

Second Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Social and Economic Development

Chairperson
Ms. Marilyn Brick
Constituency of St. Norbert

Vol. LV No. 6 - 6:30 p.m., Monday, September 13, 2004

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

Member	Constituency	Political Affiliation
AGLUGUB, Cris	The Maples	N.D.P.
ALLAN, Nancy, Hon.	St. Vital	N.D.P.
ALTEMEYER, Rob	Wolseley	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
BJORNSON, Peter, Hon.	Gimli	N.D.P.
BRICK, Marilyn	St. Norbert	N.D.P.
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CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
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CUMMINGS, Glen	Ste. Rose	P.C.
DERKACH, Leonard	Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary, Hon.	Concordia	N.D.P.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
EICHLER, Ralph	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
GERRARD, Jon, Hon.	River Heights	Lib.
GOERTZEN, Kelvin	Steinbach	P.C.
HAWRANIK, Gerald	Lac du Bonnet	P.C.
HICKES, George, Hon.	Point Douglas	N.D.P.
IRVIN-ROSS, Kerri	Fort Garry	N.D.P.
JENNISSON, Gerard	Flin Flon	N.D.P.
JHA, Bidhu	Radisson	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
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OSWALD, Theresa	Seine River	N.D.P.
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TAILLIEU, Mavis	Morris	P.C.
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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT

Monday, September 13, 2004

TIME – 6:30 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Ms. Marilyn Brick (St. Norbert)

VICE-CHAIRPERSON – Mr. Gregory Dewar (Selkirk)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Ashton, Bjornson, Struthers, Hon. Ms. Wowchuk

Ms. Brick, Messrs. Cummings, Dewar, Eichler, Fauschou, Schuler, Swan

APPEARING:

Hon. Jon Gerrard, MLA for River Heights

WITNESSES:

Mr. Bryan Ferriss, Vice-Chairman, Manitoba Pork Council

Mr. Peter Mah, Director, Community Relations and Sustainable Development, Manitoba Pork Council

Mr. Ian Wishart, Vice-President, Keystone Agricultural Producers Inc.

Mr. Stuart Briese, President, Association of Manitoba Municipalities

Mr. Greg Bruce, Manitoba Head of Industry and Government Relations, Ducks Unlimited Canada

Ms. Betty Green, President, Manitoba Cattle Producers Association

Mr. Jim Stinson, Private Citizen

Mr. Jonathan Scarth, Executive Vice-President, Delta Waterfowl

Mr. Allen Tyrchniewicz, Prairie Habitat Joint Venture

Mr. Robert Rodgers, Chairman, Manitoba Conservation Districts Association

Ms. Gaile Whelan-Enns, Manitoba Wildlands

Mr. John Holland, Reeve, Rural Municipality of Springfield

Mr. Dan Benoit, Natural Resources Co-ordinator, Manitoba Métis Federation

Mr. Gord Steeves, Councillor, City of Winnipeg

Mr. Glen Koroluk, Private Citizen

Ms. Elizabeth Fleming, Provincial Council of Women of Manitoba

WRITTEN SUBMISSIONS:

Mr. Ted Ross, President, Roseisle Creek Watershed Association

MATTERS UNDER DISCUSSION:

Bill 22–The Water Protection Act

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Madam Chairperson: Good evening. Will the Standing Committee on Social and Economic Development please come to order.

The first order of business is the election of a Vice-Chairperson. Are there any nominations?

Hon. Stan Struthers (Minister of Conservation): Madam Chairperson, I nominate the very capable MLA for Selkirk (Mr. Dewar).

Madam Chairperson: Mr. Dewar has been nominated. Are there any further nominations? Seeing none, Mr. Dewar is elected Vice-Chairperson.

This evening the committee will be considering Bill 22, The Water Protection Act.

We do have presenters registered to speak to this bill. It is the custom to hear public presentations before consideration of bills. Is it the will of the committee to hear public presentations on this bill? *[Agreed]*

I will then read the names of the persons who have registered to make presentations this evening: Brian Ferris and Peter Mah from the Manitoba Pork

Council; Ian Wishart from the Keystone Agricultural Producers; Stuart Briese, Association of Manitoba Municipalities; Greg Bruce, Ducks Unlimited Canada; Betty Green, President, Manitoba Cattle Producers Association; Jim Stinson, private citizen; Councillor Gord Steeves from the City of Winnipeg; Jonathan Scarth from Delta Waterfowl; Glen Koroluk, private citizen; Allen Tyrchniewicz, Prairie Habitat and Joint Venture; Robert Rodgers, Manitoba Conservation Districts Association; Gaile Whelan-Enns, Manitoba Wildlands; Reeve John Holland, R.M. of Springfield; Dan Benoit, Manitoba Métis Federation.

Those are the persons and organizations that have registered so far. Is there anyone else in the audience who would like to register or has not yet registered and would like to make a presentation? Would you please register at the back of the room.

Just a reminder that 20 copies of your presentation are required. If you require assistance with photocopying, please see the clerk of this committee.

I understand that we have some out-of-town presenters in attendance this evening. These names are marked with an asterisk on the presenters' list. Is it the will of the committee to hear from out-of-town presenters first? *[Agreed]*

I would also like to inform the committee that a written submission has been received from Mr. Ted Ross, Roseisle Creek Watershed Association. Copies of this brief have been made for committee members and were distributed at the start of the meeting. Does the committee grant its consent to have this written submission appear in committee transcripts for this meeting? *[Agreed]*

I would like to inform presenters that in accordance with our rules, a time limit of 10 minutes has been allotted for presentations and 5 minutes for questions from committee members. As well, in accordance with our rules, if a presenter is not in attendance, their name will be dropped to the bottom of the list. If the presenter is not in attendance when their name is called a second time, their name will be removed from the presenters' list.

I would like to advise all in attendance that, in accordance with our rules, if there are fewer than 20 persons registered to speak at 6:30 p.m. the

committee may sit past midnight. I would like to advise also that as of 6:30 p.m. there were 14 persons registered to speak. Therefore, this committee may sit past midnight.

* (18:40)

Just prior to proceeding with public presentations, I would just like to advise members of the public of the process when it comes time for questions from committee members on your presentation. The proceedings of our committee meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be a member of the committee or a presenter, I have to first say the MLA's or presenter's name. This is the signal for the Hansard recorder to turn your mike on and off.

I would just like to advise the committee that the first person on the list, No. 1, is also from out of town.

Thank you for your patience. We will now proceed with public presentations.

Mr. David Faurshou (Portage la Prairie): Madam Chairperson, I was wondering, in consideration of the timing of presentations, are you looking to committee for guidance as to imposing a suggested time limit for each presenter, and then, also, with that time, for potentially having the option of the committee to extend a time limit for the presentation?

Madam Chairperson: It is now the rule of the committee that we have the time line of 10 minutes and 5 minutes. What we have done in the past, if the presentation the presenter makes it shorter, we have allowed questions to go longer.

Is that the will of the committee? *[Agreed]*

Seeing no other questions, I would like to proceed with public presentations. Our first presenters are Bryan Ferriss and Peter Mah from the Manitoba Pork Council.

Mr. Bryan Ferriss (Vice-Chairman, Manitoba Pork Council): Good evening, members of the Manitoba legislative review committee, ladies and gentlemen of the audience.

For the record, my name is Bryan Ferriss, Vice-Chair of the Manitoba Pork Council, and I am

accompanied by Peter Mah, our Director of Community Relations and Sustainable Development.

We are here tonight on behalf of our board of directors, and we sincerely thank you for the opportunity to present our comments and recommendations to you on Bill 22, proposing the adoption of The Water Protection Act.

First of all, let me tell you a little bit about who we are and what we do. The Manitoba Pork Council is a non-profit organization representing over 1400 hog producers in Manitoba who make up our entire industry. Our mission is to foster the sustainability and prosperity of the pork industry for the good of all hog farmers and for all Manitobans. We are committed to excellence in the delivery of industry programs, such as food safety and quality assurance, animal care, human resources and training, swine research and tech transfer, consumer education, public affairs, environmental stewardship and international market development.

We are very proud that the Manitoba hog industry has been and continues to be a strong contributor to the well-being and future of family farms, rural Manitoba communities and the provincial economy. In fact, in 2003, the total value of hog production in Manitoba was over \$767 million in farm gate receipts. This means that hog production is again the single most important agricultural commodity in our province. This, in turn, contributed to an estimated \$2 billion of direct and indirect economic benefit to the Manitoba economy.

We recognize, however, that for every human endeavour, whether it be the development of our urban centres and rural communities, transportation and municipal services, industrial activity, power generation, resource harvesting, general or intensive agriculture, or recreational pursuits, they all can have some negative impact on our environment. We recognize this and we, as an industry, are doing our part to lessen our environmental footprint. But, quite frankly, we are disturbed by often-heard arguments and innuendo by industry detractors that attempt to single out the hog industry as a harbinger of all that is evil.

On the contrary, our member hog producers work hard to produce safe quality pork for Manitobans and world markets in an

environmentally sustainable manner. We take our industry's responsibility for wise stewardship of air, soil and water resources very, very seriously. In fact, so much so, that as an organization funded 100 percent by producer levies we have invested over \$5.4 million since 1999 toward independent environmental and production research to organizations, such as the Department of Animal Science at the University of Manitoba, the Prairie Swine Centre in Elstow, Saskatchewan, the Lake Winnipeg Research Consortium and the Manitoba Livestock Manure Management Initiative.

In fact, the Manitoba Pork Council, as a note, has been the only livestock commodity group contributing funding to support the manure management initiative since its inception in 1998.

In fact, this year alone, at a time when our industry is facing uncertain U.S. trade challenges and have ourselves self-imposed additional trade defence levies on Manitoba pork producers to raise upwards of \$6 million to fight the countervail and anti-dumping battle, we are still spending nearly half a million dollars (\$400,000) in 2004 towards independent environmental research and tech transfer efforts to advance the environmental stewardship of our industry.

Some recent examples of water-related research studies that we have and are supporting include: ingredient processing and enzyme supplementation for minimizing nutrient excretion and manure volume; effects of drinker height and water flow and water usage in grower and finisher hogs; innovative design for manure storage facilities; measurement and simulation of nitrate, phosphate and carbon leaching from manure and fertilizer; nutrient model for setting phosphorous application limits—we are currently in Year 2 validation; phosphorous study on the role and fate of phosphorous in livestock and crop production systems; regional nutrient balances study of nitrogen and phosphorous to assess inputs of both organic and inorganic fertilizers to determine potential leakage to the environment; best management practices to improve environmental sustainability and productivity of grassland systems using hog manure; efficiency of buffer strips in the Manitoba landscape as a best management practice; and support to the Lake Winnipeg Research Consortium survey of Lake Winnipeg's physical, chemical and biological processes and condition in years 2002, 2003 and 2004.

As I said before, as an industry, we are very serious and committed to protecting our province's precious water and soil resources. We believe that we already are doing our part in terms of advancing research and technology transfer and raising producer awareness of environmental stewardship best management practices. We also deliver our Peer Advisors program to foster more harmonious neighbour relations and to better ensure producers' compliance with rules and regulations that apply to our industry. In other words, we believe that if we talk the talk, we had better walk the walk, and we believe we do that. We pledge to continue our efforts.

We wish to emphasize again that, with respect to protecting our water resources and because we collectively all have an impact on water, we must all be partners in the solution. It is within this aforementioned background and perspective that I will now address Bill 22.

The Manitoba Pork Council supports the Manitoba government's efforts to protect and sustain our surface and ground water supply for current and future use. As I am sure you can appreciate, the Manitoba pork industry and Manitoba hog producers' real existence are tied to a sufficiently reliable source of high-quality water, water that is critical to the raising of our livestock. Good water is also vitally important to myself and my fellow livestock farmers who live, work and raise their families on our farms. If I might, Madam Chairperson, as an aside to this, our particular farm has three active generations currently involved in our operation with my father, myself and our son and, in fact, as of last November, we have our fourth generation. He is a bit small to push a feed cart; he is going to be riding in one for a few years, but we do have four generations and we are quite frankly very proud of that fact that we are able to make that statement.

We do acknowledge the Province's past release of Manitoba's water strategy in April 2003, the creation of the Office of Drinking Water and the goal to restore Lake Winnipeg's water quality back to 1970 levels. We recognize as well the work of Manitoba conservation districts, planning districts, local municipalities and Manitoba farmers in protecting our natural resources.

The proposed adoption of Bill 22 is a new initiative designed to protect water at source. As we

understand it, Bill 22 is essentially framework legislation. It proposes, among other things, to enshrine current provincial water quality policies, objectives and guidelines into regulatory standards. It will also enable adoption of detailed provincial regulations, local watershed management plans and provincial designation of water quality management zones to regulate levels of nutrients from all sources in future.

* (18:50)

We are pleased to see in this last point that nutrients from all sources, whether from our cities and towns, industries, agriculture or cottaging, will be regulated. For the record, Manitoba Pork Council supports Bill 22's general thrust and public policy objectives to protect and sustain our province's valuable water resources and aquatic ecosystems.

However, we do have some concerns and questions and some recommendations to offer that we believe will improve and strengthen the proposed legislation.

1. Full implications of the legislation are daunting and unknown. While the proposed Water Protection Act's focus is on water, its effect will nonetheless be very much on land use and, in the final end, on development restrictions or prohibitions on uses that are deemed to be detrimental to sustaining water quality and quantity or aquatic ecosystems. We simply do not know yet the full implications and effect of the proposed new powers to be conveyed on provincial agencies and local water planning authorities. An example to that would be the roll-back-the-clock powers to remove existing uses that are deemed to be a threat to water quality.

Some of the questions we have include:

How and on what basis will water planning authorities prioritize water use and therefore users within a watershed under normal circumstances pursuant to section 11(1)(b) (v)?

Similarly, in times of drought or serious water shortage, how and what basis under section 7(2) will the minister's order or regulation propose to limit water use to producers that are—

Madam Chairperson: Mr. Ferriss, I am sorry but your time is coming to an end so you will just have to—

Mr. Ferriss: –dependent on water to sustain livestock and who have been issued a valid water rights licence?.

We would hope that the legislation and the research that the government takes will be based on good science, that it be applied fairly and consistently and importantly would provide an appeal process to that. The precedent under The Planning Act as well as The Water Rights Act has already given those two pieces of legislation an appeal and we feel that it is very important to have that as a part of this act.

Madam Chairperson: Is it the will of the committee to allow the presenter to continue or did you want to ask questions?

Some Honourable Members: Yes.

An Honourable Member: Give him some questions.

An Honourable Member: Let him continue.

Madam Chairperson: Continue. Please continue.

Mr. Ferriss: Continue?

Madam Chairperson: Yes.

Mr. Ferriss: Okay.

Under The Water Rights Act we note with some reservation that section 35(5) of Bill 22 also proposes an amendment to The Water Rights Act to add proposed section 9.2 to suspend or restrict existing water rights licences for a specific period to protect and maintain aquatic ecosystems.

The questions we have are these: Will there be compensation for those producers who are directly impacted by these new rules, and will there be incentives provided to advance water protection objectives and public benefits on private land?

The second one is that we would hope they would be based on good science and not "junk" science or emotion. *Such potentially far-reaching legislation and the plans and regulations that are to follow must be carefully developed with good scientific basis to balance the social, economic and environmental consequences. We appreciate that*

section 2(d) recognizes "the importance of applying scientific information in decision-making processes about water." Our chief concern is that provincial and local water planning authorities empowered with new, untested mandates must exercise their new authority with sufficient scientific basis and support.

For instance, how and on what basis will "no-go zones" or vulnerable water sensitive areas be determined? How will the necessary credible technical and scientific support be provided to water planning authorities to ensure that local decision-making will be science-based?

Apply fairly and consistently. *Water quality objectives, standards, guidelines and regulations should be consistently applied across the province for all development or land uses. No particular sector or activity should unfairly be targeted (e.g., agriculture or livestock production) to meet any higher standard than other land uses.*

With regard to watershed level, water management planning policies and severity of development, limitations should be just enough to adequately address the environmental risk tolerance of the water resource and aquatic ecosystem, but not be so severe as to unduly limit development options or impede economic growth.

Most importantly, we feel that section 12(2) of Bill 22 requires a minimum of one meeting in the review and adoption process for local water management plans. There needs to be provision for an appeal process to a higher independent tribunal before final adoption of a watershed management plan or imposing of water or nutrient management zoning restrictions.

As I mentioned, by way of precedent, The Planning Act has that appeal. *An appeal process is afforded under The Planning Act for objections to be heard under section 30(7) for land use development plans, under section 45 for zoning by-laws and for decisions of a subdivision approving authority under section 68.*

As well, section 24, The Water Rights Act, also has that appeal process: *"Any person affected by an order or decision of the minister under this Act may within 30 days of the making of the order or decision, appeal the order or decision to the*

Municipal Board, and the decision of the Municipal Board . . . is final and not subject to further appeal."

We feel quite strongly, Madam Chairperson, that the water management plans and water quality management zoning under the proposed Water Protection Act should also provide this right *under legislation for an appeal mechanism.*

The need to respect bio-security protocols. *Section 26(1) empowers an officer to enter and inspect any place or premises, other than a dwelling, at any reasonable time to administer or determine compliance with the Act. Most hog farms have strict bio-security requirements to maintain high health herd status. All persons wishing access must follow strict protocols. Respecting these bio-security protocols on livestock farms must become part of the operating policy for inspection officers.*

With the powers that are given to the personnel within the ministry to come on-site in the hog industry, bio-security is of absolute paramount importance to all of us as producers to maintain herd health and we feel that that should be part of the bill.

Streamline development review and approval process. We feel that the implementation of The Water Protection Act should not stall or cause undue delay for development proposals pending preparation of watershed management plans, zones and restrictions. We are concerned that The Water Protection Act processes will increase costs and delay producers in yet another developmental application, review and approval bureaucracy.

At last count there are at least 26 federal and provincial statutes and regulations as well as a myriad of municipal by-laws that already govern livestock farming in some way. Every effort must be made to co-ordinate and streamline the planning, development review and approval process for livestock development—indeed for all development proposals.

The mandates for provincial agency under The Water Rights Act, The Environment Act, the recently updated Livestock Manure and Mortalities Management Regulation, The Pesticides and Fertilizers Control Amendment Act, The Planning Act, particularly in light of Bill 40, The Planning Amendment Act and the proposed Water Protection

Act result in overlapping jurisdiction in land use, water and natural resources management.

This becomes even more confusing for citizens, industry and commerce when you add the mandates and activities of local conservation districts, regional water management associations, planning districts, municipal councils and now the proposed water planning authorities. For instance, a watershed area could be governed by a planning district development plan (or various municipal development plans), a conservation district scheme or conservation district integrated resource management plan, a provincial water quality management zone and a local watershed management plan, . . . or a combination thereof.

The proposed Water Protection Act should not be adopted in isolation of all other current laws and regulations in place. Our key message here is to streamline legislation; do not overlap jurisdiction, duplicate or over regulate.

In conclusion, Madam Chairperson, our society's use of water and our individual and collective attitudes as water consumers have evolved over time and many generations. There is no question that we must, as a society, be more prudent in our stewardship of this precious, life-sustaining resource.

We hope and trust that the proposed Water Protection Act, regulations and watershed management plans to follow will take a step-by-step and reasoned approach so as not to impose major hardship on current and future water users and impede growth of the provincial and local economy.

Wherever possible, we encourage the use of positive incentives and mitigative measures to meet the proposed provincial water quality objectives and standards rather than a strict outright prohibition of development. Much can be accomplished with innovation, technology and pure commitment. Let us get the job done, but let us not over regulate.

More public consultation with key stakeholders will be critical during the preparation of draft regulations and watershed management plans. The Manitoba Pork Council is ready, willing and able to assist, and requests to be an active participant in the development and review of proposed regulations and plans.

I would like to thank you for your time and considerations of our comments and recommendations to improve the proposed Water Protection Act. Thank you very much.

Madam Chairperson: Thank you very much. I am sorry, in consideration of the time, we do not have any time remaining for questions, unless the committee decides to overrule.

Mr. Glen Cummings (Ste. Rose): Do we have time for a couple of brief questions, Madam Chair?

Madam Chairperson: Is there leave from the committee?

An Honourable Member: Leave.

Hon. Steve Ashton (Minister of Water Stewardship): I think we had a couple of people that had been recognized. Perhaps in fairness if we would ask each of them to have the ability to ask one question, I think that would be in keeping with the spirit of the moment.

Madam Chairperson: Okay. Come on back, Mr. Ferriss, please. Please return.

Mr. Cummings: Well, thank you. I will keep my question brief. Just as you were coming to the conclusion, you were indicating concern, as we have indicated as well, that the regulations will be the teeth, obviously, in dealing with this legislation. Would it be appropriate to hold this bill until further work has been done on reviewing potential regulations before it is imposed in law?

Mr. Ferriss: Peter. I am going to defer to Peter.

Madam Chairperson: Can you please identify yourself.

Mr. Peter Mah (Director, Community Relations and Sustainable Development, Manitoba Pork Council): Yes. My name is Peter Mah from the Manitoba Pork Council. In respect to that question, I think it would be prudent for us to have a look at, at least the draft regulations prior to the passage of the bill.

To me, what is happening, in a similar sense, when you have a development plan under The Planning Act, many of the municipalities, many of

the residents, many of the businesses are asking for the zoning regulations, at least in draft form, to be able to see how the policies and objectives fit with the regulations or zoning. That is really where the rubber hits the road relative to the kinds of development controls and restrictions and limitations that would be put forward. I really do not know the full extent of the implications based upon the bill as it is.

Hon. Jon Gerrard (River Heights): My question related to the appeal process. You have stressed the importance of an appeal process. The reference that you gave was an appeal process which went to the municipal board. What I would ask you is what you would recommend in terms of an appeal process under this act, or should it go to another body?

Madam Chairperson: Mr. Ferriss, go ahead.

Mr. Ferriss: I was just going to say that, certainly, from an independent tribunal perspective, from a producer's, from our perspective, that we feel we need something other than what is provided in the act at present, the proposed legislation at present—Peter, do you want—as far as definition of what that would be.

* (19:00)

Mr. Mah: Thank you very much. Peter Mah. Again, the analogy is this. The key element should be that it is an independent tribunal that is apart from the decision-making body at the lower level.

The example is The Planning Act. Again, where I go back, there are a number of planning district boards who are given the mandate under The Planning Act to be a zoning appeal body. I can say that, generally, that happens quite well, but there are going to be a number of instances, it has happened in the past, where local decision making in the planning appeal has not always afforded, in my point of view, independent, autonomous decision-making authority. That is where the Municipal Board comes in. They are appointed and they are responsible and they are a third party that does not have a stake in the local area. We would like to see an independent administrative tribunal, but that is the key.

Madam Chairperson: Thank you very much for your presentation.

Hon. Roseann Wowchuk (Minister of Agriculture, Food and Rural Initiatives): Madam Chair, as Mr.

Ferriss had to rush through his presentation, I wonder whether we could have his presentation printed, as he presented to us, in written copy rather than as he delivered it.

Madam Chairperson: Is that the will of the committee? *[Agreed]*

Mr. Cummings: We also have a printed presentation from Roseisle Creek Watershed that I am assuming will be entered into the record as written.

Madam Chairperson: Yes, we had put that previously.

Mr. Cummings: I just wanted that on the record.

Madam Chairperson: Ian Wishart from the Keystone Agricultural Producers.

Mr. Ian Wishart (Vice-President, Keystone Agricultural Producers Inc.): Thank you, Madam Chairperson, ladies and gentleman. My name is Ian Wishart. I am the vice-president of Keystone Ag Producers, and I am also chair of the environment committee. I hope you have a copy of the proposed legislation in front of you because we make several references to it throughout it.

On behalf of Keystone Agricultural Producers, I am pleased to share our organization's position with respect to Bill 22, The Water Protection Act.

KAP is a democratically controlled general farm policy organization representing and promoting the interests of agricultural producers in Manitoba. It is an organization run and funded by its members consisting of farm units throughout the province.

Overall, it appears that Bill 22 is heavily targeted towards the agricultural industry. Agriculture is a primary industry using most of the land base in southern Manitoba, but there are industries more intensive than agriculture. This bill has the ability to increase costs for farmers and as an industry we have no ability to pass these costs along. As well, we have to compete internationally and therefore we must not have legislation imposed that will put us at a disadvantage.

This bill must include a provision to allow for an appeal process to protect the interests of

stakeholders. The provisions outlined allow for establishment of zones, guidelines, water conservation programs, et cetera, but do not allow for an appeal process. As with much of this act, it opens the door for regulations, but not being privy to the intent of such regulations causes much concern.

This piece of legislation and the regulations developed under the act will supersede several other pieces of current and upcoming legislation such as The Planning Amendment Act. How can legislation which supersedes other regulations be developed without being done in concert? It will necessarily cause more reworking of development plans, et cetera, to ensure that they are in line with this legislation.

Section 4(2)(e) allows recommendations regarding zoning in the areas containing a potential source of drinking water. Before an area is zoned, we recommend that all water sources be identified in order to prevent future development disruptions.

In the event of serious water shortages under section 7(2), the minister can take any action necessary to prevent, minimize or alleviate the water shortage. Government must ensure that, in the event of water shortage, any regulation or steps taken must address compensation to those affected. Policies and procedures for this section are not yet developed and when they are developed, it must be done in consultation with industry.

