



UNIVERSITY OF ALBERTA
FACULTY OF LAW

**Advancing Law's Relationship with the
North Saskatchewan River/River Valley:
[*An Ecologically Sustainable*] River
Runs Through It**

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“uplifting the whole people”

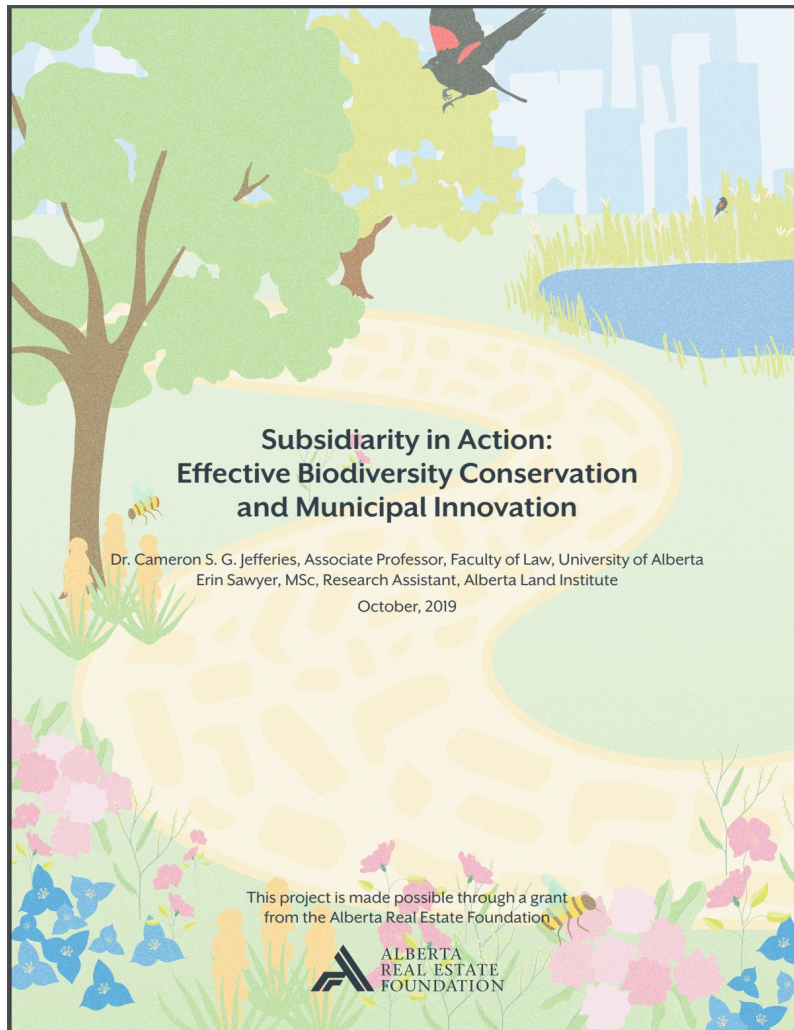
— HENRY MARSHALL TORY, FOUNDING PRESIDENT, 1908



Traditional Territory

I respectfully acknowledge our presence on Treaty 6 territory, a traditional gathering place for diverse Indigenous peoples including the Cree, Blackfoot, Metis, Nakota Sioux, Iroquois, Dene, Ojibway/Saulteaux/Anishinaabe, Inuit, and many others whose histories, languages, and cultures influence our communities.

Importance of the North Saskatchewan River and its valley, where use and occupation extends back thousands of years.



[https://www.albertalandinstitute.ca/
public/download/files/103303](https://www.albertalandinstitute.ca/public/download/files/103303)



Source: Travel Alberta



In Brief

Sustainability → Management priorities

- What is sustainable development?
- Klaus Bosselmann's critique of *sustainable development* and re-orientation towards *ecological sustainability*
- A few examples (international → endangered species → local)
- Justifications for enhanced local conservation, including the objective of maintaining the North Saskatchewan River Valley's functionality as a wildlife corridor



Sustainable Development

"Development that meets the needs of the present without compromising the ability of future generations to meet their own needs."

