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Silencing our Rivers: Ontario's Diminishing Watershed Planning

The Province of Ontario is silencing our Rivers.

Schedule 6 in Bill 229 diminishes the role of the Crown in Ontario's conservation/watershed land use planning by rendering Conservation Authorities, our provincial river representatives, into *persona non grata* in provincial land use planning law.

Fact: Unethically snuck under an Omnibus Bill for the Ontario Budget so it doesn't need to be posted on the Environmental Registry, Schedule 6 purports to take away Conservation Authorities' ability to file an appeal or even be party to an appeal, to our Local Planning and Appeal Tribunal, where all the big legal decisions get finalized. #Silenced.

It also proposes to effectively subsume Conservation Authorities decision-making power not only in quasi adjudicative LPAT hearings but through Board decision-making priorities under municipalities, thereby reducing the voice of our Rivers, and the needs of the Earth, in planning and development, to the singular lens of municipal political priorities. #Diminished.

Effect: No more impartial, independent and representative watershed agencies in provincial land use planning jurisprudence.

Expression of Treaty Rights on the landscape will be hard fought in without independent provincial/Crown representative watershed land use planning. With Conservation Authorities, mandated to the arena of municipal politics instead of a watershed scale, the potential for meaningful Indigenous participation in planning is greatly impacted as municipal level of planning is not the appropriate scale for the expression of Treaty Rights. Secondly, without Conservation Authorities ability to conduct effective watershed

science and research on endangered species, habitat restoration, water quality and more (also a proposed amendment in Schedule 6) an understanding of how Treaty Rights may be affected through land use planning ,development and change is reduced, as local, accessible, current and contextual environmental data on the impacts of development dries up.

What's more: Minister Zoning Orders. Want to approve something with major environmental consequences? OK, no problem. Simply meet up with the Minister, come into the top office to talk to talk one-on-one about it. No one needs to know about it because no one else is in the room and now, the Minister can decide and override everything else. Total power in one place, door closed.

Question: How are these proposed laws reflective of Section 35 Aboriginal Rights under the *Constitution Act* and the duties and responsibilities that flow from them, such as Duty to Consult and Accommodate and Free Prior and Informed Consent?

Answer: They aren't.

Inherently undemocratic, Schedule 6 is forging a provincial planning autocracy by gutting environmental law in Ontario, reducing transparency in decision-making, and centralizing power in the Minister's Office.

In an attempt to prevent themselves from infringing on constitutionally held rights of Indigenous Peoples, the Province of Ontario has slapped a non-derogation clause into Schedule 6. This will not cut it; Treaty partnerships are based on a Nation-to-Nation relationships and that requires dialogue, transparency, collaboration and cooperation.

As intended in the principles of the Dish with One Spoon, the Nation-to-Nation relationship mandates a sharing of the land. Our Treaties define specific rights, benefits and obligations between the Crown (federal and provincial governments) and Indigenous Nations that vary from treaty to treaty. These rights include hunting and fishing rights, consultation and participation requirements, wildlife harvesting rights and more. Conservation and effective watershed planning is critical to maintaining and supporting biodiversity on the land and waters through which Treaty Rights are exercised, as watershed biodiversity is essential to exercising cultural practices of hunting, fishing and harvesting. There is an undeniable connection.

The Province of Ontario doesn't seem to understand what they are proposing to do here.

The Canadian Environment Law Association states that "the majority of the Schedule 6 amendments are regressive in nature and are completely contradictory to fulfilling both the purpose of the Conservation Authorities Act and the desire to set the course for more climate resilient communities in the future." That with the proposed amendments of Schedule 6 "scope and powers of conservation authorities will be limited to the point that no meaningful integrated watershed management will be possible."

Our land and resources deserve better.

The Dish with One Spoon is more meaningful than ever before.

Our Treaty Relationships mean more than this.

Now go out and push for it.

(continued...)



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WE RECOMMEND:

THAT proposed Schedule 6 be deleted from Bill 229 and Ministry officials work with Indigenous Nations and communities and conservation authorities in good faith on regulations as proposed under previous Bill 108;

THAT Conservation Authorities be maintained to act as independent public bodies in land use planning, with mandated Indigenous representation, maintaining their ability to seek to appeal municipal planning decisions; Proposed changes would prohibit conservation authorities from independently appealing decisions made around permits and municipal planning applications. This can put more people and infrastructure at risk and add additional stressors to our local environment.

THAT Conservation Authorities maintain autonomy and control over permit approval/denial decisions with meaningful Indigenous engagement. Conservation authorities are science-based, non-partisan agencies. Granting permitting authority to the Minister would effectively take science out of the equation, essentially politicizing the permitting process and allowing for development that may be considered unsafe or damaging to the natural environment. Giving the Minister new power to overturn a conservation authority's decision to refuse to issue a permit for development and is not reflective of Treaty partnership.

THAT the Natural Resource Mandate of Conservation Authorities as stated in Section 20 of the Conservation Authorities Act be respected, to allow for important work on watershed-scale monitoring, data collection management and modelling; watershed-scale studies, plans, assessments and strategies with

Indigenous Nations and communities; and watershed-wide actions including stewardship, communication, outreach and education activities that protect our environment on a watershed basis.

THAT the proposed changes to the Conservation Authorities Act Section 28 regulation-making powers be amended or repealed to allow conservation authorities a more progressive enforcement of watershed resources, in partnership with Indigenous Land Guardians (where possible) for the health and safety of communities as recommended by the Auditor General of Ontario. Changes proposed in Schedule 6 changes would remove the un-proclaimed provision in the Act for conservation authorities to issue stop work orders, a new tool in our enforcement toolbox that Conservation Authorities had long requested from the province. This tool would provide Conservation Authorities with the ability to stop significant threats to life, property and environmentally sensitive areas before having to resort to costly fines and prosecution.

THAT appointments to the Board of Conservation Authorities remain the decision of the municipality in consultation with conservation authorities, with mandatory Indigenous representation. Conservation Authority Boards acts on behalf of the watershed and its residents. Proposed changes would direct board members to act only on behalf of the municipality they represent, contradicting recent [recommendations by Ontario's Auditor General](#). Moreover, for members to act only on behalf of their municipality is counter to the intent of the Conservation Authorities Act, which was to transcend political boundaries for municipalities sharing a watershed to collectively manage and protect its resources.

About the PPC's Principal Planner:

Susan is a Settler to Ajetance Treaty No. 19 where she lives and works now with her little family. Born and raised in the Williams Treaties, Whitchurch-Stouffville, Susan's mom's side came here first, into Quebec City and around Port Dover, refugees from Scotland and Ireland. She/her dad's did too, but about 150 years later. Indigenous friends have called her a boat person. **Fact:** Her great-grandmother gave birth to her paternal grandfather on a boat at the age of 15. As a daughter, a wife, a sister, a mother, Susan is an Indigenous rights and a watershed planner. In a nutshell, Susan loves people, rivers, languages and a solid adventure.

