

SUBMISSION TO THE FINANCE COMMITTEE

RE: BILL 229

SCHEDULES 6 AND 8

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Thank you for this opportunity to address Bill 229, Schedules 6 and 8. I am writing as a private citizen. My background is in science (Zoology), and my involvement in Environmental issues through the years has been with pesticides (provincial, national and municipal with CFUW, Canadian Federation of University Women), local organizations dealing with environmental issues (Municipal Pesticide-Free Committee, Chair, provision of local courses for 3 years), Energy and Environment Committee 5 years (municipal), and a number of volunteer environmental activities in Stratford. In earlier years I led student environmental groups. Throughout my life, camping and visits to parks at all levels have been a highlight for me, and for my family.

I would like to highlight major changes proposed in Schedules 6 and 8, and my concerns.

First I would like to address an underlying fallacy that is one of the key pillars of 2020 environmental legislation.

I'm reminded of a cartoon of a full plane cabin, the plane apparently in flight, with a man standing and speaking to the other passengers- "These smug pilots have lost touch with regular passengers like us. Who thinks I should fly the plane?" He's surrounded by a sea of hands waving in agreement.

The climate crisis is science. The environment unfolds according to science. Management of watersheds is science. Making wise decisions on development choices includes science. I am greatly disappointed and alarmed at the underlying message of negation of science knowledge in Schedules 6 and 8.

Who do I want flying the Conservation plane? Scientists please.

Continually I have heard that Schedule 6 will return the Conservation Authorities to their original mandate. So I looked it up. I think you will be surprised at the original mandate in 1946.

The 1946 Conservation Authorities Act provided the means by which the province and the municipalities could join together to form a Conservation Authority on a watershed basis, to undertake programs for natural resource management. Three fundamental concepts were embodied in the Act: **Local Initiative**. A Conservation Authority in any area could only be formed when the desires of the residents reached the point where they were willing to request the government of Ontario to form an Authority. **Cost-Sharing**. The Conservation Authorities Act stipulated that the costs of projects should be shared by municipalities **and by the provincial government**. Watershed Jurisdiction Conservation Authorities were to have jurisdiction over one or more watersheds. **This stewardship was to cover all aspects of conservation in the area.** This meant that a Conservation Authority has been able to handle problems such as flood control in a complete and rational basis.

(<https://forums.mtbr.com/eastern-canada/durham-forest-352147.html>)

Ecosystem science has come a long way since 1946. At that time in history, just after WWII, we honestly believed that you could treat one part of the environment without affecting other parts. We learned a valuable lesson with DDT but not until 1962. We learned the hard way, and we are still learning. Everything is connected. Removal of sensitive links, such as wetlands, cannot be undone. They are irreplaceable.

All parts of the environment work together by providing habitat for animals, water cleansing, clean air and recreation, carbon sinks in the trees, pollination and natural pest control, to name but a few mechanisms (which is why the Provincially Significant Wetlands are so important). Local Conservation Authorities are also to be applauded for the outreach they do with schools and community, carrying the message of interconnectedness of nature.

The suggestions for removing environmental controls on lands important to conservation of our natural heritage are foolhardy. They will almost certainly doom species to extinction, upset natural balances in nature, and affect our health and safety.

Conservation Authorities are staffed by Botanists, Zoologists, Forestry specialists, Entomologists, Flood Control Specialists, and Ecologists. Ministers within the governments of our world, largely are not specialists in these areas.

-“Conservation authorities bring the local watershed science to the planning process,. “They apply this knowledge in permit and planning application reviews. With the new ability of the Minister to issue a permit, it’s not clear what science the Minister will rely upon to review an application and issue a permit. The proposed changes raise the risks of having the permitting process veer away from a science-based decision.” “Conservation authorities rely on science-based watershed information to ensure that Ontario’s communities are protected from upstream to downstream,” (Kim Gavine, general manager of Conservation Ontario.)

Who do I want flying the Conservation plane? Scientists please.

The other underlying element in this issue is money. All aspects of conservation in the watershed areas are within the purview of the local Conservation Authorities. One of the foundations of the 1946 Conservation Act was Cost-Sharing with costs to the Authorities shared by the province and by municipalities. It takes money to pursue development projects, and it also takes money to run an efficient and effective Conservation Authority. A previous government removed the vast majority of Conservation Authority funding. They are now funded primarily through fund-raising and costing of some requested services, and to a lesser degree by municipalities, with a very small amount from the province.. Schedule 6 introduces additional procedures which will increase Authority costs, and makes funding more difficult through the municipal funding process.

