

"BIASED REPORT"

ONTARIO PROPERTY AND ENVIRONMENTAL RIGHTS ALLIANCE

Unit A, 135 Church Street, North, Mount Forest, Ontario, N0G 2L2

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January 10, 2007

Ms. Debbie Ramsay, Manager
Species at Risk Legislative Review
Ministry of Natural Resources
6th Floor, Room 6630, Whitney Block
99 Wellesley Street, West
Toronto, Ontario, M7A 1W3

BY REGISTERED MAIL

Dear Ms. Ramsay:

Re: **EBR Registry Number AB06E6001**
New Provincial Species at Risk Legislation

On July 6, 2006 the Ontario Property and Environmental Rights Alliance (OPERA) forwarded to the Ministry of Natural Resources by registered mail and by fax a 6 page submission regarding the above-noted EBR Registry Number AB06E6001.

Our submission was also circulated to a number of elected officials one of whom, Mr. John Tory, MPP, requested MNR Minister David Ramsay to review it. In his subsequent letter of Nov. 24/06 Mr. Ramsay assured us that all comments relative to "strengthening" Ontario's Species at Risk Act are solicited and welcome. On that innocuous note, he also suggested our further enquiries in that regard could be directed to you.

The number and diversity of MNR Internet pages devoted to SARA not to mention time, effort and computer skills incidental to just finding same is sure to confuse and frustrate, perhaps not by accident, many owners/lessees of private property affected by that initiative. The attached OPERA addendums to its July 6 submission are accordingly structured for later circulation to a wider audience as a public service.

These addendums center on the Report of the Endangered Species Act Review Advisory Panel and the SARA Legislative Review Consultation Summary respectively. Those two documents currently appear on MNR web pages where affected landowners without a computer and an Internet connection will, of course, never see them.

Please note this letter, an integral part of the supplemental commentaries attached thereto, has been forwarded to MNR by registered mail and by fax 12 days prior to the January 22, 2007 closing date for additional SARA comment. Your efforts to ensure this material is officially recorded and carefully considered in the SARA consultation process will be appreciated.

Yours truly

R.A. (Bob) Fowler, Secretary

c.c. Premier Dalton McGuinty
Honorable David Ramsay
Mr. John Tory, MPP
OPERA Member Organizations

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Proposed “Strengthening” of Ontario’s Species at Risk Legislation

Supplementary Comment

Report of the Endangered Species Act Review Advisory Panel:

In a preliminary overview of this 42 page Report, submitted August 11, 2006 to the Minister of Natural Resources, the Ontario Property and Environmental Rights Alliance (OPERA) notes that:

1. the Advisory Panel includes 3 university professors, 2 environmental consultant organizations, 2 environmental special interest groups, an aboriginal delegate and an environmental lawyer but does **not** include any representation for landowners whose assets and social/economic prospects might be affected, directly or indirectly, by Panel recommendations.
2. the Panel generally supports, praises and promotes most of the proscriptions and all the principles tabled by the Ministry of Natural Resources in its original Species at Risk Discussion Paper, a result not unexpected from a tribunal, appointed and presumably paid by that agency, in which impartiality in terms of structure, motivation and focus is not, in our view, a dominant feature.
3. the Report lacks reference to and recognition of the impact “strengthened” species legislation will have on rural as opposed to urban land in private ownership, it recommends so-called stewardship programs with court penalties for offending landowners but tax benefits for special interest groups and it advocates a species listing committee and “recovery” plans but doesn’t specify landowner membership in the former or landowner participation in the latter.
4. the Panel, in a revealing symptom of its unbalanced composition and perceived bias, offers full and unquestioning support for the draconian Enforcement and Penalties section of the MNR Discussion Paper, recommending additional “administrative penalties recently put in place for other provincial environmental legislation” but not suggesting existing as well as “additional” punishments for alleged species and/or species habitat abuse should be more widely advertised.
5. owing to its length and complexity, the Report, evidently an internal MNR document in any case, is unlikely to enjoy media circulation and a summarized hard copy analysis for review by local owners/lessees of private land or by their municipal councils is therefore indicated.

OPERA, a coalition of landowner organizations whose diverse memberships share a keen interest in environmental preservation, is kindly disposed to the objectives of species at risk legislation. However, we reject the process by which MNR with its stable of so-called “stakeholders” is attempting to impose this and similar land use statutes on local property owners who will ultimately pay for both the process and its consequences. In that context and until better public communication both on and off the Internet is a guiding principle of MNR legislative initiatives and balanced representation is a prerequisite for any Advisory Panel that agency appoints, OPERA does not accept and cannot support the Panel Report of the Endangered Species Act as presently issued.

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Supplementary Comment

Species at Risk Legislative Review Consultation Summary:

1. the Consultation Summary and MNR web page claims of 302 total “consultations”, which OPERA calculates as 104 oral presentations at widely dispersed and poorly attended public meetings combined with 198 written submissions received to July 7, 2006, doesn’t constitute reasonable grounds for “strengthening” Ontario’s Species at Risk legislation unless that exercise can be legitimized with a longer time line, more public dialogue and less academic/bureaucratic rhetoric.
2. the “strongly agree” and “agree” percentages posted in the Summary uniformly outweigh “disagree” and “strongly disagree” percentages under each category which reflects, in our opinion, either a remarkable public affinity for government decrees in general or the number and effectiveness of submissions from government supported special interest groups or a correspondingly scanty response from uninformed landowners/lessees whose lives and property will be affected by SARA legislation.
3. landowners are marginally referenced in six of the eight “Overviews of Written Submissions” appearing in the Summary, a circumstance that, at first glance, deserves acknowledgement but one that’s considerably diminished when we remember that no mention of landowner/lessee compensation for SARA-induced social and economic losses appears in the MNR Discussion Paper, the Advisory Panel Report, this Summary or any of innumerable government web pages related thereto.
4. the necessity for compensation to owners/lessees of private land, where use, title, mortgage worth and market value can be arbitrarily reduced by what amounts to a government lien in the name of species protection, is nowhere better recognized than in 4 codicils attached to Senate approval of a federal Species at Risk Act, addendums included in OPERA’s covering letter of July 6, 2006 to the MNR but not then acknowledged or since mentioned.
5. as noted, this Summary applies only to a **legislative** review, a distinction that leaves creation, timing & content of SARA **regulations** to the mindset of unidentified bureaucrats and field enforcement of same to yet another level of government inspectors still to be appointed, a process commonly used, whether by accident or design, to separate noble legislative intent from harsh regulatory reality over many months or even years during which time public interest, concern and memory is sure to fade.

In our view this Summary offers some hope for whatever SARA legislative revisions are deemed cosmetically and politically useful but admits to no public dissent worthy of the name. Thus an MNR Discussion Paper and a related Advisory Panel Report are sanitized by a Summary in which acceptance of both can be deduced from expressed opinions of less than 200 respondents. Accordingly, we advise, with respect, that OPERA is not persuaded this Summary is beyond question nor should it be exempt from closer public scrutiny and input from rural municipal councils which may have to pay the full cost of SARA implementation and enforcement.

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