



Legislative Assembly
of Ontario
Second Session, 38th Parliament

Assemblée législative
de l'Ontario
Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Wednesday 9 May 2007

Journal des débats (Hansard)

Mercredi 9 mai 2007

**Standing committee on
justice policy**

**Comité permanent
de la justice**

Safeguarding and Sustaining
Ontario's Water Act, 2007

Loi de 2007 sur la sauvegarde et
la durabilité des eaux de l'Ontario

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Copies of Hansard

Copies of Hansard can be purchased from Publications Ontario: 880 Bay Street, Toronto, Ontario, M7A 1N8. e-mail: webpubont@gov.on.ca

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Exemplaires du Journal

Des exemplaires du Journal sont en vente à Publications Ontario : 880, rue Bay Toronto (Ontario), M7A 1N8 courriel : webpubont@gov.on.ca

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
JUSTICE POLICY**

**COMITÉ PERMANENT
DE LA JUSTICE**

Wednesday 9 May 2007

Mercredi 9 mai 2007

The committee met at 1005 in room 1.

**SAFEGUARDING AND SUSTAINING
ONTARIO'S WATER ACT, 2007**

**LOI DE 2007 SUR LA SAUVEGARDE ET LA
DURABILITÉ DES EAUX DE L'ONTARIO**

Consideration of Bill 198, An Act to amend the Ontario Water Resources Act to safeguard and sustain Ontario's water, to make related amendments to the Safe Drinking Water Act, 2002 and to repeal the Water Transfer Control Act / Projet de loi 198, Loi visant à modifier la Loi sur les ressources en eau de l'Ontario afin d'assurer la sauvegarde et la durabilité des eaux de l'Ontario, à apporter des modifications connexes à la Loi de 2002 sur la salubrité de l'eau potable et à abroger la Loi sur le contrôle des transferts d'eau.

The Vice-Chair (Mrs. Maria Van Bommel): I'd like to call this meeting to order, please. Good morning, and welcome to everyone. This is a meeting of the standing committee on justice policy. The order of business is Bill 198, An Act to amend the Ontario Water Resources Act to safeguard and sustain Ontario's water, to make related amendments to the Safe Drinking Water Act, 2002 and to repeal the Water Transfer Control Act.

Pursuant to the time allocation order of the House dated Tuesday, April 24, 2007, clause-by-clause consideration of the bill will be held on Wednesday, May 16, 2007. The committee is authorized to sit in the morning and after routine proceedings until completion. The deadline for amendments is noon on Monday, May 14. Motions will not be accepted after that time.

Now, unless there is further business from any of the members, I'd like to proceed with our public hearings.

ONTARIO WATERPOWER ASSOCIATION

The Vice-Chair: I'd like to call our first witness, Paul Norris, for the Ontario Waterpower Association.

Mr. Paul Norris: Good morning.

The Vice-Chair: Good morning, Mr. Norris, and welcome. You have 10 minutes to make your presentation. You can use that entire 10 minutes for the presentation. If there is time left over out of that 10 minutes, there is an opportunity for members of the committee to ask questions and make comments. If you would state your name for the record and then proceed.

Mr. Norris: I thank you and committee members for the opportunity to speak to this proposed legislation. My name is Paul Norris. I am president of the Ontario Waterpower Association. You have a blue package in front of you from the Ontario Waterpower Association and my speaking notes are therein. We are a non-governmental organization representing the production and development of the province's primary source of renewable energy. I'm pleased to have the privilege today to provide input to your deliberations on Bill 198, the Safeguarding and Sustaining Ontario's Water Act, 2007.

The Ontario Waterpower Association has been actively involved in contributing to the modernization of the province's legislative, regulatory and policy framework for water resource management over the past five years. Specific to a key element of this legislative proposal, I had the pleasure of participating on the Great Lakes Charter Annex advisory panel that served to inform Ontario's approach to the negotiations with the Great Lakes states and the province of Quebec.

With respect to the implementation of the negotiated position through this proposal, I think it's important that the committee recognize and appreciate that the position was arrived at through a complex process of bilateral, multilateral and internal discussions and dialogue. Members on Ontario's advisory panel brought an array of interests, experience and expertise to the negotiation process that resulted in a mutually acceptable consensus for Ontario's negotiators to consider. In my view, the legislation should respect the outcome of that process, and any recommended changes should carefully consider the wider implications for the negotiated agreement, both in Ontario and with respect to the approaches of other jurisdictions.

Of specific interest to our industry, however, are the proposed improvements that go beyond the immediate scope of the implementation of the Great Lakes Charter Annex. In my view, the opportunity provided by the intent to "modernize" the Ontario Water Resources Act must finally address the equivalence in legislation governing water resource management for water power production.

In May 2002, exactly five 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, provides the Minister of Natural Resources with

the authority to order owners and operators of water power facilities to develop and comply with water management plans.

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 the legislative vehicle by which water resource management for dam owners would be regulated. There were other options available; for example, the Ontario Water Resources Act. The second is that the province has chosen to order the preparation of these water management plans only for rivers that produce hydroelectricity.

Over the past five years, the province and the industry have collectively invested more than \$30 million in implementing water management planning, with investment in new data collection, monitoring, evaluation and assessment ongoing over the next decade or more in preparation for the next iteration of planning.

In 2003, almost a year after the introduction of water management planning, the province posted on the environmental registry proposed amendments to regulations under the Ontario Water Resources Act and improvements to the permit-to-take-water program. At the time, this proposal was directly linked to the government's clean water strategy.

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.

1010

Despite the apparent recognition of the unique position of our industry vis-à-vis regulatory equivalence, we have yet to see any targeted policy progress to address this issue. As a result, we are now dealing with permitting provisions related to water resource management issued under two separate pieces of legislation, with similar or identical requirements administered by two separate ministries.

I'd like to give you a case example of a small water power facility in northern Ontario. The provisions of the permit to take water for the facility, posted on the environmental registry in 2005, are as follows: a minimum outflow of eight cubic metres per second shall be maintained at all times; outflows shall be steady or rising between April 15 and June 15; no peaking of flows shall occur between April 15 and June 15.

Now let me read you the provisions for the operating plan for the facility approved under the water management planning process, posted on the environmental registry in 2004: outflows to be equal to or greater than eight cubic metres per second at all times; outflows will be steady or rising April 15 to June 15; no peaking of flows will occur between April 15 and June 15.

I want to be clear that the industry has not suggested that we not be required to address the province's water policy objectives, rather that we substantially do through

a considered decision by the government to subject water power alone to the provisions of water management planning. It is clear that these provisions can and do meet provincial water policy objectives.

This brings me back to the current bill. The province has clearly recognized in its communication of the proposed legislation and accompanying regulatory and policy framework the regulatory equivalence for water power facilities, most specifically in the design of the conservation charge and the appropriate proposed exemption of water power. As stated in the background material accompanying the introduction of the bill: "Hydropower production is largely an in-stream use of water that has minimal impact on water quantity and quality. In addition, many hydropower producers already pay a water rental charge (approximately \$130 million annually) under the Electricity Act ... to the Ministry of Finance."

As such, and as stated in our February 2007 EBR submission to the posting of the proposed amendments to implement the charter annex agreement, it is recommended that the province take this limited window of opportunity to incorporate the following into section 34 of the act, the section addressing the requirement for a permit to take water. It is specifically proposed that a subsection be added to the existing exemption section as follows. With respect to regulatory equivalence:

"(6) Subsection (3)"—that is, the section requiring a permit to take water—"does not apply to the taking of water with infrastructure regulated pursuant to section 23.1 of the Lakes and Rivers Improvement Act or an equivalent."

Alternatively, a regulation pursuant to section 76(a) of the act that recognizes this overlap and duplication and is made effective before the new legislation is enacted could be used to achieve that same objective.

Madam Chair and committee members, made-in-Ontario water power has a critical role to play in addressing our electricity and climate change challenges. We have the resource, expertise and interest to increase the production of water power by more than 50% and position the province as a leader in renewable energy, but we need a rational and rationalized regulatory framework to achieve that objective. I urge you to take this opportunity to make the necessary changes within the Ontario Water Resources Act.

Thank you. I'd be pleased to entertain questions.

The Vice-Chair: Thank you very much, Mr. Norris. We have three minutes. That is one minute for each party. We will start with the official opposition.

Mr. Norm Miller (Parry Sound–Muskoka): Thank you, Mr. Norris, for your presentation. Certainly, on the surface of it, it looks like you've pointed out where there is duplication and red tape, and your suggestion looks like it makes sense to me, for the amendment that you're recommending. At the beginning of your presentation, you talked about carefully considering the wider implications. Could you expand on that point?

Mr. Norris: Sure. I'm not about to presume what you're going to hear from other people, but as a par-

participant in the advisory panel process that was a long and complex process, I would strongly encourage the committee and committee members to assess the relationship between what was an agreed-upon document coming out of that process and what's reflected in the legislation. I think it's critical that we all understand that the position established was a position that was not only negotiated between Ontario and other jurisdictions but also subject to a complex set of discussions within Ontario.

Mr. Miller: And it's your feeling that the legislation does reflect the agreement?

Mr. Norris: I think that it certainly meets the spirit and intent of the negotiations.

The Vice-Chair: Mr. Tabuns, please.

Mr. Peter Tabuns (Toronto-Danforth): Could you tell me again what the negative impact will be for hydro power development in Ontario if these amendments that you've proposed don't go through?

Mr. Norris: What we're suffering with now is what I call the next wave of water legislation. We happen to be in an interesting position in public policy, at the nexus of two pretty critical issues: energy and water. I think that, while understanding that the province has an obligation and an interest in pursuing the modernization of its water legislation, we happen to be a user of water with respect to the production of electricity. The implications are that we're suffering overlap and duplication. In fact, the prospect of being subject to compliance regimes under different legislation for the exact same requirements is not helpful for an industry that's trying to meet the province's targets of doubling renewables by 2025.

The Vice-Chair: Thank you very much. Mr. Leal of the governing party.

Mr. Jeff Leal (Peterborough): Paul, I know that in your introduction you forgot to say that you're headquartered in the great city of Peterborough.

Mr. Norris: The great city of Peterborough, absolutely, and I'll be happy to return there later this afternoon.

Mr. Leal: Paul, thank you for your organization's great work in the area of renewables, particularly for hydro generation over the last three years, in meeting some of our policy objectives. My question is fairly short: You would appreciate it if we could make these two small amendments and then you'd be supportive of Bill 198?

Mr. Norris: That's correct.

The Vice-Chair: Thank you, Mr. Norris, for attending here today.

CANADIAN BOTTLED WATER ASSOCIATION

The Vice-Chair: I'd like to call on the Canadian Bottled Water Association: Elizabeth Griswold.

