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**Journal  
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(Hansard)**

**Mercredi 23 août 2006**

**Standing committee on  
social policy**

Clean Water Act, 2006

**Comité permanent de  
la politique sociale**

Loi de 2006 sur l'eau saine

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Hansard Reporting and Interpretation Services  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
SOCIAL POLICYCOMITÉ PERMANENT DE  
LA POLITIQUE SOCIALE

Wednesday 23 August 2006

Mercredi 23 août 2006

*The committee met at 0904 at the Ramada Inn and Conference Centre, Cornwall.*

DUNDAS COUNTY CATTLEMEN'S  
ASSOCIATION

## CLEAN WATER ACT, 2006

## LOI DE 2006 SUR L'EAU SAINE

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

**The Vice-Chair (Mr. Khalil Ramal):** Good morning, ladies and gentlemen. Welcome to the third day on Bill 43. We're today in Cornwall, and we have many presenters this morning. Our procedure is 10 minutes for speaking time and five minutes will be divided among the three parties for questions.

Before we start today, we have the member from Cornwall, Mr. Jim Brownell, who wishes to address the committee and the members.

**Mr. Jim Brownell (Stormont-Dundas-Charlottenburgh):** Thank you very much, Mr. Ramal. Certainly I welcome you, as Vice-Chair, and the standing committee on social policy here to Cornwall and to the riding of Stormont-Dundas-Charlottenburgh.

Being the representative here, it's a pleasure for me to welcome this all-party standing committee to have this dialogue, this sharing of ideas and whatnot on Bill 43, the Clean Water Act. To all of you, I wish you a good day. To all of those who are here making presentations, I welcome you. This is what committee work is all about: to go around the province after second reading of a bill to gain insight, understanding and opportunities of hearing from you so that we can work on a bill and make it better. So I just welcome you all here.

Unfortunately, I have another event. We have here in the riding today an economic Building Tomorrow's Workforce dialogue over at the Best Western that I'm co-chairing with Richard Patten, the PA to the Minister of Economic Development and Trade. I will have to leave early, but I want to thank you and welcome you all to the riding.

**The Vice-Chair:** Thank you, Mr. Brownell, and thank you to everyone.

**The Vice-Chair:** The first presentation will be by the Dundas County Cattlemen's Association. You can start, sir, when you are ready. You have, as I mentioned, 10 minutes of speaking time and five minutes for questions. You can start.

**Mr. Ron Wilson:** Thank you, Mr. Chairman, honourable members of the provincial Legislature, ladies and gentlemen.

By way of introduction, I want to let you know my name is Ron Wilson. I live near Morrisburg. I've run Stillmeadow Limousin farm, breeding purebred Limousin seed stock, since 1970 up until this past weekend, I should add. I basically got out. I'm down to one cow now.

I am the secretary for the Dundas County Cattlemen's Association. I've held that position for a few years now. I have held other positions with them over the years, and I have 30 years of work with the association at the county level.

Dundas County Cattlemen's Association's active members are primarily the producers of beef. We include cow/calf enterprises for the most part, some back-grounding operations, and feedlot and finishing. We also include—and this is important in this part of the world—the dairy farmers who sell their cull cows. We have a very important veal production in our county as well. So we're the producers of steaks, roasts, hamburger and ground beef, and certain processed beef products that the consumers get. The average age of our members is approaching 60 years.

Why do we have an interest in Bill 43? Well, as beef producers, we own and manage a significant land area that's used to produce pasture, hay and silage production for stored feed, and grain production. Many farms also include woodlots and rough, unimproved land. So in short, we have a lot of land tied up, and it seems that a lot of Bill 43 is going to have important consequences for landowners.

At the outset, I want to tell you I am not a specialist in the subject matter under consideration. I've not studied the bill in detail. What I intend to do in the next few minutes is simply raise a few issues and show the need for a more prudent approach, and I'll offer a couple of suggestions for proceeding.

Farmers generally, including beef producers, have a long-standing reputation as good stewards of the land. We were probably the original environmentalists, as we depend on long-term co-existence with nature for our livelihood and as a place to live and to raise our families.

In recent years, the beef producers have been hit by more than their share of challenges. Probably the cause of the Nutrient Management Act and the cause of Bill 43 now is the Walkerton tragedy, as it's often referred to. Many politicians and many in the media portrayed the beef farm as the villain, notwithstanding the fact that the beef farmer did everything right, according to the book, and should not be blamed, as I recall O'Connor's report.

We've had the Nutrient Management Act, with probably too much focus on manure and nutrient units. We've been hit by BSE—bovine spongiform encephalopathy—and the closed US border that devastated our markets. We're still trying to recover from that. We have a Canadian dollar that has approximately 50% appreciation against the US dollar in the last three years. And now we're faced with Bill 43, the Clean Water Act. We've had more than our share of challenges.

#### 0910

I just want to raise now a couple of examples and issues from the current bill that Dundas cattlemen wanted you to be aware of.

(1) At the outset, Dundas cattlemen support the principle of protecting drinking water sources. We have no quarrel whatsoever with the intent of that. However, we do find some confusion and perhaps a little over-exuberance in Bill 43, particularly with respect to "future sources" with no time frame or plan in mind. Any person can theorize that all water everywhere is a future source. Is this what the government really intends? Why not limit the future to three or five years or some reasonably predictable time frame, and for areas for which approvals and plans exist, instead of this all-encompassing future?

(2) MOE—that's Ministry of the Environment—documents say that Bill 43 was developed in response to Justice O'Connor's Walkerton inquiry recommendations and "is part of the government's commitment to ensure clean, safe drinking water for all Ontarians." At the same time, other documents from the ministry say that the focus is "municipal water supplies." I want to know, what is the truth? Is the intention to put further restrictions on my farming practices and on my farm well? Is it for all Ontarians, or is it for the municipal water supplies? It can hardly be one and the other at the same time, unless it really means everybody, in which case farms and rural wells are treated equally with urban centres.

I would remind you in this connection that the Walkerton tragedy was a bad combination of ignoring rules, of improper water treatment, of fabricating test results. It basically had nothing to do with farming practices. The other two cases cited in the cause for the bill—leaking landfill in Beckwith township and industrial solvent polluting water in Kitchener—also had no origin in agriculture, so we need not target agriculture as part of a solution to a problem that didn't exist.

(3) Establishing the permit official with unilateral powers to amend or revoke any condition of a permit or add conditions to a permit is clearly not an acceptable position for cattlemen employing what are already generally accepted procedures and practices along with due diligence—not acceptable, and particularly not acceptable when we're going to be charged a fee for that unnecessary action. In addition, the proposed permit officials would not have uniform, predictable and scientifically sound bases for their decisions, resulting in non-uniformity across Ontario.

If the act is to proceed, then a co-operative approach, including provincial funding to compensate cattlemen—and I say, agriculture generally—for implementing activities deemed necessary for the public good is the way to go. Such measures should be in the act. I understand from some of my reading that a January 2006 expert panel commissioned by the Ministry of the Environment, entitled Well Water Sustainability in Ontario, has suggested such a measure.

(4) Some neighbouring jurisdictions, such as Manitoba and Wisconsin, that compete with us in the North American marketplace have financial assistance assured by their governments. Why can such assistance not be assured here in Ontario? Why can it not be put in the act so that we will know that it's there? Our government suggests it will be a minimal cost to landowners. If that is the case, then it's a much less significant cost in the context of a provincial budget and it ought to be put in there. Farmers and other landowners in Ontario should not be asked to foot the bill for the public good, particularly for the urban dwellers, just because we happen to have operations on a fairly large land base. We should not be asked to have restrictions put on our operations or to incur additional costs that would in effect amount to confiscation without compensation.

Several ministry documents use wording like, "It's important that farmers or property owners or medium and small businesses know if they're located in a vulnerable drinking water area, and it's important that they become informed about their local source protection planning process and become involved." You should know that most cattlemen do not have the time, resources or the expertise to adequately do justice to this mismeasure while running their farms, and probably working off-farm to make extra income so that they can make ends meet.

At the same time, you should know that we in agriculture have our own elected representatives and employees of our associations. I would emphasize that if the act is to be passed, the best procedure would be for the government to listen to our organizations' representatives: organizations like the Ontario Cattlemen's Association, the Ontario Federation of Agriculture, the Ontario Farm Environmental Coalition, AgCare, the Christian Farmers' Federation of Ontario and so on. We have specialists who work for us, and I'm sure you know some of them: Chris Attema and Jamie Boles, to mention two names. I think you should deal with these people on

an open and frank basis and use their guidance in terms of improving the legislation and the subsequent regulations. Expecting individual cattlemen to try to make the best of an ill-conceived situation after the fact is not an acceptable way to go.

Several other organizations have indicated dissatisfaction with major components of Bill 43: the Ontario Mining Association, the Canadian Environmental Law Association and the Association of Municipalities of Ontario, to name a few. With such broad, negative attitudes, maybe it's time to take a look. It's not just a few of us.

Finally, there's a ray of good news. MOE documents included the words "if passed" as recently as May and July of this year. Obviously, the option exists that you've considered not passing this, and I say, "Wow, let's go that route. Let's not pass it." We don't need this act, and we can't afford it.

I thank you for the opportunity to address you today.

**The Vice-Chair:** Thank you, Mr. Wilson, for your presentation. Now we are going to open the floor for questions. We're going to start with Ms. Scott.

**Ms. Laurie Scott (Haliburton–Victoria–Brock):** Toby is going to go first.

**Mr. Toby Barrett (Haldimand–Norfolk–Brant):** Thank you to the cattlemen for that presentation. I'll just pick up on what you said: "We don't need this act, and we can't afford it." Justice O'Connor did not make a specific recommendation to have legislation like this. He did recommend that there could be changes to the Environmental Protection Act.

We've just come from Walkerton. We heard testimony there, and you made mention of the challenges of nutrient management, BSE and the high Canadian dollar. We heard testimony in Walkerton of dismal returns in agriculture, negative returns, poor commodity prices and the high energy costs. We're hearing about costs of this act. The figure of \$7 billion is being bandied about, and we're still trying to track down accurate figures from the government. We heard additional testimony yesterday that if you start adding in the cost of closing down abandoned water wells, gas wells and oil wells in south-western Ontario, you're looking at perhaps another \$10 billion on top of that. Apart from the debate of whether we need this act, I guess the question is, and I think you've answered it, can cattlemen afford this, given the lost equity of the last few years to begin with?

**Mr. Wilson:** Absolutely not. As you mentioned, negative incomes; beef producers have had that—I can give you an example from my own situation. I sell purebred breeding stock. My average price dropped by over \$800 per head following the BSE thing. That's a drop in my revenue. My cost went up, if anything, because I kept extra animals, and that meant extra feed, extra housing, extra veterinary services and other things, partly on the basis that officials on the south side of the St. Lawrence as well as on the north, from our Prime Minister to the US President, and Ann Venema, Secretary of Agriculture at the time, said, "Nothing wrong with Canadian beef.

We'll get back to a normal market as soon as possible—right away. We'll fast-track it." So I kept extra animals, expanded my herd, almost 100% expansion by last summer, for a market that still hasn't recovered. We just cannot afford it.

**The Vice-Chair:** Thank you, Mr. Barrett, for your questions, and thank you, sir, for your answers. Mr. Tabuns.

**Mr. Peter Tabuns (Toronto–Danforth):** Mr. Wilson, thank you for the presentation. You mentioned the stewardship fund in Manitoba. Could you talk a bit more about that and how farmers see that?

0920

**Mr. Wilson:** Unfortunately, I cannot. I'm not up to date on the details of their program. I just understand that they do have funding that's provided for in the act. It's not an annual allocation that comes up each year as a budget item; it's required according to their legislation, is my understanding. I think in Ontario's case, if we're going to impose new restrictions for the public good, it makes sense that the public should pay for it, not a few selected people because we happen to have fewer votes or whatever the case might be.

**Mr. Tabuns:** Fair enough. Thank you for that.

**Mr. Wilson:** If you'd like details on the Manitoba thing, I'd be happy to get them for you and make sure they're provided.

**The Vice-Chair:** The parliamentary assistant to the Minister of the Environment, Mr. Wilkinson, do you have any questions?

**Mr. John Wilkinson (Perth–Middlesex):** Thanks, Ron, for coming in. On the question on, "If passed," just so you know where we are, the government introduces the bill and then we debate it. Then the process here is that it goes to an all-party committee and we go around Ontario getting feedback. Your feedback is similar to what we're getting from some other people.

I think almost everybody has said that the intention of the bill is correct. My riding of Perth county is highly agricultural. There is nobody who cares more about safe, clean drinking water than our farmers and there's no one who is a better steward. But a lot of other activities go on as well. What this bill contemplates from Justice O'Connor is that people who are drinking the same water or using it, whether they take it from a river, from an aquifer or from the Great Lakes, come together and work together, based on science, to figure out the best way to protect it, because it would be cheaper to protect it than to let it get contaminated and then have to deal with it afterwards.

The issues you've raised are other issues about not so much whether we should do it but how we do it and make sure that it's fair and that the costs are borne fairly by everybody. That's why we appreciate the fact of your coming. So you would agree, then, that from a compensation point of view, we need to share this cost over the broadest group of people possible, right? Because your fear is that it would just be right on the person who

happens to have a farm beside a municipal well or something.

**Mr. Wilson:** Municipal well or the surface intake area. For example, if Cornwall were to take water from the St. Lawrence and process it to become their drinking water: My farm is upstream from the St. Lawrence River and there is tile drainage in my fields. A municipal drain runs across my farm. It goes into a creek and into the St. Lawrence River. I can theorize that some environmentally oriented individual, whether it's somebody who is employed or otherwise works in the government, raises the issue and says, "Oh, look. All those guys who are upstream from the St. Lawrence"—it's only two days, three days, five days; it's certainly less than a two-year or five-year time of travel to the St. Lawrence intake—"we're going to put restrictions on them." Therefore, Wilson has to get a permit from this permit official who shall be appointed under the current thing, and it has these options to both revoke and add conditions to my permit. They can tell me what I must do; not negotiate but impose and charge me a fee that I must pay. If I don't pay, it can be added to tax bills and whatnot, apparently.

**Mr. Wilkinson:** When the minister was here at the beginning on Monday, she was saying that she is looking at being able to change that whole permit official regime to one of risk management, so that you would work co-operatively with the risk management official first. You always have to have, at the end of the day, if someone really is creating a significant threat to drinking water and just doesn't care about their neighbours and about the water—but if you have nutrient management and an environmental farm plan, all of those things would be taken into consideration first. We've got some great feedback from agriculture that that's the right way to approach it and that's what we should do first. That's because we then have to amend the bill and that's why we're doing it.

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

**Mr. Wilson:** Do I get 20 seconds to respond to his last comment?

**The Vice-Chair:** I'm sorry, we have strict time here. We already gave you an extra minute.

**Mr. Wilson:** Okay.

**Mr. Barrett:** He asked a second question.

**The Vice-Chair:** When the session is finished, he can take him aside and talk to him. My apologies.

**Mr. Wilson:** That's fine. I appreciate the opportunity. Thank you very much.

#### GLENGARRY CATTLEMEN'S ASSOCIATION

**The Vice-Chair:** The second presentation will be from the Glengarry Cattlemen's Association.

**Ms. Wendy Beswick:** Good morning. On behalf of the Glengarry Cattlemen's Association I would like to thank the committee for inviting me to present our views on this very important topic. There are hundreds, if not

thousands, of cattle farms that will be impacted by your proposed legislation and that is why I am here. My name is Wendy Beswick and I'm a director with the Glengarry Cattlemen's Association.

First off, let me say unequivocally that the laudable goal of clean water will be shared by everyone. I challenge you to find any person who says that they are against clean water. With that said, I feel that it is critically important to separate the concept of clean water and the impacts of your proposed Clean Water Act, commonly referred to as Bill 43. It is really unfortunate that the government has called Bill 43 the Clean Water Act, as this just confuses the public on the stated goals and broad-ranging impacts. Whether or not the mere presence of criticism of the act could be perceived as anti-environment, it won't prevent us from letting you know that protecting and sustaining the environment is what we do, and Bill 43 falls short of that goal. Therefore, on behalf of Glengarry cattlemen, it is my goal here to illustrate how this bill may lead to an act that may have severe consequences in rural Ontario.

There is a better way. We believe that it's possible to meet source water protection goals without the legalistic or confrontational methods proposed in Bill 43. We believe that a permit official is not required, but source water protection goals could be achieved through an agricultural risk management official who would negotiate solutions and offer both technical and cost-share assistance.

Farmers respond well to education and encouragement and, if given scientific reasons as well as incentives, they would become willing partners without the need for regulations and enforcement measures. As proof, my husband and I are already willing partners with the Raisin Region Conservation Authority. We have submitted a proposal to them that we are working on with them. I have given you part of the proposal.

Our approach to agriculture is to create a viable mixed farm while maintaining a comfortable relationship with Mother Nature. This does not mean organic farming and it does not mean that there will be a forbidding and unrealistic approach to the use of chemicals or fertilizers. Some use of these may be required, but this use will only be with the best interests of the land at heart. What this approach really means is that there must be a human, agricultural and environmental relationship between the human factor and the land. Essentially, the landowner is steward of the land only for the life of the landowner. The land must be able to carry on to nurture not only the natural elements but future generations as well. Some believe that this is an unrealistic approach to agriculture, but to ignore either the economic viability or the environmental aspects of agriculture is to guarantee the loss of viable plant and animal habitat. You must have both working together harmoniously. If we can't make money doing what we do, you're going to lose the natural aspect because we can't look after the land if we can't make money doing it. We have voluntarily done this, but you can rest assured that the moment there is even the

perception that we may lose sovereignty of our land, we will stop co-operating. Trust must be maintained. Co-operation is optional.

