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**Journal  
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(Hansard)**

**Mercredi 12 septembre 2001**

**Standing committee on  
justice and social policy**

**Nutrient Management Act, 2001**

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

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

Chair: Toby Barrett  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY

Wednesday 12 September 2001

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES

Mercredi 12 septembre 2001

*The committee met at 1012 in Smitty's Restaurant, Chatham.*

inquire further in what is a pretty complicated and important issue that we're dealing with.

## NUTRIENT MANAGEMENT ACT, 2001

LOI DE 2001 SUR LA GESTION  
DES ÉLÉMENTS NUTRITIFS

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

**The Chair (Mr Toby Barrett):** Good morning, everyone. Welcome to this regular meeting of the standing committee on justice and social policy for Wednesday, September 12, 2001. We are meeting at Smitty's Restaurant in Chatham. Our agenda for the day, as people realize, is Bill 81.

Mr Martin from the NDP was unable to get a flight today, so the NDP will not be represented today. I think we understand the reasons for that. In fact, before we begin, there would not be a person in this room who has not been following the events in the United States. On behalf of the committee and everyone in this room, our thoughts are with the victims and their families in what has gone on in New York and in Washington.

**Mr Doug Galt (Northumberland):** I'd volunteer one of our members to fill in for the NDP.

**The Chair:** I see no support for that. We don't want to have a list; we're going to tilt to one side.

**Mr Galt:** Just trying to be helpful.

**The Chair:** You can sit on that side if you wish, Dr Galt.

Our first order of business today is to hear delegations. Individuals are given 10 minutes at the witness table and organizations are allocated 15 minutes. We encourage people to allow a few minutes for comments or questions from committee members. As you can see, the committee members do like to put in their two cents' worth or

## CAROLYNNE GRIFFITH

**The Chair:** Our first deputation, if I could ask Carolynne Griffith to come forward. Welcome this morning. If you wish to identify yourself for Hansard reporting services, and proceed.

**Mrs Carolynne Griffith:** Good morning. My name is Carolynne Griffith. My husband, Arthur, and I have been working together on our family farm in Lambton county, seven miles east of Petrolia, for the past 38 years. Our farm produces eggs and cash crops of soybeans, wheat and corn. Arthur's grandfather, Wellington Griffith, began clearing this farm back in 1901, 100 years ago. It is our hope that our children and grandchildren will be able to continue working there, where their roots run deep. That's why I'm here today to support the upcoming legislation in Bill 81.

Thank you for coming to Chatham and giving family farmers such as myself a chance to voice our opinion on this important issue of nutrient management. You have probably read in some of our local papers about Lambton county attracting farmers from Europe, because the rules governing manure spreading are less stringent in Ontario than from where these folks have come. We as farmers really do not need this kind of publicity. Most farmers here believe that Bill 81 is an important and long overdue initiative. We applaud your efforts in developing legislation that will preserve our environment, as well as protect jobs in the rural communities of Brooke-Alvinston, Petrolia and Watford.

I have spoken to a lot of the farmers and their families who share the ministry's interest in developing province-wide standards to ensure that rural communities such as ours thrive in a healthy and sustainable environment. As one paper recently wrote about our local situation: "Individual plans don't have the same weight as government regulations." Yet legislation for legislation's sake is not the end goal. Otherwise, we will be in danger of regulating farmers out of farming. We must be able to continue to manage our operations in an effective and efficient manner, free from arbitrary legal constraints and overbearing costs. I believe this can be done by developing a balanced approach with reasonable and attainable goals.

These new guidelines I believe have evolved from a proactive initiative begun over 10 years ago with environmental farm plans. Many egg producers that I know already have a nutrient management plan in place. However, as I mentioned, legislation will require a more formalized and universal system. Because investments will be required in education and capital improvements, farmers such as myself will need a minimum of five years to ensure a smooth transition and completion of any new structural requirements.

As to enforcement, we are farmers operating a business and we expect that enforcement of these new rules will be governed by the ministry that understands our business, the Ministry of Agriculture, Food and Rural Affairs. Strict adherence to and enforcement of Bill 81 will be the best way to protect our environment and promote harmony and respect among all rural residents of Ontario.

The key to developing new nutrient management legislation will be through a balanced approach with reasonable and achievable goals, over time. Only by doing so will we ensure that no additional financial burdens will be slapped on the backs of farmers. So when you consider this new legislation, please keep in mind that where we work is also where we live. Let's focus on both renewing and protecting our land while preserving our way of living and working in rural Ontario.

In summary, I would hope that this bill will ensure that our natural resources of air, water and land will be protected for future generations, as well as ensure viable communities in rural Ontario for tomorrow.

Thank you, and I would be pleased to answer any of your questions.

1020

**The Chair:** We have two minutes for each party and we begin with the Liberals.

**Mr Pat Hoy (Chatham-Kent Essex):** Thank you very much for being with us this morning and for your presentation. You mention that farmers such as yourself will need a minimum of five years to ensure a smooth transition and completion of any new requirements. I'm hearing from a lot of farmers in this regard, in terms of capital improvements, that they believe, depending on what the government eventually mandates through regulation, they should receive some compensation, some monies, to help them offset capital improvements, for example. Lenders are not often anxious to lend money unless there are productivity gains, and this wouldn't necessarily give you productivity. It would protect the environment, most assuredly. Then there's the question of the smaller producers and their ability to cope with regulations that may come. Would you agree that some form of assistance on capital improvements should be part of the government's consideration and they should actually do that?

**Mrs Griffith:** Yes, by all means. As egg producers, many of us who have redone our facilities have already put in new manure storage and done this on our own initiative without any government legislation. However,

if this new legislation allows for fairness and equality among all farmers, then everyone should be treated equally and any new investments that will have to be made to protect the environment, they'll be able to do it.

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

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** Thank you very much for your presentation this morning, Carolynne. You mention in I think your second-last paragraph, "Let's focus on both renewing and protecting our land while preserving our way of living and working in rural Ontario." I would agree with that. I would also agree that the ministry that should be looking after the regulation and the enforcement of this particular bill is the Ministry of Agriculture, Food and Rural Affairs. But I have a sneaky suspicion that the urban setting—and I wish the NDP were here today to put their point of view on the record. I would suggest to you that the Ministry of the Environment is probably going to be looking after the regulation, legislation and enforcement. How would you respond to that? How would you try to convince the people who are pushing for that to look at the other aspect, that maybe the Ministry of Agriculture, Food and Rural Affairs should be looking after that?

**Mrs Griffith:** As I said in my talk, because the Ministry of Agriculture and Food understands what we do in our work, and our work depends on safe land and safe water supplies, we hope they would be the ones that will do it. That's not to say the Ministry of the Environment can't; it's just that we feel we are environmentally responsible in what we've done for the past 100 years. Our land is the basis of our business, and if we don't have safe land, we can't produce safe food. As egg producers, we've initiated a lot of our own programs in order to assure consumers that they are buying the safest possible food in the world. We've done this on our own initiative, and with some legislation that will ensure that everybody follows the same guidelines, we hope this would make it better for all and safer for all our consumers.

**The Chair:** On behalf of the committee, Mrs Griffith, we thank you for coming forward and appreciate your input.

SCOTT McGEACHY

**The Chair:** Referring to our agenda, the next presenter is Mike Buis, speaking on behalf of himself. However, I understand he is not present. Scott McGeachy wishes to speak in his stead, I understand, with permission. It's not as if they're representing an organization. Is it the wish of the committee that we go forward? Yes. So we would ask Scott McGeachy to come forward. We have 10 minutes. If you wish to proceed, I'll get you to identify yourself for the Hansard recording.

**Mr Scott McGeachy:** My name is Scott McGeachy. I farm approximately 1,000 acres in the municipality of Chatham-Kent. My livestock operation includes two feedlots with a capacity of about 1,000 animals. We are seasonal.

I also come with some background, not representing any committee, but I do have involvement—I'll be very frank about it: I am part of the municipal nutrient management committee that is now in place, as well as president of the Kent Cattlemen's Association, but my comments are strictly of my own personal nature and are not set around the OCA or the nutrient committee, which I understand will be presenting later.

I did read most of Bill 81. There are some issues that I wish to address. As we all know, agriculture is an intricate part of the economy in southwestern Ontario. Farmers have been proactive in the past decade dealing with programs such as the nutrient management program in various counties, as well as the environmental farm plans at times—tools which aid them in developing some very good nutrient practices, to the point where some have implemented use of eavestrough development, and manure storage capacities as far as the grant would provide, and continue along the lines of even the best management practices that have been implemented through the province. As you know, many local agricultural advisory committees have been set up. Chatham-Kent is nonetheless trying to stay in the forefront and in many respects yields a leading edge.

One of the things I wanted to deal with today, which I didn't feel was necessarily dealt with, is along the lines of environmental issues. In southwestern Ontario, and particularly in Chatham-Kent, we are at an elevation drop from the London region of about 49 feet. Included with that are the recharge areas, the aquifer that has been done by various reports. It tends to concern me if perhaps the bill only addresses on a broad spectrum the approach when it comes to livestock animal units and the potential for contamination. In other words, I think the committee, as it develops the bill, should carefully review and maybe even leave some room for the municipality to develop sensitivities around those areas. I realize it's not an easy issue to deal with but it is a concern that localizes itself to each and every county.

The other issue is the development of some sort of protocol on not only the bacterial side but also the nutrient management standpoint as far as MP and K. In many respects we're streamlining the development of vaccines to try and deal with E coli 157 and other elements that are coming down, such as microplasma. In streamlining, there's a great deal of threat—potential threat, I should say—that we may just open up another can of worms. There should be something for both the rurals and urbans to recognize the potential, that there is a difference between the two, between the nutrient management and the bacterial side of this whole issue. Whether we can streamline both together or set a standard that deals with one versus the other is something that I can't answer and don't have the background for, but it will be an element that should be of concern.

#### 1030

One thing I wanted to talk about as well was the implementation, such as product use timeline, and how quickly this will be added in. Five years seems to be an

appropriate timeline for this bill to be rolled into full effect, certainly realizing that agriculture has been striving to catch up with what technology has allowed us as humans to discover about bacteria and threats to ourselves, but allow agriculture to catch up.

The use of financial programs I don't think is any answer for the farming sector, but I do think there are programs that are of potential, such as carbon credits, that could be implemented not only provincially but federally that would aid in farmers running full circle not only through nutrient management but a full ecologically balanced system. That would thus provide an additional income to farmers.

If there is something to be done as far as implementing the bill that would cause some monetary effect, it would be recommended that that program be set up. There are many counties that have done just that to aid in the development of proper manure storages, different programs that allow them to apply at certain times. I think in particular of the Wellington-Guelph region, which has implemented a very excellent program in aiding both from a rural standpoint and an urban standpoint. In respect of the urban, we can certainly think of septic tanks and how that would affect every person who is threatened by that potential seepage.

In Chatham-Kent, I believe the number is approximately 30% of the rural people who are still on wells. Certainly programs that are in place for potential contaminants, which comes back to the point of recharge, would be the abandoned wells and keeping the programs in place to aid farmers or rural residents to cap them properly.

