



MISSISSAUGA RESIDENTS' ASSOCIATION NETWORK WRITTEN SUBMISSION ON BILL 229 AND THE CONSERVATION AUTHORITIES ACT

Mississauga Residents' Association Network (MIRANET) is gravely concerned by methods employed by the Provincial government to circumvent public consultation on the proposed changes to the *Conservation Authorities Act*, outlined in Schedule 6 of Bill 229. By sneaking Schedule 6 into omnibus budget measures Bill 229, the Province is demonstrating a lack of respect for the public, conservation authorities, municipalities, and democracy.

The entirety of Schedule 6 displays a lack of scientific literacy and calls the Provincial government's judgment into question. The Ministry of Natural Resources and Forestry's failure to recognize the limits of its own expertise has resulted in a document that runs counter to the promises of their political platform in the 2018 election. Instead of less red tape, we get more bureaucracy; instead of shorter permit approval times, we get longer; instead of clarity and transparency, we get chaos and confusion; instead of benefitting the many, it benefits the few; instead of strengthening the conservation authorities' ability to protect and preserve our watersheds for present and future generations, it ties their hands and diminishes their power.

Schedule 6 has no place in Bill 229.

- 1. Proposed changes to the Conservation Authorities Act would authorize the Minister of Natural Resources and Forestry to issue an order to take over and decide a development permit application in place of a conservation authority. Additionally, a permit applicant can request that the Minister review a conservation authority's decision about a permit application (approved with conditions or denied), at which point the Minister can make any decision, including issuing a permit.*
(<https://cvc.ca/conversations/conservation-matters>)

In the management of the COVID-19 pandemic, Premier Ford has repeatedly stated that he is guided by the advice of Public Health officials as he is not a scientist and they are the experts. The same reasoning should hold true for the management of our natural resources, particularly within the watersheds that sustain us. Do we believe that the judgment of a political appointee, with little to no scientific literacy and no understanding of how watersheds work, should replace that of an expert whose decisions are guided by science and best practices?

The scientists, engineers, and technicians responsible for the management of our watersheds collect and analyze data to use in decision-making and the development of future management plans. This information is also used to assess the efficacy of ongoing programs and correct course as necessary. These experts must demonstrate the logic of their thinking to both the public and their fellow scientists. The success or failure of their decisions can be measured by numbers and statistics, which can be made available for public scrutiny. As such, their decision-making processes are far more robust and transparent than those of the Provincial government.

We expect the Minister of Natural Resources and Forestry to make objective and transparent decisions that ensure the long-term health of our watersheds for us and future generations; however, history has shown that politicians are less than objective and transparent in their decision-making, as they bend to

the will of their political leaders and their own agendas for re-election. Do we as Ontarians believe this is transparent and effective governance?

The proposed changes may also lead to unintended consequences, resulting in additional costs and more red tape:

- If the Minister of Natural Resources steps in to review an application (either at the request of the permit applicant or at the Minister's discretion) another level of bureaucracy is added to the permit application process.
- The deadline for a ministerial decision is thirty (30) days, in which time the applicant may either receive a decision or no communication at all, an indication that the Minister has declined to review the application. What remains unclear, however, is who will actually be conducting the review. Will additional staff need to be hired to complete the review and advise the Minister? Will these staffers be political appointees or will they be subject matter experts?
 - If the Ministry hires subject matter experts whose decisions are based on science, and therefore apolitical, does this not mean their decisions will be similar, if not identical, to those of the conservation authority? Is this not a duplication of services, loathed by the Premier, who promised to cut costs and red tape? The Ford government voted Bill 108 into law, ostensibly to reduce bureaucracy and permit approval times. These proposed changes will introduce more red tape, increase wait times for permit approval, and increase costs for both the developer and the provincial government. **No mention has been made how these additional positions will be funded.**
 - If the Ministry hires political appointees to conduct these reviews and their decisions differ dramatically from those of the conservation authority and other subject matter experts, in the absence of any publically available written justification, can we then assume that the science has been ignored? In such cases, is it fair for affected stakeholders (neighbouring landowners, municipalities, and watersheds) to assume the burden of environmental and economic risks resulting from such decisions? How will the Province compensate watershed residents if their decisions result in harm to their health and/or livelihoods? **Why should tax-payers foot the bill for poor decision-making?**
- How will development charges be negotiated - as part of the review process or will this still be done at the Municipal level? At what point in the process will this take place? Will the Ministry decide to circumvent all municipal level negotiation and decision-making? If this is the case, will the Ministry then take on the financial liability associated with overseeing the development charge repayment schedule?
- What will happen to the public consultation process? If developers can get a second hearing at the ministerial level, why does the same not apply to conservation authorities and the public? Why are developers given greater consideration? If not the conservation authority, who speaks for the

