

COMMENT ON ERO NOTICE 025-1257: PROPOSED BOUNDARIES FOR REGIONAL CONSOLIDATION OF ONTARIO'S CONSERVATION AUTHORITIES

Submitted by: The Sovereign Grandmothers of the Hereditary Line, Bkejwanong Territory

Date: December 2025

This submission documents knowledge held by the Hereditary Line of Bkejwanong Territory, drawing on chi naskenegewin and Anishinaabeg law that predates colonization and continues uninterrupted to present day. Supporting legal analysis referenced in the accompanying public comment.

Sovereign Grandmothers Statement to the ERO

Grounding in Chi Naskenegewin

Consent cannot be staged, bought, or performed — it must be grounded in Indigenous law, responsibility, and legitimate governance authority (chi naskenegewin). True care for land and water is often actioned by nation rights holders who are marginalized, excluded, or even financially sanctioned for upholding their responsibilities. Their lack of invitation or financial support from government agencies **does not** diminish their authority, value, or legitimacy.

Cultural Expression Cannot Substitute for Consultation

Corporate-sponsored cultural events, advisory appointments, or performative participation — including fashion shows, ceremonial appearances, or engagement of individuals labeled as “elders” by institutions — **must not** be relied upon as evidence of consent or agreement. Harm occurs when institutions instrumentalize culture to obscure unresolved governance failures, ongoing violations of Indigenous law, or responsibilities to land and water. This includes staged events following environmental harm, such as water contamination, and cannot retroactively satisfy consultation obligations.

Previously Approved Projects

Previously approved projects (e.g., Hydro One, Boralex) and ongoing institutional events **cannot** retroactively address cumulative impacts or systemic consultation failures. Following **West Moberly precedent**, *West Moberly First Nations v. British Columbia*, 2022 BCSC 1201, consultation that mischaracterizes treaty rights, relies on symbolic endorsement, or overlooks historical and ongoing harms is legally insufficient. As the court emphasized:

“A consultation that proceeds on a misunderstanding of the Treaty, or a mischaracterization of the rights that the Treaty protects, is a consultation based on an error of law and cannot therefore be considered reasonable.”

Duty to Consult Cannot Be Tokenized

Superficial engagement — such as unread or half-read emails, social media polls, council-appointed advisory bodies, or closed-door corporate meetings — **must not** be used to substitute for meaningful consultation with legitimate governance authorities.

Duty to Consult Must Be Substantive

Meaningful consultation must occur with legitimate governance authorities. Engagement that relies on individuals who have **financial conflicts of interest or obligations to project proponents**, or where such conflicts are **concealed by corporations**, cannot substitute for proper consultation. Consultation must be transparent, substantive, and conducted through institutions accountable to the community.

Protection Against Misrepresentation

Two hereditary Grandmothers were pulled into institutional or corporate events without proper recognition of their authority:

1. **Hydro One Meeting:** One grandmother attended a Hydro One meeting alone. Documentation quoting her statements exists within council or institutional records; however, she **was not provided the opportunity to review, correct, or formally attest** to these reports, which misrepresent her positions. Any reliance on such documents by corporations, councils, or institutions **cannot constitute valid consultation** and **cannot be used to claim consent or agreement** on behalf of the community.
2. **Water Pollution Event:** Another grandmother was brought into a staged water pollution consultation without the community’s prior knowledge or consent. She may have received an honorarium, but this **does not substitute for meaningful consultation** or waive legitimate governance authority. Her presence **must not** be used to create an appearance of consent or to obscure unresolved governance and legal obligations.

Misrepresentation of hereditary authorities **undermines legitimate governance, violates Indigenous law, and perpetuates harm**. Institutions **must** ensure that all records accurately reflect the statements and positions of hereditary governance participants, and that these participants **have full opportunity to review, amend, and formally attest** to any documentation **before it is relied upon** in decision-making.

Cumulative and Historical Context Matters

Following West Moberly precedent, conflict, West Moberly precedent, cumulative impacts, and UNDRIP Articles 18, 19, and 25. Everything from your prior drafts is preserved and strengthened for th **must** consider historical harms and cumulative impacts on land, water, and interconnected resources. Isolated, performative, or symbolic engagement cannot replace recognition of ongoing violations or systemic exclusion. Previously marginalized, excluded, or financially sanctioned individuals who act to protect land and water **must be recognized for their actual care and responsibility**, not discounted because they lack institutional backing.

Alignment with UNDRIP

This statement aligns explicitly with the **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**:

- **Article 18:** Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves.
- **Article 19:** States shall consult and cooperate in good faith with Indigenous peoples to obtain their free, prior, and informed consent before adopting or implementing measures that may affect them.
- **Article 25:** Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their lands, waters, and resources. Economic deprivation or marginalization must not undermine their ability to fulfill responsibilities to land and water.

