funding, will you actually physically be able to undertake the tasks which you have been assigned, or will be assigned?

Mr. Knechtel: It would be extremely difficult. If we were to put a priority on source water protection, it would undermine some of our other programs—basically paying Peter and robbing Paul to do it.

Mr. Tabuns: Which is something I always oppose.

The Vice-Chair: Mr. Wilkinson.

Mr. Wilkinson: This is when I wish my name was Paul, because it would have been a great moment. Ah, the dilemma of government.

Steve, thanks for coming in and for the good work the conservation authority is doing. No one understands the carrots better than conservation authorities. To think that over half a century ago we decided that we wanted to make sure that we couldn't just have all of these floods happening, and we had to come together as a community

and control the flow of water so that everyone in that watershed could be safe.

My question has to do with the non-municipal private wells. We've had some testimony that—of course, a municipality may say that there's a system that they'd like to have included. There's some testimony that says that the minister should have power to be able to designate clusters; for example, if there was a nursing home or a school. Can you give us some idea, in your own sense, about what would be the criteria that would be used to ensure that if there's a vulnerable population, really, they should be part of that plan?

Mr. Knechtel: I would say that we haven't necessarily looked at the detail of some sort of criteria. Our initial response is to look at where there's a concentration of use as an initial start-up. But we haven't really looked at it in any particular detail beyond that.

Mr. Wilkinson: You do a septic inspection program now; is that correct?

Mr. Knechtel: Our conservation authority is not involved in septic system approvals. The municipalities within our jurisdiction have retained other services. We are not really involved in doing reinspection work either. We're certainly aware of some going on in our jurisdiction. Again, it's being done by others.

The Vice-Chair: Thank you very much for your presentation, Mr. Knechtel.

AGRICULTURE GROUPS CONCERNED ABOUT RESOURCES AND THE ENVIRONMENT

The Vice-Chair: The next presentation would be by the Agriculture Groups Concerned About Resources and the Environment. I believe, sir, you are familiar with the procedure. You have 10 minutes to speak and present your paper, and you have five minutes for questions.

Mr. Max Kaiser: Thank you. On the agenda, we're listed as Agriculture Groups Concerned About Resources and the Environment. We typically refer to ourselves as AGCare, so during the discussion I may refer to us as AGCare. We're also one of the four founding members of OFEC and on the steering committee for this issue as well.

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My name is Max Kaiser. I live nearby in this county. I'm a farmer and egg producer. I'm joined by Dave Armitage, who is a senior research official with the Ontario Federation of Agriculture. He's also a technical representative to OFEC.

I'm here today representing AGCare. As I said, we are a coalition of farm organizations focused on providing science and research-based information as well as policy initiatives on environmental issues affecting field and horticultural crop production in Ontario. Water quality is certainly one of these issues. We welcome the opportunity to be here today, as much as I welcome you here to my county, to present our comments on the proposed Clean Water Act to this committee.

Farmers naturally understand the importance of drinking water and protecting drinking water. Our families drink the water that comes from our land through our own wells. In fact, I believe farmers to be the first environmentalists, as we've been stewards of the land for 10,000 years.

AGCare believes that protecting drinking water is a shared responsibility and that farmers need to be treated fairly under this legislation. We should not be left shouldering most of the responsibility and costs.

The committee was given copies of OFEC's statement earlier in the week, and I'll refer to that. I didn't bring copies here today, which I'll blame on Purolator Courier first. Anyway, I'll skip through some of the points. I know some of them were covered at length in other sessions, and I won't dwell too much on some of them.

The first issue, of course, is the purpose statement. I'll reiterate the fact that we're very concerned about the lack of focus that exists in that purpose statement. It could be interpreted to mean all water everywhere instead of focusing on the protection of municipal drinking water supplies. We support, of course, the suggestions put forward by the Ontario Farm Environmental Coalition that emphasize water sources requiring protection and see the Clean Water Act as another level in the multi-barrier approach that's advocated by Justice O'Connor, and the need for conservation, among other things. The multi-barrier approach that I refer to, of course, is inherently precautionary. We see the Clean Water Act as a preventive measure more than a remediation effort.

Another point that had us very concerned was the levels of compensation. We've heard presentations this morning which referred to the various sections, like subsection 88(6), which suggest that the provincial government is unwilling to provide compensation for imposing land use restrictions that could or should reduce the profitability of a farm operation. That section also conflicts with section 83 of the same act, which provides for an appropriate means of compensating a landowner for relinquishing control of their land through purchase, lease or otherwise for public use. Our recommendation is that subsection 88(6) be removed. It would appear that subsection 88(6) serves to redefine expropriation, and that would give the provincial government more freedom to injuriously affect lands. Also, we want to ensure that farmers are appropriately compensated for land use restrictions imposed on their farm operations.

I'll move on. I understand that the sections on permits, inspection and enforcement have been somewhat dealt with already in some of the rewritings or amendments. We appreciate that and hope that it has addressed our concerns. We were concerned that the building inspector model or approach is not suitable for protecting drinking water supplies. It's too subjective. The approach to addressing risks to drinking water would require detailed site-specific information, and it would be impossible to find one individual who could accurately assess all these variables on multiple properties.

Another point that was very concerning to us was the interim period. AGCare strongly disagrees with the pro-

posal in Bill 43 of an interim period in which an assessment report would document required action on the part of a landowner prior to the completion of a source water protection plan. To impose land use restrictions or require modifications on the basis of an assessment report alone constitutes a lack of due process that could result in landowners implementing practices that are unnecessary or inappropriate.

Further to that, I wanted to refer to a report that was commissioned by the Ministry of the Environment in January, entitled Water Well Sustainability in Ontario. One of the conclusions in that report stated that "in general, the health of the groundwater drawn to wells is excellent with abundant supply of good quality ... in most parts of Ontario." Clearly, the groundwater resources in Ontario do not pose an imminent risk to the citizens, and therefore interim measures may not be necessary.

Also, I would refer back to the multi-barrier approach, in which we see that there are other ample protections currently offered through the Environmental Protection Act to deal with situations that pose an imminent threat to groundwater.

The authority of source protection committees is another area of concern for us. Bill 43 seems to portray the source protection committee as subordinate to the source protection authority or conservation authority. We support the conservation authorities being in a coordinating and facilitating role; however, they must not be in a position to supplant the authority of the source protection committees.

I'd also like to talk about the section—or the lack thereof—regarding water efficiency and conservation. Bill 43 seems to be silent on the importance of water conservation. There's obviously a clear link between water efficiency and conservation and the protection of drinking water supplies, given that reducing the volume of water takings allows more time for natural attenuation processes, therefore reducing the area required for the time-of-travel zones within that.

Mr. David Armitage: I would just like to say a few words on the precautionary principle. Max referenced it earlier and you've heard about it from many previous speakers.

We certainly support the statement that the minister made on Monday where she indicated that the Clean Water Act is inherently precautionary and that those who are developing regulations will be mindful of the precautionary principle in doing so. We also concur with Justice O'Connor in the second volume to his report. He has a section on the precautionary principle in which he states that the precautionary approach is inherent in risk management.

Agriculture—and other land uses, but agriculture in particular—is a very strong proponent of risk management. You've heard about the environmental farm plan; you've heard about nutrient management planning. We have a whole range of best management practice publications that deal with risk management. So while we are strong proponents of risk management and have no

problem with that being linked to precaution, because “precaution” simply means to take care in advance, we do have some difficulty with it being embedded in the act, as others have suggested. The reason for that really is the definition that has actually been presented to you by many of those presenters. As I understand it, the definition that they’re using is at paragraph 7 in the Bergen Ministerial Declaration on Sustainable Development from 1990. The sentence that has been read to you previously is, “Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.”

At face value, it sounds like a fairly reasonable statement, but we have real difficulty with full scientific certainty.

The Vice-Chair: Thank you very much for your presentations. Now we’ll open the floor for questions. We’re going to start with Mr. Tabuns.

Mr. Tabuns: Thanks for coming and making this presentation. When I talk to the people in this community whose water supplies are potentially threatened by the Richmond landfill, no one can say with certainty that the Richmond landfill will contaminate their groundwater, make it impossible for them to use their wells or kill off wildlife in the streams. But on a precautionary basis, you wouldn’t put a landfill over top of fractured limestone through which flowed the water that people’s lives are dependent on. So in that case, I have been asked to put forward the idea of the precautionary principle. Do you think that we should build the landfill and see how much leachate flows out the bottom and then go after the people who created the leachate?

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Mr. Armitage: The difficulty we have on the precautionary principle is the threat; you have to realize the distinction between a threat and a risk. Managing municipal solid waste poses a threat but the risk associated with that threat can be managed. So in that case, it might be that they need an alternative to landfill. There are other ways to deal with municipal solid waste, and we wouldn’t have a problem with that.

We believe that when you talk about full scientific certainty, as you’ve said, it is an impossible task. There will always be a lack of full scientific certainty, so, to the extreme, you could say that you couldn’t do anything, that there’s no way to manage municipal solid waste. And it has to be managed.

Mr. Tabuns: Is an ounce of prevention worth a pound of cure?

Mr. Armitage: Absolutely, and precaution is taking care in advance.

The Vice-Chair: Thank you, Mr. Tabuns. Mr. Wilkinson.

Mr. Wilkinson: Following on, do you believe that this bill, as drafted, is inherently precautionary?

Mr. Armitage: Yes.

Mr. Wilkinson: Okay. I just want to go to the question of the interim period. Just for the crowd, the idea is

that we have the terms of reference and we have the report, and then we uncover that there can be a significant threat to drinking water. And you’re right; the minister has power. If there’s a spill, people are required by the law to notify the Spills Action Centre, we’re required to notify the medical officer of health—all the things that we’ve learned out of Walkerton about the need to take timely action right away. But they could uncover something that a reasonable person would say is significant. Then the question had to be, what is the power of the state? Would you agree, then, that in that type of situation, if we were to amend the bill to say that what you have to do is attempt to enter into negotiation with the landowner right away instead of the heavy state of government, you’d say, “Listen, this is a concern, that we may not be able to wait a year and a half until the full source water plan is done and approved by the community and then signed off by the minister”? So what you’re required to do first is immediately negotiate; in other words, notify the landowner, sit down, talk to them and see what can be done to mitigate that risk. If we were to put in amendments to do that, would you think that that is the better approach? Whether it’s rural or urban—the bill covers all of Ontario—is that the way to go?

Mr. Armitage: We have had those discussions with MOE. We would agree to fast-tracking a situation, as long as there is due process.

Mr. Wilkinson: So we would have the tools, yes. Then you’d have due process because you offer to negotiate. If that person didn’t agree to negotiation, they could appeal that. But there’s that kind of grey area. You’re required already by law to notify somebody, “Holy smokes.” That is happening; you just feel compelled to tell, to protect people drinking, but you can’t wait for a year and a half to deal with it. Then you’d have time to negotiate.

Mr. Armitage: But, as has been stated by others, there are other tools available too as well as the Environmental Protection Act, which deals with threats that may likely occur.

Mr. Wilkinson: And the Ontario Water Resources Act. All those offer—

The Vice-Chair: Thank you, Mr. Wilkinson. Ms. Scott.

Ms. Scott: Thank you for your presentation today. You’re right, farmers are the first environmentalists. I think it’s quite unfair that this bill is going to put the responsibilities onto the landowners and to the municipalities, the way it stands right now.

You mentioned an interim period, and I could go on to that, but do you think this bill is going to lead to a lot of confrontations and lawsuits, the way it is set up right now?

Mr. Kaiser: What I’m hearing and what I’ve heard about maybe the softening from the enforcement standpoint, making it more of a negotiating process, certainly would lessen the confrontational aspect. If the Ministry of the Environment is open to negotiating to a reasonable compromise or a reasonable resolution to a situation, then

certainly—we're all concerned with drinking water; we're all concerned with the safety of it and ensuring that safety. If the process is such that it's easy to work with and the process itself isn't confrontational, then yes.

The Vice-Chair: Thank you, Mr. Kaiser, for your presentation.

LAFARGE NORTH AMERICA

The Vice-Chair: The next presentation will be by Lafarge North America. I believe you know the procedure. You have 10 minutes of speaking time and five minutes for questions, so you can start when you are ready.

Mr. Bruce Semkowski: Thank you, Mr. Chairman and members of the committee. My name is Bruce Semkowski and I am the vice-president of the central Ontario aggregates division of Lafarge. Accompanying me here today are Moreen Miller, North American land director for Lafarge, and Robert Cumming, environmental and community relations manager for the Lafarge Bath cement plant. Moreen and Robert are available to assist me in answering any questions that the committee may have.

Lafarge is the largest producer of construction materials in the world. We employ over 75,000 people in 70 countries. Here in Ontario, we employ over 3,000 people directly in over 230 different operations. We operate two cement plants and various cement terminals. We operate 74 ready-mix concrete plants and 49 asphalt plants, and hold over 163 licences for pits and quarries under the Aggregate Resources Act. We operate in almost every municipality in southern Ontario. As a result of this, we have a unique view of operating in all of the sustainable watershed systems.

Lafarge supports the principles of this initiative to protect drinking water sources for the residents of Ontario. We had a chance to participate in the ministry's consultation process going back to the release of the white paper in 2004 and we appreciate this opportunity to address the committee today.

The principles of this act dovetail with Lafarge's philosophy of sustainable development initiatives worldwide, which support our continued focus on wise management of our natural resources. Our environmental initiatives worldwide to reduce water use overall at all our operations, recycle our natural resources whenever possible, continuously improve our water management through regular environmental audits and continue research on water use innovation are parallel to what Bill 43 envisions for Ontario's future. However, as we have stated in writing to the Ministry of the Environment, we believe this can only be achieved through provincial leadership and province-wide consistent implementation.

Our presentation today will outline our comments on Bill 43 as it is currently drafted, as well as identify a number of issues we believe may hamper the consistent implementation of this legislation. This lack of consistency may be an unintended consequence of the legis-

lation, but we feel it may have a direct and substantial effect on our ability to operate our businesses in Ontario.

With regard to the implementation of this legislation, Lafarge feels very strongly that the province should maintain the primary responsibility for the protection of drinking water sources. This, in our opinion, can only be achieved through direct hands-on management by the Ministry of the Environment. This approach would dovetail correctly with the existing permit-to-take-water process and, through a broader consultative process involving the conservation authorities, municipalities and other stakeholders, would achieve the vision and goals that the act contemplates.

