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**Tuesday 11 September 2001**

**Journal  
des débats  
(Hansard)**

**Mardi 11 septembre 2001**

**Standing committee on  
justice and social policy**

**Nutrient Management Act, 2001**

**Comité permanent de la  
justice et des affaires sociales**

**Loi de 2001 sur la gestion  
des éléments nutritifs**

Chair: Toby Barrett  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Tuesday 11 September 2001

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Mardi 11 septembre 2001

*The committee met at 1002 in the Ramada Inn, St Thomas, Ontario.*

## NUTRIENT MANAGEMENT ACT, 2001

LOI DE 2001 SUR LA GESTION  
DES ÉLÉMENTS NUTRITIFS

Consideration of Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts / Projet de loi 81, Loi prévoyant des normes à l'égard de la gestion des matières contenant des éléments nutritifs utilisées sur les biens-fonds, prévoyant la prise de règlements à l'égard des animaux d'élevage et des biens-fonds sur lesquels des éléments nutritifs sont épandus et apportant des modifications connexes à d'autres lois.

**The Acting Chair (Mr Bob Wood):** Ladies and gentlemen, I wonder if I might call the meeting of the standing committee on justice and social policy to order. We're here today to hear submissions on the nutrient management bill, Bill 81.

## MARY LOU CLARK

**The Acting Chair:** Without further ado, maybe we could ask Mary Lou Clark to come forward. Make yourself comfortable at our presentation table and help yourself to a glass of water, if you'd like one. You have 10 minutes in total to make your presentation before the committee. You can take up as much of that 10 minutes as you'd like with your formal presentation. If there is any time left over of the 10 minutes after that, that's available for members of the committee to ask you questions. I invite you to proceed and make yourself comfortable.

**Ms Mary Lou Clark:** Good morning. I would like to take this opportunity to thank the standing committee on justice and social policy for allowing me this opportunity to bring forward some of the concerns I have with the proposed nutrient management legislation.

My name is Mary Lou Clark. I reside on a beef farm in Elgin county. I was raised on a mixed farming operation and have been actively involved in the agricultural industry for the majority of my life.

Primarily, I support the efforts of the government to establish practices, standards and codes simultaneously with befitting enforcement mechanisms to ensure that our families, other citizens of Ontario and future generations enjoy safe groundwater. Nonetheless, I am very concerned that the agricultural industry may become the scapegoat for other industries, municipalities, residential home owners, recreational landowners, trailer parks and all persons who use or produce nutrients that contribute significantly to groundwater pollution.

It is apparent that the proposed legislation relates to land use planning and environmental impact. This will provide a framework within the province which the government can use to enforce legal requirements.

Accordingly, I have concerns and questions with respect to the following issues: equal implementation, draft regulations, government support, scientific research, technical assistance, financial assistance and limits on animal units. The fact is that the proposed nutrient management legislation was referred to committee after first reading.

Firstly, equal implementation: the proposed nutrient management legislation must be equally implemented for all persons and landowners who own lands and use or produce nutrients as the above-noted legislation relates to land use planning and environmental impacts.

It is imperative that the lands that are designated for industry, commercial development, landfill sites, recreational-residential uses, trailer parks, homeowners etc be included within the proposed nutrient management legislation. Agriculture must not be singled out for the particularly rigorous requirements. It is my understanding that trailer parks were originally included to be covered under the proposed legislation, and for whatever reason, they were removed.

During my recent experience at an OMB hearing which directly related to a parcel of land zoned for recreational land use that is utilized for a trailer park, parties raised numerous concerns that related to land use planning, servicing, water quality, water quantity, sewage treatment and disposal, land use compatibility and adverse impacts and also the issue of non-compliance to standards and the municipalities' inability to enforce legal requirements that relate to trailer parks.

I request that the land zoned for recreational use be included and required to abide by the standards and regulations set forth under the proposed legislation.

Draft regulations: this legislation provides the government with enormous powers to regulate the agricultural industry. However, it is my understanding that draft regulations are currently not available and yet hearings are being held. I am concerned that hearings are being held without the draft regulations being made available and circulated for comment or input. Thus, we do not know the precise nature of the regulations. The regulations will determine whether the act is permissive or whether the act is used as a weapon to shut down the agricultural industry in Ontario.

Next, government support, scientific research, technical assistance, financial assistance, limits on animal units: it is important that the committee have factual, scientific data to work with in order to make an informed decision. Prior to the government imposing legislation that limits the number of animal units that can be maintained at any particular site, scientific research must be done.

I ask the committee if they are aware of whether or not there has been scientific research to determine the appropriate livestock levels for the various soil types in relationship to individual agricultural land and whether or not research has been done in conjunction with lands designated for other uses.

I ask the government to sponsor sufficient research to permit the testing of lands that are designated for agriculture, industry, commercial development, landfill sites, recreational-residential uses, trailer parks and homeowners in order to allow them the opportunity to protect the groundwater.

Further to this, I ask the government to sponsor sufficient research to permit the farmers to determine the appropriate livestock levels for the various soil types. Moreover, I ask that the government provide the necessary funding to ensure that farmers receive both financial and technical assistance to address environmental issues at the farm level.

Why was the proposed nutrient management legislation referred to committee after first reading, as opposed to after second reading?

Once again, thank you.

**The Acting Chair:** That appears to leave us two minutes in total, which would amount to about 40 seconds per caucus. Perhaps we can start with the Liberals.

**Mr Steve Peters (Elgin-Middlesex-London):** Regarding scientific research, who do you think should be leading this scientific research?

**Ms Clark:** I honestly don't know that.

1010

**Ms Marilyn Churley (Toronto-Danforth):** Thank you very much for your presentation. There's not enough time to ask sufficient questions, but can I briefly ask you, when you mention scientific research, do you feel that there isn't enough to even be bringing in a new law at this point? I'm not quite sure what it is you think we need to proceed from here.

**Ms Clark:** You need to allow the farmers to test their soil, whether it be sand, gravel or whatever their soil is

on, because different nutrient levels are determined by how far down your groundwater is. There needs to be environmental scientific research done on that. In other words, testing of their soil.

**Mr Doug Galt (Northumberland):** Thank you for your presentation. It had a lot of good content. If I could just respond to some of your concerns as to some of the current thinking, with equal implementation, certainly the intent is standards across Ontario, but there will be flexibility within the nutrient management plans as they are approved. Also, they will be looking at three different levels of numbers of livestock. But there's no intent at this point of putting any limit on numbers of livestock; it relates to the amount of land the manure can be spread on.

Trailer parks: I'm a little confused at the thinking there. The intent of this is that all conditioners of soil, all nutrients, will be covered, so anything coming from a trailer park and going on land is certainly going to be covered in this bill.

As it relates to regulations, there is always the problem of how much in regulation, how much in the bill. In any bill, you have to have the bill to have the authority to create regulations.

**The Acting Chair:** On that note, we've run out of time, unfortunately. Thank you very much for your presentation.

#### ONTARIO CATTLE FEEDERS ASSOCIATION

**The Acting Chair:** Mr Jim Clark, Ontario Cattle Feeders Association, please. You have been allocated a total of 15 minutes. As much of that as you want can be taken up by your presentation. The balance of the time will be available for members to ask you questions. Please proceed.

**Mr Jim Clark:** Good morning and thank you. My name is Jim Clark. I'm general manager of the Ontario Cattle Feeders Association. The Ontario Cattle Feeders Association wishes to take the opportunity to provide comment to the standing committee. We have taken the opportunity to follow up with a written version of our submission here today, and you have that copy. We believe the members of the OCFA are stakeholders with a vital interest in the current debate regarding agricultural practices in Ontario.

The Ontario Cattle Feeders Association is an association of beef feeders who carry on businesses of significant size. Our membership includes the producers of approximately 55% of the total finished beef cattle in the province of Ontario. We therefore regard ourselves as stakeholders having a very significant interest in large-scale livestock production and the regulations governing agricultural practices of intensive livestock operations.

Clean groundwater is vital to our members. Our families and our animals rely almost totally upon groundwater. We cannot carry on business if our local water sources are polluted. We strongly support the

ongoing process, which can, if managed in a dispassionate fashion, lead to codes, standards and an enforcement process which will ensure safe drinking water for the citizens of Ontario. The Ontario Cattle Feeders Association supports legislation and regulations which will implement a code of agricultural practice for Ontario farmers. We urge the government to draft legislation which goes well beyond livestock production as a threat to the environment to make sure that other potential sources of groundwater contamination are properly controlled. We submit that it would be appropriate for the government to also implement standards and policies for the other sources of groundwater contamination.

The Ontario Cattle Feeders Association submits that in addition to agricultural enterprises, the following sources of pollution need to be comprehensively governed through the use of appropriate standards and enforcement:

(1) Private septic systems: the studies of rural wells in existence indicate that the contamination of wells became a significant problem before intensive livestock barns came into existence. An obvious concern is the continued use of thousands of antiquated septic systems.

(2) Landfill sites: the leaching of pollutants from landfill sites should be a source of concern to those who govern drinking water standards.

(3) Municipal waste spreading: controversy has arisen with regard to the practice of urban municipalities contracting the spreading of sewage sludge upon agricultural land. The OCFA submits that sewage sludge operators should be governed by nutrient management plans and should be governed by codes of practice which will be similar to the codes that are going to be imposed upon livestock operations.

(4) Municipal waste treatment plants: sewers and waste treatment plants in urban areas are regularly overwhelmed by significant rainfall. Untreated water bypasses these systems and generates pollution. Hundreds of spills or bypasses occur each year in Ontario, and they are practices which are no more acceptable than farming practices which ignore environmental responsibility.

Intense livestock operations should not be singled out for any particular onerous requirements. Golf courses, factories, landfill sites and other facilities which pose a threat to the environment should be governed by similar practices.

In addition to the general comments outlined previously in this section, there are a number of specific standards which are supported by this organization. The OCFA would suggest that building standards should go even further and that a complete building code for agricultural construction should be created. The MDS formulas should continue to form the base by which agricultural buildings are separated from neighbouring buildings.

Nutrient management plans should be mandatory for all farmers. Mandatory nutrient management planning

should not be limited to livestock operations. All farms should adhere to reasonable nutrient management practices.

It will be very detrimental if the process results in legislation that imposes controls by placing maximum caps upon the number of animals which can be housed in any particular site. The OCFA submits that the government should sponsor sufficient scientific research to permit farmers to determine the appropriate livestock levels for various soil types before limiting the number of animal units which can be maintained at a particular site.

Funding: farmers are going to be required to spend huge numbers of dollars in order to comply with appropriate environmental standards. Because the capital cost to the farmer is so substantial, the OCFA submits that the administrative costs of monitoring, reviewing and enforcing these standards should be borne by the general revenues of the province of Ontario. If crushing financial burdens are placed upon farmers to the point where livestock production is substantially reduced, tax revenues will decline as jobs and income wither away and the cost of food is likely to increase. Our position in this regard is supported by the statement in the Galt and Barrett report, which notes:

“There is disparity among regions as to the level of support farmers receive to address pollution concerns. In general, European producers and American producers receive a higher degree of direct financial and/or technical assistance to address environmental issues at the farm level.”

Generally speaking, we are supportive of the concepts outlined within the legislation. However, we recognize that the real measure of this legislation will be in the manner in which the regulations are drafted. It is our understanding that draft regulations are not yet available, and they are absolutely vital to the effectiveness of this legislation program.

The legislation provides the minister with enormous powers to regulate industry. We are concerned about the hearings being held before regulations are available in draft form, because the precise nature of the regulations will determine whether the act is overly permissive or whether it is used as a weapon against agriculture in Ontario. We assume that the tone of the regulations will be neutral and at the mid-point between the two extremes set out within the preceding sentence.

We support the concept in part II of the act that the legislation should govern standards respecting the management of materials containing nutrients that are used on agricultural operations and requiring compliance with standards. We agree that it is appropriate to specify standards for the structures or buildings used to store nutrients and respecting the volume of nutrients that may be applied to land. On a general basis, we do not disagree with any of the concepts set out in sections 5 and 6 of the proposed act. The concern is that we do not know the specific standards and whether they will be realistic. We therefore recommend that the province utilize nutrient

management plans as outlined previously herein when setting the appropriate standards.

#### 1020

The OCFA is delighted to learn that there is due process provided to individuals involved in the system. We support the concept of using directors as long as they remain provincial employees. We support the concept of an independent tribunal provided the tribunal is composed of members who do not have political agendas. These individuals will have to be screened carefully.

In general, the concept of using a provincial director, tribunal and Divisional Court is something the OCFA has long supported as the appropriate enforcement mechanism. It moves the agricultural standards away from municipalities that may be motivated by a small number of capricious voters who can seize control of the agenda of a small municipality.

The OCFA supports the wording of the draft legislation for those sections dealing with inspections and orders. We are satisfied that due process is given to an individual who may run afoul of the system without intending to do so.

The Ontario Cattle Feeders Association recognizes that it is appropriate for the minister or director to have a broad right to require work to be done on a farm and to have police assistance where necessary. We also agree with the concept of requiring a person to pay the costs of the work, and we support the concept of the collection of these costs on behalf of the taxpayers of this province.

Therefore, there are two concerns that we have with regard to this part of the legislation: (1) we are not sure how landlords who lease barns to farmers will be affected; (2) we are also concerned that due process is not set out in this part of the act in the detail that is provided in earlier parts of the act. We trust that work would not be ordered by a director or a minister until other efforts and warnings had been given to the farmer. However, we feel that a requirement for some due process needs to be placed in this part of the legislation.

Part VI: this part of the legislation deals with enforcement. The OCFA supports the concept of large fines which are available to punish individuals who wilfully contravene the legislation. We assume that the director, tribunal or court would have the training to utilize discretion and to know when a maximum fine is appropriate or when a more modest punishment is appropriate. The potential size of the fines again emphasizes the need for directors, tribunal members and judges who understand agriculture.

A second concern we have with part VI is that larger fines may be given to larger farms. Fines should be set on the culpability of the individual who has committed the offence. The issue should be the amount of damage actually done by the wrongful act and, more importantly, the harmful effects to the environment caused by this wrongful act.

Part VII: we agree it is appropriate that the Nutrient Management Act should not affect the application of the

Environmental Protection Act, the Ontario Water Resources Act or the Pesticides Act.

We have a specific concern with regard to section 55 of the act, which deals with delegation of powers. This section permits the minister to enter into an agreement for the purpose of delegating a wide variety of powers. Who is going to be eligible to receive the delegated power? One of our main concerns is that municipalities should have a very limited role in this process because they will apply different standards across the province. The OCFA believes strongly that we need to have a universal set of standards which can then be applied on a site-by-site basis. Accordingly, the OCFA would vigorously oppose any delegation to any body that does not report directly to the minister or OMAFRA and that is not responsible directly to the minister or OMAFRA.

By way of example, we would support the concept that the minister may wish to contract out the business of issuing, amending, suspending or revoking certificates, licenses and approvals as outlined in section 55(1)(c). If this delegation is provided to an individual or a corporation directly responsible to the minister, we are supportive. If it is delegated to a local political unit such as a township, then we are opposed to the concept. We believe this concept needs to be further developed and outlined within the legislation and not within regulation.

We also have concern with regard to section 57, dealing with fees. We are not opposed to fees in some circumstances, as we outlined previously in this paper. However, the legislation gives no guidance as to whether one will pay a fee in order to have a nutrient management plan approved, which would be appropriate, or whether farmers would have to underwrite the entire apparatus of nutrient management governing, which we strongly believe should be paid by the general revenues of the province for the reasons outlined previously.

We warmly endorse section 60 of the act, stating that the Nutrient Management Act and its regulations will supersede any bylaw of a municipality which addresses the same subject matter. That section is in accordance with our concept that we need to govern nutrient management planning from a provincial rather than a municipal level.

The drafters of the Nutrient Management Act have gone to some length to make complementary amendments to other pieces of legislation. Once again, we are generally supportive of them. However, the complementary legislation appears not to affect the Ontario Municipal Board. The OMB has managed to become involved in agricultural planning issues from time to time where it has no particular expertise. Since the government is making the decision to provide the Nutrient Management Act with superiority over other pieces of legislation, we suggest it is very important to include the Ontario Municipal Board. The legislation governing the Ontario Municipal Board should be amended so that the OMB is required to make its rulings in accordance with the regulations of the Nutrient Management Act. Otherwise, land use disputes are likely

to end up in front of the OMB and the OMB may develop a parallel jurisdiction that frustrates the goals of the Nutrient Management Act.

The OCFA strongly supports the efforts of the government to establish practices, standards and codes, together with appropriate enforcement mechanisms, to ensure that our families and the citizens of Ontario enjoy safe groundwater. However, we are very concerned that large-scale livestock operations may become scapegoats for other operations, municipalities and homeowners that contribute significantly to groundwater pollution.

We sincerely hope that the comments outlined in this report can assist the standing committee inquiry in its efforts to establish appropriate practices, and we trust that our concerns will receive your consideration. Thank you.

**The Acting Chair:** We have one minute left, and I propose to give that in its entirety to Ms Churley.

**Ms Churley:** Lucky me. Thank you.

I appreciate your comments. I guess I should start by saying that my only political axe to grind is one of wanting to protect the environment, and I see that you said that as well.

I have a really big concern with the legislation and your support of it, and that is not allowing municipalities to have a say in controlling the land use in their own jurisdiction. Given that there can be so many variations—not just soil type but the level of tourism in the area, a fragile water source, a headwater on the land or whatever—each municipality is different, and local councillors know better than us, sitting on high, and can work directly with everybody concerned to come to the best solution. I am personally concerned about that and I'm not supporting your position on it.

Can you tell me how you would see the community and municipality being able to have a say in what happens in their community?

**The Acting Chair:** Unfortunately, we're going to have to leave that answer for a private discussion later because we are out of time.

**Mr Clark:** That's too bad.

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

## CONSERVATION ONTARIO

**The Acting Chair:** Could we ask Peter Krause of Conservation Ontario to come forward, please. Perhaps I can outline again the ground rules, which you have probably already heard. You have 15 minutes allocated for your presentation. You can take as much of that time as you want for your presentation. If any time is left over, that will be available for members of the committee to ask you questions. We would ask at the start that each of you identify yourselves for the purposes of Hansard. If each of the people here could simply say who they are, then whoever is going to make the presentation can start, or if all of you are going to make parts of the presentation, just alternate as you see fit.