Good morning and welcome to the committee. I'd like to point out that you have 10 minutes to make your presentation. If you use up the entire 10 minutes, then there will be no opportunity for questions and comments from the members of the committee. If you would

introduce yourselves for the record and then proceed, please.

Ms. Elizabeth Griswold: I'm Elizabeth Griswold with the Canadian Bottled Water Association. Joining me is Tim Bermingham from the law firm of Blake, Cassels and Graydon, and to my right is Steve Usher with the engineering firm of Gartner Lee.

The Vice-Chair: Thank you. Please proceed.

Ms. Griswold: Good morning, Madam Vice-Chair and members of the committee. As I stated, my name is Elizabeth Griswold and I am the executive director of the Canadian Bottled Water Association. Our members account for 85% of bottled water sold in Canada. We are the voice of the industry. I want to thank the committee for agreeing to listen to us today. For the last several years, I have also been a member of the Ontario Great Lakes Charter Annex advisory panel.

This is a 500 millilitre bottle of Ontario water. The company that produced this took 515 millilitre of water to do so. Our industry is highly efficient and wastes almost no water. A case of 24 bottles of this water is sold at large retail outlets for 10 to 12 cents per bottle. I would invite any member of this committee to look at your weekend flyers to confirm the pricing of this product. For those of you who think we get our product for free, I would invite you to tour this plant, built on land owned by this company, where millions of dollars have been invested, and talk to some of the 350 employees. Most of our plants, like this bottling plant, are built and located in rural areas.

1020

The Canadian Bottled Water Association has long said that we support measures to protect the quality and quantity of Ontario's water supply. Without appropriate protection of the quality and quantity, our members would be out of business.

Having said that, I wish to table our concerns about this bill. Let me say for the record that we are aggrieved that this bill has been posted on the Environmental Bill of Rights for just 30 days; usually EBR postings are longer.

We were disappointed that the government moved time allocation for this bill, stifling debate. We're shocked that our appearance today is limited to 10 minutes to discuss legislation fundamental to our industry. We were not consulted by the Ministry of the Environment as they developed the \$3.71 fee level.

You should know, according to the Ministry of the Environment's own data, that all of the permitted source bottled water companies in Ontario account for two tenths of 1% of water taken in this province. This means that every year our industry takes as much water out of the ground as 10 golf courses; there are 700 golf courses in Ontario. It takes 7,800 litres of water to produce four tires, over 147,000 litres to produce a car and over 236,000 litres of water to produce a tonne of steel. It takes only 1.03 litres of water to produce a litre of water.

We do not support the framework for the development of the water-taking charges as laid out in this bill. We believe that the "consumptive uses" definition that the

bill relies upon is faulty and based on something other than good science. To say that, once water taken is moved out of its originating watershed, it becomes a consumptive use, is—respectfully speaking—woefully inadequate for the development of public policy and legislation. Every time you water your lawn and garden, some 80% of that water transpires, or evaporates, and leaves the watershed that you took it from, in the form of cloud movement.

For a bill that is supposed to be about safeguarding and sustaining Ontario's water, it seems that little to no regard was given to the quality of the water that may remain in the watershed but is returned in a much degraded condition. Why wouldn't those takers be asked to pay as much as or more than the water bottlers, whose usage represents one of the cleanest uses for water?

Instead, Bill 198 requires those of us who make water available for human consumption to pay the most and pay first. We believe that if water charges are here to stay, all users should pay equally. Our legal counsel advises us that the province can only implement a regulatory charge to defray its costs associated with managing water resources; their opinion is included in our submission for your review. In order for this charge to be at all credible, the government must table, in a manner understandable by the public, its water management costs. According to the Ministry of the Environment's own consultation document, industrial and commercial users account for 2% of water-takings in Ontario. Therefore, the total revenue collected from these charges must not exceed 2% of the province's water management costs, and the bottled water industry should pay no more than two tenths of 1% of those costs.

We believe that this bill has more to do with politics than environmental science or stewardship. The timing and handling of the bill through the legislative process does not invite proper scrutiny or analysis. We realize that the water-taking charges will be developed in regulation, away from the public and media scrutiny of the legislation that is introduced, amended and passed in plain sight.

We also ask members to consider the obvious: When a government implements a new fee, tax or charge, presumably to encourage the conservation and sustainability of Ontario's water, but exempts 98% of the takers of water, bases its policies on a flawed concept such as "consumptive use," has no regard for water quality but financially penalizes Ontario companies if water crosses a line on a map, we submit that water sustainability and protection will actually be set back in this province.

Recognizing these issues, we encourage the members of the committee and the Legislature to delay the passage of this bill until more properly developed criteria and a much more credible framework for the new charges can be developed. This bill, as written, is inadequate. Done properly, Ontario can have legislation that protects Ontario's water and sets out a much better framework for regulation that the CBWA, with proper consultation, could support.

I thank the members for their time.

The Vice-Chair: Thank you very much, Ms. Griswold. We have one minute left, so I would say that I will allow one question in that minute. By rotation, that goes to the third party, so, Mr. Prue, if you would, please.

Mr. Michael Prue (Beaches–East York): My goodness. I just sat down so I hardly heard. I apologize. Mr. Tabuns had to leave.

You talked about delay; you want it delayed. What time frame are you looking at?

Ms. Griswold: The time frame that we would look at—delayed long enough so that we can see both the regulation for the water charges and the legislation at the same time.

Mr. Prue: You're asking the government, then, to delay the passage of this bill and the regulations until following the election, some time next year?

Ms. Griswold: I don't know whether—I would assume that that would be the time frame because I don't see where the regulation would be able to be developed in time with the recess coming up soon. If we were to rush this legislation because of an election, I think the long-term consequences would be severe. It would be fairly severe for us to push legislation through that, long term, would not necessarily be in the best interests of the protection of our groundwater resources.

The Vice-Chair: Thank you, Ms. Griswold.

POLLUTION PROBE, OTTAWA

The Vice-Chair: I would now like to call upon Pollution Probe, Ottawa: Rick Findlay, director of the water program.

Good morning, Mr. Findlay, and welcome to the committee. You have 10 minutes to make your presentation. You can use up the entire 10 minutes for the presentation. If you use up less than that, then there is an opportunity for comments and questions by the committee members. If you would, first identify yourself for the record and then proceed with your presentation.

Mr. Rick Findlay: Good morning. My name is Richard Findlay and I'm director of the water program with Pollution Probe.

Pollution Probe has been around since 1969. It was established across the road at the University of Toronto at that time. We are a non-profit organization, with a donor list of approximately 6,000 people who support our work.

Pollution Probe has been involved with work on the Great Lakes for decades. We have a long track record of promoting protection of the Great Lakes for future generations.

Pollution Probe has been very involved with the development of the Great Lakes annex agreement that has been referred to already this morning. We are members of the annex advisory panel that continues to be involved with the development of the agreement and its implementation, and we're supportive of the next step, which is the requirement for legislation that would enable the agreement to be implemented.

1030

I'm not a lawyer. I don't really have the capacity to map between the agreement and the proposed implementing legislation, but I do understand, having spoken with lawyers, that this act will enable the implementation of the agreement, and Pollution Probe strongly supports that. We're not in a position to second-guess the lawyers and the drafters who've carefully written the enabling provisions, but we have some suggestions for additions to the bill that would facilitate implementation of the agreement and may help ensure that it actually does get implemented and fully meets the spirit and the requirements of the agreement itself.

I'd like to make a couple of practical suggestions for consideration. The first is that I think the bill should require a provision for some kind of interpretive manual or implementation manual, something that in plain language helps people like myself, and the general public as well, in understanding the act and the agreement around which it's based.

If shortcomings emerge at a later date, this ongoing procedural manual would help ensure that the regulators pick up on it and take appropriate action down the road. For example, in areas like data sharing, it would be very important to have some reference for the requirement for data to be gathered and shared, not only among provincial departments but with the general public. Questions regarding cumulative water-takings will continue to emerge over time, and we need some kind of flexible implementation step to be able to address these things. Conservation plans would be greatly facilitated by this iterative process. Making use of existing water-takings first, for example, would be an important step. Additional levels of detail would be helpful as time goes on.

Another important requirement is to be able to make the case for the resources necessary to implement this legislation over time, and the Environmental Commissioner has recently noted the chronic underfunding of the ministries responsible for managing and cleaning up the Great Lakes, the Ministries of the Environment and Natural Resources in particular. An interpretive manual would certainly be very helpful in making the case that adequate resourcing is required for the ongoing process of implementing this legislation and making sure that the lakes are protected for the future. This adaptive path coming out of the process, a path of regulatory adjustment, will likely be needed. I think a step like this would be very helpful.

I would like to strongly support the wording in the act that talks about the precautionary principle. That's an important concept—the idea that we shouldn't wait for complete scientific certainty to be had before we take action.

Finally, I wanted to also note, in the preparation of some of our comments and the submission, which has been provided in writing to the clerk, my support for our collaboration with the Canadian Environmental Law Association, Sierra Legal Defence Fund and the work of Sarah Miller. You'll be hearing from Sarah as well this morning, so I'll stop there.

The Vice-Chair: Thank you very much, Mr. Findlay. We have five minutes left, which is about one minute and 45 seconds per party. If the government would like to start, Mr. Leal, please.

Mr. Leal: Mr. Findlay, I really don't have a question. I just want to thank you for making your presentation this morning. Rest assured your comments will be taken as we get down the road and through amendments on this bill.

The Vice-Chair: The official opposition, Ms. Scott?

Ms. Laurie Scott (Haliburton–Victoria–Brock): Thank you very much for appearing before us here today. We do have concerns that this bill is being rushed through with the time allocation and not enough public consultation, because it is complex and it's hard to understand.

You made reference in some of your comments to an interpretive model. We've heard from some of the stakeholders that there needs to be more time so that there can be more public input so we can get the framework right. Do you have any comment that this is being pushed through too quickly and what you would like to see—you mentioned an interpretive model, but more consultation—just so we can hear and there is enough time to absorb what's in this legislation and to get proper feedback so it does get to be correct?

Mr. Findlay: I'd actually come down on the side of implementing the legislation as soon as possible, but making sure that there is a regulatory process afterwards that picks up on some of these suggestions. I would love to see the legislation amended to include this requirement for an ongoing process.

On the point of public consultation, I think it's been pretty adequately consulted on so far. The annex agreement process has been very carefully done and my support for that is based on my experience with that process. So I think it's time to move it ahead.

Ms. Scott: We heard from the Canadian Bottled Water Association, some of their concerns, which I know you're not really addressing, I guess, at Pollution Probe.

Mr. Findlay: Right, I'm not.

Ms. Scott: You're just mainly concentrating on the Great Lakes-St. Lawrence agreement.

Mr. Findlay: Yes, that's correct.