As far as implementing or controlling the programs, certainly OMAFRA is a key point. The timelines as far as OMAFRA and MOE developing standards or implementing the bill I think are very timely. MOE certainly has the expertise to come in. Please understand that penalties for someone causing an infraction should be severe enough so he or she realizes that this is something we all have to deal with, and we all should be concerned.

Certainly one element that farmers are concerned about is the proposal of restricting cattle access to waterways. The access points in many respects are flood plains. I think it's well recognized that farmers are implementing such things as buffer strips and other measures that may play an effective role in the water quality. In many respects it's those grazing areas that allow farmers to have a few extra cattle, to put food on their table or add an additional income.

The last element I want to talk to you just quickly on are the new standards as they may supersede the bylaws that are now in place. I've had the chance, because of sitting on the municipal committee, to read more than my fair share of county bylaws that go straight across the province. I think in many respects some counties have developed very excellent programs. Again, I think the element of ground sensitivity should be on a county level, but there is still room that allows for the counties to add in. I understand that they cannot take away from the

provincial standards and they should not supersede anything as far as capping the size of livestock operations such that it would cause a detriment to the existing operations.

Anyway, I do thank you for the opportunity. I must say, just off the record, it was one of these things that in this weather everyone is doing silage right now, and between the three of us we did want to make a representation here. We did not want to miss the opportunity, and I thank you again.

**The Chair:** Thank you, Mr McGeachy. We appreciate you making the effort.

#### ONTARIO SOYBEAN GROWERS

**The Chair:** I wish to call forward the Ontario Soybean Growers. Good morning.

**Mr Bill Allison:** Are we dressed? I didn't put a tie on. I didn't think I had to.

**The Chair:** Yes, I didn't have to change my oil this morning after all—checking the oil.

I'll ask you if you could both identify yourselves for the purposes of Hansard, and we have 15 minutes.

**Mr Allison:** Sure. I'm Bill Allison. I'm vice-chair of the Ontario Soybean Growers. I'm a farmer from Halton region.

**Mr Greg Hannam:** I'm Greg Hannam, a soybean grower from the Guelph area and a director from Wellington-Waterloo region.

**The Chair:** Thank you. Please proceed.

**Mr Allison:** We're presenting on behalf of the Ontario Soybean Growers. We're a producer organization representing over 25,000 soybean growers in Ontario. Our purpose is to develop and promote a sound business environment that will allow Ontario soybean producers the opportunity for viable and profitable ongoing returns.

In this issue we've been dealing through AGCare and the Ontario Farm Environmental Coalition for a number of years. Both of us have been involved in AGCare. In fact, I've been involved in the nutrient management issue over a number of years. I guess I want to emphasize that that's the main area we've been working through in this area as a coalition. AGCare and the environmental coalition have been taking what we've developed ahead. What I'm going to present today in our position statement very much reflects what they're talking about but it's just to reinforce that, and it's very peculiar and specific to the Ontario soybean industry as crop growers.

Ontario Soybean Growers are strongly supportive of responsible nutrient management planning for all agricultural producers, and welcomes the introduction of the proposed Nutrient Management Act. This act will apply clear and consistent standards throughout Ontario for the application of land-applied materials containing nutrients related to agriculture.

The establishment of provincial nutrient management standards and monitoring/enforcement authority will provide improved consistency and predictability for farmers in relation to agricultural nutrient management issues.

We are pleased to see that the draft legislation adopts many of the recommendations proposed by farm groups in earlier stakeholder consultations, and are encouraged that provincial officials will continue to consult with stakeholder groups to ensure the development of effective and practical guidelines for the development of nutrient management plans.

Ontario Soybean Growers are very pleased with the draft legislation's emphasis on science-based guidelines; however, we are concerned that there are still significant gaps in the technical knowledge required to develop such guidelines.

I'll let Greg explain that further. He's a member of our research and technology committee and deals with research.

**Mr Hannam:** More research is necessary in the area of nutrient management in order to determine methods of optimizing crop fertility programs while minimizing negative environmental impacts and maintaining or enhancing producer profits.

Therefore, in order to facilitate the undertaking of economic and environmentally sound nutrient management planning, the Ontario Soybean Growers recommend that the Ontario Ministry of Agriculture, Food and Rural Affairs and the Ontario Ministry of the Environment direct additional funds and resources toward research into fertility management issues. The scientific information gained through this research will ensure that nutrient management planning benefits both the environment and producers.

The draft legislation's proposed five-year phase-in period, after which all Ontario agricultural producers will be required to have a formal nutrient management plan, will be challenging given the need for further research. However, the Ontario Soybean Growers recognize the need for issues related to nutrient management to be addressed in a timely manner.

#### 1040

One key area that needs to be addressed in this issue of financial assistance is financial assistance for farmers to help offset the increased costs involved in meeting enhanced regulatory requirements. Because the benefits to be derived from the proposed Nutrient Management Act, 2001, will be shared equally by Ontario residents, the Ontario Soybean Growers believe the costs should be shared as well, rather than borne by the province's agricultural producers alone.

In addition, the Ontario Soybean Growers believe it's critical to keep the administrative burden associated with complying with this legislation to a minimum for Ontario producers.

**Mr Allison:** Finally, in regard to the administration and enforcement of the proposed Nutrient Management Act, the Ontario Soybean Growers recommend that the Ontario Ministry of Agriculture, Food and Rural Affairs be named as lead ministry. Given that much of the activity will be focused on training and education of farmers, as well as the approval of nutrient management plans, the Ontario Soybean Growers believe that the

choice of OMAFRA as the lead ministry will greatly ease the administration of the act.

In conclusion, the Ontario Soybean Growers would like to thank the committee for providing the opportunity to present our views here today regarding the Nutrient Management Act. I guess we can entertain questions; I don't know the procedure.

**The Chair:** Certainly. That would leave a little over three minutes for each party. I'll now begin with the Conservatives.

**Mr Beaubien:** I have a quick one. Thank you for your presentation this morning. When you mention about assistance for farmers to help offset the increased costs, what are you looking for? Are you looking for tax credits, low-interest loans, grants? Can you be more specific as to what type of financial assistance you're looking for?

**Mr Steve Peters (Elgin-Middlesex-London):** Why don't you give him the other big pitch too right now?

**Mr Allison:** We have many areas that we need assistance in. We're looking at a very severe issue with price, the fact that we are not on a level playing field with the United States in terms of their farm programs and the fact that their support of farmers is a lot more than ours. Henceforth, the overproduction has influenced prices, and that's what we're really dealing with right now. That's an issue that we're coming to and facing on that level. As Mr Peters—

**Mr Beaubien:** It's OK to get him on the record too.

**Mr Allison:** We're going to get to you on that level and really talk in that area in terms of how it's affecting our economics, our competitiveness etc. We don't want to tie this in with that. In this area, we're talking about what we're doing for the environment and what we're doing for society, what society has asked us to do, the additional administrative burden, plus there will be large capital outlays for many of these things.

In this specific area, that's where we feel the assistance—you're asking, I guess, specifically what that would amount to and what it would look like. I'd like to defer to the other organizations, the umbrella organizations, that are working on that. But I just want to give sort of a broad policy saying that if farmers are asked to do more in terms of this area and it is for the environment, it is for society, we expect society to come forward and reimburse us and help us do that.

**Mr Beaubien:** Yes, but how do you want society to reimburse you? Is it through the form of a tax credit or through a grant? I'm trying to have you be more specific as to what your organization is looking for.

**Mr Hannam:** If I could have the mike, I think it's very hard for us to identify specifically how we want any money put into this project for farmers without knowing what the regulations and the timelines specifically are going to be. I think we are looking forward to participating in that process and identifying what the regulations are, what standards you want us to meet, and at what times. Then we can evaluate the best vehicle for

getting some of those dollars put down to the producers in order that they meet the legislation.

I'm sorry I can't be any more specific than that. I want to help work through the regulations and kind of draw out what our needs are from there.

**The Chair:** I'll now go to the Liberals.

**Mr Peters:** John, good morning, and Carolynne, I apologize; I got stopped by a train. I think it was a train of corn heading to the Casco plant. It might have been; it looked like it. So that's OK.

I had a chance to read Carolynne's brief quickly, and she talks about a focus on both renewing and protecting our land. Scott talks about the science of understanding things. You have a real emphasis on research. As much as we've travelled around and we've heard the need that's there with money for capital improvements, this is the other area that has been this really common theme everywhere we've gone, the need to understand the science of an intensive livestock operation, understand the science of applying the nutrients and what we're doing under the ground, with that focus. To me that's something else that we've got to really think about.

I'd be interested to hear from you, Bill. You sit on the research committee. Are there discussions taking place between the pork producers and the cattle feeders? I think you're stressing OMAFRA take that lead. I'd just like to get your thoughts. The general public wants and I think everybody wants to understand the science of a farm because of this emphasis on the environment and what we're doing to it. Your thoughts?

**Mr Allison:** Yes, we mention in here the technical gaps. We work with a lot of research prioritization. You must understand that the research we have prioritized lately has shifted toward nutrient and fertility. That's what we emphasized in our brief here. You've hit the nail on the head: there are areas out there that we don't have answers for, and we may be jumping ahead in terms of setting down regulations in terms of not knowing exactly what is the right number here, how that affects the whole picture.

The second part of your question, which maybe Greg can answer, is, how are we going to get into our whole research focus and adjust to set the priorities, to set some wheels in motion to address that? Greg, do you want to elaborate on that and how we work within the OAFE system?

**Mr Hannam:** Thanks, Bill. Part of your question as well, Mr Peters, was about what other groups we are working with. Through groups like AGCare and the environmental farm coalition, we are communicating regularly with the other commodities and other producer organizations and trying to set priorities for research. More and more, the priority of environmental stewardship is getting moved up on the list as a high priority for us. I think as we get a better understanding of where our gaps are, we can start trying to focus more money toward that and address some of these issues.

**The Chair:** Thank you, Mr Allison and Mr Hannam. We appreciate your presentation on nutrients. I hear what

you're saying on prices. I sold beans for \$10, and that was 20 years ago. Thank you very much.

**Mr Allison:** Thank you. We look forward to further detailed conversations on this.

#### DOUGLAS DESMOND

**The Chair:** As our next deputation, I would ask Douglas Desmond to please approach the witness table. Good morning, sir. We'll ask you to identify yourself for Hansard, and we have 10 minutes.

**Mr Douglas Desmond:** My name is Douglas Desmond. I'm a lawyer in Ridgeway and a farmer outside of Ridgeway on the north shore of Lake Erie. My family has resided and farmed in Kent county since 1790 and we've been farming the same farm for approximately 200 years. We had a little problem during the War of 1812 and had to move. In any event, we farm about 300 acres of cash crop right now.

First of all, I am sure you can appreciate it's difficult even for a lawyer to comment on an enabling act when the real issue that concerns people is the regulations themselves. However, there seem to be some difficulties with the act, in my respectful view, some glaring omissions. I'm going to try to go through them briefly. I won't deal with all the issues that are raised in my submission, but in my view the most important ones have to do with the following.