Good governance finds ways to build on existing strengths. The proposed Bill 43, complete with permit officials and an entirely new bureaucracy, will undermine rather than strengthen existing stewardship programs and ethics.

Why is Bill 43 needed? The proposed Clean Water Act is confusing since it clearly contradicts Justice O'Connor's Walkerton inquiry recommendation 68, which states, "The provincial government should amend the Environmental Protection Act to implement the recommendations regarding source protection."

Justice O'Connor supported the concept of normal farm practice, as defined in the Farming and Food Production Protection Act. The proposed Bill 43 undermines and contradicts this. He said, "It is in the provincial interest that in agricultural areas, agricultural uses and normal farm practices be promoted and protected in a way that balances the needs of the agricultural community with provincial health, safety and environmental concerns."

The McGuinty government has failed to follow Justice O'Connor's recommendations to consult with the farm community to develop appropriate source water protection planning, education and financial incentive tools. He recommended, "The MOE as the lead agency should work with OMAFRA, conservation authorities, and the agricultural community to develop an integrated approach to managing the potential impacts of agriculture on drinking water sources.

"This approach should include four separate elements: planning, education, financial incentives, and regulatory enforcement."

The recommended consultations have never taken place. When agriculture stakeholders met with Minister Broten to discuss the potential for provincial financial incentive programs and a source protection stewardship fund, we were told in no uncertain terms that there would be no provincial support for agricultural stewardship. We were told that if we wanted to discuss funding programs, we should contact the impacted municipalities. This is clearly unworkable, for, as you know, the municipalities are already overburdened and they cannot afford to do it.

**0930**

I have two specific recommendations.

Recommendation number 1: Please reconsider the heavy-handed and legalistic permit official approach. More rules, regulations and bureaucracy will not help to achieve source water protection goals. It may be good for the lawyers, but it will create confrontation and uncertainty in the rural community. Impacted landowners will fight this approach legally, technically and politically every step of the way. Rather, the focus should be on planning, education and financial incentives. Regulatory enforcement tools may be needed in some circumstances, but completely new legislation is not needed. In recommendation number 68, Justice O'Connor is clearly

and explicitly recommending amendments to the Environmental Protection Act to implement source water protection.

Your proposed Bill 43 says: orders and permits, permit officials, inspectors and enforcement officers, new municipal authority. What O'Connor was recommending and what the farm community wants is: co-operation, teamwork, a balanced approach, targeted technical and financial assistance.

Recommendation number 2: Full stop—and I repeat, full stop—to further implementation of Bill 43 until recommendation number 33 from the source protection advisory committee report of April 2003 is completed. The McGuinty government's own advisory committee recognized that one of the guiding principles for successful source water protection is cost-effectiveness and fairness. "The costs and impacts on individuals, land owners, businesses, industries and governments must be clear, fair and economically sustainable." That was on page 4 of your advisory committee report. The source protection advisory committee recognized that the issue of who pays must be dealt with upfront and in a clear and transparent manner.

Recommendation number 33 stated: "Consultation on implementation and ongoing planning, including how to pay for" source protection "be undertaken with different stakeholder groups immediately following receipt of this source protection planning framework. This consultation should start from the list of potential roles and responsibilities presented by the advisory committee."

Almost all of livestock agriculture's concerns are rooted in the failure of the McGuinty government to follow the cost-effectiveness and fairness principle.

It was a pleasure to speak to you this morning, and I hope that your consultations lead you to recognize the failures we have seen in Bill 43, as other stakeholders will undoubtedly be raising these as well. I hope the honourable members of the social policy committee take an honest look at the valid issues we are raising today. Thank you very much.

**The Vice-Chair:** Thank you, Ms. Beswick, for your presentation. Now we move to the question time. We'll start with Mr. Tabuns.

**Mr. Tabuns:** Ms. Beswick, thank you very much for that presentation. It was interesting, as you were talking—New York City and Portland, Oregon, are both engaged in buying land in their watersheds to protect their drinking water sources. So what you're putting forward is not at all an alien proposition, the idea that purchases should be made in order to protect water supply.

Could you tell us, if in fact there was an amendment to the act that explicitly stated there would be the inclusion of a stewardship fund covered by the province, would that significantly give comfort to the farming community?

**Ms. Beswick:** It would certainly appease a lot of farmers. I believe stewardship is a very vital leg and it's very necessary. You've got to understand that farmers are

the best stewards of the land. We love the land. That's why we're doing it. We understand that the land was there before us, it will be there after us, and if we want to protect the land for future generations—I'm a cattle farmer. Working with cows, I've noticed that I can get my cows to go where I want them to go with a bucket of grain in front of them and leading them a heck of a lot easier than I can with a cane trying to push them, because if I try and push them, they're going to go in a thousand different directions. If I really want them to go somewhere, if I want to give them a shot of something, I get out my bucket of grain and I lead them.

**The Vice-Chair:** Mr. Wilkinson.

**Mr. Wilkinson:** Thanks for coming in, Wendy. Actually, my very first job was on a cattle farm, so I know exactly what you mean.

So the stewardship fund, just taking on with what Mr. Tabuns was talking about; and the recommendation we've gotten very strongly from agriculture about the need to go from the permit official to risk management. So the first thing we're doing is making sure that we're working with the farmer co-operatively so that the farmer could say, "Before you take a look at this, look at all the stewardship I am doing."

**Ms. Beswick:** That's right.

**Mr. Wilkinson:** We all know that we always have a few neighbours, like in every situation, where maybe they're not good stewards, but the vast majority are. So if we change it from the permit official to risk management, would you think that also would go a long way to making sure that the approach was right? We all want clean water, so that would be the right approach?

**Ms. Beswick:** I believe so. Take, for example, the Ontario Farm Animal Council, I believe it's called—

**Mr. Wilkinson:** OFAC.

**Ms. Beswick:** OFAC. Farmers do not intentionally do something wrong. If we know that we're making a mistake, if somebody pulls us aside and says, "Hey, you may not realize, this is a better way"—OFAC is very efficient in that it eliminates a lot of bad publicity with the humane society. They're the mediator between farmers and the humane society. If the environmental people could do the same thing, be a mediator between MOE and the farmer so that things don't come to a head first, if you can mediate and negotiate with the landowner—because I don't believe it has to be a win-lose situation. It can be a win-win situation for everybody. That's the way it has got to be, I believe, personally. The farmer needs to be able to have a winning situation; as well, society has to have a winning situation.

**The Vice-Chair:** Ms. Scott.

**Ms. Scott:** Thank you very much for your in-depth presentation. You've mentioned a lot of points that we've been hearing through the week and we agree with: There's no need for this legislation. It's going to create a bureaucratic red-tape confrontation, lawsuits. I want to ask you a couple of quick questions within it. Mr. Wilkinson has been going on that it's going to be a risk official instead of a permit official. I'm not sure how

that's going to change, but do you think that's going to help? If we don't make major changes to this bill, as in compensation with the stewardship fund, less confrontational approaches, are farms going to go out of business? Is this the last straw for rural Ontario, for our agriculture sector?

**Ms. Beswick:** I think the devil will be in the details. It's fine to change a term, like one official to another official, but unless we can see something in writing, exactly what's going to be done—you know, we are farmers, and politics is not our normal game. We realize that quite often politicians can change the wording to gloss things over, but then down the road the reality hits us. Again, I think the devil is in the details. We like to see things in writing, exactly what changes will be made.

**Ms. Scott:** Maybe as a point of order I could ask if we could get a definition from the minister. We went from a permit official to a risk management official—is that the correct term? Maybe we could get the definition of what this risk management official is going to be doing, as opposed to the permit official. Is it possible to get that so that we can maybe get that clarified?

**The Vice-Chair:** Okay. That's possible.

**Ms. Scott:** And maybe to have some more public hearings on the regulations.

**The Vice-Chair:** Ms. Scott, there's a question. Do you want it from the ministry or from the researcher?

**Ms. Scott:** Can the researcher get it from the ministry? Is that what you'd like as the procedure? That's fine.

**The Vice-Chair:** Okay; no problem.

Thank you, Ms. Beswick, for your presentation.

0940

#### CITY OF OTTAWA

**The Vice-Chair:** The next presentation will be by the city of Ottawa.

**Mr. Dennis Jacobs:** Good morning. It appears the technology is working, so I'll begin. My name is Dennis Jacobs and I'm the director of planning, environment and infrastructure policy at the city of Ottawa. With me today is Dixon Weir, who is our manager of drinking water services. We're very pleased to be here today. We think this is a very important piece of legislation. We've provided written comments to you previously, and we're here today to provide some summary comments for you and in our submission package some more detailed information.

Before beginning the presentation, I would like to highlight some things about Ottawa. We were amalgamated in 2001, and we're far from an urban municipality. There are 11 urban and rural municipalities that were brought together. We have a population of 870,000, 26 rural villages in a vast, general rural area. We have five distinct water supply systems. The urban area is served by two water treatment plants which draw water from the Ottawa River. Four of the city's villages have independent water supplies using groundwater systems. Approximately 80,000 of our residents obtain their water



from private wells, a subset of the city's population which is larger than many cities in Ontario. Villages such as Manotick and Greely are some of the largest villages in the province on private well and septic service. Eighteen of the city's villages are served by private wells. The land area of the city is over 2,700 square kilometres and has a very diverse and complicated range of soil, bedrock, surface and groundwater conditions. All of these complicate the application of this legislation, particularly the scale and identification of vulnerable areas.

One important point we wish to make to you today, and it's included in our detailed comments on the draft bill, is that parts of the city of Ottawa are in three different watersheds with separate conservation authorities, and we've been identified as participating in two source water protection areas. The city of Ottawa is very concerned regarding the eventual implementation as a result of this. We will be dealing with that in our presentation.

I would like to spend the rest of my time looking at five specific issues and providing examples, where I can, to show how we would suggest changes to the legislation.

With respect to source protection offices, we have the three authorities, two plans. This would result in two separate plans applying to our residents. The slide shows the watersheds and subwatersheds in the city of Ottawa. The Mississippi watershed is to the left, or the west area of the city, and the Rideau River watershed is through the middle. These two groups have formed one source protection region. The South Nation River is to the right, or the east of the city, and South Nation Conservation and the Raisin Region Conservation Authority are another source protection area.

Today we are working closely and successfully with the two separate source protection offices, and we fully support the work that the conservation authorities are trying to do with respect to the implementation of this. We find, however, that the present sections of the act don't provide direction or support for being divided into two separate areas. When it is the responsibility of the municipality to implement many portions of it, we need to ensure that we have a consistent set of implementation policies and directions that result from these plans.

We do not want the city of Ottawa residents to have to deal with different rules or standards or processes, depending on which source protection area they live in. We reiterate previous comments by the city of Ottawa and others made throughout the province with respect to the Walkerton report that there needs to be complete clarity on government structures and roles and responsibilities of the province, source protection authorities and the municipal level of government.

We have recommended that section 7 of the act be supplemented by a section which states the requirement for adjacent source water protection regions to coordinate their works where the regions share a common municipality. This will ensure that terms of reference, assess-

ment reports and plans have some consistency as they're implemented inside a municipality.

The Ottawa River is another issue, and in some ways is similar to a situation with respect to the Great Lakes. It's a geographic factor that the watershed involves more than one jurisdiction, not only at the municipal but also at the provincial level, and involves many conservation authorities and many areas where no conservation authority exists. In many cases, the land area that conservation authorities are responsible for is much smaller along the Ottawa River than along their principal conservation area, so it's very much an ant trying to deal with an elephant. We find that the act is silent on how these aspects of the Ottawa River source protection planning in Ontario can be addressed.

We do know from our work with the South Nation region that the province has provided responses to requests for information and direction on this matter, but to date they've been on a project-by-project basis. At some point in the near future there will need to be a coordinated consideration of this issue in order to direct water budget determination, threat identification and source water planning.

Our next issue relates to the provisions of the act for private wells. The city of Ottawa has a large rural area, including 18 villages relying on private wells. Section 8 of the bill allows municipal councils to name other areas to be considered in the assessment report. We are not clear that the province will fund the subsequent work requirements.

This slide locates the villages in the city of Ottawa and their varying sizes. Because of the variability of groundwater across the city, each is unique in their characteristics of groundwater. Therefore, any protection planning that the city might undertake must be tailored to those villages. The stated purpose of the bill is to protect existing sources of drinking water, yet the lack of provisions in the act directing the source protection plan to include private drinking water systems, in particular, concentrations of private systems in villages, represents in our opinion a contradiction to the purpose of the bill.

We understand that others across the province have made similar comments. We have recommended that subsection 8(3) of the bill, the section allowing municipalities to name areas, be expanded to include any area that the municipality considers would benefit from source protection. Such flexibility would be of great benefit to municipalities such as Ottawa in ensuring that we can include, where necessary, village plans in our source protection plan.

Another issue is the pace and complexity of the legislation that has resulted since the Walkerton inquiry. The city of Ottawa has had some difficulty completing its tasks and participating in provincially funded efforts as we find that funding and work plans are being set before technical guidance documents have been completed. When this same approach was followed in responding to a requirement for engineers' reports in 2002-03 and wellhead protection studies in 2003, this resulted in

misdirected effort and confusion. In moving the responsibility for this important work down to municipalities, it's incumbent upon the province to establish a work plan that follows a logical path to avoid causing municipalities and service providers to misspend funds in misdirected or inconsistent efforts.

In view of the time, I'll move on to my last point: the issue with respect to funding. We would like to emphasize our and others' view regarding the funding of source water protection. I would comment on the last speaker's note about providing the grain to lead the cattle: I think that was a very apropos aspect. If you're going to have new legislation and you wish your municipality to implement it, you need to provide the funding to support it and at least provide the direction.

In closing, we thank you for the opportunity. The city of Ottawa supports the bill and we wish to work with our partners in the conservation authorities and the province to ensure that we can meet the objectives of this legislation.

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**The Vice-Chair:** Thank you very much for your presentation. We'll start with Mr. Wilkinson.

**Mr. Wilkinson:** Thank you so much to the city of Ottawa for coming in to join us today. You're really in a unique position, as you were mentioning. We've had some similar comments in the sense of the protection of the Great Lakes because it's interjurisdictional, because we have all of the other provinces and states, particularly, that are in that watershed. You're saying you're in a watershed on both sides of the great Ottawa River, so we're dealing with the province of Quebec. Specifically, on our side of the border you're actually dealing with three conservation authorities and two source water plans. So what you really need is the province to make sure that we've got that coordination so that you don't have differing sets of terms of reference and that type of stuff. All of this in the bill—terms of reference, assessment report, source water plans—is ultimately approved by the Ministry of the Environment; the work is done locally and then it gets sent up. Am I right, then, that what you need us to do is to make sure that that is taken into consideration by the ministry, so that when you have a place like Ottawa, which is straddling all of these different lines, there's that consistency there? Have I got it right?

**Mr. Jacobs:** Yes. That's correct. Certainly with respect to the source protection plans themselves, that consistency can be done through the approval and the monitoring of that process and those plans.

With respect to the issues of interprovincial coordination, I think that's something that really needs to be handled directly by the province, and the legislation needs to speak to how that will be undertaken. The Ottawa River is certainly a significant tributary, and a lot of the impacts on that river are totally outside the control of not only municipalities but also the province of Ontario, so we need to be working together with our colleagues across the river.

**The Vice-Chair:** Ms. Scott?

**Ms. Scott:** Thank you very much for your presentation today. We've heard a lot from municipalities, that they need more involvement. They know their areas better; they want more input with the bill.

You've obviously been doing work in your municipality. I just wondered if you had any rough idea of what costs, as the bill stands now, you might incur, or an example of what you've already done and how much money that has involved, and what you think the provincial government's responsibility is with respect to costs. You don't have to have an exact figure.

**Mr. Dixon Weir:** I don't think we have a collective number. Certainly, this act and all of the others that have been streaming down from the province over the last three or four years have taken up a decided amount of funds and focus in order for a municipality even the size of Ottawa to try to respond. So if one speaks of legislative fatigue, perhaps that's part of what all of these utilities and municipalities in this particular field of work are facing.

**Ms. Scott:** So unless there's some provincial—

**The Vice-Chair:** Thank you, Ms. Scott. Mr. Tabuns?

**Mr. Tabuns:** Thanks very much for the presentation. If provincial funding was not made available to Ottawa to implement this new act, how would the city of Ottawa cope?

**Mr. Jacobs:** I think in many respects that would be a question that would be better put to our mayor and council, but as far as staff, we certainly do not see the resources to implement this legislation currently being available to us. Just in responding to the legislation, we're having to apply resources that would normally be doing other work to prepare and comment on these things; to participate, in our case, in two source protection planning areas; to have staff going to multiple areas and in some cases travelling considerable distances. So I don't think we would be in a position to implement the legislation without some form of increase in either property tax or, if it's allowed, water-rate-based types of sources. So our taxpayer would be very concerned about that.

**Mr. Weir:** If I could just add to that, the other point we were unable to touch on in the presentation is that there is a companion bill, the Sustainable Water and Sewage System Act, that seems to have stalled out at this point. It's interesting that you speak to the funding. That act was very much about funding. We're in this gap, if you will, between the two fundings, and we're very interested in hearing from the province their response to the Watertight report that came out regarding the case for changing the water and sewage systems act.

On the one hand, we're seeing criteria coming up, but on the other hand, we're not hearing too much about what the province's take is on what could be a very fundamental change in organizational design and service delivery across the province for utilities. So the two pieces of very complex legislation need to be brought forward so that municipalities can deal with both sides, both the service delivery and the rate recovery.

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

**Mr. Tabuns:** Can I ask a question of you, Mr. Chair? If the researcher could bring us material on the Manitoba water stewardship fund so that we'd have that on hand to see what model they have. Thank you very much.