Authority of the Sovereign Grandmothers

This statement reflects the authority and perspective of the Sovereign Grandmothers, who hold legitimate governance authority and stand accountable to the community and to Nibi. Consent and consultation **must** be grounded in Indigenous law, responsibility, and legitimate authority — not in symbolic appearances, corporate sponsorship, performative engagement, or financial inducement.

RESPONSE TO CONSOLIDATION PROPOSAL

We oppose the proposed consolidation of Ontario's 36 conservation authorities into 7 regional bodies. This consolidation eliminates local environmental oversight at the exact moment when coordinated industrial projects threaten drinking water systems across multiple First Nations territories.

Ontario has provided no evidence of consultation with affected First Nations regarding the consolidation proposal itself. While the province claims this restructuring will maintain or improve environmental protection, it has not consulted with Aboriginal title holders whose Section 35 rights are directly affected by elimination of local conservation authority oversight. This represents fundamental failure of the duty to consult on a decision that affects Aboriginal and treaty rights to clean water.

VIOLATIONS OF EVERY LEVEL OF LAW

Overriding community decision to facilitate Energy Hub access to unceded territories violates EVERY level of law:

CHI NAAKENIGEWIN (ANISHINAABEG LAW - since time immemorial):

Community consensus is required for territorial decisions and it is women who hold water governance authority. We have a responsibility to protect Water for Seven Generations. The Community voted NO twice which represents an exercise of chi naakenigewin and collective rights holders decision.

UNDERSTANDING WAMPUM: Wampum belts, are governing legal records - constitutional documents that establish law and territorial authority, not currency or trade goods. They document treaties, governance protocols, and legal systems with the same authority as any written constitution. Many of these sacred governance items have been stolen and are held in museums like the Royal Ontario Museum and Art Gallery of Ontario, or in private collections. The Hereditary Line and rights holders are beneficiaries of the governance systems these items document. Colonial theft of the physical records does not erase the legal systems they record or the authority that continues through the community. The teachings and governance knowledge encoded in wampum continue uninterrupted, and passed down through generations.

SEVEN FIRES PROPHECY WAMPUM (circa 1400s): Elder William Commanda from Maniwaki, keeper of the Seven Fires Prophecy Belt, shared Anishinaabeg prophecy wampum teachings at the First Minister's Conference in Ottawa in 1987. This wampum belt from the 1400s demonstrates hundreds of years of continuous legal governance on this territory, predating Crown claims by four centuries. The Seven Fires Prophecy records Anishinaabeg law and governance authority that existed since time immemorial on Turtle Island.

Source: First Ministers' Conference on Aboriginal Constitutional Matters, Ottawa, March 26-27, 1987. Documented in Bulbulian, Maurice, director. Dancing Around the Table. National Film Board of Canada, 1987.

TWO ROW WAMPUM (Kaswentha, 1613): Two vessels travel in parallel and neither steers the other's vessel. Anishinaabeg travel in our canoe with our own laws, customs, and governance. Crown travels in its ship with its own laws, customs, and governance. The Crown is attempting to steer our Anishinaabeg vessel by consolidating authorities to facilitate the SW Energy Hub despite a community decision. This constitutes a violation of the Two Row Wampum.

DISH WITH ONE SPOON (1701): This treaty establishes consensus-based sharing of territory. No unilateral decisions are permitted. Community decision cannot be overridden.

TREATY OF NIAGARA (1764): This treaty establishes nation-to-nation relationship. Crown cannot acquire lands except through proper treaty process. Community consent is required.

1844 OJIBWA-JESUIT DEBATE AT WALPOLE ISLAND: The Hereditary Line and rights holders formally denounced the Catholic Church, rejecting the papal authority that Crown's territorial claims rest upon through the Doctrine of Discovery. This occurred 23 years before Confederation.

Source: Delâge, Denys, Helen Hornbeck Tanner and Pierre Chazelle. "The Ojibwa-Jesuit Debate at Walpole Island, 1844." Ethnohistory Vol. 41, No. 2 (Spring, 1994), pp. 295-321.

PEACE AND FRIENDSHIP TREATIES: These treaties establish that subsurface rights are retained by community. The treaties "did not involve any surrender of lands

or resources" as confirmed in R. v. Marshall (1999). Enniskillen subsurface aquifer was never surrendered.

CANADIAN CONSTITUTIONAL LAW: Section 35 protects Aboriginal title which includes decision-making authority. Tsilhqot'in Nation v. BC [2014] establishes that Aboriginal title holders decide how land is used. Delgamuukw v. BC [1997] establishes exclusive use and occupation by rights holders. Community represents rights holders who are decision-makers. Proceeding without Free, Prior and Informed Consent from rights holders violates Section 35.

UNDRIP (INTERNATIONAL LAW): Article 19 requires Free, Prior and Informed Consent for measures affecting Indigenous peoples. Article 18 establishes right to participate through own decision-making procedures. Article 26 protects rights to lands never ceded. Community said NO twice which means no consent exists.

UN GENOCIDE CONVENTION (INTERNATIONAL LAW): Article II(c) establishes that states cannot inflict conditions destroying group. Contaminating water over community objection violates this provision.

