

ONTARIO PROPERTY AND ENVIRONMENTAL RIGHTS ALLIANCE

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LOOKING FOR TRANSPARENCY

December 15, 2012

Mr. Mark Rondeau, Director
Species at Risk Branch
Ministry of Natural Resources
300 Water Street
Peterborough, Ontario, K9J 8M5

Dear Mr. Rondeau:

Launched in 1984 at Trent University to protect, and entrench in law, landowner rights and responsibilities, the Ontario Property and Environmental Rights Alliance (OPERA) broadened its mandate in 2011 to focus on “seeking government transparency and accountability”.

In that context we note a cartel of five professional lobbyists (Sierra Club, Ontario Nature, David Suzuki Foundation, Canadian Wilderness Society and Environmental Defense) composed, in 2005-2006, Ontario’s current Endangered Species Act (ESA 2007) which was then presented and legislated as an MNR invention a year later. Since that time the identification, location, defined habitat and enforced protection of a growing list of allegedly endangered plants, animals, fish, birds and bugs have occupied a good deal of provincial government time and attention, not to mention millions of dollars in undisclosed costs, generous consultant contracts and ballooning bureaucracy.

However commendable ESA 2007 objectives and however allegedly essential its layer upon bewildering layer of regulations, very few affected landowners in Ontario are aware of the enormous machinery, imposed obligations and staggering aggregate cost of this legislation. Moreover, while some Internet pages announce Committee of the Status of Species at Risk in Ontario (COSSARO) meetings as well as the conditions under which ordinary citizens might attend same in silence and other pages invite EBR comment from the unwashed masses, detailed Minutes of such meetings or summarized copies of such comment are not, to our knowledge, later exposed to public view. Indeed, the need for public consultation, often enthusiastically acknowledged by MNR, is routinely diluted in a profusion of Internet pages of convoluted data invisible to Ontario taxpayers who don’t own a computer.

The lobbyist-written Endangered Species Act, itself a document much of the Ontario electorate has never seen, much less read, is 41 pages long and, for the unsuspecting public, its subsequently published Ontario Regulation 242/08, at an additional 37 pages, is also relatively unknown. Since private lives and property are directly, and often negatively, impacted by this legislation and its regulatory appendix, we will appreciate your prompt response to the following queries.

- To which MNR office and official should requests for copies of ESA 2007 public documents such as Environmental Bill of Rights (EBR) submissions and COSSARO meeting minutes be addressed?
- What is the approximate number of species labeled “at risk” in Ontario to date and what is the approximate total acreage of privately owned land designated by regulation as their collective habitat?
- How, when and by whom are affected landowners trained to identify and protect endangered species and associated habitats said to be present, temporarily or permanently, on their property?
- Is a membership list available of “the stakeholder working group brought together to consider regulatory amendments consistent with MNR’s Modernization of Approvals” under EBR 011-7696?

- How many named divisions now operate within the Species at Risk Branch, what is the 2013 budget of that MNR sub-agency and what was its total budget in each of the 4 years 2008 through 2012?
- How many submissions were received concerning “recovery strategies” under EBR 011-7073 and, of those, how many were initiated by private landowners as opposed to professional lobbyists?
- What is the total MNR projected budget assigned to financing the 2013-2014 Species at Risk Stewardship Fund, applications for which are invited until January 8, 2013?
- To which MNR office and/or official should citizen requests for a summary of approved 2013-2014 Stewardship Fund applications be directed?

OPERA has in the past responded to EBR invitations for public comment as circulated from time to time by the Ontario government but whether our expressed concerns were addressed or even considered in relevant Queen’s Park deliberations is an open question. On this occasion our coalition therefore offers no direct comment to referenced EBR 011-7696 or its predecessor, 011-7073, preferring instead to ask your indulgence in acknowledging the above-noted general queries.

As previously and often stated OPERA supports and applauds ESA 2007 objectives but is vehemently opposed to the process by which the statute is being implemented and enforced. Of the many troubling issues that surround it, the following are most often in the forefront:

ESA 2007:

- (1) Encourages voluntary participation of all stakeholders but denies right of appeal and/or compensation when penalties for non-compliance, however innocent or accidental, are levied by provincial authorities.
- (2) Provides for severe punishment, both monetary and judicial, on conviction for non-compliance of species/habitat protection but scope and extent of these measures are seldom published in detail.
- (3) Awards implementation/enforcement to Ontario’s 36 Conservation Authorities whose escalating municipal levies presumably include species at risk policing thus adding to local taxpayer expense.
- (4) Assigns species/habitat identification to the Committee on the Status of Species at Risk in Ontario (COSSARO), a provincial tribunal in which active municipal/citizen participation is explicitly denied.
- (5) Transforms affected citizens into unpaid custodians of resident and migrant wildlife and, in the process, reduces allowable use, mortgage worth and market value of their property by regulation.

We appreciate this opportunity to establish a more informed view of ESA 2007 and, with apologies for resulting imposition on your time and patience, we look forward to receiving your comments in that regard at an early date.

Yours truly

R.A. (Bob) Fowler, Secretary
Ontario Property and Environmental Rights Alliance

c.c. The Honorable Michael Gravelle, Minister
Ministry of Natural Resources