We are concerned with the delegation of responsibility for administration of this program to the source protection committees. We believe this may result in the development of inconsistent plans and policies across the province. This may create inconsistent practices for businesses operating in neighbouring watersheds. Coupled with the limited public process, this could in fact result in a much less coordinated approach across this province.

Unquestionably, the provision and protection of safe drinking water sources in the province is a priority, but the legislation must also consider the continued health of the provincial economy. This is best achieved by having the Ministry of the Environment take the lead in the development and implementation of source water plans. We believe that this intent was reflected in Justice O'Connor's report, and we hope the province will provide the Ministry of the Environment with the necessary resources to maintain responsibility for source water.

Lafarge believes that public involvement in the act is critical. As the act is currently drafted, the earliest opportunity for public involvement in the process does not come until the source water plan is complete. We strongly recommend that public consultation be mandatory at all stages in the development of source protection plans and that the ministry consider a broader public process.

1030

Our industry has a long history of public involvement with regard to the wise management of natural resources and we believe that the public consultation process, when managed properly, can result in better solutions and greater ownership of work plans and long-term initiatives.

This act should also provide an appropriate and consistent appeal mechanism. As the act is written, convening of a hearing to resolve issues related to a source protection plan is done at the sole discretion of the minister. We recognize that the Environmental Review Tribunal would have jurisdiction over matters relating to permitting, but there is nothing in the act that gives citizens a chance to appeal a source water plan. We ask this committee to carefully consider an amendment to the bill which would provide an appeal mechanism to resolve issues related to the plan itself.

I would now like to address some of the issues related to what we think the unintended consequences of the act

may be, and talk about the potential effects upon our industry. Lafarge uses water in almost all of our operations. However, most of our ready-mix concrete and asphalt operations are located in urban industrial areas and serviced by municipal water supplies. Most of our sand and gravel pits and our quarries are located in rural areas and many of them handle large volumes of groundwater, either for washing sand and gravel, or for quarry dewatering. A permit to take water is required for these activities. Additionally, where water is being discharged off-site, a separate permit for discharge is required from the Ministry of the Environment. These permits regulate both the quantity and quality of water being managed at each site.

It is very important to recognize that, while our permits often authorize the taking of large quantities of water, in fact, the majority of the water is either recycled on-site or returned to our watersheds. A very small portion of the water that we use is actually taken or consumed in the products that we produce. Our data suggests that the amount is less than 10% of the water taken. In gravel pits, the majority of our aggregate washing systems are closed loop, meaning that we recycle all the water in the system. In quarries, the majority of the water is only being moved from the bottom of the quarry where it collects to another part of the local watershed through a dewatering process. It is not removed from the watershed, nor is it used as part of our manufacturing process.

For aggregate operations, the total amount of water moved for dewatering is much greater than the total amount of water consumed. Characterizing the aggregate industry as a large consumer of water is incorrect and misleading.

As the act is currently drafted, water budgets are calculated in part by including the amount of water taken from the watershed that is identified through the existing permits to take water under the Ontario Water Resources Act. This maximum number on the permit is misleading. In the case of aggregate operations, this will not be scientifically valid, and we recommend that the act should clearly distinguish between water withdrawn and water consumed by the Ontario Water Resources Act permit holders.

Lafarge supports the objectives of Bill 43 to provide clean drinking water, but we remain concerned that the unintended consequences of the legislation may have a serious negative impact on our business. For the construction materials industry, further constraints to aggregate extraction will reduce the available supply of aggregates, which, as you know, are a non-renewable resource. Why does this matter? Because our quality of life and a healthy economy are dependent upon an efficient, well-maintained infrastructure. That infrastructure cannot be built or maintained without access to high-quality, economically viable building materials, including both sand and gravel and quarried stone.

As the bill is currently worded, source protection plans will have the potential to be broad-ranging documents.

We recognize that the focus of the proposed legislation is the protection of municipal drinking water sources; however, the broadness of these plans has the potential to alter the nature of land use planning in Ontario. Particular attention should be given to the overlap of existing legislation governing our industry: the provincial policy statement, the Aggregate Resources Act, the Ontario Water Resources Act, the Municipal Act, the Planning Act and the Environmental Protection Act, just to name a few.

The current range of approaches that municipalities and conservation authorities have taken to deal with aggregate extraction in wellhead protection areas underlines our concerns related to inconsistency. For example, some municipalities characterize below-water extraction within a wellhead protection area as a threat or high-risk land use, whereas other municipalities do not take this approach. While Lafarge understands that it is not the intent of Bill 43, we are concerned that local authorities may use the source water protection program as a vehicle to restrict or prohibit aggregate extraction below the water table without an adequate scientific basis for such an action.

In the town of Caledon, the region of Peel has an existing municipal drinking water production well located immediately adjacent to Lafarge's Caledon sand and gravel operation. This site has been extracting sand and gravel below the water table for over 35 years. The regional well is located within 75 metres of our operation. Peel region recently commissioned a groundwater development program to explore additional water supply options for the village of Caledon, which is serviced by this well. The study revealed that the below-water aggregate extraction has had no impact on the quality or quantity of water in the production well, and further recommended that the best location for a new production well was right beside the existing well. However, despite this finding, the comprehensive zoning bylaw for the town of Caledon identifies sand and gravel pits as a prohibited use within the wellhead protection area. There is a map on the last page of the handout where you can see the well and proposed well and the aggregate operations.

In the region of Durham, however, the village of Sunderland is serviced by two groundwater-based municipal wells. Land use within the 10-year capture zone includes aggregate extraction below the water table. As a result of their detailed wellhead protection studies, the region of Durham has concluded that aggregate extraction is not a serious threat to the safe supply of drinking water. This position is reflected in the region's draft official plans, which do not list aggregate extraction as a prohibited or restricted use within the wellhead protection area.

These are only two examples highlighted today of a process that could quickly become inconsistent without intervention and clear direction from the province. We believe that without consistency through the source water protection process, the ability to meet the continuing demand for aggregate resources is at risk. We strongly

urge the province to closely look at the connection between land use and source water protection.

While the ethical case for the clean water initiative is not in doubt, the province must ensure that the unintended consequences of the proposed legislation do not impair the ability of the business community to provide the goods and services that are required by the people of Ontario.

In closing, on behalf of myself and my colleagues here today, I'd like to thank the members of the committee for the opportunity to speak. This is an important provincial initiative and we appreciate your efforts to hear directly from Ontarians. Thank you.

The Vice-Chair: Thank you very much for your presentation. We're going to start question time with Mr. Wilkinson.

Mr. Wilkinson: Great. Thank you, Bruce. It's good to see you again, Moreen and Rob, and thanks for your testimony.

I want to focus in on the question of the public hearings. As the bill is contemplated, we do the terms of reference, then we have the assessment report, and then you get the source water plan. What the bill says is that there "may" be public hearings. Of course, all of those have to be approved by the minister, which gets to your issue of consistency. We heard that yesterday from the city of Ottawa, who are on two different source planning authorities, and they're drawing from a river which they share with Quebec. The ministry has to get that coordination in there and make sure things are rolling out.

Your amendment, I assume, would say that the minister "must" hold public hearings, rather than "may." But if we've had this consultative process and the minister has included that in all of those steps there has to be public consultation, if we say that we must, doesn't that just add in more time? If the community of people who draw that water has already come up with the plan, which is the whole idea, wouldn't you be concerned that if we went to a "must," you would end up adding even more time, which then would add business uncertainty? Wouldn't that be another layer of delay if the community had already agreed and industry had already been part of that?

Ms. Moreen Miller: The question is valid. I don't think it's our intent to suggest that public hearings must be done in every case. We continue to be concerned that there be a complete public process throughout. If it was the scenario that you painted, that everybody was on board, the entire community was on board, I agree: There would probably not be a need for hearings or public input. But we remain concerned that public input should be available at all parts of the process, whatever vehicle is chosen. We just feel it's not quite clear enough yet in the act.

1040

Mr. Wilkinson: Great. Thank you.

The Vice-Chair: Thank you, Mr. Wilkinson.

Interjection.

The Vice-Chair: He's advising me that there are some people in the back not able to hear, so when you

speak, please go close to the mike. If we turn the volume up, it's going to make some kind of echo, so it will make it worse.

Now we turn it back to Ms. Scott.

Ms. Scott: Can everybody in the back of the room hear now? Is that good? Okay.

Thank you for coming today and for your presentation to us. There are so many topics to hit in this bill, and we have limited time. There certainly has been a suggestion for a business pilot project on this bill before it goes through, just to see the implementation programs.

But I wanted to ask you a question. We've had discussions about the Richmond landfill. We know the government hasn't met its objectives of waste diversion. We've heard that leachate from landfill is a concern. I know there has been discussion about the use of construction products—tires, something within the industry—for an energy source. I just wonder if you have any comments about that, that would help with redirection of landfill etc.

Mr. Semkowski: I'll ask Rob from the cement plant.

Mr. Robert Cumming: Thank you for that question. We would look to our experience in Germany. Lafarge is an international operation. In Germany and in places like Holland and Norway, we partner with governments there. We support the 4Rs—reduce, reuse, recycle—but the additional R in Europe is energy recovery, and that's separate from disposal. That is all done to get to the point where in Germany they have plans now to no longer landfill.

We think we could be part of the solution. We have 30-plus years' experience using different alternative fuels that can be derived from some of the waste materials that are currently going to landfill, but not all of it. There are certain materials we do not want, but there are some opportunities to partner with the government. We're pretty excited about our project that will make use of scrap tires and other waste materials, will reduce our emissions and will allow us to partner with the province and the community to move things forward.

The Vice-Chair: Mr. Tabuns.

Mr. Tabuns: Mr. Chair, before I ask my question, can I make a request for research? Could we have the research department report back to the committee on the economic value of Ontario's surface and groundwater? If in fact that question is beyond their ability, can they report on the existence of reports done by the government of Ontario on the value of our surface and groundwater?

The Vice-Chair: Okay.

Mr. Tabuns: Thank you for making the presentation. I have to say that I'm quite disturbed by Lafarge. You are proposing to convert your cement plant here to become a major dioxin producer in Ontario. Your plant in Saint-Constant in Quebec is the second-largest dioxin producer in that province. That's according to the documentation that you've filed. I don't know how you can come here and say that you have credibility on environmental issues when you have that kind of record in this country. How do you defend yourself when you propose to go forward

and contaminate the air, the soil and the water in this community with a heavy load of dioxins?

Mr. Cumming: I'll respond to that. Thank you very much for the opportunity to address those questions, because they are out there in the community. Under the Environmental Protection Act, we are going through a public review process and a technical review process, and those questions have already been raised and answered through that process.

I'll speak first about the Bath plant. Our dioxin emissions are below the limit of quantification, so they are very, very low, to the point where you can't measure them accurately, and we expect no significant changes with the use of alternative fuels. I don't want to get too technical here, but dioxin formation can happen when you're on natural gas. It's not a function of the fuels; it's a function of the operating temperatures in the system.

Our plant is different from the Quebec plant. The Quebec plant has made some changes in the last couple of years, and we expect to see those emissions back to normal levels. They've been using scrap tires for over 12 years and the dioxin levels have been very low for most of that period. They encountered some mechanical problems that have been fixed, but those mechanical problems are what caused the issue, not alternative fuels.

If you look at the broad amount of information available throughout North America and Europe on the use of alternative fuels, the reports conclude that dioxins are not a function of alternative fuels; they're a function of the operating conditions.

The Vice-Chair: Thank you very much for your answer, and thank you for your presentation. We wish you all the luck.

ONTARIO SHEEP MARKETING AGENCY

The Vice-Chair: Now we move to the next presentation, which will be by the Ontario Sheep Marketing Agency. Welcome, and good morning.

Mr. Chris Kennedy: I'm here on behalf of the Ontario Sheep Marketing Agency, which represents the roughly 4,200 sheep producers in Ontario.

This issue is extremely important to us. We've been involved with the Nutrient Management Act. We are involved with source protection and the Clean Water Act. To illustrate how important it is to us, along with Ontario cattlemen and Ontario Pork, we have hired Jamie Boles and Chris Attema as technical experts to guide us through the massive legislation and so on that our directors don't have time to deal with. We also don't have the technical knowledge they do.

I myself am a full-time sheep farmer—and I have been for 30 years—about four miles south of here on Amherst Island in Lake Ontario. I'm extremely concerned with the quality of water, particularly in Lake Ontario, but since Ontario water mostly goes into Lake Ontario, the whole subject of clean water is extremely important to me. I've also worked on my own farm with the Cataraqui Region Conservation Authority, and they have helped us with

several projects to clean up the discharges from my own farm.

I've been through Bill 43. There are quite a number of good things in it. It's very hard to speak against clean water. You might as well speak against motherhood. Some parts of the bill, though, maybe are not the best way to address this subject. Reading through the legislation, I see very often the words "significant risk." It's completely impossible to eliminate all risk from any activity we do. Any industrial activity—you cannot guarantee there will be zero risk. So when I saw in the bill the phrase "significant risk," it implied to me that there's going to be risk assessment. We're going to see what the serious risks are and deal with those first and then maybe work further down the list as resources become available. This also works in with the O'Connor report of the multi-barrier approach. We cannot guarantee that all source water will always be completely clean as far as I can see, as long as any industrial activity or farming activity takes place in the province. It would be nice if we could, but it's just not going to work.

I was also very pleased to see that the Great Lakes are included. Since we, for our farm, get all our water, except our household drinking water, from Lake Ontario, I'm very concerned with what goes into Lake Ontario.

I was also pleased to see that there are going to be local source protection committees with people who have, we hope, detailed knowledge of the local area rather than having a blanket wide-province approach.

However, as you've probably found out, farmers tend to be a stubborn lot. If you think of farmers as donkeys, you can take a carrot or you can take a stick. This bill seems to me to consist entirely of a big stick and a great lack of carrots. Under the Nutrient Management Act, there have been incentive programs to help farmers comply, but unfortunately in this bill I see no mention of cost sharing or cost initiatives, despite what the recommendations of O'Connor have been and of the advisory committee on source water protection.

1050

If I can quote from O'Connor, it says that there are four separate elements: planning, education, financial incentives and regulatory enforcement. Bill 43 seems to have the planning down. I see nothing about education, I see nothing about financial incentives, and I see an awful lot about regulatory enforcement. So to me, that is a big stick and a complete lack of carrots.