residents of a watershed? **Can a system in which the wealthy and powerful get preferential treatment, and all others are treated as second class citizens, be considered just?**

- What about impacts to project financing? In an effort to adapt to the new challenges posed by climate change, banks have changed their lending practices to assess not just financial risk, but also environmental and social risk. In the absence of a permit approval from the scientists and engineers employed by the conservation authority, it is now the Minister of Natural Resources and Forestry who will grant this permit.
 - If the conservation authority has already conducted its assessment and declined the application, how will this be interpreted by a potential lender? Will the assessment of the conservation authority be made available to the bank free of charge or does it remain their intellectual property, since they do not receive funding from the Province? Does the Province have the authority to confiscate the research of the conservation authority and do with it what it wishes?
 - **Banks are not charities and have a fiduciary obligation to their shareholders to minimize risk and maximize return.** If the bank is aware of the potential environmental and social risks posed by the project, what is the likelihood that they will approve such a loan?
 - In the absence of a risk assessment from either the conservation authority or the Ministry (because it has exercised its new right to step in and shut down the permitting process) **who bears the costs of risk assessment?**
 - Is it the Ministry? If so, how will they maintain their thirty (30) day timeline for approval? Will they have to hire subject matter experts (if they have not already done so)?
 - Is it the developer? In which case, how will they finance such an expensive undertaking? Will this be an obstacle to individuals and small-scale developers and preclude them from participating in the market? Will this mean that only those development companies with deep pockets and influence will survive and thrive?
 - Is it the bank? Since this is an unlikely scenario, what is the eventual outcome of the Province's ill-conceived changes to the Conservation Authority Act: more bureaucracy; long wait times; attrition of individuals and small development companies; assumption of financial, environmental, and social risks by municipalities; and a permitting regime where chaos and confusion are the order of the day?

Have we not learned from the COVID-19 pandemic in which the Ford government ignored the advice of medical and other experts? Their mismanagement had direct consequences: further spread of the virus,

continued economic uncertainty, an escalating death count, and more families grieving the loss of loved ones. If the current Minister of Natural Resources and Forestry demonstrates the same zeal and competence as his colleagues in the portfolios of Health and Long-Term Care, rejecting the data, evidence and counsel of scientists and ignoring best practice in favour of political decision-making, we as a province will be taking a giant step backward. **This is regressive not progressive!**

2. *Proposed changes would remove the un-proclaimed provision for conservation authorities to issue stop work orders, a new tool in our enforcement toolbox that we had long requested from the province. This tool will provide the ability to stop significant threats to life, property and environmentally sensitive areas before having to resort to costly fines and prosecution.*
(<https://cvc.ca/conversations/conservation-matters>)

Conservation authorities have fought for and won the provision to enforce stop work orders and are uniquely qualified to put such tools to good use. The ability to issue stop work orders allows them to limit potential damage before it is too late. Costly fines and prosecution are all well and good but if irreparable damage has been done to the watershed there is no going back. Conservation authorities make these decisions based on scientific evidence as well as best practices in watershed management. These tools are never used unless absolutely necessary. This provision must remain, removing it is effectively tying the hands of conservation authorities.

