



THE MAKING OF ONTARIO'S NEW ENDANGERED  
SPECIES ACT: A CAMPAIGN SUMMARY REPORT

December 2007

I V E Y *f*oundation

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## **Acknowledgements**

Writing and design: Green Living Communications.

This document is based, in part, on a campaign debriefing session held in July 2007. Thanks to Anne Bell, Rachel Plotkin, Julee Boan, Justina Ray and Rick Smith for additional input.

The opinions and views expressed are a compilation of those expressed by conservation organizations interviewed and do not necessarily reflect the views of the Ivey Foundation.

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Monarch Butterfly



Houghton's Goldenrod



Peregrine falcon

## INTRODUCTION

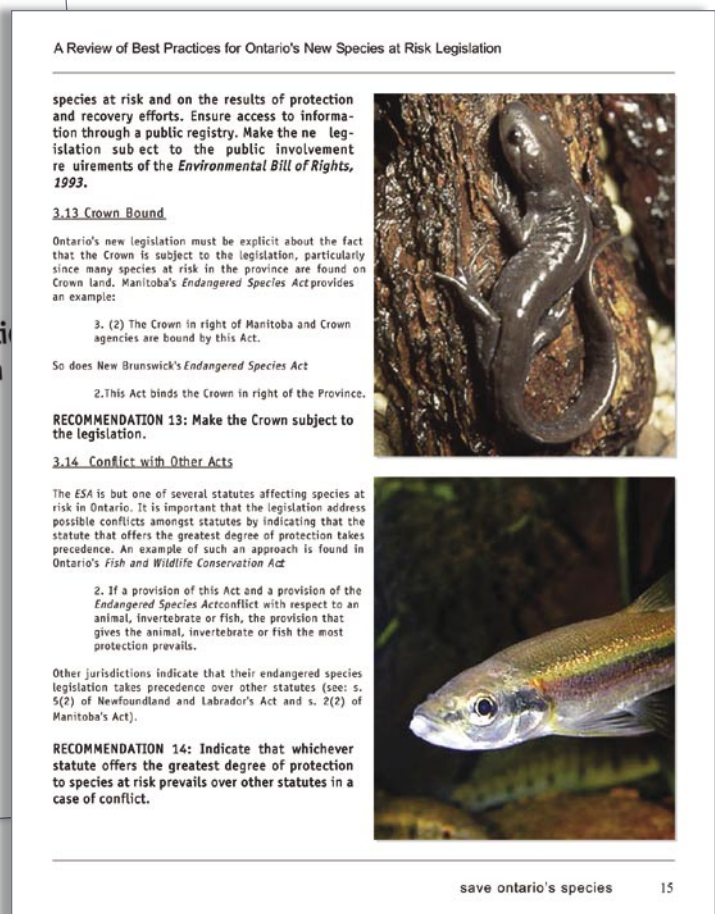
In 2007, the “Save Ontario’s Species” campaign resulted in the passage of a renewed *Endangered Species Act* for Ontario that many consider to be the best in Canada. This report was commissioned to provide others seeking to improve environmental laws and policies with the benefit of the insights and lessons learned by those who were involved in this successful initiative. What follows is a chronological narrative followed by a summary of the key lessons learned.

**THE GROUPS** The Save Ontario's Species (S.O.S.) coalition was formed in 2005 by five conservation groups – David Suzuki Foundation, Environmental Defence, Ontario Nature, Sierra Legal Defence Fund (now EcoJustice) and CPAWS-Wildlands League. The groups came together to support a major updating of the province's outdated and ineffectual *Endangered Species Act*. The coalition worked over the course of approximately 18 months to capitalize on a commitment made by Dalton McGuinty, now Premier of Ontario, in the lead up to the 2003 provincial election. This commitment was made to the Ontario public in response to a pre-election query and stated:

“We will update and strengthen Ontario’s Endangered Species Act. Our new Act will put in place effective measures to protect species at risk, including a science-based process to list species and help them recover, and meaningful protection for habitats. Protection of species is virtually meaningless unless there are also protections for the areas where they live, feed and breed.”

**LAYING THE GROUNDWORK** After the 2003 election, the conservation groups were faced with the challenge of helping the Premier and his government to turn a campaign commitment into an effective law. The SOS coalition started by doing its homework. The coalition produced a “Best Practices” report based on reviews of endangered species legislation across Canada, the United States, Australia and Mexico. The report also included specific recommendations for improving Ontario’s legislation. By pointing to existing effective practices, rather than simply offering unproven recommendations, the report helped to demonstrate the practicality of the coalition’s proposals.

