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Wednesday 2 May 2007

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Mercredi 2 mai 2007

**Standing committee on
general government**

Endangered Species Act, 2007

**Comité permanent des
affaires gouvernementales**

Loi de 2007 sur les espèces en
voie de disparition

Chair: Kevin Daniel Flynn
Clerk: Susan Sourial

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Wednesday 2 May 2007

Mercredi 2 mai 2007

The committee met at 1004 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Kevin Flynn): We're called to order. I think we do have a quorum now.

The first order of business is the report of the subcommittee on committee business. Does this need to be read into the record? It does.

Mr. Gilles Bisson (Timmins–James Bay): I move—I'm just trying to speed things up.

The Chair: Okay, moved by Gilles. David is prepared to—are you going to move it?

Mr. Bisson: Yes, sure.

The Chair: And read it?

Interjection.

Mr. Bisson: I'll let you read it. That's your job. That's what we pay you the big bucks for. Go ahead.

Mr. David Oraziotti (Sault Ste. Marie): Your subcommittee on committee business met on Friday, April 27, 2007, to consider the method of proceeding on Bill 184, An Act to protect species at risk and to make related changes to other Acts, 2007, and recommends the following:

(1) That the committee hold public hearings at Queen's Park on Wednesday, May 2, and Monday, May 7, 2007, as per the order of the House dated April 23, 2007.

(2) That the committee clerk be authorized to schedule the 17 groups that have already requested to appear. These groups will be scheduled on May 2, 2007, unless they request May 7, 2007.

(3) That the official opposition and the third party send the committee clerk a list of groups (with contact information) from whom they would like to hear. The committee clerk will contact the groups and invite them to make a presentation or to send in a written submission.

(4) That the committee clerk, with the authority of the Chair, post information regarding the committee's business on the Ontario parliamentary channel and the committee's website.

(5) That interested people who wish to be considered to make an oral presentation on Bill 184 on Monday, May 7, 2007, should contact the committee clerk by 4 p.m., Wednesday, May 2, 2007.

(6) That on Wednesday, May 2, 2007, the committee clerk supply the subcommittee members with a list of

requests to appear received in response to the information posted on the Ontario parliamentary channel and the committee's web site. This list is to be sent to the subcommittee members electronically.

(7) That if all groups can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties.

(8) That, if required, each of the subcommittee members supply the committee clerk with a prioritized list of the names of witnesses they would like to hear from by 10 a.m., Thursday, May 3, 2007, and that these witnesses must be selected from the original list distributed by the committee clerk to the subcommittee members.

(9) That groups be offered 15 minutes in which to make a presentation. In consultation with the Chair, this time can be reduced to 10 minutes for Monday, May 7, in order to accommodate additional groups.

(10) That the research officer prepare an interim summary of the recommendations heard. This summary will be distributed on Friday, May 4, 2007.

(11) That the deadline for written submissions be 12 noon, Tuesday, May 8, 2007.

(12) That the deadline for filing amendments be Tuesday, May 8, 2007, 12 noon, as per the order of the House dated April 23, 2007.

(13) That the committee hold one day of clause-by-clause consideration on Wednesday, May 9, 2007, as per the order of the House dated April 23, 2007.

(14) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Thank you, Mr. Oraziotti. All those in favour? Those opposed? That is carried.

Mr. Bisson: Chair, just a quick thing of business. I notice some of our guests are getting a lot of glare from the windows. If we can just draw the curtains a little bit.

The Chair: I'm sure we can do that. Just before we proceed, it looks like we could actually extend the time of some of the groups here by about two minutes. We've got three slots this morning, you'll see, that are not confirmed and will not be used. If we could use that and spread it amongst the other groups.

Mr. Bisson: Could we ask that that time be used for questions, because, as it is now, it's going to be—

The Chair: Yes. I think that's going to happen in any event because the groups came forward expecting to only have 10 minutes and will have 12 or 13 minutes.

Mr. Bisson: Okay, but if you could hold them to 10 and then we get some time for questions.

ENDANGERED SPECIES ACT, 2007
LOI DE 2007 SUR LES ESPÈCES EN VOIE
DE DISPARITION

Consideration of Bill 184, An Act to protect species at risk and to make related changes to other Acts / Projet de loi 184, Loi visant à protéger les espèces en péril et à apporter des modifications connexes à d'autres lois.

The Chair: Okay. Let's get started. We've got to hear from a lot of people over the next few days.

ONTARIO FEDERATION OF ANGLERS
AND HUNTERS

The Chair: Let's start with the Ontario Federation of Anglers and Hunters, Dr. Terry Quinney and Ed Reid.

Dr. Terry Quinney: Good morning.

The Chair: Greetings. You originally came thinking you had 10 minutes. You've actually got 12 or 13 minutes now. I can't tell you what to do, obviously, but if you could keep your presentation under 10 minutes and leave some time for questions, that would be great.

Dr. Quinney: Sure. Firstly, Mr. Reid sends his regrets. He has a doctor's appointment this morning that I didn't want him to miss.

My presentation to you this morning will consist of four handouts. I'll be referring to four handouts that you either have now or will have shortly. But I'll be specifically referring to the presentation on the blue letterhead. The other handouts we would ask you to read as you deliberate the bill. They consist of a short chronology of the Ontario Federation of Anglers and Hunters' involvement in the review of this bill; secondly, the April 18 formal OFAH submission with reference to the EBR posting associated with this bill. So my brief comments this morning will be highlights from that April 18 more comprehensive seven-page submission.

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The final handout that we would ask you to read when you can was from early April, and specifically it was a joint press release from a number of organizations, including the OFAH. In particular, from that handout, extensive reference is made to a recent independent audit of the federal Endangered Species Act. On behalf of my organization, we hope each of the committee members can read that audit in its entirety. It will certainly enlighten, we believe, your deliberations.

Having said that, the Ontario Federation of Anglers and Hunters has participated throughout the review process when the government originally announced its intentions to proceed with Bill 184 approximately a year ago. We've consistently expressed our support for effective

stewardship, protection and recovery of species at risk and habitat, but also doubt that the legislative framework that formed the basis of 184 will actually result in better protection of species at risk and their recovery.

The OFAH and other major resource stakeholders have consistently expressed concerns that the proposed legislation will not result in improved effective conservation and stewardship of species at risk in Ontario, and that it is more likely to result in, quite frankly, increased costs to both governments and the general economy without the corresponding net gains for species at risk.

I'm on page 1 of my presentation and we have some specific comments we would like to pass along this morning. For example, with reference to the described purpose of 184, we agree with the stated purposes of the act; however, the legislation, as proposed, will not serve the stated purpose in at least two major areas.

First, there needs to be a provision within the legislation to ensure that community knowledge is considered at the assessment, listing and recovery strategy planning stages, in the same way that the legislation recognizes that both scientific knowledge and traditional aboriginal knowledge must be considered.

Secondly, there are too many gaps in present scientific knowledge, as well as too little funding committed to 184, to get additional data about species, species occurrence and dependence on habitat to give COSSARO—that committee—virtually unlimited authority to prioritize, assess and list species. The point here is that the science is too uncertain and the social and economic implications of the act potentially too far-reaching to not give the government, for example, through the minister or cabinet, the flexibility in the legislation to refuse to list a species.

Please note that the federal SARA gives the federal cabinet the discretionary authority regarding listing. The federal cabinet has accepted 86% of COSEWIC's scientific recommendations since the passage of SARA, which clearly is not unreasonable. This authority ensures that the government remains accountable and that community knowledge, for example, can and will have a bearing on listing decisions.

I'd now draw your attention to the definitions section of the proposed bill, specifically the "habitat" definition. The definition for the purposes of automatic habitat protection—that is, (b) in the act—in our opinion is too similar to the federal SARA definition, which has proven unworkable for the practitioners. So we recommended an amendment here. We recommended some wording changes; I won't read it in its entirety. Please do so. Our point here is that there is a need to more clearly focus what is too broad a definition of "habitat" in the proposed act.

With reference to the committee on the status of species at risk in Ontario—in other words, COSSARO—we also believe the legislation needs to be amended to make COSSARO's role advisory, to make our provincial cabinet ultimately accountable for weighing the social, the economic, the ecological costs and benefits prior to listing occurring.

With reference to the composition of COSSARO, to fulfill the stated purpose of the act we submit that a third clause needs to be added—that would be subsection 3(4), roughly—that would authorize the minister to appoint to COSSARO qualified persons who could bring critically important community knowledge to bear on the assessment and listing of species. We've provided some wording for you there. But the point is that alongside the biological scientific discipline and aboriginal traditional knowledge, community knowledge needs to be incorporated.

I'm at the bottom of page 3 of my presentation, where we speak to geographic limitation. We submit that the act needs to be amended to limit COSSARO's authority with reference to assessing and listing at the provincial level. As written, the act permits COSSARO to list "geographically distinct" populations of species anywhere in the province. So you can see a real-life situation evolving where, for example, a species is abundant in southwestern Ontario but very rare or "endangered" in eastern Ontario, but as written, COSSARO would have the authority to declare that eastern Ontario geographically distinct population listable. Quite frankly, that's not necessary—so, limiting the geographical scope of COSSARO's listing.

On page 4 of my presentation, we speak to the category of the use of "best available scientific information." Here again, the federal species-at-risk experience is very revealing. COSSARO will find that it does not have adequate scientific data on approximately two thirds of the species. We're starting off here in the province with 184 listed species in the act. The federal experience shows that there will be inadequate data for approximately two thirds of those species that are listed in Bill 184; in other words, not knowing what—

The Chair: You're down to about three minutes, just so you know. I'm not trying to interfere.

Dr. Quinney: Thank you.

Currently, the best available scientific information on many species is not very good, all the more reason why COSSARO must not be given unlimited listing powers. Quite frankly, they wouldn't hold up to the traditional measure of peer review in that regard for scientific validity anyway.

The species-at-risk list proposed for Ontario: This section, which is section 7, I believe, in the act, needs to be rewritten, again to make elected government officials ultimately accountable for the list. The flexibility that we hear certain members of government refer to as a strength of this proposed legislation in our opinion is achieved more pragmatically and more cost-effectively through giving the government, either the minister or cabinet, that ultimate authority to decide not to list a species.

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We've spoken to you about the need to further focus that definition of habitat.

In concluding, I just want to refer to the existing sections in the act regarding things like permits, stewardship agreements and other instruments.

With reference to stewardship agreements, we believe in their need and utility and the potential creative flexibility that could be developed through them. We are convinced of the important value of stewardship agreements, but we're very concerned that the limited amount of funding announced for stewardship will prove entirely inadequate and therefore will not result in much more than symbolic, isolated projects, rather than the robust and central pillar of the provincial species-at-risk program.

Stewardship does need to be an essential pillar, and we've consistently argued that, but the act itself provides no assurance that the stewardship program it establishes will accomplish much on the ground for species at risk. This is a point we've been making since the outset of public consultation.

In conclusion, we shouldn't forget that there is already considerable legislation in place to prevent species from becoming endangered in the first place and that the weak link in the species protection chain, if you like, proposed by 184—in other words, preventing species from becoming endangered, to actually recovering them on the ground. Quite frankly, the weak link doesn't occur on the ground, legislatively; it's meaningful incentives for enhanced stewardship that are the key to successful recovery of species.

The Chair: You've used up all your time. Thank you very much for coming today. We appreciate it.

ONTARIO WATERPOWER ASSOCIATION

The Chair: The next speaker is Paul Norris, president of the Ontario Waterpower Association. It is the same rules as for the previous speaker. We originally had envisioned 10-minute presentations; it looks like we can extend that to 12 or 13 minutes. If you could save some time at the end for questions from the committee, that's up to you, but I think that would be welcome.

Mr. Paul Norris: It would be my preference, as well.

Thank you for the opportunity to speak today to this proposed legislation.

My name is Paul Norris. I'm the president of the Ontario Waterpower Association. We are a non-government organization representing the production and development of the province's primary source of renewable energy.

The blue package that you have amongst others is the package that I'll be speaking to. In that package, you'll find our written submission to the committee—it goes into much more detail than what I'm about to speak to—as well as the three EBR postings we have provided in response to the government's process to consider and introduce legislation.

Given the relative brevity of this opportunity, I've taken the liberty of providing the Chair with an advance copy of the material in your packages.

As you will note, our organization has consistently supported the modernization of Ontario's endangered

species legislative, regulatory and policy frameworks, with an emphasis on species recovery and stewardship.

Throughout the sporadic engagement of our association in this process, we have offered constructive input and advice on how to make the framework work, and I appear before you today with that same intent.

Our submission has proposed 15 specific clause-by-clause improvements.

I'm confident that you will hear today from a number of organizations about the need for a more focused and practical definition of habitat, about the need to ensure that community knowledge is integral to all aspects of the act and its implementation, and about the importance of public accountability. We support all of these recommended improvements, but given the time provided, I want to address what has been suggested to be a key advancement in the proposed legislation: the concept of flexibility tools.

This term has been used to imply a balanced approach to the proposal and is one of the significant improvements over the existing legislation.

In my estimation, comparing Bill 184 and the existing Endangered Species Act is not useful. More productive is the determination of the degree to which the flexibility toolbox, as proposed, is equipped and accessible. I would submit that unless improvements such as those recommended are made, it is neither. Moreover, the current approach risks alienating those expected to be directly involved in implementing broader stewardship and species recovery initiatives. Detailed suggested amendments in the ministerial requirements, permitting, instrument and regulatory sections are outlined in our written submission, as are those for other provisions.

In brief, recommended improvements to the flexibility tools are as follows:

Firstly, section 8, ministerial requirements: In order to provide for a more proactive consideration of listing prior to the passage of regulation, while retaining the integrity of science and improving public accountability, subsection 8(2) should be modified as follows: If a species is, or is proposed to be, listed on the Species at Risk in Ontario list, and the minister is of the opinion that credible scientific information indicates that the existing or proposed classification on the list is not appropriate, the minister may (a) require COSSARO to reconsider the classification and/or (b) seek independent advice in this regard. Moreover, there should be an opportunity through the posting of proposed listings for the public to bring forward such information.

