



WILDLANDS LEAGUE

A chapter of the Canadian Parks and Wilderness Society

May 27, 2013

Hon. Kathleen Wynne
PREMIER AND PRESIDENT OF THE COUNCIL
Legislative Bldg
Rm 281
Queen's Park
Toronto ON M7A1A1

Dear Premier Wynne,

RE: Wildlands League resignation from the Endangered Species Act Panel

It is with a heavy heart that I send this letter to you today tendering our resignation from the Endangered Species Act Stakeholders Panel (Panel).

We appreciated very much the privilege and the invitation to participate in the Panel and held out so much hope for it. We have been members of the Far North Advisory Panel and still are members of the Minister's Mining Act Advisory Committee (MMAC) and the Provincial Forest Technical Committee (PFTC). In all these venues, we have found common ground with industry partners that many assumed to be our adversaries. We are experienced negotiators adept at building win-win solutions.

We thought the Endangered Species Act Stakeholders Panel was our opportunity to break through the log jam on implementation of the *Endangered Species Act*. Many criticized us for joining the panel, suggesting it was an attempt to co-opt us and 'greenwash'. We were the *only* environmental group to do so. We chose collaboration over fear.

But they were right; the fearmongers.

However, it was not as some may assume a lack of understanding or 'common ground' with industry; but rather an ideological divide with the MNR civil servants on this file.

CPAWS Wildlands League is committed to protecting species at risk in Ontario and as such to upholding the *Endangered Species Act, 2007* (ESA).

We accepted the invitation to join the panel because we are committed to finding implementation solutions that are consistent with the legislation and that work in the real world. If we were able to find solutions that work it would help deliver on the promise of the ESA and ultimately help species at risk. Workability, however, is not to be mistaken for 'balance'.

The ESA does not contemplate 'balance' but requires we take measures to redress habitat loss and pressures pushing species to the brink of extirpation and extinction as the overriding



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objective of the ESA. This is accomplished by building solutions that are practicable in the real world while achieving the overarching mandate of the Act.

This has been lost somewhere along the way in our estimation. Now our participation in the Panel is being used to provide green cover for the MNR's broad sweeping use of exemptions that we do not support and never sought.

Below we describe some the suggestions we did make:

- We support species receiving timely habitat protection. We encourage Ontario to rely on the best available science to make informed decisions about species and their habitats and to use this in completing the habitat regulations for species in a timely fashion.
- Exemptions should be the exception not the norm. Exemptions must not be used as an ongoing way to deal with difficult situations. Overuse of exemptions ultimately calls into question the integrity of the legislation and suggests that it is not being upheld. Exemptions must still be consistent with the objectives of the Act, recovering species.¹
- Efficiency is gained with a well designed permit by rule approach for non complex or non risky situations. It should not be employed for complex or risky situations however. This may be the best approach for example, for activities where the primary purpose is to create rare habitats and ESA species come to occupy it (e.g. wetland habitat creation).
- We support a smart approach that prioritizes transition species that are to receive general habitat protection in June 2013. This could offer Ontario an approach to group species together and to use ecosystem approaches to habitat protection.

For example, mussels could be grouped together. An example of a useful ecosystem approach might be habitat protection through coastal wetlands, major wetlands or tall grass prairie for example; perhaps taking a risk approach may help if it still achieves the goals of the legislation.

- We support the use of a Forest Management Plan (FMP) as an instrument under the ESA as the appropriate vehicle to authorize activities under Ontario's *Endangered Species Act* (subject to addressing various outstanding issues that arise in contemplating section 18 as a vehicle). This approach is attractive because the three tests of section 18 can be incorporated directly into the forest management planning without adding time to the FMP process.
- We support the need for better research and monitoring, especially when faced with the so called impractical or untested mitigation measures.

Finally, we applauded the *Endangered Species Act* as the gold standard in North America for legislation to protect species.

¹ Any use of exemptions must meet the test of overall benefit to the species to be consistent with the purpose of the act. This means that requirements that comprise the exemption must lead to recovery of the species. These exemptions cannot be aimed at minimizing the impact of the presence of a endangered species on human activity. The Act does provide for this type of exemption if required and government must use this mechanism if social or economic needs are such that this is necessary by making that decision openly and transparently to choose socioeconomic needs over the needs of the species.



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Unfortunately, we are now concerned this will be undone in implementation if the regulations drafted go forward as we suspect they will and if they do not remain true to the spirit and the intent of the Act.

Regulations give life to legislation but they can also kill it.

That is why we worked so hard to find the sweet spot on mining regulations just recently concluded for the mining legislation changes; and it is why we worked so very hard to make sure the regulations and policies that came after the 'Parks Act' met with the intent of that law.

We have already flagged for MNR Minister Oraziotti in our letter dated April 30, 2013 the problems of several of the proposed sweeping exemptions that will catch the Ring of Fire, large transmission lines in Northwestern Ontario and forestry, to name just a few. How could Ontario drift so far away from where they were only a few short years ago on endangered species? If the regulations your government is about to enact go forward as contemplated, we fear that the Act will be neutered; species survival will be jeopardized.

Decisions made now could undermine the very law put in place to protect species on the edge of extinction. Will regulations being contemplated by your government provide the protections needed for Woodland caribou, Wolverine, Acadian Flycatcher, Blanding's Turtle, Lake Chubsucker, Forked Three-awned grass and Eastern Hog-nosed snake? All of these species add value. All are necessary for healthy ecosystems. Please let us know their fate Premier Wynne. They and more than 60 others' fates are in your hands.

Sincerely,

Janet L Sumner
Executive Director
CPAWS Wildlands League

cc: Matthews, Hon. Deb , Minister of Health and Long-Term Care and Deputy Premier
Bradley, Hon. James J, Minister of the Environment
Gerretsen, Hon. John, Attorney General
Gravelle, Hon. Michael, Minister of Northern Development and Mines
McMeekin, Hon. Ted, Minister of Community and Social Services
Brotten, Hon. Laurel C., Minister of Intergovernmental Affairs and Minister Responsible for Women's Issues
Duguid, Hon. Brad, Minister of Training, Colleges & Universities
Jeffrey, Hon. Linda, Minister of Municipal Affairs and Housing & Chair of Cabinet



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Leal, Hon. Jeff, Minister of Rural Affairs

Meilleur, Hon. Madeleine, Minister of Community Safety & Correctional Services & Minister Responsible for Francophone Affairs

Oraziotti, Hon. David, Minister of Natural Resources

Sandals, Hon. Liz, Minister of Education

Zimmer, Hon. David, Minister of Aboriginal Affairs

Chan, Hon. Michael, Minister of Tourism, Culture & Sport & Minister Responsible for P/PAGS

Moridi, Hon. Reza, Minister of Research and Innovation

Naqvi, Hon. Yasir, Minister of Labour

Sousa, Hon. Charles, Minister of Finance and Chair of the Management and Treasury Board of Cabinet

Hoskins, Hon. Dr. Eric, Minister of Economic Development, Trade and Employment

Murray, Hon. Glen R., Minister of Infrastructure and Minister of Transportation

Chiarelli, Hon. Bob, Minister of Energy

Coteau, Hon. Michael, Minister of Citizenship and Immigration

MacCharles, Hon. Tracy, Minister of Consumer Services

Piruzza, Hon. Teresa J., Minister of Children & Youth Services

Sergio, Mario, Minister Responsible for Seniors

Milloy, Hon. John, Minister of Government Services and Government House Leader

Wallace, Peter, Secretary of the Cabinet and Clerk of the Executive Council

Gord Miller, Environmental Commissioner of Ontario