In the definition of "natural environment" in the legislation, it includes a reference to air quality. However, under sections 17 and 28, it does not empower a provincial officer to make any order as it affects air quality, which to me is an extremely unfortunate omission. It's fairly clear to me that the drafters even of enabling legislation are not very up to date with respect to any of the science on this issue. It should be remembered that intensive livestock operations are a major source of ammonia, hydrogen sulphide, carbon monoxide and carbon dioxide. This is becoming an increasingly important issue in the United States, which is a little bit more advanced down the research trail than we are. There is also considerable research in the United States to support the proposition that proximity to intensive livestock operations results in neighbours with more tension, more depression, more anger, less vigour, more fatigue and more confusion. I can personally attest to that, having lived in proximity to one of these facilities. Furthermore, proximity to these facilities—as supported not only by research, particularly in the United States, but many legal precedents now before assessment review boards—has a profound effect on the fair market value of adjoining properties.

#### 1050

In that regard, you should re-examine the definition of "adverse effect" that's referred to in this legislation. The definition of an adverse effect under the Environmental Protection Act and under this act are almost identical, except it leaves out one really important aspect of the definition, and that's the loss of enjoyment of the normal

use of property. If you can't go outside because of the odour or if you're suffering respiratory problems as a result of proximity to these buildings or you have to keep all the windows in your house closed, I would suggest that would affect the loss of enjoyment and normal use of your property. It's not surprising to me that it's omitted, however. I suspect that, by and large, this enabling legislation has been drafted by the Ministry of Agriculture, and I have some submissions on that if I have an opportunity.

Another glaring omission as far as I can tell from this enabling legislation is that it does not permit the Lieutenant Governor to pass any regulations affecting the contents of the nutrients that are being applied to the land. This is particularly disturbing considering the increasing evidence that our rivers, lakes and streams are becoming increasingly overloaded with nutrient pollution. Unfortunately, there is very little research in this area, particularly as it affects hormones, other pathogens. In particular, one of the worries I think livestock producers should have is the heavy metal content that's in their manure as a result of additions and supplements to their feed.

Just to give you a basic example—interestingly, in conjunction with the last submissions—pig manure happens to be overloaded on the phosphate side. In other words, when the livestock producer is applying manure to his land, he's applying it on the basis of a corn crop. It would have to be a corn crop, because soybeans fix their own nitrogen. In any event, the element of the nutrient they're focusing on is nitrogen, not phosphate. It's not a coincidence that we've had most of the beaches in Kent county closed on Lake St Clair and the north shore of Lake Erie as a result of increased algae content in the water, which is by and large normally associated with increased phosphate content in the water. The only factor I am aware of that could possibly tip the balance, since we didn't have this problem five years ago, would be the increased amount of manure flowing into the water systems, in combination, of course, with other elements, including weather.

The fundamental premise of applying these nutrients to land is that nutrients are actually going to be absorbed by growing plant life. The regulations presumably will deal with the appropriateness and timing of application, and in fact they have empowered themselves to do that. But the conclusion of that is that if it's not absorbed by plant life, it will run off into the land. It would be, I think, in the best interests of the citizens of Ontario if they knew exactly what was running into our watercourses. Therefore, it's crucial in my view that this legislation empower the regulators to pass regulations governing the content of the manure or the nutrient, or waste, as we prefer to call it around here.

There are some other issues that I'd like to deal with, but there are my submissions. You can read it at your leisure.

The other disturbing part of this act is section 60, which permits the province to overrule any municipal



bylaw. This is not the appropriate way to approach this. What the province should be doing is passing minimum standards, as environmental laws are constructed in the States. Without getting into the constitutional differences, the federal government in the States would have the power to pass certain enabling legislation or regulations, and then they impose those on the states as minimum standards and then permit the states to increase, but not decrease, those standards.

This is particularly important because the act seems to be taking away traditional zoning and planning powers of the municipalities. There are going to be particulars. If you try to apply one single standard to the whole province, you're not going to be able to take in allowance unless the regulations permit you to do that—and I don't see how they do—to address certain areas.

I'm also a member, as is Mr McGeachy, of the steering committee to draft a bylaw here for Kent county. In that regard, there was a groundwater resources assessment done for Kent county. It indicates—I have a copy of it; you can't have it, but it's here to look at if you'd like—that pretty much one third of Kent county is extremely vulnerable to groundwater pollution. Clearly, you're going to want to allow a municipality to pass a stricter regulation for that particular area or reduce the numbers etc.

There are some other regulations that should be amended as well, and they are also in my submissions, but I direct you particularly to the exemption in section 15 of the Environmental Protection Act, which indicates that it doesn't apply to animal waste disposed of under normal farm practices. I don't want to get into what's a normal farm practice, but suffice it to say it's not identical to proper farm practices.

Those are my submissions.

**The Chair:** We have merely 30 seconds for each side for a quick comment.

**Mr Hoy:** Thank you for your presentation today. I agree with you on the comments you made about regulations coming later and this just being enabling legislation. I would think that you've looked at this bill, but for those who maybe haven't seen it, "The Lieutenant Governor in Council may make regulations," and then it goes on through the alphabet—a, b, c, all the way through the 26 letters of the alphabet. Notwithstanding that, it has subsections within some of those. So the government, through the Lieutenant Governor, will have great power to make regulations, none of which we will see until they are produced. I think that is a cause of concern for you and the general public.

**Mr Desmond:** No, my concern at this stage is with respect to the powers they are not granting themselves.

**Mr Hoy:** All right.

**Mr Galt:** Thank you, Mr Desmond, for your presentation. It was much appreciated. Just a quick question. As I understand as we move through this—you're a lawyer, I'm not, but this is preventive legislation. You're expressing this concern over loss of enjoyment of normal use of property. In the case of a spill and the air concerns

you have, would that not be covered under the EPA for the enforcement officers out of the Ministry of the Environment?

**Mr Desmond:** If they were going to test the air quality.

**Mr Galt:** But it would come under that legislation rather than this? Would it still not fit there?

**Mr Desmond:** As far as I'm aware, the Farming and Food Production Protection Act prohibits any action on the basis of odour. In other words, livestock producers are immune from regulatory imposition as a result of the Farming and Food Production Protection Act. It's excluded. They've had a serious setback in a recent case, in Divisional Court I believe it was, with respect to their ability to avoid nuisance law.

**The Chair:** Thank you, Mr Desmond. I wish your family good luck farming for the next 200 years.

**Mr Desmond:** Thank you.

1100

#### LAMBTON COUNTY NUTRIENT MANAGEMENT ADVISORY COMMITTEE

**The Chair:** Our next deputation is from the Lambton County Nutrient Management Advisory Committee. Good morning, gentlemen. We would ask you to give us your names for Hansard. We have 15 minutes. Please proceed.

**Mr Bill Bilton:** Hi, Mr Chairman. I'm Bill Bilton, chairman of the Lambton nutrient management committee.

**Mr Don McGugan:** I'm Don McGugan. I have been on the nutrient management committee in Lambton county and also president of the Lambton Federation of Agriculture.

**Mr Bilton:** Just before I proceed, do we have 15 minutes?

**The Chair:** Yes.

**Mr Bilton:** I've got quite a bit here in this brief. If I didn't have 15, it might be pretty tight.

In Lambton county we have developed a countywide nutrient management strategy that was implemented in May 2000. Our goal is to implement a strategy that will reflect the environmental responsibilities of producers and still protect the flexibility to undertake or expand animal production in Lambton. We feel that the effect of implementation of nutrient management can be a significant benefit to agriculture producers in the entire community. We commend the members of Parliament present for undertaking these broad public hearings and welcome the opportunity to provide some input based on our experiences in Lambton.

Consultation and communication have been a key part of the success of our Lambton county strategy and we feel they are also critical to the province-wide strategy relating to the proposed Nutrient Management Act. Our county committee included representatives from producer groups, elected officials and citizens with environmental

concerns. We encourage the province to continue this approach of getting input from key stakeholders.

Another prime objective of the Lambton county nutrient management strategy was to provide a uniform, county-approved policy for nutrient management for all municipalities within the county and to assure that all farmers subject to the bylaw were treated equally. We designed our strategy as an interim measure until provincial legislation was introduced that would see all producers treated equally. We are encouraged that the Nutrient Management Act, 2001, is being introduced.

Based on valuable experience we have gained dealing with nutrient management plans in Lambton since May 2000, we would like to highlight a few of our special recommendations and concerns with the proposed provincial legislation and the relevant regulations.

First in part I, this section is important to standardize some terminology that is currently used differently in various locations and situations.

Part II deals with regulation-making authority. It is obvious that legislative authority is necessary to make these regulations enforceable. We feel that some potential for flexibility should be built into these regulations. We are very supportive of using MDS and building code guidelines. A regulation that specifies calendar dates for the entire province would not be as suitable as one that allows consideration of geographic regions, soil conditions and type.

You will notice that I am kind of skimming through this. There is more in this presentation that you can peruse at your leisure.

We do not support licensing or fees for primary producers relating to the application of nutrients to their own land.

We feel it is critical to have these plans that you are proposing approved by a qualified unbiased third party. We would encourage OMAFRA to continue to support and expand the resources necessary to allow the OMAFRA engineers to continue in this role. We would not support privatization of this role.

Also under section 2, the implementation of effective innovative technologies in management of nutrients is strongly endorsed by our group. This would be a great example of the potential for flexibility as new technologies emerge.

Also under part II, we were encouraged to notice that the establishment of local committees to assist in promotion of the strategy and mediation of disputes was recommended. This was an important component of our Lambton nutrient management strategy. We are encouraged that this is proposed in this act.

In part III, under the appeal process: this is important and we would encourage the province to include some tribunal members who have a good knowledge of primary agriculture.

With regard to inspections and orders in part IV, these powers, including entry and inspection without warrant or court order, are considered extreme, and both producers and inspectors should be made aware of their

implications. For example, biosecurity is essential on farms and any breach could have major implications.

We feel orders for preventive measures may be necessary to manage any adverse effect, but also recognize that high short-term cost could be involved. We would encourage some cost sharing between producers and various levels of government. We feel there is huge potential for a capital grant program from the Ontario government to help producers conform to the requirements of this act. Our experience is that the additional capital costs may impact livestock producers with limited manure storage. We have concerns that this could be the main contributing factor to the demise of a substantial number of small livestock farms.

Now I'm going to turn it over to Don, who has some comments on this very issue.

**Mr McGugan:** Thank you, Bill. I really appreciate that my friend Mr Beaubien brought up the topic of capital grants a couple of minutes ago.

I have some facts and figures here. I'll try not to be very long. A gentleman in Lambton county called me up about six weeks ago after some of the rules and some of the facts came out. He said, "Don, I've got a problem." He told me what it was. He had talked to John Johnson, whom we really appreciate in Lambton, who has really helped us. He works out of the London office. He's an engineer for OMAFRA and he approves the plans for nutrient management. My friend talked to him. He runs between 150 and 200 animal units. For him to get up to the specs that are to be expected by whenever—whether it's one year or five years—to cover his manure storage, he's going to have to have a building 40 by 100 which, with all the specs, the cement and all the standards, was going to be \$88,000 out of his pocket. Now, if he covered that with a roof, it was another \$17,000. That comes to \$105,000. If he does not cover it, he needs more space to house this manure for the number of days being required. So he's up to \$105,000. He's a middle-aged gentleman, and as we all know, the beef business the last two years has been relatively good, but long-term it's just been a break-even.

