



Ontario Federation of Agriculture

Ontario AgriCentre

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January 17, 2012

Hon. James Bradley
Minister of Environment
11th Floor, Ferguson Block
77 Wellesley Street West
Toronto, Ontario
M7A 2T5

Dear Minister:

The Ontario Federation of Agriculture (OFA) would like to raise two issues with you relating to household drinking water wells.

The first issue relates to the manner in which MOE Environmental Officers investigate and attempt to resolve complaints of drinking water well contamination in rural areas. The fact that a farm in close proximity to the subject well is routinely identified as a potential source of the contaminant is reasonable given that farming does have the potential to introduce contaminants into groundwater. In general, groundwater contaminants associated with agricultural production practices relate to exceedances of nutrient levels associated with livestock manure and mineral fertilizer applications, pathogens associated with livestock manure applications, and toxic chemicals and chemical compounds associated with pesticide applications and fuel spills. However, it is noteworthy that such exceedances are very rare relative to the number of farms and area of farmland in Ontario. The reason is that the vast majority of Ontario farmers have adopted site-specific, best management practices that mitigate the concerns listed above.

The OFA's concern is the reluctance of MOE Officers to require all complainants of drinking water impairment to have the structural integrity of the subject well tested by a qualified engineer or geoscientist. This should be a mandatory component of all investigations relating to water quality. The OFA supports this request with language in Part 2 of the ***Report of the Walkerton Inquiry: A Strategy for Safe Drinking Water*** where Justice O'Connor writes that rural households with private drinking water wells have an obligation to construct and decommission wells properly (p. 479). O'Connor goes on to explain that Regulation 903 is the instrument setting out standards pertaining to both water well construction and decommissioning. A more recent study (2006) conducted by an Expert Panel assembled by MOE and entitled ***Water Well***

Sustainability in Ontario contains an extensive section on the maintenance of private wells.

This obligation for a private well owner to ensure that their well is properly constructed and maintained is paramount from the OFA's perspective. While acknowledging the importance of farmers doing all that they can to prevent contaminants associated with agricultural practices from leaving their property, it is equally important that private well owners on neighbouring properties are diligent in ensuring the structural integrity of their wells to prevent the entry of contaminants into their water delivery systems.

Indeed, this principle was a key finding in Part 1 of the ***Report of the Walkerton Inquiry: The Events of May 2000 and Related Issues*** in which Justice O'Connor observed that "The primary if not only, source of contamination was manure that had been spread on a farm near Well 5. The owner of this farm followed proper practices and should not be faulted." The significance of this observation is that while a farm was the source of the contaminant, the Inquiry concluded that the tragedy would have been prevented if the well had been equipped with continuous chlorine residual and turbidity monitors.

A finding of the Inquiry that was even more relevant to the OFA's concern is that Well 5 was under the direct influence of surface water and therefore not a secure well. While this was not considered by Justice O'Connor as a major contributing factor to the tragedy, it was because of the infiltration of contaminated surface water that the chlorine and turbidity monitors were required. This illustrates that there are water quality situations where the security of the well is deemed to be a more important consideration than the source of the contaminant.

While the observations and recommendations from the Walkerton Inquiry were specific to a municipal drinking water system, the principle of a multi-barrier approach to drinking water protection is also applicable to private systems.

The OFA recommendation is that an inspection of the subject well be a mandatory component of all investigations into water quality issues relating to an adverse water sample report from a private well. In addition, the OFA recommends that any other wells on the same property as the subject well and within a specified radius of the subject well also be inspected. In cases where either the subject well or another well on the same property are found to not meet the standards set out in Regulation 903, an MOE Order should be issued requiring regulatory compliance.

This recommendation, while general in nature, is of particular relevance to a recent Director's Order issued to Jeff Redmond who farms near Lindsay (Order #8758-8PLJL4; Incident #1826-8LXRMT). The OFA views this as a classic case of a complaint from a rural non-farm resident resulting in an Order against a neighbouring farmer without any rigorous inspection of the subject well or other wells on the same property as the subject well.

The other issue that OFA members have faced over the years is a consequence of having a neighbour site a private drinking water well near their property line. Often this is a result of the neighbour attempting to meet required setback distances between their well and septic system. The problem this creates is that the required setback of the well from a source of contaminant (15 meters in the case of a drilled well) often extends onto a farm field where agricultural inputs such as manure, mineral fertilizer, and crop protection materials are routinely applied.

The OFA recommends that Regulation 903 be amended to clearly state that required separation distances from sources of contamination are the responsibility of the owner of the well and cannot impose land use restrictions on adjacent property owners.

The intent of these recommendations is to ensure that farming remains a vibrant component of the province's economy. Farmers are committed to operating their businesses in a manner that protects and enhances rather than degrades natural resources. In many areas of the province they do this in close proximity to rural, non-farm neighbours. It is imperative that the provinces regulatory framework fosters cooperation and mutual respect among these different residents rather than confrontation.

Sincerely,

A handwritten signature in cursive script that reads "Mark Wales".

Mark Wales
President

Copy: Hon. Ted McMeekin, OMAFRA