

MEMORANDUM

To: Ministry of Environment, Conservation and Parks

Whom: Boralex Inc.

Date: February 12, 2025

Subject: Boralex response to ERO posting 019-9411

Boralex response to ERO posting 019-9411 – Regulatory changes under the Endangered Species Act to extend application of conditional exemptions to newly listed species and update the conditional exemption for the operation of wind facilities.

Boralex is writing to request additional consultation, including a meeting related to the proposed regulations outlined in Environmental Registry of Ontario (ERO) posting number 019-9411. As a leading developer, owner, and operator of wind farms in Ontario, Boralex has always been committed to the responsible development of clean energy while ensuring that we minimize environmental impact while contributing to the province's sustainability goals. More specifically, as mentioned in our last CSR report¹, Boralex is making constant efforts to protect biodiversity, because we are aware that by building and operating facilities, we can have an impact on the ecosystems and nature around our sites.

We understand the importance of protecting biodiversity and share the Ministry's commitment to protecting species at risk. However, we have some concerns and suggestions that we hope can contribute to a more balanced approach than what is being proposed.

1. Consideration of Existing Assets and Impacts: We believe that the current proposal could benefit from a more detailed consideration of the effectiveness of existing mitigation measures in place across operating Ontario wind sites. Boralex has actively implemented a range of strategies to reduce the potential impacts of wind farm operations on species at risk, and we have data to demonstrate that these approaches are working effectively- including for the newly listed species. A blanket requirement to impose significant operational restrictions, including curtailment measures that will significantly reduce the efficiency of our wind farms, would result in a substantial economic impact, with little improvement to the conservation of these species. These regulations, if enforced, would disrupt the viability of existing clean energy projects across Ontario, leading to a significant decrease in the production of renewable energy just as demand for electricity is expected to increase².

2. Exploring Proven Options: While we acknowledge the need for effective measures to protect wildlife, we suggest that the proposal could be strengthened by incorporating proven strategies. For instance, our experience with a 5.5 m/s cut-in speed coupled with the use of acoustic deterrents has been highly effective,

¹ <https://www.boralex.com/en/csr>

² <https://www.ontario.ca/page/ontarios-affordable-energy-future-pressing-case-more-power>   

and we would welcome the opportunity to share our data and insights to support the development of evidence-based regulations. This approach is based on sound evidence and has demonstrated success without unduly sacrificing additional operational efficiency. Our current practice involves a continuous attention to the validation of our methods through the periodic review of our mitigation plan (in accordance with new scientific and technical advances) by third parties, as well as recurrent mortality monitoring. The proposed regulations fail to provide sufficient evidence or data suggesting that the recommended changes would deliver better outcomes for wildlife protection.

3. Need for Adaptive Management and Smart Curtailment: We are glad to read that ministry wishes «*to maintain flexibility for wind facility operators*»³, but the language surrounding "smart curtailment" in the proposal should be amended to allow for an adaptive management approach, which will allow for optimal conservation opportunities. Boralex is committed to monitoring and adjusting our practices based on data, and our experience has shown that such flexibility is essential for optimizing conservation outcomes. A rigid, prescriptive approach that mandates specific curtailment levels without considering the unique contexts of different wind farms or the available data will limit the potential for continued improvement while simultaneously and unnecessarily limiting clean energy production at a time that the province needs it most. By adopting a science-based adaptive management strategy, operators will be able to fine-tune mitigation efforts in real-time and boost conservation outcomes while striking a balance with the amount of clean energy produced.

4. Balancing Economic and Environmental Goals: We are concerned about the potential economic and environmental impacts of the proposed regulations. If the regulations are implemented as proposed, the impact on Boralex's projects—and the broader renewable energy sector—would be devastating. The financial viability of our projects would be severely undermined and would not have a significant improvement in the conservation value for these species compared to what we are already doing at our sites. Moreover, the overly stringent curtailment requirements would result in unnecessary reductions in clean energy output, which would not directly benefit the species at risk but would rather penalize renewable energy operators. We hope to work collaboratively with the Ministry to ensure that the regulations support both biodiversity conservation and the growth of the renewable energy sector, which is vital for Ontario's transition to a low-carbon economy, and we would appreciate the opportunity to share our economic and environmental data to support this effort.