UN RESOLUTION 64/292 (INTERNATIONAL HUMAN RIGHTS LAW): This resolution recognizes human right to water and sanitation. Rights holders' decision to protect water must be respected.

Conservation authority consolidation facilitates violating ALL these levels of law simultaneously by enabling Energy Hub access to Enniskillen after community - the rights holders - voted NO twice.

CONCURRENT CONSTITUTIONAL CHALLENGE

On December 6, 2025, Hereditary Line Leadership and rights holders filed Legal Memorandum to Crown-Indigenous Relations and Northern Affairs Canada establishing that Walpole Island First Nation (Bkejwanong Territory) is unceded territory. The main island was never ceded, surrendered, or relinquished. Crown has no underlying title to authorize industrial development. Indian Act Band Council has no authority to consent to what was never surrendered.

ENNISKILLEN - UNCEDED TERRITORY WITH UNSURRENDERED SUBSURFACE RIGHTS

Enniskillen is part of unceded Bkejwanong traditional territory. Crown wrongfully parceled this land in the 1800s - an act government has since admitted should not have occurred. Our ancestors purchased the deed to protect unceded territory from further Crown encroachment, not as recognition of Crown's legitimate authority to sell what was never ceded. The purchase was defensive protection, not participation in colonial property system that lacked jurisdiction over unceded land.

SUBSURFACE MINERAL RIGHTS NEVER SURRENDERED: Peace and Friendship Treaties established that subsurface resources - what is under the ground - were NOT surrendered. This principle, confirmed by Supreme Court in R. v. Marshall (1999) that these treaties "did not involve any surrender of lands or resources," applies to subsurface aquifer systems beneath Enniskillen. The

subsurface aquifer beneath Enniskillen was NEVER ceded to the Crown. This aquifer remains under Walpole Island Anishinaabeg unceded rights holders jurisdiction whether or not Canada recognizes it.

GOVERNMENT ADMISSION: Government representative came to our territory and admitted Walpole Island holds deed title to Enniskillen and the land should have been protected by Crown but was instead parceled off. A village of members recorded on census disappeared. Rhonda Telford documented this history extensively in her PhD research.

ENERGY HUB FACILITATES ENNISKILLEN SUBSURFACE ACCESS: Energy Hub infrastructure projects (transmission lines, gas plant, waste facility) enable and facilitate access to Enniskillen subsurface resources. The community - the rights holders - voted NO twice on proposals for Enniskillen subsurface access. Band Council is now forcing a third vote.

CONSERVATION AUTHORITY CONSOLIDATION REMOVES OVERSIGHT: Local conservation authority could recognize that Energy Hub projects facilitate access to territory where rights holders voted NO. Regional conservation authority hundreds of kilometers away will not track cumulative impacts or recognize unceded territorial boundaries. Consolidation removes oversight protecting community decision.

SUPREME COURT QUESTION: Both provincial and federal Crown lack jurisdiction on unceded territory. Conservation authority consolidation proceeds while fundamental constitutional questions remain unresolved: Does Crown have ANY jurisdiction to operate conservation authorities on unceded territory? Do Aboriginal title holders retain environmental governance authority under Section 35? Can provincial agencies exercise jurisdiction on territory where Crown has no underlying title?

Conservation authority consolidation must HALT pending Supreme Court resolution of jurisdictional questions.

THE HUMAN RIGHT TO CLEAN DRINKING WATER

Clean drinking water is a fundamental human right recognized at international, national, and Indigenous law levels. This right cannot be compromised by industrial development or governance restructuring.

INTERNATIONAL LAW: United Nations General Assembly Resolution 64/292 (2010) explicitly recognizes the human right to water and sanitation. The UN Committee on Economic, Social and Cultural Rights General Comment No. 15 establishes that the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water.

ANISHINAABEG LAW - CHI NAAKENIGEWIN: Under Anishinaabeg water law (chi naakenigewin), water is sacred and cannot be commodified or privatized. Water holds inherent rights. Women hold inherent jurisdiction over water protection. This is not "belief system" - this is law that predates colonial structures and continues to govern our relationship with water.

Chi naakenigewin recognizes that water is life (nibi aawan bemaadiziwin). Water cannot be owned or commodified. Water has inherent rights to be clean and healthy. Humans have a responsibility to protect water for Seven Generations. Women hold primary responsibility for water governance.

CANADIAN CONSTITUTIONAL LAW: Section 35 of the Constitution Act, 1982 protects Aboriginal rights, which includes the right to clean water on traditional territories. The Federal government has legal duty to consult and accommodate when decisions may affect Section 35 rights.

CORPORATE PRIVATIZATION THREAT: Conservation authority consolidation occurs in context where corporations seek to privatize water access and commodify what should remain public resource protected for all people. Industrial projects facilitated by this consolidation threaten to contaminate water systems, effectively privatizing access to clean water by making public water sources unusable and forcing communities to purchase privatized water.