When the agricultural community has approached the government about financial incentives to enable farmers to stay in business, we've been told to apply to municipalities, and I don't think we're going to get a whole lot of change out of the municipalities. There has been absolutely no promise of any funding at all for farming.

Reading through the information on the permits, it seems to me that permits can be brought in to prevent farmers doing what they have been doing for years if they say they're in a wellhead protection zone. Even though they may have been farming that way long before the municipal well went in, the farmer can be closed

down in his operation with no offer of compensation, nothing to compensate him for what is, in effect, expropriation—you may not like the word—of his land. He cannot carry on his business and he gets no benefit from it, but the municipality and the rest of the country do. So that's a fairly serious concern to me, that in fact it's expropriation without compensation.

Another source of concern to me as a farmer is that the people who will be mainly affected or in many ways affected by this legislation will be the landowners and the farmers. I know you heard earlier from the landowners' associations. I may not always agree with their tactics, but certainly they do represent a very big feeling in the rural community that the urban community, who have most of the votes, are imposing on the rural communities rules that are going to drive us out of business. I think you have to recognize that the landowners' associations do represent a very strong feeling in the rural parts of the province that you need to address.

On the source protection committees—I gather there are going to be about 16 or 17 people on the committees, and it's stated that there will be at least one agricultural representative. That concerns me, since we'll be so greatly affected by it. I'm also concerned as to how the representatives will be picked, because if there's only one representative, he or she is going to be extremely important on this committee to make sure that farmers' and landowners' interests are protected.

If you have any questions—it's a pleasure to talk to you.

The Vice-Chair: Thank you, Mr. Kennedy, for your presentation. Definitely, we have some time for questions. We can divide it equally between the three parties. We're going to start with Mr. Barrett.

Mr. Barrett: You've pretty well covered the waterfront on what we've been hearing over the last several days. I grew up with sheep—Shropshires. I'll bet you know how long ago that was. They don't jump in the water. They'll get a drink. I'm not discriminating against sheep versus cattle or anything, but sheep manure is dry. It's the best thing you could put on your garden.

I chaired 18 days of hearings on nutrient management. We heard from people with sheep. I guess my question is, in your sector, why are we putting sheep producers through this again? Is nutrient management not enough to cover your industry? Why do we need legislation to supersede the nutrient management legislation—not that I'm suggesting any more regulations to go with the Nutrient Management Act. But I guess the question is—I think it was a few days ago, we heard a call to kill this bill—if there was no bill, do you feel the nutrient management legislation is adequate to protect water on sheep farms, for example, to protect the water that neighbouring municipalities need from your land or underneath your land?

Mr. Kennedy: As a member of the board of directors of the Ontario Sheep Marketing Agency, I am on the provincial nutrient management advisory committee working on the Nutrient Management Act. When I joined

that committee, I was under the understanding that we would help the government draft regulations to cover the issue of pollution from all farms. Only over the course of that committee have we come to find out that the source water act or the Clean Water Act will, in fact, supersede the Nutrient Management Act. To some extent we've been wondering what we have been doing, since we are going to be superseded. My understanding was that the Nutrient Management Act was what was required to take care of this problem, and so I'm somewhat surprised that now we have a Clean Water Act coming along.

The Vice-Chair: Thank you, Mr. Barrett. Mr. Tabuns?

Mr. Tabuns: Mr. Kennedy, thanks for the presentation. We much appreciate you taking the time to come down here.

We're all coming at this bill from different angles. I have one question for you. If the water that was available for your farming operation was contaminated to the point of not being usable, what impact would that have on your operation?

Mr. Kennedy: I would be out of business.

Mr. Tabuns: Thanks.

The Vice-Chair: Thank you, Mr. Tabuns. Mr. Wilkinson?

Mr. Wilkinson: Thanks, Chris. It's good to see you. You're right: We had pork, and now sheep and cattle. We also had veal, so we had all four from the red meat sector.

Just a couple of comments. You were talking about risk. The bill doesn't contemplate reducing the risk to zero. What it says is that as you assess risk, if there's a significant risk, it needs to be moderated to make sure it isn't significant, and if there is a risk that isn't significant, it needs to be monitored to make sure it doesn't become significant. Just for clarity, there's no intention to try to eliminate risk, because you're right; you can't. The question is, what do we do to mitigate that risk as a society?

I hear your input about the source planning committees and making sure we have agriculture represented. We've had different opinions on that, because you can have, say, a third of the people representing the municipal sector, but in my part of the world, and yours as well, in Perth county and around here, a lot of those municipal people will be farmers. It's just the nature. But I understand the minister's looking at how to be more prescriptive, just to make sure that committee really does represent the community that is drawing that water, whatever the source of the water is.

In regard to nutrient management, the Clean Water Act has primacy, but what it has is a clause in there that says that if it conflicts with any other act—you know, the Mining Act, nutrient management, anything like that—whichever act does the best job of keeping water safe has primacy. So I think we've probably come down pretty reasonably on that, because the Nutrient Management Act doesn't really apply in cities, but in rural Ontario there's the work that's being done, plus environmental farm plans, peer review, all of those things. What we're

trying to do is make sure the act takes that into consideration so you don't go reinventing the wheel. I think a lot of the work on nutrient management will also come into play.

We are definitely hearing the comments on compensation.

Did you end up having to have buffer strips that restricted your land use along a watercourse when nutrient management was put in?

Mr. Kennedy: No. At the moment, because of the size of my farm, I've not had to prepare a nutrient management plan. It's only the very large farms so far that have had to do it. Out of my own interest in cleaning up water, yes, I have put in barrier strips, put in filter beds and so on, with the help of the Cataraqui Region Conservation Authority to improve it, but it has been voluntary.

Mr. Wilkinson: Right, and then using that incentive—that's the carrot. They kind of said, "We'd like to help you do that," and you're a good steward of the land, so you said, "I do want to do that."

Mr. Kennedy: Yes, and they have helped us with funding.

Mr. Wilkinson: Does your farm go right up to the lake?

Mr. Kennedy: It does, yes.

The Vice-Chair: Mr. Kennedy, thank you very much for your presentation.

1100

ONTARIO CATTLEMEN'S ASSOCIATION

The Vice-Chair: Now we'll move on to the next presentation, by the Ontario Cattlemen's Association. Welcome to the standing committee on social policy. You can start whenever you are ready.

Ms. Kim Sytsma: Good morning, ladies and gentlemen of the standing committee on social policy. It is such a pleasure to be here this morning to tell you what we think of your Bill 43 and where we think changes should be made.

My name is Kim Sytsma. My husband and I farm a cow-calf operation on 1,800 acres in Leeds county.

Today I am here to speak on behalf of the Ontario Cattlemen's Association, where I sit as a board member. For over 40 years, the Ontario Cattlemen's Association has been the unified voice of the province's beef cattle producers. There are close to 20,000 cattle farmers in Ontario, in over 25 rural ridings. Our members own a lot of land. We contribute to the rural economies.

Seeing that today is day four of your scheduled hearings, I am sure you've had just about enough: enough traveling, enough motels, enough Tim Hortons to get you going in the morning. And I am quite sure you've heard enough from the presenters. So when we say "enough is enough," I think you can understand the definition of "enough."

I'll state right up front that the Ontario Cattlemen's Association is all for targeting based on risk, using good, sound science, but we are very concerned about Bill 43

and we would like you to heed the advice you're receiving from rural Ontario. You might think that our concern is solely based on money, on funding. Well, it's not. It is our concern that the government is attempting to be all things to all people and nobody's going to be happy.

In order to get environmental groups to endorse Bill 43, the minister tells them what she thinks they want to hear: that the precautionary principle is integral to the act and pending regulations. In order to appease farmers and landowners, the minister figures the establishment of a safety-net-like hardship fund for those in need is what we want to hear. The government might think this is forward progress; in fact, it is backwards.

We're not against clean water. You're not against clean water. The message you need to hear from farmers, and in particular the cattlemen's association, is, don't make source protection harder than it really needs to be.

I'm sure that all the stakeholders, including the environmental groups, would support a better approach to source protection. Do your scientific studies. Identify areas of geographic risk. Identify land use risks. Prioritize and implement. Then put your money where your mouth is and, as they say, git 'er done.

This act of yours is designed to do some of that, but then you go and use wiggly words like those found in subsection 88(6) around expropriation without compensation. I'm sure the government will say that the act does not explicitly say "expropriation without compensation." But what we're trying to tell you is that if you change a land use, then you are, in effect, taking away our land, and if we can't farm it, then why do we own it? Get rid of subsection 88(6) in your amendments.

In your fact sheets and speeches, you use words like "local decision-making." In rural code, that is, "You are going to pay." I want to touch on this whole concept of who pays, as has almost every other group that has presented to your committee.

As I understand it, Ministry of the Environment staff were quoted yesterday in the Peterborough Examiner as saying that the government will be addressing implementation funding in the amendments, and we applaud that.

Finally, the last point I want to raise with you is the precautionary principle. On Monday, on the grand stage in Toronto, the minister used the words "precautionary principle" as though O'Connor intended that for source water protection. I challenge you to find the passage where O'Connor recommended that the precautionary principle apply to land use activities or source water protection. You won't find it there. The minister said the precautionary principle is an integral part of the Clean Water Act. Justice O'Connor only specifically mentions the concept of a precautionary approach in recommendation 19, and this recommendation relates to drinking water standards, not drinking water source protection and land use planning decisions.

There is a time and a place to use precaution. There is also a time and a place to use prevention. It is possible

that some people think those two terms are the same. They are not. The Ontario Cattlemen's Association supports the use of precaution in the treatment and distribution of municipal water. The Ontario Cattlemen's Association also supports the use of prevention as it relates to source water protection. Prevention is an action that has been determined using good science. You should amend your act so that the person who determines the risk is the person who determines the action, and is also the person who pays for the implementation. In fact, you probably don't even need a new act to achieve a better approach to protecting source waters, which in our opinion is exactly what O'Connor told you to do.

Under normal MOE regulations and instruments, the onus is on the Minister of the Environment to prove that an offence has occurred. That investigation is triggered if an off-site impact has occurred. I understand that some people will think that that is open season for polluters. It is not. From fines and enforcement to high insurance costs, due diligence is a big part of having a successful business, including farming, and we all want a good and healthy environment around our properties. We live, work and raise our families on our land. Bill 43 has that backwards and wants anyone inside a source protection zone or intake protection zone to be the one proving that no offence or off-site impact will occur. That is right: You have not committed a crime, you have not nor will you knowingly pollute, and you have to pay a lot of money to continue to make a living if you fall inside one of the source protection zones. This is blatantly unfair. In fact, it's a tad draconian.

There are both logical and perceptual flaws in applying the precautionary approach concept to land use management decisions as proposed in the Clean Water Act.

First, the logical fault: The precautionary principle was originally developed to provide risk managers with a tool for decision-making on environmental threats from processes or substances that had not undergone safety evaluation or regulatory approval. The precautionary principle was not defined nor developed for application to impose conditions exceeding legal, conforming, normal agricultural or urban land use due diligence standards. Careless application of this principle will create a truly impossible burden of proof on any current or proposed land use activities.

Secondly, the perceptual fault: The term "precautionary principle" is seductively attractive. It sounds like something that everybody should want and no one could possibly oppose. Upon initial consideration, it might seem that the only alternative to precaution is recklessness. But in fact excessive precaution leads to paralysis of actions resulting from unjustified fear. In other words, we just won't farm. The challenge is to balance the slight but non-zero risk associated with current agricultural practices in Clean Water Act zones with the social, economic and cultural value of maintaining these lands under private management and ownership. Inappropriately and recklessly applying the "precautionary

principle" to land use decisions again reflects the inconsistency with Justice O'Connor's Walkerton inquiry recommendations. These sections in the act must be changed to recognize this wrong approach and change it back to normal MOE protocols and processes.

So in conclusion, I want to make it crystal clear: The Ontario cattlemen support a targeted risk-based, linked-to-fair-funding model that is part of the multi-barrier approach to municipal drinking water.

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You need to reconsider your intent to have precautionary principles applied in the act or subsequent regulations.

You need to stop downloading onto municipalities and take ownership and responsibility over source water protection, as Justice O'Connor told you to do. So get rid of the concept of a permit official or whatever you're planning to call it. It won't work in rural Ontario.

You need to address your failure to fund implementation costs and ongoing financial issues that will help make source water protection more acceptable. Adding a well-resourced stewardship fund, as O'Connor asked you to do, would go a long way. Having that fund be the centrepiece of your amended approach would be exactly the kind of support that municipalities and farmers need.

Thank you again for this opportunity to allow us to participate in your hearings. If you have any questions, I would be glad to try to answer them.

The Acting Chair (Mr. Kuldip Kular): I'm Kuldip Kular, Acting Chair.

Thank you, Ms. Kim Sytsma, from the Ontario Cattlemen's Association. Now we'll open the questions with Peter.

Mr. Tabuns: Thank you for coming down and making that presentation. I support the idea of a stewardship fund. I think that the province should be putting money into this and that the major water takers in this province, who depend on high-quality, clean, potable water, should be paying for use of that water.

But I want to go back to the precautionary principle. Last night I was talking to people who lived around the Richmond landfill, people who farm, people whose wells are no longer wells they can have confidence in because of illness. There is a proposal to expand that landfill dramatically in an area where there's fractured limestone rock. That rock is the conduit through which their groundwater flows, the groundwater that they depend on for their farming operations and their drinking water. I'm sure that the proponent, Waste Management, says, "We can prevent any leakage there," even though there already is a plume leaking out from the existing dump. Farmers are saying to me, "We want you legislators to take a precautionary approach and say, "If you build that dump, if you're wrong in your calculations and engineering, we're out of business. We can't drink our water."

Do you support taking a precautionary approach in those circumstances, or do you want to wait until the

dump is built and then charge people for causing contamination of groundwater, contamination that is then irreversible?

Mr. Chris Attema: Thank you for that question. I think it does relate to the heart of a key point that we've tried to make in our presentation: that we really are confused by the interchangeable use of the terms "preventive action" and "precautionary approach." If you bear with me for a moment—

Mr. Tabuns: Yes, please.

Mr. Attema:—those terms are not interchangeable terms. The term "preventive action" speaks to the timing of an action. The term "precautionary approach" speaks to or refers to the reasons for taking an action. Those are two distinctly different concepts, and I want to be very clear: As responsible land stewards, we support the idea of taking preventive actions when based on sound science and fair funding principles. In the case of the landfill, certainly sound science would be part of that equation of determining when it is appropriate to take preventive action.