Ms. Scott: And you were on the committee. On the other side of the border, in the United States, do they have a different process of getting input from all the stakeholders, an ongoing—

Mr. Findlay: I think it's really variable across each of the jurisdictions, and there are eight states in the United States that are all involved with bringing the agreement into their respective legislative processes to ensure its implementation as well. Ontario is fairly early along and I think a good leader in that, in working hard to bring it in soon. I can't tell you exactly where each of the eight jurisdictions is at with respect to engagement and process. It's quite variable, depending on the various needs.

The Vice-Chair: Mr. Prue.

Mr. Prue: Just in terms of the previous deputant, the previous deputant asked that the matter be put off, obviously, until after the election and maybe into next year. You want immediate application. There's a dichotomy of opinion here. Can you tell me why it's important on your side that it be done right away?

Mr. Findlay: I think we have a great opportunity to bring this in. The legislation, as I understand it, that has been written will enable the implementation of the agreement and I think that's the most important step to be taken right now. I'd look forward to regulatory procedures that will allow more of an iterative process to enable the public to understand how that's going to happen in more lay terms. I think that's one of the difficulties, and Mr. Norris kind of alluded to that a little bit, that there's a faith being taken between the agreement and the legislation and the understanding that it'll do it. I think it probably will, but it would be probably facilitated by some of the suggestions that I have made.

Mr. Prue: As an MPP, and usually opposition MPPs state this, we are much happier to see the law contained within the bill itself as opposed to regulation, because the regulation is done by the minister without consultation with the Legislature and virtually no input from that point on. Do you have any trepidation whatsoever that the minister, or a subsequent minister, will be able to just simply pass any regulation without coming back to you or to the Legislature?

Mr. Findlay: I don't think I could really comment on that. I think there's an opportunity to move this ahead right now, and I think we should take it.

The Vice-Chair: Thank you, Mr. Findlay, for appearing before the committee.

SIERRA CLUB OF CANADA,
ONTARIO CHAPTER

The Vice-Chair: I would like to call on the Sierra Club of Canada, Ontario chapter, Tim Morris. Good morning, Mr. Morris, and welcome.

Mr. Tim Morris: Good morning, and thank you.

The Vice-Chair: You have 10 minutes to make your presentation. If you use up the entire 10 minutes, there will be no opportunity for members of the committee to make comment or ask questions. If you would start by identifying yourself for the record, and then just proceed with your presentation.

Mr. Morris: My name is Tim Morris. I am the national water campaigner for Sierra Club of Canada. We're a national non-profit organization. We have five chapters across the country and over 10,000 members. Protection of our freshwater resources has always been a high priority for the club, including the Great Lakes, and it's a great pleasure to have the opportunity to present to you on this important bill.

1040

I just want to spend a couple of minutes on the context and then move into some specific suggestions for amendments in the legislation.

It's true that the Great Lakes contain 20% of the world's total fresh surface water supply, and this is a statistic that's often used. But what we have to realize is that most of this amount is non-renewable. The International Joint Commission estimates that less than 1% of the total amount in the Great Lakes is renewed annually from precipitation and in-flow from surface and ground-water. What this means is that all uses of Great Lakes water, both human and environmental, must stay within the 1% to ensure we don't start mining or drawing down our Great Lakes. We know that climate change is predicted to reduce this 1% further through higher evaporation rates, and it may already be having an impact. Just yesterday, I was reading a news report that said that Lake Superior was at its lowest point in 80 years, and Lake Huron has been close to record lows for the past six years.

We've known for the last few decades that other countries and regions would like access to what they see as an infinite supply, and this pressure is increasing. The threat of diversions out of the basin, which was highlighted by a proposal by Nova Group in 1998 to ship water to Asia, prompted the Great Lakes jurisdictions—Ontario, Quebec, the eight Great Lakes states—to enter negotiations to address this threat. The result, after four years of hard negotiations between the governments, is the Great Lakes-St. Lawrence River Basin Water Resources Agreement—quite a mouthful of an agreement. In a nutshell, this regional agreement prohibits long-range diversions and exports and establishes a water management framework to regulate water use within the basin.

This brings me to Bill 198, because this represents Ontario's commitment to implement the agreement. It's worth noting that in the United States, there's quite a tougher road to go down. Even before it can be implemented, this agreement needs approval by Congress in each individual jurisdiction and then US federal congressional approval. Currently, only Minnesota has secured congressional approval.

Really, what we see here is a great opportunity for Ontario to establish itself as a leader in the basin. It can do this by tightening up loopholes, which we all know exist in the general framework of the agreement, through its domestic law. In fact, article 202 of the agreement even states that the standards within it are just minimum standards that parties may go beyond. Unfortunately, when reading the legislation, we feel that not all these loopholes have been tightened up and we're disappointed that Ontario is probably missing an excellent opportunity to establish itself as a leader in the basin. We also feel it's not currently effectively protecting Ontario's environment, its economy or its citizens.

In our opinion, the biggest loopholes relate to intra-basin transfers. This is set out in subsection 34.6(2). Intra-basin transfers involve the diversion of water from one Great Lakes watershed to another. They're not to be confused with very similar-sounding inter-basin diversions, where water is diverted out of the entire basin.

The government has stated that intra-basin transfers are prohibited except for very strict exceptions. However,

when we look at the legislation, we see the current exceptions as far too broad and ill-defined to justify the claim that they are in fact strict. Why are we concerned about these exceptions? Ontario doesn't have enough understanding of our water resources at this point to know what the impacts of diversions across Great Lakes watersheds could be. We do know that water levels of the upper Great Lakes are predicted to decline further outside their natural range as a result of climate change. We expect continued urban growth in southern Ontario, placing greater demands on Great Lakes water.

As well, Ontario has access to four out of the five Great Lakes, so out of all the jurisdictions in the basin, it has the greatest potential for intra-basin transfers in the region, a fact that isn't lost on the other jurisdictions. We already know of five municipalities that have expressed interest in the idea of diverting water between watersheds: York region, Guelph, Waterloo-Kitchener, London and Hamilton. So a series of intra-basin transfers, combined with climate change, could have devastating impacts on lake levels and impact our ecology and economy. Ecological impacts of lower lake levels would include destruction of wetlands and loss of fish, bird and wildlife habitat. Economic impacts would include rising shipping costs, declining property values and recreational losses that might be experienced by marinas, fishing tours—those sorts of things.

To move on to our suggestions for amendments, we feel it wouldn't take a lot of effort to strengthen the legislation and effectively address intra-basin transfers. The specifics of where we want to see changes: One aspect of the legislation that has largely flown under the radar of discussions is this idea of consumptive use as part of the threshold for triggering standards for intra-basin transfers. If you look at the three different exception standards in subsection 34.6(2), each time it refers to "the portion of the new or increased transfer amount that is lost through consumptive use." What this means is that the thresholds are not referring to absolute amounts; they're referring to the portion that's consumed. This is important. A municipality on average consumes only 10% of the water. So if you look at the threshold for regional review, which is a third exception standard in subsection 34.6(2), this refers to 19 million litres per day. To put that into context, that's about 50 large swimming pools. Once you factor in consumptive use for a municipality, the trigger level actually goes up about 10 times' to around 190 million litres per day. That's about 500 large swimming pools. That's a massive amount of water.

What's even more troubling than this is when you combine it with a second exception in subsection 34.6(2). This second exception doesn't require any water to be returned to the source watershed. This means that the municipality could divert up to 190 million litres per day out of the Great Lakes watershed without returning a single molecule of water. If a series of diversions were approved under the second exception, you could be looking at somewhere in the region of nearly a billion

litres of water being diverted and lost to that Great Lakes watershed every day. This can hardly be considered safeguarding and sustaining Ontario's water, but it's possible under the current rules as they're drafted.

To rectify these two worrying loopholes, we suggest, firstly, removing the term "consumptive use" from the three exception standards so that the threshold only refers to absolute values; and secondly, deleting the second exception standard, which does not require return flow, and making the first exception standard, which does require return flow, applicable to all proponents. As a result of these changes, all applicants wishing to undertake intra-basin transfers would then be required to return water to the source Great Lakes watershed. Because of the cost involved in returning water, in all but the most exceptional cases this would be a strong incentive for pursuing sustainable alternatives.

A couple of other problems we see is that return flow, as it's referred to in subsection 34.6(3)—there is currently no requirement as to the quality of water that must be returned. We feel that this is something that needs to be addressed in the legislation. Also, the transfer of sewage water at this point is not considered an intra-basin transfer. Regulation-making authority has been included to make this the case, but until this authority is exercised, a municipality could transfer millions of litres of waste water across a watershed and not be caught by any of the provisions of the legislation. We would recommend waste water being explicitly considered as an intra-basin transfer in the legislation.

The last thing I just wanted to comment on is that there is still a lot of work to be done in regulations following this legislation to further define and implement the wording of the legislation. We encourage the Ontario government to work very closely with the annex advisory panel in drafting these regulations. But recognizing that it could be some time until regulations are in place, we think it would be most appropriate for the government to impose an interim moratorium on all new or increased intra-basin transfers. I believe this power already exists in the Ontario Water Resources Act, but we would recommend explicitly including that power in the draft legislation so that there can be no question that the authority exists.

Thank you for your time.

The Vice-Chair: Thank you. Excellent on your timing: Your 10 minutes has expired, so very good timing on your part. Thank you very much for presenting to the committee.

1050

GEORGIAN BAY ASSOCIATION

The Vice-Chair: Could I call on the Great Lakes and St. Lawrence Cities Initiative, Mayor Brian McMullan—
Interjection.

The Vice-Chair: I'm sorry; I'm ahead of myself. The Georgian Bay Association, Mary Muter, please. I apologize; I got a little further down the list than I should have.

Welcome, and thank you very much for coming. I hope you can find a comfortable position there; I see you have a bit of a problem. You have 10 minutes to make your presentation. If you do not use the entire 10 minutes, there will be an opportunity for members of the committee to ask questions or make comments. Please identify yourself for the record and then proceed with your presentation.

Ms. Mary Muter: Thank you for giving us this opportunity. I am Mary Muter, vice-president of the Georgian Bay Association and chair of the environment committee. I'm also a member of the annex advisory panel.

The Georgian Bay Association is an umbrella organization for 22 associations along the east and north coast of Georgian Bay. We represent approximately 18,000 citizens. It is our organization that has carried out the extensive work on the St. Clair River that has determined that ongoing erosion is lowering Lake Michigan, Lake Huron and Georgian Bay water levels. So any legislation that has the potential to further lower water levels is of great concern to us.

This legislation is very complex—the average citizen does not understand it. I think that's probably why you do not have average citizens here, but basically organizations. I've had several phone calls recently from people asking for interpretation of this legislation and misunderstanding it. I think you need to keep that in mind.