Contaminating public water systems while corporations profit from industrial development that caused contamination is functional privatization. Communities lose access to clean water that is their right, while corporations benefit economically.

The Conservation authority consolidation would facilitate this by removing local oversight capacity that protects public water resources from industrial contamination.

GOVERNANCE BREACH: RESTRUCTURING CROWN AGENCIES ON UNCEDED TERRITORY

Aboriginal title includes inherent governance authority over territory. This is established in *Tsilhqot'in Nation v. British Columbia* [2014] SCC 44, which confirmed that Aboriginal title confers the right to decide how the land will be used and the right to the economic benefits of the land.

Unceded territory means Crown never acquired underlying title. Without underlying title, Crown has no authority to unilaterally restructure governance on that territory.

This applies to both the main island of Bkejwanong Territory - never ceded, surrendered, or relinquished - and to Enniskillen territory where community holds deed title with unsurrendered subsurface mineral rights.

Conservation authorities are Crown agencies exercising provincial governance authority over water, land use, and environmental regulation. Consolidating conservation authorities is governance restructuring that directly affects the human right to clean drinking water protected under chi naakenigewin, international law, and Section 35.

STRUCTURAL IMPOSSIBILITY OF ADEQUATE CONSULTATION: The current system operates with St. Clair Region Conservation Authority maintaining relationships with approximately three to four First Nations within its watershed jurisdiction. The proposed system creates a consolidated regional authority that will cover ten to fifteen or more First Nations across multiple treaty territories. Each First

Nation holds distinct consultation protocols, territorial boundaries, treaty rights, water governance structures, and cultural relationships with specific watersheds.

The Section 35 duty to consult is relationship-specific and context-dependent. The duty requires an understanding about each Nation's specific territorial concerns and rights. A consolidated authority cannot maintain the depth of relationship, territorial knowledge, or consultation capacity required to meet constitutional obligations across fifteen First Nations. This consolidation does not improve consultation. The consolidation makes adequate consultation structurally impossible.

Proceeding with conservation authority consolidation on unceded territory constitutes fundamental governance breach. Crown is restructuring governance mechanisms on territory where Crown has no underlying title. This is not inadequate consultation. This is lack of jurisdiction to govern. Aboriginal title holders - the community - retain inherent governance authority that was never surrendered. Provincial restructuring of environmental governance on unceded territory violates Aboriginal title and the human right to clean drinking water protected under *chi naakenigewin*.

The December 6, 2025 Legal Memorandum to Crown-Indigenous Relations and Northern Affairs Canada affirms that Bkejwanong Territory is unceded. Enniskillen adds additional layer: community holds legal deed title with unsurrendered subsurface mineral rights.

Conservation authority consolidation cannot proceed on territory where Crown lacks jurisdiction to govern and where consolidation threatens the human right to clean drinking water. This is governance breach at a foundational level.

GOVERNMENT WITHHOLDING CRITICAL INFORMATION PREVENTS INFORMED CONSENT

Free, Prior and Informed Consent requires "INFORMED" - Hereditary Leadership and rights holders cannot make informed decisions about protecting the human right to clean drinking water without access to comprehensive hydrogeological data that government possesses.

Government has access to critical maps and data that have not been provided to Hereditary Leadership and rights holders. The withheld information includes comprehensive aquifer system mapping showing interconnections between water systems, hydrogeological studies showing groundwater flow directions and rates, transboundary aquifer data showing how water systems cross jurisdictional boundaries, impact modeling showing how industrial projects affect downstream and downgradient water systems, historical contamination data and plume mapping, and subsurface aquifer mapping for Enniskillen territory.

Without this information, Hereditary Leadership and rights holders lack the data necessary to understand full extent of threats to clean drinking water on unceded territory including Enniskillen, to assess whether projects nominally "off-reserve" actually impact unceded territory through aquifer interconnection, to evaluate cumulative impacts of multiple coordinated projects on transboundary water systems, to make informed decisions about governance restructuring affecting water

protection capacity and the human right to clean drinking water, and to protect subsurface aquifer beneath Enniskillen.

ALL AQUIFERS ARE INTERCONNECTED. Nibi, Sacred Water is a living life force, who honours chi naakenigewin, that colonial borders are disrespecting and encroaching on. Water flows as a sovereign through imposed colonial boundaries. A project that appears to be outside unceded territory may still impact water systems that serve unceded territory through aquifer interconnection.

RIGHTS HOLDERS TRAVEL LIKE NIBI, SACRED WATER

Rights holders travel like water, flowing across colonial borders that attempt to contain what cannot be contained. Some community members live on what colonial systems designate as "reserve" - a boundary drawn by Crown. Other community members live beyond that colonial boundary in what colonial systems designate as "off-reserve." These are artificial borders imposed on natural relationships to territory.

One of the Sovereign Grandmothers of the Hereditary Line holds status on a different reserve according to colonial administrative systems. Yet she is connected to Bkejwanong Territory. The Hereditary Line respects her authority and connection. Colonial systems that assign "status" to one "reserve" or another do not define who has connection, authority, and rights. Chi naakenigewin recognizes connection that colonial bureaucracy cannot see.