On the other hand, we do not support the concept of taking a precautionary approach, at least as it relates to our understanding of that term and its reverse-onus-of-proof implications.

The Acting Chair: Thank you for your answer.

Mr. Wilkinson, please.

Mr. Wilkinson: Great. Thanks, Kim, for coming. You're joined by both Jamie and Chris, so that's great.

Ms. Sytsma: I'm a lucky girl; what can I say?

Mr. Wilkinson: Yes, you are. That's right.

The question I had has to do with the fact—if you went to the one-size-fits-all rule; in other words, if you don't do this kind of watershed-based planning that O'Connor was talking about and you say, "No, just let the MOE do it," and they try to struggle with the regulation, that would be one size fits all, like O. Reg. 170, which we've had to spend a lot of time fixing—an inordinate amount of time—because we were trying to have one rule that applied equally everywhere and didn't look at the local condition.

I think that's the whole idea about watershed-based planning. You get the people who are drinking the water to have that, and then it gets bumped up to the minister.

In Oxford, what they're doing as a municipality is they are buying the land if they feel, as a community, that that is significant, that if they don't control that land—they're worried about that risk. So they've, then, taken their own money to buy it, and there's a question about who buys it.

You're not opposed if the community wants to buy land to keep it safe and to keep their source of drinking water. That's fine as long as it's purchased or leased and there's some type of mechanism where the people who are benefiting from that are sharing that, like through a stewardship fund or some type of program. Am I right that if we move that forward—that's what you're saying—if you went to the stewardship fund, I assume it would be to remediate, to reduce risk, or it would allow a

community to purchase that land on which they feel there is an unacceptable risk for the community and they want to make sure they've got control of that land. Would that go a long way?

Mr. Attema: That will help, and certainly on the question of funding, and again the appropriateness and ability to set priorities and focus. In response to your question and comment, I'll draw attention to the piece that I think best expresses that sentiment, and that would be the Grand River Conservation Authority's submission. Specifically, sections 41 through 51 in the Grand River Conservation Authority's submission in Walkerton on Tuesday, I think, really speaks to the approach that cattle producers could support.

The Acting Chair: Thank you for your answer. Ms. Scott, please.

Ms. Scott: Thank you appearing before us today, and for your excellent presentation. I wanted to highlight the fact of what this Clean Water Act, they say, is going to do, but it's really not following Justice O'Connor's recommendations. It's about the downloading to municipalities and the landowners, the running away from the provincial responsibility of source water protection.

The minister, in Toronto, used the words "precautionary principle," maybe taking out of context how Justice O'Connor used those words. I wonder if you could just expand a little bit on the difference between the minister's "precautionary principle" and what Justice O'Connor really meant by "precautionary principle."

Mr. Attema: I believe that was a question that was requested to be brought to committee. We look forward to reviewing and commenting on the definition of "precautionary principle" as it's given to this committee, because it's a term that means different things to different people. We think that when that term is used, it should be very clear in which context that terminology is used. It's almost premature to comment on it until we see what definition was intended when that term was used.

I'll also comment that I think you will find both the agricultural and the broader business community will be unified and will be increasingly vocal in expressing concerns about the precautionary principle if it means reverse-onus responsibilities.

The Acting Chair: Thank you, Ontario Cattlemen's Association.

PRINCE EDWARD FEDERATION OF AGRICULTURE

The Acting Chair: The next presenter is the Prince Edward Federation of Agriculture. Take your seat, please. You have 10 minutes to make the presentation and five minutes to answer the questions. You can start now. Thank you.

Mr. John Thompson: Thank you. I'm pleased to be here. My name is John Thompson. I'm president of the Prince Edward Federation of Agriculture. I would like to present some of the concerns that I and our Prince

Edward members have with Bill 43 as it is currently proposed.

First of all, I would like to make note of the present state of groundwater in Ontario. For this, I refer to the expert panel report prepared for the Ontario Ministry of the Environment called *Water Well Sustainability in Ontario*, final report dated January 30, 2006. I quote from the introduction as follows: "In general, the panel concluded that the health of groundwater drawn to wells is excellent, with abundant supply of good quality groundwater in most parts of Ontario."

I take from this and other information in the report that it is important to continue to safeguard our groundwater resource, but we are not in an urgent situation here. We do have the luxury of time to draft legislation properly, if it is needed at all. Farmers appear to be doing an excellent job in protecting the land and water that we ourselves live on. This only makes sense, as we ourselves have the most to lose if groundwater is polluted.

On our farm, we have lived on this land and water for three generations, going on to the fourth now, and this applies right across rural Ontario to a large extent.

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Several pieces of legislation now govern water quality in Ontario. The Nutrient Management Act was passed on June 27, 2002, and is aimed at reducing non-point source pollution by addressing land-applied materials containing nutrients. The act ensures that nutrients are applied according to crop requirements and limits application if excessive stores of major nutrients are found in soil reserves. It is based on the need to allocate proper nutrients for crop use while reducing nutrients lost to the groundwater to a safe level. There is a focus on controlling runoff, erosion and material leaving through tile drains. New barns or storages or manure spreading are not permitted within 100 metres of municipal wells, and setbacks from private wells are also prescribed.

Surface water quality in Ontario is protected federally through the Fisheries Act, and through the peace, order and good governance legislation, where the matter is of national concern. At the provincial level, water quality is protected through the Environmental Protection Act, the Ontario Water Resources Act and the wells regulation. The Safe Drinking Water Act and the waterworks and sewage act provide further protection to municipal drinking water supplies.

My point with this review is to show that there is a considerable amount of legislation in force now, and we should be cautious in our efforts to solve a problem unless it does exist or has the potential to exist. It is essential that another Walkerton-type tragedy be prevented, but no amount of source protection will make all groundwater safe for drinking without treatment. A tragedy can still happen if a water treatment plant fails to do its job, so that will always be the most important and urgent task.

The following are my key concerns and suggestions in regard to Bill 43.

(1) Bill 43 currently states, "The purpose of this act is to protect existing and future sources of drinking water."

This is too broad a statement in that it could be interpreted to mean all water everywhere, instead of focusing on the protection of municipal drinking water supplies, as we are being told is the intent. The Ontario federation has recommended several amendments which I am not repeating as I am sure they are currently on file. I am concerned about what the effect would be if the groundwater under all our land would be considered an area of concern and no credit were given for currently using best management practices such as nutrient management plans and an environmental farm plan.

It should state, "water sources that are drawn on to provide drinking water to municipalities currently and in the future." I also suggest that new municipal wells and surface water intake zones be sited to minimize the impact on current users of land.

(2) I understand that land may be expropriated if necessary with appropriate compensation. However, I think that land use restrictions could be a form of de facto expropriation, and the bill states that the government is unwilling to provide compensation for this. This is an area to correct. If a farmer needs to retire some land or buildings from productive use, appropriate compensation needs to be paid.

(3) I am concerned that this bill seems to give total and arbitrary power to permit officials, who will decide what is acceptable and what is not. They would be permitted to go on to private property without the consent or even the knowledge of the owner. In my view, they would be able to restrict normal farm practice if they choose to do so and would even be able to stop a farming operation. This is clearly not acceptable.

I think the guidelines to be followed should be in writing. One should be able to negotiate acceptable farming practices, if necessary, with credit given for best management practices such as following an environmental farm plan and nutrient management plan guidelines, whether the farm has a formalized plan or not. As well, an appeal process needs to be established.

To conclude, I think that this bill leaves us with too many unanswered questions and therefore much concern. We do not know how much land will be involved and what activities will be regulated. We do not agree with the permit official type of approach and are concerned that the costs of implementation will be left with the local taxpayer in spite of the fact that it is for the benefit of the whole province. It is not sustainable when we put environmental costs onto rural people. I would like the government to identify the gap which they are trying to fill and tell us why this is not being covered by existing legislation.

Lastly, I hope that the government will consider the input which is being received and make significant improvements to the bill.

The Acting Chair: Thank you, Mr. Thompson. Thank you for leaving quite a bit of time for questions. Mr. Wilkinson, please.

Mr. Wilkinson: Thanks for coming in, John, and for being a leader in your county, which is one of the most

beautiful and productive counties. I grew up in Trenton, so I know all about it. I had a lot of fun in Prince Edward county growing up, I want you to know, so we're always happy to be there.

Some of the concerns that have been raised are being addressed: the idea of going away from the building inspector model to risk management; making sure that as you negotiate that, everything you've already done to be a good environmental steward is taken into account—you don't have to reinvent the wheel—and making sure that anybody who has to go on to land is fully trained on the whole issue of biosecurity. The bill says that if there were something injurious, the state would have to pay, but it's always better not to have to cull your barn. We just have to make sure that if there's someone showing up, you know that they're coming.

Your question was, "Why do we have to go this way? Why don't we amend the EPA?" Our thought is that we remember the experience we inherited under O. Reg. 170, trying to have a regulation that applied to everybody. What O'Connor was talking about was, you get the people who are drawing the water together to work it out instead of having this one-size-fits-all. You've got 70% of the people drawing their water from the Great Lakes, some people from rivers and streams and everybody else from our great aquifer, so it's different. The idea is that if you made it local and you based it on science, then the people would understand it. That's why the province is paying for all the science.

We haven't got to the implementation side, and you need to do that just to figure out a cost. The minister has said that obviously there can be hardships, so we have to compensate for that, but what we're hearing a lot is the idea that really what we should do is make sure that we have the stewardship fund or some type of a mechanism to make sure that agriculture particularly understands that we're going to work together. Nutrient management didn't go through until people started putting money on the table. I remember that: "Oh, you've got to take your buffer strips out; you've got to have new storage." That went over like a lead balloon. I know that when we took over, we had a lot of work to do on that to change those regulations.

But if we go to that approach, is it better to have the community coming up with this plan rather than the ministry trying to have a plan for everybody? The alternative is to amend the EPA. Then you're into regulation and you're having the one-size-fits all, and that equals regulation 170, which everybody agreed was not the right way to approach it.

Mr. Thompson: I guess I didn't suggest the amending of the EPA; I'm just saying that nobody's told us what the gap is—what is not being plugged at the moment. When we have EPA, we have nutrient management and we have environmental farm plans, where's the gap? We think we're covering it.

Mr. Wilkinson: I guess the recommendations from O'Connor were that all of these things you were talking about, all the different acts have to do with the water

after it leaves the aquifer, the lake or the river. What we need to do is the cheapest thing—there's still the question of who pays—which is, keep the water clean in the first place. He was saying, "If you're going to have a multi-barrier approach"—because you can't just count on one—"the smartest thing to do first is identify whether there's anything going on right now or in the future that could be polluting the source." Let's make sure we're keeping the source clean and then do that as a community as opposed to having it come down from the ministry.

The Acting Chair: Ms. Scott, please.

Ms. Scott: Thank you for appearing here before us today. I think that that's what they have been doing with the environmental farm plan and the nutrient management plan. That's what the gentleman was trying to say: They're already at the source trying to protect it. According to all the rules, they've been good stewards of land and they've come up to that standard.

With that—and you can answer Mr. Wilkinson's question—would you like to see in the legislation a little bit more comfort in the fact that they have to phone before they come on to your land to do the assessment? You've been good stewards. The confidentiality has to remain with the environmental farm plan and the nutrient management plan. So when the person comes, they should be prepared to know what you've already done on your land, make the appointment with you etc, and then you know what their report is. Then an appropriate appeal situation for you—we've mentioned it before: Instead of going to the Environmental Review Tribunal, maybe using some of the existing normal farm practices tribunals. You can answer any part you'd like, but go ahead.

Mr. Thompson: Well, it is important that if there are going to be visits, they need to call ahead and arrange a proper time, and yes, you need to be able to provide the background to these people. Biosecurity is important, as Mr. Wilkinson mentioned. I didn't bring it up in my talk, but I'm a chicken farmer and I'm quite concerned about biosecurity, that nobody walks into the barn.

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Coming back to Mr. Wilkinson's question, my understanding of nutrient management is that by having a proper storage for the manure so you don't have the runoff and by applying it at proper rates and at the proper times of the year with the proper setbacks, we're already being preventive. I guess that's what I was saying.

Ms. Scott: So you've already done due diligence and you should be fairly treated for doing your normal farm practices that you've been asked to do?

Mr. Thompson: Yes. It's only the larger farms now, typically, that have the approved nutrient management plans, but that doesn't mean the rest of us aren't following those things. We just haven't got it totally written up and approved by the ministry because we didn't have to. But I think a lot of us still follow that type of protocol. It only makes good sense, and that is the normal farm practice of today. If someone has a problem, the normal farm practices are your defence. But the government

defines normal farm practices nowadays as following the Nutrient Management Act, so whether you had done a plan or not, you still need to be following that.

The Vice-Chair: Mr. Tabuns.

Mr. Tabuns: Thank you very much for coming in and making a presentation. If, in fact, this act was amended so that funds were provided to help deal with unexpected costs and provide for incentives and education, would there be greater support for this kind of action in rural communities in Ontario?

Mr. Thompson: Yes, there would be greater support if the financial issue was fully addressed.

Mr. Tabuns: That's one of the key points in terms of rural support for or opposition to this act?

Mr. Thompson: It's a key point, yes.

The Vice-Chair: Thank you very much, sir, for your presentation.

SANDRA LATCHFORD

The Vice-Chair: The next presentation will be by Sandra Latchford. Welcome. You can start when you're ready.

Ms. Sandra Latchford: Thank you for the opportunity to speak to the bill. I believe there's a handout for you.

I am a private citizen coming not on behalf of a large group but of a small group of landowners who have wells and have had experience of already losing our wells to pollution and/or the well going dry and having to dig more wells. In fact, one of my neighbours is now on their third well-drilling in order to get water. We have also had an experience in our family of having a dairy farm that had to quit being a dairy farm because of the pollution of the water. They drilled three wells and could not get water that could be treated sufficiently to maintain a dairy herd.

Mr. Tabuns: Sandra, I gather that people can't hear you. Could you bring that microphone closer to you, because they want to hear what you're saying.

Ms. Latchford: Is that better?

Mr. Tabuns: Is that better back there? Yes. Thank you.