So I really think that we need to take a long, hard look. We do ask you to consider the capital costs here. Approximately a third of the beef in Ontario is produced in major feedlots of over 300 animal units. Another third is dairy-type beef, and the other third comes from small operations: father-son, husband-wife deals. So we really encourage you to take a hard look at that.

When you get to the capital grant part of it, we would ask you not only to look at the storage part but also at the manure handling: the way to handle it, whether it's incorporation, whether it's moving it, whatever way it is; not only deal with the storage, but also how we get it moved and how we handle it efficiently. Also, as mentioned here earlier about some research, we encourage you to do that on these nutrients. These are valuable nutrients and we do not want to lose them.

Those are my comments right now on capital grants and the cost, and we look forward to some questions in a minute or two.

1110

**Mr Bilton:** To carry on to part V with regard to remedial work, we recognize the importance of some remedial work to be done by the ministry, but we have concerns with this part in that it states the entire cost may be borne by the producer. We feel a shared cost might be more palatable.

I think now, in the interest of saving time, I'm going to skip down to our conclusion for this presentation.

Our committee would strongly encourage that some comprehensive studies be done to determine the economic and environmental impact this legislation would have on the agricultural industry. Because the details of the regulations are so critical to the impact on the agricultural community, we strongly encourage that there be extensive consultation with all of the stakeholders in the development of the regulations. A draft of the regulations must be circulated to the public for comment.

In general, the Lambton nutrient management committee was pleased with the general thrust of the proposed legislation. The goal of our local strategy was to combine environmental responsibility with agricultural production flexibility. It appears the Nutrient Management Act, 2001, has the potential to reflect these same goals.

At the end of my presentation, you can see who sits on our nutrient management committee in Lambton county. I think we have a good cross-section of the agriculture industry.

**The Chair:** Thank you, sir. We have a minute and a half for questions. We'll begin with Mr Beaubien.

**Mr Beaubien:** Thank you, gentlemen, for your presentation this morning. Yesterday we had a turkey farmer, and I'll read what he said about licensing and education. He said, "Education and certification for nutrient application should be required by both large and small operators at the same time," yet you mentioned in your presentation that you don't really support licensing or fees for primary producers. Could you explain to me whether you're a strong advocate of the education process and the licensing or if you're totally opposed to the licensing—I'm sure you're not opposed to the education process, but on the licensing part.

**Mr McGugan:** That's a good point you've brought up. We had a great discussion on Monday morning about that and, no, we are not opposed to the licensing of commercial applicators. We think that's important. We also are great for education and we think education of the farmer or food producer, plus the commercial applicator, is also excellent. Yes, we are for that part of it. I don't think a farmer should have to have a licence to spread on his own farm. I don't want to take very long; I just want to impress upon you that that is our livelihood, that is our land. We are going to try and take the best possible care of that because that's my livelihood next year—I hope.

**Mr Hoy:** Thank you for your presentation this morning. We're aware of the security issues, moving

from farm to farm, and we know how that is uppermost in the operators' minds. Some trucks don't go to the same farm etc, so that is a consideration we'll have to keep in mind in terms of inspections, as you mentioned in your brief.

Do you have any numbers on the size of the livestock industry in Lambton, either by numbers in terms of heads of animals or the value to the county, perhaps?

**Mr McGugan:** Yes, I guess I could give you a couple of numbers there. We just completed an economic study last year with Dr Cummings from the University of Guelph. There's approximately 280,000 hog animals shipped out of Lambton county. Those are finishing hogs. There's also another number of wieners that leave every week that go to our friends in the States. As for the chicken industry, we have Carolynne Griffith here. I can't give you the number of producers but I can tell you there's over 13.5 million dozen eggs shipped out of Lambton county every year. I'm not sure of the total beef production. I don't know whether my friend Bill here knows the exact number of beef but it is considerable in Lambton county.

We have about \$350 million in gross sales of agricultural produce in Lambton county. It's the second-largest employer and the second-largest economy in Lambton county after Chemical Valley. So we are a dynamic force in Lambton county and my friend Marcel knows that, and also Carolynne, who represents the Sarnia riding.

**The Chair:** I wish to thank you, Mr Bilton and Mr McGugan. We appreciate the input to the committee.

#### N-VIRO SYSTEMS CANADA INC.

**The Chair:** Our next delegation is N-Viro Systems Canada Inc. Good morning, gentlemen. We have 15 minutes. We'll ask you to give us your names first for Hansard.

**Mr Rae Wallin:** Rae Wallin, president of N-Viro Systems Canada.

**Mr Grant Mills:** Grant Mills, vice-president of technology for N-Viro Systems Canada.

**The Chair:** Please proceed.

**Mr Wallin:** Thank you very much for the opportunity. There's a booklet in front of you. We're just going to cover the first section of that booklet, which is our speaking notes. The second section gives you detail of the product that we produce in Sarnia. The third is an overview of the technology. First of all, I'm going to cover some comments on our company and then Grant is going to take you through the technology on our product and research.

N-Viro Systems Canada is an Ontario-based private company in the biosolids management business. We are licensed for the patented N-Viro technology which was developed in the US in the 1980s at the Medical College of Ohio. N-Viro Canada has the rights to that technology for all of Canada. N-Viro Worldwide has over 50 plants

operating under this technology and Grant and I are the principals.

If you turn to the second page, our first plant in Canada started in Leamington in January 1996. We process the town of Leamington's biosolids, plus Heinz foods. Heinz foods is better than half of the volume there. We produce 6,000 to 10,000 tonnes of product per year. It's all sold through a local fertilizer distributor which does all of the application, hauling and control of the application, most of it being done by GPS. The product is approved under the Canadian Fertilizers Act as a soil amendment. So we go through all of the testing—and very rigorous testing, I might add—for that approval.

Our second plant in Sarnia, Ontario, started in April of this year. We process the city of Sarnia's biosolids. We produce 10,000 tonnes of product a year. It's all sold through two distributors in Lambton and Kent county and, again, the Canadian Fertilizers Act approval there is pending.

Grant will take us through the technology.

**Mr Mills:** I'd like briefly to go through the points listed there: the N-Viro soil process, typical product properties, beneficial reuse opportunities and activities, research done by Ag Canada, our marketing strategy, and close with a brief summary.

The N-Viro soil process is an advanced alkaline stabilization technology. There are two things we must do with this technology as the sludge moves through the various steps on its way to becoming a product: we must raise the temperature to between 52 degrees and 62 degrees centigrade—that is the pasteurization temperature—and the pH must be raised to slightly above 12. In the process the harmful bacteria are destroyed, and we'll show you some results just a little bit later.

The beneficial microflora or soil bacteria which we refer to as the good bugs survive the process. These are very important in the agricultural community. The odours are controlled completely. They are captured and treated in a multi-stage system. It's a multi-faceted, beneficial reuse product.

The next page is just a schematic of the process. Biosolids are delivered to the plant by truck or, in the case of our two plants, are dewatered on site. They go through a proportioning and mixing device, the sludge goes into a day tank, and the alkaline admixtures—they can be a lime kiln dust, a cement kiln dust, a fly ash, a wood ash—are combined together through a mixer—that's that horizontal barber pole which does the mixing—on into the rotary drum mechanical dryer where moisture is removed and the material is granulated. Then it goes into a curing area, and it must sit at that elevated temperature, the pasteurization temperature, for a minimum of 12 hours, and the pH for a total of 72 hours. It is then ready to use or go into storage.

**1120**

We've heard concerns over metals in sludges, in the presentation at Queen's Park the other day and perhaps even mentioned today. This table is very busy, but we just want to point out how well within the applicable

guidelines the product falls. At first thought, one would expect the sludge from a highly industrialized city like Sarnia would simply not meet the guidelines, but you can see, just glancing across, that it's well within all of those requirements. It's for two reasons: all the major industries in Sarnia have their own waste water treatment facilities, their sludge disposal facilities, but it also speaks to the control in virtually every municipality in Ontario, where the metals in the sludges meet the guidelines because of the very stringent sewer-use bylaw controls.

Much of the public concern over land application of biosolids—and this relates back to Walkerton—is in respect to the liquid and dewatered sludges—what are referred to as class B sludges—and their potential for health implications. We don't have microbiological guidelines in Ontario or Canada, so we often look to the US, EPA regulation 503, for guidance. It's also a requirement of our licence—it's an N-Viro International licence—that we meet those regulations.

The N-Viro soil is rated as a class A or exceptional quality sludge. If you glance at those results, over about five years of quarterly analyses, the good bugs approach that of a good soil culture and the fecal coliform we have found to be regularly less than one unit. The US EPA allows 1,000 for fecal coliform and, by contrast, class B biosolids allow two million fecal coliform. Salmonella is totally controlled and the other two, the helminth ova and the enterovirus, which are done annually, again are well within the requirements.

I'd just like to point out the differences between class A and class B. They're really quite dramatic. Class A involves some sort of advanced processing and it has to meet stringent quality criteria. Class B, on the other hand, is for the most part simply digested, it's applied to the land in liquid or dewatered form and it must meet only limited quality criteria.

N-Viro soil, which is a class A, is a soil-like product. The best description is midway between a bag fertilizer and topsoil. It will not decompose further. It is pasteurized, which means it's virtually pathogen-free. It's very low-odour. It stores easily. Simple application procedures can be spread with normal farm equipment. There is no land runoff, because it's just like the soil on which it's applied. It has multiple beneficial reuse options, which I'll mention later. There is revenue potential to the municipality, there's a high degree of public acceptance and it is economical.

On the other hand, digested sludges, which are class B, are categorized as waste. There is low stability. They will decompose further. They have very limited pathogen destruction. They tend to be odorous. They are difficult to store. Strict land application procedures must be followed. There's potential for runoff into rivers and wells. There are no beneficial reuse options, only land disposal. There is growing public concern and no revenue potential, because they are not products.

N-Viro soil has many beneficial reuse options. We have agriculture, which I'll mention separately later.

Horticulture—there's one plant in the US that turns out 400 tonnes to 600 tonnes of material which goes into the topsoil market every day. It's an excellent accelerator in the co-composting with yard wastes. We've done land reclamation. We rehabilitated two gravel pits in the Leamington area. There is landfill cover, and some have mentioned it as an option, but it's a beneficial reuse option of last resort. There are just too many other good options to pursue.

To date, virtually all of our product in Leamington and Sarnia has gone into the agricultural market as a soil amendment, because we are continually in a sold-out position in that market. It's used as an aglime substitute, as a soil amendment to reduce acidity. It is applied at the rate of two tonnes to two and a half tonnes per acre, which is about half that allowable under the guidelines. So if an acre called for one tonne of agricultural limestone, we would put down about two tonnes to two and a half tonnes of N-Viro soil, and it's beneficial for a variety of crops.

This next slide is an outline of what makes it attractive to the farming community. It's again very detailed, but a tonne of product could have a value approaching \$165. It is applied in the field at between \$20 and \$28 a tonne as the cost to the farmer. We are a little bit concerned about double-counting with this alkaline aglime equivalency, the calcium carbonate equivalency in calcium, but we were talking to some farmers the other day and one of them said that although the soil acidity is quite good, it is very deficient in calcium, and for that reason he is purchasing the material, to increase the calcium content.