**Mr Peter Krause:** We'll start from my left for introductions.

**Mr Richard Hunter:** I'm Dick Hunter. I'm general manager for Conservation Ontario.

**Mr Krause:** I'm Peter Krause, chairman of Conservation Ontario.

**Ms Tracey Ryan:** I'm Tracey Ryan, Grand River Conservation Authority.

**Mr Ted Briggs:** Ted Briggs, Upper Thames River Conservation Authority.

**The Acting Chair:** Please proceed.

**Mr Krause:** Thank you for this opportunity to speak to you regarding Bill 81, the Nutrient Management Act. I mentioned that I was the chair of Conservation Ontario. I'm also chair of the Grand River Conservation Authority.

As you may know, Conservation Ontario is the umbrella organization representing Ontario's 38 conservation authorities. On behalf of their municipalities, conservation authorities manage watersheds in which 90% of the provincial population resides.

We are here before you as water resource managers. Our priority is to ensure the protection of secure supplies of clean water and to maintain healthy rivers and streams. Our key message today is that the water protection potential of Bill 81, the Nutrient Management Act, and its proposed regulations be strengthened.

### 1030

Bill 81 addresses one component of protecting surface and groundwater resources from agricultural impacts: nutrients. However, agriculture practices may also contribute other contaminants such as sediment, pesticides and pathogens to water. In the wake of Walkerton, it is apparent that source water management needs to address all land use impacts, including urban development, septic systems and agriculture, in order to effectively protect safe water supplies. In the larger picture, therefore, Conservation Ontario strongly advocates that there must be a provincial water policy framework developed in order to address the complex issue of protecting water resources in a coordinated and cost-effective manner. The Nutrient Management Act is one tool within this framework.

Looking at Bill 81, Conservation Ontario would recommend that the regulations be broadened to incorporate watershed characteristics in order to provide effective water protection. In order to do so, it would require the following actions to be taken.

There is a need for updated and consistent resource information across the province, especially with respect to groundwater. Work is required to identify recharge areas, map aquifers, identify municipal wellhead protection zones, and model surface/groundwater interactions and water budgets. Until this information is available across the province, it will be difficult to make informed decisions and to provide adequate environmental protection.

Surface and groundwater monitoring are essential to monitor changes in water quality and to implement

measures to address trends before serious environmental impacts occur. Additional resources are required in order to compile and provide watershed information for the evaluation of land use activities on water.

In terms of enforcement and compliance, any nutrient management plan for new and expanding agricultural construction must be accompanied by a comprehensive water quality protection plan. This plan would provide a baseline of information for both surface water and groundwater conditions on a site-specific basis, as well as identify how any risks of contamination would be dealt with. This preventative activity would go a long way in alleviating the public's environmental concerns.

It is important that the provincial government be responsible for enforcement in order to ensure a consistent approach. However, in order for this enforcement to be done properly, additional funding and staffing will be required. It simply cannot be an added responsibility for existing staff, or the job won't get done properly.

Further, we recommend that Conservation Ontario should be consulted in the development of Bill 81 regulations to ensure that decisions are compatible with conservation authorities' current policies.

We agree that all lands subject to applications of nutrients should be required to regularly complete a nutrient management plan. The proposed nutrient management plan registry should ensure that data is available to enable nutrients to be managed on a watershed basis.

Conservation Ontario supports the inclusion of biosolids applications on agricultural lands in the proposed Bill 81 and regulations. Biosolids management requires a rigorous review and approval protocol to ensure environmentally safe applications that protect drinking water as well as the environment. There must be further research to review all contaminants in biosolids and determine the potential for impact on surface and groundwater as well as health.

It is very important that the proposed Bill 81 provide authority for a regulation banning the land application of untreated septage over a five-year period. We see this measure as critical for the protection of water resources. It is also imperative to develop a strategy for alternative disposal of septage waste. This may require providing additional wastewater infrastructure capacity to handle septage waste disposal and treatment.

It is proposed that Bill 81 would provide regulations governing distance requirements for manure and biosolids near wells and waterways. Conservation Ontario supports this as an important measure to protect water resources from agricultural activities. This distance should be based on a formula that would consider specifics for a site such as topography, watercourse characteristics, soils and type of contaminant source.

In order to further protect ground and surface water quality, regulations related to nutrient management plans need to be broadened to add best management practices for agricultural pathogens. These pose a serious potential

risk to human health if present in ground or surface water sources.

There is a need for the government to put more funding into environmental research. In many cases, best management practices have not been scientifically validated, and this needs to be done.

Conservation Ontario has three recommendations pertaining to implementation.

First, the province should offer financial incentives to landowners targeted to assist with implementing water quality improvement projects. A provincial and federal commitment to financial and technical assistance programs will ensure clean water for public health. These programs must provide a long-term commitment to effective delivery and support existing rural water quality programs as well as new initiatives.

Second, educational programs are critical to increase the awareness of the impacts of agricultural practices on water quality as well as to affect management changes to protect water. The current environmental farm plan, which is the established educational tool, could be improved by incorporating watershed characteristics into the risk assessment.

Lastly, we feel the province should build on the expertise and experience of conservation authority agricultural extension programs rather than create new programs. Conservation authority agricultural program delivery and development already involves partnerships with the Ontario Federation of Agriculture and other agricultural stakeholders as well as provincial and municipal governments.

Conservation authorities can play a key role in nutrient management. Already conservation authorities deliver extensive local stewardship and watershed management programs. It only makes sense to discuss where conservation authorities could be cost-effective delivery mechanisms in specific areas consistent with their other watershed programs.

As well, conservation authorities can provide valuable input into nutrient management plans, agricultural best management practices, and other regulations based on their broad experiences delivering watershed and agricultural stewardship programs across Ontario.

In conclusion, Conservation Ontario looks forward to further consultations, along with all other stakeholders, on the development of the regulations to ensure efficient and effective implementation of this program and, most importantly, the protection of our valuable water resources. A healthy environment is the cornerstone of a healthy agricultural economy.

**The Acting Chair:** Thank you very much. That appears to leave two minutes per caucus. We'll start with the Conservative caucus.

**Mr Galt:** First, thank you very much for your presentation and thoughtful comments in here. A lot of what you're addressing we are addressing as well.

I'll just go right back to the very opening, where you're identifying things like sediment, pesticides, and pathogens to water.



I think, in terms of sediment, in this bill there is the ability to require the fencing of streams etc, which should help with the sediment. You may have some other thoughts there.

**Pesticides:** I think that's already being pretty vigorously monitored. There's a tremendous reduction in pesticides being used in the agricultural community today and setbacks etc for that. You may like to have more comment on that.

Certainly pathogens to water, with the setback requirement, working it into the soils to prevent the runoff—the intent of this bill, to not put on winter spreading, that kind of thing, should be covering it.

You comment on septic tanks. I am very empathetic to that. I think that point is well taken.

If you want to respond to some of those comments, I'd be interested.

**Mr Krause:** Perhaps I could ask Tracey, who is our technical person, to respond to some of those comments.

**The Acting Chair:** The response is going to have to be brief because we only have 30 seconds.

**Ms Ryan:** I guess there's a wide number of best management practices that just need to be recognized around all the different possibilities: things like buffers along watercourses; as you mentioned, fencing in particular situations. Around pathogen best management practice, perhaps, as we've seen in New York, winter spreading in certain situations may actually reduce pathogens.

I think, from the viewpoint of looking at all those best management practices from a scientific point of view, perhaps they can be given regard in the act.

**Mr Peters:** It's pretty obvious, as we are embarking now on day three, we're hearing a lot of common themes. Tracey was with us yesterday in Caledonia. We're heard from all three presentations the need for scientific research to be done etc.

Is there some merit in potentially looking at—you know, we've got sandy soils, loamy soils. Should we maybe look at, whether it's scientific research or subjective—and I'm just thinking out loud, I'm not saying that this should be, but take some examples of new and expanding operations and subject them to an environmental assessment hearing. Would that give you the scientific research you need? Would it satisfy the cattle feeders and the first presentation? How do you see us conducting this research? What's the best way to go at it?

1040

**Mr Krause:** Certainly an environmental assessment would be a helpful tool with respect to gathering of data to help in terms of information and to assess whether or not a particular activity could be substantiated in an area. Part of it is understanding where the local aquifers and watercourses are, how close one should be to floodplains and so on. Part of that discussion or knowledge is understanding where the aquifers are, what the impact might be, the drift, if you will, of the contaminants to the water, the time passage and so on. Yes, it would be a

good start having an environmental impact assessment done.

**Ms Churley:** Thank you for your presentation. One of the questions I asked the committee to request the minister to get back to us on was around two issues. The government has finally announced that there is a groundwater study going to happen. The other thing, of course, is that the Walkerton inquiry is going to come forward with its decisions and recommendations in the next few months. I'm just wondering if you have an opinion as to whether or not this government should move forward with regulations and legislation before we hear the results of both of those bodies.

**Mr Krause:** Certainly the results of those bodies would be helpful before going ahead with some of the regulations. I would certainly encourage more information from those particular inquiries that are ongoing and the conclusion of some of those. That would certainly help. In the groundwater studies, the \$10 million that has been awarded to municipalities, in conjunction with conservation authorities, will be a good start as well in terms of gathering further information and scientific data.

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

#### RURAL ONTARIO STEWARDSHIP ASSOCIATION

**The Acting Chair:** Could we ask Ian Goudy of the Rural Ontario Stewardship Association to come forward, please. Your association has been allocated 15 minutes. You can take as much of the 15 minutes as you want to make your presentation. If any time is left over, that's available for members of the committee to ask questions. You've given us one copy of a very substantial brief, which will be copied and given to all the members. We ask each of you, for the purposes of Hansard, to identify yourselves for the record and then please make your presentation.

**Mr Ian Goudy:** I'm Ian Goudy. I'm a farmer in Middlesex Centre.

**The Acting Chair:** Could I ask the gentleman with you to identify himself for the record, and then we'll give you the floor and you can present.

**Mr Charles Hayden:** I'm Charles Hayden, a retired water well driller and now a farmer in our area and a member of ROSA.

**The Acting Chair:** Thank you very much. Please proceed.

**Mr Goudy:** As a member of ROSA, I've been trying to make sense of changes toward the intensification of the livestock production in rural communities. For the past three years, we as a group have tried to raise government and public awareness about the environmental and social impact of this approach to raising livestock animals. We were first involved with the Biddulph township case in which the Normal Farm Practices Protection Board overturned a municipal bylaw

because it was deemed too restrictive on the farmer involved. We made presentations to a legislative group in previous consultations on future regulations of intensive livestock production, and recently we were involved in a court case over a building permit being issued to a landowner for an intensive barn in what we feel is a residentially restricted zone. The judge in this building permit case ruled against our side in deciding that "properties designated residential" in the MDS2 guideline means only a cluster of four houses. This process has been very costly both financially and in terms of the time invested by those directly involved.

I would add to this that we have been on the side here of going slowly. We're not a group that really sees the validity of this intensive livestock going ahead. When I look at Bill 81, there isn't a whole lot in Bill 81 that shows our side is even being listened to.

Despite all of our efforts, we have always realized that consultation with farmer groups such as ourselves, the Ontario Federation of Agriculture, the Ontario Farm Environmental Coalition and other livestock organizations is fruitless when dealing with groundwater contamination. Farmers have a sense of what is right and wrong with how our farms are operated, but we clearly do not have the knowledge and objectivity to really understand how we impact what lays below the surface of our farms and how the wastes we produce impact the water that we rely on. Although the smaller livestock operations of the recent past still had the potential to damage aquifers and the environment at large, this potential is miniscule when compared to the damage that could be caused by one simple mistake in a much larger, more intensive operation. The risk of environmental disaster has far surpassed the abilities of the farming community.

If your committee wants to make this legislation meaningful, we suggest you listen to the many experts who presented evidence at the Walkerton inquiry, and the booklet I gave you there has some of the cross-examination in it. It has a statement in it put forth by the Sierra Club that's a proposed framework for managing the impact of agriculture on groundwater. Senior OMAFRA staff admitted at the Walkerton inquiry that nutrient management plans will not protect the groundwater from being polluted by livestock waste, and the OMB has said that minimum distances between barns and residential properties as outlined in present guidelines are inadequate for this purpose. It is our view that Bill 81 can only accomplish its intended goal if it mandates regulations which require farm-by-farm geological testing and constant groundwater testing in addition to mandatory nutrient management planning.

I'd like to read to you a bit of transcript from the Walkerton hearing. I guess we all understand that Bill 81 is based mainly on mandatory nutrient management planning. The first piece I will read to you is from the cross-examination of Randy Jackiw, a senior OMAFRA representative who testified at Walkerton. He is currently the director of resource management responsible for the

development and implementation of OMAFRA's current nutrient management strategy.

In the cross-examination, one question was put to him: "The risk management which the province proposes to implement by regulation under the draft Nutrient Management Act, 2001, is simply making mandatory that which is now voluntary in best management practices, environmental farm plans and nutrient management plan?"

His answer was yes.

"From the commencement of development of nutrient management planning in 1995, it has been primarily focused on the nutrient requirements and take-up capacity of the crop grown?"

"Yes."

"All the variables that Dr Goss told us about, like the waste water table and like the subsurface geology and like all those other variables, are not any part of nutrient management planning in Ontario today?"

His answer to that was, "We are not there yet."

#### 1050

There are some pieces from Dr Goss's cross-examination. He is the chairman of the land stewardship of the University of Guelph. Under his cross-examination:

"In Ontario, we don't have a systematic approach among the various layers of government to effectively regulate manure management activities in the province?"

His answer was yes.

"MDS is only intended to address land use conflicts and odour complaints; it doesn't have any relevance to groundwater protection?"

His answer was yes.

In his own statement, Dr Goss says, "Nutrient management planning is not specifically designed to deal with pathogens and manure."

A final statement from Norman West of the MOE, under cross-examination:

"But for the exemption provided under the EPA and regulation 347, manure does have the same potential as other regulated waste to cause adverse effects in the environment?"

His answer was, "That is correct."

My final little piece here is testimony from Randy Jackiw of OMAFRA, a reference to special precautions being required in connection with the siting and designating of earth and manure storage to prevent bacterial contamination of groundwater, and then it lists a number of factors which should be considered relating to hydraulic conductivity of the soil depth to the water table, depth to the bedrock, location, field tile etc.

"Would you agree with me, Mr Jackiw, those same factors as they are listed here in the guide should be considered whenever manure may be released to the environment?"

His answer: "Academically, but I think that there's a long way to get to the point where we understand. That's why I referred to this whole process as continuous improvement. You know we are looking, with the

university, on trying to get better nitrates. For example, as we understand more and more and as we understand better how some of these things move through the soil, the nutrient planning will continue to get more sophisticated.”

The question to Mr Jackiw: “Would you agree with me, Mr Jackiw, then, in whatever context manure is being released to the environment, whether that’s through a storage facility or whether that’s through spreading, that it raises the same potential for bacterial contamination of groundwater and therefore similar precaution would be appropriate?”

His answer: “Any material applied to the land has risk at the end. The whole point around agriculture is the responsible use of that resource. Agriculture does use resources and there are impacts.”

The next question: “Yes, and the guide specifically recognizes that, at least in connection with storage, it would be appropriate, then, to undertake this sort of investigation as recommended there with respect to hydraulic conductivity, soil depth etc?”

“Yes, sir.”

The next question: “And that same type of investigation would be appropriate wherever you have a similar risk as a result of release of manure to the environment. Correct?”

His answer is yes.

What he is admitting is that nutrient management plans are good for what happens to the nutrients but they do not address the pathogens.

The bill as it stands today does not address all of the issues. If it goes through as it stands today, sometime down the road we’ll likely see another Walkerton. This bill does not give any power to the municipalities, as the people recently heard before said, and it really doesn’t indicate what minister is in charge of the environmental regulations. It doesn’t mention the MOE.

All I can say is that we as a group have been through hell trying to get our message across in the past three years. I don’t want to see farming restricted, but I want to see farming that’s responsible. This bill does not make that happen, and I feel it’s up to the people who are in charge of writing this bill that it be done properly.

**The Acting Chair:** Unfortunately we are out of time for questions, but thanks for your presentation.

#### COUNTY OF OXFORD

**The Acting Chair:** Could I call on Bill Semeniuk, county of Oxford, to come forward, please. You have been allocated 15 minutes. You can take up as much time as you’d like with a formal presentation. If any time is left after your presentation, that’s available for members of the committee to ask questions. I wonder if before you start your presentation you could, for the purposes of Hansard, each identify yourselves, please.

**Mr Bill Semeniuk:** My name is Bill Semeniuk. I’m the Oxford county councillor.

**Ms Marg Evans:** Marg Evans, senior policy planner, county of Oxford.

**Mr Jim Walton:** Jim Walton, chair of the agricultural advisory committee for Oxford county and a farmer.

**Mr Semeniuk:** OK, thank you very much. You have before you our written submission. This was prepared by our county’s nutrient management committee and the agriculture advisory committee, and also endorsed and submitted by Oxford county council.

The county of Oxford believes that the Nutrient Management Act should be administered by the Ontario Ministry of Agriculture, Food and Rural Affairs. One of the questions we had in our review of the new legislation reflects the effects of the bill on our ability to regulate land use. For example, under the Municipal Act, municipalities can pass a bylaw regulating the location, direction and use of barns and manure pits. Will this provision be removed? If so, how will this issue be addressed in the bill or in the regulations? Municipalities have concerns over losing this bylaw-making power as it is one of the tools that we have to protect resources like groundwater and sensitive environmental features.

The county of Oxford has undertaken a comprehensive groundwater protection study at a cost of over \$800,000. In this study, we have identified capture zones for the county’s 83 municipal wells and have undertaken a vulnerability assessment of aquifers in the county. Many of the capture zones extend into farming areas and across municipal boundaries. The study has shown that about 42% of the county’s land area is highly vulnerable to contamination by surface activities. In most cases, this means that the aquifer is shallow and is overlain by permeable materials. It is very important to manage surface activities in these areas. The county of Oxford is in the process of developing official plan and zoning policies and regulations to protect our groundwater resources. These may involve controlling or restricting certain types of operations or activities near municipal wells or within highly sensitive aquifers or environmentally sensitive areas. Bill 81 makes reference to requiring geophysical studies and specifically references groundwater flow. How will these studies be used? We believe the new act should not interfere with municipal planning powers in regard to the regulation of land use.

