ANISHINABEK NATION

November 5th, 2025

Ministry of the Environment, Conservation and Parks
Public Input Coordinator – Species at Risk Protection
Species at Risk Branch
40 St. Clair Ave. West
Toronto, ON M4V 1M2

Email: ESAReg@ontario.ca

RE: Submission to ERO No. 025-0909- Concerns Regarding the Proposed Species Conservation Act, 2025 and the Repeal of the Endangered Species Act, 2007

Dear Public Input Coordinator,

I am writing on behalf of the Anishinabek Nation as the organization respectfully submitted the following comments on the proposed *Species Conservation Act*, 2025 *(SCA),* which is intended to repeal and replace the *Endangered Species Act*, 2007 (ESA). The Anishinabek Nation makes this submission without prejudice, and we reserve the right to submit further comments.

Our thirty-nine (39) First Nations hold inherent and constitutionally protected rights, responsibilities and jurisdiction over our Anishinabek Aki, waters and all living beings within our traditional and treaty territory. As stewards of Mother Earth and the natural environment, we have a sacred responsibility to protect the species with whom we share these lands and waters. We are deeply concerned that the proposed *SCA* represents a significant weakening of Ontario's commitment to biodiversity, ecological integrity and reconciliation with First Nations and their citizens.

Recommendations

The Anishinabek Nation is recommending retaining the core principles of the *ESA*, including science based, automatic species listing and broad habitat protection. First Nations must be involved in all stages of species classification, habitat planning, and recovery development, consistent with UNDRIP and Section 35. Ontario is obligated to consult and remain transparent in all notices to First Nations for all listing, delisting, and permitting decisions. Ontario also

must maintain ecosystem-based habitat definitions that reflect the interconnected nature of species, water, and land.

To summarize this submission, the Anishinabek Nation urges Ontario to:

1. **Pause implementation** of the SCA until full, meaningful consultation and co-development with First Nations occur;
2. **Retain core ESA principles**, including automatic species listing, science-based decision-making, and ecosystem-based habitat definitions;
3. **Mandate recovery plans** for all listed species, co-developed with First Nations;
4. **Establish a public registry** for all registrations, permits, and exemptions;
5. **Integrate UNDRIP Articles 18 and 19** to ensure FPIC in all legislative and regulatory processes; and
6. **Advocate for recognition of First Nation rights** and the non-exitance of Metis rights within Ontario including in this application of this legislation.

The *SCA, 2025* represents a policy and legislative framework that risks reversing decades of process in biodiversity protection, environmental law and reconciliation. By prioritizing economic growth over ecological integrity and First Nation rights, Ontario stands to weaken its moral, constitutional, and environmental obligations. The Anishinabek Nation calls on the Government of Ontario to work in true partnership with First Nations to ensure that any changes to species protection laws honor the sacred responsibility of stewardship, uphold treaty and aboriginal rights, and sustain Mother Earth and her gifts for future generations.

The Anishinabek Nation respectively requests that the Government of Ontario suspend implementation of the *SCA* pending full consultation and co-development with First Nations and respected First Nation organizations.

Analysis

The proposed *SCA*, 2025 introduces several fundamental changes that collectively shift Ontario's species protection regime from a science-based and precautionary framework to one that prioritizes economic development and ministerial direction.

Our key concerns include the:

1. Erosion of automatic legal protections for endangered and threatened species;
2. Narrowing the habitat definition, reducing the scope of protection for ecosystems as a whole;
3. Socio-Economic Implications for First Nations Communities;

4. Introduction of political discretion into species listings that were previously based on independent scientific advice;
5. Reduction of mandatory consultation and First Nation engagement; and
6. Potential misalignment with federal legislation, Section 35 of the *Constitution Act*, and the United Nations Declaration Act (UNDA) in addition to the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP)

Erosion of Automatic Legal Protections for Species

1. The proposed Registration First approach, as opposed to requiring a Permit first, has obvious and severe negative implications to the amount of oversight and legal protection that will occur with planned activities and applications, as well as implies duty to consult will occur less frequently because of this diminished oversight. It was stated during the MECP engagement session that "permits will only be required in prescribed limited circumstances", to further support the Registration First approach and its corresponding lack of oversight, accountability, and opportunity for public comment or First Nations consultation. It was also mentioned that Ontario is still considering what, if any, information will be made publicly available when it comes to Registrations under the proposed *SCA*. This implies it will be easier for proponents to bypass environmental protection measures, and there may not even be an opportunity for the public to be made aware of, or comment on, proposed activities.

It is suggested that the Registration First approach includes a greater level of oversight and reporting than is currently being proposed, not only for the sake of public comments, but to allow a fulsome opportunity for First Nations to be properly engaged. With a Registration First approach, the duty to consult may be bypassed because of less rigorous oversight and the erosion of automatic legal protections. In addition, Ontario should create a directory/registry that includes all Registrations for the purpose of transparency – this directory should also include permits issued, as well as exemptions granted, under the *SCA*.