In the event of a shortage, there must be an awareness of the importance of water for livestock enterprises and irrigation for crop production, as opposed to water needs for recreational uses such as golf courses and effluent dilution.

In the bill, 35(2) makes no mention of compensation for suspending or restricting water rights under a licence to ensure the protection and maintenance of aquatic ecosystems. Again, this a public benefit and should not have a negative impact on the agricultural community.

This act prevails over The Water Rights Act, and this means that there may be suspension of existing water rights permits. This will have an impact on the holders of such permits, and adequate time lines must be established to ease any transition. There should be compensation for the loss of water rights.

Section 9 designates a water planning authority for a watershed, and government must ensure that agriculture is a part of any authority established in an agricultural area. We, as an organization, want to ensure that we are involved on the local level, therefore we need to be aware of the establishments of such water planning authorities and also have the ability to appoint members to any such authority.

Section 10, in dealing with consideration of watershed management plans, uses the bases of futuristic studies. We ask how far in the future do we need to look or do we place our focus on current needs while keeping in mind the future generations?

Section 11(1) identifies the contents of a watershed management plan and includes a clause dealing with the possible restoration of water quality. We ask how government actually intends to accomplish this. We do believe that some measures can assist with this process through incentives, such as beneficial management practices, but the Province must ensure that the funding is available and adequate to move in that direction.

Agricultural stakeholders must be included in the consultation process for the development of any watershed management plans. We need to be made aware of the time frame when development of a plan proceeds. It is vital that local interests are heard and the needs of all parties are taken into consideration.

The bill allows for the establishment of Manitoba Water Council, and it is imperative that KAP, as the provincial general farm policy organization, have some representation on this council. We were part of the water strategy process and would bring strong agricultural representation to the council.

Within the Water Stewardship Fund, we believe that a program we have initiated called Alternate Land Use Services (ALUS) could play a key role and serve as an incentive-based approach. ALUS is an incentive-based concept that recognizes the public environmental services such as healthy soil, clean water and biodiversity. It has the ability to bring real improvements to the rural landscape in a way more acceptable than by regulation.

Section 30 may be a window for nuisance and harassment complaints and the agricultural industry needs assurance that this will not be the case.

Under the regulations, section 33(1)(d), it refers to areas adjacent to water bodies. What defines an area adjacent to a water body? I cannot help but think in the spring of 1997, a good portion of southern Manitoba was not only adjacent to a water body but part of it. Again, this will probably be dealt with by regulation, but currently it is wide open as to what it actually means.

This act allows the Province to come in and do remedial work and then invoice the owner for the public benefit. While we realize that this may happen only in extreme cases, should an individual be paying for public benefits?

In closing, we would like to reiterate that this bill does appear to target our industry. We have had a good relationship with government dealing with water issues in the past and hope that it will continue by allowing us the opportunity for continual involvement. As an organization representing agriculture in this province we need to be an integral part in the initial development and ongoing consultation on any regulations put into place under this act. Thank you.

Madam Chairperson: Thank you very much.

Mr. Faurschou: Thank you very much, Mr. Wishart. You had mentioned in your presentation that you are concerned about the suspension of water permits and the usage of water by the minister without availing compensation. Are you suggesting this act is deficient in that area and would like to see an appeals mechanism in which potential losses by producers take place?

Mr. Wishart: Yes, we do have some considerable concerns in that area. We have quite a strong irrigation industry that has been developed in this province based on, to no small degree, the fact that water is available and that secure water rights have been available to these individuals. Loss of them without some period of adaptation, so to speak, could be a very serious blow. We have industries that are built around this and it is often lost to the average Manitoban that irrigation is the basis that these value-added processing industries are here on. It is because we have irrigation available to us at a reasonable cost that these things have chosen to locate here, and removing the certainty and the costs associated with that puts producers and the industries

at risk, not just individual producers, but the whole industry.

* (19:10)

Mr. Ashton: I would like to thank you for your presentation, and also, the previous presenter, if I could; I did not have the opportunity. Obviously, I did not want to take up time when members of the committee might have wished to ask questions.

One thing I can assure you is that this bill is not targeted at agriculture. I look at some of the presenters coming later. There are concerns that I am sure will be expressed in municipalities. I look at the City of Winnipeg, who are here. The City of Winnipeg is already a significant part, with the nutrient reduction and the elimination of the combined sewer overflow, which is being worked on based on the Clean Environment Commission, part of our solution in this province in terms of some of the water quality issues.

I have always said, by the way, that it is 1.1 million Manitobans who have to be part of the solution. I do want to acknowledge the participation of KAP in the water strategy, which is the basis of this bill, and to assure you that the farm community and KAP will continue to play a significant role, including the fact that the regulations actually have to go to consultation under this act, which is something we felt was very important.

I hope to have the opportunity to respond to some of these issues, but the reference on the water shortage side, can you not see some situations where in fact the provisions of this act will actually protect agricultural activities, given the fact that agriculture is recognized in the act as part of one of the major elements we look at in terms of water issues, water quantity and water quality issues? There might in fact be emergency situations in which access to water for either crops or other agriculture purposes might be threatened, if not for the intervention under this act.

Mr. Wishart: Yes, Mr. Minister, I can see circumstances. I appreciate that you understand some of the pressures that are currently existing out there related to agriculture, but this act will be there for a long time in the future, we trust, so we do have to look down the road and make sure we put something in place that we can all live with.

I cannot help but think of the one time that water quantity was very tight for the agriculture industry, which was the fall of 1988 when the water flow on the Assiniboine dropped down below critical levels from the City of Winnipeg's point of view. The talk then was not on how to augment the supply for agriculture; it was on how to augment the supply so that effective dilution could be done for the city of Winnipeg sewage.

So I want to make sure we maintain a proper perspective here, that agriculture is a higher priority in everyone's mind than the issue of recreation or dilution issues. I guess past practices have made us a little bit concerned that when things do get tight we are often the first ones forgotten. We are a very small voice, and we are outside of the city of Winnipeg.

I do appreciate your comment that we have 1.1 million point sources. I hope that 1.1 million point sources are prepared to do an equal amount to deal with this issue.

Mr. Gerrard: I would like you to comment on two points. One is your recommendations in terms of the optimum nature of the appeal process. Second, I would like your comments on the recommendations around zoning where the area contains a source or potential source of drinking water, because I think it would be helpful if you expanded a little bit.

Mr. Wishart: In regard to the appeal, we think the question of maintaining an independent arm's-length appeal process is absolutely critical. No matter what regulations come into place following the act, there will be no doubt circumstances that were not foreseen, and we must have a mechanism so that we can get some fairness and justice at the time. We are not actually bound by the regulations, but the regulations become more guidelines than anything. You can structure it whatever way you want, but some level of independence from the process is absolutely necessary.

In regard to the water source situation, I guess what we are drawing on here is what we see happening in Ontario, where water sources are scattered widely around the countryside, usually not put in place with any consultation or input from the agricultural community that is affected and surrounds them in most cases. We did not ask to have them put there, but they are put there, and then regulations come into place protecting those, which

has a way of restricting, some significant restrictions, on the use of the land around that.

Yes, it would be very valuable to know where all these possible water sources are, the size of them and, in regard to the planning for the future, what future use might necessarily be done with them, but it is almost impossible for agricultural producers to be in a position to know the answer to all those questions. Yet we are going to be impacted immediately by regulations around these things. So I guess we are drawing on the experience out of Ontario where it very quickly became a major burden on agricultural producers when regulations went in on water source protection.

Mr. Faursehou: Thank you very much. I know there is a time constraint, so instead of all I will pick one of my three questions. I would like to ask: In your consideration, then, where you have alluded to the regulatory component of this legislation as being vitally important, are you then too of the position as Manitoba Pork Council that you would like to see this legislation held until regulations, at least in the draft form, are available for review?

Mr. Wishart: We would certainly be a lot more comfortable if we had at least draft regulations. We recognize that, with the new department that is being created, there is some need to rework existing water regulations in this province. I think that that is well justified, and we applaud your incentive on that. But the devil is always in the details on these things, and, unfortunately, representing the farm community, we are the ones that have to deliver on the details. At the farm gate, all of this stuff becomes integrated and delivered, and the farmer has to deal with it. So, knowing to some degree, or to a higher degree, what the regulations might entail, certainly would be way more valuable to us.

Madam Chairperson: Thank you very much, Mr. Wishart.

Stuart Briese from the Association of Manitoba Municipalities. Did you have a presentation to circulate, Mr. Briese?

Mr. Stuart Briese (President, Association of Manitoba Municipalities): In here somewhere.

Madam Chairperson: You may proceed. Thank you.

Mr. Briese: Thank you. On behalf of Manitoba municipalities, I am pleased to appear before this committee today to outline the Association of Manitoba Municipalities' position on Bill 22.

Water is one of the most important resources in Manitoba, and, as such, it is essential that it be protected. The AMM has long called on the Province to consolidate water-related services and branches into a single portfolio, and we were pleased with the Province's decision last November to create a new Department of Water Stewardship with the mandate to protect and manage this province's water resources. Bill 22, The Water Protection Act, is an enabling legislation that will give the Province the tools it needs to meet its mandate to protect Manitoba's water resources.

There are many positive attributes in this bill. The AMM has been, and continues to be, a strong proponent of the watershed-based planning, as this unchangeable unit is the most logical foundation for planning. It is crucial that watershed-based planning be linked to land use planning, as the two processes are obviously intertwined. While this will not be an easy procedure, it is certainly a needed one, and the AMM is encouraged that it is included in this bill.

The AMM is also supportive of the creation of a water council that will be charged with the responsibility of monitoring the development and implementation of the watershed management plans and advising the minister on water issues.

It is also important that the composition of this new council reflect the stakeholders most directly impacted by the new legislation. For this reason, it is imperative that the AMM, as the association that represents all 199 municipalities in this province, be included on this council, as municipalities will be impacted directly by this legislation.

The AMM is also supportive of the development of watershed quality management zones. These zones will protect water, aquatic ecosystems and drinking water sources by designating all areas of the province into zones and then governing, regulating and prohibiting any use, activity, or thing in those zones.

These management zones will be useful tools in the development process and will help ensure that sound environmental decisions are being made.

However, the creation of these zones must be made based on sound science and cannot be used as a tool to prevent or limit development in certain areas of the province, such as the Capital Region. Management zones will be a useful tool, but only if the mapping of these zones is based on sound science, and it is imperative that the Province complete the maps and provide them to municipalities and watershed management boards quickly.

* (19:20)

The AMM was also pleased to see that Bill 22 includes a clause guaranteeing that there will be consultation in the development of the regulations under this act. This is an important clause, since much of the detail will come later through the regulations. For this consultation process to be meaningful, however, municipalities must be consulted in the development of the regulations and not simply asked to comment on a completed draft. Input must be sought in the beginning stages of drafting the regulations, and not merely once the Province has internally set the direction of the specific regulations,

However, while the bill does have some excellent attributes, the AMM does have some concerns. While legislation in general requires a certain amount of vagueness to ensure that it is adaptable to future changes, this legislation is visibly vague and grants unprecedented powers to the current and any future Minister of Water Stewardship, and for this reason should be considered carefully.

One such power is the unilateral ability of the minister to declare a serious water shortage in part or all of Manitoba if he or she considers that extraordinary measures are needed to ensure a reasonable water supply. While we can certainly appreciate that in some instances immediate reaction and decisions are required and time is of the essence, we believe that local input and consultations with the water management authorities should take place before taking such drastic measures. Often it is the local people who best understand the needs of the community and area and who would have valuable input that should be considered before any harsh decisions are made.

One of the greatest concerns our association has with this bill is in its implementation. The bill is

vague about how all of the newly legislated ideas and requirements will be implemented. It is clear that municipalities, along with conservation districts and planning boards, will have a major role to play in the implementation of the concepts laid out in the bill. However, how great a role this will be is not clear. This bill lacks any plan for action as to how any of these new requirements will be met and lacks any details as to who will be responsible for insuring that these new requirements are met. It is imperative that these rules are shared with key stakeholders prior to the act being passed, because it is crucial that local people are consulted and involved in this process.

Closely related to the matter of implementation is the issue of financing. This bill is vague on the issue of who will be financing the implementation of this legislation. Without adequate funding, none of the key attributes of this bill can occur. For instance, watershed planning authorities cannot make the watershed management plans required under the act without financial assistance. However, there is no indication that the Province will provide any financial assistance to watershed planning authorities in the development of these plans. Without provincial financial assistance for this bill, the financial responsibility will be simply downloaded to municipalities or will be financed by all Manitobans through user fees. Simply put, Bill 22 will not work without a clear commitment from the provincial government to adequately fund the requirements of this legislation.

In summary, while there are definite positive attributes to this bill, the AMM is concerned that this bill is vague, and it is imperative that the Province help offset this vagueness through early consultation in the development of the regulations. The Province must also address the problems with implementation and the financial underpinnings of the bill to ensure that these responsibilities are not simply downloaded to municipalities, and to ensure that the strengths of the bill are not lost due to these weaknesses.

Thank you for the opportunity to present our views to you today on this important bill. The AMM looks forward to further consultation in the development of the details of this legislation. Thank you.

Mr. Fourschou: Thank you very much, Mr. Briese. Again, it seems to be a commonality between the presenters here this evening, that you are looking to

the regulations component within the legislation as being vitally important to this particular act. Are you, too, suggesting that this legislation not go forward until you, as an organization, have been consulted on the potential regulations or at least have an opportunity to review? I believe you did say that you want to see them before they even got to draft.

Mr. Briese: We would like to see some of the proposals for the regulations that are coming forward. There is a commitment right in the piece of legislation that there be public consultation on the regulations. If the bill proceeds, what I was saying in my presentation is that we want to be up front. We want to be in that consultation very early.

Mr. Faurschou: I just wanted to ask also, Mr. Briese, in regard to an appeal mechanism not being in existence in this legislation, have you concern in regard to that because under 35(3) it repeals section 4(6) of The Water Rights Act, which, essentially, used the opportunity to appeal with compensation?

Mr. Briese: I do not see a lot of situations where municipalities would have to have an appeal mechanism. There may be some, but outside of that I cannot really comment on that.

Mr. Ashton: I would like to thank the presenter and acknowledge publicly the input of the AMM, certainly on this bill but also the water strategy of which it is the basis. I would just like to ask Mr. Briese in terms of the consultation on regulations, what the experience of the AMM has been with, for example, the commitment to consult with regulations that were part and parcel of The Drinking Water Safety Act—in fact, I think the consultation took place as recently as the last several weeks—whether there has been a growing acceptance of the fact that regulations have to be consulted upon. In fact, in this case, that is in the act itself. I just wondered what the experience of the AMM has been on this.

Mr. Briese: We were consulted in those parts of the legislation and regulation. The one thing that we feel we have not had a lot of consultation in, once again, is how they are going to be paid for, and that always concerns the municipalities. Is it through licensing fees and permitting fees? That goes right down under our property tax; that is where it ends up.

Mr. Gerrard: In your presentation, you talk about the need to involve municipalities, conservation

districts and planning boards in the process of developing the watershed plans. I would ask, in your view, what the optimum process is for involving all the groups and, second, what a reasonable time line would be if there was adequate provincial financing for the completion of such watershed plans.

Mr. Briese: That somewhat goes back to the whole COSDI process that we went through a number of years ago. The municipalities' planning districts and most conservation districts do not follow watershed lines. To use a watershed planning concept, you have to have a plan for the watershed, which would, in my view, be set up in consultation with local people for that particular watershed. Then whoever happened to be in that municipality planning district or conservation district would adhere to that overall plan. I do not see it as another level in there. I think it is something that would be done by local people in that area, and then referred to in whatever was being enacted in all three of those other bodies. Probably there would be a need to review it from time to time, but beyond that I do not see another legislative or policing mechanism higher up. Develop a plan and then use it for that particular watershed.

Floor comment: Do you have time lines?

Mr. Briese: Time lines? I think there are models out there that can be used already. There are a couple of conservation districts that do follow watershed boundaries, but really on a time line I think it is doable. I think it is something that could be done, and I will not give you a time but in a reasonable amount of time.

Mr. Cummings: Well, just following on the previous question and your answer, historically, it seems that when the original watershed conservation district program was put in place, the Province played a significant role in funding the development of the plan. It seems to me that we have gotten a little bit more into a mode of downloading some of those costs to the watersheds and, ultimately, to the municipalities. Do you see the Province as having an ongoing role in funding the development of these plans or perhaps the main role in funding the development of watershed plans?

* (19:30)

Mr. Briese: I certainly think the Province has a role to play. I think municipalities and other entities are

willing to be partners in these plans, but I think the Province has to be the lead, and the lead financially.

Mr. Faurschou: I appreciate the comment, but having been a founding member of the Whitemud Watershed, I believe at that time the government virtually paid 100 percent of the cost to develop the watershed management plan. Do you envision that the Province continue to be consistent with that particular level of funding?

Mr. Briese: I think, as I said to the earlier question, there is a need for the Province to be there and take on a significant part of the funding. I do not know whether it needs to be 100 percent or 75 percent or whatever. I think they do need to be involved.

Madam Chairperson: Thank you very much. Seeing no other questions, thank you for your presentation.

Our next presenter is Greg Bruce from Ducks Unlimited Canada. You may proceed, Mr. Bruce.

Mr. Greg Bruce (Manitoba Head of Industry and Government Relations, Ducks Unlimited Canada): Madam Chair, members of the committee, good evening. My name is Greg Bruce. I am the Manitoba Head of Industry and Government Relations for Ducks Unlimited Canada. I would like to introduce my colleague, Shane Gabor, behind me here, research biologist with Ducks Unlimited's Institute for Wetland and Waterfowl Research, who I may call on to assist with any technical questions you may have.

On behalf of Ducks Unlimited Canada, I would like to thank the standing committee for the opportunity to provide input into The Water Protection Act. I provided copies of a more comprehensive written submission for the committee's consideration.

Although I am making this presentation and submission on behalf of Ducks Unlimited Canada, I am pleased to advise the committee that Ducks Unlimited's recommendations have received the support of the Manitoba Naturalist Society, the Manitoba region of the Nature Conservancy of Canada, and Manitoba Wildlife Federation Habitat Foundation, Inc.

Ducks Unlimited Canada is a private, non-profit charitable organization dedicated to conserving wetlands and their associated upland habitats for the benefit of wildlife and people. We began our mission in 1938, and have developed considerable expertise related to wetlands and their contributions to watersheds, human health and the economy. Indeed, I would like to congratulate the Province of Manitoba on the establishment of the Department of Water Stewardship and the subsequent introduction of The Water Protection Act. We are pleased to have participated in the water strategy process as a steering committee member, advisory committee member and a presenter to the various implementation groups.

We recognize the importance of this legislation and are pleased that important issues for Manitobans, such as source water protection, aquatic ecosystems and watershed planning are entrenched in the act. The approach of integrating incentives with awareness and education through watershed planning along with targeted, rather than blanket, regulation is desirable.

In reviewing the act, we find that it provides a number of very positive measures for safeguarding our water resources. Numerous studies have shown that protection of source water well upstream of users can significantly protect water quality and reduce dependence on other means of water treatment. To that end, Ducks Unlimited Canada believes wetlands are vital yet undervalued and unappreciated resources that provide a host of benefits to producers, rural communities, watersheds and, indeed, all Manitobans.

Perhaps the most unappreciated role of wetlands is their function as natural filters of the watershed. Source water protection is clearly a concern for all Manitobans. When we lose wetlands, we lose our natural ability to significantly retain sediments, absorb nutrients, dissipate pesticides and reduce pathogens in surface and groundwater.

Ducks Unlimited's submission to the Walkerton inquiry has underscored the importance of wetlands in a multi-barrier approach to source water protection. Wetlands are an integral component to a healthy watershed and have the potential to effectively retain and absorb up to 87 percent of nitrates and 94 percent of phosphorous found in surface water.

A series of wetlands in the watershed can also help reduce erosion, moderate runoff and, subsequently, reduce sedimentation and peak flows. These functions benefit farm sustainability, fisheries habitat and infrastructure at a watershed level, and, especially, when cumulative impacts of drainage are accounted for, the economic impact of washed wetlands becomes significant.

Wetlands are extremely productive natural ecosystems that provide biodiversity habitat for over 600 species of plants and animals, 11 of which are at risk in Manitoba. Additionally, wetlands provide many social economic functions and are an important resource base for ecotourism and recreational activities such as bed and breakfast, fishing, wildlife viewing, trapping, hunting and outdoor education. I have referenced some of these economic contributions in the written submission in more detail.

Despite their importance, we continue to lose wetlands and any subsequent benefits that they provide for all Manitobans. Estimates are that upwards of 70 percent of prairie wetlands have been drained or impacted, primarily due to agricultural drainage. We are pleased to see that one of the objectives of the act is to protect reoccurring areas and their associated water bodies which include wetlands. However, Ducks Unlimited Canada believes that wetland conservation must be an explicit component within legislation. Given the broad environmental benefits that wetlands provide, and given their particular contribution to source water protection, Ducks Unlimited Canada recommends wetland conservation should be explicitly identified under the purpose of the act with a no-loss of wetlands target.

A no-loss of wetlands objective can be achieved through an integrated approach employing a series of policy instruments: firstly, economic incentives for wetland restoration and retention; secondly, promotion and recognition of voluntary stewardship through integrated watershed management planning; thirdly, reform of perverse policies and institutional barriers such as the property tax system that can actually promote wetland destruction and degradation; and, fourthly, increased commitment to regulatory and enforcement activities as a backdrop to complement these other mechanisms.

If wetland drainage continues, there will be a need to offset these losses. Ducks Unlimited Canada

recommends the Province consider incorporating mitigation language into the act to abate wetland loss. Currently, there is no reference to mitigation in the act. Mitigation legislation would allow the Province to recover value from lost or degraded wetlands to finance compensatory wetland restoration and protection activities potentially through the proposed Water Stewardship Fund.

Appendix two in our written submission offers proposed amendments to the draft Water Protection Act to facilitate the inclusion of mitigation.

We support the empowerment of integrated watershed planning through legislation, and Ducks Unlimited Canada has long advocated watershed planning as a comprehensive, multi-resource planning and implementation process involving all stakeholders working toward sustainable solutions. It is our understanding that the Province of Manitoba supports this concept, but the tenets of integration and stakeholder inclusiveness must be more clearly entrenched in legislation. To that end, Ducks Unlimited Canada offers recommended wording changes in our written submission.

Ducks Unlimited believes that heritage marshes and Ramsar sites should also be included in the recommendations for regulations regarding water quality management zones. Heritage marshes are designated under the provincial Heritage Marsh Program because they provide important benefits to people and wildlife. Ramsar sites are designated through an international convention because of their significance and value to the world community.

The development of sound water management principles and regulations will become a very important exercise if we hope to achieve the ambitious goals identified in the act. The act indicates the intent to pursue an open process in the development of regulations. We look forward to participating, and we offer our knowledge base in their development.

We are encouraged to note, as well, the provisions for a water council and Water Stewardship Fund in the act. We welcome the opportunity to continue to forge scientific and financial partnerships with the Province of Manitoba related to watershed planning and stewardship programming.

The act speaks about regional representation on the council which, we believe, is important. Ducks Unlimited Canada recommends that the membership of the water council should also attempt to reflect sectoral representation, much as the steering committee was able to accomplish through the water strategy process.

Ducks Unlimited Canada is prepared to offer experience and science-based expertise through representation on the council.

On behalf of Ducks Unlimited, again, I thank you for this opportunity.

Madam Chairperson: Thank you very much.

Mr. Eichler. I am sorry.

* (19:40)

Mr. Ralph Eichler (Lakeside): That is fine. Thank you, Madam Chairman. Thank you, Mr. Bruce, for your presentation.

I just have a concern that has been brought up earlier in some of the recommendations you are making with regard to the wetland conservation. Do you feel that the regulations should be brought into place before the bill is presented for final reading?

Mr. Bruce: That is a good question. I do not have a formal DU position on this. We have not considered whether or not that should happen. The way we approached the act was that the act was enabling. It provided the framework by which we would proceed down the path in source water protection. To that end, our concerns were that wetlands were not designated. They were not dedicated in the act, and there was not a strong enough commitment, from our perspective, to wetlands within the enabling legislation itself. The same goes with the watershed planning. We wanted to see more emphasis, more commitment to stakeholder inclusiveness within the enabling act itself.

As far as proceeding down the regulation path prior to the act being approved, I believe, from DU's perspective, we strongly welcome the intent that the regulations were an open process. Given the vagueness that previous presenters talked about, and given that this act is enabling, I think that is something that needs to be firmly enacted, and that that be a major component as we go down the path.

Mr. Cummings: Just following up on my colleague's concern, looking at page 10 of your presentation, there is a lovely pastoral scene there. I would suggest that if this act comes into play with the type of regulations that we believe potentially could be attached to it, the reason the grass is growing in that corral is that farmer would have been shut down.

I do not make that suggestion in the light of trying to be humorous but to make the point that we are very concerned that public and different vested parties, not just the major groups within society, need an opportunity to have input into the makeup of the regulations. Certainly, the work that DU does is well recognized and appreciated out there, but this legislation is so far reaching that I guess I am asking—this would not necessarily elicit a response beyond what you gave my colleague, but that there is precedent where regulations are discussed before the bill is in place in order to give people some comfort with the bill. I just wondered if DU would be uncomfortable with that process.

