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## **Official Report of Debates (Hansard)**

**Wednesday 5 December 2001**

## **Journal des débats (Hansard)**

**Mercredi 5 décembre 2001**

**Standing committee on  
general government**

Quality in the Classroom Act,  
2001

Adoption Disclosure Statute Law  
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Clerk: Anne Stokes

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Président : Steve Gilchrist  
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Wednesday 5 December 2001

Mercredi 5 décembre 2001

*The committee met at 1556 in committee room 1.*

**QUALITY IN THE CLASSROOM  
ACT, 2001**

**LOI DE 2001 SUR LA QUALITÉ  
DANS LES SALLES DE CLASSE**

Consideration of Bill 110, An Act to promote quality in the classroom / Projet de loi 110, Loi visant à promouvoir la qualité dans les salles de classe.

**The Chair (Mr Steve Gilchrist):** I'll call the committee to order for clause-by-clause consideration of Bill 110, An Act to promote quality in the classroom.

We will start off. Any debate or amendments to sections 1 through 3? Seeing none, I'll put the question. Shall sections 1 through 3 carry? They are carried.

Section 4: the first amendment is a government one.

**Mr Garfield Dunlop (Simcoe North):** I move that subsection 277.15(5) of the Education Act, as set out in section 4 of the bill, be struck out and the following substituted:

“Interpretation of part

“(5) Nothing in this part, or any regulation, guideline, policy or rule under it, shall be interpreted to limit rights otherwise available to a board relating to discipline of any teacher employed by the board, including but not limited to rights relating to reassignment of duties, suspension or termination of the employment of the teacher, whether or not a performance appraisal process relating to the teacher is being conducted under this part.”

It's a technical amendment meant to add greater clarification.

**The Chair:** Further debate?

**Mr Dave Levac (Brant):** Could I get clarification of what? What are we clarifying?

**Mr Dunlop:** Have you got the bill in front of you?

**Mr Levac:** I have the bill, but I'm asking the purpose of the clarification.

**Mr Dunlop:** I'll read the rest of my points on it, OK?

**Mr Levac:** Please.

**Mr Dunlop:** I've got a series of them. I've lost my glasses, so—

**Mr Rosario Marchese (Trinity-Spadina):** I'll read it for you.

**Mr Dunlop:** As I said earlier, Mr Chair, it's a technical amendment meant to add greater clarification. The amendment would amend subsection 277.15(5) of the bill

in order to clarify the rights that would continue to be available to boards after Bill 110 comes into effect. The amendment expressly specifies that the rights that continue to be available to boards include the rights a board may otherwise have to reassign a teacher to other duties, as well as the right to suspend or terminate the teacher's employment. The amendment also clarifies that these rights of boards continue to apply irrespective of whether a performance appraisal of the teacher is being conducted under the performance appraisal scheme outlined in Bill 110.

**Mr Levac:** Does that include the concerns that were being raised by many groups outlining parent and student involvement in the appraisal process?

**Mr Dunlop:** No, it's not.

**Mr Marchese:** Ministry staff?

**The Chair:** I heard an answer to the question.

**Mr Levac:** So, having said that, I guess I'm asking whether that can be used as clarification somewhere down the line in case somebody does ask and then somebody can hold up the amendment and say, “Well, see? The rights are still there. There's nothing saying that parents or students can be”—I just want to reiterate, Mr Chairman, that there were comments made on the clause that said, “cannot be used for the sole purpose,” and that there could have been some interpretations made by this amendment that it could be used as a rationale of saying, “See? This clause is taking care of your concern that you raised about parents and/or a student having impact on an appraisal beyond just information,” and it not solely to be used as purpose for dismissal.

**The Chair:** I see we've been joined by two staff from the ministry, or potentially more. Perhaps, Mr Levac, if you wish to phrase a specific question? Then, to the staff, if you'd be kind enough to introduce yourselves prior to any answer for the purpose of Hansard.

**Mr Levac:** Once again, is there an opportunity for this clause to be interpreted as a solution to some of the concerns that were raised by many of the deputants regarding the clause that indicates that parents' and students' appraisal being provided during the appraisal process, their input, would not be used as the sole reason to dismiss a teacher?

Having read this clause, it simply means to me that it could be used to say, “See, we've simply reinforced the fact that the board has the sole responsibility to hire and fire and do all the things that the clause is saying to do.”

I'm not saying that it clarifies it; I'm just saying, could it not be used as a vehicle to explain to those who express that concern that it's taken care of?

**Mr Barry Pervin:** My name is Barry Pervin. I'm with the Ministry of Education. I just wanted to say that I think the purpose of this part is really to, as it says, simply clarify that boards maintain the right to do the things that are listed in here. It simply clarifies that they in fact have that right. There's nothing in the bill that sort of takes anything away from that right that they have.

**Mr Levac:** I just kind of want to flesh that out a little bit more. I can appreciate what you're saying about this particular clause, but my concern is that it may be used as a rationale for the concerns that were raised in another part of the bill about parent/student involvement in the appraisal process and the fact that the concerns were the wording of the bill that said "sole purpose," that if I get a bad report from a parent and it comes into the board, that can't be used to dismiss a teacher. That's what the wording tells us, "sole," right? I'm saying that this could be read and, "See, we're not taking away any of the rights of the boards"; we're using this as a reason to say to the people who have concerns about that clause that I just described that it is taken care of by this. That doesn't take care of that, does it?

**Mr Pervin:** It doesn't take care of that concern. You're right.

**Mr Levac:** Very good. Thank you.

**Mr Marchese:** I didn't think it did, though. That's a separate issue altogether, I thought, and it's not addressed in any of the amendments. It continues as a preoccupation for some, including me.

I was interested in your point, because you felt you needed to add this section. Even though the boards have this power that is described here, someone felt that we should add a section in the event that there was some doubt, even though you argue there is no doubt about it, that the boards have this power. You felt it was important to add this language. Is there a reason why we're adding it if the boards have such a power already?

**Mr Pervin:** It was just for the purposes of clarity.

**Mr Marchese:** Even though you stated that it was clear that they have such a power.

**Mr Pervin:** It communicates to them that there is nothing in here that takes away from the power that they have. That was really the purpose of it.

**Mr Marchese:** I understand.

**The Chair:** Any further debate? Seeing none, I'll put the question on the government amendment. All those in favour? Are you with us, Mr Chudleigh? Opposed? That amendment is carried.

The second amendment also is a government amendment.

**Mr Dunlop:** I move that section 277.15 of the Education Act, as set out in section 4 of the bill, be amended by adding the following subsection:

"Transition

"(6) Nothing in this part, or any regulation, guideline, policy or rule under it, shall be interpreted to limit a

board's ability to complete a performance appraisal of a teacher begun before this part begins to apply to that board and that teacher, or to follow any process or take any action relating to that performance appraisal that the board might have followed or taken but for this part."

**The Chair:** Do you wish to speak to the amendment?

**Mr Dunlop:** Mr Chair, this amendment too is a technical amendment meant to clarify transitional matters. The addition of this subsection is meant to ensure that boards coming into the legislation's performance appraisal scheme still have the discretion to complete any teacher's performance appraisal process which they had begun before the proposed performance appraisal scheme outlined in Bill 110 applies to that specific board or teacher. The amendment also specifies that boards would be able to continue to follow any process or take any action relating to that performance appraisal that they would have taken but for Bill 110.

**Mr Levac:** This one I appreciate, because then you're talking about the process that most school boards have, which is about a three-year cycle in their supervisions.

Just so that I have clarity on it, if a review process was established before the declaration of the royal assent of the bill, the review process would take place completely without any of the portions of the bill taking effect?

**Mr Pervin:** The relevant point here is around the discretion. Boards have the discretion here to either—

**Mr Levac:** Jump in or stay out.

**Mr Pervin:** —jump in and move them into the next system or evaluate them on their own system. It's the discretion that they have.

**Mr Levac:** Having said that, if there's an opportunity for one versus the other, opting in or opting out, I'm assuming we would only be seeing that happen once, because if you start opting in and out, you would probably subject yourself to litigation?

**Mr Pervin:** I think that's right. You would either do it under the old system or do it under the new system.

**Mr Levac:** OK. That choice then would be declared so that the people who are under either review and/or appraisal would be informed of such?

**Mr Pervin:** Presumably the board would inform them of such, yes.

**Mr Levac:** Thank you.

**The Chair:** Further debate? Seeing none, I'll put the question on Mr Dunlop's amendment. All those in favour? Opposed? It's carried.

Back to you, Mr Dunlop.

**Mr Dunlop:** I move that section 277.40 of the Education Act, as set out in section 4 of the bill, be amended by adding the following subsection:

"Same

"(3) For greater certainty, a complaint made by a secretary of a board under this section shall be deemed to be a complaint made by a member of the public under clause 26(1)(a) of the Ontario College of Teachers Act, 1996."

Mr Chairman, if I could, the rationale behind that: the amendment is meant to clarify the reporting requirements

under section 277.40 of the bill. The amendment would clarify that for purposes of clause 26(1) of the Ontario College of Teachers Act, a secretary of the board would be deemed to be a member of the public.

**The Chair:** Further debate? Seeing none, I will put the question. All those in favour of the amendment? Opposed? It's carried.

Shall section 4, as amended, carry? It is carried.

Section 5.

**Mr Dunlop:** I move that section 287.7 of the Education Act, as set out in section 5 of the bill, be struck out and the following substituted:

“Interpretation of part

“287.7(1) Nothing in this part, or any regulation, guideline, policy or rule under it, shall be interpreted to limit rights otherwise available relating to discipline of any supervisory officer, principal or vice-principal, including but not limited to rights relating to reassignment of duties, suspension or termination of the employment, whether or not a performance appraisal process relating to the supervisory officer, principal or vice-principal is being conducted under this part.

“Transition

“(2) Nothing in this part, or any regulation, guideline, policy or rule under it, shall be interpreted to limit a board's ability to complete a performance appraisal of a supervisory officer, principal or vice-principal begun before this part begins to apply to that board and that supervisory officer, principal or vice-principal, or to follow any process or take any action relating to that performance appraisal that the board might have followed or taken but for this part.”

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If I could just speak to some rationale behind that, under section 287.7, the technical amendments are meant to clarify the sections of the bill related to principals, vice-principals and supervisory officers in a manner similar to how government motions 1 and 2 would clarify the teachers sections of the bill. Like motions 1 and 2 that we presented earlier, this amendment relates to clarifying the rights that continue to be available to boards despite Bill 110 and clarifying transitional matters.

**The Chair:** Further debate? I'll put the question. All those in favour? Opposed? It is carried.

Shall section 5, as amended, carry? Section 5, as amended, is carried.

Any debate or amendments to sections 6 through 9? Shall sections 6 through 9 carry? Sections 6 through 9 are carried.

Shall the title of the bill carry? Carried.

Shall Bill 110, as amended, carry?

**Mr Marchese:** Mr Chair, on my part, is there an opportunity at that point to make a few comments?

**The Chair:** Always in order, Mr Marchese.

**Mr Marchese:** I just wanted to say that we're going to go through third reading, of course, and I don't want to belabour this point here because we're moving on to another bill, but we will be opposing this particular bill, and I want to make just a couple of brief points.

The manner in which this has been done in terms of qualifying tests and the appraisal system has been the most interventionist that I have ever witnessed, and in my view it's wrong. I've never seen a more top-down government, a more centralist government, than this one on this.

Just the other day, the minister for post-secondary education said she wanted to get the government off the back of the colleges and universities, and I thought, “How interesting. What an odd contrast between what the Minister of Education for elementary and secondary is doing, which is to get on the backs of teachers and the system, and at the post-secondary level the minister is saying we should get off their backs.” It seemed like an odd oxymoron of politics that's going on. It has been centralist and interventionist in a dangerous way, I think, in terms of what we're trying to do for students, so I wanted to say that I disagree with that.

I disagree with the issue of parental involvement and tell you that you're making a mistake in terms of how you're doing it. The anonymous nature of the comments is dangerous, and while it has been clarified that it will not be used as the sole factor in giving a teacher an unsatisfactory rating, it doesn't speak about how much weight it will have. The anonymous nature is insidious, and I think it's wrong to do it that way, because rather than informing a system as to how a teacher can improve, it's more accusatory and it's not helpful.

I want to say as well that the College of Teachers is the body that should be dealing with these matters. That's why they are set up. That's why I, by the way, supported it. While many others opposed it, I supported the College of Teachers, and they are the body that should be doing this, as opposed to you, the government, taking it upon yourself to do it.

So we oppose it on these grounds and suggest to you that this is more political than educational in value, and it will not succeed on that basis. But I will speak to that when we get to third reading.

**The Chair:** Mr Levac?

**Mr Levac:** I'll be brief. I have a couple of comments.

I didn't see any amendments to take care of the concerns that were raised by many groups, the stakeholders, regarding the interpretation of “senior student.” The president of the Ontario Parent Council, an arm of this government, basically told me, and if we check Hansard you'll see very clearly he believes, that a senior student is a grade 7 or grade 8 student.

In terms of making comment on a teacher's professional performance, I'm very concerned, not so much that a student should have a right—in my classrooms they always had a right to appraise me, because I asked them on a regular basis how I was doing. But for it to become a professional appraisal and part and parcel, I am concerned that that interpretation may indeed be expected. I expected an amendment for clarification and it didn't come, but at the same time, in not supporting the bill, I'm surprised that that particular voice didn't get heard. When grade 7 and 8 students are going to become

part of that professional development, according to the parent council chairperson, I think very specific clarifications need to be made as to what the expectations are of students being able to appraise teachers' performances.

The second part to that is regarding the process we've moved into, where the appraisal seems more of a burden than it does professional development. I would say the models that should be looked at are those that find teachers doing great things, as opposed to seeing if there are things they are doing badly that we can take care of. Training and professional development, particularly of principals who are moving into the system I daresay across the province—with only five years of teaching experience, they're becoming principals because of the problem we see ourselves faced with in finding good administrators, so there had better be some government support of professional development for that appraisal process. You are going to run into a major problem in the profession if you do not provide the appropriate training for the teachers and principals who will be going through that process.

The third thing I would suggest very strongly—I pointed this out and it didn't get mentioned at all—is that in the third phase of an appraisal and review being brought through, they've removed the superintendent from the principal's assistance during that third and final, critical time of a teacher's profession, as well as the attempts to improve the teacher. The superintendent is removed and the principal reports directly to the board on recommendation of whether or not they are terminated. That, in my opinion, is a very serious mistake and a flaw.

I recommend that the government and the members on that side do some homework before third reading. They'll find that indeed there are some problems that should be rectified before this bill comes anywhere close to being acceptable, not only to the profession but to the people of Ontario.

**Mr Dunlop:** I appreciate the comments made by the two members of the opposition. I want to thank the staff from the Ministry of Education for the number of times I've talked to you over the last couple of months about this particular bill, both in Minister Ecker's office and in the ministry office itself. I appreciate that and look forward to the debate on third reading.

**The Chair:** Further debate? Seeing none, shall Bill 110, as amended, carry? It is carried.

Shall I report the bill, as amended, to the House? Agreed. Thank you. I shall report the bill, as amended, to the House.

With that, we have concluded our clause-by-clause deliberations on Bill 110.

As you know, we had set 4:35 as the time to commence discussions on Bill 77. If everyone is amenable, we can move directly into that discussion. Well, perhaps it is best if we recess for five minutes.

*The committee recessed from 1619 to 1631.*

ADOPTION DISCLOSURE  
STATUTE LAW AMENDMENT ACT, 2001  
LOI DE 2001 MODIFIANT DES LOIS EN CE  
QUI CONCERNE LA DIVULGATION DE  
RENSEIGNEMENTS SUR LES ADOPTIONS

Consideration of Bill 77, An Act to amend the Vital Statistics Act and the Child and Family Services Act in respect of adoption disclosure / Projet de loi 77, Loi modifiant la Loi sur les statistiques de l'état civil et la Loi sur les services à l'enfance et à la famille en ce qui concerne la divulgation de renseignements sur les adoptions.

**The Chair:** Are we all assembled? I call the committee back to order for the purpose of further consideration of Bill 77. We are in fact going to consider clause-by-clause. I'll first ask if there is any debate or amendments to sections 1 through 5.

**Mr Dunlop:** Just some comments I'd like to read into the record, if I could.

Ladies and gentlemen, it's a pleasure to be here to take part in the clause-by-clause this afternoon. I would like to thank everyone for their input on this bill, particularly Ms Churley and the many witnesses who came before the committee to share their personal stories. We understand how difficult this can be.

I also want to say that Bill 77 has been a topic of extensive discussion within our caucus. What I'd like to do now is outline some of the concerns that have emerged out of those discussions.

Bill 77 proposes unqualified access to birth and adoption records by adult adopted persons and birth parents. This means that personal identifying information will be disclosed without the consent of the parties involved. This is a significant departure from the current adoption disclosure process, which is based on consent prior to the disclosure of personal information. Obtaining a consent for collection, use and disclosure of personal information is a fundamental component of an individual's right to privacy. This government has made a throne speech commitment to protect the privacy of the citizens of Ontario and hopes to introduce legislation to mandate such protection.

The amendments proposed by Bill 77 are contrary to the privacy principles this government supports by removing the requirement for consent and not allowing birth parents, adult adoptees or adoptive parents to prevent the disclosure of their personal information. These concerns are shared by the Office of the Information and Privacy Commissioner, who has provided a letter which outlines her concerns with the personal privacy implications of Bill 77.

We also have concerns regarding security implications. Our government introduced legislation to enhance security for the process of obtaining a birth certificate. Bill 77 potentially reduces the security of birth certificates by permitting the disclosure of information for birth registration, substituted birth registration and adoption orders, which could be used to access valuable docu-

ments and services. Even though we have these concerns, we have not moved to amend the bill. If we were to reconcile this legislation with our privacy and security concerns, it would result in legislation that would replicate the current adoption disclosure registry.

We recognize that this is a very personal and emotional issue for those involved. We also recognize that privacy and security concerns are cherished values that no one party would want to unduly compromise. The difficulty is that in trying to reconcile both of these important goals, we would be left with a bill that either protects privacy but doesn't substantially change the adoption disclosure system or a bill that opens up serious privacy concerns. It has not been our intention to offer amendments that push this bill to either extreme before it is reported back to the House.

As we outlined in our opening statement on the first day of hearings, this government has made substantial progress in improving the adoption disclosure system for both adoptees and birth parents. We look forward to today's clause-by-clause review.

Mr Chair, I appreciate the opportunity to read this into the Hansard.

**Ms Marilyn Churley (Toronto-Danforth):** I want to get on with the amendments, but I would like the opportunity to respond to this, and I thank Mr Dunlop for warning me in advance that this was coming.

I want to point out to people in our deputations, and I've pointed this out in letters to all of you, that a bill similar to this was passed in England in the 1970s. There is a list of jurisdictions, in Canada and across the world—Scotland, Wales, Northern Ireland, Israel, Argentina, Mexico, several US states and more coming on stream every month, it seems, Denmark, Holland, Norway, Sweden, Finland, Austria, Germany, France, New Zealand, Australia, British Columbia, Newfoundland, Northwest Territories, Nunavut—where such adoption disclosure has passed.

I've got to tell you, I did a little bit of research into comments from the privacy commissioner. It's her job to look at it from that point of view, but it's out of context of all the information we have before us about what has happened in other jurisdictions. It is interesting that privacy commissioners in many of those jurisdictions said similar things, but governments chose to take it as an important public policy issue and pass the laws anyway. All our research, as we heard from the deputants, told us that the concerns and problems that people raised never happened.

The other thing I want to point out about the letter—and I spoke at length before the hearings to the privacy commissioner, and she put some of those concerns in writing at that point. I was able to compare the concerns of the privacy commissioner with concerns from privacy commissioners in other jurisdictions, and they are very similar. One of the things I should point out to you is that she says it falls out of her jurisdiction, but since she was asked to comment she will anyway. She also says very clearly that this is a complicated situation and really what

it comes down to that this is a public policy issue for governments to decide, which is what other jurisdictions have done.

I thank the privacy commissioner for her comments on this, but I think the two important points for us to remember—and I'll reiterate them because this is so important—are that this has been done in many jurisdictions all over the world and some of the concerns that were raised have not come to pass.

