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May 16, 2025

Ministry of the Environment, Conservation, and Parks

5th Floor, 777 Bay Street
Toronto, Ontario
M7A 2J3

Re: ERO 025-0380 - Comments Regarding Endangered Species Act (ESA) Reformation and Proposed Species Conservation Act.

Hello MECP,

Please accept the following comments on behalf of TULLOCH Engineering. TULLOCH is an Ontario-based engineering, surveying, planning and environmental consulting company with 450 permanent staff. Our clients range from municipalities and the MTO, to private landowners, developers and industry. Our projects frequently encounter the Endangered Species Act (ESA), and it is our team of Environmental Professionals (Biologists, Ecologists and Technicians) that undertake any necessary field studies, impact assessments, mitigation strategies and registrations / permitting to ensure compliance with that Act.

Our comments are:

- **Species Classification and Listing** - Although we agree that the government should incorporate economic and practical considerations into species protection and management policies, we generally do not support the government having discretion to add or remove species protections altogether. We look favourably on Black Ash as an example of a middle-ground solution where a 2-year pause on protections allowed for a geographical approach to species protections, and protections that focused on ecologically relevant stems (i.e., those of appropriate size and health). In our opinion, the present balance between COSSARO vs. Government considerations seems reasonable.

- **Redefining Protections** - We highly support the refinement of the general habitat definition. The present definition, with emphasis on habitat that *directly* or *indirectly* supports life processes, has proven to be too vague and open to too broad of interpretation. We support the removal of '*feeding*' from the listed life processes. At present, we have been concerned about the seven species of Endangered Bats in Ontario, and how their ecology (and drivers of decline) do not fit the present wording/intent of the ESA. The new general habitat definition will greatly assist with aligning bat management to their unique ecology.
- **Reduced Duplication with Federal Legislation** - We see this change as aligning with present practices for the protection of aquatic species. We have not encountered duplication between the Endangered Species and Species at Risk Acts; it is unclear if present planning practices have accurately captured the overlap between these two Acts. Should such a duplication exist, we agree that it should be eliminated. It is our hope that this does not yield confusion or lengthy consultations with federal regulators.
- **Recovery Plans and Documents** - We strongly disapprove of this proposed change. As Environmental Professionals we rely extensively on provincial (as well as federal) recovery strategies to establish species ecology that is typical to Ontario. Since 2019, we have struggled to obtain informed and actionable advice from the MECP. We have seen much ambiguity and inconsistency in the directives and standards the Ministry has attempted to apply to industry. The policies and directives we do receive are frequently unfinished, unformatted and unpublished. Our concern is that discontinuing of these essential documents will further exasperate this trend. Our preference would be for the MECP to continue to tender qualified Environmental Professionals to draft these essential documents and to build the necessary capacities in-house to have knowledgeable ecologists capable of reviewing and publishing recovery strategies.
- **New Species Conservation Program** - We support this idea in principle. As we've seen with the Species Conservation Fund, the effectiveness of this program would be subject to its oversight and application.
- **Wind Down of the Species Conservation Action Agency** - During the 2019 Endangered Species Act reformations, we commented that the Species Conservation Fund would only be as effective as its management and application. It has clearly failed. If the Ministry cannot be trusted to effectively manage this fund, and a program to this effect, then we support abolishing it. We trust that any collected funds will be appropriately applied to species conservation, as intended, prior to the agency dissolution.

- **Advisory Committee** - It is our understanding that this committee has not met in recent times. It is disappointing that the province's failure to make use of this asset is resulting in its abolishment. We see value in having a committee of members from diverse backgrounds (including relevant industries) meeting regularly to discuss and advise on the effectiveness and unintended consequences of species at risk legislation. It would be our preference to keep the committee and ensure it is more actively engaged going forward. This is especially true given the more active role that the government is seeking in order to manage species protections per this proposed Bill. Therefore, we do not support the abolishment of the advisory committee.
- **Updated Compliance and Enforcement** - We support greater enforcement. At present, we see minimal oversight and enforcement of the Endangered Species Act on the landscape. Worst still, we are seeing that enforcement applies mostly to proponents who identify themselves to the MECP and participate in Ministry reviews. On the contrary, proponents who act without due consideration of the Endangered Species Act largely go unnoticed. As a result, the present system appears to be penalizing conformance and promoting non-conformance.
- **Registration-first Approach** - We highly support a registration-first approach provided that qualified environmental professionals are required to prepare appropriate mitigation strategies and, where necessary, compensatory habitat. For this system to be effective, the Ministry must actively audit registrations for conformance and compliance. Presently, we actively register qualifying projects and have found this mechanism to be efficient and effective. It encourages industry to actively consider their Endangered Species Act obligations and to comply. On the contrary, present Ministry review times (currently 9-12 months for an Information Gathering Form) are not only unacceptable, but act as a deterrence to industry participation in Endangered Species Act reviews.
- **Removal of the Word 'Harass' from Section 9 Prohibitions** – Generally, we support the prohibition of harassment of species at risk, but we also appreciate that this prohibition is vague and can be exaggerated and weaponised inappropriately by project objectors against development. Given that we cannot propose a better solution, we will support the removal of 'harass' from Section 9 prohibitions. Looking forward, we would recommend a Ministry policy placing emphasis on prohibiting activities that impair species life processes as these constitute harm (i.e., when harassment is sufficiently impactful as to result in impaired life processes, then harm has occurred, and this would be prohibited under Section 9).

Thank you for your consideration of our comments. Should you have any questions, please contact the undersigned.

Sincerely,

TULLOCH Environmental

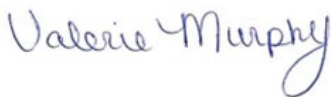
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