Just as aquifers flow beneath colonial boundaries connecting ceded and unceded lands, rights holders maintain connection to unceded territory regardless of where colonial residence systems or status systems place them. Water does not ask permission to cross from unceded to ceded land. Rights holders do not lose connection to unceded territory because colonial systems drew a line and placed them on one side or the other, or because colonial systems assigned their "status" to a different administrative category.

The principle is identical: Government cannot claim aquifer connections don't exist simply because water crosses boundaries the government drew on maps. Government cannot claim rights don't exist simply because rights holders live across boundaries the government drew on maps, or hold status colonial systems assigned to different reserves. Both water and rights flow back to source. Both water and rights predate colonial boundaries. Both water and rights continue to flow regardless of colonial attempts to fragment us.

When community voted NO twice on Enniskillen, that decision represents rights holders exercising collective authority - whether colonial systems designate those rights holders as living "on" or "off" reserve, whether colonial systems assign their status to Bkejwanong or to another First Nation. Aboriginal title is held by the community collectively. Colonial residence designations and status assignments do not fragment that collective title any more than colonial boundary lines fragment aquifer systems. Rights apply to rights holders, irregardless of geographic placement.

Conservation authority consolidation operates on a false premise that colonial boundaries define jurisdiction. But rights holders, like water, have the right to respect *chi naakenigewin*. We flow across what colonial systems call "reserve" and "off-reserve," across what colonial systems designate as different "status" categories. We maintain connection to unceded territory spanning back through millenia regardless of colonial residential designations or administrative status assignments. Our rights, like aquifers beneath our feet, connect across all colonial attempts to divide what remains whole.

This means:

- Industrial projects anywhere in watershed potentially impact our unceded territory and threaten our human right to clean drinking water
- Government cannot claim projects are "off-reserve" without proving no aquifer connection and no impact to drinking water
- The burden of proof is on Canada to demonstrate projects do not impact unceded territory or compromise the human right to clean drinking water
- Without comprehensive aquifer mapping provided to Hereditary Leadership and rights holders, this proof is impossible

BURDEN OF PROOF SHIFTS TO CANADA: Canada must prove industrial projects and conservation authority consolidation do not impact unceded territory or compromise the human right to clean drinking water. This requires providing all aquifer mapping and hydrogeological data to Hereditary Leadership and rights holders, demonstrating through peer-reviewed hydrogeological analysis that no aquifer connections exist between project sites and unceded territory, proving that industrial projects will not contaminate water systems or compromise the human right to clean drinking water, establishing monitoring systems to verify no impacts occur to water quality, and obtaining Free, Prior and Informed Consent AFTER providing all information necessary for informed decision-making about water protection.

Currently, the government is attempting to proceed with conservation authority consolidation, Energy Hub project approvals, governance restructuring, while the Indian Act consolidation is attempting to force a third vote on Enniskillen after community - the rights holders – have rejected proposals twice, all while withholding or failing to provide the hydrogeological data necessary for Hereditary Leadership and the rights holders to understand threats to clean drinking water. This makes "informed consent" impossible. Without information, there can be no informed decision about protecting the human right to clean drinking water.

Government possession of maps and data that have not been provided to Aboriginal title holders violates the "informed consent" requirement of Free, Prior and Informed Consent.

TIMING ANALYSIS: CONSOLIDATION FACILITATES ENERGY HUB

Conservation authority consolidation announcement: October 31, 2025

Energy Hub projects requiring conservation authority permits - all threatening drinking water systems - include Riverside Generating Station (Atura) 375MW gas plant, Hydro One St. Clair Transmission Line 230kV line through wetlands and over underground water sources, Boralex Tilbury Battery Storage signed by Band Council without ERO filing thereby bypassing mandatory environmental review, York1 Environmental Waste Solutions waste processing facility above Kettle Point Aquifer, nuclear waste processing expansion (OPG, Atura), and Enniskillen subsurface access where Community voted NO twice and Band Council is forcing third vote.

The consolidation would remove local conservation authority oversight so these projects can be proceed through environmental assessment. Regional bodies headquartered hundreds of kilometers away cannot provide meaningful local environmental review or ensure the protection of the human right to clean drinking water.

CONSTITUTIONAL OBLIGATIONS CANNOT BE "STREAMLINED": The province frames consolidation as "streamlining" and "reducing duplication." But constitutional obligations under Section 35 cannot be streamlined away. Duty to consult exists regardless of administrative convenience. UNDRIP's requirement for Free, Prior and Informed Consent cannot be bypassed because the province prefers faster approvals.

"Streamlining" is code for eliminating accountability mechanisms that protect Aboriginal rights. Every eliminated permit, every consolidated authority, every "reduced burden" removes a consultation trigger and oversight capacity. This is systematic elimination of constitutional protections disguised as administrative efficiency.