**The Vice-Chair:** Thank you, Mr. Jacobs, for your presentation. Thank you, Mr. Weir, for answering questions, and Mr. Tabuns for the questions.

#### DUNDAS COUNTY FEDERATION OF AGRICULTURE

**The Vice-Chair:** Now we move to the next presentation, by the Dundas County Federation of Agriculture. You can start whenever you're ready.

**Mr. Gordon Garlough:** Thank you very much. With me is Jackie Pemberton, who is president of the Dundas County Federation of Agriculture. I'm a member of that federation and have been involved at both the local and provincial level with water and other environment issues over probably 15 years, something like that. Both of us are from dairy farms. In my case, I'm a retired dairy farmer but still farming.

Our brief is very short. I hope it's to the point. Page 1 simply indicates some perspectives that I think the present Bill 43 is taking the wrong direction or the wrong view of things on. The second page asks for specific changes, and I will go over those one at a time. The last two pages are a funding example for land use restrictions that the bill may impose or that may be imposed through the bill. I think we should look at that model that's already out there rather than trying to reinvent the wheel.

If I could inject one answer to a question that was raised in Mr. Wilson's presentation about the Manitoba fund, I can't tell you the exact details, but it's set up in the form of a trust fund, where with the passing of the legislation the government put a lump sum in the kitty of that trust fund with a commitment to add to it on an annual basis. From that fund, then, amounts would be drawn for the on-farm or the community end of the funding.

Page 1: Farmers in Dundas county are following the Clean Water Act with interest, respect and with a great deal of concern. In its present form, Bill 43 sees farmers as an enemy of water protection issues, especially in the permits, inspection and enforcement sections. As a result, the bill fails to recognize the real, positive role that farmlands and farm people have in water resource conservation. There are many facets to this wrong attitude, but please note the three key issues below.

First, a healthy, biologically active soil is conducive to good crop production. As well, a healthy, biologically active soil is also a positive factor in water resource conservation. In other words, farmers are working towards water conservation when they try to maintain and improve the health of their soil. Farmers and farming and municipal wells, groundwater, can get along on the same piece of land, can be a part of the same land use and the same land use objectives. I think you'll hear more about

that from the North Dundas delegation that will be speaking to you, but I might point out that within North Dundas we have a municipal well in a very susceptible aquifer, a surface aquifer. Because it was a susceptible aquifer, that municipality, which originally was the town of Winchester, set up a monitoring program for the water conditions around that well. They now have 10 years of records for that monitoring program, and in spite of intensive agriculture going on around the wellhead there are zero indications of any decline or any concern in water quality.

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So, first point: Farmers are to be considered as partners, not the enemy, when it comes to water issues.

Second, recognize that farm production dictates through economics that crop production inputs like plant nutrients be used carefully. Overuse is bad environmentally but it's also senseless economically. When farmers precisely measure the amount of nutrients—manure, fertilizer and so on—plus the natural nutrient content of the soil through soil tests, they are working toward optimum economic crop production and by those same measures they're working to minimize an already low environmental risk, as far as water is concerned.

Third, Bill 43 currently does not mention compensation. There are already established practices in other aspects of the relationship between public good versus farmer/landowner rights with regard to land use that pay farmland owners for land use restrictions that are imposed for public benefit. Compensation to owners for land use restrictions deemed to be in the public interest is only fair play in a democratic society. I'll refer you to my own personal suggestions for that public versus private landowner rights model on pages 3 and 4 that are in the total presentation.

Page 2, DFA requests the following changes to Bill 43: First of all, compensation for land use restrictions, and see the model that follows. Second, the sections of Bill 43 that deal with permits, inspection and enforcement should be completely removed from the bill. I could add that personally I find them on the border of being offensive as it stands. What should be added to the bill somewhere is something about water use efficiency and water conservation for municipal systems. That should be in the objectives.

Fourth, with relation to a source protection board, "source protection committee," "source protection plan" and interim period, there are two points to be made there: At present, the source protection committee would draw up the source protection plan and then apparently dissolve, leaving the source protection board responsible for oversight and amendment and so on. Secondly, at present, the interim period provisions of the current Bill 43 would provide some sort of enforcement measure before the source protection plan is approved and comes into effect. In essence, there are provisions to enforce the act before the act comes into effect. Two recommendations coming out of that: The source protection committee should be established as the lead authority for

the terms of reference, the assessment report and the source protection plan, and the source protection committee should remain in place for implementation, oversight and consideration of amendments. Secondly, the interim period provisions should simply be removed. There's already scope in the Environmental Protection Act and other legislation to deal with any cases that come up there.

Fifth, a more realistic appeals process needs to be provided for landowners to have the right to challenge information about their property in the source protection plan or assessment report.

Sixth, the act—indeed, the whole philosophy of source water protection—must recognize the fact that surface water source and groundwater source and municipal systems need to be regulated under different rules, even though the final standards for the water need to be the same or similar.

Lastly, place the responsibility for drawing up the protection zones around the wellhead and the landowner compensation agreements in one and the same body, not in two separate bodies. The source protection board, the source protection committee, the well owner: I've put those in with question marks. The two things need to be in one set of hands.

**The Vice-Chair:** Thank you, sir, for your presentation. I'm going to move on for questions. We'll start with Ms. Scott.

**Ms. Scott:** Thank you very much for your presentation. You've brought in a lot of good points, and certainly we've heard about the interim period and the lack of notification to landowners, to agriculture owners—that they won't be notified if they're designated a significant risk. Could you elaborate a little bit on that? Would you like it to be the MOE, which I think holds the power now to go in? Would you like to elaborate on what kind of appeal process you'd like to see and the notification that your land is being assessed and what it's being assessed at?

**Mr. Garlough:** Simply, anything that would give the landowner the right to disagree and present the evidence why he or she disagrees about what is stated in that report.

**Ms. Scott:** And what body would you like it presented to? I know you have agriculture tribunals now, environmental farm tribunals; just some sort of democratic appeal process.

**Mr. Garlough:** I suppose the committee you have now for what are called nuisance farm complaints—odours, that sort of thing—the Normal Farm Practices Protection Board: Something like that would work, sure. But if the landowner really feels that information in the report is wrong, he or she needs to have access to a process to correct that or try to correct it.

**Ms. Scott:** I agree.

**The Vice-Chair:** Mr. Tabuns?

**Mr. Tabuns:** Thank you for coming in today and making a presentation. On the back of the documents you

gave us, you refer to the rights-of-way mechanisms in Canada for energy corridors being a useful model for us.

**Mr. Garlough:** Yes.

**Mr. Tabuns:** Could you just speak about that briefly? But before you do, Mr. Chair, again, through you to the researcher, could we have a report on this? If there's a working model here that seems to have buy-in on a rural basis, I'd like to know a bit more about it. But, sir, having asked for that, if I could ask for your comments.

**Mr. Garlough:** Yes. This is something I've been involved with, I guess, since I was a kid in high school. At that time, the first gas pipeline passed through our farm; two more have passed since. Dundas county is located where the main gas line from the west meets the east-west transmission corridor. Also, the export line to the US is in our county.

That model is very simply one where the pipeline company has an easement on the land, and if and when they come in to do any work, the farmer is paid for the crops he loses, the damage they do and so on. That system has evolved. It wasn't there in 1957, but it's there now, and that system has evolved to the point that when a major line went through Dundas county probably 10 years ago, farmers showed very minimal concern because they had the experience of the landowners around them and previous lines and knew that at least they would be reasonably dealt with.

**Mr. Tabuns:** Thank you very much.

1010

**The Vice-Chair:** Mr. Wilkinson.

**Mr. Wilkinson:** Good morning, Gordon. Thanks so much for coming in on behalf of the association and being a leader. I'm glad that Mr. Tabuns asked that, and we look forward to that from research.

We had another report from research that we just got this morning. There seemed to be this kind of canard out there that there is expropriation without compensation, because there are two sections of the act that deal with that. We've got a report here that clearly says that there's nothing—that that is not the case; it's the way the bill is drafted. So you would agree that it's important, from a compensation point of view, that that is something that needs to be in the bill and needs to be clear?

**Mr. Garlough:** It needs to be clear that if a landowner's land use is restricted to the point where it economically affects the use of his land, the public should pay for all or most of that restriction.

I'm not concerned about expropriation of land around a well. If a municipality wants to buy up land around a well or the well owner wants to buy up land around the well to protect it, that's fine; they make an agreement with the landowner. The same thing happens with the energy corridors. When the owner of that energy corridor comes in, they negotiate with the property owner the payments that they will make for the work they're going to do.

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

CORNWALL AND DISTRICT  
ENVIRONMENT COMMITTEE

**The Vice-Chair:** The next presentation will be the Cornwall and District Environment Committee.

I think you are Elaine Kennedy. You can start whenever you are ready.

**Ms. Elaine Kennedy:** Mr. Chair, members of the committee, staff, participants in this hearing, my name is Elaine Kennedy. I am a resident of the township of South Stormont. I have been involved in many environmental committees in the area for a number of years. I was chair of the Public Advisory Committee of the St. Lawrence Remedial Action Plan. I was a member of the Public Interest Advisory Group of the Lake Ontario-St. Lawrence River Water Levels Study. I am presently a member of the Working Group on RAPs and LaMPs for the Review of the Great Lakes Water Quality Agreement, as well as eight other local environmental groups.

I have enunciated some of the committees I have been on to indicate that I know quite a bit about public advisory groups, the key word being “public.” Thus I have concerns about the source protection committee.

In studying the appropriate sections of Bill 43 relating to the source protection committee, I noticed that the members of the committee “shall be appointed in accordance with the regulations.” Then when I tried to find the regulations, I just got the EBR Registry outline of the regulations, which said that the source protection committees may include one third municipal representatives, one member from the general public, one member from First Nations, and representatives from agriculture, industry, public health bodies, non-governmental organizations and others.

Since then, I have received information that is slightly different.

Since there can't be more than 15 members, not counting the chairperson, I looked at how that 15 could be chosen in our area: one third municipal representatives—in other words, five, which would not allow a representative from each township and the city of Cornwall; one member from the general public; one or two from First Nations; one or two public health bodies, such as the Eastern Ontario Health Unit; one or two from the agricultural sector; and then, from some information, there should be industry and NGOs represented.

I think it would be difficult to decide upon which of the agricultural associations will be represented. And will there be a representative who is not a member of an association?

I believe that, depending upon the area that the source protection committee and the source protection authority serve, there must be more leeway on the number of members of the source protection committee.

In listening to the Ottawa presentation, I was very concerned about their large area, and it brought to mind even more my concern about the size of the source protection committee. How could they represent that huge area that is involved in the city of Ottawa, both urban and rural, and still have representation?

I recommend that there should be up to 19 members on the committee, plus the chairperson. This would allow several things. The one third—perhaps seven—from the municipalities could mean that the townships and the city of Cornwall could be represented. There could be more representation from the agriculture associations in an area that is highly agricultural. In some areas where there are many rural landowners who are not farmers, there should be space for two such persons, one representing those who own less than five acres and one for those who own more. I suggest these categories rather than that of “general public,” though I do admit that it leaves out people who rent.

Thus, for our area, the results would be—and by the way, I apologize for the changes in the numbers. I refused to print them over again when I found my mistake. Being a retired math teacher, it's even more embarrassing that I made a mistake in the numbers, but as an environmentalist, I can't possibly print it again and waste that much paper, so I just fixed the numbers, and I do apologize.

The results would be:

- seven representatives of municipalities, one from each township and one from the city of Cornwall;
- two rural landowners, non-farmers;
- two members of the First Nations;
- one from industry;
- two from public health bodies such as the Eastern Ontario Health Unit and our community hospital;
- NGOs; and
- agriculture associations and agriculture representatives, both from the associations and not representing an association.

The Clean Water Act must be implemented with the understanding and support of local citizens. This can only be done if citizens think that their issues are being addressed. Everyone wants clean, safe and plentiful drinking water. This can be achieved if citizens believe that the process is transparent, fair and understandable. It is in your power to make it so. If you don't, there may be problems to solve other than clean, safe and plentiful drinking water. Thank you for your attention to this issue. I'm pleased to answer questions.

**The Vice-Chair:** Thank you for your presentation. Now we can start with the questions. We'll start with Mr. Tabuns.

**Mr. Tabuns:** Thank you very much for coming in and making the presentation. Actually, I have to say you were pretty clear. I think I understand the point, so I don't have a question for you.

**The Vice-Chair:** Thank you, Mr. Tabuns. That was easy. Mr. Wilkinson has a lot of questions.

**Mr. Wilkinson:** Thanks for coming in, Elaine. Actually, you go to the nub of the question of all legislation, right, because you set legislation as a framework and then you have to have regulations so that it can be a living, breathing document so that if there's a problem, you don't have to run the whole bill back into the Legislature.

What we're trying to do is make sure that we have a large enough source water planning committee so that it really represents the whole interests of all the people who are drawing the common water. The proposal is 15 people in the bill, because some people said, "Oh, well, the minister could say it was only three people and that wouldn't be consultative," and other people said, "You could have 100 people." So we've been posting this on the Environmental Bill of Rights registry.

You've made a compelling case about how we might want to have even a bit more leeway to make sure that in every source water committee, it really represents the best interests of the people—make sure that all the stakeholders who need to be there are there so that the public then buys in and feels that it's represented.

Some of the suggestions we've had, just to get some comment: The public health people came to see us. They see that perhaps their role is, instead of taking one of those seats, that they should be *ex officio*, because you've got public health units and they could have a number of different source water planning committees. I've got five watersheds in my riding of Perth-Middlesex. So instead of having somebody there in all five, they should have the right to be there to bring the perspective of public health.

I know another suggestion we got—I have a lot of townships myself—was that what we should say is, "No. It's got to be upper tier." So in other words, you don't have to have every municipality there, but you have to have the upper tier there, whose function is to represent all of the people, for example, in a county. Could you give us some comment about that? What you're saying is that we need to have more flexibility, but in another part maybe we don't need 19; maybe we only need 15. It's how to have one size fits all and actually make this thing a living, breathing document.

**Ms. Kennedy:** When I first started looking at this situation and the source protection committee, one of the things I noticed, for instance, was that there were no scientists involved. Being on the board of directors at the St. Lawrence River Institute of Environmental Sciences, I thought, hey, wait a minute; we haven't got any science here. Then, as I looked into this more, I realized that there were the other technical groups that were involved and I thought, okay, that's where the River Institute needs to be involved, at that level, to bring in the scientists who are studying water issues. That, I think, personally, is where the Eastern Ontario Health Unit also belongs.

From my point of view, I wouldn't cut the size of the group, because those people feel that they belong more on the technical side. I think that's where you can again bring in more of the general public, because it is the public and the people who can talk to their network, who can get out the information and make sure that it is understandable, fair and transparent. That's the big thing. That's one of the things that I've come to realize more and more in my involvement in groups, that you've got to be transparent so that people know what you're doing, why you're doing it—that's even more important; why

you're doing it—and that can only be done if you've got lots of people on this committee who can talk to their networks. It's not just what goes out in the media or on the Internet; it's what goes out in the networks of people who talk to their own people and make them understand what is going on and why it's happening.

1020

**Mr. Wilkinson:** And at Tim Hortons.

**The Vice-Chair:** Ms. Scott?

**Ms. Scott:** Thank you very much for appearing here before us today. You made a lot of good points. We have heard some concern about who is on the committee.

First of all, the committee hearings aren't going to southwestern Ontario or northern Ontario, so we have concerns about public input from those areas that we're not going to get covered. Also, I'm sure many in the room remember nutrient management and the many public hearings that were held with that when the regulations came out. You mentioned regulations. What would you like to see when the regulations come out? When we did nutrient management before—Mr. Barrett was there—they did 18 public consultations and hearings and made changes in the regulations, but basically it was more of an open, public democratic process. How do you feel about public hearings on the regulations specifically, which, indirectly, we'll address in committee?

**Ms. Kennedy:** I think that's very important because, as was pointed out, it's the regulations which are the meat, which get down to the nitty-gritty and explain exactly what's going to happen, who the participants are, what the rules are going to be etc. In listening to the various people this morning, it is their concern about what's going to be in the regulations that is even more important than the general broad idea, because we all agree we want clean, safe drinking water. It is the nitty-gritty of what happens to the people, the methods that are going to be used, whether it's compensation or how it's tested etc. It is those details, which are in the regulations, that should go out to the people and let us talk about the regulations, particularly when we can see more detail.

**Ms. Scott:** Absolutely. So maybe the government would commit to a lot of public hearings on the regulations that come forward.

**The Vice-Chair:** Thank you very much, Ms. Kennedy, for your presentation.

#### RAISIN REGION CONSERVATION AUTHORITY

#### SOUTH NATION CONSERVATION

**The Vice-Chair:** Now we move to the next presentation, from the Raisin Region Conservation Authority. You can start whenever you're ready.

**Mr. John Meek:** Thank you.

**The Vice-Chair:** I just want to remind everyone that you have 10 minutes for speaking time and five minutes for questions. If possible, please stick with the timing.

**Mr. Meek:** I'll do my best.

Good morning, committee members. On behalf of the Raisin Region Conservation Authority and South Nation Conservation, welcome to Cornwall. My name is John Meek. I work at the Raisin Region as the regional project manager for the source water protection initiative, which is a partnership between South Nation and the Raisin Region.

As you've heard already this morning, our watersheds are largely rural and agricultural in nature. Our source water protection region, as defined in the draft legislation, is approximately 7,000 square kilometres, consisting of 21 upper- and lower-tier municipalities. We have a few large urban centres—the city of Cornwall and a portion of the city of Ottawa—but many smaller urban centres scattered throughout the countryside. We border the St. Lawrence River, obviously, and the Ottawa River, the province of Quebec, the United States and the Mohawks of Akwesasne on Cornwall Island. So we have multiple jurisdictional issues in our region. We have several population growth centres surrounding Ottawa and along the major corridors: 401-St. Lawrence River and 417-Ottawa River area.

