

March 4, 2019

Public Input Coordinator
Species Conservation Branch
Ministry of the Environment, Conservation and Parks
300 Water Street
Floor 5N
Peterborough, Ontario
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To Whom it may concern;

**RE: EBR Registry No. 013-4143 10th Year Review of Ontario's Endangered Species Act:
Discussion Paper**

The Ontario Federation of Agriculture (OFA) is Canada's largest voluntary general farm organization, representing more than 38,000 farm family businesses across Ontario. These farm businesses form the backbone of a robust food system and rural communities with the potential to drive the Ontario economy forward.

The Ontario Federation of Agriculture welcomes this opportunity to present its perspective on Ontario's Endangered Species Act, 2007. OFA was an active participant in the consultations leading up to the passing of the Endangered Species Act in 2007, as well as commenting on numerous Endangered Species Act-related postings. For many Ontario farmers it is an every-day reality that the habitats of many endangered, threatened and special concern species are on and around their farms. While from our perspective, the presence of listed species on and around farms should be applauded as testament to the suitability of agricultural land as habitat for many endangered, threatened and special concern species, some may view every-day agricultural activities as a threat and argue for onerous species and habitat protection provisions, provisions that would severely constrain the ability of farmers to continue to produce safe, affordable, local food. In most cases, farmers are not compensated for the broad range of environmental and ecological goods and services they provide to Ontarians. The presence of listed species on and around farms should be acknowledged as a societal benefit, and the consequences and costs should be borne by all Ontarians.

While Ontario covers a vast and diverse area; 1.07 M km² (415,598 mi²), with distinctly different geographic regions, policy-makers must not lose sight of the stark reality that less than 5% of Ontario's land base can support any agricultural production. Of that 5%, a lesser portion contains our best growing soils; Class 1, 2 or 3.

Data from the 2016 census shows another decline in the area being farmed over the 2011 census. Ontario farms encompass 12.3 million acres, down 319,700 acres over the previous census,

63,940 acres per year or 175 acres/day. Regardless if the reason for the decline is urban expansion or naturalization or aggregate extraction, Ontario cannot continue to sustain losses of this magnitude while maintaining our ability to produce a higher volume food, fibre and fuel.

Few in our province know that agriculture and agri-food processing are Ontario's number 1 economic drivers. Our agriculture and agri-food sector (field to fork) contributes \$39.5 Billion to Ontario's economy and supports 822,483 jobs. Provincial policies that threaten the ability of our agriculture and agri-food sector to prosper and grow are short-sighted and counter-productive.

Area of Focus 1 – Landscape Approaches:

- In what circumstances would a more strategic approach support a proposed activity while also ensuring or improving outcomes for a species at risk? (e.g., by using a landscape approach instead of a case-by-case approach, which tends to be species and/or site-specific.
- Are there existing tools or processes that support managing for species at risk at a landscape scale that could be recognized under the Endangered Species Act?

OFA agrees that a “broader, landscape approach” could benefit species. Often a number of listed species have quite similar or even identical habitat requirements. Protecting broader habitat types could facilitate and enhance species protection and recovery outcomes. A “broader, landscape approach” could eliminate the need for costly, time-consuming development of species-specific recovery strategies and habitat regulations, as currently unlisted species can benefit from the habitat protection actions taken for others. This approach could also postpone, or even preclude the need to list related species. For these reasons, OFA would support adoption of a broader, landscape approach in the Act.

We note that the Ministry of Environment, Conservation and Parks has no plans for dealing with the cumulative impacts of additions to the Species at Risk in Ontario (SARO) list. The current SARO list, updated August 2018, lists 54 species as threatened and a further 117 as endangered.

Each of the 171 species listed as either threatened or endangered receives both species and habitat protection, and each will also have its specific habitat requirements and home range set out in regulations. But each is addressed in isolation, not only from other listed species, but also from species not currently listed as endangered, threatened or special concern. Ignoring the critical interrelationships between species and their habitats sets up, in our opinion, a “house of cards”, one fated to ultimately collapse. The Ministry of Environment, Conservation and Parks needs to view its species protection responsibilities under the Endangered Species Act, 2007 in a more holistic fashion; perhaps one where protection is afforded to broad types of habitat, where a multitude of protected species and ubiquitous species interact.