Finally, on the comments about privacy, when you take it out of context and talk about this particular piece of legislation and the whole issue of security, it is very problematic for me and the many adult adoptees and birth parents who are here today to be put in that same category. We're talking about their privacy, their right to information being kept from them. What we are talking about here is unlike any other situation for any of us, that is, the right to have documentation that is about us. My son, who was adopted, should have the right to have information that is locked up somewhere about him. That is what this is all about.

If people read the package I handed out, when people raise concerns about privacy and confidentiality, first of all it's a myth; birth mothers were never promised that. In fact, we promised ourselves we would find our children someday. But we have put the contact veto in there for those very few—and of course we've now seen studies from all across the world showing that it works and there has never been a problem.

While I appreciate the concerns expressed, it really is being taken out of context in relation to the issues we're talking about here, that is, these people's right to information about themselves which we all take for granted every day. We're mixing apples and oranges here. It is very, very important that government members understand that, and it's our job as legislators to understand. We've all had the benefit of hearing from all the deputants and looking at the documentation, so we know the difference here, that there is no connection between what Mr Dunlop read out and the issues before us today.

So although I appreciate it being read into the record, and I know he was asked to do that, it really is important for us to remember that at the end of the day, the privacy commissioner said it is an important public policy issue that legislators have to make decisions about.

1640

**Mrs Leona Dombrowsky (Hastings-Frontenac-Lennox and Addington):** I would just like to offer very briefly a couple of comments with regard to what has been read into the record by Mr Dunlop. You made some reference to what your government has done to improve the adoption process in Ontario. However, I would suggest that if you and members of the government would review the presentations that have been made to this committee on Bill 77, very clearly and overwhelmingly the people of Ontario are saying that it needs to be improved. This is an opportunity for the government to do that. I would suggest that the people who have actually been affected by the laws you have chosen to

implement do not feel that they have been well served by them. I would suggest to you that the record would bear me out on that particular position.

I did not have the benefit of knowing that you were going to make reference to a letter from the privacy commissioner, but I am somewhat familiar with the purpose and the intent of the Freedom of Information and Protection of Privacy Act. I would only ask that the members of the government consider not just one part of that act but the other part, which refers to the freedom of information. I would suggest that what we have heard from so many participants is that there is information about themselves that they do not have, and they are asking this government to enact a law that will enable them to access information about themselves. This is information that you and I have about ourselves—perhaps we have. I know I do. Perhaps I'll speak just of my own experience. I was born into a situation where I did not encounter the circumstance of being adopted, so I have that information, I have the right to that information. I would suggest that all adults in Ontario should.

Again, with regard to the privacy issue, we have heard from experts and many people who have informed themselves on this issue that legislation and laws of this nature exist in many, in dozens, of other progressive jurisdictions around the world. I would offer to you that I'm sure that the privacy of individuals has not been violated in those particular jurisdictions simply because they have enabling legislation that enables people to find out information about themselves when they were born.

I offer those comments only in response to what was read into the record.

**Mr Mike Colle (Eglinton-Lawrence):** I want to confirm again that having read the literally hundreds of compassionate, heartfelt letters and e-mails from people across the province, I really find it difficult to endorse any attempt to basically deny people the right to get this information that they have a right to have, which is personal, which affects their health, affects their well-being, their families. For the government to say this should be denied basically on some technicality—you have a veto provision in the legislation that says if someone wants to be protected from releasing this information, they have the protection to avoid that with the contact veto in the act. The right to privacy is there. I would find it remarkable, given that of all the communication we've had I can't recall one where anyone is opposing this legislation. So for us to deny this legislation—and I hope you're not. I'm not sure what the statement was from the member, but obviously he's not speaking on his own behalf. He's obviously been given—

**Ms Churley:** They're going to pass this.

**Mr Colle:** Anyway, let's hope. I'm just worried because I found it to be a negative tone about the legislation. I just hope we pass it and it goes, because I haven't heard anything from the other side about this legislation. I'm just very concerned about that.

**Mr Dunlop:** Simply, there hasn't been unanimous support in our caucus for this particular piece of legis-

lation. It has been controversial. We thought that because there were concerns from different members of our caucus we should read something into the record. I don't know if every other caucus is unanimous in their support of this bill, but I'm just putting it on the record that we have concerns. We have had negative responses as well, and we've had many positive responses. I just wanted to clarify that. What I've read in stands.

**Ms Churley:** Mr Colle, you're quite right. You weren't aware of the circumstances here. We had the public hearings, which you sat in on for a while. Just before we came in, Mr Dunlop did tell me that he'd been asked by Mr Sterling, the registrar general, to read this into the record. I appreciate his telling me in advance, but I didn't have the opportunity to let other people know that this would be read into the record. That's fine.

I found my document now. It's page 2 of a personal letter I received from the privacy commissioner. She does say, "I am not unsympathetic to your position, especially after having spoken with you and then further exploring the adoption access issues you advanced. I understand that there is considerable support for openness in adoptions and adoption records. The appropriate balance between access and privacy in this context is a very difficult one to reach, and one that may ultimately be determined by social policy considerations," which is where we're at.

Finally, she talks more about what's involved in moving forward, and she clearly has done more research since we spoke: "As noted above, Bill 77 more closely resembles the current disclosure process adopted in British Columbia and in Newfoundland. Adoption amendments in both provinces have attempted to address the impact of retroactivity by allowing individuals the opportunity to come forward to file a disclosure veto preventing the disclosure of identifying information where adoptions occurred prior to the enactment of the legislation."

She talks about various vetoes and things that have been done in other jurisdictions. While she is recognizing again that if taken out of context there may be privacy issues, she looked at other jurisdictions and talked about vetoes as a way to deal with them.

Hopefully, now that we're all clear on that and that's in the record, we can move on to our amendments.

**Mr Levac:** Having said that, I just wanted to make an observation. I thought I was going to be at another meeting right now so I asked Ms Dombrowsky to sub here for me. I won't be voting on the amendments or the act tonight; Ms Dombrowsky will be taking my spot.

But in terms of an observation, I can't reiterate enough the true spirit and heartfelt emotions and the humanness that has been shared with me and touched my heart—first of all, I did not need to be convinced—with the passion given. I appreciated the sharing of that particular story. It's unbelievable to feel the type of life that had to happen for such a long time, and the outpouring of the story is something that should touch us all. We have the ability to rectify that in some small way, unfortunately



too late for some people, but at least to give them back the dignity they have so much desired. I want to show my appreciation to all those people personally, to thank you for allowing me to know that I did the right thing by being an elected member, to allow the people of the province to say what they need to say and to know that the people there are trying to serve them to the best of their ability.

I would also not pass judgment on those who have concerns that, for whatever reason they choose and for whatever happened in their hearts, they could not support this because of circumstances they're familiar with. I want to be very clear that I appreciate the position they take. I may not agree with it, but I deeply appreciate the fact that there may be circumstances or reasons they have to defend the position they take.

1650

Having said that, on the record I would like to congratulate the work that's been done by those who behind the scenes have worked very diligently and for a long time on trying to bring this particular piece of legislation up to date, into modern, 21st-century thinking. I congratulate Ms Churley for spearheading that from this position she holds. More importantly, for those who have had to go through that particular crisis in their lives, I thank you for your sacrifice.

**The Chair:** Further debate? Ms Churley, it's my understanding that you may have an amendment for one of the sections we're now dealing with.

**Ms Churley:** Yes, I have, in section 6. I don't have—wait a minute.

**The Chair:** I believe it's actually in section 1. This is apparently arising from other amendments that have been tabled. There is a consequential amendment that would be required. Since we're not operating under any time allocation motion, amendments are in order from the floor.

**Ms Churley:** I understand. This is an amendment that people don't have before them, but it was pointed out to me by legislative counsel that because of an amendment coming up, we need to amend section 1 of the bill, subsection 28(9) of the Vital Statistics Act.

I move that subsection 28(9) of the Vital Statistics Act, as set out in section 1 of the bill, be amended by striking out "subsection 165.1(3)" and substituting "subsections 165.1(3) and (3.1)."

It was just pointed out to me by legislative counsel that both the Liberals and I have an amendment coming up, based on some of the depositions we heard, that requires—right now, it is not mandatory in the bill for those who would submit a contact veto to give health information. It has become abundantly clear that that is an absolute necessity. To do that, we need to amend the bill to allow that subsection to be put in there. The other section will still allow any information other than health information to be non-mandatory. If anybody wants to write a letter explaining why they don't want to be contacted or send pictures and write things about the family, that's optional. But the amendments coming

forward would make sure that if you want a contact veto, the health information would be mandatory and that would have to be sent along with the contact veto.

As it has been pointed out to me by leg counsel, this is simply to allow that to happen.

**Mr Norm Miller (Parry Sound-Muskoka):** Are we going to have a copy of this amendment?

**Ms Churley:** It is just written out. It's technical, a technical piece to allow—

*Interjection.*

**Ms Churley:** Yes, based on the amendments we have coming forward. Did I get that right? I think I did.

**The Chair:** The clerk will make copies of the amendment. That will only take a minute.

**Ms Churley:** I apologize to everybody. It just occurred to us now that to accommodate that amendment to make health information mandatory and the other pieces optional, we need to add that section to the bill. It's purely technical to accommodate that amendment.

**The Chair:** While we're waiting for the clerk, are there any other questions relating to that amendment or to anything else in section 1? We'll restrict our questions just to section 1, since this amendment's been identified.

Seeing none, we will simply await the arrival of the clerk so that members will have the ability, as per protocol, to have a written amendment in front of them.

**Mr Norm Miller:** It sounds like this amendment makes sense, from what I get verbally anyway. If I understand it, even if a person files a no-contact veto, it would still be mandatory that health records be disclosed.

**Ms Churley:** Yes. We will be coming to that amendment next, I believe, but since section 1—

**Mr Norm Miller:** This relates to it.

**Ms Churley:** It's a technical amendment to allow that amendment to be put forward.

**The Chair:** Now that you all have copies of the amendment, are there any further questions? Seeing none, I'll put the question on the amendment. All those in favour? Opposed? It is carried.

Shall section 1, as amended, carry? It is carried.

Any further debate or amendments to sections 2 through 5? Seeing none, I'll put the question. Shall sections 2 through 5 carry? They are carried.

Section 6.

**Ms Churley:** I move that the heading to section 165.1 of the Child and Family Services Act, as set out in section 6 of the bill, be struck out and the following substituted:

"Contact Veto."

**The Chair:** Thank you. Do you wish to speak to it?

**Ms Churley:** Well, it's not all that significant. What we have now is "No-contact Veto." When you think about that, it doesn't make a whole lot of sense. This was recommended by various people, that we make the language clear so it simply says what it is. You can file a contact veto. That's more clearly what we're trying to say here. That's all this amendment is.

**Mr Norm Miller:** That's the more universal language in the other jurisdictions that have this?

**Ms Churley:** Yes. That's exactly right. It's more consistent with the language used in other jurisdictions.

**The Chair:** Any further comments? Seeing none, I'll put the question. All those in favour of the amendment? Opposed? It is carried.

The next amendments, marked pages 2 and 3, and 4 and 5, respectively, are identical; however, the Liberal motion was received first, so we will receive it from one of the official opposition members.

**Mrs Dombrowsky:** I move that subsection 165.1(3) of the Child and Family Services Act, as set out in section 6 of the bill, be struck out and the following substituted:

"Health-related information

"(3) The birth parent shall provide, together with the notice, a written statement that briefly summarizes any information he or she may have about

"(a) any genetic conditions that he or she has, and any past and present serious illnesses;

"(b) any genetic conditions and past and present serious illnesses of his or her own parents, of the other birth parent (or of the other biological parent, if only one person's name appears on the original birth registration as parent) and of his or her parents;

"(c) the cause of death and age at death of any of the persons named in clause (b) who are no longer alive; and

"(d) any other health-related matter that may be relevant.

"Other information

"(3.1) The birth parent shall be given an opportunity to provide, together with the notice, written statements of,

"(a) his or her reasons for not wishing to be contacted;

"(b) any other non-identifying information that may be relevant."

I think the amendment is self-explanatory. Members of the Liberal caucus had an opportunity to participate in the hearings and certainly this was an issue that was regularly referred to. I understand it is consistent with what is in place in other jurisdictions that have adoption disclosure laws in place. We believe it would make this bill a better law.

1700

**The Chair:** Further debate? All those in favour? Opposed? The amendment is carried.

As noted, the next amendment, therefore, will be superfluous and deemed to be withdrawn.

Shall section 6, as amended, carry? It is carried.

Section 7: any debate or amendments? Seeing none, I'll put the question. Shall section 7 carry? It is carried.

Section 8.

**Mrs Dombrowsky:** I move that subsection 176.1(5) of the Child and Family Services Act, as set out in section 8 of the bill, be amended by striking out "\$5,000" and substituting "\$10,000".

Very simply, this is again to make this piece of legislation consistent with what is in place in other jurisdictions. I don't have the information in front of me, but I believe that in British Columbia the penalty for someone who would violate a contact veto would be \$10,000. It

has been shared with members of the committee, as well, that in those jurisdictions where it is \$10,000, there has not been a recorded incident where there has been a violation of a contact veto. So it would appear that if that is the amount that works in another jurisdiction, it is probably appropriate that we would consider it here. I believe the Ontario Association of Children's Aid Societies was one of the agencies that thought it would be appropriate to amend the bill in this way.

**The Chair:** Further debate?

**Mr Norm Miller:** I agree with this amendment. I think it strengthens the bill, especially for those who are concerned about the contact veto and are worried about being contacted, the penalty being increased. Also it brings it more in line with other jurisdictions. I certainly think it makes sense.

**Ms Churley:** I support the amendment somewhat reluctantly. Just to go on the record again, I understand why this amendment is before us. Two things: information from other jurisdictions that have had contact vetoes for some time has shown that no matter what the level of the fine, there haven't been any problems. As you know from the hearings, there are many in the adoption community who feel, some more strongly than others, that this should not be in there, that this clause turns them into criminals if they contact somebody that anybody else is free to contact. On the other hand, we understand, which is why I put the contact veto in there, that most other jurisdictions have it, although newer legislation, interestingly enough, that's coming on stream isn't doing that, because the experience shows you don't need it.

But I understand that it offers that level of comfort to those who are concerned about privacy and confidentiality for the few who want it. I personally think, fortunately, given the information we have, nobody's going to ever have to pay that fine. It just hasn't happened anywhere else. Unfortunately, in all these reams of paper I have with me, I don't have the information I wanted to give you, and that is, I have levels of fines across other jurisdictions and they really vary. I understand that it is \$10,000 in BC, but in other jurisdictions it varies from \$2,000, and is all over the place. The good news is that nobody's been fined. So if it offers that level of protection, that indeed having the contact veto with that level of fine attached to it would strengthen and therefore help with the concerns around privacy that a few may want, then I will support it.

**The Chair:** Further debate? Seeing none, I'll put the question. All those in favour of the amendment? Opposed, if any? It's carried.

Shall section 8, as amended, carry? It is carried.

Any debate or amendments to sections 9 and 10? Seeing none, I'll put the question. Shall sections 9 and 10 carry? Sections 9 and 10 are carried.

Shall the title of the bill carry? It is carried.

Shall Bill 77, as amended, carry? It is carried.

Shall I report the bill, as amended, to the House? I shall report the bill, as amended, to the House tomorrow.

With that, the committee's business—

**Ms Churley:** May I just for a moment take the opportunity—can I do this? Is it within the rules?

**The Chair:** Absolutely.

**Ms Churley:** To all of you here who have been so supportive, it is not often we work together from all three parties on certain issues, are together to put something through the House that we all believe in. Ms Mushinski has been marvellous and very helpful. So has Mr Miller. Mr Dunlop and Ms Molinari have been very helpful and supportive.

**Mr Dunlop:** What about Ted?

**Ms Churley:** I don't know about Ted. Ted would mean to be but I don't think he was on the committee. But I'm sure he's very supportive, as well as Mrs Dombrowsky, Mr Colle and Mr Levac, and many others.

**Mr Colle:** And the Chairman.

**Ms Churley:** And the Chair as well, indeed. This has been a difficult process in the negotiations in the Legislature. I want to thank all of you who have, I know, put their heart and soul and time into trying to get this thing through.

Finally, I would request that you all continue to work just as hard and even harder, because the House is going to prorogue and we need to get this bill passed. So thank you all for this opportunity.

#### SUBCOMMITTEE REPORT

**The Chair:** Before everyone scatters to the winds, in deference to the fact that we have fairly limited time this evening, I wonder if I could have the indulgence of the committee and we'll deal with the subcommittee report that empowers us to hold the hearings tonight. In that way we won't cut into anyone's speaking time. Mr Chudleigh, as a member of the subcommittee, would you move the report?

**Mr Ted Chudleigh (Halton):** I'd be pleased to. I'd like to contribute to this committee meeting.

Your subcommittee met to consider the method of proceeding on Bill 122, An Act to conserve the Oak Ridges Moraine by providing for the Oak Ridges Moraine Conservation Plan, and recommends the following:

Re Bill 122:

1. That pursuant to the time allocation order of the House dated Monday, December 3, 2001, the committee meet for public hearings on Bill 122 from 6:30 pm to 9:30 pm on Wednesday, December 5, 2001.

2. That the clerk place an advertisement on the Ontario parliamentary channel and on the Internet.

**Ms Marilyn Mushinski (Scarborough Centre):** Dispense.

**Mr Chudleigh:** Did I hear a "dispense"?

**The Chair:** No, you can't.

**Mr Chudleigh:** I heard two "dispenses."

**The Chair:** Interjections are not now or ever appreciated or in order. Mr Chudleigh, please continue.

**Ms Mushinski:** It was Mr Chudleigh who asked me to do that.

**Mr Chudleigh:** Thank you for your attempt, Marilyn.

Additionally, notice will be provided to provincial newspapers by press release. The deadline for receipt of requests to make oral presentations to the committee is 5 pm on Tuesday, December 4, 2001.

3. That groups be offered 15 minutes in which to make their presentations, and individuals be offered 10 minutes in which to make their presentations.

4. That the Chair, in consultation with the clerk, make all decisions with respect to scheduling.

Given the last decision, I wonder if that's wise.

5. That each party provide the clerk of the committee with a prioritized list of potential witnesses, together with complete contact information, to be invited to appear at the committee's hearings by no later than 5 pm on Tuesday, December 4, 2001.

6. That the subcommittee determine whether reasonable requests by witnesses to have their travel expenses paid will be granted.

7. That there be no opening statements.

8. That the research officer prepare a summary of recommendations.

9. That the Chair, in consultation with the clerk, make any other decisions necessary with respect to the committee's consideration of the bill.

10. That the deadline for receipt of written submissions be 5 pm on Wednesday, December 5, 2001.

11. That the deadline for receipt of amendments be 8:30 am on Thursday, December 6, 2001.

**The Chair:** Any discussion? Seeing none, all those in favour of the adoption of the subcommittee report? Opposed, if any? It is carried.

With that, the committee stands recessed until 6:30 in room 151.

*The committee recessed from 1710 to 1834 and resumed in room 151.*

#### OAK RIDGES MORAINÉ CONSERVATION ACT, 2001

#### LOI DE 2001 SUR LA CONSERVATION DE LA MORAINÉ D'OAK RIDGES

Consideration of Bill 122, An Act to conserve the Oak Ridges Moraine by providing for the Oak Ridges Moraine Conservation Plan / Projet de loi 122, Loi visant à conserver la moraine d'Oak Ridges en prévoyant l'établissement du Plan de conservation de la moraine d'Oak Ridges.

**The Chair:** Good evening. I call the committee to order for consideration of Bill 122, An Act to conserve the Oak Ridges Moraine by providing for the Oak Ridges Moraine Conservation Plan.

Our first scheduled presentation will be from Save the Oak Ridges Moraine—STORM—coalition. Is Ms Crandall in attendance yet?

*Interjection.*

**The Chair:** We'll switch positions with the second group, because I see that they're in attendance.

GREATER TORONTO  
HOME BUILDERS' ASSOCIATION

**The Chair:** Come forward to the witness table, please. Good evening, and welcome to the committee.

**Mr Jim Murphy:** Good evening, Mr Chairman and members of the committee. My name is Jim Murphy. I hope you can all hear me well. I'm director of government relations for the Greater Toronto Home Builders' Association. With me tonight is Jeff Davies, not Michael Melling, as is on your list. Jeff is a member of our Oak Ridges moraine committee at the Greater Toronto Home Builders' Association, and is also a partner with Davies Howe Partners.