We know that there are disputes on the horizon for the use of water around the Great Lakes. Now is the time to take the precautionary principles that are needed and to include language that will protect this valuable resource that we have a responsibility for.

As you've heard earlier, water levels for Lake Huron and Georgian Bay are near record lows and have been there for the past six years. The impact on the wetlands of eastern and northern Georgian Bay is huge. Many wetlands have not only dried up but have now converted to grass meadows. This results in a loss of spawning habitat and will affect fish populations in Georgian Bay and Lake Huron. Shipping companies are currently unable to carry full loads, and this is having a huge economic impact. The economy associated with the recreational boating industry is also significantly impacted right now.

I will move to our recommendations—I think you have copies of them with you. We are supportive of this legislation going ahead, but we think there is an opportunity to make some amendments that will strengthen it.

Our number one recommendation is to change the word "transfer" to "diversion." I've had several conversations with people who assume that a transfer means within a watershed. "Diversion" makes that much clearer. That's a fairly simple change that needs to be made.

Recommendation number 2 is to remove the words "consumptive use," as this applies to intra-basin transfers. This language is vague and could also result in huge withdrawals/transfers of water.

In recommendation 3, we are recommending that return flow be required for all intrabasin transfers—in other words, that there be no exception—and that all transfers are then subject to full regional review.

Recommendation number 4 relates to the International Joint Commission's upper lakes study that has just begun. As part of that study, water resources within the Great Lakes are going to be assessed. We think it's important that that work be completed before any changes are made in terms of movement of water within the Great Lakes. So we're asking for a moratorium on any new or increased transfers/diversions of water within the Great Lakes until that work is completed. That is a binational effort by both our governments, costing a huge amount of money. Let's put a moratorium in place until that work is completed.

Recommendation number 5: Again, the transfer of sewage is a way of diverting water. Let's not wait for the regulations for that but simply amend the legislation right now to include sewage as a method of transferring water.

Our sixth recommendation: Conservation measures are mentioned in this, but the government needs to move quickly to implement conservation measures for water use across the province.

Our final recommendation: In order for the public to have adequate input to this process, we think that Ontario should create a public secretariat to the regional body so that Ontario citizens will have ample opportunity to have input.

Those are my comments.

The Vice-Chair: Thank you very much, Ms. Muter. I apologize for mispronouncing your name when I called you up.

We have six minutes—two minutes per side—and I would like to start the rotation with the official opposition.

Mr. Garfield Dunlop (Simcoe North): Welcome, Ms. Muter, to today's hearings. I'm not sure if it's on the record or not: Going back to the fine work your organization has done with, I think, the Baird report, which indicates that one of the main reasons the Great Lakes have lowering water levels is because of the erosion on the St. Clair River, can you tell us on the record today how much money you spent on that report?

Ms. Muter: We've never done anything like that report before. We had to raise \$250,000 to do that work. Basically it's a story of governments not watching the store. When that report was completed, it was in 2005, and at that point they determined that until 2000, there was a previously unknown diversion of 845 million gallons per day in the St. Clair River. Since then the data has been updated. That diversion has now increased. It's lowering Michigan-Huron levels at the rate of three centimetres annually. The cumulative impact of that diversion is now 2.5 million gallons per day. This is a diversion our governments were not aware of that they're now aware of, and because of that the upper lakes study is under way. But it definitely points to the need for precautions in terms of allowing any diversions of water within the Great Lakes.

Mr. Miller: Thank you for your presentation today. I know that Garfield and I—our ridings border Georgian Bay and water levels are certainly one of the key considerations we have. I think you make a lot of good recommendations for amendments, in particular your recommendation about return flow for any water, be it intra-basin transfers or diversions, I guess is what you're recommending. I would just like to support you in that and say, from my perspective as a member for part of the Georgian Bay coast and Lake Huron, that keeping water from being transferred out of our basin is of utmost importance, so I support you on that.

Ms. Muter: Thank you.

The Vice-Chair: Mr. Prue.

Mr. Prue: Recommendation 4 is intriguing, and if you were here a few minutes ago, I asked the same question. You are pleased with the language that requires the transfer of sewage to be treated as an inter-basin transfer; however, you want it to be included in the legislation. I've said many times in the House that when it's in the legislation it does not allow a subsequent minister who may have a different attitude to simply change it by regulation. Could you just expand on why—if that's it, then I guess I've already said it—you feel it needs to be in the legislation rather than in regulation?

Ms. Muter: Exactly for the reason you have just stated. York region is currently transferring water via sewage down to Lake Ontario. We think that loophole needs to be closed and closed quickly, and the best way to do it is through legislation, not regulation.

Mr. Prue: Because any subsequent minister could say, "That's fine, York region, you can save some money; do it the old way," and that's the end of that.

Ms. Muter: That's correct.

1100

Mr. Prue: Are there other parts in this legislation that cause you similar concern, that you feel the government may be leaving too much to regulation and not enough contained within the body of the bill?

Ms. Muter: That relates to the exception for intra-basin transfers. I think they're saying that that could be tightened up by regulation, but we think the time to do it is now, by amendment, and prohibit the exception and require return flow for all intra-basin transfers.

Mr. Prue: The last recommendation, if I have time—no?

The Vice-Chair: No, I'm sorry. Thank you very much. To the government side.

Mr. Leal: Thank you very much for your presentation this morning. I just note, on the information we have today: Is the Georgian Bay Alliance different from the Georgian Bay Association?

Ms. Muter: That's a typo error on your schedule. It is the Georgian Bay Association.

Mr. Leal: My next question: You noted in your presentation water-taking from the St. Clair River. Indeed, it would have been the federal government that wasn't minding the store because they have jurisdiction for navigation and shipping in Ontario.

Ms. Muter: I think that Ontario should have an interest in a Great Lakes diversion of that magnitude. I definitely think they should. Actually, the Ontario government does have a representative on the upper lakes study board.

The Vice-Chair: Thank you very much, Ms. Muter, for coming such a great distance to the committee.

GREAT LAKES AND ST. LAWRENCE CITIES INITIATIVE

The Vice-Chair: Now I would like to call on the Great Lakes and St. Lawrence Cities Initiative, Mayor Brian McMullan. Welcome, Your Worship.

Mr. Brian McMullan: Thank you, Madam Chair.

The Vice-Chair: You have 10 minutes to make your presentation. If you use less than that, there's an opportunity for committee members to ask questions. Before you start, if you would identify yourself by name for the record, and then proceed.

Mr. McMullan: My name is Brian McMullan. I'm the mayor of St. Catharines and regional representative for the Great Lakes-St. Lawrence initiative. I'm accompanied by Nicola Crawhall, who's our director for the Canadian office.

Madam Chair and members of the justice policy committee, I appreciate the opportunity to speak with you today on behalf of the Great Lakes and St. Lawrence Cities Initiative. As I mentioned, my name is Brian McMullan. I'm the mayor of St. Catharines, a proud Great Lakes community.

By way of background, the Great Lakes and St. Lawrence Cities Initiative is a binational organization of mayors across the Great Lakes and St. Lawrence basin. We currently have 42 members, of which 22 are Canadian mayors. We have come together as the cities initiative to give a voice to the priorities and concerns of cities regarding the protection of the Great Lakes and St. Lawrence water system.

Interjections.

The Vice-Chair: I would caution everyone that the noise level in here is getting fairly high. Out of respect for presenters, I would appreciate if everyone would listen, please.

Please go ahead.

Mr. McMullan: Thank you, Madam Chair. The cities initiative has been a strong supporter of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Compact, and we have actively participated on Ontario's charter annex advisory panel.

While the quality of the Great Lakes has consumed much of the attention and resources of senior governments over the last 30 years, at the local level we are increasingly feeling the impact of water quantity issues. This impact manifests itself in several ways.

Firstly, lake and river levels are affected by water diversions, bulk water removals and climate change. Along the St. Lawrence, in Lake Superior and in Lake Huron, we are already seeing quite dramatic lake and

river level variations. This can have an effect on recreation and water and sewage services.

Secondly, municipalities draw on the water of the Great Lakes for our drinking water and rely on the lakes to discharge our treated sewage. In fact, 80% of Ontarians will receive their municipal drinking water from the Great Lakes. Because of the excellent quality of Great Lakes water, and limitations on groundwater, there is increasing pressure on some municipalities that do not currently draw from the Great Lakes to build a drinking water supply pipe to an existing Great Lake.

Thirdly, and finally, municipalities and their residents and industries are enormous consumers of water. Municipalities have a responsibility to introduce water conservation and efficiency measures to ensure that water is not being used unnecessarily. While it may be difficult for residents to accept that there are in fact issues of water scarcity when they live at the shores of the Great Lakes, water conservation and water efficiency are important drivers of energy efficiency for municipal operations. So from a climate change perspective, water conservation and water efficiency measures are essential.

For these three reasons, the cities initiative has taken a keen interest in the compact. That is why the mayors felt it was important for me to come to speak to you today to express our collective support for Bill 198.

As a binational organization, the cities initiative is in full support of the principles articulated in the compact. We are well aware of the pressures that will continue to mount, particularly in the US, to divert water from the Great Lakes to communities further south. It is therefore essential that we enshrine in law that such transfers are prohibited. The cities initiative is supportive of this principle.

We are also well aware of the pressures on some Ontario communities to seek or expand water-takings from one of the Great Lakes, and in some cases to discharge their sewage into another Great Lake. Under the terms of the compact and under the provisions of Bill 198, this would clearly constitute an intra-basin transfer, subject to very strict criteria.

The cities initiative is supportive of prohibiting these intra-basin transfers except under exceptional circumstances. The exemption criteria appear sound, although they are quite high-level, and it is difficult to understand at this point how they will be prioritized and operationalized. How the exemption criteria will be applied in practice is vitally important for municipalities. If I may, Madam Chair, I would like to expand on this point for a moment.

It has been the experience of some municipalities in Ontario that imposing restrictions on water-takings at the end of a lengthy planning process—that is, at the point of applying for a permit to take water—is the wrong way to go. By this time, all the planning is complete and the shovels are nearly in the ground. This is not the point at which a municipality should find out that it cannot proceed with its water-taking. It must begin at the very beginning of the planning process, at the point of the

environmental assessment. This provides clarity, predictability and transparency for all parties concerned.

The cities initiative would request that the test as to whether an intra-basin water-taking meets the criteria articulated in the compact and in the bill should occur at the beginning of the planning process. This should be integrated into the environmental assessment process. This would require a change to subsection 34(1) of the bill, which currently links the approval of an intra-basin water transfer to a permit to take water. It would also require a change to the class EA guidance materials. To reiterate, it must not apply at the point of applying for a permit to take water.