Section 60 of Bill 81 provides for a local bylaw to be superseded if a regulation under Bill 81 pertains to the same subject matter as the bylaw. Will the municipalities be required to repeal a nutrient management bylaw? Will municipalities be permitted to regulate the same subject matter on farms not covered by the regulation under Bill 81; for example, smaller farms with less than 150 livestock units? Will municipalities be permitted to regulate the same subject matter over and above the regulation set by the province? It is important that these details be clarified for municipalities to minimize confusion.

#### 1100

Bill 81 defines nutrients. The county of Oxford believes that the land application of nutrients is an

appropriate means of managing these materials. With respect to septage, it is important that there is sufficient capacity available for pretreatment prior to land application. If the province expects municipalities to provide this capacity in municipal sewage treatment plants, compensation is in order. Many plants do not have the capacity to immediately take on septage, so there needs to be a period of time to gear up and financial compensation to cover capital costs associated with plant expansions. The province has to be careful in how this pretreatment requirement is managed, because municipalities do not want the burden of dealing with midnight haulers taking septage out and dumping it to get rid of it.

The county of Oxford supports the concept of NMPs for our municipal sewage. We in Oxford have been trying to get funding through the healthy futures program and the federal Green Municipal Enabling Fund for a year just to do that. We believe that nutrients from biosolids should be managed using the same tool, the nutrient management plan, as nutrients from any other source.

The province should take care in developing an adequate land registration system, one that will track all land-applied nutrients and that will accommodate inter-municipal flows of materials. Currently, municipalities often land-apply biosolids outside of the jurisdiction where they're generated. Tracking of this application by the Ministry of the Environment is not done well. The MOE does not use a geographic information system to track this information.

The county of Oxford has developed a land-based tracking system on our corporate GIS for manure-generated nutrients. We plan to extend this system to track biosolids, and this was part of our funding proposal.

It is important that one integrated tracking system be developed for all materials containing nutrients. The county believes that this is appropriate to make the land registry available to the public. Further, such a registry system should be Internet-enabled to permit farmers and others looking for land to tell which lands are tied up in NMPs or strategies. However, the county does not believe that information and data in NMPs should be made available to the public. Only a summary sheet on basic information from NMPs needs to be available to the public in addition to the land registry information.

The bill provides for regulatory powers to specify standards for size, capacity, location and construction of buildings or structures used to store nutrients. Due to the concerns relating to groundwater protection, the county is anxious to see regulations that protect aquifers and wellhead protection areas. In Oxford there has been public concern regarding the storage of liquid manure in a sensitive groundwater recharge area. Short of outlawing nutrient storages altogether in these areas, appropriate sizing and locational criteria, impermeable construction materials, runoff storage capacity and state-of-the-art contingency plans need to be in place to minimize risk to water supplies and aquatic habitat.

Bill 81 makes reference to the issuance of a certificate once a farmer has complied with the act and regulations. As part of the approval process, county staff should be circulated for information during the approval process of an NMP affecting lands within or adjacent to the county.

Using our corporate GIS, we can generate maps showing water-related information as well as data on other land uses, sensitive environmental features, environmental constraints such as slope and flood lines. All of this information is readily available and relevant to the approval of the NMP.

The county of Oxford concurs with provincial enforcement of this act, provided resources are adequate. The province needs to do a better job of enforcing Bill 81 than it does offences relating to spills or discharges to streams under the EPA. The public in Oxford has lost confidence in the MOE's ability to enforce environmental legislation.

Once NMPs are in place, the county believes that a system of random audits would be an effective tool to encourage compliance with the new act and regs.

Bill 81 also provides for appeal rights for NMPs. The county believes that municipalities should be permitted to be a party to an appeal of an approval or certificate issued under the new act to a tribunal or to the minister where the municipality has reason to believe that the operation may cause a detrimental effect to either public health or the environment.

Oxford county has an agricultural advisory committee to deal with complaints pertaining to an operation that has a registered NMP. This committee is composed of 10 producers and two county councillors. There are protocols set up for the AAC to act within a very short period of time once a complaint is received by a township. The AAC provides a friendly approach to reviewing NMPs and solving problems in a non-threatening manner.

Bill 81 has a provision for regulating the establishment and operation of local committees to assist in mediating disputes. Does the province anticipate using existing committees for these purposes? What body will assume the liability relating to the recommendations and advice of such committees? The county believes that local people will work most effectively to handle local complaints, rather than people who are not local to the area and not familiar with farming operations and the community.

Section 55 of Bill 81 provides for the minister to enter into agreements for certain services. Among them is a land registration system for tracking the land application of nutrients. As I said before, the county of Oxford has developed a land registration system on our GIS and we have an interest in continuing the development and use of this system. Any registration system should be compatible with the existing system within the county of Oxford. We would be interested in assisting in the development of a larger system for land registration through an agreement with the minister and with adequate compensation.

Oxford county believes that financial compensation should be provided to both farmers and municipalities requiring nutrient management plans or strategies to offset the costs associated with the development of the plan and implementation. There is a distinct societal benefit associated with the nutrient management plan, and these costs associated with this societal benefit should be shared by society. The province needs to ensure that the outcome of this legislation is desirable. If the result of the legislation is that smaller operations go out of business, is this a desirable outcome? Offsetting compensation could ensure that undesirable outcomes are kept to a minimum.

With that, I thank the committee for hearing our presentation and would accept any questions.

**The Acting Chair:** That appears to leave one minute and 30 seconds per caucus, and we'll start this time with Mr Peters.

**Mr Peters:** Obviously, Oxford has been a leader in what you've been doing. How far along is Oxford compared to other counties in this province? Would you be the true leader in Ontario or is there somebody who has taken this issue further than you have?

**Mr Semeniuk:** We started the process—as you have seen in our documentation, we passed five similar bylaws in all rural municipalities in 1999. Previous to that, it took a little over two years to establish. We were probably one of the first. Marg can elaborate further. In our initial front page you'll see that the University of Guelph has used our paper and used the criteria we have in our own nutrient management bylaws as a benchmark for other municipalities in Ontario.

**Ms Evans:** I think that explains it. We were one of the first. We feel we've got one of the most comprehensive bylaws. We've shared our bylaw with any municipality that has requested it, both east and west of Oxford county. It's been emulated in several different municipalities. So we feel we've set the standard in some instances. We've had a very strong relationship with the local Ministry of Agriculture engineering staff and they have been a great assistance to establishing our bylaws as well.

**Ms Churley:** Thank you for an excellent presentation. You've got a lot of information into one small document. It's quite interesting.

You asked the question, will municipalities be required to repeal a nutrient management bylaw? The answer is yes, as it exists now; that this law, once it is passed, will supersede any bylaws around this. My question is related to that. I think that's going to be one of the more difficult issues for the committee because many from the farm community support the government's endeavour for the law to supersede the municipality, yet we hear that municipalities and some other smaller farm groups want the municipalities to have that power. Is there any compromise here, do you think?

1110

**Mr Semeniuk:** That's probably a million-dollar question. It's one we have grappled with at both our

committees. We feel that definitely there should be some parameters set. We have difficulty in terms of the Planning Act and who is going to make that call. Is the province going to make the call that you're going to repeal Oxford county's nutrient management bylaw, and at what level?

**The Acting Chair:** On that note, I'm going to have to turn to the government caucus because we are out of time.

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** Thank you for your presentation. How many municipal sewage treatment facilities have you got in Oxford county, roughly?

**Ms Evans:** Roughly just under 10.

**Mr Beaubien:** How many of those would be equipped with tertiary treatment facilities or capacity?

**Ms Evans:** None.

**The Acting Chair:** Further questions from the government caucus?

**Mr Galt:** I just wanted to compliment you on the GIS program. It's just excellent. Maybe we will be looking very closely at it. Thank you for the presentation.

**Mr Semeniuk:** We appreciate it.

**The Acting Chair:** Thank you very much.

#### ONTARIO CORN PRODUCERS' ASSOCIATION

**The Acting Chair:** Perhaps I can call on Don McCabe of the Ontario Corn Producers' Association, please. Could you come forward. You have been allocated 15 minutes for your presentation. If you don't use the full 15 minutes for the presentation, that time is available for members of the committee to ask some questions. Perhaps you could identify yourself for the purposes of Hansard, and your other presenter could do the same, and then you can go right to your presentation.

**Mr Don McCabe:** Don McCabe, Ontario Corn Producers' Association.

**Mr Ken Hough:** Ken Hough, on staff of the Ontario Corn Producers' Association as director of research and market development.

**Mr McCabe:** I'd like to thank the committee for the opportunity to be here this morning, over from the Lambton county line. I'd like to proceed by just highlighting the executive summary, first of all, and then delve back into some more points in a little more detail as time goes on.

As is evident from the room this morning, there are some recurring themes that have to be addressed here. The first one we wish to touch on is that full consultation is required with the development of regulations. We have a framework right now to hang them on but the consultation process is of the utmost importance—the framework that has been developed.

We thank the committee for its efforts in listening to the Ontario Farm Environmental Coalition, which brings together 40 commodity-based groups to address concerns from the stakeholder perspective, and we hope this

consultation will continue in the future to ensure that the stakeholder is ultimately involved in everything that has to occur here.

Second, the principle of science-based nutrient management plans is fully endorsed by OCPA. We concur that cash crop farms need to be treated distinctly from livestock operations. However, with that said, I wish to point out that the 21,000 members of the Ontario Corn Producers' Association, including yours truly, do not just grow corn for a living. They have diverse operations and we will have livestock operators within our members. Therefore, we wish to make this as comprehensive and engaging as possible to ensure the needs of all our stakeholders.

The proposed five-year phase-in period is pretty ambitious even for government. This time frame immediately draws out the need for additional funding to be brought to this area, especially in the area of research. Best management practices are based on sound science, particularly with regard to nitrogen fertility management in corn and other crops, but nitrogen is an extremely mobile element in the environment and we have lots more work to do there yet. Therefore, before regulations become entirely encompassing, we have to address this need to a greater fashion.

With regard to a lead ministry, who should be in charge? OMAFRA. Reasons will be developed as we move along. From this perspective, enforcement of this act must reflect the intent of the act and must be conducted by appropriately trained personnel, which leads us back again to OMAFRA to be the suggested appropriate ministry.

If we are to pull all this off with regard to the research needs, making sure the personnel and the infrastructure are in place, this requires adequate new fiscal resourcing. It means that if society wants this, society needs to come to the plate with the money that's necessary.

Moving on to the flexibility issue in nutrient management plans: as this committee has the opportunity to travel across the province on its hearings, occasionally I hope you get the chance to look out the window and realize that things are a little bit different as you move across. Some places are flat, some places are rolling, some places are sandy, some places are good, old-fashioned clay and you need a brace and bit to plant a Dutch set. With that in mind, we have to address nutrient management plans with flexibility to the areas in question.

Provincial authority is welcome by OCPA to provide a consistent nutrient management policy over a patchwork of local bylaws. However, provincial legislation and regulations may need to be expanded to encompass pathogens, as we've heard here already today. I would extend that to other possible contaminants such as heavy metals. With regard to biosolids, this is where the encompassing of all nutrient sources has to come to bear within this act.

The treatment of all nutrient generators must be equitable. We've heard that theme here also.

The clarification of the scope, role and intended use of the proposed electronic nutrient management plan registry is also a concern to OCPA. It has been touched on here briefly. From our perspective, it needs to be an information registry only, not a police-type document.

Finally and most important, on the overall scheme of this, the economic impact of the proposed act and regulations on Ontario farmers must be considered, and remuneration needs to be considered for some of the imposed costs, especially where those add a significant burden to the farm operation. To put it bluntly, when you put a dollar in a farmer's hands, you're going to get seven bucks back, and two bucks of that are going to the government tax. When we get a dollar, we don't know how to hang on to it.

We're back to the wall right now with regard to what margin is left. I can reiterate the statement that society is extremely well fed and worrying about the environment it lives in, and so it should. But society also has to step up to the plate and take responsibility for its wants.

I'm coming back to highlight the most important points of the OCPA brief in front of you.

Full consultation. We fully expect and demand that the regulations that will come down be practical and reasonable to implement and, to ensure there is the buy-in by the farming community, that there be regular, ongoing consultation among the key stakeholders, which are not only the farming community but regulators, government and others who may feel the need, to make sure that this package comes together for all so that we'll be able to work and live within.

The timelines of this legislation within the proposed five-year period make it an extremely difficult row to hoe when it comes to the science-based approach here. We don't have all the answers yet with the research and therefore this will be a moving target as time goes on. Research is required. Research is required to be done with the stakeholder community intimately involved. They have the questions and will help the researchers to find the answers if given the opportunity.

#### 1120

With regard to the lead ministry, OMAFRA is the absolute choice here because the predominant activities within this ministry will shine through within this act. The outreach awareness activities that will be necessary with other rural residents on nutrient management issues are also a part of the rural affairs mandate of OMAFRA.

Where it is necessary to bring in a high-calibre specialist for an environmental concern, that's where the Ministry of the Environment should be turned to. In general, OMAFRA can handle the job and develop and bring through the necessary constraints.

The enforcement issue: I'm touching on it again with the fact that we have no issue with regard to enforcement. OMAFRA has to be the front line but the MOE needs to be brought in for the stronger issues.

All this still comes back to the need for adequate fiscal funding. We cannot do this without adequate buy-in of the government to ensure the research is done, the

personnel are in place and the infrastructure is there to be able to accommodate all the needs that are here.

Finally, I want to stress the flexibility issue. Again, as you criss-cross the province here, take time to take a look at what you're about to throw regulations at. We have a lot of variations out there. We also have a lot of common sense out there. I have to stress that a PhD does not necessarily come with a major or minor in common sense. Therefore, we have to ensure the buy-in of the stakeholders and the flexibility that is necessary to achieve those ends.

With those comments, I thank the committee for the opportunity to present and I welcome any questions.

**The Acting Chair:** Thank you very much. We have one minute and 30 seconds per caucus and we'll start with Ms Churley.

**Ms Churley:** There is never enough time to ask adequate questions, so I'll just follow up on a question I asked previously. How do you see the role of municipalities which, as everybody will admit, know their area, their jurisdiction, better than the province does? How do you see their role, especially given that the legislation says this will supersede any bylaw of a municipality?

**Mr McCabe:** The issue with regard to municipalities means that you have to get it back to the actual stakeholders, because "municipality" is still a very wide-open, dynamic statement.

The former county of Simcoe, as I would call it, is now predominantly urban. Therefore, when we're down to one and half per cent of the population which actually has to make its living doing this job of feeding the nation, those are the stakeholders who have to have the greatest say at the municipal level because they actually have to live this, as opposed to conflicting needs of well-meaning folks who really don't have the issues clearly delineated or available to put the proper regulations in place for the municipality.

I fully support the need for local advisory committees that have been fully developed from the perspective of expert folks from the surrounding area and, wherever possible, without a political agenda to grind.

**The Acting Chair:** On that note, we'll turn to the Conservative caucus.

**Mr Galt:** Thank you for your presentation. You may consider it a bit of a loaded question, but I'm curious: having been on the road and consulting for two years on this, when we started approximately two years ago, as I recall, the position of the corn producers was more, "Not us; it's the livestock producers that should have to have the nutrient management plan. Corn producers should be exempt or croppers should be exempt."

I'm very empathic and support the direction you're coming here. I'm just wondering, why the change? Or did I misunderstand the direction two years ago?

**Mr McCabe:** You did not misunderstand the direction two years ago, sir, and it is not a change in policy directly from OCPA with regard to a pure cash crop farmer. They've been doing nutrient management plans every

year and they especially did one this year with the absolutely horrid prices that we're dealing with and below cost of production. Economic feasibility is the utmost, and when all your fertilizer is bought in as a commercial source, you're already doing a nutrient management plan.

**Mr Galt:** Certainly. Thank you, Chair.

**The Acting Chair:** Further questions from the government caucus? Mr Peters.

**Mr Peters:** I'm just trying to understand. You talk about the distinctiveness of the corn producers. You also say that your members aren't solely cash crop farmers; there are some who also have livestock. Can you give me a breakdown of what percentage of your members would be strictly cash crop versus those who may be diversified with some livestock as well as their cash crop?

**Mr McCabe:** I would say the numbers I'm about to give are cast in water: 60% of the corn that's grown in Ontario is used within the livestock industry. With regard to the exact membership, 30% of the grain that is currently put through safety net programs designed within Ontario is farm-fed so, therefore, it never leaves the farm. It is used on farm for livestock production. That's the best I can offer at this point in time.

**Mr Hough:** If I could just add to that: the Ontario Corn Producers' Association receives their funding through check-off on commercial grain sales, but having said that, that doesn't represent all corn producers in Ontario. Not all corn producers sell corn commercially, specifically livestock guys that grow and feed their own. Having said that's where our funding comes from, we still try to serve the needs of all corn producers in Ontario.

**The Acting Chair:** On that note, perhaps I can thank you very much for your presentation.

#### CRAIG CONNELL

**The Acting Chair:** Can we ask Craig Connell to come forward, please? Mr Connell, you've been allocated 10 minutes for your presentation. If any time's left after your presentation, that's available for members of the committee to ask you questions. Please proceed.

**Mr Craig Connell:** My name is Craig Connell. I'm pleased to have this opportunity to make this presentation to the committee as you hold consultations on Bill 81, the Nutrient Management Act.

I, along with my wife and my son, operate a 1,400-acre livestock-based operation producing 1.8 million litres of milk per year. We also operate a 750 head feedlot. We have 10 employees.

We farm in the municipalities of Middlesex Centre and the city of London. I also represent this region as board member of the Dairy Farmers of Ontario. I make this submission today as an individual. The Dairy Farmers of Ontario will make a formal submission at a later date, in Kemptville, I believe.

This is the third year we have been operating under a nutrient management plan. I hope and expect that Bill 81

will take care of the problems and frustrations that we have had to deal with.

I should say that I fully support the principle of nutrient management plans and in fact would like to see them implemented sooner than three years on the livestock units that are abusing the situation at present. Every municipality has a few undesirable situations.

I feel strongly that the Nutrient Management Act should be administered by OMAFRA and they should handle the advisory and audit aspect of it. The Ministry of the Environment should only be involved in the inspection and enforcement if pollution has occurred or is likely to occur.