**Best Practices report demonstrated achievability of Coalition’s recommendations.**



The coalition used this document to frame its thoughts for what should be included in a revised Act. They focused on four key elements:

- Mandatory protection for threatened and endangered species and their habitats;
- A science-based process for deciding which species should be listed (rather than the political one that was in effect under the existing Act).
- The creation and implementation of well-designed recovery plans for threatened and endangered species, as well as management plans for species of special concern; and
- Stewardship incentives and financial resources needed to deliver effective on-the-ground protection and recovery efforts.

By condensing the 14 detailed recommendations in the complete review document into these four benchmarks, the coalition achieved three important objectives:

- Created a “must have” list of attributes for a new Act that political decision-makers and policy advisors could easily grasp and assess for feasibility.
- Defined a compelling vision for the public of what a good Act would achieve in a way that was clear, concise and reasonable.
- Provided the campaign with a strong unified theme that could be used to create consistent and effective communications in a number of different contexts (e.g., government meetings, public outreach, legislative hearings, etc.).

By calling for the government to establish “the best Endangered Species legislation in Canada,” the coalition set a measurable benchmark and expectation that was later adopted by the government as its own standard for the legislation. In fact, the government clearly recognized that this was the standard most Ontarians would reasonably expect them to meet and saw that it would be difficult to explain away second-class legislation from one of the country’s wealthiest provinces.

**THE OPPORTUNITY** In 2005, the Liberal government was struggling to shrug off a reputation for being “promise breakers.” The introduction of the provincial health premium on the heels of a campaign promise not to introduce any new taxes had left the opposition and many media commentators characterizing the government as one that could not be relied upon to keep its word.

At the same time, the environmental community was well aware of the commitment to update the *Endangered Species Act* (among other actions) that Premier McGuinty had made just prior to the 2003 campaign – a commitment that had still not been delivered.

The government was also tracking a surge in voter concern about environmental issues that was increasingly reflected in polling data. It also knew that when environmental groups endorsed its actions, such as with the creation of the Greenbelt, the public took this as an indicator that the effort deserved their respect and support.

Finally, the government had passed legislation setting a fixed election date of October 10, 2007, thereby setting a countdown clock running on the time remaining to pass new legislation.

In this context, SOS coalition members were able to discuss the likely outcomes with the government: A good news story about an issue the public could easily understand or the perception that the government had broken another promise. The groups also made it clear that they would stand strongly behind a decision to revamp the Act.



**American Ginseng**



**Hooded warbler**

At the bureaucratic level, the coalition outlined the financial and administrative benefits of a revamped Act and pointed out the risks of inaction. They made it known that in the absence of new legislation, conservation groups would likely invoke the federal *Species at Risk Act*'s "fail safe" provisions. This would publicly highlight the failures of the existing Ontario legislation and would encourage federal intervention at the provincial level, an outcome not favoured by the government of Ontario.

These efforts paid off and the government indicated it wanted new legislation and sought advice on the best way to move forward.

**MAKING THE MOST OF THE OPPORTUNITY** With a well-defined set of objectives and a motivated government, the SOS coalition focused on bringing these two elements together to help the government create "best in class" legislation.

A key vehicle for launching the process was the creation, at the suggestion of the SOS coalition, of an expert panel to review the current legislation and make recommendations for improvement to the Minister of Natural Resources. The makeup of this panel was a significant departure from the "stakeholder" membership that governments typically favour. Instead, it comprised a group chosen for its expert knowledge of endangered species recovery and management, legal protection of species, and conservation science generally.

Freed from the constraints of reaching a compromise between many different, and often conflicting, interests, the expert panel members were able to focus on how to meet the government's mandate of creating the best endangered species legislation in Canada.

The panel worked quickly and effectively, delivering a strong unanimous report that included an innovative approach to habitat protection and recommendations for improving private-land stewardship funding and institutional support.

While the panel deliberated, the SOS coalition stayed in constant touch with politicians, political staff, and senior bureaucrats to remind them of the commitment and of the tight timeline for action. The issue was raised in both

**WHAT YOU CAN DO: SPEAK UP FOR SPECIES THAT CAN'T**

- Write the Premier and ask him to quickly pass strong new Endangered Species legislation or add a personal note to the postcard attached.
- Write or contact your MPP and tell him or her that we need to get new legislation passed as quickly as possible. (For your MPP's name and address, see [www.electionsontario.on.ca](http://www.electionsontario.on.ca)).
- Pass this pamphlet on to your friends and family.
- Find out more about Ontario's species at risk and what you can do at [www.saveontariospecies.ca](http://www.saveontariospecies.ca).
- Find out more about the boreal forest – home of the threatened woodland caribou at [www.wildlandsteague.org](http://www.wildlandsteague.org)

**WOODLAND CARIBOU – A THREATENED WILDERNESS ICON.**

Over the last 100 years, woodland caribou have disappeared from more than half of their historic range in Ontario. Scientists know that these elusive boreal forest dwellers rarely survive in areas with heavy industrial activities, like logging and mining, and many roads.