Secondly, the exemption criteria must fully respect the changing nature of Great Lakes water levels, both currently and in anticipation of the increasing impact of climate change. The exception standard criteria does require that the water-taking have no significant individual or cumulative adverse impacts on water quantity or quality. In our opinion, this criterion should take precedence over the other criteria, and should explicitly require an assessment of lake water levels, both current and forecasted. Applying this type of criterion will require rigorous analysis of lake levels and the causes of declining levels.

To give the committee members some context, Lakes Michigan and Huron and Georgian Bay, the so-called middle lakes, are experiencing low water levels, this in spite of near average precipitation levels and good ice coverage.

Dr. Rob Nairn, the independent hydrologist who is studying the outflow from Lake Huron to the St. Clair River, estimates that from 2005 to 2006, the permanent loss of water from the middle lakes through the St. Clair River has been 20 to 30 centimetres.

An upper lakes study currently being undertaken by the International Joint Commission will provide analysis of the St. Clair River issue and propose mitigation measures. This study is vitally important, given the economic and environmental costs resulting from the ongoing decline of the middle lakes water levels.

It is this type of analysis that will be needed on an ongoing basis if and when the exemption criteria are put to the test. Without this type of information, informed decisions will not be possible and the exception criterion will be meaningless.

The cities initiative offers its assistance to the province in developing an approach to applying the intra-basin transfer exception criteria in practice.

I'd like to close with one final comment regarding the adoption of regional water conservation and efficiency objectives by the parties to the compact. The cities initiative sees this as an important opportunity to advance the issue of water conservation and water efficiency around the basin. The language of the compact and of the draft objectives is based on a voluntary approach. And there is much pressure from some stakeholders to focus on water efficiency over water conservation, which sounds remarkably similar to energy intensity targets versus hard caps on emissions in the climate change debate.

1110

We need to focus on both conservation and efficiency and we need to do so within a binding framework in Ontario.

The cities initiative is taking a leadership role in promoting water conservation amongst its members. Its members have pledged to reduce water consumption by 15% from 2000 levels by 2015.

Some municipalities are well on their way to achieving this target, but as usual, we are using the limited authority and tools made available to us. It often involves a resource-intensive effort, providing financial incentives to individual residents and businesses to use water-efficient appliances and devices. In the end, it is a somewhat inefficient way to promote efficiency and conservation, but it is all we have available to us.

The cities initiative would therefore request that the province proceed quickly to develop a water conservation program and to go further than the proposed regional objectives. We would encourage the province to learn from municipal water conservation programs and proceed with some short-term measures immediately, rather than undertake lengthy research on water conservation.

To give you an example of something that could be done immediately, municipal water conservation efforts would be given an enormous boost if the province would legislate the use of water-efficient appliances and devices for existing residences and businesses. For example, over a quarter of the water used in a single-family home is for toilet use. Currently, the building code only mandates that low-flow toilets be used for new development, but anyone can walk into a hardware store and buy a 13-litre toilet to replace an old one in their home, and it is usually cheaper than a six-litre toilet. These inefficient toilets have been banned in the US for over a decade, but we continue to allow their sale here in the province of Ontario. The province should ban the sale of these inefficient appliances.

To sum up on the issue of water conservation, much of the work has already been done at the municipal level; we need to get on with it. The cities initiative offers its assistance to the province and the assistance of its members in eight states and two provinces toward this effort.

In conclusion, the cities initiative is in support of Bill 198, Safeguarding and Sustaining Ontario's Water Act. We support the ban on water exports outside of the basin. We support the ban on intra-basin transfers, except in exceptional circumstances, and we encourage the province to work with the cities initiative in finding an effective way of operationalizing the exemption criteria. We also encourage the province to prioritize consideration of lake levels when considering this criteria. We support the development of a provincial water conservation framework, and we encourage the province to proceed quickly with adopting some short-term policies to accelerate water conservation in the province, and we offer our support for this effort.

Thank you once again for your interest in the comments of the Great Lakes and St. Lawrence Cities

Initiative and for allowing me to take this time to make a presentation today.

The Vice-Chair: Thank you very much. The 10 minutes has expired, so there's no opportunity for questions or comments, but I certainly appreciate your appearance before the committee today.

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

The Vice-Chair: I call on Sarah Miller of the Canadian Environmental Law Association.

Ms. Sarah Miller: Thank you so much for the opportunity to appear before you today.

The Vice-Chair: Please state your name for the record before you start. You have 10 minutes.

Ms. Miller: My name is Sarah Miller. I am a water researcher for the Canadian Environmental Law Association, which is a public interest legal clinic in Ontario. It has a mandate to represent low-income Ontarians on environmental matters but also to improve the province's environmental laws and the public's access to environmental justice.

We were founded in 1970, and we've worked since then on issues of Great Lakes sustainability, regarding both water quality and quantity. We actually worked on the original Great Lakes Charter in 1985, which was a non-binding document, and I think we're here today because the fact that it was non-binding meant that there was not much progress made on many of the terms of that charter.

We're quite gratified to be here today because we have had such a long history on this issue. We worked very closely with Ontario's negotiating team, because we serve not only on their advisory panel, but also on the advisory panel to the Council of Great Lakes Governors. So we had a window into the entire four-year negotiation. Because of that, I have some concerns I'd like to raise today. Primarily, I'm here to urge you to pass this bill immediately. We're very supportive of it, not only because it's long overdue but because we think it's crucial to changing the culture of water wastage in North America and in the Great Lakes region as well. We need a culture that promotes living within our natural water budgets, and we feel that the conservation programs that are required within this agreement are the key to doing this and can go a long way to preventing the kinds of water conflicts and needs that we see emerging now in Ontario, and future water shortages.

One of the unappreciated parts of this bill is that for the very first time we are protecting groundwater in this province. Our federal laws fail to do this and the main US law in the United States that now affects water allocations does not include the groundwater portion of the Great Lakes, which is estimated to be as big as Lake Michigan. So this is one reason we need to put this bill forward now.

I feel very strongly that political issues could still derail these efforts. We all know about the sunbelt areas

of the United States, that their populations are growing, their political influence is growing at the same time that their water supplies are plummeting. This is only going to get worse over time.

Also, my observations from being involved in these negotiations are that not all of the parties are equally committed. These were very tough negotiations. We didn't get our way all the time, but we managed to turn around weak first drafts, and it was the Ontario public's concerns that did this. They reversed the claim by the states that they could not ban diversions and they actually went back and got further legal opinions. So it was Ontario that really has been responsible for the complete ban of large-scale diversions out of the Great Lakes, with the exceptions that we've heard about today.

I'm not going to go into great detail about what this act could do, but I think the challenge before you today—and you've heard from other deputants here—is, what do we do in the legislation and what do we do in the regulation? It's my understanding that we have to enshrine in this piece of legislation the existing agreement that we have. Flawed as it is, it will give us a level playing field and we will be operating under the same language and terms that are included in the agreement as the other jurisdictions. I think this is incredibly important. It's also very important that Ontario continue its leadership; it has one of the best water permitting systems in the entire Great Lakes region. It's the strongest. We've led by example. Ontario is now the chair of the regional body that oversees the implementation of this agreement. It's very important that we put this in place now so we can show that leadership.

I too share a lot of the concerns that have been raised today. Our water advisory panel to the Ministry of Natural Resources has had an undertaking from Kevin Wilson, the deputy minister, that our committee will continue to work on the regulations and the tough issues we've heard about like intra-basin transfer and the issue of waste water, to name just two.

I'm not going to go through my actual recommendations that have been covered by other people, but I guess I'd like to clear up a few things. We too have concerns about the cost-setting for water. They're quite the opposite of concerns that were voiced by the Canadian Bottled Water Association. We feel that those charges may not be tough enough because we don't yet know the full breadth of the programs that will flow from this agreement. But there is a separate consultation on the pricing issue. All that this act does is give us the powers to set prices like other provinces, and there are very many other provinces that do have water permitting charges right now. There will be separate consultations, I think starting as early as next week, with all of the sectors on what those charges should be, and that will allow some time and for quite a bit more detail to be put into that consideration.

1120

As well, in concluding, I think conservation, as I have said, is the key here to really moving ahead. We've worked for decades trying to get conservation to be man-

datory in this province and to have a legal framework. There have been many efforts, and they've been abandoned, frankly. So we really do support what we just heard the mayors' initiative say about conservation.

I also support their point about the environmental assessment process. We've heard from a number of people today that we need our water programs to be integrated. Where these things fall outside of actual water laws and become part of the environmental assessment process, we need to remedy that. But I think that can be done in another process, and we surely would support that.

Two things: In addition to submissions that we made on the EBR, after thinking about this further in the last couple of weeks I think that all applicants for exemptions under this program should be required to have a mandatory water conservation program in place, and it should be tied to their permitting system. I think we need to integrate conservation into our permitting system.

Additionally, one of the concerns I have is that at the last minute in the negotiations around the agreement, a lot of very important things were backpedalled, in a way, or the language was changed in the agreement. I applaud the inclusion of the precautionary principle, which has been paraphrased in the agreement, in Ontario's legislation because I think it's incredibly important.

Additionally, though, I think we need to go a bit further on climate change. For some fairly political reasons, all but one reference to climate change in the agreement were taken out at the last minute. I am very concerned that this be remedied, and I would urge Ontario to actually mandate that—the agreement calls for a five-year review of the entire program and its adequacy. I would like to add to that five-year review an assessment of climate change impacts within that period to assure that we at least are showing leadership and not being in denial, like some other jurisdictions, that indeed there are climate change impacts. So that would be a new recommendation from us.

I concluded our submissions with more details, the EBR, that I hope you'll also take into consideration. Thank you.

The Vice-Chair: Thank you very much, Ms. Miller. That concludes the time that's been allocated, so I appreciate your taking the time to make your presentation.

ONTARIO FEDERATION OF AGRICULTURE

The Vice-Chair: I would like to call on the Ontario Federation of Agriculture, Don McCabe, executive member. Welcome, Mr. McCabe. I see you've been here, so you know there are 10 minutes, and if use the entire 10 minutes, there is no opportunity for members of the committee to make comments or ask questions. Would you introduce yourself and Tina as well for the record?

Mr. Don McCabe: Thank you, Madam Chair, and thank you for this opportunity to speak to the committee. My name is Don McCabe, and I'm an executive member

of the Ontario Federation of Agriculture. I'm accompanied today by Tina Schankula, one of our policy researchers within the federation.

First of all, the federation is the voice of Ontario's farmers. We are supported by approximately 38,000 individual farm family members out there, or nine out of 10 Ontario farmers. The OFA has also served as a member of the Great Lakes annex advisory committee.

Farmers are integral partners in managing the natural environment. We rely on the soil, air and water to conduct our business, and as such have a vested interest in the sustainability of these resources. Because of the fact that farmers interact intimately with the natural environment on a daily basis, an agricultural perspective to water resources management is critical.

