

# COMMENTS ON ERO 025-0380

Submitted by Transition to Less Waste and The Oxford Environmental Action Committee

May 2025

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May 17, 2025

Re: TTLW and OEAC Comments on ERO 025-0380<sup>1</sup>, Bill 5<sup>2</sup>, and Related Matters

Dear Premier Ford, Minister McCarthy and MECP Public Input Coordinator – Species at Risk Branch,

Transition to Less Waste (TTLW) and the Oxford Environmental Action Committee (OEAC) are nonprofit environmental organizations based in Oxford County. We advocate for application of the precautionary principle during decision making processes that may impact the environment and public health. Our organizations promote principles of a conserver society and key elements of the worldwide Transition movement.

Please accept this document and accompanying appendices as our comments on ERO 025-0380 - ***Proposed interim changes to the Endangered Species Act, 2007*** and a proposal for the “Species Conservation Act”, 2025; Bill 5, the proposed “Protect Ontario by Unleashing our Economy Act”, 2025, and related matters. The comments contained in this document do not encompass an exhaustive list of our thoughts on and concerns with the proposals.

TTLW and OEAC remind the Ministry of Environment, Conservation and Parks of their obligations to operate under the Ministry’s **Statement of Environmental Values**<sup>3</sup>, which includes requirements to consult with the public, specifically including Indigenous communities when making decisions that may impact the environment.

Ontario’s **Environmental Bill of Rights (EBR)**<sup>4</sup> preamble tells us that:

*The people of Ontario recognize the inherent value of the natural environment.*

*The people of Ontario have a right to a healthful environment.*

*The people of Ontario have as a common goal the protection, conservation and restoration of the natural environment for the benefit of present and future generations.*

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<sup>1</sup> <https://ero.ontario.ca/notice/025-0380>

<sup>2</sup> <https://www.ola.org/en/legislative-business/bills/parliament-44/session-1/bill-5>

<sup>3</sup> Ontario. Statement of Environmental Values. <https://ero.ontario.ca/page/sevs/statement-environmental-values-ministry-environment-and-climate-change>

<sup>4</sup> Ontario. Environmental Bill of Rights, 2003. <https://www.ontario.ca/laws/statute/93e28>

The EBR gives the Minister discretion when deciding whether or not to deem a proposal to be “Class II” in order to provide “enhanced public participation” beyond the minimum 30 days (the time period which the MECP posted ERO 025-0380 for). It may also provide “enhanced notice” of a proposal to the public, through means such as via news sources, signs, mailings, and direct communication with community leaders, organizations, and political representatives. Given this, **our organization is asking that ERO 025-0380 be deemed a “Class II” proposal and that “enhanced notice” be provided to Ontarians regarding these proposed changes to the ESA, and the proposal to replace the ESA with another Act.** We are also asking, following the increased publicization and notice of Bill 5 and ERO 025-0380, **that the Ministry open the public comment period for a minimum of an additional 120 days.** This recommendation will help the Ministry to carry out more meaningful consultation with the public, including environmental groups and Indigenous peoples. It will also show the Ontario public that The Province is taking the potential for harmful consequences and adverse effects of the proposed changes into duly serious consideration.

**Our organizations believe Bill 5 and ERO proposal 025-0380 are irredeemable and are asking The Province of Ontario to withdraw Bill 5,** as changes proposed for the **Endangered Species Act, 2007** (ESA) are broadly inconsistent with the stated purposes of the ESA, which are:

- <sup>5</sup>1. To identify species at risk based on the best available scientific information, including information obtained from community knowledge and aboriginal traditional knowledge.*
- 2. To protect species that are at risk and their habitats, and to promote the recovery of species that are at risk.*
- 3. To promote stewardship activities to assist in the protection and recovery of species that are at risk. 2007, c. 6, s. 1.*

The preamble to Canada’s **Species At Risk Act** (SARA)<sup>6</sup> highlights the importance of a protected environment to Canadian’s and emphasises the need for governments within Canada to cooperate with goals and obligations [emphasis added]:

*Canada’s natural heritage is an integral part of our national identity and history,  
wildlife, in all its forms, has value in and of itself and is valued by Canadians for aesthetic, cultural, spiritual, recreational, educational, historical, economic, medical, ecological and scientific reasons,  
Canadian wildlife species and ecosystems are also part of the world’s heritage and the Government of Canada has ratified the United Nations Convention on the Conservation of Biological Diversity,*

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<sup>5</sup> Ontario. Endangered Species Act, 2007. <https://www.ontario.ca/laws/statute/07e06>