BORALEX TILBURY BATTERY STORAGE DEMONSTRATES THE PATTERN: When Boralex Otter Creek Wind Farm was properly filed on Environmental Registry (ERO 013-1043, 2017) and rejected by community (205 public comments opposed, withdrawn 2019), Walpole Island Band Council responded by signing a Boralex Tilbury Battery Storage Agreement WITHOUT an ERO filing. This bypassed mandatory environmental review requirements. Battery storage projects require an ERO posting for renewable energy approvals, environmental assessments, and public consultation. Conservation authority consolidation eliminates local oversight capacity that would identify and challenge projects bypassing mandatory environmental review.

ENNISKILLEN DEMONSTRATES THE PATTERN: Community - the rights holders - rejected proposals twice through proper voting process. Band Council is now forcing a third vote to override community decision. Conservation authority consolidation eliminates local oversight that would challenge Band Council authority to surrender what was never ceded.

CONCURRENT REGULATORY DISMANTLING: MINERAL EXPLORATION WATER PERMITS

On December 9, 2025 - days after conservation authority consolidation announcement - Ontario posted ERO 019-9574 proposing to eliminate water-taking permit requirements for mineral exploration companies.

This compounds the consolidation threat. Ontario currently has 530 active mineral exploration projects involving 244 companies and drillers completing 2.2 million metres of core drilling to locate and evaluate mineral deposits. Removing permit requirements eliminates data on volumes taken, source impacts, and cumulative effects. Core drilling creates contamination pathways between aquifer layers. Each "small" exploration water taking contributes to cumulative aquifer depletion.

The combined effect creates an information vacuum during intensive industrial development. Consolidation eliminates local conservation authority capacity to track cumulative impacts. Permit elimination eliminates the data that conservation authorities would need to assess impacts. Together these regulatory changes create the complete absence of both data collection and oversight capacity.

This is a coordinated dismantling of water protection infrastructure. Removing permits eliminates consultation triggers because no permit application means no mechanism to identify impacts to treaty territories. Conservation authority consolidation eliminates the institutional capacity to respond even if impacts are identified.

These regulatory changes operate in concert to eliminate both the data collection and the oversight capacity needed to protect the human right to clean drinking water.

DOCUMENTED WATER CONTAMINATION CONCERNS

FACT 1 - ST. CLAIR REGION CONSERVATION AUTHORITY RAISED FORMAL WATER QUALITY CONCERNS:

St. Clair Region Conservation Authority (SCRCA) formally raised water-quality concerns about the York1 Dresden facility. SCRCA warned that the site poses risks to the underlying aquifer, to Molly's Creek, and to the Sydenham River.

SCRCA's General Manager confirmed that the aquifer supplying local private wells is highly vulnerable to contamination, and emphasized the need for monitoring and mitigation.

SOURCE: Petrolia Lambton Independent, July 8, 2025
<https://petrolialambtonindependent.ca/2025/07/08/conservation-authority-voices-water-concerns-at-york1-site/>

SOURCE: Ontario Environmental Registry (ERO) - Public Comments referencing SCRCA concerns
<https://ero.ontario.ca/notice/025-0389>

FACT 2 - NO COMPREHENSIVE BASELINE WATER STUDY BEFORE YORK1 PROCEEDED:

There is NO PUBLIC RECORD showing comprehensive baseline water study of Molly's Creek and local wells was completed before York1 moved forward. Multiple expert and public submissions state that baseline groundwater and surface-water testing is missing, that without baseline data contamination cannot be properly tracked or proven, and that historical contamination risks already exist at the site.

SOURCES:

Environmental Defence Canada - Submission on Dresden/York1 EA:
<https://environmentaldefence.ca/report/dresden-landfill-expansion-environmental-assessment-submission/>

Ontario ERO Comment calling for baseline groundwater testing:
<https://ero.ontario.ca/comment/137075>

Ontario ERO Comment warning the site is not adequately investigated:
<https://ero.ontario.ca/comment/137120>

CONSERVATION AUTHORITY CONSOLIDATION IMPACT:

St. Clair Region Conservation Authority - the LOCAL authority - formally raised these concerns. SCRCA has local knowledge of Molly's Creek vulnerability, aquifer serving local private wells, connection to Sydenham River, and need for baseline testing.

Regional conservation authority hundreds of kilometers away will lack this local territorial knowledge. If SCRCA is consolidated into regional body, no clear entity would remain accountable to track whether baseline testing ever happens, whether mitigation measures are implemented, whether contamination impacts aquifer serving private wells, or whether connection exists to downstream First Nations drinking water sources.

This demonstrates exactly why local conservation authority oversight matters and why consolidation threatens water protection.

SYSTEMATIC FAILURE: NO COMPREHENSIVE BASELINE WATER TESTING

The York1 example (documented above) demonstrates systematic pattern: NO comprehensive baseline water quality testing conducted BEFORE industrial projects proceed. This violates the human right to clean drinking water by eliminating the evidence necessary to prove when contamination occurs and holds polluters accountable.