Secondly, section 17, permits: This section and others should incorporate the concept of broader provincial environmental benefit. In considering the issuance of such a permit, the same tests of balance should be applied regardless of the rationale for the application of the tool. In all areas, permit issuance should remain a ministerial decision that is made considerate of, but not in deference to, external expertise. As such, subsection 17(2) should be modified to provide that the minister may issue a permit if (a) the activity will result in significant social,

economic and/or environmental benefit to Ontario, (b) the minister has consulted an expert on the possible effects of the activity on the species, (c) alternatives have been considered and the best alternative chosen and (d) reasonable steps to minimize adverse effects on individual members of the species are required.

Thirdly, section 18, instruments: The same, and significant, test applied to permits should also be brought into consideration of instruments as proposed in section 18. Appropriate modifications to subsection 18(1) would yield the following: An instrument authorizing a person to engage in an activity has the same effect as a permit issued under section 17 if, (a) the activity would result in a significant social, economic and/or environmental benefit to Ontario, (b) reasonable alternatives were considered and the best alternative adopted and (c) reasonable steps to minimize adverse effects on individual members of the species are required. The same provisions would be extended to subsection 18(2).

Finally, section 56, regulation: The regulation-making powers in this section should not be presented as a negative option, but rather a considered tool to be applied in the appropriate circumstances. Subsection 56(1) should be amended as follows: If the minister is of the opinion that a proposal for a regulation that is under consideration in the ministry is likely to have a significant adverse effect on a species that is listed on the Species at Risk in Ontario list, the minister shall (a) confirm that the proposal will result in significant social, economic or environmental benefit to Ontario, (b) consult with an expert on the possible effects of the proposal on the species, (c) consider alternatives to the proposal, including other flexibility tools and (d) ensure reasonable steps to minimize adverse effects on individual members of the species are required.

Applying a consistent approach to the use of flexibility tools will create rigour in the process and foster consistency in the outcome—expectations that I believe are reasonable.

In closing, I want to echo the concerns others are sure to raise about the integrity of the consultation process to date. But as you will see from the materials we have provided for your consideration, our organization has remained committed to the development of effective, responsive and practical endangered species legislation. It is still within this committee's power to produce that result.

Thank you. I would be pleased to take any questions or address any other elements of our written submission.

The Chair: Thank you, Mr. Norris. You've left about six minutes. Let's start with the official opposition. Mr. Miller, you've got two minutes.

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Mr. Norm Miller (Parry Sound–Muskoka): Thank you very much for your presentation today. It's obvious that you've done a lot of work and you could probably spend an hour talking about all the various amendments that you've made. You pointed out right off the top that questioning the quality of the consultation and the ade-

quacy of the consultation, and I would agree with you on that—that obviously through the time allocation motion there's very limited consultation on this bill.

You talked about community knowledge being important, something you would like to see changed in the bill. Maybe you could demonstrate for me or give some examples of how community knowledge would improve the bill and/or improve protection for endangered species.

Mr. Norris: I think that when you look at the preamble to the legislation, it's pretty clear that community knowledge is an element that the government, in its design of legislation, recognizes as something important to consider and to bring to the conversation. Very often you will find that the most accurate information in terms of species distribution or species status will be at the community level.

I think we were disappointed, quite frankly, to see that that same kind of general intent wasn't reflected, at least in our opinion, in the bill. We've suggested a number of amendments within the body of the bill that, in our view, would hold the government true to the intent expressed when it introduced the legislation.

The Chair: Thank you, Mr. Norris. Mr. Bisson?

Mr. Bisson: First of all, I like your presentation. It breaks it out section by section with suggestions on what the rationale was. But I'm going to ask you a much more general question. You're in the business of building power dams. What does this particular bill mean to you if you're trying to build a new power dam?

Mr. Norris: Well, that's a good question because we're not yet quite sure what it means to us. There's a lot left in this bill that isn't explained. Our concern is that government, in terms of public accountability, has turned over the requirement for basically writing regulation to a committee. We're not convinced that that committee will have practical science or applied science representation on it. We're certainly more than pleased with the notion of a separate scientific body undertaking the assessments. Right now it's very difficult to determine what the implications may or may not be. What we don't see is any accountability. What we don't see is any reference in the legislation that is strong enough to the use of applied science, and we don't see the emphasis on recovery that we thought we would.

Mr. Bisson: You currently have to go through an environmental assessment whenever you develop a new project. How does this juxtapose to the EA process?

Mr. Norris: That's a good question. How does it juxtapose with all other pieces of environmental legislation? I don't know.

The Chair: Thank you, Mr. Norris. Mr. Orazietti?

Mr. Orazietti: Thanks, Mr. Norris, for being here today. I certainly appreciate your thorough presentation. COSSARO, the committee, how do you feel about—in the last presentation, if I can just jump back for a second, there was an emphasis suggesting that the minister have more discretion. Normally people come to these committees and they suggest that the legislation is not tight

enough, that the ministers have too much discretion, that there should be a more scientific basis for decision-making or more of the specifics nailed down in the legislation. In the last presentation, we heard that the minister should have more discretion. How do you feel about the committee making a scientific judgment in terms of whether or not a species is, in fact, at risk?

Mr. Norris: Well, we support that entirely. I think everyone will support the role of science in determining the status of a species. What people are concerned about is the delegation of the public accountability responsibility for enforcing regulation based on that assessment. It's the difference between the assessment process and the listing process. I think what you heard from the previous presentation is generally shared as a concern. It's quite different from the federal process.

Mr. Orazietti: Do you want to elaborate on that a little more? Are you referring more specifically to costs or compensation or stewardship?

Mr. Norris: No. We're referring to the notion that you depend upon science to provide you advice. That advice, then, is something that one would expect in terms of public accountability. The government would exercise its discretion in determining decisions to be made that affect the people of the province.

The Chair: Thank you.

ONTARIO FOREST INDUSTRIES ASSOCIATION

The Chair: Our next speaker, then, is Scott Jackson from the Ontario Forest Industries Association. Mr. Jackson, you were here when I explained what we are doing today, the rules?

Mr. Scott Jackson: Yes, Mr. Chair.

The Chair: The floor is yours, then.

Mr. Jackson: Good morning, Mr. Chair and committee members. My name is Scott Jackson and I am the manager of forest policy for the Ontario Forest Industries Association. Our association represents 32 forest companies across Ontario that are the stewards of approximately 75% to 80% of the crown land managed for forestry in the province.

As you are likely aware, several stakeholders, including representatives of major resource and development industries, northern and southern Ontario communities and unions have indicated support for a modernized Endangered Species Act. However, all of these groups have also expressed collective concerns with the current language of Bill 184 as well as the fact that four hours of committee hearings in the city of Toronto will not adequately serve this bill or the people of this province. Therefore, we appreciate the opportunity to present our moderate but critical amendments that will address the concerns of the OFIA, clarify some misinterpretations and answer any questions that members of the committee may have.

Ontario's forest industry has been combating unprecedented challenges over the past three years, includ-

ing issues related to global competition, trade disputes and a high Canadian dollar, but also the impacts of provincial-level policy. Since 2002, Ontario has lost over 9,000 direct high-paying forestry jobs, with over half of these losses occurring in the past 18 months. Using the MNR's job multiplier formula of four to one, Ontario has lost an additional 35,000 indirect forestry jobs. As of December 2006, this Ontario job loss is as much as or more than any other province.

A balance must be struck that meets the needs of species at risk while minimizing the risk to industry, jobs and communities in Ontario as we move forward with this legislation. As currently written, Bill 184 does not achieve this necessary balance.

To state that the OFIA has not been supportive of the government's review of the Endangered Species Act to date is simply not true. The OFIA has been fully supportive of the government's review of the existing Endangered Species Act and, in doing so, provided the Ministry of Natural Resources with the following quote from our president and CEO, Jamie Lim, last April: "Providing for threatened and endangered species is a fundamental element of sustainable forest management. The OFIA supports the development of species-at-risk legislation that is based on sound and credible science, is effective and efficient, and recognizes and complements measures already in place."

Individually and alongside a broadly representative group, many of which are sitting behind me today, the OFIA has strived to work cooperatively and constructively with the government of Ontario. However, Bill 184, as currently written, has the potential to result in reduced access to fibre for our industry, which may ultimately lead to operational curtailment and a loss of jobs. Unfortunately, to date, our modest but fundamental amendments have not been addressed.

Consistent with our recent EBR submission, which is included in your package—it's within the green folder—there are four key issues that need to be addressed. Addressing these concerns will improve the bill's clarity, it will improve the long-term protection for species at risk and it will provide the forest sector with the security and certainty it needs to continue investing in this province.

Equivalency is one of our greatest concerns. The failure of the proposed bill to explicitly recognize the current standards to which forestry in Ontario must comply is unacceptable. We are currently governed by no less than 17 provincial and federal acts, their associated regulations and their associated policies. This includes the Crown Forest Sustainability Act and its regulated manuals. Through these acts, we are already providing for the protection of species at risk. In the government's own words, as contained on the Ministry of Natural Resources website: "The Crown Forest Sustainability Act requires that forest management plans identify threatened and endangered species as 'featured species' and provide for their protection within the area covered by the plan." The OFIA asks the government to recognize its own

statement and explicitly recognize our sustainable forest management practices in Bill 184. The government has suggested that our concern will be addressed through regulation. We urge that any such regulation be developed prior to third reading and voted on simultaneously.

To echo the concerns of some of the speakers who came before me, Bill 184's current definition of "habitat" is exceedingly broad and subject to arbitrary interpretation. The current language could apply to almost anything, and in the opinion of the OFIA and other resource groups has the very real potential to unnecessarily impede operations with no tangible benefits to species at risk.

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What is needed is a more site-specific definition that provides for distinct areas of specialized function that are directly relevant for a species' survival. In doing so, we can ensure that the necessary elements of a species' habitat are protected while we develop more comprehensive recovery strategies and regulations.

The proposed Bill 184 does not provide any measure of compensation for landowners or resource users impacted by the legislation. This omission is inconsistent with the federal species-at-risk legislation, which recognizes that protecting species is to the benefit of all citizens and comes at a cost that must be shared by all parties. We urge the government to ensure that investments made by the forestry sector will not be lost or diminished by provisions of Bill 184.

The legislation must allow for representatives with community and practitioner knowledge, and must ensure that both northern and southern Ontario are represented on COSSARO—that's the assessment body. We ask that the bill be amended to explicitly recognize and include members with applied science and community knowledge. It must also prohibit participation from individuals who are associated with special interest, lobby or advocacy groups to ensure independence on the assessment body.

Earlier this year, the OFIA conducted two socio-economic case studies to determine the potential impact of the proposed bill on Ontario's forest sector. To date, I am unaware of any efforts by the government to do likewise. The results showed that the proposed Bill 184 could pose a significant risk to both fibre supply and wood cost in Ontario. These studies focused on the potential impacts associated with a single species: forest-dwelling woodland caribou.

Case Study A, our first case study, estimated the potential reduction in fibre supply across two management units resulting from the application of the draft recovery strategy for forest-dwelling caribou in Ontario using two scenarios. Under these scenarios, the anticipated reductions in harvest volume ranged from 326,000 to 1.1 million cubic metres per year, respectively.

Using a conversion factor of 3 to 1 jobs per every thousand cubic metres, this translates into a potential loss of 1,009 to 3,477 jobs.

The second case study, B, considered the impact of severe harvest restrictions within the current caribou habitat range on a single management unit and showed reductions in harvest volumes ranging from 277,000 to 490,000 cubic metres per year. This represents a reduction of 38% to 44% respectively from current management standards.

In conclusion, I would just like to say that, by making moderate but fundamental amendments to the proposed Bill 184, government could alleviate these economic concerns as I've just outlined. Until Bill 184 is amended, these are the consequences we could see resulting from the current language contained within the draft legislation.

Ladies and gentlemen of the committee, there are 230,000 families in Ontario who rely on the forest industry for their well-being and livelihood. They are counting on all of us to get Bill 184 right. Thank you.

The Chair: Thank you, Scott. You've left about four minutes, probably time for a very quick question from each party, starting with Gilles.

Mr. Bisson: Very quickly, we went through a forest EA for five years. The forest EA was about trying to figure out how we can basically sustain forestry but not impact, in the end, the environment. We went through the sustainable forestry development act. What comes out of that is a pile of manuals this big that you have to prepare forest management plans. Where does that legislation put you in relationship to what you're already doing under your forest management plan?

Mr. Jackson: To reiterate the comments I've already expressed, we are already protecting and providing for species at risk through existing legislation, their associated manuals, regulations and policies. You've highlighted clearly two of the most critical, which are the Environmental Assessment Act of Ontario and the Crown Forest Sustainability Act. The government itself, again, recognizes this on its own Ministry of Natural Resources website. Why can't they reflect that in the legislation itself?

The Chair: Mr. Oraziotti.

Mr. Oraziotti: Thank you very much for your presentation. As you are aware, we have a growing number of species at risk and a growing number of those species becoming extinct. What kinds of things do you think we can do in this bill that will help to strengthen the legislation to address this issue?

Mr. Jackson: I guess first I'd like to address the comment that we do have a growing number of species at risk: I don't disagree with that. In northern Ontario, in the area currently managed on crown land for forest operations, we've actually seen some reductions in the number of species at risk. There are seven, including bald eagle, that have shown a dramatic recovery. Bald eagle is currently considered endangered in southern Ontario but, oddly enough, not in northern Ontario.

Again, we have always supported the concept of updating the 1971 Endangered Species Act; that's why we gave the quote last April. But when it comes to forest operations on crown land, we have already gone through

the processes, through all the public hearings, through years and years of scientific testimony, to arrive at the management system we have. I think the best opportunity is to continue with that system and allow it to operate without bogging it down with additional processes and red tape.

Mr. Miller: I have three questions, but I only get time for one, so I'll go to the one about regulations.

I met with a forester last week, and he wasn't slamming the bill, but he said it's really going to come down to the regulations. He pointed out that the Crown Forest Sustainability Act is the one that already regulates you on crown land and that this will probably apply more to private land. Really, the regulations are where the rubber meets the road, where things could get ugly, I guess you'd say.

You want more review. What recommendations would you make for review of the regulations before they're actually put into effect, and what are your recommendations for interim habitat—because the bill is pretty definite about protection of habitat when a species is listed.