2. On recovery plans, the proposed *SCA* greatly diminishes the opportunity for a species or habitat to recover from environmental degradation, since the requirement for the Ontario government to develop recovery products for species was removed from the amended Endangered Species Act, 2007 and will continue to not exist within this proposed *SCA*. While it was stated in the MECP engagement session that Ontario may continue to develop conservation guidance where and when needed, the lack of requirement does not instill confidence that Ontario will focus on recovery strategies, particularly when prioritizing economic development at the expense of regulatory protections for species and habitats. We recommend Ontario still be required to develop recovery plans for relevant species and habitats listed within this proposed Act,

as well as develop these recovery plans in consultation with experts and through First Nations engagement.

3. This proposed legislation threatens to remove 42 aquatic species (fish and mussels) and migratory bird species listed as extirpated, endangered or threatened under the federal *Species at Risk Act, 2002*. While the intent of this removal is to avoid duplication with existing federal legislation, this process does not consider the high possibility of future changes to the current *Species at Risk Act* because of *Bill C-5 (the One Canadian Economy Act)* or it's corresponding *Building Canada Act*. If there are to be proposed changes to the *Species at Risk Act* in the future, particularly further removal of aquatic species or migratory birds, the *Species Conservation Act* must have a process in place to reinstate the addition of these formally removed species, to ensure their protection as well as the protection of their habitats.

Narrowing the Habitat Definition

1. While the narrowed definition of "habitat" was already introduced through 2025 amendments to the *Endangered Species Act (ESA), 2007*, this change is problematic as it significantly reduces the areas eligible for protection, weakening safeguards for species that depend on broader ecosystems or future recovery habitats. For instance, the ESA defines general habitat as "an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding." The proposed changes to the *SCA* for a more site-specific definition of habitat, primarily a dwelling-place, the area immediately around that dwelling-place, and/or critical root zones for vascular plant species, does not consider broader ecological systems that are required to protect and restore many species at risk.

This proposed change appears to be an attempt to reduce the quantity of areas that may be subject to registration requirements or permits, for the purpose of reduced restrictions on development, and with little backing from the scientific community or First Nations Traditional Ecological Knowledge (TEK). This narrow definition may affect land stewardship projects and development on traditional and/or treaty lands, limiting the potential for broader conservation efforts that involve land and resource management by First Nations peoples. By narrowing the definition of habitat, and in turn reducing the prompts that would otherwise require the duty to the consult, there will be fewer opportunities for First Nations to be consulted and accommodated. We request the new definition of habitat be thoroughly reviewed and discussed with experts and First Nations knowledge keepers, or reverted to its previous definition under the *ESA*, before any decisions with irreversible negative impacts are made.

Socio-Economic Implications for First Nations Communities

The proposed *SCA 2025* will have far-reaching socio-economic implications for Anishinabek First Nations communities that depend on healthy ecosystems, access to culturally significant species, and sustainable land and water use. The weakening of species and habitat protections threatens not only environmental integrity but also the economic, cultural, and social well-being of our First Nations.

1. Impacts to Traditional Economies and Livelihoods

The Anishinabek economy is deeply interwoven with the natural environment. The erosion of automatic protections for species and habitats will diminish access to fish, wildlife, plants, and medicines central to subsistence harvesting and community well-being. Declines in biodiversity and habitat quality will:

- Reduce availability of species used for food, clothing, medicines and cultural practices.
- Undermine traditional livelihoods such as fishing, hunting, trapping, trading, ceremonies and ecotourism.
- Increase dependency on external, market-based systems, reducing self-sufficiency and food sovereignty.

This threatens both household and community economic stability and disrupts intergenerational knowledge transfer connected to traditional land use.

2. Impacts to Cultural Continuity and Community Health

Species that are spiritually, culturally, and medicinally significant—such as sturgeon, moose, and various plant species—are essential to ceremony, identity, and teachings. Reduced protection and accelerated habitat degradation will:

- Disrupt cultural and ceremonial practices linked to the land and species.
- Contribute to loss of language and knowledge systems grounded in species stewardship.
- Negatively impacts community mental, emotional, and spiritual health by severing relationships with the land and living beings.

This is a direct infringement upon inherent rights and responsibilities of stewardship embedded in Anishinabek worldviews.

3. Impacts on Treaty and Inherent Rights-Based Economic Opportunities

By prioritizing economic development over ecological integrity, the *Species Conservation Act* creates asymmetry in benefit distribution. Industrial proponents—rather than First Nations—will gain increased regulatory flexibility,

while First Nations bear the burden of environmental decline. Reduced consultation and the “Registration First” approach limit opportunities for:

- First Nation participation in environmental monitoring and conservation-based employment (e.g., Guardian programs).
- Co-management agreements and conservation-based economic partnerships.
- Equitable access to funding for habitat restoration and sustainable development initiatives.

This undermines the Crown’s constitutional duty to ensure First Nations have fair access to economic benefits derived from their territories.