Right now, we still have a chance to protect large intact areas in the southern boreal forest that provide a healthy home for caribou. Equally important, we can think ahead and help prevent further risk to this threatened species by putting conservation first when planning for the future of the vast and intact northern boreal region that represents caribou's best hope for escaping extinction in Ontario.

**For more on how we can protect this wilderness icon, please visit [www.cariboutheuntoldstory.org](http://www.cariboutheuntoldstory.org).**

**SAVE ONTARIO'S SPECIES**

**ONTARIO'S ENDANGERED SPECIES NEED YOUR HELP**  
[www.saveontariospecies.ca](http://www.saveontariospecies.ca)

Ontario Nature  
 Great grey owl  
 Premier Dalton McGuinty  
 Legislative Building  
 Queen's Park  
 Toronto ON  
 M7A 1A1

ENVIRONMENTAL DEFENCE  
 WILDLANDS LEAGUE  
 A chapter of the Canadian Parks and Wilderness Society  
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David Suzuki Foundation  
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**S.O.S. campaign brochure distributed in key areas of the province.**

meetings held to discuss progress on this specific issue and during other meetings and conversations. With five groups involved, opportunities to maintain contact with senior officials were frequent and well used.

This government relations effort, which was, in many ways, central to the success of the campaign, benefited from three factors:

- the timely appointment of senior Ministry of Natural Resources staff who believed that strong endangered species legislation could co-exist with healthy resource industries and economic growth.
- the hands-on involvement of senior political staff, who set clear expectations among the bureaucracy about desired results.
- clear communication by the coalition that the effort was non-partisan and that support from any political party would be praised.

The groups worked to give the campaign a public face by distributing thousands of copies of a Save Ontario's Species brochure through community newspapers in ridings with a history of swing voting or small pluralities. The brochure included a postcard addressed to the Premier applauding his intention to introduce new legislation and reiterating the SOS coalition's preferred approach to the legislation. One of the brochure's themes was "urgency" – there was just over six months left until the next election.

Throughout the campaign, the coalition worked hard to ensure that conservation voices were heard, by urging local naturalist clubs and other nature and wildlife groups to send in comments, participate in consultation processes and speak up in the local media. This was particularly effective when industry led opposition in rural areas started to build late in the campaign, and ensured that pro-conservation voices were also heard in the local media and by local MPPs. Similarly, web-based outreach through websites and group email lists proved valuable in setting expectations and generating public expectation for a good Act.

**“MPP / Endangered Species” card - a popular trading item in the Ontario legislature.**



The coalition's government relations efforts were given a personal face with three initiatives. First, to raise awareness and support among MPPs during a reception at the Legislature, every member of the Legislature was presented with a playing card that paired the member with a specific endangered species. The novelty and interest value of this outreach effort was huge, with MPPs comparing their pairings and making comments in the House about the cards. Every MPP now had some awareness of the issue and the new legislation.

Second, the coalition also presented the Premier with a letter from Dr. David Suzuki praising the initiative, which was followed by a personal meeting between Dr. Suzuki and the Premier. Coalition members knew the Premier saw Dr. Suzuki as someone he personally admired, and the letter and meeting were effective in strengthening the Premier's resolve to have not merely new, but the best legislation.

Finally, to build support on the expert panel's findings and recommendations, the coalition helped organize a letter signed by more than 100 scientists endorsing the coalition's proposed solutions. This helped reinforce for the government the goal of producing scientifically grounded legislation that would be highly effective in protecting and recovering species, rather than legislation that sought to appease all interests.

**A WILD RIDE TO THE FINISH** The effectiveness of the SOS campaign had led to a strong indication from senior levels in the government that the new legislation would be introduced before Christmas in 2006. When the legislation failed to materialize, there was some concern that the campaign was in trouble. But reassurance was provided by an "update" presented by the Minister of Natural Resources in the Legislature, where he committed publicly to passing the best endangered species legislation in Canada. Again, the government was signalling that it was committed to the Bill and the SOS Coalition continued to demonstrate to the government that it would stick with a positive opportunity message.





Throughout the last tense months of the campaign, the coalition continued to bank on a positive public campaign being sufficient to keep the government engaged. In fact, the coalition continued to hold out to the government the lure of strong praise as its prime motivation and took its biggest risk by unveiling a transit and radio advertising campaign thanking the government for its actions just as the Act was introduced in the Legislature for first reading in March 2007.

As opponents of the bill suddenly awoke to the government's intention, this risk paid off handsomely as the government took the unusual step of actually strengthening the bill during legislative committee hearings. As one coalition member put it, the Bill "went from being good to being very good" – unlike most environmental legislation, which almost invariably gets watered down by compromises and deal-making during these final stages.

