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Official Report of Debates (Hansard)

Friday 25 August 2006

**Standing committee on
social policy**

Clean Water Act, 2006

Journal des débats (Hansard)

Vendredi 25 août 2006

**Comité permanent de
la politique sociale**

Loi de 2006 sur l'eau saine

Chair: Shafiq Qadri
Clerk: Trevor Day

Président : Shafiq Qadri
Greffier : Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Friday 25 August 2006

Vendredi 25 août 2006

The committee met at 0907 in the Best Western Otonabee Inn, Peterborough.

ELECTION OF ACTING CHAIR

The Clerk of the Committee (Mr. Trevor Day): Honourable members, it's my duty to call upon you to elect an Acting Chair.

Ms. Kathleen O. Wynne (Don Valley West): I'd like to nominate MPP Arthurs to chair the meeting.

The Clerk of the Committee: MPP Arthurs has been nominated. Any further nominations? Nominations closed. Mr. Arthurs, you are now the Chair.

The Acting Chair (Mr. Wayne Arthurs): Mr. Leal?

Mr. Jeff Leal (Peterborough): I have to step out at about 9:15, and I should be back by 9:40. I'm under a family thing I've got to look after.

Mr. Chair and my colleagues, first of all, on behalf of Her Worship Mayor Sylvia Sutherland and my colleague Neil Cathcart, the warden of Peterborough county, I'd like to give everybody a very warm welcome to the riding of Peterborough. It's always a privilege to have a standing committee come to one's riding to provide an opportunity for citizens to participate in the democratic process of a committee, and here dealing with this particular piece of legislation.

The Acting Chair: Thank you, Mr. Leal, as the local member. We appreciate the welcome. I know the committee is pleased to be here. They have had a fairly long week. I've been here for only two days, but I know other committee members have spent the week around the province.

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 Acting Chair: Welcome to the standing committee on social justice, Bill 43, Clean Water Act, public hearings.

We do have a full day of deputants today, witnesses before us, so we're going to keep pretty strictly to our

schedule, as best we can: 10 minutes for the deputations. We will let you know when you have a minute or two left, as the case might be. For the benefit of the members of the committee, with five minutes for questions and an opportunity for the deputants to answer, we're going to stay pretty tight as well, since we're sharing the time among all three parties. So there's only about a minute and a half for both question and answer. If your question takes too long, there won't be an answer.

LINDSAY AND DISTRICT CHAMBER OF COMMERCE

The Acting Chair: Can we start, then, at this point in time? The first deputants this morning: Lindsay and District Chamber of Commerce.

Welcome. We'll let you start at your leisure. It would be helpful, though, if you would identify yourself, those who are presenting, for the purposes of our Hansard.

Ms. Amy Terrill: Good morning. I echo MPP Leal's comments of welcoming you to the Kawartha Lakes this morning. My name is Amy Terrill. I'm the general manager of the Lindsay and District Chamber of Commerce. With me is Val Harris, the president of our chamber. Thank you for allowing me to speak to you today about Bill 43, the Clean Water Act. I have brought a written submission to provide some additional detail, and that has been given to your clerk.

The Lindsay and District Chamber of Commerce represents over 7,000 individuals in the city of Kawartha Lakes through almost 600 businesses. Our members are engaged in every industry, including manufacturing, service, retail and agriculture. As you know, Lindsay is in the heart of the Kawartha Lakes, an area dotted with over 250 lakes and rivers, and it is precisely this environment that has drawn many people to our area to make it their home.

While our members respect your efforts to provide source water protection, they are worried about the potential implications of Bill 43 on their ability to contribute to the local economy.

I'd like to focus my comments today on three specific areas of concern: the cost burden for land users, the threat to agricultural sustainability and the additional down-loading on municipalities.

First of all, it is the fear of our members that Bill 43 will put some businesses and farmers at a competitive

disadvantage. While one business that has been operating under currently acceptable standards is unaffected by the legislation, another will find itself burdened with additional costs, simply due to its proximity to a water source. I think you would agree that the benefits of source water protection will reach all Ontarians, and yet in the process of establishing a new standard for pollution prevention, some land users will find their current activities no longer acceptable. These land users should not bear the sole cost of reaching this new benchmark.

In January of this year, the Water Well Sustainability in Ontario report stated, and I quote, "Land users need to be assured that any alteration in land use beyond" normal "due diligence will be compensated as the alterations are done in the interest of the public good." A few land users should not be forced to pay for the good of all. Fair and equitable compensation must be established for land users affected by Bill 43 so that we can continue to enjoy their contribution to our economy.

Our second concern refers to the threat to agricultural sustainability. As Ontarians, we want to know that our food is grown within acceptable standards. We have all heard the slogan "Farmers feed cities." In the city of Kawartha Lakes, agriculture is indeed one of our largest industries. Our farmers are feeding Ontario's cities. And with today's concerns about food quality, the need to protect our ability to grow our own food has become even stronger.

The farming community has struggled in recent years as a result of such things as nutrient management, with its associated costs, and mad cow disease, among others. The executive director of the GTA agricultural action plan, Elbert van Donkersgoed, recently explained at the Association of Municipalities of Ontario conference that what he calls the "treadmill to ever-lower prices" has caused the net farm income to dwindle to zero over time. He explained that while the prices have gone up for the consumers, the growers have not received a similar increase in revenue. In fact, according to van Donkersgoed, farms are now staying afloat primarily as a result of off-farm income. Business farms are in significant decline. This is borne out in our own municipality, where an estimated 50 small farms went out of business in 2005.

Bill 43 threatens to create an additional cost burden for some farmers at a time when they can least afford it. Farmers meeting today's standard of due diligence should not be penalized for a change in best practices that is for the benefit of all Ontarians. Fair and equitable compensation must be established in order to ensure that our agricultural producers can continue to feed the province.

The final concern about which I would like to address you today is the additional downloading on municipalities represented by Bill 43. Sections 42 to 73 of the bill describe broad enforcement responsibilities for municipalities, without a similar allocation of funding. In order for a municipality to comply, permit inspectors must be hired for the review of applications and risk assessment reports, and other activities associated with the permitting process. The Association of Municipalities

of Ontario has estimated the costs of providing these services as substantive.

Evidence is mounting that the property tax system across Ontario simply cannot keep up with current demand. Premier Dalton McGuinty stated so much with his announcement at the AMO conference regarding a joint review on how municipal services are paid for and delivered, specifically in the areas of housing, health and social services.

The municipal fiscal imbalance was the key topic at last week's AMO annual conference. Presenters, including economics professor Harry Kitchen of Trent University here in Peterborough, demonstrated the unsustainability of the current funding of municipalities. Kitchen showed that Ontario has the highest property taxes per capita in relation to provinces in Canada and that in all other provinces, social services and housing are paid for by the provincial governments. In our own municipality, the city of Kawartha Lakes' infrastructure is deteriorating and services barely keep up with demand. Our municipality is having difficulty maintaining the status quo, let alone meeting residents' demands for higher levels of service. Let's not make the situation even worse.

Source water protection is a provincial responsibility. Our municipality as well as others across the province cannot absorb these additional costs. Municipalities must be provided with operational funding to cover the costs associated with enforcement of these guidelines.

In summary, Bill 43 is a major concern to the members of the Lindsay and District Chamber of Commerce, and our concerns can be addressed as follows:

(1) Establish a fund for compensation in order to assist landowners in a timely fashion, whether they are farmers or businesspeople. This fund must be governed by a clear set of rules so that it is distributed fairly and equally. This will help ensure that no business is forced to close as a result of additional costs brought on by the Clean Water Act. It will also prevent our farmers from finding their net farm income dropping farther below zero.

(2) Municipalities must be given the appropriate level of funding in order to meet their responsibilities within the legislation and so as not to further widen the fiscal imbalance. Property taxes are already subsidizing services which have no relation to property.

We should be making every effort to strengthen our provincial economy to ensure our continuing ability to compete on a global scale. Bill 43, as it is currently written, would prove detrimental to these efforts as it will create an environment of uncertainty and will harm the abilities of some businesses and farmers to remain competitive. A healthy economy and a healthy environment should not be incompatible. It is a matter simply of finding the appropriate balance and assisting all those impacted to meet the new provincial standards.

Thank you for the opportunity to speak to you today, and I would be happy to respond to any questions.

The Acting Chair: Thank you. We'll begin the questions with the official opposition.

Ms. Scott?

Ms. Laurie Scott (Haliburton–Victoria–Brock): Thank you very much, Amy and Val, for coming here today. I'd also like to welcome everybody; you're not in my riding, but you're close to the boundary. Amy and Val represent a large part of my riding with the Lindsay and District Chamber of Commerce.

You touched on a lot of good points, Amy, and what could happen: financial hardship for our farmers, our municipalities and our communities. The property tax system across Ontario—there's no question—it just cannot afford to pay for that. So I just wondered if you could comment. If Bill 43 goes through without some serious amendments, what would be the most cost-effective way? I know AMO has brought up some interesting points, but if you could just elaborate a little bit on the cost and the impacts.

Ms. Terrill: I think the principle there, as I said in my statement, is that these changes would be for the benefit of all Ontarians, so rather than force the burden on individual landowners or farmers, or individual municipalities, you spread it across the entire provincial population base, and obviously, in the most cost-effective manner is really the key.

Ms. Scott: Thank you very much.

The Acting Chair: Mr. Tabuns.

Mr. Peter Tabuns (Toronto–Danforth): Thank you very much for coming in and making that presentation. We've been listening to a lot of people this week. I think your answer may be consistent with theirs. If in fact there were a funding component to this act, would that make a substantial difference to support or opposition in rural Ontario?

Ms. Terrill: Absolutely.

Mr. Tabuns: Fine. Thank you.

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

Mr. John Wilkinson (Perth–Middlesex): Welcome, Amy and Val. Thanks so much for coming. Following up on that point, two things: We're getting a lot of testimony in rural Ontario—and I am a member in rural Ontario—that if there were a stewardship fund based on the cost-share principle, and we have plenty of testimony that says that works as long as you don't have any net economic disadvantage, that would be well received. In regard to municipalities, we have, as you mentioned, at AMO, this new negotiation going on between the municipalities and the province about responsibilities and costs. So your recommendation would be that Bill 43 should be included at that discussion table that's going on right now between the two?

0920

Ms. Terrill: It wouldn't hurt. I think that review, unfortunately, has a very long time frame, and I'm sure some municipalities may argue that the challenges they are facing today are urgent. But indeed, I think you have to look at things comprehensively, so if this is a new piece of legislation that will impact that funding arrangement, then it should be considered in conjunction.

Mr. Wilkinson: We have about another three years of scientific work that has to get done before we actually get around to the implementation of this, so this is a framework to get this started. But you're right: It's about 18 months. But I would think that would be done before we actually get into direct municipal costs.

Ms. Terrill: And it seems to make sense.

Mr. Wilkinson: Okay, thanks.

The Acting Chair: Thank you, Amy and Val, for the presentation this morning.

TAY VALLEY TOWNSHIP

The Acting Chair: Our second deputant this morning is Tay Valley Township. Though I fear being repetitive, I know people will be coming in during the course of the day. There are 10 minutes for your presentation. If you could identify whoever is presenting for the purpose of our Hansard, and there will be up to five minutes of questions divided among the three parties at the end of your presentation.

Ms. Maureen Towajj: Thank you. Good morning. My name is Maureen Towajj. I am a councillor with Tay Valley township. I'm joined today by George Braithwaite, who is the vice-chair of Conservation Ontario; Sommer Casgrain-Robertson, who is with our local source protection region; and my colleague Mark Burnham.

Tay Valley township is in Ottawa's backyard. We're a rural area, an economy largely based on recreation, tourism and agriculture. We're also a very well populated area, an area valued for its many lakes and natural beauty.

Our municipality is also home to many surface-rights-only properties, and that's based on historic mica mining that took place 100 or 150 years ago. These properties carry a legacy of abandoned mines and often unmapped mine hazards. Surface rights properties are properties where the property owner owns the surface but the crown owns the mineral rights based on historic forfeitures. Tay Valley isn't unique in this regard. There are surface-rights-only lands that exist throughout the province of Ontario. Property owners are normally unaware that they are surface-rights-only, because lawyers' searches are 40 years only and the forfeitures could have happened long before that. As such, these properties are subject to the provisions of the Mining Act of Ontario.

We're here to address two key concerns with you today: firstly, protection of non-municipal water supplies, and secondly, conflicting legislation; namely, the Mining Act of Ontario.

If we think back to Justice O'Connor's part two recommendations, the intent was very much protection of water for all Ontarians. The proposed act, as it now stands, only protects people whose water is from a municipal or private treatment system. While it is our view that non-municipal systems should remain the responsibility of the owner, it must be recognized that protection of source water resources is often beyond their control. Given the provisions of section 78 of the Mining Act, this creates a serious omission.

By way of background—and I'll probably go through this pretty fast—if we think of Ontario, an estimated three million people depend on well water or surface water. For Tay Valley township, there are 11,500 people in that category; for our source protection region, 44,000 people. There is a map, an attachment in your package, which shows the relationship of the areas that are designated for protection versus this distribution of water wells.

For surface-rights-only people, in section 78 there are major concerns. I'm going to quote from the Ministry of Northern Development and Mines. It's a publication titled Facts about Mining in Ontario. It says within it, "The Ontario Mining Act provides a statutory right to stake mining claims on crown mineral rights and to conduct assessment work on the mining claims even if the surface rights are privately held." So, specific to this section 78, which is on assessment and exploration, and it's in your package as an attachment, there is no requirement to post on the Environmental Bill of Rights. It does not fall under part VII of the Mining Act. There are no legislative or regulatory controls requiring conservation authority or municipal notification or approval. And subsection 78(1) provides for the holder of the mining claim to, upon 24 hours' notice to that property owner, enter the property for the purpose of conducting assessment work. They can excavate up to 1,000 tonnes of overburden, surface-strip overburden over an area of 10,000 square metres or a volume of 10,000 cubic metres, or surface-strip overburden up to 2,500 square or cubic metres within 100 metres of a body of water. It's only when these thresholds are exceeded that EBR posting is required. Clearly, given that the purpose is to take mineral samples and drill and so on, the potential for contaminants to an aquifer through bedrock drilling is pretty high.

It isn't theoretical. In Tay Valley township, our landowners have been subjected to many mining claims in the recent past. A number were overturned through the efforts of and a lot of legal costs to landowners. But there are claims that have been in place for 19 years subject to constant assessment work. Properties are stripped, trenched, drilled and left, just like that. Ratepayers have come to our township around help to address a broad range of issues associated with the Mining Act. We have asked for an investigation, and you'll see within your package a recent letter to Premier McGuinty.

Going back to water for our region, the Renfrew County-Mississippi-Rideau Groundwater Study, a 2003 report, stated, "Over 90% of the study area is mapped as high vulnerability because of the predominance of shallow overburden. The thin soils provide minimal protection to underlying bedrock aquifers." While section 96 of the proposed Clean Water Act outlines how a decision will be rendered if provisions in the act conflict with the provisions of another provincial act—i.e., that with the greatest protection of water prevails—it does not address conflicting activities which are exempted from approvals in another piece of legislation. The provisions

of the Mining Act that place source drinking water at risk on surface-rights-only properties are an example of this and simply unacceptable, particularly when you consider the rigorous reviews, approvals and permitting processes that are required by provincial legislation on all other types of development, including temporary land use. It's a reasonable expectation, in our view, by these surface rights property owners that their drinking water should be protected and that they would look to the Clean Water Act to ensure this.

Relative to Tay Valley township council, we have been active. Over the past couple of years we've led various ministerial delegations trying to have a broad range of issues addressed by the Ministry of Northern Development and Mines. The reality is that the minister refers to the minister's Mining Act advisory committee. It's largely made up of mining interests. To date, regardless of our efforts, there has been absolutely no legislative change. We have brought the issue of section 78 and what is allowed to the minister's attention.

It's clear to us that the protection of rural source drinking water cannot be left up to MNDM and that an amended Clean Water Act which protects rural source drinking water is the best solution, particularly if it forms part of an integrated provincial water management system.

Our recommendations, therefore, are:

(1) That the Clean Water Act be expanded to include protection of rural non-municipal source drinking water resources in those areas which are designated as surface rights only.

(2) That the Clean Water Act require mandatory notification of the appropriate conservation authority source water protection committee of all mining claims upon the date of filing, as well as all proposed assessment work currently permitted under section 78 of the Mining Act.

(3) That the environmental impact of the proposed assessment work, particularly as it relates to source water, be carried out under the authority of the source water protection committee with jurisdiction for that area prior to any commencement of mining assessment work.

(4) That when the environmental impact is determined to be detrimental to source water protection, subsection 96(1) of the Clean Water Act prevails.

0930

In closing, I just want to comment that Tay Valley township certainly supports the Conservation Ontario submission. I'd also comment that our work to date at the political level has been broadly supported by the wardens of eastern Ontario, by Lanark county and many others, as well as Conservation Ontario.

We thank you for the opportunity to bring to your attention what we see as a significant omission within the current Clean Water Act, and we'd be pleased to take your questions.

The Acting Chair: Maureen, thank you. We'll begin our questions with Mr. Tabuns.

Mr. Tabuns: Thank you, councillor. That was an excellent presentation. This question has come up before,

and I'm sure the parliamentary assistant will address it. He has said that in fact the act, as written, does provide that kind of protection, that primacy to the Clean Water Act. Others have disagreed with him.

In your assessment, and I assume you've had legal counsel review this, does the act, as written, provide you with the protection you're seeking?

Ms. Towaij: No.

Mr. Tabuns: Fine. That's a good answer. It's pretty clear.

The Acting Chair: Mr. Wilkinson?

Mr. Wilkinson: Just following up from my friend Mr. Tabuns—and, councillor, thank you so much for coming—it is true that the act has primacy, but your issue is, what's the good of primacy if it's after the fact?

We've said in the act that municipalities "may" extend source water protection study and work and assessment reports on areas outside of where they get their municipal drinking water because they may get it in the future, or there might be a vulnerable population, like a nursing home on a well, and everybody with common sense would say, "Well, you'd better make sure." But what you're saying in this area, particularly with these surface-right-only properties, is that's exactly where the Ministry of the Environment should be coming in and ensuring that before any of this activity happens, it has to be in compliance.

Again, the whole idea is to make this local, but what you'd like to see are amendments, then, to the bill to make sure that the act would have primacy before the fact, not after the fact.

Ms. Towaij: Absolutely, John. The loophole right now is section 78 of the Mining Act. There are no controls. It is under the radar. There are artful words written by the Ministry of Northern Development and Mines but, when you check the detail, it's a statutory right and there are no controls. As a municipality, we are not advised, we're not notified of a mining claim—zero—nor is the conservation authority. That's very significant, in our view.

Mr. Wilkinson: Good. Thanks for coming in.

The Acting Chair: Ms. Scott?

Ms. Scott: Thank you very much for appearing before us today. I have to say, this is the first time in our fifth day of committee that we've heard about the Mining Act and its being left out. So I really appreciate that input. I would ask you to submit amendments to the clerk when the bill goes for clause-by-clause September 11 and 12. There's a deadline of September 6 that they need to be submitted by, so that we can discuss amendments when we go clause-by-clause.

You talked about working with the conservation authority in the township. Do you have any idea of roughly the costing that may be involved with the Clean Water Act as it stands now? Have you had discussions?

Ms. Towaij: I don't at this point, and I'm looking to my colleague and to Sommer from our source protection region. We do not know at this point.

Ms. Scott: But there's going to be quite a bit of cost involved. What would you like to see changed in the funding? Right now, it's downloading to the landowners and to the municipalities. Would you like to see something in legislation in respect to the funding?

Ms. Towaij: Yes. I'll turn to Councillor Burnham here.

Mr. Mark Burnham: I agree with the previous presentation that certain landowners are going to have to accept the cost for the benefit of all, and there's something fundamentally wrong with that for me.

The other factor is, as a rural municipality with no water treatment facility, I don't see that our costs are going to be huge as the act stands now. We have one old-age home, but it's not on a well. It's on a municipal system because it's right on the boundary of Perth.

Our concern is more the general rural area, with the growing population. We don't have a great many subdivisions right now, but our neighbouring townships do. When the four lanes to Carleton Place are completed, we will have subdivisions. That means high-density use, high water-taking etc, so we see our aquifers and surface water as highly vulnerable at the moment. To that end, we started the septic re-inspection program before anyone else in rural eastern Ontario, and we are very vigorous about our zoning setbacks.

The Acting Chair: Thank you for your response. Our time for questions has expired. Thank you for your presentation.

COUNCIL OF CANADIANS,
PETERBOROUGH
AND KAWARTHAS CHAPTER

The Acting Chair: Next up this morning: the Council of Canadians, Peterborough and Kawarthas chapter.

Good morning.

Mr. Roy Brady: Good morning. Thank you to the Chair and committee members for this opportunity.

The Acting Chair: If you would identify yourself, sir, just for the benefit of Hansard so it's appropriately recorded.

Mr. Brady: Oh, I'm sorry. I'm Roy Brady, chairperson of the Peterborough and Kawarthas chapter of the Council of Canadians.

There are merits in the Clean Water Act. It obviously has a clear process, some local participation, legislative teeth and the mention of the primacy of the most protection for water sources. This is a long-awaited bill.

I just have a couple of brief recommendations before I get into the meat of my presentation. I would recommend that the medical officer of health be on the local source protection committee. In looking at the first step of the source protection committee, the terms of reference—that is in danger of being too long. I wonder if that could be shortened. I also would like an answer as to what happens regarding a harmful activity to water that's engaged in before this act comes into place, occurring right now perhaps. And when you mention "property," "person"

and “individual,” are you also extending that to a corporation?

Anyway, throughout this presentation, the premise is that water is a public trust and it's not-for-profit and it is to be protected publicly.

I attended a workshop about two and a half years ago right here in Peterborough on water source protection. A number of stakeholders were invited, and I invited myself. At the very first, we were told that we would have certain activities, but don't talk about funding. Well, our group broke that and we talked about funding all day. It was quite clear: That was the problem. So I want to bring that up today, and it has been brought up already.

There really has to be a real commitment from the Ministry of the Environment to carry out this particular act. You're going to have to boost the dollars beyond the regular amount. I'm aware that there have been cuts to the Ministry of the Environment, beginning in 1995 and extending to at least four years ago.

We also insist that public employees conduct research. We also feel that the ministry has to have the power and the numbers and money to be vigilant and have the oversight to ensure that they are providing the greatest protection to the quality and quantity of water. There are bound to be some potential industrial threats from improperly stored solvents and old leaking landfills and corroded underground storage tanks, and these are bound to be located during this process, and we feel that the Ministry of the Environment has to be strong enough to look after that.

Government also has to come through. I think they have to provide more money than has been announced. My understanding is that they're saying there's \$67.5 million out there: \$51 million for technical studies over the last five years and \$16.5 million for conservation authorities.

You're also very vague on hardship cases, and there will be some—some, probably in this room—in the future. You've got to expect legal costs. You've got to expect some obstacles you didn't predict. This particularly could happen if this particular act is well applied.

So, the effect on municipalities: We have the previous downloading, and now we have increased municipal obligations, which will lead to new expenses. There will be the ordering and monitoring of risk management plans. Permit officials and inspectors will have to be hired and used. There will be staff time for consultation, records, meetings, travel, local appeals. The municipalities will be identifying, assessing, evaluating, taking action, doing local enforcement. There are bound to be future development issues popping up. From these pressures, you're bound to find in the future that financial help will be needed for local developers, landowners—you're going to hear about that soon—and individuals, particularly if an area of vulnerability shows up that wasn't known or was less realized.

0940

Next, regarding privatization: We have to look at the Clean Water Act in context with other legislation and developments to understand what our problem is here.

We do not want an exception for the private sector regarding diversions and uses such as is allowed in the Ontario permit to take water. It's not a desirable partnership to make water a public trust if profit is involved. We insist on public employees conducting the research and support. We find that when the private sector does that, their data is confidential and not always available. We also don't feel that these particular representatives are necessary on the study groups doing the research, the technical help—only on one condition: if they're working solely for the committee and not for their corporation.

What's happening is that municipalities are financially overburdened because of these onerous obligations and increased costs. That would be the only reason why they would even consider the privatization of their water systems.

Next, we have to look at the overall government plans. I know that we as a council were really unhappy with the blatant broken promise of privatized hospitals three years ago. There's a context to look at here—a lot of water legislation and a lot of municipal dollars responsible.

The first one is the Sustainable Water and Sewage Systems Act, and this is where a report has to be prepared regarding water and wastewater services. A municipal reserve account has to be kept for cost recovery to pay the full cost, infrastructure and so on. To my knowledge, the regulations still haven't been published. They are to come.

The second one is the Nutrient Management Act, which has legal requirements for the handling and storage of nutrients, and a municipal plan to be approved. It's a municipal responsibility for farms and property under 300 nuclear units.

There are a couple of other things that are not law. You have a water strategy expert panel. First of all, earlier this year we had this report called Watertight: The Case for Change in Ontario's Water and Wastewater Sector, a very private sector-oriented presentation. Their recommendations were the following: Municipalities are to prepare business plans on how they would amalgamate the water systems; an Ontario water board would be created to have the authority to approve plans or demand changes; they favour corporatization, whether it's for-profit or not-for-profit—we recall the electricity deal; and the water board was recommended to take over the inspection function of the Ministry of the Environment. This report is very threatening to local communities.

Less threatening, but also apparently from the same body, is the Swain report. That was done a year before that. Water infrastructure replacements were strongly recommended, but there was a particular note regarding water systems that are more expensive to operate, and those are the rural ones. The report was quite clear, and said “huge price shocks” for the population. They also recommended that there be no water utility with less than 10,000 customers.

In conclusion—and I have probably asked more questions than provided recommendations or directions—there are concerns that the implementation of this

bill after amendments could reduce water being a public trust and could do a lot of harm to communities. Thank you.

The Acting Chair: Thank you, Mr. Brady. We'll begin our questions with Mr. Wilkinson.

Mr. Wilkinson: Great. Thanks, Roy. Thanks for coming in.

I was asked a similar question yesterday about the privatization of water. I can assure you that we are opposed to the privatization or commodification of water.

It was a good suggestion about the medical officer of health. There was some concern about whether they should have a seat at the table on source water protection or whether they should be *ex officio*. In my riding in Perth-Middlesex I've got five watersheds and I only have two medical officers of health, so they've got to be *ex officio* and be in that process to protect public health.

You're right about the \$67.5 million. Actually, the total commitment is \$120 million. This will not work unless it's based on science. All of that money right now is being done to make sure we have the science right so we can get agreement as to which people are sharing the same source of water, because they have a common interest to protect the sources of their drinking water.

You asked a very good question: Does it apply to past activities? The answer is yes. The bill is very specific: past, present and future. You don't get an exemption on this because it already happened. If there's something out there that is a significant threat to the drinking water, it has to be addressed and it has to be removed.

The other thing is corporations. The act applies to individuals and corporations. There's no exemption for corporations.

One of the comments, quickly: We're looking at changing the permit official regime, which they call the building inspector model, to one of risk managers so that if there's a problem, the first thing you have to do is to see if you can negotiate a way of making things better, not this kind of stick approach, but you come up with the carrot first. Would you agree that in rural Ontario that would be by far the better way of dealing with this?

Mr. Brady: Likely. I would like to react to a couple of things you said. I am first of all very happy that you're opposed to the privatization of water. In reference to the \$120 million, it's money that's not being spent this minute, but has been spent?

Mr. Wilkinson: Over five years. We're in about year two of a five-year program to get the science done.

Mr. Brady: And it's sort of prior to the Clean Water Act being implemented?

Mr. Wilkinson: Yes; you can't do it until we agree where the science is underneath.

Mr. Brady: Our argument, of course, is that we'll need more money down the road, beyond what has been expended.

You mentioned corporations. My question referred to whether every time they mention an individual or a property owner or a person, a corporation is also included. Is that the case?

Mr. Wilkinson: Yes.

The Acting Chair: We're going to turn now to Mr. O'Toole.

Mr. Brady: It's not like I'm part of the committee, is it?

Mr. John O'Toole (Durham): Thank you very much, Mr. Brady. You've brought a lot of informed opinions on this bill and it's clear that you have some strong views.

On substance, you have examined the role of the conservation authorities. The conservation authorities' primary responsibility out of the act was probably flood control. In Peterborough, there's quite a history with that. I'm wondering, would you account as to how well they were actually doing their job? Not to be smart, but if someone is getting funded to provide flood control and that was their primary responsibility, in Peterborough there was a serious flood. You just wonder, are we going to be reassured here that there is the right authority looking after this? It's quite serious.

Mr. Brady: I certainly hope so. You introduced the Peterborough context from two years ago. Looking at it from an outsider's view, but watching a lot of people work, there was tremendous work done and there are tremendous plans being made to—

Interjection.

The Acting Chair: Mr. Leal, sorry. Mr. O'Toole has the floor.

Mr. Brady: I guess this is a combined Peterborough answer here.

Mr. O'Toole: The point I was making was, is that the right authority that exists today under their mandate to look after the security of safe, clean drinking water?

Mr. Brady: Well, it's the authority that exists right now. The fact that it will actually form the committee made up of a lot of stakeholders whose input is absolutely necessary I think is a good way to start.

Mr. O'Toole: I guess that's what my point is, that—

Mr. Brady: One more point. One of the problems with the conservation authorities is actually the funding of them. They're going to have to be better funded to do the job you would like them to do.

Mr. O'Toole: Agreed, and there's nobody on this committee at all on either side who would be opposed to safe, clean drinking water. I want to make that very clear. What we're looking for is a balanced bill. The money issue has been brought up by all levels of government. You've brought it up here today. I sat on a committee of cabinet post-Walkerton, and in that committee it was in the billions of dollars—not the millions; billions—for source protection.

The Acting Chair: Thank you, Mr. O'Toole. Mr. Tabuns.

