

Nature London

The Chair (Ms. Goldie Ghamari): I now call upon Nature London: Mr. Gordon Neish and [Margo] Does.

The Chair (Ms. Goldie Ghamari): Pursuant to the order of the House, you'll have up to 10 minutes for your presentation followed by 20 minutes for questioning, with eight minutes allotted to the government, 10 minutes allotted to the official opposition and two minutes allotted to the Green Party independent member.

Please state your names for Hansard, and you may begin.

Dr. Gordon Neish: My name is Gordon Neish and I am the current president of Nature London. With me here today are three colleagues: Bernie VanDenBelt, past president; Anita Caveney, our Ontario Nature representative; and Margo Does, a member of our conservation action committee. Ms. Does will be making some remarks following this presentation.

0930

On behalf of Nature London, I thank the Standing Committee on General Government for the opportunity to appear before you to address some concerns about Bill 132. Nature London is a volunteer organization whose origins go back to 1864—155 years ago—and it currently has more than 440 members dedicated to the preservation and enjoyment of nature. Our reason for appearing before this committee today relates to our concerns about conservation and protection of those elements of Ontario's natural heritage which are threatened by human activities, including habitat destruction, land degradation, proliferation of invasive species, environmental degradation, climate change and others.

Bill 132 is being promoted as better for people and smarter for business, but what does this mean in terms of environmental protection? A good argument can be made that pure water, healthy soil and unpolluted air are good for people and good for business, especially, for example, if your business is agriculture or tourism. Many would also argue that we have a stewardship responsibility with respect to protecting the other creatures that share this space we call Ontario.

So how does Bill 132 address potential environmental concerns? Assessing this presents a considerable challenge. As you know, Bill 132 is an omnibus bill: a proposed law that covers several diverse or unrelated topics. Because of their large size and scope, omnibus bills limit opportunities for debate and scrutiny, and Bill 132 contains revisions of many of Ontario's most important environment statutes, including 12 acts that are of particular importance to environmentalists.

While I imagine that many stakeholders are still trying to get their heads around this proposed legislation, as are we, from various media reports we are aware that there have been concerns raised at the municipal level, by farmers and by Aboriginal communities.

In view of the large number of affected stakeholders and the obvious need for in-depth consultation, debate, and scrutiny, very little time appears to have been allocated to public consultations that are being held for only 11 days, with the deadline for written submissions being the 29th of this month, and the total comment period being just over a month—32 days. As you know, there is an argument to be made that omnibus bills undermine parliamentarians' ability to responsibly and effectively carry out their duties to examine and debate legislation. This is exacerbated if inadequate time is permitted to review and analyze these bills.

We request, therefore, that the government of Ontario allocate additional time for public hearings and the acceptance of written submissions—we would suggest at least an

additional month—so that stakeholders can analyze this proposed legislation. This could result in the avoidance of unintended consequences resulting from a possible inadequate understanding of how the various aspects of Bill 132 will interact with one another. It will also permit a more in-depth analysis of whether the proposed repeals and revocations are, in fact, eliminating unnecessary red tape, or are instead undermining and weakening protections for our air, land, water, and habitat and species diversity.

I thank you for your attention. I now turn it over to Ms. Does to comment on some substantive areas of concern.

Ms. Margo Does: Good morning. On page 12 of this government's Made-in-Ontario Environment Plan, it states, "We will take strong enforcement action to protect our lakes, waterways and groundwater from pollution." Therefore, by loosening regulations that are proposed, I fail to see how this government will live up to its promise.

If we look, for instance, at the Pesticides Act, the proposed changes would begin to open the door to undo the hard-fought of the cosmetic use ban of 2009—which, if it's implemented, puts people, especially children, and the whole ecosystem unnecessarily at risk for potential health issues and damage.

One of the largest concerns is the changes to the neonicotinoids regulations. The proposed changes remove the requirement for seed vendors to report sales numbers for treated and untreated seeds and for the government to publicly post seed sales data.

The amendments would also eliminate third-party assessment of pest threats as a requirement for assessing the neonic-treated seeds under the current rules. This does not ensure public confidence in the regulatory system. It's a backwards step and caves into the pesticide industry lobby rather than the needs of the environment and the needs of the already stressed-out pollinators.