Mr. Bruce: Not knowing where the process is going to go, not knowing what is involved in the regulations, what we have done in our submission is offered principles, I believe, that would form a very good framework for regulations to follow. Basically, the four pillars of how we might proceed on an integrated approach: the incentives; the awareness; regulation has to be part of it; the enforcement for wetlands protection has to be a part of it as well. We offer that to this committee for consideration. If the committee decides to proceed with regulation, I think we have offered some advice and direction in that regard.

Mr. Ashton: I would like to thank the presenter, and I certainly concur. I think we all do in terms of the increased recognition of the importance of wetlands to the ecology of this great province, but also in many ways to water quality and the many other benefits. I appreciate Ducks Unlimited's work in that area.

I am wondering if you could perhaps outline some of your experience through Ducks Unlimited in working with other stakeholders, because by no means is this act the beginning and the end of our desire to deal with water quality issues. There are many aspects, many activities outside of the act that are ongoing and will continue. I am wondering if you

have had any particular experience in working with various other groups, with the farm sector and levels of government, on wetland preservation and restoration.

Mr. Bruce: We have had a tremendous working relationship with a lot of different groups and stakeholders. Our future, I would say, relies on us forging partnerships into the future, certainly with the agriculture community, our clients, in essence, our producers out there on the landscape. I may have said that agricultural drainage is the prime factor for wetland loss; thus it is the reason that we need to work closely with producers and producer groups and we have done that. We have worked and developed a very good relationship, I would say, with Keystone Ag Producers and a growing relationship with the cattle producers, a very good relationship with the Association of Manitoba Municipalities and, in my role as industry and government relations, we need to continue to forge a stronger relationship, I would say, with both the Province and the federal government.

One of the things, and kudos to the Province in the water strategy process, is that it did bring the stakeholders together through that committee. We are hearing from other stakeholders that, I guess, they were looking for more involvement prior to seeing the regulations, but we need to continue to do that as regulations are developed. I think it is absolutely paramount that all the stakeholders are involved and engaged in the development of those regulations, because they are going to have a very profound impact on the land users.

Mr. Faurschou: I almost hesitate to ask this question, because it is slightly alarming to myself that the minister and I are sitting and asking the same question, insofar as the alternative land use.

The Keystone Agriculture Producers have spent an enormous amount of time in putting together the proposal known as Alternative Land Use Strategy. Have you had a chance to study that particular proposal? Have you had any dialogue between the two organizations to this point in time?

Madam Chairperson: Mr. Bruce, you have only about 15 seconds.

Mr. Bruce: Yes, we have. We certainly had a number of formal and informal discussions with

Keystone Ag Producers on ALUS. In essence, I would say that Ducks Unlimited and Keystone Ag Producers are very much on the same page in terms of the concept of reimbursing producers for the provision of ecological goods and services to society, and we need to be able to develop that. There is a whole series of policy implications as a result of proceeding down that path, and we need to engage in what is the science base, how much benefits are we getting, what is the value of those benefits before we can start to assign values to that. We are involved in those discussions.

Madam Chairperson: Is there leave? Mr. Gerrard had one further question. Is there leave for the question?

Some Honourable Members: Leave.

Mr. Gerrard: You comment specifically on the phosphorus retention capacity, for example, of wetlands. Is the draining of wetlands, in your view, one of the major reasons for increased phosphorus in waterways and draining into Lake Winnipeg, and in that context, your recommendation of no loss of wetlands, I presume that you really mean no net loss, that you would be happy if any losses were balanced by the creation of new wetlands?

Madam Chairperson: Mr. Bruce, I will just tell you that this will be the last question. Thank you.

Mr. Bruce: I would prefer to defer that question to Mr. Gabor, our research biologist, on this. I do not believe that we are able to attribute. We do not have the science, at that level of landscape, to be able to make those kinds of conclusions that you are suggesting, that the drainage of wetlands has, in fact, resulted in the phosphorus loading that we have seen in Lake Winnipeg. Certainly, wetlands do contribute to phosphorus cleansing and retention and that sort of thing, so there is a level of benefit attributed to wetlands. When we lose wetlands, we lose those benefits, and that is the best that we can provide.

In terms of landscape impact, I would like to answer that question after the fact, so to speak, or after committee. Give us a call and we can touch on that.

The second question was?

An Honourable Member: No loss or net loss?

Mr. Bruce: No loss. No net loss. Certainly, no net loss would be a lot better than what we have to date. We are constantly losing wetlands. We have lost 70 percent of our wetlands. Wetland loss continues, and the no net loss was certainly in the back of our minds as we have offered mitigation as a plausible option to achieve no net loss in the long run. If we could include no net loss in the act, as a desirable objective, we have offered mitigation as one way to achieve that.

Madam Chairperson: Thank you very much, Mr. Bruce.

Our next presenter is Betty Green, President of Manitoba Cattle Producers Association.

Ms. Betty Green (President, Manitoba Cattle Producers Association): Good evening, Madam Chairperson and committee members. My name is Betty Green. I am with the Manitoba Cattle Producers Association, and we thank you for the opportunity to present this evening.

* (19:50)

Manitoba cattle producers are keenly aware of the importance of having safe and secure water supplies. The quality of water that cattle drink can be determining factors in their size, weight and eating habits. It can impact on their milk production.

Manitoba livestock producers take many steps to protect the environment, recognizing that their actions can have a long-term impact on the sustainability of their own farms. In addition, livestock producers and their production practices are among the most heavily regulated of all Manitoba industries.

The Manitoba Cattle Producers have a number of concerns with Bill 22. This is enabling legislation that gives the government extensive powers in areas such as designating water quality management zones and declaring water shortages. Yet it is unclear at this time how vigorously the government will use these provisions to set policies regarding water usage and maintaining water quality.

The process of protecting Manitoba water resources must be fair and balanced. There is a lack

of clarity around how the principles outlined in Bill 22 will be translated in practice. For example, the government has given itself tremendous powers in terms of prohibiting activities in a water quality management zone.

A high-ranking official of the Department of Water Stewardship was quoted in the *Winnipeg Free Press* earlier this year stating that we are working towards procedures to roll back the clock where that is necessary. He went on to state that in cases where the threat to ground and surface water cannot be mitigated, the Province will have the authority to force the pre-existing development out.

This begs a number of questions. For example, how does the government intend to regulate nutrient levels from all sources? Does the Province intend to restrict access of livestock to or near water bodies? Does the Province intend to shut down some farming operations outright?

Bill 22 names only two nutrient hazardous components: nitrogen and phosphorus. Yet both nitrogen and phosphorus are important to and products of the agricultural production. What about the myriad of other chemicals used by other sectors that are not singled out in this legislation?

There are ramifications to forcing pre-existing developments, such as farms, out of an area. Yet the legislation does not address this. Like the equally contentious proposed Bill 40, The Planning Amendment Act, Bill 22 fails to provide clear answers about what would happen to a producer if their farm is deemed to be in a no-go zone.

For example, there seems to be no means for appealing a decision to force a pre-existing farm out of an area deemed to be environmentally sensitive, nor is there any indication that producers will be compensated if they are forced to relocate all or part of their operations.

We recommend that there be an appeal mechanism if the provincial government evicts the existing development. As well, we recommend that the government provide compensation for operations that are forced to wholly or partly relocate or significantly alter their operations due to the actions taken under this legislation.

The MCPA has questions about the sections of this legislation dealing with water conservation and the declaration of severe water shortage.

The legislation does not make it clear what criteria will be used in determining a serious water shortage, nor do we know how widespread or localized such a shortage could be. Whose data will be used to determine such a shortage? PFRA? Environment Canada? How will the provincial government react to a municipal council's declaring itself as a disaster area due to drought? Will the provincial government have the power to override those decisions?

Should the provincial government declare a water shortage, will it have the power to restrict a producer's access to water sources from where they are normally watering their cattle, or will it be recognized that watering cattle and protecting the health of their animals should be deemed as essential, taking precedence over other users? Could this include the suspension of permits and licences under The Water Rights Act?

The MCPA would like to state that it would be inappropriate for the provincial government to restrict producers' access to water, causing potential shortage for watering their livestock. If an animal were to die as a result of restrictions or problems in accessing water, certainly producers would have to be compensated.

Bill 22 also deals with the development of watershed management plans. MCPA recommends that the agriculture sector be consulted on the development of such plans, given the extraordinary impact these plans could have on a producer's ability to manage their operations. Similarly, industry representatives should be on each of the water planning authorities in the different regions.

MCPA believes there should be an appeal mechanism, should the watershed management plan be developed in such a way as to restrict normally accepted farming practices.

Bill 22 provides for the creation of the Manitoba Water Council, and MCPA strongly recommends that a representative from the agriculture sector be one of the five permanent members on that council. The omission of the agricultural community from this council would be deemed as gesture of bad faith

by the producers in the province. MCPA has questions about the structure and the funding of the Water Stewardship Fund. It is incumbent upon the government that this fund not be co-opted by special interest groups.

Bill 22 gives the provincial government officials extraordinary powers to investigate matters, including the power to enter dwellings, take photos and collect samples. The government must take steps to ensure that its enforcement officers are properly trained in the matters they are investigating, and that they exercise their powers judiciously. Similarly, penalties levied under this act must be administered fairly, with one section not unduly punished compared to others that commit similar or the same type of an offence.

During the development of this legislation, the Premier (Mr. Doer) assured Manitobans that this bill is not intended to be "Big Brother." It is essential that he is true to his word, given that the lives and livelihoods could be seriously affected by the enforcement of this act.

Regarding the "whistle-blower's provision" in this legislation, the Manitoba Cattle Producers Association strongly recommends that steps be taken to prevent individuals or groups from filing repeated nuisance complaints against agriculture producers, or otherwise harassing them. We would recommend there be a mechanism to deal with such cases.

Regarding other aspects of the legislation, the aquatic ecosystems are included. Given the ongoing confusion over the rights and responsibilities of the federal Department of Fisheries and Oceans, there must be clear delineation of authorities between the provincial and the federal government when it comes to these areas. For example, the Manitoba Cattle Producers Association has concerns with regard to section 33(1)(d), under regulations, which read "the Lieutenant Governor in Council may make regulations governing, regulating or prohibiting the access of livestock to water bodies or areas adjacent to water bodies." Is this simply following the DFO rules, or will these affect producers with properties adjacent to lakes? Will sloughs, dugouts, creeks and marshes on producers' properties have to be fenced?

What types of discussions have been held between the two levels of government about Bill 22

when it comes to determining whose authority will take precedence?

In closing, the Manitoba Cattle Producers Association would like to express its disappointment with the government's lack of consultation during the development of Bill 22, given the wide-ranging implications for Manitoba agricultural commodities. We note that on June 10, 2004, in a press release, the government stated that Bill 22 would be held over until the next session to provide for more debate and further public review and input. Yet we are unaware of any additional consultations being held in the interim.

The Manitoba Cattle Producers Association recommends that broad-ranging policies, both outlined and implied in the contents of Bill 22, be put on the table for thorough discussion with—

Madam Chairperson: Ms. Green, can you just hold on? May I have permission of the committee to allow Ms. Green to go past the 10-minute presentation?
[Agreed]

Please continue.

* (20:00)

Ms. Green: We would, as I was saying, recommend that the broad-ranging policies, both outlined and implied by the contents of Bill 22, be put on the table for thorough discussion by affected sectors prior to the passage of this legislation and related regulations.

The Manitoba Cattle Producers would like to express, also, their disappointment in the preoccupation with singling out the agricultural sector for increased regulation when drafting this kind of environmental legislation. Manitoba producers have had a long history of protecting the environment. We are willing to do our part, but it must be recognized that we cannot simply just pass on the cost to our consumers. All Manitobans must do their fair share in protecting the province's water resources. Moreover, it is essential that sound science be used for the basis of enforcing this legislation. The legislation cannot be allowed to become a tool for special interest groups who are railing against generally accepted agricultural practices.

We look forward to seeing our recommendations incorporated into this legislation.

Mr. Eichler: Thank you, Mrs. Green, interesting comments. I realize you did rush through your presentation. There are a number of issues there that you did not get to highlight on 100 percent, but, being a cattle producer myself, and being in the Interlake where there are an awful lot of sloughs, I do have some of the same concerns you do, in particular with the appeal mechanism.

Do the cattle producers have a position on the appeal process, the appeal mechanism?

Ms. Green: We do not have a formal position, and we would like to participate with other agricultural commodity groups in bringing forward a recommendation to the government.

Mr. Eichler: Thank you. Taking it to the next step, then, would you agree that the regulations be brought forward before the bill is presented in its final form?

Ms. Green: I think that would be essential. The regulations really are the nuts and bolts of this piece of legislation. Without those regulations intact, it really is up to the government in terms of how aggressively they enforce the legislation. So we would like to see the regulations, at least in draft form.

Mr. Ron Schuler (Springfield): Thank you very much. Betty, thank you for your presentation. It was well written, and it certainly raises a lot of concerns, in particular on page 5, the top paragraph, it is extremely disappointing "with the government's lack of thorough consultation during the development of Bill 22, legislation that will have wide-ranging implications for Manitoba's agricultural community."

My question to you is were you consulted on Bill 22, meaning you, your organization. Were you consulted on Bill 22 at any time during its development, and, if so, when did that consultation take place?

Ms. Green: We had representatives participate in discussions about water utilization a couple of years ago, but certainly not since the bill has been in draft form and ongoing development.

Mr. Schuler: That certainly does seem to be a concern, not just for your organization, but for others.

If I could just ask you to comment on: What would you recommend be the next step with this legislation beyond waiting for regulations to be tabled? Is there something else you would like to see take place, considering that yourself and other groups have really not been consulted on a piece of legislation that is so wide-ranging, so large in scope?

Ms. Green: The suggestion that there was going to be further consultation over the summer or between sessions was a welcome piece of news to the cattle producers. We would have liked that kind of consultation before the legislation moved forward, and we would continue to urge the government to give us that opportunity to provide some further input.

Mr. Faurshou: I can appreciate the presentation here this evening. In regards to your request to the minister that you be considered for a position on the council, as you are aware, the council supersedes the Water Commission which, in my reading, is the council is a neutered body in comparison to the abilities of the Water Commission.

Have you had any participation with the Water Commission in the past, or any representation either informally or formally?

Madam Chairperson: Ms. Green, this will have to be our last question.

Ms. Green: Thank you. No, we have not. I want to clarify that our position is that we need to have an agricultural representative, perhaps, not necessarily a cattle producer, but the agricultural industry in Manitoba needs to be represented.

Madam Chairperson: Is it the will of the committee to allow this to continue, for I have a couple of other people who had questions who did not have an opportunity to ask them? *[Agreed]*

Mr. Ashton: I appreciate the feedback. I do know that I certainly met personally with many ag reps, Pork Council, KAP, and I am not sure if MCPA is able to make that meeting, but that was just recently as a few months ago in Room 334. I do want to indicate that there certainly have been discussions, not only at the staff level but also at the level of the ministers involved, and that we have already seriously seen this hearing as a very important part of that. It is a new development in Manitoba rules

actually to have intersessional committees use quite the way they are. This legislation will not be going back into the Legislature until we go back, so there is plenty of opportunity again for further input.

I know that we certainly have written to you back in April, and I certainly give you my assurance that any of the specific concerns that were raised we will also be raising them. I realize that there may be areas of disagreement, but I do want to indicate that we certainly have met with Agriculture prior to the formal movement of this bill to second reading, and certainly I welcome any ongoing contact as well, either from MCPA or from KAP or any of the other agricultural organizations.

Ms. Green: That is encouraging, and I thank you for that invitation. We certainly will take you up on that. Certainly, that appears to be a departure from the way the committees have been operating in the past, and if there is an opportunity before this legislation goes forward, we will take every opportunity we have.

Madam Chairperson: One final question, Mr. Gerrard.

Mr. Gerrard: On the appeal mechanism, one of the earlier presenters suggested that a municipal board would be an effective appeal mechanism, and I would like your comments on that and whether there are other approaches that might provide better protection for circumstances where people might be threatened by eviction because of measures taken under this act.

Ms. Green: To be honest with you, we have not had a lot of discussion, and, as I suggested earlier, I would like to sit down with some of our counterparts and some of the other agricultural organizations to have some discussion around that, but certainly we believe it needs to be an independent arm's-length hearing that can review all the factors from an unbiased position.

Madam Chairperson: Thank you very much.

Our next presenter is Jim Stinson, private citizen. Please proceed, Mr. Stinson.

Mr. Jim Stinson (Private Citizen): Madam Chair, members of the committee, my name is Jim Stinson. I am a private citizen. On March 4, 2004, honourable

Minister Ashton stated, "Water is the fundamental building block of life, and protecting this precious resource is a priority for all Manitobans. This legislation the first of its kind in Canada reinforces the importance of water in helping to maintain our quality of life." I totally agree. Water is fundamental to our livelihood and quality of life. It is refreshing that a government would take all steps to protect this most valuable resource. I thank you for the opportunity to speak to you on this proposed bill. The majority of Bill 22 concerns itself with The Water Protection Act, but in doing so it has to amend a couple of other acts, The Water Rights Act, The Ground Water and Water Well Act, and The Drinking Water Safety Act.

* (20:10)

In section 2 of the primary bill, The Water Protection Act, under the Purpose of the Act, it states: "The purpose of this Act is to provide for the protection and stewardship of Manitoba's water resources and aquatic ecosystems, recognizing"—it includes many things, but specifically under subsection (d)—"the importance of applying scientific information in decision-making processes about water, including the establishment of standards, objectives and guidelines."

The federal government and the present-day provincial government have, on many occasions, stated that the United States of America must rely on scientific information when making decisions concerning the barrier of live Canadian cattle into the United States. I, too, agree that scientific information must be the decision maker in matters as serious as this or the BSE situation.

That brings me to The Water Rights Act, specifically section 9.2, wherein it states: "The minister may suspend or restrict the rights under a licence for a specified period, if in his or her opinion, (a) a groundwater level; (b) a water body level; or (c) an in-stream field is insufficient to ensure that aquatic ecosystems are protected and maintained."

With the word "may" in this section it allows for politics to be played by whatever party is in power at the time. It would appear that with the inclusion under the Purposes of the Act, that the lawmakers wanted to have scientific information as the primary element in the decision making. I therefore respectfully recommend that the wording of Section

9.2 be changed to reflect this and, if I may suggest, the wording as: The minister must suspend or restrict the rights under a licence for a specified period if evidence shows that, (a) a groundwater level; (b) a water body level; or (c) an in-stream field is insufficient to ensure the aquatic ecosystems are protected and maintained. I believe this would properly reflect the spirit of the act.

Thank you very much for your time.

Mr. Faurshou: Thank you very much, Mr. Stinson. Also, earlier on in the act, when it is pertaining to section 4, it also states that in regards to consideration of regulation the minister may consider scientific information. Would you recommend that that word also be changed to "shall"?

Mr. Stinson: I have always taken the approach of not using a shotgun effect, take one point and make that one.

Yes, anywhere "may" is used in law, politics can be played, and one time it is good, another time it is not good. So let us follow what we say, scientific information, good scientific information, and follow with it, wherever that word "may" is. Yes. Thank you.

Mr. Faurshou: I appreciate your consistency, and I truly appreciate your awareness of the possibility of changes in government and how this legislation may be interpreted, so I can wholeheartedly concur with your observation. I hope that the amendment would be forthcoming to make it as strongly worded as possible, that the decisions made be based on science. Thank you.

Mr. Ashton: I just wanted to thank the presenter. I think one of the great things of these committees, we discuss many broad issues but I think when it gets to the point here as a citizen coming forward, having read the act and giving us the advice, I think that that is really something you should be commended for.

We certainly will look at any and all suggested amendments, both as we proceed tonight and over the next few months. So thank you for having the time to go through this. These bills, at times, are not something we expect to have, perhaps, the same kind of scrutiny you have given it from an individual citizen, although many stakeholders obviously have a direct interest and are reading them fairly

extensively. So this is a good sign for democracy in Manitoba. Thank you.

Madam Chairperson: Thank you, Mr. Stinson.

Jonathan Scarth from Delta Waterfowl. You may proceed, Mr. Scarth.

Mr. Jonathan Scarth (Executive Vice-President, Delta Waterfowl): Madam Chair, members of the committee, thanks for the opportunity to present the views of Delta Waterfowl on the proposed Water Protection Act, and for the judicious scheduling of these hearings so as to avoid the final game of the World Cup of Hockey tomorrow night. I may not have had such a full house, I think.

I appreciate the opportunity to provide comments to the committee on Bill 22, the proposed Water Protection Act.

Delta Waterfowl is a membership-based organization, and our mission is to sustain waterfowl populations and waterfowl hunting. Given that the agricultural landscape of Prairie Canada is the acknowledged breadbasket of duck production in North America, land and water management in this area is of great interest to our membership.

My presentation will briefly review some related policy initiatives that provide a context for Bill 22, describe some of the key policy choices I believe have been made within the bill, and then conclude with some recommendations as to how those policy issues could be resolved.

Bill 22 joins a growing list of policy initiatives that have recently come forward from various governments and levels of government to address different aspects of the same issue, that being the production of environmental goods and services ranging from ducks to clean water from the privately owned rural landscape.

To name just a few, these initiatives include the North American Waterfowl Management Plan that my colleague Allen Tyrczniewicz will speak to later tonight; the federal Species At Risk Act; Migratory Birds Convention Act; and Fisheries Act, all of which feature strong regulatory prohibitions dealing with disturbance of fish and wildlife habitat; also, the environment pillar of the federal ag policy framework, which provides for both individual and

area-based environmental farm plans and cost sharing for specified beneficial management practices.

Within the province, The Water Rights Act has been mentioned as a related policy initiative that licenses water use; the regulatory authority provided by The Environment Act and the Manitoba Riparian Tax Credit initiative.

All of these efforts deal in different ways and with varying amounts of success with the complex overlap of private and public resources that characterize agro-Manitoba, and they help us to find the policy options available to influence the management of the soil and water resources within that region and inform us about the pros and cons of each.

Briefly stated, they identify that there are really three instruments with which you can influence the production of environmental services from private lands, those being: land use regulation, where you have the description of an offence and a concomitant penalty or the approval of activities required by an authority; secondly, you have the option of acquiring property rights through acquisition or conservation agreements; thirdly, you have the opportunity of leaving the land in the hands of the private landowner and providing incentives for your ecological services.

Experiences with these initiatives both inform and help sharpen the focus of the policy choices within Bill 22, and the important choices before you in our recommendations are as follows:

The objectives of the proposed watershed management plans need to be clearly defined in terms of the tools required to give them effect. In particular, we believe the bill should reference the principle that incentive should be used to support the production of environmental goods and services from private land. I do draw a distinction here between private land and Crown land.

The current provisions of the bill imply that the objectives of the plans will be achieved solely through regulation. The language of section 4 of the bill dealing with water quality and management zones expresses the regulatory approach as a favoured implementation tool. Sections 11(1)(c) and 18 similarly imply that the implementation of the

watershed management plans will be achieved through regulatory approvals, including those under the provincial Planning Act. Significantly, there is no reference in the bill to incentives or compensation for landowners.

The mandate of Bill 22's planning process will have important implications as well for private landowners as they are asked to participate in the consultation processes. If planning and regulatory processes are the implementation instruments of choice, it will have a chilling effect on the participation and information that are provided through those processes. It will also, in my view, create a significant dilemma for some conservation districts who in the past have not been involved in the regulatory and enforcement process.

The overall mandate of the watershed management plan should also be clarified in the context of the environmental farm plan initiative under the federal Ag Policy Framework. Notably, access to cost-shared funding for some BMPs, beneficial management practices, from the federal government is contingent on the development of these plans at a farm, watershed, or commodity level.

* (20:20)

There is certainly a role for regulations in specific cases where performance can be easily measured, such as point sources of pollution, but the weight of our experience is that landscapes are more efficiently influenced through incentives. It is our strong view, based on our collective experience to date, that Bill 22's objectives of water source protection will not be met solely through the use of regulatory instruments, and that Bill 22 should be amended to specifically reference the use of incentive programs for the implementation of watershed management plans.

I pause to note that, in practice in New York State where they have experimented with the alternate approaches of regulating downstream and creating incentives upstream, there has been a demonstrable fact of more efficiently achieving water quality through the landscape management incentive approach. Right next door in Ontario, there is a debate on this exact topic unfolding with regard to the source water protection bill that is being proposed by Ontario.

The Environment Commissioner of Ontario, in June, 2004, issued a report recommending a specific reference to incentives in that upcoming legislation.

How should these incentive programs be designed? Delta Waterfowl has been a partner and strong supporter of the Alternate Land Uses Services proposal developed and promoted by Keystone Ag Producers. ALUS is a comprehensive, incentive-based program for encouraging the retention and development of environmental goods and services from private land.

It differs from traditional incentive programs in several important respects. Firstly, it was designed by farmers and is the only proposal of its kind endorsed by many major farm groups all across Canada. It integrates the delivery of incentives into existing farm institutions, such as crop insurance corporations, rather than delivering them separately. Finally, it recognizes the need to provide incentives for both existing and new ecological services. We are recommending that the ALUS concept be tested through pilot projects in regions across Canada.

I have some other comments to support the clarification of wetlands in the bill. Those points have already been made, and I think I will right it up right there. Thank you.

Mr. Faurschou: Mr. Scarth, you have made reference to the regulatory component of this legislation as being vitally important. We have yet to be privy to those regulations. Would you, too, then, echo some earlier comments made by other presenters, that this legislation be held to a point where, effectively, interested groups such as your own have opportunity to comment on regulations or participate in the development of regulations?