I'm going to just provide a general overview. I hope you have all received copies of this. I think the clerk has distributed them. I'm just going to provide an overview and speak to the first point. We've identified four issues, and then we have some comments in terms of how some of those issues might be resolved. Jeff will take us through points 2, 3 and 4. If there's any time for questions, we'd be more than happy to answer them at that time.

The Greater Toronto Home Builders' Association represents 1,100 member companies in all facets of residential construction across the GTA. Residential construction and renovation is a key economic generator for the greater Toronto area, Ontario and Canada. Every year in the GTA, new residential construction sustains over 100,000 person-years of employment and contributes some \$6.2 billion to the local economy. Every new home generates some 2.8 jobs, is CMHC's statistic.

We have been actively involved in the discussions leading up to the legislation that is before you this evening for review, namely Bill 122, the Oak Ridges Moraine Conservation Act. We attended the public and stakeholder consultation meetings which were held throughout the GTA. We met with the government and with ministry officials, including members of the advisory committee, and responded to the draft recommendations of the Share Your Vision document that was released in August by the government.

As I indicated earlier in my introductory comments, the GTHBA has identified four issues with the draft legislation and wishes to offer solutions that are practical and fair.

The first issue is accommodating future growth here in the greater Toronto area. The legislation provides, as you know, for four different land use classifications, namely natural core, linkage, countryside and settlement areas. Some 60% of the Oak Ridges moraine will be protected from development in perpetuity as a result of this legislation. Even following a 10-year review, the legislation mandates that the size of the natural core and linkage areas cannot be changed or reduced. Further, only a very limited number of uses are permitted in the countryside area, with housing of any kind severely restricted. Only in the settlement areas, which is the fourth area, can there

be development allowed, and this represents only 8% of the plan.

I think it's important for you to note that the severity of these restrictions profoundly magnifies the importance of the following issue for governments: governments and elected officials, whether they be politicians or decision-makers working for government, cannot be against sprawl, whatever that may mean, and density.

The greater Toronto area is growing by 100,000 people a year. We're one of the fastest-growing urban centres in North America. These people have to live somewhere. The building industry—our members—do not create demand; we respond to the demand. The Oak Ridges moraine plan will in fact promote development further away from Toronto, as it will skip over a very large—a 160-kilometre-wide—swath of land through the middle of the GTA, to places like Barrie and Guelph, since so much land is now restricted from development of any kind.

I'll ask Jeff to proceed with the other problems. I should say on that issue, obviously, that we think the 10-year review must, in addition to protecting the core areas and the countryside areas and the linkage areas, examine the issue of intensification opportunities along the moraine where it makes sense if we want to promote that type of development.

I'll ask Jeff to talk about the other three issues.

**Mr Jeff Davies:** Members of the committee, if you look on page 2 of our submission, we identify a problem, and that is that there are inconsistent treatments of applications within settlement areas. Our recommendation is that those inconsistencies be resolved. That's because the legislation contains rules for planning applications which vary depending upon where the application currently stands in the approval system. The GTHBA wishes to emphasize that landowners and builders who were proceeding with developments before the freeze were following the law and planning processes which were then applicable. As a matter of general principle, they should be allowed to proceed under the rules that were in place at that time. There is an inherent unfairness in changing the laws retroactively.

**1840**

Notwithstanding this general point, a very specific problem arises in settlement areas. It's caused by the transitional provisions of section 15 of the act and the section 5.2(a) of the plan, because the latter exempts subdivision and zoning applications that were commenced before the plan takes effect. The problem is that as a matter of practice, some proponents filed their subdivision and zoning applications prior to May 17, sometimes in a bare-bones fashion, while other proponents were working with the municipalities in a pre-submission consultation for the purpose of filing complete applications, and these owners and proponents sometimes had not filed their applications as of May 17. The result is that two sets of development standards will apply in the settlement areas, and we say that's both unfair and impractical.

Two solutions are available. The first is to exempt settlement areas from the plan and allow development in those areas to continue under existing controls such as the TRCA's valley and stream corridor management plan, which imposes a well-recognized set of requirements on development near valleys and streams. The second solution is to amend the act to allow municipalities to deem applications to have been made as of May 17, 2001. It's suggested that municipalities be given until March 31, 2002, to make decisions on whether specific applications will be deemed to have been made. That would then treat them all on the same footing. Municipalities are in an ideal position to judge which applications should be deemed to have been made as of May 17, because their staff will have worked closely with the proponent in the pre-consultation process.

Next problem: applications were filed prior to November 17 and May 17, but additional applications are required in order to develop. The purpose of section 17 of the act as it is now is to grandfather applications under way prior to May 17. The problem is that the development process in Ontario, as I'm sure most of you know, requires a multiplicity of applications to achieve development. Sometimes not all of these applications are filed at once, and often zoning and subdivision applications are filed only after the official plan approvals have been obtained. As a result, the intention of section 17 is negated by its very own structure.

The solution: section 17 needs to be rewritten so that once a piece of land is grandfathered because applications were filed prior to May 17, the grandfathering will continue for the additional applications such as zoning and subdivision that are needed to actually develop the lands.

The last problem: mistakes need to be corrected. In some instances, the plan does not respect prior land use approvals. It's understandable that some mistakes would have been made, given the very tight time frame for the preparation of the mapping. The solution is to correct the mapping respecting pre-existing land use approvals.

We could have offered a lot more, but we recognize the time constraints and we thank you for your attention. We'd be more than pleased to respond to any questions.

**The Chair:** Thank you very much. That affords us about a minute and a half per caucus. This time we'll start the rotation with the official opposition.

**Mr Colle:** I guess the point you're making is that there are some inconsistencies in terms of the position applications that are in the queue, that some applications by this plan have been given the complete green light and others basically have been caught up and can't proceed.

**Mr Davies:** The way I'd put it is that some applications were filed prior to May 17, while other applications were being worked on in more detail and didn't get filed. As a result, the ones that didn't get filed are caught by rules that the applications that did get filed prior to May 17 are exempted from. So our view is that all the applications in the settlement area should be treated equally.

**Mr Colle:** What was your comment about the mapping, again?

**Mr Davies:** In some areas the mapping doesn't respect pre-existing approvals. For example, in the northeast corner of Nobleton, within the community plan, there was permission in the township of King's official plan for a golf course, and that area was mapped in a manner that would negate the golf course permission. So in that case, that area should be mapped as countryside to be in accordance with the Nobleton community plan and not take away those pre-existing rights.

There are probably other examples of that and we're asking that attention be given to the plans so that those problems can be corrected.

**Ms Churley:** Of course, you'll understand that this bill has now been time-allocated and we have very little time to do amendments tomorrow; just the morning and then anything else is deemed as passed and approved by all of us. So anybody coming before us, whether I agree with you or not, I expect that no changes are going to happen. Nonetheless you're here, and I thank you for your presentation. I'm interested in your comment on sprawl and density and that you can't be against both. I want to ask you, how can we do this differently? For instance, brownfield legislation, which is not adequate, was just brought in. We have brownfields in built-up areas. What is your association doing to work with the government to make sure that those lands are freed up and we can build in already built-up areas and not build on environmentally sensitive land and farmland?

**Mr Murphy:** Our members are very supportive of building in built-up areas. You may not know, but a third of all the home sales in the greater Toronto area are in the city of Toronto, in 416. That is something that is not equalled probably by any other North American city; maybe by Calgary or Ottawa because there are no suburbs. But in Toronto, the central city is responsible for a third of all the activity in terms of residential. That's because people want to live there; there are amenities that people want to be close to. Our industry, as I said in our comments, is responding to the desire of the marketplace for people to live there. We strongly support the brownfields legislation. We suggested in our appearance before this committee on Bill 56 that in fact some of the monies that were allocated to the waterfront perhaps be re-assigned and allocated to brownfield sites throughout the city, not just along the waterfront, to encourage their redevelopment.

We also think that municipal governments, including the city of Toronto, should be looking at promoting or expediting approvals for various applications or looking at some of the costs in terms of development charges and other things that may negate certain types of development, intensified development.

What we meant by that comment obviously is that we're growing by 100,000 people, they're going to live somewhere, and if you can't build high density in the city of Toronto along subway lines, where can you? That should be supported, but there are always going to be

people who want to live in a different situation with a backyard and open space, and that has to be provided for also. I don't know if that answers your question.

**Ms Churley:** If I had more time, I would continue, but I don't.

**Mr Dunlop:** Thank you so much for attending. Just very quickly, I'm interested in not just the Oak Ridges moraine but other moraines across our province. Do you feel the information that's in the bill, the Oak Ridges Moraine Conservation Act, should apply to other moraines across the province as well?

**Mr Murphy:** I was going to say that this is very uniquely specific geographically, and we have other legislation like the Niagara Escarpment legislation.

**Mr Davies:** I think one would want to be very careful before making any general statement and take a look at the land form in question and then offer perhaps more specific comments.

**The Chair:** Thank you very much for coming before the committee this evening. We appreciate it.

1850

#### FEDERATION OF ONTARIO NATURALISTS

**The Chair:** Our next presentation will be from the Federation of Ontario Naturalists. Good evening. Welcome to the committee.

**Mr Jim Faught:** My name is Jim Faught and I am the executive director of the Federation of Ontario Naturalists—FON, for short.

Before outlining our position on Bill 122, I would like to briefly explain who we are and what our role has been in initiatives to protect the Oak Ridges moraine.

FON was founded in 1931—70 years ago. We help protect nature in Ontario through scientific research, education and conservation action. We are a charitable organization representing over 20,000 members and supporters and 115 community-based organizations across Ontario. Twenty of those groups are located on the Oak Ridges moraine or in downstream watersheds.

FON long ago recognized the natural heritage importance of the Oak Ridges moraine and has been involved in the campaign to protect the moraine since 1991. We held a seat on the government-appointed technical working committee from 1991 to 1994, which resulted in the 1994 draft Oak Ridges moraine strategy.

More recently, since 1999, we have issued several publications encouraging citizens to take conservation action to protect the moraine. We have held numerous news conferences at Queen's Park. We have worked with other conservation groups on moraine issues. We have engaged the wider public in informed discussion and debate about protecting the moraine. FON held a seat on Minister Chris Hodgson's Oak Ridges moraine advisory panel, which met over the course of this past summer and whose work was the forerunner of Bill 122. Our most recent initiative was a public meeting which we hosted on November 22 in the city of Toronto about Bill 122 and the draft Oak Ridges moraine conservation plan.

After 11 years of study since the 1990 expression of provincial interest in the Oak Ridges moraine, it is very heartening to FON to have before us, at long last, draft legislation and a draft land use plan to protect the moraine. FON applauds the government for taking these bold steps. Bill 122 and the draft conservation plan are ground-breaking initiatives in that they represent leading-edge examples of ecosystem-based planning, embodied in the concept of four land use designations with a decreasing list of permitted land uses as one progresses towards the more environmentally sensitive designations.

The draft Oak Ridges moraine plan serves to direct development away from environmentally sensitive areas and to protect the moraine's vital water resources. It also intends to retain the current size of the most critically important environmental features, called natural core areas and natural linkage areas, together comprising 62% of the moraine, beyond the time of the proposed review of the plan 10 years from now. The draft plan virtually stops urban sprawl on the moraine by restricting almost all new residential development to existing settlement areas. Finally, and in some respects most importantly, Bill 122 would require that all planning decisions in the moraine planning area shall conform with the Oak Ridges moraine conservation plan. This wording is far preferable to that in the provincial policy statement under the Planning Act, which states that planning decisions must merely have regard to the policy statement.

FON is very pleased with the provincial government's level of support for the proposed Oak Ridges Moraine Foundation, which will help it secure certain lands, fund stewardship programs for landowners and engage in public education.

Notwithstanding what I have just said in favour of Bill 122 and the draft moraine plan, FON does have some concerns about specific provisions of both documents. We will restrict ourselves this evening to what we believe are the deficiencies in Bill 122 itself, rather than explain our concerns with the draft moraine plan. We have appended our full submission on both Bill 122 and the draft moraine plan, which we submitted to the Ministry of Municipal Affairs and Housing last week. We also provided the research offices of the opposition parties with a copy of this submission at the time we submitted it to the ministry.

FON believes that several amendments to the bill are necessary for it to afford the high level of protection that the Oak Ridges moraine deserves. Rather than go through all our concerns in Bill 122, I want to touch on just a few.

First, regarding establishment of the moraine area and plan and revocation of the plan, FON believes that section 2 of Bill 122 needs to be amended to state that the Lieutenant Governor in Council "shall," rather than "may," designate the Oak Ridges moraine area. This would require that cabinet identify and maintain the area rather than merely the cabinet giving the direction to do so.

In subsection 3(1), FON believes it important that it be cabinet, not the minister, that establishes the plan and that

cabinet “shall,” not “may,” establish the plan. This is a provincial-level plan that encompasses a wide spectrum of provincial interests. For that reason we believe it deserves cabinet’s seal of approval. We would draw your attention to the fact that under the Niagara Escarpment Planning and Development Act, it is cabinet, not the minister, that approved the Niagara Escarpment plan and it remains cabinet that approves a new Niagara Escarpment plan arising out of a five- and 10-year review.

The most troubling part of section 3 is subsection (3), providing that the minister may revoke the plan. It is troubling because it suggests at this early stage that consideration is being given to dissolving the Oak Ridges moraine conservation plan at a later date. It suggests to the public that the government may lack a long-term commitment to protection of the moraine. FON’s concern is not with the current Minister of Municipal Affairs and Housing, who is clearly committed to protecting the moraine, but rather with future ministers in future governments. This subsection is also unnecessary because it is already the prerogative of any government to repeal a statute and revoke any regulations passed pursuant to that statute.

Instead of simply removing subsection (3), FON recommends that it be replaced with the following wording: “The minister shall not revoke the plan.” We also recommend that clause 23(1)(c), allowing the minister to pass a regulation revoking the plan, should be struck out.

The second point that I want to make is on the size of the natural core and natural linkage areas. In his November 1 announcement, which we attended, Minister Hodgson indicated that at the 10-year review of the plan, the size of the natural core areas and the natural linkage areas could be reduced. However, subsection (5) of section 3 states otherwise. It states that the total area devoted to natural cores and the total area devoted to natural linkages could not be reduced. FON is concerned that there could be a reduction in the size of one natural core to permit development, with the equivalent areas made up elsewhere on the moraine through expansion of another natural core. We find this scenario unacceptable. Bill 122 should give proper effect to what we understand the minister to mean in his November 1 announcement: that the boundaries of each natural core area and each natural linkage area should not be reduced.

The third point I want to make is the minister’s powers to amend the plan. Bill 122 gives the minister rather sweeping powers to amend the Oak Ridges moraine conservation plan, with the option of doing it without very much public input. Subsections 12(8) through (10) give the minister sole decision-making power for plan amendments. FON recommends instead the provisions of the recently amended Niagara Escarpment Planning and Development Act. That act provides that if cabinet is of the opinion that the amendment “could have a significant impact on the purposes or objectives of the Niagara Escarpment plan,” then cabinet shall require the minister to submit the amendment to cabinet for a decision. Since the Oak Ridges moraine conservation plan is a provincial

plan similar in intent and scope to the Niagara Escarpment plan, it deserves the attention of cabinet, at least for amendments that could have a particularly significant environmental impact.

We are also concerned that subsection 12(5) gives insufficient public notice of proposed amendments to the plan. Consultation on amendments takes a by-invitation-only approach to seeking written submissions. Notice should instead be extended to the general public through newspaper advertisements. Also, an amendment to the moraine plan should be an instrument subject to the notice and comment provisions of the Environmental Bill of Rights.

My fourth and last point is the need for provincial oversight. Given the clear direction expressed in Bill 122 of the intent that municipalities, not the province, will carry out much of the implementation of the Oak Ridges moraine plan, we believe that there must be firm, provincial-level oversight of the compliance of municipal official plans and planning decisions on the moraine. We believe that Bill 122 should explicitly provide the minister with the authority to establish an advisory council to ensure proper implementation of this plan. It could be called the Oak Ridges moraine advisory council. While it can be argued that the minister can set up such an advisory council without enabling power provided by legislation, it would also give the public more confidence that a council was indeed going to be set up if it were explicitly provided for in this bill. The composition and duties of the council would, preferably, be spelled out in the bill, but failing that, could be prescribed by regulation. We envisage that the council would have representatives from the relevant provincial ministries as well as a number of non-government interests. One role for the council would be to oversee the province’s development of performance indicators for monitoring effectiveness of the plan and to evaluate plan compliance monitoring performed by municipalities.

In closing, I want to say that Bill 122 is generally the most positive development for the Oak Ridges moraine in over a decade and we do wish for its speedy passage.

Thank you, Mr Chair and members of the committee, for the opportunity to express our views on Bill 122.

**The Chair:** Thank you very much. You’ve left us about a minute and a half per caucus for questions.

**Ms Churley:** First of all, thank you for your presentation and all the good, hard work that you and many others been doing on this issue, which led to this legislation before us.

There are many flaws in the legislation, but unfortunately the bill has been time-allocated and so have these hearings and our clause-by-clause tomorrow. So I’m going to ask you a hard question: you made some recommendations for amendments. The New Democratic Party has put forward as many as we could in the limited time, so we haven’t covered everything that we’d like to but what we consider the more important ones. If you had to make a choice between some of these recommendations, is there something, in all the flaws you see, that

you think is absolutely critical and essential that we pass tomorrow—or do you feel all of the recommendations you gave tonight are equally important?

**Mr Faught:** No, I think they're given in order of priority, so the minister's ability to revoke the plan being the first point—

**Ms Churley:** So that's number one. OK.

**Mr Faught:** They're given in order of priority, so if we could only have one, we would take that one, and if we could have more than one, we'd work down.

**Ms Churley:** We'll certainly try to get the government to support those.

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**Ms Mushinski:** I have just one question on the minister's veto powers. What veto powers are in existence for the Niagara Escarpment plan?

**Ms Linda Pim:** Maybe you could clarify your question. Which section of the bill are you referring to?

**Ms Mushinski:** You've expressed some concern about the powers of the minister to overturn any part of this bill, and you've referred to the Niagara Escarpment plan as perhaps being the plan that would protect, obviously, the environmental interests of the escarpment. Would you prefer to see cabinet have the same powers for the Oak Ridges moraine plan, similar to the Niagara Escarpment? Is that what you're looking for?

**Ms Pim:** In terms of amendments to the Oak Ridges Moraine conservation plan, what we're proposing is that a similar regime be instituted as was instituted last year when the Niagara Escarpment Planning and Development Act was amended, which said that for particularly environmentally significant amendments it should be a cabinet decision. In some cases it would suffice to have the minister make decisions on amendments of lesser environmental significance.

**Mr Colle:** I think I've got about 800 questions but, in a minute, I guess the big difference between the Niagara Escarpment plan and this plan is that here you have unprecedented power in the hands of the minister to basically, by regulation, rip up the plan, revoke it, change it without any public consultation. Is that the biggest difference between the Niagara Escarpment plan and this plan?

**Mr Faught:** Yes, that's correct. Primarily, as Ms Mushinski said, we would like to see that as one of the corrections made to this bill, that the minister not be given those powers.

**Mr Colle:** The other thing is that you talked about the mapping and the natural linkage areas. One of the astonishing things I saw on the maps that were released a week after the announcement was made was that there was a natural linkage area in the Leslie Road area north of Stouffville Side Road up to Bethesda Road, over to the 404. That previously was always a natural linkage area, or certainly not a settlement area. Then the map that was issued that day showed it as a new settlement area that was basically coloured in grey.

I know FON did great work on the advisory committee. Was there any discussion when you were looking

at the maps in your deliberations with the ministry staff that the area I'm talking about—I guess it's about 600 acres-plus—was ever going to be designated as a settlement area in the mapping discussions? You know the area I'm talking about: Bethesda south of Stouffville, the other side of Bayview almost at Leslie to the 404, just on the other side to Markham.

**Mr Faught:** Our understanding from the ministry in our questions to them was that that was part of the negotiations for the Yonge east and Yonge west corridor discussions. So the re-colouring of the map, so to speak, on those lands was as a result of some of the negotiations that Mr Crombie held.

**Mr Colle:** So that was part of the land swap—

**Mr Faught:** I'm not sure if that exactly was part of the land trade, but it was part of the whole negotiations around putting a corridor area through the Yonge corridor.

