

July 5, 2006

Ontario Ministry of Natural Resources  
Species at Risk Legislation review  
PO Box 7000  
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Peterborough, Ontario  
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[Via e-mail to Legislative.SAR@mnr.gov.on.ca](mailto:Legislative.SAR@mnr.gov.on.ca)

Dear Sir/Madam,

**Thank you for the Opportunity to Input**

Thank you for the opportunity to comment on the Species at Risk legislative review. We appreciated the opportunity to provide on-line feedback on the Discussion Paper and its leading edge proposals and looked forward to understanding how its material will be incorporated into a legal framework. We are submitting this letter on letterhead as requested of organizations. While our submission has been made on-line, we have included top-line comments below.

**FORCE**

As you may be aware, Friends of Rural Communities and the Environment (FORCE) is a federally registered not for profit corporation. It is a citizen-based advocacy group with hundreds of supporters in Kilbride, Campbellville, Mountsberg, Freelon, and Carlisle. FORCE was formed in June 2004 to protect our natural and built environments in the face of a proposed large-scale, below the established groundwater table, aggregate development in the Northeast Flamborough portion of the amalgamated City of Hamilton. We note upfront that our organization is neither anti-aggregate nor anti-road; indeed, our area is home to some of Ontario and Canada's largest aggregate operations. We do, however, have significant issues with the pending application in its proposed location for substantive reasons; reasons that relate to ground water protection, active and productive agricultural operations, acknowledged fragile natural systems, including species at risk, and existing rural communities.

We also believe that our organization has a responsibility to promote good government in the municipal and provincial arenas and therefore, we have a responsibility to input into the broader planning reform processes which bear upon the application processes for development proposals such as the one before our communities. The revision of Species at Risk legislation is clearly an opportune time to impact the ground rules about how aggregate development proposals should be evaluated and approved in a municipal jurisdiction and by MNR.

## **General Comments**

### ***Purposes and Principles:***

**Purpose:** The inclusion of “habitat protection” is key. In fact, habitat is more important than any individual species within it!

**Key Principles:** We do not take exception to any. We believe that the last principle – best available science as the basis for exercising caution and protecting species at risk is very important, perhaps the most important in conjunction with the first – that conservation of species at risk is a key component of a broader strategy to maintain biodiversity and to use biological resources in a sustainable manner. We support the promotion of conservation through non-regulatory means, notably partnerships, but believe that this must be predicated on a strong legislative and regulatory framework.

### ***Proposed Legislative Changes:***

#### **Legislative proposal 1: Identification and Selection of the Committee on the Status of Species at Risk.**

We support an explicit legislative provision that identifies this committee as the species assessment body for Ontario. We support the general outline of committee requirements. We believe that the membership balance must be tilted towards science. Aboriginal traditional knowledge is a great asset and should be represented. We do have some concerns with respect to “community and local knowledge”. There are incredibly worthy and knowledgeable community groups, such as the Hamilton Naturalist’s Club, which are daily adding to knowledge of threatened species and habitats and which make logical representation choices. There are other community groups with different interests and levels of expertise. We believe that the committee membership should reflect advocacy for and protection of species at risk and their habitats. Selection of this committee will be critical.

#### **Legislative proposal 2: Identification of species at risk.**

We strongly support Option 2 which leaves the identification of species at risk in the hands of the “best scientific basis” committee and removes politics from the process (except of course the selection of the committee—see above). Option 3 is our second choice—a kind of “notwithstanding option”.

#### **Legislative proposal 3: Emergency listing.**

We support this provision as positive, rather than negative, in its intent. Invoking it strengthens rather than weakens protection. We do not anticipate its frequent use. The only negative possibility we can think of would be a “predator trap” situation, in which a threatened prey species is threatened by a threatened predator species.

#### **Legislative proposal 4: Protection of a species and its habitat.**

For Stage 1 protection of the species and its residence we support Option 2 as protection is automatic, unless specifically withdrawn for delineated reasons. The ‘negative option’ onus on the minister means that any untoward interference in the scientific process would have to be explained and rationale provided. For Stage 2 protection, we like the intent described in the Discussion Paper. A good, scientific definition of ‘significant habitat’ is implied, and should be specified. The implication here also is that this definition would

include private lands, which is an absolute must, and a great weakness of the federal endangered species legislation. While we concur that there has to be consultation with, and accommodation made, with private land owners, and notably farmers, the inclusion of protection of species and significant habitats on private lands must be specified if the act is to truly protect species at risk. There might have to be some way provisions to address the burden of cost. We certainly do not support opportunity cost/lost projected profits for new development, seeking approvals, such as aggregate extraction, on undeveloped lands.

**Legislative proposal 5: Emergency orders.**

We strongly support the positive intent of the emergency order provision. Every invocation would strengthen, rather than weaken, protection.

**Legislative proposal 6: Recovery Planning.**

We support the idea of timeframe targets for recovery planning for endangered and threatened species – the absence of same has allowed for time slippage, however, well-intentioned. That being said, we are cognizant of the number of species at risk in Ontario, the complexity of multi-species/ecosystem approaches, and the resource requirements. The proposal appears to attempt to balance these competing demands with the real needs of the species at risk.

**Legislative proposal 7: Reporting.**

We strongly support reporting provisions. Knowledge is a powerful tool for education, advocacy, and success/performance measurement.

**Legislative proposal 8: Agreements and Instruments**

This provision needs to be explicitly grounded in terms of its intent. While we understand that no protection can be absolute, there must be very strong protection against:

- New development, even with mitigation or “net gain”
- Redevelopment (ie. major changes in existing land use which would further degrade habitat, or changes following the sale of land)

There are truly beneficial activities (research, habitat restoration, intelligent application of good planning principles which allow coexistence of human activities and species protection) which should be not only allowed, but encouraged. This provision will be a balancing act, with the proverbial “Devil” waiting in the details.

**Legislative proposal 9: Enforcement and penalties**

We strongly support giving the Act teeth. The removal of wilful intent is extremely important. It is also critical that enforcement be active and resourced appropriately, not simply complaint response generated.

**Thank You Again**

Thank you again for the opportunity to input to this important review of Species at Risk legislation. We commend the Province for its sustainability leadership in this area. We look forward to the final product and the impact it will have on the advocacy for and protection of species at risk and their habitats as well as the quality of land use planning decisions.

Respectfully submitted,

A handwritten signature in black ink that reads "G. Flint". The signature is written in a cursive style with a large, looped "G" and a distinct "Flint". A horizontal line is drawn underneath the signature.

Graham Flint BAsC, P. Eng  
Chair & Spokesperson