Agricultural research—and this is a project undertaken by Ag Canada. It is well known that soybean cyst nematode can affect yields by up to about 50% by attacking the plant roots. Two pretty smart scientists with Ag Canada had an idea that N-Viro soil just might control the soybean cyst nematode. Some preliminary field results were so encouraging that they did more detailed laboratory tests. In these tests they took a series of pots seeded with SCN, and planted and set aside a control plot. Then they applied N-Viro soil on a simulated basis at rates of two tonnes to 25 tonnes per acre. They also wanted to check aglime itself to see if it would have any effect in controlling the problems with the soybean cyst nematode. They did cyst counts per root on the mature plants and, where N-Viro soil was applied, there was a reduction of about 96% on the cysts on the root. They did above-ground biomass analysis of the mature plants and in one case the N-Viro soil increased the yield by up to 30%. Aglime itself had no effect.

Their phase 2 tests are underway and they are going to look at the exact mechanism by which it works, the optimum rates of application and when and how often to apply. Phase 2 is being funded by several entities, including N-Viro International—us—the Soybean Growers and CanAdapt.

They also encouraged us to apply for a patent, which was applied for in 1999. Not only is it going to be

beneficial for soybeans, but they think it will help 14 other crops as well.

On marketing, as Rae mentioned, it's approved by Ag Canada under the federal Fertilizers Act. It's marketed through established farm products distributors, so it just becomes a component of its agricultural products line. The field application is done by professionals, so we know it's being done safely and to meet agronomic needs only. There is no excess applied. The charge is \$20 to \$28 per tonne applied in the field, and there's revenue potential to municipalities.

**The Chair:** Mr Mills, you've used up your 15 minutes. We have your brief. We thank you and Mr Wallin for coming forward and providing this information.

1130

#### DAWN-EUPHENIA RATEPAYERS

**The Chair:** I would ask our next deputation, Dawn-Euphenia Ratepayers, to come forward, please. We would ask if we could have your names for the record.

**Mr Murray Sharpe:** I'm Murray Sharpe. I farm in Dawn-Euphenia township and have since 1966.

**Mrs Ruth Williams:** I'm Ruth Williams. I'm not an expert on anything; I'm just a farmer's wife.

**Mr David Williams:** David Williams, just a farm boy from Dawn township.

**The Chair:** We have 15 minutes, if you wish to proceed.

**Mrs Williams:** Members of the panel, my name is Ruth Williams and I live in Dawn-Euphenia township in Lambton county. I've lived on the farm, with the exception of four years, for all my life and I happen to still like it.

For this past year, our community has been in an uproar over a proposed hog complex that is to be built just southwest of us. This corporate complex is to overlook the banks of the heritage waterway that passes through our farm. There are several family-operated hog farms in our municipality that have been an asset to our community, but the thought of up to 35,000 pigs at one time, at one location, boggled our minds.

Lambton does have a nutrient management plan in place, and I feel that the men who put it together really need to be congratulated. They put a lot of work into it and it's very good, but we do not feel it is stringent enough to protect our environment from odours, pathogens and lowered property values.

I, along with a group of interested neighbours, have researched intensive livestock operations and nutrient management plans and the inherent problems they pose. In February, the Ontario Farmer publication had an article on intensive livestock operations. The European Union farm commissioner is quoted as urging a move away from intensive farming where animals are packed in and fed mass-produced feed. There is a need for a return to farming methods that are more in tune with the environment. Great Britain is also investigating the return to less intensive farming since the mad cow crisis. In the

United States, some 16 states have enacted legislation that greatly curtails the continued expansion of intensive livestock operations. In Holland, farmers are being paid to stop farming because of environmental manure problems. And I'm not an animal activist. I still enjoy my meat too.

Because of our lax environmental rules governing manure handling, other countries' problems are being transplanted here to Ontario. Factory-style operations are springing up in numerous areas of our province. This is not agriculture as we once knew it but virtual chemical plants that produce enough sewage to equal some of our small cities. At this time, we are looked upon as a pollution haven. We, as traditional farmers, do not want to be responsible for destroying our environment.

In our immediate area, Mr Bob Kerr is now raising grass-fed cattle. Well, I've got enough white hair; I can remember when that was the only kind you got. He is using fewer antibiotics, resulting in an animal with better texture, better taste and better health, thus better for all of the consumers. This common sense type of agriculture should be maintained if our society is to be sustained in a healthy state.

At present, our 1.5% of the population—that's us farmers—is providing nutrition for this country of ours, and I think you've been getting a bargain, too. We are accused of producing 40% of the pollution in our environment. This may be so. That means that the other 98.5% produces 60% of the pollution. So when you draft this new nutrient management law, we expect that this law applies to all citizens. We are expecting a great deal from you. Please use common sense, workable solutions so that all of our society can look forward to a sustainable future.

And, yes, I did read the nutrient management plan, the whole 61 pages. My eyes were getting glazed, but I did it all.

**Mr Sharpe:** The other night we sat down with a local family farm operator who runs a pig operation and we came to a general consensus of the list we have below. The list that we're providing comes in no particular order as far as importance, but we feel it would help promote what we're looking for, sustainable agriculture:

One hundred and fifty livestock units per 100-acre site; a minimum of 400 days' manure storage; the owner of livestock units must own 50% of the tillable land base that is required for the application of manure; steel or concrete manure storage to be emptied at least once a year, no earthen lagoons; five-year manure spreading leases renewed each year and a copy of the lease agreement on file at the municipal office; the owner or a representative of such being on site during manure spreading operations; reasonable manure spreading times to be observed; custom manure spreaders licensed and insured, with documented proof of such; excessive traffic, dust and odour are to be taken care of by the livestock owner and manure-spreader operator;

Leasing farmers must have their own annual nutrient management plan; annual soil-testing for the buildup of

heavy metals—copper and zinc—must be completed; a reserve of 25% more land in excess of the nutrient management requirements for manure spreading; random annual inspection of facilities by a neutral agency; and maybe most controversial—but this one I picked up from United States regulations that are coming out—distance regulations, 1.5 miles' or 2.5 kilometres' distance to the nearest residence from any new livestock building site that consists of 150 livestock units per 100-acre site; groundwater monitored quarterly via test wells on the site; nutrient management plans to be registered at the township of origin; any infractions of such listed on that nutrient management plan; nutrient management plans to be placed on official map at the municipal office, along with application rates to correspond with the soil tests;

Perimeter mapping of the farm receiving nutrients needs to be completed with GPS or global positioning satellite usage for the exact acreage and rates that are applicable; topographical maps need to indicate the suitability of the ground for the various materials that are being applied; GPS maps for drainage waterways and water wells.

One we may have forgotten and were thinking about later is the possible bonding for the new buildings going up. What is going to happen in the case of large commercial operations or corporate operations when their usefulness is abandoned? Who is going to clean up the mess?

We do not feel these requests are unreasonable, and they may even have to be strengthened. We only have one environment and we all depend upon it.

**Mr Williams:** Any questions? I guess the pressure will be on me to answer them.

**The Acting Chair (Mr Bert Johnson):** There's about seven minutes and we'll divide it evenly.

**Mr Hoy:** I had two to begin with at least. Under your presentation number 7, "reasonable manure-spreading times are to be observed," could you elaborate on that a bit? I know you've got 400 days of storage etc, but just expand on what reasonable spreading times would be.

**Mr Williams:** We'll deal with this one across the road from us. If you do some of the arithmetic, there are three million gallons to be removed some time during the course of the year. The way it was explained to me, it will be done in five days. If you do the arithmetic, that's 150 times a day. That's 300 trips back and forth. We have about 15 kids in the area and what we would like is some notification, like an 11-to-7 type of thing. Use a little bit of common sense and courtesy. We're not unreasonable.

**Mr Hoy:** Number 13, "random annual inspection of the facilities by a neutral agency": have you got any recommendation who that might be?

**1140**

**Mr Williams:** We have a couple of certified crop advisers in the area and for the most part they know the area really well. I would think they would; and some of them have farm backgrounds too. We don't need the manure police. We already have the Roundup Ready

police. I don't believe that's necessary if you could train them to know what to look for or not to look for.

**Mr Peters:** What about 15 as well?

**Mr Hoy:** It's suggested I should ask a question about number 15: "groundwater monitored quarterly via test wells on the site." Who would do that, do you think?

**Mr Williams:** For the groundwater wells, I think they should be on the site of anything over 450 livestock units that is close to a major watercourse. Your minimum distance separations I believe are somewhere around 1,500 feet from the nearest dwelling, but it can be built less than 300 feet to a major watercourse. If it was on a course, you could test it maybe four times a year by this same fellow.

**Mr Hoy:** Same thing.

**The Acting Chair:** Dr Galt.

**Mr Galt:** Thank you for your presentation, particularly for this list of 21 thoughtful points. It's obvious you've been doing a lot of thinking about it.

The one that I don't see here, and I'd be curious about your response—and I may have missed it, but I've glanced over it—has to do with winter spreading. What are your thoughts on allowability or not, as we get into—I'll use dates just for the sake of a time period—November 15 through to, say, early April, as you get frost in the ground, or snow? There are times of the year that it's going to be frozen in Kemptville versus here versus New Liskeard. How would you go about writing that regulation if you were in Toronto?

**Mr Williams:** In the part of the world where I live, which is in Dawn township, we have a couple of common practices: no-till beans and no-till wheat. There's very little tillage done to incorporate any amount of manure.

But getting back to your original question of winter spreading, I am against it. The reason is, if you look at the last couple of winters, one day it's frozen, the next day it's 60 degrees. If you have manure lying on top of that and we get an excessive amount of moisture and/or snow, where is it going to go? There is no way to incorporate it into the ground; there is no residue to put it on. I think any farmer in Lambton county or any farmer in Ontario spreading manure on snow that is that deep is foolish.

**Mr Galt:** No argument at all with you, but would you put a date in there?

**Mr Williams:** I would think you'd have to go with dates for different regions.

**Mr Galt:** In different parts of the country?

**Mr Williams:** Yes, because obviously, if you drive 150 or 200 miles to the north of here, the leaves have started to turn and the weather goes accordingly.

**Mr Galt:** Again, I'm sort of asking you for information, but also to point out some of the difficulties in setting up regulations, recognizing the flexibility, the difference in soil types, the different times that soils freeze etc. It's a horrendous task—a tremendous task, I should say.

**Mr Williams:** No, horrendous. You were right the first time. Agriculture here in Ontario is very diverse. If you could drive from one end of the province to the other, if you look at Essex versus up by Ottawa, you would see the diversifications. I believe one-size-fits-all is not the way to go, because we have different farming practices, different tillage practices, different crop rotations.

**Mr Galt:** Certainly, your list here is very helpful. There'll be a lot of further consultation on working out these regulations. There's been some criticism they're not here as the act comes out. You have to have an act before you have authorization for the regulations, and that is kind of the cart before the horse, but I appreciate the detail as to what people are concerned with. There are 21 points and it is just excellent.