The OFA's written submission dated May 3 is in your hands, I believe. Today I will highlight a few of our comments from that submission and welcome any questions.

I am pleased to note that some of agriculture's previous comments have been acknowledged in the draft legislation. While we remain opposed to the elimination of the existing exemption regarding watering of livestock, we are pleased to note that there is no authority to lower the threshold amount by regulation.

We are also very pleased that this bill recognizes the substantial stewardship role Ontario's agricultural producers take to minimize their water use and ensure an efficient use of water, by recognizing that conservation charges will not apply to primary production.

Fundamental to the implementation of the Great Lakes Charter Annex agreement is the understanding that Ontario agriculture must not be placed at a competitive disadvantage by being required to meet higher standards than our competitors in other Great Lakes basin areas. We must remain competitive with jurisdictions outside of the Great Lakes basin.

One area of major concern to agriculture is the concept of "consumptive use" and return flow. The application of consumptive use and current consumptive use coefficients do not work for Ontario agricultural applications. We advocate that the definition of consumptive use clearly state that it does not include water used by plants, including transpiration, at least for agricultural purposes. Furthermore, the use of beneficial management practices for agriculture should be used in lieu of existing consumptive use and return flow requirements. In addition, significant public research needs to be conducted on the issue of consumptive use as applied to Ontario agriculture.

It is OFA's contention that the entire permit-to-take-water process needs to be redesigned, at least for agriculture. An agriculture-specific permit-to-take-water application process is required. Agriculture is the industry with the largest number of individual permit holders, and as such, we require a permitting system that meets the needs of these users. This process would also acknowledge that some conditions placed on industrial or commercial permits simply do not make any sense in agriculture. The MOE director must be obligated to con-

sult with its sister ministry OMAFRA regarding appropriate conditions on agricultural permits.

The definition and interpretation of "water-taking" must be examined to ensure that it does not include agricultural storage ponds. These ponds are created to capture spring melt runoff and precipitation. It is done to alleviate the stress other water sources may face when farmers require the water for irrigation. The permit system must be able to recognize beneficial management practices such as these and adapt to their use in a manner that does not discourage the practice of wise water management.

OFA is opposed to the expiry of any permit that results in a delay in renewal if an applicant has not received a decision from the director. Any applicant who has met the appropriate renewal time frame must receive a decision from the director and the permit must remain valid until such time as the applicant receives that decision. Anything less is unacceptable.

Any provincial officer's order issued to a farmer with the capacity to pump 50,000 litres per day must clearly state that the cost of providing monitoring will not be borne by the farmer, particularly if there is a requirement for the use of meters. Furthermore, the pump capacity must not be the sole means of determining capacity in agriculture. The entire irrigation system must be considered, including the size of the pipes and nozzles.

Thank you for your time today. I am pleased to take any questions.

The Vice-Chair: Thank you very much, Mr. McCabe. We have six minutes left. By rotation, the third party has the first two minutes.

Mr. Tabuns: Thank you for coming in to present this. I'm sorry; I ran out there for a second. Do you have concerns about the intra-basin transfers from one Great Lake to another? Is that a concern in the agricultural community?

Mr. McCabe: The concern for the agricultural community on intra-basin transfers is the fact of competitive edge again. If it's going to be used for movement on that fact and it's not allowed on this side of the border, then we've got an issue. Everything I do is based on a North American and wider world market. Anything that we lose competitive edge on is detrimental to Ontario agriculture.

Mr. Tabuns: The thing you noted here about agricultural storage ponds: Is this becoming a larger and larger practice in Ontario these days?

1130

Mr. McCabe: It's becoming a larger practice for certain production management that occurs within the province. Certain producers find the need for that capacity. It also ensures that they have the water that's required. If you're going to make that kind of an investment into that crop, you need to be able to ensure that the water's going to be there to nurture that crop to its fullest potential.

Mr. Tabuns: Are your members seeing water shortages in any parts of the province, difficulty getting irrigation water for crops or livestock?

Mr. McCabe: It comes right back to our comments here with regard to permits: We are finding a permitting process that is out of line and out of reality with regard to our users. Certain private wells now are starting to run dry, which means that we are looking at greater needs to ensure those permits stay in place. We get one shot a year to do it right, and if that crop dies on the vine, that's a long time to come back around.

The Vice-Chair: Mr. Leal.

Mr. Leal: Thanks very much, Don, for your presentation this morning. Just a couple of questions: Would there be any farms in Ontario today that would use more than 379,000 litres per day of water? I have heard of corporate farms maybe in North and South Carolina, but I'm not familiar with any farms in Ontario that would be beyond that threshold level.

Mr. McCabe: First of all, sir, I'm not terribly crazy about the terms "corporate farms" versus "family farms" versus anything—

Mr. Leal: Neither am I. I'm just making reference to the States.

Mr. McCabe: The issue is more of the size of the operation requiring that level of water. It could be a large livestock or a large greenhouse production facility. I'm not familiar with anything in particular, but I am sure that there's probably something on the drawing board if there isn't already.

Mr. Leal: Just a comment: We're not putting meters on private wells in Ontario.

Mr. McCabe: We're aware of that and we appreciate that, but we also want to keep you on notice.

Mr. Leal: I appreciate that. You may want to see a statement that was released by Dr. Kyle, the MOH from Durham region. Comments that he reportedly made were not correct, and he's now issued a province-wide statement on that matter.

The Vice-Chair: Mr. Dunlop, your rotation.

Mr. Dunlop: Thank you for being here. I know this all involves water-taking, and the other thing that's key to you right now is the source protection legislation. I'm sure you must be very concerned about that. I met with a group of farmers last Saturday morning, and this regulation that's going out setting up the committees that are going to deal with source protection has left farmers with only three votes out of 16 on these committees. This is a regulation that's on the Environmental Bill of Rights, and apparently the final comments have to be made tomorrow. Are you putting any kind of concerns in on behalf of the farmers of Ontario on the makeup of those committees?

Mr. McCabe: We've been very actively involved in that process from the get-go, and we're wanting to ensure that the agricultural voice is very much heard in those committees. I come from a watershed myself that is extensively large, and we need to ensure that agriculture, as the second-largest industry—but the one that feeds you in this province—is properly recognized. I would hasten to add that any regulatory backstop that comes along—we appreciate having an appropriate regulatory

backstop to anything that comes along. But if I could liken this to the game of summer, to baseball, if you put the backstop too close to the pitcher, you can't even get the game started. So let's make sure that we put this in the right spot and the right context, that all participants find the opportunity to properly participate in the future.

The Vice-Chair: Thank you, Mr. McCabe and the Ontario Federation of Agriculture, for your participation and presentation.

ONTARIO SEWER AND WATERMAIN CONSTRUCTION ASSOCIATION

The Vice-Chair: If I could call on the Ontario Sewer and Watermain Construction Association, Frank Zechner.

Mr. Frank Zechner: Good morning.

The Vice-Chair: Good morning, Mr. Zechner.

Mr. Zechner: My name is Frank Zechner. I'm the executive director of the Ontario Sewer and Watermain Construction Association. You should be receiving a very short and easy-to-read, and hopefully easy-to-comprehend, slide deck in terms of the very narrow issues and concerns that we have.

The Ontario Sewer and Watermain Construction Association represents more than 700 companies that supply and install the vast underground network of clean water arteries and pipes that are relied on by the residents and businesses of Ontario. We've been representing the sewer and water main construction industry for more than 35 years, and we've been advocating full-cost pricing and the sustainability of Ontario's water infrastructure. We are also an advocate for worker safety and industrial safety in terms of our overall construction activities, and we take very seriously the safety of our workers, who are now impacted in terms of water-taking permits.

Due to the fact that sewers operate on a gravity flow basis, they must be installed relatively deep as compared to all other utility services. It is not uncommon for sewers to be located more than 20 feet below the road surface. Water services, for a variety of technical reasons, are also among the utilities that are buried the deepest in road allowances and other public rights of way. The depth of installation for sewer and water main systems are often below the local water tables. Water-taking permits for our industry are not discretionary; they are a mandatory safety requirement for the crews who install, repair and connect the pipes and work to make up our water infrastructure. We are concerned about the approach taken in Bill 198, and the impact that this will have on water and waste water construction in the province. Our concerns about Bill 198 include the following:

—Bill 198 does not distinguish between water-taking permits for industrial or commercial feedstock versus water-taking for safety-related purposes, and in particular safety of construction workers.

—Bill 198 does not distinguish or expedite temporary water-taking permits for safety purposes from other long-term non-safety-related purposes.

—There should be a separate exemption for short-term water-taking permits that are taken to protect the safety of workers who are required to work in trenches or tunnels that are at or below the local water tables.

—There should be reduced administrative burdens associated with water-taking permits for tunnel construction, where the water is simply returned in an unaltered state to the water body or aquifer that generated the infiltration.

Installation of underground water infrastructure often involves trenching or tunnelling at depths below the water table. The laws of physics and nature dictate that when you create a trench or a hole below the water table, it will fill with water. Water in a trench is a major safety hazard. Water creates a deadly electrical hazard for electric power tools and water can weaken trench walls and dramatically increase the risk of a fatal trench collapse.

Water in a tunnel is a major safety hazard. Water creates, again, a deadly electrical hazard for electrical power tools and lighting, and water infiltration can result in flooding and death by asphyxiation. Unless a trench or tunnel is dry, construction must stop. The cost and delays imposed by the need to prepare a detailed hydrological report and permit application and await a minimum 30-day posting for comments can add huge costs to municipalities that already have very limited financial resources for water infrastructure construction.

It is not always apparent in municipal tender packages whether water-taking permits are needed. Water table heights vary by season. Municipalities are not able to provide our contractors with adequate information about the relevant height or ferocity of the local water tables. Municipalities often do not have the necessary background hydrological data to provide to contractors.

An exemption and/or reduced administrative requirements for construction trench or tunnel water-taking permit will not impair water quality or safety. Typically, water taken from trenches or tunnels are sampled and analyzed before being discharged. The preferred system is to allow trench and tunnel waters to be returned to the water body or aquifer that generated the infiltration. Again, we're talking about temporary activities, not long-term, sustained activities over months and years. Quite often, our trenches or tunnels involve a matter of dewatering over a period of days or weeks, and not a long-period commitment.

Concerns regarding tunnelling: Yesterday we saw a great deal of press coverage concerning the opening of the cooling tunnels for this Legislature building, in which cool lake water is brought up to the Queen's Park Legislature building in order to assist and alleviate any energy drains. Of course, that tunnel was created by tunnelling. It was tunnelled below the bottom of Lake Ontario. During the course of that construction, water-taking permits were necessary in order to deal with the water infiltration. Under Bill 198, the construction and the opening of that tunnel might have been considerably delayed because of any changes that might have occurred in terms of water-taking rates or conditions in the tunnel

that might not have been anticipated before the machines actually started work.

