

Bill 43

**EBR Registry Number:** AA05E0001 **Type of Posting:** Act

**Ministry:** Environment

Sarah O'Keefe, Policy Adviser  
Strategic Policy Branch  
135 St. Clair Avenue West, 11th floor  
Toronto, Ontario, M4V 1P5  
PHONE: (416) 212-4312 FAX: (416) 314-2976

An act to protect existing and future sources of drinking water and to make complementary and other amendments to other acts.

The first reading of the act was proclaimed on Dec 5, 2005. The final date to comment is Feb 20 2006, which is an awfully short time to effectively discuss and comment. There are a number of issues that are troublesome and need to be mentioned.

**A Overall comments.**

**1. Walkerton Disaster**

The bill will not overcome the "Walkerton" water disaster. The reasons for the "Walkerton" disaster are very clear and "Walkerton" should not be used as the excuse to ram through such a draconian act with terrible restrictive consequences to the minority of Ontario People. The bill is very cumbersome to read, it is 71 pages of fine print, and it is difficult to understand by most Ontario citizens. The bill gives bureaucrats unlimited power to initiate studies, initiate and implement plans, and establish bureaucracies.

**2. Restriction**

The bill further restricts what a rural landowner and farmer can and cannot do.

**3 No detail**

The bill does not go into any detail whatsoever the restrictions will be, and how and when they will be implemented.

**4. Priority**

The bill takes priority over other bills and acts. The greenbelt Act also takes precedence over other bills; Which takes priority over what? It does state that if there is a conflict, then the most severe regulation will prevail. This is a strange way to enact legislation, namely whatever is the most severe will prevail. The concern here is that complying with one set of regulations, and then being forced through a more restrictive act to remedy and meet the more stringent criterion is time consuming, costly and very duplicative..

**5. Fees.**

Although the details are not known, the fact that there are fees, fees and more fees, is very clear. For many farmers and rural landowners the financial lemon has been over squeezed. It is time that the beneficiaries of the legislation paid for the costs of the legislation, rather than the usual minority "stakeholder" who is negatively affected.

**6. Details unknown**

We do not know the specific regulations that will result from the act; however there is every possibility that there may be farm restrictions in certain, yet to be determined areas, which will limit or curtail farming.

There must be fair compensation for this curtailment. Again, the act and regulations are put in place for the benefit of all Ontarians, hence all Ontarians must compensate for the loss of property enjoyment, loss of income, loss of farming capability that may likely occur.

#### **7. Just compensation**

The principle of just compensation must be agreed to now and respected by the government as it takes away more rights from the main stakeholder who will bear the cost of the restrictions. When the detailed regulations are implemented the amounts of compensation and those to be compensated must be just.

#### **8. Public Process**

The timing public input is too short. It is as if no input is requested. The process is also very flawed, because there is only written comment allowed, there is no public meeting comment and recommendation allowed. The public input process is a sham, even worse than the public input for the Greenbelt, which was a sham in listening and being heard.

#### **9. Bureaucratic Power.**

The act seems to give the bureaucrats whatever they want to do, with no stopping power in any way.

#### **10. Minority Stakeholder**

The minority stakeholder, the only stakeholder to be restricted and to suffer further restriction on his land is the farmer and rural landowner, for the benefit of the urban majority.

#### **11. Adversarial atmosphere.**

There is no carrot for the farmers and rural landowners. There are only sticks, to be used liberally at the whim of the water police and the Director.

#### **12. Cooperation.**

There is no mention of “stewardship” no mention of who the best water watchers are, no mention of anything but the water “police” Bureaucratic dictatorship is the process to be used.

#### **13. Gestapo Tactics**

Entry onto property can be made by many “authorities” with no encumbrance on entry. Entry in a home is not acceptable as per act. Why are the two types of property treated so differently? What is the size of piece of land where privacy rights may be flaunted? Biosecurity is not mentioned in the Act

#### **14. Punishment structure.**

A crown in the act is the severity and explicit nature of punishment, and the lack of punishment choice. Incarceration must be part of the punishment process instead of the excessive fines stated.

It is interesting that there are no specifics regarding what land, how defined, and who will be affected; The punishment structure, however is a clear and is very oppressive.. One could assume that the bill originator priorities are very clear. Punish, punish heavy, keep the stakeholders who will be affected in the dark and keep changing the regulations until there is nothing left to be restricted.