Mr. Jackson: I think with regard to the development of the regulations, it goes back to my point of equivalency. The single most important thing the government can do—and we would prefer to see this in the legislation itself—is recognize what we are already doing to protect and provide for the recovery of species at risk; we have been told that that will be addressed through regulation, but until we actually see that, we have no security and we have no certainty for the investments the forest industry might make in this province. So what we are asking is for that regulation to be developed; if the government chooses to move it through regulation, that it be developed and passed simultaneously with third reading of this legislation.

With respect to the definition of habitat, as I mentioned, it's a very broad—

Mr. Miller: The interim habitat.

Mr. Jackson: Yes. The interim habitat definition is very broad and there are numerous circumstances where habitat may not be the governing factor associated with the recovery of a species at risk. There's disease, there are invasive species. In a sense, the proposed definition is far too broad. It essentially tries to paint everything with a single brush and moves away from what our association believes is the fundamental intent of this act: to develop species-specific recovery strategies.

Mr. Miller: So you're suggesting more flexibility in interim habitat protection?

Mr. Jackson: Yes. I would say less of a broad sweep of prohibitive language.

The Chair: Thank you very much for coming here today.

ONTARIO MINING ASSOCIATION

The Chair: We'll move on to Mr. Chris Hodgson of the Ontario Mining Association. Mr. Hodgson, you were here at the start.

Mr. Chris Hodgson: Yes.

The Chair: You know what time limits you're operating under, then.

Mr. Hodgson: I'll try to finish up so we have time for questions.

The Chair: Perfect.

Mr. Hodgson: Good morning. My name is Chris Hodgson. I'm the president of the Ontario Mining Association. With me today is Adrianna Stech, OMA's manager of environment and sustainability.

We very much appreciate the opportunity to appear today to address Bill 184, the Endangered Species Act, 2007, which has the potential to considerably impact the activities of OMA members as well as members of the exploration industry in Ontario. In fact, the views I'm expressing today also reflect the position of the Ontario Prospectors Association.

The OPA represents the prospectors and geoscientists who lead the front-line mineral exploration in the province. The OPA believes strongly in conservation and protecting and helping species at risk. Just like the mining community, the prospectors want the processes to be put in place correctly.

The OMA represents mining companies engaged in the environmentally responsible exploration, production and processing of minerals in Ontario. We have a long history of working in concert with the government to ensure that the mining industry in this province is competitive and that Ontario is a leader in environmental protection. Our members have a vested interest in this. After all, they and their families benefit from the natural bounty and biodiversity of this province.

Needless to say, our members are supportive of the intent to conserve and recover species at risk in Ontario. We have demonstrated our commitment by joining with other resource stewardship and development groups to work constructively with Ministry of Natural Resources staff on finding a truly effective approach to addressing species at risk.

Throughout this process, our greatest concern has been, and still is, that the approach taken by the minister, while noble in its intent, risks putting democracy at risk in Ontario.

Under the current draft, recommendations made by the committee on the status of species at risk in Ontario, COSSARO, will lead to automatic listing, triggering species and habitat protection under the legislation. Because of the far-reaching implications of habitat protection, the decisions of COSSARO could affect the livelihood and quality of life of hundreds of families in this province, yet COSSARO is envisioned as an independent scientific body that is in no way accountable to the public.

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This contradicts the basic tenets of government transparency and accountability. Balanced decision-making requires appropriate consultation and a ministerial role. The people of Ontario expect to be able to hold their elected representatives accountable, particularly for deci-

sions that can profoundly affect their prosperity and quality of life.

I am confident that you will hear today from a number of groups—and you already have—calling for a more focused definition of habitat, about the need to preserve the scientific integrity and independence of COSSARO, as well as other constructive suggestions to improve the bill. The OMA has offered similar suggestions in previous consultations and written submissions.

Given the limited amount of time we have here today, we would like to limit our comments to what we believe is the heart of the matter: Democratic principles cannot be put at risk, no matter how noble the cause.

It is essential that COSSARO recommendations are subject to review and debate and that elected officials retain ultimate decision-making authority and accountability for the listing of species. Given thorough and independent scientific analysis and appropriate opportunities for public comment at the species assessment stage, there should be no difficulty with building consensus to reach a final decision regarding the listing of species and their designation on the Species at Risk in Ontario list.

By way of conclusion, I'd like to stress that OMA and OPA members remain committed to the conservation and recovery of species at risk in Ontario, and we applaud the ministry's efforts to make improvements to the systems currently in place. However, we believe that the proposed legislation needs further refinement if democratic processes are to be respected and on-the-ground implementation is to occur in an effective manner. We welcome further opportunities to work with the government to ensure that the legislative proposal is an effective tool for protecting species at risk, while preserving the one principle that works for people and the environment, and that is, democracy.

The Chair: Thank you. You've left between six and seven minutes for questions. We'll start with the government side.

Mr. Oraziotti: Thank you for being here this morning, and thank you for your presentation.

I'm getting some mixed signals this morning about the role of COSSARO and the role of the minister, in comparison, in terms of providing the scientific information that would in fact identify species being at risk. Do you want to elaborate on that a bit more? I'm getting the sense that—and you're probably familiar with this—when groups present, they often suggest that the minister has too much discretion in legislation or in regulation and there's not enough weight given to scientific evidence or that specifics are not nailed down in the legislation. Is that not the case in this particular bill? That's question number one.

Also, do you have any other suggestions in terms of how we might move forward and protect species at risk in the province of Ontario?

Mr. Hodgson: I want to be very clear. We're not talking about a thing that can be fixed at regulation stage. We think it's a fundamental principle that the minister should be accountable and have to sign off.

COSSARO is an appointment by the Lieutenant Governor in Council. In democracy, the spoils of victory go to the winners. So you appoint the committee—we'll trust that you put the proper scientific people in place, and that's fine—and they make recommendations on what should be protected.

Under this proposed bill, they have the ultimate authority. The minister doesn't have a sign-off or a say in this until after. The interim protection could affect hundreds of families immediately. You don't even give that power to a coroner's inquest.

I don't understand why you would set up a system that hasn't worked in other places in the world.

Democracy has served the environment and the people well; if you do it right, upfront, you should have a consensus.

I can understand people saying that there's some urgency. For what other good cause are you going to do away with the principle of accountability and ministerial sign-off? You're handing over ultimate authority to a group of people without any check in the system.

Mr. Oraziotti: I think the point of the committee is to simply identify, based on scientific evidence—

Mr. Hodgson: No. That's the fundamental problem we've got here. It's an automatic listing. If it was that, we'd support it. That's fine. That's the way it should work. It should be advice to the government.

Mr. Miller: Thank you for presenting this morning.

In terms of the COSSARO listing, would it be an improvement if it was peer-reviewed science? We've had some other groups that have talked about having community knowledge or applied science members on the COSSARO committee. Would either of those things help? So COSSARO makes their recommendation and then another group of peers reviews it; would that be an improvement?

Mr. Hodgson: No. All that has to happen is that the minister has to sign off on the listing. There's a process in place then that's accountable. People would have a debate about it. The minister would stand up and defend the position in public and be accountable for it. There are lots of suggestions on how to make COSSARO better, but that's not our fundamental problem with the bill.

Mr. Miller: I think Mr. Yakabuski wants to ask a question.

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke): Thank you for coming this morning. To what extent prior to the tabling of this bill was the Ontario Mining Association consulted with regard to the legislation that we knew was coming at some time?

Mr. Hodgson: Oh, quite extensively. The Ministry of Natural Resources staff have been more than helpful and accommodating on listening to concerns. Quite frankly, there are a lot of improvements in this bill over the status quo, which we support. Our fundamental problem is that no matter how noble the cause, there should still be democratic principles applied, where the minister has to explain to the public, to these families that are affected

why he's listing and putting in habitat protection, with all the ramifications included in that. I don't think that's too high a threshold in a democratic society.

Mr. Yakabuski: So the ultimate accountability has to be the government. You can't simply walk away and say, "It wasn't our decision. Somebody else made it. We can't do anything about it."

Mr. Hodgson: Right. No matter how noble the cause, I don't think we should sacrifice that principle. We don't do it for inquests of babies dying in hospitals. We have coroner's inquests and make recommendations, and then the government, through the minister and the cabinet and the House, decides if they will implement those recommendations. I don't think you should fear to have it. I think it's a principle that has stood well the test of time.

The Chair: Thank you. Point well made. Mr. Bisson?

Mr. Bisson: That is actually quite a good point; that's a good way of putting it.

The inter-protection of habitat: Can you explain what that means? If there was a recommendation to take out of the land mass available for exploration, what would that mean for the exploration industry and ultimately what that means to northern communities?

Mr. Hodgson: It could mean anything. It would depend on COSSARO's recommendations and the geographic scope of what they consider needs to be off limits for various activities. We're not sure what it means. We don't disagree with the idea that COSSARO should be set up and make recommendations, and if they do consensus-building and explain their scientific position well, the minister should have no trouble implementing the recommendations. Our problem is that you're going to hand it over without a check of the public having a say through their elected representatives.

Mr. Bisson: If an amendment was supported by the government majority that in fact the minister would have the final say, would you be supportive of this legislation?

Mr. Hodgson: Yes. I think the rest of the issues we can work through and improve upon, but those are details. This is a fundamental issue that can't be addressed at the regulation stage. This is a fundamental tenet of the bill.

Mr. Bisson: Are you satisfied that, the way the current legislation is written, the COSSARO committee will be representing fairly the various regions of the province?

Mr. Hodgson: Well, to the victor go the spoils. The government will be accountable for who they appoint on these committees. I'm not so worried about that. It would be nice to try to pre-select them and say they're going to be infallible, but they're going to be people who are sitting on this committee, and that will be a judgment call by the government of the day of who would best represent endangered species and have the scientific background to do an adequate and professional job.

The Chair: Thank you, Mr. Hodgson. Your time is up. Thank you very much.

ONTARIO FUR MANAGERS FEDERATION

The Chair: The next group we're going to hear from is the Ontario Fur Managers Federation, Stewart Frerotte and Howard Noseworthy.

Mr. Howard Noseworthy: Good morning.

The Chair: Good morning. Were you here at the start when we outlined some of the rules and time constraints?

Mr. Noseworthy: We've got the rules down pat now.

The Chair: There you go. It's all yours.

Mr. Noseworthy: My name is Howard Noseworthy. I'm the general manager of the Ontario Fur Managers Federation.

Mr. Stewart Frerotte: And my name is Stewart Frerotte. I'm the southern region vice-president for the federation.

Mr. Noseworthy: The Ontario Fur Managers Federation and our 5,000 members appreciate this opportunity to present our recommendations to the committee. We must express our disappointment that committee hearings have been confined to Toronto when so many individuals and local associations whose activities may be directly impacted by any restrictions that may be imposed by Bill 184 are resident in the beautiful communities of rural and northern Ontario. All of them have concerns that are particular to their own areas and circumstances, and many of them feel that their concerns have not been adequately addressed in the limited public consultation process to date. In the limited time available to us, we will attempt to summarize the major concerns of our thousands of members and dozens of local trappers' councils, but know that many stories will remain untold.

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The Ontario Fur Managers Federation supports conservation and recovery of threatened and endangered species that are based on the concepts of sustainable development and use of natural resources. Unfortunately, Bill 184 offers only ambiguous protection for endangered species and their habitats, while stopping short of a process that will lead to the recovery of these species for the benefit of Ontarians. In so doing, Bill 184 also ignores socio-economic implications for Ontario's citizens.

One of our chief concerns lies with the definition of "habitat" contained within section 2 of the act. We believe that the majority of our citizens want to comply with the requirements of the legislation, but the imprecision of the current definition will make compliance difficult, if not impossible. We know that MNR staff and the minister's office have seen a variety of proposed "habitat" definitions from concerned stakeholders, and we would add our suggestion here.

In definitions, section 2 of the act, we would suggest that in this act "habitat" means,

"(a) with respect to a species of animal, plant or other organism for which a regulation made under clause 54(1)(a) is in force, the area prescribed by that regulation as the habitat of the species, including, with respect to a species of animal, places in that area that are used by

members of the species as dens, nests, hibernacula or other residences, or

"(b) with respect to any other species of animal, plant or other organism, an area on which the species depends to carry on its critical life processes, including, with respect to a species of animal, places that are used by members of the species as dens, nests, hibernacula or other residences; but not including an area on which the species does not depend where the species formerly occurred or has the potential to be reintroduced;"

Subsection 10(1) of the act requires that no person shall damage or destroy the habitat of endangered or threatened species, but does not define such damage or destruction. The act should acknowledge that alteration of habitat that does not have a deleterious effect on a species would not be considered to be damage or destruction.

In addition to the foregoing, the act should acknowledge the temporal nature of many species' residences, inasmuch as many species do not return to the same residences annually, and should therefore provide for this aspect of habitat protection only during the period of residence occupancy.

The advisory panel acknowledged that "it is widely recognized that habitat loss, through elimination or degradation, is the leading cause of species endangerment." This said, the act should not engender the premise that habitat protection is equivalent to a hands-off approach. Rather, the act should acknowledge that the concept of habitat loss through elimination or degradation may require the active intervention of habitat manipulation and enhancement.

The act should acknowledge that threatened and endangered species are best protected through the implementation of timely and effective recovery strategies and recovery plans, and the act should make such strategies and plans a prerequisite of habitat protection beyond a species residence.

The act should provide that species-specific habitat regulations be guided by recovery strategies and plans, and as such only take effect with the implementation of a recovery plan.

This act has only two purposes, the first of which is, "To identify species at risk based on the best available scientific information, including information obtained from community knowledge and aboriginal traditional knowledge." One would consider that in an act with only two purposes, these purposes would be truly overriding and incredibly important. It is therefore discomfiting that the qualification for membership on COSSARO, as outlined in subsection 3(4), completely ignores one third of the body of knowledge that is so properly included in the first purpose, that being community knowledge.

We contend that it can be accurately stated, especially for species with limited geographic distribution, that relevant expertise pertaining to such species may rest primarily with those persons with intimate community knowledge of such species. Indeed, the stewardship roles undertaken in relation to threatened and endangered

species over many years by members of the public may provide them with an expertise that exceeds that of those from a formal scientific discipline.

We encourage that subsection 3(4) be amended to include community knowledge as follows: under “Qualification,” the bill as written, with sections 4(a) and (b), and the addition of a 4(c), that being community knowledge.

