

Environmental groups in court to challenge regulation that guts Ontario's *Endangered Species Act*

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TORONTO- Ecojustice lawyers are in court today challenging an Ontario government regulation that allows major industrial sectors to kill species at-risk and destroy their habitat. The regulation provides broad exemptions from prohibitions in Ontario's *Endangered Species Act (ESA)*. Ecojustice's clients, Ontario Nature and Wildlands League, allege that the Ontario government acted unlawfully by making a regulation that undermines the *ESA*'s core purpose – to protect and recover at-risk species.

Ontario Regulation 176/13 came into force in July 2013. It exempts major industries such as forestry, energy transmission, housing, oil and gas pipelines, mineral exploration, and mine development from the prohibition against killing at-risk species or destroying their habitats. These industries are now subject to weaker species protection standards than those found in the *ESA*.

"When Ontario introduced the *Endangered Species Act* in 2007, it was celebrated as a gold-standard species protection law" says Caroline Schultz of Ontario Nature. "With this regulation, the government has reneged on its promise to give these species the protection they desperately need."

Ecojustice lawyers acting for the two environmental organizations will argue that the regulation undermines the very purpose of the law it is meant to serve. They will also argue that the Minister of Natural Resources acted unlawfully when he failed to consider the regulation's impacts on each of the [155 species](#) listed as either endangered or threatened under the *ESA* before recommending that Cabinet make the regulation.

"In making this regulation, the Ontario government put the preferences of industry before the legislature's commitment to protecting biodiversity" says Charles Hatt, staff lawyer with Ecojustice. "The only purpose of the *Endangered Species Act* to protect species. The regulation is not about protecting species, and that is unlawful."

The Ontario government tried to introduce amendments that would have weakened the *Endangered Species Act* in its 2012 budget bill. Environmental groups spoke out against the amendments and argued that using a budget bill to amend environmental statutes in order to avoid regular public scrutiny should not be tolerated. In the end, all parties voted down the proposed amendments to the *ESA*. The Ontario government said it would re-introduce amendments in the legislature but never did. Instead it made a regulation, a move that only requires the approval of Cabinet.

"The *ESA* is intended to be the last line of defence for threatened wildlife," says Anna Baggio of Wildlands League. "What Ontario has done with this regulation is drive a great big dump truck through it. The hole is so big that almost all industries in Ontario can use it to avoid the strict protections set out in the *Act*."

Some of Ontario's 155 at-risk species threatened by the regulation include the American Eel, Blanding's Turtle, the Lakeside Daisy, the Acadian Flycatcher and the iconic Woodland Caribou.

The hearing begins at 10am today, January 14, and will wrap up mid-day tomorrow, January 15.

The case will be heard at the Ontario Superior Court of Justice - Divisional Court, Osgoode Hall, Courtroom 3 (130 Queen St. W, Toronto)

Lawyers and representatives from the client organizations will be available for comment during breaks and before and after hearings each day.

For more information, please contact:

Anna Baggio, Director, Conservation Planning | Wildlands League

416.453.3285 (mobile)

John Hassell, Communications Manager | Ontario Nature

416.786.2171 (mobile)

Charles Hatt, Staff Lawyer | Ecojustice

647.783.1934 (mobile)