SUBMISSION REGARDING
10th YEAR REVIEW OF ONTARIO'S ENDANGERED SPECIES ACT: DISCUSSION PAPER
ERO NUMBER: 013-4143

PART I – INTRODUCTION

(a) Background

Ecojustice, the Canadian Environmental Law Association ("CELA") and Lintner Law provide the following comments regarding the 10th year review of Ontario's *Endangered Species Act, 2007* ("*ESA*" or the "Act").

Ecojustice is a national charitable environmental law organization with an extensive history of involvement in the protection of Ontario's species at risk under the *ESA*. Ecojustice (then called Sierra Legal Defence Fund) was one of the lead organizations that advocated for the enactment of Ontario's *ESA* in 2007 due to deficiencies in the previous statute. Ecojustice has been actively monitoring the implementation of the Act and commenting on its strengths and weaknesses since it was enacted.

CELA is a non-profit, public interest organization established in 1970 for the purpose of using and improving existing laws to protect public health and the environment. For nearly 50 years, CELA has used legal tools, undertaken ground-breaking research and conducted public interest advocacy to increase environmental protection and the safeguarding of communities. CELA works towards protecting human health and the environment by actively engaging in policy planning and seeking justice for those harmed by pollution or poor environmental decision-making.

Lintner Law is a private practice focused on environmental law and policy. Prior to establishing Lintner Law, Anastasia Lintner was a staff lawyer and economist with Ecojustice for more than a decade. Dr. Lintner has been involved in the species at risk file since consultations commenced on A Review of Species at Risk Legislation in 2006.

(b) Overview of Comments on the ESA Review

When Ontario's current *ESA* came into force, it represented a significant improvement over the Province's original *Endangered Species Act*, enacted in 1971. The new *ESA* mandated a science-based approach to listing species protected under the law, required timely preparation of recovery strategies, and automatically protected the habitat of endangered and threatened species. It also offered flexibility to landowners and development proponents by allowing them to apply for permits for activities that might harm an at-risk species or its habitat under certain conditions, while raising the standard of protection from simply doing less harm to actually benefiting species.

However, since coming into force in 2008, various exemptions through regulation were granted to development, infrastructure, pit and quarry and hydro projects. The forestry industry was also granted a special one-year exemption from the rules against harm to species and their habitats. In 2013, new regulatory exemptions were introduced that further weakened the implementation of the Act. In particular, permit-to-rule provisions were included for many activities that are impacting species at risk (including energy transmission, oil and gas pipelines, mineral exploration and mine development) and a further time-limited exemption for forestry was added. Now, a decade later, it is clear that in terms of *ESA* implementation, the law's fundamental purpose – namely, the protection and recovery of species at risk – has not been prioritized over economic and resource development, and the number of species listed as at-risk continues to grow rather than decline.

While the 10th Year Review of Ontario's Endangered Species Act: Discussion Paper (herein, "Discussion Paper")[1] emphasizes upholding the *ESA's* intent to protect and recover species at risk in Ontario, it is clear that finding "efficiencies in service delivery authorization clients" and reducing barriers to economic development is a strong motivation for this review. Most "activities" referred to throughout the Discussion Paper are harmful activities prohibited by the *ESA* (e.g., killing members of threatened or endangered species, or damaging or destroying their habitat).

Currently, there are many authorization options enabled[2] and yet, there is no assessment of the effectiveness of those options at achieving the goal of species at risk protection and recovery. The overall direction of the options under consideration in the Discussion Paper is toward further environmental deregulation to make it easier for industry and development proponents to proceed with activities that harm species at risk and their habitats.