The COSSARO appointment process should include a terms of reference that exclude those who are opposed to the sustainable development and use of natural resources.

Section 47 provides that “subject to the approval of the Lieutenant Governor in Council, the minister may establish a committee to make recommendations to the minister” on a range of matters, including stewardship, best management practices, education, agreements and regulations.

We contend that recovery of species at risk in Ontario will only occur if such a committee is established. To that end, we recommend the following: In section 47, “the minister shall establish a committee to make recommendations to the minister” on any matter that relates to (a) through (j), as currently written in Bill 184.

As recommended by the advisory panel, the assessment and listing processes should not be “accompanied by a rigid protection system that ignores the important socio-economic factors that may affect decisions about how a species will be protected and what exceptions will be made.” In keeping with this concept, we would suggest that section 47 be amended to include a section (j), which would be:

“(j) socio-economic factors that may affect decisions about how a species will be protected and what exceptions will be made.”

We further recommend that membership on the committee be primarily from Ontario’s resource stewardship and land management sectors, with participation from the Ministry of Natural Resources.

COSSARO’s role in the listing and de-listing of species should be as a body advisory to the minister. The minister should ultimately be responsible for listing and de-listing of species.

The act, as envisioned, would be truly dynamic legislation, with each species listing bringing with it legislative and regulatory requirements, which would include potential penalties for Ontario’s citizens. As such, only those accountable to the people should be responsible for listing.

To reiterate, in keeping with the democratic principle and public trust, government must ultimately be accountable to the people of Ontario for the introduction of legislation and regulation, including amendments, that place the burden of responsibility and potential penalty on the public. COSSARO, as an appointed body, should be advisory only, and is not an appropriate entity to decide the legal status of species.

The act should include an open and transparent process, via 60-day EBR postings, to advise the public of species to be considered for assessment, and a similar 60-

day EBR posting to advise the public of the intention to list a species.

At this time, we would be pleased to answer any questions the committee might have.

The Chair: Thank you very much. We’ve got about two minutes left. Mr. Miller, you’re starting off. Mr. Bisson, do you have questions, or do you want to give it all to the opposition?

Mr. Bisson: I’ve got one quick question.

The Chair: Okay. Mr. Miller?

Mr. Miller: I have a number of questions, but I’ll just ask one quick one. On the community knowledge aspect of it, you’re recommending that there be people with community knowledge on the COSSARO committee. How do you practically implement that? I’m assuming the committee would be eight or 10 people, for example, so how do you pick what community knowledge and how many people etc.?

Mr. Noseworthy: As Mr. Hodgson suggested, I guess it will ultimately be government or the minister who decides who. But it’s a process not unlike what we currently have in recovery teams for threatened and endangered species in this province now. I sit on the provincial wolverine recovery team, and I happen to believe that we have an excellent balance of scientific, aboriginal and community knowledge. I think it would be completely inappropriate to exclude one third of that body of knowledge from the process.

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Mr. Bisson: Just a quick question: How do you juxtapose allowing for socio-economic factors to be considered when it comes to protecting habitat versus the environmental need?

Mr. Noseworthy: I would like to think that protection of species and the ability to harvest the natural resources of this province need not be mutually exclusive. I don’t see it as one side or the other wins, but rather a process by which it is determined how we harvest the resources while still protecting the species.

The Chair: Mr. Oraziotti, one quick question.

Mr. Oraziotti: This issue of automatic listing and COSSARO has come up a couple of times this morning. Would you not say that this is a scientific issue and that this isn’t something that the minister should be deciding; that based on science, the species is either endangered or not endangered?

Mr. Frerotte: I can answer that. I have some problems in that area, in that there is a penalty section in the act itself. If you’re going to impose a penalty on me, I want to be able to hold the minister or the government in power to account for it if it’s a wrongful penalty or something along those lines. If we were to just turn around and say that a body of 10 people can automatically list something and then I could commit an offence against that—I can’t hold them accountable. It’s the accountability aspect, primarily, in that area. Somebody has to be at the top and be accountable to the public and the province.

The Chair: Thank you very much for attending today; thank you for your presentation.

GREATER TORONTO
HOME BUILDERS' ASSOCIATION—
URBAN DEVELOPMENT INSTITUTE

The Chair: We'll go on to the Greater Toronto Home Builders' Association and UDI. Neil Rodgers and Jessica Annis, welcome to the committee. The floor is all yours.

Mr. Neil Rodgers: My name is Neil Rodgers. I'm the vice-president of policy and government relations with the Greater Toronto Home Builders' Association and Urban Development Institute. Joining me is Jessica Annis, a senior policy adviser with the association.

The GTHBA and UDI's 1,500 members significantly contribute to the provincial economy and its quality of life. The development and residential and commercial construction industry employs over 350,000 men and women in this province directly in the industry and many hundreds of thousands more in related and accessory businesses.

We are pleased to be afforded this opportunity to present the industry's views with respect to Bill 184. However, we must state for the record that we are disappointed with the government's refusal to undertake province-wide consultations and respectfully submit that four hours of committee hearings in the city of Toronto will not do this bill the justice that it deserves.

Our association is supportive of a legislative regime that protects threatened and endangered species, with an emphasis on species recovery, flexibility tools and stewardship. We have worked hard, along with other resource sector stakeholders, to offer the minister ideas and policy alternatives that would protect species at risk while balancing the social and economic interests of this province's residents and businesses.

Unfortunately, the bill only offers ambiguous protection for endangered species and their habitat, while stopping short of a process that will lead to the recovery of these species for the benefit of all Ontarians.

We submit that the definition of "habitat" included within the bill, as currently drafted and intended to be used to define areas that are to be protected so that populations of species identified as threatened or endangered are maintained at existing levels in the interim while recovery strategies, management plans and regulations are developed, is ambiguous and vague.

We are concerned that the definition will be interpreted so broadly as to render it meaningless, specifically with respect to the lack of understanding of the meaning of "indirect habitat."

We believe that a species-specific regulation is more appropriate to address the particular habitat protection needs of species designated as being at risk.

Therefore, we would recommend that the definition of "habitat" in clause 2(b) of the bill be amended to read as follows:

"(b) With respect to any other species of animal, plant or other organism, distinct area(s) of specialized function on which the species directly depends to carry on its critical life processes including places that are used by members of the species as dens, nests, hibernacula or other residences, but not including an area on which the species does not directly depend, generalized areas or areas where the species formerly occurred or has the potential to be reintroduced;"

We also have a concern with respect to the integration of this bill with the provincial policy statement. The PPS, which came into effect on March 1, 2005, and Bill 184, as currently drafted, contain two vastly different and perhaps conflicting tests with respect to the determination of activities that would potentially be allowed to occur within the habitat of threatened or endangered species.

Clause 2.1.3(a) of the PPS, which is reproduced below, establishes a general prohibition against development and site alterations, whereas the tests established in Bill 184 are, for the most part, founded on a "net gain" or "no net loss" approach.

Ontario's development and building industry invests significant resources in the restoration of degraded and marginal lands and watercourses, and is familiar with the concepts of net gain and no net loss embedded within the bill. We support the establishment of the flexibility tools within the proposed bill, which, if implemented correctly, have the potential to facilitate overall gains for species at risk and their habitat.

The establishment of two very different and potentially conflicting tests will, in our opinion, cause enormous confusion for decision-makers at all levels of government, resulting in variable and unpredictable interpretation across the province. The lack of clarity and certainty this will cause is of significant concern to our members.

We therefore recommend that the bill be amended to clarify that regulations, agreements, permits and other instruments made under the act prevail in the event of a conflict with the provisions of the PPS, as may be amended from time to time.

With respect to COSSARO, we are troubled by the removal of ministerial discretion and decision-making with respect to the inclusion of species on the Species at Risk in Ontario list and the associated delegation of decision-making authority to an appointed body—COSSARO—which is not accountable to the electorate for its decisions.

While we acknowledge the inclusion of the word "independent" in subsection 3(5) of the bill with respect to the members of COSSARO, we submit that since it is the intention of the government to grant COSSARO extensive decision-making powers through this legislation, a more rigorous test with respect to potential conflicts of interest needs to be incorporated into the bill.

We would therefore recommend that the following be included within section 3:

"No member shall, during their term of membership, be in a position of advocacy related to public policy of real or perceived interest to the functions of COSSARO."

On the issue of timelines, expanding government mandates and increasingly complicated decision-making processes at all levels of government have contributed significantly to the development approvals process. The process to obtain a permit, as outlined generally in section 17 of the bill could, in our opinion, significantly delay and, in particular, unduly defer the construction and renewal of necessary and critical public infrastructure projects.

We are concerned that the process envisioned in the bill will not result in ministerial decision-making being undertaken in a timely manner. We therefore recommend that the bill be amended to include reasonable timelines within which the minister, or his or her designate, would be required to issue an opinion/decision regarding an application for a permit.

On the issue of equivalency, our industry is governed by innumerable intersecting pieces of legislation and regulation at all levels of government. It has been the industry's experience that new requirements are often not well integrated with existing legislation and regulation, with overlapping mandates, particularly those of other government agencies. In a number of cases, this has resulted in applicants being unable to satisfy conflicting approval requirements, causing significant delays and unnecessary duplication of work.

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Currently, Fisheries and Oceans Canada, DFO, through the Fisheries Act, rigorously regulates any and all development activity that impacts fish and fish habitats in this province. In our opinion, an additional layer of approvals required for activities that may potentially impact fish and fish habitat deemed to be at risk will increase costs and delay without benefiting, necessarily, fish species that have been deemed to be at risk. We therefore recommend that the bill be amended to specify that an authorization granted by DFO be deemed to have the same effect as a permit issued pursuant to section 17 by the minister under the bill.

Our recommendations above are intended to assist the government to strengthen Bill 184, and to ensure that the significant investments made by the development and building industry in this province will be directed toward on-the-ground solutions, rather than additional process and red tape.

Thank you, Mr. Chair.

The Chair: Thank you very much, Mr. Rodgers. You've left just over three minutes, starting with the NDP, for questions.

Mr. Bisson: Two minutes each you said?

The Chair: Well, about a minute and a half each.

Mr. Bisson: Thank you for your presentation; it's much appreciated. Many of the people who have presented to us, clearly the majority of them, have been saying that we need to give some ministerial discretion to what COSSARO is able to recommend back. What do you say to those people who would be in opposition to that? Clearly, there's a different point of view that it should be strictly scientific, as Mr. Oraziatti has put forward. What do you say to that?

Mr. Rodgers: I think the push by other parties to have ministerial discretion taken out of the system is because they perhaps don't have confidence in the process of government, the process of ministers. Quite frankly, that is a slippery slope on which to embark as a democracy. There are ways and means in which you can deal with the accountability and the decisions that governments make, and I think that process has been tested very well.

Mr. Bisson: And in regard to the issue of the makeup of COSSARO itself, are you satisfied, under the current legislation as drafted, that COSSARO is a good mix in the way it's going to be put together?

Mr. Rodgers: At this time, I can't answer unequivocally yes. There are some issues with respect to the qualifications of the members. It will be a work in progress. We have no objection to the independence of a scientific body offering advice to government, but the proposal that's in this bill goes way too far.

Mr. Oraziatti: Thank you for your presentation. One of the questions has been asked. Is there anything else that you might suggest today that will help us address this issue of species at risk in the province of Ontario, anything else that you could suggest that would help us strengthen this bill?

Mr. Rodgers: I think we've made a number of suggestions, as have many of the presenters here before. There's been no lack of opportunity in terms of staff discussions with the sector; we cannot complain about that. We just haven't seen, quite frankly, the practical solutions that many have offered reflected in the bill.

Mr. Oraziatti: All right. Thank you.

The Chair: Mr. Yakabuski?

Mr. Yakabuski: Thank you very much for joining us today, Mr. Rodgers. I'm of the opinion that regardless of what side of any fence you sit on, there are no objective people in this world; everybody has a view. One of the concerns, it would seem, that you have is the makeup of the committee, COSSARO, and with regard to how to find people who are absolutely, totally objective. One of your proposals is that no one who has been in a position of advocacy would therefore be eligible for that committee, and I understand where you're coming from. I certainly understand your views on that, and share that there is a concern that without accountability on the part of the minister, in fact the government is ceding its responsibility to another body, and in a democracy we don't know where that could end up. I understand your position on that.

I also wanted to talk about one thing: Number four, the timelines. Is this a concern that if we don't have timelines, then we've got a situation where we're just in perpetual limbo with regard to can we proceed, do we proceed? Inevitably, that adds to the cost of any and every project.

Mr. Rodgers: Yes. I have read into section 17, particularly 17(d), a process that will be similar to, if not equal to, the environmental assessment approvals process. So our concern is that if the minister makes a decision and says that we have to take a pause and we

have to look at it, and there's a whole series of tests by which the government of the day will have to do that, it could be caught in a bureaucratic limbo. Our concern, and I think the concern of legislators across this province, should be for the issues of infrastructure renewal and new infrastructure that is needed for the economic output of this province. It's a significant problem and I don't think we have really tested how this could play out.

Mr. Yakabuski: It's clear that there's a number of issues here—

The Chair: Thank you, Mr. Rodgers and Ms. Annis. Mr. Yakabuski, thank you.

TOWNSHIP OF TERRACE BAY

The Chair: Our next delegation is Mayor Michael King from the township of Terrace Bay. Mayor King, if you'd come forward.

Mr. Michael King: Thank you, Mr. Chair. I want to give my appreciation to the committee for allowing me to present here today. I guess I'll start off by just telling the committee a little bit about myself. I am the mayor of the township of Terrace Bay and I'd like everyone to know what a terrific community that is, right on the north shore of Lake Superior.

Terrace Bay has been around for about 60 years and we are a forest-based community. We have a pulp mill. Our community was built specifically to house a pulp mill. Back in the 1940s, it was started by the Longlac Pulp and Paper Company and later, Kimberly-Clark. It's a beautiful community that was planned specifically and serves no other purpose than to house a pulp mill. Our community is made up of ordinary folk, like every other community. We've got a lot of seniors, pensioners and working people, and the only employment is our pulp mill.