Documented failures across Energy Hub projects include York1 where SCRCA raised concerns yet no comprehensive baseline testing of Molly's Creek was conducted before facility operations (documented with citations above), no comprehensive baseline testing of Kettle Point Aquifer system before proposed Energy Hub development, no baseline testing of subsurface aquifer beneath

Enniskillen before projects threaten territory, no systematic monitoring of transboundary aquifer systems that serve multiple First Nations communities and international transboundary communities including Michigan, no testing protocols established BEFORE construction of 375MW gas plant or transmission lines or waste processing facilities, and failure to assess community knowledge about underground water sources (such as Otter Creek as a massive underground water reservoir) with comprehensive hydrogeological studies using ground penetrating radar or electrical resistivity or other subsurface mapping technology.

The consolidation makes this worse by eliminating local conservation authority capacity during critical baseline testing period, by creating administrative chaos exactly when baseline data collection is most urgently needed to protect drinking water. By removing accountability for water testing gaps, regional bodies can claim they inherited problems, and by allowing industrial projects to proceed during consolidation transition when testing capacity is degraded.

VIOLATION OF PRECAUTIONARY PRINCIPLE:

International environmental law recognizes the precautionary principle which establishes that where threats of serious or irreversible damage exist, lack of full scientific certainty shall not be used as reason for postponing measures to prevent environmental degradation.

Consolidating conservation authorities DURING active industrial development, BEFORE baseline water testing occurs, and WHILE eliminating monitoring capacity violates this principle. The province is proceeding with governance restructuring that reduces water protection capacity despite documented threats to drinking water systems, with an absence of baseline data, uncertainty about cumulative impacts, and aquifer interconnections that are not fully mapped.

This is the opposite of a precautionary approach. This represents deliberately proceeding despite known risks to the human right to clean drinking water.

This appears to be a deliberate strategy: Consolidate oversight bodies BEFORE baseline testing occurs, so there is no evidence when drinking water contamination happens. Without baseline data, Indigenous communities cannot prove causation or protect the human right to clean drinking water. This eliminates legal accountability for water contamination.

Environmental assessment processes require baseline data to protect the human right to clean drinking water. Conservation authority consolidation prevents collection of this baseline data by eliminating local oversight capacity exactly when baseline testing should occur.

GENOCIDE THROUGH DENIAL OF CLEAN DRINKING WATER

The combination of withholding or failing to provide hydrogeological data necessary for informed consent, documented absence of comprehensive baseline water testing (SCRCA raised concerns, yet no baseline study), elimination of local conservation

authority oversight, facilitation of industrial projects that threaten drinking water on unceded territory, bypassing mandatory environmental review (Boralex Tilbury Battery Storage signed without ERO filing), Band Council forcing third vote after community - the rights holders - rejected proposals twice, systematic removal of water protectors from governance, governance restructuring on territory where Crown has no jurisdiction, violation of the human right to clean drinking water protected under chi naakenigewin, international law and Section 35, violates every level of law from chi naakenigewin to international treaties. This constitutes genocide as defined in Article 2(c) of the Convention on the Prevention and Punishment of the Crime of Genocide: **"Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."**

Denying access to clean drinking water through industrial contamination is deliberate infliction of conditions calculated to bring about physical destruction. Coordinated projects threaten Kettle Point Aquifer system serving multiple First Nations communities and subsurface aquifer beneath Enniskillen. Consolidation removes local oversight capacity exactly when protection of drinking water is most needed.

Without baseline water testing and without access to government hydrogeological data, there will be no evidence to hold anyone accountable when drinking water contamination occurs. This systematic elimination of evidence and oversight while facilitating projects that threaten drinking water constitutes genocide.

The human right to clean drinking water recognized under chi naakenigewin, UN Resolution 64/292, and Section 35 is being violated by the government's attempt to consolidate conservation authorities. This would eliminate protection and threaten the health of drinking water systems.

REQUESTS TO ENVIRONMENTAL REGISTRY OF ONTARIO

1. HALT consolidation pending Supreme Court resolution of jurisdictional questions: Does Crown have jurisdiction to operate conservation authorities on unceded territory? Do Aboriginal title holders retain environmental governance authority under Section 35?
2. RECOGNIZE AND PROTECT the human right to clean drinking water under chi naakenigewin, UN Resolution 64/292, and Section 35 of the Constitution Act, 1982
3. ACKNOWLEDGE that Walpole Island First Nation community are the rights holders, as unceded territory, we hold legal deed title to Enniskillen with unsundered subsurface mineral rights, and Band Council has no authority to surrender what was never ceded
4. PROVIDE all hydrogeological mapping, aquifer studies, and transboundary water system data to Hereditary Line Leadership and rights holders BEFORE any decisions proceed, including subsurface aquifer mapping for Enniskillen
5. ACKNOWLEDGE that conservation authority consolidation on unceded territory is governance breach requiring resolution of jurisdictional questions and threatens the human right to clean drinking water