Our farm has had an example of how it should not be handled. One of the first contacts we had with any person from our township in regard to the plan was when a fellow walked into our farm office and proudly declared he was the nutrient management bylaw enforcement officer, that we were in contravention of the bylaw and we had to cease spreading manure immediately on a property that we had farmed for a number of years.

We attempted to explain that according to the consultant we had hired to develop our nutrient management plan and the OMAFRA engineer who verified the plan for the township, we were not in contravention. We showed him the crop records and soil sample results for the last five years of this farm. When he looked at the reports, it was obvious he understood them as well as I would understand a report on nuclear fusion.

#### 1130

We must have people who are knowledgeable in all aspects of farming operations to administer and advise on the implementation of this Nutrient Management Act. I must add that in the 20 years we've farmed at our present location, we have had no problems with the Ministry of the Environment or infractions, no pollution problems whatsoever.

I would ask this committee to address my concerns that the Nutrient Management Act cannot be circumvented by the application of another act at the municipal level. This act, above all, must be administered on a provincial basis. The situation at present makes no sense at all. In our own situation, we can do one thing on one side of the fence and something different on the other side of the fence. We must have uniformity across the province. I am sure this committee is well aware of the fact that the interpretation and decision of a local municipal building inspector or officer can only be appealed through the civil court system, which is both costly and time-consuming.

Saying this, there is a need for flexibility. As the corn producer representative said before, there are different situations across the province: different land types, different operations. It makes quite a difference if you're running, say, a hog operation on a heavy clay farm and growing all corn and beans—you've one opportunity a year to spread manure—whereas, with a situation such as ours, we have varying land from sand to clay. We grow

various crops, from alfalfa to wheat to beans to corn. So there are variabilities within each individual plan. I think it would be wrong to just say that this is it for the province. There has to be flexibility within each individual plan.

I do not believe it is in anyone's interest to have a full nutrient management plan a public document. Only verification of compliance and a brief summary of the individual nutrient plan should be public.

In conclusion, I am in full support of the Nutrient Management Act and appreciate having the opportunity to comment on the act today, but I see an increasing need for the stakeholders to be involved in the discussion prior to the creation of the regulations. The Nutrient Management Act and the resulting regulations will only be a success if the farming community buys into the idea and supports it. The individuals involved in the administration of the Nutrient Management Act at the individual farm level must have the ability to communicate and implement the regulations professionally. My comments are made with the assumption that this legislation is designed to regulate the amount of nutrients that are applied to agricultural land for the production of crops and as a safeguard to our water supply, not to appease some people who would like to control the future development and viability of agriculture in this province. This act must not be used as a weapon against the farmer.

I appreciate this opportunity to present my views and would be pleased to answer any questions. Thank you for your time today and I look forward to being able to contribute to the development of the regulations under this act.

**The Acting Chair:** That leaves us one minute per caucus. We'll start with the Conservative caucus.

**Mr Beaubien:** Thank you for your presentation this morning. In your last paragraph, you mention, "The Nutrient Management Act and the resulting regulations will only be a success if the farming community buys into the idea and supports it." Nutrient management deals more than with just the farm community. I asked the representative from the County of Oxford how many municipal sewage treatment plants they have in their community. None of them have tertiary treatment capacity. When you spread the sludge from the municipality on to land, there is some potential with regard to metal, heavy metals, pathogens and all that. How do you respond to this?

**Mr Connell:** I realize there are other sources of nutrients than farming. I only dealt with the farming because that's what I'm involved in and that's what I have some knowledge in. But more certainly, the sewage systems and the disposal of the sludge must certainly be looked at.

We also farm right beside 402. After a dry spell, if you see what washes off of 402 in a heavy downpour, that's maybe something that should be looked at as well. So there are all different sources to look at.

**The Acting Chair:** Perhaps on that note we can turn to Mr Peters, because we're out of time.



**Mr Peters:** Craig, don't run away after the meeting. I need to talk you about a DFO issue.

From a DFO standpoint and the farmers you have come in contact with in this area in dealing with the dairy industry, with what you know and what you've seen in Bill 81 and what we don't know yet in the regulations, what's the impact going to be on farmers in the Elgin-Middlesex area, the ones you're representing? Is it going to be easy for them to comply or is there going to have to be a lot of work to do?

**Mr Connell:** If it was to come into place tomorrow and everybody had to comply within six months, 50% of the dairy producers would quit. Every dairy producer will have to have liquid manure handling systems. The larger units mostly have them now, but the smaller units do not have them. They would have to have liquid manure storage for barnyard runoff and manure runoff and for milk house wash water.

As soon as you get into liquid manure storage, you're looking at a minimum of \$75,000, probably up to \$120,000 or \$140,000. Over 50% of the producers are small producers, and if they were faced with a bill for \$100,00 they would quit tomorrow.

**The Acting Chair:** On that note, we have to turn to Ms Churley.

**Ms Churley:** Thank you very much for your presentation. I loved your comment that this inspector understood it as well as you would understand a report on nuclear fission. I come from Newfoundland and a lot of fishermen have told me the same thing, when officials come from Ottawa to tell them what to do about the fish. So I fully appreciate that comment.

How do you see the consultations unfolding? I assume that you're asking us today to make sure that you and your organization are involved in those consultations.

**Mr Connell:** As we get into the nitty-gritty and how it's actually going to play out at farm level, I think it's only right that the farm organizations and any individual farmers have the chance to comment and make suggestions.

I would sincerely hope that's the way it goes. Not to say that this committee is not capable, but I'd be very disappointed if this committee just sat down and wrote all the regulations. I think there's room for consultation right down to the farm level, but everybody needs to be involved.

**The Acting Chair:** Thank you very much for coming. We're out of time.

#### COMPOSTING COUNCIL OF CANADA

**The Acting Chair:** Can I ask Susan Antler of the Composting Council of Canada to come forward, please. Could we first ask you and your other presenters to identify themselves for the purposes of Hansard.

**Ms Susan Antler:** My name is Susan Antler. I'm the executive director of the Composting Council of Canada. I've brought three of our many members from Ontario

who operate composting facilities throughout the province.

**Mr Rick Vandersluis:** I'm Rick Vandersluis. I'm with TRY Recycling out of London.

**Mr Trevor Barton:** I'm Trevor Barton from the city of Guelph. I'm the Ontario regional chair for the composting council.

**Ms Katie Alward:** Katie Alward from Green Lane Environmental.

**The Acting Chair:** Before you start, I should advise you that you've been allocated 15 minutes for your presentation. If you don't use up the 15 minutes in your presentation, the rest of the time is available to members of the committee to ask questions. Please proceed.

**Ms Antler:** Super, thank you very much. We've provided you with a package and we just want to reiterate our summation in terms of the submission we sent to Mr Garland. Specifically, the composting industry in Ontario, albeit young, is very much a thriving industry, represented by municipal as well as private sector interests.

We are supportive of the involvement of the OMAFRA folks to help build the composting industry, because basically we need to have two feet in two piles; one in terms of waste diversion, which is where the Ministry of the Environment would get involved, and the other in terms of product utilization and the creation of end markets, which is where OMAFRA's experience would be. So we are thrilled that the time has come where we are able to talk to OMAFRA. The issue, though, is that we have not had a chance to talk with OMAFRA to date, and we understand there has been some consultation.

Our industry is implicated because of the definition of "nutrient" where compost is defined as one of the products. Basically we, as the industry which represents over 80 facilities in Ontario and processes 500,000 tonnes of organic materials on an annual basis, are implicated by your vision. We respectfully ask that we start to talk now in terms of how we build this industry, both from the perspective of waste diversion, as well as product utilization.

We see there are all kinds of wonderful opportunities and we're here hoping we can build together. First of all, what we very much want to do is make sure that everyone recognizes that we do need to focus on waste diversion. I know many of you are already focused on Bill 90, the Waste Diversion Act, in terms of what you will be coming up to in the fall, what the Ministry of the Environment is bringing forward, and also in terms of how OMAFRA can assist us in terms of end use and the development of relationships with end users. End users can be defined as farmers, the agricultural community, horticulture, silviculture, natural resources and municipal purchasing practices. The opportunity is very large in terms of building markets for compost. For us to sustain this industry, we definitely have to have both feet in the pile of compost.

1140

The other thing we have to make sure is that you install good, but not crippling, regulatory issues. The composting industry—again, 500,000 metric tonnes a year. I know, Mr Galt, you've been very involved with the composting council; Mr Peters, one of our much-cherished members of the council is a constituent in your area; and, Ms Churley, I know that you're very much supportive of environmental sustainability. We have an industry here. We have rules and we are willing to reflect your vision, but it's very important that we don't put on checks and balances that cripple our industry.

Our concern is that, because OMAFRA has yet to talk with us, perhaps they don't know what we're currently involved with. Our people are the Ministry of the Environment; we know them very well. We're very much looking forward to meeting and working with OMAFRA, but that has not happened yet.

Another opportunity in terms of helping to build this industry, and that's where this whole opportunity in terms of getting different ministries involved in the development of this industry comes at hand: to date Ontario has not accepted the Canadian Council of Ministers of the Environment's product quality guidelines. This is putting on severe restrictions in terms of developing markets for compost. Right now, it's a 1991 regulation that our facilities are working on. OMAFRA can help us move forward to get CCME guidelines accepted in Ontario. We certainly have the will and the composting facilities to help make that happen.

The other opportunity is over the last year, through the support of the Waste Diversion Organization, which you will be familiar with because of Bill 90, we've had the opportunity to start to scope out end markets. Today and for the next couple of days we're actually at Canada's Outdoor Farm Show, where we're trying to develop relationships with different agricultural communities. It's really essential for us to build the long-term sustainability of our industry in terms of developing end markets. That's where OMAFRA's experience, along with your counterparts across the country, can help us build this industry, for us to have a value-added manufacturing operation.

In terms of summary, we are supportive of OMAFRA. It's been a long time coming. We're looking forward to dating. We're looking forward to working together. We see there's an opportunity for us to work hand in hand with the Ministry of the Environment, OMAFRA, as well as other ministries which can help us build markets for compost. It's important for you to realize that there are a very large number of public and private composting facilities out there that have yet to be consulted on this vision. It's important for us to have a place, a home, in OMAFRA.

**The Acting Chair:** That would appear to leave two minutes and forty seconds per caucus. We'll start with Mr Peters.

**Mr Peters:** Any of you, and I guess I throw this open to anybody around today, if you're driving around St Thomas and you see big green boxes outside, this is all part of St Thomas's composting program which we initiated in 1994 for home composting. The city has been able to reduce by about 50% what it's putting into a landfill. It's been a great program and I'd hate to see it removed in any way. If you want to see a centralized composting facility, stop on Wellington Road just before you get to the 401 and go have a tour of Mr McCaig's Green Lane Environmental facility.

One of the issues, and I think it's important that you raise it, too, is that we need to not have government ministries working in silos, so to speak, and have one ministry understanding what the other is doing, which doesn't always happen. We need to see that happen. What things could you do? One of the issues that we're going to have to grapple with is the whole question of septage. Do we send it to a waste water treatment plant? Could septage be composted? Is that a way to deal with it? Biosolids are another example.

Another question is some of the leaves and that which are required, some of the MOE restrictions about hauling leaves to a site, then it could be designated as a landfill. Could you maybe outline some of the issues that need to be addressed?

**Ms Antler:** There are huge opportunities for us to be much more marketers of compost than we are right now. The whole industry has been focused on waste diversion, not in terms of value-added marketing and manufacturing. So the opportunity is to take a look at different feedstocks, and certainly anything that's organic can be composted. The key when you develop a composting facility or a vision is to understand what you're going to do with the end product before you start making it.

Where we need some help is in terms of defining different product categories for compost. Right now in Ontario, because Ontario is behind the times on not accepting CCME guidelines, there is one category for compost. If you fail to meet that category, you're considered a waste. So the first step that our political friends can do is accept CCME guidelines, because that will build up the opportunity for us to have different types of materials composted and used for different means.

The second step is to make sure we have the experts. We have Dr Calvin Chong and we have other folks who have been friends to the council and are members, but we do not have a strong presence within OMAFRA to help us define the vision in terms of products.

**The Acting Chair:** On that note, we're going to have to turn to Ms Churley.

**Ms Churley:** Thank you for your presentation and for the good work that you're doing. You're certainly far ahead of many other jurisdictions, including mine.

I wanted to ask you to elaborate a bit more on your concerns. This, of course, is broad-based legislation. Regulations are going to have a much bigger impact;

that's where the meat's going to be. What are your concerns with how it might impact on you?

**Ms Antler:** A couple of things. First of all, because we haven't talked with anyone for two years, we don't know the whole vision. We just found out through the back door that Bill 81 was coming out, and we saw that the definition of "nutrients" was in there, and all of a sudden it implicated an industry that had 500,000 tonnes it would process in a year.

The other opportunity is that we have both private and public, so private would be like Green Lane or TRY Recycling and public would be like the city of Guelph. We have composting facilities that have rules to operate under through the Ministry of the Environment. We certainly respect the needs of farmers, but we also want to make sure that the rules are on a level playing field in terms of management of the waste, in terms of management of the end products, so that it's fair to all.

**Ms Churley:** I think you're right. I never thought of this; I don't know about the rest of the committee. We should make sure that you're included in the consultations around regulations.

**The Acting Chair:** No further question from you, Ms Churley?

**Ms Churley:** No.

**Mr Galt:** It's good to see you again, Ms Antler. Thanks for the presentation and to the rest of you for being here. As relates to the consultation, that goes back to January of a year and a half ago. The issue then really was manure nutrients, and we were just looking at that point in time. It has kind of grown. Certainly your point on consultation is well taken, and as we develop guidelines and regulations, we'll be in touch, I'm sure.

Product categories: again, an interesting comment. I will relay that back to the Minister of the Environment.

The question I have for you has to do with pathogens and handling your compost. I know that a certain number of them are destroyed. Do you have up-to-date information if we use, say, cattle manure? We had this problem with E coli 0157. Would it be destroyed? Would cryptosporidium be destroyed, and so on, campylobacter, grdF?

**Ms Antler:** My understanding is that the composting process, because of the high temperature, does a fantastic job. We certainly can provide you with more information in terms of those who are working on it. We have composting facilities which are members of the council and are focused completely on manure management. We have facilities that are being built up in the high-intensive livestock operations in Alberta, where they're going in and not even charging for the management, but they are getting their revenue through the sale of the product, so they're addressing the pathogens through the composting process. But in terms of the technical information, I'd be pleased to get that to you.

If I could ask just one more thing: when you're going through Bill 90, if I could ask you to give severe and positive consideration to having the composting council as an observer status in the Waste Diversion Ontario

focus. Right now, the champions of organics are severely underrepresented in Bill 90. We, as the composting industry which represents about 40% of the materials going to landfill, are not given observer status. So if there is an opportunity you can provide us to get that, I would appreciate it.

**Mr Galt:** If I might, just for a half-second, one of the other presenters in Toronto expressed concern about carbon source and moving carbon to the composting centres to deal with manure. Any comment?

**Mr Vandersluis:** Carbon source being leaves and wood, which are also organic matter. Transportation would then become an issue if you needed 3,000 tonnes of leaves to do a high-intensity composting operation. Obviously no farmer is going to generate that sort of carbon. That means there's a transportation issue and there's going to be a cost issue then. I don't know who would handle that, whether it would be the farmer.

**Mr Galt:** Can all leaves be used?

**Mr Vandersluis:** Yes.

**Mr Galt:** Is there any limitation on toxicity from certain leaves?

**Mr Vandersluis:** No. TRY Recycling has been doing the city of London leaf program now; this is their fourth season. We've been producing compost through our process for those four years, and we have had no issues with any of the MOE guidelines or any product quality issues either.

**The Acting Chair:** On that note, I'd like to thank you all very much for your presentation.

That appears to complete the business of the committee for this morning, so unless there's any other business, I propose to adjourn the committee. The committee is adjourned until 1 o'clock this afternoon.

*The committee recessed from 1151 to 1303.*

**The Chair (Mr Toby Barrett):** Good afternoon, everyone. Welcome to this regular meeting of the standing committee on justice and social policy. We have an agenda before us dealing with Bill 81, the Nutrient Management Act.

I would mention as well, and I think I speak for all of us, that our thoughts are certainly with the victims in what's going on in the United States as of this morning.

#### MURRAY DELOUW

**The Chair:** Referring to our agenda, I wish to call forward the first deputation, Murray Delouw. We have 10 minutes for individuals. Please proceed.

**Mr Murray Delouw:** My name is Murray Delouw. My wife, Anita, and I have four children and we reside in Oxford county. We've run a family egg farm for the past 20 years. I appreciate the opportunity to speak to you here today on Bill 81.

Everyone around here can tell you how important this issue really is, not just in towns like St Thomas but among all local communities in Elgin, Oxford and Norfolk counties. In fact, Oxford county, as you heard this morning, has led the province in nutrient manage-

ment planning, as it was one of the first counties to pass a nutrient bylaw. So it's fair to say that people around here have a strong desire to protect our environment.

My reason for being here today is simple. As a family farmer, I have a vested interest in balancing agricultural production and environmental preservation. By doing so, and only by doing so, can my children inherit our farm. That's why my farm and many others around here have programs in place to handle manure responsibly and in a way that minimizes any environmental impact.

As a member of the Ontario Egg Producers, I'm also required to adhere to stringent food safety and quality programs that include regular on-farm inspections to monitor farming standards.

I don't want you to think that everything that needs to be done is being done. In fact, I recognize the need for all farmers to conform to province-wide practices. Having said that, any new law must be based on reasonable and achievable goals. In my opinion, that means any new legislation must be free from any overbearing costs on farmers. Take, for example, new capital investments required to implement new province-wide practices. The government will have to help our family farms in terms of capital investments. Otherwise, the new legislation will slap an additional burden onto our backs even though we already have stringent environmental practices already in place.

The government already issues tax credits to big industry for reducing air pollutants. It also provides money to municipalities for improving their sewage systems. Providing financial support to farmers would be a consistent strategy for the government.

Another point: some people suggest that a minimum amount of land may have to be owned by each farmer, based on the number of livestock. I can tell you firsthand that such a requirement would result in considerable inefficiencies in my farming operations, as I would have to purchase increased acreage to conform to the formula. I also don't think purchasing more land will address the environmental concerns at hand. Therefore, minimum acreage regulations are not required to protect our natural resources.