If we look at forestry, changes to the Crown Forest Sustainability Act are also cause for concern. The proposed changes could mean that the new permits are not required to promote forest sustainability. And they introduce other ministerial powers, including not having to prioritize forest protection in the permit approval process. Among other things, a significant reduction in oversight is proposed. The forestry licence holder could make changes to their work plan without ministry approval, and ministry approval is no longer needed for these annual work plans. Additionally, several forestry reports will no longer have to be tabled in the Legislature or approved by cabinet, weakening accountability. Again, these changes are a step in the wrong direction, as we need to be strengthening protections and the sustainability of forests as the climate crisis persists.

As far as aggregates are concerned, many of the changes in Bill 132 to the Aggregate Resources Act were included in a September 20 notice on the Environmental Registry of Ontario. However, even before that consultation closed on November 4, the government put changes into proposed legislation on October 28, meaning that the government put the changes on the table before the public commentary was completed. This is highly problematic and a little bit underhanded, I might say. Further, the changes to the ARA represent a move to take municipalities out of the aggregate decision-making and weaken the safeguards in place to protect local groundwater and communities. Shawna has already spoken to this. The OPAL group from Ingersoll comes this afternoon, and they will address this further.

Regarding environmental penalties: I was told yesterday by one of the groups I'm affiliated with that there are amendments from the government that are in the process of being changed as we speak, I think. I think there are some legal groups coming to speak to you, and other groups that have more expertise in this area. That particular item is also very complicated, and so I don't want to comment too much on that, because this is in process, I

believe. Apparently, the main concern is the way that penalties for polluters may be appealed.

I will just leave it at that because of time constraints.

The Chair (Ms. Goldie Ghamari): You have just under two minutes left.

Ms. Margo Does: Just to finish: I think that the government needs to listen to independent scientists, because what could be more important than the place where we live? We are in a climate crisis, and even this government has agreed that we are, so we do not understand why slackening environmental regulations is a good thing or necessary.

Also, when I read these things, I don't see any kindness in it to the earth and to its creatures. I don't see any love here at all. It hurts me inside, I must tell you.

The other thing that I want to tell you is that, as civil servants, you are responsible for our health and safety. These should be health and safety issues. We pay the salaries of our civil servants, so please live up to the responsibility and the promise, especially to protect the environment, as I stated in the beginning, in your Made-in-Ontario Environmental Plan.

Please don't lie to us. We are intelligent, aware people, and we don't deserve that.

I also feel that a 10-minute presentation really is not part of a democratic system at all, but thank you for your time.

The Chair (Ms. Goldie Ghamari): Thank you very much. We'll turn now to the Green Party independent member. You'll have two minutes.

Mr. Mike Schreiner: Thank you, Gordon and Margo, for coming in today. I really appreciate it.

I'm proud to say that I represent the municipality that brought in the first cosmetic pesticide ban: Guelph. One of the reasons we brought it in was precisely a health and safety issue: to reduce toxic exposure, particularly to children but to all citizens and pets as well.

0940

Can you speak to what you think the changes in schedule 9 will do to potentially expose more young people especially to toxins?

Ms. Margo Does: The Canadian Association of Physicians for the Environment really lobbied to make the changes before 2009, because in their studies, they had found some potential linkage between childhood leukemia and the pesticides, especially the lead component and so on.

I know that I'm highly allergic to chemicals. Now I see that the word "cemetery" is in there. I won't be able to go and see my loved ones at the cemeteries anymore. Why cemeteries, of all places? The dearly departed really don't give a rat's whiskers about the grass, you know? They're gone. As far as the visitors are concerned – I know in our cemetery here, we have the deer eating the grass. Here, that's a perfect cycle.

I don't know if you want to add anything here.

Mr. Mike Schreiner: Can I just add one more question to that? I know my time is limited.

Ms. Margo Does: Yes.

Mr. Mike Schreiner: Do you feel like our cities have been overrun by weeds since this ban has been put in place?

Ms. Margo Does: No.

Mr. Mike Schreiner: No problems?

Ms. Margo Does: Absolutely not.

Mr. Mike Schreiner: Okay. Thank you. I appreciate your time.

The Chair (Ms. Goldie Ghamari): We'll turn now to the government. Who is beginning?
All right, MPP Khanjin, you have the floor.

Ms. Andrea Khanjin: Thank you very much for coming today. I'm glad you read the Made-in-Ontario Environment Plan. As you know, we had to do vast consultations in order to draft the ongoing living document. We're constantly looking for ways to improve it. Obviously, it's just an initial blueprint, but there is certainly more to do. So it's nice to see organizations like yours with 440 members trying to do some advocacy and talking about strengthening environmental protections and laws.