In contrast, the proposed Preserving and Protecting our Environment for Future Generations: A Made-in-Ontario Environment Plan commits to:

> Reaffirm our commitment to protect species at risk and their habitats, as we mark the 10th anniversary of Ontario's Endangered Species Act. We are committed to ensuring that the legislation provides stringent protections for species at risk, while continuing to work with stakeholders to improve the effectiveness of the program.[3]

Based on the limited information in the Environmental Registry of Ontario notice and the Discussion Paper, we believe that the Ministry of the Environment, Conservation and Parks ("MECP") is not yet in a position to propose any changes to the species at risk program or the Act. In addition to our detailed submissions below, we recommend overall that the MECP defer making any decisions about altering the species at risk program until such time as a baseline assessment of "the effectiveness of the program" is completed and made public. Such an assessment must focus on how the program measures up to the goal of protection and recovery of species at risk and not the Discussion Paper's lesser standard of "positive outcomes for species."

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[1] Ministry of Environment, Conservation and Parks, 10th Year Review of Ontario's Endangered Species Act: Discussion Paper (2019), online: https://prod-environmental-registry.s3.amazonaws.com/2019-01/ESA-10thYrReviewDiscussionPaper.pdf **[Discussion Paper]**.

[2] *See* Discussion Paper at 6.

[3] Ministry of the Environment, Conservation and Parks, Preserving and Protecting our Environment for Future Generations: A Made-in-Ontario Environment Plan (2018), online: https://prod-environmental-registry.s3.amazonaws.com/2018-11/EnvironmentPlan.pdf at 51.

RECOMMENDATION 1: Defer making any decisions about altering the species at risk program until such time as a baseline assessment of "the effectiveness of the program" is completed and made public.

The 2006 Endangered Species Act Review Advisory Panel[4] recommendations provide important context for the effectiveness of the species at risk program, as it stressed a framework that relied on three pillars:

> 1. Stewardship and incentives programs that could provide effective protection and recovery of species at risk and their habitat. These programs would be applied proactively to engage the agricultural community, private landowners, industry and the general public;
>
> 2. Legislation to establish an effective legal framework to protect and recover species at risk; and,
>
> 3. Policies and implementation approaches that would support the legislation to ensure its effectiveness.[5]

It is our belief that pillars 1 and 3 have yet to be fully embraced in the current species at risk program. We believe that no changes to the Act are necessary to "improve the effectiveness" of the species at risk program. And, we strongly believe that whatever review is undertaken and changes made, the cornerstones of the Act must be maintained: without science-based listings, automatic protections and mandatory timelines, species at risk will not stand a chance of recovery.

We now turn to the challenges and questions raised in the Discussion Paper and offer the following comments.

PART II – RESPONSES TO DISCUSSION PAPER

(a) Area of Focus 1: Landscape Approaches

The Discussion Paper poses the questions of: a) whether and under what circumstances would a landscape approach be more strategic than a species-specific approach to support a proposed activity while also ensuring or improving outcomes for species at risk; and b) are there existing tools or processes that support managing for species risk at a landscape scale that could be recognized under the *ESA*?

To address this, we first note that both approaches are needed, dependent on the circumstances, and that one approach should not be favoured at the expense of the other. The *ESA* should not be amended to allow landscape approaches instead of species-specific approaches, as the fine scale of species-specific status assessments, listings and protections are all needed to ensure a robust scientific process. The *ESA's* species-specific habitat regulations were designed to be implemented strategically and tailored to individual species' needs, providing the instruments to undertake effective habitat protection. We also note that the *ESA* (s 13 and 14) already provides for multi-species recovery strategies by allowing for the preparation of recovery strategies based on an ecosystem approach.

A landscape approach works when it captures a wide range of species and their habitat needs, while still referencing the needs and health of individual species, especially those vulnerable to human activities. Some at-risk species benefit from a landscape approach due to their space-demanding needs and vulnerability to cumulative effects, with boreal caribou being the prime example. Certain geographic areas in Ontario have significant concentrations of species at risk, in which a landscape-based and

[4] The Panel's full report is cited in footnote 6.
[5] A Review of Ontario's Species at Risk Legislation, EBR Registry Number: AB06E6001.

coordinated multi-species approach is warranted. However, managing at a landscape level is difficult in that boundaries can be vague, and ecosystem functions can be difficult to evaluate as measurable goals. Further, given that an ecosystem can be incrementally eroded, it is unclear how much of an ecosystem is enough in terms of area, representative species or functions[6], and while criteria for maintaining viable populations of an individual species are relatively well-established, there are not equivalent viability criteria for ecosystems.[7] Therefore, a landscape approach must be considered only a complement to a species-level approach and not a substitution.