The Provincial Government should return to the original cost-sharing agreements with the Conservation Authorities. Their job is more challenging, not less, as our environment is further challenged.

Schedule 6 mandates that all Conservation Authority board members must be municipal councillors.(new CAAct provision 14(1.1))

Although some board members are councillors, many boards are comprised of both municipal councillors and other citizens at large appointed by the municipalities. They are selected for knowledge, for commitment to the organization, and for community connections. Councillors are subject to the narrow boundaries of their own municipalities, where Conservation Authorities cover areas defined by local watersheds, not bound by municipalities. **It is fundamentally wise to have a board that is represented by both municipal councillors and others from the community.**

Further board members are to have their roles altered in a manner that is **contrary to good governance principles for boards**. The wording of director responsibility is changed from “act honestly and in good faith with a view to furthering the objects of the authority”¹³(CAAct, s14.1) to require that members “act honestly and in good faith” and that, particularly, members of appointed by participating municipalities, “generally act on behalf of their respective municipalities” (new CAAct provision 14.1) This is not consistent with board fiduciary responsibilities. *As a fiduciary of a corporation, a director owes the company duties of disclosure, honesty, loyalty, candour, and the duty to favour the company's interest over his/her own.* (<http://www.kellysantini.com/articles/fiduciary-duties-corporate-directors-your-obligations-responsibilities-and-business>)

Schedule 6 negates watershed knowledge and expertise on many levels. When it comes to board membership, that knowledge level brought to the board by appointees from other disciplines connected to conservation brings added effectiveness to the board.

I recommend that municipalities retain flexibility in appointments to Conservation Authority boards of directors, and that directors act according to their fiduciary responsibilities.

Schedule 6 excludes conservation authorities from the definition of a public body as relates to being able to seek to appeal certain land use planning decisions to the LPAT or being able to be added as a party to an appeal before the LPAT; only the Ministry of Municipal Affairs and Housing is authorized to represent provincial interests associated with watersheds in land use planning appeals (amendment to Planning Act, s1(2))

The Minister of Municipal Affairs and Housing is clearly not in a position to render judgment in appeals to land use based on knowledge associated with the Conservation Authority watershed. It is a given that Conservation Authority representation is critical to making determinations based on science.

Schedule 6 further curtails the Conservation Authority ability to refuse permits in CAACT provision 28.1 by enabling paths to the minister to overrule permit refusals. The minister's decisions are final, and again, the decisions will be made without a hearing involving Conservation Authority input- or science.

Decisions referent to appeals of Conservation Authorities decisions should entail a full hearing, including the reasons for the refusal of permit, the science, and should be heard by a panel including knowledgeable environmental scientists- although I question whether any appeal process is necessary. I trust the expertise of the Conservation Authorities.

Finally, the fast-moving bulldozer wins. Schedule 6 eliminates the (not yet proclaimed) powers for officers appointed by **Conservation Authorities to issue Stop Orders** (CAACT provision 30.4 will be repealed upon Royal Assent of Bill 229, per Schedule 6, s20 and s29(2), **as well as making it much more difficult for Conservation officers to enter property for research and inspection.** We know how quickly a wetland can be destroyed, a forest clear-cut, an ecosystem destroyed. In today's world destruction can be carried out very quickly, while "waiting for a permit." Conservation officers need the capability to issue stop work orders when this happens. This had been recognized previously, was passed and waiting to be declared. Schedule 6 removes that capability.

Conservation Authorities absolutely need the right to issue Stop Work Orders.

SCHEDULE 6, BILL 229, IS DEEPLY FLAWED AND SHOULD BE REMOVED IN ENTIRETY. RATHER CONSERVATION AUTHORITIES ABILITY TO RESPOND TO OUR RAPIDLY CHANGING CLIMATE AND ECOSYSTEMS SHOULD BE ENHANCED.

THEIR SCIENCE IS SOUND, THEIR RELATIONSHIPS WITH THEIR WATERSHED COMMUNITIES ARE STRONG, BASED ON INTEGRITY AND TRUST, AND THEIR EXPERTISE IS VERY MUCH NEEDED.

SCHEDULE 8.

Schedule 8 would prevent the Minister of Environment, Conservation and Parks from ever issuing a species protection order or habitat protection order for any forest operations conducted as per the exemption.