Ms. Latchford: Thank you. So I am speaking as more of a private citizen and taxpayer. As I said, my neighbours and I have looked over the bill and we have some concerns. In the report that I gave you, we have 10 recommendations. At the very end of the report, we have summarized the 10 recommendations on two pages so that you can read them quickly. If you wish to skip the rationale for why we made the recommendations, you may, and go right to the recommendations themselves. They are organized in the order that the bill is written, and so we'll go through them in that order.

Our first concern is the definitions in part I of the bill. We find the definitions are not very specific, they're not measurable, and we have concerns about how that might be implemented down the road. I've had a lot of experience dealing with permit officials. Some permit officials

are wonderful to deal with and knowledgeable. Others are the permit officials from hell, and if there is any opportunity for them to over-interpret any rule, they will, so we have a lot of concerns about that. In fact, four of our recommendations concern the qualifications and monitoring of permit officials. If your definitions are measurable and tight, you will have less likelihood of having permit officials run away with them down whatever which road.

We have a lot of concerns that local stakeholders will not be on the committees. We would like assurance in the bill that people who are really going to be affected by this bill will be part of the committee process. We'd also like to see an appeal process on how those people are chosen to be on that committee, so that you can go in and challenge and say, "Why do we not have local farmers or business owners on that committee?" An appeal process is always good for transparency issues and appealing, just so that we know what's going on.

Our third recommendation is about compensation. You've heard a lot about that this morning on different issues. We are very concerned that land users and businesses will not be compensated should they be identified as a high-risk area.

In another province that I lived in, we had a gas station identified as a problem in a water source area for a city. The gas station had to close and the tanks had to be dug up. Guess who got to foot the bill? It is not fair to have the business owner paying for that. They were put out of business. They had to pay to move gas tanks, and yet it was a municipal issue, that this was a source water area.

I would like to see in the act very clearly that it will not be the business owner and the land user who has to pay for that if they are identified at high risk. It has happened in other places, so I don't want to hear, "It won't happen here." I'm afraid it might.

Recommendation 4 is again back to funding. You're downloading to the municipalities. As a taxpayer, I'm not thrilled to get more taxes. There are many people who are on fixed incomes. We do not have an unlimited pot of money to go to. We cannot just say, "Oh, well, it's a wonderful thing. We need clean water"; who is going to pay? I think the province has to take responsibility for at least cost-sharing this and not downloading it to the municipality or the landowners. We're very concerned about that.

Recommendation 5 is that we would like to have a quality assurance program. I'm not comfortable with having you say the municipalities will monitor the risk areas. Who's monitoring the municipalities? We've had that example before in Walkerton. My job in real life is assessment and monitoring and quality control. It isn't sufficient just to say, "Oh, do this and I'm sure it will be done correctly." I like to be out there checking to make sure you are doing it correctly. If you know you will be observed and watched and monitored closely, you're more likely to meet the standards that are there. When there is no overseeing, it's easy to slip into a really slipshod way of running things. So we would like to

know how that will be done, and we want quality assured.

Recommendation 6 is the implementation process and those permit officials. We would like to know how they will be hired, who they will be, how they will be trained. Will there be ongoing training of good quality? This inconsistency in permit officials across the province is not a good thing. You really do need to maintain that, and the province, I think, should be sharing that cost.

Recommendation 7 is back to the permit officials again, making sure they carry out the standards and monitor what they do. I noticed in the bill that you talked about an annual report coming in. Well, I could write an annual report about myself and tell you I'm doing a wonderful job. I think there should be a more objective evaluation of whether I am doing a wonderful job. I'm not likely to write to you and tell you how badly I'm doing. I'm more likely to tell you I'm wonderful. You need to have that kind of outside evaluation to ensure the permit officials are indeed doing what they're doing.

I don't mean to pick on the permit officials but, really, your whole bill is very much an authoritarian approach to trying to get people to voluntarily comply with your legislation. There's a lot of research that shows the authoritarian group punishment route doesn't work very well at all.

I was interested to hear other groups this morning talk about the carrot-and-stick approach. You do need to up the carrot in this bill if you expect compliance. One of you asked, "Do you think there will be controversy? Do you think people will not co-operate?" I think people won't co-operate. People are very tired of draconian methods by permit officials. I think regular taxpayers who would never disagree are getting very irked at having all the rules and regulations. Your rules and regulations are meant for people who will break the law, not for the law-abiders. Most of us voluntarily comply with all laws. I didn't speed driving here today, but there was no police car behind me and none in front of me. I voluntarily complied with a rule that I thought is a good rule and an important rule. Most people in our society do that, but when you start becoming draconian, miserable and picayune in everything you do, people get their backs up and they start not wanting to comply. They don't understand and they don't want to understand. They get very aggravated.

I'm afraid this bill is setting a tone of "them against us" right from the get-go, and I think you're going to have a very difficult time getting it implemented. Even if you have wonderful permit officials, you're already getting a lot of anger and resentment to the bill before you've even gotten it off the ground.

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We also were concerned about the expropriation clause and, again, when you're trying to take away someone's livelihood—you may leave them with the land and there's nothing they can do with it, which is totally inappropriate and unnecessary when we can look at other ways to make sure things happen.

So you have the 10 recommendations. I hope you will really take the feedback that you're getting seriously. I hope you will also recognize that if you write a bill that has flaws in it, it will not be implemented well. You can't carry out a flawed bill. Take the time to go in and take the bugs out of it, address the serious concerns that are there, and come up with a bill that we will be able to implement effectively to protect our water. Thank you.

The Acting Chair: Thank you, Ms. Latchford. Now for questions, Ms. Scott, please.

Ms. Scott: Thank you very much for appearing before us today and volunteering all your time and your neighbour's time to produce a thorough report with amendments, which is what we like to see, because then, as we go to clause-by-clause September 11 and 12 in Toronto, we have amendments and suggestions in front of us.

You're right; we've heard a lot of, "You bring this in in such a dramatic way. You're not going to accomplish anything. It's too confrontational. We all want to be good stewards of the land but you're not giving us the tools to do that." You mentioned the permit official, the risk management official—whatever terminology we're using now. Do you think that we could actually do this and accomplish it much more if the Minister of the Environment and the Minister of Agriculture, Food and Rural Affairs used—you know, you've heard of the nutrient management plan—things that are already set up? If we could just expand that more, give them some more tools, might that be an approach that would accomplish a lot more?

Ms. Latchford: I think it might, and part of the reason is that you've got a lot of anger towards the bill already, which means it will be more difficult to put in place. So if you can use some of the tools that are there, tweak them and use the carrot with those tools, I think it will be more effective.

One of the problems with all kinds of programs: You can have wonderful theories of how things should be done, but one of the things that I've seen chronically over time is that you do not fund the implementation process. You fund the writing of the law, you fund the writing of the regulations, and when it comes time for implementation, this is when the dollars get cut off and you have a very poor way of getting it implemented, so it's not effective. If there are already bills in place and they have rules and good policies, and we have some goodwill towards those bills and regulations, then we should be using them.

Ms. Scott: Thank you very much.

The Acting Chair: Peter Tabuns, please.

Mr. Tabuns: Thank you, Sandra, for coming in and making the presentation. It was quite useful. I have a question for you, though, because I was following through your argument on who pays for cleanup, and I actually think the province should put in money, should provide incentive, should have a stewardship fund. But I was meeting last night with the folks who live around the Richmond landfill. There is a plume of leachate coming out. It's damaging wells; it has potential to damage the water supply to the Mohawks in the Bay of Quinte.

Ms. Latchford: I'm familiar with that.

Mr. Tabuns: Who pays? Should it be the residents whose wells are being contaminated, the Mohawks, the local municipality, the province or the operators of the landfill?

Ms. Latchford: I think that it's a complicated issue because you come back to why did we allow the landfill in the first place and who did in fact allow that landfill to go there, when we know that the research is very shaky on landfill and the later pollution down the line. So certainly I don't think the people whose wells have been polluted should be paying. They're innocent victims in this, as far as I'm concerned, when we have that kind of happening. I think the government has to work with the owners of the landfill and come up with some resolution and see who is going to pay here. I really would like to see it done more expeditiously than we have done in the past, because we tend to let this argument go on about who will pay. The person whose well is gone has to pay right up front to get water immediately, so they're paying out of their pocket right away, while the business owner, in this case Richmond landfill, is not paying for that well right away, and the government isn't paying, so the person who pays first is the landowner, which I think is incorrect. I think someone, like the government, should step in and make sure that the landowners have water and then they can go after the business owner that didn't do a good job.

Mr. Tabuns: Thanks for the answer. I appreciate it.

The Vice-Chair: Mr. Wilkinson?

Mr. Wilkinson: Thanks for coming in, Sandra. It's a great analysis of the bill. Just following up on Mr. Tabuns's point, we were able to pass a bill that, at the time, was quite controversial about the fact that if you spill, you pay, right? In other words, to make sure that it's not the victims or the taxpayers who are going to pay because somebody else did something and they became the victims.

I am interested in your point, because you obviously have some experience, on this idea of quality control. Even if we get rid of the building inspector model and go to the risk management official, you still want to have that consistency. The plan is to have peer review of these individuals across the different watersheds so you do get that consistency. Do you think that is one of the ways we can make sure we get that consistency, so you don't have people creating their own little kingdom in their own little vacuum, not in relation to everybody else?

Ms. Latchford: I think peer review has a role in assessment and quality control, but I think you also need someone who's outside and independent. My experience with peer review is that with, I would say, "the old boys' network"—and I don't mean to be sexist—you tend to get a group of people who know one another, and it's very hard to criticize someone you know within your own association. So peer review works—

Mr. Wilkinson: To a certain level.

Ms. Latchford: —to a certain level. You also have to use very good strategies to implement peer review in

which you counsel and encourage people and train people in how to offer peer review in a way that will be acceptable to others so it's not always just negative.

It's always good to have another source who has no ties, who is truly independent and objective, come in and look that over. That's the only way, in my experience in all the assessment that I've done over the years. You have to have that level of objectivity and independence away from the group, or you get, "I didn't want to tell my friend they were doing this." That starts to play a role in it, and that's not appropriate.

Mr. Wilkinson: And at the front end, make sure we get consistency of training, that that training is consistent and not one-off.

Ms. Latchford: Incredibly important, yes.

The Vice-Chair: Thank you very much for your presentation.

CLEAN AIR BATH

The Vice-Chair: We move to the next presentation, by Clean Air Bath. I believe you know the procedure. You have 10 minutes for speaking time and five minutes for questions.

Ms. Corinna Dally-Starna: Thank you very much. I first need to make sure you know that my name isn't Susan Quinton; it's Corinna Dally-Starna.

The Vice-Chair: Can you get closer to the mike, please? Or you can move it closer to you.

Ms. Dally-Starna: I will do that. Can you hear me? Okay.

First of all, thank you very much for giving me the opportunity to speak to you today. In fact, when I talked to someone yesterday, that person suggested to me that I shouldn't start out my presentation today by mentioning the word "Lafarge," because if I did so, nobody would listen to me; I would simply be tuned out. Of course, I hope this is not going to be the case.

I am here to represent Clean Air Bath. Given that our citizens' group is rooted in this community, which relies on Lake Ontario for its drinking water, any issues surrounding the protection of source water and activities that might constitute a threat to our drinking water or a threat to the quality of water in general are understandably of utmost importance to us.

Clean Air Bath is a group of concerned citizens that formed in response to cement-maker Lafarge Canada's proposal to burn waste, store waste, and dispose of cement kiln dust resulting from the burning of this waste. Our group is concerned about the impact of this plan on the community's water supply as a result of atmospheric deposition, the discharge of leachate into Bath Creek, and seepage of contaminants into the groundwater.

Lafarge plans to burn tires, pelletized municipal waste, animal bone meal, solid shredded biomass, non-recyclable plastics, and other potentially hazardous material in the more than 30-year-old kiln of its Bath plant, just a short distance up the road from here.

In what way is this situation relevant to the proposed Clean Water Act currently under consideration?

First, Lafarge's cement plant is located adjacent to two bodies of water: Lake Ontario and Bath Creek, which empties into Lake Ontario.

Second, this community relies on Lake Ontario for its drinking water.

Third, based on published emissions data from a Lafarge cement facility burning waste in Quebec, expected stack emissions here in Bath will include a whole array of toxic air pollutants. There is sufficient scientific evidence that such air pollutants, among them metals and combustion emissions, have the ability to settle into bodies of water, either directly or indirectly, and damage ecosystems as well as public health.

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Fourth, burning the mixture of waste described earlier to you in a kiln that was not designed for this purpose can be expected to produce cement kiln dust of similar toxicity to what is leaving the stack. As a consequence, leachate from landfilling this contaminated cement kiln dust on-site poses a threat to Bath Creek and, by extension, Lake Ontario.

Our primary interest in examining this draft legislation, then, was to ensure that the proposed Clean Water Act contains safeguards that will address any potential threat to our drinking water resulting from industrial activity in general and Lafarge's activities in particular.

Also, based on our less than satisfactory experiences with the participatory process, we want to ensure that this legislation will provide Ontario residents with ample opportunity for meaningful public participation in decision-making relative to source water protection planning. By meaningful, we mean full access to the process, but more importantly, provisions that will facilitate the public's ability to impact decision-making in a substantive way.

In summary, it is Clean Air Bath's position that this community may not enjoy the full protective benefits of this act unless certain amendments are made.

Clean Air Bath has prepared a formal submission that makes references to specific sections of the proposed act. Here we only offer a brief summary of key points.

First and foremost, we believe that this legislation should be grounded in the fundamental environmental values of the precautionary principle and pollution prevention and that this bill should contain specific wording to that effect. Moreover, it should take into account cumulative adverse ecological and human health impacts.

Following that point, then, we believe that source protection demands an understanding and recognition of all the sources of pollutants that enter a body of water. Therefore, it is imperative that Bill 43 address issues surrounding atmospheric deposition of pollution into water. Given the impact of atmospheric deposition on water quality, the identification of the boundaries of a source protection area must take into consideration both air shed and watershed boundaries. This is of particular

relevance to section 13 and its outline of the contents of the assessment report.

Furthermore, although the act is specific about implementing prohibitions of activities inside the source protection area, it makes no provisions for regulating harmful activities outside the area. It is important to ensure that activities outside a source protection area which may present a significant threat to the source are controlled or prohibited.

Clean Air Bath is concerned that the Bath community, or others for that matter, may not receive the protective benefits of this act if a polluting plant such as Lafarge is located outside a source protection area. At the same time, source protection plans should be designed for all source waters, including those outside conservation areas. If our source, for instance, was not designated to have a source protection plan, then this community would never enjoy the protective benefits of the remainder of this act.