Mr. Scarth: I take a different tack on that question. The statutory authority for using incentives needs to be clear in the bill and I find it is not in the current version of the bill. So, holding regulations where the statutory authority is not clear does not achieve the objective of making sure there is a balance, at least, between regulations and incentives, so I would not favour that as a strategy for dealing with the issue I am raising.

Mr. Faurschou: I, as a landowner, believe that there should be incentives to participate, because we all

have a bottom line to achieve. Otherwise, we are not going to be in business over the long haul.

You did make mention that you have had consultations with the Keystone Agricultural Producers, and you would be available to consult with the government on that basis as well?

Mr. Scarth: Yes, very much so. We are informed by both the discussions we have had with Keystone Ag Producers and others, and by the experience in the existing regulatory provisions that have been in place for several decades in The Water Rights Act, The Migratory Birds Convention Act, with, we think, limited success influencing the landscape.

Mr. Ashton: Thank you very much. I appreciate your comments.

I just have a question on the reference to incentives. Because, certainly, we do have incentives and the riparian tax credit, which we have recently enhanced, is aimed very specifically giving incentives to producers, to farmers, to be able to, in this case, preserve riparian areas, but recognize that when you preserve riparian areas, obviously you take land that could otherwise be used for production.

I just want to get some clarification. I assume by your comments you are suggesting that the reference be in there, essentially, to provide a signal that this is not just strictly about regulating, as in restricting activity, but there are incentives. Is that the intent of the suggestion, that we include that?

Mr. Scarth: That is precisely right. I want to reiterate my applause for the riparian tax credit. That is exactly the sort of incentives I am talking about. I agree exactly with the synopsis of my point. When I look at the existing bill, the only word that appears to be anything other than a Planning Act authority or an offence and penalty reference is the word governing. I do not find that that captures, in my mind, the incentive-based approach whatsoever.

Mr. Gerrard: Yes, thank you for bringing forward the principle of incentives because I think that that is an important contribution.

My question actually deals with the definition of wetlands because I think that is crucial. Can you expand on that? How large, how small, what type of

wetlands, bogs, fens, et cetera would be and should be included and whatnot?

Mr. Scarth: Thanks for the question. On the assumption that the preferred approach is incentives, I think the definition of wetlands is relatively well referenced under "water body" in the draft bill. There has been some judicial commentary on wetlands, and I think that water body language was tracking the decisions on that. I believe that if the incentive-based approach such as the riparian tax credit is favoured by the bill, then the definition of wetlands is, with some tweaking, adequate in the bill.

Mr. Faurshou: I would like to ask Mr. Scarth have you or your organization considered the absence of an appeal mechanism in regard to the land use strategy or if, in fact, found in contravention to the legislation as to one's options.

Mr. Scarth: I cannot say I have given that much consideration other than the fact that there are a number of models for tribunal appeals out there ranging from the Surface Rights Board, for example, to the Municipal Board. The Surface Rights Board option is interesting in the sense that there is an opportunity to go to Queen's Bench on a brand-new sort of de novo basis. That is seen, I think, as a stronger appeal mechanism than the Municipal Board design right now where you can really only appeal based on a mistake of law or a substantial mistake of fact in the proceedings.

Madam Chairperson: Thank you very much, Mr. Scarth.

Our next presenter, in keeping with hearing out-of-town presenters first, is Allen Tyrchniewicz from the Prairie Habitat Joint Venture. You may proceed, Mr. Tyrchniewicz.

Mr. Allen Tyrchniewicz (Prairie Habitat Joint Venture): Thank you, Madam Chairperson. On behalf of the Prairie Habitat Joint Venture, I would like to thank you for the opportunity to provide comments on The Manitoba Water Protection Act.

The PHJV acknowledges the importance of The Water Protection Act and congratulates the Province for its efforts in introducing such legislation.

In our view, the explicit addition of watershed management plans, the formation of the Manitoba

Water Council and the development of the Water Stewardship Fund strengthens the Province's commitment to water protection in Manitoba.

Waterfowl and other migratory birds are an international resource protected by treaties which include the provision for habitat protection. The North American Waterfowl Management Plan, signed by the governments of Canada and the United States in 1986, identifies the importance of wetland preservation and restoration for recovering waterfowl populations. The PHJV was formed to address migratory bird and habitat issues such as the maintenance and enhancement of wetlands in prairie Canada.

The PHJV membership includes Environment Canada, Agriculture and Agri-Food Canada, members from the Alberta and Saskatchewan governments, Manitoba Habitat Heritage Corporation, Manitoba Conservation, Ducks Unlimited Canada, Delta Waterfowl Foundation, Nature Conservancy of Canada, Wildlife Habitat Canada and U.S. partners.

The PHJV was established in 1989 with the goal to restore waterfowl populations to average levels of the 1970s. The four key priorities for the PHJV are:

1. To promote conservation of waterfowl populations and habitats. Since its inception, the PHJV partners have helped to conserve over 4.1 million acres of important wetland and upland habitat across the prairie region.

2. To gain a better understanding of the prairie landscape through research and habitat monitoring programs.

3. To improve government acts, policies and programs to benefit prairie wildlife and their habitat. The Manitoba Water Protection Act has elements that are complementary to the PHJV's own goals to improve prairie bird populations and habitat.

* (20:30)

4. To encourage other bird initiatives by gaining a better understanding of the needs of shore birds, land birds and water birds and addressing those in conjunction with our waterfowl program.

Prairie wetlands are among the world's most productive aquatic ecosystems and responsible for

producing between 50 and 75 percent of North American waterfowl. A large area of the prairie pothole region is located in southern Manitoba, consisting of a variety of wetlands ranging from large to small, and permanent to temporary. Waterfowl require this diversity of wetland sizes and permanence to meet the needs of migrating, staging and breeding. The complexes of different wetland types provide suitable habitat conditions for the broadest range of flora and fauna species. Food and cover also maintain resources provided by prairie wetlands for waterfowl.

Several reports have indicated that over 70 percent of wetlands in Manitoba have been lost since settlement. In 1986, Environment Canada concluded that wetland loss has been closer to 90 percent around Winnipeg. Since 1985, the area in wetlands has decreased in Manitoba by a further 4.9 percent. Manitoba Conservation suggests that wetlands are decreasing by 750 hectares per year in Manitoba.

The PHJV has the goal of increasing waterfowl numbers, and the main method to improve waterfowl success is to provide a diversity of wetland habitat. As a result, the partners have conducted and analyzed the impacts of decreasing wetlands on waterfowl. Recent studies have suggested that for a 1% decrease in wetland, there is a corresponding 2% decrease in waterfowl populations.

Another observation is the size of the wetland is a significant factor in waterfowl production. For example, one wetland at 10 hectares could attract one mallard pair, while 100 wetlands at 0.1 hectare each could attract nine mallard pairs. Although the overall area of wetlands did not increase, the number of breeding pairs increased by nine times.

The permanence of wetlands also contributes to different aspects of waterfowl needs. Temporary and seasonal wetlands provide food and shelter to waterfowl flying north to their breeding grounds. The semi-permanent and permanent wetlands provide food and shelter for waterfowl remaining in a specific area. The number and area of permanent wetlands tend to remain fairly stable over time, but the temporary and seasonal wetlands are more dependent on precipitation and are more susceptible to drainage and other destructive influences.

Temporary and seasonal wetlands tend to be the wetlands decreasing in Manitoba. Fortunately, most

prairie wetland drainage has occurred via surface drainage ditches, which can be reversed by rather simple and inexpensive restoration efforts, for example, ditch plugs. Furthermore, once prairie wetland hydrology has been restored, former plant communities typically re-establish themselves quickly.

Bird species diversity at restored and natural wetlands were similar in most cases, as are many of the other benefits of wetlands, suggesting that wetland restoration efforts are effective at reconstructing at least some component of original biodiversity of the wetlands.

Other research found that restored wetlands had higher densities of waterfowl and higher densities and diversity of amphibians when compared to degraded referenced wetland areas, and recommends small wetland restoration as an important conservation and management tool for a number of species and waterfowl and amphibians.

The PHJV noted that an important objective of the act is the protection of riparian areas and their associated water bodies, including wetlands. Conserving wetlands not only serves the need to preserve natural values and processes for biodiversity, but also provides opportunities to purify water and hold back floodwaters. The PHJV believes that the Manitoba Water Protection Act has the ability to maintain and enhance the current wetland complexes throughout Manitoba.

Given the significant loss of wetlands in Manitoba and the ability to regain many of the benefits through restoration, the PHJV recommends that wetlands and their associated riparian areas be given more explicit attention throughout the act and ensure each watershed strategy includes wetlands and riparian areas. Specifically, the protection of wetlands should be included in sections 11(1)(a) and (b) (i) as part of the watershed planning.

The PHJV recommends that The Water Protection Act be strengthened to protect and enhance wetlands in Manitoba. The PHJV supports a no net loss of wetlands target, but it is also very important to recognize there is a need to ensure that possible negative impacts on landowners are mitigated.

The development of watershed management plans and the provision for a watershed stewardship

fund will raise the level of awareness about main source water issues and will provide some of the resources required to implement change on the landscape. The PHJV fully supports this component of the Act.

These watershed management plans will become a very important part of Manitoba's overall water strategy, and the PHJV is pleased to see consultations associated with these plans. These consultations should be broad-based and include all stakeholders. Many decisions made in a watershed can have far-reaching impacts, and caution must be used to ensure negative impacts are minimized.

The PHJV also recommends that watershed management plans be developed with broad stakeholder consultations, including experts, to ensure decisions have scientific groundings. In this regard, the PHJV and its members are prepared to participate in such a process. Specifically, sections 12(1) and (2) should include references to all stakeholders.

In summary, the PHJV is encouraged by The Water Protection Act and believes it is a significant step forward for the province of Manitoba. Several partners within the PHJV have been involved in the development of the Manitoba's water strategy and are looking forward to the opportunity to continue these associations.

On behalf of the Prairie Habitat Joint Venture, thank you for the opportunity to comment on this important act.

Mr. Schuler: Thank you very much, AI, for your presentation and welcome to the committee.

I have two questions. My first one is were you consulted in regard to Bill 22 and, if so, when were you consulted.

Mr. Tyrchniewicz: As far as I know, I do not think any of the members other than the government members were consulted. Manitoba Habitat Heritage Corporation were part of that, as were the members from Manitoba Conservation.

Mr. Schuler: On page 4, you indicate that you are pleased to see that consultations are part of the plan. You go on to state that these consultations should be broad-based and include all stakeholders. I will make

a two-part question to this. First of all, are you a little bit concerned that the consultations were hardly broad-based when the initial legislation was put into place, and yet, all of a sudden, there is a commitment that after the legislation has gone through, is passed, then all of a sudden there will be more consultations?

You go on to say on page 4, many decisions made in a watershed can have far-reaching impacts and caution must be used to ensure negative economic, social and environment impacts, that those are minimized. Would it not have been better to have had these consultations before the bill is passed rather than after the bill is passed?

Mr. Tyrchniewicz: To address the first question, given the involvement of members of the Prairie Habitat Joint Venture with some of the discussions, it is important to have those consultations. What we are referring to more, though, are the developments of the watershed plans themselves, and I think that is where it is very important to have the consultations with not only the members from those watersheds, but also some of the experts who can provide insightful decisions in terms of how that can be used appropriately.

Mr. Ashton: I appreciate your helpful presentation and I think it is a reminder, again, to all of us sitting here of the kind of work that you are involved in.

I just wanted to ask in terms of the water strategy, of which Bill 22 is very much a part, whether, in fact, your members have been involved in the consultation process, the development of water strategy itself.

*(20:40)

Mr. Tyrchniewicz: Within the water strategy itself, yes. Members from Ducks Unlimited have been involved with that, as well as some of our other government members.

Mr. Ashton: Just a quick follow-up, in the act there is a requirement that there be consultation on all regulations, which is not a standard feature by any stretch of the imagination in terms of legislation. Would you support that requirement that all regulations go to public consultation, both with stakeholders and with the public generally?

Mr. Tyrchniewicz: Yes, I believe from the PHJV standpoint that would be an important feature.

Mr. Faurschou: Mr. Tyrchniewicz, you complimented the inclusion of the commission within Bill 22. Are you concerned about the repeal of The Water Commission Act, which effectively was a similar charged body, or did you make the comparison before you made that statement?

Mr. Tyrchniewicz: The comparison was made to a certain extent. We recognized with the development of a new department that it was going to require a certain amount of mixing and mashing of some of the other activities.

Mr. Faurschou: So it does not concern you then with the repeal of The Water Commission Act that so goes the ability to appeal decisions made by the department and department personnel and no opportunity for compensation to landowners, irrespective of the impact of an order.

Mr. Tyrchniewicz: Well, when you phrase it like that.

I think one of the things that the PHJV would certainly want to bear in mind is that there needs to be a certain amount of scientific grounding in a lot of the decision making. So we are hoping that will be one of the key features.

In terms of the appeal itself, although our presentation really did not discuss that and the PHJV did not get into that, I think there were some good comments from previous presenters.

Mr. Faurschou: I appreciate your comment. I did not mean to extenuate, but there is that consideration within The Water Commission Act.

Would you then also support directly the changing of the wording from "may" to "shall" in regard to the minister's consideration of scientific data prior to decision making?

Mr. Tyrchniewicz: Based on the background of the PHJV and that we are based on scientific research, yes, that would be something the PHJV would support.

Madam Chairperson: I would like to ask leave of the committee, I have two other questions on the floor. Leave?

An Honourable Member: Leave.

Madam Chairperson: Okay.

Mr. Gerrard: I would ask, in view of your focus on wetlands, that you make a comment on the phosphorus retention capability of wetlands and to what extent a wetlands strategy might contribute to an effort in reducing phosphorus content of major rivers and lakes in Manitoba.

Mr. Tyrchniewicz: Very similar to Mr. Bruce's response, I am a policy person. I would not be able to respond to the ability of wetlands, if they are drained, what would happen to the nitrogen and the phosphorus, but in terms of a wetland's ability to capture or keep that from entering the water stream, I think they do have a very useful role to play on that front. One of the key functions of wetlands is water purification.

Mr. Cummings: I noticed that you reference in your support of no net loss of wetlands that it is important to ensure that stakeholder concerns need to be addressed. To me, that says you would believe that compensation should be considered, particularly when at the top of that same page you say that drainage can be solved very simply. I will not take that any further, being an owner of some drains myself, but it strikes me that a lot of people in the protection of the environment believe that the environment is out there, but there are a lot of people doing business out there. Therefore, in conjunction with what the presentation made by Delta Waterfowl, are you in support of compensation in circumstances that would lead to the change of the land use?

Mr. Tyrchniewicz: Yes. The PHJV is very interested in the use of incentives, and we are also working quite hard on looking at compensation for ecological goods and services, which is quite complementary to the ALUS program.

Madam Chairperson: Thank you very much, Mr. Tyrchniewicz.

Robert Rodgers from the Manitoba Conservation Districts Association. You may proceed, Mr. Rodgers.

Mr. Robert Rodgers (Chairman, Manitoba Conservation Districts Association): Madam Chairperson, honourable members of the committee, thank you for the opportunity to speak to you today.

My name is Robert Rodgers, Chairman of the Manitoba Conservation Districts Association.

The MCDA is comprised of the province's 16 conservation districts, grassroots conservation organizations that have provided soil and water management on a watershed basis throughout Manitoba for over 30 years. After extensive review of the proposed Water Protection Act on behalf of the MCDA board, I would like to provide a few comments.

The proposed act has some very solid beginnings. It is strongly focused on the quality and the sustained quantity of water resources in the province. The act clearly states that the government of Manitoba is committed to watershed planning as an effective means to address risks to water resources and aquatic ecosystems, and believes that the watershed should be consulted when watershed plans are developed. The MCDA is in full support of this statement.

Conservation districts are an excellent example of provincial, municipal and landowner co-operation. Conservation districts work continually to further the stewardship of the landscape, and our views converge with those of this act in many instances. Our districts are made up of watershed residents, many of whom work closely with the district boards and staff. Many of the ideas proposed in this act are currently part of the conservation district mandate and are involved in our districts' day-to-day activities. Conservation districts can play a large part in creating workload efficiency within the act, and be of assistance in administering some of the proposed ideas.

There are, however, some issues of concern within our organization as they relate to The Water Protection Act. The concerns foremost in our mind are regulations, enforcement, funding, clarification of terms and the formation of the five-person water council. These are the issues that we would like to focus on today.

Enforcement is always a large part of any proposed act. We feel that while the terms of enforcement, such as fines to be levied, are well laid out, the actual act of enforcing them is undefined. The Water Protection Act specifies that the Province will be in charge of enforcing all the laws in this act. We would like to see the Province continue this with

the policies defined within each individual watershed area. The conservation districts do not want to be put into the position of having to offer services, but then turn around and have to be the heavy-handed enforcers to the same groups. The credibility of conservation districts would be at stake. The regulations that are put in place to support this act must be both practical and affordable. Local authorities must be consulted before they are implemented.

* (20:50)

When we consider the interests of the government in protecting water planning, there needs to be more consideration given to the use of the existing infrastructure. There is a significant cost factor that could be ameliorated by considering how best to spend or save money to reach the key objectives. The act speaks at length of funding from the Water Stewardship Fund. Where this funding will come from is a large concern for the MCDA. At this point, to our understanding, there is a department and staff, but as yet no committed dollars to back them. The conservation districts are very interested in becoming active participants in this act, and the MCDA feels it is imperative that the funds are available to implement the watershed plans without relinquishing current CD programming dollars.

A large focus of this act is watershed management plans. At this point, not all CDs have watershed management plans in place. There must be a clear definition of what is required in an integrated watershed plan so that we can provide the same.

These plans require funding, and if they are to be pushed to the forefront of the CD mandate, there is concern over whether there will be funding in place to accomplish this. It is our hope that appropriate technical support will be in place to assist with the management plans, as well as continued commitment to ongoing provincial professional support.

Again, the districts are interested in administering programming. There are programs that are already operating that need not be duplicated by other levels of bureaucracy. Many of these programs are in partnerships with non-government organizations.

The designation of sensitive-area zones are also of concern to our organization. Have these areas

been designated? If they have been designated, we feel it is important that this information is provided to all stakeholders for input before The Water Protection Act is passed.

The act in a number of areas lacks clarification. Section 10 indicates that the Lieutenant-Governor-in-Council may "designate a water planning authority for a watershed which may include the board of a conservation district, the board of a planning district, the council of a municipality or any other person or entity." In the past few years, there has been a large focus towards conservation districts. This section of the act seems to muddy the water around the Province's choice of what is a water planning authority. Given the numerous potential authorities, we feel that conservation districts should be considered the lead organization, as they already have the infrastructure in place.

As well, this section includes a statement that the Lieutenant-Governor may "prescribe the date by which the authority must submit a watershed management plan for approval." There is no concept of the time line that will be considered for this, or any indication of the regulations to be put in place to allow a water planning authority to function within the limits of the act as they progress toward this water management plan.

The formation of a water council also raises questions for our organization. We agree that it is very important to have this council in place to help guide the government in the right direction. We understand this is expected to be a five-person council. The act clearly states that these people must be representative of the regional diversity of Manitoba. It is essential that this committee consists of people with a vested interest in what happens on the landscape. As an association that consists of 16 conservation districts covering 65 percent of agri-Manitoba, the MCDA should be represented on the water council.

The MCDA, along with the conservation districts, can provide information, share our resources and deliver the land and water management programs needed to give Manitobans the best comprehensive programming available.

Again, I would like to thank the committee for their time today.

Madam Chairperson: Thank you very much, Mr. Rodgers.

Mr. Ashton: Thank you very much. I certainly appreciate the feedback and the report today and can certainly indicate that I think we are all aware of the excellent work that is being done by conservation districts. One of the things I think is very encouraging to see is the increased numbers of conservation districts across the province.

In fact, when we drafted legislation we specifically did reference conservation districts, but also recognized there are areas of the province, particularly in northern Manitoba, where the traditional conservation district model does not exist, largely because of the unorganized territory, as we are often called, and good parts of Northern Affairs and other areas.

I am particularly interested by your comments in the brief on the role, in terms of the planning process. Are you suggesting that conservation districts be sort of a key component, and that perhaps some conservation districts that have not necessarily been involved in watershed planning to the same degree as other conservation districts should move in that direction?

Certainly, our intent here was to work with conservation districts, not to sort of impose one model on any particular conservation district. I am very interested in any additional thoughts you have on that particular recommendation in the brief.

Mr. Rodgers: I think it is very interesting that there are quite a number of the conservation districts that do have completed water management plans. The majority of the others are moving in that direction. Some of them are further along than others, but I do not think there are any of them that have not at least started a water management plan.

Mr. Schuler: Thank you very much for coming to this committee. I have two questions. My first one is were you consulted on Bill 22. If so, when?

Mr. Rodgers: The MCDA was part of the steering committee that was the forerunner for the act. Second question?

Mr. Schuler: So, other than there not being any dollars put up and that there is really no technical

support and, the next paragraph, that it lacks clarification, other than that, this bill is okay, or do you see difficulties with this bill proceeding in its current format without consultation unless there are some regulations?

How do you feel? You have sat through the evening. You have listened to other questions. You have listened to other answers. Where should we go with a bill that is so comprehensive, yet lacks in so many different areas? Should we wait for the regulations? Should it go through and then we will worry about the regulations concerning there is lack of funding, technical support and clarification?

Mr. Rodgers: I cannot speak for the government, of course, and I can only speak for the Manitoba Conservation Districts Association, but I think that consultation, it says in the act that they are going to consider consultation. Consultation is absolutely essential, especially with the regulations. It is essential.

Mr. Cummings: Well, in part, you have just answered my question, but I would like to expand on that a little bit. We have been made aware this evening of some areas of concern, including your reference to the fact that there are a variety of groups that could be designated authorities, that combined with the fact that there are a number of organizations that would like to have input into the regulations. Would it be problematic, or would you support the concept, and there are previous examples of it occurring, although there are not a large number of them, of opportunity to have input into the regulations before the bill is actually presented in its final form? Would that be beneficial?

Mr. Rodgers: I believe it would be prudent. When the conservation districts do a management plan, there are public hearings held and there is extensive consultation with landowners and special interest groups, but I think at least a draft proposal of what the regulations would be would be beneficial.

* (21:00)

Mr. Faurshou: Welcome, Mr. Rodgers. I would like to compliment you, as I am aware of the years and years of dedication to conservation here in the province of Manitoba, and recognizing now you being chair of all 16 conservation districts. It is true testament to your dedication to the community at

large through volunteer time. I really appreciate that and extend that consideration.

In regard to the presentation this evening, being from the Whitemud Watershed Conservation District to which I referred to earlier as receiving a high level of support from the provincial government during the watershed management development plan, I would presume that you are supportive of that continued level of support as other areas of the province develop their watershed management?

Mr. Rodgers: It would be nice to think that we would get the same level of support that the Whitemud got when we established our plan, 30-plus years ago, but I do not think that is practical in this day and age, but it is absolutely essential that the government carries the lead role.

If I can give you a little insight, 30 years ago, our management plan, and it was pretty comprehensive, I think it is probably more comprehensive than what you would need now because you can borrow a lot of stuff from us, it cost \$750,000 thirty years ago. So you are looking now at a plan for a watershed that is going to probably cost in excess of \$1.5 million. So you are going to have to go about a different way of doing it somehow, because you have to look into every aspect of your plan. You have to look at forestry, you have to look at fisheries, you have to look at the soil and the water, you have to look at everything that deals with soil and water. So it becomes very, very expensive.

Madam Chairperson: I have one more question. Could I have leave from the committee for one last question? *[Agreed]*

Mr. Gerrard: You have mentioned, Mr. Rodgers, in your comments that you suggest that the act should contain a time line and, perhaps, some mention of critical elements to be included in an integrated watershed plan. I would just ask, based on your experience in this area, what you would suggest as a reasonable time line and what you would suggest as the critical elements that would be mentioned in the act, with respect to an integrated watershed plan.

Mr. Rodgers: This is a very difficult question to give an exact answer to, because every conservation district is so unique in itself. Every one deals with different problems and so, as a result, they have different problems to deal with. In some cases, it

might be a very straightforward document and it might not take that long. In other instances, it may take quite some time. It could anywhere from two up to five years. I am just hazarding a guess here of my own. I am guessing that it would probably take that much time, in some instances, if you have to get a lot of data, if there is not a lot of data available in your area. If I may, if the act is enforced and a conservation district or an area does not have a plan in place, then they are going to have to operate in the interim somehow, so that has to be clarified as to how you would do that. How would you operate until you got your management plan in place?

Madam Chairperson: Thank you very much, Mr. Rodgers.

Our next presenter is Gaile Whelan-Enns from Manitoba Wildlands. You can proceed.

Ms. Gaile Whelan-Enns (Manitoba Wildlands): I wanted to ask a quick question before I begin, if I may, and that is, I am going to make the best use of 10 minutes in terms of the presentation, and there is a presentation and two attachments, and I would like to know if they will all be accepted by the committee.

Mr. Chairperson: Is that the will of the committee? *[Agreed]*

Ms. Whelan-Enns: Good evening, members of the Manitoba Legislature and members of the public and other presenters.