Our drinking water sources in this region come from a variety of different places. Of course, the big river systems supply a good-sized population with drinking water, those being the Ottawa and the St. Lawrence. We have many inland communities relying on municipal groundwater supplies. We have one small community relying on a surface water supply, but the majority of our population gets their drinking water from privately owned and operated wells.

The Raisin Region and South Nation support the Clean Water Act and the principles of watershed management. While the Clean Water Act and source water protection are new terms, they're not new concepts. In fact, our conservation authorities have been working to protect source water for decades.

I'm here today to express four main concerns our conservation authorities have with the draft legislation as it stands. The first one relates to funding for implementation of the source protection plans. Since the release of the draft legislation, our board members have indicated strongly that funding the development of plans is only part of the commitment required by the province to achieve the protection of water resources. They've clearly stated that the province needs to fund the implementation of the source protection plans. For example, the Clean Water Act gives responsibilities for monitoring and annual reporting to source protection areas without any suggestion of how these services would be delivered. Long-term sustainable funding would ensure that these provisions are met and that source protection plans are implemented. An example of how successful plan implementation can occur in this scenario is the remedial action plan for the Cornwall area of concern, where the implementation of remedial actions is funded by both the provincial and federal governments. This funding is used for voluntary and incentive-based programs, monitoring, research and reporting. Our conservation authorities

agree with the concept of a provincial stewardship fund for implementing the non-regulatory programs.

The second point I'd like to bring up relates to roles and responsibilities. We've heard a bit about this already. The Clean Water Act, in our opinion, requires more clarity on the roles of the source protection committee in terms of its duties and responsibilities. What is the lifespan of this committee? Does it have a role beyond the terms of reference, the assessment reports and the source protection plans? Will the source protection committee approve or review future amendments to the plans or be involved in implementation at all? Our conservation authorities feel that the source protection committee should carry out consultations on the terms of reference, assessment reports and the plans themselves and that the members should be residents or property owners within the source protection region. In our particular region, we have a local example in place called the Eastern Ontario Water Resources Committee, which is an implementation committee that was set up following a regional water resources study in 2001. This framework is successful and it continues today.

The third point relates to non-regulatory approaches for water resources protection, the carrot versus the stick approach. The Clean Water Act obviously focuses on regulatory measures for water resources protection. Unfortunately, this has been perceived by many as the new way of doing business for protecting water in Ontario. Our conservation authorities support the inclusion of non-regulatory tools right in the Clean Water Act. For decades, the Raisin Region and South Nation have employed education and incentive-based watershed stewardship services as effective means of working with our community groups, agricultural members and private landowners to protect the quality of our local water resources. Our experiences have shown that regulatory enforcement is not well suited to all situations. It's recommended that regulations be seen as an option when compliance is critical or other negotiated options have proved unsuccessful. Previous water resource studies in our region were voluntarily undertaken by our municipalities. No one told us we had to do them. They were led by multi-stakeholder committees. Likewise, the South Nation Clean Water Committee and the Raisin Region's St. Lawrence River Restoration Council currently work with local stakeholders on incentive-based water quality projects. These committees have been in existence for over a decade. One quick example of a success story or some of the on-the-ground implementation relates to manure storage upgrades. Since 1994, between our two conservation authorities and participating farmers, over 158 manure storage upgrades have been completed in our watersheds. These projects are on a voluntary, cost-share basis and they help protect our water.

The last point I'll make is with respect to non-municipal drinking water sources. As I mentioned earlier, a significant proportion, if not the majority, of our population relies on private wells for their drinking water. In many cases, small hamlets have clusters of

private wells within close proximity to one another. There are literally dozens and dozens of these small hamlets in our region. As mentioned by the city of Ottawa, we feel the Clean Water Act needs to provide more clarity on how these non-municipal supplies can be included in the development of source protection plans. We would suggest that the emphasis needs to be placed on non-regulatory measures for these communities in terms of education and best management activities to enhance and protect the drinking water supplies for all of our population, not just the people who are on the municipal systems.

**1030**

In summary, our main concerns relate to:

- the sustainable long-term funding for implementation of the source protection plans;
- clarity on roles and responsibilities around the source protection committee;
- the need to look at regulatory measures as only one possible tool available for watershed stewardship; and
- clarity on the non-municipal systems within the act.

I'd just like to thank the committee for your time today. We look forward to our role in the development of the source protection plans.

**The Vice-Chair:** Thank you very much for your presentation. Now we'll start the questions with Mr. Wilkinson.

**Mr. Wilkinson:** Thanks for coming in, John. Just pass along thanks to your colleagues at the conservation authority for the work that you're doing on this. It's very leading-edge. We know that sometimes you're at the bleeding edge as we try to sort all of this out, but we appreciate the work—and all of the money that we've put in over this five-year period to get the science done, because I'm sure it makes you feel a lot better that we are trying to base this on science and making sure that we have that.

Going back to the question of the non-municipal private wells, we've had some other testimony, so I just want to get your feeling on it. The municipality may decide to have a hamlet, for example, on private wells designated. We've had some testimony that actually the minister should also have the ability to have a say in that. Some people were talking about nursing homes, schools—places like that—where you have vulnerable populations. You would want to have that ability. I take your point about making sure that we use the non-regulatory tools there so that we can get that work done. But can you give me sense about whether you think that the minister should also have that power, not just the municipalities, so you'd have a double check there to make sure we're not missing people who really should have the benefit of making sure that their water is safe?

**Mr. Meek:** I think through the process of trying to identify what the risks are, the Clean Water Act should allow these non-municipal areas to be studied in the same respects as the municipal areas, so that we have a better understanding: Are there risks, and if so, what are they? I haven't thought much about the concept of the minister

approving it, but in my mind it would seem that once the source protection committee has an understanding of those risks, just like the municipal risks, then the plan developed through the committee would formulate recommendations on how to—

**Mr. Wilkinson:** Or if they really felt there was a significant drinking water threat; in other words, in some places it's not been a problem, but here, through science and through the work, we've found that there might be a hamlet that really should be part of that, because of the nature of it, I suppose. The act now just says that the municipality "may" designate; it doesn't say that they "must." So what's the criterion that would make that happen? Should we be clearer on that?

**Mr. Meek:** Yes, I think so, because the conversations we've had with our boards of directors who are municipal politicians suggest that that's going to be a difficult decision for municipalities, and it probably will relate back to the funding issue, because we have so many non-municipal clusters, as you would say.

**Mr. Wilkinson:** Great. Thanks, John.

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

Mr. Barrett?

**Mr. Barrett:** Thank you to the conservation authority for testifying. You raised the issue of funding, and we know that this particular piece of proposed legislation is silent as far as funding. We understand that if this legislation goes forward, it will cost billions and billions of dollars. The province of Manitoba has a water protection act. Right in that legislation they've mapped out the establishment of a water stewardship fund, a trust fund, so this question is very clearly identified in the legislation itself. We get this question during these hearings about who's going to pay for this.

My question to you is: You know the municipalities in your area and the farmers and people who own property. In this part of eastern Ontario, can they afford to pay extra money at this point for a new piece of legislation like this, given the estimate of cost, let alone the estimate of costs if we ever got into private water wells, for example—there are about three million of them in Ontario.

**Mr. Meek:** Can they afford it without provincial funding, is the question?

**Mr. Barrett:** Yes. That's part of it.

**Mr. Meek:** Everyone I've talked to, including our boards of directors, say no. We are not a big population out here in eastern Ontario. So even when you look at water services and sewer services, a hamlet of 700 with a multi-million-dollar project to give them good sewage treatment and good water is unaffordable. We don't have the population base.

**Mr. Barrett:** I think that cities like Toronto or Ottawa have the population base; they don't necessarily have some of the concerns. Toronto just takes it out of Lake Ontario. They're not necessarily concerned with source protection. To what extent should this burden be shared with a city like Toronto that isn't dealing with a lot of



these agricultural and farm-based issues as far as source protection?

**Mr. Meek:** The commonly used expression from conservation authorities is, “Everyone lives downstream.” So I would suggest that if Thunder Bay, at the top of the Great Lakes system, was improperly managing their land use activities, that could ultimately result in impairments to the Toronto water supply. So I think the message is, we’re all downstream. It’s a provincial-global program. The message from our board is that certainly the province should be funding the implementation of the plans as such.

**The Vice-Chair:** Mr. Tabuns?

**Mr. Tabuns:** Thank you very much for the presentation. My colleague, I think, has asked the substantive question that I was interested in. If this act was passed and funds were not provided, could you actually do the implementation that you’re expected to do?

**Mr. Meek:** I guess, until we have gone through the process to identify what the risks on the landscape are, it’s hard to predict what the cost will be, and I’m sure that’s one of the provincial challenges. We have been working and will continue to work in the manner that we have with our local stakeholders on incentive-based and education-based programs, whether the Clean Water Act exists or not.

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

#### STORMONT DUNDAS LANDOWNERS’ ASSOCIATION

**The Vice-Chair:** The next presentation will be by the Stormont Dundas Landowners’ Association.

Sir, you can start when you’re ready. As we’ve mentioned, you have 10 minutes’ speaking time and five minutes for questions.

**Mr. Denis St. Pierre:** Okay. We’re going to make it as fast as we can. We’ve got lots to cover.

First, my name is Denis St. Pierre from the landowners from SD&G. I was involved in water issues for 20 years, particularly in the Winchester area, where they tried to expropriate my farm for water. I know all about the water act. I’ve travelled across the province. My library has been used by masters degree students, including John Meek, who just spoke before. I have a copy of his masters degree with me. I’ve also come back from Europe. So we’re going to give you a little bit of a different slant, and we’re going to cover this fairly fast.

The purpose of the presentation is to prove to you, the panel, that we do not agree or intend to comply with the source water protection act as it’s set out. It deals with some major components which we’re going to address today that have not been addressed, and that is: (1) water rights; (2) property rights; (3) controlled agriculture; (4) no power or control at the municipal level to designate their own—basically it’s MOE; (5) it has already been decided in a lot of cases; and (6) no funding.

I want to start off today with the first document. This started off as Canada’s green plan, the Charter on Groundwater Management. I have a copy with me. It’s a little blue book. I worked for four years in the federal ministry of the environment. Under the green plan, the charter lays out in the federal government—that’s why you have the Manitoba act and you have the same act in every province. I want to cover on page 3—and I’ve highlighted those as part of the legislation:

#### 1040

“New legislation should strive towards changing ownership of rights” on water; a “government-controlled permit system” should be established. I came back from Europe; a farmer has to get a permit to drill a well and farmers there—now, a municipal well, one particular farmer, it was costing \$40 a day to get water. “Abolition of user rights” to be changed.

I go on to page 13 of the charter. This is under “Land Use Policies.” “Land use planning already at an early stage of development processes” is being changed. In Ontario, one of the things you had to do, you had to change the Planning Act. This Clean Water Act is coinciding with the Planning Act. All our official plans are now being changed to coincide with it.

A little bit further down, “changes in land use patterns and related rights.” If it’s put in with the Planning Act, it takes all the rights away. They can say it’s cheaper to protect. It’s also cheaper to regulate and not have to pay the landowners.

On page 14, it talked about protection zones in wellhead areas. So really, Walkerton had nothing to do with the issue. That just put extra gas on the fire, and environmentalists like that. On page 14, protection zones: Restrict and prohibit land use activities, mining, intensified farming, application of fertilizer and pesticides in those areas. Nothing in this charter says anything about compensation.

Page 15: We must control the use of manure and fertilizer on farms. The technical term in the academic university, they call it controlled agriculture, and we will talk to you shortly about that.

That’s, very quickly, the charter.

The next one I want to talk about is the proposed Clean Water Act, a confidential report by MOE. Have any of you seen this confidential report? Have our fellow Liberals seen this confidential report? Okay. Well, we’ll go through it quickly with you.

We talked about just source water, municipal protection. It goes far beyond that. On page 2—excuse me if I go fast: “... new municipal authorities and their relation to agriculture; and the planning process.” That’s basically what it lays out in the act.

On page 6, it talks about protecting existing and future sources of drinking water. The other term used is protecting present and future land use control. When you talk about developing wellheads, you could be talking 5,000, 6,000, 10,000 acres per municipal well. In Winchester township it’s about 50,000 acres. That’s just one township. So it’s very nice to say “protecting source water.” We don’t say “land use control.”

Further down on the page—I've highlighted all these for you. It's mandatory. It's not up to the local area. There are also six components to the plan, and the legislation lays out the six components: terms of reference, assessment report, source water protection, implementation, the new power that municipalities will have over landowners, and the Great Lakes.

If you continue on to page 12—I've highlighted it. I'm just going to go through point by point, because if I follow my script, we'll be here all day. I've highlighted "the municipality must amend the applicable instruments." This includes official plans and zoning bylaws. The new Planning Act in the province of Ontario is being changed to adapt to this. Like I say, when you start downzoning property and prohibiting certain uses, that's expropriation without compensation.

Page 13: New powers will be given to the municipalities on individual properties under this act. I just came back from Europe, the war zone. They still talk about the Russians invading farmland over there. That is a tremendous amount of power. As a farmer who was threatened with be expropriation and slandered in my own house—you stand up strong.

New power to issue orders to fix up whatever the—whoever decides, and pay for it, it'll be put on your taxes. Municipalities will also have the power to designate land uses and building constructions.

Page 14: It states in the document, "... through an order or permit, to develop a risk management plan." Who's going to pay for that plan? You've got to hire an engineer, a hydrologist. That could cost you \$50,000. Who's going to review it?

It also says, further down, that the Nutrient Management Act will be prevailed over by the Clean Water Act. So we told the farmer one way, and then the act is going to tell us the opposite. Who's going to decide that?

I want to talk to you about page 15 of the document, "Consistency with Nutrient Management." There's a new science committee that has been formed to deal with this new science approach. It says that they will consult with MOE and OMAFRA, but we all know that MOE means that OMAFRA is hardly in the works any more.

It talks about new potential standards. Every time they bring in new standards, who's going to pay?

It talks about a form of credit. They talk about credit, but under the plan, if other countries develop the same plan, they have this other one, called the nutrient management yardstick. I sat on a provincial committee a few years ago that was developing this, and it's not in the final stage yet. On page 3 you'll have a graph, and you have to calculate all your input on your farms, and your output. I came back from Europe and it took a lady one day a week to fill out such a document—didn't have time to farm. At the bottom it says, "Inputs ... Outputs ... Excess nutrients." If you go over the excess, you have a tax bill put on your property. And by the way, that science committee has now been formed in every province of Canada, not just Ontario.

Page 17: We had a conservation authority talk just before us. I have a flowchart of the documentation that's going to be followed. We have no legislation passed, yet it's already in the process.

Flowchart, page 19: To your left side it says, "Municipal councils may pass resolutions to include private" drinking wells—"may pass." Whenever you develop a document and you make an amendment where it goes on, you can make those amendments later on.

Also, to your right, "Minister of the Environment may set Great Lakes targets." So everybody in watershed areas has to set themselves according to the Minister of the Environment's Great Lakes targets. Terms of reference are actually drawn up by the MOE.

Pages 20 and 21 are actually mixed up, so if you go to the next page, called 20, it says "Scientific Risk..." Vulnerable areas have to be identified. Could you stand up, gentlemen?

**The Vice-Chair:** You have 30 seconds.

**Mr. St. Pierre:** Thirty seconds? Okay; we're cutting it close.

I want to show you that these maps by our local conservation authority, which Mr. Meek was a part of, and a few other people here in the room—the maps are all done. Air photography is all done. I've criss-crossed the province. Conservation authorities have it all done. So much for your local committees and input and process.

Thank you very much, gentlemen.

There are several things I could say, but I want to finish off with a university document from 1994 that I read that laid out this process, how was going to be done and implemented. There's one particular page—this was done by Queen's University. I want to finish off by saying that due to the complication of the issue—and I've heard people speak today here—people don't have adequate technical or political knowledge to deal with the issue, so when you sit on committees, you can blow their minds out. I find a lot of times with committees that the terms of reference are already drawn up. I will read you the last paragraph:

"... public who believe they have no real decision-making power"—that's the way things have seemed to be going lately. "While the public is often consulted throughout the policy process, decision-makers independently evaluate that input and select what will be included in the final decision." I quote a university document from the Centre for Resource Studies.

**The Vice-Chair:** Thank you, sir, for your presentation. We now open up the floor for questions. We start with Mr. Barrett.

**Mr. Barrett:** Thank you for the presentation. You mention expropriation without compensation. Actually, you mention a tremendous amount of stuff here in your research. Just to focus on that, this came up yesterday; this came up in the Toronto hearings as well on Monday. As you know, the Expropriations Act requires compensation if land is taken. However, under this proposed act, in particular subsection 88(6), they've indicated that

nothing done in compliance with this act can be considered an expropriation. So we're skewered, we're hooked. That means you can't get any compensation, because whatever this does, whether it takes the use of your land or whatever, you cannot garner compensation. I consider this back-door expropriation. Very clearly, no compensation is required.

We know there are many stakeholders involved in this: There are water-takers; there are water users. I just wonder if you could comment on this further.

1050

**Mr. St. Pierre:** First of all, the majority of our water in Ontario is used by municipalities, the heaviest-subsidized commodity that we have. It far exceeds corn, soybeans or any agricultural program. Your infrastructure for cities, for waters and sewers, is the heaviest-subsidized commodity there is.

Secondly, the people who use that, if you compare it to Europe and other countries, have the highest consumption rate. They waste it. So I see the city of Ottawa and other town people saying, "This is a great idea," but basically the landowners are the stakeholders and have been paying the bill, and they're sick and tired of it.

