

May 17, 2019

Species Conservation Policy Branch, Policy Division  
Ministry of Natural Resources and Forestry  
300 Water Street, 5<sup>th</sup> Floor N  
Peterborough, Ontario  
K9J 8M5

Dear Sir / Madam:

**Re: 10 Year Review of Ontario's Endangered Species Act ERO Posting 013-5033**

Thank you for the opportunity to comment on this proposed decision that we understand is intended to make implementation of the Endangered Species Act (ESA) more effective. Our comments below are a follow up to our thoughts from the discussion paper back in March as well.

Our primary interest is to ensure we have regulatory certainty to demonstrate sound forest management that minimizes frivolous risks to judicial review. As the Crown Forest Sustainability Act already does this, we believe the original wording of the ESA has added unnecessary legal risks for no benefit that has resulted in the need for a Section 55 exemption. Therefore, we support the effort to make necessary changes to the ESA to address this concern.

In general, RYAM supports the direction on the five key themes of the paper outlined below:

- Increased flexibility and transparency in the implementation of the ESA and in particular, the effort to provide for a range of tools that will allow appropriate activities to continue under reasonable timelines and conditions;
- improved process that demonstrates species are being appropriately listed by Species at Risk Ontario (SARO) and resources are being directed to those species and their habitat requiring protection;
- assurance that a sufficient amount of time and resources are being dedicated to identifying species at risk (SAR) and ensuring that appropriate strategies and actions are being taken to protect SAR and their habitat;
- proposed regulations that would avoid duplication/conflicts between the ESA and other legislation like the Crown Forest Sustainability Act (CFSA).

The proposed substitutions and amendments to Section 18 of the Act also appear favourable to RYAM although we will reserve our final assessment once the exact wording changes to the Act are finalized:

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- Ability to carry-out a regulated activity without the requirement for another regulatory process (i.e. permit) to authorize the activity;.
- the language and proposed regulations referenced appear to provide appropriate conditions or requirements (i.e. "achieve a benefit", "reasonable alternatives" "reasonable steps").

Moving forward, RYAM would like the opportunity to assist in the drafting and/or review of the regulations proposed under Section 18 and any suggested new prescriptions for endangered species protection. Specifically, we would want to ensure that any new regulations:

- Do not expose RYAM's approved forest management plans (FMP) or plans we are currently developing to any new frivolous legal challenges;
- provide appropriate and reasonable time frames for FMP's to incorporate any new regulatory requirements and any newly listed species to the SARO list;
- consider and are complimentary to the existing regulatory framework for forestry and the development of FMP's as largely governed by the Crown Forest Sustainability Act (CFSA);
- allow for the development of reasonable and scientifically defensible SAR prescriptions;
- allow for some flexibility based on local knowledge, traditional ecological knowledge (TEK) or third-party forest management certification (eg FSC) requirements in the development of SAR prescriptions.

In closing, RYAM remains encouraged by these proposed edits. It will be important for the government to have a proper legal analysis done of these changes to ensure the risk of frivolous legal challenges are minimized and no worse than we have now under the current regulatory regime. If this cannot be achieved, then we would suggest a permanent exemption under section 55 be issued for forestry activities covered under the CFSA.

Sincerely,



Alan Thorne, RPF, P.Eng  
Chief Forester, Ontario

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