Compared to approaches that address the needs of individual species, a landscape approach can reduce cost and bureaucratic process. A "species-specific policy approach" can create significant management challenges as there are many at-risk species, the list continues to grow, and each species follows an independent track from assessment to listing to recovery action, which involves a lengthy process. However, the Discussion Paper indicates that consideration is being given not only to landscape-level planning but also to broad-scale authorizations of harmful activities, which is entirely inappropriate for endangered and threatened species. Such an approach does not lend itself to addressing site-specific or species-specific concerns and consequently presents unwarranted additional risk for species already at risk.

RECOMMENDATION 2: The Province should not advance landscape-level planning in place of species-specific approaches or broad-scale authorizations of harmful activities as they are too coarse a filter to address site-specific or species-specific concerns. Their use does not align with the goals of at-risk species protection and recovery.

(b) Area of Focus 2: Listing Process and Protection for Species at Risk

The Discussion Paper raises several questions regarding improvements to the notification processes of species assessment, classification and listing, as well as alternative approaches to automatic species and habitat protections, and when an alternative approach would be appropriate.

It is our collective opinion that there should be no change to the *ESA* regarding assessment and listing processes, nor to the role of the Committee on the Status of Species at Risk in Ontario ("COSSARO"). Science-based listing of species at risk by COSSARO (*ESA*, s 3-8) and automatic protections of listed species and their habitats (*ESA*, s 9 and 10) are cornerstones of the *ESA* and must remain intact. The challenges described in the Discussion Paper are implementation and communication issues, not problems with the Act itself.

The *ESA* already sets out a transparent approach to listing based on a consideration of "the best available scientific information, including information obtained from community knowledge and aboriginal traditional knowledge" (*ESA*, s 5(3)), and allows the Minister to request a review of a COSSARO decision if "credible scientific information" indicates the listing is not appropriate (*ESA*, s 8(2)). The COSSARO process, in its entirety, is also open to the public.

[6] Wilhere, G.F. 2008. The how-much-is-enough myth. Conservation Biology. 22(3):514-517.

[7] Brooks, T.M., da Fonseca, G.A.B., Rodrigues, A.S.L. 2004. Protected Areas and Species. Conservation Biology. 18:616-618.

We disagree with the Discussion Paper's suggestion that insufficient time is afforded to notify the public. In its listing process, COSSARO is required to consider species assessed by the federal Committee on the Status of Endangered Wildlife in Canada (COSEWIC) (*ESA*, s 4(2)(a)), and there are already years of notice embedded in COSSARO's review. This process and entire pathway to species assessment and a listing decision should not be lengthened any further as this would only exacerbate the status of the species. The challenges articulated in Discussion Paper could all be improved, if not wholly addressed, by more effective communications with stakeholders and proponents, which would help resolve the perception that there is insufficient public notice.

Likewise, there should be no alternative to automatic species and habitat protections (e.g., through ministerial discretion to remove or delay protections). By the time a species has been assessed and listed, its status has been known for some time and further protection delays would only cause more harm to the species. Automatic protections should be tailored to the most significant threats to the species, which are determined during the status assessment. COSSARO only meets once or twice per year, and assesses roughly 15 species at each meeting. Many of these assessments are reassessments of species that already have protections. Therefore, it should not be particularly onerous, especially if the assessment processes are robust and trustworthy, to put meaningful protections in place that would make an immediate difference to a species at risk.