**Mr Williams:** They're just thoughts and ideas, fellows. Thanks for your time.

**The Acting Chair:** The time has expired. I'd like to thank you on behalf of the committee for being with us today.

PAUL MISTELE

**The Acting Chair:** We'll move along. Next is Paul Mistele. Welcome to the committee.

**Mr Paul Mistele:** Thank you very much. As a bit of a preamble, I'd like to say that I also farm, the same as Mr Desmond before me. We farm on the north shore of Lake Erie, but we've only been farming in the same spot since 1853, so we're a relative newcomer to the area compared to Mr Desmond.

First, Mr Chairman, I would like to thank you and the committee for the opportunity to express my views today regarding Bill 81, the Nutrient Management Act.

Along with my wife, I am involved with broiler chickens, pork and crop production. I am by no means an expert regarding the environment, nutrients or the legislative process, but my 30-plus years as a family farm operator should count for something.

One of my primary concerns with Bill 81 is that of enforcement. Those people who will be given this power will have to be trained extensively in regard to nutrient management, biosecurity and the whole issue of dealing with people who are not used to provincial officers showing up on their doorstep with a badge in their hand. I realize you need enforcement to have compliance, but you don't need a sledgehammer to kill a fly. All of the farm families I know live on their farms, are community-based and are probably as good environmental stewards as you will find anywhere in the world.

Another concern I have is the funding issue. Livestock producers, under the anticipated regulations, will have to make significant investments to their operations to ensure compliance. Are we, as producers, to shoulder these costs on our own or is the government going to recognize the fact that the environmental benefits will be of value to all citizens? I don't see Collingwood, Toronto or Hamilton, to name but a few cities, having to resolve their environ-

mental problems in a certain time frame. Quite often, you will see funds made available to municipalities when water and/or sewage projects are deemed to be required. The same consideration should be made for farming operations, especially if adopting new technology.

Funding for research and development of new technology is also key to sustainable agriculture, be it composting liquid manure or developing better reeds and grasses for growing along streams as buffer strips. Adequate funding will help ensure compliance of regulations but, more importantly, it will also ensure that some of the best livestock producers in the world will remain in the industry. The economic impact on family farms cannot be minimized. We all know that legislation and regulation cost money. To remain competitive in our global market, farmers will definitely need government support.

Regarding the issues of municipalities, I would anticipate that the provincial regulations would supersede municipal bylaws. If a municipality, with all its local politics, is able to end-run the provincial legislation, then why are we going through this process? Will we not be right back to a patchwork of regulations across the province, the very situation the government is trying to rectify with Bill 81? With the use of local committees to review complaints while making recommendations to their peers, along with solid nutrient management plans and strategies, the need for excess municipal regulations should be nullified.

Our farm has been operating with an environmental farm plan and a nutrient management strategy for over 15 years. I use a crop consultant to assist with some of the cropping decisions. Bill 81 will formalize this process, probably more than I wish. I hope this committee will recognize science-based information and not be swayed by lifestyle issues. We live in the country to raise our family, earn a living, hopefully, and produce safe, affordable food for all Canadians. Please be wise in your recommendations.

**The Acting Chair:** There are about eight minutes. We'll split that evenly.

**Mr Beaubien:** Thank you for your presentation. A couple of quick questions: you mentioned in your presentation that the farmers will definitely need government support. In what form? Tax credits?

**Mr Mistele:** You've been looking for an answer to this one all morning, so I'll try and take a stab at it.

**Mr Beaubien:** I've got to pin somebody down.

**Mr Mistele:** Yes, I know. So anyway, I guess what we're going to be looking for—I like the CURB program that came in under the NDP government. I said that Elmer Buchanan had the foresight and the ability to pull off many things. The CURB program was good. It recognized a need and it did certainly focus on protecting water resources. So I'd like to see the CURB program. It could be used as a vehicle. And yes, I think we do need grants. We don't need any more loans. We already have enough loans and we don't need any more baggage like that. But I would look at grants, and it's got to be a multiple thrust. When you talk about what you're going

to do as a government for environmental protection, you even have to look at the school curriculum and take it out to that point. Put agriculture back in there where people who are getting more and more removed from agriculture on a daily basis understand the science behind agriculture. You've heard that already this morning. But, yes, I would embrace grants.

You asked at one point in time about licensing of people who are going to have to put nutrients on their own land. Yes, I think it's going to be along the pesticide course guideline. I don't agree with it, but I think society is going to demand that.

**1150**

**Mr Beaubien:** You mentioned also municipal politics doing end runs on provincial legislation. You heard the previous presenters in front of you, and they had a very intricate and detailed list of issues to deal with nutrient management on the farm. Should the provincial legislation be the foundation of the nutrient management legislation and then have, as other individuals have suggested, other municipalities be able to add on to it, or should the provincial legislation be the end-all of everything?

**Mr Mistele:** I'd like to defer to the Highway Traffic Act. If you own a semi or you own a pickup truck, you run under the Highway Traffic Act. But rules and regulations regarding the pickup truck or a semi truck hauling 20 tons of product are different. This is where the categorization and the classifications will come into play. I think these can be addressed through that because if you start allowing municipalities to supersede—and this is what you're talking about—under either this regulation or international law, which we've already witnessed in this country recently, then you are going to drive the industry out.

The aforementioned presenters: yes, they have a great list. Show me the money. To ask for a mile and a half of minimum distance requirement, that's very grand and maybe it'll work out west where they have a mile and a half.

**Mr Peters:** Thanks, Paul. I know you were instrumental in helping to develop that local committee in Elgin county and I commend you in your efforts for that. One of the issues in dealing with the local committees that I'd like your comment on is the makeup of the committee being producers and municipal politicians. We also have another component out there and that's what I would call the non-farm rural resident. Should the non-farm rural resident be part of these local committees?

**Mr Mistele:** I think they have to be to give the committees any credibility. When we had a moratorium in west Elgin, I was part of that committee. We had citizens participate who didn't have any linkages to agriculture and it was a learning process for both our sides. At the end of the day, we found that all our concerns were basically the same and we were just trying to see how we could put this together, to recognize an asset-based approach to the municipality, land-use issues, topography and the ability of the ground to support



different levels of nutrients. So, yes, I think just to give the process credibility you're going to have to have these people on and hopefully, at the end of the day, everybody will be working as a team.

**Mr Peters:** Thanks. I think Pat has a question.

**Mr Hoy:** Thank you very much for being here this morning. I just want to pick up on one other point you made. I took note of your government support and loans. Do you have a particular ministry that you think should be the lead in funding for research and development of new technology?

**Mr Mistele:** Research and development coming from the government is quite a concept in this day and age, isn't it? We seem to see it going more into private companies. I would certainly like to see OMAFRA taking a lead because they understand the situations. I'm not saying that I'm totally in favour of OMAFRA being the only ministry involved in this legislation simply because of that credibility factor. We certainly have to have a partnering of MOE and OMAFRA together to make this a workable solution for everybody, because they both have expertise in different areas.

So, yes, I'd like the research and development to come through the University of Guelph or anybody else who is willing to step up to the plate to take on the complicated issues of odour and the vectors that odours move in. I sit on the environmental committee at Ontario Pork and odour is very much at the top of our list of what we want to address. I think, when it comes right down to it, odour is very much the issue here today.

**The Acting Chair:** Thank you for appearing before the committee.

**Mr Mistele:** I was a little worried about coming in right before dinner. I didn't want to get between you guys and your trough.

**The Acting Chair:** For those of you on the committee, the restaurant at the front is expecting you. This committee stands adjourned until 1:15.

*The committee recessed from 1155 to 1312.*

#### MUNICIPALITY OF CHATHAM-KENT

**The Chair:** Good afternoon. We now reconvene the hearings of the standing committee on justice and social policy; Wednesday, September 12, consideration of Bill 81. From our agenda, we ask the municipality of Chatham-Kent to come forward. We would ask you to give us your names and then proceed. You have a 15-minute presentation.

**Mr Tom Storey:** Thank you, Mr Chairman. My name is Tom Storey. I'll be delivering the presentation. I'm a planning consultant with the municipality and I've been heavily involved with their development of a nutrient management strategy.

**Mr Ralph Pugliese:** I'm Ralph Pugliese. I'm with the municipality. I'm manager of strategic and planning services.

**Mr Storey:** We've provided to the committee a brief brief, if you will. Rather than go through it, I think I'd

like to turn simply to page 4, which is a summary of our recommendations and requests. I would also like to begin by giving you an overview of our position on this, and that is, we found in going through the act that we had far more questions regarding where we're going with this and how it's going to affect the municipality on a general level and that it's difficult to come to the committee with specific concerns regarding the act. I think that's reflected somewhat in our comments.

Our first point: a more clear understanding of how the Nutrient Management Act and the Planning Act interact is necessary.

We've used the Planning Act in the past, in combination with the Environmental Protection Act and the Environmental Assessment Act, to deal with complex land use matters that had environmental and land use planning issues such as this. In reading the act, there is no mention of the Planning Act, and we're still not certain how readily we can use the Planning Act as a tool, through official plan policies and zoning, to manage nutrient issues at least to the extent that they are considered land use issues. I think you would agree that to a great extent they are land use issues.

The second point sort of follows from the first point. Where unique local conditions warrant, the director should be given the discretion to permit local bylaws to remain in whole or in part which might otherwise be superseded by a provincial regulation.

I'm sure all the committee is aware that the regulations will take precedence over any local bylaws where they overlap on an issue. Our concern there is that the director doesn't seem to have any discretion, as he does in some of the other legislation, to recognize those unique local conditions. We'd like to see that perhaps built into the regs or certainly amended in the act, if possible.

As I said, we've done a great deal of research. I'm here as part of a nutrient management study committee, which was appointed by council about a year ago. We've developed a strategic plan. We're working on official plan policies, how we'll use zoning. Originally the committee was set up to also draft a nutrient management bylaw, which of course is no longer necessary. We find ourselves somewhat at a standstill. We would like to know that if we continue to do our local research—we've done a subsurface water budget. We know how many nutrients we can put on our land. We've got all those things under control. So I think we're in a position to march forward and develop some real policies, but right now we've just got a big question mark as to the impact of this act and how we could manage it.

We've included as an appendix the executive summary of our study. Some of it is perhaps germane to what you're doing and probably some of it is not. But at least it gives you an idea of the resources the municipality has committed to this topic to date. In particular, you might be interested in page ii of the appendix, the summary of our public consultation on this. It reflects very much what Mr Galt found in his work over a year ago.

The next item: a more clear understanding of the role and responsibility of a municipality in the preparation of a nutrient management strategy is necessary.

To us, that could mean we have to deal with every nutrient—the way that it's defined right now—that is managed whether in the public or private sector in our municipality, which would be an enormous undertaking to develop a strategy to do that, or it could mean, from my reading of that, that we simply are responsible for nutrients we produce or generate ourselves.

Also in that regard, municipalities should have input into nutrient management plans for nutrients generated elsewhere for which they may be the ultimate host.

Once again, the nutrient management strategy description talks about nutrients generated in the municipality, not nutrients which may end up in your municipality, applied to land in your municipality, which in fact are generated somewhere else as part of someone else's nutrient management strategy or plan. So we would like to make it clear that if we're going to be a host to someone else's nutrients for application in Chatham-Kent, we would certainly like the opportunity to review those nutrient management plans before they become approved.

