

RESPONSE TO MORE STATE MANAGEMENT (011-2842)

from

ONTARIO PROPERTY AND ENVIRONMENTAL RIGHTS ALLIANCE

Attention:

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Preamble:

The EBR Registry is widely considered an ineffective and potentially biased tool with which to solicit public consultation regarding Ontario land use issues. The Ontario Property and Environmental Rights Alliance (OPERA), a coalition of trade associations, community groups and private citizens launched in 1994, shares that perception with other organized advocacy groups, many employees of provincial agencies and some members of the Ontario legislature.

An entrenched provincial government assumption that every potential EBR respondent is aware of the process, owns a computer, maintains an Internet connection and has sufficient time, inclination and expertise to identify and search for specific EBR postings among hundreds of government web sites is patently erroneous. Moreover, if and when located, Registry proposals are often found to be more a tribute to government “spin” doctors than a concise outline of constructive options. Certainly, land use recommendations articulated there are invariably supported by claimed necessity and alleged benefits undiluted by any mention of possibly adverse consequences.

A disproportionately few Registry responses from small organizations and private landowners are accordingly unlikely to balance the torrent of professional input from those government-subsidized lobbyists who dominate, if not control, Ontario land use legislation. Finally, EBR responses in and of themselves lend credence to the “core” statute involved, a subliminal endorsement not always in accord with the best interests of local communities and taxpayers.

Comment:

Registry Proposal 011-2842 is numerically prefaced by 011-2841 but both confirm MNR origin and carry an identical closing date. Each is administered by differently titled individuals in the MNR Species at Risk Policy Division, apparently a new sub-agency of that sprawling bureaucracy the total size and cost of which is unknown to Ontario taxpayers. However, both relate to activities that “would contravene subsections 9(1) and 10(1) of the Species at Risk Act”.

Proposal 011-2842, entitled “ESA Submission Standards for Activity Review and 17(2)(c) Overall Benefit Permits” is said to be “focused on permits issued under Clause 17(2) (c) of the Act” to provide policy, process and guidance for proponents seeking an “overall benefit permit”. Is an Overall Benefit Permit superior, equal or subordinate to a Gathering Form specified in 011-2841? In some instances might both be required? Would either inhibit use and value of private land? Are new Registry respondents following all this? There may be questions, even examinations, with marks deducted and charges laid for unsatisfactory answers!

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Among numerous unmentioned or unexplained concerns arising from the 8-page EBR Proposal 011-2842 the following condensed examples are noted:

1. Role of Ontario's 36 district Conservation Authorities (CAs) in collecting and processing "benefit permit" documentation.
2. Applicant cost arising from submission of a benefit permit request and subsequent Ministerial assessment of same.
3. Reporting cost of CA processing and enforcement of ESA documentation separately from existing CA municipal levies.
4. Procedures with named proxies substituting for personal Ministerial review of permit applications as specified.
5. Scope and extent of recommended penalties for convicted violators of conditions in Proposal 001-2842, if approved.
6. Present and future compatibility with proposed MNR Strategy for Prevention and Management of Human-Wildlife Conflicts
7. Impact of registered habitat permits and related "agreements" on use, title, mortgage worth and market value of private property.
8. Compensation for landowners compelled by proposed ESA protocol to become custodians of endangered species and their habitat.
9. Description, date, Internet address and present status of all ESA-related Registry proposals issued since June, 2007
10. Allegedly endangered species pre-listed on MNR's Natural Heritage Information Service database without prior consent of affected landowner.

Prognosis:

The Proposal at hand is a confusing, convoluted document that projects "submission policy standards" and speaks airily of future legal language, presumably to enforce same, but is silent about non-compliance penalties which, in the fullness of time, will undoubtedly be added as well. As such, it will likely discourage public comment from all but pre-selected "stakeholders" to whom a special invitation is evidently being sent. Because similarly disguised invitees were members of the consultant-lobbyist cartel that initially composed the Species at Risk Act, later Policy Division claims of balance and impartiality in Registry 011-2842 responses will be open to serious question. Meanwhile, contrary to the preferred semantics of MNR wordsmiths, organizations whose members have no financial or propriety interest in private lands targeted for habitat designation are not "stakeholders" by common understanding or legal definition of that word.

In summary, please be advised the OPERA coalition strongly supports the principle of species protection but totally rejects the process by which Ontario's Endangered Species Act was initiated by a cartel of consultant-lobbyists and since made increasingly opaque, restrictive and menacing by a succession of tightly scripted EBR proposals. Fairness, natural justice and the rule of law are not evident in most of those recommendations. On the other hand, they clearly award to appointed agents not only arbitrary management authority over private property but pervasive powers of implementation and enforcement as well.

In that context, we respectfully suggest EBR Registry Proposal 011-2842 should be substantially amended or, preferably, withdrawn pending impartial, public review of its turgid contents, interpretative hazards and inherent negative consequences.

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

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