4. Cumulative and Intergenerational Socio-Economic Impacts

Without cumulative effects assessment, the combined impacts of multiple development projects will degrade ecosystems faster than they can recover, creating long-term socio-economic instability. For Anishinabek youth and future generations, this will mean:

- Fewer opportunities to participate in land-based education, stewardship, and economic activities.
- Ongoing erosion of land-based economies that sustain cultural identity and community resilience.
- Fewer opportunities to practice their Aboriginal and Treaty rights.
- Increased social inequities between First Nations and surrounding municipalities as natural capital declines.

5. Governance and Legal Risk Implications

Weak consultation obligations and diminished transparency expose Ontario to increased legal challenges, delays, and costs related to failure to uphold Section 35 and UNDRIP obligations. This legal uncertainty also disrupts partnerships and funding streams that depend on regulatory predictability and environmental stewardship—further impacting community-based economic planning and project development.

Introduction of Political Discretion into Species Listings

1. There is significant political discretion built into the proposed *SCA*, reducing the role of a once science-based decision-making process and replacing it with ministerial or cabinet decision-making. The regulation states that species to be protected are not required to include all species that the Committee on the Status of Species at Risk in Ontario (COSSARO) has classified as extirpated, endangered, or threatened; the ultimate decision of which species are listed is made by a cabinet on the advice of the Minister. Furthermore, the Minister may

require COSSARO to reconsider a classification if the Minister “is of the opinion” that there is credible scientific information indicating the classification may not be appropriate.

The proposed *SCA*’s stated purpose is not only to provide for the protection and conservation of species, but also “taking into account social and economic considerations, including the need for sustainable economic growth in Ontario.” This, coupled with a proposed streamlined process that reduces oversight and public consultation, is putting serious ecological decisions into the hands of political decision-makers, rather than subject matter experts.

Reduction of Mandatory Consultation and First Nation Engagement

1. The proposed *SCA* weakens the mechanisms that previously supported the inclusion of First Nation rights, knowledge, and participation. For instance, the *ESA* required consultation with First Nations, where the *SCA* replaces this with vague “engagement where appropriate”. First Nation traditional knowledge is not guaranteed to inform decisions, and there are no explicit provisions for joint recovery teams or First Nation-Led management roles. There is the absence of explicit consent or co-decision provisions that contradicts the principles of Free, Prior, and Informed Consent (FPIC). These changes erode the Crown’s ability to fulfill its duty to consult and accommodate, creating legal uncertainty and undermining reconciliation efforts.

2. With a reduction in mandatory First Nations consultation, there will be impacts on culturally and ecologically significant species that will accelerate range loss and undermines Treaty-responsibility stewardship. There will be fewer mechanisms to address regional population declines, reducing collaboration management and enforcement. There will be increased road and habitat mortality, and reduced protection for areas affecting ceremonial and harvesting activities.

3. The *SCA*’s proposed registration model fails to assess cumulative impacts from multiple developments within a territory. Many decisions will no longer require posting to the Environmental Registry, limiting oversight and reducing transparency. There is loss of accountability as there is greater ministerial discretion without mandatory review or appeal process. In addition, removing any action and management plans or committees jeopardizes existing funding for habitat recovery and guardian programs.

Potential Misalignment with Section 35, UNDA and UNDRIP

1. Some Anishinabek First Nations have aboriginal title issues to be addressed by government that makes assertion of this Act extremely problematic. This

includes First Nations north of Lake Superior. Others have sovereign title to their lands, including off reserve lands which also make unilateral implementation of this Act problematic. These will not be resolved quickly and elevate the duty to consult even higher, into the consent spectrum, in our view.

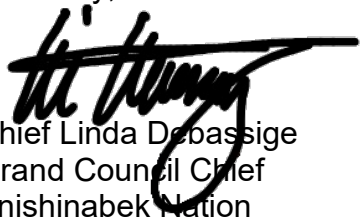
2. The UNDRIP includes several articles that address this issue, including:

- Article 18 that First Nation people have the right to participate in decision making matters which affect their rights. Article 19 also includes obtaining FPIC before adopting and implementing legislation that may affect Indigenous people. This statement is not about rights; it is about any activity by government that "may affect" us. Ontario has made policy statements that it is committed to work with First Nations to achieve the goals of UNDRIP through policy, legislation and administrative measures.
- There is a lack of co-governance mechanisms. While the Act acknowledges the importance of traditional knowledge, it does not establish formal co-management and/or decision-making roles for First Nations. This lack of co-governance in species protection and habitat management could prevent First Nations from fully participating in the decision-making processes that directly affect their lands and traditional practices. Co-governance models, such as those seen in other jurisdictions, could ensure that Indigenous communities have equal standing in policy discussions and implementation of conservation efforts. This is extremely important for the First Nations with aboriginal title and sovereign title concerns.

I would be pleased to present and discuss these comments on the regulations for your improved understanding at a mutually agreeable time.

If you have any questions concerning the above, I would be welcomed to speak to you.

Sincerely,



Chief Linda Debassige
Grand Council Chief
Anishinabek Nation