- Brundtland Commission definition (1987)



Sustainable Development





Sustainable Development

- Overarching paradigm for environmental conservation and resource stewardship
- Conceived of, minimally, as a balance between economic, social/cultural, and environmental objectives and/or outcomes
- Umbrella term that rests at the heart of most modern environmental laws (at all levels)
- Positioned within a growth-oriented and techno-industrial global society; and has been co-opted by economic systems that are human-focused, premised on resource intensive consumption patterns, and plagued by externalities (e.g., pollution)
- Environmental objectives are often sacrificed on the alter of economic and social progress

Sustainable Development

- *Is sustainable development something we can achieve under prevailing social values and conditions?*
- *Evidence suggests that we are consistently overshooting sustainable limits (both additive and extractive) and are living in ecological debt*





Ecological Sustainability

“Ultimately the behaviour of entire societies towards the biosphere must be transformed if the achievement of conservation objectives is to be assured. A new ethic, embracing plants and animals as well as people, which will enable human societies to live in harmony with the natural world on which they depend for survival and well-being”

- Robert Prescott-Allen (IUCN, 1980)



Ecological Sustainability

Klaus Bosselmann's critique of sustainable development:

- Sustainable development can be assessed both (1) as it is defined as a legal principle and (2) as it is applied or operationalized in law and policy
- To function, we must re-cast the principle with **ecological sustainability** at its core and recognize it *“as a duty to protect and restore the integrity of the Earth’s ecological systems.”*
- This conception of sustainability is morally grounded, demands restorative action, and is capable of bearing legal implementation



Ecological Sustainability

Klaus Bosselmann's critique of sustainable development:

- “If you want long-term economic prosperity, look after the environment first!”
- “No economic prosperity without social justice and no social justice without economic prosperity, and both within the limits of ecological sustainability”
- Long-term prosperity, both economic and social, must occur within sustainable ecological limits