Mr. Tabuns: Mr. Brady, just one second. Mr. Chair, with all respect to my colleagues, we have five minutes for questions. I know some of us are more talkative than others, but we've got people standing at the back of the room. People want to speak on time. If you would tighten it up a bit, it would be appreciated. I know it's a tough thing to do.

The Acting Chair: Mr. Tabuns, what we've done to this point is, we have had one or two of our deputants who have taken about eight and a half minutes. What I've done is allowed up to about two minutes if the time allowed. We had a full five. If the first question-and-answer took 30 seconds, I've had some flexibility with the balance of the questioners. We're trying to stay within a relatively tight time frame. Actually, we're catching up to our schedule.

Mr. Tabuns: Okay. Thank you, Mr. Arthurs.

Mr. Brady, thank you for your presentation. I agree that we need funding to make this act actually function. Would the Council of Canadians support water-taking fees for major water-takers because they will benefit greatly from protection of source water?

Mr. Brady: That's something I think we have to think a lot about, because one of the problems with water-taking fees is that some of the larger property owners and the corporations can easily pay fees, whereas some of the smaller people using water would have a lot of difficulty. If it takes some load off the municipalities, yes, but I think that's something we've got to think through much more.

Mr. Tabuns: Okay. Thank you.

The Acting Chair: Sir, thank you very much for your deputation this morning.

0950

ONTARIO FARM ENVIRONMENTAL COALITION

The Acting Chair: Our next deputant this morning is the Ontario Farm Environmental Coalition. Once again, just before you start, for the benefit of those who may be coming in or out, our procedure this morning is up to 10 minutes for your presentation and five minutes for questions, divided among the three parties on a rotational basis as we move around.

If there are folks standing and you find after a while it gets a little tiresome standing, I think we're working on getting some chairs in an alternate room, and some coffee. So you can sit for a bit and come back in, if anyone feels so inclined, at any point during the course of the procedure.

Good morning and welcome. If you'd identify yourself for the purpose of Hansard, and make your presentation.

Dr. John FitzGibbon: My name is John FitzGibbon. I'm the chair of the Ontario Farm Environmental Coalition. I'm accompanied by David Armitage, who provides our secretariat.

In looking at this act, we note that it covers the issue of source water protection. It's part of a suite of legislation that has been enacted since the Walkerton issue and that deals with a whole wide range of issues in providing clean water to the public. The issue we have is that the multi-barrier approach, which deals with redundancies and uncertainties, is not referred to, and an integration of this legislation has not been provided for

expressly. Therefore, at the front of this legislation it would be important to see that this is done so that Walkerton does not occur, not simply because of source protection but because the multi-barrier approach is effective in dealing with uncertainty and risk.

We note that the powers of making regulations are within the act, which is routine. We also know that our experience with other acts is that this is where real impacts are generated. The act itself is empowering. We encourage the government to embed within the act the process of broad consultation and involvement in this regulatory process, rather than finding them either appearing on the registry or having been passed by order in council without much involvement. Why? Because this is a revolution. We have, over the years, been planning land use. That is a designation; it sets out what type of use. But now we're moving into the management of land, and management of land is what we do day to day in living on it; it is behavioural. And if we intend to change behaviours, then we have to be involved in that process; otherwise, we take no ownership and we are unlikely to respond. So in putting together the regulations, involvement is there, and a set of tests is needed for the regulatory process: first of all, that they are needed; second of all, they are practical; third, affordable; and finally, effective. Because legislation that does not have the tools to effect change isn't necessary and simply clogs up the courts and the management process.

The process of implementing plans is a significant part of this act. We've been planning for a long time. We've got 40 years of experience in land use planning, and it's still the biggest issue that falls onto council plates, other than finance. So if this is to be successful in putting a new layer on top of land use planning, we need to have a process that clearly involves the public. The committees that have been put forward should be clearly in charge of this process since they represent the community.

Second of all, there is a necessity for working groups to provide for broader participation. We see at the local level our democracy evolve from representative to participatory, and so this process should reflect that evolution. The working groups need to be supported, because unless there is the capacity for people to be involved—and this will take a significant effort from concerned and involved citizens. Without their support, we'll lose them very quickly and there will not be ownership of this process.

The focus on land use change and management is one that really requires a different set of tools. The stick approach has been tried. It's been used in the EU and in the US. What we have seen is that they have changed. They have changed significantly to one which constitutes a process of negotiated solutions, contractual obligations on the part of land users for specific measures, which brings the funding and the activities together at the site where things are going to happen.

Another big change is the focus of regulatory agencies on education and awareness. To change behaviours has to be done because this is the right thing to do, not because

the government says so. If it is the right thing to do and everyone recognizes it, then it will be done, and regulation is simply for those who choose to be socially deviant. Therefore, we encourage a section of the act to deal with a required education and awareness program that makes everyone responsible and involved in this process. OFEC itself has been involved with risk management now for 15 years. It's a difficult business because it is itself uncertain. Rarely do we specify acceptable risk because it's difficult to say how many people you are going to allow to get sick. As a result, we tend to deal with risk by dealing with many different vehicles for implementation. We have 27,000 environmental farm plans in place in Ontario. We have been acting for 10 years. We have been improving our performance, yet we see that continuous improvement is the basis of moving forward. This is not a one-time process; this is a change in the way in which we deal with our land, and it represents a major movement of stewardship on behalf of society.

Hopefully, these suggestions along with the others in our brief that has been submitted will be considered as you move forward to amending the act. Thank you.

The Acting Chair: Thank you, sir. Our first question will come from Ms. Scott.

Ms. Scott: Thank you very much for your presentation. OFEC has been very prominent all week in getting the message across. There's certainly the heavy-handed, draconian approach that's in the legislation—where's the cost, who's going put the money and where's the money going to go? I guess my question to you is, do municipalities and landowners have the ability to take on Bill 43 as it exists right now?

Dr. FitzGibbon: I think it's going to be very difficult, particularly for the smaller rural municipalities. Landholders, depending on their means, will be pressed in some cases. We feel that a progressive approach—this is a major change. It's going to take us 20 years to make these changes. I note that in the city that I come from, Guelph, when it was presented to the public the public turned around and said, "Well, let's not protect the current source of supply. Let's build a pipeline." That's unfortunate. It may some day be necessary, but we can't rely just on the Great Lakes, so we need to move forward. This is everyone's responsibility. They all have to be involved.

Ms. Scott: Thank you very much.

The Acting Chair: Mr. Tabuns?

Mr. Tabuns: Thanks very much for coming and making the presentation today. If funding were provided by the provincial government to help implement this act, do you think that would engender a fair amount of support in rural Ontario for the measures that are being put forward?

Dr. FitzGibbon: I think that particularly in the areas where we lack the means—we don't have the tax base—that's going to be very important. I think where individuals are involved in protection—I would look at the example of Denmark—there is a contractual relationship

between the supplier of water, the municipality, and the landholders in the source-of-supply protection area that specifies what they will do in terms of protecting water and what the municipality will do in terms of providing funding.

Mr. Tabuns: Fair enough. Thank you.

The Acting Chair: Mr. Wilkinson?

Mr. Wilkinson: Thanks, Mr. Arthurs. John and Dave, thanks so much for coming and, of course, John, thank you so much for serving on the technical committee. We appreciate that. OFEC has been very helpful to all of us, all three parties, as we work our way through this. Some of the amendments already suggested by the minister that we're looking at really come from the good work of OFEC on this.

Dr. FitzGibbon: There's a partnership with government.

Mr. Wilkinson: That's right, about the whole idea of risk management, get rid of the building inspector model. Those things have been great feedback for us and I think it's helped all three parties.

We've said that we know later on there can be a question of hardship that we haven't been able to define, but we're going to be there. We're hearing consistently that it's not so much—the hardship has to be there, but it's that need to have that stewardship so that people buy in and there has to be that type of a program in there to fit that middle gap. If there's a really significant threat, the municipality could always just purchase the land. If the community really felt that that was a problem—

Dr. FitzGibbon: Which we support, because that's the greatest level of precaution.

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Mr. Wilkinson: Yes, because then you're going to get a willing buyer and a willing seller, and that makes sense. But it's all of that stuff in the middle that we have to worry about. Bills always have to look at both extremes.

What's our best way of making sure that that care is there first? You've helped us make sure the stick goes to the back of the tool box; what do we do on the care? If you could help us with that.

Dr. FitzGibbon: I believe that, because much of this is site-specific and the government has moved forward to the risk management approach, doing that analysis at a site level and then negotiating those things that need to be done and defining what is due diligence on the part of the landholder, because holding land is a right; it is also a responsibility. So you take care of your responsibilities and then, those things beyond due diligence, you negotiate a basis of funding. The greater the risk, the greater the measures that will need to be taken—that's the principle of proportionality—and the greater the measures in terms of costs beyond due diligence, the greater the support for that person to move forward, because in some cases they won't have the capacity, and if they don't have the capacity, do we put them out of business or help them move forward?

The Acting Chair: Thank you. The time for questions has elapsed. Thank you both, gentlemen, for your presentation this morning.

CITY OF KAWARTHA LAKES

The Acting Chair: Our next deputants this morning: the city of Kawartha Lakes.

Good morning and welcome.

Mr. Richard Danziger: Thank you. My name is Richard Danziger. I'm the director of development services for the city of Kawartha Lakes. With me is Kelly Maloney, our agricultural development officer.

Firstly, thank you to the committee for the opportunity to make a presentation on this particular issue.

For those who aren't perhaps as familiar with the city of Kawartha Lakes as we are, it's an amalgamated municipality consisting of the former county of Victoria and 16 municipalities. I think what makes us a bit unique is the fact that at amalgamation we had 30 municipal water systems, and we're down to 21 municipal water systems within our municipality. So this bill is of great importance to the municipality, both financially and administratively.

In February of this year, our council passed a resolution, which was forwarded to the minister, dealing with Bill 43. In it, the council indicated that it wanted to see an appeal mechanism be established for the ministry on decisions on source water protection plans; that identified costs, in their entirety, to implement and enforce source water protection plans be provided to municipalities by the province; that the act provide immunity to municipalities for any financial losses to landowners caused by the enforcement of source protection plans; and that the province compensate landowners for any financial losses caused by the enforcement of source protection plans.

I've provided a detailed submission, and I'd like to just summarize our position in relation to the act. I'd also like to indicate that we do strongly support the AMO submission on Bill 43 which was made to this committee, I believe, on August 22.

The financial issues are very relevant to the municipality. We're pleased that the province has gone ahead to make funding available for the technical studies. However, the act contemplates the creation of source water protection committees which will need long-term financial support, and there isn't any indication where that financial support may come from, whether it is a municipal responsibility or, ultimately, a provincial one.

It has been our experience that when it comes to provincially mandated actions in terms of water supply, the cost to the municipal sector ends up being fairly large. To cite an example, in the city we have the small hamlet of Valentia, and we had to upgrade the water system. This system supplied 55 households. The cost of upgrading the system was \$467,000, which is \$85,000 a household. Fortunately, the city has taken the position that it uses one uniform water rate across the city, so the people in Valentia weren't faced with astronomical costs. Even at that, water costs in urban areas of \$1,000 a year or more are not uncommon, and we would expect those to escalate over time.

We find, in our experience, that the province tends to pass legislation and, with respect, perhaps not consider

the municipal expenditures as much as it possibly should. For that reason, we suggest, as an example, the Oak Ridges moraine, where the city ended up expending a great deal of money implementing essentially a provincial piece of legislation.

In terms of our own municipality, not only do we have 21 water systems; we also have four conservation authorities covering our area, plus an area that's not covered by any conservation authority and is in fact covered by the province itself through the Ministry of the Environment or the Ministry of Natural Resources.

We are concerned that the formation of the source water protection committees will not be accountable to local government in the way that other committees that we have are. We are also concerned that the source water protection plan will take precedence over all local planning decisions. In the case of a conflict between a local zoning bylaw and the source water protection plan, the city will have to bring its plans into conformity, and it may be that the municipality does not agree with the conclusions of that particular plan. So, in essence, there may be a conflict between municipalities and source water protection authorities.

We are concerned about the lack of an appeal mechanism in terms of decisions related to source water protection issues and the fact that the Minister of the Environment now has an enormous amount of power—more so than the Minister of Municipal Affairs—in terms of planning decisions on land use matters as they relate to water situations.

The impact on rural municipalities is of concern to our municipality because in fact we are largely a rural community. We think the impact of the act will be unevenly spread across the municipality with a greater impact on our rural area than the urban areas. We feel that the act can have some very serious implications for our farm industry and it could be very detrimental to that particular sector of our economy.

We feel that owners of affected properties need to be assured that any cessation in legal land use be compensated, as the alterations are done in the interests of the public good. We feel that some of the provisions of the act could have the potential of eroding the competitiveness of our farm community within a global economy. The last thing that community needs at this time is anything that creates higher costs for their operations.

The pointy end of the stick in terms of landowner issues is the enforcement of the act, and that will fall, according to the act, to the municipalities. The powers that are under the act are really quite unprecedented compared to the normal bylaw enforcement powers that we have; as an example, the power to enter into a property without normal due process.

There is also the possibility that the municipality would have to order a business shut or a rapid change in some form of an operation that might cause severe financial difficulties. There is no provision for any compensation for that, nor, importantly to the municipality, is there provision in the act to compensate a municipality or

protect a municipality in terms of civil suits related to this particular act.

In terms of further impacts on municipalities, we feel that the act will impose substantial costs on assessment-poor rural municipalities. Although we aren't necessarily as assessment-poor as many rural municipalities are, we do have serious issues in terms of our ability to pay for implementing largely provincial measures. We'll have expenses related to amending our official plan and zoning bylaws. At the very least, we would ask the committee to consider provisions in the act that relieve the municipality from defending any changes related to the implementation of this act before the Ontario Municipal Board. Those can be substantial costs.

The act has the potential of placing ourselves in conflict with our own citizens. We will have to retain highly qualified permit officials to carry out the municipal responsibility. These are expenses and training costs that need to be considered by the province.

Finally, given the number of acts and things that we have to implement from the provincial level, we would ask that serious consideration be given to a transition period in order to allow us to handle whatever the end result of Bill 43 is, as opposed to getting it imposed all at once, because it is a difficult situation.

In summary, we feel that greater attention has to be paid to the implementation aspects of Bill 43. We don't doubt for a moment that the protection of source water is critical, but there has to be greater consideration for the financial impact on municipalities.

Thank you very much for your consideration.

The Acting Chair: Thank you very much. Mr. Tabuns will begin our questioning.

Mr. Tabuns: Thank you for coming in and making this presentation. If the province does not provide funding, will you actually as a municipality be able to implement the new duties that you will be required to carry out?

Mr. Danziger: I think we will have a great deal of difficulty doing it. When you have those kinds of difficulties, you become less than enthusiastic about implementing all aspects of any legislation. I think it will be extremely difficult because a lot of the costs will be borne by the water users and our rates are already very, very high. If we have to, we have to, but it will be slow and painful for us.

The Acting Chair: Mr. Wilkinson.

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Mr. Wilkinson: Can you just explain to me how a community like yours plans into the future about where you're going to get the sources of water in the future? Do you have a mandate that you have to look ahead 20 or 25 years?

Mr. Danziger: Yes, we do, and that relates more to our planning process. We look at the growth rates for a given municipality, such as Bobcaygeon, for instance, and look to the anticipated growth and to the water supply and attempt to ensure that we can provide adequate water supply for the municipality into the future.

Mr. Wilkinson: So you kind of identify those sources of water, and then this would fit in to make sure that, as you're looking at that, you're also getting assurance that there are not significant threats to those sources of water that you feel you're going to need to grow into one day.

Mr. Danziger: That's correct. The essence of the legislation, we feel, is positive in the sense that we need to protect our water sources, and certainly as part of a planning exercise we would want to have some powers in order to regulate land use in those areas. However, the difficulty becomes dealing with private property rights and the impacts it has on people.

The Acting Chair: Another minute.

Mr. Wilkinson: Just a quick question. The act allows a municipality to deal with having a risk management official, but also to delegate that authority, much in the sense that conservation authorities represent everybody in the watershed. In your experience, would municipalities commonly delegate that authority so you would have some consistency and you'd have people who were full-time about how to deal with the concerns that are raised by landowners, or do you see that there would be a whole bunch of different officials all over the place, depending on what side of a municipal boundary you're on?

Mr. Danziger: Based on our experience here, I think we have a tendency to delegate to an authority such the medical officer of health or things of that nature. It would be better to have some sort of commonality of enforcement so that you get consistency of action throughout an area.

Mr. Wilkinson: Yes. We're giving the municipality the choice, but your experience would be that, most likely, people would go to the delegation. That would be my guess.

Mr. Danziger: Yes.

The Acting Chair: Ms. Scott?

Ms. Scott: Thank you very much, Richard. The city of Kawartha Lakes represents, I think, the largest geographical part of my riding, and I can certainly appreciate the difficulty and the big task they had in taking over all the water systems, and the money that was put forward. At that point you did have a bit of cost-sharing: a third, a third, a third, if I remember.

You've brought a lot of good points and you've made it clear that it's going to be a financial hardship on the municipality if this bill goes through the way it is. You've also brought in the point of the confrontation that's going to exist, and municipalities are going to be put in the middle between the landowners. How do you see the bill? Do you think there's any possibility that we could make some changes to the bill so that it's going to be workable with the municipalities, or do we need to put in this legislation what the funding formula is going to be so these confrontations and financial hardships don't exist?

Mr. Danziger: I think municipalities, generally speaking, have been pushing provinces for sustainable, long-term financing, and I think clearly that has to be the case,

that we can count on the level of support for implementing this, and it has to be over the long haul. It can't just be, "Here's the money to start it, and then you're on your own." So I think the financial issues have to be somehow either woven into the bill or by regulation, and certainly I think that also relates to the conflict that I know we will have with landowners over implementation of this act if it stays the way it is.

Ms. Scott: Do I get another question?

The Acting Chair: Yes.

Ms. Scott: Great. There is a part in the bill, and we've had a lot of discussion over it through the week, that there's not appropriate—or not necessarily expropriation without compensation; we're going to get that clarified by research. But subsection 88(6)—I know you've read it in depth, and really it's up to the municipality to either buy the land, lease the land, or do some type of deal with the landowners. It doesn't necessarily say there's going to be financial compensation. That puts you in an awkward spot, too, because it's really the municipality that has to buy that out. I know the riding quite well.

Can you expand a bit on that? Would you like to see 88(6) removed or some amendments made? So there is again the confrontation there in expropriation without compensation.

Mr. Danziger: I think any time you're dealing with taking private land rights or the property itself, you have to have a very fair mechanism to the individuals involved in terms of compensating them. Whatever is required in the amendment to the act, that should be there.

Ms. Scott: Should the province be paying for that expropriation? Because I don't think municipalities can.

Mr. Danziger: Certainly, as a municipal employee, yes, the province definitely should be. But it's one of those indications that if you have to—especially when you look at us with 21 systems. You can expand and say that's going to be an incredible potential, and we really couldn't afford to do those sorts of things. So definitely we will be looking for some assistance through the province.

Ms. Scott: Thank you.

The Acting Chair: Thank you very much, Mr. Danziger, for your presentation and for your response to the questions from committee.

COUNTY OF PETERBOROUGH

The Acting Chair: Our next deputant this morning is the county of Peterborough. Just as the county gets ready to make its presentation, for the benefit of those who may be coming in or out, we have up to 10 minutes for your presentation and then a period of five minutes for questions through each of the three parties on a rotational basis.

Good morning. Welcome. If you could identify yourself for the purpose of Hansard, that would be helpful as well.

Mr. Bryan Weir: Thank you. Good morning. My name is Bryan Weir. I'm the director of planning for

Peterborough county. County council has authorized me to speak on their behalf this morning. I have distributed a three-page handout which I will be reading from.

By way of introduction, Peterborough county has a population of about 55,000 to 57,000 people, depending on if it's the weekend or not. We do have a large seasonal contingent, especially in the north part of the county. We have eight local municipalities, eight townships, and we have a total of four fully-serviced settlement areas, which is a lower-tier or a township responsibility. We do not have responsibility for water and sewer at the county level.

My comments will be coming from a county perspective. They'll be fairly general, and I have to admit that I do not profess to know the act in a lot of detail. With that, I will commence this part of the presentation.

Bill 43, the Clean Water Act, was derived, as you know, from the white paper on source water protection, which in turn originated using recommendations from the Walkerton inquiry. On December 5, 2005, the bill was introduced into the Legislature and subsequently received second reading on May 18. County council has been very interested in this issue since the inception of the Walkerton inquiry and the subsequent release of the white paper.

In April 2004, the county submitted comments on the white paper and raised the following concerns:

- the provision of significant provincial funding to deal with all aspects of source water protection;
- the need for further public and stakeholder consultation on any further steps on this issue;
- the seemingly cumbersome process organization;
- the financial, administrative and economic implications; and
- the implementation mechanism.

From a review of the literature in the current bill, it appears that the above items remain significant concerns, with the exception of further public/stakeholder consultation. The county thanks you for the opportunity to engage in further consultation. As mentioned, though, the county still has some ongoing concerns that relate back to our original expression of April 2004.

The first one deals with long-term implementation and funding sustainability. While the province has committed millions of dollars for staff and resources over five years to undertake the necessary technical studies required to assist in the implementation of the Clean Water Act, there is still concern over the long-term implementation and ongoing sustainability of the program in general. The legislation is meant to be perpetual and does not have only a five-year time horizon, as has been mentioned with the funding. To this end, it would appear that source water protection and the implementation of the Clean Water Act is another downloading exercise. Council strongly believes that source water protection should not be a local responsibility. The whole issue became a provincial initiative stemming from a provincially led inquiry. In this regard, it is strongly held that Premier McGuinty should consider source water protection as

part of his recently announced review of provincial and municipal service responsibilities.

The carrot-versus-the-stick approach: Notwithstanding the notion of responsibility, it may be far better to undertake the implementation of the goals and objectives of the Clean Water Act by using incentives rather than a highly regulatory, punitive and reactionary approach. The healthy futures program that was offered a couple of years ago was highly successful and it rewarded land-owners for taking action as it pertained to keeping rural water plentiful and clean. A slightly different approach using the same philosophy, coupled with Planning Act measures, may be all that is required to achieve CWA goals. At this point in time, the regulations associated with the Clean Water Act have not been released. Uncertainty as to what regulations will be associated with the Clean Water Act which have yet to be unveiled and, consequently, the full impact of the legislation on municipalities, whether it's the carrot or the stick, is still indeterminable.

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Organizational overload: There remains a concern over the cumbersome organization and process where municipalities have the ability under the Planning Act to address source water protection through official plans, land use designations, zoning, and site plan control without the need for another layer of planning approval by an external body. Source water protection plans should be prepared but then incorporated through the traditional land use planning documents. Conceptually, source water protection plans are being perceived as being unwieldy, costly and time-consuming, considering the number of times a document will be produced by a source protection committee, reviewed by a source protection authority and approved by the director or the minister, depending on the type of document. The initial submission of a document and the subsequent resubmission at the discretion of the minister seems unnecessary when the minister holds ultimate approval authority. The approval process for each step needs to be streamlined, especially if the intention is to get source protection planning in place in a timely fashion.

Currently, the township, health unit, Ministry of the Environment, conservation authority, public utilities commissions, the Trent-Severn waterway, the Department of Fisheries and Oceans and the county all have an interest in water and related matters. The question has arisen as to the benefit an extra body will have when dealing with the aspect of water issues.

Representation equality: Source water protection plans are to be developed, as you know, on a watershed basis. Watersheds can be limited or extremely large, depending on the area in question and the scope of the exercise. For the purposes of establishing source protection plans, Peterborough county falls within the area that is being headed by the Trent Conservation Coalition and includes an area that extends from the shores of Lake Ontario up to Haliburton county. This is an enormous area, both geographically and politically. The composition of the

source water protection committee will be 16 members, as proposed in the legislation, and only five members can be municipal representatives. The degree of representation by municipalities is sorely inadequate, since the legislation relates to municipal water systems, municipal land use planning and municipal enforcement. It is strongly held that municipalities should have the majority vote on such committees. A meagre five municipal reps is not sufficient.

In summary, the Clean Water Act as it is now does not appear to have transformed dramatically from the direction where source water protection was headed as part of the white paper. Concerns still remain over issues such as funding, duplication of effort, process, downloading and municipal representation. The county will continue to monitor the Clean Water Act on an ongoing basis.

Members of the standing committee, on behalf of the corporation of Peterborough county, I would like to thank you for this opportunity to present our concerns. We appreciate your efforts in securing the opinions and comments of interested parties regarding this very important subject. Thank you.

The Acting Chair: Thank you, Mr. Weir. I'm sure during the questions the members will acknowledge the lack of direct expertise on some elements of the bill.

Mr. Wilkinson.

Mr. Wilkinson: Thanks for coming in, Bryan. We appreciate it.

Just a couple of things. I see your point about the need to make sure that this is part of the new review partnership between the province and the municipalities about responsibilities and who's doing what and the costing, and that's a good idea. I think you'll find that the amendments that have been mentioned, signalled by the minister on the first day of testimony, about listening to a lot of groups about making sure that the carrot is at the front of the bill is important. I think you'll be happy with that.

You've got the issue about jurisdiction. A lot of the things that municipalities can do—land use planning, official bylaw changes and all of that; I think of your zoning and site plan control, official plans, land use designations—you say, "Well, why do something else when we can use these tools?" But are those tools as transparent as having everybody in the watershed working together as a committee, where, by law, these things have to be transparent? That's my first concern. Isn't it important that this whole process be transparent?

Mr. Weir: Of course it's important that it's transparent, and also consistent. You want to have basically the same conditions here as you do in the city of Kawartha Lakes, as you would out in Renfrew county or wherever. In that regard, I think a common document might work better than legislation that's directive and leaves it a little bit open-ended and perhaps an opportunity for some inconsistencies.

I draw your attention to an example that the province is using now with the greater Golden Horseshoe where they have a plan. A plan is there. The goals, objectives,

policies are consistent throughout the whole area of its application. What follows from that is, the local authorities, whether it's the region, the townships or the counties, have to implement that through their official plans and that has to be consistent.

The Acting Chair: Ms. Scott.

Ms. Scott: Thank you very much for your presentation today, Bryan. You've done a good job of interpreting how big the area is and the challenges that we're going to face, and you've brought a lot about the costing. I didn't know if you, as the county, have done any costing to say, as the bill stands now, how much you're going to have to put forward. Is it going to cause the municipality financial hardship? I know earlier this week a Ministry of the Environment spokesman, Ian Smith, said that they would likely have to change the legislation to say who pays for what. If you could just elaborate on that a bit. I'd like to say that Peterborough county is part of my riding of Haliburton–Victoria–Brock, and I share some of Peterborough with Jeff, too.

Mr. Weir: Unfortunately, I cannot provide you with an answer on that. As I mentioned, the provision of municipal services is a lower-tier responsibility and the county does not have responsibility for water or sewer. We have just heard from our constituent members, our reeves and deputy reeves at county council, that they're concerned about the cost and asked me to just relay that general concern to you.

Ms. Scott: And you think that there should be funding? Do I have any more time?

The Acting Chair: Yes, there's another minute.

Mr. Weir: Yes, I think there probably should be some—

Ms. Scott: Would you like to see the funding in legislation, as opposed to waiting for regulations and whether we have public hearings or we don't have public hearings on the regulations?

Mr. Weir: I think certainly that would add a level of comfort to our county politicians, knowing what kind of funding mechanisms are up front.

Ms. Scott: Do I still have more time?

The Acting Chair: Half a minute.

Ms. Scott: Excellent. You've talked a lot about the carrot versus the stick. We've heard a lot about this this week. You mentioned programs like the healthy futures program. We've heard from the agricultural community about the nutrient management plans. They are good stewards of the land. They come up to the table every time when initiatives need to be made, but it was done in a co-operative method. Would like to see that continue? It sounds like you would, but just to expand a little bit on what type of measures you'd like to see so we can take this draconian approach out of Bill 43.

Mr. Weir: I believe that the healthy futures program rewarded landowners for being good stewards, and I think it's that philosophy that we're looking at more so than the process. When you're dealing with something of this nature, the process is going to be different and, quite frankly, I haven't given a lot of thought to that very

complicated issue on how that might be carried out. But I think the healthy futures program was based on a philosophy that there was some cost-sharing. In this case, whether it would be with the municipality and landowners or the province and landowner or maybe some kind of tri-party arrangement, but based on that philosophy where you're rewarding or providing an incentive for doing something good.

Ms. Scott: A much better approach. Thank you very much.

The Acting Chair: Mr. Tabuns?

Mr. Tabuns: Thank you very much for coming in and making this presentation. I was talking with the folks from Tay Valley township when I ducked out there for a minute. One of the concerns they voiced to me was that on occasion there have been these cost-shared or incentive programs to deal with water quality, but their one-time grants or funding comes in and then it dries up. I assume that for your purposes you need a commitment to funding that's ongoing, stable and predictable; is that correct?

Mr. Weir: That's correct. Of course, we don't know what direction the act is going to take, whether it's going to obtain some provincial funding for a window of opportunity or it will be sustained, but I think if we go that route, such as the healthy futures—yes, it has to be ongoing because you're not going to capture everybody in the first five years. If you're looking at landowners to step up to the plate and take some responsibility, you're not going to capture everybody in five years. In that regard it has to be ongoing, and then every 15 or 20 years there has to be some kind of renewal or inspection or an upgrade done as well.

So to answer your question, in the short term, yes, there needs to be simple, ongoing, sustainable funding.

1030

Mr. Tabuns: Thank you for that. I appreciate it.

The Acting Chair: Thank you, Mr. Weir, for your presentation and response to the committee's questions.

Mr. Weir: Thank you very much for the opportunity. I appreciate it.