A year ago, the economies of Terrace Bay and other forestry-dependent communities were devastated by the closure of the Neenah Paper pulp mill. Thanks to the Ministry of Natural Resources, Terrace Bay Pulp Inc. is now operating and these communities are revitalized. The impacts of implementing the recovery strategies associated with SARA will challenge the future operation of the pulp mill and threaten the futures of these communities.

I've been the mayor of this community for almost 10 years. We've gone through a significant, traumatic experience with the mill being closed once, looking into the faces of my residents, whose futures were so uncertain.

Existing protection for species at risk: The Ontario forest management planning process and its associated guides provide an exemplary level of protection for species at risk and all other wildlife and values on crown land. For example, the recently developed landscape guides were designed to provide habitat for all species, especially those at risk.

Impacts of recovery strategies: They will have economic impacts for people, communities and industries

in the north. Wood supply and wood costs will be impacted by the recovery strategies. Socio-economic impacts have not been calculated. It is critical that each new recovery strategy, including the newly drafted caribou recovery strategy, is subject to a socio-economic assessment.

1130

I have provided you with a map of northwestern Ontario. The copies that I had were in colour. Basically, the impact of just the caribou recovery strategy east of Lake Nipigon is very significant. You will note on the map that the area in pink was the original caribou protected area implemented in 1990. That's a very significant amount of territory in northwestern Ontario.

Mr. Yakabuski: I'm sorry, could you turn that map this way? Our area is not in pink.

Mr. King: I'm sorry. That's this entire area right here.

Mr. Yakabuski: Thank you.

Mr. King: That's the one from 1990. The impact of just that strategy reduced the amount of fibre available to the forest industry by three million cubic metres of conifer annually.

In the proposed boreal caribou recovery zones, there has been an addition to it, and it is all of these other coloured areas. They go right down—this yellow area, as well as the area surrounding Lake Nipigon, and all along the North Shore of Lake Superior, which includes my community.

Currently, the forest industry in Ontario needs almost nine million cubic metres of conifer annually. In 1990, there were 14 million cubic metres. With the introduction of that caribou legislation, it was reduced by three million cubic metres, and there have been further reductions in available conifer by other legislation. The number sits at 9.5 million cubic metres annually available to the industry.

If we suffer another withdrawal, it must translate to closures of mills and devastation of communities. Our community and other communities saw their mills close; we knew that that was due to the perfect economic storm, and none of us, not one, blames the government. It was the high cost of the Canadian dollar. It was the low cost of product. It was competition from foreign markets. It was energy costs. Some of these mills run on 100% natural gas, and the cost of gas to produce their power put their lights out. We never blamed the government.

Our fear is that if this remains unchanged, this time mills will be closed for lack of fibre by an act of government; we get all kinds of assurances that that won't happen, but we have a very thin threshold of withdrawals. If this committee and this government can state categorically that there will be no fibre withdrawals, that would give us some comfort that this result would not happen, but I don't think that's going to happen.

We're talking about protecting habitat. A significant amount of caribou habitat is being protected today. Why do you need so much more? There are several pulp mills and a large number of sawmills in communities within

the new expanded area, and all of them will be put at risk if there's a further withdrawal.

Two years ago, myself and a number of other mayors were invited to a seminar. The entire thing was organized by high school students in Red Rock—children. It lasted two days. The name of the seminar was Face the Truth, because their pulp mill was in trouble, and so were so many others. Two days of presentations, organized by children. My panel consisted of four mayors. We told them, “Yes, our mills are in trouble; the trees are fine.” I was never so proud of a group of children as I was that day. I feel somewhat ashamed today; the Red Rock mill was closed permanently. All of us are working desperately to find a new investor or to convince the current company to reopen it. But as it stands, the community is devastated. There is no other employment. We told the children, “The trees are fine.” In other words, we can find someone else. I feel somewhat ashamed for telling them that, because now I'm not so sure we can do it.

I'm open for questions.

The Chair: Thank you, Mayor King. You've left a very short amount of time. We're going to start with the government side.

Mr. Oraziotti: I just want to make a comment. I want to thank Mayor King for coming to present to us today, and I appreciate hearing first-hand from you about your community and about the challenges that you faced, and successfully enough, it's on the rebound. That's fantastic news, and I'm happy to hear that.

Let me reiterate that this piece of legislation and the updating of a bill that is 36 years old is to allow us, as a province, to identify species at risk—additional species that are not protected—and work to make those improvements and ensure that we are protecting the species and habitats in the province of Ontario. There are flexibility tools built into this legislation that will continue to evolve as we work through the process and work with communities like yours, or other areas, to ensure that we balance the very important economic priorities of this province that we all have and that we all want to see perform very well.

I want to thank you for coming in and for your comments. We hear what you're saying, and we'll certainly be making additional considerations over the next week or so, as well as during an amendment process before the bill is finalized. So, your timing is good. Thank you.

Mr. Yakabuski: Thank you very much for joining us, Mayor King. That was quite a presentation. We appreciate your candidness and your emotion on the health of your community and a lot of others in the north.

Are there things that can be done to amend this bill so that communities like Terrace Bay and others that you mentioned will not simply cease to exist viably economically and that the human species there will have no future? Are there things that we can do in this bill to make that possible?

1140

Mr. King: In regard to the expansion of the habitat for caribou, certainly that could be reduced back to where it

was. As you can see, it's a significant area. You could make this legislation supersede other withdrawals, things like Lands for Life and Room to Grow initiatives, in order to balance it out and say, “We're going to take precedent with this one” because some of these other fibre withdrawals are just automatic mechanisms. A plant changes ownership. We protect a bunch of property. We draw a line around a bunch of the fibre. Under the Room to Grow initiative, there are calls for proposals right now in Kenora to bring in a new mill to replace the one that has been closed and is being demolished, and Room to Grow applies.

The Chair: Thank you, Mayor King. Mr. Bisson.

Mr. Bisson: I would just say that your emotion and the power of your presentation are very apparent. I can say that the people of Marathon were heard here today, clearly. I understand first-hand. I, too, represent communities that were affected—Opatatika, Smooth Rock Falls—who lost their only employer. I understand how you feel, but specifically, you're asking this committee to make some amendments. As I hear it, you're saying that we need to take into account social and economic impacts from withdrawals of land and the power of the minister to be able to have the final say.

You heard what Mr. Oraziotti had to say. Do you feel any more comfortable today, based on what you heard?

Mr. King: I certainly feel that the minister should have the final say. He's going to finally get the blame, regardless of whether he had the power to make the decision or not. So he might as well have the clout, because he's going to get all the flak.

Mr. Bisson: That's a good point.

The Chair: Thank you, Mayor King. One point before you go: On your slide deck, three pages from the end, one sentence just ends.

Mr. King: Disappears? I'm sorry for that. The number is 9.5 million.

The Chair: Okay, thank you.

Mr. King: In 1990, there were 14 million cubic metres of available wood supply in the northwest region. The final line is: We're now at 9.5 million.

The Chair: So it should read, “Has been reduced to approximately 9.5 million”?

Mr. King: That's right, and the industry is using nine million.

The Chair: Thank you very much for coming today.

ONTARIO BAIT HANDLERS

The Chair: Our next presentation is from the Ontario Bait Handlers, Bill Davies and Jim Leworthy.

Mr. Bisson: Chair, is that the last presentation for the morning?

The Chair: It is.

Mr. Bisson: Somebody has a BlackBerry on the table, and it's interfering.

The Chair: I'm using it to time, but I don't think it is mine.

Mr. Bisson: No.

Mr. Yakabuski: It could be the radiation from your jacket.

Mr. Mario G. Racco (Thornhill): I know. I wanted to wake you up today.

Mr. Bisson: Does it come with spare batteries?

The Chair: The floor is all yours while these guys discuss their fashion tastes.

Mr. Bill Davies: I'd like to thank the committee for inviting us to this meeting. I'd like to reiterate many of the things that past presenters have presented, without going into a whole lot of what they've already said. One of my biggest concerns—

The Chair: Excuse me, sir. Would you introduce yourself before you start.

Mr. Davies: I'm sorry. I'm Bill Davies. We're with the Ontario Bait Handlers. Going back to where I was, we're very much concerned at the fast-tracking of this and the implications that this will have on many people across the province as this is fast-tracked through the system. The fact that many people had to travel thousands of miles just to get a 10-minute hearing on this committee I think is almost a shame to a democratic process. The impact that it will have on many people will be far-reaching, and the government does not do the people it serves a service by the process that they've implemented.

That being that, the Bait Handlers supports conservation and preservation of our native species. We also support and endeavour to see that threatened and endangered species make a comeback and become a thriving population so they can eventually be removed off the species-at-risk list. It would appear that if left unchanged, Bill 184 only offers hit-and-miss measures to protect our threatened species but falls short of a process that would lead to a recovery process.

One of our main concerns, and one that very much concerns me personally, is the definition of "habitat" or lack thereof. That is in section 2. With such an ambiguous, all-encompassing definition of "habitat," we don't know where we stand. It has been spoken about a little bit by Stewart Frerotte: that there are severe penalties that could be imposed on those who disturb a habitat or a threatened species. Us being in the bait and tackle industry, we're quite often seining in creeks and stuff like that, and if we happen by chance to come across a threatened species, the onus is put right back on us. This is a very, very scary prospect to us, especially with the penalties being imposed.

The act seems to address the species at risk, but it doesn't actively address the fact that we need a recovery program. Each species is specific. The other thing that the act doesn't cover is that if a species is listed—I'm just thinking of one off the top of my head. You have lake sturgeon down our way. They are not at risk in southern Ontario, but in other parts of the province, they are at risk. Yet the species-at-risk act would be all-encompassing, so it could be that if somebody disturbs a lake sturgeon down our way—which have been fished and harvested for years by anglers—all of a sudden now it's

another thing that's removed, not because they're at risk in our area, not because the habitat is not good in our area, but because there's a problem in some other part of Ontario. This act must address that. It can't just be an all-encompassing act.

Another area that we're extremely concerned with—I hate to sound like a broken record—is this COSSARO group. You can read what we've said, but I'd like to address a question that was asked: Do we feel comfortable leaving it all in the scientific community? I've just gone through a winter with VHS, and it was left totally on the scientific community. Some of my friends have been on welfare all winter. The government did not consult the community aspect of the groups. We're still fighting scientific data that doesn't exist through scientists. We have a problem that, through the whole process, this idea of community starts at the beginning of the preamble of this act, but when you get into the act, it seems that the government forgot all about the community and the users.

I've seen time and time again where the scientists—I've been in the bait industry for 25-plus years; I've been in hunting; I'm also a trapping instructor in southern Ontario. Far, far too often when bills like this are fast-tracked through the government, it always ends up that they wind up coming back to us. We've found over the years that it is a whole lot easier to get it right the first time than it is to try to come back and re-address the problems that you caused. It's a whole lot easier to keep my business up and running than it is to try to restart it after the government has done something specifically to close me down.

When that is all said and done, with all due respect, the person I vote for better be the person who is responsible. I want the option to vote him in or vote him out. He ultimately has to be responsible to me. This COSSARO group is not responsible to me. They are going to be able to make decisions on my livelihood and several other people's livelihoods without any answerability to them. I strongly object to that in what—I think we still have a democratic society the last time I checked.

We would also like to see a committee established that will have to have a recovery program in place before they can put a species at risk, so that we know exactly what we're dealing with. Also, any process that this act includes should be an open process and require at least 60 days' posting on the EBR. This should include one posting to let the public know what species is being considered for the assessment and another posting to show the intent to list the species.

I conclude with what I started with: We would like to impress on this committee the disappointment we have that this far-reaching piece of legislation is being fast-tracked through the Legislature without proper time for the people this legislation will impact to have the opportunity to have any input.

1150

The Chair: Thank you, Mr. Davies. The time for questions is about two minutes each. We'll start with Mr. Miller and Mr. Yakabuski.

Mr. Miller: Thank you, Bill, for your presentation today. I note your point about and your concern with the bill being fast-tracked through the process. You have to wonder why the government wants it fast-tracked. As you said, it's better to get it right the first time and take the time to work through the concerns.

You talked about habitat. I guess in the bill if a species is listed, the habitat protection is quite broad and all-encompassing, as you stated. Within the five-year time period—I think it's up to five years, depending on the status of the species—the regulations can then define the habitat more specifically. Have you got recommendations for, when a species is listed, how to deal with habitat in a less all-encompassing way? You gave the example of the sturgeon.

Mr. Davies: At the beginning in the preamble, we talk about community, but then in the implementing of the bill there is no community brought in. I hate to deal with straw men, but it's hard not to. Say there's a redbelly dace in a creek that I fish. Where's their habitat? The science community can determine that there's redbelly dace there, but the community that has been working in that creek for the last 25 years has far more knowledge of that creek system than any scientist would.

I can give you an example with the VHS—I know that's not the topic of the day—but the map has a creek going by my place that's in and out of the virus-free zone three times. All that the scientists had to do was call me up and ask, "Hey, does Brown Creek lie within the virus zone or lie within the virus-free zone?" I'm afraid of the same thing coming down through the COSSARO group, which is just a bunch of scientists, if you wish, who have never been on the creek and they're causing me to not fish.

The Chair: Thank you, Mr. Davies. Mr. Bisson.

Mr. Bisson: I agree with your comments that at the end of the day you want to be able to get your hands on the person who is the elected representative. But remember, it's not only him; it's also her, just to put it on the record. There are women elected to the Legislature, and maybe we should get more. Anyway, I just thought I'd put that kick in there.

The other thing is, you said in your presentation that what you're looking for, amongst a number of amendments, is one that basically says that the recovery plan has to be done before the actual withdrawal is done. What do you say to the environmentalist who, at the other end of the argument, will say that's pretty hard to do?

Mr. Davies: Well, I'm an environmentalist. I probably care more about the natural resources than the average Joe out there. My livelihood, the feeding of my family, has depended on my crawling up and down mud ditches for many years. If a species goes at risk or the environment is in danger, it far more impacts my livelihood than it ever does David Suzuki's, who's going around doing what he does best. A good example on science, as this gentleman over here mentioned, is that nobody comes without bias. You have good scientists who believe it's global warming, and you have good scientists who don't

believe it's global warming. Who's right? Who's going to get appointed to this committee? Who's going to wipe my livelihood off the map?

Mr. Bisson: That's the whole point of what you're saying: You want to basically take local knowledge into account, to have that counterbalance.

