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FAX

To: Members of the Provincial Parliament
Members of Municipal Councils

From: R.A. (Bob) Fowler, OPERA Secretary

Fax Number: Various **Pages:** 2 (including this cover sheet) **Date:** July 15, 2006

Re: EBR Number AB06E6001 – Proposed Revision of Ontario Species at Risk Legislation

On May 9th, the Ontario Ministry of Natural Resources proposed significant changes for species at risk (SAR) provincial legislation in the above Registry document. This was enhanced, on June 16th, by EBR Registry Number RH06E0001 proposing a Regulatory Modernization Act (Bill 69) "that would change the way regulatory ministries collect, use and share information". These two separate but clearly related initiatives allowed only 59 and 60 days respectively for public response. The following comments address issues in AB06E6001 – revision of species at risk legislation.

Like many organizations and individuals unaware until almost too late of these Internet publications, the Ontario Property and Environmental Rights Alliance provided a written submission in which the ***intent*** of Registry AB06E6001 proposals is fully supported but the ***process*** by which they are to be implemented is, in many instances, vehemently opposed. A copy of the 6 page OPERA response is available on request and several of its defining concerns are briefly summarized below:

1. Unlike Non-Government Organizations that MNR identifies as "stakeholders" and accepts as partners, many rural landowners directly affected by SAR legislation don't have a computer and/or an Internet connection and are therefore unlikely to know about, much less respond to, Registry Number EBR Number AB06E6001.

2. Specified aboriginal and "stakeholder" presence on a Committee that "adjusts" the endangered species list doesn't include equal representation for private landowners and Committee effectiveness is subject to "discretion of the Minister" (read senior MNR staff) on conditions imprecisely described and thus open to MNR interpretation years later.

3. Enforcement proposals would remove "wilful" from the particulars of species at risk court charges thus relieving prosecutors of the need to prove intent and, in effect, declaring the alleged offender guilty until proven innocent while MNR alone appoints "authorities" and "officers" with search, seizure and arrest capability.

(continued)

Since circulation of AB06E6001 proposals relies on Internet postings unsupported by print media advertising, enthusiastic responses from environmental NGOs already in the MNR electronic "loop" can be expected. In contrast, responses from affected, but uninformed, rural landowners without a computer might range from sparse to non-existent, a result perhaps intended rather than incidental.

This inherent imbalance is seldom, if ever, acknowledged in government reports claiming that widespread approval of its "proposals" result from allegedly extensive "public consultation". Such claims should be closely examined in the current instance. Moreover, the whole premise of species protection with no regard for the common law rights of private landowners should be reviewed in light of an audio visual presentation on that very subject from the American perspective. That 20 minute overview is currently posted on the following Internet site:

www.eco.freedom.org/epi/endangered/

Recent MNR-inspired "adjustments" of the Conservation Act empower Ontario's 36 Conservation Authorities (CA) to police both hazard and natural heritage wetlands at the expense of local municipalities (read local taxpayers). Inspection of private water wells under the fearsome Source Water Protection Act is also now mandated to CA "officers" at municipal expense (read local taxpayers). And *all* rural building permits and real estate transactions, regardless of location or mitigating circumstances, may soon require CA "comment" with a related fee at proponent cost.

According to the Planning Act, each such "adjustment" of contractual arrangements between CAs and their host municipalities requires prior ratification by means of advertised public meetings and a duly recorded municipal by-law. ***Most municipal councilors are aware that this requirement, in addition to already-expanding costs of CA involvement in local land use planning, will impact municipal budgeting and mill rates as well as the social/economic prospects of local ratepayers.***

SOME QUESTIONS

Will enforcement of an "adjusted" provincial Species at Risk Act at local municipal and taxpayers expense soon be entrusted to district CAs?

Will CA "inspectors" on private property to enforce a specific land use decree be reporting alleged violations of numerous other statutes as provided in Bill 69?

Will ConOnt (coalition of Ontario Conservation Authorities) initiate a written agreement with local landowner groups clearly specifying enforcement policies?

Given the thrust and direction of EBR Numbers AB06E6001 and RH06E0001as well as many other MNR land use proscriptions of similar intent, provincial MPPs and municipal councilors are urged to seek and publicly circulate answers for these questions.