We talk about expropriation: I'll deal with that. I was threatened with expropriation. Let me tell you how that works. The municipal town wanted to expropriate my property, but because MOE had only put so much money in the budget, the appraiser was told what price to put on it. Had I not been smart enough or had the financial resources to fight it, I was going to be taken for a ride.

I want to say one thing here. In the conservation authority, this tape I have right here states that when you develop zoning like the maps we have—5,000, 6,000 acres—you are protected under the grandfather clause, meaning you can still farm what you're doing. However, if you ever sell your farm to somebody else, you lose the grandfather clause right, meaning that farm can no longer be farmed the way it is. That is expropriation without compensation. No wonder it's cheaper to do it that way than to pay.

I have toured the city of New York, where they pay 100% of changes to be made, and I support that theory. By the way, the city of New York expropriated 16 towns and moved 13 cemeteries in order to have free water.

**The Vice-Chair:** Mr. Tabuns.

**Mr. Tabuns:** Thanks for the presentation. Do you think that cities should be required to implement aggressive water conservation programs?

**Mr. St. Pierre:** Twenty years I've studied water, 20 years I've been reading that, and it hasn't happened yet.

**Mr. Tabuns:** Thank you.

**The Vice-Chair:** Mr. Wilkinson.

**Mr. Wilkinson:** Thanks for coming in, Denis.

**Mr. St. Pierre:** Are my five minutes up?

**Mr. Wilkinson:** No, we've got plenty of time.

We just had the county of Oxford here yesterday, and they seemed to be quite far advanced on source water protection. What they're doing in that county is that they've actually been buying land, like the case in the

state of New York to support the city of New York. Obviously, they're buying what they think scientifically is important to protect, so they've done the studies to say, "Yes, we've got some significant threats there, so we're better to acquire the land." Would you agree that the county of Oxford has the right take on this?

**Mr. St. Pierre:** Yes. If you look at the Clean Water Act of New Brunswick, if it's a requirement—one particular well was 10,000 acres, to protect one well. The main area of land to be protected was bought out. You know, we pay engineers a tremendous amount of money, but we never, never pay the landowners. That was the cheapest thing they ever could have done, to purchase that land out.

We talk about a land stewardship program. It's a word that's used, and I hesitate on that, because they get into conservation easement and everything else. If you ever try to sell a farm with a conservation easement on it, there's not a European who will buy it. I support the idea where you buy the protected land, and anywhere near there you fund 100% of all changes done through the environmental farm plan that Gord Garlough mentioned.

**Mr. Wilkinson:** Yes, they use it in my county. It's great.

**Mr. St. Pierre:** As I used to farm 40 years ago, we used to see a tremendous amount of money for manure tanks. Since the conservation group has taken over, there's very little money that comes in: \$10,000. I got \$25,000 back in 1977, but I didn't have to hire an engineer. I didn't have to go through all the processes we have to go through. We had far more money protecting agriculture in those days than we have today.

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

Mr. Barrett?

**Mr. Barrett:** On a point of order, Chair: I've just received this memo from research with respect to the issue of expropriation and compensation. I think on Monday Mr. Wilkinson asked for this research to be done on whether this act goes beyond the Expropriations Act. Mr. Wilkinson, you asked whether section 83 takes the act beyond the Expropriations Act as far as not getting compensation. Research says, "I do not believe section 83 supports any taking of land without compensation."

It's too bad you didn't ask about subsection 88(6). It's also in this legislation. To that end, Chair, if I could direct research, I would like to ask the same question about this legislation: Does it permit expropriation without compensation? But don't limit it just to section 83; go down the page to subsection 88(6).

**The Vice-Chair:** Sir, he can answer it right now if you want.

**Mr. Barrett:** I'd like to get this also in written form. I'd hate to have this being circulated without the rest of the facts. There are probably people in this room who could tell us as well.

**The Vice-Chair:** Do you want an answer now or do you want it to be printed and circulated first?

**Mr. Barrett:** Yes, I'd like it in writing, an analysis of subsection 88(6). My understanding is that it does not offer compensation.

**The Vice-Chair:** We'll ask research to print it out and circulate it among the members.

**Mr. Wilkinson:** Mr. Chair, on this point, just so that there's clarity, I agree with him. I'm more than happy to have you do that, David. Again, if there's any other section where you think there's any question about this issue, that there could be expropriation without compensation, let's get that clarified on the record and ask the researcher for the Legislature to do that. Are we okay with that? So if someone then says, "Well what about subsection 115(a)?" let's take a look at it. But we agree that subsection 88(6) needs to be clarified.

**The Vice-Chair:** For Mr. Wilkinson and all the members of the committee, I guess the research department in the end is going to summarize all the points and put them in a format and then it is going to be circulated to all the members. That's why we keep asking research about the details. He's taking notes and he's going to do it all at one time, and hopefully at the end of the sessions we can circulate it among all of us.

**Ms. Kathleen O. Wynne (Don Valley West):** Mr. Chair, if Mr. McIver can briefly give us a thumbnail of the response on subsection 88(6), could we have that just so the people here can hear it?

**The Vice-Chair:** Yes, that's possible if he has the answer. Okay. Go ahead, sir.

**Ms. Wynne:** We can still get it in writing, but I would just like to hear it.

**Mr. David McIver:** I'll try and answer as best I can. I've been advised that subsection 88(6) does not permit expropriation without compensation. I've been advised that the section merely requires an expropriation to be done according to the Expropriations Act, but it doesn't create any new expropriation beyond section 83.

**The Vice-Chair:** Thank you very much. We are still going to get in writing all the details on all the questions being asked of research at the end of the committee. Is there anything else? Okay.

#### TOWNSHIP OF NORTH DUNDAS

**The Vice-Chair:** Now we move to the next presentation, which will be by the township of North Dundas. Welcome, Your Worship. You can start whenever you're ready, sir.

**Mr. Alvin Runnalls:** Thank you, Mr. Chair. I'm Alvin Runnalls, mayor of North Dundas, and I have with me Bill Smirle, deputy mayor of North Dundas. The presentation is a little short. We've only known that we'd be here for a few days. I thank the committee for allowing us the privilege of being here.

Before I get into the presentation I'd like to mention—and I haven't put that in my presentation—that we have always worked closely with the Ontario Clean Water Agency in North Dundas, with very good results. In hindsight, I often think that maybe if Walkerton had had

such an organization working with them, we wouldn't be here today.

#### 1100

I thank you for the opportunity to make this presentation for North Dundas today.

North Dundas township comprises the north half of Dundas county and is directly south of Ottawa. The South Nation River drains almost all of the township. The towns of Chesterville and Winchester are served by municipal wells and lagoon systems for sewage. The rest of the population is on private wells and septic systems. Our population is around 11,000.

Some E. coli contamination has been found in settlement area wells, the result of faulty septic systems. In all cases I believe they've used ultraviolet systems, they've upgraded their septic systems, and we don't seem to have a major problem. I'd also like to point out that it isn't farms that have been the culprit. We don't seem to have any problem there at all.

Agriculture is the largest industry in North Dundas, with \$60 million in farm gate receipts noted in an agri-study completed in the year 2000. But since then, our farmers have been hard-pressed since BSE has appeared and there have been depressed prices for grains and oilseeds. So the whole idea here is that if farmers are blamed, it could make it much more difficult for them in difficult times.

There is much concern from the farm community and municipal government about the possible effects of Bill 43 because, as you can see, our water supply has been and will be a vital asset to our prosperity.

Walkerton, in our opinion, has caused an overreaction in water protection practices. Our township has had to do much more to protect its water even though, theoretically, one could drink our well water without treatment. We haven't cut corners or been careless in our practices.

This is, I think, the important part of my presentation: We have what we feel is a great example of what really needs to be done. Well 7, supplying Winchester, has been in operation for 10 years now. Originally there was much opposition from the farm community to the well because of the fear of expropriation and right-to-farm issues such as manure, fertilizer and chemical spraying. The township of North Dundas agreed to put in test wells around the well and to monitor monthly. The water has been regularly tested over this period at a relatively modest cost, and we would like to do the same with our new well field near Chesterville. Even in looking at those results, we'd have a meeting once a year and the results would all be there—no atrazine and no chemicals whatsoever, no E. coli. In one test well there was a bit of nitrogen and we don't know why—whether it was the presence of legumes. We didn't think it was fertilizer, anyway.

Regular farm practices have continued within 150 metres of well 7. The gentleman who farms there spreads manure and fertilizer and farms as he always has—no bad results to that. No agri-chemicals or contamination has appeared and the water is of excellent quality.

North Dundas has a 20-year supply of excellent-quality water. We do what we have to do to protect our

citizens. Some of the costs downloaded on us were unnecessary, we feel. Our farmers are doing a great job of handling their nutrient management and certainly can't afford to spend more of their money to protect others in the community. But I think there's still a feeling that farmers are more than willing to do their part.

Our farm community has to be properly compensated if Bill 43 should infringe on their right to farm. My OFA colleagues' pipeline compensation idea mentioned in an earlier presentation is an excellent one because it would ease concerns between the groups in the community and put to rest a lot of concerns from landowners. We feel that our well 7 exemplifies what can work in water protection at reasonable cost to everyone.

Getting back to Mr. Garlough's comment about the pipelines, when a pipeline goes through or when there's maintenance or anything, there's no concern. I've heard farmers say, "I don't mind because we know that we can trust them now." Maybe if a new municipal well is going to be established, it would be nice to have the same feeling, that we get to know that we don't have to worry about all these things.

I would like to point out that the Association of Municipalities of Ontario, AMO, notes that source water protection plans are supposed to be instruments of local creation. However, the proposed legislation makes it clear that the province is the only decision-maker. This is not a great idea when dealing with source water protection around wellheads and intakes, which is really a municipal responsibility. The new higher standards would mean that a municipality may have to install a treatment facility. In our case, that would be at least \$3 million for each of our two towns with the systems.

In conclusion, community wells, if aquifers are available, are an excellent and cost-effective source of water and are completely different from surface sources such as rivers. We believe that they should be well supervised, as our above example proves, and that our farmers can continue their farm practices. Other country residents should have to keep septic systems in order. Unused wells have proved to be a danger to aquifers and should be decommissioned.

On that point, I'd like to mention briefly an unused well in a basement in South Glengarry that nobody knew that caused a great deal of grief. There was a fire in that house. The firemen came and poured all sorts of chemicals into it. There were about four feet of water in the basement and, of course, it went down into that well and contaminated 30 other wells. It's that sort of thing—it's hard to find some of these wells. I know that South Nation and OFA have been doing programs to help close them up.

Local people should have a say in local decisions in these matters. That's why we're concerned about the committee. Nobody knows if the committee is going to stay after—elected people should be there, farmers and so on. It's easy to needlessly complicate matters when simple solutions are sufficient. We believe some of the big changes recommended in Bill 43 could be very

detrimental to our community, if things go as they could go. Thank you very much.

**The Vice-Chair:** Thank you very much, Your Worship, for your presentation. We'll start questions with Mr. Tabuns.

**Mr. Tabuns:** Your Worship, thanks for coming in today. We really appreciate your input. If in fact this legislation were amended to specifically provide for compensation and incentives, would that substantially reduce the concerns of the rural community?

**Mr. Runnalls:** I think it would go a long way to doing that. We feel helpless. It could put people out of business when times are already hard.

**The Vice-Chair:** Mr. Wilkinson.

**Mr. Wilkinson:** Thanks, Your Worship, for coming in and really giving us a great example of people working together locally. There were two choices on this. You could have this kind of top-down-driven thing from the Ministry of the Environment or you could go this route, which is getting local committees, people who are drawing the same water, working together. Of course, we're doing the science, but from that you get terms of reference, an assessment report and then you get your plan.

We had the city of Ottawa here. It's got three conservation authorities, two of these forming one authority for source water. It's got multiple sources, from surface water, from groundwater. You were saying, really, that the MOE shouldn't have the final decision. I guess our concern is that, with a province so big, we need to have these plans kind of bumped upstairs to make sure you've got that coordination between them so that we don't end up having conflicts between the neighbouring source water planning committees. Because it's based on surface water but there's also the groundwater, which doesn't necessarily flow. Are we wrong to actually make sure that at the end of the day these plans—terms of reference, assessments—get back up to the ministry level just so we get that coordination?

**1110**

**Mr. Runnalls:** I believe there certainly has to be co-ordination and I agree that North Dundas is almost all one river. We take no water from that river, although I must say that Casselman is downriver and they take their water from the river.

**Mr. Wilkinson:** So they have an interest—

**Mr. Runnalls:** They have a treatment plant, of course.

Eventually, whenever our lagoons are full and treated, that water goes back into the river again. So I agree. St. Lawrence, Iroquois and Morrisburg are doing a plant right now. They take it from the river; it's altogether different from ours. In our local area, I just feel that we have proved that we can handle a situation properly, but I can see a coordination in the bigger area.

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

Ms. Scott.

**Ms. Scott:** Thank you very much for coming today and for your presentation. We've talked a lot about costs. You mentioned abandoned wells. We had a presentation yesterday; they said that by the time they dealt with the

abandoned oil and gas wells as well as water wells, they were looking at maybe \$10 billion. Ontario Sewer and Watermain were looking at around \$18 billion. You've got roughly \$6 million, I think. You said \$3 million per—

**Mr. Runnalls:** Yes.

**Ms. Scott:** So you're looking at possibly \$6 million in costs?

**Mr. Runnalls:** Yes, if we had to put in a proper—we have a lagoon system that seems to work well, and I believe the water that comes out of that is 99%-plus.

**Ms. Scott:** That's a lot of costs for a municipality with a low population base. I come from the same area, and they'll hear those stories in Peterborough. What do you think the funding should be? This is a big municipal download from the province, legally and financially. What do you think the province's role in cost-sharing should be?

**Mr. Runnalls:** Right now, I believe the act states that the people who use municipal water must pay for it. In our case, we're trying to build up a reserve. We have a problem too, because our two towns are separate. I'd like to see them linked, because one is charging a lower rate than the other. That's a political time bomb, you might say, but we're working on that. If we could join the two systems then we could do something about it, but all of it costs money. It would probably cost us \$3 million to join the systems as well. With the act coming down, they might say we can't do what we're doing. In that case, it could be \$6 million. It certainly would be nice to have some help because it's—

**Ms. Scott:** You're going to be in financial hardship if you don't, there's no question.

**Mr. Runnalls:** We would be in financial hardship, because we already have a lagoon to update in Chester-ville.

**The Vice-Chair:** Thank you, Ms. Scott.

Thank you, Your Worship, for your presentation.

#### POLLUTION PROBE

**The Vice-Chair:** Now we will move to the next presentation. It will be by Pollution Probe. Sir, you can start when you're ready.

**Mr. Rick Findlay:** Thank you, Mr. Chairman, and good morning, members of the committee. My name is Rick Findlay. I'm director of the water program with Pollution Probe.

Pollution Probe is a non-profit charitable organization that has existed in Ontario since 1969. We're supported by a donor base of approximately 6,000 people. Our mandate is to define environmental problems through research, promote understanding through education and press for practical solutions through advocacy. Our approach is to not point out problems without pointing out solutions, and today I'd like to focus on that. Working in partnership with industry, governments and communities, we offer innovative and practical policy-oriented solutions to air and water pollution issues, and

we seek to support measures that will assist in providing a clean, safe and healthy environment.

Source water protection has been a priority of Pollution Probe since we held a 1998 conference called The Water We Drink and subsequently released a report of the same name in 1999. We called for source water protection to become a priority months before the tragedy of Walkerton in 2000, which, sadly, opened everyone's eyes to the wide range of issues surrounding the provision of safe drinking water.

In 1999 and again in our Source Water Protection Primer of 2004, we said, "In the past, the emphasis has been on treating 'dirty' or contaminated raw water in order to make it safe to drink. As a result, we have developed considerable expertise in terms of drinking water treatment techniques. Now we recognize that much more" can "be done to protect the sources of our drinking water. Better source protection means preventing the kind of pollution that later must be removed or treated, and it means paying more attention to watershed management. It means taking a prevention approach rather than an end-of-pipe treatment approach. It means being more careful about land use and urban development, about where and how development occurs, and about agricultural uses, including livestock operations. It means protecting the groundwater and surface water in a watershed area. Source protection means taking an ecosystem approach to watershed management—it may also mean a more cost-effective approach to providing clean, safe drinking water over the long haul." That was all true in 1999, and we believe it's still true in 2006.

Pollution Probe was honoured to be a participant in all phases of the Walkerton inquiry. In 2004, we joined a number of organizations in the preparation and submission of a non-governmental organization's statement of expectations regarding source water protection. Through these reports and activities, and with our very widely distributed and well-received Source Water Protection Primer—this is a document that many of you may have seen, and I'm happy to leave it with the committee for your information, but it is widely distributed in Ontario by Conservation Ontario members and other organizations as a standard reference on source water protection—we believe that Pollution Probe has helped to define the language and the debate and the direction of source water protection in Ontario.

In February 2006 comments to the EBR Registry, Pollution Probe concluded that the Clean Water Act is a very positive contribution to safer drinking water in Ontario and a solid foundation for a comprehensive protection regime for watersheds in general. Pollution Probe continues to hold that view and we urge passage of Bill 43, with consideration of some following comments and suggestions that I'd like to leave with the committee today:

First of all, watershed protection is important for reasons beyond drinking water source protection. We appreciate that Justice O'Connor's vision of watershed protection places drinking water protection within the

context of our ecosystem and emphasizes the need for watershed protection for more than drinking water protection alone. Pollution Probe is very respectful of the proposed Bill 43 for its specified purpose of drinking water source protection. This is indeed an urgency in Ontario, and we look forward to passage of the act.

