

“PRIVATE LANDOWNERS ARE AN ENDANGERED SPECIES”

ONTARIO PROPERTY AND ENVIRONMENTAL RIGHTS ALLIANCE

Unit A, 135 Church Street, North, Mount Forest, Ontario, N0G 1R0
Phone: 519-323-2308 / Fax: 519-323-0289 / E-Mail: opera@bmts.com / Web Page: www.bmts.com/~opera/

MEMO TO: OPERA Members: **FROM:** R.A. (Bob) Fowler, OPERA Secretary **DATE:** February 17, 2008

Ontario’s “strengthened” Species at Risk Act (SARA), a Ministry of Natural Resources initiative designed to meet or exceed the scope and dimensions of its federal counterpart, was ratified in 2006 by Queen’s Park via a process best described as hasty and manipulative. Postponement of regulations that enforce controversial legislation until long after public sensitivity to the original statute has faded away is standard provincial government practice. In the intervening months or, in some cases, years, unnamed government bureaucrats, aided and abetted by “volunteers” from special interest groups, develop the structure and language of whatever rules that best supports, in their opinion, the thrust and direction of a relevant statute. In our view, this progression is nowhere more evident than in the entrenchment of enforceable Regulations in a “strengthened” SARA.

At an MNR “Stakeholders Input Session” in November 2007, more than a year after SARA ratification, attendees were advised that relevant Regulations would be submitted for government approval by June 30, 2008. To accommodate some public consultation within this admittedly truncated timetable, it was stated a series of “focus group” meetings would be conducted in November and December 2007. In this way, specific concerns of those sectors adversely affected by such Regulations would be discussed and, where indicated, mutually agreeable exemptions inserted. In any event, a first draft of SARA Regulations was to be ready by January 2008 for further public consultation over ensuing months followed by presentation of the finished work to the Ontario legislature on or before an arbitrary June closing date.

The daylong “Input Session” last November, under the direction of a paid MNR consultant, uncovered more questions than it answered; a result participants assumed would be addressed in proposed “focus group” meetings. An MNR Session Report promising maximum transparency and accountability in formulating SARA regulations offered aid and comfort to that assumption. In this instance, as in others, recent events suggest those adjectives do not properly describe MNR intentions.

No public or “focus group” meetings were convened in either November or December 2007. In that interval, OPERA spoke twice with MNR/ SARA staff who reported unforeseen scheduling difficulties would delay such meetings until January with no extension of the June 30 ratification date. A third up-date enquiry was referred to a Mr. Richard Phillips, an Ontario Parks staff member on temporary posting to MNR/SARA, who explained the promised focus meetings would probably begin in February, again with no change of ratification date. In a follow-up conversation with Mr. Phillips, OPERA was told “exemption” meetings with such SARA-impacted groups as ginseng growers and power utilities would “probably” go forward in February followed by repetition of the original “Stakeholders Input Session” sometime in early March. In answer to OPERA’s query regarding how SARA regulatory concerns of private landowner groups would be addressed, Mr. Phillips recommended appropriate submissions during the latter wrap-up forum.

Several less than encouraging speculations emerge from this overview. First, based on the SARA legislation now approved, enforceable regulations with truly draconian penalties to protect species habitat as defined by an unelected, unaccountable Committee will apply to thousands of acres of rural land across Ontario. Second, farm-related coalitions and property rights advocates representing private owners of that land are not recognized as a “focus group” worthy of independent discussions with SARA regulators. Thirdly, some 30 written queries prepared by OPERA for the “Stakeholder Input Session” last November but never examined there are now unlikely to ever see daylight, much less debate.

As to the MNR pledge of SARA transparency and accountability, only two certainties remain. An OPERA registered letter to the then-recently-appointed MNR Minister in November 2007 outlining landowner reservations regarding SARA and the process for establishing its regulations has not, to date, been addressed or even acknowledged. And, notwithstanding repeated timetable extensions of consultation meetings, no matching extension the June 30th regulation vote date has been provided.

Like many other landowner coalitions, OPERA now awaits, with diminished hope of later good faith or productive result, an invitation to whatever meetings MNR/SARA staff deem unavoidable to preserve the illusion of public consultation.

“to protect, and entrench in law, landowner rights and responsibilities”