Fifth—you've probably heard a great deal about this, I would suggest—there should be an opportunity for public input into the regulations before they come into force.

Quite clearly, pretty well everything of any sort of impact or weight is going to be in the regulations, not in the act, when it comes to the nitty-gritty of what nutrient management planning is all about. That being the case, we would like an opportunity, and I certainly think the public deserves an opportunity, to review those regulations and speak to either this committee or some other committee on that matter.

#### 1320

Item 6: the Planning Act should be amended as soon as possible to permit the extension of interim control bylaws, which are temporarily regulating livestock operations, until such time as the Nutrient Management Act and regulations are in force. In reaction to OMAFRA's call to municipalities a year ago last summer to think about interim control bylaws and livestock operations, Chatham-Kent did pass one in August. It looked like most other interim control bylaws you may have seen in other municipalities have passed. We passed it with the understanding that we would be looking at legislation before the end of the year 2000. Of course, we've seen this act recently, but at the time we had to reconsider our interim control bylaw, we had no choice but to pass it again.

I don't know if you're aware or not, but under the Planning Act you get two cracks at interim control bylaws and after that you cannot put out a bylaw again. So we've got two years and we've already eaten up one year. We're not that far along in knowing where we're going to be, and we're very concerned that this act, this legislation and these regulations, may not be in place a year from now, next August. If that is the case, say come

March or April, we've got to take steps. We can't wait until next August to know if it's going to be in place. We've got to take steps to do a nutrient management bylaw, which I think you understand we don't want to do if we're expecting legislation that will do the same thing, probably better than we're going to do it.

An easy way around that may be to amend the Planning Act, at least so that this temporary situation won't exist, this gap we're looking at. So if you have an interim control bylaw in place and it deals with the regulation of livestock issues, we would be allowed to pass it again or continue the interim control bylaw until such time as the legislation and the regs are in force.

Item 7: the act should contain provisions requiring a public notification and input process and make more clear how the public may become party to Environmental Review Tribunal hearings. The only part of the act I could see that dealt with public notification, if you will, was I think the part that referred to a registry being set up where nutrient management plans would be deposited, I presume. We know from the background document that there is talk that the regulations will approach this from the point of view of large operations of over 450 livestock units, then what I'll call medium-sized operations between 150 and 450, and then the smaller ones of under 150 livestock units.

I think it's important that there be public consultation, and that level of consultation can certainly vary in size. If you have different classes of livestock operations, then you could have different levels of public input as well. We think that's very important. That was something that came out of our committee.

I should say before I go further that our committee consists of three people who represent a livestock interest, three people who represent an environmental interest and three people from the public at large, and on all these issues they have agreed. There wasn't a split on anything with regard to how we should approach this act. They are all agreed as to public input being very necessary. We don't see it in here at this point. My experience is with the Planning Act, where of course public participation is set out in considerable detail in the act as well as in the regs. We would like to see more of that in this act rather than leaving it to the regulations per se.

Item 8: the reason the discharge of nutrient materials into the air will not be considered an adverse effect needs to be addressed. We're speaking of section 28, where the director has the ability, when he thinks the discharge of nutrients may have an adverse effect on the environment, to make an order to stop an activity, let's call it. However, that section says the discharge of nutrients into the environment "other than the air," which struck us as almost rendering that part of the act useless because most nutrients are released into the air before they accumulate anywhere else. So we'd like some explanation as to why the discharge of nutrient materials into the air is not considered an adverse effect.

Certainly in the preamble to the act, the explanatory notes, it talks about that very subject and says something to the effect that the Supreme Court has ruled that for an effect to be considered an adverse effect it must not be a minimal or trivial effect, it must be significant. I guess our thinking is that if that's the case and you're discharging a nutrient into the air, if it's an adverse effect that means it's having a significant impact on the environment. Why in the world would the director not have the ability to do something about that?

Also, in section 17, where it deals with similar powers for the director, and that's to prohibit entry into property where he thinks the discharge of nutrients into the environment will have an adverse effect, the prohibition on air is not included. So we've got two sections, one where the director cannot act where it's discharged into the air and another section where he can act if it's discharged into the air. Plus, it's not clear whether "adverse effects" applies to just section 17 or sections 17 and 28. I think those are important considerations when you're dealing with impacts on the environment.

Number 9: the reason why loss of enjoyment of normal use of property should not be an adverse effect, as it is in the Environmental Protection Act, needs to be explained. In section 17, where it talks about what an adverse effect is, it has lifted the definition straight out of the Environmental Protection Act, with one notable exception, and that is where an adverse effect is considered the loss of enjoyment of normal use of property in the Environmental Protection Act. That is not considered an adverse effect in this act. I think we would like to know why that is.

Lastly, a program for financial assistance to livestock operations forced by the regulations to retroactively upgrade facilities should be considered. In that case, we were thinking of the tile loan acts program, or something to that effect, where a terrific financial burden would have to be endured by a farming operation to bring an operation facility up to the standard of the regulations.

**The Chair:** Thank you, Mr Storey and Mr Pugliese. You've hit 15 minutes right on the button. We thank you for your presentation on behalf of Chatham-Kent.

#### COUNTY OF MIDDLESEX

**The Chair:** I'd like to call forward the next delegation, the county of Middlesex. Good afternoon. We'll ask you if you could give us your names for the Hansard recording, and then we have 15 minutes. Please proceed.

**Mr Al Edmondson:** My name is Al Edmondson. I'm the warden of the county of Middlesex. With me is our CAO, Bill Rayburn. There's a copy going around that you could follow.

**Mr Peters:** You've got all three of your MPPs here.

**Mr Bill Rayburn:** It's like old home week, actually.

**Mr Edmondson:** We're blessed.

**The Chair:** Let's see if we can give them some time for questions.

**Mr Rayburn:** We even have one of our unofficial MPPs here, too, right Bob?

**Mr Bob Wood (London West):** I'm from Middlesex, but not the municipality of Elgin-Middlesex-London.

**Mr Edmondson:** A former resident.

1330

**Mr Rayburn:** Thank you, Mr Chairman and members of the committee, for this opportunity to present to you today. For Middlesex county, nutrient management has been an ongoing issue for a couple of years. In the last couple of months we put together a discussion paper which addressed many of the issues that you're going to be discussing over the next little while. In preparation for our discussion today, we distributed this discussion paper to other counties and other local municipalities for their comments. So the paper I have attached to the back of our presentation notes today is our discussion paper. It has been revised several times. The latest revision was done after the AMO conference, when we met with all our local municipal counterparts and our county colleagues and received their input into what issues were important to them in the Nutrient Management Act. As a result, we think we have a pretty good paper that focuses on the issues that are important to the municipalities of southwestern Ontario and our county colleagues.

I'll just highlight for you the municipal experience in Middlesex county. It certainly has become the number one health issue. Water and nutrient management has become the number one health issue in our county over the last couple of years. We believe, as you do, that regulations that provide an appropriate level of treatment for nutrient management are long overdue. The implementation of a Nutrient Management Act must be timely and decisive.

One of the key issues that we've been dealing with at the county of Middlesex and trying to get consensus on, and it hasn't been easy, as many of you know, is who should be the enforcer of the regulations. We have come to a consensus at the county of Middlesex on three things. The first one is that there should be a single set of rules for nutrient management that is established at the provincial level. We also believe that these consistent rules should be enforced consistently across the province. That's another area of consensus.

To accomplish this goal, county councils looked at two alternatives, the first one being local enforcement. If it is to be locally enforced, they believe that it should be provincially funded and they believe that it should be consistently educated. The reason that many of our councillors look toward local enforcement is because they feel that local municipalities would be able to provide a more timely response than can be provided by provincial ministries. They also think that municipalities would have a longer-term focus, as opposed to a short-term solution and enforcement regulations that would be short-term in focus. They believe that municipalities through best practices would be able to develop lasting solutions that would serve municipalities well over the long term.

In regard to provincial enforcement, many of our county councillors believe that provincial enforcement is the way to go because, quite frankly, they believe that it would be less likely if it was provincially enforced for the costs of enforcement to be transferred to municipalities, and that is their main concern. They believe that it should be provincially funded, that there should be consistent education that would be easier to do at the provincial level, and that there should be consistent skill levels of those enforcing the regulations. There would also be consistent implementation of penalties across jurisdictions, which we feel is vitally important so that one area does not have a diluting of the Nutrient Management Act in comparison to other jurisdictions.

There's also the opportunity for non-labour-intensive alternatives for enforcement to be explored, such as are being utilized in Oxford county, if it's done on a larger basis than strictly one municipality.

So that's the issue of local versus provincial enforcement and where our council sits on it at the moment. I'm just going to ask Al to talk about some of the other issues, such as the role of technology.

**Mr Edmondson:** We'll skip the next box; it's self-explanatory concerning family farms and the concerns about family versus larger farms.

In the world of technology, we look at this and we strongly believe that enforcement is not the total answer. We have to look beyond that. In that regard, we have to look to new technologies and what there is available today. Right here in the town of Chatham, we have agriculture research ongoing at Ridgetown College. We visited there several times. They have a very successful composting system that I think, with a bit of investment on the part of the provincial government, could possibly be part of the answer. It is not the total answer; we're not saying that. But I think we have to very, very carefully look at new technologies.

These technologies reduce the bacteria. Therefore, through the composting process, they get rid of the E coli. Therefore, they are safe and it makes the public know that they are safe. We're not putting elements on the land that are going to contaminate the water source, which is the ultimate goal here.

The provincial budget must provide incentives for the continued development and implementation of these technologies. If this is going to be a societal problem, which it is, if clean water is the goal, then society as a whole should help pay for that.

The enforcement of regulations: the regulations must be transparent and easily enforceable. Middlesex county is proposing a revised enforcement system. We've looked at the regulations as they are presented to us. Very carefully we've discussed them with many different groups, as Bill has suggested, and we've come up with the following:

The peer review seems to be very successful in Oxford. They have not had to go beyond that. If they did have to go beyond that, they're not too sure where they would go. A nutrient management officer, as described in

the paper presented by the government, is well educated, as was pointed out earlier, should be well educated, and he presents his report. The way it is set up at the present time, we have the officer in the field, we have the director, we have a tribunal and on down through the appeal to the ministry and the courts. It is our feeling that this is a system where one undermines the other. If any of you were the officer in the field and then your decision is appealed to the director, and then the director's decision is appealed to the tribunal, every one of those undermines the person above. Our opinion is that we should go directly from the officer in the field. If that isn't agreed upon, then it would go to the courts so that we take out this bureaucracy. That's explained at the very top of the next page. This puts the onus on the violator.

Under the Provincial Offences Act, which we'd also like to see, there are two sections, part I and part III, in which this could be used effectively. We understand that over 70% of the fines that are given, say, in the Highway Traffic Act, under the Provincial Offences Act, are paid out of court. Therefore, if there was a system under part I of levying fines under that act, it would be much more expedient if the onus would be on the individual to pay that fine out of court, or it's his choice to go to court. It takes the onus away from the taxpayer and the government in terms of enforcement. If it's a more serious offence under part III, the size of the fine can obviously be much higher.

