



December 2, 2020

To the Standing Committee on Finance and Economic Affairs
Government of Ontario

Ladies and Gentlemen,

On behalf of Ontario Nature and the David Suzuki Foundation, we respectfully submit our comments on Bill 229, *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020. We thank you for this opportunity to provide comments and trust that our recommendations will be taken into consideration by the Standing Committee when amending the bill.

ABOUT OUR ORGANIZATIONS

Ontario Nature is a charitable organization that works to protect wild species and wild spaces through conservation, education and public engagement. Founded in 1931, we represent over 30,000 members and supporters and over 150 member groups across the province.

Through evidence-based research, policy analysis, education and citizen empowerment, The David Suzuki Foundation conserves and protects the natural environment to create a sustainable Canada. We collaborate with non-profit and community organizations, all levels of government, businesses and individuals.

SUMMARY OF CONCERNS

Our comments address two schedules in Bill 229: Schedule 6 and Schedule 8. We recommend that both of these schedules be removed from the bill, for the reasons explained below.

Schedule 6

Schedule 6 proposes numerous changes to the *Conservation Authorities Act* (CAA) that will undermine efforts to conserve biodiversity and build community resilience to climate change. The proposed changes will:

1. Narrow of the scope and powers of Conservation Authorities, impeding the achievement of the overall purpose of the CAA, which is to “provide for the organization and delivery of programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario;”

2. Restrict the duties of Conservation Authorities' board members so that they no longer must act to further the watershed-based mandates of the Conservation Authorities, but rather can act only on behalf of the narrower interests of their respective municipalities (proposed new language of s. 14.1);
3. Reduce the ability of Conservation Authorities to act as independent public bodies in land use planning, including removing their ability to seek to appeal municipal planning decisions;
4. Introduce new rights for developers to force fast-tracking of development approvals and to appeal decisions they do not like, without providing the same opportunity to citizens who may wish to challenge decisions that damage the environment (proposed language of ss. 28.1(8)).

None of these proposed changes would be in the public interest. On the contrary, they would undermine the vital role that Conservation Authorities play in watershed-based monitoring, land use planning and permitting, land management, conservation and restoration programs, and public education.

Cutting/curtailing of critical programs and initiatives

Ontario's Conservation Authorities are a unique and widely respected Ontario innovation that is the envy of many jurisdictions. Operating in watersheds where 95 percent of Ontarians reside, Conservation Authorities provide a much-valued bridge across municipal boundaries to understand and address environmental concerns, such as flooding. Because they operate at the watershed level, Conservation Authorities are ideally positioned to encourage science-based collaborative strategies and decision-making.

The role of Conservation Authorities in flood mapping, hazard assessment and monitoring across watersheds is critical to protecting life and property. This watershed-based model only works, however, if Conservation Authorities have the necessary regulatory power, appropriate staffing and adequate funding to intervene in planning decisions and development applications. The following are examples of vital Conservation Authority programs and initiatives that would be put at risk or severely curtailed by the legislative changes proposed in Schedule 6:

1. **Monitoring:** The monitoring carried out by Conservation Authorities is necessary for the effective delivery of flood mitigation and drinking water protection programs. Additionally, it supports broader environmental protections including land conservation, biodiversity conservation, water quality protection and ecological restoration. This monitoring role is essential to science-based, evidence-based decision-making and keeps communities informed about the health of their watersheds. Every five years, for example, Conservation Authorities release watershed report cards which track the conditions of forests and surface and groundwater quality. This monitoring help us to understand local environmental issues, track change over time and direct resources to where they are needed most.
2. **Land use planning and permitting:** Conservation Authorities bring a watershed perspective to planning and development decisions – to ensure that development proposals are reviewed with the health of the watershed in mind. This role must be retained so that development does not put communities at risk from flooding and other climate change impacts through loss of wetlands, woodlands and farmland.