One final note: I consider my success has more to do with the number of family members around my kitchen table than the number of eggs I produce on the farm. I want to make sure there's a seat at the table for my children and, someday down the road, my grandchildren.

For sure, we need this new legislation, but it needs to be based on a balanced approach, with reasonable and attainable goals.

I want to thank you again for this opportunity and hope that my contributions will help in this important piece of legislation.

**The Chair:** We have about two minutes for each party, and I'll begin with the Liberal Party.

**Mr Peters:** Welcome back to Elgin county, Murray. It's like coming home for you.

I wonder if you could expand a little bit about the point on the minimum acreage. You talk about your own

farming operations, that you would have to increase your acreage to conform to the formula. What would you have to do specifically on your farm, the way it is right now? If this legislation were in place right now, how much land would you have to buy to conform?

**Mr Delouw:** I'd have to buy approximately another 80-plus acres to conform to the regulations, and that in itself is simply averted with nutrient management planning. We have designated times and places for the manure to be spread onto the fields and adjoining fields. All of my manure does not go on our property. It conforms with the soil-sampling tests that we do on the property, and we don't want to exceed that. It takes too many years to decrease the ramifications of putting too much manure on property for the phosphates and that. We don't want to get into that situation, so we have the manure going where it should be going—soil sampling.

**The Chair:** I will now go to the NDP.

**Ms Churley:** Thank you very much for your presentation. I just wanted to tell you that I agree with you that there needs to be some financial support, particularly for the smaller-based farms, as we move forward with this and the legislation is in place. I take your point, and I think we all do, that big industry does get various tax credits and help in terms of reducing their pollution.

I wanted to ask you, and there's not a lot of time now, but you say that you have a very good environmental practice in place. Can you describe a little bit what you do on your farm?

1310

**Mr Delouw:** When I refer to the food and safety quality programs, it has a lot to do with HACCP, which is your hazard analysis critical control points program that farmers have in place. It's not directly related to the manure, but we have plans, projects in place that have nutrient management planning becoming the focus point of the Ontario Egg Producers. It's being implemented as we speak. Like I say, in my own property, I would be satisfied with the environmental practices that are taking place, because they're perfectly logical, and the reasoning behind nutrient management planning is not to over-apply.

**Ms Churley:** Do I still have a minute?

**The Chair:** Yes, continue, Ms Churley.

**Ms Churley:** If there are any problems with the egg-producing farm industry, what would they be, their complaints about it? What are the kinds of things that we need to look at doing for that community that would make a difference?

**Mr Delouw:** Overall, province-wide, farmers having the same standards to meet and not having, more or less, a set of bylaws in Oxford county that differed from different counties that have instituted the nutrient management plans; just to have all farmers conform to the same regulations.

**The Chair:** We'll go to the PCs.

**Mr Galt:** Thank you, Mr Delouw. I'm concerned about your comments about acreage that you have to own. I may have missed it, but I'm not aware of it in the

present bill. But you may be referring to what's presently in Oxford, how much more land you'd have to buy.

**Mr Delouw:** No, Oxford county in itself doesn't have that stipulation in their nutrient management plan. It's not the amount of livestock that you're producing on the farm but it's how to handle the nutrients that are by-products of the livestock on the farm. As long as that's handled properly, that would fit in Oxford county's nutrient management plan.

**Mr Galt:** The intent, as I understand it, where we're going here, is that lands that are registered will not get manure from two or three different sources.

**Mr Delouw:** Absolutely.

**Mr Galt:** It would be clarified. The quantity of land is not at question. The quantity of land owned is not a question as much as if it's leased for a significant period of time; that you're going to have rights to it. We don't want you building a barn and then finding out a year later that those people won't let you put your manure on their property. I know that's a big issue for poultry producers, because a lot of them are constructed on a few acres of land. So certainly that's being addressed here. If you see something in the bill that's different, I'd like to know; I must be missing it.

But what I really wanted to ask you relates to assistance. You're talking of tax credits and so forth. Is a tax credit the direction that you would suggest if government was looking at assistance? Is that the kind of direction that you would be recommending?

**Mr Delouw:** It could certainly be part, I suppose, of the help to the farmers for compliance, but it could go further than that. I suppose as long as the farmers are treated equitably and fairly in this manner, as the legislation details itself, then we would be happy with a fair and equitable structure in the cost-sharing.

**The Chair:** Thank you, Mr Delouw. We certainly appreciate hearing your views.

We have several organizations on the agenda. There may be some cancellations. Just to double-check, the tobacco marketing board? I think they have cancelled.

#### HAYTER'S TURKEY FARMS LTD

**The Chair:** There's an opportunity for Hayter's Turkey Farms. Do you wish to come forward to the witness table? If you wish to proceed, we'll give you 10 minutes.

**Mr Tom Hayter:** Thank you. I'm representing our farm. I just found out I could talk yesterday. I'm really from Huron county. I should be at the Clinton meeting, but I was unsure of the time it would be in Clinton and I had other commitments.

We're a family farm. I am a graduate of Guelph, 1981, with a bachelor of science in agriculture. I've read drafts of the Nutrient Management Act. I find them somewhat intimidating. We have 600 animal units on our farm. It's turkeys. We have dry manure. We've always had the environment as number one in our priorities. We've participated in land stewardship programs and

environmental farm plans. We've completed one nutrient management plan, and we're on our second. We are very committed to the environment.

Nutrient management plans have been a positive step toward reducing the negative environmental impacts on our farms. As long as these plans are completed and followed by all farmers, then a Nutrient Management Act is not required. Therefore, all that is required by the Nutrient Management Act is to add accountability to the nutrient management plan and ensure that every farmer, regardless of size, completes the nutrient management plan.

There are several areas of concern that must be addressed to make the act feasible and practical. My concerns are as follows:

The financial cost: if there are to be large capital outlays, then farmers must have some assistance. We all know that municipalities receive grants for sewers and sewage treatment plants, and farmers should be treated the same. Some of the programs that have helped in the past are the CURB program; we participated in that. We are currently participating in the healthy futures program, and we are updating three septic systems. Programs like that will be necessary if there are going to be some capital costs.

I also feel OMAFRA should administer the act and not the MOE. There has been talk of MOE SWAT teams. I think if there are going to be SWAT teams, they should be down in New York and not up here, because we feel there will be media going along with them, and that's not necessary. Farmers will be much more receptive to agricultural representatives than they would be to the MOE staff. The MOE would be involved as consultants and could provide enforcement only if required.

I am also concerned about eliminating any disposal options such as irrigation of manure and spreading of septage. There's no one perfect solution to the disposal of wastes. There's always compromise. We find that on our farm. We were true no-tillers until we did a nutrient management plan. Now we've had to incorporate our manure. With sandy land, sometimes that opens it up to soil erosion. If you've been following the carbon credit issues and carbon emissions and what they developed in Kyoto, Japan, we're going to incorporate our manure and now we're going to release carbon into the air. So there's always a compromise. So I hate to see us close any doors to any disposal methods.

We know that there are municipal treatment plants that have approvals that have had bypasses or discharge because they could not handle extra volumes. These facilities need backup options and so do farmers, such as irrigation and septage spreading. Irrigation of manure and septage spreading should remain an option for existing operations and a backup for new operations. So I'm not saying they're the best option, but we should always keep backups.

I feel the phase-in period should be the same for both large and small. I think by segregating large operations, we're saying that they are the problem and smaller ones

aren't a problem. I disagree with that. I think most large or expanding operations have completed nutrient management plans. They have developed technologies and are probably practising more due diligence than some of the smaller operations. I disagree with the public perception that it's the larger operations that have the negative impact. Education and certification for nutrient application should be required by both large and small operators at the same time.

**1320**

With certification, I guess I'm promoting—it's probably in the act—where we do become more educated on how we're handling our wastes. Certification we have done through pesticide use and a lot of other things we have to handle, so I would agree to that for nutrients.

In summary, I think all we need to do is the nutrient management plan and build on those and their compliance. If the Nutrient Management Act can do this, the cost of compliance cannot be overburdensome to the farmer.

In short, enforcement should be done by OMAFRA; do not reduce disposal options; and the phase-in requirements should be the same for both large and small operators. The environment is important to everybody, and the cost of maintaining it should be shared by everyone, as everyone produces waste.

**The Chair:** Thank you, Mr Hayter. We have a little over a minute for each party. Ms Churley.

**Ms Churley:** Thank you very much for your presentation. If you knew these guys as well as I do, you wouldn't be the least bit intimidated.

**Mr Hayter:** OK.

**Ms Churley:** You mentioned CURB. CURB, for the benefit of those who don't know, is Clean Up Rural Beaches. It was a small program that the NDP government brought in and this government took away. I think in this context that these kinds of programs—it was small, but I noticed you said you were involved in that—are an example of one of many things the government can do in terms of working in a co-operative way with farmers and helping to give some financial assistance to achieve those goals.

I presume you would recommend that as we go through and bring some of this into law, you would like to see experienced people working directly with the farmers with some dollars attached and in a co-operative way as opposed to a hammer. I think that's what I heard you saying. You're concerned about over—not about overregulation, but costs, which you should be concerned about, of course, but also you want to be assured that people who are coming to your farm know what they're talking about and understand the issues.

**Mr Hayter:** Sure. Decisions were made years ago to build barns and that based on the requirements of the day. If we have to backdate and upgrade requirements of the past, then I think we need to be compensated for it. If we're going to decide to build a barn with new standards, then we can make that option now. If there's going to be some grandfathering or anything of things that are in

existence, then I don't think we need help for it. But if they're going to backdate and say, "Now this has to be better," then I think we need help on the stuff like that.

**Mr Frank Klees (Oak Ridges):** Thank you for your comments. First of all, I'd like to ask you a question. You would object to different phase-in periods for small operators and large operators. Why would that be?

**Mr Hayter:** I think what you're basically saying is that we need it more than the small. I know how much money I've spent on updating our facilities. We've spent hundreds of thousands of dollars, and I've done nutrient management plans. The one we're currently on is going to cost me \$5,000. I've spent a lot of money, and I feel we're going to be penalized again.

I think in a lot of cases in the small farms it's not purposely negligent, but because they haven't been exposed to nutrient management plans, they haven't had the opportunities that a lot of larger operations have had, they just don't know. Sometimes it's their culture too. We know we have certain orders that aren't as modernized. Our farm was like that years ago too. You piled manure beside the creek; those were things we did years ago.

**Mr Klees:** On the other hand, I think part of the argument that we would be getting from some of the smaller operators is, "We don't have the technical expertise. We don't have the kind of cash flow that some of the larger operations do. You're going to put us out of business if you force us within a certain time frame to do this."

**Mr Hayter:** That's why we need help, and that's why we need education and that.

**Mr Klees:** Now, when you say "help," are you suggesting direct subsidy from the taxpayer for your business operation?

**Mr Hayter:** No. No different than public sector sewage treatment help, things like that.

**Mr Klees:** But you're a private sector operation, and there is a difference.

**Mr Hayter:** Right, but this is for a public good.

**Mr Klees:** How do we deal, then, with the other businesses in our economy that also have environmental restrictions and requirements? Would they not line up, as you would, to say, "Look, if you're going to do this for the farming community, you have to do it for us as well"? Where do we draw the line?

**Mr Hayter:** I don't know. My understanding is that there are grants that go out to companies, and we'd just like to be part of that, I guess.

**Mr Peters:** An important component, once this legislation and the regulations are in place, is going to be the advisory committees. You are from Huron county. I think Huron, along with Oxford, has been one of the leaders in trying to stay on top of this issue.

It's kind of a two-pronged question. First, have you had any complaints made against you that have had to go to an advisory committee or have you heard from anybody who has dealt with the advisory committees? Also, I'm trying to get at the makeup of the committees.

Should the advisory committees just be made up of producers and politicians, or is there a role for the rural, non-farm individual to be on these advisory committees?

**Mr Hayter:** Oh, sure. With amalgamation, we've amalgamated townships with a town, and the decisions that are made about our farm now are more than half non-rural. I guess that's the way of the world. I spend most of my winter educating urbans—not urbans, because we're not large, but non-rural people—about what we're doing and why we're doing things. So the answer to the question is, I think we need input from us all. Did I make sense?

**Interjection:** Yes.

**The Chair:** Thank you, Mr Hayter. We appreciate that input.

#### IAN MCKILLOP

**The Chair:** I have Ian McKillop listed as our next deputation. Good afternoon. We have 10 minutes, sir, if you wish to proceed.

**Mr Ian McKillop:** Thanks very much for giving me the opportunity to speak before you today. My name is Ian McKillop. My brother Alan and I are cow-calf and egg producers from the Dutton area in western Elgin county. We have about 17,000 laying hens and 100 commercial beef cows on a land base of 650 acres. Our farm has been in our family for five generations. I'm a member and director of the Elgin Cattlemen's Association. As well, I'm on the executive of the Ontario Cattlemen's Association.

First of all, I appreciate the fact that it appears the provincial government has listened to the concerns and input of agriculture through the consultation process held last summer and fall. It is crucial—and, I believe, possible—that this act and its associated regulations must balance the goal of protecting the environment while ensuring a viable future for Ontario. Agriculture is a very significant business in this province and it must remain that way.

I'm also pleased that the new standards take precedence over bylaws of similar focus that have been imposed by various municipalities across the province. The incidence of municipalities imposing restrictions of their own is becoming more and more common. New standards will put all producers in the province on a level playing field. It's also crucial, I believe, that provincial standards not include caps on the size of livestock operations.

Environmental protection has always been an important aspect of the way we maintain our land. As I said, our farm has been in the family for five generations. It's our responsibility to ensure that it's left for future generations in an even better condition than it was in when we took it over.

Farmers in the province have long been very proactive with respect to protection of the environment. Programs like environmental farm plans, nutrient management plans and best management practices are all successful in

helping producers to improve their own farming practices. On our farm, we completed an environmental farm plan in 1995 and, as a result of that program, made a number of improvements to our land. One of these improvements was eliminating the winter spreading of manure.

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We've also worked very closely in the past with Ducks Unlimited to preserve a wetland. By fencing cattle out of the wetland, we are not only preserving the wetland by allowing wildlife to flourish but are also protecting a watercourse. As part of this management system, a solar-powered water pump is used for watering the cattle. We also make use of buffer strips to protect a creek from pasture runoff.

This coming winter, one of the goals on our farm is to complete a nutrient management plan.

Implementation of the new regulations must be phased in over time. It's unreasonable from both logistical and enforcement perspectives to believe that all 60,000 Ontario farm families could have the nutrient management plan process completed in a year or even two. A timeline of five years would be appropriate and categorization should be determined by total nutrient production and use, not by livestock units. The livestock unit measurement is weighted toward odour production and must be based instead on scientific data. A clear distinction also needs to be made between livestock production systems that are confinement-based, such as poultry or swine, and those that are grazing, such as beef, cow-calf or sheep.

I think it's important that OMAFRA, with its agricultural background, be responsible for third party reviews of nutrient management plans. This review service must be available to all producers who require it, not just prior to constructing new buildings. There should also be no cost to producers for this service. I also believe that OMAFRA is the logical agency to perform the audit function of nutrient management plans, as well as enforcement of the new act.

Financial incentives are essential to the new act. Urban municipalities are eligible for provincial grants to improve water and sewage systems. Depending on the size and type of farm, many farmers may need to spend tens of thousands of dollars to meet the new standards set forth in the regulations. Without financial incentives, many farmers would be forced to quit farming or retire, thus threatening one of Ontario's most viable industries. Using the successful environmental farm plan as a delivery vehicle for funding would be appropriate and well accepted by the farming community.

Finally, fencing of livestock from watercourses, while a clearly beneficial way of protecting water resources, is not always the most practical or effective solution. Due to the effects of ice movement in the spring, permanent fencing of watercourses would incorporate many acres of floodplain—land that has been used effectively as pasture land for years. Mandatory fencing could eliminate this land from farm production or could see pasture land

being used for crop production, which could adversely affect the watercourses currently buffered by vegetative areas. Buffer strips and other measures can play an effective role in maintaining water quality.

I thank you for the opportunity to speak to you today.

**The Chair:** We have a little over a minute for each party. We now begin with the PCs.

**Mr Galt:** Thank you, Mr McKillop, for your presentation. You don't live in McKillop township up in Brant county?

**Mr McKillop:** No, I don't.

**Mr Galt:** I'm interested in your comments about winter spreading. Back on a beautiful sunny day in January, on a drive from Goderich to Guelph, I identified six people out with manure spreaders, winter spreading. Quebec has come in that from November 15 to April 15, I think it is, thou shalt not spread. What would you put in a regulation having to do with winter spreading? How would you address that?

**Mr McKillop:** I would think something along those same guidelines. Certainly every year is a little bit different. Depending on the snow cover, perhaps the regulations wouldn't have to be quite as tight, but I know in this past year, had we spread on snow cover in December and January—we had a big rain toward the end of January when the ground was still frozen—all that manure, or a good portion of it, would have ended up in Lake Erie. It's hard to go exactly by the calendar, I believe. Certainly on frozen ground, on snow cover, when there is still the risk of heavy rains—there has to be some leeway, and I don't know what that leeway would be.

**Mr Galt:** Injecting it in or whatever. These are some of the things we're confronted with, to come up with a common sense, practical, applicable—and we still have standards. I just thought I'd toss it to you to see if you had been thinking about that.

**Mr McKillop:** I imagine November, December, January and February would make the most sense. When you get into March and April, you're getting into some better weather and the runoff shouldn't be as great, with snow runoff and that sort of thing.

**Mr Galt:** And we don't get too many winter crops.

**Mr Peters:** I want to go to the fencing issue. I had occasion just this past week to go out to Iona Station and see how the Line Fences Act is not being enforced and the problems that one individual has with his neighbour who doesn't comply with the Line Fences Act and cows wandering from one farm to another. I also had it pointed out to me that there's a municipal drain running through his property which he really doesn't want there, but the drain happens to run through. The question is, who's going to have to pay for the fencing? Is it him, because he's got this drain coming through, or not? It was interesting to me to see this farm and the farms in the Iona area and the condition of fences.

If the fencing portion of this legislation is enforced, is it going to be an expensive operation to have these fences built, for you or anybody else out there?

