

April 18, 2007

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Species at Risk Legislative Review  
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Dear Ms. Ramsay:

**Re: Bill 184 – *Endangered Species Act***  
**EBR Registry No. AB06E6001**

Via e-mail to [Debbie.ramsay@mnr.gov.on.ca](mailto:Debbie.ramsay@mnr.gov.on.ca)

**Thank you for the Additional Opportunity to Input**

Thank you for the additional opportunity to comment on this next stage of the Species at Risk legislative review. We appreciated the opportunity to provide on-line feedback regarding the Discussion Paper and its leading edge proposals and we refer you to our July 5, 2006 letter on letterhead, as requested of organizations. We also provided comments on January 22, 2007 following the Minister's December 2006 remarks.

At this time, we commend the Province of Ontario for taking steps to update and strengthen Ontario's *Endangered Species Act* with the introduction of Bill 184. These reforms are long overdue.

**FORCE**

As you may be aware, Friends of Rural Communities and the Environment (FORCE) is a federally registered not for profit corporation. It is a citizen-based advocacy group with hundreds of supporters in Kilbride, Campbellville, Mountsberg, Freelon, and Carlisle. FORCE was formed in June 2004 to protect our natural and built environments in the face of a proposed large-scale, below the established groundwater table, aggregate development in the Northeast Flamborough portion of the amalgamated City of Hamilton. We note upfront that our organization is neither anti-aggregate nor anti-road; indeed, our area is home to some of Ontario and Canada's largest aggregate operations. We do, however, have significant issues with the pending application in its proposed location for substantive reasons; reasons that relate to ground water protection, active and productive

agricultural operations, acknowledged fragile natural systems, including species at risk, and existing rural communities.

We also believe that our organization has a responsibility to promote good government in the municipal and provincial arenas and therefore, we have a responsibility to input into the broader planning reform processes which bear upon the application processes for development proposals such as the one before our communities. The revision of Species at Risk legislation is clearly an opportune time to impact the ground rules about how we should be protecting, recovering and enhancing species and their habitats as well as how development proposals should be evaluated and approved in a municipal jurisdiction, by MNR and other provincial ministries, agencies and tribunals.

### **General Comments and Key Areas of Support**

We are writing to express our general support for Bill 184. In particular, we are pleased that:

- the preamble and purpose sections are strong and clearly set out that the legislation is intended to protect and recover all of the province's species at risk (Preamble and Section 1)
- the definition of species includes subspecies, varieties and genetically or geographically distinct species (Section 2)
- there will be a science-based process to list species covered under the Act with the list determined by the independent, scientific body, the Committee on the Status of Species at Risk in Ontario (Sections 3 – 7)
- there is a prohibition on damage to the habitat of endangered and threatened species (Section 10)
- there is mandatory recovery planning for endangered and threatened species and mandatory management plans for special concern species (Sections 11 – 12), and
- there is a meaningful stewardship program, to be backed with financial resources, to promote the preservation and rehabilitation of habitat and the implementation of recovery strategies, along with public education and outreach programs (section 46).

### **Suggested Areas for Improvement**

Bill 184 represents an important updating and strengthening of existing species at risk legislation. There are, however, some key areas which have been identified for improvement.

First, the Bill as introduced provides for *species-specific habitat regulations* (Sections 54 – 55). The regulations may protect part of a species' habitat that is larger or smaller than the area that is used by the species to carry on its life processes. The language here could result in a regulation that provides only nominal habitat protection in some cases. This section should be strengthened to ensure that every species-specific habitat regulation will

protect sufficient habitat, as scientifically determined, for a species' protection and recovery.

Second, the current provisions in Section 11 regarding *recovery strategies* require the Minister only to "respond" to recovery strategies. The Act should be clarified to require the implementation of recovery strategies. In addition, there is a need to specify the minimum elements necessary to comprise a recovery strategy. The identification of the habitat that should be protected or managed to help recover the species should be one of the minimum elements.

Third, the legislation provides for *exemptions through regulations* (Sections 54 1(b) and 56) that could have significant adverse impacts or effects on a species. While it is common for governments to include such sections for flexibility, we believe that this provision may be contrary to the intent of the legislation as spelled out in the purpose section. We would support its removal or material amendment. If the government does not support its removal, it seems reasonable that there should be a requirement that any proposed exemption be subject to the advice and recommendation of an independent expert panel. Any decision of the Minister and/or the Lieutenant Governor-in-Council which is contrary to the recommendation of the expert panel should require written and scientific justification.

Finally, we submit that consideration should be given to providing the new endangered species legislation with similar status to source water protection under the *Ontario Clean Water Act*. The legislation should have primacy over other existing laws, regulations and policies, such as the *Planning Act*, *Aggregate Resources Act*, and the *Drainage Act*. It is only through primacy and this kind of preventive approach that we can hope to slow and stop so many species from disappearing from our Province, especially with so many at significant risk now.

### **Thank You Again**

Thank you again for the opportunity to input to this important piece of legislation. We commend the Province for its sustainability leadership in this area and encourage it to move forward through the legislative process with dispatch. We look forward to 2<sup>nd</sup> Reading and Committee stage. Ultimately the final legislative product and the impact it will have on the advocacy for and protection of species at risk and their habitats, as well as the quality of land use planning decisions, will determine how well we have collectively served the public interest.

Respectfully submitted,

A handwritten signature in black ink that reads "G. Flint". The signature is written in a cursive style with a long horizontal line extending from the bottom of the "t".

Graham Flint BAsC, P. Eng  
Chair & Spokesperson