We would also encourage, in the last point there, the development of awareness through the peer advisory group. We still think that is a very important part of this. If you don't have to go through any of those processes because of the peer advisory group, then that's the most economical and, I guess, socially the most suitable way to go, because you've got your peers looking after the issue.

In summary, Bill, would you have anything?

**Mr Rayburn:** Go ahead.

**Mr Edmondson:** Groundwater quality is a provincial responsibility. The province should fund the solutions. We must look beyond the obvious, the obvious being regulations, to establish long-term solutions. The long-term solutions I think will come through new technologies. Our juggernaut of economic progress has hit a pothole with the advent of the Walkerton situation. We are faced with two choices: we can repair the juggernaut and make it workable or we can redesign it so that it will give us something for the future and protect our waters for future generations.

Bill and I would entertain any questions that you have.

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

**Mr Hoy:** I would like to ask one question: do you have any definition that defines the differences between a family farm and a factory farm?

**Mr Edmondson:** I think that would become an issue in itself in a sense. What is the dividing line? In our paper we talk about the industrial farm.

**Mr Rayburn:** Mr Beaubien is doing a review of tax classes and we're submitting a paper on whether or not there should be an alternative tax class for intensive livestock operations and what definition would be used there. We haven't asked council that question, what their definition is. It's more of a feel right now, but as we do that tax class work, we're going to be asking them to define it better. We'd be glad to share that with you whenever the time comes.

**Mr Hoy:** It would be helpful. I can recall 30 years ago being asked to define "farmer" and nobody could do it, let alone these other entities that you're talking about.

1340

**Mr Rayburn:** Even "intensive livestock" means different things to many of our councillors. "Factory farms" is the terminology that we've started using and we'll more clearly define that when we do our tax class work.

**Mr Beaubien:** Gentlemen, thank you for your presentation this afternoon. I'd like to pursue what Mr Hoy has touched upon. If you were in the audience with the previous presenters, it's too bad we didn't have time for a question, because they sort of tied the nutrient management to the Planning Act, the land use, and I think you referred to the assessment. That's a somewhat innovative way of looking at it. I think that's the first municipality that somewhat tied the two issues together, and I think there's merit to looking at it in this manner.

Having said that, in your presentation you seem to be more concerned with the enforcement, where the responsibility should lie. As a municipal leader and a municipal administrator, how do you feel about looking at the land use and somewhat tying it to the nutrient management? Have you looked at it from a municipal point of view? Have you discussed that, sir?

**Mr Rayburn:** The planning aspect of how nutrient management fits in has been vitally important. From an administrative point of view, we've done a lot of work in that area. From a political point of view, from the politicians' point of view, they've been concentrating more on, "Who's going to pay for the cost of the act that you're about to implement?" and whether there are better ways of making sure that there is compliance as opposed to spending more money. So that's where their concentration's been.

Our concentration administratively has been on what are the true costs of some of these factory farms and how can we recover some of those costs, so that the costs of factory farms and the impact they're having on the community aren't borne by all residents; they're borne by the people who profit from the activity. So that's what our next paper to your committee is going to be on in terms of tax class. We think that we can compute for you what those actual costs are of some of the factory farms: what the costs are to municipalities to do the planning enforcement, the water quality enforcement, all those things that you're talking about. There are costs to them and, administratively, we know what those are. We're not to the point yet where we can define it, but we will be able to by the time your committee has done its work.

**The Chair:** Mr Rayburn, Mr Edmondson, we thank you for the input to our committee.

We have had a scheduled deputation cancelled.

**Mr Peters:** The Upper Thames has cancelled as well.

#### ONTARIO FRUIT AND VEGETABLE GROWERS' ASSOCIATION

**The Chair:** The next and final order on the agenda is the Ontario Fruit and Vegetable Growers' Association. Their representatives could come forward.

**Mr Bill McCutcheon:** Gentlemen, thank you for the opportunity to address you.

**The Chair:** Good afternoon. We'll ask you to give us your names for the Hansard recording.

**Mr McCutcheon:** My name's Bill McCutcheon. I'm here representing the Ontario fruit and vegetable growers and their over 7,500 members. We've been able to have the current president of the OFVGA accompany me today. This is Mark Srokosz.

**Mr Mark Srokosz:** I guess you've said it all, pretty well, Bill. You can keep going, I think.

**Mr McCutcheon:** Gentlemen, it's my intention to convey the concerns and suggestions of the OFVGA with regard to the proposed act. We are in support of the OFEC—Ontario Farm Environmental Coalition—position. But in addition to that, we feel that the requirements needing to be met by agriculture must be compensated for. This is because of the negative impact on income and the additional effort required to implement the standards. For a large part, compliance will reduce income because of standards of setback, access to water and limits to nutrient application. Additional capital input will be required to adapt to new requirements without a provision for compensation.

The next point I would stress is that, when regulations are established, consultation with the industry is necessary so that the legislation is of benefit to society and not damaging to individuals required to comply. Co-operation in this effort is essential so that both agriculture and the government improve the condition of the environment in the province.

Flexibility and adaptability are essential in any regulations so that compliance becomes the goal of all and not something to be coped with by farmers.

I would also stress, with regard to entry by those allowed to inspect properties, that biosecurity on all farms must be respected. Entrance without permission or knowledge would permit the transfer of disease in all types of crops, not just livestock, so great caution must be used.

It is also my hope that criteria established must be adhered to by all of society, not just agriculture, and offshore or imported foodstuffs will be under the same scrutiny so as not to disadvantage Ontario producers.

Thank you for this opportunity to present our position. There are a few points from our position paper in front of you that Mark would like to address.

**Mr Srokosz:** Short of going through this whole position paper, which is quite long, I think a lot of what we have in here mirrors the Ontario Farm Environmental Coalition's position as well. I don't know whether you've heard from them yet or not, but we won't go into all the detail here.

The main area of concern I have is in terms of research and the phase-in period when it comes to horticulture. A lot of the information and research we have on nutrients and recommendations for the different soil types that we grow horticultural crops in are quite dated, back to the 1950s and 1960s. Until we have appropriate time to resource research funds and do the research to get the right kinds of numbers needed to put standards in place for our industry, I think we need that time for the phase-in period for that.

If we're going to take it out of the regular research budget, that takes away from other research that could be done as well. Is there the opportunity to have some extra research money infused into the system to try to accommodate these needs as well?

Short of that, Bill, I think we'll just leave it to questions, then.

**The Chair:** We have a little over four minutes for each party for questions. I'll begin with the Liberals.

**Mr Hoy:** Thank you for being here this afternoon. We've heard from livestock producers about bio-considerations on their farms. Could you describe for me an example of where you would be at risk with persons coming on your farm unknown and how that would apply in your industry?

**Mr McCutcheon:** Currently, the horticulture industry is going through a problem with the plum pox virus. As we all know, a virus tends to be transmitted; possibly in this case it can't be without contact from tree to tree. But a person entering Mark's farm and then going to mine could carry almost anything. I grow asparagus. It's a 20-year crop. If I'm infected with anything, then a 20-year income is in danger. It's much the same with apple orchards or peach orchards or any of the crops, for that matter, that are not annuals.

**Mr Hoy:** But you freely admit, on the other hand, that inspection is fine. Are you looking for some kind of protocol that would allow that to happen without notification or something?

**Mr McCutcheon:** Yes, we're concerned with the biosecurity, not with the inspection. We have no problem with that. So if proper protocol is attempted, then it's fine.

**Mr Hoy:** How does your organization feel about the cost to your growers of compliance with any regulations that might come along?

**Mr Srokosz:** Definitely, we feel that the costs shouldn't be too onerous, that it puts us at a disadvantage. I think Bill mentioned too that if we're under this kind of scrutiny here, what about the products that are imported into the country? We only grow something like 30% of the fresh fruits and vegetables we consume. We import another 70%. We have other concerns in

terms of minor use and some of the pest control products we have available to us. Is this going to put us at further disadvantage to our competitors who are bringing product into the country?

**Mr Hoy:** Many of your producers would have their name on the product.

**Mr McCutcheon:** All of our producers would have their name on the product.

**Mr Hoy:** At the retail level.

**Mr McCutcheon:** Yes. They're all traceable back to us.

**Mr Hoy:** So it could be very damaging to a farm or even an industry.

**Mr McCutcheon:** Yes.

**Mr Hoy:** Thank you.

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

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**Mr Beaubien:** Gentlemen, thank you very much for your presentation. In talking about compliance—and you mentioned, Bill, in your presentation with regard to funding and help with regard to maybe implementing this particular piece of legislation—what would you expect from the government? Would you expect a tax credit? Would you expect grants? What type of funding formula are you looking for?

**Mr McCutcheon:** As far as a formula, we feel that an impact study should be brought in to find out how much damage would be done by us having to meet different criteria than our offshore friends or the Americans shipping in here, the Mexicans, whoever. If because of that we are put at a disadvantage—and we're already at a disadvantage with regard to subsidies and so on—we feel that it could be very detrimental to the industry if some type of formula is not developed. Now, we have nothing set in stone as far as a position on that. Any expense that is brought about that our farmers and farmers in general have to put out that would not bring in additional revenue is considerably damaging to them. So that amount of compensation would be necessary.

Beyond that, in the case of setbacks and so on, some of the proposed regulations that I've heard from OMAFRA, we could be talking reduced acreage, maybe in the neighbourhood of 5% to 10% less acreage that we could farm because of proximity to other houses, rivers, streams, whatever. So the damage done to us would not be known unless an impact study was done.

**Mr Beaubien:** Have I got time for a quick one?

**The Chair:** Certainly.

**Mr Beaubien:** With regard to the legislation itself, we've heard from different groups that some of them want the legislation to be mandated at the provincial level; others want it to be used as somewhat of a foundation whereby municipalities could add more legislation or more restrictions on to the legislation. Have you discussed that, as to what you would prefer as an organization?

**Mr McCutcheon:** Yes. We feel that it must be a provincial standard so that the same criteria can be used across the province. If it is not a provincial standard,

we'll have areas that would have all hog barns in them or areas that would all be predominant to something that was of lesser restriction.

**Mr Srokosz:** I think the whole point of going with this legislation in this route was that every municipality was setting different standards with the way it was set up before, and the idea was to put some kind of a standard across the province so that wouldn't happen. I guess if you allow them to add even higher standards to what's there provincially, you get right back in the same mess that you were in before.

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

**Mr McCutcheon:** There is one comment that I would like to make, and this is with regard to the previous presenter. From the standpoint of the OFVGA, farming is farming no matter what the size is. The differentiation

between what's so-called intensive and normal farming—from my standpoint it's all a commercial business.

**The Chair:** Thank you for that. We appreciate that presentation on behalf of the fruit and vegetable growers.

The Upper Thames River are not present, as I understand.

This concludes the hearings in Chatham. Just for the committee, those who are riding on the bus, the bus is leaving at 2:15. Hearings commence tomorrow morning at 9 in Clinton. Hearings are held at the White Carnation Banquet Hall.

**Mr Bert Johnson (Perth-Middlesex):** That's in Holmesville.

**The Chair:** Is everybody clear on where to go tomorrow at 9 am? OK.

I declare today's proceedings closed and adjourned.

*The committee adjourned at 1355.*









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