3. **Conservation lands:** Conservation Authorities are the second largest landowner in Ontario, and on behalf of Ontarians they protect significant natural areas and hydrological features in our watersheds. They own and manage over 150,000 hectares of conservation lands that provide many benefits to communities (mitigation of flooding and drought, carbon sequestration, soil retention, biodiversity conservation, recreation). These benefits are becoming increasingly important as we strive to adapt and become more resilient to the impacts of climate change.
4. **Conservation areas:** Conservation Authorities own and manage almost 300 publicly accessible conservation areas. These provide nature-based recreational opportunities for millions of Ontarians. As we struggle to cope and adjust to the COVID pandemic, all Ontarians are more aware than ever of the importance of access to nature.
5. **Local partnerships and projects:** Conservation Authorities have a solid track record in responding innovatively and effectively to community needs and priorities. They are solid partners in many local initiatives. Whether its on-the-ground restoration and stewardship or public outreach and education, they support/partner with municipalities, conservation groups, farmers, other landowners and other community members, providing the expertise, the connections and the matching funds to make things happen. These initiatives include support for agricultural best practices. For example, in 2012 the Credit Valley Conservation Authority initiated the highly innovative Bird Friendly Hay program which connects hay-growers, hay-buyers and rural landowners to create safe habitats for threatened grassland bird populations. By 2018 there were 388 acres of bird-friendly hay produced, with 22 pairs of at-risk Bobolink and Eastern Meadowlark observed nesting on participating properties.

Widespread public opposition to the proposed legislative changes

Any effort to reduce or constrain the mandate of Conservation Authorities is contrary to the interests of the people of Ontario who are facing enormous risks and costs as a result of climate change and ongoing biodiversity loss. The roles and responsibilities of Conservation Authorities are critical in protecting the lands, waters and wildlife which benefit businesses and communities across Ontario, and upon which our health and well-being ultimately depend.

On April 27, after the Government of Ontario initiated discussions about restricting the mandate of conservation authorities, 112 organizations signed a letter to Premier Ford calling on the government to retain the current mandate of the province's 36 Conservation Authorities, including their functions and responsibilities with respect to land use planning and permitting, monitoring, stewardship and education. Given the proposed legislative changes in Schedule 6, the government has ignored this significant public input.

Since the tabling of Bill 229 in early November, our organizations have witnessed a widespread and unprecedented outpouring of concern among our members, supporters and colleagues about the proposed weakening of and restrictions to the mandate of Conservation Authorities. Tens of thousands of Ontarians have reached out to their MPPs, asking that Schedule 6 be removed from Bill 229. So far, more than 17,800 individuals have responded to Ontario Nature's action alert, each sending emails to and/or phoning Ministers Phillips, Clark, Yakabuski and Yurek as well as local MPPs. Similarly, 9,370 individuals have responded to the David Suzuki Foundation's action alert and over 7,000 individuals have reached out to MPPs in response to actions issued by our colleagues at Environmental Defence, CPAWS-Wildlands League, and

the Wilderness Committee. A record number of people (over 1,200) participated in a webinar about Schedule 6, hosted by the Canadian Environmental Law Association, Environmental Defence and Ontario Nature, and more than 800 have watched the online video recording.

On November 27th, Ontario's Big City Mayors, including 29 municipalities representing almost 70 percent of the people of Ontario, approved a motion calling on the Government of Ontario to remove Schedule 6 from Bill 229.

Likewise, a growing number of municipalities across the province have passed resolutions asking for the removal of Schedule 6 from the bill. At least 20 communities so far – from Thunder Bay to Grey Highlands, Hamilton, Middlesex Centre, King Township and the United Counties of Leeds and Grenville – have expressed their opposition to Schedule 6 in this fashion. In the case of Hamilton, whose City Council voted unanimously on November 25th to urge the government to withdraw Schedule 6, Councillor Brad Clark, a former MPP who served as Transportation Minister in the Mike Harris government and Labour Minister in the Ernie Eves administration, said:

“I am struggling to find words that are diplomatic and respectful of a provincial government that in a ham-fisted manner would literally gut what a Conservation Authority is, because developers in Toronto are suggesting conservation authorities are in the way of economic growth.”

Councillor Clark had this advice for Premier Ford:

“This is not going to play well for you. If you think this is about a few special interest groups that are upset, you are mistaken...you had better acknowledge that you have had a misstep, and that you are going to heed the cautions provided to you by Conservation Authorities and citizens across Ontario and remove Schedule 6 before it becomes a political albatross you will not be able to shake.”