6. PROVE through peer-reviewed hydrogeological analysis that industrial projects and governance restructuring do not impact unceded territory through aquifer interconnection or compromise the human right to clean drinking water

7. OBTAIN Free, Prior and Informed Consent from Hereditary Line Leadership and rights holders as representatives of Aboriginal title holders AFTER providing all information necessary for informed decision-making about water protection

8. REQUIRE comprehensive baseline water quality testing of all water systems potentially affected by Energy Hub projects BEFORE any consolidation proceeds, including Molly's Creek baseline testing that SCRCA identified as necessary, Kettle Point Aquifer system, subsurface aquifer beneath Enniskillen, and transboundary aquifer systems, and make publicly accessible aquifer flow pattern documentation

9. ESTABLISH systematic monitoring protocols for transboundary aquifer systems to protect the human right to clean drinking water BEFORE consolidation

10. MAINTAIN local conservation authority oversight and testing capacity until baseline data is collected, all information is provided to Hereditary Leadership and rights holders, and constitutional jurisdiction is established

11. ACKNOWLEDGE Anishinaabeg women's inherent water jurisdiction under chi naakenigewin in any further attempts at governance restructuring that impinge on our ability to govern ourselves as a sovereign nation

12. PREVENT privatization or commodification of water resources that violates chi naakenigewin and the human right to clean drinking water

13. INVESTIGATE Boralex Tilbury Battery Storage agreement signed by Band Council without mandatory ERO filing and ensure all Energy Hub projects comply with Environmental Assessment Act requirements

14. HALT pushing Band Council for a third vote on Enniskillen until jurisdictional questions are resolved and Free, Prior and Informed Consent is obtained from community - the rights holders

15. RECOGNIZE that violations span every level of law: chi naakenigewin, Two Row Wampum (1613), Dish with One Spoon (1701), Treaty of Niagara (1764), Peace and Friendship Treaties, Section 35, UNDRIP, UN Genocide Convention, and UN Resolution 64/292

16. ACKNOWLEDGE that "streamlining" and "reducing burden" cannot override constitutional obligations under Section 35, UNDRIP, and the human right to clean drinking water

17. HALT concurrent proposal to eliminate water-taking permits for mineral exploration (ERO 019-9574) which compounds consolidation threats by eliminating data collection

18. RECOGNIZE that removing permit requirements eliminates consultation triggers and violates duty to consult on decisions affecting Aboriginal water rights

IN CLOSING

Under chi naakenigewin (Anishinaabeg water law), women hold inherent jurisdiction over water protection and governance. This authority predates colonial structures and continues uninterrupted to present day. Chi naakenigewin protects the right to clean drinking water as fundamental principle of our law.

The Sovereign Grandmothers of the Hereditary Line and rights holders represent traditional water governance authority. We have continuously exercised this authority to protect the human right to clean drinking water through pipeline blockade protecting territory and water sources (2016), advocacy at United Nations forums in New York City on water rights, constitutional challenges to Energy Hub threatening drinking water (November 10, 2025), protecting Enniskillen territory where our ancestors purchased deed FOR THE NATION, this conservation authority consolidation challenge (December 2025), food sovereignty practices since time immemorial, personal ceremony since time immemorial, honouring chi naakenegewin for thousands of years, and taking part in water walks for decades.

This demonstrates multi-jurisdictional water protection spanning local direct action, national formal challenges, and international human rights advocacy. Our governance authority extends to any forum where decisions affecting our waters and the human right to clean drinking water are made.

Chi naakenigewin recognizes that water cannot be commodified, privatized, or contaminated. Industrial projects that threaten water quality violate chi naakenigewin and the human right to clean drinking water.

We do not consent to conservation authority consolidation on unceded territory. The Crown lacks the jurisdiction to restructure governance on territory where the Crown has no underlying title. This applies to both the main island of Bkejwanong Territory and Enniskillen where community - the rights holders - hold deed with unsurrendered subsurface mineral rights.

The Crown has not provided critical hydrogeological data necessary for informed consent. Without this information, we cannot protect the human right to clean drinking water recognized under chi naakenigewin, international law, and the Constitution.

All aquifers are interconnected and the burden of proof is on Canada to demonstrate projects do not impact unceded territory or compromise the human right to clean drinking water.

Under chi naakenigewin, water is sacred and cannot be commodified, privatized, or contaminated.

Band Council has no authority to surrender what was never ceded. Community - the rights holders - voted NO twice. Forcing a third vote violates our governance authority over territory our ancestors purchased FOR THE NATION.

Overriding community decision violates every level of law from chi naakenigewin and Two Row Wampum (1613) through international human rights law.

Conservation authority consolidation must HALT pending Supreme Court resolution of fundamental jurisdictional questions on unceded territory.

Crown must stop immediately and provide all information necessary for Hereditary Leadership and rights holders to make informed decisions about protecting our water and the human right to clean drinking water for Seven Generations.

Respectfully submitted,

The Sovereign Grandmothers of the Hereditary Line and Rights Holders

Bkejwanong Territory