We are also mindful of the fact that there are many other important reasons for doing watershed-based planning and management that go beyond the need to protect drinking water for humans. These other reasons have to do with the overall sustainability of our environment and the ecosystem that supports natural life in Ontario and is the basis of so much of our economy and society in general. We think it's very important to regard the Clean Water Act as a fundamental building block for Ontario, and the Ontario government should build on it to create a broader framework that would address other important planning goals that all should be met by taking a watershed-based approach.

I wanted to mention briefly the precautionary principle. We believe that this principle should be inserted into the Clean Water Act, both as a guiding principle in the act and as an operationalized component of the source protection plans. Basically, what I'll suggest is that the precautionary principle means that, where there are threats of serious or irreversible damage to an existing or future source of drinking water, lack of full scientific certainty should not be used as the reason for postponing measures to prevent the threat.

I wanted to mention the Great Lakes and the importance of the Great Lakes to life in Ontario. It's important for the act to mandate protection of the Great Lakes through provisions requiring integration with existing Great Lakes programs. The act currently allows some important provisions related to the Great Lakes and provides discretion to the minister in this regard. Given the critical importance of integrating source water protection with existing Great Lakes programs, it's necessary to ensure that source water protection principles, strategies and policies are incorporated into existing and future Great Lakes agreements and programs.

The Canada-Ontario agreement is one example. It's up for renegotiation over the coming year, and this would be a good opportunity to work with the federal government and others to advance source water protection from a Great Lakes basin point of view.

Another upcoming opportunity is the review and likely renegotiation of the Great Lakes Water Quality Agreement, a very significant opportunity to advance source water protection in all jurisdictions around the Great Lakes that could be significantly influenced by the standards that should be set by Ontario through the Canada-Ontario agreement.

It's very encouraging to note that, with the passage of Bill 43, Ontario would be seen as a leader in watershed-based source water protection amongst other state and provincial governments around the Great Lakes and St. Lawrence River basin. This should have an important economic and social benefit, as well as environmental ones, in both the short and longer terms.

## 1120

I wanted to mention the right-to-know principle. Whether in Bill 43 or through subsequent regulations, or both, I believe that the government should use the right-to-know principle as an implementation principle. Basically, this principle would be based on a presumption of access to watershed data and information unless there's a compelling reason for not providing that access. Citizens should have ready access to data in order to inform themselves and take action as individuals rather than be informed regularly and periodically about the status and progress of source water protection in their watershed.

Although the need for open discussion and communication has been addressed under the public participation and transparency guiding principle, the right-to-know principle underpins the need to provide data and information to the public that has been gathered by public agencies and governments. It also addresses the public's right to understand. It's important that citizens have adequate capacity to receive information, understand it, be empowered to take appropriate action and become involved in the implementation of source water protection plans.

The right-to-understand concept is in the best interests of all involved parties. Responsible authorities benefit from an informed public with an improved understanding of the relevant issues in their community, and data custodians appreciate the responsible and effective use of data by public agencies, especially when ownership and control is maintained through the use of data and mapping standards associated with Internet-based distributed network approaches.

So we would encourage the Ontario government to use the Clean Water Act, 2006, to develop an integrated watershed-based information system with publicly available, Internet-based watershed data and information that is consistent across the province. Pollution Probe is presently managing a pilot project in the Ottawa-Gatineau area of eastern Ontario and western Quebec called Managing Shared Watersheds that I think will be very helpful in demonstrating how this approach can be operable.

I wanted to mention the net gain concept. Pollution Probe prepared a report a few years ago for the central Ontario Smart Growth strategy panel that provided recommendations to guide future planning in Ontario, and it forms the basis for our comments on growth and planning. The net gain approach is an important principle to guide planning in general in Ontario. The approach has particular potential as a helpful tool when setting priorities in a watershed planning and management context. We realize that our comments on net gain should have particular relevance to the proposed regulations under the Clean Water Act, but given the broad nature of this comment with respect to planning in general, we want to encourage the Ontario government to include net gain as a guiding principle in the act itself. Net gain means, for example, that a wetland with a new development pro-

posal becomes a better-functioning wetland than without the proposed new development. It becomes a net gain, in other words. We're currently working with other partners, including the Toronto and Region Conservation Authority, to put the net gain principle into practice in the Duffins Creek watershed of eastern Toronto, and we think all watersheds in Ontario would benefit by the application of the net gain principle.

I wanted to touch on funding. I know that this has been addressed, and I'd like to support the comments made by the city of Ottawa regarding the Sustainable Water and Sewage Systems Act and the need for this kind of approach to be taken to support funding of the Clean Water Act.

I wanted to close with some comments on the issue of climate change and provide to the committee a report called Mainstreaming Climate Change in Drinking Water Source Protection Planning in Ontario. This was produced by Pollution Probe and the Canadian Water Resources Association, by Drs. Rob de Loe and Aaron Berg from the University of Guelph. What this report says is that climate change is truly happening in Ontario; that we need to take into account the effects and impacts of climate change when doing source water protection planning in Ontario. This report suggests how.

**The Acting Chair (Mr. Kuldip Kular):** Thank you, Mr. Findlay from Pollution Probe. I'm Kuldip Kular, Acting Chair. Now the question period starts. Mr. Wilkinson?

**Mr. Wilkinson:** Thanks for coming in, Rick—we appreciate it—and sharing your thoughts. You were just talking about information sharing, about how to make sure this whole process is transparent, particularly using technology that's available. I'll give you the example of the Maitland Valley Conservation Authority. They have a website called My Land, Our Water, and you're actually able to go right to your property and see all of the wells. A lot of the farm communities are self-identifying, because you go, "Yeah, that's right. I know there is an abandoned well. The family used to have a house on another part of the farm back in the late 1800s and there's probably a well there." So they've been able to actually get even more information just by making it accessible.

I think you're doing some work on Internet sharing. We're trying to make sure this is public and transparent. Could you just kind of share with us how you're doing that?

**Mr. Findlay:** We have two pilot projects under way where we are doing this. One is in the Sarnia-Lambton county area, where we are bringing together environmental data and health data from all different sources—the provincial government, the federal government, industry and local places—using standardized approaches to data and mapping to allow it all to come together and be mapped under a GIS that's web-based and accessible to anybody. This is the kind of approach that I think should be taken with all watersheds in Ontario, with all conservation authorities and with all communities, this kind of place-based approach to bringing information and

data together. The standards are there; we just need to use them.

We also need to loosen up in terms of the access to data. I'd like to just make the point that providing and publishing data to your own website allows you to own it and control it much better than by distributing a CD with data on it and hoping that people do the right thing with it. So I think these are the right directions to be taking, yes.

**The Vice-Chair:** Mr. Barrett?

**Mr. Barrett:** Thank you to Pollution Probe. You do mention the value and the importance of prevention a number of times. We know how important prevention is in the health field—health promotion, for example—and much of that based on information and education, as with environmental issues, as you've been discussing, the importance of websites and information sharing, information systems. You mention database and coordination. I guess the question is, do we need a law to do this? Do we need this legislation to force people to do websites and to share information?

My concern is that this law doesn't seem to inculcate the principles of prevention and information and training and information sharing. This is a fairly punitive piece of legislation based on fines and enforcement to deal with problems partly after the fact. I didn't hear a case to have this legislation. We know O'Connor did not ask for this piece of legislation. He said a change to the EPA would accomplish the goal.

**Mr. Findlay:** Well, the point I want to make is that the use and provision of data and information to all people in Ontario about their watershed is really the underlying point. Whether it happens in the act itself or in subsequent regulations under it, I'm not going to suggest at this stage. I think the important thing is to take the approach of being able to share data, using standards and the latest technology, to really empower people to understand what's happening in their watershed and let them take their own action too.

**Mr. Barrett:** So maybe we don't need the government to do this for us.

**Mr. Findlay:** I think we need the government's encouragement and the government's acceptance that these standards are important, to specify the standards and to make sure that people use compatible approaches in all the watersheds of Ontario.

**The Vice-Chair:** Mr. Tabuns.

**Mr. Tabuns:** Rick, good to see you. This act: Do you believe it will actually protect source water in Ontario if adequate funding is not made available from the province?

**Mr. Findlay:** I think funding really is an issue. I think adequate funding will be essential for proper implementation of the act.

**Mr. Tabuns:** That's all I had to ask. Thank you. Oh, could we [*inaudible*]

**Mr. Findlay:** Yes. I'll provide the committee with—I only brought one copy, but—



**The Vice-Chair:** If you give it to the clerk, the clerk will make sure all the members get a copy.

**Mr. Findlay:** That would be fine. Thank you very much.

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

#### RURAL ONTARIO MUNICIPAL ASSOCIATION

**The Vice-Chair:** The next presentation will be by the Rural Ontario Municipal Association. They are here? Great. Welcome, sir, to the standing committee on social policy. You have 10 minutes' speaking time and five minutes for questions, which will be divided among the members.

**Mr. Doug Thompson:** Thank you very much, Mr. Chair and members of the standing committee. My name is Doug Thompson. I am a councillor with the city of Ottawa and chair of the Rural Ontario Municipal Association. With me is Mr. Bill Smirle, deputy mayor of North Dundas. He is second vice-chair of ROMA, so I've invited him to come to the table with me and perhaps he can help me with some of the questions that may come up.

1130

The Rural Ontario Municipal Association, ROMA, is the rural municipal voice of the province. I am pleased to be here this morning to discuss Bill 43. ROMA has been involved in the issue of source water protection through AMO, the Association of Municipalities of Ontario, from the outset. The municipal perspectives and positions on all the government releases have been provided by AMO, which ROMA supports. The message has been consistent and clear, but we have not been heard on three fundamental issues that relate to municipal government: the limited role in the development and approval of source water plans; exposure to liability; and costs of implementation.

Before I get into those issues, let me just say that ROMA supports the province's goal of making our drinking water safer and we understand that this requires a meaningful, long-term commitment.

Under roles and responsibilities: Municipalities have fundamental concerns around the current structure of the proposed legislation. It is clear from the proposed legislation that the only decision-maker is the province. This is very disconcerting, especially when dealing with source water plans around wellheads and intake areas. These are critical areas of municipal responsibility, as they deal with the protection of drinking water. As the legislation currently reads, the province, by virtue of its decision-making in all aspects of the source water protection plan development, has the full ownership of the plan. While municipalities have no apparent role in the decision-making at the front end of the process, they are required to take on new substantive responsibilities of implementation.

Municipalities should, at a minimum, have the ability to set a minimum area of protection of what happens to our wellheads or intake areas.

Under liability: The second area of concern, one which has been repeatedly voiced, is in the area of liability. The proposed act provides that municipalities will be responsible for enforcement of the provisions of the source water plans. This entails prohibiting or regulating certain activities, including uses of land, to protect drinking water from potential threats. The major portion of this new responsibility is the creation of a system to review and approve applications, undertaking inspections, issuing orders and undertaking legal proceedings. As a result of these new responsibilities, municipalities will require new resources and will face high costs, including a high level of liability.

To move forward, municipalities need liability protection under part IV of the proposed act or the liability consequences for municipalities will be unmanageable.

We support AMO's position that the province should retain the permitting official function unless an individual municipality requests these powers. Some of the larger municipalities may request this role, but I can assure you that small rural municipalities will not be in that position for a long time.

We are also concerned with the impact of section 19 of the Ontario Safe Drinking Water Act and what the outcomes may be once it is proclaimed. The proposed Clean Water Act must be amended to ensure that section 19 does not apply to matters covered under Bill 43 to protect municipalities from inadvertent liability exposure.

Under implementation costs: While municipalities have no apparent role in decision-making at the front end of the process, they are required to take on new and substantive responsibilities of implementation. These new responsibilities will be costly and ongoing. This is particularly worrisome to rural municipalities. In rural municipalities the population base is considerably smaller, while the land mass is considerably larger than in urban settings. How can rural municipal governments possibly be expected to cover the implementation costs envisioned by this bill? The resource implications of the implementation requirements have not been assessed. While the Ministry of the Environment has been forthcoming in providing funds for the preparation of the technical reports and source water plans, there has been no apparent commitment to implementation costs. This continues to be a major issue.

The bill requires that official plans and zoning bylaws be updated to conform to source water plans. The policy development and defence in the official plans and zoning bylaws appear to be the sole responsibility of the municipality. This alone will be a major undertaking for rural municipalities, particularly as the majority of them must contract out these services. Beyond the document update, municipalities may have impacts on their municipal services and may be required to upgrade their infrastructure, including purchases of land around municipal wellheads, which can be a significant cost.

The most significant new responsibility is a mandatory requirement to regulate activities and land uses, which includes the requirement to establish permit officials and inspectors with the power to regulate activities. The actual extent of the permitting responsibilities will not be known until the regulations are in place. However, it is quite clear that these positions will carry a great deal of responsibility. Our concerns are with the ability to resource these positions, the liability related to these positions and with the cost, which will be ongoing and substantive.

Mr. Chair, before I continue, I wish the first paragraph on page 10 to be struck from the record. That first paragraph on page 10 is not to be part of the record, okay?

**The Vice-Chair:** Okay.

**Mr. Thompson:** Just to continue on, we further support AMO's request that a stable source of provincial funding be provided to municipalities to cover the cost of the conformity initiatives and impacts on municipal services.

Should the bill not be amended as suggested in respect to the provincial retention of the permitting official's and inspector's functions, then a stable source of provincial funding must be secured to cover the cost of these functions and the associated costs relative to liability protection.

That concludes my remarks.

**Ms. Wynne:** Mr. Chair, could I just have clarification? I wasn't sure which part of the presentation Mr. Thompson wanted to strike.

**The Vice-Chair:** Ms. Wynne, first we ask the clerk and the legal department if we can take it out or not. We're not sure if we can. We'll get back to you in a second.

**The Clerk of the Committee (Mr. Trevor Day):** Can you just clarify which section of your written document?

**Mr. Thompson:** Yes. In your document it's page 4, paragraph 1.

**Ms. Wynne:** So, where it starts with "We support"? Okay. Thank you.

**The Clerk of the Committee:** Just that one paragraph, sir?

**Mr. Thompson:** Yes.

**The Vice-Chair:** Is it okay by the legal department? It will be taken out; no problem. Thank you very much for your presentation. Now we'll go back to the question period. We have with us Ms. Scott.

**Ms. Scott:** Thank you very much for appearing here before us today. Certainly the themes are coming out. It's a large municipal download to you financially and liability-wise.

You've mentioned some things you'd like to see changed. If things are not changed within the act, especially in the legislation—we want to change what the funding formula is going to be because municipalities can't plan ahead. I think—I'd just like you to confirm—there are going to be financial hardships for a lot of municipalities, especially rural municipalities. I know that where I come from it's going to be severe. Do you

think we actually needed the Clean Water Act or could we have done it within the existing legislation? So, financial, and does the act really need to be?

**Mr. Thompson:** I think, in answer to your first question, being a rural councillor in the city of Ottawa, there's a dichotomy there because 90% of our land is rural, but we probably have the financial resources to implement some of these. But speaking on behalf of ROMA, I think we all agree—and I think it's AMO's position—that there is about \$2 billion in downloading deficits between the province and the municipal governments. We're just going to add to that. Some arrangement has to be made that funding is and should be the major responsibility of the province.

My opinion is that we do need the Clean Water Act. In our opinion it ties a number of things together. We all agree across the province that we need to protect the water sources, so I think this bill will bring a lot of those other initiatives together.

1140

**The Vice-Chair:** Thank you, Ms. Scott. Mr. Tabuns?

**Mr. Tabuns:** Thank you very much for the presentation. Without funding, do you think that this bill can actually be implemented? Will rural municipalities be able to deliver the implementation, monitoring and regulation that are required?

**Mr. Thompson:** There would be municipalities that could not afford to implement those. There was a question asked earlier when the city of Ottawa was here, "Where would those costs go?" and I think staff said that it would go on the taxpayers; it would be a decision of the city council. Although I do believe in the bill, I certainly would be reluctant to add further costs to the taxpayers, because I think there is a large deficit in downloading costs from the province. For smaller municipalities which ROMA represents it would be a tremendous hardship, and probably some municipalities would not be able to afford the costs unless there was provincial assistance.

**Mr. Tabuns:** Thank you.

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

**Mr. Wilkinson:** Thank you, councillor. We appreciate your coming and representing ROMA. It's a group that I deal with all the time.

I wanted to get just two things. The county of Oxford was here, one of your members, saying that they really felt that Bill 43 was required to fill some gaps as they were doing some very progressive work to protect their source water. They have a very complicated kind of headwater situation there. I know the county is a great and active member of ROMA.

Just give me your point about liability so we're clear. We looked into that, particularly about part IV of the bill, where you have a risk management official. What it's saying here is that in regard to liability, we would use the same thing we do with all municipalities, which is that you'd have the good faith principle, which protects municipal staff or a delegated authority—because the

municipality may delegate it to somebody else to do this, so you're coordinating and not reinventing the wheel here and spending extra money. During the execution of their duties, it would relieve the municipality or their authority from liability associated with the decision that's made either to issue or not to issue a risk management order following the approval, and it does not require that official to reduce significant risk to zero; they just need to mitigate the risk so that instead of being significant, it isn't anymore. So you're kind of narrowed down to where there is a significant threat to the common source of water that people are drawing their drinking water from. If that got clarified, would that help on that liability issue?

**Mr. Thompson:** I think that to a certain degree it would. We've discussed this, obviously, both at AMO and ROMA, but the liability is one of the major concerns. I was here for most of the speeches, the presentations, this morning. I think that is an issue that is prevalent across probably most of the province, if not all of it. So if that issue were addressed, it would put a lot of people's minds at rest.

**Mr. Wilkinson:** I think we've got it addressed but maybe we haven't got that communicated well, so we'll definitely make sure we get that reviewed before we go to clause-by-clause.