**The Chair:** Thank you both for coming before us here this evening. We appreciate it.

**Ms Mushinski:** Mr Chair, could I just ask that when delegates are referring to maps, if they could refer to the specific map that's in our binders that would be helpful, please.

#### SAVE THE OAK RIDGES MORAINÉ COALITION

**The Chair:** Our next presentation will be the Save the Oak Ridges Moraine—STORM—Coalition.

Good evening and welcome to the committee.

**Ms Debbe Crandall:** Excuse me for being late, but I just came back from Vancouver and we all know the Lotus Land, Vancouver. I apologize for my lateness.

Good evening, Mr Chair and committee members. My name is Debbe Crandall. I am the executive director of STORM Coalition, which is the Save the Oak Ridges Moraine Coalition. I have with me Joseph O'Neill and Margaret Casey, both of whom are members of the STORM board.

STORM was founded in 1989 as a coalition of a handful of concerned citizen and ratepayer groups from across the moraine. Twelve years later our membership has grown to over 25 groups and many hundreds of individuals. Our founding mandate was to seek and promote provincial legislation for the long-term protection of the Oak Ridges moraine. So you can well imagine our feelings as we're sitting here today before this committee talking about Bill 122, the Oak Ridges Moraine Conservation Act and conservation plan.

Bill 122, in our estimation, is really the culmination of 12 years spanning three different governments. STORM was a member of the technical working committee from 1991 to 1994 and I myself chaired the Oak Ridges moraine citizens advisory committee. We were a member of this year's advisory panel which developed the framework for Bill 122 and the conservation plan. We have participated in a number of Ontario Municipal Board



hearings and continue to be active on some of the unresolved planning issues on the Oak Ridges moraine.

We are a non-partisan organization and as such we truly think that the Oak Ridges moraine transcends political parties and party politics. It is in this spirit that we are appearing before you tonight.

Bill 122 is a major step forward and we'd like to recognize all those who were involved in the steps up to this point and to both thank and congratulate the government for the resolution in moving forward from May 2001. Where we have been over the past decade is old planning and it's time that we embrace this provincial legislation and land use plan as being long overdue. However, as with most things, not everybody gets everything right; hence, that's why we're here today and that's why there have been meetings and debates etc. There is sure to be a commonality of points raised by environmental groups, and I'm hoping that most of the major issues will be addressed.

Our first two points have already been addressed by the Federation of Ontario Naturalists so I won't go into them very much. Obviously, section 3(3) is the revocation of the plan. We see absolutely no purpose for this, other than to give those of us involved many sleepless nights. So we would recommend that fact this clause be deleted, in the manner that has been recommended by FON.

The second is section 12, which are amendments to the plan; again, many sleepless nights for us who have been working with this issue for 12 years. The strength of the act and the plan is the certainty it gives to planning on the moraine. While the intent of the plan and the act seems to be to allow for only prescribed circumstances where the minister may want to amend the plan, the legislation does not reflect this. To truly provide the certainty that the public and municipalities have expressed so strongly over the past several months, we would recommend that section 12 of the act include the provisions that are written in the plan. These provisions are:

"The amendment would correct major or unforeseen circumstances, or would incorporate or reflect major new Ontario government legislation, regulations, policies or standards," or

"Deferral of the amendment to the next 10-year period would threaten the overall effectiveness or integrity of the plan."

We would ask that the legislation in fact limit the circumstances to which an amendment might take place on the plan itself.

As well, section 12(5) provides inadequate opportunities for public notice of a proposed amendment. Again, in the spirit of a new planning framework as we move forward, STORM would suggest that this be changed to allow for full public discourse and understanding of what is happening to this plan.

Section 15 on transition matters: I know this has always been a tricky point whenever you go from old to new planning. Section 15 deals with planning matters that are in various stages, from applications to those that

are pre-draft approved. Given that more than 30,000 draft-approved new units will be built, which is about 70,000 to 75,000 new people, we feel that this is more than enough to satisfy the real estate crunch as a buffer between old and new planning. We would recommend that section 15(2) be changed to state that all matters that have either commenced or for which no decision has been made should conform to the full provisions, the full strength of the conservation plan rather than those just prescribed within the plan. The provincial policy statement already deals with some of these provisions, some of which include ensuring there is an adequate supply of water and that there will be protection of significant natural features. So we don't feel that there has been enough movement forward, given the change that this planning framework brings forward. Basically, STORM would recommend that any project that does not have draft approval should conform to the full force of the conservation plan.

Under section 4, we feel that there are opportunities for Smart Growth objectives in the plan and act. Section 4 of the act describes the objectives of the Oak Ridges moraine conservation plan. While we recognize that this is a conservation plan, it is STORM's position that growth management and conservation go hand in hand.

We also recognize that unless we collectively begin to design and build our cities differently, we will not ever be able to stop the relentless sprawl of urbanization out of Toronto.

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Objective 4(f) of the act, which states that "providing for continued development within existing urban settlement areas and recognizing existing rural settlements," does not address the need that we have to in fact design and use our land more efficiently. We feel that an important opportunity will be missed if the Oak Ridges moraine act and plan do not seek to address the issues of intensification, transit-supportive densities, affordable housing, redevelopment through downtown revitalization and brownfield conversions, all within an ecological planning framework.

We also are not unaware of the nuances of jurisdictional sidestepping in assuming responsibilities; however, the greater public interest requires that all levels of government begin to work more closely to deal with this significant issue.

Another point in section 8 is conflict and that municipalities may be more restrictive. While the act recognizes that municipalities may be more restrictive in all areas except for aggregate and agricultural policies—and I'd like to speak to that just a little bit later—a disturbing trend is being observed. Some of the ratepayers and environmental organizations that work with local municipalities are starting to hear that in fact municipalities are considering removing some of the restrictive policies within their official plans. This is in reaction to the many years of having to defend this at the Ontario Municipal Board, and they're afraid that the plan and the act do not strongly enough say that municipalities can be more

restrictive. As such, they're saying, "We don't want to deal with this at the board; we're not going to chance it. We're just going to remove it during that conformity exercise." I'm sure that it is not the intent of the act or the plan to in fact bring this forward. Therefore, STORM would recommend that subsection 8(2) be changed to read:

"Subject to clauses 5(c) and (d), an official plan amendment or zoning bylaw does not conflict with and has the same force and effect as the Oak Ridges moraine conservation plan to the extent that its provisions are more restrictive than those in the plan." We feel that this would give municipalities the assurances that more ecologically restrictive policies would have full support and would be recognized at the Ontario Municipal Board.

On the other two issues of agriculture and aggregates, there are provisions within the plan that municipalities cannot be more restrictive there. This speaks to a submission that we had made that some of the intensive agricultural practices should be more restricted within the plan. The plan does not limit any of these practices anywhere on the Oak Ridges moraine, and when we start talking about large feedlots which have areas that have become impervious to water, where they have large stockpiling of manure, we feel they are not appropriate for places like watershed protection areas, areas that are vulnerable to groundwater contamination. We think it's appropriate that municipalities can be more restrictive when it comes to agricultural practices.

Obviously, on the issue of aggregates, I think in today's world we are not going to see municipalities suddenly saying no to aggregates, but different municipalities, Caledon and Clarington, are attempting to come up with more innovative ways of dealing with their aggregates. This plan is going to squelch that and not allow that kind of creative positioning with the aggregate industry.

On those points—there are many more and I hope there's a full airing tonight—I thank you very much for this opportunity to be sitting here and talking.

**The Chair:** Again, we have about a minute and half per caucus. This time we'll start with the government benches.

**Mr Dunlop:** Thank you very much. We appreciate your comments here this evening. Something that I have asked before because I have a moraine in my backyard up in Simcoe North, and I'd just like to get your comments. The act that's before you, the Oak Ridges conservation act, do you feel that act, if expanded upon, can apply to the 400 other moraines across the province? Many people today are very interested in moraines and are watching this act very closely, and I'm just wondering how you feel about the expansion of it to other areas.

**Ms Crandall:** I think any land form that has so many different issues facing it deserves the kind of process that the Oak Ridges moraine itself has undergone. It is a really well-studied moraine and I think the first thing the act can spur is a very intensive detailed mapping exercise

so people understand where the water is. It seems that with moraines you've got water, aggregate, growth, development. So I think the process through the summer with the advisory panel should be replicated in those areas where conflict exists. Certainly, a lot of the innovation we've seen here is specific to the Oak Ridges moraine but can be translated upon a process that would benefit from that.

**Mr Colle:** Thanks again to STORM for all the leadership on this over the years, and certainly to the FON. It's amazing work that you've done. I want to put that on the record again and people should recognize that over and over again.

I have just a couple of questions. In looking at this act, one of the things that concerns me is that the eastern part of the moraine is basically at a much lower level of protection. In essence, estate lots are allowed there, local municipalities can overrule the plan there. What's STORM's position on protection levels for the eastern part of the moraine?

**Ms Crandall:** We feel that there should be a consistent approach taken to all lands on the Oak Ridges moraine. We do not support this inclusion of real estate development in the east. We feel that it is old planning, once again. There are opportunities within rural settlement areas where that kind of development can be encouraged. That was the position we made in our submission.

We think there should be—echoing what FON said—an oversight agency that is a step between municipalities and that monitors what's going on. So it is disturbing when we start talking about upper-tier municipalities that have approvals authority.

**Mr Colle:** In the eastern end that they don't have in the rest of the moraine.

**Ms Crandall:** It's my understanding that they have an option that would make them kind of deke out of some of the provisions of the Planning Act. Whether or not they would be exercising that ability that the act gives them, we feel that it should be a stronger provincial control over planning on the Oak Ridges moraine.

**Ms Churley:** Thank you very much. I'm glad you made it here tonight. I think we are going to be hearing some themes from probably the various sides tonight, and hopefully we can get some of those amendments through tomorrow. I don't know if you were here earlier when the Greater Toronto Home Builders' Association spoke.

**Ms Crandall:** I wish I had been.

**Ms Churley:** I think they're still here in the room. They expressed some concerns that I don't have time to go over right now, but they did talk about the fact that you can't be in favour of sprawl and—what was the other development?

**Ms Mushinski:** Intensification.

**Ms Churley:** Thank you—intensification at the same time, because people have to live somewhere and they're responding to demand. I asked the question which you brought up in your presentation, and that is needing to have a more holistic view to—you mentioned them—

intensification, transit-supportive densities, affordable housing, redevelopment—all of those things. I don't think you're going to get that in this plan; we can try. Are you suggesting that we try to bring forward a new green Planning Act, similar to the one that New Democrats brought in under John Sewell? He was here earlier; I don't know if he's still in the room. That seems to me what we're going to need to do because we hear there are moraines all over the place which are probably going to end up in the same position.

**Ms Crandall:** I hope that in the provincial policy statement review this is addressed, but it seems to me that this is an incredible opportunity when we have a new planning framework. We've taken a step toward this smart growth by putting urban growth boundaries around our settlement areas. So there is an advancement of planning happening with this act.

I just seems to me an incredible opportunity for the province and its municipal partners to kind of stop this sidestepping, because by demanding something you then have to assume some responsibility. I guess we're asking that the provincial government and the municipal governments start to assume some of the responsibility that's going to be necessary in getting the dollars necessary for the transit-supportive. It's time that we stopped talking about it. If we truly don't want those urban boundaries to expand in 10 years, then we have to do something about it now. Now is the time to do it. There are places on the moraine where the settlement guidelines are still not written and this can be implemented if the municipalities are directed to do so.

**The Chair:** Thank you very much for making the effort to come before us here tonight. We appreciate it.

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#### AGGREGATE PRODUCERS' ASSOCIATION OF ONTARIO

**The Chair:** Our next presentation will be from the Aggregate Producers' Association of Ontario. Good evening and welcome to the committee.

**Ms Carol Hochu:** Good evening, Mr Chairman, and committee members. My name is Carol Hochu. I am president of the Aggregate Producers' Association of Ontario, APAO for short. Joining me this evening are Jackie Fraser, our environment and resources manager at the APAO, and one of our members, James Parkin of MHBC Planning in Kitchener.

I hope that the clerk has distributed two handouts for you: a spiral-bound position paper and a packet that includes my remarks, although I must warn you that I have edited them heavily since they've been put into the kit.

In our brief time together, I'd like to say a few words about our association and our industry and then give you our comments on the bill and the plan.

First, about the APAO, we were formed in 1956 and we currently represent 100 companies that are producers of sand, gravel and crushed stone. Collectively, our

member companies supply the majority of the 155 million metric tonnes of aggregate that's consumed in the province annually. On a per capita basis, this is 14 metric tonnes per person or about half a truckload of gravel or stone per person.

Our mission is to promote the wise management of aggregate resources in a manner that conserves the environment while maintaining a healthy and competitive industry.

Ontario's economy really cannot grow and prosper without aggregates. We are fundamental to the province's infrastructure. Whether it's roads, bridges, schools, homes or shopping malls, structures are dependent on a sub-base and a base of aggregates. Aggregate products of course are used in a variety of manufacturing processes. Every day, Ontarians use and benefit from non-renewable aggregate products and the industry is continually challenged to find new sources and deposits to meet demand.

The greater Toronto area is a major market for aggregate products and the Oak Ridges moraine is a predominant source of those close-to-market aggregates for the GTA, accounting for 60% of its sand and gravel production. There is no realistic close-to-market alternative.

Why is it important to have a close-to-market supply of aggregate? Having a close-to-market supply is not only good planning but it's good for the environment and it's good for the economy. If sources of aggregate from the moraine were not available, extraction would be forced to alternative supply areas much farther afield, such as the Oro moraine or the Carden plain. If you look on the back of our green position paper, we do have a nice map of the GTA. You can see the Oak Ridges moraine as well as the next closest areas for extraction.

Increasing the haul distance for total GTA aggregate production does indeed have an environmental impact. A 30-kilometre addition to the hauling distance would mean 56 million additional kilometres of truck travel per year. This would result in an additional 63,000 metric tonnes of extra greenhouse gases per year and 36 million extra litres of fossil fuel consumption annually, not to mention the social impact of increased truck traffic.

On the economic front, over half of the cost of delivered aggregate is attributed to trucking. Because the majority of aggregates are purchased by public authorities, increased transportation cost would be a direct cost to the taxpayer.

Planning on the moraine must recognize the range in environmental features and take a balanced approach which realizes the public interest in ensuring continued availability of aggregate from the moraine.

Our position paper explains in detail why aggregate extraction is indeed different from other forms of development. First of all, it has to take place where the deposits occur, it is an interim land use and it doesn't compromise the hydrogeological functions. Legislation and policy for the moraine must recognize these distinguishing factors.

We're certainly pleased that the act and the associated plan generally recognize the importance of the moraine's aggregate resources. We support the inclusion of resource uses in the objectives of the act, section 4, and the plan.

We agree that close-to-market sand and gravel resources are one of the moraine's unique features, making it vital to south central Ontario. It is important that new and existing aggregate extraction is permitted in the countryside areas and the natural linkage areas.

A remaining major concern is the prohibition of new extraction in the very broadly defined natural core areas. While the natural core areas are described in the plan as concentrations of significant features which are critical to maintaining the moraine, in fact they include both significant features as well as less significant areas. Portions of the natural core areas, such as open fields and planted or early successional forests, may be good locations for new aggregate extraction, especially if located on a haul route or adjacent to an existing aggregate operation. But of course specific environmental tests, including a value-added rehabilitation plan, would have to be met.

With respect to the plan, the association has provided detailed comments to the Ministry of Municipal Affairs and Housing. A copy of our comments is included in the presentation kit, so I won't go over those in any detail.

With respect to the linkage areas, the extensive core area prohibition for new extraction means that it is critical that the act and the plan provide opportunities for extraction in the natural linkage areas as well as the countryside areas. That is the current proposal and we do support it.

We do have concerns regarding the additional restrictions that are suggested for the linkage areas. I think it's important to be clear as to what these natural linkage areas are. Much of the area is open pasture or agricultural land. Major roads and a variety of land uses dissect it. Much of the area is not presently functioning as any form of corridor. It does have that potential, but that is a long-term vision, and some quite significant land use changes are required to achieve that goal.

We do not agree with the arbitrary minimum-width requirements proposed in the plan. We understand the importance of connectivity between natural areas but the width requirements and the effect of an interim land use have to be examined on a site-by-site basis to determine if any corridor function is affected.

The natural linkage areas provide many acceptable locations for new aggregate extraction. Rehabilitation design may be just the thing that is needed to change from an agricultural use to something with a higher ecological value.

We also don't agree with the limitation on extraction below water in natural linkage areas. The hydrogeological function of the moraine is protected and not threatened by properly designed aggregate extraction.

With respect to approval authority to amend the plan, section 12 of the act allows the minister to propose an amendment to the plan and controls the amendment

process. The same minister also retains final decision-making authority on amendments to the plan.

While we certainly think that Minister Hodgson is a fine and capable minister, we believe there is merit in assigning approval authority for significant amendments to provincial cabinet in order to ensure that the full scope of provincial issues is taken into account. At the same time, there should be a simple mechanism to make corrections to the mapping that will be required as they are used in day-to-day planning.

On the issue of the 10-year review, monitoring results and reviewing the effectiveness of a policy are a basic and fundamental part of the planning process. Having a review doesn't necessarily mean that there will be major rewrites or changes in direction. It does mean that there is a system in place to monitor effectiveness and make corrections where it can be demonstrated that the public policy has not been effective in achieving the public interest.

APAO supports the sections in the act that require its review. In the case of some of the aggregate issues, not surprisingly, we think that the 10-year review period is too far away. The association encourages that a good monitoring system be put in place in order to provide a factual and scientific basis for reviews.

We are satisfied with the section in the plan which sets out study requirements pertaining to the review of aggregate policies.

We are promoting a small but important change to the objectives of the act. Section 4, clause (d) establishes that one objective of the plan is to ensure that the moraine "is maintained as a continuous natural landform." We suggest this wording be changed to "substantially continuous natural landform" in recognition of the diversity of existing and intended features and uses.

On the issue of limitations on official plans being more restrictive, we support the provisions in the act and the plan which ensure that municipal official plans and zoning bylaws cannot be more restrictive than the provincial plan with respect to aggregate extraction. It is a long-established principle in the province that the management of aggregate resources transcends municipal boundaries. The provincial interest in continued availability of aggregates should not be unreasonably restricted at the local government level.

In closing, well-planned aggregate extraction is an interim land use that does not compromise the natural heritage values associated with the moraine; ensuring availability of aggregate from this close-to-market source is environmentally sound public policy; rehabilitation of pits provides opportunities to enhance the natural heritage and recreational attributes of the moraine and create after-uses that maximize biodiversity and increase ecological values.

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There are many wonderful examples of rehabilitation along the Oak Ridges moraine, and their very success is one of the reasons these rehabilitated pits are often overlooked. The rehabilitation has been so successful that

many do not know that some of these sites were once pits. Please refer to our position paper and other kit materials for some of these fine examples.

Finally, we appreciate the opportunity to be involved in the moraine debate, and we would like to recognize and thank Denis Schmiegelow, president of Highland Creek Sand and Gravel, for representing the aggregate industry on the advisory panel.

Thank you for your time and attention. We'd be pleased to answer any questions you might have.

**The Chair:** Thank you very much. Again, we've got about four and a half minutes, so a minute and a half per caucus. This time we'll start with Mr Colle.

**Mr Colle:** Thank you so much for your very comprehensive presentation. My question is, what does this act prohibit you from doing that you're doing now?

**Mr James Parkin:** The biggest difference would be the broad mapping of the core areas, where there are areas within those natural core areas that are, we believe, perfectly acceptable locations for aggregate extraction. There's open fields and young plantations within those cores that today could be considered subject to a wide range of municipal and provincial policies and environmental tests but could be considered for aggregate extraction.

**Mr Colle:** But this act isn't restricting what you're doing right now and what you've been doing for the last 50 years up there, is it?

**Mr Parkin:** The restrictions that I mentioned are in the plan, and they are more restrictive than has been the case.

**Mr Colle:** Then the other question I have is, if you're extracting aggregates all across this huge moraine, from Peterborough up to Caledon, why do you have to still have the ability to extract aggregates from the natural linkage and core areas? Why are you in favour of also extracting in that small strip of natural core? Why can't you just, in the other 90% of the moraine, do your extraction? Why do you have to also be in the natural core and linkage areas?