Do you think there is a sense of urgency when it comes to strengthening certain violations in environmental laws?

Ms. Margo Does: Gordon, do you want to?

Dr. Gordon Neish: One of our concerns, I guess, overall is really getting our heads around all of the changes in this act. But having strengthened protections? Yes, that's kind of your responsibility as a government—

[Snip]

Ms. Andrea Khanjin: Thank you. In light of the sense of urgency in order to strengthen rules for violators—in the Ministry of the Environment, we looked for a vehicle in order to bring a sense of urgency to strengthen the administrative monetary penalties. When we're talking about omnibus legislation—we didn't want to wait to introduce stricter penalties

on violations when it comes to the environment. These particular measures that are being put into Bill 132 are obviously for the improvement of the environment and to clamp down on violators.

One thing we discovered—and I wanted to get your thoughts on it—is, is it enough to say that the penalty should only be used in 140 facilities in Ontario? I know currently we can only use the monetary penalties for 140 facilities in Ontario. Do you believe that should be expanded so we can have a bigger vast of penalties?

[Snip]

Ms. Margo Does: I just want to ask a question. Is this government not concerned about the algae blooms in the lakes? This is from the runoff from phosphates and maybe biphosphates and so on from the farms. Should we penalize all the farmers for polluting the lakes year upon year? What can we do about that situation? That's not a one-time deal, a spill of some kind. Yet it happens every year. There are dead fish, and other things are affected, obviously.

Ms. Andrea Khanjin: Well, Chair, I'm not normally used to getting questions from the witness, but it is certainly an important one.

One of the things that I wanted to get your opinions on—and when you're talking about algae blooms, certainly those are plans in our Made-in-Ontario Environment Plan, but we're here to talk about Bill 132. My point about 140 facilities that we can only charge on right now, which includes sewage spillage—to your point on algae blooms, because that could be a contaminant—is now, with the new administrative monetary penalties, we have the opportunity as a government to now have 150,000 different entities across the province which can now be covered by penalties. Right now, when you talk about algae blooms and protecting our water, we don't have those abilities to charge for illegal sewage

spillage. Under this new bill, we will be able to do it. We're taking a sense of urgency on this by putting it in the bill that we could put it in as soon as possible.

So to your remarks at the beginning: Isn't there a sense of urgency here that we should be expanding it to 150 different entities and clamping down on violations?

Ms. Margo Does: What do you mean with the 150 entities, please?

Ms. Andrea Khanjin: Basically, as a result of the changes, as you know, reading from the bill, the framework would cover approximately 150 different entities across the province. Right now, the penalties would only apply to 140 facilities in Ontario. So we're expanding the scope.

Mr. Dave Smith: It's 150,000.

Ms. Andrea Khanjin: Yes, 150,000. Thank you. My colleague just corrected me.

Dr. Gordon Neish: The concern that came to our attention—and again, because of the way this is being ramrodded through, there's not a lot of time to reflect and look at how all the different pieces interact. That's one of the problems with omnibus bills. What you're promoting for environment may be offset by something else in that bill. Everybody can say, "Well, because there's a sense of urgency, this should be in the omnibus bill, and this should be, and this should be." Pretty soon, no reasonable person can get their head around everything in the bill.

How it was presented to us was that there would be one payment per incident for pollution. It's not very difficult to imagine a situation where, if I'm a polluter and I'm going to have an incident where I dump some stuff into the water, paying a \$200,000 fine might be a bargain relative to not dumping it or having to clean it up. That's the concern you folks

are going to have to deal with. A lot of people are saying, “What’s this? I could make money by polluting.”

Ms. Andrea Khanjin: There will be no economic benefit to the violators. There’s no set maximum. In order not to gain an economic benefit, the maximum could be larger. That’s certainly part of the bill.

I want to pass it to my colleague because he has some questions for you, as well.

The Chair (Ms. Goldie Ghamari): We’ll now turn to MPP Pettapiece.

Mr. Randy Pettapiece: I come from north of here, out Stratford way. Certainly, if you get outside of London, you’ll see that it’s farm territory. We’re so very fortunate that what I consider to be the breadbasket of Ontario is in this part where we’re from. I grew up on a farm. Actually, we just moved off a farm about seven or eight years ago. So I’ve seen a lot of changes in the farming industry over the years, with the use of pesticides especially. We used to do things that you would cringe at now, when we were using chemicals and pesticides—no protective equipment and all this type of thing.