<sup>6</sup> Canada. Species At Risk Act, 2002. [https://laws-lois.justice.gc.ca/eng/annualstatutes/2002\\_29/page-1.html](https://laws-lois.justice.gc.ca/eng/annualstatutes/2002_29/page-1.html)

***providing legal protection for species at risk will complement existing legislation and will, in part, meet Canada's commitments under that Convention,***

*the Government of Canada is committed to conserving biological diversity and to the principle that, if there are threats of serious or irreversible damage to a wildlife species, cost-effective measures to prevent the reduction or loss of the species should not be postponed for a lack of full scientific certainty,*

***responsibility for the conservation of wildlife in Canada is shared among the governments in this country and that it is important for them to work cooperatively to pursue the establishment of complementary legislation and programs for the protection and recovery of species at risk in Canada,***

***it is important that there be cooperation between the governments in this country to maintain and strengthen national standards of environmental conservation and that the Government of Canada is committed to the principles set out in intergovernmental agreements respecting environmental conservation,***

*the Canadian Endangered Species Conservation Council is to provide national leadership for the protection of species at risk, including the provision of general direction to the Committee on the Status of Endangered Wildlife in Canada in respect of that Committee's activities and general directions in respect of the development, coordination and implementation of recovery efforts,*

***the roles of the aboriginal peoples of Canada and of wildlife management boards established under land claims agreements in the conservation of wildlife in this country are essential,***

***all Canadians have a role to play in the conservation of wildlife in this country, including the prevention of wildlife species from becoming extirpated or extinct,***

***there will be circumstances under which the cost of conserving species at risk should be shared,***

*the conservation efforts of individual Canadians and communities should be encouraged and supported,*

*stewardship activities contributing to the conservation of wildlife species and their habitat should be supported to prevent species from becoming at risk,*

*community knowledge and interests, including socio-economic interests, should be considered in developing and implementing recovery measures,*

***the traditional knowledge of the aboriginal peoples of Canada should be considered in the assessment of which species may be at risk and in developing and implementing recovery measures,***

***knowledge of wildlife species and ecosystems is critical to their conservation,***

*the habitat of species at risk is key to their conservation, and*

*Canada's protected areas, especially national parks, are vital to the protection and recovery of species at risk*

The preamble to the current Ontario ESA contains similar sentiments, recognizing the inherent value of a biodiverse ecologically sound Ontario to our residents [emphasis added]:

*Biological diversity is among the great treasures of our planet. It has ecological, social, economic, cultural and intrinsic value. **Biological diversity makes many essential contributions to human life, including foods, clothing and medicines, and is an important part of sustainable social and economic development.***

*Unfortunately, throughout the world, species of animals, plants and other organisms are being lost forever at an alarming rate. **The loss of these species is most often due to human activities, especially activities that damage the habitats of these species. Global action is required.***

*The United Nations Convention on Biological Diversity takes note of the precautionary principle, which, as described in the Convention, states that, where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat.*

*In Ontario, our native species are a vital component of our precious natural heritage. The people of Ontario wish to do their part in protecting species that are at risk, with appropriate regard to social, economic and cultural considerations. **The present generation of Ontarians should protect species at risk for future generations.***

TTLW and the OEAC believe that the Province of Ontario should continue to cooperate with agreements that put the responsibility for protecting species at risk, and those that are threatened, of special concern and endangered, and their habitats, on both the federal government and province. **Accountability and obligations to protect and preserve endangered species should be shared between Canada and Ontario, as reinforced in the ESA and federal Species at Risk Act. Removing Ontario's protective oversight for aquatic species and migratory birds under the proposed "Species Conservation Act, 2025" would be detrimental not only to those species, but also to all Ontarians who value biological diversity and rely on clean water and safe air and soil for their own health and longevity.**

**Our organizations object to the further weakening of provincial environmental oversight by moving projects that currently undergo permitting processes to an immediate permissions model where an application form filled out by a proponent online allows them to have permission to carry out their undertaking. This lack of application of scientific knowledge and discernment to proposals that may impact the environment is shocking given the level of knowledge available to Ministry staff in 2025. When information on the dangers of pollutants to public health and the interconnectedness of environmental issues has never been more accessible, The Province should be making biodiversity and protection of the environment their**

top priority.

