



November 5th, 2021

Public Input Coordinator
Ministry of Environment, Conservation and Parks
Species at Risk Branch
300 Water Street
5th Floor, North Tower
Peterborough ON
K9J 8M5

Re: Conservation Ontario’s comments on “Minister’s Order for temporary suspension of protection upon the listing of Black Ash under the Endangered Species Act” (ERO#019-4278) and “Amendments to Ontario Regulation 242/08 (General Regulation – Endangered Species Act, 2007) relating to upcoming changes to the Species at Risk in Ontario List” (ERO#019-4280)

Dear Public Input Coordinator:

Thank you for the opportunity to provide comments on the two above referenced proposals. Conservation Ontario is the network of Ontario’s 36 conservation authorities (CAs). These comments are not intended to limit consideration of comments shared individually by CAs through this review and consultation process.

Conservation authorities are local watershed management agencies that deliver programs and services that protect and manage water and other natural resources in partnership with government, landowners and other organizations. Through these partnerships, CAs deliver a number of programs and services that help protect species at risk (SAR) and their habitats within CA watershed jurisdictions. Programs and services offered through agreement with municipalities include natural heritage system planning (e.g., restoration, enhancement and protection), climate change mitigation and adaptation, and, stewardship and outreach programs. As the Province’s second-largest landowners, CAs protect and manage a considerable amount of habitat that supports SAR. In addition to these owned and managed lands, CAs’ watershed science and monitoring programs collect up-to-date information which supports the integrity of these landholdings which also benefit SAR protection and recovery.

Within the context referenced above, Conservation Ontario offers the following general comments on the proposal to temporarily suspend protection of the Black Ash as well as proposed amendments made to the general regulation under the *Endangered Species Act*.

Minister’s Order for temporary suspension of protection upon the listing of Black Ash under the Endangered Species Act

It is understood that a Minister’s regulation is proposed which would temporarily pause the protections for Black Ash under the *Endangered Species Act* for two years from the time it is added to the Species at

Risk in Ontario List. This temporary pause would allow the Ministry time to gather relevant information to better understand the threats to Black Ash trees and the best way to recover the species.

Conservation Ontario has no objections to the proposed temporary suspension for Black Ash, however, additional clarity is requested as to why this suspension is required, given that the Ministry will be completing the recovery strategy for this species by January 27, 2023. Under the *Endangered Species Act*, recovery strategies are prepared for each species that is listed to the Species at Risk in Ontario List as an endangered or threatened species. Recovery strategies must include: an identification of the habitat needs of the species, **a description of the threats to the survival and recovery of the species, and advice and recommendations to the Minister with respect to the protection and recovery of the species**. As such, the analysis of threats and recommendations for recovery would be completed through the recovery planning process by January 27, 2023, so it is unclear at this time why the suspension period would need to extend to January 27, 2024.

While it is acknowledged that the Ministry is proposing that “proponents will not need to seek authorizations for activities that impact Black Ash and its habitat” it should be acknowledged that other authorizations may still apply. Black Ash is predominantly a wetland species, found in swamps, floodplains and fens. Activities in these areas may be regulated under Section 28 of the *Conservation Authorities Act*, and as such, proponents should contact the local Conservation Authority (if applicable) to inquire about any permissions which may be required prior to undertaking works.

Lastly, Conservation Ontario notes that a potentially helpful outcome of the temporary suspension period would be the development of supplemental guidance and/or protocols for assessing the health of Black Ash, similar to that which exists for Butternut in Ontario. This supplemental guidance could include protocols for assessing the health of Black Ash, particularly with regard to the severe threat posed by the Emerald Ash Borer.

Amendments to Ontario Regulation 242/08 (General Regulation – Endangered Species Act, 2007) relating to upcoming changes to the Species at Risk in Ontario List

It is understood that, under the current framework, the Committee on the Status of Species at Risk in Ontario (COSSARO) provides an annual report to the Minister, which includes the assessment and, if necessary, reclassification of species at risk in Ontario (e.g., classified as extirpated, endangered, threatened or special concern). With the receipt of this report, the Species at Risk in Ontario (SARO) List must be updated within one year’s time to reflect any new classifications. Once a species is listed to the SARO List, the *Endangered Species Act*, including prohibitions against harming species and their habitats, come into effect. The Ministry is proposing to amend section 0.1 of O. Reg. 242/08 (General) under the *Endangered Species Act*, so that the regulation would apply to all species listed to the SARO List as of January 2022. As a result, all conditional exemptions under the General Regulation would be available to proponents, with select exclusions as noted in the Environmental Registry proposal. It is understood that conditional exemptions are used to streamline approvals for routine activities that have common mitigation actions which protect the species.

Conservation Ontario has no objections to the Ministry’s proposed amendments to the general regulation, including the proposed exclusions from select conditional exemptions for some newly-listed species. It is understood that despite the conditional exemptions, activities undertaken through sections 23.4 – 23.20 of O. Reg. 242/08 (General) would require a person or entity to register the activity with the Ministry by submitting a notice of activity form through the online registry, and that all activities will

be planned to minimize the adverse effects of the activity on the species and its habitat.

Thank you for the opportunity to review and provide comments on the “Minister’s Order for temporary suspension of protection upon the listing of Black Ash under the Endangered Species Act” (ERO#019-4278) and “Amendments to Ontario Regulation 242/08 (General Regulation – Endangered Species Act, 2007) relating to upcoming changes to the Species at Risk in Ontario List” (ERO#019-4280). Should you have any questions about this letter please feel free to contact myself at extension 229.

Sincerely,



Nicholas Fischer
Policy and Planning Officer

c.c. All CA CAOs/GMs