

January 10, 2001

The Walkerton Inquiry  
180 Dundas Street West, 22<sup>nd</sup> Floor  
Toronto, ON M5G 1Z8

Dear Sirs/Madams:

**SUBMISSIONS TO THE WALKERTON INQUIRY**  
**OF THE ONTARIO CATTLE FEEDERS ASSOCIATION**

The Ontario Cattle Feeders Association ("OCFA") wishes to take the opportunity to provide comment as requested in the material published by OMAFRA regarding proposed standards for agricultural operations in Ontario. The OCFA also requests the opportunity to meet with ministry staff for the purpose of providing input. We believe that the members of the OCFA are stakeholders with a vital interest in the current debate regarding agricultural practices in Ontario and the opportunity to provide verbal input, in addition to this paper, would be sincerely appreciated.

The OCFA is an association of beef cattle feeders who carry on businesses of significant size. Our membership includes the producers of approximately 55

percent of the provincial total of finished beef cattle. To put the production of our members in a national perspective, I note that Ontario produces 18.3 percent of the finished cattle in Canada.<sup>1</sup> Our members therefore feed slightly more than 9 percent of all cattle marketed in Canada on an annual basis. We therefore regard ourselves as stakeholders having a very significant interest in large scale livestock production and the regulations governing agricultural practices of intensive livestock operations.

### **PUBLIC PERCEPTIONS AND POTENTIAL CONSEQUENCES**

Clean groundwater is vital to our members. Our families and animals rely almost totally upon groundwater. We cannot carry on business if our local water sources are polluted. We strongly support the ongoing process which can, if managed in a dispassionate fashion, lead to codes, standards and an enforcement process which will ensure safe drinking water for the citizens of Ontario.

However, we are concerned that the process of drafting new legislation and regulations is becoming anything but dispassionate. The tragedy in Walkerton has given an impetus to those who would govern agriculture in a reactive rather than a considered fashion. An example is an article which appeared in Maclean's Magazine entitled "When Water Kills"<sup>2</sup> which provided a very one-sided view of these issues.

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<sup>1</sup> National Agriculture & Agri-Food Industry Fact Sheet.

<sup>2</sup> Nikiforuk, Andrew "When Water Kills", Maclean's 113(24)18-21. June 12, 2000.

While we believe that the vast majority of farmers carry on business in an environmentally responsible fashion, we do acknowledge the existence of a small minority of farmers who do not take environmental issues seriously and who provide a great deal of anecdotal information used by those who are opposed to large scale livestock enterprises. We do not condone those who utilise irresponsible environmental practices. We recognise those individuals as a threat not only to our businesses, but to the community at large.

Unfortunately, the Ontario public is being led to the perception that larger livestock enterprises necessarily lead to greater groundwater pollution. We dispute that perception and contend that in the majority of cases, larger operations have the technology and scale necessary to manage manure as a valuable nutrient in a superior fashion to smaller operations.

In summary, we support legislation and regulations which will implement a code of agricultural practice for farmers in Ontario. We urge the government to draft legislation which goes well beyond livestock production as a threat to the environment to make sure that other potential sources of groundwater contamination are properly controlled. However, we are concerned that the current political climate will lead to a system which unfairly penalises large scale livestock operations in order to satisfy immediate pressures while ignoring the complex and interrelated sources of potential groundwater pollution which need to be controlled. It is not in the best interests of Ontario citizens to have the current process focus solely upon large scale livestock operations while ignoring other

serious threats to groundwater. This type of thinking can only lead to another tragedy of the type which occurred in Walkerton.

### **ECONOMIC IMPACT**

We hope that the Walkerton Inquiry will arrive at conclusions regarding water safety that are relevant to proposed provincial legislation governing farm practices. We are concerned that the proposed legislation may have the effect of eliminating intensive livestock operations in Ontario. Legislation does not have to directly ban these operations in order to achieve this effect. Unrealistic Minimum Distance Separation ("MDS") requirements or a low ceiling upon the number of animal units which can be placed on a single parcel of property could eliminate large farms. One of our members is an example of this concern. He owns in excess of 1,300 acres of land in an agricultural area of this province which is not densely inhabited. However, there is no site on this entire land base which is acceptable for the construction of a large livestock facility because the upper tier municipality is placing a restrictive interpretation upon current MDS requirements.

The disappearance of large scale cattle finishing facilities would have a huge impact upon the economy of Ontario. The margins which prevail in the beef industry would not permit small farmers to construct small barns in order to handle livestock currently fed in large facilities.