3. *The Credit Valley Conservation Board acts on behalf of the watershed and residents to ensure good corporate operations, management, and governance. Proposed changes would direct board members to act only on behalf of the municipality they represent, rather than on behalf of the entire watershed and residents. This is contrary to proper board governance and contradicts recent recommendations by Ontario's Auditor General.* (<https://cvc.ca/conversations/conservation-matters>)

The direction to conservation authority board members to act only on behalf of the municipality they represent is frankly baffling; most people understand the need for holistic management of our natural resources. The fact that our government doesn't is shocking; the absence of even the most rudimentary understanding of how our ecosystems function demonstrates their lack of intellectual fitness for this job. They can be forgiven their lack of knowledge, one can't be expected to know everything; but faced with the challenge of revising the *Conservation Authority Act*, instead of addressing their knowledge deficits they blithely proceeded to propose legislation (with very limited public consultation) which would take us back almost seventy (70) years. Such willful ignorance and hubris is unforgiveable in a public servant, let alone an entire Ministry.

Watershed management requires decision making beyond the confines of just one municipality; nature does not respect municipal boundaries. Poor decision making in one municipality has the potential to create irreversible damage elsewhere within the watershed. Potential harms include: flooding, groundwater contamination, excessive groundwater pumping leading to lower water tables and land subsidence, slope destabilization, increased surface water run-off, flow path alteration for both ground and surface waters, silting up of rivers and streams, drier soils more prone to erosion, and loss of wetlands.

Good resource management practices require a holistic point of view: water and air are shared resources, not just between residents of a municipality but between everyone. The wild fires in California, Oregon, and Washington State are a case in point: they affected air quality across Canada, not just in neighbouring British Columbia, which at one point had the worst air quality in the world. Particulates from fires in California had direct impacts on Canadians: both the healthy, who were advised to remain indoors to reduce their exposure, and the ill, particularly those with asthma and lung diseases, who may have found themselves struggling to breathe under those conditions for weeks at a time.

Similar to forest fires, the impacts of wetlands go far beyond their watersheds. They are invaluable in the fight against climate change: wetlands are a sink for atmospheric carbon. But this is not all they do. Wetlands perform the vital services of water purification, groundwater recharge and stream-flow maintenance, and shoreline stabilization. They also provide food and habitat for both terrestrial and aquatic flora and fauna. In some cases, they are the last refuge for rare and endangered species. By preserving, instead of developing wetlands in Durham Region, we can ensure that they will continue to perform these vital services, not just for the people of Pickering, but for the people of Southern Ontario and beyond.

Some of the proposed changes to the composition of the conservation authority board as well as its functioning are particularly troubling:

- The term of the Chair or Vice Chair is limited to one year and to no more than two consecutive terms. While term limits can have a positive effect on governance, particularly at Provincial and Federal levels, it may not have the same effect in a conservation authority. Any incoming Chair or Vice Chair will most likely not be a subject matter expert and thus have a steep learning curve during the first six months or year of their term. Upon achieving a sufficient level of knowledge, they should be allowed to put this newly acquired knowledge and experience to good use. Rotating Chairs out on an annual basis is disruptive and highly inefficient. Each incoming Chair would have a period of six months or less during which to make well-informed decisions on behalf of watershed residents. A cynic might think this change to the Conservation Authority Act was deliberately designed to hobble the Chair in the execution of their duties.
- The Minister has the discretion to appoint a representative of the agricultural sector to be a member of the conservation authority board. There are no further details as to what qualifications this representative must have or who they represent: big agriculture, organic farmers, biodynamic farmers, or family farms. There are also no stipulations as to the type of farming they need be involved in: arable farming, livestock farming, or mixed farming. Perhaps none of these distinctions matter as long as they are friends of political leaders.
- The Minister will now be allowed to dictate the standards and requirements for municipal and other programs and services. **By what right does the Minister dictate how and what services and programs are delivered when they provide NO funding to support them?**