**Mr. Thompson:** That's a consistent concern that we hear at ROMA and I hear individually from member municipalities that I visit from time to time.

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

#### GLENGARRY FEDERATION OF AGRICULTURE

**The Vice-Chair:** Now we'll move to our next presentation, by the Glengarry Federation of Agriculture. Welcome to the standing committee on social policy for Bill 43. When you're ready, you can start. You have 10 minutes for speaking time and five minutes for questions.

**Ms. Linda Vogel:** Good morning. I'm Linda Vogel and this is Martin Lang. We are here to represent the Glengarry Federation of Agriculture.

The GFA represents 560 farm families in Glengarry county. For farmers, water is a valuable resource. Without an adequate supply of good, quality water, our livelihood is non-existent. Bottled water is not a resource we can use to water livestock.

Bill 43, the Clean Water Act, has many concerning issues. While we will be the first to admit that the protection of our water resources is important, it is vital that you recognize the negative impact that a "possible threat" can have on a farm operation.

We are already governed by the Nutrient Management Act. We are required to complete a nutrient management plan that costs anywhere from \$2,000 to possibly \$8,000 or \$10,000, to meet the requirements of some guidelines to prevent possible threats, again. To meet this regulation we do soil sampling and evaluations of our farmlands.

The initial intention was that, using the science-based knowledge of our farm, we would be limited to the manure to be spread on each field to grow specific crops, while maintaining a specified distance to watercourses. For example, we personally built a second barn in 2004. The plans for the first barn were engineer-approved in 2002. The same plans were used for this second barn. During the nutrient management process, the construction was held up for four months while the regulations were agreed upon—then to be able to use the same plans as the first barn. Due to meeting the requirements of possible threats, we spent \$15,000 in additional fees—all engineer fees. We did not qualify for any funding to support these additional expenses.

If new regulations are implemented through the Clean Water Act, full compensation must be mandatory, regardless of the size of operation or new or expanding status. This compensation must be extended as well to the loss of use of land or buildings.

As farmers, we respect the environment and take every precaution necessary to be aware of potential issues. Remember, farmers rely on land and water for livestock and crops. We cannot jeopardize either without serious repercussions to the livelihood of our farms.

We, as farmers, are the minority. We do own the largest portion of the Earth, though.

Another example is in Crysler of North Stormont. A water contamination problem was identified. The cause? Well, the dairy farmer was charged and had to spent excessive amounts of money to correct his faulty manure pit; acceptable to correct this problem, yes. If you enter the MOE office in Cornwall and read the documentation on the contamination, it will show that faulty septic systems were as equal a contributor as the farmer's faulty manure pit, but MOE will agree that the faulty septic systems have yet to be corrected. Where is the justice? Cities dump sewage after heavy rains. Will these issues be addressed? These two issues, faulty septic systems and sewage being dumped from cities, are intended incidents. Walkerton has been proven not to have been caused by the farms, yet new legislation is constantly picking on the minority: the farmers.

Another issue is strategic location of future wells. A farm family near Moose Creek has lost use of a large sum of acreage due to Moose Creek needing a new well. The municipality chose an area that eliminates the farmer from spreading manure or fertilizer on these fields due to potential risks, and there is no compensation.

With nutrient management you must have the conservation authority sign that you are not in a 100-year flood plain, or no building permit. This act is repetitive of issues that have been rectified or is placing demands that have been dealt with in the Nutrient Management Act. Many farmers have already complied with the regulations of nutrient management, most with no compensation. These farms should be grandfathered past this new legislation. Nutrient management does protect the water and environment, and by meeting these demands, they have proven to be using best farming practices, including protection of our water sources.

This act states that authorities and maintenance inspectors can enter the property or buildings without consent. This is not acceptable at all. Biosecurity is a large part of farming today. Many farms have strict protocol to protect their operations. We are not afraid of making you sick, but you could wipe out our entire operation by bringing a disease into our operation.

With land being zoned agriculture, we are supposed to have the right to farm. This right is being eliminated. In North Glengarry, for example, to have the right to farm and build a barn you must apply for a building permit, comply to the minimum distance separation and include a hydrogeology study, a nutrient management plan, and now we are looking at a risk management plan. Our right to farm is not a right at all.

Our main concerns here are:

- compensation for financial expenditures and loss of use of the land;
- this act superseding the Nutrient Management Act and the land use act;
- the right of entry/biosecurity;
- confidentiality;
- issuance of permits.

Remember: “Farmers Feed Cities.” If you keep putting restraints on us we will not be able to provide the quality, safe food we do now, and you will be responsible for relying on another country to feed our own. Thank you.

Martin has some things to add there.

**Mr. Martin Lang:** Thank you, Mr. Chairman and members of the committee, for giving me the chance to speak this morning. I guess we’ve got a few minutes left, so I’ll go through a little bit more.

Some current concerns that we have—Linda has mentioned five there, but in that also would be section 54, inspections. I don’t think the right to enter without a warrant needs to be in there at all. I think MOE already has the right to enter without a warrant for spills or emergency situations. I think that should be good enough. We don’t need to add more incidents where they can enter without a warrant.

**1150**

Another thing in that same section 54 is the environmental farm plan that’s been very, very successful. We’ve pushed it hard. Our organization, and many of the farm groups, have pushed hard for that. The reason it has worked is because we guaranteed the farmers that this was confidential. In that section, I do not see anything that says that they will not touch the environmental farm plans. It says they can enter and take whatever papers they want. I’d like to make sure that that is confidential and that it remains that way. It was guaranteed that way when the farmers did these plans.

The next thing—and I know it’s been touched on a little bit—is this permit or permit official. I guess there are some changes coming. We haven’t seen anything in writing yet, so I’m going to harp on it a little bit more. I don’t like the idea of the building inspector model, where you’ve got one fellow going around the countryside making decisions, telling me maybe what I can do and

what I can’t do on that section of land. I think it’s going to have to be a little more involved than that. We definitely don’t want it to go that way. I understand maybe it’s being changed, but keep working on it.

Linda touched quite a bit on it: Compensation is a big, big issue. You’ve got to have compensation. I know the municipalities want it, and you know, if they don’t get it, it’s going to go down to the farmer, and the farmer’s going to be the guy. There were some questions earlier about expropriation. Maybe legally it’s not expropriation if you tell a farmer that he can’t spread nutrients on a piece of property, but he has lost the ability to compete with his neighbours. He’s trying to make a living off that piece of property. There has to be compensation. He also has lost the ability to resell that property for a decent value, because people are going to know the restrictions that are on it. So compensation is a big, big thing. It’s got to be looked after. It’s got to be in place, and it should be at 100%. We’re looking to protect something for other people’s interests as well as our own. It can’t be just left on a minority of people to look after funding it.

I’d like to refer you to OFEC’s and OFA’s presentations. The reason for that is that we’re a small, local organization. We’re volunteers. We have full-time jobs farming, and some of us have off-farm jobs as well. I think those presentations were very well done. Basically, we’ve hired people to do these, so I want you to look at these very seriously. When you get to the end of the thing, just picture in your mind as if there are 40,000 signatures at the end, because that’s what these groups are representing, maybe 40,000-plus. We’re not going to hit everything, obviously. We’re not experts on the bill. We’re farmers in this area, and we’re happy to make a presentation, but I want to make sure that you’re looking at those presentations and realizing that’s from 40,000 farmers.

Thank you.

**The Vice-Chair:** Thanks to both of you for your presentation. We have some time for questions. We can ask Mr. Tabuns to ask the first question.

**Mr. Tabuns:** Thanks very much for coming in and making this presentation. I’ve asked other groups today, and I’ll ask you: If this act actually had in it a provision for a water stewardship fund that would help deal with the financial issues that many have raised today, would that go a good distance towards making this bill acceptable to people in rural communities?

**Mr. Lang:** It would certainly help. It was brought up earlier—and I’m not sure who it was; Gordon Garlough or somebody brought up the pipeline issue. If there’s money available and it can work like that, when the pipeline comes through—we’ve had them through our property. It’s very well discussed. We know ahead of time the compensation is 100%, and they’re usually reasonably generous. They’re not going to quibble with the numbers a little bit. If that happens, farmers, for the most part, are fairly trusting of them now. You know we’re still going to watch, and I still think there are some aspects of the legislation that we don’t agree with 100%, but the funding goes a long way.

**Mr. Tabuns:** Okay. Thank you.

**The Vice-Chair:** Mr. Wilkinson.

**Mr. Wilkinson:** Martin and Linda, thanks so much for coming in. We appreciate it.

Just getting back to a couple of issues, on the bio-security, we were fortunate we had the minister in Toronto on Monday talking about how we're going to make sure that we have amendments to ensure that bio-security is enshrined right in the act so that just is a requirement, that anybody who needs to deal on-farm understands that and has to be aware of that.

The other thing about the environmental farm plan, which I know in my riding in Perth county and in Middlesex is going over great—I mean, people just love that. By getting rid of the building inspector model and going to the risk management model, your nutrient management plan and your environmental farm plan are key, because you're going to say, "Well, there might be a risk, but I've already mitigated. So don't make me re-do it again, because I've already done it." So you have to be able to share that information, but you have to raise the issue of confidentiality.

I know the Ministry of the Environment has signed a memorandum of understanding with OMAFRA to make sure that the information that we need to see is the results. We really don't see the confidential part. That's not important, because there is a proprietary interest in that environmental farm plan and nutrient management plan. I mean, it's got a lot of information. So it's just so that we get the results, and that will allow the risk management person, as they negotiate, to be in a position so that they understand what you're doing and can take that into account. A lot of that is coming from OFEC. This is still kind of a work in process. We definitely have heard from you and others about the issue of compensation. We really appreciate that you're able to come and share that with us.

**The Vice-Chair:** Ms. Scott.

**Ms. Scott:** Thank you very much; a really good presentation. I mean, you're farmers; you're out there; you're living it; you've been responsible—nutrient management plans, environmental farm plans. People in rural Ontario, especially the agriculture sector, have done more to work to be environmental stewards than the city, just because we've had to have nutrient management plans and environmental farm plans.

You did mention you have a nutrient management plan. This act is going to come and supersede it. That could change your whole nutrient management. I know it's best practice, but it could possibly change it. If it takes acres out, then your nutrient management plan becomes imbalanced. I just want to highlight that point again, that they could have to go back to the drawing board. OFEC has done an excellent job, I must say, on the amendments that they've brought forward.

Can you just say, even from your area, from talking to your neighbours and so on, if this Clean Water Act goes through the way it is, how many people will just leave the land because they won't be able to make a living off

the land; they'll just leave, and more farm families will go? Do you have any idea? Have you talked with neighbours?

**Mr. Lang:** It's very, very hard to know. You know yourself, the regulations aren't in here yet. We don't know exactly what that's going to entail. We do know that people are pushed pretty hard right now. There are some sectors doing fairly well. They're worried about their future—you know, supply-managed sectors are concerned about the future, but they're stable and doing well. Some of those sectors can afford a little more than some other sectors. But it's definitely going to have an impact on what happens out there if this goes through. You know yourself it's pretty hard to say, but farming won't look the same if it goes through, I think.

**Ms. Scott:** That's right. Thank you.

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

#### ONTARIO LANDOWNERS ASSOCIATION

**The Vice-Chair:** The next presentation will be by the Ontario Landowners Association.

**Mr. Randy Hillier:** Good morning, everyone. I prefer to stand when I speak. I'm sure you'll be able to hear me, and I hope everybody else will be able to hear me. Can you hear me, Hansard? Okay.

My name is Randy Hillier. I'm president of the Ontario Landowners Association. I want to thank you all for coming up here. I know we have a lot of members, employees and staffers of MOE and political staffers up here today. Many of us here in rural Ontario were quite confident that most people from Queen's Park thought the 401 ended at Oshawa, but obviously there are a few who know how to continue on.

I think I'd better warn you as well that there is some risk in Cornwall, especially when you're in the presence of environmental people, that you can be arrested on the public roadways here, so heed yourselves when you're walking outside. If you're in the company of Ministry of the Environment people, arrests could be imminent.

I'm not going to go into the details of Bill 43. You're going to hear all kinds of details; you've been hearing all kinds of details. You'll be hearing all kinds of proposed amendments. I think what we have to do is take a step back and look at some of the principles of Bill 43 and the principles of democracy and the provincial Legislature. The people on this committee are members of the provincial Legislature. They have an obligation, a responsibility, to prevent injustice. That is indeed the primary responsibility of a legislator: to ensure injustice does not take root in our society. Bill 43 is just one more example of the Legislature creating injustice instead of preventing it.

There has been much talk about expropriation without compensation, the entry into private lands, the ability to cease and desist activities and operations on land, all without compensation. I think what we have to look at here is that Bill 43 is the latest. It seems that there's a

large, never-ending grist mill in Queen's Park that just continues to grind out stupidity and injustice: The Places to Grow Act, the Nutrient Management Act, Bill 170, the Safe Drinking Water Act, the Clean Water Act. We can go on and on and on, and all of them are targeted at rural Ontario.

#### 1200

This really is a bit of a charade. A number of our members met Mr. McGuinty last week down near Belleville and he reiterated a statement that he made in the House earlier this spring, where he said "Bill 43 will be passed this year." He said that before the committee hearings were even mentioned. Last weekend, before the committee hearings had even started, Mr. McGuinty again reiterated to the press and to our members, "This bill will be passed." He mentioned it again in a Toronto Star article on Monday: "This bill will be passed."

So what is the purpose of this committee if it has already been deemed to be passed by the Premier of this government, this province? And it's as much a charade—just like the objectives of Bill 43. I've got a little document here; I'm going to leave it with you. It was taken off the PollutionWatch website this morning. PollutionWatch is in conjunction with Environmental Defence. It shows the 20 largest polluters of water in Ontario. The first one is the Ashbridges Bay Treatment Plant, city of Toronto. The next one is the Robert O. Pickard Environmental Centre, city of Ottawa. Ashbridges is only one of the plants that serves the GTA: 11,705,697 kilograms of pollutants released in 2003. It has the honour, of course, of being the number one polluter in the whole country, not just Ontario.

There is a danger to our groundwater and our surface water, but the danger is not throughout rural Ontario. Look at that list. Look at the evidence. The city of Ottawa, Toronto, Halton. Number 4 is the Humber Treatment Plant, number 5 is the Durham treatment plant, number 6 is the city of Guelph—on and on. The first 20 are all government-owned facilities.

Bill 43 targets individual, private landowners as the villain for clean water, as a danger to our environment. Section 14(1) of the Environmental Protection Act—people should all read that. Under the present Environmental Protection Act, no contaminants, no pollutants can be put into water or air. The Ministry of the Environment has full authority and jurisdiction to prevent any contamination or pollution of our resources, and it is a broad, sweeping and all-encompassing section, section 14(1).

That's where the dangers are. It is not Buddy's farm, it's not Buddy's sawmill. This is where the danger is. If the Legislative Assembly is really concerned about our environment and about protecting our environment, then look at the causes and the dangers to it. This can be fixed very easily, those 20 plants. There doesn't need to be Bill 43 that allows government people to enter my property at will. Fix that plant. That can be fixed very quickly, very easily.

This is not about Walkerton. Bill 43 is not about clean water. It is about control, about authority. It's about

injustice. And you people are going to be held accountable to prevent injustice in this province. That is your role.

I've left you three documents. The first one indicates the dangers of Bill 43. The second one shows a simple solution, a solution that the landowners in the South Nation Conservation Authority put together, a solution that says, "We will not enter property without warrant." It says that people have the freedom to own, use and enjoy their private land and properties, and that if this freedom is going to be infringed upon for the public's benefit, then the public will pay full, fair and timely compensation—nice and simple. It's a concept that every reasonable individual can understand, appreciate and support. Anything less is theft, is legislated thievery and stealing, and the people in rural Ontario will not accept it.

The last page is the consequence should you not recognize the solutions. All this legislation that is coming down on rural Ontario is showing contempt for us; it is showing disdain for us. When there is contempt and disdain by government to the people, there is only one consequence of that: It builds hatred, and from hatred in society there is a far worse consequence. Violence is the only thing that comes out of hatred.

This Legislative Assembly must stop this contempt for rural Ontario, must begin to respect the people of rural Ontario and our good stewardship. Indeed, when I look out on my front yard and look at the hundreds of acres of bush and wetlands and fields, it does not remind me of Queen's Park at all. It doesn't remind me of their Ashbridges Bay Treatment Plant. That is where the clean environment is, because we know how to take care of our land. Thank you very much.

**The Vice-Chair:** Now it's time for questions. We'll start with Mr. Wilkinson.

**Mr. Wilkinson:** Thanks for coming, Randy. My question has to do—we just went over this with the committee. We had the legislative researcher verify for us that this myth is going around that somehow this bill allows for expropriation without compensation. I think the debate that's been going around the province is, "Who pays?" Should it be the people drawing the water or should it be the municipality or should it be the province? I know that question was asked. We've asked, not in any political sense, but the people who are the experts from the Legislature who are independent tell us, "No, there isn't anything in this act that allows for this lack of compensation." The debate is, who? I'd be interested to know from you, given that, where do you think the fairness is? Should it be at the provincial level or should it be the people drawing the water?

**Mr. Hillier:** It should be from those who benefit from it, whoever benefits from this restricting of operations or the restricting of use. Who is deriving the benefit? Certainly not the owner of the property. So if it is being done for the municipality, then the municipality shall pay. If it is being done for many municipalities, then it's provincial. If it extends and transcends a single municipality, then it's obvious that a greater number of people are benefiting. A greater number of people shall pay.