Coalition members point to a number of factors for this turn of events. Opponents of the bill:

- were late and disorganized in making their case to government;
- proved to be poorly briefed on the bills contents and mechanisms;
- were reluctant to directly oppose the bill in media releases or paid ads, instead calling for "more consultation," which proved to be an ineffective communications strategy;
- had few positive or helpful suggestions or amendments to offer;
- neither opposition party (Progressive Conservatives and NDP) saw it as politically advantageous to take a strong stand against the bill – particularly given the positive public resonance of the issue of protecting endangered species.

In June 2007, the new Ontario Endangered Species Act passed third and final reading in the Ontario Legislature.

## LESSONS LEARNED:

**FRAME THE ISSUE INTELLIGENTLY:** It is important to frame the issue with the appropriate level of detail for politicians and their policy advisors. For example, the simple statistic that 94% of species at risk were threatened by habitat loss was easily grasped – and the implications easily understood – by decision makers.

**DO YOUR HOMEWORK AND TRY TO CLOSE AS MANY LEGAL LOOPHOLES AS POSSIBLE.** Not all political discretion can (or perhaps even should be) removed from a piece of legislation, but it is important to advise the deletion of those parts most open to abuse. For species, that meant establishing an objective, science-based listing process to replace the political one found in the old Act.

**LOOK AT THE BIG PICTURE:** Knowing that a good Act would only be half the battle in saving species, the coalition also suggested funding for recovery planning and implementation and other stewardship measures. As one person noted: "Nova Scotia has a great Act with no funding – a recipe we know doesn't work."

**WORK FAST AND HARD:** The coalition members knew time was limited to get the new Act passed, but also knew this could work to their advantage. Without the deep pockets and resources of their opponents, environmental groups



generally fare far better in a “sprint” campaign than a marathon. This lesson was learned the hard way at the federal level where a 10-year battle proved the undoing of the early promise of federal species legislation.

**BE INNOVATIVE IN YOUR POLICY SUGGESTIONS AND AVOID COMMON TRAPS:** For the expert panel, the issue of how to define endangered species habitat was a key one where a single concept around defining “species specific” significant habitat helped to point the way forward. Similarly, the idea of having a non-partisan expert panel rather than stakeholders create a roadmap for the government proved to be a powerful tool.

**BUILD CONTACTS IN GOVERNMENT:** Solid, trust-based relationships with senior political and bureaucratic staff provided opportunities for direct and frequent communication. These relationships are critical to supporting the fast-moving process of developing new legislation.

**PROVIDE VALUE:** By being a source of both useful scientific and policy advice, and by being willing to go out on a limb to promote the Act, the coalition demonstrated the value of its advice to government.

**BUILD A STRONG AND TIGHTLY COORDINATED TEAM:** The SOS coalition had a few structural advantages. It was small enough for quick decision making and response. Coalition group staff members also brought a strong and diverse set of skills and knowledge to the campaign: from scientific and legal expertise to experience with the federal Act. Finally, the coalition benefited greatly from having a senior campaigner employed as a campaign coordinator.

**HAVE A BACK-UP PLAN:** The coalition made both the costs and benefits of success or failure clear to the political and bureaucratic levels of government.

**BE FLEXIBLE TACTICALLY:** Had legislation actually been introduced before Christmas 2006 when it was originally promised, it would have largely been enabling legislation missing important details. As it turned out, the three month delay led to a much more comprehensive Bill with binding implementation requirements.

**MONEY AND RESOURCES COUNT:** A committed funder and others who supported the production of key communications and outreach products made it possible for the groups to walk their talk and helped convince government to take them seriously. It also gave them the flexibility to respond quickly to opportunities and challenges. The number of staff dedicated to the campaign were few but at critical junctures other staff from each organization became engaged.

**THINK ABOUT WHAT TO DO AFTER YOU WIN:** Protecting and capitalizing on the gains made can be the toughest part of a successful campaign. The work can lack both public and funder appeal and is usually very detailed and time consuming, but it will be crucial for the *Endangered Species Act* implementation. The groups will need to be strategic in their engagement of the implementation process because they simply cannot take part in the development of hundreds of recovery plans. Selecting key species with strong public appeal and setting strong early precedents for good recovery planning will be the focus.

**FOR MORE INFORMATION ABOUT THE S.O.S. CAMPAIGN,  
PLEASE CONTACT ONE OF THE GROUPS BELOW.**



**David  
Suzuki  
Foundation**

David Suzuki Foundaton  
[www.davidsuzuki.org](http://www.davidsuzuki.org)

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Ontario Nature  
[www.ontarionature.org](http://www.ontarionature.org)

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**WILDLANDS LEAGUE**  
*A chapter of the Canadian Parks and Wilderness Society*

CPAWS Wildlands League  
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**Woodland caribou will be fast tracked for recovery planning under Ontario's new Endangered Species Act.**