**Mr Parkin:** The mapping that we've provided gives you a general indication of where you're most likely to find good aggregate deposits. When you start applying other constraints, both environmental and social, and take a closer look at the geology of the area, it becomes very difficult to find good areas for aggregate extraction. So it's a case of unnecessarily limiting the choices, which is going to reduce options, reduce competition, and gradually would force supply further afield.

I think we should be clear that there are areas, certainly large portions of the core areas, that are legitimate natural areas that are protected now and would continue to be protected under the plan. So we're not suggesting that the whole portion of the core area should be—

**Mr Colle:** But you want to maintain that right to go in there and extract even in the natural core areas?

**Mr Parkin:** In the portions of it that are not—

**Mr Colle:** Despite what the plan says, you still want to have that right to go in there?

**Mr Parkin:** The plan would still protect the portions of it that are the significant natural heritage features. So the portions of it that are significant woodlands, that are a large blocks of mature forest areas, are protected. We're not seeking any sort of unreasonable right to go in and destroy legitimate environmental features. What we're saying is that the way they have been mapped, they have included in the areas farm fields on the edges, in between these areas, where I believe aggregate extraction can occur without compromising the overall environmental objective.

**Ms Churley:** Those were essentially my questions as well, so thank you very much for your presentation.

**The Chair:** Any questions from the government?

**Mr Norm Miller:** Yes. First of all, I'd like to thank this group for participating on the advisory panel on the Oak Ridges moraine. Thank you very much for that and for coming here today.

Just a question to do with the one statement, "The hydrogeological function of the moraine is protected and not threatened by properly designed aggregate extraction." I don't have a great understanding of how it works, but I kind of figured that the gravel in pits was sort of a filter for the water. How, when you take the gravel away, does it not have a negative environmental effect?

**Ms Jackie Fraser:** We get this question quite a bit. I remember at one of the public meetings it was described as—it was kind of a graphic description—scooping out the liver, scooping out the actual filtering capacity of the moraine. But you have to think of the scale of the moraine, the size of the moraine, compared to the depth of the pit. You're really scratching the surface. There are many, many layers within the moraine, and pits typically are just using the superficial layer.

**Mr Norm Miller:** How deep does a pit normally go?

*Interjection.*

**Mr Chudleigh:** You're talking about not going below the water level? That's acceptable for your purposes?

**Ms Fraser:** No, we mentioned that that's a restriction within the linkage areas that we're not happy with, given that, properly planned, there are no hydrogeological impacts.

**Mr Chudleigh:** But that is in the plan currently, that you wouldn't be allowed to go below the water level.

**Ms Fraser:** Within the linkage areas.

**Mr Chudleigh:** Within the linkage areas.

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

Our next presentation will be from the Canadian Environmental Defence Fund, if they are in attendance. Is there anyone from the Canadian Environmental Defence Fund in attendance? Not yet? All right. And I haven't seen Councillor Miller.

## JANE UNDERHILL

**The Chair:** We'll move on to Ms Underhill. Jane Underhill will be our next presenter. Good evening and welcome to the committee. Just a reminder that we have 10 minutes for your presentation for you to divide as you see fit.

**Ms Jane Underhill:** Good evening, Chair and members of committee. My name is Jane Underhill and I am here this evening as a long-time resident, 42 years, of King City, a rural community in the rural township of King. I have been fighting, along with many others, since the early 1990s to see good planning prevail for the sake of the village and the township and to keep King green. I have with me tonight two representatives from residents' groups in the township: Nancy Hopkinson from Nobleton Alert and Nina Graham from King City Preserve the Village.

King City Preserve the Village, a residents' group, was formed, with myself as president, in January 1994 when the planning process for our village, as it appeared to us, was derailed. In 1997, I felt compelled to run for public office and was elected as councillor for ward 1, King City, on a platform to stop the pipe and the unjustified scale of growth in the new King City pipe-driven community plan, OPA 54.

King City, with huge environmental constraints—you will see the attached map—was formerly known as Springhill, and aptly so. For your information, King City lies entirely within the Oak Ridges moraine, in a core recharge area and the headwaters of the East Humber River. Most of King township, 70%, also lies within the Oak Ridges moraine and encompasses an area of approximately 130 square miles, or 19% of York region's total area.

I would like to take this opportunity to publicly thank the government of Ontario for having the courage and determination to take positive action, through planning and legislation, to ensure "that the Oak Ridges moraine area is maintained as a continuous natural landform and environment for the benefit of present and future generations."

I personally have responded to the document Share Your Vision for the Oak Ridges Moraine and also to the Oak Ridges moraine conservation plan and legislation. Both my submissions were accompanied by extensive documentation to support my comments, suggestions and concerns.

Of particular and continuing concern is the designation of King City as a settlement area on the Oak Ridges moraine area land use designation map, as King City, a community of some 5,000 persons, is partially serviced with municipal water only from the deep aquifer of the Oak Ridges moraine.

The Oak Ridges moraine conservation plan and legislation provides "for continued development within existing urban settlement areas and recognizing rural settlements." I continue to maintain that King City is a

rural settlement area, and I will outline my reasons for determining so.

The York region official plan, approved in 1994, map 5, shows the urban areas of the region—Newmarket, Aurora, Richmond Hill, Vaughan and Markham—as an inverted T, serviced by the York-Durham sewer system, the "big pipe." The communities of Schomberg, Nobleton and King City in King township are all identified as towns or villages with schematic boundaries as recently as 1999. This is in the York region official plan. Similarly, map 6 in the York region official plan shows that the township is entirely designated as either agricultural policy area or rural policy area. This also applies to the undeveloped lands within the King City study area.

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Designating King City as an urban settlement area is contrary to the findings of the Ontario Municipal Board. The hearing decision of March 6, 2000, upheld by Divisional Court, clearly establishes King City as a rural settlement area. To illustrate, and there are many more such illustrations in the decision, page 22 of the decision states, "My finding that OPA #54 represents an expansion within a rural settlement area brings OPA #54 under the evaluation criteria of section 4.1.1" of the Oak Ridges moraine implementation guidelines. On the Divisional Court hearing, the court declined to interfere with the OMB's decision on the boundaries of the King City rural settlement area. The issue outstanding with the court is not whether King City is a rural settlement area, but rather where the boundaries of the rural settlement area lie.

The correct designation of King City as a rural settlement, and not a settlement area, is very important, because a rural settlement is a component of a countryside area. It has very different objectives and consequences under the Oak Ridges moraine plan from a settlement area, as it does in the Oak Ridges moraine implementation guidelines.

I think it is also important to draw to the committee's attention important decisions made recently by King township council.

On November 26, 2001, council approved a resolution requesting the Minister of the Environment to bump up the class EA and project for King City to an individual EA. On December 3, council approved the recommendation that "large wastewater infrastructure such as the YDSS and the Bolton/Brampton trunk sewer should not be allowed to extend further on the Oak Ridges moraine and that local treatment plants for settlement areas be considered." Finally, in committee just this past Monday, King City was declared to be a rural settlement area and the ministry was to be notified.

I am therefore respectfully requesting that the already built portions of King City—that is, the existing community—be properly designated as a rural settlement in the final version of the Oak Ridges moraine map, and that the remaining portions in the study area, with the possible exception of those areas that have draft plan approval, be designated as either countryside area,

natural core area or natural linkage area, as may be appropriate.

Thank you for your consideration of my request.

**The Chair:** Thank you very much, Ms Underhill. As is the practice of the committee, we've got about three minutes left, so we'll give all the time to the next party in rotation. Ms Churley.

**Ms Churley:** Thank you very much. It's nice to see you again. Congratulations to you.

I wanted to get some clarification from you on your request here tonight. You say that King City was declared to be a rural settlement area and you notified the ministry. So vis-à-vis the legislation we're talking about tonight, you mention that in the final version of the ORM map this therefore be included. I'm assuming that you and your council are still in the process of consulting with the ministry and whoever else is involved in this process. Do you still have an opportunity to do that outside of this legislation, or are you telling me that once this is passed, it's too late?

**Ms Underhill:** Once it is passed, it's too late. The comments were sent down to the ministry, I presume, on Monday. Hopefully, they will be considered.

**Ms Churley:** Have you heard anything back from the ministry at all?

**Ms Underhill:** No, because the comments just went in.

**Ms Churley:** OK. Because I presume you're aware that this bill has been very quickly what we call time-allocated. We're having these three hours of public hearings tonight. The opposition parties both objected to that; they wanted more time to work this out. Tomorrow morning, we do a time-allocated clause-by-clause. At 12:30, it has to end and we have to vote, and what isn't voted on is deemed to have been voted on. So I'm just concerned that, as something that you've been fighting for—

**Ms Underhill:** For years.

**Ms Churley:** —for years and years, if this goes ahead without this piece, what are the implications for your communities?

**Ms Underhill:** I certainly did bring it to the attention of the Oak Ridges moraine committee in September, to the attention of the ministry and the committee, I presume, when I responded to the Share Your Vision document and Smart Growth that I was deeply concerned about King City being designated on the map. The designation will create a new urban area on the Oak Ridges moraine and I don't think anybody wants to see that.

**Ms Churley:** In that particular area you're talking about, are there already a lot of development plans in the hopper?

**Ms Underhill:** Yes, there are. There are a lot of lands bought up outside of the King City area too.

**Ms Churley:** What do you think the implications of that will be? I presume you're concerned about the water supply. I'd like to have better information and understanding of your biggest concern, if we don't change this.

**Ms Underhill:** The biggest concern of course is the water supply, but we're also concerned about urban sprawl, because the York-Durham sewage system and any big regional system precipitates urban sprawl. Everywhere the YDSS has gone, the aquifer has been depleted, and then of course water is piped in from Lake Ontario.

**The Chair:** Thank you very much for coming before us here this evening. We appreciate it.

#### REGIONAL MUNICIPALITY OF YORK

**The Chair:** I will ask again if there is anyone here from the Canadian Environmental Defence Fund, or is Councillor Miller in attendance? Neither being here yet, we'll move to the Regional Municipality of York. Good evening and welcome to the committee.

**Mr Alan Wells:** My name is Alan Wells. I'm chief administrative officer for the region of York. Don Sinclair is one of our solicitors and Bryan Tuckey is our commissioner of planning. Bryan will join me in the presentation.

York region is one of Canada's fastest-growing municipalities. If you're not familiar with where we are, we're directly north of Metropolitan Toronto, the rest of York county. We're here because about 30% of the land area of York region is part of the Oak Ridges moraine, so it's a significant part of our landscape and community.

Just over the last two years, York region has grown by over 40,000 people per year, so growth management is a very important issue in York region. It's important for us to have a growth management strategy that takes into account the three pillars of our official plan, which are developing a healthy community, a community that has good economic vitality, and a community that sustains the natural environment and resources of York region, and that's dead on with the subject we have before us tonight.

In December 1998 regional council directed staff of the region of York to contact staff of the regions of Durham and Peel and review official plan policies to better protect the Oak Ridges moraine, because collectively the three regions have a great stake in the moraine.

This year the three regions, along with other moraine municipalities and the Conservation Authorities Moraine Coalition, released a report entitled the Oak Ridges Moraine—Proposals for the Protection and Management of a Unique Landscape. We've filed copies of that report with you tonight, along with several other reports.

In this report, the partners called on the province to assist in protecting the moraine in four main areas: groundwater data management, natural heritage data management, policy and land securement. The region is pleased to see the province has taken decisive action in supporting the tri-region initiatives through a strong policy framework for the moraine as a whole.

On November 28, 2001, York region's planning and development services committee endorsed a report dealing with the draft moraine conservation act and conservation plan. York regional council will deal with

that report tomorrow morning, but it has been endorsed by our planning committee and is consistent with our policy development framework. A copy of that report is filed with you as well.

The planning and development services staff report on the act and plan and copies of both the tri-region strategy document, Oak Ridges Moraine—Proposals for the Protection and Management of a Unique Landscape, and its recommendations are herewith submitted to you.

I would now like to call on Bryan Tuckey, our commissioner of planning, who will highlight the region's key points with regard to the act and the conservation plan.

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**Mr Bryan Tuckey:** To begin, I think it's important to state that regional staff have had the opportunity to meet with representatives of the provincial ministries on several occasions over the past number of weeks. We've discussed the act and the plan. Their interpretation of both have been provided to provincial staff in a detailed list of recommended changes. These meetings have been beneficial to all concerned and have provided informal feedback to provincial staff. However, there are important points we believe merit committee consideration at this time.

I'll start with the legislation. The region recognizes the significant body of work accomplished by the province during a very short space of time. However, there appear to be some contradictions in the legislation that may merit some consideration.

First, dealing with transition provisions: the moraine conservation act contains provisions to deal with applications that are already in the planning process, as well as applications and planning documents already approved. There is potential for some confusion within the transition provisions of the act. Section 9 of the moraine act requires amendments to regional and local official plans to implement the conservation plan, whereas section 15(3) of the transition provisions then exempt matters from complying with the act if the decision was made before November 17, 2001.

One interpretation we've heard of section 15(3) is that any municipal official plan that has been approved before November 17 need not conform with the conservation plan, as the decision has been made. This obviously is not the intent of the legislation, given the requirement in section 9. In order to clear up this issue, we suggest the act be clarified by the addition of the words "subject to section 9" at the beginning of section 15(3).

Second, section 15(4) refers to the deemed commencement of an official plan as being the day the plan is adopted. There is no parallel wording in section 15(5), providing a deemed decision for municipal plans, notwithstanding that other matters listed in section 15(4), such as request for an official plan amendment, development in a site plan control area or minor variance, are provided with the deemed decisions in section 15(5). For clarity, we recommend that such omissions in section 15(5) be included in this bill.

Third is in regard to the indemnification clauses of the act. Section 20 of the act protects decision-makers from liability for making decisions pursuant to this act. Section 20(7) of the act states that the definition of "person" includes, but is not limited to, the crown, a member of the executive council, an employee of the crown, an agent of the crown and a municipality." This section lists provincial persons but omits their municipal counterparts: councillors, employees and agents of the municipality.

For clarity, we recommend that the definition of "person" be modified to include municipal counterparts to the provincial persons included in this section.

The reports before you outline some of the issues with the plan, and I'd like to highlight a few with the committee while I have the opportunity.

The first deals with clarity and readability. For a planning document to be workable, it must be clear and readable. Every effort must therefore be made to improve the plan's readability and produce mapping that clearly identifies the appropriate land use designations and their extent. Just to give you an example, specific policies relating to settlement areas appear in section 4.14 of the plan. However, these policies cross-reference the reader to additional sections, and I'll just list them: sections 2, 3.5, 4.2, 4.3, 4.12, 4.13, 4.11(a) and 4.11(e). For administrative purposes, we would suggest this type of cross-referencing may benefit from some simplification.

The second relates to time frames. The time frames prescribed by the act in the plan for regional official plan amendments, watershed studies, water balance and water conservation strategies are aggressive. The region will make every effort to meet these deadlines. However, the province must recognize that there is considerable work to be undertaken. Some of this work has been started, particularly as it relates to the Yonge Street aquifer. Additional work will be commenced in the near future. Other work must wait until provincial ministries supply additional information, including terms of reference or mapping.

It's important that the region clearly state now that we're making all best efforts to meet the time frames of the plan and the legislation, but should there be some unforeseen circumstances or late receipt of information from the province, the region should not be seen as not meeting the spirit and the intent of the legislation. We're very committed to the legislation and implementing it.

Third is definitions. Regional staff have also identified several difficulties with definitions, two of which I'd like to highlight tonight. The first is "large-scale development," defined as "development consisting of four or more lots, or a building or buildings which has a floor area of 500 square metres or more," and that's in and around 5,400 square feet.

This definition will capture virtually all development, even in settlement areas, and trigger the need to assess these applications against detailed sections of the plan relating to watershed plans, water balance and water conservation plans. While we agree that the impacts must



be assessed, to add additional standards in settlement areas may act to frustrate the goal of intensification in these areas. Such actions go against the principles of Smart Growth in the wider regional context.

We suggest that either the definition of “large-scale development” be raised or that in settlement areas where intensified development should be encouraged, the standards be waived.

The second definition relates to “necessary,” when used in reference to transportation, infrastructure and utilities. This is also an issue for the region of York and other public roads authorities. The definition as it is proposed fails to reference the Environmental Assessment Act and its provisions. Regional staff suggest the following wording for the definition of “necessary”: “The need for the project has been assessed through the Environmental Assessment Act and an approval under the act has been issued.” Without this reference, municipal undertakings may be faced with two sets of tests under two acts for the same project. This is not an appropriate use of public resources.

Fourth, the ability of municipal plans to be more restrictive than the Oak Ridges moraine conservation plan: throughout the preparation of the tri-region Oak Ridges moraine strategy, a central objective was that the Oak Ridges moraine plan should not undermine more restrictive municipal planning requirements designed to protect the ecological integrity of the moraine. Generally, the Oak Ridges moraine plan has achieved this objective, except in the areas of aggregates and agriculture. We suggest that these two uses, while appropriate on the moraine, should also be subject to the application of more restrictive planning policies if properly justified and supported by their regional or local municipalities.

Fifth is freely accessible data. The tri-region Oak Ridges moraine initiative also identified the importance of freely accessible data management systems for both groundwater and natural heritage information. While the moraine conservation plan references data management systems, the responsibility to develop and maintain these systems appears to be retained by the province in partnership with other stakeholders. The region suggests that a more collaborative, accessible model and system is necessary to properly protect the moraine.

In conclusion, the Oak Ridges Moraine Conservation Act and plan is an important initiative, but is only one step in providing a sustainable and economically viable GTA. The council of the region of York is committed to supporting other provincial and regional initiatives, including regional transit; the provision of rental and affordable housing; an urban structure of nodes and corridors that will revitalize the existing urban structure; and providing for the protection of sensitive, natural landscapes throughout York region. We look forward to working with the province on all these initiatives.

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**The Vice-Chair (Mr Norm Miller):** That allows us a couple of minutes, so I’ll pass it on to the government side for a question.

**Ms Churley:** Per caucus?

**The Vice-Chair:** No, just in total.

**Mr Chudleigh:** Thank you for your presentation. It’s good to see you tonight. I take it by your concerns about the official plan of the area, as opposed to the act, that you’re proposing the same kind of approach we had at the Niagara Escarpment Commission, which was that you would initiate the act first and bring in the plan on a lag basis. Is that what I heard you say?

**Mr Tuckey:** Yes, I think the plan may merit a few more months of consultation to ensure that it is clear, readable and accessible, not just to us but to the public that will be using it over the next number of years.

**Mr Chudleigh:** Is that going to create further opportunities to refine the plan, perhaps? Do you see that kind of thing happening within the plan?

**Mr Tuckey:** Yes. As I said during the presentation, we support the principles of the plan, and there may be that opportunity just to make it a little better and meet more of the needs of all the people involved.

**Mr Chudleigh:** In the way the plan is proposed right now, how likely do you think it is that one of the councillors in York might end up in jail?

*Interjections.*

**Mr Chudleigh:** But you would like to see that cleaned up in the plan?

**Mr Wells:** We’d like to see that happen, yes.

**Mr Chudleigh:** But the likelihood is not very great as it sits now?

**Mr Wells:** The likelihood is not very great, but we’re asked to be partners in this and we’d ask for the same protection as you afford yourself, with all due respect.

**Mr Chudleigh:** It’s intended to keep your attention.

**The Chair:** Thank you for coming before us here this evening.

**Mr Colle:** Mr Chair, I want to put on the record that I wanted to ask them while they’re still bulldozing Bay-view.

**Mr Wells:** I would be delighted to answer that question.

**Mr Colle:** I would like to ask you that, but I can’t.

**Mr Wells:** I can leave you our press release, which explains that in some detail and ask that it be circulated, because there is a lot of misinformation about that that should be cleared.

**The Chair:** If you have something you’d like to leave with the clerk, I’m sure it would be well circulated.

DAVID MILLER

**The Chair:** We are joined now by Councillor Miller, so we’ll move back in our sequence to that spot. Good evening, councillor. Welcome to the committee. We have 10 minutes for your presentation.

**Mr David Miller:** I apologize for being unable to be here precisely at 7:40. We had a rather contentious issue before council tonight—no change from previous days.

I want to thank members of the committee for the opportunity to speak on behalf of the city of Toronto.