**Our organizations disagree with the proposal to remove the word “harass” from references to harm and harass in the ESA.** The Province’s own **Policy Guidance on Harm and Harass under the Endangered Species Act** defines harassment of a protected species in the following manner:

<sup>7</sup>*3.3 Harassing a protected species*

*An activity that harasses a living member of a protected species is one that disrupts its normal behaviour in a manner that adversely affects the ability of the member to carry out one or more of its life processes.*

*[...]*

*4.1 Species protection and recovery*

*[...] activities that are likely to adversely affect the ability of a member to carry out its life processes would be considered to harm or harass the member.*

*[...]*

*4.6 Ecological relationships*

*Some plants and animals depend on specialized ecological relationships to carry out their life processes. Determining whether an activity is likely to kill, harm or harass a member of a protected species, will consider the importance of ecological relationships for that species and how they are likely to be impacted by the activity.*

The current version of the Endangered Species Act includes the following definition of “habitat”:

<sup>8</sup>*“habitat” means,*

*(a) with respect to a species of animal, plant or other organism for which a regulation made under clause 56 (1) (a) is in force, the area prescribed by that regulation as the habitat of the species, or*

*(b) with respect to any other species of animal, plant or other organism, an area on which the species depends, directly or indirectly, to carry on its life processes, including life processes such as reproduction, rearing, hibernation, migration or feeding,*

*and includes places in the area described in clause (a) or (b), whichever is applicable, that are used by members of the species as dens, nests, hibernacula or other residences; (“habitat”)*

**Our organizations reject the proposed modification to the definition of “habitat” described in ERO 025-0380, which of specific note, removes reference to “feeding” among the list of life processes.**

ERO 025-0380 characterizes protections for the environment and species at risk in a negative

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<sup>7</sup> Ontario. <https://www.ontario.ca/page/policy-guidance-harm-and-harass-under-endangered-species-act>

<sup>8</sup> Ontario. Endangered Species Act, 2007. <https://www.ontario.ca/laws/statute/07e06>

light, rather than as policies and procedures that protect our most valuable assets: the air, land, water and biodiverse ecosystems that make Ontario a safe and beautiful place to live. We posit that the costs and time spent on ensuring project proposals are protective of our environment and public wellbeing, are well spent, and in the public interest.

ERO posting 025-0380 raises questions about the operation of the **Species Conservation Action Agency (SCAA)** and associated Conservation Trust, which the proposal describes as having been “focusing on starting-up its operations”. Over the course of 4 years, it is disappointing that funds collected were not directed towards any species protection or recovery efforts.

TTLW and the OEAC would appreciate Ministry definitions be provided for the following terms in the context of ERO 025-0380, Bill 5 and related matters:

- The regulated community
- Direct negative impact
- Sustainable economic growth
- Core protections
- Core species protections
- Core elements of species’ habitat
- Supportable conservation activities
- Recovery products
- Generally continue

**TTLW and OEAC reject the concept of a replacement for the Endangered Species Act that leaves it up to project proponents whether to follow guidance on a voluntary basis. We oppose the substitution of the ESA with the proposed “Species Conservation Act”.**

Our supporters and community members largely recognize that we are all a part of the broader environment, and that adverse impacts to other species and habitats may also impact the health and wellbeing of our friends, family members, and communities as a whole. Our organizations believe that The Province has a duty to protect the environment and public wellbeing, and that that duty includes preservation and protection of the environment for future generations. Short sighted economic gain should not be put before the public good, especially when those decisions may have irreversible consequences.

Thank you for the opportunity to comment. Please also see our appendices.

Sincerely,

Michael Farlow  
President, Transition to Less Waste (TTLW)

Suzanne Crellin  
President, Oxford Environmental Action Committee (OEAC)

*Comments contained in this document are in regards to the Ministry of the Environment, Conservation and Parks (MECP) proposal posted to the Environmental Registry of Ontario website on April 17, 2025, numbered 025-0380, the Endangered Species Act, 2007 (ESA), Bill 5 – the “Protect Ontario by Unleashing our Economy Act, 2025” and related matters. The Province of Ontario’s Ministry of the Environment, Conservation and Parks has solicited public comments via the Environmental Registry, and we are responding according to our rights; afforded by Ontario’s Environmental Bill of Rights. The comments are being submitted by the nonprofit organizations Transition to Less Waste (TTLW) and the Oxford Environmental Action Committee (OEAC), and are the opinions of said organizations; they are submitted in the public interest, and in good faith, as comments on proposals which Transition to Less Waste (TTLW) and the Oxford Environmental Action Committee (OEAC) believe may impact the environment and public health and safety within the Province of Ontario.*