- The proposed changes will also limit a conservation authority's powers to study and investigate a watershed in order to provide programs and services that will directly support the conservation, restoration, development, and management of its natural resources. Instead, their new mandate will be to engage in research and study to support the development of programs and services which have been dictated by the Minister. **In other words: in a time of climate crisis, the Provincial government would like LESS and not more scientific data and seeks to direct the research activities of an organization for which it is not funding.**

To quote the Premier: "Stick with the job you were hired for.....don't start pretending" you're a scientist or a professional engineer "because I can tell you, you aren't."

4. *Consequential changes to the Planning Act would bar conservation authorities from appealing a municipal planning decision to the Local Planning Appeal Tribunal (LPAT), unless requested through an agreement with the municipality or the Minister of Municipal Affairs and Housing. This tool is a necessary but seldom used tool in our toolbox. This change would also remove our right to appeal planning decisions as a landowner. This is of significant concern to conservation authorities as well as Credit Valley Conservation which owns and manages over 7,000 acres of land for habitat protection, community recreation and flood hazard management. (<https://cvc.ca/conversations/conservation-matters>)*

The new *Planning Act* would strip conservation authorities of the right to appeal. This means that individuals and developers motivated by profit for themselves and their organizations, which is perfectly legal and acceptable in a free market economy, have greater rights than organizations representing current and future generations of people living within these watersheds. While both food and shelter are basic needs, without water shelter becomes pointless. This legislation could imperil our sources of food and water in order to benefit those who seek to profit from building shelter. We are trading the long-term health and sustainability of our watersheds (which benefits the many) in exchange for short-term profits for developers (the few). A poor bargain by any estimation.

Let's not have another disastrous short-term decision, such as the one that the Harris government made in 1999 to sell the 407 ETR for \$3.1 billion to reduce the deficit ahead of an election. Today the 407 is worth an estimated \$30 billion. Imagine the critical transportation infrastructure that could be better maintained and upgraded with the annual revenue generated from the 407 if it were still in the hands of the government; the new infrastructure that could have been funded, such as the expansion of Metrolinx and GO Transit. **Short-term, poor decision making at its finest.**

Over the past two years, Ontarians have been subject to a pattern of governance as follows: the appointment and hiring of individuals with few qualifications other than "being a friend of the Premier", limited understanding of an issue compounded by arrogance and overreach, short-sighted and poorly formulated policies that benefit the few and not the many, dismissal and derision of its critics, shock at public outrage and pushback, eventual contrition and a walking-back of policy changes. **Is it not time to break this cycle?**



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The Premier routinely dismisses so-called “elites” as being out of touch with regular people and therefore unqualified to make policy decisions. But what does he mean by “elites?” Are they not regular people, who through hard work, skill and knowledge obtained through years of experience, and a passion for life-long learning, reached the top of their field? Aren’t these the very people we want working for us? What is the virtue in hiring someone unequal to the task?

Given this government’s poor performance in its autism, long-term care, climate change, and COVID-19 portfolios, how can we accept these proposed changes without further public scrutiny? A government which misleads the people it serves, and routinely circumvents public consultation through dubious means, is neither transparent nor democratic. Such a government requires greater oversight from the people it is meant to serve. MIRANET agrees with The Canadian Environmental Law Association, which has observed “Bill 229 is the most recent in a disturbing trend of using omnibus budget measures bills to make substantial changes to environmental laws, thereby sidestepping the public’s right to comment under the Environmental Bill of Rights.”

Conservation authorities have been the guardians of our watersheds for over seventy (70) years. With little public funding, they have conducted research and provided programs and services to watershed residents. They have valiantly fought to protect the rights of present and future generations to clean air, clean water, and thriving watershed habitats. They are one of Ontario’s great success stories.

We must not allow our Provincial government to curtail the powers of our conservation authorities; they speak for us and the home we live in. It has become patently obvious that our Provincial government does not.

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