The Chair (Ms. Goldie Ghamari): You have one minute left.

Mr. Randy Pettapiece: What I wanted to say is, we have been doing, or at least I have and certainly the Minister of Agriculture has been doing, quite a few talks about the neonic issue. One of the things we wanted to do is be consistent with the federal government on what they are proposing for this type of thing. So one of the reasons we’re looking at this is to be consistent, and we’re not right now. We’ve been talking to beekeepers who would certainly like us to do that, too. Can I get your opinion on that?

Dr. Gordon Neish: I spent 30 years with Agriculture and Agri-Food Canada, so I’m somewhat familiar with the agriculture business. I have not personally done as much in-

depth study on the neonics as I would like to, but I think in the case of neonics, there is enough out there—

The Chair (Ms. Goldie Ghamari): That's the time we have for the government side.

We'll now turn to the official opposition, and we'll begin with MPP Arthur.

Mr. Ian Arthur: Thank you very much for your presentation. I completely agree with your point that a 10-minute presentation is not enough time to impact legislation. This is the first bill this government has actually travelled, so this is more input than citizens have had before.

0950

I want to touch on a couple of things. MPP Khanjin referred to the administrative penalty if there was an increased monetary benefit for violating. You implied that it would be factored into the cost of business, and frankly, I agree with you, because while that piece of legislation in there says “referred to in subsection (7) may be increased by an amount equal to the amount of the monetary benefit”—that “may” word is a big problem for me. If it was “shall,” I would withdraw a lot of my criticisms of that section. It would be very nice to see the government bring forward an amendment in committee to have that word replaced with “shall,” because that would absolutely limit the ability of companies to gain monetary benefit.

A couple of questions on a few things here. I wondered if you could comment on the proposed changes to the Environmental Protection Act and the moving of the regulatory requirements for effluent disposal into ECAs. Do you know anything about that? Can you comment on it?

Dr. Gordon Neish: No.

Ms. Margo Does: No. Not specifically, no.

Mr. Ian Arthur: Okay. That's fine.

Ms. Margo Does: It doesn't sound like a good thing. That's all I can say.

Mr. Ian Arthur: Yes, that's okay. Basically, there are nine sectors that are currently regulated under this act. They're proposing to take the remainder of that act and move it into individual ECAs, so it's on a case-by-case basis.

One of the problems the government has flagged with this is that, formerly, the requirements that could be imposed could only be imposed in addition if they were more stringent than the regulatory requirements, and they cannot eliminate or lessen regulatory requirements. This was listed as a problem for this government. Would you comment on that at all?

Dr. Gordon Neish: No, I can't really comment in detail. We haven't been able to go through all of the changes because of the time constraints.

The Chair (Ms. Goldie Ghamari): MPP Stevens.

Mrs. Jennifer (Jennie) Stevens: Thank you to Gordon and to Ms. Does for coming in. Your presentation was excellent.

I come from St. Catharines. I represent the riding of St. Catharines. We have a community on the north end called Port Weller, and it's a beautiful community. It's right on the edge of Lake Ontario and bordered by our canal. Unfortunately, at the beginning of the year, there was a toxic substance that a company was dumping right on the edge of the canal and the lake bays.

It was concerning to the residents there in St. Catharines. It was very toxic. It was called clinker dust. The government was made aware of it—I made the government aware of this clinker dust and what it would cause to the community.

In your opinion—this is just in your opinion, of course—how do you feel the changes to these penalties for violators within communities—what do you think the changes to the penalties to these companies will be? Does my question make sense?

Dr. Gordon Neish: What we're seeing is the penalties become less onerous. Now, we may be wrong, because we haven't had a chance to read the legislation in detail and look at everything in there—because there are more acts that are a part of this omnibus bill, I haven't even been able to count them all up yet; there are 12 environmental ones alone—but the previous comment there about “shall.” We recently worked with Ontario Nature to put in comments on aggregates with respect to the provincial policy statement review, which ties in with this. Again, one of the concerns was, we're having all of these “shalls” being replaced by “shoulds,” or as it was referred to, “mays.” That gives you a lot of wiggle room. It's not compulsory anymore. It can become, “Maybe we'll do it; maybe we won't,” and that's a concern. And also, who pays for the externalities? Eventually, if there's a cleanup that has to be done, the companies aren't paying for the cleanup or aren't taking steps to avoid spilling toxic waste in the first place. The taxpayers are going to end up cleaning that up, and the companies profit from that.