LINDA CARDER

The Acting Chair: Our next deputant this morning: Linda Carder.

Ms. Linda Carder: Good morning. As you've noticed, I am not representing anyone except, as I call them, the no persons, the people who have great voices, they talk, they speculate and that's where it ends. They don't join a group to have their voices heard.

So I'll start off by saying good morning, and it's nice to see all of you this morning. I appreciate the opportunity, as a single individual representing no one but myself and other people like myself, to give my thoughts on Bill 43.

Firstly, I support the thrust of the bill, just like I support the Safe Drinking Water Act and the Nutrient Management Act. We citizens of the world require

reliable drinking water, quantity of water to drive farming industry, commerce and personal lives.

My concerns are threefold: Dividing the responsibility—this is the biggest one, and I've heard it expressed today in several different ways—for administration of the act between municipalities, conservation groups or any combination of responsibility will, I believe, create confusion of who does what; what falls into my camp, not yours; a lot of squabbling over territory and money. This wastes time and money to set up some kind of infrastructure that will work co-operatively between two bodies or more. With this act added to the mix, I believe the province should set up a ministry of water quality that regulates all facets of water management. That would include your nutrients, your safe drinking water, and I've heard of this other one that I wasn't aware of, this one that was mentioned by Peterborough. Sorry, I digress. I believe this province should set up this ministry that regulates all facets. This way, I, as a private citizen, could go to a water ministry and get information about the city of Kawartha Lakes, which is where I live, or Sudbury, or any other region with regard to water quality and quantity, where to locate to have a reliable source of potable water, water for my farm, water for my business, or just for my personal use. If this gets left to each community, there will be no central source.

I also wonder where all these water experts are going to appear from to service all these municipalities in Ontario. We have Ministry of Health units in place. Why not use that resource to place your ministry experts, not local experts, in each community? I perceive that this should be an Ontario responsibility, not a municipal responsibility. I believe that it is just too great. Prince Edward Island is experiencing, as you well know, a nitrates problem in all their drinking water, and it's because it was not centralized. It is now. They are now dealing with it, they've identified it and they can do something about it. I, as private citizen, believe that this responsibility for ensuring water safety and supply should not be left to the municipality or conservation area or any combination of the above. It should be a provincial responsibility.

Secondly, I find the section dealing with the entrance onto private property worrisome. We are told to have faith in the government, which would then be either conservation, municipality, a committee of 16 or whatever, not the Ontario government. We would not give policing this latitude to enter property without a warrant; why would we want water police to have carte blanche to enter private property? I believe we need this act to reflect community standards of access to private property; that is, first ask to inspect by registered mail and then if that request is denied, they would have to follow the same procedure as any other authority, and that is to get a warrant from a judge with sufficient proof that a warrant was needed.

We who have wells on our property feel we are already investing in the safe water aspect by keeping our wells healthy, as it is in our best interest to do so. What

we cannot protect is our source water. I believe this bill will do that, but there still has to be proper procedure. With the rumour running rampant that we're all going to have water meters on our wells, and nothing from the province saying it's not going to happen—which allows it to, of course, feed on itself. There is nothing in the bill that I've read, and I've read the bill—I can't find “water meter” mentioned once, and maybe I missed it. There are no regulations in this bill, and the devil's in the detail, as we all know.

I don't know how the idea got started, but I presume it was to get people's interest, and it surely has. I would really appreciate government clarification on this point, and I believe Peterborough addressed the point. When the regulations come out, are we going to have hearings all over again to deal with what's in the regulations?

Ms. Scott: I hope so.

Ms. Carder: Well, yes, but it just keeps—and I hope we'll have a bigger room next time.

My third point, which is my last point, as I said, is the biggie. Well, it's not the biggie, but it always is. It's, “Who pays?” If this is given to the community to set up and run again, here are all these experts going to come from? This is another direct cost to our tax base, and, depending on how our bill requirements are interpreted in each community, the requirements will be met in a variety of ways. Some communities will get basic service; some people, depending on their tax base, will get a very extensive, expensive plan.

This goes back to my very first point: Keep this bill at the provincial level. Do not give it to the communities. It is too important. Put all your water—source water, nutrient management, safe drinking water and that other one that Peterborough mentioned which I wasn't aware of—if it's this important, if we're spending this much money, this much time, get it right the first time. Without good drinking water, reliable drinking water and also source water for industry, farming and so on, we can't live. We will then be fighting over water.

I'm sure there are many other issues I could have covered. These are my three main concerns, and I'm not just saying, “Don't do it.” We need it. But do it at the provincial level, because I believe that's the only way that this bill can be properly implemented—not based on having seen the regulations; based on my feeling. This is too important to be left at the community level.

In the city of Kawartha Lakes we finally got a burn bylaw that took five years to put in place after amalgamation. I can see what would happen if we had to implement something—and this not a negative; it's just human nature. It is strictly human nature. “This belongs in my bailiwick.” “Oh, no, no.” “Then we'll both do it.”

Now when I go to find out where I can get clean drinking water or enough water for my business or farm, I may have to visit three different sources and they may conflict, or they may not be reliable. Why not do it at the provincial level through your health, which is water—because without water, we're not healthy in any aspect within the province.

I certainly support the concept and am waiting to see the regulations. I really believe it's a provincial matter and should stay at the provincial level. Thank you.

The Acting Chair: Thank you, Ms. Carder. We'll start our questions with Ms. Scott.

Ms. Scott: Thank you very much, Linda. Linda's a constituent of mine, and I appreciate the fact that you've taken the time as a private citizen. You've read the bill and you've done a great summary. I thank you for putting the time towards that. You are concerned with your community.

We've heard this story over the entire week: This should be a provincial responsibility. Bill 43 shouldn't be brought forward the way it is—it's going to pit the municipalities against the landowners. It is a provincial responsibility in the fact that they could already be moving forward in source water protection under the existing acts. There have been many that have been mentioned, and that's actually what Justice O'Connor had said: Don't set up another level of bureaucracy; use the tools that you have, change them a bit, enhance them.

We do feel that that this bill is being brought forward just to download onto municipalities and landowners.

What the bill does not say has been a big topic of discussion. Certainly the private well-metering—it isn't said in there, but there is no clarification. If the bill does pass—and we're going to do clause-by-clause, etc., and hopefully make some amendments to it, and it goes through the Legislature—but we are outnumbered—and the regulations are brought forward. When nutrient management came forward, and I know a lot in the room were involved in that, the public consultations—we had about 18 public consultations, so we had a good hearing. What would you like to see? Can you expand a little bit more on the public consultations—whether you don't think there were enough in this bill, or not enough people knew about them?

1040

Ms. Carder: It's not that I don't think people knew; it's the aspect of, "What effect would it have on me personally?" It's very difficult for people to see a bigger picture. We watch the little movies on television saying, "Drill a well in Africa." We say, "Well, what's the problem with the water?" We can turn on a tap pretty much anywhere in Ontario. I have friends who live in Kingsville who've been under a boil-water order forever because of problems down there. It goes on and off, but it has been there forever because of the number of greenhouses and the leachate that's going into the water source and so on and so forth. Prince Edward Island is a perfect example of nitrate contamination of the water. I'm not an expert. I watch television. That's where, unfortunately, I see these programs which are of interest to me to do with climate change, water and so on. It's just that when you put them all together, this, to me, is a provincial matter. It is like education. It is like health. Can you imagine if each little area set up their own little OHIP system? It wouldn't work.

Mr. Arthurs, please—I'm a former constituent of yours too. And of Mr. O'Toole's. I've moved around.

Mr. Tabuns: You should try my riding; it's not bad.

Anyway, thanks for the presentation. You put it together pretty coherently, pretty logically. Just to be clear, you believe that not just people in municipalities but people in rural areas all deserve the same quality of safe water. Is that correct?

Ms. Carder: Yes, exactly.

Mr. Tabuns: Those on private wells?

Ms. Carder: Yes. I believe our source needs to be protected, and I don't see that even this will protect it, because if a farmer a mile and a half up—I actually don't know where my source water is—decides to spread nutrient on his land over a period of 15 or 20 years, it can affect all the wells that are in that source water. It will eventually leach into—I'm not saying they're doing that, but I, as a single individual, can't prove that my water quality has gone down.

I lived in Claremont—if anybody knows about Claremont, Mr. Arthurs does—when 85% of the wells in Claremont were deemed contaminated and they had to make a huge decision because there was no safe water. My well was fine. I was okay because I had a drilled well, but most people didn't. That changed how Claremont formed after the airport thing went through or didn't go through; whatever. Anyway, I'm digressing. Mr. Arthurs certainly knows what I'm talking about regarding safe water in a small hamlet area and how you can resolve it in one of two ways. I have been there. I have seen the devastation that bad drinking water can create in a community: major health issues—not on the scale of Walkerton, but it certainly did affect the health of the community.

It's an interesting process, but I truly believe it needs to be at the provincial level, not left to municipalities. Can you imagine if you had to get your driver's licence in a municipality and you didn't have a standard act to cross? You drive into this municipality and, "Oh, you need this kind of licence to work on our roads." I just get this feeling that it has to be at the provincial level in order to be satisfactorily implemented.

The Acting Chair: We're going to move to Mr. Wilkinson.

Mr. Wilkinson: Thanks for coming in. I hear what you said about the fact that you get these kind of rumours floating around and you can't put them out because you can't disprove a negative. I think I'll have to post a sign in every Tim Hortons and every feed mill in Ontario that says, "There'll be no metering of private wells." The minister has said that over and over again.

Interjection.

The Acting Chair: I'm just going to remind the members that it's hard for the deputants to hear the questions if we're interjecting.

Interjection.

Mr. Wilkinson: Oh, I'm getting to the question.

I appreciate the fact that you've raised that on the record, because it is important: What do you do with rumours? Anyway, I hope I've clarified that for you.

What O'Connor told us to do was to get the people who are sharing the same source of water, whether it's from the Great Lakes or from a river or from the aquifer from the ground, together in the watershed, working together to plan it. The alternative is to have what I would always call the reg. 170 idea where you have the ministry trying to have one blanket rule across the whole province, and it's very, very difficult for that to make common sense.

In this process, the local community comes together, but all of those things have to go up to the ministry to be approved to make sure you've got the consistency because, for example, we heard in Ottawa, we have all these different sources all coming together. Wouldn't you see it overly bureaucratic if from one central location in Toronto we were trying to micromanage all of that? Isn't it better that local people have the input?

Ms. Carder: I agree with input, but I still think you need to have your experts. Where are you going to find all these experts to spread out all over Ontario? Are they graduating from school? Do they already exist? Do they have to take five years of training? There's nothing in there to say—

Mr. Wilkinson: You wouldn't believe how many experts there are around here.

Ms. Carder: The definition of an expert is somebody with a briefcase 20 miles from home, but that doesn't solve my problem.

Mr. Wilkinson: And there's a lot of them.

Ms. Carder: But I—

The Acting Chair: With that, we're going to have to call the end of our question period for this round. Linda, thank you very much. It's good seeing you. Take care.

TRENT CONSERVATION COALITION

The Acting Chair: Our next set of witnesses this morning is the Trent Conservation Coalition.

For fear of being repetitive—I know some people are coming in and going out—you have up to 10 minutes for your presentation and approximately five minutes for questions and responses. At your leisure, if you'd identify yourself for the purposes of Hansard, that would be helpful.

Mr. Jim Harrison: My name is Jim Harrison and I'm the chairman of the Lower Trent Region Conservation Authority. It's an illustrious position and I have to constantly beat up my cohorts to maintain my responsibility. On my right is Charley Worte, who is from Conservation Ontario, and Dick Hunter, manager of the Otonabee.

I'm also a city of Quinte West councillor. I've been a councillor since 1990. I've also been a farmer. I still am farming. My son farms. In amongst the years that have passed, I've also spent 35-plus years as a school teacher and 33 of those years as an elementary school principal. I allude to that because there is a distinction between myself and a lot of farmers: I do have a pension. I guess you'd say I have the pleasure of farming until either I'm broke or dead, whichever comes first.

I'm making this presentation on behalf of the Crowe Valley, Ganaraska, Kawartha, Lower Trent and Otonabee authorities, which are working in partnership to deliver source water protection under the banner of the Trent Conservation Coalition.

Here today also are the chairs and staff from the TCC conservation authorities. I won't introduce them. They're not all here, but some are here.

I'm also going to use Charley and Dick to assist with answering any questions.

I know that during the course of its hearings held across the province this week the committee has heard from a number of conservation authorities as well as Conservation Ontario. So once again in the interest of time, let me just say that the CA members of the Trent Conservation Coalition support both the Clean Water Act and the amendments recommended by Conservation Ontario. We agree that these amendments will help to strengthen the act and ensure its success. If you have questions for us on these amendments, and particularly on how they will affect the TCC, we'd be happy to take them.

I would like to use some of our allotted time to tell you about the TCC, the importance of the Clean Water Act and proposed amendments to the work we do and how it will help in the management of the watersheds we serve.

Our comments fall into the four category areas as outlined by Conservation Ontario:

- addressing non-municipal water supplies: This is particularly important for the TCC as more than half of the population in this source protection region are serviced by individual wells and surface water supplies;

- we stress an integrated approach to water management;

- the need for legislation that balances the regulatory approach with incentives and education; and

- the critical need for long-term, sustainable funding for municipalities and conservation authorities that includes the implementation. Without this, the program will fail.

Let me just take this further. The question is not, "How will this impact farmers?" as far as I'm concerned. The fact is that farmers are already severely impacted and facing many hardships.

1050

The TCC, at 14,500 square kilometres, is the largest of the proposed source protection regions in Ontario. While we have some larger urban centres in our region such as Cobourg, Lindsay, Peterborough, Port Hope and Trenton, we are largely a rural area. That brings me to our first point. We believe that the committee must consider non-municipal water supplies.

In the TCC, municipal water supplies include 40 well supplies and 19 surface water supplies. The Trent River is one of the largest surface water supplies in southern Ontario, excluding the Great Lakes. Approximately 53% of the population in the TCC relies on private drinking water supplies from surface and groundwater. The

groundwater system that supplies these private wells is physically complex and beyond the confines of individual properties. Fractured bedrock over large sections of the region provides abundant pathways for contaminants to reach private wells. Some local residents draw drinking water directly from the area lakes. Currently, the Clean Water Act does not adequately address these drinking water sources. This is a serious defect, particularly for the TCC. We cannot ignore over half the population in our watershed areas.

Education and incentives for individual landowners within the framework of watershed-based source protection plans is the best way to protect these drinking water sources—again, education and incentive. Helping landowners to recognize the effect of their actions on their neighbours' water supply is critical. Rural wells that are properly constructed and maintained are a key way of ensuring that regional aquifers are protected. Locating and decommissioning abandoned and unused wells is another important component. With respect to drinking water, the health of rural residents who depend on private supplies cannot and must not be placed at a lower priority than those on municipal systems.

Secondly, an integrated approach to water management must be taken. Source water protection cannot be considered as a stand-alone program. Drinking water is only one piece of water management, which must address all of the ecological, economic and social needs for adequate water quality and quantity.

To achieve drinking water source protection, a collaborative planning process must be used. Likewise, implementation must entail a co-operative approach, employing the tools and resources of a number of agencies, municipalities and organizations. Planning and implementation of source water protection plans must be carried out in concert with all of the other water quality and quantity considerations. This is the perfect opportunity to connect the dots into an integrated water management program for Ontario.

The conservation authorities of the TCC currently work with municipalities and property owners through land use planning, capital works projects and stewardship initiatives. These efforts help protect downstream water quality and quantity. The TCC conservation authorities also have active public awareness and education programs that help create an understanding of the benefits of comprehensive water management.

Thirdly, incentives and education are key to successful implementation. The Clean Water Act will bring together a wide range of stakeholders and interest groups to create a plan that will represent a consensus on how best to protect sources of drinking water. To be implemented successfully, those responsible for implementing the plan will require a wide range of tools.

The Trent Conservation Coalition conservation authorities share our colleagues' concern that the current Clean Water Act relies too heavily on a prescriptive regulatory approach to implementation. The TCC conservation authorities are successfully managing flood plains

using a comprehensive approach, employing the tools of planning policy, capital works, education and awareness, as well as regulations.

Using regulations as the sole method to achieve compliance is not the way to protect drinking water sources. Neither the province nor any of its partners in this endeavour can ever afford to hire enough enforcement and prosecution staff to force every landowner to meet the requirements of this proposed legislation. Investing in incentive and educational programs in the long run will be the cheaper and more effective way to achieve significant change.

Last but not least, I want to talk about funding. Clean, plentiful sources of water provide a wide array of benefits to all of us. Our health and economic and social well-being depend on it, as does the ecological health of the places where we live. Therefore no one group, sector or set of municipal property taxpayers should bear all of the implementation costs. While the province has committed to fully fund the planning phase of drinking water source protection, it must also commit to be a significant and sustained funding partnership for the implementation.

Most of the municipalities that are members of the TCC conservation authorities do not have the financial resources or the tax base to raise the funding that may be required for effective implementation. All residents in the province will benefit, and all residents must contribute in a fair and equitable manner to the costs of source water protection. The conservation authorities of the TCC believe that they are well positioned from a technical and watershed-knowledge standpoint to take on the duties of monitoring and reporting progress as outlined in the proposed Clean Water Act. Sustained funding and support from the province is, however, critical to our ability to successfully take on these new tasks.

Again, non-regulatory tools such as education, stewardship incentives and strategic land acquisition have been very effective in watershed management programs. These incentive programs and land acquisitions were successful due to the collaboration and efforts by a wide range of government/non-government partnerships as well as the voluntary involvement of landowners.

In summary, the conservation authorities of the Trent Conservation Coalition support the Clean Water Act as a tool to ensure clean, plentiful sources of water. However, changes are required to make this proposed legislation more effective. The province must commit to a long-term partnership with conservation authorities and municipalities to provide policy direction, technical standards and sustainable funding for both planning and the implementation of source water protection. We believe that the changes outlined in the Conservation Ontario submission will help to implement the recommendations of Justice Dennis O'Connor.

Conservation authorities of the Trent coalition wish to thank the standing committee on social development for the opportunity to provide input on the Clean Water Act. I leave you with one quote that I recently obtained from

Gord Miller: “The ultimate test of a moral society is the kind of world it leaves for its children.” Thank you.

The Acting Chair: Thank you, Mr. Harrison. The questions will begin with Mr. Tabuns.

Mr. Tabuns: Mr. Harrison, thanks. That was quite good, quite solid. You folks are obviously committed to clean water. You think the legislation makes sense. If it was implemented without funding made available, do you think you would actually be able to carry through your responsibilities as outlined in this act?

Mr. Harrison: No, no, no.

Mr. Tabuns: You know, I’m getting the drift and I appreciate it. Thank you.

The Acting Chair: Mr. Wilkinson.

Mr. Wilkinson: As a boy who was raised in Trenton, who has cottaged for the last 28 years on Crowe Lake, I’m always happy to be here. My wife actually was born in Peterborough.

Mr. Harrison: You must know Charlie Crowe.

Mr. Wilkinson: That’s right.

Mr. Harrison: You know Charlie Crow; good for you.

Mr. Wilkinson: I’ve got a question for you. With your experience, what do you think the source protection implementation will cost? We’ve had various estimates from the region of Waterloo and the county of Oxford. What do you think?

Mr. Harrison: I’m going to pass that over to Charley. Charley has put a lot of thought into that.

Mr. Charley Worte: Yes. It’s the \$7-billion question, I think. Obviously, it’s a serious question. The reality is, though, that until the planning work is done and we get some idea of what we’re dealing with, you’re not going to get a good answer to it. I think the numbers you’ve heard from Waterloo and Oxford—they’re the municipalities with the most experience in this. They’re probably the ones best positioned to provide an estimate, and they’ve provided that to you. They’re probably in the right order of magnitude, and those are probably the best numbers you’re going to get for the time being.

It’s important to put that into context, though. There’s a lot of discussion about what it will cost, but you need to compare it to other things. Put into context, the Waterloo-Oxford numbers represent less than 5% of what’s currently spent on municipal water supplies. It’s not an insurmountable number.

The other to remember is that it’s not all-new funding either. Municipalities are already doing a certain amount of work toward protecting their sources of drinking water. Conservation authorities are already doing a lot of watershed stewardship work. I think we spent \$20 million in watershed stewardship projects in 2003 or 2004, whenever that statistic was from; I can’t recall. You heard this morning about the environmental farm plan; you’ve been hearing about it all week. The agriculture sector already does a lot of good work to protect drinking water, so there’s a lot of work being done. This is not like we’re starting from zero.

1100

The Acting Chair: I’m going to move to Mr. O’Toole, and, depending on the nature of his question, you may have a chance to finish your answer.

Mr. O’Toole: Thank you very much for your presentation—very informed. As well, your experience that you bring to the table is extremely important.

I just want to pick up on the last point that you made, which has been brought forward by almost all the presenters, the whole idea of the funding. In your report you said, “Last but not least.” But when I look at the profile for the Trent Conservation Coalition—which does affect part of my riding as well as where my cottage is—it’s a huge area, some 333,000 people. When I look at the money you’ve received, it looks to me so far like you’ve got about \$1.6 million to do the work for such a large geographic area. I don’t want to be redundant here in repeating it, but is this enough to do the sort of ground-water assessments for your large geographical area and the number of communities that you serve, as well as the coordination of conservation authorities, the logistics of just the responsibility of all those different authorities, from the Ganaraska right through to the Crowe area?

The Acting Chair: One minute for your response, Mr. Harrison.

Mr. Harrison: In simple terms, and maybe Charley can add to this, if you compare salaries with conservation authorities in municipalities, you know very well that the conservation authorities are doing a lot for less.

Mr. Worte: I’m not really in a position to talk about Trent specifically, but generally across the province we’re only in the preliminary stages, and so far, yes, we have adequate funding to do the work. But until we see the legislation, the detail and the regulations, again, we can’t say for sure.

Mr. O’Toole: Well, one thing that troubles people—

The Acting Chair: Thank you. That completes our time for questions in this round. Thank you, gentlemen. We very much appreciate your presentation this morning.

FEDERATION OF ONTARIO COTTAGERS’ ASSOCIATIONS

The Acting Chair: Our next deputants this morning: the Federation of Ontario Cottagers’ Associations Inc.

Welcome. If you would undertake to identify yourself for the purpose of Hansard as you begin your presentation. You’ll have up to 10 minutes for your presentation, followed by questions by members of the committee.

Mr. Terry Rees: Good morning. My name is Terry Rees. I’m the executive director of the Federation of Ontario Cottagers’ Associations. I’m a constituent in Jeff Leal’s riding, for what it’s worth, and I’m upstream of Mr. Wilkinson, so maybe he wants to pay attention a little bit, and Mr. O’Toole, I think. I’d like to thank you for the opportunity this morning to speak to the proposed Bill 43, the Clean Water Act. I’ve circulated my speaking

notes from this morning and I'll be using those as a summary of my comments today.

By way of introduction, the Federation of Ontario Cottagers' Associations, or FOCA, is a province-wide association of about 600 community associations in virtually every riding in the province. That's a collective membership of over 50,000 private property owners, most of whom live adjacent to or directly right on surface waters.

We've been around since 1963. We've got a long-term legacy of protecting Ontario's freshwater legacy. We have a long-standing position of relying on education and support programs for landowners, and clean water has been a cornerstone in our regular and active participation in contributing to sound public policy for over 40 years. I'll mention some of our key initiatives related to this through my discussion this morning.

We've been pleased to be involved in the Clean Water Act as it has evolved over the last couple of years, with our association, with a broad coalition of environmental and other groups, speaking to some of the specifics and some of the key elements of what we think a robust legislative approach to this important issue consists of. I've got about six points which I'd like to go through which relate specifically to what we think ought to be in the Clean Water Act.

The first is the precautionary principle. The extensive efforts over the past few years to apply our best science—and I applaud the work of Conservation Ontario and others—to gain a more wholesome understanding of our surface water resources and groundwater resources represents a great step forward. This applies in only some parts of Ontario, by the way, and I'll speak to the equity and the geographic scope in a moment. The science that is evolving will be critical in developing plans that more effectively protect water at its source. The practitioners working in this field are the first to admit, though, that it's an impractical task. As previous presenters from the Trent coalition have said, it's a pretty daunting task to understand where every molecule of water in this province is going and how it's impacting water quality.

We strongly recommend, as FOCA, that the act explicitly incorporate the precautionary principle. What I mean is that where there are threats of serious or irreversible damage to an existing or future source of drinking water, a lack of full scientific certainty shouldn't be used as a reason for postponing measures to prevent the threat. That approach is consistent with the science-based approach the ministry has been taking to the Clean Water Act. It fills in the gaps where science can't provide absolute certainty. It's also in keeping with Justice O'Connor's recommendations in volume 2 of the report of the Walkerton inquiry.

I was going to mention the \$67-million figure which was cited earlier. If you look at who's getting this money, and since most of our constituents are outside of CA lands and are not specifically considered in some of the more protective measures considered within the act, it's been meted out in \$10,000 and \$20,000 chunks in a lot of

rural Ontario, which is not going to deliver sound and comprehensive science. We need to have the ability to work on the precautionary principle.

I thought OFEC's comments about the risk assessment approach were interesting. We have some concerns about the use of risk management agreements due to the slippery slope of potential abuse. We, like OFEC, think there ought to be a contractual arrangement, legally binding and subject to periodic review.

In terms of the geographic scope of source protection, we know that about 1.8 million Ontarians live in drainage basins where at least one quarter of the population is rural. That's according to StatsCan's Rural and Small Town Canada Analysis Bulletin this year.

As was stated in the statement of expectations that our coalition of groups put together over a year ago, we believe the government should require that a source protection planning framework is used in all watersheds in Ontario, and that any new legislation must protect all potential sources of drinking water, not just those feeding existing municipal systems. We recommend that there be mandatory development of source protection plans outside the existing and proposed source protection areas, which are primarily the existing conservation authority boundaries. The spirit and intent of Justice O'Connor's recommendations around protecting water at its source are not served by concentrating only on sources directly adjacent to municipal water supplies and, by exclusion, leaving other sources of water unprotected.

Our inland waters in Ontario either serve as or feed the drinking supplies for much of rural Ontario; we've heard about that. Many also serve as the headwaters for southern Ontario's urban centres. As such, central and northern Ontario's inland lakes and rivers shouldn't be excluded from too narrowly defined "surface water intake protection zones." The safety and health of rural families are every bit as important as those of urban southern Ontario and people on municipal systems. The degradation of water should not be allowable. In the near-north areas not too far from here, which would be outside of an area, that fractured limestone situation is a cause of considerable concern for people on surface water and on private wells.

From a public participation perspective, if the public is going to develop a sense of ownership over source protection plans and a corresponding interest and active role in the implementation, it's encouraging that the act includes mandatory public consultations at every stage, from the proposed terms of reference to assessment reports and source protection plans, prior to their approval. There will be many parties that want to participate in the committees, and it is essential that the process be open to the public and vested in local stakeholders. Adequate funding must be provided so that those who are interested but without financial resources may take part in the planning and implementation of plans for the protection of water at source.

I'm going to mention funding, because I haven't heard it. It's a gaping hole in the existing legislation, and it's of

concern to every single person, whatever their position might be on the bill. I think everyone's in favour of clean water, and who's going to pay for it is, of course, of great interest to everybody.

We, like others, recommend that there be sustainable and reliable funding for the implementation of source protection plans. This should be via dedicated funds that aren't subject to annual budget-setting—or budget-cutting, as the case may be—exercises and political whim. Additionally, funding should take advantage of mechanisms, many of which I think have been identified by the implementation committee, which include water-taking charges, water rates, pollution charges, and especially incentive programs for private landowners.

The province must establish secure and sustainable long-term funding to adequately support capital and operating expenditures related to ongoing source protection plan implementation, monitoring, education and enforcement.

The protection of source water yields broad and important public benefits, and as such it should be funded through a combination of broad—that's provincial—public funding, through private landowner conservation incentives and through water-taking charges, but not through property taxes. Municipal capabilities vary greatly, both in terms of their technical capacity and their ability to fund social programming. As we heard today, there's a fair amount of operational burnout with the burden of services that have to be delivered at the local level.

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We've got an ongoing participation with the Minister of Finance about what exactly lives on the property tax bill, and we're anxious to see that reform. We're hoping this recently announced review will be hastened and that municipalities will be able to fund only those things related to funding for services.

I should point out that rural municipalities—that's where many of our members are—have a financial disincentive, which is a very important one, to stringently enforce setbacks. It's just a financial situation that's there, and that's why you're getting a lot of backlash from the municipal sector, especially in rural Ontario, because this is yet another program that they don't know how they're going to deliver and how they're going to pay to deliver it.

In terms of public outreach and stewardship, we're encouraged by the inclusion in the act of potential threats, groups of non-point threats and provisions to protect future sources of water. The ability, for instance, to conduct and charge for septic inspections as a non-point source which impacts rural Ontario is important. The lands in south-central Ontario are predominantly privately owned, and the engagement of private landowners is a key to success. The buy-in of people who live on the land is just going to be key to making this thing work.

Source protection committees should be mandated to provide landowners with information and technical sup-

port and financial support to assist them in identifying and preventing drinking water threats. The province should allocate funding specifically for this outreach and education, again through funding mechanisms other than property taxes. As stewardship and education are most effectively delivered through known and trusted sources that are local, including non-profit organizations, where applicable, source protection plans should identify and utilize these local resources. That's community groups and others.

In terms of the protection of clean water versus other public goods and the primacy of the act, we believe that the protection of water will only be as good if it isn't overridden by other acts and legislation. We are concerned about the exemptions in the provincial policy statement review, where certain undertakings were basically given higher preference to other social benefits. I think it's important that primacy is there.

We've been a member of the minister's advisory council on mining reform, by the way, and we're still awaiting some feedback on that to speak to some of the earlier concerns we heard about in terms of private property rights and the protection of water.