5. Clarity on transition to new approach: We strongly recommend that the Ministry of Environment, Conservation and Parks (MECP) provide clear guidance on how they intend to balance the treatment of existing requirements under which operators currently operate. It is crucial for operators to understand whether they will be able to maintain their current Operational Management Plans (OMPs) or if there will be an expectation to transition to the new custom approach on a broader scale. This clarity is essential to ensure that operators can effectively plan and implement any necessary adjustments while continuing to meet both regulatory and conservation objectives. We urge the MECP to engage with stakeholders to address these concerns and facilitate a smooth transition where necessary.

6. Request for Continued Dialogue: Boralex has always been proactive in integrating environmental considerations into our wind farm operations. We recognize the importance of protecting species at risk, and with the formal listing of these species, we remain committed to advancing our mitigation strategies in partnership with the Ministry of the Environment, Conservation and Parks (MECP). Since the commissioning of our projects in Ontario, we have continuously monitored and assessed the potential impacts of our operations on wildlife, particularly the species now being listed. Over the years, our efforts have been focused on ensuring that we minimize any adverse effects, utilizing a range of mitigation measures that have been effective in reducing risks to these species. This ongoing, data-driven approach has enabled us to confidently demonstrate that our impact on these species has been significantly minimized.

³ <https://ero.ontario.ca/notice/019-9411>

Now that these species are officially listed, we understand that the Province is seeking enhanced mitigation options from operators like ourselves. Boralex is fully committed to being part of this next step, and we are eager to work with MECP to develop and implement adaptive, site-specific measures that go beyond the existing mitigation strategies while ensuring a minimum impact on our energy output.

Our long-standing focus on environmental monitoring has provided us with a robust data set, which allows us to further refine our practices based on real-time observations. We believe that, through collaboration with the Ministry and other stakeholders, we can continue to minimize impacts to these species while ensuring that our wind farms contribute meaningfully to Ontario's renewable energy goals. Boralex is committed to finding solutions that strike a balance between biodiversity conservation and the need for clean, sustainable energy, and we are ready to engage in discussions to explore additional, science-based mitigation measures that can further reduce any risks.

Given the timing of this consultation, we believe that it is imperative for additional consultation and further options for Boralex to meet with MECP officials once the provincial election is finished. Much of the data we have to provide would be best presented directly to officials in order to explain the significance and potential impact, plus give officials the opportunity to ask questions directly to an owner/operator. Boralex recognizes the importance of species conservation and wants to work with MECP to achieve improved conservation, and that will require further discussions between us and the Ministry.

In Summary: Boralex supports evidence-based approaches to environmental stewardship and is hopeful that the Ministry will consider our suggestions for a more flexible and adaptive regulatory framework that results in optimal conservation of these species. We urge the ministry to reconsider these recommendations, adopt a more flexible adaptive management framework, and acknowledge the effectiveness of existing measures in place.

Boralex supports the recommendations that our industry association, the Canadian Renewable Energy Association (CanREA), has submitted as part of their ERO feedback, including:

- The current conditional exemption framework should continue to be utilized to minimize adverse effects on the newly listed bat species, allowing operators to register for the potential impact to migratory bats, and develop a site-specific mitigation strategy that is specific to their facility.
- Any reference to a minimum cut-in speed should be removed.
- If a facility has already actively monitored and collected data regarding the newly listed migratory bats, any additional reporting requirement should be reduced to one (1) year instead of three (3) years.
- MECP should provide additional opportunities for one-on-one consultations with CanREA and its members after the conclusion of the provincial election.
- Following additional opportunities for direct engagement, any specific proposed draft regulatory language should be posted to the ERO for a second round of public review and comment.

We look forward to the opportunity to meet and engage with you to discuss the potential impacts of these regulations and work together to find a solution that benefits both wildlife and Ontario's renewable energy sector.