Ms. Margo Does: And also—correct me if I'm wrong—as it stands now, the fine is per day, until they clean it up.

Interjection.

Ms. Margo Does: So, that gives them more incentive to clean up. If that's taken away, and we have the one lump sum, there is just less incentive to clean up.

Mrs. Jennifer (Jennie) Stevens: Yes, and just to highlight on that, I know that if day-by-day fines were given to this company in St. Catharines for this clinker dust, it would have been cleaned up immediately.

Ms. Margo Does: I would have been cleaned up quickly, yes.

Mrs. Jennifer (Jennie) Stevens: I think if they would have capped it, it would never have been.

Ms. Margo Does: Yes.

Mrs. Jennifer (Jennie) Stevens: Quickly, just one other question: the time that you've been given to be consulted. Do you think it was a fair time?

Ms. Margo Does: No.

Mrs. Jennifer (Jennie) Stevens: To the general public?

Ms. Margo Does: No.

Dr. Gordon Neish: No.

Mrs. Jennifer (Jennie) Stevens: Okay, Thank you.

The Chair (Ms. Goldie Ghamari): Turning to MPP Fife?

Ms. Catherine Fife: Thank you, Madam Chair. The government is proposing to permit aggregates extraction in all significant natural features currently protected under the PPS, so provincially significant wetlands, for instance. They're exempting southwestern Ontario but they're leaving the rest of the province open. This includes that unevaluated wetlands, which may well be significant, would be open for aggregate extraction. Do you think that

this is the direction that we should be going as a province with regard to protecting land in the province of Ontario?

Dr. Gordon Neish: As we mentioned, we recently collaborated with 80 other environmental organizations in commenting on that issue as it came in a provincial policy statement. So, those concerns have been laid out in quite a bit of detail, and we can share that information with you if you haven't seen it. Basically, no, this is not the right direction to be going.

Ms. Catherine Fife: Do you trust this government to rehabilitate once aggregates are in process? Because that has been a long-standing issue as well, right? Rehabilitation of aggregates: That's what I'm asking about.

Dr. Gordon Neish: I don't think it happens.

Ms. Catherine Fife: It doesn't happen, no.

Secondly, as a group that has advocated for progressive environmental policy—and I want to thank you for your work and for being here today—when you hear that the government is dismantling the LPAT, do you think this intentional? Do you want to speak to the motivation?

Margo, you talked in general terms about this being unkind to remove mechanisms whereby citizens can be active in planning decisions across the province. I really think it's important for the committee to hear how strongly groups feel about that mechanism, which really didn't even have a chance to be successful here.

Ms. Margo Does: I'm also very concerned that the province will override local municipal laws. I thought that we had three different layers of government and so there should be more clarity about autonomy.

Gordon, do you want to add something to that?

The Chair (Ms. Goldie Ghamari): MPP Arthur?

Mr. Ian Arthur: Thank you, Chair. Quickly, we have about 90 seconds left. I want to pick up on what you mentioned, the externalities and the extra costs associated with that dumping.

And I want to talk about—previously, in my mind, the fines were large. They were a deterrent for companies. The benefits would never outweigh the fines. Do you think it's going to be feasible to actually evaluate what the monetary benefits are, what body is going to do that, how much that is actually going to cost, how we are going to establish that, and how long that process will take before a company is actually forced to pay for what they've done, beyond the \$10,000 a day?

Dr. Gordon Neish: I think most companies would make their own internal calculation in terms of, "What is it going to cost us not to do this thing?" versus "What is it going to cost if we just pay the fine and do this thing, and let somebody else worry about it in the future?"

Mr. Ian Arthur: But more specifically, in terms of the costs with the taxpayer dollars and the ability of the government to properly evaluate what the monetary benefit is, do you think that's even going to be feasible with some of these spills?

Dr. Gordon Neish: No.

Mr. Ian Arthur: Thank you.

Ms. Margo Does: And it will tie up more red tape. I thought that the idea was to eliminate red tape.

The Chair (Ms. Goldie Ghamari): Thank you very much. This is our time. It concludes your presentation. Thank you for your time. You may step down.