RECOMMENDATION 3: There should be no change to the *ESA* regarding assessment and listing processes, the role of the Committee on the Status of Species at Risk in Ontario, nor alternatives to automatic species and habitat protections.

(c) Area of Focus 3: Species Recovery Policies and Habitat Regulations

The Discussion Paper questions under what circumstances a benefit would be provided to a species and/or Ontarians from longer timelines for: a) the development of the Government Response Statement ("GRS") (the suggestion is made that the nine month deadline can be too short), and b) conducting a progress review towards the protection and recovery of a species (it is indicated that the deadline of within five years of the GRS may not be merited or relevant). The Discussion Paper also asks under what circumstances the development of a habitat regulation is warranted, or not warranted, and suggests that a habitat regulation is not needed for each endangered or threatened species since general habitat protection applies and can be clarified through the use of general habitat descriptions.

In regards to the challenges noted around GRS and progress reporting timelines, we note that there is no analysis or explanation given for why timelines are not being met, nor any discussion of the potential consequences of lengthened timelines for species at risk. These challenges and failures to meet legislated deadlines are implementation issues, and no legislative changes should be made to the timelines for production of the GRS or progress reports. We recommend coordination of Recovery Strategy and GRS development, so that these processes can be completed concurrently, and information necessary to inform the GRS can be gathered in tandem with the development of the Recovery Strategy. Further, for species that share particular geographies or threats, consideration could be given to developing multi-species Recovery Strategies and GRS's.

The suggested extension to review of progress is concerning given the significant need for attention to recovery that a species already requires at the time of assessment. In that light, five years is a generous

time frame in which to demonstrate that government and others are engaging in meaningful actions designed to make a difference to the recovery of the species. Without this, there is little incentive to move from planning to action. The five-year reporting on progress is reasonable and ensures transparency and accountability, and provides an impetus for action. If there is no progress to report at the appointed time, then Ontario needs to clearly indicate the state of affairs and why.

Pertaining to habitat regulations, the *ESA* already allows the Minister to delay the development of a habitat regulation (*ESA*, s 56(1)(b)) or to not proceed with a habitat regulation (*ESA*, s 56(1)(c)). There should be no changes to the legal provisions for habitat regulations, which describe specific boundaries or features of areas deemed to be habitat and provide enhanced certainty for *ESA* implementation and enforcement. They can include areas where a species "used to live or is believed to be capable of living" (*ESA*, s 55(3)(b)), presenting a significant opportunity for protection and recovery efforts to extend beyond places where species at risk currently persist. Further, there is no clear indication, given the lack of monitoring, whether general habitat descriptions provide any meaningful habitat protection. Habitat degradation and destruction is a primary threat to species and thus, the habitat of the at-risk species and habitats incidental to their protection and recovery must be prioritized.

RECOMMENDATION 4: The Discussion Paper does not provide any explanation as to why timelines are not being met for government response statements or progress reports, nor any discussion of the potential consequences of lengthened timelines on species protection and recovery. Therefore, we do not support any time extensions to the existing process as the need for attention to species recovery is already of high significance at the time of assessment.

(d) Area of Focus 4: Authorization Processes

This section of the Discussion Paper notes that there are significant administrative burdens, delays and barriers to economic development for proponents seeking authorizations, as well as inefficiencies since similar activities are subject to other legislative or regulatory frameworks. The main question we are asked to consider is: what new authorization tools and approaches could help applicants and/or businesses better enable economic development while still achieving benefits for species at risk?

The *ESA* authorizations introduce some flexibility into the Act by allowing exceptions to the absolute prohibitions under sections 9 and 10 in some circumstances. However, the exceptions were never intended to promote development at the expense of species at risk. Indeed, the report of the ESA Review Advisory Panel on which the *ESA* was based expressly cautioned that "very stringent parameters must be placed on the exceptions provision."[8] Put simply, the Act's authorization provisions were never meant to *facilitate* economic development. Rather, those provisions were included to allow some activities to proceed in very limited circumstances – circumstances where protection and recovery of species at risk remained a priority.