I want to quickly tell you about Manitoba Wildlands. We mostly work to support protected lands and waters in Manitoba, establishment of protected areas and national parks, and we continue the work of WWF Canada and the Canadian Nature Federation in Manitoba with about a 12-year history of doing that. We, of course, then, involve ourselves in reviews of legislation, reviews of licences and land use planning activities, particularly plans for the establishment of protected lands and waters.

You have three documents coming your way. They include this set of recommendations; our analysis of the steps towards to arrive at the water strategy for Manitoba 2003, and the attachments include a list of terms that are present in but not defined in Bill 22, terms that are absent from the bill that we feel should be in the bill and be defined; and a list of acts referenced in the bill because they are not all in the explanatory note.

Our overarching concern about Bill 22 is that it is essentially reactive in terms of planning and protection of watersheds. We would like to see this act have, as its starting point, the identification of headwaters and sensitive water areas throughout the province as these require protection from development and should not be ecologically compromised. Planning for each watershed as a whole, and we have just heard how long that will take, should occur following the identification and protection of these critical areas. All watershed plans should include protection of critical water sources and all our recommendation below are oriented towards addressing this concern.

Definitions are lacking in Bill 22. We recommend a review of all terms used in the bill and an update to the existing definitions in Bill 22, with a comparison of definitions being included in other acts, as part of the amendment process. We note that certain definitions not present in Bill 22 are being added to The Water Rights Act as part of amendments due to Bill 22. We further recommend that Bill 22 be amended to define, in particular, what water protection means.

Bill 22 defines watershed as an area designated as a watershed under section 9, except section 9 gives the Lieutenant-Governor-in-Council the power to specify boundaries. Bill 22 should be amended such that watershed boundaries are defined based on scientific analysis, and designation as a watershed should follow the definition and the identification.

A little bit of a turn-back on the clock, if I may, as it relates to Bill 22. There was a charter of rights legislation and regulation compliance review in Manitoba during the eighties, and today we had a significant societal risk and set of expectations regarding quantity, quality and management of water. Similar to that legislative compliance review during the eighties, the Manitoba government today needs to immediately review all existing legislation that may involve or affect water protection or water regulation, so that the goals of Bill 22 are there and consistent throughout the Manitoba regulatory and legislative framework.

Bill 22 is about protection of water sources, and it appears to be subservient to an act that is for development planning. We recommend clarification of the legislative intent of Bill 22 and the relationship between it and The Planning Act. We also

recommend that the government provide a tracking chart of the various acts mentioned in Bill 22, clearly providing intent as to which acts supersede or prevail over which acts. That would probably be helpful in the consultations that are being discussed this evening. We are not active and knowledgeable about The Planning Act, but we are fairly sure that The Planning Act needs to be part of that review, hence the next bold.

We also recommend a review of the recommendations coming out of the water strategy to make sure that none are contradicted or limited to Bill 22. I am not accusing, but it is a little hard to follow.

We recommend that the Manitoba government fulfil and complete the actions described in the Manitoba water strategy, and address any outstanding actions from the advisory committee's report prior to Bill 22 or further legislation affecting water use, water quality or water conservation being proclaimed.

* (21:10)

We recommend that consultation standards for Manitoba government staff, contractors to government, Crown corporations and developers that may, in fact, be undertaking these kinds of actions in relation to Bill 22, be confirmed and put in place.

We also recommend that the consultation guidelines being developed by Manitoba Conservation in regard to First Nation consultation standards be completed and put in place. They are needed for Bill 22 to be operational.

Manitoba protected areas policy, commitments, regulation and protection standards are public and unmistakable. Protected areas are established under several acts. Crown land designations are established under these and several more acts. Some of these acts are mentioned in Bill 22, while it is silent on others, despite repeatedly referencing designation of lands and waters. In fact, Manitoba already has protected waterways and protected water ecosystems.

We recommend that Bill 22 acknowledge water ecosystems already protected from development. Waterways and lakes inside non-protective Crown land designations should be immediately reviewed in relation to the objectives of this act.

Systems planning for water, lands, or water and lands, includes having the tools for planning. Bill 22, we believe, is weak in this regard and creates some concern. There is nowhere a description of how we would review waters, lakes, rivers, aquatic ecosystems and how we would identify those that must be protected to secure our future water supplies.

We recommend that Bill 22 mandate serious preventative scientific and planning work, which includes review of our waterways, lakes, et cetera, inside—and this is a little bit of a repetition—both Crown land designations and open Crown lands to identify water sources that need protection.

We recommend that Bill 22 be corrected so that any watershed plan must include identification of waterways to be protected, or that are already protected.

We recommend Bill 22 include interim protection mechanisms similar to those in The Provincial Parks Act to allow for protection while planning for the watersheds.

We recommend that Bill 22 include emergency actions to protect water sources.

We need to make sure that the Water Stewardship Fund in Bill 22 will be subject to public reporting and accounting.

The bill does not explain how the Manitoba Water Council will be supported in its responsibilities and its workload, a little bit of comment here about how the per diems in Manitoba are wholly insufficient, particularly for the kind of expertise that will be needed.

The future Manitoba Water Council will need independence to be able to deliver its mandate. Nothing in Bill 22 states that independence will be there. Given the current lack of resources and independence for the Lake Winnipeg Stewardship Board, we suggest that the operational mode for the water council must be made clearer in Bill 22.

Bill 22 lacks confirmation or explanation about access to information. Manitoba needs to make public all permits and dispositions, and so on, under this bill or act and others.

An example or pattern in Bill 22 that is troubling is the suggestion that the minister may make information available. Imagine no maps while undertaking watershed planning.

For Bill 22 and associated legislation referenced in the bill, we recommend that the public seek confirmation—and there is a long list here—of the things that will need to be public, including during planning and before hearings.

We further recommend that any emergency decision taken by the minister would be filed through Manitoba's public registry system and that all decisions regarding watershed plans be filed, with notice for public comments before final decisions.

We need to end the new pattern of appointing civil servants to Manitoba boards and commissions. We recommend that that change and return to how appointments to boards and commissions have been made in Manitoba, and be applied to The Water Protection Act. It needs to apply immediately to the Lake Winnipeg Stewardship Board.

There are some issues of definitions in terms of kinds of planning in Manitoba, development planning, land-use planning, broad-area planning and watershed planning. It would, I think, help both citizenry and government to work on those definitions. Currently, we have one broad area land use planning initiative in Manitoba where the boundaries were mapped on a watershed basis.

We recommend that an independent review of the East Side Planning Initiative operation since 2001 be undertaken before Bill 22's planning models or planning regulations are tried or enacted for Manitoba's lands and waters.

We recommend that the Manitoba government establish clear operational standards for planning processes, including clear definitions, terms of reference, transparency guarantees, all for inclusion in Bill 22.

We have, in the document you have in front of you, made a recommendation to establish a public registry for contractors or consultants who provide services to the Manitoba government, including in respect to Bill 22.

Madam Chairperson: Ms. Whelan-Enns, can I have the permission of the committee to allow her to continue her presentation to the end? *[Agreed]*

Ms. Whelan-Enns: This may seem to be offside, and it is something that our organization has recommended in respect to other acts, we feel quite strongly that people in the communities, particularly as this act would apply in northern Manitoba, need to be able to know who they are dealing with, and who is in the community and what other roles or contracts or services they are providing that might be in conflict.

If we take a look at section 31 to 34 in Bill 22, there is specific protection from liability for those who report a violation, and we are really pleased to see that, it being our odd role to push the envelope a little bit more. We would really recommend that Manitoba review and update other acts in respect to the commitments to, in fact, put whistle-blowers' protection right through the legislative framework in Manitoba.

What you have attached, then, is a two-page summary of recommendations from my comments, and a page behind that that are general recommendations we would like to see applied to Bill 22 that are, in fact, in relation to other legislation. You also have an attachment that is fairly basic. It is a list of the acts referred to in Bill 22, the definitions that are currently in Bill 22, and then a set of terms used in the bill that are not defined. I have heard aspects of our recommendations tonight from other presenters, from other perspectives and sectors, and I have heard this comment quite often.

We have also added three definitions we would like to see used that are at the bottom of that page and some examples of where we have language in the bill where it is not "must" it is "may." These are ones that we consider to be fairly important for the bill to be operational. Thank you.

Mr. Ashton: I would like to thank you for the presentation. I know it includes many areas we have talked about, and other areas of concern for your organization, and I welcome the submissions and we will go through the various attachments, as we will with all the presentations tonight. I just wanted to put on the record I appreciate the work that has gone into this presentation.

Mr. Cummings: Thank you for your work and the amount of detailed information you have put in front of us which, I think, supports a concern we have been expressing in a number of different ways tonight, and that is that this bill is comprehensive enough, and will have such far-reaching implications through its regulations, that we as legislators need to proceed, if not cautiously, certainly prudently, in how we amend and move forward with regulations.

Can you expand a little bit on your comment about the whistle-blower protection? Did I understand you correctly that you believe that going act by act is probably not the best approach, but that there should be a general protection for whistle-blowers put into legislation in the province of Manitoba? Did I understand that correctly?

Ms. Whelan-Enns: That is a completely legitimate question, because there are references in this brief about compliance reviews and looking right through the system, including in terms of water legislation and regulation. The reference in the comments in terms of whistle-blowers' protection is first, great. Second, if it is here, where else does it need to be, and the context then is the commitments by the New Democratic Party to do this. So I am very pleased to see it in this act, but it immediately causes questions in terms of work in the public interest. I do not know, off the top of my head, you might know better, which acts, in terms of land and water use decisions and protection decisions would be next up in terms of needing whistle-blower's protection.

Manitoba is behind in taking these kinds of steps in the public's interest and to protect.

* (21:20)

Madam Chairperson: I have a couple of other questions on the floor. We are at 15 minutes. Do we have leave from the committee? *[Agreed]*

Mr. Cummings: Well, I appreciate your comments. Just so my question was not misunderstood, I think there is a general view that general whistle-blower protection is a better way to go, but at least it is a start to put something into an act that would provide some protection. I will turn it over to my colleague.

Mr. Eichler: First of all, I would like to congratulate you and your organization on all the hard work that you did putting this information together for us.

Having said that, tonight a number of issues have come forward regarding the wetlands and the preservations of those wetlands. Do you or your organization feel that Bill 22 is going to prohibit the existence of wetlands?

Ms. Whelan-Enns: I do not think I am qualified to answer that. I would agree with some of the things that the presenter from Ducks Unlimited has said tonight about what we have lost. I was pleased to hear the question about no net loss. There are a lot of no-net-loss questions we need to ask about Manitoba's lands and waters.

I do not assume that Bill 22, as it currently is written, puts more wetlands at risk, but it would probably be conscious of, in terms of our work and our mandate that we probably do, your presenters this evening, less work in agricultural Manitoba and proportionately quite a bit more in respect to lands and waters from the Interlake up in terms of, you know, the context and on an alleged base.

Mr. Gerrard: One of your comments was to the effect of the importance of having critical materials included in the public registry system. If you focus on this act in particular, what should be in legislation here about the materials relevant to this act which should be in the public registry?

Ms. Whelan-Enns: If we take the difficulties and challenges with getting material into the public registry in regard to the current East Side Planning Initiative and land use planning process, then we need minutes, presentations, and the materials coming into the room from other sources outside government, and we need, which is also one of our other recommendations, a public notification process, public review and public comments process, much the same way as we have for environmental proposals.

Ideally, a public registry specific to watershed planning would begin to actually include the kinds of information, material and technical base that would be of use then to people who are planning and to communities and organizations that are working on it, including to increase the knowledge base inside government. It is not sort of a one hit, oh, that is all that stuff, and it goes away.

You could potentially dramatically increase the access to the learning that is going to be needed

through this kind of mechanism but the best and the ideal, and Ontario is not too bad an example of this in terms of the fact that everything is both paper and web hosted, the ideal is for there to be public confidence based on our access to information and transparency in the planning process.

Madam Chairperson: Thank you very much.

Reeve John Holland from the R.M. of Springfield. You may proceed, Mr. Holland.

Mr. John Holland (Reeve, Rural Municipality of Springfield): Madam Chair, Mr. Minister and members of the committee, thank you very much for agreeing to hear our presentation this evening. I realize in reviewing the written presentation which is being distributed that I have assumed perhaps more knowledge than I should have assumed on the part of this committee about who the R.M. of Springfield is. We are a rural municipality. We are located directly east of the city of Winnipeg. We share a boundary with the city of Winnipeg. We are the oldest rural municipality in the province, having been incorporated in 1873, and we are also the largest rural municipality in the province of Manitoba.

I very much appreciated this evening listening to the presentations which have come before me, and I think probably benefited a great deal from listening to those presentations. I have been reflecting it is fortunate that local politicians are not elected on the basis of how much they know. I think more likely we are elected on the basis of our passion for issues. Unfortunately, when I reflect on the way that I believe this bill may impact my municipality, that passion is largely one of anger. I think those who know me probably would say even when I am not angry, I am not that diplomatic. But, in any event, I will refer to the written presentation.

Not surprisingly, the R.M. of Springfield, as the name implies, is blessed with rich resources of ground water.

We would like to believe that the Province is committed to the purposes set out in clause 2 of the proposed legislation.

Certainly, the R.M. of Springfield is committed to those purposes, as evidenced by our early involvement in the conservation district program, our pioneering in the area of well sealing, our GPS

inventory of private wells, the designation of ecologically sensitive water recharge areas in our development plan, and our concern about appropriate standards for temporary asphalt plants operating in sensitive kame deposit areas of the R.M.

Unfortunately, the evidence regarding provincial government stewardship is alarming. Birds Hill Park, originally established to protect a sensitive water recharge area, is now home to one of the largest water wells in the province so that the recreational lake can be drained and refilled; a sewage lagoon to handle the volume of sewage generated by the campground and day use areas; and an infrastructure-funded drainage project to respond to concerns of the Winnipeg Folk Festival.

The Winnipeg floodway cuts through the Birds Hill-Oakbank aquifer area, intersecting springs, ground water streams, and shattering the hard pan into the lower aquifer at Birds Hill. Expansion is contemplated with no acknowledgment of any responsibility to address these existing concerns, and, at best, an equivocal commitment to mitigative measures which, it is acknowledged, would prevent the flow of ground water into the floodway and the potential infiltration of floodwater into the exposed aquifer.

Wells are allowed to be drilled into the east bank of the floodway to supply clearly excessive demands for water from neighbouring communities without notice to us, without consideration of the cumulative impact of such projects, and without any consideration of the connectedness of the water recharge area.

The Province responded to our concerns about the use of diesel fuel in connection with temporary asphalt plants located in gravel pit areas by advising they would not consider any highway projects in Springfield and by allowing these plants to operate either within Birds Hill Park or on the bank of the floodway.

In summary, when we consider the history of provincial action, we trust our local organizations that have shown a track record of stewardship on the ground. We are opposed to centralization of decisions at the provincial level, especially by appointed officials, and want local autonomy and involvement. Decisions should be made by those who have to drink the ground water and who have

for four to five generations depended on the land and ground water to make their living, and by their local elected representatives.

Secondly, it is of concern to the R.M. of Springfield that there is an agenda behind this act going beyond the issues of protecting ground water. The Minister of Intergovernmental Affairs (Ms. Wowchuk), on the advice of the Municipal Board, has interfered with land use plans in Springfield, curtailing development on the pretext that they are not sure whether the aquifer can sustain additional domestic water use and the impact of private sewage disposal systems.

* (21:30)

The Premier (Mr. Doer) himself stated that the water bill will give the Province new tools to control urban sprawl in the Capital Region communities outside of Winnipeg.

I guess our concern there is a question that has come up previously. Are these waters-sensitive areas already designated? What is the science behind the conclusions that appeared have already been drawn with respect to the Capital Region municipalities?

We have concerns related to the unknowns and the lack of details in the legislation. As a consequence, we have concerns about the possible impacts, physical and financial, on our constituents and our municipality. We have seen no indication as to the extent or intent of the designation of water quality management zones. Are these targeted to sensitive areas, or are they expected to be general in nature affecting much of developed Manitoba? Further to the water management zones, section 4(1)(b) appears to constitute broad powers on the part of the provincial government through regulation-making powers. Section 4(3)(c) brings proximity to provincial parks into consideration. Recognizing our proximity to Birds Hill Provincial Park and the interconnection relative to ground water, we need to know more about how proposed regulations will affect residential development or aggregate extraction in the vicinity.

Part 6 applies consequential amendments to The Planning Act. While there is a need for watershed considerations in land use planning, the proposed Water Protection Act must not become a vehicle to unduly restrict planning and development in

municipalities such as Springfield. In short, we support due consideration to real issues and concerns but will not condone undue restrictions based on precautionary concerns which are not supported by science.

The proposed act, while it contemplates the involvement of local municipal councils, does not require such involvement, and it is unclear what will happen in cases where municipal boundaries do not coincide with watershed boundaries. Clause 11(1) outlines possible content of a watershed management plan, many of which relate closely to municipal activities and concerns. Section 12(1) requires the water planning authority to consult, and 12(1)(b) specifically requires consultation with the municipality. If the municipality is not an integral part of the authority, then we would certainly need to be consulted, but a much more proactive role for the municipality is essential.

I have attached a copy of a draft presentation prepared by former Mayor Glen Murray on behalf of the City of Winnipeg. I am not privy to what the City of Winnipeg may present this evening, and this is not to sort of prefer this presentation over whatever the City intends to put on the table tonight, except just simply to say, as I say in the presentation, that we concur with many of the observations there, that we were not consulted, and that we feel that the potential overlapping of jurisdiction between this act and well-established planning provisions, including development plans, zoning by-laws, et cetera, will be detrimental to orderly development in the Capital Region.

Finally, since the introduction of the water strategy, an underlining concern for municipalities has been the financial resources necessary to achieve the ambitious goals outlined. This act refers to water quality standards, studies, scientific information and protection of riparian areas without any indication of where the money will come from to enable communities to meet such standards, complete such studies, determine such scientific information or achieve protection of riparian areas. In particular, we reject the downloading of such costs to municipal taxpayers. Further, we decry any intention to impose such costs on our already beleaguered agricultural sector. We support the KAP ALUS concept of the larger population compensating farmland owners for preserving or enhancing the environment for the benefit of all. Thank you very much.

Madam Chairperson: Thank you very much.

Mr. Schuler: First of all, Reeve Holland, thank you very much for coming out this evening and for being so patient and waiting quite a while. You have sat through a lot of presentations, and you know sort of the concerns that are being raised by quite a variety of groups.

You have already answered my first standard question, and that is "Have you been consulted?" Clearly, you have not been. Fresh water has become a flashpoint in politics. Certainly, nobody is against protecting drinking water, and yet what we see in this act which is sort of what it is purported to do, to protect our fresh water, we see a lot of problems in it. Of course, the No. 1 issue was the stakeholders were not properly consulted, with the promise in the legislation that although we did not do it in the past, now we are going to legislate it, that we were going to do it in the future. I do not know what kind of comfort that brings you.

On the second page of your presentation you deal with, and it is the second paragraph, and I quote: "We are opposed to centralization of decisions at the Provincial level especially by appointed officials and want local autonomy and involvement." Then you go on to talk about that it should basically be those individuals who drink the water, who should be, if not directly responsible, also part of the process of protecting that water. Is that a very serious concern of Springfield and other R.M.s, that there is not enough protection in Bill 22, that this is more or less a power grab?

Mr. Holland: Madam Chair, well, what we have heard this evening, and I guess what we would concur in, is that we do not really know what is going to be in the bill, I guess, until we see the regulations, for one thing. I mean, it is certainly very threatening to us. I think most municipalities are jealous of their jurisdiction within the boundaries of the municipality and jealous of their autonomy, and it would be helpful if the Province would demonstrate some commitment to these issues by making decisions in the areas where they already have jurisdiction like Birds Hill Park, like in the floodway, like with environment regulations for temporary asphalt plants. I mean, they do not have to wait for this legislation to address some of those concerns.

Mr. Schuler: Certainly, Springfield cannot, and I guess I should declare a slight conflict of interest

here, seeing as my constituency name also, strangely enough, bears the same name, Springfield. I am, of course, very proud of what our community has done insofar as protecting drinking water, because that is very important to our community, whether it is agriculture or in our towns and villages.

One of the things that I think the committee would also appreciate is if you would just make comment on, and it is sort of in the last few paragraphs. You talk about that, since the introduction of the water strategy, an underlining concern for municipalities has been the financial resources necessary to achieve the goals outlined. In fact, in the report given by Robert Rodgers, he mentions that there is a department and no dollars, and yet it is a very ambitious piece of legislation. Certainly, I think that there are members on this committee, and probably most of the committee, are concerned that with a lot of ambition also has to come a lot of money, and we are only seeing ambition and no money. Is that also a great concern for you in the rural municipalities?

Mr. Holland: We have certainly identified that as a concern. I mean, this bill would not be unique in that pattern of downloading expense and downloading expense through establishing standards which we are then required to meet at our cost. I would say that that is a very large concern for all municipalities. Certainly, when municipalities as a group were discussing the water strategy, I think the financial underpinnings were one of the huge issues.

Madam Chairperson: We are at the end of our time, so I need leave from the committee to recognize the other two members who have had their hands up to ask questions, waiting patiently.

An Honourable Member: Leave.

Madam Chairperson: Leave. Granted.

Mr. Ashton: Thank you very much for your presentation. I assume when you are referring, in terms of the consultation, it is as an R.M. not in terms of AMM, because I did want to assure that I have met with the AMM twice. The AMM presented to Cabinet, very specifically on this particular act, and, of course, the AMM was involved in the development of the water strategy itself. It was one of the key groups. So I assume that, when you are referencing to consultation, it is as a specific

municipality, not through the AMM, which does represent, I believe, Springfield and other municipalities.

* (21:40)

Mr. Holland: I am sure that is a correct observation. I was, in fact, going to mention that we would concur with many of the things in the AMM presentation, but I think the AMM mentioned they represent 199 municipalities across the province. I think it is a well-recognized kind of concept with the CDs that one suit does not fit all. I mean, the different conservation districts have different issues, different circumstances, and need individual plans. So I think that it is important that individual municipalities be consulted prior to decisions being made that will impact their particular area.

Mr. Ashton: Certainly, I have had the opportunity, with the rural municipalities, for example, to talk to many municipal officials, including those from Springfield. I am just wondering too, though, on the financial side, if you would acknowledge that, for example, in the last five years through the infrastructure program, which involves all three levels of government, there has been investment of \$50 million on water and waste water. Even when new acts have been brought in, such as The Drinking Water Act, that is essentially the Province that has added 12 separate drinking water officers along with the municipalities that are dealing with training and licensing issues. So, over the last five years where there have been new challenges on the water side, there has also been very significant financial investment by all three levels of government. I acknowledge, by the way, absolutely as well the municipalities on that side, but the federal and provincial governments had been partnering where needed.

Mr. Holland: I guess in Springfield, I mean, we would not, and perhaps you would not want to hold up our conservation district as a model of appropriate provincial funding, we have fallen short of the prescribed 3-to-1 funding, virtually since the inception of the district. I am prepared to acknowledge that things cost a lot of money and that the provincial government is spending a lot of money on these issues, so are the municipalities by participating in those infrastructure programs.

Specifically, I mentioned the development plan in Springfield, and we have a freeze that was

imposed there within a three-mile radius of the boundaries of Birds Hill Park, and that freeze is in place until we can bring forth studies that will demonstrate that there will not be a problem. Now, I mean, that is a very, very difficult undertaking, potentially a very costly undertaking, and not really an area of our jurisdiction in terms of ground water. That has long been a provincial jurisdiction. You popped a well into Birds Hill Park without consulting us; you put wells into the bank of the floodway without consulting us. Yet we have to pay for a study to show that there will be no problem in the future as a result of development that we might propose.

Mr. Gerrard: You have certainly had more than your share of problems in the area of the way the Province has acted with respect to things which will affect the water quality in the Springfield area, and you can certainly bring that forward with a lot of credibility, given your experience.

I wanted to bring up the comment of the Premier's (Mr. Doer), that the water bill will bring the Province new tools to control urban sprawl in the Capital Region communities outside of Winnipeg. I had the impression that this was about making sure that we had good water quality wherever people wanted to live, not about restricting where people are going to live. Maybe you could comment.

Mr. Holland: Well, certainly that is a concern. I guess when we were first considering a Water Protection Act we did not think that we would need to be addressing land use issues. I guess that comment was particularly disappointing in view of the RPAC committee report, which, I think, suggested that urban sprawl is not a significant issue in the Winnipeg Capital Region, first of all, and, secondly, it surprised me that that was a major initiative of this particular act, to control development, control some kind of perceived urban sprawl in the Capital Region. I could hardly believe it when I read it.

Madam Chairperson: Our next presenter is Dan Benoit from the Manitoba Métis Federation.

You may proceed, Mr. Benoit.

Mr. Dan Benoit (Natural Resources Co-ordinator, Manitoba Métis Federation): Good evening. Unlike some of my predecessors here tonight, I will

keep it very short. I still have to travel out to Lac du Bonnet tonight.

My name is Dan Benoit. I am the natural resources co-ordinator at the Manitoba Métis Federation. The MMF is the democratic self-government representative of the Métis nation's Manitoba Métis community. I am here before the committee tonight to express concern over some of the provisions of Bill 22, the proposed Water Protection Act.

Firstly, in the proposed legislation there is no acknowledgment of Aboriginal peoples as protected by section 35 of the Constitution Act (1982).