#### **15. Untreated sewage into the lakes.**

There is no mention in this act regarding the water quality of one of the prime sources of southern Ontario drinking water, namely the lakes.

Cities are dumping untreated or ill-treated sewage into the lakes at various times and there is no accountability anywhere in the act. Is the message to “get” the minority landowners and farmers who are good stewards of water but will now be further penalized? Is the message that cities, who are big, can dump sewage at will in their drinking water? Farmers do not “crap “ on their property; why should cities be allowed to crap in their water supply? The illogic escapes all reason.

#### **16. Municipal Well Zones.**

Municipal well zones are mapped have already been mapped. and the three degrees of flow times are clearly delineated. Each will have restrictions . Why are these maps not shown to the farmers and rural landowners affected so that intelligent debate can be initiated and so that there will be an element of fairness when the regulations of this act are implemented?

#### **17. Stake holder consultations.**

Of the several dozen stakeholders consulted, only the Ontario Federation of Agriculture represents some of the stakeholders that will be adversely affected. Other stakeholders that will be adversely affected , such as rural landowners, farmers belonging to other organizations , were not even consulted. It is patently unfair to form “stakeholder consensus” when there is only one affected stakeholders and all other stakeholders benefit without negative effect from the act.

#### **18. Future consequences.**

In the absence of detail, one can only speculate on what future consequences may come to hit farmers and rural landowners even more detrimentally

Will personal wells on rural property be sequestered, or be forced to pay for water usage[ trial balloon was withdrawn a few years ago]. Will septic systems be taxed? Will all water become part of the state property, as suggested by the United Nations, and as implemented in Israel? Will all drinking water, whether rural or urban be poisoned with chlorinated compounds?

Will the 120 m wetland shadow in the generic regulations become the norm for total land sterilization in the name of water?

Will the exemptions in other areas continue to be made[ ie underground resources, fouling of lake water by cities] What is not being said now is even more scary for the farmer and rural landowner.

### **B. Detail Comments .**

Part II Will this be done on water shed basis. How will different watersheds for the same county be evaluated. [ ie individual differences for each watershed]

Part II what are the activities that constitute a “significant “water threat?

Part II How will the public comment process work? At this time the only public comment is by letter to the ministry. This is insufficient.

Part III What is the prevailing “pecking order of the acts?

Part IV Enforcement is responsibility of municipality. Who will pay for the expenses involved? [ie personnel, projects, court cases}.

Part IV If person is forced to submit risk management plan based on the Director’s word that an activities a significant threat to water, who will pay the cost of plan making and submission?

Part IV How will the activities that are a “significant” risk be classified? By whom? Will there be landowner, farmer input?

Part IV How will “prohibited” be identified? By whom? Will farming activities, both on land and with buildings be exempt?

Part V How will sewage spills in great lakes be treated? Are they exempt from the bill 43?

Part V Trespass laws must be honored. Who will monitor great lakes sewage spills from cities? How will boat spills be treated? Will boat and city sewage dumping receive the same punishments as denoted in the punishment sections?

Part V last para. The landowner, farmer must get just compensation for their restriction of buildings imposed on “sensitive” areas. Who defines the sensitive areas? What science exists to quantify a “sensitive areas” ?

Part I general definitions

“activity” does it include farming , farming practices, normal building replacement?

“groundwater recharge area”, “highly vulnerable aquifer” which regulation?

“prescribed Instrument” and the list of acts; which takes priority? “source protection region”, source water intake protection zone” is sewage dumping allowed in lakes?

“vulnerable area” why is the lake, a source of drinking water not classified as a vulnerable area?

Amendment initiated by minister Who pays for the changes necessary to meet the amendment? Consultation p 10 The landowner/farmer on whose land decisions are made should be consulted .

Location of wells and intakes p10 This is for municipal wells ?

Resolution of lower tier municipality. Verifies the duplicative and expensive nature of lower tier government.

13. contents e p13. This includes lake intakes?

Source Protection plan preparation 19 .2.2i, ii p 16 compensation is required for restriction imposed upon farmers and rural landowners

Notice of proposed source protection plan 20.a-d When will the plans be given to each affected landowner and farmer on whose property or nears whose property the wells are located.