Mr. Davies: Absolutely. You can't do it without it.

Mr. Bisson: Okay.

The Chair: Mr. Orazietti?

Mr. Orazietti: Thank you, Chair. I don't have any questions. Thank you for your presentation.

The Chair: Thank you, Mr. Davies, for coming today. The committee is recessed now. We'll be resuming again at 4 o'clock this afternoon in room 151.

The committee recessed from 1155 to 1604 and resumed in room 151.

The Chair: Okay. We can call back to order again.

The delegations have come expecting to make a 10-minute presentation. We have a little bit of time at the end of the meeting, so I'm going to suggest we do the same as we did this morning and extend the delegations to 12 or 13 minutes.

ENVIRONMENTAL DEFENCE

The Chair: That being said, our first presentation today is from Environmental Defence. Dr. Rick Smith is going to be speaking in place of Aaron Freeman. Dr. Smith, it's all yours. If you could leave some time at the end for questions, that would be great. The time is yours to use as you wish.

Dr. Rick Smith: It's a pleasure to be here today. It's especially a pleasure to see the honorary guardians of the silver shiner, the black tern, the bridle shiner, the northern madtom and the shumard oak. Mr. Rinaldi, I can't remember—the northern cricket frog, I believe, is what we gave you.

Mr. Lou Rinaldi (Northumberland): You got it.

Mr. John Milloy (Kitchener Centre): What was mine?

Dr. Smith: I think, Mr. Milloy, you were the northern madtom, an excellent little fish. Mr. Dhillon, I think you were the Shumard oak, a majestic tree; Mr. Brownell, you were the bridle shiner; and Mr. Miller, of course, one of the largest snakes in Ontario, the eastern fox snake, from your riding. Mr. Bisson, when he shows up, obviously the polar bear. I'm in august company today, and it's a pleasure to be here.

Bill 184, obviously from our point of view, is a promising piece of legislation with many strengths. Our real hope is that this standing committee and the honorary guardians on this standing committee make sure that the strengths in the bill are reinforced rather than weakened and that a number of necessary amendments are made to the bill to make sure it's as good as possible.

To put our support for this legislation and our support for improving this legislation in context, Ontario, like the world generally, is quite simply facing a crisis of extinction. There are now close to 200 endangered species in Ontario. Almost three quarters of those are not covered

by the current act and are, by all estimates, declining in number.

Sixteen of these species have already been lost from our province, and I think it's important for context here to point out that of course some of the species we're talking about are somewhat obscure and restricted to very small parts of our province, but we're also talking here about species that, when we were kids, were very common. The monarch butterfly is on the endangered species list. The polar bear is on the endangered species list. These are iconic species. These are species that are some of the more interesting creatures that give our province colour, that make this a great place to live. Frankly, I'd like my three-year-old son to grow up in a province that still has butterflies. I would not want his wildlife experiences to be restricted to grey squirrels and raccoons and the occasional starling, as much as I like those animals as well. So what we're talking about here is the threat of losing nothing less than what gives this province colour and makes it a great place to live.

All of us know that Ontario's outdated ESA from 1971 is failing to do the job, and we're very pleased that this bill is brought forward. I'd like to thank the members from all three parties for voting in favour of this bill at second reading.

Let me speak, first of all, about what we see as the strengths of the bill and then perhaps outline some of the weaknesses that we're hoping this committee addresses.

The promise of Bill 184 lies in four key elements, at least two of which must be strengthened even further during this amendment process. The elements that we're very pleased are in the bill to a certain degree are science-based listing, mandatory habitat protection, mandatory recovery planning, and stewardship incentives.

In the brief that was passed around, a brief that we've put together with a variety of other conservation organizations with whom it's a pleasure to work—the Save Ontario's Species Coalition that has been working on this issue, as really every major conservation group in the province has been working on this issue. It's our collective assessment that there remain some critical weaknesses in the proposed legislation that must be addressed if Bill 184 is to achieve its promise.

These are outlined at some length in the handout that you have. For my presentation this afternoon, I'm just going to highlight the first two points in the handout.

Number one, the way that the legislation protects habitat, the species-specific habitat regulations, needs improvement. Most species that are endangered in Ontario and Canada and around the world are in trouble because their habitat has been destroyed or degraded. Habitat loss is quite simply the number one threat to species.

The general prohibition on damage to habitat in section 10 of the bill is a good one. We support that approach. As written, however, the species-specific regulations outlined in sections 54 and 55 may protect part of a species habitat that is larger or smaller than the area used by the species to carry on its life processes. If it's smaller than the area that the species uses to carry on

its life processes, then it's our concern that there will be insufficient protection, insufficient guarantee of the species' survival and recovery. So this section, in our estimation, is in need of rewording.

The second thing I'd just like to highlight before welcoming your questions is the second aspect of the bill that we'd like to see improved: the recovery strategies and management plans, section 11. Again, it's one of the bill's strengths that it requires the development of recovery strategies for species at high levels of risk. This is critical, as the recovery strategy will provide the detailed plan of action, again, based on science and other relevant information to help ensure that the species can make a comeback. A major flaw in the bill, however, is that there is no requirement to actually implement the recovery strategies, which we hope is an oversight. This, of course, is contrary to the 1996 national accord signed by Ontario, and it falls below the best practices standard of Nova Scotia's Endangered Species Act. Without a requirement to implement, quite obviously we'll have recovery strategies that simply sit on the shelf gathering dust and action plans that go nowhere.

1610

I'll leave our more detailed assessment of the weaknesses of the bill with you, but I just wanted to highlight those two points as being particularly important.

In conclusion, to state the obvious, without a home, without their habitats, a species cannot survive. Without a requirement to implement recovery plans, species will not have the opportunity to recover from the brink of extinction, whether it's the polar bear, guarded by Mr. Bisson, or whether it's the northern madtom. Addressing these issues is essential to the ultimate effectiveness of the act and to our moral obligation to protect endangered species for future generations.

The Chair: Thank you. We've got two minutes each for questions, starting with Mr. Miller.

Mr. Miller: Thank you very much for your presentation.

My first question is, why are all the PC members snakes?

Dr. Smith: That's not true. Your colleague Mr. Yakabuski is a majestic butternut tree.

Mr. Miller: He is unique; that's for sure. I'm happy to be the fox snake. I was just trying to see if there was a bias there.

Dr. Smith: There was not.

Mr. Miller: Not that there's anything wrong with the fox snake.

Dr. Smith: Whenever we could, we tried to give members species from their own ridings.

Mr. Miller: But seriously, in this morning's presentations, a number of groups questioned the automatic listing by COSSARO. I think it's safe to say that quite a few of the different groups were looking for the minister to have flexibility after the recommendation, in that they thought it should be a recommendation that the minister then either accepts or doesn't accept.

There was also some question as to whether the committee would have unbiased science—or whether there

should be people with a background in applied science and/or people from industry or “community knowledge,” I think was the term that was used, on that committee. How do you feel about that?

I also want to throw in another one connected with that: Would there be a problem if you have that committee and then have one more step before it goes to the minister, and that is to have it peer reviewed? So the committee makes a recommendation and then it's peer reviewed and then it's either automatic or the minister has discretion.

Dr. Smith: Thank you very much for that question. Let me say just very simply that if that provision of the act is watered down, we will not be supporting this legislation. My colleagues and I have worked extensively on the federal Species at Risk Act. That piece of legislation has a wishy-washy listing provision similar to what some of the folks here this morning were urging you to accept. That act does not work. Because the listing of a species is at the discretion of the federal government, there are vast jurisdictions in this country that don't have one single endangered species listed—

Mr. Miller: So how do you ensure that the science is not biased science; that it's real science, that it's peer reviewed?

Dr. Smith: I just completed the drafting of a status report for the federal act for COSEWIC, the federal committee. The procedure being contemplated provincially is very similar, on the scientific end, to what is in place federally. I'll just tell you that it's a very onerous, very peer-review-heavy process. It requires consultation with every affected stakeholder, with every affected jurisdiction. It includes a very significant consultation with aboriginal people. It requires a comprehensive literature review. It is peer reviewed at at least two different steps. So we're quite comfortable that it is exactly that kind of very robust, science-based listing process that we're looking for here. Our experience elsewhere in the country is, when the government is given the option of deciding on a whim what to list or not to list, large numbers of species never get listed.

Mr. Bisson: Thank you very much—and from the polar bear of the group. People should know what that reference is all about; maybe you can talk about it later.

One of the issues that's been raised this morning, and it's one I think we need to seriously think about, is the issue of being able to take into account the socio-economic impacts on a community.

You might have heard this morning the mayor of Terrace Bay, who was here, and who was quite emotional, quite frankly, because they've undergone a really serious situation in their community where they almost lost their only employer. One of the things they're asking is that you take into account what the socio-economic impact could be on a community. They worry, for example, about the woodland caribou: If you take a huge tract of land out of circulation, it means there's not enough fibre and somebody's going to go down. So from that perspective, what do you say to the mayor of Marathon in regards to—

Mr. Miller: Terrace Bay.

Mr. Bisson: Terrace Bay, excuse me; I was in Marathon the week before. What should we put into the legislation under this section so that socio-economic impacts have to be taken into account?

Dr. Smith: We're very pleased that the legislation already contemplates taking socio-economic concerns into account. It does so at the second stage of the species protection process. So in the first stage, which is the scientific assessment and listing stage, it is an objective process, driven by the best available science. I mean, it's an objective question: Is this species on the verge of extinction or not? Are there five of this animal left or are there 500 of this animal left? So the first stage of the species protection process is that objective, scientific listing stage, and the question is answered yes or no, based on the best available science.

If the best science says that this species is at risk, it proceeds into the second phase of the process, where the recovery plans are written. At that stage, the legislation is very clear. All the stakeholders will be gathered around a table, there will be very significant consultation by the government with aboriginal people, and socio-economic concerns will be factored in very heavily into the game plan that's written at that stage about how that species is then protected.

Mr. Bisson: I think we understand that, and we're supportive of that. The point is, we heard the Environmental Commissioner last week in Sudbury say that the MNR doesn't have the money to carry out its current mandates, let alone new ones. One of the things that he mused about is, if you don't have the money at MNR to properly fund the mandates under this legislation, the period from the interim order up to the point of actually making a decision may be mired by how much money they have or don't have to do the study. Meanwhile, you could take out of circulation a fair chunk of land.

Dr. Smith: I'm pleased that the government has put some money on the table. That was a necessary component, we thought, of making this thing go.

The Chair: Mr. Orazietti.

Mr. Orazietti: Just to clarify a couple of things, and to follow up on some of the conversations we were having this morning around automatic listing and the scientific committee COSSARO, some of the presenters this morning felt that it was completely inappropriate for COSSARO to make the determination and automatically list the species, and that the discretion should be left to the minister because they're elected and accountable and so on. I want to clarify: You're saying no ministerial discretion. If it's an endangered species and there's scientific evidence to demonstrate that, it gets listed. It's not up to any political individual to determine whether or not this is, in fact, an endangered species or not.

The other point I want to ask you about is, do you think the host of flexibility tools to address habitat issues are adequate in the legislation?

Dr. Smith: The answer to both questions is yes. We very much support the current suggestion in the legislation, which is that based on the best available science,

as assessed by COSSARO, the listing will occur. The only way this whole process is going to work—the only way it's going to have any credibility, frankly—is if the government of the day is not able to decide, at whim, based on non-transparent and subjective considerations, whether something's listed or not. Again, I'm saying this mindful that, in the subsequent part of the species protection process, when the recovery plans are written, that will result in major discussions amongst all the stakeholders about socio-economic concerns and what have you. That is the appropriate place for that discussion to happen.

In terms of your second question on flexibility mechanisms, absolutely. This act is much more flexible than the current act. We're pleased to support the sort of net gain provisions that are in the act. To use a simplistic example, if there's a gravel pit with endangered species at one end and the operator of that pit is able to demonstrate that they can recreate some endangered species habitat that is better than what exists currently at the other end of the gravel pit, this legislation provides some flexibility to do that. That is not currently the case with the inflexible 1971 act. I regret that it's exactly these sorts of flexibility mechanisms in this proposed act that do not seem to be understood by some of the folks that you heard from this morning. I think some of what you heard this morning was frankly alarmist and downright inaccurate.

The Chair: Thank you, Dr. Smith, for coming today.

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ONTARIO NATURE

The Chair: Our next speaker this morning is Ontario Nature, Wendy Francis, director.

Mr. Miller: It's this afternoon, just in case you haven't noticed.

The Chair: I don't even know what day it is.

Mr. John Milloy (Kitchener Centre): You need to open the drapes.

The Chair: Yes, that's what it is.

Good afternoon.

Ms. Wendy Francis: Good afternoon, Mr. Chair and members of the committee.

The Chair: You have about 13 minutes to use any way you like. It would be nice if you were to leave some time at the end for some questions.

Ms. Francis: I'll try to do that. Thank you. My name is Wendy Francis. I'm the director of conservation and science for Ontario Nature, one of the oldest and largest conservation organizations in the province. Formed in 1931, what was then the Federation of Ontario Naturalists is now a province-wide network of over 140 clubs and grassroots environmental organizations with 25,000 individual members and supporters.

I am pleased to be here today to provide comments on Bill 184 on behalf of Ontario Nature and also on behalf of the Save Ontario's Species Coalition that Dr. Smith mentioned.

In Ontario, we have a particular responsibility to make sure that our activities do not inadvertently drive other plants and animals to the point of extinction. Ontario is an extremely diverse part of Canada, and it's characterized by hardwood forests, mixed-wood forests and boreal landscapes farther north. As a result of these varied landscapes and habitat conditions, Ontario has a greater biodiversity than any other province in Canada except British Columbia. Unfortunately, we also have a higher number of species that are at risk of disappearing. In southern Ontario, the hardwood forests have all but disappeared, leaving in their place some of the most endangered plants and animals in the country. In this province we have the dubious distinction of having the greatest number of plants and animals known or thought to be at risk in all of Canada. In almost all cases, the single greatest cause of the disappearance of native plants and animals is the loss or disruption of their habitat, which is the conditions they need to survive and reproduce—not just their nests or dens, but the whole suite of conditions that they need. Therefore, reducing or preventing the further loss or disruption of Ontario's native habitats is the single most important thing that an endangered species act can do.