You'll have a letter before you that is the official position of the city. I'm here to highlight some issues. My speaking notes are not from the letter, although the content will be similar, but hopefully be more succinct. I'm joined today by Grace Patterson, who is the solicitor in legal services who has been working on this issue, and Bill Snodgrass, who is senior engineer, water services, who interestingly was an expert witness at the Richmond Hill hearing on behalf of the province of Ontario. So we are quite lucky in the staff we hire at the city of Toronto.

I first of all want to thank the Chair, Mr Colle and Marilyn Churley for the work they've done on this issue in the past. The city believes that the Oak Ridges Moraine Conservation Act, 2001, is an important step forward, but we believe there are a number of outstanding concerns with the legislation, and I'm really here today to ask that the legislation be amended and for the plan to address 10 points, which I will address in a moment.

I should say that Toronto city council has had an ongoing commitment, an interest in protecting the long-term health of the Oak Ridges moraine. For a number of years, we have been developing a wet weather flow management master plan, which is easier to do than to say. It will identify storm water management strategies on a watershed basis for six watersheds and the Lake Ontario waterfront. We're doing that in part because of a direction from the province of Ontario in 1994 and 1995.

The city has also recognized that protecting the moraine means that growth needs to be directed away from it, including into the city of Toronto. The city recognizes that there should be a regional growth management strategy for the GTA region and is prepared to participate in developing such a strategy. The city is undertaking a study entitled City and Regional Strategies for Growth that Protect Countryside and Air Quality to examine development patterns and hopefully thereby protect valuable countryside such as the moraine and reduce greenhouse gas emissions and air pollution by ensuring a better pattern of development.

The 10 points that I'd like to address today are as follows:

The first is to create a commission or oversight agency for administering and protecting the ORM plan. We believe that having an arm's-length commission with resources and expertise would provide a transparent, accountable body to oversee implementation of the plan. One example could be extending the mandate of the Niagara Escarpment Commission, at least in a short-term way, to do this in a cost-effective way to ensure there was appropriate oversight.

The second very important issue is to limit the excessive powers of the minister. City council has noted on a number of occasions this is a serious weakness in the act. We would request subsection 3(1) be amended so that the minister must establish a plan for the entire moraine. We request that subsections 3(3) and clause 23(1)(c) of the legislation be deleted. They allow the minister to revoke the plan by regulation. We think that's

inappropriate, and given the effort that's been put forward in crafting this legislation, undermines the sense of trust in the legislation. If revocation is sought, it should be done as a legislative process.

We would request that subsection 14(2) be deleted so that the minister's orders under section 47 of the Planning Act conform to the Oak Ridges moraine conservation plan or the relevant official plan. We would request that clause 23(1)(b) of the legislation and that the clause 4(i) objective be deleted so that new objectives to the plan may not be made by the minister acting alone.

The third point is to request that new objectives be added that are consistent with preservation; for example, to add an objective to encourage the creation of public parks, which is consistent with the proposal of 12% publicly owned land in the Share Your Vision document. An objective should be added to protect built and cultural heritage, which is lacking at the moment.

The fourth is that no new mineral aggregate operations and wayside pits or no new expansion of these operations in natural core areas should be considered under the 10-year review. It's the city's view that municipal official plan policies should be allowed to be more restrictive than those of the ORM plan for agricultural and mineral aggregate operations, which I think is consistent with one of the points made by the region of York.

The second is that the minimum width of 1.25 kilometres of natural linkage area proposed to remain outside mineral aggregate operations should be subject to review, and any expansion of operations should minimize edge effects to existing natural features.

The fifth point is the city would view that the legislation should prohibit the construction of new roads in natural core areas.

The sixth point is that we should ensure that any review or amendment receive full public scrutiny. This goes back to the power of the minister to do a lot by regulation. Regulation is a very private process, and it's important, given the huge public interest in this issue, that things be done in a public way.

The seventh is that the province ensure that applications in the transition conform to the plan. Our suggestion is that section 5.2 of the plan be amended such that development applications commenced before November 17, 2001, but not decided upon, so there's no final decision, will be required to conform to the plan.

The eighth is to revise the mapping of the natural features. We would request that the mapping be amended such that all kettle lakes, kettle wetlands and other significant natural features are designated as natural core areas or natural linkage areas, even where they're in settlement areas. Those kinds of features are under a lot of pressure in settlement areas.

The ninth is a request that the province should approve the moraine water management plans, and this should be done by amending section 3.3 of the plan to require completed watershed plans, water budgets and water conservation plans to be reviewed and approved by the Ministry of the Environment or other provincial body

that has the expertise to ensure that they meet the goals and objectives of the plan.

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The last point is to maintain natural core and linkage area boundaries. We would request that subsection 3(5) of the legislation be amended such that the 10-year review shall not consider changing the specifically designated boundaries as well as the total area of natural core areas or natural linkage areas unless that change adds to the existing natural core and natural linkage areas.

Those are our comments.

**The Chair:** Your timing was exquisite.

**Mr David Miller:** Thank you, Mr Chair. Can I quote you?

**The Chair:** Thank you very much for coming before us here this evening. We appreciate your comments.

**Mr David Miller:** A pleasure.

**Mr Gregory S. Sorbara (Vaughan-King-Aurora):** Mr Chairman, on a point of order: I'm just wondering whether the proponents this evening have been advised of the time restrictions that the government has placed on further consideration of this bill, that is, that no amendments will be allowed to be presented on the bill after 9:30 tomorrow morning.

**Mr Colle:** It's 8:30.

**The Chair:** It's actually 8:30.

**Mr Sorbara:** After 8:30 in the morning?

**The Chair:** And, yes, Ms Churley has twice gone into considerable detail in outlining the—

**Ms Churley:** He wasn't here.

**Mr Sorbara:** But have individual proponents been advised of this fact and that there will be three hours' further consideration of this bill before it's ordered for third reading?

**The Chair:** Not specifically. They are instructed—

**Mr David Miller:** I was told to get up here so we could have things fixed, but I'm not sure—I personally wasn't aware of what you're saying, Mr Sorbara.

**Mr Sorbara:** I'm actually asking a point of order question, a very technical question, whether the proponents—

**The Chair:** And I've answered it. No, they're not.

**Mr Sorbara:** Proponents were not advised that this bill had been time-allocated and that no further amendments would be allowed on the bill after 8:30 tomorrow morning?

**The Chair:** For the third time, no.

**Mr Sorbara:** Can I ask—

**The Chair:** We're now cutting into the speaking time of other groups. If you want to make a point that is best left for clause-by-clause, Mr Sorbara, might I suggest that won't interfere with the very submissions that I am assuming you actually want to hear.

**Ms Churley:** I have another point, and it's a point of order. I think it's incumbent on all of us to thank Mr Miller and the city of Toronto for their contribution to the plan that's before us today. They put considerable dollars into it and resources as well and played a huge part in developing the bill. So I think for the record, all of us

would agree that the city of Toronto and David Miller should be thanked for their contributions—

**The Chair:** I think Speaker Carr would say that's not a point of order, but it is certainly appropriate to always say thank you. And so through Councillor Miller, we do appreciate the support Toronto has given to this worthy cause.

**Mr David Miller:** Thank you, Mr Gilchrist.

#### SAVE THE ROUGE VALLEY SYSTEM

**The Chair:** Our next presentation will be from the Richmond Hill Naturalists.

**Mr Glenn De Baeremaeker:** Mr Chair, Richmond Hill Naturalists and Save the Rouge Valley System are asking if we can reverse our order.

**The Chair:** That would be fine. In that case, we will move to the Save the Rouge Valley System Inc. Good evening. Welcome to the committee.

**Mr De Baeremaeker:** Thank you, Mr Chair, and members of the committee. We have a brief, and it is being handed out. We will refer to the maps during our presentation.

First of all, I would like to thank the members of the committee for spending a Wednesday night looking after the province's business instead of being out Christmas shopping and helping the economy.

Save the Rouge is here tonight to congratulate the government, to say that we support the spirit, the intent and the direction of the legislation. We see this as a significant victory for the people of southern Ontario, and we would like to congratulate the government for moving forward on protection of the Oak Ridges moraine, on what we consider to be one of the most significant natural land forms in the south-central part of this province.

When you look to the north, the provincial government did act on its Living Legacy program and Lands for Life, put forward some stunning, stunning improvements in terms of land use protection in terms of creating five million acres of parkland. And certainly our organization looks at the Oak Ridges moraine act as an extension and a continuation of the Living Legacy program that was started by Premier Harris. And certainly the park in Richmond Hill we are referring to locally as the Premier's park, so again we would like the government to know that our organization—and I'm sure if you've read some of the papers and listened to the radio—has been a very vocal critic of what we believe to be inappropriate development of the Oak Ridges moraine. We think this act goes a long, long way to addressing many of the concerns that we have had and people in southern Ontario have.

I'd like to point out to you—of course, I'm sure you know that when you look at your core natural areas that you're designating in this legislation and your wildlife migration corridors, which often consist of cornfields and farmers' fields filled with soybeans connecting the natural areas—that you're permanently protecting

roughly 300,000 acres of land with this legislation. When this legislation is passed—we think tomorrow if my information's correct—300,000 acres of land are instantly protected forever, entrusted to future generations, hopefully as a legacy that we'll leave to them, and we congratulate you for that.

Another thing that we are very happy about is the countryside designation. The legislation will protect roughly 150,000 acres of land as countryside. There is a 10-year review clause that we would suppose we'd rather not have there, but the reality of the situation is that for the next 10 years developers cannot even walk into the municipalities with a development application on some 150,000 acres of farmers' fields and farmland in south-central Ontario and, again, we think that merits your support as this legislation comes forward.

We'd like to note as well that as taxpayers we don't take lightly, as I'm sure you don't, the spending of taxpayers' money for things that it shouldn't be spent on. We'd like to congratulate the government for putting some money where its mouth is in terms of protecting the Oak Ridges moraine. Minister Hodgson announced the initial instalment of a \$15-million cash contribution to a land trust that will help secure some of the most sensitive areas across the Oak Ridges moraine, and we support that. I'm here tonight to guarantee to the government, and to all the members of the Legislature, that our organization guarantees our assistance to go out to other municipalities and to other levels of government to make sure they match your financial contributions. The advisory panel gave a total figure of approximately \$250 million that I guess they asked from the provincial government, over time, to help secure these lands. I'd like to guarantee to you, as members of the Legislature, that our non-profit, volunteer organization will be out there knocking on doors in Ottawa and at York region and at local municipalities to make sure that other governments match the funds that you're putting in.

Third, again I would like to highlight some good news in the announcements, certainly from our perspective. I'll refer to the two maps again—I'll get to those in a minute—but there's a pinch point across the Oak Ridges moraine. Some people call it the buckle; some people call it a pinch point. When you look at the 160-kilometre-long Oak Ridges moraine, roughly in the middle you've got, in a sense, a Berlin Wall of urban development—the “Yonge Street spine” as many people have referred to it in the past. This would have cut the Oak Ridges moraine in half and when we've talked to all the wildlife experts, who talk about continental-wide systems of protection to make sure the ecological health of our environment sustains itself in perpetuity, they talk about these wildlife migration corridors and these corridors that allow genetic material to flow north and south.

One of the things that I have found interesting as a layperson—I'm not a biologist; I got my degree in economics—is that even trees migrate. I used to think, yeah, I guess when those little keys fall off my maple tree, they may only go 20 feet but over a few hundred

years that genetic pool is moving north and moving south across our continent.

This legislation, combined with the Living Legacy program in northern Ontario, provides that framework for a continental-wide migration corridor. The park that the provincial government is in the process of creating in Richmond Hill, of approximately 1,000 acres, goes a long way to ensuring that the umbilical cord that exists between the east and west halves of the moraine will not be severed and that, I submit to you, is a very crucial thing. I congratulate the government for swapping lands so that these lands can come into public ownership and be permanently protected. Again, we'd like to suggest to the government that it be referred to as the Premier's park as a fitting legacy to what the government is doing on the Oak Ridges moraine.

Finally, we'd like to say that something that's often overlooked. One of the things that we environmentalists have been pleading with the government to do is to step in and have a coordinated plan across southern Ontario. We don't like the piecemeal, spot-rezoning approach to planning that has happened in the past, and when you look at the entire piece of legislation, in essence it is creating a coordinated plan for southern Ontario. Again, it's something we'd like to congratulate the government for and to let you know that we support that. We hope you'll give it your support, of course, when it comes into the Legislature.

Is your legislation perfect? No, it is not. Are there blemishes or imperfections? Yes, there are. Certainly, when I look at my own life, I don't lead a perfect life—I've even gotten 90% on some of my exams, but I never get it quite right. So we would like to give you some recommendations in terms of how we think that you could better the legislation; how you could refine the legislation to maximize the ecological health of the Oak Ridges moraine and make sure the legacy that you leave behind for future generations is one that we'll all be proud of.

#### 2020

First of all—and again, I'm going to refer to the maps now—in terms of Richmond Hill Park, when Minister Hodgson made his announcement he made a great announcement that said, “We have wildlife migration corridors across the entire length of the Oak Ridges moraine,” and if you look at this general map, it's very obvious to any layperson looking at it you've got big swaths of green as core areas and you've got big swaths of yellow as migration corridors. It's a very healthy system across the entire Oak Ridges moraine until you get to Richmond Hill, which has been urbanized.

There's nothing we can do to change the past, but the intent here, when you look across the whole moraine, is to make sure there's a healthy wildlife migration corridor. The spirit and the intent of the legislation, with its two-kilometre-wide migration corridor, has not been achieved in Richmond Hill, and we think it could. The reason it hasn't been achieved is because through a negotiated settlement some of the farmers' fields that are

there today, and some of the natural areas, have been designated as urban settlement areas. We would encourage the government, through its legislation tomorrow or as we refine the process over the next year, to secure these areas in Richmond Hill. You can see them on this one-page, 8½ by 11 map: the yellow, as you can see, and the green are the natural areas that your government is protecting. The brown areas have been designated urban settlement areas, and these areas right now are farmers' fields, natural areas, wetlands, aquifers and things like that. Our suggestion to the government is to designate these areas as a wildlife migration corridor and natural area. That would make it consistent with the rest of your plan.

If you look at the top right-hand corner where it says 404, you can see a large swath of wildlife corridor. If you look to the left of the map by Bathurst, you can see a large swath of yellow. It really does get tight in Richmond Hill and if this is going to be your legacy you don't want to invest taxpayers' money creating a 1,000-acre park that collapses because it isn't large enough to sustain the wildlife that we all want to protect. Our submission to you as a committee is that the park as it is now is spectacular, but it is not large enough in the long term to sustain the ecological processes that we all want to protect.

Second of all, we would ask you to make sure—it's under, I think, section 5.2 and section 15—that the new laws that you're creating, the new legislation that you're putting forward which we support, applies to all development applications, even ones that were approved 15 years ago. I draw a parallel to say, well, from now on, as of this day, you must have handicapped parking, but if you got your approval two years ago you don't have to have handicapped parking; or saying to people, from now on you have to have an improved fire code to make sure your buildings are safe for people to live in, but if you got your approval five or 10 years ago, before we improved the standards, you don't have to build fire-safe buildings. We always update things to community standards to make sure that we actually do have handicapped spaces, to make sure we do have a safe building code, fire code, plumbing code. So we look at the applications that we know are approved in some areas of the moraine and they're approved on old-growth forests, and some of these forests will be cut down because 30 years ago somebody just conceptually drew a square box and said, "All that's going to be urban." The legislation right now doesn't catch some of those applications, and we would urge you to change those sections to make sure the legislation applies to all applications. Again, we can't change the past, but we can influence the future.

The third thing we'd like you to consider is the countryside areas. There is a review clause that says the legislation will be reviewed in 10 years, and we support a 10-year review conceptually. It is good, like all of us, to review our financial plans, to review our environmental protection plans, but we'd like to make sure, as Minister Hodgson did. He said to us specifically he made sure that

the natural areas and the wildlife corridors could not be reduced in the 10-year review. We would ask you to change section 3 of the legislation so that the countryside areas cannot be reduced in 10 years from now, because we think what your government is doing is creating a footprint, and a blueprint, for the entire southern Ontario in terms of how we grow in the future and how our children and grandchildren will grow. We don't want to be fighting the same fights: they haven't been fun; they haven't been pleasant; they all have us here in the evening instead of going out Christmas shopping. We would ask you to close that section so we know that the agricultural lands across the moraine are protected and all of us don't have to come here in 10 years—again, missing our Christmas shopping—to talk about a 10-year review.

Finally, we would ask you to amend section 2.2 to say no new roads should be allowed in natural core areas. As an organization, I think it would have been very tempting for us to say to you, no roads through natural areas or wildlife corridors. But when you look at the map there's green and yellow across the whole map, and perhaps as much as I might love it, that would probably mean no new roads would ever be built in this part of southern Ontario because they would have to bisect these yellow or green areas. What we are asking you as a committee to do, however, is to look at your core natural areas, your most magnificent forests, your provincially significant wetlands, and say, no new roads in the most pristine and important and natural areas of this whole land use area. Unfortunately, that's the case we have with Jefferson forest. It's a magnificent old-growth forest, a designated ANSI, probably one of the most spectacular forests on the entire Oak Ridges moraine, and we have a road today being built through it.

We would ask you to avoid these mistakes in the future by saying to all the municipalities and to the regions and to the urban planners, "Build your roads but don't build them through the middle of a forest and don't build them through the middle of a wetland." Unfortunately, that's the status quo we see today.

Those are our submissions. Again, I would like to say that from my perspective looking at the Oak Ridges moraine, if it wasn't for this legislation and if it wasn't for the elimination of the estate housing in a lot of these areas, we would have seen housing spreading across the Oak Ridges moraine like chickenpox. This area would have been urbanized within our lifetimes. Everybody at this table would have seen this entire land form urbanized. The headwaters of 65 rivers in south-central Ontario would have been paved over and it would have been a catastrophe.

So I would like to congratulate the government for moving forward with this legislation, for putting forward some very strong legislation that I suppose some parts of the development community will be very upset with you about but that I'm sure the people across the 905 belt and the people in southern Ontario will be very happy with.

Those are our submissions and again we would like to say thank you very much for your initiatives. We look forward to working with you to raise money to buy even more natural areas.

**The Chair:** Mr De Baeremaeker, thank you very much. You have used the full 15 minutes. Before Ms Churley jumps in on a point of order, I think it's as fitting to thank your group, as the folks who were the recipients of the funds from the city of Toronto, for everything you've done up there and for your comments before us here this evening, and to thank Mr MacKenzie as well and all of your colleagues.

**Ms Mushinski:** I'd echo that. Mr De Baeremaeker has worked very hard for many years to protect the environment. You are to be congratulated for your part.

**Mr De Baeremaeker:** John's from Scarborough East and I'm from Scarborough West. The Rouge park was started down in Scarborough East, so I'd like to think we have sort of started a little momentum going north up to the moraine. Thank you very much.

**Ms Mushinski:** You certainly did.

**The Chair:** So watch out, Mr Miller. Thank you again.

#### RICHMOND HILL NATURALISTS

**The Chair:** Our next presentation will be from the Richmond Hill Naturalists. Good evening, Ms Helferty.

**Ms Natalie Helferty:** I'm Natalie Helferty. I'm the first vice-president of the Richmond Hill Naturalists. Thank you for allowing me to speak this evening. I'm just going to follow a little bit of what Save the Rouge has presented as far as the Richmond Hill corridor mapping, and what you have in front of you I'm going to use as the basis of my presentation.

One thing about the legislation I've noticed is that if you read section 18, which deals with Ontario Municipal Board matters, it pretty well is the justification for the land swap that has occurred. This whole section, in my opinion, should be removed or revised so that the Ontario Municipal Board hearing that has commenced—and elsewhere in Uxbridge—that was frozen during the freeze is reworked so that the Ontario Municipal Board has to apply its decisions based on the Oak Ridges Moraine Conservation Act. This section allows the minister to produce, by order, any zoning bylaw or official plan amendment, and that's why we are having the rest of the rural lands in Richmond Hill pretty well go urban in one shot. That includes all the brown areas numbered 1 to 7.

I was quite concerned actually that area 7, which falls outside of the Yonge east and Yonge west lands, was given urban status—overnight it seemed—at the Ontario Municipal Board hearing. I'm not sure who had the discussions, but Richmond Hill Naturalists, as a participant in the hearing, was never informed, never asked to provide submissions to this land swap deal.

#### 2030

Number 7 is the Gormley area. As you see, there's a bit of urban industrial land use in that area. Number 7 currently is rurally zoned. We think it's very inappropriate that urban settlement be allowed there through the section 18 provision. Right now we are left, as Glenn De Baeremaeker pointed out, with a very narrow corridor across the Oak Ridges moraine.