Our water is a priceless asset, and careful stewardship of our water resources within a solid and adequately resourced framework is the only way we're going to preserve this resource for generations to come. Thank you.

The Acting Chair: Thank you, Mr. Rees.

Questions, beginning with Mr. Wilkinson.

Mr. Wilkinson: Thank you, Terry, for coming in. In addition to the current approach, I just want to get your comment about whether we're on the right path here. The ministry is considering an amendment as a means of improving the level of protection for non-municipal systems that would provide the minister with the authority, under section 10, to amend the terms of reference or the source protection plan to include certain non-municipal drinking water systems or clusters on a well on a case-by-case basis, in the sense that right now it's up to the people doing the committee work. But we've heard a lot of testimony. If you've got a nursing home or a school or a whole bunch of people clustered on a well, right now it says the municipality may decide to extend this protection to them. We're getting a lot of testimony that the minister should also have the ability to amend that. So would you agree that that's important?

Mr. Rees: I think the permissive language that's in the legislation, which is a lot of "mays" and "coulds" and "mights," could be problematic, and that might be, again, not a matter of anyone's lack of commitment to clean water but just a lack of resources and ability to deliver. So it might be a foregone conclusion that some municipalities just aren't going to be able to hold the very highest standard, just by way of their funding and the way they're organized and the scope of their geography. So we think it's important that there is a fail-safe that says that some rural communities will not be afforded the same level of protection.

The Acting Chair: We need to move to Mr. Yakabuski.

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke): Thank you very much, Terry, for joining us this morning. Clearly, one of your concerns, and obviously of your members, shared by many of the submitters over the past several days, is the cost of implementing this bill, subject to regulations, and who's going to pay for it. You did talk about the government coming down at AMO with a plan to rethink the funding formula with regard to municipalities. It's kind of convenient, I think, that maybe it's going to go beyond the next democratic opportunity for people in this province, being the election of October. It's not surprising that it's something that's been talked about for all of this term so far. Our leader actually recommended that at last year's AMO conference.

Why do you think they would be going ahead with this bill, which potentially is one of the largest downloads in the history of the province for municipalities, and therefore the taxpayers of those municipalities? Let's not kid ourselves about who's going to pay the bills. It's going to be the people who own property and rent homes and operate businesses etc. in those municipalities; they're the ones who are going to be paying. Why do you think this government is proceeding at this point? Why is it not part of this 18-month so-called plan? This should be delayed so that—

The Acting Chair: You may want to leave time, Mr. Yakabuski, for a response.

Mr. Yakabuski: Okay. Could I get your response on that, sir? This clock goes faster when I'm up, it seems.

Mr. Rees: Firstly, I don't purport to understand why the Clean Water Act isn't already in place, given that Walkerton was as long ago as it was. To speak to your specific question, I don't know why the uploading hasn't happened. By the way, FOCA has spoken about the uploading of those services from municipalities for at least 30 years. We haven't given up yet, so I guess we can wait 18 months. We're hoping that as a broad social benefit, it'll get funded through a broad social fund, and our progressive income tax system is where those broad social services ought to be funded. That's consistent with what other provinces do.

Mr. Yakabuski: So it should come from the province.

Mr. Rees: It should come from the province.

The Acting Chair: Mr. Tabuns.

Mr. Tabuns: Thanks for the presentation. What brought you to the position that the precautionary principle had to be incorporated into this act?

Mr. Rees: As I say, it's a big province, and there's not anyone who will recommend with scientific certainty how water flows, who's going to be impacted and how long that's going to take. The people that know the most about this are the ones who say, "Boy, we really don't know enough about this." If you ask the hydrogeologists, the ones that have looked at it the most, they're the ones who say that there's a lot more to this than meets the eye. So by using the precautionary principle, whether it's reasonable evidence that there will be a risk to water, that's good enough reason to protect it, because there's

no justification for impacting the long-term health of water.

The Acting Chair: Thank you, Mr. Rees, for your presentation and your response to the committee's questions. I appreciate it.

RENFREW COUNTY PRIVATE LANDOWNERS ASSOCIATION

The Acting Chair: Our next deputation this morning is the Renfrew County Private Landowners Association.

Good morning, gentlemen. As a quick reminder, if you would identify yourselves when you begin your presentation so that it's recorded in Hansard. You have up to 10 minutes for your presentation and then a period of approximately five minutes for questions amongst all three parties. At your leisure.

Mr. Jack Kelly: Thank you very much, Mr. Chair. Good morning, ladies and gentlemen. Thank you for letting us make a presentation here this morning. My name is Jack Kelly, and I'm the vice-president of the Renfrew County Private Landowners Association. To my right is John Jeffrey, a member of the board of directors. We're here today representing the Renfrew County Private Landowners Association, a group comprising private landowners, loggers, private citizens, farmers and small business owners.

We believe the following: All citizens should have the right to own property and should have the right to use their private property for enjoyment and to earn a living from their land. We agree with the goal of protecting sources of drinking water and ensuring there is an adequate and healthy supply for future generations. However, we believe that private citizens, landowners and small businesses, not government-appointed committees, are the best custodians of our natural resources.

It is our belief that this bill is one more in an ongoing series of attacks on the rural economy and lifestyle, in an attempt by the province to take over management of private land. This belief is not a conspiracy theory, but is based on several recent examples of governments' attempts to co-opt private land and interests:

- use of the environmental act to close rural sawmills;
- theft of private property through the use of the species at risk act;
- unfair property tax assessments by the Municipal Property Assessment Corp. and the attempted reclassification of woodlots and maple syrup producers;
- elimination of the family farm through the Nutrient Management Act;
- use of the Meat Inspection Act to force small businesses to stop meat cutting and wrapping; and now
- erosion of our rights through the safe water act.

This sweeping act, if passed, will govern all land in Ontario where water enters or exits from the ground, including rivers, lakes, springs and wetlands. It also includes wells, septic systems and even ditches. Virtually all plots of land in Ontario's rural areas, regardless of size, include one of these items, so the measures of Bill 43 could have devastating results on private landowners.

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Our association views this latest attempt to “protect our water supply” with much apprehension. This apprehension stems from four main concerns:

—the vagueness of the bill, with the real consequences to be determined on a piecemeal basis by local committees, who will have practically unlimited broad powers and authorities without any real accountability to the taxpayer;

—the lack of a cohesive vision which would ensure consistency of approach and ensure all areas of the province are treated equitably;

—the language of compliance and punishment in the bill, which contrasts with vague reassurances of so-called help for small businesses and landowners who would be oppressively affected by the findings of the committees; and

—the unlimited powers given to various individuals and officials to encroach on private land in order to conduct research and investigations to assess alleged threats.

The members of source protection committees, who will wield a great deal of authority and influence, will be appointed by local municipalities and, we believe, could be subject to manipulation by various special interest groups. The ministry documentation makes frequent use of soothing language, such as “communities would work together,” “property owners could be involved in finding solutions,” and, “There will be strong municipal representation ... which will also include a range of other stakeholders.” However, we were unable to find any reference to a mandatory requirement enshrined in and protected by the law to include representatives from landowners and businesses.

In Renfrew county we already have an example of how these ad hoc committees can create havoc with private landowners. Private landowners were invited to participate in the Renfrew County Stewardship Council. I use the word “invited” loosely here, as their input was, by and large, totally ignored. The council was led and funded by the Ministry of Natural Resources, and the culmination of their efforts was the Renfrew County Private Land Stewardship Forestry Discussion Paper, dated January 2006. This paper now misrepresents our association as having endorsed their discussion paper. This we were and still are unable to do, as the paper is rife with misrepresentations, vague language, distortions, errors and omissions. We asked the ministry in February 2006 for their assistance in having our name removed from this discussion paper, but have yet to hear back from the minister.

This, then, is an example of how the encouragement of the province to participate in these committees can backfire on honest citizens acting in good faith. Small wonder we are reluctant to trust their newest creation, the source protection committees.

The responsibility for the creation of source protection plans will rest with these committees. In this way, there is great likelihood that all communities throughout Ontario will not be treated equally. One of the stated goals

of the Clean Water Act is to govern the improper disposal of hazardous wastes and the improper disposal of chemicals. Under these separate and autonomous committees, how can this possibly be approached consistently in the greater Toronto area and the Golden Horseshoe, balancing the interests of a high concentration of population and industry? How can that compare to Renfrew county, a rural farming community? Does anyone believe that the so-called rules for disposal of wastes and chemicals into the Great Lakes are on par with some of the oppressive measures being enforced in the rural areas through the Nutrient Management Act?

The bill contains no commitment to compensation for landowners for any measures that may be taken. The ministry states that there may be cases where the costs of taking action will be a hardship for businesses and property owners, and the province is developing a comprehensive approach for helping owners. We are hesitant to place our trust in such vague promises. We are especially hesitant because even though the promises of help are quite vague and not enshrined in the bill, the ministry has, conversely, obviously given careful consideration to the orders to pay costs and to the enforcement of orders to pay, which include the ability to add costs to tax bills. These costs could include and even require landowners to bear the cost of risk management plans. In addition, the ministry has clearly given great thought to minimum fines for farms and businesses.

The language of the bill itself amply demonstrates, by the exclusion of clearly articulated provisions for assistance while carefully including punitive measures, that extreme caution must be exercised in trusting these latest Liberal government promises. It does not go unnoticed that the imposition of fines and requirements of various costs associated with the findings and investigations of the committees has been left out of the ministry’s communications with the general public through their fact sheets.

Unlimited powers of access to private land are granted through this bill to municipalities, members of the source protection committee, police and other government officials. Power is even granted to conduct a search without a warrant under certain circumstances. Further provisions of the bill allow various officials the authority to seize and confiscate private property without consent and without compensation.

This arbitrary removal of individuals’ rights and freedoms is very chilling. It is disquieting to note that the conciliatory language in the fact sheets prepared by the ministry also omits any reference to the removal of these rights. This raises the very real worry that there are other motives hidden in the bill, which are ours to be discovered.

Ontario’s private landowners are committed to the common good, which includes protecting existing and future water sources. They have proved their commitment through centuries of their and their ancestors’ efforts at working the land, paying taxes and building businesses while raising families and providing food, goods and services for their fellow Ontarians.

We are unable, however, to endorse this bill as written, due to:

- the creation of the source protection committees and their extensive powers and authorities and lack of accountability;

- the complete autonomy given to the committees, which could result in inconsistent and inequitable approaches across the province;

- the language of oppression and punishment contained in the bill, with no developed plans enshrined in the bill for assisting those most affected by the outcomes of the committees; and

- the encroachment on the rights of private citizens to own and protect their land by granting sweeping powers to search, in some cases without a warrant.

We ask for a complete review of the bill, with a more articulated and practical approach to protection of water sources which will also protect the right of the province's citizens to own and develop their land and businesses.

The Acting Chair: Thank you, sir. You're generous enough to leave us a little extra time, as well as the endorsements of your comments.

Mr. Tabuns had to step out for the presentation. We have approximately three minutes each. Mr. Yakabuski, three minutes; questions and answers.

Mr. Yakabuski: Thank you, Jack and John, for joining us this morning. I try to get my head around this sometimes. Do you believe that these kinds of pieces of legislation we're seeing from this government—and of course we haven't seen the regulations yet, and that's what could really be scary, I think—are a manifestation of what seems to be their attitude, that the rural communities, from a political point of view, are to them somewhat dispensable, or that their views are not important? They talk about the consultation process that went on prior to them bringing forth this bill. I'm wondering if any of your associations or groups that you represent were ever part of any preliminary discussions before this legislation was brought forward.

Also, I'd like your views on—because we live in the reality that the government holds a significant majority, and if they want, they're going to push this piece of legislation through, and there's little we can do to stop it, other than to raise our objections—what impact that is going to have on you and your association across the province of Ontario.

Mr. Kelly: In the first part of your question, John, no, we've never been informed or invited to any consultation that's ever taken place before today.

As far as rural Ontario, if you remember, there was a paper put out. It came out in the Toronto Star, back—I was trying to think when it was when you were speaking there. Its findings were to just let rural Ontario die. Well, we are rural Ontario, and we're not going to die; we're not going away.

As for the implications of this, it'll be real hard on our association and our communities, our county. I'm a member of the local council; I have been for 15 years. If this is brought through—I've seen many downloads brought to the council table—there's no way that a

council of a rural community can afford this. It will devastate us. There are no two ways about it. It will paralyze us. We'll be dead.

Mr. Yakabuski: By way of amendment, what can be done to make this in any way acceptable? Because we recognize that, as I say, the government can push through whatever kind of legislation it wants. They have the majority. What can we do to improve it, and who has to pay the bill?

Mr. Kelly: I'd say the province has to pay the bill, but as I said before, being a member of the local council, you know as well as I do that this government of today can pass a bill and say that they will fund this for the end of their term. When the next term comes up and the next election is over and there are new people sitting around this table, that's not enshrined in stone; it never is. That could be changed. So people could accept it, by the government saying, "Yes, we'll fund it for ever and a day," but that day ends after the next election. The next one can change it; you know that.

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The Acting Chair: Mr. Wilkinson.

Mr. Wilkinson: Thanks, Jack, for coming in. Just following up on the question about the composition of the source protection committees, we've had testimony from farmers who've said—and I represent a rural riding—that farmers need to be on that committee. I know the ministry is looking at being more prescriptive, to make sure that the source planning committees have representatives who have to be there. But you're wearing two hats. We've got the municipalities who have come to us and said, "Well, you say that we may have a third, but we want to have more than half"; we've had the farmers say, "Well, we've got to have more than half"; and then you're saying, "You'd better make sure that the land-owners and the business owners are there too." So I was wondering if you could help us. If we're going to have a community of all the people who are sharing the same drinking water source come together, how do we balance those interests?

Mr. Kelly: It's got to be balanced in each community. Every community knows their community better than anybody else does; you know that as well as I do. In my particular community, we have a perfect split, as the fellow would say. We have a third farming, we have a third residential, and we have a third business, so our split is really nice. When we amalgamated, we became one of the more perfect splits, if you want to call it that. In our case, it makes it easy for us, because we can get the representation from the farming community and we can get the representation from the elected officials, because a lot of them are on farms and everything else.

Mr. Wilkinson: You've got two hats anyway.

Mr. Kelly: Yes. It's going to be a hard draw for a lot of municipalities. That's why I say that the government has to really keep control of this. They can't download it to municipalities.

Mr. Wilkinson: But we should make sure that it's local people who are driving this, though, as opposed to coming top-down, like regulation 170 or something.

Mr. Kelly: That's right. But it's going to be awfully hard to get local people to push this. As a municipal official, I would have a really hard time pushing this bill. I would almost have to say I'd refuse to push it, to be quite honest with you.

Mr. Wilkinson: The proposed bill shows 15 people and a chair. We were in Cornwall and we heard testimony about the fact—actually, if you're going to make sure you've got all your municipalities represented, because of the vast areas, even if you just used upper-tier, this person testified you'd really need 19. So should there be leeway so that we can make sure that each one of these is the most responsive structure, or should it be this kind of one-size-fits-all approach?

The Acting Chair: Thirty seconds.

Mr. Wilkinson: Is it better for us to err on the side of caution by having a bit more flexibility to make sure they're all represented?

Mr. Kelly: Yes, I would say you need the flexibility, for sure.

The Acting Chair: Thank you both for your presentation this morning. We appreciate it.

Mr. Yakabuski: Do I get a rebuttal?

The Acting Chair: No.

NATIONAL FARMERS UNION, RENFREW COUNTY LOCAL

The Acting Chair: Our next deputants this morning are from the Renfrew County National Farmers Union. I'd note that our deputants have been waiting patiently this morning for their opportunity.

Please identify yourself for the purpose of Hansard, and the committee will come to order accordingly.

Ms. Lauretta Rice: My name is Lauretta Rice. I am from the Renfrew County National Farmers Union. I've lived on the family farm all my life. I'm a retired school-teacher. After my husband passed away, I owned and operated the dairy farm. Now my son is a fifth-generation dairy farmer on the same farm. Therefore, my heart is very much in this.

First of all, I am a secretary of the organization. The president, Dave MacKay, has big construction at his farm today. He's got his contractors working. He couldn't leave. Vice-president Kevin Coughlin has 90 acres of grain to combine, so he couldn't leave. So here we are. On my left is one of our executive, Rob Anderman, and on my right is Christina Anderman.

I will do it in three parts. I'll do the introduction, she'll do the body, and Rob will do the conclusion. You'll hear a lot of the same as you've heard earlier, I'll warn you, but I think it's good for this group to hear the same thing over again.

The Acting Chair: Since you have three presenters, I'll give you notice when there's about one minute left in the 10-minute allocation.

Ms. Rice: Okay. We'll be short. We've cut a lot out. For you who are following, we've cut this down because I know lunchtime is coming and people are getting hungry.

The Renfrew County National Farmers Union welcomes this opportunity to present the views of its members on the issue of Bill 43, the Clean Water Act. The NFU is committed to maintaining the family farm as the primary food producing unit, strengthening rural communities and building environmentally sound, sustainable local economies.

As an organization of farmers, the NFU believes that responsible stewardship of the land, water and air is a fundamental requirement for a healthy food system and a healthy society.

Ms. Christina Anderman: While Bill 43 addresses a serious issue and indeed contains many measures which may increase the province's ability to protect drinking water quality, the legislation does not adequately address a number of legitimate concerns raised by rural residents, landowners and municipalities. On the positive side, the national farmers' union strongly endorses the principle adopted by the Ontario government of using watersheds as the geographic basis for managing and protecting the quality and quantity of surface and groundwater. We also support the concept of locally developed source water protection plans. However, the NFU does have serious reservations with respect to many of the provisions contained in Bill 43, the Clean Water Act, 2005. These concerns involve landowners' rights and responsibilities, the regulatory process itself and the costs involved in implementing the proposals.

In the last few years there has been a major farm income crisis across Canada, including Ontario. While farms continue to produce vast amounts of wealth, that wealth is siphoned off the farm and out of the rural community because the food chain is dominated by very large multinational agri-business corporations. The decline in rural communities is very much a reflection, therefore, of existing trade and agriculture policies. It is therefore vital that the Ontario government take this context into account in determining on whom the burden of maintaining high-quality water supplies should fall. It is also critical that the Ontario government keep in mind the fact that the entire provincial population benefits from a reliable supply of good-quality drinking water, and therefore the public should bear the bulk of that cost.

Rural communities have traditionally borne a major portion of the responsibility for the maintenance of water quality and quantity simply because that is where the vast majority of surface and groundwater supplies originate. Clearly urban municipalities, particularly in Ontario, are heavily dependent on a healthy environment in rural watersheds. Rural residents that utilize production methods that respect the environment should be recognized for their contribution toward protecting Ontario's natural wealth.

Normally accepted farm practices which pose little or no risk to municipal drinking water supplies, and which are widely used by family farms across Ontario, may be curtailed or severely restricted if this legislation is enacted. Measures which may be appropriate for limiting or eliminating pollution by large-scale industrial operations clearly are inappropriate when applied to smaller-

scale, well-managed family farms. In fact, family farms may be viewed as a key component in the larger solution to overcoming water quality problems in rural areas.

Obviously, the nature and scale of a farm operation, in conjunction with the characteristics of the soil, drainage patterns and geology of the land itself, will determine what constitutes appropriate land management practices. A family farm with a herd of beef or dairy cattle that may be dispersed over a significant area of pasture land and brought together periodically is significantly different from an intensive feedlot where animals are constantly confined to a relatively small area. The same difference holds true for hog production on family farms—where hog manure can be spread as a natural fertilizer over fields covering a large area—compared to intensive hog factories which generate massive amounts of sewage that must be stored and treated in lagoons before eventual disposal, sometimes at a great distance from the source.

It is vitally important to ensure that measures aimed at preventing contamination of municipal drinking water sources from industrial hog factories and other large-scale intensive livestock operations are implemented and enforced. But it is also vitally important to distinguish between these operations of an industrial nature and scale and family-farm-based livestock production.

The NFU believes that appropriate management of the land and its associated agricultural operations is the key to ensuring drinking water source quality is protected. It is therefore essential that agricultural interests—and by this we mean working family farmers—be guaranteed representation on the source protection committees.

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Protection and enhancement of water quality is something that benefits everyone across Ontario. But the bulk of the responsibility for this role falls on farmers and rural communities because they are the people who reside on and/or own land in the critical source watershed areas. Most farmers already take excellent care of their land and ensure that the water that originates on or passes through their land is not degraded, either intentionally or accidentally. A large number of farmers have also voluntarily implemented environmental farm management plans for their operations, at considerable individual expense. It is important to note that families who have farmed the same land for generations are undoubtedly the best source of information and knowledge concerning not only the soil and bedrock geology of the land but also water drainage patterns. They are often the first to notice when problems occur and are literally on the front lines in protecting that water source.

Perhaps the most worrisome aspect of the legislation is the lack of compensation for farmers and rural communities for restrictions imposed on normal farm practices. A suggestion put forward by OFEC would require municipalities to assume control of the wellhead protection areas and intake protection zones associated with their wells and surface water systems. This control would be accomplished through either direct purchase or a lease agreement, the cost of each to be determined

through negotiations between the municipality and the landowner, taking into account full opportunity costs to the farmer.

As was stated earlier today, municipalities themselves need to be compensated by the provincial government for complying with the obligations outlined in the legislation. Municipalities, either singly or in partnership with neighbouring jurisdictions, would need to employ a hydrologist, a hydrogeologist, a civil engineer, an agricultural engineer as well as the standard municipal planner in order to prepare proper risk assessment reports. Obviously, many municipalities would be unable to absorb these increased costs.

In addition, the art and science of predicting potential risks to water quality is opaque at best. Site-specific predictions are nearly impossible. It is not uncommon for analyses prepared by experts to be questioned based on other equally reasonable assumptions. Once these risk assessment reports are prepared, at considerable expense, the possibility exists that the study may be rejected and another one ordered.

Mr. Rob Anderman: The National Farmers Union congratulates the Ontario government on taking steps toward protecting our province's precious drinking water supplies. However, Bill 43 in its present form should be regarded as a work in progress that still requires additional input from the public and substantial improvements before it becomes law.

The NFU believes that clean water is a fundamental right for all Ontario citizens, and will work with other organizations and the Ontario government toward achieving that end. However, we believe that the following issues need to be addressed fully in any legislation that comes forward:

(1) Society as a whole benefits from protecting and enhancing municipal drinking water sources, so all of society should bear the cost. Farmers and rural communities should not be unfairly made to shoulder the financial burden, particularly at a time when family farmers are already reeling from an unprecedented income crisis.

(2) Any legislation must ensure that the regulatory framework and enforcement mechanisms will not disadvantage smaller family farms more than large corporate operations.

(3) Working family farmers must be guaranteed meaningful representation on the source protection committees.

(4) Risk management requirements must be appropriate for the farm operation they are targeting.

(5) Family farmers must be fairly compensated for any loss of agricultural land use.

As a final comment, the family farm is a big part of the solution to water quality issues, not the cause. Please record that the family farm has provided the service of clean, quality water for generations and, if not burdened further, will continue to do so.

The Acting Chair: Thank you. We'll move to Mr. Tabuns for the first of our five-minute allocations for questions.

Mr. Tabuns: Thank you very much for making this presentation. I've asked others, and I just want to ask you and have it on record: If this bill goes forward without a commitment in statute to funding, do you believe that there will be significant resistance on the part of rural communities to its implementation?

Ms. Rice: Yes, I certainly do. It can't go ahead unless those farmers who are now suffering—their income is lower than it was in the Great Depression, the majority of income. You have to have 100% funding. On top of that, I know a lot of people who work long hours, 14 hours a day. They don't have time for the paperwork, the extras that this involves. And most farmers, as mentioned in the presentation, are doing a good job right now. I know on our own farm that's been there for generations, we have decommissioned wells, we have filled wells properly and so on. Most farmers are doing their job as is, right now. So 100% funding and nothing less.

Mr. Tabuns: Okay. Thank you very much.

The Acting Chair: Mr. Wilkinson.

Mr. Wilkinson: Laretta—I'm married to one, so I'm always partial to Larettas—thanks for coming in. Thanks for being a great steward of the land. The vast majority of farmers—and I have a very rural riding myself—are wonderful stewards of the land.

My question would be, if we had the source water planning committee and if we had this risk management official—not the building inspector model, but a risk management official—come and say, “Listen, we've got some concerns. Can we work together to try to just make sure that if there are any potential risks, we're just mitigating them so they're not significant?”—do you feel that in that approach your members would say that person would be welcome on their farm?

Ms. Rice: Very much so. The environmental farm plan is a very good first step. We've had one, two, and now three is coming aboard, and quite often there are people who come to help that farmer, and he'll ask for that help: “I have manure storage that I'm a little worried about.” They may ask the ag rep or somebody who very well understands the issues. He'll come and lay it out and offer suggestions on the most economical way that he can improve it. I know one farmer in our area is very close to a waterway. There's never any manure behind his dairy barn. It's transported to another area immediately once it drops to the ground, because he knows he's in a very sensitive area. My hat goes off to that farmer for doing it.

Mind you, there's a very small percentage of farmers who are guilty, and there is legislation right now that could look after them, but it's a very small percentage of farmers who do things that are not proper. It's very small, like we get everywhere, on the highways and everywhere.

Mr. Wilkinson: I agree: very small.

The Acting Chair: Thank you, Mr. Wilkinson, for your questions. Mr. Yakabuski.

Mr. Yakabuski: Thank you very much, Laretta, Christina and Rob. We've talked about these and many issues many, many times, and I certainly recognize the challenges that your members face in Renfrew county

and across the province of Ontario. Funding is one of the big issues.

One of the other things you talked about was real, tangible representation on any source protection committee. I think that's something we have to be very, very watchful of, because beware the guy who comes around and says, “I'm from the government; I'm here to help.” The fact is that we have to ensure that it's not token representation, because that is a very, very significant thing that goes on. We've seen it—I'm not even going to be partisan—on any government's part: They ensure that they've got members from certain groups to show they have implied support, such as they implied support of the Renfrew County Private Landowners with regard to the report by the Ministry of Natural Resources. So I think it's very important to have serious, real representation.

One thing I'd like to ask you, Laretta, because you're the best one to answer this: When you talk about the funding—and you know the precarious situation of many of your members and how many of them are working long hours on the farm. It's very interesting and not surprising that the government would schedule these committee hearings in the summertime, of course, when your people are out working—

The Acting Chair: You may want to let Laretta answer a question: 30 seconds.

Mr. Yakabuski: Laretta, how many of your members will probably be facing bankruptcy if this is not funded by the province?

Ms. Rice: We already have quite a few farmers who have quit, sold out, paid off as much of their debt as they could. As mentioned earlier by one of the other presenters, they had—was it 50 farmers in their area who gave up last year? We have dairy and we have mixed farming, and a lot of people working off the farm. It's the off-the-farm income that's carrying those farmers, not the income off the farm. That's the only thing that's allowing them to hang in there. These people are very close to the earth and that's their culture and their heritage, so they'd like to hang on to the family farm, or the farm that their father has farmed. They'd really like to hang on to it, because that's what they like to do. And we live in a very beautiful county, as you know. You go through some of the valleys there. It is a sight to see when the corn is ready to be harvested and so on. Thank you.

The Acting Chair: Laretta, thank you very much for your presentation.

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LAND IMPROVEMENT
CONTRACTORS OF ONTARIO
DRAINAGE SUPERINTENDENTS
ASSOCIATION OF ONTARIO

The Acting Chair: Our final deputation for the morning session is the Land Improvement Contractors of Ontario. Again, for the benefit of our final deputation of

the morning as we move towards the lunch break, if you would identify yourself when you begin your presentation for the purposes of Hansard. You have up to 10 minutes for your presentation and then questions from committee.

Mr. John Johnston: Thank you, Mr. Chairman and members of the committee. My name is John Johnston. I'm the secretary-treasurer of the Land Improvement Contractors of Ontario. I'm here today speaking on behalf of the Land Improvement Contractors of Ontario and the Drainage Superintendents Association of Ontario. Our industry builds and maintains cropland drainage infrastructure. Our business is soil management to improve the quality and quantity of crops produced in Ontario. Our food supply comes from crops, and food is equally important to human health and survival as is water.

Clean drinking water is a commodity of utmost importance to all citizens. We all want and expect to have an adequate supply of safe drinking water; therefore, maintenance and protection of the resource is the responsibility of all citizens. No undue burden of protection should be placed on any one citizen or group of citizens.

Throughout the process leading up to these hearings, we've already raised many issues that we feel need to be considered. All of our issues are based in fact. As the process moves forward, the focus comes to one single issue, and that is money: What is the public willing to pay for? There are at least four costs that we have identified that need to be addressed.

One is breach of biosecurity. Costs incurred as a result of this must not be borne by the property owner if an unauthorized person enters a property and spreads disease—disease from crop to crop or livestock group to livestock group.

The cost of liability: If a person unauthorized by the owner enters a property and is injured, the property owner must not be held liable; for example, the inspector going on the property, getting run over unintentionally by machinery, being attacked by livestock or pets, or similar situations. If a person acting under the authority of the act causes damage to the property, then that person must be liable for the damages that have occurred.

The cost of lost or altered production: If production must be altered or reduced or is ordered to cease based on guidelines that are not consistent with the 2005 interpretation of the Ontario Nutrient Management Act, the Canada Pest Control Products Act, the Ontario Pesticides Act and the Ontario Drainage Act and current regulations, or any other act that exerts control over the rural landscape, then the landowner must be duly, fairly and promptly compensated. The provisions of the acts identified are based on sound evidence-based science and serve the public interest as related to both clean water and safe and adequate food production.

The fourth cost is the cost for the municipality to maintain and enforce the provisions of the act. The cost will be prohibitive if the provisions of the act are applied beyond municipal wellhead protection.