Yet, since the *ESA* came into force in 2008, the Ministry of Natural Resources and Forestry's ("MNRF") implementation of the Act suggests misuse of the flexibility provisions within the Act to promote development at the expense of species at risk. The Environmental Commissioner of Ontario ("ECO") has

[8] ESA Review Advisory Panel, Report of the Endangered Species Advisory Panel: Recommendations for Ontario's New Endangered Species Act (August 11, 2006), online: http://www.ontla.on.ca/library/repository/mon/15000/268394.pdf at 16.

concluded on multiple occasions that the "Endangered Species Act provides a solid legal basis for protecting species at risk, but its effectiveness lies entirely with how [the MNRF] exercises its powers and responsibilities under the law".[9] With regard to the latter, the ECO observed that "[t]he MNRF has implemented the ESA framework in a manner that inadequately protects Ontario's most imperilled species".[10] Before Ontario takes any steps to alter any authorization processes to promote efficiencies and reduce administrative burden, the government should first develop clear and consistent policies to address any existing administrative challenges and uncertainties.

RECOMMENDATION 5: Before undertaking any changes to existing authorization processes, the province should publicly disclose existing administrative challenges and uncertainties and only then, develop clear and consistent policies to address identified issues and seek public input.

Introducing new approaches to authorizations

The ECO's observation raises cause for concern and significant doubt as to the level of protection species at risk would receive under any new potential authorization mechanisms. Coupled with the current government's mandate and desire to reduce red-tape for businesses (which is evident from the framing and language of the consultation document), we are significantly concerned that any new authorization tools proposed would further cripple the *ESA*'s protections for species at risk.

One of the challenges identified in the Discussion Paper relates to the difficulties proponents face in applying for overall benefit permits. In considering these difficulties, the MECP must be alive to the reality that in some circumstances, an overall benefit is simply not possible in light of the extent of harm caused by the proposed activity. Accordingly, the MECP should not be examining the removal of barriers in circumstances where the difficulties associated with overall benefit permit applications arise because the proposed activity and species at risk protection and recovery are simply incompatible, and no overall benefit can be achieved. Where an overall benefit to the species is not achievable, the only appropriate course of action is to deny the permit.

In any case, we do not support the proposal that proponents of harmful activities should be allowed to simply pay into a conservation fund. This approach reduces accountability and facilitates harm to species at risk and their habitats, with no guarantee that tangible benefits to species at risk will occur.

The government should not "simplify the requirements for a permit under section 17(2)(d)" to "better enable economic development". Section 17(2)(d) permits are currently available only for activities that provide a significant social or economic benefit to Ontario. This limitation is necessary given the lower standard of protection that species at risk receive under this subsection. Permits under section 17(2)(d) do not require that proponents provide an overall benefit for species at risk. Rather, a lower standard is applicable – namely, that an activity does not jeopardize the survival or recovery of species at risk.[11] To simplify the requirements under section 17(2)(d) even further, for example, by removing the need for

[9] Environmental Commissioner of Ontario, Good Choices, Bad Choices: Environmental Rights and Environmental Protection in Ontario (October 24, 2017), online: http://docs.assets.eco.on.ca/reports/environmental-protection/2017/Good-Choices-Bad-Choices.pdf at 220 [**ECO 2017 Report**].
[10] *Ibid*.
[11] *ESA*, s 17(2)(d)(iv).

proponents to demonstrate "significant social or economic benefit", would be to put economic interests before the protection of species at risk. This is not an appropriate outcome. The current statutory requirements under section 17(2)(d) should be left untouched, and activities that do not meet the "significant social or economic benefit" test should only be allowed to proceed under section 17(2)(c).