Ontario, which contains 15.8 percent of all cattle in Canada and 18.3 percent of the finished cattle production in Canada would not have the ability to

continue to finish those animals. It is not reasonable to expect that surplus calves would be sent to Alberta to be finished and the logical outcome would be the demise of a large number of cow/calf operations which tend to be smaller in scale. The very "family farmers" who are set out as victims of agricultural expansion in many publications would lose the markets to which they sell their stocker and feeder cattle.

We assume that the effect would be even more dramatic upon the swine industry where all levels of production are being concentrated in larger farms. The swine industry might well wither away if it could not construct large barns to house the animals.

Slaughter facilities would be placed in a difficult position. They would either close or have to import finished animals from outside Ontario. We question whether many slaughter and processing facilities could remain viable in Ontario in the face of declining animal numbers.

Even cash crop farmers would be damaged by a reduction in large scale livestock operations. Beef cattle and swine consume a large percentage of the cash crops grown in Ontario. If that market is lost to cash croppers, they will have extra transportation costs and undoubtedly face downward pressure upon their already thin profit margins because a large local market will have been dissipated.

We believe that it is possible to combine high quality drinking water with intensive agriculture. However, we feel that caution must be used by legislators who may deliberately or inadvertently cause a significant decline in agricultural

industries which generate thousands of jobs and billions of dollars to the Ontario economy.

### **SOURCES OF GROUNDWATER POLLUTION IN RURAL ONTARIO**

Much of the publicity surrounding the Walkerton Inquiry has focused upon livestock farms as the source of pollution in Southern Ontario. We submit that it would be appropriate for the government to also implement new standards and policies for the other sources of groundwater contamination.

The OCFA submits that in addition to agricultural enterprises, the following sources of pollution need to be comprehensively governed through the use of appropriate standards and enforcement:

1. Private Septic Systems

The studies of rural wells in existence indicate that contamination of wells became a significant problem before intensive livestock barns came into existence. A 1992 study of 1,290 wells in Ontario found that 34 percent of the wells were contaminated with bacteria and 14 percent possessed nitrate levels which were in excess of recommendations. A Quebec study in 1975-1978 concluded that 27 percent of examined wells were contaminated with bacteria while 1.5 percent of the wells had excessive nitrate levels. Finally, a 1985-1986 study in New

Brunswick concluded that 29 percent of the wells were contaminated with bacteria while 20.2 percent of the studied wells had excessive nitrate levels.<sup>3</sup>

The significance of these studies is that they occurred prior to the construction of most large barns in Canada. They lead to the conclusion that sources other than intensive livestock operations contribute significantly to the pollution of drinking water.

An obvious concern is the continued use of thousands of antiquated septic systems. They pose a significant threat to groundwater and while new systems may have to meet acceptable standards, it can be expected that thousands of older systems which place groundwater at risk will remain in use for many years.

## 2. Landfill Sites

The leaching of pollutants from landfill sites should be a source of concern to those who govern drinking water standards. While the nature of the pollutants obviously differs from agricultural sources, the OCFA believes that it is necessary to vigorously monitor and control groundwater contamination from landfill sites which threatens the water that is necessary for our businesses.

## 3. Municipal Waste Spreading

Controversy has arisen with regard to the practice of urban municipalities to contract the spreading of sewage sludge upon agricultural land. While sewage sludge can certainly provide nutrients for agricultural use, the OCFA is concerned

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<sup>3</sup> Mussell, Al and Martin, Larry "Manure as a Public Health Issue: What Accountability and Direction for Livestock Agriculture?", June 16, 2000.

that sewage sludge is a significant source of groundwater contamination. While we rely on anecdotal evidence to support this position, various members of the OCFA have noted sewage sludge being spread in unsuitable conditions where responsible farmers would not take their manure spreaders.

The OCFA submits that sewage sludge operators should be governed by Nutrient Management Plans ("NMP") and should be governed by codes of practice which will be similar to the codes that are going to be imposed upon livestock operators.

#### 4. Municipal Waste Treatment Plants

Farmers are receiving public blame for the pollution of beaches and waterways in Ontario when the actual culprits are municipal waste treatment systems. Sewers and waste treatment plants in urban areas are regularly overwhelmed by significant rainfalls. Untreated water bypasses these systems and generates pollution. Hundreds of spills or bypasses occur each year in Ontario and they are practices which are no more acceptable than farming practices which ignore environmental responsibility.<sup>4</sup>

5. Test wells and water monitoring are methods of monitoring potential sources of pollution. In the event that the commission concludes that this type of activity is relevant, it is submitted that all groups with the potential to pollute water should be treated equally. Intensive livestock operations should not be singled out for particularly onerous requirements. Golf courses, factories, land fill



sites, trailer parks and other facilities which pose a threat to the environment should be governed by similar requirements.