Lastly, based on Clean Air Bath's less than satisfactory experience with aspects of public participation, we believe that the public needs to be given the opportunity to be involved at every stage in the process, particularly early on. Also, it must be made easy for people to become involved in decision-making about an issue as important as threats to local drinking water sources. Although Bill 43 provides for some involvement, there is no opportunity for public input at the early stages in the process—that is, at the terms of reference and the assessment report stages—nor is participation easily accessible to all members of the public. That is why we strongly recommend that in addition to including provisions for written comment periods, Bill 43 should require that public information meetings be held early on in the process to ensure greater representation of the affected community.

Clean Air Bath expects that changes to the proposed act as outlined above would ensure that the depositing of air pollution into water resulting from Lafarge's planned burning of waste and the discharge of leachate into Bath Creek will be made part of an assessment report examining present and future threats to Bath's drinking water supply.

Mr. Wilkinson pointed out earlier that we need to keep the source clean. That is precisely what we're talking about here, and we expect and are very hopeful that the act will do that for us. Thank you.

The Vice-Chair: Thank you very much for your presentation. We're going to start the question period with Mr. Tabuns.

Mr. Tabuns: Thank you for that presentation. Is there already leachate draining from the Bath cement kiln dust storage into Bath Creek at this point?

Ms. Dally-Starna: I have a submission by Lake Ontario Waterkeeper to that effect. Part of my presentation was to make you aware of the fact that, while most people know about the application for burning waste, a lot of people simply don't know about the expansion and management of the landfill site, of landfilling the cement kiln dust.

According to the information that we have, there is leachate going into the creek. Applying for the permission for expanding this area was only done now whereas, apparently, the landfill site was already enlarged at an earlier stage.

Mr. Tabuns: So they had expanded the size of their landfill without getting approvals from the province.

Ms. Dally-Starna: That is the way it appears.

Mr. Tabuns: And Bath Creek, which is receiving the leachate from this landfill, goes through Bath?

Ms. Dally-Starna: It goes through Bath and it empties directly into Lake Ontario. Local residents have reported, for example, seeing discoloration in the creek. We are trying to get the ministry to look at all three applications in context to understand that they are interrelated and therefore will do the appropriate environmental assessment, because we think that this is very important.

The Vice-Chair: Thank you, Mr. Tabuns. Mr. Wilkinson.

Mr. Wilkinson: Thanks, Corinna, for coming in. Just working on the act here, then, the terms of reference—because you're saying you want right to the terms of reference, which then lead to the assessment report, which then leads to the plan. There's a requirement that they have to consult with all of the municipalities. So is your concern that if the consultation is through the municipality, there could be groups of citizens within the municipality that wouldn't be heard or wouldn't be given due deference, that their concerns wouldn't be heard?

Ms. Dally-Starna: Yes, and let me make that very specific. We consider ourselves almost to be a little bit expert on this business of the participatory process. If you ask many people in this community right now about how they feel, for example, about the Lafarge issue, they will tell you that until last year they didn't even know what was going on; they had absolutely no clue. How information is disseminated is absolutely crucial. So you would have to ensure that there are provisions made that the municipalities will in fact have to consult with the public and outline some ways in which that is to be done.

We feel that information meetings are a good way to get started simply because a lot of people don't even know about the Environmental Bill of Rights or how to engage in the comment period. So you are only addressing people who are familiar with these processes and who feel very comfortable with these processes. People who do not, people who like to speak about it, people who like to hear information will simply not be involved. I think we need to make sure that we get good representation.

Mr. Wilkinson: And that would reduce misinformation as well.

Ms. Dally-Starna: Precisely.

The Vice-Chair: Thank you very much, Mr. Wilkinson. Ms. Scott.

Ms. Scott: Thank you for your presentation here today. You've touched on a lot of topics, including public participation, with which we agree. I'll just put in a couple of quick questions here. One is—maybe your

suggestions: There was a promise for waste diversion, removing things from our landfill, and we were not able to meet those targets; so maybe suggestions—we've mentioned construction materials, tires—about what you think we're going to do with these products besides shipping them over to Michigan, which is not going to work in the long run. Secondly, when you speak of leachate and that, do you feel that MOE is not following up on contaminations or alerts? Those are two questions I have for you.

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Ms. Dally-Starna: The first question—are you asking me what I suggest should be done with the waste?

Ms. Scott: We've got the waste. What are we going to do with it?

Ms. Dally-Starna: You might be able to tell by my accent, but actually I'm coming from a country where a lot of waste is incinerated. Nobody is saying that waste can't be incinerated. All we are saying is that if something is incinerated, it needs to be done very properly. While Lafarge, for example, makes references to Germany and what they do there, there's good information out there that communities there are protesting the same thing, and they are protesting it for the simple reason that you're doing something in a facility that wasn't designed to do that sort of thing, and that can't be. If you have a kiln that was designed to burn oil and gas, for example, but it wasn't designed to burn this kind of fuel, then that's our issue really.

Ms. Scott: But the Ministry of the Environment files certificates of approval. They'd have to approve it before they could burn it, wouldn't they? I'm just wondering if you think there's a problem with the system.

Ms. Dally-Starna: The problem with the system is this: The ministry has responded to citizens' inquiries about this issue, all right? The ministry makes it very clear they have determined that there's not going to be a threat to the environment or human health on the basis—and please listen carefully—of information material submitted by Lafarge.

Now, with all due respect to anybody, that's pretty ludicrous. Anybody on the street knows that—we teach children this, by the way—you need to make decisions based on all the information available to you. What we are asking is—the only way that can be done is if you go through a good assessment process. You shouldn't just be doing that on the basis of the proponent's information. That doesn't really make any sense.

The Vice-Chair: Thank you for your presentation.

DUCKS UNLIMITED CANADA

The Vice-Chair: We'll move to the next presentation, which will be by Ducks Unlimited Canada.

Welcome, sir. You can start whenever you're ready.

Mr. Erling Armson: My name is Erling Armson and I'm a biologist with Ducks Unlimited Canada based out of Kingston, Ontario. On behalf of Ducks Unlimited, I'd

like to thank the Chairman and members of the standing committee for having the opportunity to speak to you.

A little bit about what Ducks Unlimited is, just for those of you who don't know what we do: Ducks Unlimited Canada is a private, charitable, non-profit conservation group. We're really dedicated to maintaining, enhancing and restoring wetlands and uplands associated with wetlands for the benefit of waterfowl, wildlife and the people who live here.

Ducks Unlimited Canada invests about \$75 million a year throughout Canada. In Ontario we've secured, enhanced and restored about a million acres of land, representing about 1,600 projects and involving almost 2,000 landowners, many of whom are the types of landowners and associations you've heard today.

I'm going to kind of hone this down to three points, but just a little bit of connectivity between wetlands, water quality and the water act: The connection between clean water and healthy watersheds is a key element of Justice O'Connor's report. Wetlands have and will continue to play an integral role in Ontario having healthy, diverse, productive and naturally functioning watersheds which, as a result, will provide clean water for Ontarians. It has been well documented that wetlands play a significant role in maintaining both the quantity and quality of water throughout Ontario's landscape and in fact the world's landscape. Wetlands filter and purify water flowing into them, retain water on the landscape, reduce peak flows and flooding, as well as act as groundwater recharge and discharge areas. Obviously wetlands are a very important habitat type that really relates to water here.

When wetlands are removed from a watershed through drainage, filling or development or are degraded to an extent from various land use activities, as they have been in much of southern Ontario, water quality is reduced, groundwater levels are lowered and flooding problems become more extreme.

Ducks Unlimited Canada is supportive of the proposed Clean Water Act in principle and is really supportive of the watershed-based approach in the local input/local stakeholder process, but we see this as only a portion and a part of what an Ontario water management strategy should be. As has been previously mentioned, there are many acts that have been implemented throughout the years, many of which relate to clean water, many of which do it directly or indirectly. I think it would be prudent if the province looked at that whole ball of wax and simplified it somewhat so that there are not all these other acts that may or may not get superseded by this particular act in terms of clean water.

So here are my three key points. These key points are meant to be constructive and to try and improve the existing proposed act.

The proposed act, as you have heard, is very heavy on process, regulations, enforcement, fines and policing—as you've heard, all stick and no carrot. In fact, it's a big bat with not a shred of carrot.

While this must be a part of the act in terms of those functions, there is absolutely no indication of any land

stewardship component that will be needed if the Clean Water Act is to be implemented and if clean water is to be sustained in Ontario.

Remember, southern Ontario and portions of northern Ontario are fragmented with hundreds of thousands of individual landowners ranging in size from urban areas up to thousands of acres. If we don't address their needs and concerns, whether they be rural farmers or rural non-farmers, this act will fail.

Education, extension and landowner-based stewardship incentive programs must be a component of the overall act, and I know you've heard that from various groups here. As such, we recommend and kind of insist that those kinds of programs must be part and parcel of the act. Remember, in the O'Connor report, recommendation number 16 indicates that the province should provide "cost share incentives for water protection." So let's follow through on that.

As stated previously, this act should be seen as only one component in maintaining healthy drinking water now and in the future for the people of Ontario. Although reference is made that this act will take precedence over or supersede other acts, regulations, municipal zoning, etc., it is unclear how this act will be integrated with the many other companion and potentially conflicting acts, regulations, programs and so on that are currently in existence in Ontario. It is also unclear as to the definition and importance placed on both groundwater recharge areas and vulnerable aquifers compared to municipal source intake zones. It is our hope that the source water plans that are developed on a watershed basis take into account the importance of water, land uses and the value of natural features such as woodlands and wetlands from the source, i.e., the upper reaches of the watershed, to the sink—the bottom of the watershed. We hope the province and municipalities do not use this act to just focus in, as is perceived, on municipal intake zones to the exclusion of the rest of the watershed, which really dictates what type of water ends up in the bottom end of the watershed.

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Finally, the costs and benefits of this act do not seem to be apparent anywhere. The tragedy of Walkerton, six people tragically dying and so on—but what are the costs and benefits of this act? It's imperative that some process be incorporated to address this so that both the province and the people of Ontario can know the value of this act to the quality and quantity of drinking water for Ontarians. The proposed act provides no section or component for sustainable funding of this ongoing and probably expensive initiative. It is therefore recommended that some sustainable funding mechanism be included in the act, not only for the implementation, enforcement and regulatory aspects, but also from the point of view of the stewardship fund for cost-benefit, and incentive programs to help landowners voluntarily do the right thing.

In summary, I would like to thank both the province and the members of the standing committee for the hard work that you're doing in terms of trying to maintain and enhance current and future water for Ontarians, and also

for the time to give you some comments from our perspective.

This act should be seen as only one part of an overall water management framework that needs to be somewhat simplified and developed by the province. Not only should this overall framework include acts and regulations such as this one, but it should also include a true watershed evaluation including the impact of the hundreds of thousands of existing private wells out there, not to mention the hundreds of thousands of abandoned wells, about which nobody has any idea in terms of their status.

Cost-benefit, sustainable funding, stewardship incentive programs and a better definition of how this act interrelates and integrates with the others should be taken into account, and hopefully amendments made, before this act is passed.

Thank you very much for your time.

The Acting Chair: Thank you, Mr. Armson, from Ducks Unlimited Canada. Now I'll open it to questions.

Mr. Wilkinson.

Mr. Wilkinson: Great. Thanks, Erling, for coming. On behalf of all of us, Ducks Unlimited does wonderful work. We appreciate that.

Mr. Armson: Thank you.

Mr. Wilkinson: All of our members know that for sure.

It all goes about the watershed—and I think you agree with us that we're right to go on the watershed—and the things that your organization is doing about keeping our water safe. Inherently, the work you're doing is source protection. It's just one of the co-benefits.

You mention recommendation 16, about the need for stewardship. In recommendation 16, it said the Ministry of Agriculture should do that in co-operation with the Ministry of the Environment. But a lot of the work that you do, of course, is with Conservation Ontario and that funding comes from the Ministry of Natural Resources. As we work through this whole issue of money, because ultimately all bills come down to that, I guess it's a question about—in an MOE bill, where the Ministry of the Environment is more the regulator than the funder, we've got other ministries that are more in the funding business, like OMAFRA, like MNR, for example, with conservation and working with your group. Our concern is, until we get the science done, you really don't know how to quantify that problem. It's the same in other jurisdictions as well, as they deal with that.

Do you envision that there would be some type of provincial mechanism and then it could flow through in a coordinated way with whatever ministry is the best one to vector the stewardship so you don't have this cross-jurisdictional—I mean, you guys are used to dealing with MNR and have a very good relationship with them.

Mr. Armson: Yes.

Mr. Wilkinson: Help us. How do we solve this?

Mr. Armson: Okay. Let me help you.

I agree. It's kind of cross-jurisdictional. I know there is the key agency, MOE, but there are other ministries

that directly or indirectly have a role in this, whether it's the Ministry of Agriculture, Food and Rural Affairs, the Ministry of Natural Resources or the Ministry of Health. We've actually initiated discussions with a number of groups, including Conservation Ontario, representatives from the agriculture ministry and natural resources, to start a stewardship network. But the idea and the concept behind it is that no one ministry should be responsible for funding and doing everything. Since this involves a number of these other ministries, it probably would be prudent to have some kind of cohesive organizational structure. There certainly may be one that implements it or regulates it, but in terms of the stewardship fund, that should probably be a contribution from all those affected and appropriate ministries. There might be, perhaps, even a stewardship ministry or funding mechanism that can take all of those portions of funds from all of those different ministries and actually make something decent and substantial in terms of amounts and then implement that in a wise manner, whether it be through a number of organizations, such as ours or conservation authorities and so on, or a new body.

The Acting Chair: Thank you for your answer. Ms. Scott, please.

Ms. Scott: Thank you very much for your input. Ducks Unlimited does a great deal of good work in my riding of Haliburton–Victoria–Brock and, I know, across Canada.

We've talked a lot about the approach in the bill—you called it a big bat and no carrot—and the costs and benefits of it. Just to follow up on Mr. Wilkinson's thing about, how should the stewardship be set up, what ministries are involved—MNR has lots of GIS material—are we all talking and using the information that we have, Conservation Ontario did have CURB, the Clean Up Rural Beaches program. I don't know if you know about that from before; it has been gone for over a decade. Do you see a program like that? Expanded, of course. Do you see that type of approach, more of, "Okay, where's the problem?" and going to the people and saying, "There is a problem," with industry, agriculture or whatever. "It's contaminating the water. How can we work with you to clean that up?" Can you just expand a little bit on the approach that you'd like to see, or talk about CURB if you know it?