Rural Ontario can provide whatever resource protection the public is willing to pay for. It's not good enough to say that costs will be addressed by regulation, because regulations can be changed at the will of government without the opportunity for appeal, and cost is far too important to the implementation of the act to be left to an afterthought.

The Clean Water Act, 2005, as proposed, creates a rural/urban divide. It implies that municipal elected officials and landowners are incompetent to manage natural resources. Under the act, only the Minister of the Environment is qualified to perform that task. The act creates a huge conflict between rural municipalities, which have to pay the ongoing cost of the operation of the Clean Water Act, and the urban municipalities that can raid the water resources of their rural neighbours with impunity and none of the resource management cost.

By centralizing all the authority for resource management in the Minister of the Environment, the bill creates a one-window focus for control of all land use, planning, development and zoning, which renders several ministries redundant. By statute barring all causes of action that may result from implementation of the act, the bill abdicates all the responsibility for resource management decisions taken by the Minister of the Environment. This is unacceptable.

In the final analysis, we all want and should expect clean drinking water. However, fairly distributed cost must determine how far we extend the provisions of the Clean Water Act, 2005. We petition the committee to consider these points in their deliberations on the bill and to propose appropriate amendments to address these concerns before recommending the bill to the Legislature. Thank you.

The Acting Chair: Thank you very much for the presentation. We'll begin the questions with Mr. Wilkinson.

Mr. Wilkinson: Great. Thank you, Mr. Arthurs. We appreciate the fact that you're able to come in and join us today.

You've raised the interesting issue of biosecurity. I know that the minister addressed that on Monday in her opening remarks, the fact that we will require that any person entering onto land on a farm is completely trained on biosecurity. What the act actually says right now, which we thought was reasonable, of course, is that if you come onto land and you cause damage—and, obviously, those of us from rural ridings know what happens if you were to bring a virus into a barn—there is liability there. I think that's why the government is kind of on the hook and is on the same side with you about the need to make sure that there is that mandatory training, so there's an awareness of that. We're working on amending the bill to make sure that that doesn't happen. I know your own membership are very aware of that, and we just need to make sure that that's transferred to others.

The question that I had, though, has to do with, we've got all of these other acts that you've mentioned where

there is land use restriction and there isn't compensation. I think about the Ontario Nutrient Management Act. So your testimony is that in regard to the Clean Water Act there should be? Could you clarify that?

Mr. Johnston: There should be compensation for changes that are required as a result of the—

Mr. Wilkinson: Beyond that.

Mr. Johnston: —beyond what is currently required in 2005 regulations under the Nutrient Management Act and the rest of the acts that I listed. So if there are no changes required, then there's no compensation.

Mr. Wilkinson: Of course.

The Acting Chair: Thank you. Mr. O'Toole?

Mr. O'Toole: Yes, thank you very much for your presentation. I appreciate the work that your organization has done with respect to drainage and other activities.

I would say that what we've heard today is a couple of things: First of all, it's a public good and as such the costs should be shared by the public in some reasonable fashion as opposed to the end person. When I look at a couple of sections of the bill—on page 33, section 47, it says the total fees can be collected by a number of different means, one of which is just putting it on your tax bill. I look at things like the septic inspections; the fees and regulations should be set for that. For potential well inspections that may be required annually or testing of the water that we do today at public health offices—these fees and these other ways of collecting revenue are one of the things that concern me and I would like to see them specifically in the legislation statutes, as opposed to some regulation schedule.

How's your sense of that in terms of our hearing most of the people here concerned about the cost of this program and the province downloading most of the operational activities, the effect on small-town and rural Ontario? Do you follow the question here, about setting fees for such things as septic inspections, testing well water?

Mr. Johnston: I think what you're asking me is, should the province set out in the bill an allowable fee that can be charged by municipalities, or whatever the authority is that is doing the inspections, and that's it? From the perspective of a landowner, it would be good to know up front what your cost is. But the fee that's set by the Legislature either is going to be prohibitively high or they're going to have to have a permanent subsidy in place to pay the difference.

Mr. O'Toole: Just one other section—section 48 talks about the risk management—

The Acting Chair: Thank you, Mr. O'Toole. You've completed the question period. Sorry, our time is running out.

Mr. Tabuns.

Mr. Tabuns: Thanks for the presentation. I appreciate it. If I understand you correctly, you think that the municipalities that benefit from the protection of the source water should be paying for the protection of the source water. I just wanted to ask, following that principle, should large industrial water-takers, like water bottling

companies that depend on high-quality water, also have to pay for protection of the source of that raw material?

Mr. Johnston: Sorry, I misled you. I do not believe that the municipalities should be responsible for paying the cost of protecting source water. I think it's a provincial responsibility. All the citizens benefit. All the citizens are entitled to good, clean, safe water, so all the citizens should pay. It shouldn't come on the municipality.

If you want to know where the rumour about private wells getting metered comes from, it's from comments like that, where the users have to pay. They only way you're going to be able to charge a user with a private well is to know how much the private user uses.

The Acting Chair: Anything further, Mr. Tabuns?

Mr. Tabuns: No, fine.

The Acting Chair: Thank you, sir, for your presentation this morning.

Before we recess for lunch, there are a couple of housekeeping matters, both for members of committee and the deputants who are here or coming back. Although the hotel is secure, the room is nonetheless not locked. If you have personal belongings, please don't leave them in the room.

Mr. Leal: A very low crime rate here.

The Acting Chair: I know, but it's a precautionary matter for us all.

For the benefit of committee, lunch will be in the Riverside. If you're here in the hotel, if you would check out over lunch, and the bus may be out front at this point. If not, put the bags here, and we'll certainly arrange to have them on. We'll start again as precisely as we can for 1 o'clock. We stand recessed for the hour.

The committee recessed from 1200 to 1302.

The Acting Chair: I call our committee meeting back to order subsequent to our recess. Just a couple of housekeeping matters: For those who weren't with us this morning, the deputants each have up to 10 minutes to make the presentation to committee, following which there will be five minutes for questions from the committee. Those five minutes are shared among the three parties. I'll try to keep people as much on track as I can. When you start making your presentation, would you please identify yourself? We may have it in writing, but we'd like it verbally as well for the purpose of Hansard, which is keeping a verbatim record of the comments made as required by our committee hearings.

RIVERSIDES STEWARDSHIP ALLIANCE

The Acting Chair: Let's begin with our 1 o'clock deputation, RiverSides Stewardship Alliance.

Mr. Kevin Mercer: Thank you very much. Good afternoon, members. I am Kevin Mercer, executive director and founder of RiverSides, Ontario's award-winning international practitioner of watershed source protection against threats posed by non-point source pollution and the advancing pace of urbanization.

On behalf of our members and many supporters, I strongly recommend that the existing legislation be recommended for approval by this committee. The Ontario Clean Water Act is a seminal piece of legislation that reflects a positive step in light of its beginnings as a response to the tragedy of the Walkerton drinking water fatalities of May 2000.

Let me first speak to those who would degrade this piece of legislation or sanction its modification as less than what it truly represents: a commitment made to the people of Ontario to ensure the health and vitality of the water sources we rely upon for our most precious daily requirement.

For RiverSides, the heart of this legislation lies in the protection of source waters against both chronic and catastrophic threats to the security of the waters that form the two legs of the supply triad, groundwater and surface waters. The third, rainwater, is not generally utilized in Ontario as a drinking water source, although the protections required of the first two ought to apply as well wherever or whenever rainfall is utilized as a source of potable water, though not, I might add, as a non-potable source of water for purposes other than consumption.

It is for chronic degradation of watersheds and groundwaters that RiverSides asks the committee to request clarifications from this government. Too often, the loss of water quality is chronic, meaning that its degradation reflects death by a thousand sources or a steady decline in its quality as a result of unregulated sources of runoff or discharges. One example I wish to ask this government to address is the discharge to surface and groundwaters of chloride salts used for winter and occasionally summer roads maintenance. Road salts pose a chronic threat to the sanctity of water supplies, as evidenced by the degradation of the region of Waterloo's groundwater. It is to chronic degradation such as this that we ask this Legislature to apply the precautionary principle to the application of substances for uses that will, in time, threaten the security of Ontario's groundwater and surface-based drinking waters—excepting the Great Lakes, due to the extensive dilution factor of those water bodies. We encourage the Legislature to ensure that this government recognizes the chronic threat of chloride salts and takes action to address this issue.

RiverSides has asked, in a subsequent request for review under the Environmental Bill of Rights, the Minister of the Environment to rescind the exemption of road salts from environmental law—regulation 339 of the Environmental Protection Act exempts known contaminants used for winter roads maintenance; road salts are classified by Environment Canada as an ecosystem toxic substance—and thereby require permits for their use and the protection of the ecosystem from their use.

This is a classic example of what real source protection consists of: addressing known threats to the security and health of our waters before they become human health threats through their bioaccumulation or environmental degradation. The point of this is to encourage this committee to seek assurances from the minister and her government that watersheds will be protected, instead of

relying upon the barrier approaches described in the act to polish the water to the best of our ability while ignoring the overall degradation of the source itself.

RiverSides does applaud this government for taking on the challenge of establishing drinking water source protection on behalf of all Ontarians. The protection of those sources from pollutants begins where the rain falls, before it becomes rivers or groundwater. For this reason, it is essential that the committee not tamper with the responsibility of all property owners to take responsibility for the sanctity of the water that flows from their lands or which lies in the groundwater underneath their lands.

No one person has a right to pollute groundwater or surface waters in Ontario, although the practice of protecting these precious resources for both human and wildlife requires—it is for this reason that we encourage you to ensure that this government requires permits and provides those permits with the suitable enforcement measures to provide the sanction necessary to all property owners who protect our waters. This is a priority whose time has come and from which no one may shirk their responsibility.

As it pertains to the protection of watersheds, RiverSides encourages all members to recognize the importance not only of drinking waters but of the seminal obligation you have as stewards of the public good to ensure that this government exercise the strongest protection of watershed health.

In closing, RiverSides encourages the committee and the government to practise vigilance in the protection of watersheds against the loss of their health and security arising from poorly managed development, both existing and proposed. Ensuring the maintenance of the primacy of this act over all others is the cornerstone of that commitment. We encourage you to stand up for the health and protection of Ontario's watersheds through the acceptance of this legislation.

The Acting Chair: Thank you, Mr. Mercer. Questions will begin with Mr. Yakabuski.

Mr. Yakabuski: Thank you very much, Kevin, for joining us today. You've indicated clearly that you feel the breadth of this act should be expanded in its nature, and I respect your views on that.

The question I have, and it's a question we've asked most presenters here, is with regard to who's going to pay for the enforcement of these regulations, whatever is enacted at the end of the day with regard to the decisions. When you say "this committee," I'm quite certain this committee is going to be supporting the act because it has a majority on the government side. What is your position with regard to the bearing of the costs of this act? Should it be, as is the current situation, possibly the most massive download in provincial history to municipalities and property taxpayers, or should the responsibility for funding this plan go to the province?

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Mr. Mercer: The obligation for protecting watersheds and the waters that flow off people's property begins with the individual property owner. Responsibility cannot

be downloaded from one's own individual responsibility. Price, therefore, is a function of taking the actions individually that protect the waters on our own lands. As a property owner, I recognize my obligation to ensure that I do nothing that harms my constituent property owners adjacent to me or the groundwaters which other members of society rely upon.

As far as it goes with regard to the barrier applications, I believe this government has an obligation to provide the sources reasonable funding and capacity-building for municipalities, conservation authorities and the regions to undertake what actions are necessary to educate the general public with regard to prevention of pollution and the actual barrier prevention of pollutants to drinking water sources.

The Acting Chair: Mr. Tabuns.

Mr. Tabuns: Kevin, good to see you here. Could you expand a bit on the use of the precautionary principle in the application of this legislation and why it's important?

Mr. Mercer: The application of the precautionary principle in this legislation, I think, stems first and foremost from the primacy of the legislation, that we recognize there is no higher requirement of a piece of legislation than the protection of our drinking water sources. For that purpose, the precautionary principle applied both to land and to regulatory practices is a requirement that is embodied in pollution prevention. We see the obligation of all parties to this legislation, whether they be the government, the municipalities or the individual property owners, characterized as doing that which is the most important for the protection of the resource where we have the individual responsibility.

The Acting Chair: Mr. Wilkinson.

Mr. Wilkinson: Thank you for coming in. This is a unique presentation. We haven't had this this past week. You were mentioning the example of the region of Waterloo and you were saying that there's concern about their water sources there having high salt content.

Mr. Mercer: Indeed.

Mr. Wilkinson: What they've decided to do is, they've taken this risk management approach. For example, if you want to have a new subdivision in the region of Waterloo, you have to have what are known as low-salt subdivisions as a way of, collectively, the people in that community coming together to take a threat and make sure it's mitigated so that it can't affect people's sources of drinking water. Isn't that the right approach rather than banning something?

Mr. Mercer: I never advocated for the banning of anything.

Mr. Wilkinson: Okay.

Mr. Mercer: I advocated for the permitting of a substance which is currently not covered by permits in Ontario. Our low-salt diet for Ontario's roads and rivers advocates that the minister remove the regulation 339 exemption of road salts from the Environmental Protection Act and subject users of road salts to permits under the act.

As per the region of Waterloo's low-salt approach, that's a primary example of the precautionary principle in play, by demonstrating that the application of a known substance that will have endangering effects on the quality of waters is being reduced via the risk management process. What is more important to recognize is that the road salts that currently threaten the region of Waterloo's water supply were laid down in the 1960s, so we have decades of cumulative impact which will continue to reduce the quality of well water that will have to be diluted by other wells.

The Acting Chair: Thank you, Mr. Mercer, for your response to the questions and your presentation.

ONTARIO WATERPOWER ASSOCIATION

The Acting Chair: The next deputation this afternoon is the Ontario Waterpower Association. As they're coming forward, just to remind those who might not be aware, there is a room adjacent with some chairs if after a period of time you find standing to be a little less comfortable than you would like. There's probably coffee or water still available.

Good afternoon. You can start when you like, and if you could identify yourself for the purposes of Hansard.

Mr. Paul Norris: Absolutely. Thank you, Mr. Chair and members of the committee. My name is Paul Norris and I'm president of the Ontario Waterpower Association.

By way of introduction, our association was founded in 2001 to represent the common and collective interests of the province's hydroelectric, or water power, industry. We were born out of the recognition by both industry and government of the need to construct public policy frameworks that addressed the new reality of a commercial electricity market in Ontario.

As I will discuss in specific detail, one key area of public policy designed at the time for our industry is water resource management. As I will describe, it's our view that the proposed legislation, while sound in its objectives, has a very real potential to create yet another duplicative layer of water-related regulatory and policy requirements for our industry.

I'd like to begin by providing the committee with an overview of Ontario's water power industry and our investment in water resource management. There are 200 operating water power facilities in Ontario. Collectively, they are responsible for the production of approximately one quarter of the province's electricity. Water power is and will remain the province's primary source of renewable energy.

Importantly, in the context of Ontario's proposed future electricity supply mix, our industry's contribution is expected to grow. Its ability to do so will be largely determined by the policy context within which we operate and develop generation facilities.

With respect to infrastructure, the water power industry in Ontario owns and operates less than one quarter of the estimated 2,400 dams in the province. However,

we are specifically subject to regulatory requirements that, in our view, already serve to achieve the province's interests with respect to water resource management. It is on this point that I would like to expand, and request that the committee consider the potential duplication of regulatory requirements for our industry.

In 2002, just four years ago, the government of Ontario amended the Lakes and Rivers Improvement Act to add a new provision with respect to water resource management. This new requirement under section 23 of the act reads in part that the minister—and the minister here is the Minister of Natural Resources—“may order the owner of the dam or other structure or work to prepare or amend, or participate in the preparation or amendment of, a management plan for the operation and maintenance of the dam.”

I'd like to point out two important facts related to the introduction of this new requirement. The first is that the province chose the Lakes and Rivers Improvement Act as a legislative vehicle by which water resource management for dam owners would be regulated. There were other options available and, as I'll discuss later, this appears to be a key issue with Ontario's water-related legislative framework. The second is that the province has chosen to order the preparation of these water management plans only for rivers that produce hydro-electricity.

I have brought with me and will leave with the clerk a copy of the guidelines referred to in the legislation, but would like to give the committee members a brief overview of what water management planning entails.

As described in the guidelines, the goal of water management planning is to contribute to the social, environmental and economic well-being of the people of Ontario through the sustainable development of water power resources, and to manage these resources in an ecologically sustainable way for the benefit of present and future generations.

Planning has been guided by the following principles: maximum benefit to society; riverine ecosystem sustainability; the use of best available information in science; a thorough assessment of options; adaptive management; recognition of aboriginal and treaty rights; and public participation.

Water management planning for water power, like the proposed approach under the Clean Water Act, is a locally driven public engagement process guided by provincial policy objectives. The guidelines specifically require that the public interest in water and water use with regard to the management of water levels and flows be addressed.

Over the past four years, the province and industry have collectively invested more than \$25 million in implementing the first cycle of water management planning, with investment in new data collection, monitoring, evaluation and assessment ongoing over the next seven to 10 years in preparation for the next iteration. It's our concern, therefore, that the proposed approach under the Clean Water Act does not appear to recognize these

considerable and recent investments undertaken by our industry.

I would like to acknowledge that it has been suggested to the industry by provincial representatives throughout the consultations on the bill that in the hierarchy of potential concerns with respect to drinking water sources, water power is very unlikely to be considered a significant threat. While we agree and appreciate this informal recognition, it is our strong view that unless this is proactively and provincially articulated, the individual planning processes will have the potential to require additional and unnecessary investments. Our experience with similar exercises supports this concern, and I'll share an example.

In 2003, almost exactly one year after the introduction of water management planning under the Lakes and Rivers Improvement Act, the province posted on the Environmental Registry proposed amendments to regulation under the Ontario Water Resources Act and improvements to the permit-to-take-water program. This proposal was directly linked to the government's clean water strategy.

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In response to that posting and to subsequent related policy and program initiatives, our association has consistently observed and maintained that the introduction of water management planning under the Lakes and Rivers Improvement Act had been designed to achieve substantially equivalent objectives to those being proposed under the Ontario Water Resources Act. In fact, if one reviews the revised purpose section of the regulation, the overlap and duplication are obvious.

A key point of relevance to the current discussion was the apparent recognition of the unique position of our industry vis-à-vis regulatory equivalence, yet the lack of any tangible policy progress to address this issue. As a result, we are now dealing with case examples of water power facilities with permitting provisions related to water resource management issued under two separate pieces of legislation, with identical compliance requirements, administered by two separate ministries.

As I hope you can appreciate, based on this recent experience our industry is not confident that water management planning has been adequately acknowledged as the primary public policy framework through which our industry is regulated. We are therefore concerned that in the absence of such specific provincial recognition, a similar duplicative outcome could be the result of local source water protection planning initiatives as designed in Bill 43.

I want to be clear, however, that the industry is not recommending that we not be required to address the province's water policy objectives; rather, that we already substantially do through a decision by the government to subject our industry alone to the provisions of water management planning.

A number of organizations have recommended that the province establish clarity with respect to the definition of “significance” in terms of threats to drinking

water. We would agree, as water power production is clearly not one of those activities and should therefore be exempt. In the absence of such legislative provision, the Ontario Waterpower Association makes the following recommendations in relation to the bill and its implementation:

(1) that the government and industry undertake a provincial analysis of the geographic and water resource management relationship of existing facilities, control structures and municipal water supply sources;

(2) that, based on that analysis, those water power facilities and structures having no relationship to municipal water supply sources be deemed eligible for the exemption provision under clause 100(1)(r) through regulation;

(3) that for those water power facilities and control structures determined to be in proximity to municipal water supply sources, the Ministries of the Environment and Natural Resources and the specific water power producers confirm that interests related to water supply are incorporated into the water management plan; and

(4) that, subsequent to such confirmation, those facilities be considered in the exemption provision.

Further, it is our view that such analysis can and should be undertaken prior to the establishment of source water protection planning committees in order to ensure that these local entities have the benefit of this provincial review and are able to direct their time and the government's resources appropriately.

Finally, I noted in Hansard from the committee's deliberations earlier this week that there was a question related to riparian rights that I believe was answered as follows:

"With a riparian right, an individual who has water flowing over or adjacent to their property would be able to make use of that water so long as it is returned without substantial alteration in the quality or the quantity."

I would point out that the production of water power is fundamentally a riparian right or privilege, and in most cases granted by the crown by virtue of the crown's ownership of beds of navigable waters. It is a privilege for which our industry currently pays \$150 million annually to the consolidated revenue fund.

In closing, I would like to reiterate our commitment to sustainable water resource management. However, as we embark upon an ambitious agenda of doubling our supply of renewable resources in Ontario, it's imperative that legislative, regulatory and policy requirements be aligned, rationalized and coordinated.

Thank you for your time. I'd be pleased to entertain any questions.

The Acting Chair: Thank you, Mr. Norris. The first question, Mr. Tabuns.

Mr. Tabuns: Mr. Norris, thanks for that presentation. As I understand it, it isn't that these regulations would pose difficulty for water power operators; it would just mean that you're engaged in more paperwork than is necessary and you think we should avoid putting you through that paperwork. Do I understand that correctly?

Mr. Norris: Yes. We would prefer that the province clearly acknowledge that water power facilities aren't the problem here and to give some guidance to local planning committees, which we're not.

Mr. Tabuns: Okay. Thank you.

The Acting Chair: Mr. Wilkinson.

Mr. Wilkinson: Thank you, Mr. Norris, and on behalf of all of us, thanks for the good work that your members are doing as we wean ourselves off fossil fuels for generation. You're making wonderful clean, renewable energy as a result of water power. We appreciate that.

My questions: You want to make sure that the work you've done doesn't have to be duplicated, which is a very sensible approach, but also that you don't get captured in a bill that inherently you wouldn't normally be captured in. That goes to the question—I know there's some consideration about whether under part IV, in regard to the use of risk management, the minister would be able, for certain classes of activity, to have a bit more leeway in there to clarify that so that you're not caught in having to reinvent the wheel with every authority. If we're able to look at that, do you think that should be able to take your concern and put it to bed?

Mr. Norris: Yes. Our experience over the last four years in water management planning is that the initial discussion is always about scope: What's in scope; what's out of scope? If the province were to provide some clarification specific to our industry, in recognition of what we've just been through, that would be most helpful.

The Acting Chair: Thank you, Mr. Norris. Mr. Yakabuski.

Mr. Yakabuski: Thank you for joining us today. It was an interesting submission. It makes perfect sense to me. I'm curious as to why this would not have been picked up and dealt with prior to this point. Obviously there are many, many things that are being shoved ahead and brought to summer hearings without real consideration of the need or necessity. This is bureaucratic siloing at its worst: duplicating something that has absolutely nothing to do with putting something into water. The only thing you're doing is taking something out of water, and that's electricity, which we need badly. We commend all you small hydro producers for the good work you do. Actually, I sense a smidgen of possible progress here on the part of the government side. We're hoping, not only in your case but maybe in the cases of some of the other submissions we have heard today and will hear later today, that there will be some common sense injected into this equation.

The Acting Chair: Thank you for your presentation today.

PETERBOROUGH COUNTY
LANDOWNERS ASSOCIATION

The Acting Chair: Let's move to our third deputation of the afternoon, the Peterborough County Landowners Association. Welcome.

Ms. Bonnie Clark: My name is Bonnie Clark. I would like to thank you for taking the time today to hear from so many speakers. I think the fact that so many people have given up their Friday afternoon in the dog days of summer speaks to the concern we have in rural Ontario—and I say the county as well as the city, because we all are landowners and do have a stake.

I'm speaking on behalf of the Peterborough County Landowners Association. We want to be very direct and very clear. We, as rural people, have had enough. There certainly is a current, not unlike an underground river, but the current is gathering, it is becoming stronger and it is about to erupt. This is rural Ontario behind me, and I would not hesitate to say that we likely have the biggest volume of people sitting in on these presentations today, and that speaks for itself.

We are for clean water. It's a given, a motherhood statement, that no individual and no organization, certainly not this one, would ever dispute. We, as rural Ontario landowners, have been good stewards of the land and have no intention of being anything different. However, Bill 43, as it is drafted, leaves landowners feeling like they have been found guilty without trial. Indeed, it leaves us standing financially on our own. This bill will desecrate rural Ontario if it passes as it stands.

Bill 43 clearly gives absolute power to a designated inspector, appointed by individual municipalities, who solely can make a determination if a landowner is in fact partaking in an activity that is deemed a threat to drinking water. I take this as a direct quote from the bill. This in itself gives individual landowners the perception that we are appointing someone who is judge and juror. There are no specific triggers listed, and this is a major concern to us, leaving us questioning, what if?

Bill 43 also leaves enforcement of the act in the hands of individual municipalities and therefore begs the question, will enforcement be carried out in equal measures? I think that has been a big concern that other speakers have brought forward.

I ask you, as elected representatives, to take a step back from the bill, a bill that, as it stands, represents proposed legislation that we feel is flawed, a bill that legislates reverse onuses, those being placed on individuals. We feel that the responsibility for clean water needs to be collectively addressed and therefore rests provincially and with our collective tax dollars. I think that has been an ongoing theme here as well.

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Be leaders and good stewards of our water supply. First of all, map Ontario's aquifers. I did ask at a meeting in Uxbridge if this task had been completed. I know that it has been ongoing. The Ministry of the Environment representative confirmed that Ontario's aquifers have not been completely mapped. The government is legislating a resource we do not even have an adequate inventory on. Perhaps the cart is ahead of the horse, as we in rural Ontario would say.

I asked at this same meeting if any of our groundwater discharge areas have been identified as problematic. The

MOE representative chose not to answer the question, but in doing so, I think the question was answered. Therefore, I ask you, as our elected representatives, why are these hot spots not publicly announced and an action plan put into place that would rehabilitate and protect our water supply?

I ask us to all look into our backyards, and maybe especially the backyards of our densely populated areas, our cities. We are already aware that the GTA, with any significant rainfall event, cannot handle the volumes; therefore, the result is to bypass our treatment plants and spew into the Great Lakes system. City representatives scream that the cost prohibits expedient replacement of these ancient and malfunctioning systems. However, this act legislates that if an individual such as myself carried on the same type of practices, I certainly would be charged by the MOE and held accountable. We ask that all be held to the same standards as rural Ontario. It is absolutely mind-boggling that 80% of Ontario residents' drinking water comes from the Great Lakes and municipalities are allowed to carry on with these environmentally unsafe practices. We in rural Ontario individually pay for our private septic systems and feel cities should be held to the same high standards. We want to say to you today that if water is worth legislating, surely it is worth cleaning up problematic areas as well as unfit practices that we are already aware of.

Nitrates have been mentioned here again today, and they are of concern. Many feel manure handling is the top issue. However, we do have the nutrient management plan in place; we have soil testing; we have safe manure storage systems. And I say to you that as rural Ontario farmers, we want to be good stewards of the land. We first of all put these in place. We gave dollars in order to put them in and implement them, and now that dollar has been taken away. So to keep on educating and to keep on implementing this, put the dollars back.

I say to you that in rural Ontario we are light years ahead of industry and densely populated areas. Why are we not 100% funded if you want to protect source water? Educate and fund: That's been a theme throughout many of the presentations here.

Emergency backup plans when treatment facilities can't handle the volumes should not be our rivers and streams. Fifty per cent of the nitrates in our waterways are a result of acid rain, which is composed of acidic nitrates which come directly from automobile exhaust. Where is the legislation banning emissions? We all know that's big industry, and they certainly are in trouble. But individual landowners are asked to step up to the plate and pay for their practices, whatever they are. The coal industry is yet another offender, yet it is still allowed to continue to function. We, as the Peterborough Landowners Association, are asking that you, as government, be proactive, not reactive, and make the big players accountable. When that takes place, our drinking water supply can then, and only then, gasp a big breath of relief.

We have MOE, the Department of Oceans and Fisheries, the Planning Act, conservation authorities, the

Ministry of Health and nutrient management plans in place. Therefore I say to you, why set up another bureaucracy? The act apparently has a ticket value up to now, I understand, of \$67.5 million thus far. We ask you to direct the dollars to problematic areas.

We ask you to reflect on and think about Bill 43 and not to use it thoroughly as window dressing. Déjà vu: Is this not yet another bureaucracy such as the gun registry taking place? Individuals bore the cost, a bureaucracy was born, and the crime rate continues to grow. Can we not see that crafting a Clean Water Act does not make clean water? Focus on making the infrastructures of densely populated areas safe. Clean up landfill sites. Look at industry and commercial practices. That is what the voters want.

We are aware that the bulk of this resource is found in rural Ontario and we know the majority of the uses are found within city limits. Therefore, we ask that our communal tax dollars be spent to take care responsibly of this resource. We do not want this put over the back of individual landowners. The vast number of us purchased our properties long before Bill 43 was ever crafted, and some of us may lose the right of use and enjoyment of our land as we see it today. This is seen by many as a subtle form of expropriation without compensation, and we ask that that be addressed. We ask—

The Acting Chair: Thank you, Ms. Clark. I'm going to ask you to—

Ms. Clark: Can I read one more paragraph?

The Acting Chair: One more paragraph.

Ms. Clark: You have the opportunity to be leaders and to recognize that water is the new gold of the 21st century and a provincial responsibility. Be seen as a government that corrected problems, stopped offensive practices and cleaned up the hot spots. Take on the big guns and let rural Ontario enjoy and protect our environment, as we have already done. Thank you.

The Acting Chair: Thank you. Mr. Wilkinson?

Mr. Wilkinson: Thanks for coming in, Bonnie, and welcome to all the people who are here in support of you. You're right: It is a great showing today.

Ms. Clark: The biggest showing?

Mr. Wilkinson: Pardon me? Well, because you're the one doing the talking.

Ms. Clark: The biggest showing?

Mr. Wilkinson: The biggest showing? Well, we'll put that on the—the biggest showing today. There you go.