I am an ecologist, and I actually was an expert witness at the Ontario Municipal Board hearing for Save the Rouge, but I'm here on behalf of the Richmond Hill Naturalists because Richmond Hill had been fighting for this area for two years prior to the hearing, through local municipal zoning changes that were proposed through official plan amendment number 200 and through the Richmond Hill corridor study prior to that, which was back in 1997, I believe. We have opposed that small corridor proposal and we were lucky enough that through the Ontario Municipal Board process we got Save the Rouge to come up and sort of save the day for us in Richmond Hill by their presentations as a party at the hearing. As a volunteer group, we do not have the resources or the funding to participate in an OMB process.

As a biologist, I want to let you know another thing about why this area in Richmond Hill is so important and why section 18 should not apply, that it has to be removed or reworked. The reason is because this is also the last east-west connection across all of southern Ontario. I personally went up last week. Looking at a regular road map, you can see that Yonge Street has developed all the way up to the north part of Lake Simcoe. The two pinch points that I examined by road—I drove around all day—that I thought potentially could be alternative migration corridors connecting up north-eastern Ontario, eastern Ontario to southwestern Ontario were just south of Cook's Bay, which is Lake Simcoe. I found out that whole area is the prime agricultural area for Ontario. It has the Holland Marsh farms through there. It also has Bradford, which is expanding at a rapid rate northward. So there is maybe one isolated reserve there but there is no opportunity for migration through there. The development has already reached the point that there is no opportunity left there.

The second area I visited was the small, narrow junction between the Severn River at the north end of Lake Couchiching. I went through all of the subdivision roads through there. It's mainly large-lot rural estates, cottages, subdivisions. It would be like an obstacle course to try to get through there. I realized that Richmond Hill, in essence the moraine, is the last east-west connection for any movement for wildlife. As Mr De Baeremaeker said, this is the genetic heritage, the natural heritage of southern Ontario. If we do not protect this last east-west link, that's it: there is nothing left.

One thing about urban development that came forward through the moraine hearing just before it froze was the submission by Save the Rouge team members. This was concerning the indirect impacts of urban development next to natural features. This has not been addressed in

this legislation whatsoever. We have monitored the OPA 129 lands, which is the build-out of Oak Ridges around Lake Wilcox. We have noticed that as soon as development goes in, and high-density subdivision planning, there is a total loss of some species and a very severe decline in other species that are using any remaining habitat in those areas. The buffers need to be very large in order to buffer against urban land use.

I really urge this committee to remove or revoke section 18. Matters appealed to the Ontario Municipal Board should fall under the conservation plan, period. There is no reason and no justification to have this sort of wording in unless it's going to actually improve and protect the planning all across the Oak Ridges moraine. Right now this section is actually very detrimental to southern Ontario's natural heritage system.

That's my only submission. The rest is covered under Save the Rouge's submission.

**The Chair:** Thank you very much. That affords us lots of time for questions, about two and a third minutes per caucus. This time we'll start with Mr Colle.

**Mr Colle:** I know Save the Rouge isn't concerned about the fact that this bill can be revoked at any minute by any minister. Are you comfortable with that being in the bill? Do you agree with Save the Rouge that this bill can include that and still be permanent?

**Ms Helferty:** The other thing I was a little concerned about was—it depends on how you read it—sections 18 and 19. It says that the matters can be repealed by the Lieutenant Governor, which means that where they're allowing Ontario Municipal Board sort of loopholes, it will be repealed.

**Mr Colle:** So the ability to repeal and revoke concerns you? It doesn't?

**Ms Helferty:** Which section are you referring to?

**Mr Colle:** Section 3 and section 21, I think. I'll check that. There are two sections which have specific powers of the minister to repeal this act by regulation.

**Ms Helferty:** I would say that you'd need to have an additional clause that says only improvements to the conservation act should be allowed, that you're not allowing the repealing of the act to get rid of it or to degrade the act. So there needs to be an additional clause so that you can use the wording "enhance" if you want within the legislation, to "improve" or "enhance" it.

**Mr Colle:** Sorry I'm rushing you, Natalie. The other thing is you made a very important point here again. It's this mystery land swap that took place by the minister's maps where all of a sudden the Gormley lands, which are abutting that natural core area, with the tightness of the Richmond Hill corridor—how many acres are there?—all showed up as settlement area. Did you ever see this marked as settlement area before?

**Ms Helferty:** No, never. The settlement areas that showed here looked to be some industrial lands. There is a very small area that has a couple of streets around Gormley, but the rest is rural and it looks to me like through section 18, which is dealing with Ontario Municipal Board matters, that Yonge east-Yonge west

was approved. I don't know personally where number 7, Gormley, fits in under this act. I can't figure that out, how the minister is allowing this up-zoning without any participation by the residents. For me, it doesn't fall under this act anywhere. I'm not sure where it fits in.

**Mr Colle:** Yes, that's the mystery.

**Interjection:** The backroom.

**Mr Colle:** The Gormley backroom mystery, where it came from.

**Ms Churley:** That's the backroom deals that are going on, that we all know about.

I really appreciated your insight into this from your position. You're a biologist?

**Ms Helferty:** Yes.

**Ms Churley:** You made some very interesting comments about why it's so important that we need to protect this area, because lots of times I think we forget why we're having this conversation and it's good to be reminded.

You didn't have a lot of time. I think I have more concerns about the bill than you talked about. Some of the other groups before us today—Save the Oak Ridges Moraine Coalition, the Federation of Ontario Naturalists and others—pointed out concerns. I personally believe that if they're not fixed, we're going to have more problems. We're busy congratulating the government now but these are major holes and major problems in the bill we're trying to fix. I just want to know if you're aware of the situation we're in here where the bill's been time-allocated. We finish off this evening. All you people are here giving us these great recommendations but there's very little opportunity, if any, really, to make any changes. What are your concerns if none of those changes are made that have been brought forward vis-à-vis the very important issues that you talked about and are needed to save this area?

2040

**Ms Helferty:** I'd say it's a big mistake if the revisions aren't made and Richmond Hill in particular is not protected. Then you've pretty well severed off any linkage across southern Ontario. That's the fact of the matter. We know urban development will severely impact the remaining lands, even with the land swap deal to protect part of those lands.

Another point I should point out is that some of these lands, although they're considered urban, still have significant features. They're still in the catchment basins of wetlands, they're still in the catchment basins of Lake Wilcox. This whole area, even with all these brown development areas, shouldn't be considered urban settlement. They should fall under the Oak Ridges moraine plan. If they're not, then you're taking a huge risk that this area is not going to function appropriately.

I should mention that I'm an amphibian biologist and some of these areas are still used as migration corridors for very sensitive amphibian species. That hasn't been addressed. I just don't have the time to go through all that.

**Mr Norm Miller:** Thank you for coming here this evening. Just a couple of questions: we had an earlier group, the home builders' group, say—and I think Ms Churley raised this—that you've got to be for either intensification or against expansion—I'm getting that wrong.

**Ms Mushinski:** You can't be for both sprawl and intensification.

**Mr Norm Miller:** You have to be either for intensification and not against expansion, or one or the other, because there are more people coming to the area all the time. So obviously you have to make that choice. They respond to the demand that's there. How do you feel about intensification, I guess?

**Ms Helferty:** Richmond Hill Naturalists has never ever gone against development in our own town. I've been living there for over 20 years. I've been with the Richmond Hill Naturalists since 1997. We've never, within the huge boom time of this town, gone against development applications. I think Richmond Hill has taken its fair share of development already. It's now 160,000 people in a very small area. We've already expanded as much as the limits of the capacity of this town will allow. The whole area that's left south, the pale brown areas on this Leslie Street area up to the 404, there are still open areas that are still going to be developed. We're asking for the most sensitive lands on the moraine. The namesake for the moraine came from the town of Oak Ridges, and this is because of the high quality, the high density and the very unique features of the moraine here in Richmond Hill. As the naturalists club, we have every right to ask for the most protected area, the last east-west link, to be protected across the moraine.

**Mr Norm Miller:** On that east-west link, you mentioned you were up by the Severn River area. That happens to be the south end of my riding. I happen to fly an airplane quite a bit. Certainly north of the Severn River it's quite sparsely located and there's hardly any settlement at all. Are you speaking south of the Severn River?

**Ms Helferty:** How do they get across the Severn River and the canal?

**Mr Norm Miller:** I'm just asking for information. Are you speaking south of the Severn River or—

**Ms Helferty:** South. Think of amphibians. They can't get across the river, they can't get across the canal system unless they have a bridge, right? They have to move terrestrially. There are huge obstacles for any movement. You're talking about very small critters that need to move. They have moved into those areas because there was no impasse in the past. We had forested areas that were continuous. We had wetland areas that were continuous. We haven't got that any more. We need to provide for these species across southern Ontario or else that's it; we might as well just write off any species protection act because we're just going to genetically cause them to disappear eventually. They need to move, they need to be able to expand through evolutionary time scales.

We're not thinking long enough. We're not thinking big enough. That's what we want to see in Richmond Hill. We've dubbed this the Noah project, connecting up the Niagara Escarpment to the Oak Ridges moraine to the Algonquin-to-Adirondack corridor into a heritage system. That's what we'd like to see for southern Ontario.

**The Chair:** Thank you very much for coming before us here tonight.

#### JEFFERSON FOREST RESIDENTS ASSOCIATION

**The Chair:** Our next presentation will be from the Jefferson Forest Residents Association. Good evening. Welcome to the committee.

**Mr Heath Whiteley:** Good evening, Mr Chair and members of the committee. My name is Heath Whiteley. I'm a director of the Jefferson Forest Residents Association, and I am joined by fellow director Carrie Hoffelner.

I've allocated our presentation into three components: the first describing who the Jefferson forest association is, then how we got here today, and our comments on the draft legislation.

The Jefferson Forest Residents Association was formed in April 2000 to obtain party status at the Richmond Hill OMB hearings and to be a voice for existing residents and provide that perspective to the OMB. We have approximately 75 members living on approximately 50 properties in and around the Jefferson forest. This is located around Bayview Avenue and Stouffville Road in north Richmond Hill, and it's designated as a natural core area under the map as presently drafted.

All of our members have private wells which they rely on for their household water supply. Our members own in excess of 40 acres within the Jefferson forest. These properties are largely maintained in a natural forested state. In some cases, in excess of 95% of a particular member's property is in a forested state. We have one member who has resided there since 1936, and others who have been there since the 1950s and 1960s.

As I stated earlier, we were formed as it was a necessary requirement to obtain party status at the Richmond Hill OMB hearings. These hearings began in May 2000. At that time there had been several public statements made by members of the government to the effect that the OMB was the appropriate process for the determination of the Yonge east and Yonge west development requests, requests seeking approval for the construction of around 8,000 to 10,000 homes. They also stated that the municipalities and other stakeholders had sufficient tools to respond to these requests in that forum. It's our view that clearly the tools were inadequate. As a result of the inadequacy of the tools and the fact that around 2,000 people attended a Richmond Hill council meeting in February 2000 and there were requests made directly by the town of Richmond Hill and the region of York for intervention by the province, the province



decided to implement a freeze on the moraine in May 2001.

We believe that the deficiencies of the OMB and its process were magnified by this particular hearing. As I said, there were requests to build up to 10,000 homes. If we allocate \$100 for each house, that provided developers with \$1 million to spend on the process, whereas municipalities and, more importantly, groups like ourselves had little or no resources, and what resources we were able to obtain were after-tax dollars and not something that we could offset against any operating income the way developers can.

So clearly, the OMB process was not the appropriate forum for determination of that particular request. As a result, the government saw the light, implemented the freeze, and for a time there was much rejoicing as this stayed the OMB hearings. Also, it was our members' expectations and other members of the public's expectation that this would place the Bayview extension on hold.

We then saw the constitution of an advisory panel. Our association participated in the stakeholders daytime session as well as the evening session in Vaughan. These were meaningful public hearings. That panel submitted its recommendations that, to some extent, formed the basis of this legislation.

Finally, on November 1, we had the announcement of this draft legislation. Again, much rejoicing. The rejoicing was short-lived once we had the opportunity to read the legislation itself and, more importantly, saw the continued construction of the Bayview extension.

#### 2050

That brings me to the third component, which is our comments on the draft legislation. You've heard many comments from other groups, some of which we support, in particular the deficiencies noted by STORM and FON and the Richmond Hill naturalists. I'd like to comment on three main areas. The first is the Bayview extension.

It's our view that this is the most glaring weakness of this legislation—that is, the exclusion of the Bayview extension from the application of this act. The Bayview extension should be stopped immediately as, at a minimum, it contravenes the spirit of this legislation. As you've heard, it will sever the Jefferson forest in two. Then this road should be assessed as against the criteria in the draft plan. As we see in the plan, any roads that are to be constructed through a natural core area are to be justified as against very demanding criteria.

The Bayview extension was assessed and approved years ago on the basis that there would be housing development adjacent to it and around it that required additional access roads other than what existed at Yonge and Leslie. Under the map as presently drawn, that's not the case. There are going to be essentially no houses near Bayview between Stouffville Road and Bethesda Road—essentially, a concession lot. So what will Bayview become, other than a speedway for motorists to travel south and north, as opposed to going along Yonge or Leslie? We don't think that's good planning. We should be directing the traffic and people to what should occur

as on Yonge Street, and have sufficient public transit on that to encourage people to take that form of transportation. Also, it's going to cost \$13 million. We feel that \$13 million could be better spent elsewhere.

We've heard it said that if the criteria can't be met, be it in education or what have you, then the applicants or the people subject to the criteria should simply work harder to meet that criteria.

It's not like it's unprecedented for a major road like Bayview to end. We have Leslie ending at Steeles. It doesn't go through the German Mills conservation areas. We think that Bayview, too, should end at Stouffville and not push through the Jefferson forest.

We do have some photos that we can pass around to show you so you can appreciate what has taken place there. It has been described as a mature forest. There are trees that are in excess of 100 years old, in excess of 60, 70, 80 feet tall. Once you see the clearing that has occurred, the first thing that strikes one is the white sand that's there. None of the sand has been brought in. It's part of the moraine and it's what provides it with the ability to filter the water that all of our members rely upon for their household supply.

The second comment on the draft legislation relates to the land swap that took place. As I stated, we were a party to the OMB hearing. We did have the opportunity to meet with Mr Crombie in early October. We're not aware of the details of this land swap, despite our requests to be so informed and despite the announcement by Minister Hodgson that this swap had been agreed to by the various parties to the OMB hearings. We believe that the land swap mechanism should be included in the legislation so it can be demonstrated to the public that it's appropriate in the circumstances. More importantly, should a land swap be necessary or warranted in the future, to further the intent of the legislation, there should be this standard by which lands can be swapped.

It also appears now that this land swap has resulted in the redesignation of 600 hectares of land west of Leslie between Stouffville and Bethesda from countryside to settlement. That too is a concern to us as that borders upon the Jefferson forest.

The third component is the lack of meaningful public hearings. We don't know how the government has come to see fit to allocate three hours of time this evening for selected stakeholders to speak, at a time when the legislation has apparently already been determined.

We are displeased at the exclusion of two individuals in particular: Josh Matlow of Earthroots, who has been a tireless worker and I think would have been able to passionately articulate some of the issues for both of our benefit, and also Wynn Walters of Uxbridge. I think he too would have provided tremendous insight to this committee with his eloquent articulation of some of the issues, which he has done on many occasions before. I would urge this committee to recommend meaningful public hearings so that you and your colleagues can have the benefit of their insight and wisdom.

I do, however, thank you on behalf of our association for the opportunity to speak this evening. I hope that you and your colleagues will give serious consideration to the many meritorious comments made tonight and halt the expedited passage of this draft legislation.

I have brought with me our comments that we submitted. I was told that we should bring along 20, so I have a slightly more than that. I can provide that to you and leave that for your consideration.

**The Vice-Chair:** Great. That allows us three minutes for questions. It's the NDP's turn.

**Ms Churley:** Thank you very much.

**Ms Mushinski:** That's the second time she's had three minutes.

**Ms Churley:** I know. I'm doing well tonight, but to what end?

Thank you very much for your presentation. Every time I hear about that huge meeting in Richmond Hill that I missed because I was sick—I remember a Tory brought it up—I'm so regretful that I didn't make it. It sounds like it was quite a meeting, and I want to thank you for the work that you've done to get us where we are tonight.

I have a lot of questions but there's a short time. I wanted to speak to you specifically about the Bayview extension. We were just given a press release from York region saying that there was a lot of misinformation about that. They say in their press release that the Ministry of the Environment approved the extension in 1998—well, we know that—but that it has passed every legal challenge. More importantly, it says that it doesn't conflict with legislation on the Oak Ridges moraine and it includes the creation of wetlands and all of these kinds of things.

I'm with you on this. I don't support the extension. There are a couple of things. The iron law of building new highways: we know now from studies that development comes when you extend or build a new highway. The other thing we know now is that it's wishful thinking, when we have gridlock and trouble with too much traffic and you extend or expand a highway, that it actually deals with the problem. Of course, the more urban sprawl we have, the more traffic we're going to have on those roads. It's backwards, old-style forms of planning, extending and building these new highways. I understand there are going to be two: an extension and a new highway that would be going through the Oak Ridges moraine.

**2100**

I guess I just wanted to say to you that your concerns are well noted. We have a short opportunity for some amendments tomorrow. It's not likely that any—I don't know for sure. I'm hoping that the government can be swayed tonight to listen to some of it. I just want to say to you that we're with you on this Bayview extension thing and we have an opportunity to continue fighting that. I don't know if you have any comments in any way.

**Mr Whiteley:** I'll ask the region of York to be provided with a copy of that media release. I don't think

we've been invisible and they haven't seen fit to share that with us in a more timely manner, so I can't respond directly other than to say that at the rally held a week ago, we had many of our members and supporters from other groups like Earthroots. Our members include professionals—be it doctors, lawyers, engineers, nurses, entrepreneurs, and just people all across the spectrum—and that rally, which was no secret, resulted in more than 30, 40 police, be they members of the special crowd control squad, and I just thought the response was disproportionate and inappropriate in the circumstances. If they had concerns, again, they should know who we are because we've been out in the public and they should feel free to contact us and inform us if we have been misinformed.

**Ms Churley:** Is my time up?

**The Chair:** Bang on. Thank you for coming before us here this evening. We appreciate it very much.

#### SIERRA CLUB

**The Chair:** Our next presentation will be from the Sierra Club. Welcome to the committee.

**Ms Trista Barber:** Good evening. My name is Trista Barber. I'm the vice-chair of the children's summer outing program for the Sierra Club. I'm speaking tonight on behalf of the Sierra Club.

The Sierra Club commends the government for making an attempt to protect the Oak Ridges moraine but is very concerned about the content of the legislation and the process through which it is being passed. The Sierra Club is outraged that the government is not holding true public hearings on the new moraine legislation. Tonight's hearing is a sham, because the public can speak here by invitation only.

If the government is truly proud of the new moraine legislation, they should have nothing to fear by allowing all of us to express our concerns. By curtailing legislative debate and public hearings, the government is suppressing any dissenting views about their act from coming to light.

The Sierra Club concludes that the government has no right to claim that they have held a public hearing on this legislation. Without public debate, we have virtually no chance to plug any of the massive loopholes found in the bill.

The moraine act is a temporary plan that can be thrown out or changed whenever the municipal affairs minister feels like it. In addition, these changes can be done behind closed doors, without public consultation. The legislation also allows the minister to alter the boundaries of the protected areas and it allows new gravel pits on protected areas. The Sierra Club does not call this democratic nor in the interests of protecting the environment.

The Sierra Club also objects to the land swaps that awarded moraine developers, who had not even received all their permits to build, and compensated them with thousands of acres of prime farmland in north Pickering.

This is a terrible precedent, to award speculators just because they lost their gamble that zoning laws would be changed to accommodate their gamble, making a fast buck. Now we as taxpayers will pay them to create more harmful suburban sprawl development in another location. This, to us, is a lose-lose situation.

The new moraine legislation also does nothing to stop suburban sprawl development in urban areas on and around the moraine, as was pointed out on our tour de sprawl on November 14.