Every good system has need of some checks and balances. It simply doesn't make good sense or good science to presuppose that there will never be a situation where the Minister of the Environment has access to information that may inform a situation requiring species protection. This attempt to muzzle another minister is reprehensible.

I recommend that the Minister of the Environment have the ability to issue species and habitat protection orders as necessary.

Schedule 8 gives the forestry industry permanent exemption from protecting and recovering endangered species through removal of the Forestry industry from any oversight from the Endangered Species Act (ESA)

-Forest Management and Forestry used to be addressed with several checks and balances to insure the health of our forests and the species that depend on them.

- **Environmental Assessment** used to be required as part of industrial logging. That requirement was removed to avoid duplication with the Crown Forest Sustainability Act (CFSA). However, there have been questions with regard to protection of wildlife in the partnership of the Ministry of Natural Resources and Forestry with the CFSA.

The purposes of the Endangered Species Act are:

1. To identify species at risk based on the best available scientific information, including information obtained from community knowledge and aboriginal traditional knowledge.

2. To protect species that are at risk and their habitats, and to promote the recovery of species that are at risk. 3. To promote stewardship activities to assist in the protection and recovery of species that are at risk.

-The forestry industry will be under the control of one act only, **the Crown Forest Sustainability Act (CFSA)**. The purposes of this Act are to provide for the sustainability of Crown forests and, in accordance with that objective, to manage Crown forests to meet social, economic and environmental needs of present and future generations.

-The purposes of the ESA and the CFSA are not the same. We need to both manage forest operations to ensure sustainability **AND** to protect species at risk and their habitats, with an aim to recovery for imperilled species. Rather than rising to this important challenge and seeking to set out a futures-oriented framework for sustainably managing commercial logging,

these amendments are anticipated to set the stage for further biodiversity loss and species decline. Schedule 8 removes the gatekeeper.

n.b. In 2014 the Environmental Commissioner had this to say in a report entitled: ***THE CROWN FOREST SUSTAINABILITY ACT, 1994: 20 YEARS LATER.***

“Conclusion: The Crown Forest Sustainability Act, 1994 has been in place for two decades. The government should assess whether the Act, and the regulatory and policy regime it supports, are producing the desired social, economic and environmental outcomes. The need for such a comprehensive examination is not a condemnation. Rather, it is a necessity to ensure that our forests, one of our most important natural resources, are being managed based on the best possible information, practices and policies.”

The interpretation of sustainability and species protection among the Environmental Assessment Act, the Endangered Species Act, and the Crown Forest Sustainability Act are not the same.

There is still the **Environmental Bill of Rights EBR**, but thus far the government has circumvented the EBR with an Emergency Declaration: *(On March 17, 2020, the Government of Ontario made an order declaring an emergency (the “Emergency Declaration”) under section 7.0.1 (1) the Emergency Management and Civil Protection Act to respond to the COVID-19 outbreak.*

We have made a regulation that will expire 30 days after the termination of the emergency declaration and that exempts all proposals for policies, acts, regulations, and instruments from posting requirements under the EBR and removes the requirement to consider a Statement of Environmental Values SEV for its duration.) These hearings could easily be conducted by ZOOM.

I strongly recommend that EBR hearings be reinstated immediately, and that inclusive ZOOM protocols be established.

I strongly recommend additional oversight to Forestry in the reinstatement of Environmental Assessment and the continued responsibility to the Endangered Species Act.

Schedule 8 is deeply flawed in its understanding of forest ecology, its protection protocols for species dependent on our forests, and which are part of a healthy ecosystem that benefits us all, its visions of future cooperation among ministries, and its responsibility to the residents of Ontario to be able to speak to environmental practices.

I recommend withdrawal of Schedule 8 in its entirety.

Conclusion:

In these times of concentrated assault against natural habitat, growing numbers of endangered species, disappearing wetlands, lost bio-diverse forests, and the Climate Crisis, more than ever, natural habitat needs our support. perching birds, e.g. are demonstrating plummeting numbers from loss of habitat, here and in their wintering grounds. Insect numbers are down by nearly 80%, insect-control species, frogs, birds and bats, are all decreasing in number. Without these elements of a healthy ecosystem, we also are at risk.

Schedules 6 and 8 are deeply flawed, and should both be withdrawn completely (Yesterday, if not sooner).

They seriously overreach the government's responsibility to democratic process, to transparency, to the health and safety of the residents of Ontario, and to the environment.

Respectfully submitted, Sheila Clarke