



## Ottawa Field-Naturalists' Club Club des naturalistes d'Ottawa

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February 22, 2019

ERO number 013-4143

Thank you for the opportunity to comment on the discussion paper on the Endangered Species Act (ESA). This document represents the official position of the Ottawa Field Naturalists' Club. The world is currently facing a biodiversity crisis, with many species declining or going extinct. A recent analysis found a 60% decline in the size of populations of mammals, birds, fish, reptiles, and amphibians over the last 40 years (1). The province of Ontario is not immune to these declines. Currently there are over 200 species at risk (SAR) in Ontario (2). Already 16 species have been wiped out from the province (2). Any changes made to the ESA should be done carefully and cautiously, as without diligent management of our species at risk there is a significant risk of further loss of additional populations or additional habitat of these species. Further declines in some species may cause them to be eliminated from Ontario, reducing the diversity of our natural heritage.

### Area of Focus 1 – Landscape Approaches

In terms of recovery actions, activities focusing on specific landscapes or ecosystems can be beneficial for many species. Activities, for example, which aim to reduce forest fragmentation, and increase forest connectivity and the amount of core forest area in the Carolinian Zone would benefit many species. At the same time, many recovery activities must be focused on the individual species given the threats facing certain species (e.g. Butternut canker). There should be a mix of ecosystem and species-specific recovery actions. At the same time, an ecosystem focus on species at risk recovery should not be used as a justification to “support a proposed activity” (p.3). Too often development proposals argue that a species is widespread in an area and therefore the loss



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of one habitat patch will be inconsequential to the longterm survival of the species. This kind of thinking is ecologically unsound and it is our hope that this is not the intent of this area of focus. Development proposals should be reviewed on a site specific basis and an overall benefit determined based on the magnitude of the effect of each project.

### Area of Focus 2 – Listing Process

There is absolutely no need for longer timelines before listing a new species at risk. Currently the COSSARO review process is slow. If the government wishes to provide more advanced notice about potential additions to the list of SAR then the species to be reviewed by COSSARO should be made public as early as possible. This would let the public know which species may be listed after the review process.

There should be no change to the automatic listing of SAR after review by COSSARO. The decision of whether a species is at risk is not a political decision. It is a science-based decision and this should not change. Removing the automatic listing of new species at risk would undermine the fundamental principles of the ESA and weaken the protection for declining species. Similarly there should be no change to the automatic protection of habitat for newly listed threatened or endangered species. Habitat protection is a key element of the ESA.

The COSSARO review and assessment process does not need to be changed. If anything the process should be sped up. Most species assessed by COSSARO have already been assessed by the federal COSEWIC process. There are rarely any surprises from the COSSARO assessment and this is as it should be. No actions should be taken to delay the already lengthy COSSARO



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assessment process. New information is always becoming available but this should not prevent making decisions based on the best available knowledge.

### Area of Focus 3 – Species Recovery Policies

A modest delay in the production of a Government Response Statement (GRS) is certainly reasonable under some circumstances. However, it should be stressed that the government of Ontario has frequently not been preparing recovery strategies or GRS documents on time. According to a recent analysis, less than half of the GRS documents for birds and mammals, and less than 60% of the GRS documents for plants have been prepared on time (3). A GRS is not prepared until a recovery strategy has been published and many species are still lacking a recovery strategy years after they were listed. The ESA specifies that a recovery strategy should be produced within 1 year for endangered species and 2 years for threatened species. American Gingseng was listed as endangered in 2008 but a recovery strategy has still not been published. And hence no GRS is required until then. Rather than trying to delay the release of GRS documents, the government should be focusing on ways to speed up the production of recovery strategies.

Conducting a review of progress on recovery of species at risk every 5 years should not be changed. It is certainly true that recovery for some species may take decades. That is understandable. It does not mean that a 5 year review is not worthwhile. Each 5 year review provides valuable information on whether conditions for that species is getting better, remaining the same, or getting worse. Without the 5 year review it would be not be readily obvious if species are continuing to decline despite recovery actions.



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Habitat regulation may not be required for all threatened and endangered species, but this should be addressed on a case by case basis. General habitat descriptions are adequate for identifying the core areas used by SAR but only regulated habitat “may include areas currently unoccupied by the species, such as areas where the species formerly occurred or areas where there is the potential for the species to become re-established” (4). Hence, at a minimum, regulated habitat is required for those species that need to expand their current range to become down-listed. Habitat regulation should also be mandated for those species with limited current distributions in the province to ensure that the current habitat, and adjacent potential habitat, is protected. These species with few populations left in Ontario are the most vulnerable to any future habitat loss or the negative effects of development pressure. We also recommend that habitat regulation be mandated for all species found in the Carolinian Zone given the lack of natural habitat left in this area.

### Area of Focus 4 – Authorization Processes

The current process to get an Overall Benefit Permit (C permit) can be onerous. We encourage the government to develop standard overall benefit actions to compensate for specific actions for particular SAR. These compensatory actions should provide tangible benefits to the species in question and clearly provide an overall benefit to the species on the ground, not just research.

The current process to get a Significant Social or Economic Benefit Permit (D permit) should not be changed. D permits were never intended to be a common tool to allow development to over-ride the powers of the ESA. D



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permits should only be considered in rare cases where there is overwhelming social benefit. They should not be granted for draining a wetland to build a parking lot for a box store. Even in the cases when a D permit is granted, the mitigation efforts expended on SAR should also be significant, such as the example of the Herb Gray Parkway in Windsor which has created habitat for SAR and improved connectivity of habitat patches (5). The process for getting a D permit should not be streamlined.

Forestry under Ontario's Crown Forest Sustainability Act should not be exempt from the ESA. The powers of the ESA should not be weakened on Crown Land to allow commercial activity. Crown Land should be protecting habitat for species and permitting public access to these natural areas.

Beyond the points raised in the discussion paper, we encourage the government of Ontario to act to truly strengthen the protection for SAR in the province:

- 1) It is time to repeal the 2013 exemptions for the forestry, hydro, mining and development industries. These exemptions allow the widespread destruction of SAR habitat.
- 2) Amend section 57 (1)1 of the ESA so that exemptions will only be allowed if they do not jeopardize the survival and recovery of endangered and threatened species.

In conclusion, the ESA is a powerful piece of legislation that is respected across North America. We are in strong disagreement with any proposed changes to the ESA that would weaken protection for species at risk or their habitat, delay the production of recovery strategies or government response statements, or reduce the obligation of developers to genuinely provide an



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overall benefit to species at risk in their permits. We hope that the government will continue to uphold the core values of the ESA and ensure the continued protection of Ontario's many species at risk.

- (1) <https://www.worldwildlife.org/pages/living-planet-report-2018>
- (2) <https://www.ontario.ca/laws/regulation/080230>
- (3) <https://ontarionature.org/new-year-new-plea/>
- (4) [http://files.ontario.ca/environment-and-energy/species-at-risk/stdprod\\_085648.pdf](http://files.ontario.ca/environment-and-energy/species-at-risk/stdprod_085648.pdf).
- (5) <http://hgparkway.ca/node/4>

Sincerely,

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