Mr. Armson: You mentioned CURB, the beaches program. The programs come and go, which is unfortunate. Typically, they last the length of a session or two, or two or three years, whether it's the Healthy Futures program, which is an agriculture-based incentive program that's past now—but they're short-lived, and by the time groups like conservation authorities or their partners such as us get geared up to try to implement them with a significant number of landowners, the funding dries up and then you have to start all over again. There's a lot of upfront time required to deal with farming associations and landowner associations, so I think the establishment of a stewardship fund that has significant dollars for the longer term, not just a couple of years, is the type of

thing that we need to do. I think that's a viable mechanism and could be easily done. Because after all, we're all really trying to do the same thing. Doing a buffer strip or a wetland restoration project and so on are the kinds of things that we're all trying to implement, but I think we need a little bit more co-operation and cohesion between the different government and non-government agencies.

The Acting Chair: Thank you for your answer. Mr. Tabuns, please.

Mr. Tabuns: Thank you very much for the presentation. I have to say as well that I've been really impressed by the work Ducks Unlimited has done.

One question I have for you: You note the need for funding; others have asked about that. Do you think this act will be effective if funding is not provided in the act, in its implementation?

Mr. Armson: I suppose it will be partially effective, specifically, more in terms of some highly vulnerable municipal intake areas. However, I don't think it will be substantially effective. Without the funding for continuing on studies to really identify vulnerable areas of water throughout intakes and so on, sources, as well as the funding dedicated to working with landowners on a voluntary basis and helping Ontarians instead of coming down with a hammer, I don't think it will be very effective at all.

The Acting Chair: Thank you very much.

ONTARIO FLUE-CURED TOBACCO GROWERS' MARKETING BOARD

The Acting Chair: The next presenter is from the Ontario Flue-Cured Tobacco Growers' Marketing Board. In the meantime, I would like to remind the members of the committee to keep their questions brief so that the presenters have sufficient time to answer.

You have 10 minutes to make the presentation, then five minutes to answer the questions. You can start any time. Thank you.

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Mr. Chris VanPaassen: Good afternoon. My name is Chris VanPaassen. I'm a farmer from Norfolk county and I'm also the vice-chair of the Ontario Flue-Cured Tobacco Growers' Marketing Board. I am here today representing the tobacco producers of around the sand plains in Norfolk.

In the area of Norfolk county we grow a range of crops, from tobacco, rye and ginseng to a variety of fruits and vegetables. It's actually the most diverse agricultural area anywhere in the Americas. Historically, we've been very responsible in registering for water permits, and continue to use them according to the regulations. We also have a low-water response team working with the conservation authorities and we keep in contact with the producers of the area with regard to water level concerns. This year there have been no advisories. In the past, we've had some very dry summers where advisories were necessary. We have used the water wisely and remain in compliance with the advisories, and. I would

submit that we are doing a great job of controlling the situation without Bill 43.

We welcome the opportunity to present our comments to the committee today. Farmers naturally understand the importance of protecting drinking water because our families, along with our employees who live on the farms, drink the water that comes from our land through our own wells.

We agree with the other speakers today that protecting drinking water is a shared responsibility. As well, farmers need to be treated fairly under this legislation and should not be shouldering the lion's share of the responsibility and cost.

There are a number of issues we believe need to be addressed in order for this legislation to meet its objectives.

The purpose statement is too broad and can be misunderstood. The focus of the act should be the protection of municipal drinking water supplies. We support the suggestions put forward by the Ontario Farm Environmental Coalition, which emphasize the water sources requiring protection, the multi-barrier approach advocated by O'Connor and the need for conservation, among other things.

Another area is the definitions. We are concerned that the definitions of the words "threat," "hazard," "pathway," "exposure" and "risk" are not defined within the bill. These words were used very effectively by the technical expert committee to describe the process to be used to determine whether or not a land use that poses a threat actually constitutes a risk.

We agree with the AGCare submission that the basic premise behind Bill 43 is to prevent "adverse effects" on a municipal drinking water source, but it is absolutely essential to clearly indicate at what point an effect on drinking water becomes adverse. These terms are defined in the science-based framework submitted by the technical expert committee in November 2004. There is no point in adopting a risk management approach without acknowledging that risk can in fact be managed.

The appropriate levels of compensation: This area of Bill 43 is of great concern to all farmers. Subsection 88(6) suggests that the provincial government is unwilling to provide compensation for imposing land use restrictions that reduce the profitability of a farm operation. This section conflicts with section 83, which provides for an appropriate means of compensating a landowner for relinquishing control of their land through purchase, lease or otherwise for public use. We agree with the other agricultural groups that recommend that subsection 88(6) be removed from Bill 43. This would ensure that farmers are appropriately compensated for land use restrictions imposed on their farm operations, and also ensures that municipalities have control of the land required to protect the wells that they own and operate.

The section on permits, inspection and enforcement: We agree with the AGCare position and are opposed to a permit system for agriculture, as proposed in this

legislation. It is our opinion that the “building inspector” model or approach is not suitable for protecting municipal drinking water supplies. The approach to addressing risks to drinking water is too subjective and would require detailed site-specific information relating to the soils, topography and the farming system. A new permit system is unworkable for agriculture.

Bill 43 is also silent on the potential social, cultural and economic impacts associated with environmental protection. It is customary that these elements are considered simultaneously when developing public policy.

We’d like to repeat AGCare’s strong disagreement with the proposal in Bill 43 of an interim period in which an assessment report would document required action on the part of a landowner prior to the completion of a source water protection plan. To impose land use restrictions or require modifications on the basis of an assessment report alone constitutes a lack of due process that would result in landowners implementing practices that are unnecessary or inappropriate. There is ample protection currently offered through the Environmental Protection Act to deal with situations that are identified in the assessment report as providing an imminent threat to groundwater or surface water.

The authority of the source water protection committee: The water permit holders of the sand plains of Norfolk and area are very concerned that Bill 43 portrays the source protection committee as subordinate to the source protection authority or the conservation authority. The appropriate role of the source protection authority and conservation authority is to facilitate the process and provide technical assistance. The source protection authority or conservation authority must not be in a position to supplant the authority of the source protection committee.

Tobacco producers have been instrumental in utilizing conservation. Norfolk county was a test area under the water enhancement program and many producers over the years took up the challenge by digging extra water-holding ponds and using other conservation methods that are still being utilized. The producers in our area are leaders in water conservation.

Bill 43 is silent on the importance of water conservation and efficient use. There is, however, a clear link between water efficiency and conservation and the protection of drinking water supplies, and we believe that that should be reflected here.

Finally, the appeal process outlined in Bill 43 is not sufficient for landowners who are impacted by either the proposed assessment report or source protection plan. Given the potential impact of having land designated as “vulnerable” or having a practice deemed to be a “significant threat,” it is imperative that landowners have the opportunity to demonstrate to the province if data were not interpreted properly or mitigating factors were ignored.

We all recognize the importance of safe drinking water. That is why we believe more time must be taken to fully hear and appreciate the farmers’ concerns. We

want to do our part, but we cannot afford to carry the cost alone.

Thank you for allowing me to speak today. We would like to go on record that we support the presentations of other farm groups such as AGCare and the Ontario Farm Environmental Coalition and agree with their submissions. I’d be happy to answer any of your questions. Thank you very much, Mr. Chair.

The Acting Chair: Thank you, Mr. VanPaassen. I want to remind the committee members that the question period is five minutes. We start with Ms. Scott.

Ms. Scott: Thank you very much for your presentation. I’ll try and be brief. You addressed many issues. I agree: Do we need this legislation? Can we do it through the existing legislation? I met with some of your people about the tobacco sand plain down in Norfolk county, the Elgin county, the Brant, the Oxford, etc., and I appreciate you travelling all this way today.

You really can’t have any new industry because there’s a new moratorium on permits to take water as we speak. So, just how could you move away from your tobacco economy if new enterprises can’t drill wells?

Mr. VanPaassen: That’s one of the questions we’ve been rolling over in our minds for the last little while too. As you’re all aware, the marketing board has made a proposal to get us out of the tobacco growing industry. We’re currently in negotiation with both the provincial and federal government to try to meet the government’s commitments under health purposes and just eliminate tobacco growing. But for a tobacco farmer to switch to other crops—most of them tend to use more water rather than less. To get into value-added production of agriculture: We can’t do that now in the sand plains of Norfolk because of the moratorium on water use permits. So different sectors of government legislation have put the farmers and all the businesses in Norfolk, Elgin and the sand plains in a precarious position right now.

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The Acting Chair: Mr. Tabuns, please.

Mr. Tabuns: Thank you, sir, for making the presentation today. You comment that this bill should be interpreted to protect municipal water. Don’t you think it should also be out there to protect rural drinking water and rural water for livestock?

Mr. VanPaassen: Yes, I agree: It should do all of those things. But when I read the act, I’m not sure what it is you’re attempting to protect, and I think that’s where we need the extra clarity on the definitions and what it is you’re actually trying to do. Then, let’s go and do that.

Mr. Tabuns: I ask myself the same questions. Thank you.

The Acting Chair: The parliamentary assistant to the Minister of the Environment, Mr. Wilkinson.

Mr. Wilkinson: It’s good to see you again, Chris. I enjoyed being in Norfolk county and hearing first-hand about the challenges with the sand plain and the issues that you have there. We’ve been able to go through a lot of these points over the last couple of days; there’s a great deal of consistency.

We haven't really talked a lot about the issue being raised about getting clarity in the bill on definitions. We always have that issue: Do you put it in the legislation? Of course, if you're wrong, it takes a great process to change it, but if you put it in the regulation, everybody's worried because they can't see the regulation until you get the bill. It's kind of a chicken-and-egg-type thing. But what you're saying is that we need to be able to put in the bill the ability to define certain terms, as the technical expert committee recommended, so that you have this metric, I guess, that people could buy into, that a community could understand—things like “hazard,” “pathway” and “exposure.” I suppose this is why we need to have it locally based, because you used the example about where things are sited. In other words, there could be a risk, but the risk is minimal because it's in a double-hulled or double-walled containment tank. Can you flesh out recommendation 2, about where you need to see us go on that?

Mr. VanPaassen: Using a nice, local example, the Norfolk sand plain sits next to the Haldimand clay plain. So you could have a potential risk sitting on a piece of land. You could have a potential pathway. But if you have it on the sand or gravel plain of Norfolk, where groundwater does travel relatively quickly, or you had the exact same thing sitting on the clay of Haldimand where it can't go anywhere, both are a threat, but the one is a much greater risk because there is a pathway that moves quickly. The other one is not a risk because it's already sitting on a clay-lined bunker.

The Acting Chair: Thank you, sir.

FRIENDS OF THE TAY WATERSHED ASSOCIATION

The Acting Chair: Our next presentation is by the group Friends of the Tay Watershed Association. Welcome. You have 10 minutes to make your presentation and five minutes for answering questions. You can start.

Ms. Carol Dillon: Good afternoon, and thank you for this opportunity to make a submission regarding Bill 43. My name is Carol Dillon and I am co-chair of the Friends of the Tay Watershed Association. On the second page of the brief handout that I have shared with you there is a map so that you can know where I'm coming from. In the upper right-hand corner, the light-shaded area is the city of Ottawa, and in the lower left-hand area is the Tay watershed, almost directly north of where we are sitting today.

The Friends of the Tay Watershed Association is a grassroots, community-based organization formed a decade ago to provide stewardship for the Tay River watershed. The watershed is located in eastern Ontario and flows through some of the best cottage country and headwater areas in Ontario. The water flows into the Rideau River, and from there into the Ottawa and St. Lawrence Rivers. The Tay watershed is part of the Great Lakes basin, and since all water flows downstream, what happens in our small, backcountry watershed is very im-

portant to a large number of people beyond our borders. You might say source water protection for many begins in our neighbourhood.

Our watershed is not new to water concerns. In the year 2000, a group of citizens concerned about the future of water in the Tay used the Environmental Bill of Rights to fight for many of the environmental principles that are now proposed in Bill 43. It is satisfying to see the same principles, such as the management of water on a watershed basis and the development and use of water budgets to guide decision-making, reflected in the new legislation. Those principles were right then and they're right now.

Our purpose in being here today is to express support for Bill 43. As a watershed organization, we have welcomed the government's interest and work in source water protection. We believe the proposed Clean Water Act will provide for the long-term health of our communities and our environment. We are especially pleased that the act provides a formal process for identifying threats to the sources of drinking water and establishes local committees to address those threats. We are confident the Clean Water Act will well serve the needs of our people and look forward to its passage in the Legislature.

Our secondary purpose in being here today is to offer some humble suggestions on how we think Bill 43 could be strengthened or made more complete. Since we all hope the Clean Water Act will make a difference both for our generation and future ones, it is worth considering all aspects now. The final page of the handout has a summary of our suggestions.

(1) Provide equal source water protection for private water systems: The Tay watershed itself is the source of drinking water for 12,000 permanent residents, and countless seasonal residents and visitors. Perth, the largest settlement within the watershed, has a population of 6,000 people and a municipal water system—the only municipal system in the watershed. The source of water is the Tay River as it passes through Perth. Another 6,000 people live in the rural parts of the watershed. Their main source of drinking water is private groundwater wells. Thus, as an organization, we are concerned with both municipal systems and private wells: surface water and groundwater. In this, I think we are typical of many rural watersheds. We are confident that Bill 43 will strengthen the protection for water used in the municipal system in our watershed. However, we are concerned that the bill does not give equal attention to the protection of source water for drinking from private wells. Rural areas relying on private wells for drinking present a special case because there is no multi-barrier system for private wells. In rural areas, people drink untreated water, and usually untested water, straight from their wells. For private wells in rural areas, the only barrier is source protection. For that reason, we strongly recommend that the right to source water protection be extended to people who rely on private water systems not only in our watershed but throughout the province. Over two million Ontarians

drink water from a non-municipal source. Bill 43 needs to address their safety too.