I also want to make the point that endangered species legislation is the tool of last resort in protecting biodiversity. In Ontario, we have a myriad of laws, regulations and policies that are intended to protect our native plants and animals. Our planning and land-use regimes, our environmental assessment process and our permitting and licensing requirements, among others, all contain requirements to consider and minimize impacts on natural features and wild species. But when those tools fail to do the job and particular plants and animals are on their way to disappearing from Ontario forever, we must take drastic action and we need the strongest possible legislation to provide that safety net. If we are doing our job as environmental stewards well, we will need to resort to the Endangered Species Act in fewer and fewer cases. However, when we do need it, we want our Endangered Species Act to be as strong as it possibly can be.

Overall, Bill 184 is a model Endangered Species Act. Endangered species legislation has been around for over 35 years and we know what it takes to have effective legislation that is the best defence against species going extinct. First, we need an unbiased scientific process that determines which species of plants and animals are at risk of extinction. Second, once those species are identified, we need prohibitions, with sanctions, against harming or killing them and against disturbing or destroying their habitat. These are the basic protections. Then we need to require the preparation of management plans and recovery strategies that provide specific guidance about how their habitat needs to be managed and special measures, such as captive breeding or re-introductions, that will help to enhance populations and allow them to recover to healthy levels.

Since 87% of the land in southern Ontario is in private hands, in this province we also need mechanisms that

encourage private stewardship and make private landowners partners in delivering habitat protection.

Bill 184 contains all of these things: a scientific listing process, automatic protection for plants and animals at risk and their habitats, the requirement of recovery strategies and management plans, and a variety of programs and incentives to support private landowners, including a new \$18-million stewardship fund. In these respects, Bill 184 is a great start toward a regime that will provide true protection for Ontario's most vulnerable plants and animal species.

However, although Ontario Nature and other members of the SOS Coalition are applauding this new approach to endangered species protection, there are some serious flaws in Bill 184 that, if not corrected, will significantly reduce its effectiveness. I'm going to address the remainder of my remarks to one category of those flaws. In particular, I'm going to focus on sections 17, 18, 19 and 56.

As I mentioned above, the basic structure of the bill is that endangered plants and animals are identified. They then automatically receive protection against harm and their habitat is protected. What sections 17, 18, 19 and 56 do is they create various exemptions that remove that protection; they remove the prohibition against harming or killing an endangered species or against damaging or destroying their habitat. If this legislation is going to be effective and if it's going to receive the support of the SOS Coalition, the bill must be amended to restrict the circumstances in which such exemptions are granted.

Of these, the section with which we have the most concern is section 18. It allows certain instruments of government, defined to mean agreements, permits, licences, orders or similar documents, to authorize activities that might result in harm or death to protected plants or animals or damage or destruction to their habitat. One might imagine a variety of government approvals that could fit within this category of instruments, such as work permits to construct roads, licences to quarry for minerals or aggregates, water-taking permits or forest management plans. Under section 18, such ordinary-course-of-business instruments could be a *carte blanche* to carry on the very activities that are harmful to protected species or their habitats. Such exemptions are allowed when the minister believes an overall benefit to the species and he believes that reasonable alternatives to the activity have been considered. Our concern is that it's not hard to imagine a scenario where a minister, perhaps of a future government, might easily conclude that an industrial licence or management plan meets these requirements and allows to continue the very activities that have contributed to a species decline.

I'm going to use the example of forest management plans, as I gather you heard quite a bit about that this morning. Ontario's southern boreal forests have been managed primarily for logging in the past few decades. Unfortunately, our system for protecting the environment has failed to prevent our logging practices from having negative consequences on some species. In particular,

one of the impacts of logging is that it destroys the habitat of threatened woodland caribou. As logging has moved northward in our province, woodland caribou range has retracted. Yet we still have forest industries and some government biologists who argue that the best way to manage caribou, the way that will allow them to recover in Ontario, is through more logging. It will completely circumvent the scheme of this legislation if the very activities that have contributed to the decline of caribou become authorized by section 18 to allow continued damage to or destruction of caribou habitat. Therefore, we're recommending that section 18 be amended to require that the minister consult with an independent expert who has provided an opinion that the proposed activity, logging or otherwise, will achieve an overall benefit to the protected plant or animal within a reasonable time.

I also want to point out another provision that we think is necessary to strengthen section 18. It's actually at the top of page 8 in my submission. We are proposing a new section, section 19.1. What we're saying is that if an instrument of any kind, a permit or approval or a licence, is going to be treated as if it were providing a benefit to a species at risk, then that instrument needs to contain provisions that are consistent with management plans and recovery strategies so that we're sure that the management regime that's being applied to that particular species is consistent with what the experts have said is necessary under a management plan or recovery strategy.

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Going back to page 6 of my presentation, section 17 is another section about which we have concerns. It permits the minister to issue permits to authorize a person to engage in an activity that would otherwise be prohibited by the legislation. Again, we're concerned that the minister's decision will be made without the benefit of some independent expert advice. These provisions require the minister to make a number of judgments about potential impacts of an otherwise prohibited activity, but there's no requirement to seek independent scientific advice about those judgments. So we're recommending that subsection 17(2) be amended to require consultation with an independent expert regarding whether or not there will be an overall benefit to the species and whether or not the best alternative has been chosen.

There's another exemption in subsection 17(2)—and again, we're making the same recommendations for 17(2) and also 17(6). In each of those cases, we're recommending that an independent expert be consulted, meaning someone who's not associated with the activity that's being proposed; so no one who has an interest in the permit or the industry that's seeking to have that permit applied to them.

We would extend that concern to section 19, which is the provision that makes Ontario's aboriginal people partners in the delivery of species-at-risk stewardship activities. That's a very commendable provision that we support, but similarly, section 19 doesn't contain any of the requirements of section 17 or 18 for an overall benefit for a protected species. So we're recommending, again,

that for all of sections 17, 18 and 19, as well as 16, that there be a requirement that any exemptions granted under those provisions contain provisions that require the instruments to be consistent with a management plan or recovery strategy.

Finally, turning to the very end of the legislation, there are two regulation-making provisions.

Section 56 allows the minister or cabinet to make regulations that might have an adverse effect on a protected species, and we're recommending that that be amended to require the minister to consult with a panel of independent experts regarding whether or not the proposed regulation will jeopardize the survival or recovery of the species in Ontario and that no such regulation be made unless it has been presented to and endorsed by the Legislative Assembly.

Section 54 is another regulation-making provision, allowing cabinet to make regulations creating exemptions from protection. There are no restrictions or conditions on this broad power to remove the act's protections for endangered plants and animals, so we are recommending the requirement of an amendment to section 54 that no such exemptions shall have the effect of jeopardizing the survival or recovery of a protected species. Alternatively, if a proposed regulation could have the effect of jeopardizing survival or recovery, then it must go through the requirements of section 56, as we've amended it; therefore, an independent panel of experts.

That's a quick walk-through of some of the concerns that we have.

I thank you for the opportunity to appear before you.

The Chair: Unfortunately, you've used up all your time, so I'm going to have to ask you to excuse yourself. Thank you for being here.

WILDLIFE CONSERVATION SOCIETY CANADA

The Chair: I call forward Justina Ray from Wildlife Conservation Society Canada. You have 13 minutes to use as you see fit. If you could leave some time at the end, that would be nice; if you don't, that's entirely your business.

Dr. Justina Ray: Thank you very much for the opportunity to provide comments on Bill 184, which I offer from my particular perspective as a member of the Endangered Species Act Review Advisory Panel.

I am a zoologist by training, with a Ph.D. in wildlife ecology and conservation. I have worked on wildlife research and policy implications in Ontario for the past 10 years, particularly in the north. I am also a member of the wolverine recovery team, so I've also seen recovery action from the inside.

A year ago, when the McGuinty government decided to embark on the process of reviewing and updating Ontario's badly out-of-date endangered species legislation, it made a commitment from the start to make this province's ESA quite simply the best endangered species legislation in Canada. Minister Ramsay convened a nine-

member independent advisory body and in the introductions at our first meeting, gave us this explicit mandate.

In living up to this fairly ambitious goal, we were able to benefit from over 30 years of experience, both from within Canada and throughout the world, of endangered species legislation in action, in formulating our recommendations.

In August 2006, the panel submitted a report to Minister Ramsay that outlined our recommendations for Ontario's new ESA, focusing on 10 issues that, if appropriately addressed, we felt strongly would serve as the basis for the most effective possible ESA. I brought copies of this report just in case people didn't have it at their fingertips. Although it predates the legislation, it articulates a lot of the rationale behind the recommendations that we proposed, many of which were followed by the ministry. In fact, we continued working with the hard-working ministry staff members in the formulation of the legislation from the time the government made the decision to adopt the framework we proposed until it was introduced in the Ontario Legislature on March 20.

I appreciate the challenging role the ministry has played in responding to the concerns and interests of stakeholders, and balancing these against careful consideration of what will be best for the present and future species that we put at risk as a consequence of our activities in this province. Bill 184 has come a long way in addressing these needs, although my message today is that a few critical gaps still remain. It is important to note, before I detail some of these gaps, that the panel's recommendations constitute an integrated package—

The Chair: Ms. Ray, if I could just jump in a minute. These are really sensitive microphones and if you get too close to them, they kind of pop a little bit.

Dr. Ray: And I couldn't hear it back there, so I thought I had to get closer. Sorry.

The Chair: I know, it's—the gentleman in the corner—I think you're killing him and you probably don't know it, but you can sit back and I think you'll be fine.

Dr. Ray: Thank you for letting me know.

It's important, before I detail these gaps, that I note that the panel's recommendations constitute an integrated package with many of the recommendations in one section intricately tied to those in others. Accordingly, although the bill is up to the highest standards in some areas—for example, scientific listing—in others it falls short, primarily due to lack of detail and exposure of potential loopholes. Therefore, as a package, the bill does not yet achieve a best-practices standard.

My purpose today is to offer the committee an evaluation of the recommendations that the panel submitted to the minister and report both on the extent to which these are addressed in the bill and the changes that would need to be made, in my opinion, in order to achieve the spirit of the panel's recommendations and the stated goal of the government. Because there's not enough time to go into each of these issues in detail—although I provide that in the handout—I will highlight at this time the four key

elements where I feel amendment is needed and will leave you with the remaining details in written form.

The first concerns the species-specific habitat regulation. In acknowledgement of the undisputed fact that elimination or degradation of habitat is the leading cause of species endangerment, the panel put forward carefully considered measures for ensuring the protection of species' habitat in the form of these specific regs. While the regs themselves do appear in the bill in the present version, there is no explicit link between them and recovery goals and objectives formulated in the recovery strategy, which the panel felt was necessary for such measures to have a real chance of being effective. Section 54(2) will become a loophole unless the bill makes it clear that species-specific habitat regs must, at a minimum, describe habitat that sufficiently provides for the protection and recovery of the species covered by each regulation and contains that specific tie to the provisions put forward in the recovery strategy.

Second is the role of recovery strategies. The present role of species recovery strategies as advice to government within the context of the myriad MNR practices and decisions has reduced to an insignificant role the objectives and actions contained within these carefully considered documents put together by experts. That's the current condition. There is nothing, unfortunately, in the present bill that would change this particular condition. To meet the best practice standard in this area, which is currently in the Nova Scotia ESA, and also Ontario's obligations under the national accord, the act should require the province to implement feasible aspects of a recovery strategy. In addition, the minister's response to the recovery strategy in subsection 11(6) should be strengthened to provide detail as to the nature of the response, specifically how and what elements of the recovery strategy will be implemented and how the strategy will be used in the formulation of the species-specific habitat regulations.

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My third comment concerns the content of recovery strategies. The bill contains no direction at all for what constitutes an adequate recovery strategy outside of "recommendations ... to assist in the recovery of the species" in subsection 11(2). The recovery strategy provisions should include a list of the minimal elements that must be included in a strategy: the population and distribution goals and objectives that will provide for the recovery and survival of the species; identification of threats to the recovery of the species; third, identification of habitat necessary for survival and recovery; and fourth, the recommended steps, which are generally research and management activities, to recover and protect the species and its habitat. This addition will both help articulate the role of the recovery strategy in species recovery as well as provide the necessary link between recovery planning and habitat protection.

Fourth and finally today, the exceptions to the protection provisions require a little bit of amendment. Although the panel fully acknowledges the necessity of

incorporating provisions for flexibility in the ESA through a structured exceptions process, we did not recommend the power to approve activities that would have significant adverse effects on species at risk. If the act is to contain such a power, then the outer limits of its use should be established in clause 54(1)(b) such that no exemptions could be granted that would lead to the extinction of the species. That would be accomplished by adding wording that simply said that no exemptions can be passed that would put the survival or recovery of a species in jeopardy.

There are many excellent best-practices-type provisions in the bill already, including the scientific listing provision and its generally proactive stance towards recovery of species in Ontario. Given the short time available, I've focused on what is needing to be changed to make this bill go from good to great. I appreciate any help the committee can offer in improving the bill such that the advisory panel's recommendations are fully implemented. Thank you very much.

The Chair: Thank you, Dr. Ray. You've left about five minutes for questions. Starting with Mr. Bisson, about a minute and a half.

Mr. Bisson: I'm sorry, but I walked in half way. I was up in the House. I cede to the government.

The Chair: If each of the other parties would take two minutes then. Mr. Orazietti.

Mr. Orazietti: I don't have any questions for Dr. Ray other than to simply add the comment that we appreciate you coming in today. Your presentation is thorough and concise. We appreciate your support for the bill and appreciate the suggestions that you've made here today, so thanks for coming out.

The Chair: Mr. Miller.

Mr. Miller: I guess that leaves lots of time for me.

The Chair: You get about three minutes.

Mr. Miller: I guess my first question would be about the funding that goes along with this bill. There's \$4.5 million a year that I gather is going towards stewardship primarily, and yet we hear from groups like the Ontario Federation of Anglers and Hunters, who say that the Ministry of Natural Resources, for their fish and wildlife program alone, is \$35 million a year short. I would assume that the work done by the fish and wildlife program is a lot of that sort of base work that's important for this legislation. So maybe you could just talk about funding. Also, there was a federal audit done on the SARA program where they've spent \$200 million and it's still a mess, and there isn't adequate protection being achieved.