Just a couple of things. Actually, the amount of money over five years is \$120 million on the basis that, as you were saying, you have to map the aquifer. It's never been done. We got all of our watershed on surface water mapped when we created conservation authorities about half a century ago, but a lot of our great resource that you're talking about underneath our feet needs to be mapped so that people who are drawing on the same source can come together. Just like we do for conservation authorities in preventing flooding, the people in the same watershed work together, really, to put the

money upstream to help everybody along the river course.

My question to you, and I hear your points raised about fairness, is, if there's a model—and I asked the National Farmers Union this question. If someone can come to a farm and work co-operatively with a farmer, who is the best steward of their land, would they be welcome if they came with, "How can we work together," including resources? I think about the healthy futures initiative and the CURB program, which have been pretty successful in the past, and environmental farm plans. Does that approach work?

Ms. Clark: The approach of coming to someone's farm gate I don't think is an approach that will work. I think the approach is education and having the individual landowner knowing what is available and the funding in place to make that happen. I think you will get an overwhelming response for that.

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Mr. Wilkinson: Like a town hall meeting type of thing, where people can come out.

Ms. Clark: And just putting it out there, such as this travelling road show we have here today.

Mr. Wilkinson: Democracy.

Ms. Clark: A lot of us were not aware of it, and then we were told such and such a date, and that you may not be heard; you would be selected. That's the same kind of approach. I think education is the thing to do. I'm a registered nurse by profession, and we preach that in the health field. I don't think you can herd, for instance, all the people who happen to have a certain health problem, rap at their door and say, "I'm here to diabetic teach." It doesn't work. You have to have the people come to you, and you do that by educating them and providing the funds.

The Acting Chair: Mr. Yakabuski.

Mr. Yakabuski: Thank you very much, Bonnie, for your thoughtful and informative presentation. The process of mapping aquifers, and you talked about that earlier in your submission, has nothing to do with this bill; this bill is not necessary to map aquifers. I think your position that maybe we should find out where we are before we start deciding where we think we're going to go is a very good point.

I'm going to ask a question, and of course be as unpartisan as I can be: Do you think that this bill is another one of those things—and we see this from this government a lot—based on the popularity that it may enjoy in large urban areas, because the idea of source water protection—as you say, everybody believes in it, but they don't always understand the ramifications and the pain that it could inflict on rural people. Is it another one of these attempts to divide the rural and the urban, knowing that at the end of the day the urban has more votes?

Ms. Clark: I don't know if it is meant to divide. We all want water, as you say, and I think the urban area is heavily populated and certainly has more votes. Therefore, if you go to a tap and turn it on, you can do a lot of fearmongering when you are not front and centre. I have

my own system, and therefore I feel I am more accountable because I do not take it for granted to go to the tap and turn it on. I think we do a lot of negative press and put the fear in the public, and then we come out as the Big Brother or whatever that's going to protect the masses. Maybe this act is putting it out there: "We're going to protect you; we're going to take care of you."

I come back to some bad press in the Toronto Star from August 21, where Walkerton again is mentioned, E. coli is mentioned, the farmer is mentioned. I was not aware that there was any DNA testing to come out of Walkerton to know if it was bovine or not. Certainly, if the water had been treated appropriately, the people would not have been harmed. That was the end result I got.

The Acting Chair: Thank you. We're going to go to Mr. Tabuns.

Interjection.

The Acting Chair: Don't go yet. I'm just moving on to Mr. Tabuns. Each party has an opportunity.

Mr. Tabuns: Now for the bonus question.

Thanks for the presentation. You're very logical, you're very powerful, and it was very useful for us.

We heard from some folks near Napanee yesterday worried about their water source. They're near a proposed landfill site that's going to be expanded. Some of the farmers are worried about the quality of the water in their wells. Do you feel that rural water sources are at risk of being damaged by industrial sources like dumps?

Ms. Clark: I think the potential certainly is there. I don't think we can blanket-statement anything and say "absolutely not." I speak to one incident where septage was brought out from the city—I won't mention the city—to my municipality, and because it had slipped by the quality control aspects, we ended up vacuuming the land in order to pick up needles. So yes, we are all certainly at risk, and it's a resource that needs to be mentored and guarded. We need to do it collectively and with collective dollars. It's easy to take a little individual and landmark them, and then look as if we're doing good things. I want to look at the big players here who are possibly doing the major damage.

Mr. Tabuns: Okay. Thank you very much.

The Acting Chair: Thank you very much for your presentation.

TED COOPER

The Acting Chair: Welcome, Mr. Cooper.

Mr. O'Toole: Chair, I just wondered if there's any possibility: The group that's presenting at 2 o'clock has a large delegation of members in the hallway who would like to get in. Is there any way we could accommodate some change of persons in the room?

The Acting Chair: When the 2 o'clock delegation comes about, certainly I'll indicate if people would like to take a few minutes out, but I don't think it's appropriate for us to choose to—

Mr. O'Toole: There's no television broadcasting outside of this room.

The Acting Chair: I understand that, but we're limited. At the same time, we'll certainly indicate that there are people here for the 2 o'clock delegation who would like to spend the 15 minutes inside, and if others want to step out for a moment, that would be appreciated.

Mr. Cooper.

Mr. Ted Cooper: Thank you, Mr. Chair, and good afternoon. My name is Ted Cooper. I am here speaking as an individual. I am a resident of Mr. Yakabuski's riding, the county of Renfrew. I would like to thank the members of the standing committee for this opportunity to address you as part of your Clean Water Act consultations.

The basis of my oral presentation and written submission to the standing committee is from personal case study experiences that I believe provide an effective means to identify improvements required in existing complementary legislation to the Clean Water Act.

I am a professional engineer with 20 years of experience on a wide range of water resources projects throughout the province. Since 2002, I have been employed by the city of Ottawa as an infrastructure planner. Prior to joining the city of Ottawa, I worked in the consulting engineering business, primarily in the GTA and Kitchener-Waterloo areas, before moving to the Ottawa Valley in 1999, where I have since lived on Lake Clear in the township of Bonnechere Valley. The opinions expressed in my presentation today are my own personal opinions.

My written submission includes recommendations for the standing committee as a result of my experience on the following three case studies:

- (1) the McNabb drain of the township of Ramara;
- (2) the Carp River restoration project of the city of Ottawa; and
- (3) development on a highly sensitive lake in the county of Renfrew.

Given time constraints to address the committee, I will focus on just one of the case studies: the McNabb drain. Included in my written submission you will find a number of photographs, maps and articles that you may wish to refer to during my presentation.

The McNabb drain is located in the township of Ramara near Brechin along Highway 12 on the east side of Lake Simcoe in Garfield Dunlop's riding of Simcoe North. The drain has a relatively small watershed, just over five square kilometres, and provides a drainage outlet for agricultural and industrial land uses. The McNabb drain is but one of the estimated 30,000 municipal drains in the province of Ontario constructed under the Drainage Act.

The McNabb drain is not your average municipal drain. This drain was before the court of the Ontario Drainage Referee for 12 days of hearings between 2000 and 2004. It was the subject of the first-ever MOE director's order against a municipal drain in the province of Ontario. The McNabb drain was even the subject of a

preliminary hearing before the environmental review tribunal.

Despite the involvement of the Superior Court, provincial agencies and appeal bodies, if you ask the affected landowners what they think, they would likely comment that, while these administrative and judicial systems are intended to resolve public health and safety concerns, they have in fact exacerbated problems that have affected the area since 1998.

In his 2004-05 annual report, Environmental Commissioner Gord Miller refers to the planning of the McNabb drain as being "bad drainage planning."

I would like to draw your attention to the photos and newspaper articles in my submission. The photos show that water quality and flooding conditions have persisted between 1998 and 2006. The 2006 news article shows Joe Harrigan and his flooded farm. Joe lives on the west side of Highway 12, where the land uses are rural; on the other side of Highway 12, the land uses are industrial. Joe's farm is downstream from the industrial lands. The floodwaters on Joe's farm are from an industrial subdivision, from a quarry and from drainage off of Highway 12.

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Under the Drainage Act, drainage systems are constructed on the basis of the opinion of a drainage engineer. Other than needing to satisfy legislative requirements of the federal Fisheries Act, there's little or no environmental review conducted by any provincial agency or conservation authority.

Changes were made to section 53 of the Ontario Water Resources Act in 1997, requiring approval of municipal drains where drainage of non-agricultural lands is involved. Because the lands east of Highway 12 were industrial, I believed that the McNabb drain required approval under the OWRA.

With the legislation being explicit about the need for approvals under the OWRA, why should it have taken nearly 100 phone calls, e-mails and letters before I was able to get MOE to enforce the Ontario Water Resources Act? This is what eventually led to the unprecedented March 1, 2004, director's order being issued.

What was the township's reaction to receiving the MOE director's order? They requested a hearing two weeks later before the Ontario Drainage Referee, at which time motions were to be considered by the drainage referee declaring that the OWRA did not apply to the Drainage Act project.

So in March 2004, while the province was consulting the public on the white paper on watershed-based source protection planning, the cabinet-appointed drainage referee, who has the authority of a Superior Court judge, proceeded with a hearing on March 16, 2004, despite the fact that his term as drainage referee had expired. Had I not contacted officials at MOE to have them insist that the motions concerning the declarations about the OWRA be dropped, the Ontario Drainage Referee would have been considering motions in Superior Court on matters he had no jurisdiction over after his term as

referee had expired. I am not making this up. This is what actually occurred at the Superior Court offices in Barrie.

Mr. Chair and members of the standing committee, municipal drains constitute the headwaters of thousands of drainage systems in Ontario. Under the circumstances, I am very surprised to find that there is not even one reference to the Drainage Act or how agricultural drainage will be considered in the Clean Water Act legislation. If you think checks and balances are in place in existing legislation or that there is adequate enforcement of existing legislation, then I ask you to think of Joe Harrigan and the other landowners along the McNabb drain.

The current status of the Drainage Act, MOE director's order and Environmental Review Tribunal processes is that the OWRA applies only to areas east of Highway 12, where the land uses are industrial. But according to officials at the MOE, the OWRA does not apply downstream of Highway 12, where the land uses are agricultural. In other words, the review and approval of the drainage engineer's work is only required upstream of Highway 12. But downstream of Highway 12, where Mr. Harrigan's property gets flooded with drainage from industrial lands, no approval under the OWRA is required. Does this make any sense?

Rural water supplies are at risk because of the flooding. Mr. Harrigan's barn is now flooded annually. The wetland that was once holding water back on the east side of Highway 12 has been drained, and there is now little or no riparian vegetation throughout the entire watershed to moderate the flow of water or pollutants downstream, polluting other people's properties before polluting the beaches of Lake Simcoe.

Is this the best that 12 days of hearings before the drainage referee, the first-ever MOE director's orders and a hearing at the Environmental Review Tribunal can deliver? Just imagine the impact of similar projects affecting the water resources of the province, where decisions are being made in municipal offices without the involvement of any agencies.

I have identified specific changes to existing legislation in my written submission. These include changes to section 6 of the Drainage Act, subsection 53(6) of the Ontario Water Resources Act and subsection 6(2) of O. Reg. 681/94 under the Environmental Bill of Rights.

Furthermore, the last decision of the drainage referee concerning the McNabb drain has been appealed to Divisional Court. The hearing is expected to proceed this fall. The six grounds of appeal are outlined in the written submission. I would further recommend that the standing committee consider additional action depending on the decision of Divisional Court.

Each year, nearly 2,000 projects on municipal drains are authorized under the Drainage Act. This is a significant number of projects that, with the right programs in place, could represent a tremendous opportunity to establish long-term measures that not only provide farmers with the drainage they require but could also serve as a program to implement and retrofit conser-

vation measures along the province's 30,000 municipal drains, with the objective of increasing the protection of source waters.

I believe the overwhelming majority of farmers are interested in the protection and conservation of water resources of the province. One of the greatest challenges is making conservation measures affordable so that future drainage projects represent win-win opportunities for farmers like Joe Harrigan and downstream property owners like Christine Kaiser-Reid, the resort operator on Lake Simcoe.

Each year, the municipal outlet drainage program provides grants to farmers and municipalities. I would encourage the standing committee to recommend a parallel funding program that would direct funds specifically to the protection of source waters along municipal drains.

There are many lessons that can be learned from the McNabb drain. I believe the province needs to strengthen existing legislation protecting source waters. At the same time, I firmly believe a lot more will be gained by providing incentives to the farming community to implement source water protection measures along municipal drains. Thank you.

The Acting Chair: Thank you, Mr. Cooper. Mr. Yakabuski.

Mr. Yakabuski: Thank you very much for coming in and offering us your submission today, Ted. I appreciate that.

A couple of things here; you touched on two different issues, one which you cite as a glaring need to strengthen the Ontario Water Resources Act with regard to drainage, and then you also talk about the funding issue. Could the first be taken care of by simply strengthening that act? Then we move to the question of funding the Clean Water Act. The two issues are a little bit separate. If we saw a strengthening of the Drainage Act, whatever we're calling it here, we might accomplish your first goal. I guess my question is, then, what do we have to do to make Bill 43 acceptable to people not only in rural Ontario but all across Ontario, so that the cost and the responsibility of ensuring that water is safe is borne by everybody if this act is brought into legislation?

Mr. Cooper: I think one of the main problems is that there are inadequate human resources at many of the agencies. I believe that a lot of the work that is reviewed and approved in this province involves too little oversight. In such a scenario, those who have a lot of money at stake are the ones who usually get their way. Basically, if there could be more resources applied in projects such as the McNabb drain to oversee what is actually being approved and in part financed by the province, I think that's what's required.

Mr. Yakabuski: I guess I could say that farmers have a lot of money at stake. I don't know that they're getting their way.

The Acting Chair: Thank you. Your time is up. Mr. Tabuns.

Mr. Tabuns: Thank you, sir. It was a very useful presentation. If in fact funding is not provided to imple-

ment this act, do you think that it will actually achieve its stated goals?

Mr. Cooper: Of the Clean Water Act?

Mr. Tabuns: Yes.

Mr. Cooper: That's a pretty broad question. I think that most of the residents in rural Ontario are concerned about not only their generation but future generations, so I believe that a lot more can be gained by working with them, and where there are environmental regulations to be applied, that they be scoped in a certain manner that suits the particular risk. Quite often one size does not fit all. But even just by the fact that sometimes you have members of the public come out and make a certain small point, it can make a difference. The same might apply with, if I can call them, regulations on the farm. Maybe there could be a means for more staff people to come out and work with the farmers, as opposed to having regulations officers come out and work against them.

Mr. Tabuns: Okay. Thank you.

The Acting Chair: Mr. Wilkinson.

1400

Mr. Wilkinson: Thanks for coming in, Ted. Just so we're clear, the act, as drafted, contemplates that there would be primacy of whichever act does the best job of protecting source water, so you don't get into this endless stuff of going off to the courts trying to figure out which act, because there are so many acts involved. If there was a significant threat to drinking water, though, the Clean Water Act would come into application.

Because the kinds of matters you're talking about are before the courts, I would rather like to ask you a question, with your own personal experience as someone in planning, about the best way to ensure that our farmers can have well-drained fields, which they need in order to be able to have productive use of their land, and the ability to keep sources of drinking water safe. Can you give us examples of where those two things have been balanced and well done? I'm thinking of things like CURB and healthy futures.

Mr. Cooper: I'm only a little bit familiar with those programs; I'm sure a lot of the farming community here could probably comment better than I could. What I think is important is that when you look at programs like the municipal outlet drainage program, they principally focus only on drainage. Meanwhile, we all know that there's a lot more happening along those drainage systems. If the focus is entirely on drainage, there's no money given to consideration of some of the other things that are necessary along the way, such as filtering along those drainage systems, and there's always potential for considerable loss of wetlands. When that occurs, there could be other impacts related to erosion and sedimentation. In fact, when I mentioned that there are 2,000 projects, 1,500 of those are to go back and clean out these ditches, because the whole system is destabilized. So if there's a little bit better planning up front—one example would be in section 6 of the Drainage Act. That pertains to environmental appraisals. The way the act currently reads, anybody who requests an environmental appraisal has to pay for it. To me, that doesn't make any sense.

The Acting Chair: Thank you, Mr. Cooper. We appreciate your comments.

DURHAM YORK VICTORIA
LANDOWNERS ASSOCIATION

The Acting Chair: John Panter?

I understand from Mr. O'Toole that there are a number of people who want to hear Mr. Panter's presentation, if anyone wanted to step out. It's a little bit crowded, but that doesn't require anyone to leave either.

Mr. Panter, welcome. Just as a reminder for those who are here and following, the presentations are up to 10 minutes, following which there will be up to five minutes of questions shared among all three parties. If you'd just identify yourself, although I have, for the purpose of Hansard, that would be wonderful as well.

Mr. John Panter: Thank you. Some of us have been cooling our heels out in the corridor, so I assume Mr. Arthur is here chairing this meeting. Is that correct?

The Acting Chair: That's correct, sir.

Mr. Panter: Thank you, Mr. Chair and members of the committee. My name is John Panter. I am a landowner in Victoria county. Please let the record show that I am here today as a representative of the Durham York Victoria Landowners Association, which in turn is a member of the Ontario Landowners Association.

Bill 43 is such a tragically flawed piece of bad legislation that it probably cannot be salvaged with mere tweaking or tinkering. There comes a point in any construction project where renovation is not an option; demolition is far more efficient. Bill 43 will achieve clean drinking water, but at what price? And by "price," I do not mean the monetary cost.

The public is being hoodwinked by the government to believe that cheap drinking water is the most precious thing we have. It is not. The most precious thing we have is liberty. With liberty, we can accomplish almost anything, including the provision of clean water. Without liberty, clean water can be delivered, even to a concentration camp, but what would be the point?

One of the hallmarks of a true democracy is that only those bodies that are elected, and hence accountable to the people, may define, prosecute and punish criminal activity. Bill 43 sacrifices a long history of freedom and democracy in Ontario in exchange for the cheapest method, in dollar terms, of delivering clean water. It is a quick and dirty fix.

Under Bill 43, unelected and unaccountable conservation authorities and their privileged, hand-picked source protection committees are granted the powers that heretofore were the exclusive jurisdiction of elected legislative bodies. Unelected and unaccountable conservation authorities and source protection committees may now define criminal activity based upon whim or feelings. They may invade private property without the owner's consent and without warrant. This is the infamous knock on the door in the middle of the night, except that now they need not even knock.

Permit inspectors may bring along any unelected and unaccountable person having "special knowledge," whatever that means. Permit inspectors are only obliged to identify themselves if requested to do so by a terrified landowner who manages to keep his wits about him. They may use force as they choose. Once they are there, they may do anything which, in their opinion, the landowner is not likely to do even if he was asked nicely, which I guess is legislatively protected clairvoyance. These unelected and unaccountable thugs may do all of these things on the property of a completely innocent, unsuspecting adjacent landowner if it is more convenient for them to invade that person's property to get at the person or property of anyone whose activities they have decided, for whatever reason, to criminalize.

Of course, the law will be applied differently in different parts of the province. For instance, the South Nation Conservation Authority has said, in a joint press release issued with the Ontario Landowners Association, that they will not enter private property without the owner's consent and will leave if asked to do so. Other conservation authorities with a less sharply defined sense of democracy and justice will throw their weight around as much as they, on a whim, think reasonable or unreasonable, as the case may be.

Fines to be levied against landowners for activities which were perfectly legal until these committees of public safety—sorry, source protection committees—decree otherwise are horrendous and financially ruinous to all but the largest corporation, and possibly even to them as well.

Under Bill 43, it will be an offence to obstruct these thugs in the pursuit of their objectives, which is like prosecuting a rape victim for fighting back against her assailant. Thugs and thuggish activities are put out of reach and scrutiny by Ontario's courts under Bill 43.

Duly elected and accountable municipal councils will be ordered to co-operate with the activities of the conservation authorities and source protection committees. Once the monster has been created and placed above legislative bodies, it must be obeyed.

If it needs saying, there is no compensation available to the citizen whose activities would be perfectly legal until these unelected and unaccountable bodies decree otherwise.

Conservation authorities, which were originally set up after Hurricane Hazel with the reasonable objective of flood control, are now elevated to the status of unelected supergovernment. The one protection we had against them, the power of local municipalities to dissolve conservation authorities if they got out of control, is being eliminated by this bill.

Landowners are reasonable and responsible people. By and large, they don't foul their own nests. They are good stewards of the land that they own. They respect fair laws. They can read and understand criminal prohibitions and bylaws telling them what they can and can't do with property they own or are intending to purchase. Landowners, too, are consumers of drinking water. They

don't deserve to be treated like criminals, which is what Bill 43 does.

Landowners will resist what they perceive to be unreasonable and unwarranted intrusion on their lands, liberties and livelihoods by unelected and unaccountable persons with an agenda. Although I personally am doing nothing on my property which could be construed by any reasonable standard as a threat to drinking water, anyone designated under this act who comes to me asking for consent to poke around on my property will be denied that consent, and if he is discovered on my land without a court order, he will be ejected. I'm predicting that the first home invasion by a permit officer anywhere in Ontario will be followed by "This land is our land; back off, government" signs going up and tractor blockades at farm gates all over rural Ontario.

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What is a reasonable alternative to Bill 43? Education, information, co-operation, persuasion, technology, adequate funding for municipal water treatment systems, the setting of reasonable standards for drinking water, respect for the traditional concept of elected accountability and treating landowners as equal partners in maintaining a clean environment can achieve the objective of clean drinking water for all Ontarians.

Bill 43, on the other hand, is the abyss, the quick and dirty fix. Bill 43 is the subjective definition of criminal activity by unelected individuals and unaccountable committees. Bill 43 is the unequal application of the law depending upon the personal whim of this new parallel law enforcement agency. Bill 43 is the knock on the door in the night or the kicking in of that door. Bill 43 is the use of force. Bill 43 is the transfer of wealth from private citizens to the state. Bill 43 is denial of compensation for the taking away of a person's livelihood and property. Bill 43 is putting thugs out of reach of due process of the law and the courts. Bill 43 is government by privileged, unaccountable, unelected special-interest groups. Bill 43 is the abyss. It is time to back away from the abyss. Thank you.

The Acting Chair: Thank you, sir, for your presentation. Our questions begin with Mr. Tabuns.

Mr. Tabuns: Mr. Panter, thanks for coming here today, taking the time. I have to say I don't have a question. I think you were pretty straightforward, pretty clear. Even a politician can understand your message.

The Acting Chair: Mr. Wilkinson.

Mr. Wilkinson: Thanks, John, for coming. We appreciate it. Just a couple of things: We were talking earlier about the need to make sure that if there are any rumours, we have to post them at the Tim Hortons and the feed mill to make sure that they're not in the act, that there's clarity, just so we have a chance to have some clarity.

I'm looking at the act that we're debating today. There's a section that says that, by law, there can be no use of force applied. So that's in the act. You said there would be force, so there isn't.

The other thing about powers of entry: It says that "a person who is responsible for doing ... under section 56

or 57 may, for the purpose, enter" on "a property"—not a dwelling, but "enter" on "a property"—under two conditions: if "the entry is made with the consent of an occupier of the property." So the first thing is that you've got to get consent. The only reason you couldn't have consent is if "there are reasonable grounds to believe that the delay necessary to obtain a warrant ... would result in an imminent drinking-water health hazard." So it's very restrictive. It would be the same thing that allows the fire department to go onto my property without consent. I'm not there, but my house is on fire and it could pose a risk to other, adjacent properties. You're saying there's no warrant, but there has to be a warrant obtained. So what part of the act says that you can do that?

Mr. Panter: Thank you, Mr. Wilkinson. I don't have the statute in front of me. Certainly my reading is that the permit officer is obliged to give notice that he's coming but he can enter without consent. So giving notice and not receiving consent still does not deny the permit officer the authority to enter onto land.

Mr. O'Toole: Section 79.

The Acting Chair: Sorry, Mr. O'Toole, Mr. Wilkinson has the floor. Mr. Panter, thank you very much for your co-operation.

Mr. Wilkinson: In my reading, the act says there's only one exception to the normal course, which would be the same thing that applies to fire departments, which is if there are reasonable grounds to believe that there's an imminent threat to the drinking water of everybody else in the neighbourhood who is drawing that water as a source of drinking water.

Mr. Panter: An imminent threat is purely subjective.

Mr. Wilkinson: If a house is on fire, it's on fire.

The Acting Chair: We'll turn to Ms. Scott.

Ms. Scott: Actually, Mr. O'Toole wants—

The Acting Chair: Mr. O'Toole.

Mr. O'Toole: Thank you, Mr. Panter, for your presentation and your dogged observations at these hearings. I appreciate that. It's important.

I just want to clarify that what Mr. Wilkinson said is completely incorrect. As the parliamentary assistant, he should know. I'm going to read for the record section 79 of the bill, which he's defending. Here's what it says: "Subject to subsection (4), an employee or agent of a source protection authority or a person designated by a source protection authority under subsection (2) may enter property, without the consent of the owner or occupier and without a warrant ..." There, it's very clear. So I'm quite disappointed.

Now, "reasonable cause" and "just cause" are legal terms which would provoke an action to enforce some kind of rule or statute. It's in that vein; it's the kind of couched language of this bill that leads to the suspicious nature that most of the persons here observing these hearings have. It's clarity and plain language that we want. We all want clean, safe drinking water. To simplify, to put this in the form of a question, what do you recommend? I know you spoke of the abyss with respect to Bill 43, but what realistic recommendation would you

make to this committee as we proceed to the amendments section later on in September for amendments to this bill? What do you recommend to the government members specifically, because they'll vote this in? This will become law and they will not adopt one amendment that we make, and we would like to work with all of the stakeholder groups to find amendments so that we can improve the process of this bill. What would you recommend we do here?

The Acting Chair: There's approximately 30 seconds for your response.

Mr. Panter: As I said at the outset of my presentation, I'm not sure that tweaking and tinkering can fix this bill. I believe it ought to be scrapped. We have criminal law that prohibits the reckless endangerment of my neighbours. We have civil actions that, if I bring something on to my property that escapes onto a neighbour's property and causes him damage, I'm liable in damages.

Fisheries and Oceans Canada is constantly monitoring water courses in this province; we have municipal property standards bylaws, zoning bylaws. Just within the last year, the Ministry of the Environment searched in Lindsay and prosecuted the Lindsay water treatment plant \$25,000 for an offence—

Mr. Yakabuski: Don't we need more laws?

Mr. Panter: We need effective and reasonable laws. That's what we need.

The Acting Chair: Thank you, Mr. Panter, for your presentation and responses to the questions.

Mr. Wilkinson: Mr. Chair, I'd just ask a question of research. My good friend quoted section 79 but he didn't read the entire section. I was wondering if research could actually discuss the whole section, including the part that starts with "if," because that is the most important part of the section, not the beginning of it but the entire section. I'd ask research if he could prepare that for all three parties so that we actually get to see the entire section, not the parts that have been cherry-picked by my friend opposite.

The Acting Chair: Currently, all members do have copies of the bill and can certainly read through it in its entirety at their leisure.

Mr. Wilkinson: Well, you can cherry-pick whatever.

The Acting Chair: I appreciate the request, but I believe that's not a research question if it's the context—

Mr. Yakabuski: Mr. Chair, if I could comment.

The Acting Chair: No, Mr. Yakabuski, it's not a comment—

Mr. Yakabuski: Okay. If I could ask a question, then.

The Acting Chair: No. Not at this point.

Mr. Yakabuski: Oh, is it only the PA who can ask them?

The Acting Chair: As a matter of fact—

Mr. Wilkinson: There are people waiting, John.

Mr. Yakabuski: Is it only Mr. Wilkinson who can ask a question?

The Acting Chair: This afternoon, Mr. O'Toole and Mr. Yakabuski—

Mr. Wilkinson: I was denied, John. I asked and I was denied.

Mr. Yakabuski: At least he got to ask what he wanted to ask.

The Acting Chair: Mr. Wilkinson, this afternoon—

Mr. Yakabuski: Would you hear what I have to say?

The Acting Chair: I hear exactly. During the afternoon, Mr. O'Toole is the opposition sitting member and will participate. You can't move motions and can't vote, okay?

Mr. Yakabuski: I'm offended by that. I have participatory rights here. If there's a vote—

The Acting Chair: Save and except amendments and votes.

Mr. Wilkinson: Including the people who are waiting.

Mr. Yakabuski: Are we voting?

The Acting Chair: We are not at this point.

Mr. Yakabuski: Thank you very much.

The Acting Chair: At this point, we are not.

RON MILLEN

The Acting Chair: Mr. Ron Millen.

Sir, welcome.

Mr. Ron Millen: Thanks very much for the opportunity—

The Acting Chair: Just as you start, Mr. Millen, I know you may have been outside and it's a little hard, with the numbers of people, to maybe have heard everything we're doing. You have up to 10 minutes for your presentation. There will be up to five minutes of questions shared among the three parties. Again, if you'd just identify yourself, although we have it, for the purposes of Hansard that would be helpful, sir.

Mr. Millen: Thanks very much for allowing me the opportunity of presenting. I am reeve of Smith-Ennismore-Lakefield and I'm vice-chair of ORCA, but I'm not appearing here—I want to be clear—in either capacity. Our local county and ORCA, through the Trent Conservation Coalition, have made presentations. I am appearing as a taxpayer and a dairy farmer.

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I imagine you've heard everything there is to know about Bill 43 more than once in your meetings. There are many submissions and I don't want to be repetitive. I have read the chamber of commerce submission, the AMO submission, the Ontario Farm Environmental Coalition submission, the Dairy Farmers of Ontario submission and the Trent Conservation Coalition submission. I don't want to repeat those, but I do want to quickly draw out what I see as three common themes, and then I want to concentrate on two specific points which I don't think have been mentioned in anything that I've read.