As this proposed legislation may have direct impacts on the Aboriginal peoples, including the Métis nation and our traditional lands, waters, culture and rights, it is necessary that we be fully recognized in the proposed legislation. Along with the acknowledgment of Aboriginal peoples, there must be a definition section that includes the Métis as one of the distinct Aboriginal peoples, as affirmed in the Constitution Act.

Secondly, we would like to bring the issue of Aboriginal consultation to your attention. As we understand, in the proposed Water Protection Act, the minister, by regulation, would be able to designate watersheds and a water planning authority for each watershed. Such authorities may be, and it is Part 3, "9(b)(i) the board of a conservation district, (ii) the board of a planning district, (iii) the council of the municipality, (iv) any other person or entity, or (v) a joint authority consisting of two or more entities or persons described in clauses (i) to (iv)."

We understand the watershed planning authority would be responsible for preparing a watershed management plan. As part of the considerations in preparing this plan, the authority must consult with the following, and I have only listed the one, which is 12(1)(c), any band, as defined in the *Indian Act*, that has reserve land within the watershed."

We believe these sections to be problematic for two reasons. Firstly, it is our understanding of the government position with regard to Aboriginal and treaty rights, protected in section 35 of the Canada Constitution Act (1982), that only the federal and provincial governments can undertake what is known as section 35 consultations. We understood from the

statements of Manitoba Justice and Manitoba Hydro representatives at the Wuskwatim Clean Environment Commission hearings that this section 35 consultation is an obligation of the Crown that cannot be delegated to others. Both government and the corporation continue to reiterate this position today.

It is also the Crown's position that the Crown solely may undertake the required consultation of Aboriginal peoples, including the Métis nation or, for instance, in the draft legislation, any band as defined by the Indian Act. As such, it would appear that this proposed legislation does not reflect the government position. It is attempting to delegate consultation to another party, a third party. This portion of the legislation must be redrafted.

* (21:50)

Secondly, both Aboriginal and treaty rights are protected in section 35 of the Constitution Act, 1982. Although it is unclear in the legislation that is proposed, section 12(1)(c) of the proposed legislation appears to recognize only the treaty rights of those First Nations bands who happen to have reserves within the watershed management area. The legislation does not acknowledge the Manitoba Métis community as represented by the MMF, which has Aboriginal rights within those areas in which management plans would be developed. There may be infringements of those rights. We believe therefore that at least part 12(1)(c) must be redrafted, also redrafted in conjunction with the other part we mentioned so that there is proper and meaningful consultation by the minister to include all Aboriginal peoples who may be affected by the legislation, including the development of watershed management plans. Thank you.

Madam Chairperson: Thank you very much.

Mr. Schuler: First of all, Dan, thank you very much for your presentation and for having the patience to wait. We also know you have quite a drive home.

I have two questions, and my first one, I am sure, is not unfamiliar to you. You have probably heard it this evening. Was the MMF consulted at any point in time in regard to Bill 22 in the process of putting the legislation together?

Mr. Benoit: No. As a matter of fact, I was not aware of this until last night. I only printed this legislation

off this morning and read it and drafted this response.

Mr. Schuler: Where should this bill go, Bill 22? What kind of advice would you give this committee? You have heard all kinds of suggestions here this evening. Insofar as your organization, what do you think should happen with this bill. Again, I just state very clearly that fresh water is a big issue for our province, considering how much of it we have, and that if we are going to have legislation, obviously it has to be done properly. Prefaced with that, what is your advice as an organization, where the committee should be going with this legislation?

Mr. Benoit: From the MMF standpoint on this, we do not believe this legislation should go forward until proper consultation has occurred with the Aboriginal peoples that could be potentially affected by the act, its regulations and things that flow out of this act. So, no, it should not go anywhere until proper consultations have occurred.

Mr. Ashton: I thank you for the presentation. I know there have been a number of other presentations from the MMF and, correct me if I am wrong, in terms of the whole question of section 35, consultation under the Constitution Act of 1982. Certainly, our view is that, notwithstanding any of the discussions that have taken place in terms of that, the Constitution Act would override provincial legislation, so what we are talking about in this particular case is really not a situation which we would have any provincial legislation override the Constitution.

The real issue here is the section 35 obligations, and, certainly, they have been put forward. I know I, as Minister of Conservation, have met with David Chartrand, who is president, and there are many other areas. So I assume from this you are putting forward the same position that has been put forward on other issues, and that is that there is a section 35 obligation that goes beyond anything in this statute in terms of consultation.

Mr. Benoit: Yes, but what you have done is that you have created a section 12(1)(c) that actually speaks to section 35 consultation, because you are dealing with bands with reserve lands, and you are only taking a small, minute portion of what the obligation is. So we are saying we have to be included in that section as well, along with Indian bands whose reserve lands would be affected.

Mr. Gerrard: I would say, with respect to the comments of the minister, that normally a piece of legislation like this would follow the dictates of the Constitution and not try to do things outside the Constitution or around it. Therefore, this legislation basically needs some changes so that it would be consistent with the Constitution Act of '82.

Floor Comment: That would be correct.

Madam Chairperson: Seeing no other questions—Mr. Schuler.

Mr. Schuler: Dan, you know that in the legislation there is a provision in place that there be consultations after the fact.

You have also heard from others there is no money being provided and other flaws, but that having been put aside, does it give you any comfort that it has been legislated that there will be some consultations? It does not lay out what form or when or how those will be, but does it give you any comfort that there will be consultations after the legislation is a done deal?

Mr. Benoit: No, and I will explain why. This current government reads Aboriginal rights as being First Nations rights and forgets about the other Aboriginal people who happen to inhabit this province, who have rights.

For example, and I do not want to get into Wuskwatim, but on Wuskwatim the Province has consulted with First Nations, and they have consulted with either individuals or northern community councils. Now the whole point behind section 35, the whole reason why it was put in there, is to protect Aboriginal peoples' culture. You cannot make decisions on people's Aboriginal culture or what effects might be on that and help them protect it if you are not dealing with the representatives of that culture, the rights holder.

The rights holder is not the Northern Affairs community councils, or municipalities, or any other one of these peoples that the government tends to deal with when it comes to Métis issues.

So the short answer is, no, I have no comfort that this government will deal with the Manitoba Métis Federation and the Métis nation as a collective on this. There is no comfort there. No.

Madam Chairperson: Thank you very much, Mr. Benoit.

Mr. Benoit: Thank you.

Madam Chairperson: We will now move to our two presenters from the City of Winnipeg.

Councillor Gord Steeves, councillor for the City of Winnipeg.

You may proceed. Thank you very much for your patience, Councillor Steeves.

Mr. Gord Steeves (Councillor, City of Winnipeg): Thank you for having me.

I am Gord Steeves. I am a City of Winnipeg councillor. I am the chair of the Public Works Committee at the City of Winnipeg. I am joined this evening by some colleagues from City Hall: Chris Boryskavich, who is a policy analyst for the Executive Policy Committee; Jacquie East, one of our planners; and, of course, Barry MacBride, who is director of our Water and Waste Department.

Had I known, Madam Chair, about the out-of-town preference, I would have told you that Barry lives in south St. Vital.

Madam Chairperson: That would be a stretch.

Mr. Steeves: That would, okay.

Before I begin, I would like to echo to a certain extent the sentiments as relayed to the committee by the Association of Manitoba Municipalities through their president, Stuart Briese. We, the City of Winnipeg, are a proud member of the association. To differing degrees, we agree wholeheartedly with the representations made. Of course, the issues are a bit different with the city of Winnipeg and the rural municipalities, but, by and large, we can stand in lock step with our brothers and sisters of the AMM.

Also, perhaps, on a note of caution, when Reeve Holland presented to the committee the position paper as written by Glen Murray, I am not exactly sure it was presented to the committee or it was attached to that committee. I would just like to caution the committee that what they may have received could possibly have been a draft. I am not exactly certain, although I commend him on his

research. We will present you with an updated version this evening.

As for the goals of our presentation this evening, essentially our comments will cover the four following areas: first of all, the goals of the bill—the protection and conservation of our surface and ground water, riparian areas, and, perhaps most important, to ensure the protection of high-quality drinking water sources. Secondly, the intent and the impact of the bill on the city as it relates to existing planning and development approval, that needs to be clarified, in our opinion. Thirdly, the emphasis in the bill on water protection alone, in our opinion, leaves out many other objectives and considerations in land use and development planning that must be addressed by the Province. Lastly, the reality that continued co-operation between all levels of government is necessary for cities and municipalities to have effective and modern infrastructure to ensure fresh water and waste water treatment.

* (22:00)

Dealing firstly with the goal of the bill, we would like to inform that the City fully supports the goal of the bill to protect our water and environment and to plan on a watershed basis. The City is aware of the importance our rivers play in adding to the quality of our urban life, and we also recognize the need to play our part in protecting the resource of our downstream neighbours and for the protection of Lake Winnipeg that is such a vital part of the province's well-being.

We also recognize the role of both the provincial and federal governments in ensuring proper stewardship of water resources that cross international, provincial and municipal boundaries. We hope that greater clarity can be brought into this bill to ensure that the goal of water stewardship can be achieved through existing planning structures.

As all levels of government and indeed all governments must co-operate in ensuring our citizens are afforded the protection of the water resources they deserve, it only makes sense that we are all brought back to the table to work out the many important details that, in our opinion, are missing from this bill. Essentially, the City of Winnipeg knows that water is perhaps seen as a political barometer of how well we all do our jobs, and we recognize that we often are judged on how

well we co-ordinate and steward our water resources. We are completely supportive of those efforts.

Secondly, dealing with the intent and impact of the bill on the city and municipality and how, in our opinion, it needs to be clarified, this act enables regulations to designate watersheds, water planning authorities and water quality management zones anywhere in this province. Without the regulations to accompany this act, it is unclear if any areas within the city of Winnipeg will be designated as such. If areas within the city are designated, land use decisions within them may become subject to approval and/or scrutiny by either the Province or another appointed authority other than council through the provisions of a watershed management plan. This has the potential to undermine council's authority under the Winnipeg charter to render decisions on land use development matters and to comprehensively plan for the city through the implementation of the planning vision, which is articulated in our *Plan Winnipeg*.

The imposition of watershed management plans by provincially appointed water planning authority for areas inside the city of Winnipeg has the potential to generate conflict with existing city plans and by-laws that already govern land use and development within those areas. Council has always recognized the importance of protecting and enhancing the city's waterways. This is clearly stated in *Plan Winnipeg*. As such, the City is already engaged in a continuing series of environmental and planning initiatives that reflect many of the objectives and the intent of The Water Protection Act.

The intent of Bill 22 must be clarified. Is it to have land use planning efforts of municipalities recognize the need to protect water, or is it to limit land use in watersheds? Since all land lies in watersheds, it is the purpose to make water protection paramount in land use planning. In order to understand this bill, we need some commitment on the intent and how it will impact our responsibilities to plan for our community.

You have heard about our implementation of a red tape commission designed to help people work their way through bureaucracy at the City of Winnipeg. Obviously, we do not believe the intent of this bill is to somehow create some parallel process that creates another layer of bureaucracy the people in the city of Winnipeg might have to plan through.

Again, we do not believe that is the intent. We just want to make sure this legislation ultimately is clear and does not overly impact the ability of people within the city of Winnipeg to develop in our city, to grow and to be prosperous.

Thirdly, the emphasis in the bill on water protection alone leaves out many other objectives and considerations in land use and development planning that must be addressed by the Province. Water courses and watersheds do not recognize boundaries between municipalities, and Winnipeg contains watersheds that pass through a number of other Capital Region municipalities. It is imperative that any planning for these watersheds be done in a collaborative and collective manner between the Capital Region municipalities in the broader context of all regional planning issues.

These issues include not only the protection of waterways, but also, among other things, appropriate land uses, management of development densities and service infrastructures. Planning in the Capital Region needs to consider much more than simply water protection, and there does not seem to be any move to adopt and enforce land use planning based on these principles.

It is the view of the City that the Province should endorse land use planning principles such as compact urban design, increased density of development, use existing services rather than build and extend services, do not subsidize light-density development through subsidizing water and sewer services. Development planning should also consider transportation issues. In essence, we are not opposed to watershed planning; we are not opposed to working with our neighbouring municipalities to develop better plans that work in the Capital Region. We just feel that globally and overall we should do this as part of an overall strategy that reaches a little bit further in terms of all the things that it may or may not entail, and that could be pursuant to an overall, more powerful Capital Region's strategy that, incidentally, is fair to not only the municipality of the city of Winnipeg, but surrounding municipalities as well.

Lastly, continued co-operation between all levels of government is necessary for cities and municipalities to have effective and modern infrastructure to ensure freshwater and waste water treatment. While we all know that a series of cumulative

impacts, including human settlement, community development, inflow of waters from the United States, commercial development of wet and agri-food industries, agricultural and, in particular, livestock operations, and riparian habitat all play a very important role in the well-being of our surface and ground water, it is critical that our discussions on water stewardship be rooted in the reality of prudent infrastructure development.

This need is no more urgent in any area than in our efforts to improve our freshwater and waste water treatment facilities. This is an area epitomized by the "new deal" debate taking place across Canada, with provinces and the federal government. For our purposes here today, let the record clearly show that the Province bears equal responsibility for safeguarding our water as it relates to the impacts of our cities and towns. For Winnipeg, which is facing hundreds of millions of dollars for water treatment infrastructure renewal, solutions to safeguard our human health and our environment will only be achieved with the full participation of the Province and federal government.

We are not here to overly sound alarm bells, but, as you know, pursuant to the CEC hearings that were, obviously, rightly held and perfectly right-headed in their intent, the recommendations that have come out of those hearings have resulted in recommendations that, if pursued, and as being pursued by the City of Winnipeg with the assistance of the provincial and federal governments, come to a total in capital costs of \$751 million for their implementation. That is a lot of money. That is more than our operating budget for any given year, and, certainly, that is over three times our capital budget in any given year in the city of Winnipeg. We are a little concerned, obviously, about the potential impacts in certain situations, and again, not to overly sound the alarm bells, we just want to make sure the legislation that eventually is passed by the Province does not allow any loopholes that would, perhaps, put us in similar situations.

As can be seen from the above, the City is concerned about Bill 22 on many fronts. It is our recommendation that the bill be referred back to the department and that further consultation occur on its formulation before it proceeds. The City of Winnipeg will be pleased to commit to working in good faith with the Province and our interested municipal colleagues from across the province to

answer these many important questions that I have noted during this presentation.

Again, in conclusion, I would just like to say that we are not here to quash this legislation or stop the Province from achieving their goal of proper and appropriate water stewardship. We just want to make sure that some of the concerns that we have outlined are looked at in the ongoing process that has become this legislation. Thank you.

Mr. Ashton: Without getting into too much detail, in reference to the Clean Environment Commission and the waste water treatment at the city of Winnipeg, you certainly did point to the significant cost that the City of Winnipeg is going to be faced with because of the CEC licensing recommendations, and pointing, I think, to the obvious fact that, once again, all Manitobans are dealing with these challenges on the water quality side.

I am just wondering if you can indicate from the City's standpoint, you have been dealing with that, for example, I recognize the CEC as a quasi-judicial body, but since the CEC hearings there have been significant discussions, both on funding and timing of the implementation of the recommendations. In fact, that is part of the infrastructure program.

There was a very significant groundbreaking commitment, I think, from two senior levels of government to waste water treatment, something that has not been the standard with the infrastructure program elsewhere, so that there has been very significant consultation and work with the City by the Province and, to be fair, the federal government as well.

Mr. Steeves: I am sorry. I think I missed the question there.

Mr. Ashton: Whether there has been significant consultation following the CC hearings, deliberations, both in terms of the financial underpinnings for the waste water upgrade and also the timetables? There have been fairly significant discussions between the various different levels of government, including the Province and the City.

* (22:10)

Mr. Steeves: Well, I know there have been talks going back and forth in consultation. I cannot

honestly say that I have been personally privy to all of those consultations. We are obviously grateful for the commitment that was made by the Province and by the federal government for, I believe it was the \$48 million, \$50 million, pursuant to the infrastructure plan.

I do believe there was some talk recently about the compressing of the time period in which the City of Winnipeg could implement some of the measures pursuant to the recommendations, and I thought that took place relatively recently, although I probably should check my facts before going off on that. I am certain the consultation has been adequate, and I am certain it will be adequate ongoing.

Having said that, Mr. Minister, I would like to simply state again that it is a lot of money, and we would obviously like to put forward the idea that raising that type of money is an ongoing concern to the citizens of the city of Winnipeg. As you are aware, we are purporting to raise the water and sewer rates for the citizens of the city of Winnipeg probably 50 percent during the next six years to, not completely pay for those costs obviously, but just to offset them. So, yes, it will represent some challenges, of course.

Mr. Ashton: I certainly recognize, and I think the City has acknowledged, that the current system with its discharge of raw sewage into the Red River and also the nutrient element of the waste water are concerns.

I also just wanted to be very clear on some of the other points you have raised in the brief. I take it from the brief that the City of Winnipeg does support the principle of water protection and, in this case, through this act, of having the ability to identify sensitive areas. So your concern is not so much with the principle, but implementation issues related to watershed authorities as that would relate to the city itself.

Mr. Steeves: Just to ensure. Again, we are probably quite confident that the intent of the legislation is not to create unfortunate circumstances. We have, as municipalities, seen circumstances where throughout the course of municipal history we have seen municipalities be asked to set up some type of water protection authority that they have not been compensated for or that are not covered in terms of costs.

If you look at the act, for example, section 9, which states that the Lieutenant-Governor-in-Council may, by regulation, designate watersheds, and then some of the considerations in preparing the plan, the public consultations, the content that must exist, how public meetings must be held and must be submitted back and the referral of the plan to the water council, just the concern that it could be costly for cities, firstly, and that there might be some consideration made for that, pursuant to the legislation or the regulation that may follow. Further to that, we do also note that there are penalty provisions, in that we would hate to see any municipality, not just the City of Winnipeg, get into a situation where it potentially could not pay for the improvements as directed and then might get into a situation where penalties are levied, which has not happened in Manitoba, to my knowledge, but which has happened in other provinces, in other municipalities. We just want to ensure, Mr. Minister, about those loopholes. Now is the time to cover them off and make sure that they are closed down, that if we can, we do. That is all.

Madam Chairperson: I need leave from the committee to allow the members who have raised their hands to ask questions. Is leave granted?
[Agreed]

Okay. If I could ask the members just to have their questions short.

Mr. Faurshou: Do you have any participation at present with currently established conservation districts, such as La Salle Redboine, Cooks Creek, any of those right now, because your boundaries, obviously, are within those areas?

Mr. Steeves: The only way I could answer that question is if I was to perhaps defer to my Director of Water and Waste, if that was the committee's pleasure. I do not know that answer off the top. He is shaking his head.

Floor Comment: I do not believe we have any.

Mr. Steeves: The answer was that he, our Director of Water and Waste, does not believe that we have any yet.

Mr. Schuler: Thank you very much, Councillor, for waiting over three and a half hours to make your

presentation. Having been to a few council meetings, this would be short in comparison.

On page 2 of your presentation, and I just look at some of the comments that you make, point No. 2, "without the Regulations," lack of clarity; point No. 4, may "undermine Council's authority"; point 5, could "generate conflict"; point 8, "The intent of Bill 22 must be clarified." We have heard from other presenters; we have a great new ministry; great new minister, no money, which seems to be a problem with a lot of governments these days.

On page 3, basically you indicate that Bill 22 should go back to the department, that it should go through a proper consultation process, so on and so forth. Have you, at any point in time until tonight, conveyed this to the minister, to the government? This is a very serious statement to make. It basically indicates our largest municipality, our largest city in the province sees that there are a lot of difficulties with this piece of legislation, which is very important.

The minister asked earlier on, "Do you not support fresh water?" Clearly, everybody does, but if we are going to do this, what you are trying to say, obviously, is let us do it right. Have you conveyed this to the Province previously to tonight?

Mr. Steeves: My understanding of our involvement in the process is this, that Mike Shkolny from our department participated in the steering committee that stewarded the water strategy to fruition. At that stage, I believe our involvement ended. Then the legislation returned, and here we are. I do not know that we ever actually came forward and said we wanted to be involved. It is probably more likely that we did not know of the process, that we could be involved.

Frankly, I quite doubt that the invitation would have been extended and we would not have taken up the Province on that, so I believe that is what happened in terms of the flow of information. We did participate as a steering committee member through Mike Shkolny in the preparation of the water strategy. My information, then, is that that process terminated, and then Bill 22 was prepared. We received it, and here we are.

Madam Chairperson: Last question. Mr. Gerrard.

Mr. Gerrard: As I understand one of your major concerns, the question is whether The Water Protection Act or The Planning Act or some other act has priority, and that, before you launch off into, from a city perspective, watershed planning, you need to have some sort of sorting out of what comes first and what comes second and which is where the sort of hierarchy of acts falls.

Mr. Steeves: A city the size of Winnipeg essentially trades on its reputation to do business, and you no doubt hear there is no shortage of stories that come out indicating the city of Winnipeg is a good place to do business or a bad place to do business. Every city goes through that. All of us have to ensure, and we all have a committed interest in ensuring the city of Winnipeg is a good place to do business.

Mr. Greg Dewar, Vice-Chairperson, in the Chair

Of paramount concern to us, of course, is that if we are going to going to take watershed concerns into consideration, it does not create another bureaucratic process. It makes becomes very difficult to manage when we are simply trying to do business in our city. Now, obviously, doing business in our city cannot come at the expense of harming our water source. We just want to ensure that we do not create a parallel process that, for some reason, somebody who is developing in the city of Winnipeg has to go through our process and then go through a contrary process. Again, we have no indication, formally, that is what is intended by this act. We just want to make sure that is not what occurs and to bring our concerns to this honourable committee.

Mr. Vice-Chairperson: Thank you, Councillor.

Mr. Steeves: Thank you. I appreciate it.

Mr. Vice-Chairperson: The next presenter is Glen Koroluk.

Mr. Koroluk, whenever you are ready, you can proceed.

Mr. Glen Koroluk (Private Citizen): Thanks. Who has the authority to shut off the rain?

Honourable members of this committee, I thank you for the opportunity in allowing me to make a brief comment on this proposed legislation. My

name is Glen Koroluk. I am here as a private citizen. There are only two of us who are here tonight.

I have been involved with various environmental NGOs in Manitoba for the past 15 years. My areas of interest and work have included water, waste management, forestry, agriculture, environmental assessment, law and policy.

* (22:20)

My first personal comment on Bill 22 is that I support its general intent, but I do have some specific concerns with it, as well as some detailed suggestions on the wording of the legislation. I realize the bulk of this legislation will be contained within the regulations, so I am hopeful that proper and adequate consultation will occur in the development of these regulations.

Some of my general concerns, well, I view Bill 22 as somewhat undemocratic, as it allows minimal opportunity for public involvement and input into decision making. The Cabinet and ministerial discretion in Bill 22 is quite overbearing, and minimal authority and power is relinquished by the government to the proposed water council and the watershed authorities.

My second concern: Bill 22 is enabling legislation. However, no responsibility or democratic accountability is placed in the hands of government to proceed to develop regulations to protect our water. There is minimal transparency in Bill 22 and decisions to develop regulations will therefore be politically motivated and not based on science and the need to protect the environment and human health.

My third concern: While Bill 22 does allow for the establishment of a water stewardship fund, there has been no indication to date that new resources, both human and financial, will be allocated to water stewardship programs, and specifically to the newly formed Ministry of Water Stewardship.

My fourth concern is many of the regulatory initiatives offered by Bill 22 are not new and could have been carried out by this government and past governments by exercising the broad regulation making provisions of The Environment Act of 1988 and The Conservation Districts Act of 1976. This gives me a certain degree of scepticism as to whether

this government, past governments and future governments are truly concerned about balancing our environmental, social and economic goals.

I do have some suggestions to alleviate some of my personal concerns. Firstly, Bill 22 can be made democratic by offering more opportunities for public input and participation by changing sections 19 to 23, that is, changing the structure, make-up, duties and powers of the water council, which would create an independent body, free of political interference and patronage. As it stands now, the water council candidacies are only held at the pleasure of the Lieutenant-Governor-in-Council. Since they have no security of tenure and may be dismissed at the pleasure of the government of the day if advice or decisions are made which are not in keeping with the government policy, the independence of the water council will be highly questionable.

Another suggestion, the water council membership must include those who have expertise and background as required by Bill 22. The tenure should be fixed. Membership should consist of various interests in Manitoba that are both regional and reflective of different levels of government: local, provincial, federal and First Nations. A certain number of members may be appointed by government while other members should be appointed by the various interests in Manitoba and selected by their peers.

There are a couple of examples that we could use. One is the Alberta Water Council, and the Manitoba Multi-Material Stewardship Board that was created last decade.

Consideration should be given to its size, so as not to make it too onerous to operate. Likewise, a similar process for establishing the water council can be utilized for the establishment of a watershed planning authority, whereby regulation can be developed to give the water council the power to create and select the membership of a water planning authority.

Sections 12 to 17, dealing with consultation and development for our watershed management plan. In these sections, the public must be guaranteed more than one public meeting in the development of a plan. The public involvement program should be vastly expanded to provide notification to the public on the intent to create a plan, provide opportunity for

the public to develop the terms of reference and define time lines for public involvement and input.