**Mr McKillop:** Certainly, styles of fencing have changed over the last few years. Electric fencing is a lot more common now and it's a lot cheaper than the old page wire fencing. I don't have a cost figure as to what it would cost, but certainly it's not a huge expense putting up two strands of electric fence. It's a fairly minor expense in the grand scheme of things, I guess.

I think the biggest concern is that if we fence off watercourses there's a lot of pasture land we are losing out on. We have one particular farm where we have a stream running through it. Like most streams, it really meanders. If we had to fence off the whole thing, we might as well forget about pasturing that land because it just wouldn't make sense. It would take too much time and money to fence that particular area. We'd be left with nothing.

**Ms Churley:** Thank you for your presentation. It sounds like you've really been working hard to comply with existing rules and regulations, and you came up with an environmental farm plan back in 1995. That's great; I'm happy to see that.

As you know better than I do, this is a really complex area. My question is around how to best do these things. As a result of Walkerton, there is a sense of urgency—there was before as well—for all of us to do something to avoid that happening again. We have to come up with the best kinds of regulations and laws that we can, but at the same time not destroy small farmers. I suppose my question is very simple: what would you recommend is the most important thing that needs to be done at this point?

**Mr McKillop:** I think probably the most important thing would be that there needs to be some kind of grant system in place for farmers to protect watercourses from runoff. Certainly in the beef industry there are a great many barnyards or feedlots across the province that aren't covered, and when we have a rain, that runoff ends up in the ground and in the water systems, as we saw at Walkerton. To cover these yards or to build a tank to catch this runoff would be a great deal of expense and would force a lot of people out of business if they had to pay for that themselves. I think that's the major concern, that there be a grant program in place to help producers cover some of their capital costs.

**The Chair:** Thank you, Mr McKillop, for the valuable input for this committee.

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#### MIDDLESEX FEDERATION OF AGRICULTURE

**The Chair:** I now wish to call forward the Middlesex Federation of Agriculture. Good afternoon, gentlemen. We'll ask you to give us your names for the purposes of the Hansard recording, and then we have 15 minutes to proceed.

**Mr Jim Reith:** Very good. It's Jim Reith. I'm the president of the Middlesex federation. Doug Duffin,



who's with me, is chair of the political awareness committee.

It gives us great pleasure to be here and to avail ourselves of this opportunity on a day that sees a tremendous attack on democratic institutions in the world. It's just a terrible thing that's going on out there in the news today. It just makes it very important that this kind of activity happen. It's a bit of a responsibility to try and make the most of this.

One of the tacks we would like to reinforce in your minds is the idea that while it is very necessary to regulate and ensure safety, we wish to bring forward points that would demonstrate the need to allow initiative and ingenuity and innovation to take place. With that in mind, Doug has gone through it in point form here, and if we could turn it over to him he will maybe respond.

**Mr Doug Duffin:** I believe you have the handout in front of you. We have highlighted some sections of the act which we feel need to have some notice and things that need to be made aware of as you deliberate the act when your hearings are done.

Part II, you can read through. Under 5(2)(a)(v), "standards for equipment used to transport and apply ... nutrients," I guess our concern is that there be flexibility. There are lots of different ways to skin a cat, as long as it's being done legally without any loss of nutrients, spillage, whatever; that there be flexibility there to not regulate things too tightly; that farmers have been very innovative and that this be allowed to continue.

Proceeding on to the new technologies part, and it came up a couple of times, we felt that the process to having new technology approved by regulation before it can be implemented is overkill; that as long as it met the criteria of the nutrient management plan and was environmentally friendly, then it should be allowed to proceed. A lot of times there's a time delay or lag between the invention, for lack of a better word, of a new technology and the possibility of it being approved by regulation so it can be used.

"Farmers and those operating equipment to meet qualifications and pass prescribed examinations": our thought is that this is overkill. I believe that under the pesticide course only the farm manager needs to be licensed. Currently the farm manager could then have a person under his care and control who's applying 28% nitrogen as a spray carrier for fertilizer, and in that legislation that's OK as long as the manager is aware of what's going on. We feel the same thing should be allowed for the spreading of manure, the spreading of waste, in that it's a repetitive job. It's something you can put somebody on, a sort of casual labourer, and they can go and do the job for the day and you can manage that employee the same way any other employee would be managed.

Access to the registry of nutrient management plans: I guess our question, our concern, is confidentiality and the public's access, how those will be used. It will be, obviously, some sort of public document, but what sort of

access is there to that registry? The potential is there of, we feel, abuse from the other side.

It mentions the need for geophysical studies, soil and groundwater flow: this is more a regulation thing. Again, that could be very expensive, very cumbersome for something that is obvious from soil maps—they list topography and soil type—and we don't feel there's the need to reinvent the wheel every time. That information is there, it's free and you can use it to determine what level of nutrients can be applied.

Clause (u), innovative technologies: again, as stated above, we don't want to see something that might work on the farm be regulated out of existence, for lack of a better word, because there is no regulation that allows you to do it, even though it might be scientifically feasible and work in your operation.

Part III of the legislation, "Hearing by Tribunal": part of it discusses the input to the application by parties at a hearing. Our concern is who gets standing, and will they be allowed to use that as a soapbox to pursue views that aren't necessarily promoting the better application of nutrients?

Part IV, "Inspections and orders": "a provincial officer may, without warrant or court order, enter and inspect ... any land or premises that, (a) are used by, or are part of, an agricultural operation," and it goes on, exempting the dwelling etc. Our concern with that is biosecurity. From our understanding, most of the aspects of this act deal with things that happen outside the physical barn and there is a concern. It might be something as simple as an agent or whoever having a bird at home, a parrot or whatever, and it has a rare disease and he walks into a chicken barn of some sort and carries that disease in. It is not necessarily going farm to farm. It could be something along that line. As biosecurity becomes an increasing thing, and we are doing the best to our ability to create a safe and healthy product, to have an outside influence affect that would definitely be adverse to an individual farm operation.

Subsection 31(8), the written request for review: if it goes seven days and the director doesn't make a decision, it's deemed that he has made an order confirming that. The potential exists, because "director" isn't spelled out too clearly, it could just be overlooked. Something could happen and seven days could pass and the order would, in effect, be confirmed without having had a full and fair review.

In subsections 39(1) and (3), under "penalties," we feel there needs to be more of a carrot approach than a stick approach. The potential is there, and again because the regulations haven't been drafted yet, there needs to be some thought as to the level of infraction and an education process that make farmers aware that they have to comply with everything, that they're not assessed financially for what could be a small oversight.

Part VII, "General," the establishment of the registry being privatized: we have a concern about confidentiality of information.

The review of nutrient management plans being privatized: our feeling is that the third party government review is unbiased and gives more credibility to the process, both to the farmers and to the public in general.

That section carries on: even though it's privatized, the crown accepts no responsibility. We feel there should be a stronger legal tie. This is an act of the government, and the government should be responsible even though it could potentially be administered at arm's length.

Finally, in the payment of fees, we're concerned that this act is being instituted for the public good and farmers will pay a dramatically increased cost to comply, from soil testing and manure testing to completing the plan, registering the plan, reviewing the plan. Everything is going to be a cost to farmers. They have no way of recouping that cost.

One final thought I'd like to leave you with is that nutrient management and the care of the environment are a collective responsibility. It's something that's being driven home today, especially when the world doesn't unfold as it should. Food will still be bought. Food quality is something that needs to be thought of as you deliberate this.

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It was interesting that it was actually a summary of a speech from a speaker at the Toronto Humane Society that said, partly inaccurately, because broiler chickens aren't raised in cages, that he would rather see broiler chickens raised in cages in Ontario, where it's known that the welfare is there and the manure will be handled, than to have chickens imported from Mexico, where there will be more overcrowding and potentially the manure could just be flushed down the river.

**The Chair:** Thank you, gentlemen. We have about a minute for a quick comment. We now go back to the Liberal Party.

**Mr Peters:** Doug and Jim, thanks very much for your presentation. We're hearing a lot of common themes as we've embarked in the past two and a half days.

I look at a county like Middlesex, where you've got some really diverse soil types, be it sand, or you get into North Dorchester and the water table is right there at the top of the ground with all the gravel, or north Middlesex, where the soils change, and I read your comment as far as geophysical and soil and groundwater flow. I'm not talking about an individual farm case; I'm talking in a general sense. Do you think there's a need for us to study or for somebody to initiate a study to look at the different soil types that are out there and have that lead maybe through the University of Guelph or something like that? Is there some merit in doing that?

**Mr Reith:** There's a terrific need for research on water generally. I think we make a lot of assumptions about water; a lot of us think we know. Assumptions aren't going to be good enough if we're going to be faced with regulation. If we're going to be having to develop detailed plans around this, we have to have some science for that. I think the responsibility to speak responsibly on that is more than just an individual farmer's. I think it's

beyond an individual farmer's resources to initiate that. So there does need to be province-wide research done on water and groundwater movement and all of the other influences on groundwater.

**The Chair:** We'll go on to Ms Churley.

**Ms Churley:** I'm really puzzled by something. I've heard this comment from other farmers as well in the past couple of days: the concern about confidentiality when it comes to the registry of the nutrient management plans. You said something like, "It can be abused from the other side." Can you clarify what the concern is about this being public information?

**Mr Duffin:** I guess the concern is that if this registry is a public document, you could have a person who is interested in the environment take it upon themselves to look at—and it probably would be a large operation—and access the nutrient management document. They would have registered that document and they're supposed to be applying, say, 3,000 gallons per acre of liquid pig manure on field X, and they do that, and perhaps it's near their cottage or whatever, but then they go out there and try and calculate what is being applied. To be honest, it depends on so many things that you can't from a drive-by thing—you would have to be pretty scientifically based to know what 3,000 gallons per acre looks like. I guess it is a concern that it will be used that way, that there will be individuals accessing it, trying to figure out what's being applied and coming forward to say it isn't being done correctly and having no scientific knowledge of their own.

**Ms Churley:** You're concerned that if somebody is perhaps breaking the law and that is found out, it could hurt the farmer? I'm still not quite clear. If you live right next door to somebody who is in fact not sticking to a nutrient plan that could be environmentally dangerous, don't people have the right to know?

**Mr Reith:** I think there's possibly room for interpretation, that the person next door may think it's inappropriate without adequate knowledge of the situation, and specifically have no interest in being particularly fair about it. They're just opposed to this thing being there and they are looking for any way to harass it out of existence, and that becomes part of the problem.

We've seen some instances where that has happened. Just to demonstrate, a farmer, who had a Ministry of the Environment officer standing with him, sent his employee out into the field with a tank of water, who spread it on the field, and within half an hour the officer had reports in his office of complaints of smell. They didn't wait for the smell; they just saw the tanker and assumed it would be coming. There's a bit of paranoia on both sides here that I think we're a little bit concerned about.

**The Chair:** Thanks. I'll go to Mr Beaubien.

**Mr Beaubien:** Gentlemen, thank you very much for your presentation.

I don't have a question; I have a comment. I have to be on the record because I know that Ms Churley, when

we debate this bill in the House, will be champing at the bit and taking this bill apart for a number of reasons. I'll point out one thing in your presentation under part II: 5(2)(b) and (c) say "requires farmers and those operating equipment to meet qualifications and pass prescribed examinations." The Middlesex Federation of Agriculture calls this overkill. Mr Hayter made a presentation about an hour prior to your presentation. He said, "Education and certification for nutrient application should be required by both large and small operators at the same time."

My comment is that the agricultural community should see fit to start speaking with one voice. As a member of a committee, when I see one group telling me one thing and another telling me another thing, I become very confused. Thank you.

**Mr Duffin:** If I could respond to that, we're not opposed to the farm operator being licensed—an examination or whatever. What we're saying is, in that situation what commonly occurs now is that you find somebody—perhaps a retired farmer or whoever—you can instruct on how to operate the equipment, to spread manure for a couple of days and help you out in the springtime because it's busy; you're trying to plant your crops as well as get the manure spread. Not everybody needs to have that licence; it simply cuts off that labour source. The farm manager does it; the farm operator does it. He has the licence. He knows the science behind what's required.

**Mr Beaubien:** OK, but I think we're sending the wrong message when we call it overkill.

**The Chair:** Thank you, Mr Beaubien. Mr Duffin, Mr Reith, we appreciate the Middlesex federation coming before the committee.

#### ELGIN COUNTY PORK PRODUCERS

**The Chair:** I would now ask Elgin County Pork Producers to come forward, please. Good afternoon, sir. We have 15 minutes, if you wish to proceed.

**Mr Peter Dekraker:** My name is Peter Dekraker and I'm here representing the Elgin County Pork Producers. We had a meeting about a week and a half ago and we had a member of OMAFRA—I forget the fellow's name—come out and talk to us and explain the proposed nutrient management plan and all that entailed. A good discussion followed afterwards and these were just a few of the main topics that were discussed. We felt we'd like to bring them here to this meeting. Everyone has a copy.

Caps: we feel caps need to be addressed in this legislation, and just one example is animal units. The main reason for this is so that municipalities cannot set their own limits by using caps. The proposed nutrient management plan should be enough to make sure that operations are meeting all requirements before they can build or expand. That's fairly self-explanatory. We don't want municipalities setting their own rules. We feel that all standards should be the same right across the province. Municipalities just can't do their own thing.

New technology: we feel there needs to be some flexibility in the proposed nutrient management plan to accommodate new research and technology in the handling and disposing of nutrients. If new ways are found to reduce their impact on the environment, the nutrient management plan should be able to change to accommodate this technology. Again, I think that's fairly self-explanatory. We don't want this thing poured in cement and say that's it; there's no room for improvement. There always has to be room for improvement. Ontario Pork has spent a lot of money in the past years on the environment, on research. There's a new pig. I'm sure some of you have heard about this Enviropig that they've done at the University of Guelph. There's always room for research and development, and we feel that this nutrient management plan has to always be trying to entice new research and development and not just say, "That's it. That's the way it is."

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Enforcement and training of field officers: we feel that field officers will need to be trained in the way they deal with farmers and their operations; for example, biosecurity. It is very important, especially in hog operations and most livestock operations, that biosecurity issues are addressed in a positive way so as not to jeopardize the health of the livestock operation. Also, they will be dealing with family-run farms, where all the work is done by family members. Field officers need to use discretion when exercising their powers of enforcement and inspection on farms.

Again, that's fairly self-explanatory. In the pig industry, biosecurity, as I said, is very important. We're trying to get away from a lot of medication in the feed and in the pigs so we're creating animals that are clean. We need to keep them that way. As one fellow has pointed out, we don't want field officers going from farm to farm, just walking in and flashing a badge and saying, "Here we are. We're coming in." As I said, in family operations sometimes mom and dad are gone, but the kids are home and they get a visit from this fellow who says, "Here we are. We're coming in." We're not corporations where we have people hired to deal with this, so discretion needs to be taught to these people. Whether it's a prior phone call to say we're coming in or whatever, I don't know. That'll be the job of this committee or whatever to come up with that, but it needs to be kept in mind.

Agent for applications: we believe that OMAFRA should be the only agent that has final approval of the nutrient management applications. We feel that private companies could influence the integrity of the entire program. Also, by having one agent, all documentation would be in one place and there would be consistency in the application approval process.

Finally, funding: we recommend that appropriate funding programs be put in place to help the agricultural industry implement the recommended changes that will be needed to comply with the nutrient management plan.

This funding should be new monies and not dollars reallocated from other existing programs. That's it.

**The Chair:** Fine, thank you, sir. We have about a minute and a half or two minutes for questions. I'll start with Ms Churley.

**Ms Churley:** Thank you very much for your presentation. I think all of us have received letters from across the province about what are referred to as factory farms or intensive livestock, or various terminology, complaining about them. I'm sure not just I receive those letters. In some areas, there seem to be some major disputes going on about them, as you must be more aware of than I.

Given the legislation before us, and of course a lot has to be done in terms of the regulations yet, where the real meat will be, so to speak, on this bill—I think this is a really important question; this is very divisive in communities, as you know—do you see any kind of compromise or some ability for people to come together on this? Right now people are really polarized. I'm hearing from both sides and I'm really concerned about it. But I also see from the letters that in some cases there is some real legitimate concern.

**Mr Dekraker:** The concern being about these big farms being built?

**Ms Churley:** Yes.

**Mr Dekraker:** And the neighbours around it not liking it, so they're doing the complaining, is that it?

**Ms Churley:** For a whole variety of reasons. In some cases it's cottages but in other cases it's some of the smaller farmers. It's not only about smell but sometimes it's concern about being near environmentally sensitive land, concern that, especially after this legislation goes through, if it goes the way the government wants it to, the municipality and the town will have no opportunity whatsoever to have any say. It's a big, contentious issue out there that the government really does have to grapple with.

**Mr Dekraker:** I haven't read the whole nutrient management proposal in detail, but the way it was explained to me was that to build a big barn or whatever it is, you're going to have to meet these regulations and you're going to have to be so far away from watercourses and you're going to have to have the land available to you to spread the manure. We feel that the proposed Nutrient Management Act should take care that these big barns are not going to be built beside a river or stream or wetlands, that they're not going to be built right next door to a cottage.

The reason all these complaints are there is because there was not a set of standard rules to begin with and each municipality did their own thing, where some municipalities said absolutely no more building and in other municipalities at this time you can still do whatever you want. I think that's what's leading to a lot of the problems. By bringing out a standard set of rules, it's not going to solve existing problems, but it should solve future problems.

You say farmers complain. What's the real reason? Is there jealousy involved there? You don't know until you really start digging. But we're saying yes to the proposed nutrient management plan, that there need to be rules and regulations. We just pointed out a few things we felt needed to be addressed. But we are for the same standards for everyone across the province.

**Ms Churley:** You say there may be jealousy involved, and I've heard that from some others as well. Would you say, though, that there are some legitimate concerns out there about some of those huge farms?

**Mr Dekraker:** There probably are. There are always a few bad eggs in every basket. I know personally of a couple of pork producers who are very poor stewards of the land and they have given the pork industry a bad name. Hopefully, with these new plans, either they're going to have to clean up their act or they'll be put out of business.

**The Chair:** Thanks, Ms Churley. I'll have to go to the PCs.

**Mr Galt:** I've got a couple of comments. Thank you very much for your presentation. As relates to the cap, currently the thinking is not to put a cap on, other than that there be enough land base, either owned or long-term lease, that can handle the amount of manure that's going to be created by XY animal units.