1140

The complex and lengthy water-taking permit process will be even more onerous with the passage of Bill 198. There may be further volume restrictions on the amount of water that can be taken. If the trench isn't dry, we can't work. It's not a discretionary amount as to whether or not we take out part of the water or all of the water; all of it must be taken out. There may be new requirements for further measurement and metering of water quantities and rates. With few exceptions, Bill 198 makes no distinction with respect to the source or purpose of the water-taking. One of those few distinctions in Bill 198 is to exempt water-taking for firefighting purposes and other emergency purposes. Why is construction worker safety any less important than fire safety?

Bill 198 will authorize water-taking fees. We should not be putting an additional government fee on construction worker safety. The need for water-taking permits is unique to our sector given the depth and nature of sewer and watermain construction work. We are asking the government to consider amendments to Bill 198 that would have the following result: that is, to recognize and exempt water-taking for construction-related purposes for the safety of the workers.

In the alternative, if an exemption is not possible, reduce administrative burdens and expedite the approval system for water-taking purposes in the sewer and watermain construction sector where the permit is for the express purpose of construction worker safety. Water-taking permits for construction safety purposes should not be subject to any water-taking fees.

Those are my submissions. Thank you.

The Vice-Chair: Thank you very much, Mr. Zechner. There are three minutes left. The rotation starts with the government.

Mr. Leal: Frank, thank you so much for your presentation. As a former city councillor, I had the opportunity to tour trenches on several occasions. We certainly do take the points you've made very seriously about workplace safety in terms of workers being in those trenches. I know that they have potential risks that they might face. We'll certainly take your suggestions into consideration as we move forward on Bill 198.

Mr. Zechner: That's welcome news. Thank you.

The Vice-Chair: The official opposition: Mr. Dunlop.

Mr. Dunlop: I would basically echo those concerns. I hope that wasn't the intent of the bill, to make it more bureaucratic for the construction industry that's laying a lot of this pipe across our province. I think overall you deal with a lot of health and safety issues to begin with. Having to deal with a lot of paperwork doesn't seem to accomplish—I think that's money that could be put on more pipe and more infrastructure that's desperately needed in the province. I would hope that the government would bring some kind of a recommendation through and, even in the bill, not leave it up to some regulation that we'll see three years down the road. I would support what you're trying to say.

Mr. Zechner: Thank you.

The Vice-Chair: Mr. Tabuns.

Mr. Tabuns: Certainly the worker safety aspect is of concern here. One of the questions that I have for you looking at your presentation is: How is the water that you take out returned to the aquifer? What technology, what methodology, do you use?

Mr. Zechner: In urban areas it's quite often taken to a sewage treatment plant. In more remote settings, it's tested and, if suitable and permitted by local authorities, we will return it to an actual water body, but most of the time it is stored and then taken to a sewage treatment plant.

Mr. Tabuns: Thank you.

The Vice-Chair: Thank you very much, Mr. Zechner.

FEDERATION OF TINY TOWNSHIP SHORELINE ASSOCIATIONS

The Vice-Chair: I will call on the Federation of Tiny Township Shoreline Associations, Judith Grant, president. Good morning, Ms. Grant. You have 10 minutes in which to make your presentation. If you use up the entire 10 minutes, there will be no opportunity for members of the standing committee to make comments or questions. Before starting, if you could identify yourself for the record and then just proceed with your presentation.

Ms. Judith Grant: My name is Judith Grant. I'm the president of the Federation of Tiny Township Shoreline Associations.

Ladies and gentlemen, the Federation of Tiny Township Shoreline Associations, of which I'm president, represents 24 homeowners' associations located along 72 kilometres of shore in Tiny township. Tiny, as you may know, is a township in Simcoe county. It lies north of Elmvale and Wasaga Beach and west of Penetanguishene and Midland. Twice a year we publish a 16- or 20-page newspaper, which goes to all 10,000 households in the township.

Usually, our interests and concerns are focused at the municipal level. The federation has no political affiliation. The directors of our association are of all political stripes. I myself am philosophically a Liberal, and the members of our member associations are likewise diverse in their political allegiance. So when we come to speak to you about Bill 198, it is not in support of one party or another, but rather to address a shared concern about one essential aspect of the bill.

The residents of our township are keenly interested in environmental matters. Our official plan is an "environment first" plan that embodies extensive provisions to preserve the natural environment for wildlife and people. But those of us who live along Georgian Bay have been sharply aware for a number of years that something is seriously out of whack in the upper Great Lakes.

—The levels of Lake Huron and Georgian Bay have fallen almost two metres since the high water of 1986, while Lakes Erie and Ontario have remained at normal levels.

—This drop in upper lakes water levels has been devastating for vital wetland ecosystems over a huge area.

—It has jeopardized the health of Georgian Bay by exposing rocks, drying up fish spawning beds and encouraging the growth of stinking algae, besides making navigation difficult and many beaches unswimmable.

To our great relief, the International Joint Commission is right now undertaking studies to study the drop in water levels and recommend mitigation methods.

We would like to applaud the Ontario government unreservedly for introducing Bill 198, which puts in place the legislation needed to support the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement. But there is one provision in the bill that could jeopardize any attempt at stabilizing and restoring the water levels of the upper lakes.

Bill 198 takes a firm stand against diversions of water out of the Great Lakes basin, and we are glad to see this. We also support that section 34.6 recognizes the importance of not diverting water from any one of the five major watersheds in the Great Lakes-St. Lawrence River basin to another. But we are appalled at the possibility of a series of proposals taking advantage of the huge exceptions allowed in 34.6(2)(i), paragraph 1. These exceptions work against the main principle of no intra-basin diversions, and they have the potential to upset the balance of the entire Great Lakes system. Certainly, any further pressure placed on water volumes in Lake Huron and Georgian Bay will cause serious problems and could undercut the work of the IJC I just referred to.

We believe that the "exceptions" clause in the present Bill 198 will just pave the way for major water diversions that already are being planned, and more will surely follow:

—We oppose the plans of York Region to build a huge sewage pipe from the Lake Simcoe-Georgian Bay watershed to a treatment plant on Lake Ontario—a huge diversion of water from one watershed to another.

—We oppose the plans of several cities in the Lake Erie and Lake Ontario watersheds to draw drinking water from Lake Huron or Georgian Bay and divert the effluent to the lower lakes.

In our view, all these exceptions should be removed from the bill. Firm statements about living within our means and about conservation should replace them. You would then be passing a bill of which you and future generations truly could be proud.

I'd like to leave you with a modest example of what happens when water is drained away from where it lies in the natural scheme of things. The Nature Conservancy of Canada owns a block of woodland directly behind the beach where we have our cottage on Georgian Bay. Much of it is wetland and has, since 2001, been protected in our official plan. A year or two earlier, in 1999 or 2000, the township engineer installed a culvert from the swampy area—which is typically flooded after the snow melts in the spring—across the local road to a ditch, which drains excess water to the bay. The effect of this culvert has been to deprive the swamp of time in which

to slowly absorb the spring meltwater, and the consequence of that is that the swamp has gradually gotten drier. Many of the cedars that grow there have become unstable and over the last couple of years a large number of them have fallen over, exposing huge flares of roots. What used to be a fine stand of trees is now a pick-up sticks mess. This is a small example of what happens when water levels are tinkered with, even a little.

1150

We urge you to respect the instinct that produced the wording in 34.6(1):

“A permit shall not be issued or amended under section 34.1 so as to authorize the taking of water from a Great Lakes watershed if,

“(a) any of the water would be transferred....”

I understand that that word “transferred” means diverted out of the watershed.

This is where the clause should stop. All the exceptions should be removed.

As a society, we have been profligate in our use of water. We must learn to live within our means. We must learn to respect the natural systems that sustain us; if we fail to do that, we’ll destroy them and gradually make life on our planet impossible. Diversions of water, either for drinking or with sewage, from one watershed to another tinker with something large and important in a way that could have devastating consequences.

We have chosen to speak about only one aspect of the bill. It addresses a complex and important matter in a thoughtful, comprehensive manner. It is a good starting point.

We would note, however, in conclusion, that good thinking should be respected and drawn upon, no matter who happens to be doing it. We have reviewed the discussion in the Legislature during second reading of the bill, and we think you should pay careful heed to the points and perspective presented by Mr. Peter Tabuns.

The Vice-Chair: Thank you very much. We have three minutes, which is one minute per party. The rotation starts with the official opposition. Mr. Dunlop.

Mr. Dunlop: Thank you so much for being here and representing many of the cottage associations that are in my riding, of course. I think they all know where Tiny township is because of site 41.

I can tell you that you’ve echoed a number of the key points that were mentioned earlier by the Georgian Bay Association, but I think if you could just briefly comment on what you’ve actually seen happen—I’m very concerned about the dropping water levels of Georgian Bay. You mentioned the two metres. Can you expand any more upon that today? I think it’s something that’s bigger than what most people in this room would probably expect.

Ms. Grant: If you stood on the bottom with the water around your ankles back in 1986, you would have been under water. I’m 5 foot 8 inches; it would have been four inches over my head. That’s a colossal amount of water. It means that the water has shrunk back from the

shorelines to an area which is unnaturally shallow. It has promoted the growth of really unpleasant algae. There are beaches that are so stinking that people have sold their cottages. We have had people move to our beach, which is lucky enough so far to still have water on its littoral, but areas that had rock have just had this awful thing happen to them. It has promoted all sorts of unpleasant side effects. Wells are beginning to go dry, the water table is dropping. It’s very serious.

Mr. Tabuns: Thank you very much for the presentation and for citing me.

Ms. Grant: I didn’t realize you were going to be here.

Mr. Tabuns: I didn’t realize I was going to be cited.

The impact that you’ve described is consistent with what other people have had to say. Are the cottagers, the local residents, organizing politically—obviously you’re here—to push this point? I’m fearful that without a lot of political pressure, the diversions will continue.

Ms. Grant: We didn’t even realize it was happening. Had I not received a phone call last week, I wouldn’t have known to be here. It’s not something that we ordinarily regard ourselves as having a place to speak on.

I would very much like to know how one continues to make the point that it is just devastating if major amounts of water get shifted from one watershed to another.

I’m really concerned about York region’s intentions. I see no reason why mere money and building a proper sewage system within its own watershed are things that shouldn’t be required. It should just be a cost of that development.

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

Mr. Leal: Ms. Grant, thank you so much for your presentation today and your obvious passion and great interest in this issue. You touched upon the destruction of a wetland in your area around Georgian Bay. What would your view be of a group of individuals who would deliberately drain a wetland in order to destroy the flora and fauna?

Ms. Grant: I’d be appalled. I have experienced what happened when a developer on my own street in Toronto decided he wanted to put up a tall building, moved in a motorcycle gang and wrecked two Victorian houses. It’s the same thing: You go out there and ruin something.