Finally, we note that the authorization process has already been "simplified" for various industries following the introduction of exemptions set out in O Reg 242/08 (the "Regulation"). These exemptions were introduced in 2013 to streamline and alleviate administrative burdens associated with permit approvals. We note that these exemptions already give proponents a free pass in many respects:

- Proponents are not required to demonstrate an overall benefit; they are only required to minimize adverse effects on species at risk;
- Proponents are not required to pay a fee to register exemptions;[12]
- Proponents are guaranteed an automatic exemption once they meet the conditions set out in the Regulation, as the Ministry lacks authority to say no to prescribed activities;[13] and
- Proponents are not required to submit mitigation plans, unless they are specifically requested to do so.

The Discussion Paper is silent as to what further simplifications will be made to the exemptions set out by regulation. It is difficult to see how changes to the conditions set out in the Regulation to "better enable economic development" can be made without further compromising the protection of species at risk. The existing exemptions by regulation do not provide adequate protection for species at risk. The MNRF does not track the cumulative effect of harmful, exempted activities on species at risk.[14] To echo the concerns raised by the ECO in its 2017 report, there is a real risk that Ontario's species at risk are being placed in a situation of death by a thousand cuts.[15] Any changes to the regulatory exemptions should involve strengthening protections for species at risk. For example, proponents should be required to automatically submit mitigation plans, and have these plans made publicly available.

RECOMMENDATION 6: The government should not simplify requirements for permits under section 17(2)(d) of the Act as it would facilitate the ease with which proponents *could* act contrary to the purposes of the Act. The current statutory requirements under section 17(2)(d) should be left untouched, and activities that do not meet the "significant social or economic benefit" test only allowed to proceed under section 17(2)(c).

Meeting the ESA's requirements in other approval processes

The Discussion Paper suggests that the Act adds duplication and delay for activities that are subject to other legislative or regulatory frameworks. If duplication of approval processes is a true concern, then other approval processes must be developed to ensure their conformity with the *ESA* and exceptions should be taken under section 18. Section 18 of the *ESA* directly addresses this challenge. Section 18 of

[12] ECO 2017 Report at 225.
[13] *Ibid.*
[14] *Ibid* at 236.
[15] *Ibid.*

the *ESA* enables harmonization with other legislative or regulatory frameworks while ensuring that the high standards of the *ESA*, such as the requirement for an overall benefit, are upheld.

It is not appropriate for the government to create alternative authorization processes to exempt certain activities from the permit requirements under the *ESA* where those processes offer lesser protections for species at risk than the *ESA* does. While other legislative or regulatory approval processes may involve consideration of the activity's impact on species at risk, it is unlikely that those processes would provide the same level of protection (especially, the overall benefit requirement) that species at risk currently have under the Act.

For example, forestry operations are currently exempt from compliance with the *ESA's* core prohibitions against killing, harming, harassing, or taking a listed endangered or threatened species, or damaging or destroying the habitat of such species. This exception causes harmful effects on species at risk. Forestry proponents need only develop and adhere to a forest management plan, which may or may not include conditions specific to affected species at risk and only require proponents to minimize harm. Forestry proponents do not need to demonstrate an overall benefit to species at risk.

In its 2013 report, the ECO commented on the introduction of the forestry exemption through regulation as a move to "deliberately side-step the purpose of section 18 of the *ESA*". The ECO noted this move as "particularly troubling" given the MNRF's failure to properly monitor the impacts of forest management actions through the Provincial Wildlife Population Monitoring Program and correspondingly, the lack of data to allow the Ministry to determine whether its regulation of forestry activities adequately protects Ontario's species at risk.[16]

In any event, any harmonization of the *ESA* approval requirements with other legislative or regulatory approvals under section 18 should also include the ability to rescind or amend such approvals to protect species at risk. Currently, authorizations issued under section 17 and 19 of the *ESA* can be revoked or amended where the Minister is of the opinion that a revocation or amendment is necessary to prevent jeopardizing the survival or recovery of the species specified in the permit. However, no such option exists for instruments issued under section 18 or the regulatory exemptions in O Reg 242/08.