It's a thrill for me as a veterinarian to hear the concern about biosecurity as we move around the province. I've been preaching it for 40 years, and for quite a while it seemed like only the poultry producers were really paying attention. You can always put a lock on your door. But I fully agree with your concerns on biosecurity and I'm pretty well convinced—and certainly we've been preaching it—that the people who will be enforcing this will be very conscious of livestock operations. I think you're right. Most of the time, they don't have to go into the barns.

**Mr Dekraker:** And we're not going to ask them to do anything that we don't do ourselves. If they come on to my farm and I don't put on clean boots and I don't do this or that, then I can't expect them to do it. But if they're going to operations where it's shower-in, shower-out, do this, do that, they have to follow the same rules on the farm as anybody else, and not just say, "I'm the MOE," or "I'm OMAFRA. Here's my badge; I'm coming in. Get out of my way."

**Mr Galt:** If they move from farm to farm, they should consider if the last farm is grossly contaminated as far as any disease they might spread, and they should shower and change clothes and be prepared for it.

**Mr Dekraker:** It might be having a box of those disposable boots and disposable coveralls in their vehicle. I know they are maybe small details, but they could be very important details to my operation.

**Mr Galt:** Even visiting only one farm per day, if you're going inside the barn, those kinds of standby rules are, in my opinion, very, very important.

**Mr Peters:** I think funding has been in every presentation we've heard from day one. This past

Sunday, I went to an open house at a new pig barn that had just opened up very close to us here.

**Mr Dekraker:** I know the one, yes.

**Mr Peters:** The funding issue is going to be a big issue, but how would you suggest we address this? If we put a funding program in place, what are you going to say to Mr L, who just invested all this money and built this new barn? We come in with a new legislation and there is a funding program in place that helps somebody make those improvements. This family just did it all out of their own pocket. Down the road there's a funding program in place that's going to assist somebody. It may be premature to ask the question, because the commitment hasn't been made for funding, but do you have any thoughts on how you deal with that issue? Even for yourself right now, maybe you've chosen to make those environmental improvements to your farm, putting in the new technologies, and all of a sudden a funding program comes along. I don't think it's going to be retroactive.

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**Mr Dekraker:** No, it probably won't be, but then again it seems like our political guys could even take raises and make that retroactive. I mean, anything is possible.

That's a decision I have to make today. If I decide that I'm going to do this project and I hope that the government's going to give me some money back a year from now because they're going to come out, supposedly, with a program, I can't take that into consideration. If I go to my banker and say, "This is what I'm going to do." "How are you going to pay for it?" I've got to tell them how I'm going to pay for it. I can't tell them, "I think they're going to give me some money a year down the road to help pay for this."

For each individual farmer, they have to make that decision as to what they are going to do today. Are they going to wait to make improvements until some funding comes available? That's their decision. Do they go ahead and do it today and maybe, maybe not? That's again their decision to do that. How dire is the situation? If they feel it needs to be done today, fine. Does it go retroactive? Fine. But I still think that's up to each individual farmer to make that decision, and they live with it. Whether they get something for it or not down the road we don't know. It takes a much wiser person than I to say, "Are we going to give grants, are we going to give interest-free loans?" I don't know. That's something the committee, the government and everyone else will have to look at.

But it needs to be fair. Like the one fellow said, you can't just start all of a sudden placing huge burdens on us. Everyone knows, or should know, that farming is not a really profitable business at times. There can be pretty thin margins, and at times a lot less than thin. That all has to be taken into consideration. I understand that we made the decision to go into farming ourselves, nobody said we had to do it, but there needs to be a phase-in time and there does need to be help. If they're legislating these things in, there needs to be some help there. I would

rather see more money spent, instead of setting up a whole new bureaucracy and hiring people and vehicles and tons of paperwork that's going to be done, on education and helping people make the adjustments on their farms to meet the nutrient management plans. Let's not kid ourselves; this is going to cost hundreds of millions of dollars over time to implement and manage: vehicles, gas, paperwork. It's going to cost a lot of money. Why not put that proposed money into educating. Look at no-till farming. Nobody did it years ago, but through education, by showing people that it does pay off, it has now become standard practice.

**The Chair:** I wish to thank you, sir. We appreciate this input from Elgin County Pork Producers.

#### LONG POINT REGION CONSERVATION AUTHORITY

**The Chair:** I would like to call forward Long Point Region Conservation Authority. Jim, have a chair. We have 15 minutes. I will ask you to give us your name for the purposes of Hansard. Proceed.

**Mr Jim Oliver:** My name is Jim Oliver, Mr Chairman. Thank you for the opportunity to speak. I'm sure you have had other people who have said this to you already today. It's difficult to sit here and speak to you, and it's probably difficult for you to sit there and listen to presenters, in light of what's happened today in the United States. It completely overshadows anything that we can think about today.

On a positive note, though, I was glad this morning to be over in Oxford county where there was an announcement of a tri-county clean water project under the healthy futures program and talking about funding and assistance to farmers and other rural landowners. That's a program that is working. If it were to continue, that would be great. Others, hopefully, will follow it.

**The Chair:** I appreciate your mentioning that. That was the reason I was absent this morning; I was attending that event.

**Mr Oliver:** Mr Chairman and members of the committee, the Long Point Region Conservation Authority is a mid-sized authority encompassing several watersheds draining to Lake Erie's central basin on the north shore. Big Otter Creek and Big Creek are the two major watersheds or drainage basins within our authority, along with the smaller Lynn River-Black Creek system, Nanticoke Creek and several others to the east. While Big Creek, Young's Creek and others in the central part of our regional watershed are classified as significant coldwater streams with important salmonid fisheries, Big Otter Creek has the dubious distinction of being the largest source of sediment entering Lake Erie from the Ontario side. Our watershed is largely divided between deep, incised valleys and streams within the Norfolk sand plain and flat, warm, shallow streams in the east end of our watershed within the Haldimand clay plain soil areas of southwestern Ontario. While these two watershed areas are distinct from each other, both can be susceptible

to impacts from livestock operations if located improperly or not managed effectively.

We are one of the 38 conservation authorities within the Conservation Ontario network and support the comments and recommendations put forward to you this morning, we understand, by our Conservation Ontario colleagues on our behalf. We expect that your review committee has heard and will hear from a number of individual CAs at these meetings speaking in support of our collective voice and wishing to address local concerns as well.

Our authority strongly supports the notion that the Nutrient Management Act, or "the act," as I'll call it, should include wording to recognize that existing and proposed livestock operations are within watersheds or subwatersheds, and thus that proposed impacts from such operations be realized not only adjacent to the operation but also potentially downstream for considerable distances or even beneath the site of the operation.

Waterborne contaminants can travel downstream for considerable distances if they reach a surface water stream, drain, either private or municipal, or watercourse. They can travel down through the soil to the underground aquifer if soil conditions are of a certain type or if existing well casings or wellheads are inadequately maintained or damaged. Such circumstances can allow nutrients or bacteria from manure or other sources to enter the surface water or groundwater of a watershed, and this issue should be addressed in the wording of the act.

With respect to the review and approval of nutrient management plans, we note from the act that initially MOE would review and approve same for large operations, while OMAFRA would do so for mid-sized operations. The act should somehow ensure that there is coordination between and signoff by both ministries for both classes of operations. Information on groundwater resources, nearby wells, water quality etc is within the realm of the Ministry of the Environment and is relevant to even mid-sized livestock operation nutrient management plans, as well as those defined as small; in other words, not only to the large operations.

I would acknowledge the recent initiative by the Ministry of the Environment, by the way, to encourage the assessment of groundwater resources by municipalities and conservation authorities and others in parts of the province where this hasn't been done yet. I think that's an excellent initiative, and I hope a lot of municipalities are going to take advantage of the funding that's been made available to do these. The act should ensure, nonetheless, that input is shared and consultation takes place between these two ministries in particular in completing the review and approval of nutrient management plans.

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With respect to the act's relationship to other legislation, particularly the Environmental Protection Act and the Farming and Food Production Protection Act, we recently had an opportunity to review the decision of the

Ontario Superior Court of Justice, between Burns and the township of Perth South, regarding the issuance of building permits for the construction of hog barns. I did bring one copy of this decision, Mr Chairman, that I can leave with your clerk. We would suggest that the province ensure that the proposed legislation, or the act, does in fact recognize the ultimate authority of the Environmental Protection Act in matters relating to pollution and contamination or the likely potential for same of the natural environment.

We support the opportunity for local delegation of certain components of delivery for the legislation, where appropriate and where requested locally, presumably by municipalities, and we support the requirement for uniform municipal standards. We are prepared to work with our watershed municipalities where and when requested to assist with addressing issues of water impacts from livestock operations, biosolids applications etc.

On a related note, while the act will establish minimum distance separation requirements for land application of manure and buildings to protect land and water, it would be very helpful if somehow standards or requirements could also be provided to deal with unrestricted access to streams and rivers by livestock animals. This can have a significant negative impact on water quality downstream, not only from livestock manure entering the water directly but from the erosion of stream banks, with resultant sedimentation of the watercourse.

In summary, we welcome the proposed act, as it will assist the province, municipalities and farm groups in ensuring the protection of the surface and groundwater resources of Ontario's watersheds while also ensuring that livestock production can continue as a valued part of the rural community. We are anxious to continue to do our part, and any new role we are asked to play in helping deal with this problem. Thank you.

**The Chair:** Thank you, Mr Oliver. We'll begin with the PCs. We have two minutes for each party for any comments or questions.

**Mr Klees:** Thank you very much for your presentation. A number of presenters have raised the issue of the cost involved in implementation of some of these recommendations. What is your view of, first of all, what the arrangements could or should be around the capital costs that would be involved in a program like this, and what role the conservation authorities might play in implementation?

**Mr Oliver:** I think historically and traditionally in the last few years in Ontario we have had programs sponsored by the province where capital improvements to farms such as manure storage, restricting cattle access etc have been funded to varying degrees, depending on the location and the type of project, cost-shared between the province and the farmer.

The classic example, and I think you've probably heard about this already in your discussions, is under the CURB program from the early to the mid-1990s. That

program seemed to work fairly well—very well in some cases. We had it implemented in parts of our watershed. I think, generally speaking, we would support that kind of incentive. If a farmer, under a new nutrient management plan, is going to establish capital structures on his or her operation to address handling the nutrients, we support the fact that there should be some incentive, financial as well as moral, to him.

As far as the role of the authorities, I think our expertise over many years has been implementing projects on the ground; in other words, in the local communities and with individual landowners. We've done it with CURB, we're doing it with the healthy futures program, and we've done it with others. I guess if that's a role we can play, then it has worked in the past.

**Mr Klees:** Just a quick follow-up. Do you see potentially a role for the conservation authorities in the area of compliance?

**Mr Oliver:** I think that will depend. I would suggest that if there are situations where the municipalities have requested to have responsibility delegated to them and they in turn partner with their CA, for example, to do it—just like has been done with health permits for septic systems and so on—again, I think it can work. If it's something we're collectively asked to take on, we would attempt to do it.

**Mr Peters:** I want to follow up on some of the comments Mr Klees made. We've heard there's been a difference of opinion as far as enforcement, MOE or OMAFRA. We've heard at different times the need for research and understanding groundwater. To me, when I look at the conservation authority, I see you as somebody who has that relationship with MOE, with MNR, with OMAFRA, with the municipalities, with landowners, dealing with the federal government because there could be fish in the ditch and dealing with the DFO, or the water running into Lake Erie, which suddenly becomes a federal matter. When you look at everything, you see a lot of it comes back, plus you represent a watershed and not a municipal boundary.

To follow along with what Mr Klees was just questioning you on, and recognizing too that we've lost programs like CURB and we've seen budgets drastically cut to conservation authorities, is there a greater role that the conservation authorities could play in delivering this program? Because you've built those relationships, does the capability exist for the conservation authorities to really take the lead in delivery of this legislation?

**Mr Oliver:** I guess two quick points. First of all, we've got that 55 years' worth of history, of the relationship between the senior governments and the local municipal governments and the relationship between governments and landowners. That's been the strength of the authority movement for all those years. And you're quite right: probably every person, be they landowner, environmentalist, bureaucrat or technocrat, can understand the concept of that watershed. Water flows downstream. What you do up here affects down

here. Those are the two big strengths of conservation authorities and always have been.

I would suggest, just as one manager for one authority, that where we're directed by our partners, be they the province or the municipalities or both, and where we are given the opportunity to develop the expertise, if we don't already have it, in terms of an expanded role in compliance or whatever it is, I'm absolutely convinced that the conservation authorities can do it. If you asked us to do it tomorrow, probably many couldn't because we don't yet have the skill sets or the staff capability to do that. Some do. All of us, I believe, can do it if we're directed by our partners to do so and if we have the opportunity to increase our expertise.

**The Chair:** I'll go now to Ms Churley.

**Ms Churley:** And, of course, following up on that, if you had the resources put back in the conservation authorities. I know across Ontario some lands had to be sold off because the cuts have been so deep.

This is going to be an expensive enterprise if you want to do it right. Farmers are making the case, and I accept that, that if it's done right, it's going to be costly. There are going to be costs involved in inspections and compliance. All of those things are going to have to be done. Studies are going to have to be done. I guess what I'm getting at is that—I'm trying to be nice here—

**Mr Bert Johnson (Perth-Middlesex):** So unlike you.

**Mr Beaubien:** It's got to be tough.

**Ms Churley:** It's very tough. If we're under fiscal restraints, I am concerned that if the funds aren't there to enforce this, the kinds of things that need to be done won't really get done. I'm just trying to ask you if you can see a way in working with the farmers, supposing it is you, that this work can be done and we can protect our waters, but without huge costs. It's a big question, I know, but I think it's an important one that has to be grappled with because we're realizing more and more that this is going to be a costly enterprise. Keeping the environment clean costs money.

**Mr Oliver:** I suppose in the simplest form there is the fact that any kind of funding program or financial assistance program would be a cost-shared thing between the farmer and the province. The farmer isn't going to waste his money, and if he's not going to waste his, he's not going to be wasting the province's either. So yes, it probably would be costly in many cases to implement it, but I think you have to have faith in the landowner that fiscally, if he's got his own money being invested in it as well, he'll probably try to do it in the most cost-effective way that he can, both for his benefit and for the province's if the province is going to help him financially.

**The Chair:** Thank you, Mr Oliver. We appreciate that presentation.

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## BARRY SMITH

**The Chair:** I wish to now call forward Barry Smith. Good afternoon, sir. We have 10 minutes for your presentation.

**Mr Barry Smith:** Good afternoon and thank you for this opportunity to present some of my concerns on this proposed bill, referred to as the Nutrient Management Act, 2001.

I'm a third-generation farmer residing in Oxford county, a former dairy farmer and Holstein breeder. I currently crop 330 acres and have a small beef cow-calf operation, with an additional 25 acres of woods.

I am also very involved in my community. Currently, I am the president of the Norwich Township Chamber of Commerce, president-elect of the Oxford County Federation of Agriculture, and vice-president of the Norwich-Otterville Lions Club. As well, I have been president of the Soil and Crop Improvement Association in Oxford, a director of a mutual insurance company, and a municipal councillor for two terms. From this varied commitment to my community and the future of sustainable, economically productive agriculture, I present some of my concerns.

First, I will offer a brief historical perspective on the livestock industry as I have known it. According to the 75th anniversary edition of the Ontario Milk Producer, we have only 50% of the dairy cows in Ontario in 2001 that we had 75 years ago, and yet we produce as much milk. In the beef industry, the story is similar. According to Graeme Hedley, the general manager of the Ontario Cattlemen's Association, as of June 1981 we slaughtered over 2 million head of beef cattle in Ontario; this year, for the 12 months ending July 2001, we had only slaughtered a little over a million and a half head of cattle, a 25% reduction in total. As well, in 1980 we were finishing some 500,000 head of feeders, which were trucked from western Canada, and now we are only bringing 125,000 head of feeders from the west to finish, a 75% reduction. Seventy-five years ago, cattle acquired most of their water from the streams. As the numbers have declined, there has been a loss of farmers as well as a reduction in the potential for pollution. I simply ask, where is the problem? Is Bill 81 going to solve a real or a perceived problem, based on numbers?

While studying Bill 81, there appear to be some good aspects and some which need further review from a practical point of view. It is almost impossible to be specific without the regulations being in place, but I will try to articulate some of my concerns.

The open municipal drain—and I have to say that I'm just following Jim Oliver—the beginning of the big creek which starts just north of my property, has been polluted by what appears to be liquid manure for four of the last five years. I am concerned. We have called Ministry of the Environment officials each time we observed a spill. Each time, the occurrence happened on a Friday

afternoon preceding a holiday weekend. The spill was complete before an inspector could arrive from London or Cambridge to take a sample. It seems very strange that I can take a water sample for myself and have it tested, yet I cannot take a sample from a stream and have any credibility. If spills are going to be addressed in a timely manner, the resulting bureaucracy will have to be large and very expensive.

While recognizing the need for provincial officers to enter a property in a timely manner to acquire evidence, biosecurity measures must be a priority. We have recently watched the decimation of the livestock industry in Europe as hoof-and-mouth disease moved unchecked until biosecurity was enhanced. Biosecurity is a major issue that must be addressed, and I would hope that provincial officers would be knowledgeable and respect the "No Admission" signs. Biosecurity must be enshrined in the legislation.

Under the proposed legislation, I question why anyone would ever appeal an order of a provincial officer, since the appeal process allows the director to do nothing for seven days, and that will confirm the order of the provincial officer. Obviously, this process must be addressed so that all appeals are validated within the allotted time frame.

From a practical perspective, it appears that this government believes that all farmers lack knowledge and therefore they must teach us and have us pass courses in order to get paper qualifications. Is there anyone on this committee who understands the complexities of today's farming operations and the variables that can occur during the planting and growing season? I encourage you to please come to our farms so that you may understand the practical complexities.

The provincial officers must have a working knowledge of current farm practices so they may fairly enforce the regulations of Bill 81. Humidity and temperature can change the way chemical fertilizers flow from a perfectly adjusted piece of equipment. I would hope that when salt—a poison, according to our pesticide grower course instructor—is applied to roadways, the government could guarantee the same standards are applied.