### **STANDARDS AND CODES**

The OCFA is in agreement with the concept of promoting environmental responsibility through specified standards. It is submitted that the use of the word "standards" may cause some confusion. In reality, the concept is better suited to an agricultural "code of practice" which would provide specific standards for various agricultural activities.

The OCFA objects to basing a code upon the size of an operation and requiring dramatically different practices for large operations. This type of code would be simplistic and would operate as a reaction to those who believe that larger operations always pose a greater risk than small operations. While there is limited empirical evidence to establish the environmental impact of small versus large operations, the evidence that is available does suggest that the government would be working from an incorrect base if it assumes that larger operations pose the greater risk.

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<sup>4</sup> Stoneman, Don "The Sewage Double Standard", Better Farming, August/September 2000.

We are aware of one survey of Minnesota swine farms which compared manure management practices of large and small farms.<sup>5</sup> The authors of the survey noted in their summary:

Results from this survey support the premise that manure management varies based on the size of the swine operation – the larger farms generally using management practices that correlate better with recommended practices. Larger farms were:

- (a) analyzing their manure for nutrient content;
- (b) calibrating their application equipment;
- (c) applying less of their manure in the winter and summer;
- (d) injecting, especially with sweep knives, more of their manure; and
- (e) doing more record keeping than were the smaller farmers.

On the other hand, the survey also noted that while larger farms may manage their manure using more recommended practices, this factor cannot offset the bigger issue of appropriate land acreage for manure application. In the study, it was found that smaller farms had three times the amount of land available for manure.

This tendency has led other authors to conclude:

While the evidence supporting large farms as more environmentally friendly is weak, it provides a contrast to the allegations of "factory farm" opponents.<sup>6</sup>

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<sup>5</sup> Schmitt, M.A.; Schmitt, D.R.; Jacobson, L.D. "A Manure Management Survey of Minnesota Swine Producers: Effect of Farm Size on Manure Application", *Applied Engineering and Agriculture*, 12(5) 595-599, St. Joseph, M.I.: American Society of Agricultural Engineers, September 1996.

<sup>6</sup> Mussell, Al and Martin, Larry "Manure as a Public Health Issue: What Accountability and Direction for Livestock Agriculture?", June 16, 2000.

The OCFA submits that instead of simple categorization in which different sizes of operations are required to adhere to different standards, it would be in the public interest to create a single set of standards governing all operations. This universal code would support responsible agriculture and discourage reckless manure management practices. It would require all livestock operators to adhere to a single set of standards which would minimize the risk of pollution.

We submit that the codes should be performance based codes and not codes requiring a specific solution to any particular problem. For example, it would not be appropriate to force farmers to use a certain type of manure spreader if a different new technology would be more effective. One should instead work toward performance based standards within a comprehensive code.

The use of simple categories would not be to the benefit of the environment. If larger operators are held to stricter standards than smaller operators, the incentive to develop a competitive livestock industry will disappear. The incentive that will instead be created will be one in which farmers try to avoid stricter standards while remaining within the rules. A significant example would be the situation that might arise if significantly more expensive practices are required of farmers who have more than a certain number of livestock units. If a larger, modern facility becomes prohibitively expensive due to standards which are imposed on large operations, the incentive will be to construct more barns housing a number of animals which is slightly under the figure at which heavier environmental burdens are required. The effect would be that we would have

more barns adhering to lower environmental and construction standards and requiring extra enforcement and management costs than a single large facility.

Accordingly, the OCFA submits that a concept of simple categorization should be rejected and that a single code of practice should govern all livestock operators.

In addition to the general comments outlined previously in this section, there are a number of specific standards which are supported by this organization. They include:

- (a) We understand that agricultural construction is not completely covered by the building code of Ontario. We are concerned that appropriate standards are not necessarily being enforced upon agricultural structures and that may lead to the potential for environmental concern. Standards or codes should be specified for the capacity and location of buildings and other structures which are not covered in the building code of Ontario. The OCFA would suggest that building standards should go even further and that a complete building code for agricultural construction should be created.
- (b) The MDS formulas should continue to form the base from which agricultural buildings are separated from neighbouring buildings. MDS should be included within legislation or regulations in its entirety and any wording open to interpretation should be clarified.