The public must also be allowed to comment on the draft plan and must also have the ability to appeal a plan, or components of a plan, if there is an injustice. The public should also be given the opportunity to apply for board membership on a local watershed authority, based on a citizen's experience, local knowledge and expertise.

Public access to information must be vastly improved in Bill 22. A water registry must be made available to the public to house information such as Manitoba water quality standards, objectives and guidelines, water quality zones, water quality data, water reports, investigations carried out by the water council, watershed management plans and notices of shortages of water.

Citizens should be given the right to prosecute. This is a similar provision offered by the federal Fisheries Act. In Section 30 and 31, the Whistle Blower Protection, while I certainly appreciate that piece of legislation, I would like to see some minor modifications to it. It does offer any person protection for reporting a violation; however, this section does not allow the public the right for an investigation to proceed if a legitimate violation has occurred. As a minimum, the legislation should create a transparent public process to respond to persons reporting violations.

Bill 22 can also be made more democratic by providing power and authority to the water council and watershed authorities. The water council should have the power to provide assistance in regulation development; report annually to Legislature; investigate important water matters with powers of The Evidence Act; approve watershed management plans; establish watershed authorities through a terms of reference and have the ability to hear appeals on decisions.

As it stands now, a watershed planning authority has no real power delegated to it unless a conservation district, a board of a planning district or a council of a municipality has been designated as an authority by the government. It has been shown in Minnesota that, in order for a watershed planning authority to be successful, it must have the capability to permit some water-related activities and to raise money through taxes or fees. The boundaries of the

watershed must be based on hydrology and be at the watershed scale. The authorities must also be able to assist in data collection and partnership with higher levels of government.

I do have suggestions to improve government transparency, democratic accountability and responsibility. Time lines to develop certain regulations must be established in the act based on high priority issues, such as reducing nutrient inputs into our waterways, establishing standards, objectives and guidelines, creating water quality management zones, protecting drinking water and developing the watershed plans.

The Water Protection Act should have a public review period built into it to determine its effectiveness and consideration should also be given to establishing goals and targets. As mentioned earlier, the water council should be given powers of investigation, or the current government should adhere to its 1999 election promise and create an environmental or sustainable development auditor. Regulatory development must be open and transparent. I referred to this earlier. A good example was the Multi-Material Stewardship Regulation development and the creation of the implementation committee.

Without new financial and human resources, the Water Protection Act will merely become a piece of paper that collects dust, much like other underutilized environmental legislation in Manitoba, such as The Energy Act, The Sustainable Development Act, The Contaminated Sites Remediation Act, and numerous sections of The Environment Act. Indication of limited resources in the department is quite evident by the amount of time it has taken to develop the nutrient management strategy and in-stream flow on the Assiniboine River and the backlog that exists in water licensing.

Manitoba's own water strategy identifies some of the problems and points out that the knowledge and management of ground water resources is incomplete.

Comprehensive hydrological and ground water supply data is incomplete. Our understanding of the long-term impacts and development, including upstream development on water supply, needs to improve. Our understanding of the effects of climate change on our water supply needs to improve.

The Clean Environment Commission also adds that current environmental research and monitoring programs by the City of Winnipeg, Manitoba Conservation and Fisheries and Oceans Canada do not appear to be adequate for the long-term protection and management of the Red and Assiniboine rivers and Lake Winnipeg, and they recommend additional funding is necessary to support this initiative.

Madam Chairperson in the Chair

I do have some suggestions to collect more money into the system: make the polluter pay, charge royalties on water usage, increase permit fees that are reflective of their cost of service, increase fines for environmental infractions, lobby for more environmental infrastructure funding from the federal government and allocate it for pollution abatement technologies, introduce development fees reflective of their true cost and development, tap into existing funding programs such as the Agriculture Policy Framework, stop subsidizing unsustainable development, tax on sustainable development, stop giving corporations and higher income earners tax reductions in the name of protecting Manitoba's competitive edge—

* (22:30)

Madam Chairperson: Mr. Koroluk. Do we have leave from the committee for him to continue? It is the end of his presentation. *[Agreed]* Continue, thank you.

Mr. Koroluk: Thank you.

—drop the no new tax mentality at budget time.

I do have some questions, myself, for clarification, a few of them here.

Firstly, how does the minister address water shortages? The Water Rights Act currently says that whoever was first in time in obtaining a water rights licence has the first in right of using the allocation. I suggest that to alleviate this problem The Water Rights Act be amended, which would allocate water based on priority of use, in-stream flow and shared responsibilities.

Another question I have is how does watershed planning occur in the Capital Region which consists

of five watersheds and over 700 000 citizens? It might require consequential amendments to The City of Winnipeg Charter Act and *Plan Winnipeg*.

The big picture—how are downstream and upstream watershed plans integrated with each other to provide a basin approach in dealing with water issues?

How will conservation districts designated as water authorities be required to implement watershed management plans? The Water Protection Act currently does not require any consequential amendments to The Conservation Districts Act.

Will existing developments defined under The Environment Act be required to meet any newly established water quality standard objectives or guidelines, or be subject to regulation under the creation of water quality management zones?

Also, I have questions about some of the numerous grandfather developments in operation in Manitoba that do not have an existing environmental licence.

Is a watershed management plan enforceable, and who will be enforcing, monitoring and evaluating it?

Just to finish off here, I do have some minor suggestions for Bill 22: section 1(1) under the Definitions, I would like to see "water body" defined, the definition to include a drainage ditch.

Section 2, Purpose of the Act. It would be nice to see a clause that recognizes the precautionary principle in decision making.

Water quality standards, objectives and guidelines, section 3(1). There should be some allowance for the adoption of standards created by another organization such as the Canadian Council of the Ministers of Environment

Section 7(3), Communication of serious water shortage. Some of the means of communicating this problem should be better defined like putting the information in the public registry, communicated through a news release or placed in the local papers, et cetera.

Section 10, Considerations in preparing a plan. ". . . a water planning authority must consider the

following:" I suggest sections 10(a), 10(b) and 10(f) that follow this section in preparing a plan be moved into section 11(1)(b) and be made mandatory in a plan. I also suggest that the word "some" in section 11(1)(b) be deleted from this clause to ensure consistency in the content of all watershed plans.

Other inclusions for other considerations in section 10 could be cumulative impacts, impacts to downstream users, instream flow, and other existing water management plans that are there in place already.

I thank you for your time.

Madam Chairperson: Thank you very much.

Mr. Ashton: Thank you for your very thorough presentation and some very interesting points. Just one basic question. I note from the brief you support the principle of the act, and I am just wondering if you feel that existing legislation adequately protects water in Manitoba, or, in fact, whether we do need this new legislation and some of the new tools that are in the legislation to protect water at source in this province.

Madam Chairperson: Prior to answering, any leave from the committee? We are at 15 minutes for this.

Some Honourable Members: Leave.

Madam Chairperson: Leave. If I could suggest that each one of us maintain our questions short and we just ask one question.

Mr. Koroluk, you can answer the question.

Mr. Koroluk: I am just mentioning that there were other provisions and other acts that could have done part of the job. There are some interesting aspects in this legislation that are required to move forward. So yes, of course, we need the legislation.

Mr. Faurshou: In regard to your comment that the water council needs the powers of The Evidence Act, this act actually deliberately removes that particular power, because The Water Commission Act has that provision available to the water commission and the members therein. Effectively, what you suggest already exists and it is being repealed by this act. In light of that, I suppose you would then be in favour of taking out the section 35 of this particular act

because that is the section that repeals The Water Commission Act.

Mr. Koroluk: I am not familiar with The Water Commission Act. My concern is that the new legislation should offer those same powers and that the water council should have powers, period. As it stands right now they are just an advisory body that is politically appointed.

Mr. Cummings: Thank you. You have done a lot of work in putting this together for which you should be congratulated. One question that I have had of a number of presenters tonight, and that is about where we should proceed from here.

Would you be in support of holding this bill while further work is done a) in preparing and discussing some modifications to the bill itself, a number of which you have recommended and others, and, secondly, for more people in the public to have some input into the regulatory framework which is sort of unfettered the way I read this bill at the present time?

Mr. Koroluk: Personally, I feel the bill should proceed as quickly as possible, and a better job should be done on the consultation process for the regulations. I also feel that Bill 40 should actually be put on hold until the regulations are developed through this piece of legislation. We have been waiting for water legislation for a decade now and the proof of the pudding will be in the regulation development. There have been some good models in the past, even by yourself, with the Multi-Material Stewardship Regulation and the implementation committee, so there are examples in this province.

Mr. Gerrard: You mention the water quality standards objectives and guidelines in several places in here, and I would just ask, because you have referred to the fact that some aspects of this bill could have been handled with existing legislation, could those water quality standards objectives and guidelines have put in place under existing legislation, or do they need this legislation?

Mr. Koroluk: My interpretation of The Environment Act is it has over 30 different ways you could develop a regulation in developing standards, objectives and guidelines it could have fit underneath The Environment Act.

Madam Chairperson: Thank you very much, Mr. Koroluk.

That concludes the list of presenters that I have before me this evening. Are there any other persons in attendance who wish to make a presentation? Would you identify yourself please?

Ms. Elizabeth Fleming (Provincial Council of Women of Manitoba) Elizabeth Fleming, with the Provincial Council of Women of Manitoba.

Madam Chairperson: Did you have a written presentation?

Ms. Fleming: No.

* (22:40)

Ms. Fleming: The reason we did not is because, as is the case with many other volunteer organizations, we are not around in the summer, and we were not aware that this bill was coming to the standing committee until it was too late. So I am just coming now to say that we would like to be involved. We did go to some of the strategy meetings early on but have not been consulted since.

We certainly have concerns, hearing the City of Winnipeg's position, and perhaps further consultations before this proceeds would be a really good idea, in which case we would very much like to be involved, and also on the regulations as well.

This is very far reaching, particularly for our land use planning and also for the status of development and municipal councils throughout Manitoba, but particularly we are following Capital Region and city of Winnipeg and, therefore, would like to be involved in the future.

Madam Chairperson: Thank you. Do you want to stay there and see if there are any questions? Do members have any questions for Ms. Fleming?

Mr. Faurshou: You say that you were involved at the early stages of development regarding this particular bill. So then the government knew of your intent to be involved, but you were never notified thereafter about the bill, the tabling and the subsequent hearing this evening?

Ms. Fleming: That is correct. There were three or four of us who attended probably two or three meetings a couple of years ago. We repeatedly raised our concerns about the Capital Region and what was going to happen there and, yes, we did not hear back. So the consultation did not continue. Unfortunately, we did not keep up on this bill coming forward. We are not prepared at this time, but we would like to be involved.

Mr. Ashton: I certainly want to pass on, and I am sure I speak for all members of the committee, that we welcome submissions. In fact I would suggest, even following this committee meeting, the unique thing about this bill actually is that it is on a very different timetable than we have had in the past, in the sense that normally it would have gone to committee in June, or maybe July, maybe even August.

So, in actual fact, the intent of this new set of rules is to improve the ability for the public to participate, but I realize as we shift from one system to another there may be situations such as this where obviously it has created some difficulties. I think we would all appreciate the kind of quality submissions that the council has provided on other bills.

Certainly, as someone who has been at many committee hearings, I have seen many very good presentations, and I think we would welcome them, even after the committee hearing tonight.

Madam Chairperson: Seeing no other questions, thank you very much, Ms. Fleming.

Are there any other presenters in attendance who wish to come forward to make a presentation?

Seeing none, is it the will of the committee to proceed with detailed clause-by-clause consideration of Bill 22? *[Agreed]*

Mr. Faurchou: I have a motion for consideration by the committee.

I move

THAT the Standing Committee on Social and Economic Development do now adjourn and recommend that this committee reconvene at a time to be announced by the Government House Leader

(Mr. Mackintosh) to further consider Bill 22, The Water Protection Act.

Madam Chairperson: It is moved by Mr. Faurchou

THAT the Standing Committee on Social and Economic Development do now adjourn and recommend that this committee reconvene at a time to be announced by the Government House Leader to further consider Bill 22, The Water Protection Act.

The motion is in order. Debate may now proceed.

Mr. Faurchou: I think we have heard on numerous occasions this evening that the committee consider that further time be allocated for consultation and consideration of the language of the bill for modification. I believe that numerous times mention was made as to the language currently within the bill and that government should consider amendment even insofar as that one-word minor change from "may" to "shall" with regard to the consideration of scientific data prior to decisions. I feel very strongly that we have had a lot of very informed dialogue prepared this evening. The research into the bill has impressed me personally, and I do not think that there was one presentation tonight that gave clear and complete support for the bill as it is being tabled tonight. I would like to echo, as has been very, very clearly put forward by the submission from the City of Winnipeg, that suspension of the bill, as far as proceeding at this time, for further consideration and added opportunity for dialogue, so I have put forward this motion at this time for debate.

Mr. Ashton: Certainly, it is normal procedure in these committees to proceed after presentations from the public to clause-by-clause discussion. I note, having attended just a few over the past number of years, that a quarter to eleven is, actually, pretty civilized compared to some of the times that we have actually gone into clause by clause. I suspect from the comments from the member that he, probably, in terms of parliamentary procedure, more appropriately should look at moving a hoist motion, because, I think, that is certainly not the effect of the motion, but the effect of the comments that we should not proceed with the legislation. There is every opportunity to do that later as we get into substantive discussion, and in the Legislature.

I do not want to jump into that debate. There will be time for that, but, certainly, it is normal process to do that. I would just like to remind the member as well that, as has been the case with this previous government, there is another opportunity for governments and opposition members to look at specific amendments to the clauses at report stage when this bill goes back to the Manitoba Legislature. Because we took the initiative, as a government, to make the move to hold this bill over to the fall, and I want to acknowledge that this is very much in keeping with the new rules that were adopted by all parties in the Legislature, this bill, through the legislative process, will be going through far more scrutiny and, certainly, a longer time frame between this section of the parliamentary procedure and the final consideration in the sense that, obviously, this bill will not go back to the Manitoba Legislature until some time when we are back in session, which could be a couple of months away. So there is further opportunity to follow up on some of the specific concerns that are raised.

As is the case, this is our normal process to proceed to clause by clause, and I would suggest that, certainly, from the government's side, we are prepared to deal with it, and so we would oppose this motion. The member may wish to move a more appropriate motion to have a hoist, and we can then debate that, although, I would assume, we would oppose that as well.

Mr. Faursehou: The wording of the motion is quite deliberate insofar as to offer the government the opportunity to take into consideration all of the presentations this evening and to come forward with amendments that address the concerns that have been raised tonight.

The language is very much in keeping with past motions that have dealt with bills that have seen the necessity of numerous amendments. In fact, the language of this particular motion is a template of the Member for Burrows, Mr. Martindale, when he proposed to then-Minister Mitchelson, and it was considered by the committee at that time, and this is exactly what did take place. It afforded the government greater latitude in order to make the legislation more appealing, not only to the presenters or that of the opposition. So, I am not proposing a hoist motion, I am proposing a motion which has precedent set by the former members of this committee, of the New Democratic Party persuasion.

I would encourage the minister to see fit, as the former Progressive Conservative minister saw fit, to take the wisdom of the opposition committee members and to adjourn and look to a future date.

Mr. Cummings: I want to enter into this debate because the government need not take offence at this approach. In fact, if we were to propose a hoist motion later in the process, it would be seen as a deliberate attempt to thwart the government in putting in place a piece of legislation.

What we are talking about here is the opportunity for the government, the opposition and those who have made presentations here tonight, who have made the point many times about a multitude of amendments that they think would be useful. Now, historically, government accepts some motions for modification of a bill, but I can appreciate that government, generally speaking, once they introduce a bill are loathe to see too many amendments to it. But the minister and I have been through this debate before on environmental legislation, where, in fact, I was in the opposite chair and a bill was delayed until amendments were brought forward and until consultation occurred and it came back again at a subsequent time.

This bill was agreed to be delayed to this committee, which is a good first step and was appreciated, I think, by the public that was not going to be rushed in here in June, when presentations would have to be made. I heard debate tonight, or representation tonight, about defining some of the planning authority, whether there should be some consideration to add clauses that would consider compensation under certain circumstances, a variety of groups that are currently designated within the act, that that might be better defined. Regulatory capacity, in my personal feeling, it is quite unfettered. So we are putting together a bill that would be not truly understood until the regulatory regime was put in place and requires some consultation. I could add to that list the issues around understanding what is intended by the independence of the water council and the appeal process that could be used there.

* (22:50)

So I would say on behalf of this side of the table that this is not meant to thwart the bill. I think, in the long run, we all understand that environmental

protection, as represented in this bill, needs to be modernized and moved forward. But I think it would be abdication of our responsibility to not put this option in front of the government. After all, it would be the government's responsibility and ability to call it back for further discussion and amendments that government might want to have introduced themselves and amendments that we may be able to prepare.

Having heard the presentations here tonight, there were at least a handful of potential amendments that opposition would be interested in pursuing and fleshing out, and when you are designing and building a bill of this type, I think it would be only prudent that we examine what we are doing and carefully think out amendments that we would be proposing.

Amendments that I might throw out tonight, regardless of whether or not they are turned down by the government might not be well enough considered to be appropriate to the bill unless they have been properly structured. I will say again, the third time, for the record, this is not intended to obstruct the eventual movement of this bill forward, but is, on our part, intended to allow us to move thoughtfully forward and perhaps the entire process would benefit from that.

Madam Chairperson: Is the committee ready for the question? Mr. Schuler?

Mr. Schuler: Thank you very much, Madam Chair. I just want to put a few comments on the record. I think what the committee is trying to do for the minister is allow a little bit of time for more consultation. I think the motion is important. Certainly, we have heard a lot of presentations and even those who are in favour of the legislation show their support very hesitantly. We have seen where presenter after presenter has shown an area that could be troublesome, and from what I have heard I do not think anybody here feels it is a vindictive thing or that this was purposely done. It is just that it is such an important issue, and especially for Manitoba that has so much fresh water where fresh water in North America is going to be increasingly a flashpoint. We will eventually be seen as one of the "haves" versus other jurisdictions will be "have nots" when it comes to fresh water. Without fresh water you simply cannot survive.

This legislation is very important, and I commend the minister and I commend the Legislature for taking the opportunity to hold this bill over to allow more debate. We have seen that, and that is healthy. I did not feel that any of the presentations were shrill, I did not feel there was really anything over the top. I felt it was very well researched, a lot of concerns and I would say to the minister he should probably be very pleased.

People have taken notice of what he is trying to do in his department, but some real, serious issues were presented to the committee and, in the end, what would it matter if another month and a half were taken, or a month were taken, or three weeks and some of the groups were consulted and with the minister's department go over the concerns, deal with them.

As we all know, the government has the majority on the committee and can put the legislation through now. They can put it through in two or three weeks from now. It does not matter. The legislation will eventually move on and go to the next stage, but think there were some valid concerns that were brought forward and if the minister is serious about his legislation, as I know he is, take a bit more time.

This is not an ideological issue that is being debated, and I do not think ideology really came into it today. It is not like labour legislation or one of those things where you have groups pitted against each other. These are just general concerns that have come up and maybe, if the minister's department met with those groups, were to discuss with them a little bit more and, perhaps, even, those issues could be resolved, or it is just a matter of tweaking the legislation a little bit here and there.

I think what the committee is trying to say to the minister is the legislation is so important, it is so far reaching, the impact this will have on the province is important, and it is necessary that this legislation be done in a careful way. If it has to go through a little bit slower, that is fine too, but in the end, let us protect one of the greatest assets we have as a province, and that is fresh water. You travel the world and you go to most jurisdictions and you tell them that we have lakes where you can go for a swim and drink the water at the same time. The water is pure; it is fresh. It is perfect water, and that is unheard of in most areas in the world where the

water is of poor quality and is the reason why there is poor health in the country, and drinking tap water is taking your life in your hand. I think that is more where we are coming from.

We understand that the majority is on the government side, and if tonight is where it is going to go, then, so be it. However, there were presentations and individuals asking for more consultation, indicating concerns. Again, it is up to the minister on the government side. If it be the wish of the minister and the government to take some time and consult before it goes on to the next step, certainly, that is what we are prepared to do.

If, after that is completed, it has come back, then, of course, we move it on to the next stage. But the beauty about doing this intersessionally, and I think this is a real maturity on behalf of this Legislature, that we take these bills and do them intersessionally, that means that we do not have to rush them through, like we sat five and six in the morning, which is no way to do legislation. I mean, please, let us endeavour never to go back to those days, for those of you who have not participated in those marathons. I mean, this is a very civilized way of doing it. I do not know if that helps any, but certainly that is where the members on this side would recommend we go with this committee.

Mr. Eichler: Madam Chairman, I just want to speak for the motion and reiterate what some of my colleagues have mentioned about the concerns being brought forward. I do understand the minister's position of wanting to get the bill moved forward as quickly as possible, but with the concerns that have been brought forward, I think it is imperative that we make sure that we, as legislators, are making the right decisions. When we are doing that we have to take into account to make sure that all voices are heard and people are represented to the best of their capabilities.

With our last presenter, the minister encouraged her to forward a brief to each of the committee members which, I think, we need to take into account. Simply by postponing this for a week or two, or even a month, I do not think is going to hold up legislation.

As my colleagues pointed out, we would encourage the members on the opposite side to listen

to our motion, and move it to adjournment at this time.

Madam Chairperson: Seeing no other comments, the question before the committee is the motion moved by Mr. Faurschou that the Standing Committee on Social and Economic Development do now adjourn, and recommend that this committee reconvene at a time to be announced by the Government House Leader to further consider Bill 22, The Water Protection Act.

Shall the motion pass?

Some Honourable Members: No.

Some Honourable Members: Agreed.

Voice Vote

Madam Chairperson: All those in favour of the motion, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the motion, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Nays have it.

The motion is accordingly defeated.

* * *

Madam Chairperson: Does the minister responsible for Bill 22 have an opening statement?

* (23:00)

Mr. Ashton: Yes, I do.

First of all, I do not think I have to remind the committee and members of the public of how important this area of legislation is; I think that is acknowledged by everyone. But I want to give some of the background, because I think it is very important to recognize that this legislation is only one part of the water strategy that we have developed as a province over the last number of years.

I am not going to get into detail with all of the discussions and consultations that were part of the

development of the water strategy and the many groups that were part of the discussions, but I think it is important to put in context this bill, where it is coming from, and how it was developed. That is important when you consider the point that we are making here as a government, that we have to now move from strategy to action and this bill is part of that action.

The origins of the water strategy go back to October of 2001. There was a paper that was put forward by the Member for The Pas (Mr. Lathlin), then-Minister of Conservation. Various groups were established including a steering committee.

I will not get into reading all of the names, but to give you an idea of how broad a representation the steering committee was, it included AMM, Cooks Creek Conservation District, a couple of other conservation districts, Ducks Unlimited Canada, Manitoba Hydro, Canadian Nature Federation, Manitoba Wildlife Society, and this is going back to 2001, 2002.

A report was submitted, and I think it is important to know, too, the origins of this legislation, signed by representatives of the AMM, KAP, Manitoba Chambers of Commerce, Ducks Unlimited, University of Manitoba Water Management Association, Conservation Districts Association, Manitoba Round Table, City of Winnipeg Water Watch, a First Nations representative, the Aboriginal Resource Council, as well as the two senior provincial officials who were part of this.

So the water strategy, and I have a copy here of the water strategy that was tabled in April 2003, a public document, was part of extensive consultation. I believe the steering committee itself had held 10 meetings throughout the province and there were a number of opportunities; there were 18 written submissions. In fact, the groups that were referenced earlier were all groups that made written submissions.

What we are dealing with today is part of a two-part approach that we follow as a government in terms of water protection. One is with drinking water safety. We brought in that act in 2002. I want to put on the record, by the way, that we have lived up to our commitment to consult on that act, because I know we have been subject to some criticism by

members of the opposition who, on this act, wanted a quicker passage of regulations. In fact, what we have done is we have committed and have consulted with stakeholders, particularly municipalities, so we have brought in an act already proven that consultation as part of it.

I will not get into history and all the detail of the recommendations. I would refer members of the committee, members of the public to Manitoba Water Strategy but, clearly, in this strategy are identified many of the things we are doing: one department for water, protection of drinking water that we started back in 2002 and The Water Protection Act. So there has been extensive consultation, and I might add that both myself as minister, I know the Minister of Conservation (Mr. Struthers), the Minister of Agriculture (Ms. Wowchuk) and the Minister of Intergovernmental Affairs, that is cheating of course, it is the same person, the last two; we have met with farm organizations. We have met with representatives of municipalities, representatives of environmental organizations specifically on the bill and I want to indicate that the door is still open in terms of discussions on our water strategy and on the bill itself.

Even with the consideration today of the clause by clause, I want to put on the record as I did earlier, that we will not be dealing with this bill in the Legislature for two to three months because of the schedule that is there. But I want to stress it was not an easy decision to delay having this bill held over. We thought it was important to have a maximum opportunity for public input, but we believe it is time to bring into place The Water Protection Act, to bring in the kind of tools that are required, the tools that we need to do the job.

Now I also want to deal with the issue of bringing legislation that relies, obviously, on regulations in terms of much of its impact. That is not new. In fact, it has been standard practice in this Legislature for at least 15 years, and I remember sitting as a member of the opposition watching numerous bills brought in by the previous government where the framework was established and, unlike this legislation which commits the government to consult on the regulations, where there was not even a commitment necessarily to consult.