The common theme is, everybody supports water protection and they certainly support prevention as opposed to treatment, because it's much cheaper to go that way. I'm not surprised at the turnout today because there are

considerable objections to this bill. You could group them in different groups, but it seems to me the first one is that it's undemocratic. The reason for that—there are a lot of reasons: People are afraid. It's enabling legislation; the regulations aren't there, so there's suspicion. The broad purposes of the bill are stated and then there are assurances that it's only municipal water supply, which seems to be a contradiction. It's very broad, with general definitions of "threat," very broad powers of inspection and unlimited powers of recourse. All those things are making people suspicious that this is somewhat undemocratic and lacks openness and transparency, and I thank you very much for these hearings.

The second theme is that this is a costly and inefficient approach. It's the punitive approach, the stick versus the carrot. This is particularly puzzling since we've had a lot of success, in my view, with healthy futures, the environmental farm plan and other incentive- and education-based approaches. It will be expensive to enforce and administer no matter who has that responsibility, and in some sense it duplicates the existing planning process rather than simply adding to the provincial policy statement and whatever.

The third general theme, of course, is downloading, unfairness to municipalities and landowners. I won't say anything more on that.

I want to take a little time and talk about two points that I haven't seen in the presentations that I have read, anyway; maybe you've come across them. The first point: Let's call it downloading revisited, a little twist on downloading. It's not just a download from the province to the municipalities or to landowners, but I think it's also a download from urban to rural. To the extent that funding falls through the conservation authorities, that's funded most of the watersheds. The implications will be in rural areas and most of the funding will come from rural taxpayers. Yet in my view, water is everyone's water and benefits everyone in Ontario equally. I think there's an argument that it's another urban-to-rural download, and that's a little different than what AMO may have presented.

The second point, and you probably haven't heard this, is that I just don't know that this approach is going to work technically. The assumption is that you can do a desktop exercise somewhere and come up with meaningful scientific results regarding municipal wellheads. Well, the first thing you need to do any scientific research is some meaningful data. I don't know if anyone has had a chance to look through some of the well data for Ontario; I have. I'll tell you, it's next to meaningless—the historic data, anyway; I haven't looked at recent data. Most well drillers just had to hand in something, and that's what they handed in.

I know that one well driller guaranteed water. Big surprise: Every report he handed in had at least five gallons a minute. But not all his wells had five gallons a minute. I won't mention names here; the gentleman's dead, actually. But when you go through the layers of soil that he documented, there's no relation to reality.

I've looked at some of this data. So how can you do scientific research on that?

If you could sit down and do a desktop exercise, why, when we're sitting a golf course, for instance, in Ennismore, would we require well tests? Somebody could just figure that out at a desk somewhere knowing the underlying rock structure. But we require pumping tests of the surrounding—you can't tell, in a fractured rock structure, which we have, with limestone overlying granite, the direction or the rate of flow of water. You need to do tests. I've read lots of reports on landfills, where they get the vector of direction and flow of the plume, but it's a similar thing. You need to do well testing to know with any accuracy.

We are putting a lot of individuals' money at stake on the results of a desktop exercise around a municipal well which has questionable accuracy. I do not doubt that we should do water budgets for big areas, for aquifers, which is a simple principle of water in and water out, including evaporation. I think it is time that somebody did that at MOE, and their water-taking permits should consider that, on an Ontario basis and on an aquifer basis. But the micro approach of what's underlying the ground—I call it "micro"—I just don't think is going to give meaningful results.

In any case, most of the water that we take municipally in this area and others is surface water, not well water. With surface water, as you know, we're talking about a two-hour flow, not a 25- or 10- or five-year flow around a well. Is that two-hour flow spring or summer? Somebody probably has an answer. But what's the logic of a two-hour flow? Within six months, what happens in Haliburton to the water will certainly be at Trenton, and maybe even at Montreal. It's everybody's water, and I think the conditions and restrictions, if we have to use them, are not meaningfully applied two hours upstream from an intake, and not meaningfully applied—that's my opinion—so many years flow out from a point, even if we could determine what that distance was.

Technically, I don't think this approach is going to work. I think there are approaches built on what we have done that will work. They take money. I think everyone benefits from the water; everyone should have the opportunity to pay. It's best done through the provincial tax system.

Perhaps I'll leave further comment. If you want to know some suggestions, I think it behooves anyone who criticizes to make suggestions on what would work better.

The Acting Chair: Approximately one minute.

Mr. Millen: Well, if I have a minute, I'll make my suggestions. I wasn't sure of the time.

Just like other environmental legislation we've added over the years to the provincial policy statement, we've said, "Thou shalt have regard for"—not that you'll just have regard for, but that "thou shalt be consistent with." If there are additional principles that we wish to be added, they could be. It could be implemented in the Planning Act, where the grandfathering provision is there

and right of recourse is there. We have health regulations coming through that way, and certainly fill line and other water provisions coming through. Why set up a whole new overriding bureaucracy, with committees and structures that aren't following existing political and planning lines and are just complicating the thing to no end? I don't think this thing is going to work. I'll tell you what it will do—

The Acting Chair: We're going to go to questions. Depending on the nature of the questions, maybe you'll have a chance to finish that thought. Mr. Wilkinson.

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Mr. Wilkinson: Thank you for coming in. I just have a couple of comments. I agree with you on the question about historic well data. That's exactly why the government has uploaded the entire cost of doing that hydro-geological study, because you can't base it on some of that data. I get a lot of those records, and there were a lot of five-gallon wells. We've been able to use some of the newer technology to actually go down into a well to verify the various structures underneath, and it wasn't even close. Again, this doesn't work unless that data is accurate. That's the process that the province is doing right now over this five-year period. I agree with you that if people don't agree on the science of it, it will be very difficult for people to buy into it.

Water budgets are actually required under the act. I know you were saying you thought it was very important that there actually is a water budget on the watershed so we know, in the big sense, how much is coming in and going out.

The concept here about going to the authority—it's much like conservation authorities. They were designed not on political boundaries but on who has to worry about flooding. The people who have to worry about the same river flooding are the people who should come together and deal with that and be proactive. So it's the same thing. This is based on the people who share the same source of water being part of it. The alternative—because they always say, "What's the alternative?"—is to do this through the ministry, through regulation out of Toronto, for the entire province. It's such a big province with so many people and so many different sources of drinking water. Isn't it better to do it as a community of people who share the common water?

Your other question was about who pays. If it's at the provincial level, would you say it should be the income tax that should bear that, as opposed to the property tax?

The Acting Chair: I'm sorry; I'm going to have to go to Ms. Scott. The time allocated has been used up.

Mr. Wilkinson: I'm sorry. I thought we had more time.

Ms. Scott: We can have unanimous consent to allow him to answer.

Mr. Millen: I would appreciate a chance to answer the question.

Ms. Scott: Unanimous consent for Ron to answer, and if I still get a question, Chair?

The Acting Chair: Is there unanimous consent, then, from each of the three parties? Yes.

Mr. Millen: You had a lot of points there. You know how costly it is to monitor a landfill and the wells. Are you going to do that for every well in this province? You're not just talking about municipal but any potential source of water. It's far too costly. I don't think, anyway, the water from one particular site—I think what they do to the water supply is affecting everyone. It's everyone's water supply. I don't think it makes sense to look at one particular site.

Why use the existing planning mechanism, the conservation act? We look at the fill line on a watershed basis, but the mechanism is there to implement it into the planning process at the municipal level, and the recourse action through the OMB. It's all there. Why reinvent the wheel?

What this legislation will do is relieve the liability from the provincial government, and the funding responsibility. What it won't do is work for the benefit of the water in this province.

Ms. Scott: Ron, you articulated very well the large download, that this bill is not going to accomplish what its title says, which is clean water, and its undemocratic, broad purposes. It's suspicious. It has created a lot of fear. I thank everyone for coming here today, because there is a lot of fear of what it does not say. There has been talk of how if you're going to do this, the money's available; the acts are already there. There has been a lot of talk of stewardship. I don't know if you know of Manitoba's stewardship fund. I know that members of the committee have been handed what they have in legislation.

Do you think it would even help this bill if there was a stewardship fund in the legislation, that there would be funds available, or should we just go back to the acts we have, which I think cover everything we want to accomplish?

Mr. Millen: I think this bill is so flawed that it would be hard to make minor modifications to make it work. It has some good pieces, like funding for water budgets and whatnot, and I think the conservation authorities do have a role on a watershed basis. But the basic approach to it, punitive versus incentive, is flawed.

How do we fund this? Anything would be welcome, because it is an important thing. If a fund could be created for it—straight provincial funding or shared provincial-municipal—I think private people, properly educated, will put a lot of money into the water supply on their own behalf.

Ms. Scott: I agree. Right idea; wrong approach. Thank you very much, Ron.

Mr. Tabuns: Thanks again for coming in and making a presentation. You were making recommendations at the end of your 10 minutes, and I don't think we got them all. Do you have more to say?

Mr. Millen: Yes. The water budget work—I think MOE were underfunded and never really got into water permits. They never really had the proper research, and I

know they were just handed out on an individual basis without an overview. I think that research has to be done. Walkerton was not just two inebriated individuals not doing their job. Partly we underfunded at the provincial MOE level and partly at the municipal level. So we all take responsibility for that. We need to put some more money into this and do it in a thoughtful way, not as a knee-jerk reaction to a situation in Walkerton.

The Acting Chair: Thank you very much for your deputation this afternoon.

PETERBOROUGH COUNTY
LANDOWNERS ASSOCIATION

The Acting Chair: Our next deputation is the Ontario Landowners Association—Peterborough. Good afternoon and welcome. Again, as you've been here for a bit, if you'd identify yourselves for Hansard, that would be helpful. If you have your watch, that's great. If you get close to a minute, I'll just give you a notification.

Mr. Mike Posavad: Thank you. Mike Posavad, Peterborough County Landowners Association.

Mr. Gary Otten: Gary Otten, Peterborough County Landowners Association.

Mr. Posavad: In the spirit of democracy, as Mr. Leal stated in the paper a few days ago about "democracy in action," there are a lot of people here who obviously didn't know about having to register, or who did register and weren't able to get on. I know the Legislature's not in session. It's Friday. I know you're all enthusiastic and like the democratic process. I'm just wondering if the Chair has a problem with these people actually staying there and giving their questions when this is all over.

The Acting Chair: From the standpoint of the committee, the three parties have a structured process that we use. It does provide an opportunity for people to submit their interest. Not everyone can be selected, unfortunately. Certainly the parties try to ensure that they get the greatest cross-section possible, and we encourage written submissions. I think there's still time for those to be submitted, either directly or through the local member, as the case might be.

Ms. Wynne: Mr. Chair, can I just clarify, too, that everyone who applied to speak was offered a time to speak because there was time yesterday in Bath and there was time in Cornwall. So everyone who applied to speak to this committee was offered a time to speak.

The Acting Chair: Thank you. From that standpoint, those who had taken the opportunity of the submission process had that opportunity.

Mr. O'Toole: On a point of order, Mr. Chair: Just to bring some clarity, generally the way the committee process works—and these hearings are being held because the opposition held this government to account. Also, during the summer, quite frankly, people don't pay as close attention. So in fairness to his suggestion here, we're here to listen and I can assure you you will be heard.

Mr. Posavad: Yes, because some people didn't even realize there was a deadline to apply.

Mr. O'Toole: Yes, I know. They don't have Internet or whatever.

The Acting Chair: Unfortunately, we are scheduled for the balance of the afternoon with the deputations on behalf of those who are present now.

Mr. Otten: The problem I see with this is that there was no media attention given to the public, so most of them didn't even know they had to register to speak.

The Acting Chair: It's unfortunate. We have 10 minutes for your presentation, if you'd like to begin.

Mr. Posavad: It will be a lot shorter than that, so hopefully more time for question and answer.

My voice today is the voice of the large membership of the Peterborough County Landowners Association. First and foremost, I would like this committee to know and recognize that landowners are very much in favour of the environment and clean water. Most of us are major shareholders of lands that Bill 43 and several other new acts will affect.

The authors of these new acts hail the benefit for the public good, when in fact these infringements will send a ripple effect of financial loss through our farm industry, building industry, real estate industry, and ultimately the private landowner, while they shoulder the burden of the costs to comply with the enforcement of these acts.

The weight of these environmental acts, effectively without compensation, impedes a property's use and value, hanging like a black cloud of unregistered liens waiting to explode into environmental enforcement, litigation or expropriation.

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Our freedoms in this country are being ignored and jeopardized by newly formed bureaucracies, created by our provincial Liberal government and hidden under the banners of brilliantly titled environmental protections, designed for them to feast from the taxpayer's plate, while starving our health care system, social programs and our elderly.

Obviously, not all public consideration has been taken into account. If in fact an act is created for the public good, due consideration must be given to constitutional rights. To all whom it affects financially, the burden of these costs must be shared by all to fully compensate those affected. All the acts invariably ignore our rights of peace, enjoyment and uninterrupted use.

Since the passing of the Constitution and the inception of the charter, our property rights have been conspicuous by their absence. It is this absence that has led to the formation of the landowners' association. Let this committee know that the landowners' association takes a firm stance of non-compliance with Bill 43 or any other act that is perceived to eliminate our inherent constitutional property rights.

In closing, I want each of you to know that the landowners' association isn't going anywhere. We'll be a thorn in your side until our demands are met. Mr. McGuinty wants to discriminate against us because our

voting power may seem relatively insignificant. This is not a threat or a warning, but a promise. The Caledonia crisis will seem relatively insignificant if the government continues down this road of injustice and legislative land fraud.

The impact on the urban areas always seems to be a fraction of what it is on rural Ontario. Our numbers are small and growing but our resolve is unending. The decision is yours. If you want a battle, we are prepared to win the war. With the lack of intestinal fortitude coming out of Queen's Park these days, we are confident that ours will be the ultimate victory.

The Acting Chair: Thank you. Our question period starts with Ms. Scott.

Ms. Scott: Thank you very much for your presentation. The landowners' groups have been presenting, I guess, four out of the five days, so that's been a good representation. I'm happy the government has been able to listen to the ones that have been able to get on. I do apologize. We tried to get it advertised as much as possible to notify people.

You've talked a lot about how this is going to affect rural Ontario. I represent a rural Ontario riding.

Mr. Posavad: I'm actually in your constituency, in Millbrook.

Ms. Scott: In Millbrook? I have a large constituency. Thank you for appearing before us today.

I know Gary and have worked with him before. What do you think it's going to do to our land values in rural Ontario as this bill stands right now?

Mr. Otten: This doesn't just affect farmers; this affects all of rural Ontario. These acts that are legislated against private property, as Michael said, hang like clouds of unregistered liens. As a realtor selling rural properties we have to disclose anything that may affect the value of the land. If I were to disclose this act to you and the costs that may be downloaded on you, if I were to disclose the Oak Ridges moraine act or if I were to disclose the Endangered Species Act, if I were to disclose the numerous acts that this government has come out with, not one of you would buy a piece of rural property in Ontario.

The Acting Chair: Mr. Tabuns.

Mr. Tabuns: Thank you, gentlemen, for coming and presenting today. If this act were modified so that in statute there was a commitment on the part of the provincial government to fund the improvements that were necessary, either on a co-operative basis with landowners or in whole, would that substantially address the questions that are of greatest concern to your members?

Mr. Posavad: There are a lot of things that would have to be looked into. I know it was stated earlier about being able to enter or not enter property without a warrant. As I read it—I don't have it with me—it did say that you can enter without a warrant for the purpose of studying the aquifers and everything else, not necessarily to look for anything. That's what it says.

Mr. Yakabuski: Section 79.

Mr. Posavad: Yes. It doesn't elaborate anything after that; that's what it says. So someone can come on my

property and say to me, "I'm just here to do a study." I'm not going to trust anyone. First of all, from a liability standpoint, I'm not going to let someone walk around my property. I'm going to have to go with them, which means I may have to take a day's holiday, which I've done today to come here—my own vacation day and things like that.

People can come onto adjacent properties. Like someone said—Gary and I happen to be neighbours. I'm not going to let someone on my property, because they can try to spy on him because he's putting up some sort of resistance to letting them on his. I think that's totally wrong. It's not our system of justice, our system of laws. I think it's a farce. I don't think it's—you say "democracy." That's a very skewed look at democracy if that's something they will allow. There's that.

In studies before, they said, "Okay, we're coming on just to map the aquifers" or whatever, that type of thing. I don't have a farm. Most of our people in the association are farmers out in rural property. I don't have a farm, it's never been a farm, but how do I know that someone isn't going to come on and say, "There was a dump at the back of your property 50 years ago"? And now I'm responsible for it? That's just not right.

If I can ask a question, are they allowed to test my own well? I take my samples in to the Ministry of Health and they've always come back clean, so there's no cause for them to even want to test my well. But it allows them to in the act. It says they can come on for these studies and everything else. I just think it's an inherently bad thing from our form of justice.

The Acting Chair: Thank you very much. Mr. Wilkinson.

Mr. Wilkinson: Great. Thanks, Mike and Gary, for coming in.

When we were in Cornwall, Randy Hillier was around. He made a presentation. I was asking afterwards, kind of to Mr. Tabuns's question—the biggest concern seems to be about making sure that co-operatively we can work together so that if there is a threat to the common drinking water, it gets addressed, and that there is a mechanism of making sure that it's fair. I asked him, "Will that work?" He said, "Yes. As long as it's fair, that's really our issue." Am I missing that? I hear your concerns.

Mr. Otten: First of all, I have to say that new legislation of any kind once again affects the value of many people's assets that are a big part of their retirement plan. If you hang these acts, one after another after another, on rural Canada, people won't have any monies out of their properties. It's impossible to sell a property that's encumbered by so many acts. We have to disclose; under buyer agency you have to disclose. You have to take into consideration that when people buy these properties, they purchase them unencumbered and they pay a premium for them. Our government was right there to collect the land transfer tax and now they're right there trying to steal all the property rights back.

Mr. Wilkinson: You're a real estate agent, right, Gary?

Mr. Otten: Yes.

Mr. Wilkinson: Do you have to disclose if a property is on a flood plain, according to the conservation—do you have disclose that?

Mr. Otten: Certainly.

Mr. Wilkinson: Yes, and then there's some grand-fathering. But if somebody wants to build more on the flood plain, then the conservation authority says, "That's not a really good idea." But they could actually say, "Don't build a new structure on a flood plain," right?

Mr. Otten: Right, but you have to remember that right now in the last five or six years you've encumbered rural property, so you can't do anything on it. You can't sever it for your kids. You can't do anything.

In the Oak Ridges moraine, to put an above-ground pool on your property you need an environmental assessment so you don't set your pool on an endangered species of weed.

The Acting Chair: I'd like to say that, because you took a relatively short period of time at the beginning, if you would like to take another minute or so in your final comments, we would certainly entertain those as well.

Mr. Otten: Please ask.

The Acting Chair: I'm going back to the deputant who didn't use the allocated time for their presentation.

Mr. Posavad: Your clerk told me ahead of time, though, that we would have—I told him I only had a few minutes—the full 15, whether that was through questions or for our own comments.

The Acting Chair: Again, it's up to the committee if they want to entertain additional questions.

Mr. Posavad: In the spirit of democracy, as I say.

Mr. Wilkinson: Just go around one more time? Sure.

1450

The Acting Chair: Starting with the official opposition. Mr. Yakabuski?

Mr. Yakabuski: Yes. I just want to clarify what Gary is talking about there. My wife is a real estate agent, and there used to be a premise that, boy, if you had land, you were in good shape, man. Now, it's the curse of knowing that you're going to pay taxes for the rest of your life because you can't sell the damn stuff. There are so many encumbrances on it that when you go to sell it, the first thing they ask is, "Where can I build a house?" Well, actually, you can't because it's been deemed a sensitive area and this and that. So you've actually got the burden of, for the rest of your life, owning this chunk of land that you can't do anything with. You can't sever it; you can't sell it for monetary gain. So what Gary is saying is absolutely right, and this government seems bent on making sure that that's perpetrated forever.

The Acting Chair: Any response?

Mr. Otten: I agree totally. The other thing, in the spirit of democracy once again, we did have more members who wanted to speak and they weren't allowed.

The Acting Chair: I think we'll move to Mr. Tabuns.

Mr. O'Toole: Chair, I'd like to move a motion seeking unanimous consent to extend the hearings in the

further days so that all voices of the province of Ontario can be heard.

Mr. Otten: Thank you. That would be democracy.

The Acting Chair: We don't have the authority to—
Interjection.

The Acting Chair: Sorry, Mr. O'Toole. You tried to move a motion. I want to explain that the motion wouldn't be in order. We have been authorized by the assembly to hold particular hearings at particular times and we did have two days, as Ms. Wynne pointed out, in which the spots were not filled although there was time allocated for all those who might have expressed an interest by virtue of the ads and the like that were available. So the motion itself would not be in order.

I'm now going to move to—

Mr. O'Toole: Then I would just seek unanimous consent that we extend the hearings for today only.

The Acting Chair: My understanding is that we don't have the executive authority to do that. We've certainly heard from everyone. We will be hearing before the day is out from all those who had submitted—

Mr. Otten: Excuse me, sir, we haven't heard from everybody because they've had to stand out in the hall because you don't have enough room for everybody to get in.

The Acting Chair: Sorry, Gary. We have heard from all those who have submitted to be heard as per the processes that we are obligated to follow.

Mr. Tabuns.

Mr. Tabuns: Again, thanks for staying here and continuing to put the point of view as you put it, quite ably, quite strongly. Do you see a problem with water quality in rural Ontario? Is there an issue here now that has to be addressed?

Mr. Otten: Absolutely not. On the alternative, actually, because our water is clean, all of a sudden now our government wants it. It's the big cities that have got the problem with the water quality. All you have to do is take a drive through them and have a look at the rivers flowing through them. I guess if I was in the state of disrepair that the big cities were in and the environmental hot spots not being looked after, I would certainly be outsourcing for clean water. Because we've been good stewards and looking after it, now they want to steal it.

Mr. Tabuns: Straightforward answer.

The Acting Chair: Thank you. Mr. Wilkinson?

Mr. Wilkinson: This job is all about problems and solutions, so what is the best way to make sure that the sources of drinking water that everybody draws on stay safe?

Mr. Otten: I have a very difficult time understanding why you keep attacking us on that issue. As I said, I sell rural property and I'm very much involved in water samples. In our area I don't come across much contamination at all, if any. Mostly it's coliform, if anything, and the waters are tested. As far as our waters being safe, I think if we want a more effective measure, then there's only one way to make it effective: The funding comes from the provincial government to the rural property owners.

The Acting Chair: Thank you very much for your presentation this afternoon and your response to the questions that were posed to you. Thank you both.

Mr. O'Toole: Chair, I have a question for research. I just wondered if in the early drafting of this bill, was it not initially requested that it be municipal water systems?

The Acting Chair: A question for research?

Mr. O'Toole: Yes, because in the earlier draft it was municipal water systems and they've changed that to all water systems. That's the deal.

The Acting Chair: Gentlemen, thank you very much for your presentation.

Mr. O'Toole: I'd like an answer from the non-political aspect.

The Acting Chair: Certainly. Research has no knowledge specifically of the early drafting of legislation. Research relates, I believe, to the bill once it's presented to the Legislature, so the early drafting is not under their domain. It's under the domain of the ministry.

EDGAR CORNISH

The Acting Chair: Let's move on to the next deputation. Wayne Fallis?

Interjection.

The Acting Chair: We understand Mr. Fallis may not have been able to be here this afternoon. Edgar Cornish?

Mr. Yakabuski: On a point of order, Mr. Chair: Given the fact that Mr. Fallis has not showed up and will not show up, can we then extend at least for one more submission?

The Acting Chair: No. It would obviously be difficult at best for this committee, if nothing else, to select from all of those who might generally have an interest. Irrespective of Mr. Fallis's not being able to be here, he may have assisted us inasmuch as we're able to keep those who are scheduled able to make their presentation when they had hoped to make their presentation and not later than that time.

Mr. Cornish, if you would—gentlemen?

Interjections.

The Acting Chair: If Mr. Fallis arrives, certainly he would still be able to make a deputation to us.

Mr. Cornish, it's a pleasure.

Mr. Edgar Cornish: Good afternoon. Ladies and gentlemen, my name is Edgar Cornish. I have been a full-time beef producer in Peterborough county for the past 42 years. My wife Marie and I have three sons: Two are married and are part-time farmers and one son is full-time. I am a third-generation farmer. Between us, we own over 450 acres; we rent another 400 acres. We maintain a beef cattle herd of around 350 head.

Protecting the environment plus existing and future sources of drinking water is certainly a high priority for our farm family, because we drink the water from beneath our land and we eat the food grown on it. We may have more at stake than our urban friends, as we do not have access to municipal treated water.

We have always tried our best to be responsible and caring for the environment. Our livelihood depends on it; our health demands it. In the mid-1980s, we were the first farm to do work in conjunction with the Otonabee Region Conservation Authority in follow-up to the Indian River water quality study. I have taken the livestock medicines course, grower pesticide safety course, done environmental farm plans for our two farms plus two rented farms and also done the third-edition farm plan. In 2002, my submission for a best management practices demonstration site proposal for protecting surface and ground water on our farm gained approval, and the work was done in 2003. But I'm really no different than the vast majority of rural landowners.

When I read Bill 43 as printed, it lacks common sense, reality and fairness, but it will create jobs—lots of them, and high-paying. It's also shaping up to be a major cost for rural landowners, farmers in particular.

In Canada, one is considered innocent until proven guilty, even if it's murder, rape or robbery. If you're a rural landowner or farmer, Bill 43 kind of makes one guilty unless we satisfy the powers that be that we're innocent by means of a risk assessment. Even with an expensive positive risk assessment, we still may end up with use restrictions, lost land values and no compensation. Is that what rural Ontario deserves? Let's not turn risks, threats and things into mountains. They are only a small part of the equation, so why not handle them in that manner?

Because of time limits, I'm not going to comment on the positives, but will focus on areas of concern. The first area of concern is the duty of a hearing officer:

“Protection from personal liability

“(4) The hearing officer is not personally liable for anything done by him or her in good faith in the execution of his or her duty under this act or for any neglect or default in the execution in good faith of his or her duty.”

This is not acceptable. If this person is not liable for their neglect or default or anything done by them, then I would suggest the act be amended to apply this same protection to landowners.

1500

The next concern is with inspections, subsection 54(1): “... a permit inspector may, for the purpose of enforcing this part, enter property, without the consent of the owner or occupier and without a warrant,” and it goes on to an (a) and (b) explanation.

In Ontario, employers are subject to health and safety rules. How can our government put an inspector at such risk with no warrant or backup? One only needs to think back a couple of years to what happened to four RCMP officers in the west. Something to think about.

My other major concern with non-consent entry is the risk to an inspector because of the presence of guard animals, the danger of cows or bulls turning ugly with strangers, electric fences and not securing doors and gates. As well, many farms have a biosecurity protocol.

We get into inspections, subsection 54(18): “If property is entered under this section, the permit inspector

shall, insofar as is practicable, restore the property to the condition it was in before the entry.”

Question: What becomes of the additional expense to finish the restoration? Is this just another expense for the property owner? Thanks but no thanks.

In regard to doing “a thing,” subsection 56(2): “The permit official shall give notice of an intention to cause a thing to be done under subsection (1).” Then, under subsection 56(3), “A person who receives a notice under subsection (2) shall not do the thing referred to in the notice without the permission of the permit official.”

You’re told to do a thing but you can’t do the thing without the permission of the person who told you to do the thing. I just wonder, did somebody get paid too much money to write this act?

The next concern is number 70, the risk management plan. This will be a major landowner cost. There’s risk in cars, guns, knives and even walking down the stairs. Let’s cut the crap and deal with the problem. There is no need spending megabucks for every landowner to have a risk plan. Most landowners are responsible people.

The next concern is number 79, power of entry. It is also granted without consent to the employees or agent of a source protection authority. Again, similar concerns as previously mentioned with the permit inspectors.

Then we get to number 83, expropriation. “Expropriation” is almost a dirty word when you talk about rural lands. In many cases, rural land is a person’s equity, home, income, livelihood and future. It’s kind of ironic that the Ministry of the Environment can make regulations that establish source protection areas and yet the same MOE gives out permits to pollute. For example, sewage treatment plants all have a bypass pipe out into the nearest water. Last night on the late news, Lake Simcoe just happened to be the lucky recipient of some of this so-called water that’s undesirable. And the MOE is looking into it today. Thank goodness, eh?

Also, there are hundreds of publicly owned sources of pollution that have been identified and seem to be overlooked with this act.

In closing, if governments and society want landowners to buy into Bill 43, then we need to talk compensation for things like loss of use, risk assessment, loss of equity, loss of land values, loss of income, relocation and many others. If Bill 43 will benefit all of society, then don’t dump the costs on rural landowners.

We cannot accept hired employees not being liable for their neglect or their default. That’s unacceptable.

Power of entry: Somebody better give their head a shake on this one. This is a risk with a capital R. In Ontario we’re trying to make our water crystal clear. In British Columbia they are actually dumping fertilizer into lakes and rivers. A news release from March 14, 2000, states that BC biologists ordered 34 tons of fertilizer briquettes to be scattered in 29 island rivers in 2000. This was based on 10 prior years of fertilizing the Kootenay Lake, in which they increased kokanee spawning from 250,000 in 1991 to two million in 1999. Water can become too clear to sustain plant and animal life. This surface water recharges our groundwater.

Final question: Are we going to extremes here, and at what cost?

I thank you for the opportunity to address this hearing on Bill 43 and I look forward to any questions.

The Acting Chair: Thank you, Mr. Cornish, for the presentation. We’re going to begin this rotation with Mr. Tabuns.

Mr. Tabuns: Thanks, Mr. Cornish. I’m sorry; I missed the first part, but I did get a chance to read through your notes.

If, in amendment of this act, a section was put in that required the provincial government to contribute to the costs, in whole or in part, of dealing with protecting water sources, would that turn the temperature down on this issue a bit?