Area of Focus 2 – Listing Process and Protections for Species at Risk:

- What changes would improve the notification process of a new species being listed on the Species at Risk in Ontario List? (e.g., longer timelines before a species is listed.)
- Should there be a different approach or alternatives to automatic species and habitat protection? (e.g., longer transition periods or ministerial discretion on whether to apply, remove or temporarily delay protections for a threatened or endangered species, or its habitat.)
- In what circumstances would a different approach to automatic species and habitat protections be appropriate? (e.g., there is significant intersection between a species or its habitat and human activities, complexity in addressing species threats, or where a species habitat is not limiting.)

- How can the process regarding assessment and classification of a species by the Committee on the Status of Species at Risk in Ontario be improved? (e.g., request an additional review and assessment in cases where there is emerging science or conflicting information.)

Determining which species of plant or animal should be added to the Species at Risk in Ontario (SARO) list is the sole responsibility of the Committee on the Status of Species at Risk in Ontario (COSSARO). COSSARO is a committee appointed by the provincial government. Committee members are required to have relevant scientific expertise or aboriginal traditional knowledge. We have no disagreement with COSSARO's mandate to classify species "based on the best available scientific information, including information obtained from community knowledge and aboriginal traditional knowledge". What's missing is a rural/agricultural perspective that can inform consideration of the socio-economic impacts of listing a species. The rural/agricultural perspective is a key perspective that is not reflected in COSSARO's current makeup. OFA recommends that at least one member of COSSARO represent a rural/agricultural perspective.

COSSARO meets twice a year to review and classify a pre-determined list of species. COSSARO reports its listing decisions to the Minister of Environment, Conservation and Parks. Ninety days after the Minister receives COSSARO's report, newly listed species above are **automatically** added to the SARO list. There is **no** ministerial discretion and no oversight of COSSARO's listing decisions. From the initial development of the Endangered Species Act, 2007, we've consistently argued that ministerial oversight is lacking. The final decision on whether a species should or should not be added to the SARO list should fall to the Minister, as ultimately the Minister is accountable for his or her decisions. OFA recommends that the Endangered Species Act, 2007, be amended to make the Minister of Environment, Conservation and Parks responsible for the final decision to add or not add a species to the SARO list.

Furthermore, OFA believes there is insufficient public notice related to endangered species. It is not easy to find COSSARO's reports to the Minister following its species evaluation sessions. The provincial government should develop an open, transparent and easily accessible system to facilitate more opportunities to the public to provide comments to COSSARO, either in person or in writing as well as notice of which species will be considered for addition to the SARO list.

Listing the Algonquin wolf, combined with affording protection to coyotes, highlights a number of our concerns with the current process. COSSARO's assessment report considered five factors in its assessment, a decline in the total number of mature individuals, a small distribution range, a small and declining number of mature individuals, a very small or restricted population and a quantitative analysis. Of the four of the factors, only the small or restricted population factor held, and it was tempered by acknowledgement that the difficulty in measuring the population of Algonquin wolves has "almost certainly led to an underestimation" of their numbers. Combine this with the reality that both wolves and coyotes are highly territorial animals, broadly spread across the Ontario landscape, making expectations that a hunting and trapping ban, or any other management action, will positively impact expansion of the Algonquin wolf's current range utterly unrealistic. This unrealistic expectation for recovery, combined with the inclusion of coyotes (Ontario's dominant predator on livestock), underscores the inherent lack of government oversight of COSSARO.

Ontario needs to give more consideration to the relationship between the habitat requirements of a listed species and human activities, prior to listing a particular species. The Draft Recovery Strategy for the Algonquin wolf emphasizes the different habitat needs of both the Algonquin wolf and coyotes. Wolves require large tracts of undisturbed, forested habitat lacking human presence. Coyotes, on the other hand, thrive in highly disturbed habitats with significant human presence (roads, farms, open spaces). Given the distinctly different habitat requirements of both species,

why propose including vast tracts of agricultural lands in a proposed Algonquin wolf recovery zone. Agricultural lands are utterly unsuited as wolf habitat. To propose their inclusion is setting up any recovery efforts to fail. OFA recommends that Recovery Strategies, Government Response Statements and protected habitats for endangered and threatened species reflect the species actual habitat requirements.

While COSSARO sessions are open to the public, few are aware of this. COSSARO and the Ministry of Environment, Conservation and Parks should explore methods to enable more Ontarians to actively participate in COSSARO's listing sessions, and to access its reports.