Mr. Leal: Thanks so much.

The Vice-Chair: Thank you, Ms. Grant, for appearing before us today.

REFRESHMENTS CANADA

The Vice-Chair: Our final presenter is Refreshments Canada, Anthony van Heyningen. Mr. van Heyningen, thank you very much for appearing before us. You have 10 minutes in which to make your presentation. If you use up the entire 10 minutes, then there will be no opportunity for comments or questions from members of the committee. Before starting, if you would please identify yourself for the record, and then proceed.

Mr. Anthony van Heyningen: Good morning and thank you, Madam Vice-Chair. Good morning, members of the committee. My name is Anthony van Heyningen. I am the interim executive director of Refreshments Canada, which is the national trade association representing the non-alcoholic beverage industry. Our members make and distribute over 30 brands of carbonated soft drinks, bottled waters, juices, energy drinks and other non-alcoholic beverages.

Let me first start by stating that our members strongly support measures to protect and safeguard Ontario's water resources. The long-term interests of our members' operations depend on the sustainability of Ontario's water resources. We also fully appreciate that there are costs associated with using water. Like many others, Refreshments Canada members already pay for the water that comes into their manufacturing facilities via their local municipal water infrastructure.

Bill 198 proposes to explicitly clarify that the purpose of the Ontario Water Resources Act is "to provide for the conservation, protection and management of Ontario's waters and for their efficient and sustainable use, in order to promote Ontario's long-term environmental, social and economic well-being." We support these objectives. We contend, however, that some of Bill 198's proposed amendments, in particular the related proposal for a regulatory regime on water conservation charges, will not meet those stated objectives on a number of fronts:

(1) The bill's restrictions regarding intra-basin transfers between Great Lakes watersheds must respect basic science. Nature transfers water from one watershed to another by evaporation, rainfall, by flow of surface water or by subterranean movement of ground water. In reality, the vast majority of the water used by our members that is drawn from Ontario's water resources is consumed in Ontario and is eventually discharged back into the surface waters of the Great Lakes basin through the municipal waste water systems. So the act should be seeking to ensure that water is not diverted in bulk out of the Great Lakes basin.

(2) Targeting only the industrial-commercial sector ignores 98% of the permitted water use and, as such, is not properly addressing conservation of Ontario's water. Specifically, subsection 16(1.6) of the bill proposes that water conservation charges only apply if "the person uses the water for commercial or industrial purposes...." Water can be used for many things, whether it's thermal cooling, irrigating crops, washing cars, canning fruit, making steel, generating power, making beverages, watering lawns etc. All that water eventually returns back into the hydrological cycle.

The Ministry of the Environment's own materials state that Ontarians are currently permitted to take about 495 trillion litres of water every year, yet the same ministry materials note that the commercial-industrial sector accounts for only 2% of the total permitted volume.

1200

Targeting just industrial and commercial users of water through application of any water conservation

measures, like volume charges, when they represent only 2% of the water use, ignores the other 98% of permitted water-takings. Not only is this totally inequitable, it means that any resulting conservation from those measures would be totally irrelevant if no conservation is achieved by the other 98% of water-takings.

If the true objective of the bill's proposed conservation charges is to conserve—in other words, to reduce the use of water—then there must be a level playing field for all users and uses. All uses of water should therefore be subject to the exact same conservation measures or charges. There should be no exemptions for any individuals or sectors. As section 16, subsection (1.6) would contradict this stated conservation objective, we feel that it should be deleted from the bill.

(3) Bill 198 targets quantity but really ignores quality, and as such is not properly addressing protection of Ontario's waters. It seems to be almost silent when it comes to protecting the quality of water.

The water that our members draw from municipal sources is further refined to the highest quality before incorporation into beverage products. The water used by our industry is one of the cleanest usages of Ontario's water resources. There are probably a lot of other water users that, unfortunately, cannot say the same thing about their use of the water. Many of those users return water into the ecosystem in a much-degraded condition compared to the quality that they initially withdrew.

If the true objective is to protect the quality of Ontario's water, then all uses and users of water should be evaluated on the basis of what condition they return water back into the Great Lakes basin.

(4) Beverage production and consumption is essentially "closed loop," and as such, targeting beverages does not properly address conservation of Ontario's water.

The government's related materials purport that the beverage industry is a highly consumptive user of water, and should thus be targeted for higher consumption charges and ahead of other water-using sectors. As I noted, beverage production is a highly efficient process, where virtually all the waters brought into the manufacturing facilities are incorporated into the beverage products. Those are later consumed by Ontarians. Basic human physiology means all of that water eventually ends up back in the Great Lakes basin, after, of course, fulfilling the very important role of physically sustaining the Ontarians who drink those products.

The beverage industry uses less than 0.0004%, or four one-hundredths of 1%, of that annual 495 trillion litres of permitted water-takings in Ontario. As I also previously noted, our members already pay for the water that they use via their local municipal water infrastructures.

I must also point out that the starting point, and in fact the cycle that it goes through, is exactly the same for domestically used tap water and our refreshment beverage products. There is therefore no basis for treating one any differently than the other. We then note that it is

incorrect to categorize the beverage industry as being any more consumptive than any other use of Ontario's water resources.

Again, if the true objective is to reduce the use of water, then we contend that there should be a level playing field for all, where all users of water are subject to the same conservation charges.

In closing, while we support the overarching objectives of the act, we feel that this bill needs a serious overhaul to be more effective and equitable. The Ontario Water Resources Act needs to establish a level playing field that ensures equitable treatment of all users of Ontario's water resources, irrespective of the source or the use of those waters.

I know that neither Refreshments Canada nor our members were consulted prior to the introduction of this bill. We also feel that a 30-day comment period has been insufficient for evaluating a matter of this scope and importance. We are further disappointed that the government has moved time allocation on this bill.

For this reason and others that I've outlined this morning, we recommend that the committee instruct the government to conduct further analysis and research on the issue of water-taking and application of conservation charges before Bill 198 is returned to the Legislature for third reading.

I thank you for allowing me to appear before you today.

The Vice-Chair: Thank you very much, Mr. van Heyningen. We have two minutes, so that's not quite a minute for each party. The rotation starts with the third party.

Mr. Tabuns: Sir, thank you for coming in today and making this presentation. Can you tell us the financial impact of the water charge on the industry?

Mr. van Heyningen: It's not so much the financial impact of the water charge as the equity of having conservation measures that are going to be effective in preserving our water resources and, as such, the beverage sector and the other industrial-commercial sectors should

not be the ones that are bearing the full burden of protecting those water resources.

Mr. Tabuns: I understand the argument that you're making, but I'm still curious: What is the financial impact on your sector?

Mr. van Heyningen: It is a small portion compared to the price that our members already pay for the water that they use when they get it through the municipal infrastructure, but by the same token, if people are drawing it from ground sources, they aren't paying anything other than the fees for their permit to take water. What's being proposed under the accompanying materials is that all commercial-industrial users will pay, regardless of whether they're taking from source or taking from municipality, and I would contend that our members are already paying their fair share of water use through their municipal rates.

Mr. Leal: I want to thank you for your very detailed presentation this morning, and rest assured that the Minister of the Environment will take your concerns into consideration as we move forward.

Ms. Scott: Thank you for appearing before us today. I agree with your comments that there was not enough time for consultation and that we're rushing this through. Maybe I should say to the members of the government that there are two big parts of this bill—it's a Ministry of the Environment bill and a Ministry of Natural Resources bill—and maybe they should look at separating them because we've heard from several presenters that there wasn't enough time to do some proper consultation with respect to charges for taking water and obviously the industry had not been consulted. That's been a constant theme through here, so maybe separation of that portion of the bill and the Great Lakes-St. Lawrence waterway section—I just add that into the record.

The Vice-Chair: Thank you, Mr. van Heyningen.

The committee will be meeting again on May 16 at 9 a.m. to consider clause-by-clause.

I want to thank all the presenters, committee members and staff.

The committee meeting is adjourned.

The committee adjourned at 1208.

STANDING COMMITTEE ON JUSTICE POLICY

Chair / Président

Mr. Lorenzo Berardinetti (Scarborough Southwest / Scarborough-Sud-Ouest L)

Vice-Chair / Vice-Présidente

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Lorenzo Berardinetti (Scarborough Southwest / Scarborough-Sud-Ouest L)

Mrs. Christine Elliott (Whitby–Ajax PC)

Mr. Frank Klees (Oak Ridges PC)

Mr. Peter Kormos (Niagara Centre / Niagara-Centre ND)

Mr. David Oraziotti (Sault Ste. Marie L)

Mr. Shafiq Qadri (Etobicoke North / Etobicoke-Nord L)

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)

Mr. David Zimmer (Willowdale L)

Substitutions / Membres remplaçants

Mr. Bob Delaney (Mississauga West / Mississauga-Ouest L)

Mr. Jeff Leal (Peterborough L)

Mr. Lou Rinaldi (Northumberland L)

Ms. Laurie Scott (Haliburton–Victoria–Brock PC)

Mr. Peter Tabuns (Toronto–Danforth ND)

Also taking part / Autres participants et participantes

Mr. Garfield Dunlop (Simcoe North / Simcoe-Nord PC)

Mr. Norm Miller (Parry Sound–Muskoka PC)

Mr. Michael Prue (Beaches–East York / Beaches–York-Est ND)

Clerk / Greffière

Ms. Anne Stokes

Staff / Personnel

Ms. Carrie Hull, research officer,
Research and Information Services

CONTENTS

Wednesday 9 May 2007

Safeguarding and Sustaining Ontario's Water Act, 2007, Bill 198, Ms. Broten /	
Loi de 2007 sur la sauvegarde et la durabilité des eaux de l'Ontario,	
projet de loi 198, <i>M^{me} Broten</i>	JP-1257
Ontario Waterpower Association	JP-1257
Mr. Paul Norris	
Canadian Bottled Water Association	JP-1259
Ms. Elizabeth Griswold	
Pollution Probe, Ottawa	JP-1260
Mr. Rick Findlay	
Sierra Club of Canada, Ontario chapter	JP-1262
Mr. Tim Morris	
Georgian Bay Association	JP-1263
Ms. Mary Muter	
Great Lakes and St. Lawrence Cities Initiative	JP-1265
Mr. Brian McMullan	
Canadian Environmental Law Association	JP-1267
Ms. Sarah Miller	
Ontario Federation of Agriculture	JP-1268
Mr. Don McCabe	
Ontario Sewer and Watermain Construction Association	JP-1270
Mr. Frank Zechner	
Federation of Tiny Township Shoreline Associations	JP-1272
Ms. Judith Grant	
Refreshments Canada	JP-1274
Mr. Anthony van Heyningen	