Mr. Cornish: “In part” might not do much; “in whole” probably would. I believe strongly that this should be paid 100% by the government. Where does the government get its money but through taxes? We all contribute. This way, we’re all contributing. It’s one central body that’s looking after it. If I’m doing something illegal that is against what everybody is thinking should be done, fine, I should pay for it. But in this case it appears as though a lot of expense could come down the tube that could jeopardize a lot of future generations on the farm. In the farm community for the last five years we have basically been raped of our income, a lot of our equity and some of our future. We don’t need another burden like this.

Mr. Tabuns: Okay. Thank you.

Mr. Wilkinson: Thanks, Edgar, for coming in. You were talking about your own farming experience. I’d say you’re exactly an ideal farmer in regard to being an environmental steward.

Mr. Cornish: I’ll give you a quarter for that statement.

Mr. Wilkinson: Do you want me to share that with your wife?

The question is how to take your behaviour, which I think everybody in the room would agree is the right behaviour, and make sure we’ve got a mechanism so that as neighbours we can make sure that is being done everywhere, particularly if that farm or business or whatever activity, whether it’s the government or private, poses a significant threat to the source of drinking water that everyone is drawing. That’s the intention. We’ve all said we want clean water, particularly the water that we’re going to drink from. So how do we take your example—you’re the kind of guy who should be on one of these source water protection committees, because you’re a farmer and you’re someone who can say at a committee, “Hey, we do this all the time. This is exactly what we do.” What do we need to do to encourage people to have environmental farm plans on all the farms, particularly farms where there is a problem?

Mr. Cornish: You need to throw away the hammer and go in with a common-sense approach.

I’m going to refer to the Ontario Farm Animal Council. It’s a council that’s set up so that if there’s a problem

with livestock in the community, they get a call and they contact somebody in the area.

I used to be a director on the Ontario Cattlemen's Association. I had three calls to go and visit farms where there were complaints. You go in, and you have no authority to be there; you just tell them that there has been a complaint, then ask to come and discuss it with them, and if we can make things better, so be it. If they don't want to talk to you, you leave. Everyone was willing to talk to me, even though I didn't know them. Maybe they knew me from the county. One operation was 100%. Another operation actually got rid of the young cattle, because they didn't have feed to handle them and they knew that somebody had been watching and seeing what was going on and kind of blew the whistle but didn't blow it out of proportion and get it in the media. The third operator was a part-time farmer. A particular township was having problems with his cattle running on the road and couldn't get anywhere with him. I got a call to go and visit him. Within two weeks, we loaded the cattle on a truck, we took them to the sale barn and we sold them. He wasn't able to look after them. He wasn't able to feed them. I went there and I suggested, "Why don't you do now what you're going to have to do in the end anyway and get the problem straightened out," and we did, and it didn't cost peanuts.

Mr. Wilkinson: In Perth county—I'm the member for Perth county—it's the same thing. We use peer review, and it is very, very effective because it's farmer talking to farmer.

Mr. Cornish: There are problems out there, but if somebody would sit down and take a common-sense approach and not come in and say, "You've got to do this and it's going to cost you"—well, the thing is, you don't know what it's going to cost under a lot of these regulations anymore, and the hackles go up. It's just like your inspectors coming unaccompanied. I fear for their friggling lives, not from 99% of the people, but it only takes 1% of them to be nuts and—like, four Mounties went onto a farm unannounced and got killed; what's one inspector who doesn't even have a sidearm going to do?

1510

The Acting Chair: Let's go to Mr. Yakabuski for additional questions.

Mr. Yakabuski: Thank you very much, Edgar, for your insightful and at times very entertaining submission. If it wasn't such a serious, serious topic, we'd have been able to enjoy it much more. I'll make my own attempt at humour here as well. You did say you weren't going to spend much time on the positives, that you weren't going to talk about the positives, but based on what we've been hearing at these hearings, I don't think that would have taken long.

It seems to me sometimes—and I'm not the one to make the statement, because sometimes I might say something that could be construed as being partisan—that in many, many ways, what's happening with this government is that they've taken the attitude that they are going to manage your lives better than they believe you

can manage them yourselves. It's this nanny attitude, and we see it in so much of their legislation.

I know this may be something that you haven't considered, but given this section 79—and I must clarify what Mr. Wilkinson said, that they could only go in if there was an imminent threat. Section 79 doesn't touch on imminent threats whatsoever, and the earlier presenter talked about that. All the guy has to be doing is a little monitoring. That's pretty wide open, isn't it?

Does it appear that this is just another attempt to manage your lives like a nanny?

Mr. Cornish: I really wouldn't call it managing, because I don't think it's a good plan. If you're going to manage something, you've got to have a good plan.

Mr. Yakabuski: You'd expect better care from a nanny.

Mr. Cornish: I didn't come here to throw the bill right out, because clean water is everybody's dream and everybody's hope, and we hope we can continue that. Sometimes you hear people wanting to throw a thing right out, and if you take that approach, then people don't hear what else you have to say. So I came here trying to point out some of the worst problems with it. I'm not here to condemn the thing, but I think it's just a financial nightmare the way they're going about it. Like I said, it's going to create a lot of jobs, and they're going to be high-paying jobs, but I'm not sure you're going to get much real return out of the money you spend.

Mr. Yakabuski: Would you agree that this bill is far from the best way to achieve the objective of clean, safe water in the province of Ontario?

Mr. Cornish: Well, I'm not a real authority for anybody to listen to, but it's got a lot of loopholes in it, if nothing else.

Mr. Yakabuski: Thank you very much.

The Acting Chair: Thank you, Mr. Cornish, for your presentation.

COUNCIL OF CANADIANS

The Acting Chair: Our next delegation is the Council of Canadians. Welcome.

Ms. Susan Howatt: Thank you very much. It's a very popular place to be today.

The Acting Chair: I know you've been outside, so in the event you haven't had a chance to hear, the presentation is up to 10 minutes and then there will be approximately five minutes for questions shared among the three parties. If you'd identify yourself for the purpose of our recording Hansard.

Ms. Howatt: Good afternoon. My name is Susan Howatt. I'm the national water campaigner with the Council of Canadians.

The Council of Canadians is Canada's largest citizen advocacy organization. We mostly do our work by promoting progressive policies on fair trade, clean water, safe food, public health care and other issues of social and economic concern to Canadians. Today, when I give my brief presentation, I do so on behalf of our almost

75,000 members and 70 local chapters across the country, including the Peterborough chapter, which I believe made a presentation this morning.

Maintaining public ownership and control of water resources is an important priority for the Council of Canadians. Indeed, a key component of the work that we do is to advocate for a national water policy that ensures sovereign control over our water resources and preserves water as a public trust.

There is an enormous need for source water protection measures that protect the integrity of the ecosystem and ultimately contribute to clean drinking water. Source water protection measures are integral in addressing the issues of both water quality and water quantity. Ground-water protection measures are also very key in meeting the concerns of Ontarians.

For all of these reasons, Bill 43, the Clean Water Act, is a policy direction that the Council of Canadians supports in principle. Our only real concerns are the implementation of this bill and what kind of capacity-building support municipalities will receive, and the infrastructure investment that will be needed to accompany this bill. To that end, I have three general comments on the Clean Water Act.

My first major comment is that the funding model needs to be fully public and close any doors to private involvement, either through privatization or through public-private partnerships.

My second comment is around the section of Bill 43 that talks about source protection areas and the establishment of committees, both of which I think are fine ideas but must involve a variety of stakeholders, including civil society groups and First Nations, and have adequate public participation.

The development of a source protection plan for each designated area is also a good exercise in identifying risks to drinking water, as well as the inclusion of land uses and other land development activities. Land and water are, by their very nature, connected, so the development of this exercise could indeed be strengthened by some community mapping and by robust participation.

The act identifies that the source protection plan is subject to the approval of the minister after consideration of public comment. My main concern is that public comments are indeed a meaningful consultation, and what that entails would be significant public education as well as creating the space for participation at every step of the way in decision-making. I also wonder what kind of technical support communities would receive to be able to develop their source protection plan.

The third general area of concern I have would be that of jurisdiction, in that municipalities have the authority to pass bylaws regarding water production, treatment and storage, but in areas where there is no such municipal jurisdiction, the province has this jurisdictional responsibility. But how about First Nations communities in Ontario and other areas that may fall outside of jurisdiction? My question to those here today is, how will

these communities be able to comply with source water protection measures and what will the interplay be like between the municipal, provincial and federal levels of government, since there will be many different pots to draw from?

A number of environmental groups have recently released a common statement about the Clean Water Act and the recommendations that have been developed for strengthening of the source water protection measures introduced by this bill. At this time, I'd like to just reiterate what our colleagues in the environmental community have articulated, as I support all of these suggestions.

The first one is the adoption of the precautionary principle as a guiding principle for this document.

The second one is the meaningful involvement of First Nations, Metis and Inuit peoples. I would add to that my encouragement that the province of Ontario engage with First Nations' governments on a state-to-state basis as a government rather than simply a stakeholder.

The third area of recommendation is extensive and ongoing public participation and education. That's clearly an obvious one for the Council of Canadians.

The fourth one is sustainable funding for the program's implementation.

That's where I'll end, because that last point, the sustainable funding model, is really the deal breaker for organizations like mine.

My primary concern with the Clean Water Act is that with increased source water protection, it will set environmental standards that may be financially difficult for municipalities to reach alone. As municipalities' responsibilities have evolved, the funding model by the province has not concurrently grown to enable municipalities to deliver and treat water as a public utility. Without adequate funding from the province of Ontario, a larger role for the private sector would be created, and that is a bit of a concern.

1520

I also recognize that it is beyond the scope of these public hearings to discuss the funding model for water delivery, but I do believe that they are somewhat integrated. Many of the concerns that I have actually stem from the infrastructure report, Watertight, that came out last year or the year before. I won't bother diving into those concerns that have been identified. Nevertheless, it is important at this point to articulate very clearly that source water protection measures are very much encouraged, but we also encourage, in concert with higher environmental regulations, the financial tools for municipalities to reach them alone and to protect the nature of public, not-for-profit delivery and treatment of water.

In conclusion, I would like to thank you for the opportunity to present to this panel and I look forward to further discussions and opportunities for public involvement in the delivery and treatment of water. In Ontario we're facing a situation not unlike many other provinces, where we have an aging infrastructure and a trend toward

growing cities and towns. But at the same time, I encourage the province of Ontario to match this amplified environmental regulatory framework with increased investment in public infrastructure.

I welcome the direction Bill 43 takes—protecting the integrity of the ecosystem with the overall goal of improving the quality and quantity of drinking water at the source—but I also encourage the province to investigate a funding model that is sustainable and preserves the public, not-for-profit nature of water services. Thank you.

The Acting Chair: Thank you, Ms. Howatt. We'll begin our questions with Mr. Wilkinson.

Mr. Wilkinson: Susan, thank you for coming in. I have a couple of comments and then a question. To be clear, we are opposed to the privatization of our sources of water. I think you could provide us with some valuable insight about how to ensure that we have meaningful public education and consultation. We've had to do that over our history on a number of issues, like conservation authorities. All of them have had to get a community to come together and try to solve a common problem.

We take your comments about First Nations. Justice O'Connor was quite clear about that, and the need to make sure that everyone in Ontario, whether they are First Nations or not, have a right to safe, clean drinking water and working together. There is right now a big exercise going on, that was just announced, between the municipalities and the province about trying to sort out the best new fiscal arrangement that repairs years of previous downloading.

My question: You were saying that on these source protection committees we need to have stakeholders, including non-governmental organizations like yourself. We've had farmers say, "We want more than half the seats." We've had municipalities say, "We want more than half the seats." Public health has come in and said, "We've got to be on that table." The ministry has been looking at the question of whether we have to be more prescriptive to make sure the source planning committee covers the waterfront and gets everybody around the table. What role do you see your group playing, and how would you be accepted in a source planning committee in Cornwall if you're perceived to be representing another interest?

Ms. Howatt: That's a reasonable question. I certainly respect the fact that every committee is a juggling exercise. Of course, you're trying to catch as many interested groups as possible. You're quite right to point out my organization or me as the national water campaigner that probably isn't appropriate to sit on a local planning board for a source water protection plan development meeting. But, having said that, civil society groups take a number of different forms and, as you well know, the most appropriate members at that table would be a concerned citizens' group. We have many local chapters in the Council of Canadians and they would be best to sit on a committee in their own home.

The Acting Chair: Thank you, Mr. O'Toole.

Mr. O'Toole: Thank you very much, Ms. Howatt, for your presentation. I'm very familiar with the Council of Canadians. In fact, just for a note of interest, I attended a conference this week in Chicago, and the major theme of the first day was the Water Resources Act of 1985-86, and more recently as well, signed initially by Frank Miller on behalf of Ontarians. It's quite interesting that they have the same issues in the United States as well, water diversion being one of the primary issues that may be of interest to the Council of Canadians.

More importantly, you mentioned the Watertight report. I think it quoted a number, something like \$18 billion, to deal with this infrastructure deficit. In fact I can tell you, and I'll put it on the record here, as a member of the environment and energy cabinet of the previous government, that we were given to believe—and I'm not disclosing anything confidential, I don't think—a very large number, something in the billions of dollars, to deal with this source water issue. I'd say the number was close to \$7 billion. That might be my opinion, saying that at some risk, but that as a fact came from the research policy people. So it's a big number. We see \$120 million here. That isn't even going to come close to installing a few water-efficient taps.

The issue we've heard most consistently is funding, and you referenced sustainable funding. What direct advice could you give this committee in the form of amendment in the statute to see some kind of per capita or some method of flowing, or resolving disputes, for that matter, between urban and rural? What strong advice could you give us?

Ms. Howatt: To be honest, I think the best organization that is probably set up to give you that kind of advice would be the Ontario Waterworks Association, because they are the managers of many of these water systems in Ontario.

Mr. O'Toole: The municipal water workers? This should have been dealing with that first and then rolling it out. Perhaps managing it, they should have dealt with municipal water systems and getting uniform standards, enforcement, costs, ratios etc., as opposed to just one big paintbrush on everybody who has a tap in their house and water comes from somewhere.

That's good advice. Maybe, as you said, it should go strictly with municipal water systems—

Ms. Howatt: Well, no.

Mr. O'Toole: —to start with. Then a five-year review, perhaps?

The Acting Chair: The clock is ticking.

Mr. O'Toole: We're trying to make progress here, as opposed to—

Ms. Howatt: Sure. So just for clarity, could you repeat your question in the form of a question?

Interjections.

Mr. O'Toole: Would you like to see the bill reference primarily municipal water systems, to start with?

Ms. Howatt: Primarily I'm concerned, again, about the decision-making that we have and the role that we see water playing, whether we manage it as a public trust or as a commodity. Specifically, I would like to see water

delivery systems and water treatment services remain operated as public utilities. I have seen, throughout the development of the Watertight report and this process, that this is just a general trend across the country, where responsibilities and roles are being saddled on municipalities, and they're evolving. So my very general paint-brush stroke is to encourage the province to work with municipalities to provide the infrastructure. It costs less money for us to deliver and treat water as a public utility than if we allow the private sector in.

The Acting Chair: Mr. Tabuns.

Mr. Tabuns: Thank you very much for that presentation. I agree with you that funding is a critical element to the success of this initiative. One issue that was raised pretty continuously by rural and farm groups over the last few days has been this whole question of using this act to promote water conservation and water efficiency, so that the draw on the resource would be reduced and thus the reach of measures for corrective action could be contained. What would be the position of your organization on using this act to promote water efficiency and conservation?

Ms. Howatt: My position generally on this act—and I wouldn't be contradicting the landowners when I say that—is that I am concerned, again, about the cost and the funding, and that would mean the financial support as well as the technical support. I do hear the landowners' concerns that this bill will be very difficult for them to reach. So is there a prescriptive approach to support landowners to reach the goals set and reach these thresholds?

Mr. Tabuns: Thank you very much.

The Acting Chair: Thank you, Ms. Howatt, for your presentation and responses to the questions.

1530

DAVID McNEVAN

The Acting Chair: Mr. David McNevan? I'm looking for Mr. David McNevan.

Welcome, sir. Momentarily you'll have the undivided attention of all members of the committee, I'm sure.

Mr. O'Toole: I'd like to pose one question, if I could get unanimous consent to pose the question. Let's vote right now: Are you for or against funding this?

The Acting Chair: He's seeking unanimous consent to pose a question. No, we don't have unanimous consent.

Mr. McNevan, welcome.

Interjections.

The Acting Chair: Gentlemen, gentlemen. On the committee, we have a deputant who would like to make a presentation on his time for our interest. Welcome, sir. I think you probably heard my comments earlier: up to 10 minutes for your presentation and then approximately five minutes for questions shared among the parties. Please, if you'd identify yourself, although we have it here, for the purpose of Hansard. The time is yours.

Mr. David McNevan: Good afternoon, honourable Chair. I take comments from our last speaker, as there are

a couple of things that came to light in her topic: lack of funding and juggling. Certainly, in our industry, we're familiar with both. I'm here as a farmer from Peterborough county, not with any group; only our own family farm.

I saw the piece in the Peterborough Examiner, and the reason I'm here—I guess there are handouts on my correspondence with our honourable MPP, Jeff Leal. I apologize for not being here this morning, because I don't want to waste anybody's time—that does make things flow—but to stick on topic as I understand Bill 43, and certainly, I've been enlightened a little bit, it does have something to do with water. Until this point and until this—

Mr. Yakabuski: And a lot to do with money.

Mr. McNevan: Exactly. Until this meeting this afternoon, listening to some of the previous speakers, I was concerned that it had nothing to do with water whatsoever.

I'll read to you my—I'm here as a farmer, not as a politician. Some of this may not be politically correct, and for that I take full responsibility. No one has looked it over, legally or otherwise. So I juggle this in as our day ends, or our morning begins, between ours and the next items on the agenda:

“Jeff Leal, Peterborough MPP

“Good afternoon Jeff:

“Finally, with the rain, we get a break from the hay.

“Your letter as requested.

“Bill 43 disguised as the Clean Water Act greatly concerns me.

“I didn't realize that ‘free country’ meant ‘free to trespass on private property without permission.’ The bill clearly states: whoever in the opinion of a permit official may do so.

“Section 97 places a minimum fine for farms on a first conviction of \$50,000 per day of the offence. Jeff, the farmers must not tolerate this nonsense. We would be bankrupt the first day.

“Section 59 and 71 offers no escape from bankruptcy.

“Would you be kind enough to point out anywhere in the act that it mentions ‘clean water.’ Section 60 dictates that bureaucrats can compel people to pay without appeal and grants authority to place all costs on your tax bill.

“Section 88 and 89 saves the bureaucrats and government from ... legal action initiated by an individual or business to stop any justice.”

I'm probably repeating here, but I beg your patience.

“Section 54 and 58 casts shadows of tyranny and grants the authorities the right to use whatever force is necessary to enforce the act. A person authorized to enter property for the purpose of doing ‘a thing’ may call on police officers as necessary and may use force as necessary to make the entry and do ‘the thing.’ Please define ‘thing.’ Sounds like a real group of educated people have put this one together.

“Authorized to enter property for the purpose of doing ‘a thing.’ May use force as necessary to make the entry and do ‘the thing.’ Sounds like education to me.

“Section 83 grants bureaucrats the authority to seize and confiscate private property without consent and without payment or compensation.

“Section 53 and 79 authorizes bureaucrats to enter any private property without consent or warrant and empowers bureaucrats to make any excavations, collect samples, evidence, or data and compels people to provide any and all information. ‘A permit inspector may, for the purpose of enforcing this part, enter property without the consent of the owner or occupier and without warrant.’

“Jeff: Bill 43 will kill ... Ontario, our democracy, and put an end to justice, under the pretext of protecting our water quality and quantity. There are only two choices during this perfect storm: Seek refuge in a high-rise condo, or stand firm and repair democracy’s wall of justice, and demand that Bill 43 be forever washed away in the bright lights of public interest.

“Jeff, you suggested that petitions would help you to defeat this bill. If your office would be kind enough to word the petition so that it would help us to help you defeat it, we will work hard to collect signatures on the petition at various local rural events.

“I see in the Peterborough Examiner that there will be meetings across the province during the week of August 21 with submissions to the clerk to be made by 5 p.m. August 8. Time is running out, but we would have as many landowners from Peterborough as possible. Where is the meeting in Peterborough to be held and when? It should be publicized big-time. I never asked you: How did you vote on the previous two readings, or did you, and why? Looking forward to your response as soon as possible ... time is running out.

“Fact: zero dollars budgeted or available for assistance. Sixty-seven and a half million dollars of taxpayers’ money spent on the study. Sounds like fair planning to me.

“As you requested, Jeff, hope this letter is of some help in helping you defeat Bill 43.

“Sincerely,

“Dave McNevan, concerned farmer for rural Canada to survive.

“cc: Dean Del Mastro, MP—Canada beware; Randy Hillier, president, landowners association.”

I was next notified by our MC to see if I would come here today. I took time out of our farm operation to be here: certainly no guidelines in place. This was my response last night after everyone else had settled in for the evening, and I thought, well, if I’m going to go there, I’d better at least have something to say.

Bill 43, Clean Water Act, 2006, hearing:

Honourable Chairman, ladies and gentleman, fellow Ontarians: It would appear that the bottom line of this study is not very accurate or thorough if the study reveals that a farmer is capable of paying a \$50,000 fine per day for an offence after already struggling to survive the BSE crisis coupled with disastrous grain and commodity prices.

While all of our input costs are at 2006 prices, the products that we sell—grain, for example—are priced at 1970 prices, or in most cases much, much less. Corn, for

example: \$3.25 a bushel in the 1970s, and it currently settles in someplace around \$2.05 a bushel 35-plus years later. Unbelievable. How would you like your paycheque rolled back to 35-years-ago wages? This is the reality that farmers are forced to cope with. This is correct: Turn the clock back 35 years. This is the price that farmers are receiving today. Ridiculous, but the farmer struggles on, the few of us who are left. But a \$50,000 fine? Rural Ontario may as well throw in the towel right now. It would be the straw that breaks the camel’s back.

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I urge you to lobby your MPPs, and your MP for that matter, to defeat Bill 43 at all costs. Leave rural Ontario and rural Canada some elbow room. We need our breathing space. We must work together as rural Ontarians to protect our farms. We don’t need another Ipperwash, another Dudley George incident. Back off a little bit, government. This is our land too. After all, we do pay the taxes.

How many farmers were in favour of the \$50,000-a-day penalty in your \$67-million study, Mr. McGuinty? It would appear that those working in the study were not interested in working for wage prices of 35 years ago.

I beg to differ with the attitude that whoever feels that they should enter to do that “thing,” may enter to do that thing. What is that thing? That’s Bill 43. Caution: Be careful where you enter without the farmer’s consent. We do not want any more Dudley George situations. This is not a warning, but a plea to back off of rural landowners a little bit. We have the right to farm.

A \$67-million study: Who did authorize the study? Come clean. Don’t disguise Bill 43 as the Clean Water Act. Who wouldn’t vote yes to clean drinking water? Who wouldn’t want part of a \$67-million study towards your bank account? By that, I mean if you’re involved in the study.

Help your MPP defeat Bill 43. Stand up for rural Ontario. Sign the petition to defeat Bill 43, the bill disguised as the Clean Water Act.

Thank you for your consideration. I have provided a copy of my observations for our MPP, Mr. Jeff Leal, to put in the hands of our honourable Premier, Mr. Dalton McGuinty, at his earliest convenience.

In closing, I would suggest that we have one petition—properly worded, properly circulated and properly presented—to defeat Bill 43. Don’t over-regulate us out of business. Ontario may be your future food source someday.

Concerned farmer; thank you.

The Acting Chair: Thank you, Mr. McNevan. The first questions will come from Mr. O’Toole.

Mr. O’Toole: Thank you very much for your presentation; very impassioned. I appreciate you taking the time from earning your livelihood. I would just say that you’re right in your observation. Who wouldn’t vote for clean drinking water? That’s a very fundamental common ground that we share, Mr. Tabuns and I. But I am going to ask the question of Jeff that you posed here. Jeff,

will you vote against this bill as you've heard here today and this plea to make sure we get this right?

Mr. Leal: You want my response?

Mr. O'Toole: Well, I'll just leave it open, because you will get time. He will have time. Hopefully the parliamentary assistant will allow him to speak.

Mr. Leal: I have no problem to respond.

Mr. O'Toole: That's good. I think you're right: The lack of funding has been a fundamental issue here—and the lack of understanding. As someone said earlier, clearly, in these hearings you learn quite a bit by listening. What I've heard here is a shift, a sort of subtle shift, a suspicious shift, of responsibilities from the urban—who, somebody said earlier, had this problem of mucky water in Toronto and other places—to the rural, as if they are the cause of this problem. Some 80% of the drinking water basically comes from Lake Ontario. When they have storms down in Toronto, they flush the effluent from the streets and so on right back into Lake Ontario. At the conference I was at, there were great concerns about improving the water quality and the water treatment facilities with the growing population.

Urban Ontario is growing; rural Ontario is actually shrinking. There are fewer and fewer people every day, not just farming but living in rural Ontario, and they're being loaded down with having to have inspectors, enforcement, some kind of plan, and their tax base is shrinking. So I hear clearly what you're saying. As said by the previous presenter here, there's no sustainable funding and it seems to be the most important missing link here, and the recognition—even in expropriation, they've shifted that downloading, the expropriation of that community well, down to the municipality to buy it. Now, where are they going to get the money to buy it?

The Acting Chair: Thank you, Mr. O'Toole. Your time has expired. Mr. Tabuns.

Mr. O'Toole: Thank you very much for your presentation—very, very informative.

Mr. Tabuns: Thank you, sir. I appreciated the presentation as well.

You talked about the depopulation, the loss of farmers from the land. Could you expand on that a bit? I think that affects how people see this bill and what's doable and what's not doable. Can you give us some background on loss of neighbours and other farmers?

Mr. McNevan: Certainly the loss of farmers on the land, I don't believe, is directly related to the lack of clean drinking water, if that's the—

Mr. Tabuns: No. That was not the direction of my question. You seem a fairly healthy bunch.

Mr. McNevan: I was on the road for 14 years calling on farms, and in those days there were a lot of farms. Probably 90% of our business was dairy. It was brought to my attention here a week ago or so that there are six dairy producers left in our township, which at one time would be substantially more, many times—I would think probably 10 times.

In agriculture, if it's farming we're relating to, you have to be careful who you tell that you're in agriculture.

If you're not careful, you will be put in for psychiatric assessment.

Laughter.

Mr. McNevan: I say that in all honesty. People may laugh, but the future generation—if my son was honest with himself, and maybe he is more than I am, he would wonder why I even took the time to be here today. He is convinced there is no future in agriculture anyway, and what am I being so knuckleheaded and thick about to try and carry on? It's because I enjoy it, but the economics is not there and it's sad. The farms are disappearing. Why? I think it's pretty self-explanatory here, when we have to pay 2006 inflation prices for fuel. We had a Prime Minister at one time who said we'd pay a dollar a gallon for fuel and they threw him right out of office. Now we're paying \$5 a gallon and it seems to be that we're all happy if we can find it down the street for \$4.99 type of thing, you know?

The Acting Chair: Thank you, Mr. McNevan. I'm going to move to Mr. Wilkinson for an additional question.

Mr. Wilkinson: Thanks for coming in, Dave. That's why we have democracy. That's why we have these meetings. My riding of Perth–Middlesex is all rural. The biggest place there is 30,000 people, so it's as rural as it comes.

You're right about the commodity prices and the value of the dollar, because the price is set in Chicago on the Mercantile, and we're competing on our grains against Brazil, where they're doing three crops a year now.

But we're here to talk about the Clean Water Act, and I take your concerns very seriously. One thing I can do as the parliamentary assistant—I know you've written to my colleague Mr. Leal. I'll write you back personally. You can feel free to publish that or whatever; it's not a confidential letter. Because as we talked about it today, there were some parts where I thought there have been valid concerns, but there are some parts that are kind of out there as, I'd say, a canard, one of these things running around Tim Hortons about this and that. I think it might help you if we get some clarity on that so we get down to the issues.

The OFA, the NFU, the Christian Farmers, OFEC and OFAC have all said that they think the bill needs amendment but that it shouldn't be scrapped, that what it needs is amendments. Even when I was talking to Randy Hillier, for example, in Cornwall, he said, "If you can crack this nut, then I think we're okay with it." So I think the whole process here is to get to the point where we do look at amendments, because we don't start with the premise that if a bill gets written, it's perfect, right? I mean, that's the whole idea of democracy and getting people around the table. So I just want to thank you for coming out. You tell your son that a politician who is probably just as crazy as you are—you're in farming and I'm in politics, so I guess we have something in common. You're not the only one people ask, "What are you doing in that business?" You tell your son that I think his dad did the right thing by coming today and participating.

Mr. McNeven: I just feel that common sense is lost when you start throwing figures around of \$50,000 fines per day.

Mr. Wilkinson: And you're the first one to mention it, so that's good.

Mr. McNeven: It's just ridiculous. How long would you think—I've yet to make that in my first year. But to think that figure would be thrown around that loosely—and that's an indication of the wages people were paid to do this study. That's common terminology for them, something that we never see. So that's a big concern to me.

Mr. Wilkinson: Great. Thanks.

The Acting Chair: Thank you, Mr. McNeven, for your presentation and your response to the questions that were raised with you.

Members of committee, just before we adjourn today, I certainly want to thank all of the witnesses and those who attended in support or to listen to what was being said. I want to thank, obviously, through Mr. Leal in his riding, both the city and the county, and all of those folks in Peterborough who welcomed us so warmly, our staff from the Legislative Assembly and the support staff for making not only today but this week a great week.

With that, we stand adjourned.

The committee adjourned at 1551.

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