Example 1: Planetary Boundaries

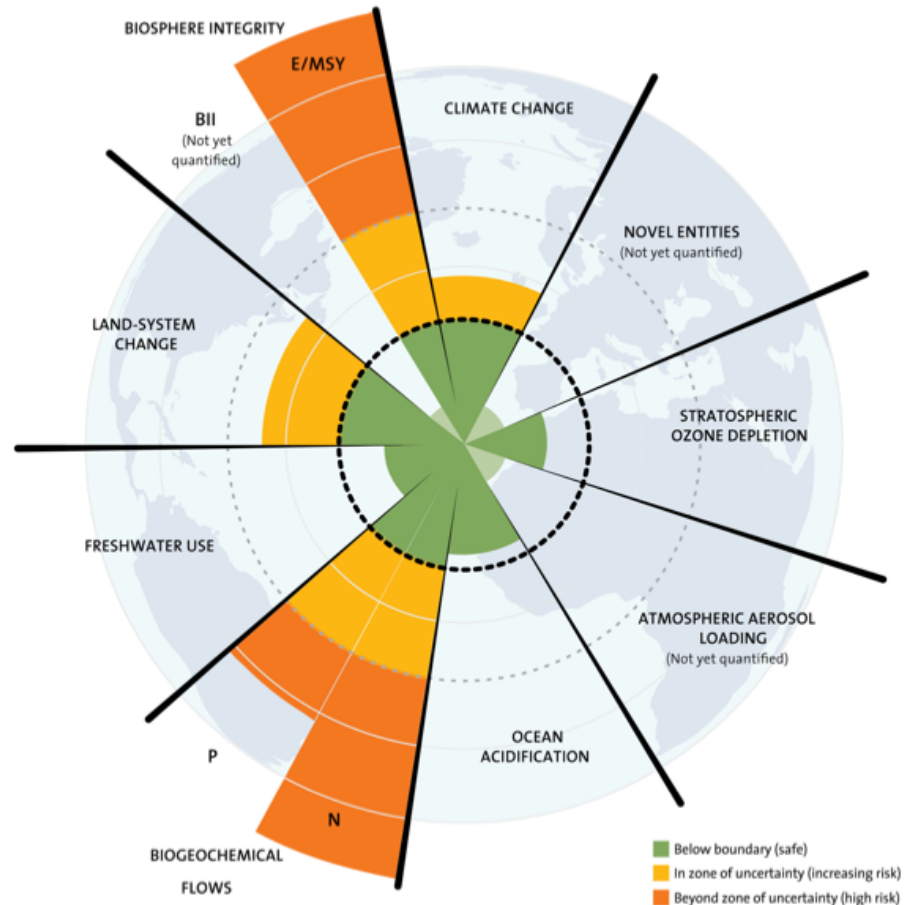
Stockholm Resilience Centre

“Let the environment guide our development”

- Johan Rockström

Quantified limits that have been exceeded:

- Deforestation (land use change)
- Extinction rate (biosphere integrity)
- Nutrient loading (biogeochemical flows)





Example 2: Endangered Species

Southern Resident Killer Whales





The Importance of Local Conservation

- The river's changing narrative / a resource of common concern
- Inspiration for a new approach?



Source: Edmonton
And Area Land Trust



The Importance of Local Conservation

- A biodiverse and healthy river/river valley:
 - Creates a more livable environment
 - Improves quality of life for us (physical and mental) and wildlife
 - Connects people to the non-human built world
 - Provides environmental services (air quality, water quality, soil stability, pollination services, flood buffering, climate mitigation/adaptation, etc.)
 - *Maintains connectivity to surrounding landscapes, functions as a wildlife corridor, and improves ecosystem resiliency*



The North Saskatchewan River/Valley

The North Saskatchewan River Valley Wildlife Corridor:

- *Def:* A protected corridor of land and water that serves as suitable wildlife habitat and that allows animals to move within and between areas suitable for habitation
- The river, its tributaries, and its valley are rich in biodiversity: migratory songbirds and waterfowl, resident and migratory mammals, riparian vegetation, reptiles, amphibians, and various fish species
- Human-built infrastructure and urbanization disrupts ecosystem connectivity and reduces the effectiveness of this corridor to buffer against change

“[T]he river valley is the most critical component for wildlife movement and ecological processes in Edmonton and the surrounding area and [has been] identified as a regional biological corridor.” — City of Edmonton Biodiversity Report (2008)



Ecologically Sustainable River and River Valley?

- Quantify the *ecological limits* that will maintain (or enhance) the functionality of this wildlife corridor
 - What level of habitat fragmentation or physical disruption are permissible?
 - Survey, record, and monitor biodiversity (and associated changes)
 - Establish thresholds for optimal environmental conditions
- Utilize law and policy tools to operationalize ecological sustainability: legally protect more of the remaining green space and urban parkland; naturalize and restore degraded habitat (e.g., daylighting of Mill Creek), limit encroachment of built infrastructure, encourage low-impact recreational uses, limit or ban pesticide and herbicide application, encourage citizen education, engagement, and responsible use
- Enhance inter-municipal and regional cooperative action



Legal Tools for Enhanced Local Action

- Municipalities are *not* constitutionally recognized levels of government and derive their authority from provincial legislation
- Alberta's *Municipal Government Act (MGA)*: Environmental protection has not, traditionally, been a focus of this enabling legislation
 - *Nature managed for human development and utilitarian objectives****
- 2015 amendments to the *MGA* introduced new municipal authority (and, indeed the responsibility!) for municipalities “to *foster the well-being of the environment*” – what does this mean?



Future Developments

- Ecological Justice
- The right to a healthy environment
- The rights of nature (legal personhood for rivers)
- Others