Huge infrastructure projects, such as the Bayview extension and big water and sewer lines extending into King City on the moraine, will fuel suburban sprawl and the pollution impacts that threaten our environment. Passing this legislation through in complete contempt of all the moraine defenders and against the recommendations of the government's own advisory panel serves no one.

I'll direct any questions you guys have to Janet. I'm passing the buck.

**The Chair:** That affords just under four minutes per caucus for questions. We'll start with the government.

**Mr Norm Miller:** First of all, on your first point about public hearings, I can't help but think that if the government had time they'd love to drag this out for a few months because politically it's a positive thing for us to have as many public hearings as possible. But I think the other thing we're trying to do is get the bill passed. The reality is that we don't have a whole bunch of time before we leave for the winter, especially when the opposition parties keep moving adjournment of the House, so we waste hours and hours every night ringing bells around here. Having been here until midnight on Monday night, when two Liberals moved adjournment motions—it just wasted time on the passage of the waste diversion legislation. It forces us to do time allocation, because we aren't all working together to get these passed expeditiously.

I just have a general question for you. It sounds like you're against any form of development. From my perspective, I can't help but think that intensification of development makes sense because we don't sprawl the development everywhere. Obviously, there are more and more people coming to southern Ontario especially as time goes on. What's your solution for development for all those people who are coming here? My own personal feeling is that I like the European model, where you have reasonably tight nodes of population which then maintains the countryside and the natural areas.

**Ms Janet Pelley:** I'll take that question. I'm Janet Pelley. I'm chair of the conservation committee of the Toronto group of the Sierra Club. I'm glad to hear you make those statements about supporting denser growth. When Toronto was first formed, the city followed, as you said, the European model of transit-oriented development and it developed into a wonderful city. But somewhere after World War II, we forgot how to do that. Basically, we have Vienna surrounded by Los Angeles.

Toronto in the past has known how to grow smart and to create livable communities that don't contribute to pollution, as the sprawling suburbs do. We can do that again. We fully believe that the growth projected for the Toronto area can be accommodated within already built-up areas. We don't need new infrastructure like the Bayview extension. We don't need to extend the sewer line up into King City. This is all unnecessary. We can build better communities on a model that—you know, we know how to do this. We've done this in the past and we can do it again, and I'm glad to hear you bring that up.

**Ms Mushinski:** I'd just like to follow up on that a little bit. I was one of those suburban municipal councillors for 12 years when we were going through significant growth in Scarborough, and certainly there was an official plan that envisioned deconcentration into the suburbs so you could get some of the assessment growth to pay for transit lines which would take away the demand for more roads. This was within the Metropolitan Toronto area.

It seems to me that perhaps the biggest impediment to that is existing communities and the NIMBY syndrome. We've seen some examples just this last couple of weeks with a small development application along the Danforth for a group home, for example, or for more intensification along the Danforth.

I guess the problem for both local politicians, who of course are elected locally, and provincial politicians is trying to ameliorate or at least balance the local interests to the larger issue, which is of course how you deal with new growth, especially when it is beyond the control of the local municipality, the regional municipality and the province. I'm talking particularly about Toronto being the largest recipient of a very diverse population. I think that's great for the city, but at the same time it brings huge demands in terms of those newer communities wanting their own housing. How do you balance the needs of a new population like that with strengthening the vision that Sierra obviously has in terms of intensification within the urban core?

**Ms Pelley:** It's clear that you have to involve local communities in their growth. They have to come as partners to the table, with powers equal to those of other stakeholders. The problem we often run into is that the communities and the environmentalists don't have the powers at the table that the developers often do, so the process is skewed and you get adversarial situations. Really, the whole process needs to be changed. All parties need to have equal powers, an equal voice at the table in what their community is going to look like. I think if you do that you're going to get more co-operation and you'll have better communities as a result.

**2110**

**Mr Colle:** I want to commend Trista for her courage in saying what a lot of other people have not said tonight, that other people should have been given the right to make public deputations and have been deprived of that. Some of them have been named, and there are hundreds of others like Wynn Walters and Earthroots that have

been deprived of this right, say, Marianne Yake and so many people here, Nancy Hopkinson.

In essence, we are told by the government that there's no time. Well, this is a government that only sits 90 days a year. They're going to take off in about a week or so for another four or five months; we'll never see them. We've told them that we'll sit here right through Christmas, January. Come back in January, February—do you want to do that?—and get this thing done right. At least give the people who have been working on this for 10, 12 years the courtesy to comment and make their recommendations on the legislation to perhaps make it stronger.

What are we faced with tonight? You're going to be led to believe that your deputations will be listened to, that the bureaucrats and the PR people of the government will be working all night long at their computers, listening to your deputations, consulting with Mr Hodgson, consulting with Mr Harris, and coming up with their amendments. Frankly, folks, the amendments are already done. We're going to get a couple of easy ones probably to try and contain some of the damage, and then ours they'll all vote down. It is a sham in that regard.

That's too bad, because this legislation was done with the work of people like you and the thousands out there who did so much work. They deserve to be treated with courtesy and fairness. I'm glad you stated that, because more than the details of the legislation is the fact that the moraine belongs to all of you who've worked to protect it and to keep on protecting it. I'm so glad that you brought up the fact that there are so many loopholes in this bill that can be improved.

But I've said before that the reason they don't want public hearings is because they don't want you talking about these secret land swaps where developers have benefited with \$3 million or \$4 million in their back pocket. That's what they don't want you to know about. They don't want you to know about the Gormley lands that were given away. They don't want to let you know that Bayview is being bulldozed as we speak. They don't want you to know what's happening in King City, that that's going to be in essence wall-to-wall cookie-cutter homes because of this legislation. So they want to get it through.

For those of us who have been fighting for this the last number of years, who were told we were crazy for even talking about the Oak Ridges moraine by the people across here for the last three years, at least we've got to take the little we've got from them. It's unfinished business, but we'll take this little bit they've given us and we'll finish the job when they're gone. That's what I give you.

**Ms Churley:** Ms Barber, thank you for your presentation. It was tremendous. I just want you to know—

**Mr Chudleigh:** Remember what you said now.

**Mr Dunlop:** I'm assuming you're voting against the bill.

**Ms Churley:** I'm talking to Ms Barber here.

**Mr Colle:** We'll finish the job when you're gone.

**The Chair:** Order.

**Ms Churley:** Excuse me. I'm trying to have a conversation. I was congratulating Ms Barber for her comments and telling her that I started off as a community activist and environmentalist and ended up here. You may well some day. You did a very good presentation and spoke very well. It's really nice to have a young person like you here giving your views. I think for all of us it was refreshing, and I'm looking forward to watching your career as it advances.

You made some important points. I'm afraid that the Vice-Chair of the committee, Mr Norm Miller, got himself into a little trouble here—we were going along OK, without getting too partisan late in the evening—accusing the opposition and saying it's our fault this is happening so quickly. I must protest and get on the record that it was the Liberals and the NDP who, when the bill was first introduced, allowed it to go through that reading quickly so we'd get it out to public hearings and do all these things.

But now, here we have this bill before us. This is the time when all the flaws that are being pointed out need to be fixed, because otherwise we're going to have a flawed bill. Why not take a couple of extra weeks or months? Why not come back, even if it's for a day or two later on, to get it finished? But let's get it right now. What the government is doing here is losing an opportunity. They have been getting good press over this and there have been people here tonight congratulating them. But if this bill is passed in this form, things are going to start falling apart and then they're going to hear about that. So why not do it right and fix it now? That's what you're saying tonight.

I just wanted to speak quickly about the difficulty in our own ridings with intensification. There is a housing project in my riding, which Ms Mushinski referred to. Well, what I do is that I support it. It means that some of my constituents are mad at me and I go to these meetings and get yelled at. We thrash it out, and we deal with it together as a community. But if we really want to move forward on some of these things, we have to have politicians who understand the need to do this and work with the community. Some people will be mad at you, but that's what we have to do: we have to take a stand. To get affordable housing in our communities, we've got to take that stand and be firm about it.

That's all I have to say. Your presentation was excellent. Thank you.

**The Chair:** Thank you both for coming here this evening. We appreciate it.

#### CONSERVATION AUTHORITIES MORAINE COALITION

**The Chair:** Our next presentation will be from the Conservation Authorities Moraine Coalition. Welcome to the committee.

**Mr David Burnett:** Good evening, Mr Chairman and committee members. Thank you for letting me appear before you tonight.

My name is David Burnett. I'm a senior planner with the Toronto Region Conservation Authority. I am appearing before you here tonight on behalf of the Conservation Authorities Moraine Coalition.

The coalition was formed in early 2000 by nine conservation authorities with watersheds on the Oak Ridges moraine. Those conservation authorities include Credit Valley, Nottawasaga Valley, Toronto and Region, Lake Simcoe Region, Central Lake Ontario, Kawartha Conservation, Ganaraska Region, Otonabee, and the Lower Trent Region Conservation Authorities.

The mission of the coalition is to advance the science and understanding of the Oak Ridges moraine and to work toward government agency and community support for the conservation and protection of the form, functions and linkages of the Oak Ridges moraine. We've been active, in the year and a half since our existence, in a number of policy planning initiatives, very active with the three-region Oak Ridges moraine process, with the regions of Peel, York and Durham. As well, we are managing the groundwater management strategy on behalf of the three regions. That's been occurring for the last 18 months and is continuing to occur.

We believe that the coalition's broader geographic base has also allowed us to engage municipalities in eastern Ontario and the eastern portion of the moraine as well as the northern sections of the moraine in discussions of policy directions and scientific studies required to protect the Oak Ridges moraine. The coalition's broad geographic but local and science-based watershed management approaches bring a valuable and unique perspective to our comments and thoughts on the Oak Ridges moraine conservation plan and legislation.

First of all, we'd like to applaud the provincial government for taking this significant step forward to protect the features, form and function of the Oak Ridges moraine. The coalition supports a number of elements in the conservation plan and the legislation. I will just identify a few of those things that we do support, right off the bat.

**2120**

We support that there's a greater emphasis on the protection of water resources and requirements for water management studies. We support the concentration of new growth in existing settlement areas. We support the protection of the moraine through a legislated plan. We support the designation of 62% of the lands within the moraine as natural core or natural linkage areas where there's a general prohibition on development within those significant natural heritage features and hydrologically sensitive features.

We also support the clauses, in both the plan and the legislation, which prohibit the core areas and the linkage areas from being reduced through any further plan review or future plan review. We also support that official plans and zoning bylaws are required to be amended and "shall conform" to the Oak Ridges Moraine Conservation Plan.

We support also that growth management and land consumption needs must be assessed on a region-wide scale as opposed to on an individual community basis, thereby contributing to a Smart Growth approach to managing urban growth.

Finally, we also support the provision for a trail to be established along the entire length of the Oak Ridges moraine.

Having said that, there are a number of areas where we feel that the legislation or the conservation plan should be amended and can be strengthened. A few of those areas, in general, are limiting the unilateral discretionary powers of the minister to amend or revoke the plan, clarification of the scope and responsibility for undertaking watershed plans, further controls on aggregate extraction on the moraine, modifications or deletions to uses permitted within some of the land use designations, as well as some glossary amendments.

To touch on the first one of those issues that I've identified as areas for strengthening or improvement, the legislation provides the Minister of Municipal Affairs and Housing with broad powers to revoke or amend the conservation plan or to make zoning orders not in conformity with the plan and without consultation or legislative approval. We feel that these powers are too broad. Any minister's zoning order should be required to conform to the objectives of the plan and any decisions to amend or to revoke the plan should be subject to public consultation and legislative approvals. The coalition recommends that the unilateral discretionary powers of the minister to amend the plan or revoke the plan be removed, that minister's zoning orders be required to conform with the plan, and that an open public process be required for all proposed amendments to the plan.

We're pleased to see that a number of the previous coalition comments on the Share Your Vision document have been incorporated into the legislation and the conservation plan. However, some of our previous comments regarding new agricultural uses as a permitted use in natural core areas have not been addressed. We feel that this may permit, for instance, the cutting of woodlands for new pasture lands or agricultural sheds and buildings, as well as the siting of intensive livestock operations in areas of groundwater sensitivity or vulnerability. We feel that provisions should be incorporated into the plan to restrict new agricultural operations from significant natural heritage features and also from hydrologically sensitive features and to provide for nutrient management plans where these types of operations have the potential to impact on groundwater.

The coalition recommends that new agricultural uses be subject to the same restrictions as the term "development and site alterations," as defined in the glossary, such that they would be prohibited in significant natural heritage features and hydrologically sensitive features and that provisions for nutrient management plans be required for intensive agricultural operations proposed within the minimum area of influence for hydrologically sensitive features.

We are also requesting an amendment to an existing permitted use within the natural core areas. The first use in that section is listed as “fish, wildlife and forest management” and we believe that should be amended to read “fish, wildlife and sustainable forest management.” The glossary defines forest management with an emphasis on the economic values of forest products and its accessory uses such as access roads. We feel this needs to be tempered by the use of the modifier “sustainable,” which is also defined in the glossary, to incorporate the concept of maintaining the ecological and hydrological integrity of the Oak Ridges moraine, which is the central theme of the conservation plan. The coalition therefore recommends that all instances where the term “forest management” is used be amended to read “sustainable forest management.”

Again, we’re very pleased to see that the concept of watershed plans has been very much taken to heart in this new conservation plan for the moraine, and we note in particular that section 3.3 requires that watershed plans, water budgets and water conservation plans be undertaken and that the results be incorporated into municipal official plans. While we’re very heartened to see this, we feel this section is deficient or incomplete in two aspects.

The scope of these plans is limited to largely ground and surface water issues only. At the minimum, the watershed plans should also include the study and formulation of terrestrial natural heritage strategies. Woodlands and other terrestrial environmental features are critical to the protection of water quality and quantity, as has been demonstrated through the reforestation efforts that occurred on the Oak Ridges moraine throughout the 1930s and 1940s.

The second point is that the plan also contemplates that only municipalities will undertake these plans. It fails to recognize the long history of conservation authorities in undertaking these kinds of watershed studies and management plans. Specific targets contained in section 3.3(f) and (g) with respect to maximum amounts of impervious surfaces in watersheds on the moraine, listed at 10%, and ensuring the maintenance of minimum amounts of natural self-sustaining vegetation, listed at 30%, need to be coordinated through these watershed plans. Additionally, a provision for the provincial funding of subwatershed plans should also be made for areas containing large expanses of natural core areas, where development potential is going to be very limited in any event, and where municipalities, especially in the eastern portion of the moraine, have limited financial resources to carry out these kinds of studies.

The coalition recommends that in section 3.3, conservation authorities be identified as the agency appropriate to carry out watershed plans and watershed budgets and be funded by the province to do so and that the components of watershed plans, as identified in section 3.3(a), be amended to include natural heritage strategies.

The coalition also has a number of comments with respect to section 4.6, mineral aggregate operations, and we believe that several amendments should be made

within that section to ensure the full protection of the ecological and hydrological integrity of the Oak Ridges moraine. Subsection (b) permits extraction in the natural linkage areas, subject to a number of conditions, one condition being that there should be no extraction within 1.5 metres of the water table. This provision, we feel, should also be applied to extraction operations in the countryside areas designation.

Subsection (d) of 4.6 permits extraction and wayside pits within portions of the significant natural heritage features. We believe this subsection should be deleted. Further, considering the scale and the extent of aggregate extraction sites in certain areas of the moraine, we believe a provision should be made in the plan for an assessment of the cumulative impacts or the cumulative effects of numerous aggregate sites within a fairly confined area. We believe that one way this could be accomplished would be by including aggregate extraction sites within the definition of “large-scale development” and making it subject to the provisions that no large-scale development would be permitted after five years unless the required watershed plans and water budgets have been completed and incorporated into the municipal official plans.

With respect to aggregate operations in 4.6, the coalition recommends to limit aggregate extraction within the countryside areas as well as in the linkage areas to 1.5 metres above the water table; to delete section 4.6(d), which permits aggregate extraction in portions of significant natural heritage features in the core and linkage areas; and also to include new aggregate extraction sites in the definition of “large-scale development” so that it is subject to the five-year requirement to complete watershed plans in order to ensure that the cumulative effects of aggregate extraction can be assessed.

Section 4.10 is another section which the coalition believes needs some fine-tuning. That section is small-scale commercial, industrial and institutional uses. In that designation, in the countryside areas new uses such as schools, places of worship, community halls and retirement homes are listed as permitted uses. The coalition believes these types of uses do not conform to the objectives of the countryside area to focus on the protection of agricultural, rural and environmental resources. Further, these uses do not conform to Smart Growth objectives of concentrating urban uses within settlement areas to minimize the need for single-purpose automobile-dependent transportation. These new uses should only be permitted in the rural settlement component of the countryside area designation and in the settlement areas themselves, as they are urban-supportive uses.

The coalition recommends that schools, places of worship, community halls and retirement homes be restricted or deleted from subsection 4.10(a) as permitted new uses and restricted to only the rural settlement component of the countryside areas in order to be consistent with Smart Growth principles.

Section 5.3, provincial obligations and technical support, we believe should also be amended to include

provisions for a secretariat to oversee the implementation of the Oak Ridges moraine conservation plan. We don't believe there is a requirement for a Niagara Escarpment-type commission. We believe that our regional partners and upper-tier municipalities, once the conformity exercise has been done, are responsible partners and will ensure that the provisions of the moraine plan are adhered to in the decisions they make regarding planning applications. But the coalition does recommend that a secretariat be formed within the Ministry of Municipal Affairs and Housing to oversee implementation of and conformity with the moraine conservation plan.

Subsection 5.6(d) lists a number of requirements municipalities must undertake to justify expansion to settlement area boundaries on the moraine. The final bullet in that list requires water budgets and water conservation plans as one requirement to fulfill. However, the coalition feels this is not broad enough and that the reference should be to subsection 3.3(a). This would include the broader-scale watershed plans, which include water budgets and water conservation plans as components therein, and their requirement to identify land and water use and natural heritage strategies. The coalition recommends that subsection 5.6(d), the last bullet point, be amended to reference subsection 3.3(a) so that adopted watershed plans are the criteria needed to consider expansion of settlement area boundaries.

The coalition also shares some of the concerns you've heard tonight about the lands in the vicinity of Gormley near Highway 404 and Stouffville Sideroad in the headwater areas of the Rouge and the Humber Rivers, which appear to have had their designation changed from countryside area, in the Share Your Vision document, to

settlement areas. Staff at the authorities have little information to understand the basis for this change. We believe that full public disclosure is required of the details of the land swap and that should these lands continue to be designated as settlement areas, the lands should be subject to full environmental studies in accordance with the Oak Ridges Moraine plan and objectives.

In closing, I'd just like to state that conservation authorities are the largest land owners on the Oak Ridges Moraine and have a long, 50-year history of environmental and water management programs and activities on the moraine. It's appropriate that conservation authorities play a significant role in the acquisition, stewardship, study, monitoring, planning and management of lands on the moraine. Conservation authorities have the watershed-based programs and policies and experienced scientific and technical staff to undertake this work. With proper funding and support from the province, municipalities and the proposed Oak Ridges Moraine Foundation, conservation authorities are prepared and eager to play their part in ensuring the long-term protection of the Oak Ridges moraine.

**The Chair:** Thank you, Mr Burnett. I indulged you a little bit. That's the advantage of having a written brief so we were able to follow you along, but we've actually gone a bit over time.

**Mr Burnett:** My apologies.

**The Chair:** Thank you for your presentation. Thank you to all who presented tonight. The committee stands adjourned until tomorrow morning at 10 o'clock.

*The committee adjourned at 2134.*









## **STANDING COMMITTEE ON GENERAL GOVERNMENT**

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Mr Steve Gilchrist (Scarborough East / -Est PC)

### **Vice-Chair / Vice-Président**

Mr Norm Miller (Parry Sound-Muskoka PC)

Mr Ted Chudleigh (Halton PC)

Mr Mike Colle (Eglinton-Lawrence L)

Mr Garfield Dunlop (Simcoe North / -Nord PC)

Mr Steve Gilchrist (Scarborough East / -Est PC)

Mr Dave Levac (Brant L)

Mr Norm Miller (Parry Sound-Muskoka PC)

Ms Marilyn Mushinski (Scarborough Centre / -Centre PC)

Mr Michael Prue (Beaches-East York ND)

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Mr Rosario Marchese (Trinity-Spadina ND)

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Mr Jerry Richmond, research officer,

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Ms Cornelia Schuh and Ms Marilyn Leitman,

legislative counsel

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