Learning from past mistakes

Those who forget history are doomed to repeat it. We simply cannot afford to forget that conservation authorities were established in the 1940s in response to the unhealthy state of the province's lands and waters as a result of poor land use management practices. They were created to provide a regional approach to land management, based on the watershed.

The report of Ontario's Special Advisor on Flooding, *An Independent Review of the 2019 Flood Events in Ontario*, provides a succinct summary of the expansion of the roles and responsibilities of Conservation Authorities since the 1950s, outlining a deliberate and reasoned evolution of their mandate and powers. With respect to the power of regulating development and activities through permitting under Section 28 of the *Conservation Authorities Act*, the Advisor noted that this was “a critical component of Ontario's broader natural hazard management framework” designed to achieve the following objectives:

- “Preventing loss of life, minimizing property damage and social disruption;
- Reducing public and private expenditure for emergency operation, evacuation, restoration and protection measures;

- Regulating development which, singularly or collectively, impact upon existing flood levels, and increasing potential risks to upstream and downstream landowners;
- Control interference with natural storage areas such as wetlands;
- Conserving land through the control of development on existing or potentially unstable valley slopes or shoreline bluffs; and
- Controlling development impacts as they relate to pollution (including erosion & sedimentation) or other degradation of existing and water resources, including groundwater” (section 5.5.2).

Accordingly, the Flood Advisor recommended “that the Province support municipalities and conservation authorities to ensure the conservation, restoration and creation of natural green infrastructure (i.e. wetlands, forest cover, pervious surfaces) during land use planning to reduce runoff and mitigate the impacts of flooding” (Recommendation #17).

For all of the reasons stated above, Ontario Nature and the David Suzuki Foundation strongly recommend that the Standing Committee remove Schedule 6 from Bill 229.

Schedule 8

Schedule 8 of Bill 229 would amend the *Crown Forest Sustainability Act, 1994* (CFSA) to permanently exempt forestry operators from the requirements of the *Endangered Species Act, 2007* (ESA) to protect and recover species at risk. It would also remove the ability of the Minister to issue habitat protection orders to stop activities that could have a “significant adverse effect” on a species at risk.

These amendments are part of a suite of government rollbacks on environmental protection with respect to forestry. Under the guise of eliminating duplication, the government is proceeding on the false assumption, advanced by the forestry industry, that the CFSA adequately provides for species at risk, and that the protections offered under the ESA are redundant and unnecessary. Ontario Nature and the David Suzuki Foundation strongly disagree with this assumption. A fundamental difference between the two pieces of legislation is that ESA is designed to advance species recovery and prohibits harm to species at risk and their habitats, whereas the CFSA does not.

The proposed amendments to the CFSA follow earlier amendments exempting forestry operators from the requirements of the ESA and the *Environmental Assessment Act*. In her November 2020 annual report, the Auditor General stated that neither the Ministry of Environment, Conservation and Parks nor the Ministry of Natural Resources and Forestry “told the public that the combined effect of the exemption for commercial forestry from both the *Environmental Assessment Act* and the *Endangered Species Act, 2007* would be the loss of any statutory requirement to protect species at risk” (p.4).

The proposed changes to the CFSA would be the final nail in the coffin.

As noted by the Canadian Environmental Law Association in its submission on Bill 229, the CFSA “applies to approximately two thirds of Ontario’s land base, which is home to numerous species at risk and their habitat.” The fact that forestry operators would be free to ignore

requirements to protect our most vulnerable plants and animals across most of Ontario is what makes Schedule 8 so objectionable.

For these reasons, Ontario Nature and the David Suzuki Foundation strongly recommend that the Standing Committee remove Schedule 8 from Bill 229.

Thank you for your attention and consideration.

Yours truly,

A handwritten signature in black ink, appearing to read "Anne Bell". The signature is fluid and cursive, with the first name "Anne" and the last name "Bell" clearly distinguishable.

Dr. Anne Bell
Director of Conservation and Education
Ontario Nature

A handwritten signature in black ink, appearing to read "Yannick Beaudoin". The signature is stylized and cursive, with the first name "Yannick" and the last name "Beaudoin" clearly distinguishable.

Dr. Yannick Beaudoin
Director General for Ontario and Northern Canada
David Suzuki Foundation