Farmers are good stewards of the land. We understand that if we choose to pollute our land, it could be our well that is the first well to be polluted. Having said this, we recognize that there are individuals who are not good stewards of the land and we want those individuals prosecuted, but why add this paper burden and additional bureaucracy to all farmers in order to prosecute a few? My own well is 28 feet deep and cattle have been stabled within 20 feet of this well for over 100 years, and yet our well, when tested in March, was 0 for coliform and 0 for E coli bacteria. I have difficulty understanding: where is the problem?

Paper qualification and paper trails seem to be the central issue of Bill 81. I personally have a fertility record that goes back to 1970, based on soil test recommendations showing the amount of fertilizer



applied, date planted, chemicals applied, date harvested and yield. Is this the type of information desired? Please keep the type of information required at a minimum and practical in order that a high percentage of nutrient users will co-operate. Cash crop farmers as a group do not pollute groundwater. Anyone who believes they do should price fertilizer along with other crop inputs. Check the current market prices; you can't today because the markets are closed. Allow for a return on investment and owner's time to realize that we reduce our inputs whenever we can. We all plan for an average growing year, but sometimes nature can change the best plans. Cash crop farmers are the least of this province's worries.

If agricultural users of nutrients are required to be licensed, then all users of nutrients should be licensed under this bill. Large international companies bring nutrients into this province for packaging and retailing. Where is this paper trail to the end user under Bill 81? All plants which grow use nutrients and will decay into nutrients—nitrogen, phosphorus and potash. Therefore, all residents who grow gardens or lawns or use nutrients should be covered. Big-box stores, small stores and lawn and garden centres sell nutrients, from chemical fertilizer to moo poo, and should be licensed if farmers have to be licensed, and have to provide a paper trail. How much dried sludge from cities is brought into this province from outside our boundaries to be mixed and processed for the retail market?

If society is really concerned, then government must ensure that all society walks the talk with their practices and their pocketbooks. Do not just target the farmers, because they are only 2% of the population. A weighty piece of legislation may have a short-term feel-good effect, but what we need is a change of mindset. Good stewardship is everyone's responsibility.

Under section 6(c), "location and operation of feed lots and other places where farm animals are kept outside," will this restrict the cow-calf operators who feed their animals outside all winter from carrying on their normal farm practice? Other cow-calf operators keep their cattle inside in barns and yet they may be limited or prohibited from spreading manure during certain months. Manure is manure whether it is distributed from a spreader or directly from the back end of a cow or any other animal. The rules must be the same for the whole industry.

Section 6(d), "restricting the access of farm animals to water and watercourses": I recently visited a cow-calf operation that has a stream running through the middle of the farm where the cows have pastured for many years. The stream was checked for fish species two years ago by the Ministry of Natural Resources. Their results were very interesting. They found 14 species of fish, including brown trout, a species that will not survive in polluted water. In a distance of about two thirds of a mile, the cattle used four places where they crossed. If that farmer had to fence that stream, I would estimate he would lose one third of his pasture land, and that lost land would make that operation unprofitable. Do you really want to

force people out of business? Without government assistance to build and maintain fences, we will lose many responsible operations.

While I am on the subject of watercourses, I would like to tell this committee that setbacks from watercourses would have a negative effect on my business, since I own land on both sides of an open municipal drain for a distance of 2,660 feet. If a setback of 10 feet were required, I would lose 1.2 acres of land from production. Some of this land I recently purchased for \$4,000 per acre. Compensation for lost production must be included in Bill 81.

In summary, I would again like to thank the committee for this opportunity. We must be diligent in stopping pollution from any source, but let's not throw the baby out with the bathwater. As a father of two daughters who have moved outside of our province to find employment, I do not want to see the next generation of farmers move outside of Ontario because of restrictive legislation. If this bill is for the benefit of society, then society, through their government, must assume the cost of capital projects. Please do not create a bureaucracy that could very easily become unmanageable.

Under section 5, dealing with delegation of powers, this power must not be moved outside of the government, because of the confidentiality of the information which must be provided.

As part of society, I encourage this committee to ensure that the government brings forth a bill that is sensible, practical and workable, a bill that is a carrot, not a stick.

**The Acting Chair (Mr Marcel Beaubien):** I'll give each caucus 30 to 45 seconds for a quick question. Ms Churley, I'll start with you.

**Ms Churley:** That's not enough time for my question, believe me.

**The Acting Chair:** I know, but it's either that or nothing.

**Mr Smith:** Ten minutes wasn't enough time for my presentation either.

**Ms Churley:** So I'll just thank you for hearing it from your perspective. It's interesting to me to be hearing not just from organizations, but from individual farmers and their perspective and the impact it would have on them. So thank you. That's all the time I've got.

**The Acting Chair:** The government side?

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**Mr Galt:** Thank you for your presentation. I knew a Lion had to be coming forward with a good presentation.

In your second paragraph you are talking about reduction of cattle and the potential for contamination etc. I've often reflected, maybe not with those figures but in a similar vein, on the small farm. The big concern currently seems to be the potential of the very large ones. That's probably what got this whole thing rolling two years ago. We hope to be as practical as we possibly can. We look at the Pesticides Act, the reduction of pesticides, applications and certification, and that seems to have had a good buy-in from the farm population. We'll probably

be looking at a lot of the application to nutrients, not in exactly the same way but as it relates to nutrients.

**The Acting Chair:** Thank you very much, Dr Galt.

**Ms Churley:** I'd ask for more time after that.

**Mr Peters:** You've got an issue going on in your own backyard right now about a farm expansion.

**Mr Smith:** Yes.

**Mr Peters:** If this legislation were in place today, would we have what's going on in Otterville right now?

**Mr Smith:** Oxford county has the requirements in place. He superseded all of those requirements and still the uproar continues, Steve, and I really don't understand it. I would hope that the provincial legislation would stop it, but I also know that I heard earlier from one of the questions that people around that don't want to have anything to do with it, based on Walkerton. They don't base it on facts. I think the government had enough people sitting in Walkerton to understand what really happened there. A lot of things happened. It wasn't just agricultural nutrients. People are petrified. I was at the site, and the well there is 142 feet deep. It goes through clay.

One of the things I want to bring out, as a councillor in Norwich township, is that the clean water agency ran our sewage lagoon and decided, in their wisdom, to utilize an intermittent sand filter to filter the sewage that comes from the lagoon. It made good sense to me. Sand is sharp and it cleans it out, and it's irrigated over the land. It drains right down into that shallow aquifer. When we talk about sand, we'd better remember that this government has already made a commitment that sand is utilized by OCWA.

**The Acting Chair:** On behalf of the committee, thank you very much for your presentation this afternoon.

#### VALERIE M'GARRY

**The Acting Chair:** Our next presentation is from Valerie M'Garry law office. I would ask the presenter to come forward and state your name for the record. On behalf of the committee, welcome.

**Ms Valerie M'Garry:** I apologize I'm late.

**The Acting Chair:** We're running late, so you're on time.

**Ms M'Garry:** The police have blocked off the road I usually take here and I got lost in St Thomas.

**Ms Churley:** Why did they close off the road? Is there something you know that we don't know?

**Ms M'Garry:** No, but I work in a high-rise tower and, I'll tell you, half the building was empty this morning.

Since my time is short, I will commence, if I may. My name is Valerie M'Garry. I am in private practice currently in the city of London. I've been practising law for 23 years, but the last 12 or 13 of them I have practised exclusively as a municipal and administrative law specialist. I was in-house counsel to the city of Sarnia for 10 years and, as I said, I am now in private practice. It's been my privilege to be involved in a number of the court actions that are going on around this

province involving prospective, usually intensive, livestock operations, municipalities that may or may not have nutrient management planning in place and citizens' groups. So I have a special interest in this legislation.

It's hard to comment on the legislation as it stands because from my perspective it's more a framework. It's got very broad enabling powers but, until we see what all those regulations are, it's really tough to comment on how things are going to work. In my former life I was a criminal law lawyer, so the quasi-criminal component of it and the structure that's been put in place are intriguing. It's an interesting combination of an administrative tribunal structure with a kind of quasi-criminal bent to it.

That said, however, I have been saying to the various groups I've been representing in the last few years that we really hoped I was going to be put out of the business of swimming in what turns out to be, in Ontario, mostly hog manure. If I were in Alberta, it would be beef. With the greatest of respect to the attempts of the legislation to do that, this legislation isn't going to do it. One of you put the question to the previous speaker, if this legislation were in place now, would the battle going on in Otterville be happening? If it's anything like the battles I've been involved with elsewhere in this province, yes, it would. The reason for that is because the focus on nutrient management planning as the solution is, with the greatest of respect, short-sighted, wrong-headed and misses some critical elements.

It misses from two standpoints. The first is that we are by now talking about volumes that are beyond anything contemplative when nutrient management planning as a program that could be followed by a farmer was first contemplated. One doesn't have to be a rocket scientist. If you take a dry sponge and pour water on it, it gets to a point where it won't take up the water any more, and that's the kinds of volumes we're talking about. Often in areas of this country, where the soil and the watershed are already severely damaged by all kinds of things—existing agricultural practices, existing municipal practices—there's a combination of factors that are in effect, but we can't ignore the reality of what's there now. I'm involved in one action where we've just discovered all of the watersheds are currently exceeding provincial water quality standards by virtue of commencing the action and getting hydrogeologists to look at the site-specific conditions. That's one of the other problems with the legislation as I see it. I do think there needs to be a provincial level of control in the sense that water doesn't respect the boundaries between municipalities but, at the same time, there has to be regard had for the specific local conditions of a particular site.

The more important reason why, in my view, this legislation won't solve any problems, and just as an aside, it seems to me that it's putting in place a very large, possibly unwieldy but certainly expensive bureaucracy to implement a system that's going to be very hard on the farmer and, as I said, isn't going to solve the problem.

The other reason it won't solve the problem is because nutrient management planning is an agronomic tool. It does not address the control of pathogens. Pathogens, bacteria, protozoa: it doesn't address those, it doesn't deal with those, and those things can get through a nutrient management plan. Walkerton demonstrated that. There are other problems with Walkerton, yes. But the fact of the matter is that manure spread in accordance with normal farming practices managed to infiltrate the groundwater and no amount of chlorination, certainly no amount of nutrient management planning, was going to address that particular bacterium, that particular pathogen.

The other thing it doesn't address is the non-therapeutic sort of consistent daily use of antibiotics. There is an increasing body of evidence that the suspicions of some people are in fact coming true, that the subtherapeutic use of antibiotics is creating superbugs and super-resistant bugs in humans and leading to, of course, a loss of effectiveness of all of our existing antibiotics.

What is the answer? Well, there is a whole list of things that I think could be pulled out from consultations with various people. I should indicate, by the way, that some of the witnesses I've been using and the various actions I've been involved with are ex-OMAFRA engineers. To a person, they will not agree with you. They won't say or agree that nutrient management is an answer to the protection of our groundwater, source water, surface water. It is a mistake to think that environmental farm plans and nutrient management planning are in any way a substitute for some kind of scoped environmental assessment.

I know from my municipal experience that EAs as they are currently structured are a huge undertaking. They are enormously expensive, and I'm not suggesting that any farmer in this province should be required to undergo a process as it presently stands. But I think the government could very easily draft, with the assistance of some of the experts out there, a kind of scoped EA so that you get some site-specific hydrogeo evidence. You make things like third party review, independent review and site verification of data mandatory, because one of the things that happens with all the nutrient management plans right now is that there's no independent verification. It goes to OMAFRA, yes, but they don't go out and check the site. I haven't looked at one yet where the slopes weren't grossly understated, where buffers that are supposedly there are there. When you look at it on the ground and you look at it on the paper they seem to be two very different animals, in my experience.

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So there are a lot of things that could be done to tighten up the NMP process, but that's still not going to address the basic problem, which is that there has to be some hydrogeo investigation undertaken to determine, is this watercourse already too polluted to take anything more? Is the soil already too polluted to take any more? We don't need to reinvent the wheel. The situation in the

Netherlands, for example, is that they're trying to get completely away from the injection and spreading of manure because their ground has just become so saturated that it can't take any more. It's one of the reasons why we see so many farmers coming here for better land and better opportunity.

I will say to this group, it sounds like what I'm suggesting is going to be expensive and difficult and impossible for even modest-sized farms to undertake. First of all, you can distinguish between intensive livestock operations and something more modest in scale, but more important—and I hear the speakers who are saying the rules have to be the same for everybody—the costs of all these things have come so far down, it's unbelievable. I've seen demonstrations of a technology that would retrofit an existing hog barn, in the current method that's used, for 4,000 hogs for about \$150,000. When you factor that into the cost of building that barn and the size of that operation, that is now peanuts.

Most of the technologies that are now coming on-line involve—it's odd, frankly—stepping back in time in some way. They involve composting in some form or other. There is so much information out there now, and composting done properly destroys those pathogens. There is one particular facility—and I will leave you the information on it—that's quite a large operation in Alberta, and looking to locate in Saskatchewan, called Pure Lean Hogs, a huge, 9,600-hog barn—no odour, no nothing. They produce millions of litres a year of compost. The end result is that they don't have to use, because they don't use consignment operations, sub-therapeutic antibiotics and they make money; they make good money. Unfortunately, the perception out there is that the only way to do it is the way we seem to have been headed: into these huge barns and treating manure the way we've been treating it all along but just in larger volumes. What I'm saying is that we need to step back.

The reality is, it seems to me, that we'll either be paying now or paying later. We'll end up with more and more Walkertons on our hands and other damages. Municipalities are getting challenged on their assessments all over the place now. It's happened successfully in Alberta and at least four cases in Ontario that I'm aware of. That's an attack on the municipal tax base. It's indirectly a tax on all the citizenry. We have all these divisive lawsuits going on; that's an indirect tax on everybody. In one lawsuit alone that I was involved in, the hog farmer spent in excess of \$150,000 in legal fees. I just wanted to walk up and hit him and say, "You know, if you'd just put that into the new technology, we wouldn't be having this problem." So when I say you'll either pay now or pay later, maybe what we're going to have to do is have bigger setbacks around wells and pay for all the groundwater studies everywhere, determine all the drawdown and recharge areas and do all the groundwater mapping—that's a big cost—and then determine where agriculture can locate until we know for certain what the situation is.

I think I've probably exhausted my time.

**The Chair:** Yes. Thank you, Ms M'Garry. We appreciate that input. We have used up the time allocated for your presentation.

**DON CROMARTY**

**The Chair:** This concludes the depositions on our agenda. However, we have had a request from a gentleman for five minutes. Could I ask this person to come forward for five minutes? This is Don Cromarty. Have a seat, sir. We are able to squeeze you in, but we do have to travel to Chatham.

**Mr Don Cromarty:** Thank you, Mr Chairman and committee. I just want to take a brief moment. My name is Don Cromarty. I have spent 20 years on a large dairy farm. I practised law for 35 years and am now retired. Also, in the farming operations I am well acquainted with the loading, hauling and spreading of manure from our dairy operation.

I feel that we have a serious problem in southwestern Ontario. Mixed farming has now changed to cash-cropping and to factory farms. The factory farms in fact, if you have 2,000 or 3,000 hogs, are similar to a small village or town. The province has found it necessary to withhold the approval of any plans of subdivision on the villages or towns unless they're on full-treatment services, that is, a treatment plant. My feeling would be that this is very similar to the new factory farms that are cropping up. Many of these factory farms are in fact owned by investors, not necessarily farmers but investors, with large amounts of money who hire a person to operate these factory farms.

I'm pleased that the province has taken steps to consider this very serious question, because the existing official plans and bylaws and the agricultural code of practice that's incorporated into the bylaws is not sufficient to control the factory farms. If a farmer makes an application to the municipality and complies with all the terms and regulations, he cannot be refused a permit. I think we need new provincial teeth to withhold the issuance of a permit if they feel it's in the best interests of the province of Ontario and the residents of Ontario.

I also have a cottage in Grand Bend. This summer we had very little rain in Grand Bend, and there are existing factory farms within two miles of the Grand Bend area. At about 6 o'clock on Monday morning after the civic holiday, the odour from the pig manure was just unbearable. People in the park had to get up and close their windows because of the odour drifting from the factory farm across the fields, because we had no rain. This affects about 5,000 or 10,000 people who have cottages all along Lake Huron. If this continues, and the farmer who is presently making money with one barn will now make application for the building of two barns

or three barns or four barns, that will only compound the problem as far as the cottagers are concerned. It will only be a question of time before the cottage owners take the necessary class action to reduce their assessment by virtue of the fact that the market value of that property has depreciated.

I am, with respect, recommending to the committee that they give consideration, effective immediately, to the passage of a moratorium to withhold the issuance of any building permits for any new factory farms until this matter is dealt with, and that those factory farms that are presently in existence be granted a five-year period to comply with the new legislation that should become effective.

Also, with respect to the cottage owners along the waterways of Lake Huron, Lake Ontario and Lake Erie, that there be a restriction that no factory farms be built within an eight- or 10-mile distance of the lakeshore.

We need something to protect the cottage owners. The cottage owners are prepared to accept the mixed farming operations that have been there for the last 40 or 50 years, but today the playing field is different. We have factory farms that are polluting the streams when we have rain or polluting the air when it isn't raining.

In conclusion, I would say that someone has to be accountable, and it's the municipality or the province or the federal government. I think the residents of Ontario deserve better. I appreciate your time. Thank you very much.

**The Chair:** Thank you, Mr Cromarty. We appreciate your deposition.

In conclusion, I have some information for the committee. The bus is ready to go to Chatham, the Best Western Wheels Inn. The hearings tomorrow are in Chatham at Smitty's restaurant.

I will also mention that we received word that the Legislative Assembly is open in Toronto. However, all provincial government buildings have been closed. So if anyone is rushing back to their office or phoning, that may explain why you may not be able to do that.

**Ms Churley:** Mr Chair, just briefly on that same subject, Mr Martin from Sault Ste Marie is supposed to be subbing in for me tomorrow and I just got word, because of all the cancellations in flights and various changes, that he may not be able to make it. So I apologize in advance if tomorrow there is no member from our caucus. He will make every attempt to be there. I just wanted to let you know there's a bit of a problem.

**The Chair:** Thank you for that information.

**Mr Galt:** We could loan her one of ours.

**The Chair:** We are adjourned.

*The committee adjourned at 1503.*





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