**Mr. Wilkinson:** Great. To back up, about the Premier, of course this process is that bills get amended. So this public hearing happens, and then there are amendments that are put forward by all the parties. Of course, it's up to the government if they introduce the bill to call it. It's up to the people in the Legislature to decide whether or not to pass it up or down. But the bill will be called because all parties have agreed that we're doing this, then we're going to amendments in the second week of September and then it's to be called back to the Legislature for third and final debate. I don't think we're being presumptuous. It's just the process we have in a democracy about how these bills work their way through the system.

1210

**Mr. Hillier:** I understand the process. It's seldom that we see legislation with the language in it that this contains. It's seldom that we see a Premier so adamant that it will be passed within a certain time frame, even before the committee has begun to hear proposed amendments or changes. One of those amendments could be to kill Bill 43. If the committee comes up with the idea to kill Bill 43, will Mr. McGuinty accept that amendment? He has told us no.

**Mr. Wilkinson:** It's interesting. All three parties actually ran in the last election on bringing in source water protection, so it would be interesting to see if you could get all three parties to agree that they shouldn't do what they promised to do on the campaign trail.

**Mr. Hillier:** That's usually not very difficult.

**Mr. Wilkinson:** I said "all three parties."

**Mr. Barrett:** On a point of privilege, Mr. Chair: Just before I ask my question, I might ask Mr. Wilkinson to speak for himself. I'm not sure what parties he's referring to, but we made a commitment to ensure that the recommendations of Justice O'Connor were implemented. This piece of legislation is not one of the recommendations of Justice O'Connor. Justice O'Connor suggested a change to the Environmental Protection Act, not a full-blown, stand-alone piece of legislation. So I leave that as a point of order and I would like to go on to my question.

**The Vice-Chair:** Go ahead, sir.

**Mr. Barrett:** Sorry for that interruption.

**Mr. Hillier:** I've been interrupted once or twice before.

**Mr. Barrett:** Really? You can interrupt me if you wish. I might get a bit more airtime.

Looking at your written submission—Ontario land-owners support clean water objectives. I have seen a copy of your agreement with South Nation Conservation. I find that a proactive approach. It seems to me that in this process the real burr under the saddle is this particular—this isn't legislation yet. This is a bill; this is a proposal. A serious threat to property rights, as you say, is a threat to simple justice and due process.

There are other ways, as opposed to a draconian approach. We heard other ways from one of the environmental groups this morning you may have been referring to, Pollution Probe, with a very heavy emphasis

on prevention, information, education, training, co-operation and coordination. You don't need a law; you don't need a hammer to force people to do that.

I think that many of the organizations and many of us have the same end goal, and there are just different means to that end. You've made one suggestion: Kill the bill. If that isn't going to happen under a majority Liberal government, where do we go from here?

**Mr. Hillier:** Where do we go from here? Time will tell. I can tell you, if the bill passes the way it is right now or without significant modifications to respect justice and respect private property owners, there will be trouble in rural Ontario, and not just trouble as far as another nail in the economy of rural Ontario, which has suffered enough nails. We will not let MOE or conservation authorities or any other authority enter our land. We will prevent them; we will stop them. We are not going to allow our province, our country, our homes to be treated without respect. We're not going to allow them to be treated with contempt. They will be prevented; they will be stopped.

This is where we have seen such a gradual and incremental change in governments' perception and attitude from years ago when I was a young fellow. People had due respect for government and government also had respect for us. Education, sensible discussion and reasoned actions were the order of the day, not the hammer approach that this Bill 43 further advances. We are not just nails to be pounded by your legislation.

**Mr. Tabuns:** Thanks for coming in today and making your presentation. You argue very well—I think that's generally acknowledged—that municipalities should bear the cost of protecting the source of their water. I would assume you think that other major water takers that depend on high-quality water should also pay for the protection of the water they depend on as a raw material. Is that correct?

**Mr. Hillier:** Yes. I think where you run into a little bit of a snag there, of course—we'll just focus on the municipal side for a minute. Municipalities essentially only have one avenue for raising revenues: property tax. If the municipality is going to have to take on all of this burden, I think we're somewhat corrupt in our thinking to leave it just on the property tax base. There has to be some way for the municipality to pay for this new standard, however that will be. There must be some mechanism there or else property taxes will skyrocket.

**The Vice-Chair:** Thank you for your presentation.

#### DAIRY FARMERS OF ONTARIO

**The Vice-Chair:** Our next presentation will be by the Dairy Farmers of Ontario. Welcome. You can start when you're ready.

**Ms. Norma Winters:** I guess I drew the short end of the stick here today, having to follow Randy. He's a tough act to follow.

As I'm aware, you've already heard this presentation from one of my colleagues in Walkerton, but I believe

our message needs to be heard more than one time. I also believe that politicians repeat themselves once in a while, so I'm exercising my right to do that today.

On behalf of Dairy Farmers of Ontario, I'd like to thank the committee for inviting us to present our views on this very important legislation. Dairy Farmers of Ontario markets all milk produced in the province, from the 4,800 dairy farms in Ontario, under the authority of the Milk Act. Dairy farming is the largest single sector of Ontario agriculture.

My name is Norma Winters. I am a dairy farmer in Stormont county. We have a family farm and milk about 40 cows. I am here today as a board member of Dairy Farmers of Ontario and am presenting on behalf of our organization.

Dairy farmers understand the importance of the legislation and why they must be vigilant in exercising best practices in environmental stewardship. We are proud of the way dairy farmers stepped up to the plate since the passage of the Nutrient Management Act, and we are certain that with the right clean water legislation in place and with the economic incentives they need, they will step up again.

My presentation today has three sections. In the first part, we want to clearly express support for the objectives of the Clean Water Act, while raising three fundamental concerns with the proposed legislation. In the second part, we want to make some specific recommendations. In the final section, I will make some brief summary remarks.

I will start with our concerns. The first, fundamental concern is that while we support the objectives of Bill 43, we view the current legislation, as Mr. Barrett has stated, as being overly punitive and not a positive improvement over existing legislation to improve Ontario's drinking water quality or risks. All impacted business and landowner groups agree that it is vital to have a safe and reliable source of water in this province. At the same time, it is important to bear in mind that high standards for drinking water are already in place in Ontario. Further, there are laws in place to regulate and punish polluters. In this context, it is difficult to understand the business case and administrative need for additional rules, regulations and enforcement protocols.

#### 1220

Ontario's dairy farmers do not take exception to properly framed and enforced legislation to deal with proven polluters. Provincial MOE enforcement with trained staff following proper pollution abatement procedures under the existing Environmental Protection Act or nutrient management legislation has proven to be a workable approach, as John Meek from the MOE stated earlier in his presentation.

Our concern is that the proposed bill appears to shift the burden of proof to the agricultural landowner. Under Bill 43, the process puts the onus on the agricultural landowner to satisfy the municipal permit official that the normal, legal farm practice will not cause harm.

Rather than creating a predictable, uniform and scientifically sound framework for effectively managing

legitimate risks, the proposed Clean Water Act establishes a regulatory process that could result in overly risk-averse municipal permit officials applying the precautionary principle to place an unfair and unnecessary burden on the landowner.

In contrast, there is a need for targeted education, incentive and implementation procedures and protocols based on risk and linked to local source water protection plan objectives. It is disappointing that Bill 43 is entirely punitive and does not focus on the development of a practical and workable framework for making positive water quality improvement progress.

DFO's second fundamental concern is that Bill 43 is vague on key definitions and scope which, because of farming's large land base, places a disproportionate burden on farmers, and this burden could well grow over time. Agricultural groups are confused, as you have well heard from the presentations over the last few days, by the inconsistency between the broad purpose statement found in the Clean Water Act, which states, "The purpose of this act is to protect existing and future sources of drinking water," and assurances that the focus of the proposed legislation is municipal residential drinking sources. Further, our concern is that surface water intake zones could impact a much larger land area than the municipal wellhead protection zones, as Mr. St. Pierre brought up in his presentation, as well as the Glengarry Federation of Agriculture.

The definitions of terms such as "significant drinking water threat" in Bill 43 are unduly broad and subjective. Our interpretation is that virtually all activity in a source protection area will be designated, at first instance, a "drinking water threat." This definition fails to recognize existing approvals, guidelines or standards that govern normal agricultural land use. The resulting uncertainty, and its consequent investment of resources to deal with any and all such threats, is unreasonable.

Agricultural producers within designated wellhead and surface water protection zones may be subject to "permit official" conditions that go well beyond the normal agricultural due diligence standards.

DFO's third fundamental concern is that there remains a lack of commitment for fair funding principles, as Mr. Runnalls stated in his presentation. The implementation cost and the environmental human health benefits of Bill 43 are unknown and would appear to fall disproportionately on rural businesses and landowners. The bill appears to be structured so that all of the implementation cost is picked up by either the impacted municipalities or the impacted landowner. It is essentially a case of expropriation without compensation. With this, there seems to be some discrepancy here. As Toby stated earlier, under 88(6), according to our legal counsel, the bill can expropriate without compensation. I'm not a lawyer, so that will be between lawyer and lawyer.

It is our position that Bill 43, as it stands, could have serious financial consequences for landowners, operating to effectively expropriate lands without any apparent compensation. There should be clearly defined protocols



that source protection authorities and municipalities can use to negotiate fair solutions with impacted agricultural landowners. The concept of a provincially supported agricultural stewardship fund, which has come up often today, to assist impacted landowners and municipalities should be specified in the act.

Dairy Farmers of Ontario's recommendations to the committee are:

(1) Reconsider the permit official approach, as Martin Lang spoke about earlier, in favour of a more proactive and positive approach that focuses on achieving the bill's objectives. More rules, regulations and bureaucracy will not help to achieve source water protection goals. This approach appears destined for conflict. Rather, the focus should be on planning, education and financial incentives.

(2) Funding issues need to be addressed in an equitable way as an integral part of Bill 43 as recommended by the Advisory Committee on Watershed-based Source Protection Planning, 2003. The advisory committee recognized that one of the guiding principles of successful source water protection is cost effectiveness and fairness: "The costs and impacts on individuals, landowners, businesses, industries and governments must be clear, fair and economically sustainable." This is on page 4 of the advisory committee report. Dairy Farmers of Ontario believes that issues of who pays must be dealt with up front and in a clear and transparent manner.

We believe that acting on these two recommendations would address some of the important concerns that stakeholders have about Bill 43 and greatly enhance the achievement of the shared societal goals that are the objectives of the bill.

In summary, Mr. Chairman:

—Dairy Farmers support the goal of clean water for everyone but have concerns about the approach being proposed with Bill 43.

—We think the approach is destined for conflict with orders and permits, permit officers, inspectors and enforcement officers, new municipal authorities, limited appeal processes and no financial assistance.

—Our other concerns relate to a lot of uncertainty and vagueness around the bill, including how much land and where, what activities will be regulated and who pays for implementation.

—We feel the government needs to present a more balanced approach which includes co-operation and teamwork with those who are likely to be most affected and addresses the need for financial assistance.

Thank you for taking the time to listen to my presentation. I am by no means an expert on Bill 43; that is why beside me we have our consultant Chris Attema. I am a DFO board member, as I stated earlier, plus a concerned businesswoman, a farmer, a mother of four who lives eight minutes from here, who has some concerns with the approach taken by Bill 43.

Dairy farmers, like myself, are good stewards of our land. We live on our land and our families drink the water from our wells on our farms. As Randy stated,

there are other areas than rural Ontario to focus on. The issues we have lie, not with the concept, but with the approach of the legislation.

Thanks again, and Chris welcomes any questions you may have.

**The Vice-Chair:** Thank you, Ms. Winters, for your presentation. You used the exact time. Now we open the floor for questions. We ask Ms. Scott for the first question.

**Ms. Scott:** Norma, you did a fabulous job, and Chris has been doing a lot of work. My background is the health field. You hit it right on the head: We all want to accomplish the same goals. But I dealt with disease prevention and health promotion. Pollution Probe mentioned it; many groups have mentioned it here today. The approach that's in this bill is going to lead to confrontation. It's not going to accomplish its objectives. It's too heavy-handed.

My question to you is, do you think that we can change this bill enough now, or should we scrap it and start again? Where do you think we should go from here, whoever would like to answer the question?

**Ms. Winters:** This kind of leads into what I was hoping to get in here today. What I would like to stress—this has come up earlier today too—is that changing the name of the permit official to a risk official is not enough; the mandate must be changed. We have to negotiate solutions, offer technical assistance and offer cost share. I guess that sums everything up.

**Ms. Scott:** So we've got a lot of work to do.

**Ms. Winters:** Uh-huh.

**Ms. Scott:** Okay. Thank you.

**The Vice-Chair:** Thank you, Ms. Scott.

Mr. Tabuns.

**Mr. Tabuns:** Thanks very much for the presentation. You did do a good job, by the way.

When we think about water, we think about a resource that's really crucial to our lives, but economically we have there an asset in this province that's worth trillions of dollars. If you were to buy this much water in a bottle, you'd be paying about 50 cents; about a buck for 500 litres, so about 50 cents there. It makes sense to me that farmers do get support from water-takers for protection of water sources. Do you think that rural communities would support putting the onus for cost or protection on large water-takers like municipalities or large industrial operations that depend on the cleanliness and the safety of that water for their operations?

**Ms. Winters:** I think I'll pass this one over to Chris.

**Mr. Chris Attema:** I think the core message that you've been hearing in Toronto and Walkerton and again today is—and your question drills at this same question—the need for an upfront and transparent discussion over the question of who pays. That has come up repeatedly, and I think that's where we need to focus our energy in this debate. Clearly, there are alternative methods of allocating costs fairly, and I think that needs to be explored and debated in greater detail.

**Mr. Tabuns:** All right. Chris, you danced well.

**The Vice-Chair:** That's it? Thank you, Mr. Tabuns.

Mr. Wilkinson.

**Mr. Wilkinson:** You're right. One of your colleagues, Dave Murray, was with us in Walkerton yesterday. Thanks for coming again. You have brought the big cheese, Chris, with you today, so that's great. I say that to the Dairy Farmers of Ontario. They got it.

Let's finish up with Mr. Tabuns's point, since we have Chris here. We're getting conflicting recommendations about ultimately who should pay. Should it be the person drawing the water? Should it be the polluter-pay concept of fines and all that kind of stuff? Should it be the municipality, which represents the users, or their water rate, the people who are actually drinking that water that's coming from a common aquifer? Because we don't own it; we share it together, collectively. Or should it be from the province, representing the concept we heard that everybody was downstream? I'm just trying to get some idea, Chris, in your sense, where we would go on that, if you were to give us advice on that.

**Mr. Attema:** One of the most interesting take-home points that I've taken from the presentations to date has been—not just from agricultural stakeholder groups but from a wide range of presenters—municipalities, conservation authorities; the consistent and clear message is the call for provincial responsibility and involvement in upfront funding programs. Although we were somewhat encouraged by the minister's comments in Toronto with the discussion about the possibility of hardship funding for situations where the act could cause hardship, I don't think there has been overwhelming

endorsement of that as being the way to approach this. I think what we're hearing very clearly is the need for a proactive, preventive funding program to make sure that the issues and concerns that are being expressed across the table are being dealt with in an upfront manner.

**Mr. Wilkinson:** Mr. Chair, if I could just ask, on behalf of everyone, since we were dealing with the issue of—I know our researcher is looking at the question of expropriation without compensation. But in your presentation—and I'm sure Chris was helpful with that—there's a question about this other legal opinion that says that that's not the case. So if you could file that with the committee—the researcher is independent of us, so we have to rely on the people who are independent. But if you've got another way, I think it's important for us to be able to see that. If you could file that with us, that would be most helpful.

**Mr. Attema:** I'd be pleased to. The Ontario Farm Environmental Coalition legal counsel clearly has flagged subsection 88(6) as being problematic for our sector.

**The Vice-Chair:** I would recommend to send it to the clerk. The clerk will make sure all the members of the committee will get it. Thank you for your presentation.

I want to thank all the presenters today for excellent presentations and all the members for good debate and good questions. Also, to Hansard, the clerk, research and everyone, thank you very much.

We are adjourned until tomorrow at 9 o'clock. We'll be in Bath, Ontario.

*The committee adjourned at 1234.*

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## CONTENTS

Wednesday 23 August 2006

|  |         |
|--|---------|
| <b>Clean Water Act, 2006, Bill 43, Ms. Broten / Loi de 2006 sur l'eau saine,</b><br>projet de loi 43, <i>M<sup>me</sup> Broten</i> ..... | SP-1017 |
| Dundas County Cattlemen's Association .....  | SP-1017 |
| Mr. Ron Wilson   |         |
| Glengarry Cattlemen's Association .....  | SP-1020 |
| Ms. Wendy Beswick  |         |
| City of Ottawa.....  | SP-1022 |
| Mr. Dennis Jacobs  |         |
| Mr. Dixon Weir   |         |
| Dundas County Federation of Agriculture .....  | SP-1025 |
| Mr. Gordon Garlough  |         |
| Cornwall and District Environment Committee.....   | SP-1027 |
| Ms. Elaine Kennedy   |         |
| Raisin Region Conservation Authority; South Nation Conservation.....   | SP-1028 |
| Mr. John Meek  |         |
| Stormont Dundas Landowners' Association .....  | SP-1031 |
| Mr. Denis St. Pierre   |         |
| Township of North Dundas .....   | SP-1034 |
| Mr. Alvin Runnalls   |         |
| Pollution Probe .....  | SP-1036 |
| Mr. Rick Findlay   |         |
| Rural Ontario Municipal Association .....  | SP-1039 |
| Mr. Doug Thompson  |         |
| Glengarry Federation of Agriculture .....  | SP-1041 |
| Ms. Linda Vogel  |         |
| Mr. Martin Lang  |         |
| Ontario Landowners Association.....  | SP-1043 |
| Mr. Randy Hillier  |         |
| Dairy Farmers of Ontario .....   | SP-1045 |
| Ms. Norma Winters  |         |
| Mr. Chris Attema   |         |