Amendments initiated by minister 32[2] The affected landowners need to be consulted

Part III 35,[4],[5],[6] the acts priority are stated. Then the priority also stated is “most stringent” The greenbelt plan takes priority over other plans as stated in the greenbelt act. All of this prioritizing is very confusing to affected citizens, and can place citizens in jeopardy based on which part of the which act the situation is classified under. There needs to be priority clarification. Furthermore the minister may override any priority anyway[37[2], and this will further confuse prioritization and how any issue can be properly dealt with. It seems that “laws will be created whenever the minister deems necessary in his mind”

37[3b] no appeal. This is an unacceptable notion, and philosophy.

Part IV 42[1] Does this section apply only to rural municipalities? Does it apply only to rural areas? What applies to Urban municipalities?

47. What is the specific role of Conservation Authorities in resolution, regulation?  
Prohibited 49,50 What are the prohibited activities? How will they be developed?  
Will affected rural landowners and farmers be included in the designation of “ prohibited  
“ activities?

Transition [2] What will be the effect of ownership change on transition  
activities? Will a person be able to sell his property and will the property keep the  
transition activity? If not, compensation Must be part of the restriction.

50[1][a] Who pays? Since the state placed the restriction on the person/land/area,  
then the state should pay for the risk assessment

50 [2] How is “immediate “ defined? A day , a week, a year , a season,

51 This will place a significant limitation, without sufficient cause, on normal  
farm practices. Again we do not know what the restricted practices may be, and where  
they will be located, which is a very difficult situation for farmers and rural landowners.

51. 2 [bi] How is “significant” defined? Who defines? Is there appeal in case of  
difference of opinion of “significant”?

52 [5] does “building” include a barn? A tool shed? A greenhouse? A manure  
storage enclosure ?

52[b].53[f] The responsibility of fees is stated to be the landowner or farmer who  
has been restricted. Since the restriction is for the good of the public, then the public must  
pay for the application fees. The philosophy of unilaterally restricting individuals for the  
“public good” is unacceptable. The public needs to pay for permit applications that may  
restore some of the restrictions to the restricted stakeholder.

54. The owner must receive notice and the judicial instruments that are available  
must be used. It is patently unfair to have one attitude for land and another attitude for a  
dwelling. Entry time reasonable to whom? The whole entry powers is contradictory  
[1,2,3,4,5,6]

54 7[a] This is property destruction and not acceptable.

54.7[I] This could be self incrimination, and the laws of this country still allow for  
not being forced to self incriminate, or perceived to be self incriminating.

54. [17.],58[7] use of force. Can the person who is being trespassed on use  
reciprocal force against the illegal entry?

54 [18] How will restoration be accomplished if 7[a] was done?

56[b], 59[3],71[4] Why is this party exempted?

59. This seems like guilt until proven innocent and is unacceptable in a  
democratic country.

59[5,6,7,8] This process is patently unjust and must be done according to law

The penalties must include incarceration as an alternative to paying exorbitant  
fines. If only fines are the consequence, it seems that receiving money is the prime  
objective rather than punishment.

59[9.2] this is a totally absurd and flouting of law. “ if it is not practical” then act  
as prescribed” This would seem that difficult decisions will not be made and let us not  
worry about justice.

65. If the proceedings favor the individual, will the government then pay the  
costs/losses /harm done by the order continuing during the judicial process?

77. How will this be accomplished if the source is lake water? The act is silent on  
the lake water issue.

Power of entry 79 This is totally unacceptable. This power absolutely makes a sham of trespass, and property rights. The unlawfulness is implied based on the different treatment of entering land compared to entering dwellings.

80 How will raw sewage going into the lake be treated?

81. How will we know this person?

83 Proper compensation is suggested.; however the words “take, hold,” should not be part of this item.

86.,87,88 is unacceptable because it removes any consequences of any action to the governments. Is Accountability not a precept of good government?

88[2,3,4,5,6 specifically are unacceptable in a democracy . there is no accountability, no redress, no appeal.

96 [2] Nutrient management is now subservient to this act. The government has achieved in deflecting the nutrient management act concerns and now get the same results based on another act The NMA was OMAF driven, bill 43 is environment driven and OMAF has lost the stewardship of an act very germane to its constituents.

97. Guilty until proven innocent? This is wrong in a democratic country.

100 The government can do anything it wants. This is rule of law?

105 3.1 ii,iii Planning act changes Will affect farming; the definitions are unknown at this time .

Respectfully submitted on Behalf of the Halton Region federation of Agriculture.

John Opsteen, President  
Lieven Gevaert Director.