(2) Ensure sustainable funding for the program's implementation: Many rural residents are beleaguered with rising taxes and lowered rural incomes. The result is a growing rural backlash against what is seen as government intervention in local or personal affairs. In addition, rural residents must pay for the construction and maintenance of their own wells and septic systems. They fear the Clean Water Act may create additional costs for them. It is essential that there be a sustainable and reliable approach to securing funds for the implementation of source protection plans. No one opposes clean water or source protection, but there is a fear of the personal costs the act may entail.

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(3) Public participation and education: The success of the Clean Water Act will depend on public acceptance and stewardship. Because water is ubiquitous, every citizen must buy into source protection for it to work. Many people in rural areas do not know a lot about the Clean Water Act, but they still fear it. Rural rumours abound, and we must address those. One fear is that the Clean Water Act is the beginning of the privatization of water.

Public education must confront these rumours, build understanding and support, and reaffirm the principle that water is a public resource. It is essential to develop public support through education and outreach programs, as well as through public engagement in the planning and implementation process.

(4) Strong conservation measures and water quantity protection: The name of Bill 43, the Clean Water Act, suggests a focus on water quality but not on water quantity. In fact, the two must be considered together. It is important that this act work effectively to protect both water quality and quantity. The act should promote the adoption of conservation measures and prevent the depletion of water resources.

(5) Adoption of the precautionary principle: As a grassroots environmental organization, we support the use of the precautionary principle and would like to see it inserted into the Clean Water Act as a guiding principle. As Justice O'Connor wrote in the Walkerton report, "Decision-makers should err on the side of caution." The precautionary principle provides some comfort in uncertainties.

(6) Commitment to the Great Lakes and the Great Lakes agreements: The Tay watershed is part of the Great Lakes basin, and thus shares an interest in and feels a responsibility with those water bodies. Because 80% of Ontario's drinking water comes from the Great Lakes, it is essential that the province use the Clean Water Act for protection of source water in the Great Lakes as well. Source protection measures should be integrated with existing Great Lakes programs and agreements. Our efforts at the local level are rendered useless unless similar strong stewardship and protection is provided for the entire Great Lakes basin.

(7) Meaningful involvement of First Nations, Metis, and Inuit people: The First Nations community within the Tay watershed has shared its traditional ecological knowledge and perspectives on water with the Tay watershed community. We strongly believe that First Nations, Metis and Inuit people and their governments have a critical role to play in the source water protection framework. In its current form, the act does not include provisions related to drinking water systems on reserves, nor does it in any way include First Nations people in the source protection process. The federal and provincial governments should support the ability of First Nations people to be full participants in source protection planning and implementation, in addition to allocating appropriate resources to facilitate meaningful involvement.

We see the Clean Water Act not as an end but as a beginning. It joins other legislation which serves us all well. Water is a precious resource. It is life-giving. In the Tay watershed, we have no water problems, but we are looking to the future. We believe our watershed is similar to many other watersheds throughout Ontario that will be affected and enhanced by the Clean Water Act. We look forward to the passage of Bill 43 and working with the various stakeholders for the protection and betterment of Ontario's waters.

The Acting Chair: Thank you for your presentation. Now to questions. Mr. Tabuns, please.

Mr. Tabuns: Thank you very much for that presentation. You mentioned funding in your presentation. I think it's an important component of a bill that actually delivers the goods. We all have to think about where that funding will come from. I think it makes sense that the major water takers in Ontario that benefit from this kind of legislation would actually pay for water-taking. Is that something that your organization would support?

Ms. Dillon: I think they would, although there is dissension on that point, and I'll be honest about that. I think there is a fear that it's a slippery slope and that once charges for water begin in one place, it's going to end up that individual water—in other words, private citizens will also have to pay for the water. So I can't say that we have resolved that question. However, the question is, where is the money going to come from? What we do agree on is that it should be a shared cost among all citizens, in other words, but we would like to see it managed by the province rather than downloaded to municipalities.

The Acting Chair: Thank you for your answer. Mr. Wilkinson, please.

Mr. Wilkinson: Thank you for coming, Carol. At the top, just so we're clear—because you raised an issue about a rumour—the minister has said this, the Premier has said this, and I'll say this to you: We are opposed to the privatization of water in the province of Ontario. But thanks for raising that issue because it goes to the issue of the things that are going around in the Tim Hortons, and are they based on fact.

You raised a good issue about the need for conservation. A lot of people don't know that right in the

bill, as it's drafted, for every watershed you have to have a water budget. In other words, you have to determine how much is coming in, how much is going out, figure out who is using it, to make sure, based on that science, that you can actually take the next step and make sure that you're using conservation. A lot of people just assume it's going to be there. As our friends from Norfolk county can tell you, they're getting up against the fact that in their part of Ontario the water is not nearly as plentiful as it is in the Tay.

As the member for Perth county—not for the town of Perth; I get a lot of mail for your member, actually—what I wanted to talk about was the concept that people don't want to have it imposed. But if we go to private wells and say, "Now you have to be part of source water," would we be better to have a situation where people who are on private wells come and say, "We want to be included," instead of imposing it from top down, that if the municipality didn't want to include it but the citizens did, we would give the minister the ability to designate an area of people?

Ms. Dillon: I think a parallel situation is the testing of private well water. MOE has a very good system in one way in that they provide free well testing. You can get it tested every day if you are prepared to go through what it takes. Where we live, what it takes is that you have to have a sample and it has to be submitted within, I think, 24 hours. You have to take it and drive to the nearest public health office, which is in Smiths Falls, and then you wait three days, which could be a serious three days if there's a problem. I think there are many things that could be done for private well owners already. For example, easier testing would be one thing; not having to drive a sample. That's available, but very few people take advantage of it because it's too cumbersome.

So I think there are many things that could be done without becoming overly regulatory. In other words, people would choose to do that themselves, but we have to make it somewhat easier, and that's where public education comes in, I think.

The Acting Chair: Ms. Scott, please.

Ms. Scott: Thank you very much for your presentation. You've done a very thorough job. I'll just pick up on the education factor. Do you think we should do more in our public schools—starting with education, conservation, clean water, what it takes—because we need to involve everyone in getting clean water, right?

Ms. Dillon: I certainly agree with that because that is one of the things that the Friends of the Tay Watershed Association has done. We are trying to create a new generation of people who respect the water within the watershed in which they live, and if they move away we hope they will take those values with them. So we do a lot of public education in the schools. We also do public education with adults, but most of our programming is in that direction. You can always find places in the curriculum where it can be included in Ontario. We aid teachers with materials. We make it easy for them to include it.

Ms. Scott: Good. Thank you very much for doing that and for coming today.

The Acting Chair: Thanks, Friends of the Tay Watershed Association.

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LENNOX AND ADDINGTON FEDERATION OF AGRICULTURE

The Acting Chair: Our next presenter is the Lennox and Addington Federation of Agriculture.

Mr. Kaiser: I didn't have a hat to change but I did change my name tag. There was somebody who was probably supposed to be here but had to back down at the last minute out of personal conflict. So, as a board member of the Lennox and Addington Federation of Agriculture, I agreed to step forward and jump on the opportunity to speak a second time here this morning.

I'd like to return to the concern dealing with water efficiency and conservation, a concept that also should be considered as water use education. This stems from my personal philosophy that animal and plant production should form a nutrient cycle. What that means is that animal manure should be used as a nutrient source in the production of plant proteins, and that should include the return of municipal sewage sludge, or biosolids, to the lands where our foods are produced. The problem with those biosolids is not the nutrients they possess but rather the other products that are flushed down the drain with them.

That said, I believe that education about water usage and the like is equal to education about conservation efforts.

Ms. Scott asked me earlier about the perception of the act within agriculture and the local community, and I believe that, generally speaking, the farm population has a fear the government will ultimately regulate us into oblivion. That suggests a fairly confrontational stance to begin with. To stay with the perception point, public perception is that a farmer was a contributor to the Walkerton tragedy of 2002, when in fact that farmer was the only one who had a nutrient management plan, which is a preventive measure mitigating risk to the environment.

I'm a bit of an optimist and I do believe that the Ministry of the Environment wants this act to accomplish its goals, as we all do. In that vein, as we approach the adoption and implementation of the act, the public needs assurance that the MOE's approach will be not confrontational but rather that the MOE will approach individual landowners with the goal of assessing threats and hazards with the intention of working with the landowner to solve any problems, mitigate risks and hopefully control threats to a reasonable and acceptable level. This would require that the act reference that funds would be available to adopt new practices or management processes, something like a stewardship fund, to accomplish these goals.

Another point that came up—again, you didn't get a written submission because I've had to do this at the last

minute, drawing on discussions at local board meetings—was the source protection committees. We're locally very concerned about the inclusion of significant numbers of agricultural representatives on the board. Other affiliations notwithstanding—Mr. Wilkinson, you referred to municipal officials. In my municipality, none of the municipal officials are agriculturally based, even though we form probably two thirds of the municipality. Regardless of what other positions they might have, the source protection committees need to include more than one minimum seat for agriculture because we would comprise so much of the land base that will be affected by this.

Locally we've contacted the Cataraqui Region Conservation Authority as well as Quinte Conservation, beginning dialogue about the formation of these committees. We've suggested that the use of a working group to represent all of the federations locally, reporting to single or two seats at the committee level, might be acceptable.

Finally, there's been a lot of discussion today about funding and where it should come from. Personally speaking, and from the discussions around the table, where it comes from is irrelevant; it all comes from the province of Ontario. There may be a situation where water-taking funds are collected in some instances, but to say that it comes through the Ministry of Education, Ministry of the Environment, Ministry of Agriculture is kind of irrelevant. That's just a detail about who administers it. The fact is, it's a budgetary item for the province of Ontario and it needs to be included.

In conclusion, we all want to ensure the safety of our water supplies and to provide for these supplies to continue, and to continue to be safe for coming generations. As a farmer, a steward for the land, it is my goal to leave my land better than how I started with it—and believe me, my father set the bar very high.

This act has the right objective, provided that the amendments presented here today are given due consideration to ensure that it follows the right approach.

Thank you again for this opportunity here in Bath today.

The Acting Chair: Thank you, Mr. Kaiser. Now we start with the questions. The parliamentary assistant to the Minister of the Environment.

Mr. Wilkinson: Thanks for coming back again, Max. As a farmer in this area, do you find the relationship that you have with the local conservation authority pretty positive, as opposed to confrontational?

Mr. Kaiser: I think in this area it's positive. We have had good uptake, if not usage, of the healthy waters and healthy futures programs and things like that. The local land stewardship committee is also very agriculturally oriented and inclusive and enhances that relationship with the conservation authority.

Mr. Wilkinson: I ask because it's always that question of the alternative. I hear the point about the compensation at the provincial level, but if you're not delivering it locally with local people, whatever you call

them, you actually have this person coming from away, right? So with the idea of using more of the conservation authority type of model where the people are local and live in the community, you'd get better buy-in than if you had a bunch of officials descending. Whether it's an industry, a farm or a school, wherever they go, they're not from that community. So I think that's the idea. We got the sense from O'Connor that you're better to have local—even when you're dealing with this, that's kind of local, which a conservation authority is. You'd say, "We're all in the same watershed, so there's a reason for the person to be there." The alternative would be kind of MOE-driven.

As long as you've got technical committees supporting the people on the board, so that you can't have everybody on the board, but they have to have these working groups, so if you are representing something, you're representing an interest, and all your farm groups could come or all your industrial groups could come, all the municipalities could come, that would work as long as that's in there. Right?

Mr. Kaiser: When I referred to the source protection committees and having that working group of farmers in the instance of the agricultural seat, this county has a single federation of agriculture, but we have two conservation authorities in this county—a minimum of two. Actually, I think there may be three up to the north. Anyway, the point is that where a conservation authority or a watershed encompasses more than one agricultural area or zone—in the case of the federation of agriculture, we have our bi-county—no one county should be solely represented. They should all have representation through the working group and then ultimately report, so that it's local but it's local across the watershed inclusively.

Mr. Wilkinson: Great.

The Acting Chair: Thank you. Ms. Scott, please.

Ms. Scott: Following up on that, the composition of the source protection committees, do you have any idea what you'd like to see? If it's 90% agriculture in your region, what would you think would be a fair number of people to sit on the board? Just roughly; you don't have to tell me specifically.

Mr. Kaiser: Well, to get back to the whole working group idea, it should be representative of the watershed in that if there are several small municipalities and a lot of agricultural land base, they should be somewhat equal. But where the number of seats limits who all can be involved, that's when you go to the working group approach where there can be a second sort of subcommittee that reports through those few seats at the actual committee level so that all the area can be represented, be it the municipal sector or the agriculture sector or the industry sector, at the board level, but they all get their voice at the working group.

Ms. Scott: Okay. So you'd like to see that a little bit more enshrined in the legislation to guarantee fairness?

Mr. Kaiser: Yes.

The Acting Chair: Mr. Tabuns, please.

Mr. Tabuns: Thank you for jumping into the breach.

I asked this question earlier, and I'll ask you: Should this act protect rural drinking water and rural water for livestock operations?

Mr. Kaiser: The act as it's written now is certainly geared more towards municipalities. They're the larger individual takers in the rural setting. I mean, all water should be protected. Does it need legislation? There's probably legislation out there anyway that already protects it. Does it need to be written again? I don't think it would hurt. It's that multi-barrier approach that we spoke about. But our populace here in Lennox and Addington is spread out over such a large area, it's hard to pick on a point source to say, "That needs to be cleaned up," or "That needs to be cleaned up." In fact in the town of Napanee, which is a little north of this town, we draw off of Lake Ontario.

I'm not sure if I answered your question correctly.

Mr. Tabuns: You've meandered around it.

Mr. Kaiser: I've meandered around it. I'm trying to be political.

Mr. Tabuns: Then you've got the technique down really well.

The Acting Chair: Thank you very much.

On behalf of the standing committee on social policy, I want to thank all the presenters as well as everyone else who took time out to be here today. I also want to thank all the committee members, the research and analysis department, the Hansard group and the translation group.

Mr. Wilkinson: Mr. Chair, on behalf of all the committee, I believe this is the first time a standing committee of the Legislature has been in Bath, and we just want to put on the record what a warm reception we've all received visiting this wonderful community.

The Acting Chair: I also want to thank the organizers of St. John's Memorial Hall for giving us this hall to have this hearing. As Mr. Wilkinson has said, we definitely had a good time here.

We adjourn the meeting and we again meet in Peterborough tomorrow, August 25, at 9 o'clock.

The committee adjourned at 1300.

Continued from overleaf

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