RECOMMENDATION 7: The province should not advance alternative authorization processes to exempt certain activities from the permit requirements under the *ESA* where those processes would afford lesser protections for species at risk and their habitat.

Enforcement and Monitoring

The power of enforcement officers to enter a place without a warrant to inspect for compliance is currently limited to determining compliance with the provisions of authorizations issued under section 17 or 19. Similar powers do not exist for the purpose of determining compliance with respect to activities exempted under O Reg 242/08 and may not exist for any potential instruments issued under section 18. It is our belief that the delegated authority to make exemptions from the *ESA* was not designed to be used for creating a permit-by-rule regime; as such, the 2013 (and subsequent amendments related to the permit-by-rule scheme) should be repealed.

[16] Environmental Commissioner of Ontario, Laying Siege to the Last Line of Defence (November 2013), online: http://docs.assets.eco.on.ca/reports/special-reports/2013/2013-Laying-Siege-to-ESA.pdf at 27.

Additionally, O Reg 242/08 should be amended to require proponents of activities exempt from the prohibitions under the *ESA* (s 9 and 10) to automatically submit mitigation plans as well as annual reports to the government and ensure that such reports are publicly available. Currently, these documents are not automatically submitted to the Ministry, and instead are generally only provided if requested. Automatic submission of mitigation plans and annual reports will allow the MECP to conduct audits of the effectiveness of the permit-by-rule system for any particular species or sector. This approach would also enhance transparency and accountability, first by furthering the public's right to know, and secondly, by providing the Ministry with the necessary documentation to facilitate oversight of proponent activities.

RECOMMENDATION 8: Proponents engaging in harmful activities should be required to submit mitigation plans and monitoring reports to the province, to enhance transparency, accountability and their public availability.

CONCLUSION

Based on the foregoing reasons, Ecojustice, CELA and Lintner Law provide the following recommendations to the province:

RECOMMENDATION 1: Defer making any decisions about altering the species at risk program until such time as a baseline assessment of "the effectiveness of the program" is completed and made public.

RECOMMENDATION 2: The Province should not advance landscape-level planning in place of species-specific approaches or broad-scale authorizations of harmful activities as they are too coarse a filter to address site-specific or species-specific concerns. Their use does not align with the goals of at-risk species protection and recovery.

RECOMMENDATION 3: There should be no change to the *ESA* regarding assessment and listing processes, the role of the Committee on the Status of Species at Risk in Ontario, nor alternatives to automatic species and habitat protections.

RECOMMENDATION 4: The Discussion Paper does not provide any explanation as to why timelines are not being met for government response statements or progress reports, nor any discussion of the potential consequences of lengthened timelines on species protection and recovery. Therefore, we do not support any time extensions to the existing process as the need for attention to species recovery is already of high significance at the time of assessment.

RECOMMENDATION 5: Before undertaking any changes to existing authorization processes, the province should publicly disclose existing administrative challenges and uncertainties and only then, develop clear and consistent policies to address identified issues and seek public input.

RECOMMENDATION 6: The government should not simplify requirements for permits under section 17(2)(d) of the Act as it would facilitate the ease with which proponents *could* act contrary to the purposes of the Act. The current statutory requirements under section 17(2)(d) should be left untouched, and activities that do not meet the "significant social or economic benefit" test only allowed to proceed under section 17(2)(c).

RECOMMENDATION 7: The province should not advance alternative authorization processes to exempt certain activities from the permit requirements under the *ESA* where those processes would afford lesser protections for species at risk and their habitat.

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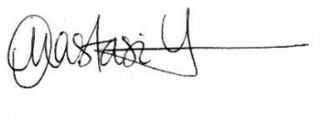
Sincerely,



Anastasia M Lintner	Sue Tan	Kerrie Blaise
Principal, Lintner Law	Staff Lawyer, Ecojustice	Northern Services Counsel, CELA