Area of Focus 3 – Species Recovery Policies and Habitat Regulations:

- In what circumstances would a species and/or Ontarians benefit from additional time for the development of the Government Response Statement? (e.g., enable extending the timeline for the Government Response Statement when needed, such as when recovery approaches for a species are complex or when additional engagement is required with businesses, indigenous peoples, landowners and conservation groups.
- In what circumstances would a longer timeline improve the merit and relevance of conducting a review of progress towards protection and recovery? (e.g., for species where additional data is likely to be made available over a longer timeframe, or when stewardship actions are likely to be completed over a longer timeframe.)
- In what circumstances is the development of a habitat regulation warranted, or not warranted? (e.g., to improve certainty for businesses and others about the scope of the habitat that is protected.)

We think that many of the ESA's timelines are overly ambitious. Once a species has been listed and is on the SARO list, it triggers a 1-year time frame to develop a Recovery Strategy for an endangered species; two years for a threatened species. Species specific habitat protection follows in another year. Upon receipt of a Recovery Strategy or a Management Plan (for a Special Concern Species) the government has 9 months to produce a Government Response Statement, and outline of the actions it will take or support to help recover the species. In addition, the status of species listed as endangered or threatened on the SARO list is reviewed every 5-years.

While we understand the sense of urgency in dealing with species identified as endangered or threatened, the timelines do present a problem. Repeatedly we see EBR postings that simply announce the Ministry is taking more time to fulfil its statutory obligations. The development of a Recovery Strategy and regulated habitat rarely occurs within the statutory timelines. While OFA does not feel it has the expertise to recommend specific changes to the current statutory timelines, we nevertheless believe that they are overly ambitious, particularly given the number of species on the SARO list, and that at least twice a year, additional species are added to the list. In that light, OFA simply recommends that the provincial government undertake a review of the timelines in the Endangered Species Act, 2007. One aspect of this review would be to compare Ontario's timelines with provincial endangered species act as well as with the federal Species Act Risk Act.

Area of Focus 4 – Authorization Processes:

OFA will not be commenting on this area as we lack enough day-to-day experience in working with the Act's authorization processes.

Additional Species at Risk Comments:

From our perspective, the Discussion Paper overlooks several key OFA concerns with the Endangered Species Act, 2007.

Safe Harbour:

While OFA welcomed that adoption of “safe harbour” in 2018, it failed to fully address its implications. Habitat created or enhanced on one farm property may expand onto neighbouring farms. But in the current safe harbour regime, neighbouring property owners are not protected, and are exposed to the full weight of the Endangered Species Act, 2007 should created habitat expand. Safe harbour provisions should automatically cover neighbouring properties. Where there is any likelihood that the habitat created or enhanced on one farm property may expand onto neighbouring farms, inclusion of all neighbouring properties should be mandatory. Where there is a risk a SAR species may occupy adjacent lands, it should be a mandatory condition of application that the owners/managers of any adjacent lands sign off/agree with any safe harbour application before it can proceed.

In addition, SAR species that are predators and known to prey on livestock and/or crops should not be eligible for habitat creation under a Safe Harbour Agreement, unless the proposed location is distant enough from farm operations to pose no risk to them.

The current Endangered Species Act, 2007 views Ontario as an isolated island, seemingly unconnected to neighbouring provinces and states. Species are listed based solely on their Ontario numbers, with no consideration of their numbers and status in neighbouring jurisdictions, or where Ontario falls within a species overall range. This becomes particularly problematic with species where Ontario is the outer limit of a species range; the point where one would naturally expect their numbers and density to be lower than in their core range. While we are not advocating that species be excluded from the provisions of the Endangered Species Act, 2007 because Ontario lies at the outer limits of its range, we nevertheless recommend that the global status of a potential SAR species be a factor in all listing decisions.

Lastly, species slated for consideration by COSSARO are ones that have already been or should be considered by Canada’s federal species at risk listing body, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC). Many species that COSEWIC will consider for listing are found in more than one province or territory. Species found in more than one province or territory are not equally distributed throughout their Canadian range. OFA believes that for COSSARO to list a species as endangered, threatened or special concern, it must have Ontario data that justifies its addition to the SARO list. OFA recommends that the Endangered Species Act, 2007 be amended to require that Ontario data on population and trends be the basis for listing a species as extinct, extirpated, endangered, threatened or special concern.

Thank you for the opportunity to provide our feedback on the 10th Year Review of Ontario’s Endangered Species Act. We trust that our perspectives and advice will be reflected in any amendments to the Endangered Species Act, 2007 regulations or policies.

Sincerely,



Keith Currie
President

cc: The Honourable Rod Phillips, Minister of the Environment, Conservation and Parks
The Honourable Ernie Hardeman, Minister of Agriculture, Food and Rural Affairs
OFA Board of Directors