We submit that it is the role of the province to establish the code and that municipalities should have an administrative function only. Municipalities should not be in a position where they can interpret the codes and thereby create local practices at the whim of municipal officials.

- (c) We do not object to the establishment of buffer zones around environmentally sensitive areas as long as they are of a reasonable size and not merely a disguise to eliminate livestock operations. If large buffer zones are established, the practical effect may be to eliminate many suitable building locations. Since many of the beaches closed in Ontario each year result from inadequate municipal systems, cottage owners along shorelines should not conclude that they are going to have the complete benefit of their properties solely through the creation of buffer zones.
- (d) Nutrient Management Plans ("NMPs") should be mandatory for all farmers. As noted previously, the OCFA is extremely concerned about the perception that large livestock operations are the primary cause of groundwater pollution when there is no evidence to support that theory.

Mandatory nutrient management planning should not be limited to livestock operations. All farms should adhere to reasonable nutrient management practices and even cash croppers who do not have the

ability to take advantage of the nutrients in manure should be required to participate in NMPs to ensure that groundwater does not become contaminated by excessive quantities of commercial fertilizers.

- (e) Livestock operators should not be required to own any minimum percentage of the land needed for nutrient management. Instead, farmers should provide individualized NMPs to qualified assessors who can determine whether the land base is appropriate for the practices being used. To take an extreme example, if all manure generated by a barn is sold to local cash crop operators, the owner of the barn would not need a large land base and the NMP would consist of disposal by sale to other farmers who would include that manure within their own NMPs. As long as the contracts for the sale of the manure were for a period of five years, the livestock operator would be handling that manure in an environmentally responsible fashion on a small land base. The risk of losing customers so that the manure could not be handled within a realistic NMP would be the risk of the livestock operator. If for some reason the ability to sell the manure disappeared, the farmer would face inspection and enforcement procedures.

It is anticipated that the conventional use of manure as a nutrient by livestock owners will continue to be the primary method through

while manure is handled. Once again, unrealistic ownership requirements would create a crushing burden upon otherwise viable farms and could force family farms which register land in more than one name to amalgamate the properties under a single name in a fashion that would be unwise from tax and long-term planning perspectives. The OCFA submits that the appropriate test was established by the Normal Farm Practices Protection Board when it concluded that long-term control of sufficient land to operate a NMP is the appropriate standard. We recognize that it is not appropriate to consider land rented for one year only as the basis for long-term manure management. However, the test of long-term control would recognize the fact that livestock owners do obtain long-term control of land owned by family members, nearby landowners who are prepared to rent on a long-term basis and cash crop operators who are delighted to receive manure.

- (f) It will be very detrimental if the process results in legislation that imposes control by placing maximum caps upon the number of animals which can be housed in any particular site. Most cattle feeders manufacture many of their feeds on the farm and the capital costs would increase dramatically if animal unit limits were placed upon properties. Arbitrary limits which are not based on scientific

evidence would not solve groundwater pollution problems and would simply create difficulties for the industry.

If the government concludes that the number of animals on a site should be limited, then the OCFA submits that the limits should be based upon scientific data on a property by property basis. For example, farms located on deep soils used for growing corn in Southwestern Ontario can utilize significantly more nutrients from manure in each acre of land than shallow soils in Eastern Ontario where forages may be the primary crops.

- (g) The OCFA submits that the government should sponsor sufficient scientific research to permit farmers to determine the appropriate livestock levels for various soil types before limiting the number of animal units which can be maintained at any particular site.

## **REVIEW AND ENFORCEMENT**

The OCFA recognizes that codes of practice, MDS calculations, NMPs, and groundwater management practices cannot be effective in the absence of review and enforcement. While most farmers voluntarily act in an environmentally responsible fashion, there will always be individuals who try to cut corners. The OCFA does not wish to have an entire industry slandered by the actions of a small minority and we recognize that review and vigorous enforcement of standards is the only method of governing groundwater protection.



The OCFA proposes that primary responsibility for review and enforcement should be undertaken at the provincial level of government. While some purely administrative matters may be delegated to municipalities, it is not appropriate to permit municipalities to take primary responsibility for these issues.

The OCFA assumes that the intention of the Provincial Government is to permit agriculture to be carried on in a responsible fashion. The OCFA is very concerned that if municipalities are given primary responsibility for review and enforcement, the industry will be vulnerable to the agendas of individual councils or their staffs which may purposefully frustrate the development of livestock operations.