I just want to give you a list, and I want to credit staff for this because I was trying to use my own

memory in terms of this but The Waste Reduction and Prevention Act, a very similar approach. I think the Member for Ste Rose (Mr. Cummings) is fully acquainted with that one, The Dangerous Goods Handling and Transportation Act, The Provincial Parks Act, The Sustainable Development Act, The Drinking Water Safety Act which I referenced earlier and, in fact, The Environment Act, all of which use the same kind of approach that has been used here, only we have taken it one step further with a specific requirement that we will consult on the regulations. I want to say that there are roots in terms of this act, that there are reasons we are bringing it in, and that the framework is not new.

I want to just put on the record, I think, why we as a government feel it is important to proceed. Imagine, if you will, if we were to wait until every last regulation that we are going to need to bring in The Water Protection Act was fully drafted, and then we brought in the bill. There would be two things that would happen. One of the advantages of dealing with regulations rather than the bill is that we have a very rigid process when it comes to bills. It takes a good year to get a bill through the Manitoba Legislature when you look at start to finish. It usually takes longer; in this bill, the origins of this bill go back to 2001. That is three full years before it will ever be implemented.

What you do is that you end up with a situation in which, first of all, given the breadth of the challenge dealing with water protection, we would have to spend years probably in order to do that. You also take out of the mix one of the great advantages of flexibility of dealing with regulations, and that is the ability to do exactly what members of this committee have been talking about, members of the public, to consult.

I could run through The Drinking Water Safety Act, which I have already referenced. I could run through the Manure and Mortalities Regulation. I do not know how many meetings there have been on the specific regulations with the farm community, with others who are concerned about the Manure and Mortalities Regulation. I have a file probably as high as this table of the Manure and Mortalities Regulation. We have had equivalent regulations that have had an equivalent impact, in this case, in terms of farm practices. We have shown that we can and we will consult and that by having regulations you have the flexibility, in this case, of not having to wait

a year to amend an act, to go through a very lengthy process, to make sure that you get it right. Often, when it comes to the very technical implications of a regulation, let me tell you, it could come down to a word, here or there. I can tell you that—and I note the Cattle Producers Association was here today, and I have met with them many times, both in my current role, where, obviously, I am now the Water Stewardship Minister, and in that of Conservation before—there is a classic model of how we are doing what we say we will do in this act. We are bringing in, in this case, regulations that have gone through about the most thorough consultation that you could ever have.

I want to indicate, by the way, too, that we also have shown on other bills our willingness to look at amendments. We will look at the presentations that were put forward, and we will look at further input. I notice the Council of Women, and I look forward to their presentations, because we have three months. This is a much more civilized process, which I think the Member for Springfield (Mr. Schuler) referred to. I agree with that. It is also a much more thorough process than I think I have ever seen on any other bill before the Manitoba Legislature. There has been extensive consultation in the development of water strategy. We have had consultation on the bill, but we did not say, "Well, the session normally ends at the end of June, so we are going to push it through." We said, "Let us use the opportunity of the new rules to do what was not done with some of the bills that I referenced earlier."

I would urge members of this committee to recognize that this is a party for all Manitobans. There has been a great deal of opportunity for discussion of this up until now through the development of the water strategy. There still will be further discussion over the next number of months, but I suggest to members of this committee that eventually the time comes to act. The clear message from Manitobans is that they want us to act in terms of water protection. That is what this bill is all about. That is why I am recommending to members of this House, to this committee tonight, that we pass this through committee and that we pass this bill no later than this year so that we can get on with the job of protecting Manitoba's water.

Madam Chairperson: We thank the minister. Does the critic from the official opposition have an opening statement?

Mr. Faurischou: Just to clarify, Madam Chairperson, the remarks are limited to 30 minutes?

Madam Chairperson: It is unlimited, Mr. Faurischou.

Mr. Faurischou: Unlimited, and so we have 45 minutes to midnight, do we?

* (23:10)

Madam Chairperson: No. The committee can sit past midnight because there were under 20 people here to present.

Mr. Faurischou: I see. Thank you very much, Madam Chairperson.

Madam Chairperson: Are you going to run for a record?

Mr. Faurischou: I will not take on the challenge of the minister because I know that the minister in his position, in opposition during the MTS debate, went on at length during that committee hearing. I recall I was not a member of the Legislature at that time, but was it not six to eight hours that the current minister spoke when he was in opposition? I will not attempt to repeat.

However, I do want to express my disappointment that we are not taking a little break to digest all of the information that we have been privy to this evening. The presentations have been put forward to this committee for consideration, and a lot of work, effort, investigation, has gone into them, and to totally disregard what all of those presentations have given to us to consider towards the legislation by passing all the clauses in the legislation as they are written currently, I think, that is a significant disservice to the process. Because most of the, I will say all, in my personal recollection, the presenters tonight, there was not one that said to pass this legislation carte blanche. All of the presenters had a suggestion toward a change in the legislation, and rightly. I have been here seven years and yes, I have sat long into the night in consideration of many pieces of legislation on both sides of the House, but never have I been to a committee where it was unanimous, where not one single presenter went away saying the legislation needed no amendment.

Right now, I see no amendments being proposed by government to address any of the considerations

that have been provided for by the public this evening. I think that that is a mistake, and the wording of the motion that I brought forward was very considerate, because I do not believe that there are any members on the opposition benches that do not want to see this legislation proceed. But it must be considered, much of what was presented tonight, through amendment, so that this legislation effectively addresses the concerns that Manitobans have.

I know that the minister went on at length about the number of organizations that were in the consultative process, but to be fair to all those organizations, no one has had opportunity to comment on the language of the legislation until tonight. So even if the process started three years ago, one does not have the opportunity to make considered comments until the opportunity to review the legislation as it is written. So this evening we heard from those very same organizations that the minister made reference to, and those organizations all put forward positions that could be considered by government, through amendment, and this evening we should stand down and take time to put forward amendments that are in keeping with those particular organizations. Because I know the minister would like to see full support from those organizations, otherwise he would not have made mention of them.

In light of that, I do not believe we should be progressing. I know that the government is getting the, as my colleague alluded to, big boots on, and they are going to kick this legislation right through this evening without consideration of the input offered by Manitobans here this evening.

I do not believe that that is a good way to deal with legislation. I believe that there is strong willingness to see this legislation go ahead, but to go ahead in a fashion and the manner that sees acceptance and understanding of the presentations heard here this evening. I think the spirit of co-operation is most certainly there, but what we are doing here this evening flies in the face of that position, and I really do not support the continuation of this committee in passing of the clauses this evening without time enough to consider the information presented here this evening and to be able to address those considerations through amendment.

I know the two new members that were recently elected in by-elections are present at the committee

hearing, and I am certain they are getting an eye opened to how the government really, truly acts. When the honourable member, the one from Minto, hears from the City of Winnipeg, to which he is a representative of constituents, call for a time-out for further consultation and he takes a contrary position, stating "no," as if they never made a statement this evening at all, I am going straight ahead, and I feel that any person that is a representative of a constituency that calls for this type of time to consider amendment, one should do just that. I believe that within his own campaign he stated he would be representative of the people who placed confidence in him to represent. We heard from the same constituency here this evening a request for further time. I am rather disappointed that, on his inaugural committee endeavour, he is taking the position in support of putting forward the other and—

An Honourable Member: They all pick on the new guy.

An Honourable Member: Watch out, Cliff; you are next.

Mr. Faurschou: There has been commentary to the new guy on the block, and taking the opportunity to introduce the new MLAs to debate on committee. However, it is a rite of passage and happens to every individual that comes in on a by-election, which yours truly did come in on. I sat on the opposite side where now-Minister Sale took the opportunity to inaugurate myself into the processes, and to express his disappointment in the new member of the Legislature taking direction from the minister, and not reflecting. I see now that the government is continuing in this way, and contrary to the individual to which they took so much time to tell that government should take a time-out and reflect upon the presentations heard from the public. Now, to be lead minister in doing something totally contrary to what he advocated some few short years ago is dismaying.

* (23:20)

So I will leave it at that at the present time. I know the minister has probably not reconsidered his position of a few moments ago, and wanting to provide perhaps a motion of his own that would give him greater time to reflect on the presentations this evening and to draft amendments that would address those considerations, and then look to the opposition for complete support for the bill.

Madam Chairperson: We thank the member. During the consideration of a bill, the table of contents, the preamble, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

Shall Clause 1 pass?

Some Honourable Members: No.

An Honourable Member: Yes.

Madam Chairperson: Clause 1 is accordingly— no. Do you have an amendment?

Mr. Faurschou: I would like to ask the minister whether or not he is taking the advice heard this evening by offering definition to water shortage where he has exclusive and total control to designate that condition and to impose his will on any jurisdiction and any water body, and whether or not he is going to take the advice to define that unilateral power.

Mr. Ashton: Well, I had indicated previously that, certainly, we will look at the presentations that were made today. Up until now, in terms of the various presentations that were made, I think a lot of the discussion has been, and I think the member alluded to this, the issue of making sure there is proper consultation on regulations, and developed with the specific mechanisms of the act. I want to indicate that we believe that there is already significant experience dealing with water shortages in this province that leads to the fact that we do need the ability to deal with wide spread water shortage. It is hard to believe, but we were faced with a major drought last year. I think people tend to forget how quickly things have changed in this province.

I want to particularly reiterate, when we are dealing with the definitions later, the section that deals with droughts that, and I raised this in some of the questioning earlier, the assumption should not be that this is necessarily going to lead to a negative impact on agriculture. In fact, I think there are many cases in which agricultural development, which is

clearly recognized in the act, by the way, in the preamble and clearly recognized throughout the act, that indeed there may be the need in a drought situation to protect agricultural activities because of a widespread drought.

I think the definitions that are in the act give us the ability to do that. Many of the definitions, by the way, are based on similar definitions in other acts, so we did not pull these definitions out of the hat. They were developed in terms of looking at the other acts, mostly provincial acts in the province, but I want to indicate, again, that in our discussions up until now, we have always said that after the discussion at the committee hearings, there are further opportunities in another two, three months before this bill goes to the Legislature. So any reasonable suggestions we will look at, but many of the definitions are in the section or standard with all acts and I would be very surprised if members opposite decided to vote against the definition section. I think that that shows a degree of negativity that, perhaps, they have not researched fully themselves.

Mr. Faurichou: Now, that last comment by the minister did provoke a response insofar as in the definitions, the presenters this evening identified numerous deficiencies within the Definitions section. To not make mention of at least a couple, I feel, would be remiss on behalf of the opposition's responsibility.

In regard to the nutrient definition, not to make reference to what is referred to in other jurisdictions as a major polluter, and that being salt, there is no consideration within the definition nutrient. Only nitrogen and phosphorous are included, and to exclude salt from the definition of nutrient is a significant omission. Other jurisdictions have that within that definition. It goes without saying that if a person from rural origin was saying that this particular act was aimed at the agricultural community, without having salt in there, one would say that, yes, nitrogen and phosphorous are used by the agricultural community, but we do not use salt, whereas in urban communities such as Winnipeg and the department which the minister is formerly responsible, the department of highways, has extensive use of salt. Everyone that is considerate of pollutants to fresh water, would say, and acknowledge, that salt is a significant contributor in that frame of definition.

I cite those two examples that are very clearly defined in other jurisdictions and, clearly, omitted in this definition section as deficient. So I raise those issues.

Madam Chairperson: Clause 1—pass; clause 2—pass. Clauses 3 and 4.

Mr. Faurichou: I want to point out very clearly to the minister that a number of presenters made the point that scientific evidence should be regarded as paramount in any of his decisions. Therefore, to have an out with using the word "may" consider scientific information, that this be considered for amendment to change the word "may" to the word "shall" and in that way be in keeping with the minister's own commitment that he believes that scientific basis for decision should be the priority of his department.

So I ask the minister is he prepared to make this amendment to this clause 4(2).

Mr. Ashton: I do not believe there is an amendment before the committee. We have indicated that we will be looking into some of the feedback from presentations tonight for the second round of amendments, but it is the normal practice at the committee that members of the opposition have the ability to bring amendments either developed before the committee or at the committee hearing. I have done that many a time, and I have many a memory of drafting things up on the back of an envelope at committees with the able assistance of legislative staff. So, my view and, I think, our view as a government is that this does, clearly, indicate the intent in terms of scientific practice. It is consistent with wording of similar acts.

I would strongly urge the committee to support the legislation as is, and encourage members opposite to look at amendments if they wish to introduce them.

* (23:30)

Madam Chairperson: Clauses 3 and 4—pass; clauses 5 and 6—pass; clause 7—pass; clause 8—pass; clauses 9 and 10—pass; clause 11—pass; clauses 12 to 14—pass; clauses 15 to 18—pass. Clauses 19 to 21.

Mr. Faurichou: These particular clauses deal with the establishment of the Manitoba Water Council. I would like to emphasize that on a number of

occasions there were calls by the presenters tonight for consideration of enhanced powers to a body such as the water council, and I want to put on the record that I query the wisdom of the government in creation of the water council, when, in fact, there is in existence The Water Commission Act which effectively allows for the government to appoint individuals with all of the responsibilities as detailed in the legislation in the establishment of the water council already in existence, and the call for further powers to be granted to the water council, when in fact the powers that were referred to in this evening's presentation already exist within The Water Commission Act. So I want to put on the record very strongly that I seek to establish the wisdom of the minister and his department as to the creation of a brand-new body, the Manitoba Water Council, when in fact the duties and responsibilities are already in legislation under The Water Commission Act.

Mr. Ashton: Very briefly, we believe the Manitoba Water Council is keeping with the 21st century challenges we are facing in terms of water. It builds in specific reference to regional diversity, and coming from Thompson, Manitoba, I am very proud as minister to be bringing in a council that guarantees regional diversity in this province. I appreciate the legislation, though, in terms of the Water Commission, which has essentially become moribund and is somewhat dated in terms of its focus and structure. We are a 21st century party, and this is part of it.

Madam Chairperson: Clauses 19 to 21—pass; clauses 22 to 24—pass.

Mr. Faurchou: I just wanted to ask a query of the minister in regard to the consideration of Estimates in the springtime. I could not find any of what is referred to in this bill within the current budgetary estimates. Perhaps the minister can enlighten as to what line within the budget these particular sources of revenue were mentioned.

Mr. Ashton: Actually, the fund has not been established by legislation yet. It is one of the reasons we want to pass this bill. The Estimates would reflect existing department structure, and obviously there would be—

Point of Order

Madam Chairperson: Yes, Mr. Schuler?

Mr. Schuler: Madam Chair, I am wondering if this committee can even proceed, seeing as there are no members present from the Liberal caucus and have not been for the last hour. Can the committee still proceed with no Liberal members present, seeing as there are none from the Liberal caucus here?

Madam Chairperson: There is no point of order because he is not part of the committee. He is not a member of the committee.

Mr. Schuler: Thank you. I am sorry, then.

* * *

Madam Chairperson: Did you want to continue, Mr. Ashton, seeing that we are waiting for legislation to be passed?

Mr. Ashton: Until the legislation is passed, this fund only exists as a recommendation in this bill. There is a specific line, obviously, in the Estimates for the Department of Water Stewardship. Obviously, once the fund is established, as the member will know from reading the act, one of the key elements of this is the ability to establish a trust fund that will partner with outside organizations, and that structure will be established with the passage of the bill. There are other trust funds that have been passed the last number of years, the Helen Betty Osborne Fund, for example, which, I think, is a very important fund. That is why there is no reference in the Estimates. It is because we have not passed the bill yet.

Mr. Cummings: A question on the establishment of the fund. Does the minister anticipate this will have any impact on Habitat Heritage Corporation?

Mr. Ashton: No. The Habitat Heritage Corporation is a very distinct entity with distinct funding and its own partnerships—a very excellent entity, if I might say so. The intent of this fund is essentially to provide some new opportunities for funding and for partnerships, and I think that if the member reads the specific sections—we actually do have members of the public, for example, who would like to be involved in this. One of the difficulties is that the people do not want to necessarily donate to general revenue, so that is one of the reasons this fund is being set up in this way. The intent in this case, obviously, is to develop new partnerships over and above what we are already doing as government.

Mr. Cummings: I appreciate that response from the minister because it has some parallels to the other corporations. So we now have two separate pockets.

Mr. Ashton: I am sure the member will agree that it would be wisely spent pots, when it comes to protecting water.

An Honourable Member: We will agree on that.

Mr. Ashton: I am trying to find some common ground here.

An Honourable Member: We will agree that you are going to spend it. We will not agree on anything else.

Mr. Faurshou: In light of the minister's comment, perhaps maybe he could elaborate on what he intends to use the fund for, as far as marketing and promoting.

Mr. Ashton: I think the key element that the fund can do is it essentially is a fund that provides some arms-length ability to initiate activities. For example, if it decides, and this is something that obviously will be a key element here, working in co-operation with the fund, to look at some of the education issues that are out there.

Not everything, I stressed this earlier, is going to come from this bill in a regulatory sense. There are a lot of things we can do through education. I look at the previous reference to the Habitat Heritage Corporation, and I look at a number of the entities of government that are doing a lot of work outside of actual programming in raising awareness of what needs to be done.

That is, I think, the intent of this fund as well. It will provide the ability for programming, raising awareness and generally involving the public in water related issues.

Madam Chairperson: Seeing no other questions, clauses 25 and 26—pass; clause 27—pass; clause 28—pass; clause 29—pass; clause 30—pass.

Shall clauses 31 to 33 pass?

Mr. Faurshou: I just want to reiterate what we heard this evening on numerous occasions, that there is no opportunity for appeal, and that within the bill

there is reference that there is also no opportunity for compensation of those persons affected. Effectively, the only way that an individual would be able to combat a charge from the department would be that it be determined that the inspector or agent of water stewardship under this act acted in bad faith. If one were to go to the legal community and ask how often bad faith is proven within the court regime, one would say it is virtually impossible to prove that a charge was laid in bad faith.

*(23:40)

So I say to the minister, very considerably, that he have opportunity for individuals to air their position, because to give complete and unfair control or jurisdiction by himself or persons within his department without recourse by individuals, I say, would be significant oversight by himself. It has been made mention on numerous occasions this evening, and I encourage the minister to bring forth amendment to address it.

Mr. Ashton: I would like to, just for the information of members of the committee, remind the committee members that, in terms of appeal process, the watershed plans are in fact given legal effect through the development plans and, in some elements, through the environmental licensing process, both of which do have appeal processes. I can certainly testify to that, being a former Conservation Minister. I know, having a former Minister of Environment and the current Minister of Conservation (Mr. Struthers) here, there are opportunities through the specific provisions of that part of the planning and environmental licensing process for an appeal. So I would not want the impression to be left that there are not opportunities for appeal of the very significant legal impacts of those elements of the plan. I can indicate that that right is exercised fairly frequently. I know that as Minister of the Conservation I received many environmental licence appeals, and I know from the Minister of Intergovernmental Affairs here that there are appeals that do take place. I am sure she can provide the information on the volume.

There are appeal processes that will not be taken away by this bill. In fact, they relate to the very specific legal impacts of any of the decisions that I just referenced.

Madam Chairperson: Clauses 31 to 33—pass. Clause 34?

Mr. Faurshou: I would like to ask the minister, in regard to the drilling of sand-point for own domestic use under this particular change to The Ground Water and Water Well Act. As it currently stands a person can carry out this activity without licence, and without the engagement of individuals that are certified well drillers or installers of equipment.

Is it still, after the passage of this bill, availing to individuals to carry out that activity?

Mr. Ashton: Yes. The specific provisions here would not require that element. Obviously, any drilling should be done, and it should be consistent with the regulations, safety considerations, but that, certainly, is not what this bill is intended to do. I think we all recognize drilling for our own use as compared to general drilling, and I want to acknowledge there that the association of well drillers has been putting forward the argument that, in terms of commercial drilling, there should be some common licensing and procedures and practices. Given what is involved with that that is a very different issue from drilling for own use. In this particular case, that is not the intent, and we fully anticipate that people will continue to drill for their own use on their own property.

Madam Chairperson: Clause 34—pass. Clause 35?

Mr. Faurshou: Clause 35(3) reads: "Subsection 4(6) be repealed" within The Water Rights Act.

Again, this is a section that exists in legislation that affords persons the opportunity to garner compensation when an emergency arises where water and access to water are cut off. I do not see why the minister feels that any and all opportunities for compensation are taken away from those that could potentially be drastically, dramatically affected by an order of the minister. We heard on numerous occasions of the situations where persons' livelihoods, effectively, could be completely taken away from them through an emergency situation. I do not believe there would be anyone that would say that human need for water should be displaced from that of the need for a carrot crop, for instance.

But, Mr. Minister, when persons who rely upon that carrot crop for their livelihood and to buy and purchase the necessities of life for their own families be left without opportunity for compensation directly

through the department, I think, is something that should be reconsidered.

Mr. Ashton: Actually, I think I can deal with this quite directly, because if the member would look on page 29, section 24(2), essentially this version he is referring to takes the wording, and it is actually put back into the following section, I think verbatim, or close to verbatim. So it does provide much the same process as exists currently. So if the member would take 35(3) and 35(8), he will see that that is accomplished. So there is still ability to have compensation in keeping with the existing act.

Madam Chairperson: Clause 35—pass; clause 36 and 37—pass; clause 38—pass.

Shall clause 39 to 41 pass?

Mr. Faurshou: One last point to be made in reference to clause 39 where, in fact, The Water Commission Act is being repealed. I feel that that act served Manitobans extraordinarily well. I believe that it still has value and merit to remain, in light of its now successor, the water council.

I believe that the water council has been given powers that are significantly less than what the council had. I think that that, in the long run, is a disservice to Manitobans and ask the minister once again if he chooses to repeal The Water Commission Act and is intent on establishing the water council, that he look very strongly at improving the abilities of the council to serve Manitobans by providing greater authority.

Mr. Ashton: I do not want to get into an extensive debate, but I do believe times have changed. I believe the water council is much more consistent with the framework. I would also point out that since 1987, when this bill was brought in, we now have 16 conservation districts. We have a much more significant infrastructure, generally. I am talking about physical infrastructure, but if you look at many other bodies that are very involved with water-related issues and I think the water council, particularly, has the advantage of being able, because it will be representative and because of its renewed mandate, this part of this bill, to work with the many additional stakeholders that are now out there.

I think we have made huge progress since 1987, and I really do believe that the water council is far

more in keeping with the needs of 2004, but I appreciate the member's points and, certainly, I give him credit for having looked into the background of the water commission which I notice he even has the act here, but I think that we are far better to agree to disagree on this one.

Mr. Faurschou: Well, I would like the minister to consider supporting what he has just said in text by including the ability of the commission to act under The Manitoba Evidence Act, to give that power to the council if, in fact, they are going to carry out the mandate, to have that granted to them.

Mr. Ashton: Well I point out that one of the other things that has changed since the water commission was brought in was The Environment Act, the Clean Environment Commission which will continue to have a very significant role on the licensing side and all the requisite authority that goes with its position as an arm's-length body reporting to the Minister of Conservation.

So, again, this is another significant change since the 1980s and I think that is appropriate. I think one of the things that is really important with the Clean Environment Commission and The Environment Act is this act complements that act. It is quite interesting, because I actually remember the discussions, The Environment Act, by the way, and you could hear echoes, even in some of the debates here today about The Environment Act, I think it has been landmark legislation, we have a couple of other ministers who have dealt with it, not perfect, I actually think that The Water Protection Act will be seen the same way in about 15 years from now. So one of the reasons the water council is different than the water commission is because we now have a Clean Environment Commission and it will continue to play a huge role in terms of water protection in this province.

Madam Chairperson: Clauses 39 to 41—pass; table of contents—pass; preamble—pass; enacting clause—pass; title—pass.

Shall the bill be reported?

Some Honourable Members: Yes,

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour, say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Madam Chairperson: The Yeas definitely.

An Honourable Member: On division.

Mr. Cummings: On division, right.

* * *

Madam Chairperson: The bill shall be reported.

What is the will of the committee?

Some Honourable Members: Committee rise.

Madam Chairperson: The hour being 11:53 p.m., the committee rise.

COMMITTEE ROSE AT: 11:53 p.m.

* * *

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Re: Bill 22

Roseisle Creek Watershed Association

Mr. Ashton,

Although the RCWA is unable to attend tonight's hearing on Bill 22, The Water Protection Act, we herein provide our endorsement to this most important bill.

It is painfully obvious, as evidenced in our watersheds and Lake Winnipeg, that our natural environment has been abused and ignored for far too long. Our water quality has seriously deteriorated as a result of human activity. The NDP advocate protection of our environment in their statement of principles, and it is time to back this statement up with some action.

Bill 22 is a good start towards change. A change wherein we will stop treating our water as a resource to be used however we see fit. Rather, we will start treating our water as a non-renewable resource that

must be protected. After all, we all know that water is our "life blood."

The RCWA strongly recommends one important improvement to Bill 22. We feel that Water Stewardship must be given ultimate authority over other government departments, especially Manitoba Conservation, when it comes to managing our water resources. From our experience, and that of some other environmental organizations, there are situations where Manitoba Conservation kowtows to commercial enterprise at a risk to our water quality.

We fully expect there will be corporate interests expressing some objection to Bill 22. They will view it as just more controls that inhibit their ability to do business in Manitoba. In listening to these objections, one must remember that we as human beings will always find ways to make money. One corporation can be replaced by another, but we can never replace our water.

Ted Ross

President