We propose to have third party monitoring of those aspects of agriculture which can contribute to groundwater pollution. The appropriate method of review and enforcement would be through provincially appointed and trained officers who fully understand the complex concerns of nutrient management. It is unlikely that there would be sufficient review and enforcement needed in any local municipality to justify a full-time employee. We submit that it would be appropriate for one officer to manage several municipalities.

The roles of the provincial employee in this position should include the following:

1. reviewing and proving NMPs prepared by all livestock and cash crop operators;
2. performing spot audits to enforce compliance with NMPs;

3. reviewing construction of livestock facilities to ensure that the structures are in accordance with appropriate standards and codes;
4. investigating specific complaints;
5. the officer should have the ability to issue compliance issues requiring farmers to meet practice codes;
6. having the ability to issue provincial offences tickets for minor violations of agricultural standards and codes;
7. providing expertise to assist investigators from the MOEE who are investigating spills or other pollution matters.

### **FUNDING**

Farmers are going to be required to spend huge numbers of dollars in order to comply with appropriate environmental standards. The large livestock operators are already spending this money as they construct new facilities. As noted previously, the position of the OCFA is that other farmers should not escape these expenses merely by maintaining small scale operations as these operations do contribute significantly to pollution.

Because the capital cost to the farmer is so substantial, the OCFA submits that the administrative costs of monitoring, reviewing and enforcing standards should be borne by the general revenues of the Province of Ontario. If crushing financial burdens are placed upon farmers to the point where livestock production is substantially reduced, tax revenues will decline as jobs and income wither away

and the cost of food is likely to increase as more products are imported to the province. All citizens in Ontario have an interest in obtaining food at reasonable prices while preserving drinking water of high quality. That interest is so general that the costs of this process should be borne by the taxpayers of Ontario through the general provincial revenues.

Our position in this regard is supported by the statement in the Galt and Barrett report which notes:

There is disparity among regions as to the level of support farmers receive to address pollution concerns. In general, European producers and American producers receive a higher degree of direct financial and or technical assistance to address environmental issues at the farm level.<sup>7</sup>

The quote in the previous paragraph notes that other jurisdictions have chosen to provide direct financial support to farmers to assist with the concerns that are currently before the Government of Ontario. Those other jurisdictions have apparently concluded that it is appropriate to provide funding from general revenues in order to maintain a competitive position. It would be fair and appropriate for the Government of Ontario to fund these matters in a similar fashion.

The OCFA recognizes that it may be necessary for farmers to directly bear at least part of this financial burden. If the province is not prepared to assume total responsibility for these costs, then the OCFA would reluctantly support a

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<sup>7</sup> Galt, Douglas and Barrett, Toby "Task Force on Intensive Agricultural Operations in Rural Ontario".

proposal to fund these costs. However, the costs should be borne fairly and we submit that fairness would require all farmers to bear a proportionate share of the expense.

1. If the process is based upon animal units maintained at any particular farm, the incentive will exist for farmers to understate livestock numbers. This type of financial incentive should not be permitted to exist as it would undermine the entire integrity of an NMP.

2. A better alternative would be a payment system based upon the production of the farm. For producers who do not have livestock as their primary products, the system could perhaps generate check offs from the sale of the primary products such as milk and eggs. Additionally, cash crop operators would be charged based upon the number of acres which they have under production. The scale for each commodity could be established by noting the anticipated costs of review and enforcement for each commodity.

3. The system should then be enhanced by providing financial incentives to the farmers who do use the best practices. We submit that a large barn with a well-constructed manure pit, plenty of land under long-term control for manure spreading and the possession of sufficient equipment to handle manure in a timely fashion represents a small environmental risk. The fee charged to operators using the best management practices should be reduced in order to create financial incentives for the promotion of practices which exceed the standards and codes of the legislation.

Additionally, some emphasis should be placed upon a reward system so that cash crop producers will have an incentive to use manure available from livestock operators as an alternative to some of the fertilizers that are currently in use.

### **SUMMARY**

The OCFA strongly supports the efforts of the government to establish practices, standards, and codes, together with appropriate enforcement mechanisms to ensure that our families and the other citizens of Ontario enjoy safe groundwater. However, we are very concerned that large scale agricultural operations may become scapegoats for other farms, municipalities and homeowners which contribute significantly to groundwater pollution. We sincerely hope that the comments outlined in this report can assist the Walkerton Inquiry in its efforts to establish appropriate practices and we trust that our concerns will receive your consideration.

Yours very truly,

Jim Clark  
Executive Vice President