Dr. Ray: Those are two different questions. I'll actually address the second one briefly before I answer the first one. Part of the reason that there has been so much expenditure on SARA and, frankly, waste actually not resulting in much good for many of the species is partly because of the very convoluted processes that are inherent in the bill, everything from listing to some of the provisions in terms of really requiring quite a lot of bureaucracy that probably is not as necessary in order for action.

Having said that, our panel recommended—and we talked very passionately in all of our meetings about the absolute need for any best practices act to be accompanied by adequate funding. I'm involved in the Nova Scotia act, which is an excellent act which did not provide enough funding. I'm actually on one of the recovery teams, and it's been a fairly frustrating process to be armed with an excellent act but not be able to follow through. Where some of that funding has come short has been both in stewardship opportunities but also in just beefing up the ministry capacity a bit in order to help with the actual follow-through of the act.

When we were involved in giving advice to the ministry throughout this process and we came to the point where there were details, we got down to the details of some of the funding requirements, we did talk about stewardship being extremely critical, that it's very important that if there are consequences to people that have endangered species and threatened species on the land, they need to be given more adequate tools than would be presently available to be able to work that into a win-win situation and be involved in the stewardship. That would also indirectly help to the extent that you cannot have the entire burden of species recovery being on the back of the minister.

We also advised very strongly—and certainly this was the intent at one point, and I haven't seen the details of the budget in terms of where the funding has gone or I haven't studied it carefully enough—that certainly the funding has to also beef up the ministry capacity to deal with measures that are in the act. For example, the species at risk team is overworked and has too many species on their plate and then sometimes the recovery teamwork lags because there isn't enough support provided by the ministry to be able to get that going. So that is absolutely critical to have that be a part of the act.

The Chair: Thank you, Ms. Ray. Unfortunately our time is up. Thank you very much for coming today. It was appreciated.

ONTARIO FEDERATION OF AGRICULTURE

The Chair: Moving on to the next delegation, which is from the Ontario Federation of Agriculture, Mr. Paul Mistele, the vice-president. Please come forward.

Mr. Rinaldi: How you doing, Paul?

Mr. Paul Mistele: Good, Lou. How are you?

The Chair: You were here from the start, Mr. Mistele, so you understand that you have about 13 minutes to use any way you like.

Mr. Mistele: Thank you, Mr. Chair. I guess I'll get right into Bill 184. I certainly want to thank this committee for listening to the Ontario Federation of Agriculture, the fact that we represent about 38,000 farm families in the province of Ontario, which is nine out of 10 farmers in the province. So we have a lot of people out there who know what's going on when it comes to community service and when it comes to community

knowledge. We certainly want this developed through the Endangered Species Act.

We are very keen on support for endangered species protection right from the very get-go here, but it doesn't mean that we have to necessarily support this Endangered Species Act, 2007. We believe that some of the act will disadvantage Ontario farmers and rural landowners, and a long history of supporting environmental initiatives that improve on-farm wildlife habitats could be challenged here.

You have to remember that the Ontario Federation of Agriculture is one of the founders of the Ontario Farm Environmental Coalition and the developer of the environmental farm plan, and you have to realize that these are world-class, world-leading programs. So you find me one area out there that can do better than us and I'll buy a beer somewhere.

The summary of OFA's key recommendations—and I'm just going to go through these very quickly because we don't have a lot of time. I would like to say that we feel that there should have been more time put out around the province at different locations and that having these two days in Toronto is just not quite fair.

Number one: That the species at risk in Ontario stewardship program be expanded to include a binding commitment to fund compensation for individual farmers and private landowners for income lost through restrictions on the use of their land.

This is sort of underscored by the fact that the minister's commitment to fund stewardship actions to promote the recovery of species at risk or improve habitats for species at risk—I think Minister Ramsay has been very clear on that.

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We see private land stewardship as the key to the success of the Endangered Species Act of 2007 and we have to once again understand that farmers are the historic stewards of the land. The continued presence of wildlife throughout agricultural Ontario is a testament to the stewardship actions of generations of Ontario farmers. Farmers are willing to shoulder their share of the costs of endangered species protection and recovery, but we will not be willing to bear the cost of a public benefit. The government must compensate farmers and private landowners for income loss through restrictions on the use of their private land under this act.

Second, the references to the precautionary principle should be dropped from the Endangered Species Act, 2007. While we agree with the principles of precaution, we disagree with the precautionary principle as defined by environmental groups. Precautionary principles cause us concern because of the reference to full scientific certainty. Science is knowledge which is constantly evolving. It is inappropriate to require something as unattainable as "full scientific certainty."

The (b) portion of the habitat definition should be rewritten to reduce its scope: The Endangered Species Act, 2007, contains two definitions for habitat: one for use in species-specific regulations and the second following

listing (b). The definition is too broad, particularly in light of the guiding reference in the preamble to the precautionary principle. Huge tracts of land may be impacted indirectly by migration or rearing. It could negatively impact farm operations during the period it applies. Support the wording proposed by our resource sector colleagues.

The definition of “species” should be dropped from the act. There are concerns with defining species also because there’s quite a range there. Neither the ministry’s discussion paper nor the advisory panel proposed a definition for species. The current act contains no definition of species and neither does the federal Species at Risk Act, if you want to talk about the federal program, as you just did.

Subsections 23(6) and 25(8) of the Endangered Species Act should be expanded to include farm buildings used to house farm animals, store farm products or prepare animal feeds, and that subsection 23(6) prohibit an officer from entering into those buildings. From agriculture’s perspective, entry into a barn or other farm building used to house animals, store farm products or prepare animal feeds concerns us also because of the biosecurity issue around the farms that we have today. Plant and animal diseases can easily be transferred from farm to farm on clothing, footwear, vehicles, even the vapour in your lungs, if you want to get right into it.

Farmers restrict human access into these types of buildings to maintain high animal health standards, high food safety and quality standards and minimize disease transfers from farm to farm. You have to remember, I’m in the chicken industry, I’m in the broiler industry on the chicken side of it, and farrow-to-finish hogs, and we go through this every day. When there’s a veterinarian coming around to draw blood and what not, it’s a big issue, and it costs us a lot of money to maintain that every year.

Section 33 should be dropped from the Endangered Species Act. Section 33 authorizes an officer to pass through the lands or buildings of one person to facilitate access to the lands or buildings of one suspected of violating the act. We categorically object to this provision. We are unconvinced that this section has any merit—no onus on the officer to obtain permission or to even make property owners aware of the enforcement officer’s intentions; concern that on-farm biosecurity protocols and practices would be compromised.

The last point I’m going to make talks to the word “wilfully” being inserted into section 36. “Wilful” speaks to one’s intent and takes the action beyond simple oversight, accident or lack of knowledge. We do not agree that the defences provided in section 39 replace “wilful.”

We could go on for a long time and discuss this issue, but I know it’s getting late in the day and some of us have been up since 5 o’clock this morning. If there are any questions, I will entertain them at this point in time.

The Chair: Thank you, Mr. Mistele. You’ve left about six minutes, and our first questioner this time is the government side. Mr. Oraziotti, two minutes.

Mr. Oraziotti: Thank you very much for your presentation. I do think it’s appropriate to add to the record that consultations began about a year ago, and we’ve also been to Windsor, Kingston and Thunder Bay as well. So—

Mr. Mistele: You have to remember, though, that those issues were not necessarily consultations. We found out about them a couple or three days ahead of time, and we just didn’t feel that was appropriate of the government.

Mr. Oraziotti: Okay, well, I wanted it on the record that they did begin a year ago and that we did visit those locations to speak to stakeholders.

I guess my question is around identifying species at risk. This issue came up this morning, and it has come up this afternoon again: the scientific body, COSSARO, or the membership committee that would use scientific evidence to determine whether or not a species is at risk, and if they did determine that it was at risk, it would be automatically be added to the list. The suggestion was made this morning that that should be the minister’s discretion as to whether or not species should be added. How do you feel about that, whether it should be the minister or COSSARO?

Mr. Mistele: I think that we live in a democratic country and at some point in time, the ministry and the government have to be responsible for the decisions made. That would certainly apply to the fact that the minister should have to make that decision. There should be a process in which the minister is involved.

Mr. Oraziotti: Thank you.

The Chair: Mr. Miller?

Mr. Miller: Thank you very much, Mr. Mistele, for your presentation. I would agree with you that there was a very tight time for these consultations. From the reports I had back from the other meetings that the ministry had, there were not a lot of people at them, and you had to be invited, so I wouldn’t call those consultations. I would like to get on the record that I was willing to meet for constituency week around the province, and we tried to get the government to agree to that, but they brought a time allocation motion and limited public input.

You said that your existing programs would be disadvantaged by the passing of this bill. Can you expand on that? I know you have the environmental farm plan—

Mr. Mistele: As an example I’ve used many times in different meetings, if I have 100 acres of wheat out there and somebody’s noticed something in that wheat field and they’re not 100% sure what it is—and wheat’s a very time-sensitive crop to get harvested. So if they came along to me three or four days ahead and said, “We want you to stand back on harvesting this crop of wheat,” and I said, “Okay, fine,” so we go from \$4.50 a bushel down to \$2 a bushel because of grade discounts, who’s going to pay me that?

I haven’t heard that amount of money talked about anywhere. Maybe there are some issues around that, but for the most part, it’s simple things like that. We want to be part of the solution on species at risk.

Mr. Miller: So the farmer on the ground would be worried that he's going to find something in his field and not be able to harvest his crops and not get compensated for it?

Mr. Mistele: The thing is, we don't know. This is why we've asked for more time and more process in this situation: so that we can get to where we want to be on this because we're not there yet. To drive this home for whatever political reason sort of bothers us in the agricultural world. You have to realize that we are farming, with the other primary resources—755,000 people—and we put out over \$15 billion worth of product for this province every year. Who's going to take care of the issue?

The Chair: Thank you. Point well made, Mr. Mistele. Mr. Bisson.

Mr. Bisson: I guess a couple of questions. One is: Do you feel the ministry is properly resourced to be able to do the work that needs to be done under this act?

Mr. Mistele: I think that we've run into some very good people at the ministry, very knowledgeable—

Mr. Bisson: No; I said, are we properly funded, the ministry?

Mr. Mistele: Oh, sorry. I thought you—

Mr. Bisson: We've got good ministry staff; that ain't the question.

Mr. Mistele: So you're talking about the \$18 million over four years, is that what you're challenging?

Mr. Bisson: What I'm getting at is, the Environmental Commissioner last week made the comment last week that currently the ministry is having a hard time trying to do the work that we've mandated they do by legislation because of lack of funding. I'm just asking, in regard to here, because it'll be obviously some money to be expended: Do you think that the ministry can do what's called for in this act with the current funds?

Mr. Mistele: Isn't that a real good question? I wish I could answer that, but we don't know how far you want to go on this. You get different reports from different sectors and you can get a number anywhere from \$20 million to \$500 million, depending on where you want to go. I can't honestly answer that question.

Mr. Bisson: That's fair.

One of the other issues that was raised this morning is, currently, the way the legislation is written, if COSSARO decides to take habitat and to protect it while we try to determine exactly what the situation is, you don't have to take the socio-economic impact into consideration. It's only at the end of that process of review that that's taken in. The suggestion was that the process should be both at the beginning and the end, in regard to taking in socio-economic impact. What are your thoughts?

1700

Mr. Mistele: I think that as a primary resource sector, we've put a lot of thought into where we want to go with the decision-making. We want to make sure that if there is a species that's being looked at—plant or animal—that we're upfront with this and that there's no big secret, so that somebody doesn't come along and say, "Well, you

can't farm that field simply because we think that there's something growing in there or something's living in there." I think that we can work very closely with the different people who are going to be in the system. It's a matter of people stepping up to the plate and being willing to be accounted. That's what we're going to be doing before too terribly long.

The Chair: Thank you for attending today.

TOWNSHIP OF SCHREIBER

The Chair: Our next speaker is from the township of Schreiber, councillor Pat Halonen. You've got 13 minutes, too, Councillor. Use it as you see fit. If you could leave some time at the end for questions, that would be appreciated.

Mr. Pat Halonen: I'd like to thank you for allowing me to come. Four years ago, when I got into town politics, I wouldn't have believed that I'd be down here talking to a commission on species for life. I thought I'd be looking after the roads, the garbage, the sewers, the water, but in the last three years in northwestern Ontario, and especially in the Thunder Bay district, we were devastated in the forest industry. I know lots of families that have had to move. People sell their houses for \$5,000; some give them away. I thought we were just turning the corner, and things started to change in the forest industry. Mr. Buchanan bought the mill in Terrace Bay, and he's coming to the municipal leaders now and asking us to come down here and talk to you on the species.

I had a hard time with this, because lately, the government—I don't believe you look at the north like you look at southern Ontario; sometimes I don't think you even know we're there. I've seen things happen in the north. I'll just take, for instance, the black bear: You took away the spring bear hunt, which was \$50 million dollars out of our economy. What for? Because people brought you a little teddy bear and said, "These are endangered." I'll tell you right now, my citizens and my town are endangered, from the spring until the winter, by black bears. But are you listening to us? No. You don't really care what goes on up in the north. Now I've got a mill asking me to come down here and talk about species at risk. I just don't know what to say. We are suffering in the north. I can tell you, I like every animal. I fish. I hunt. I don't want any species at risk, and I'm willing to help them out, but I'm not willing to help them out and lose our livelihood and watch my kids disappear and everybody disappear out of the north.

Do you know who the endangered species is? Us. There's 0.2 of us per square mile in northwestern Ontario right now.

There are some points in this species act that I would like to touch on—especially Dr. Smith's comment that the group this morning didn't know what they're talking about and were alarmists. I'm sorry, but my grandfather moved there in the 1800s, my father lived there all his life, I've lived there all my life, I hope my son lives there

all his life; we know what we're talking about. These people think that they know what they're talking about. They haven't been in that area for well over a hundred years, before logging even started there. So that's what I'm scared of. It's going to be the special interest groups that are doing this to us, and not the scientific. If they'd come up and look and talk to the people I have to talk to, and explain why their jobs are leaving and the people's businesses are going down, and why—I've got a hard time with this.

But I'd like to touch base with the four points where I see a problem. The habitat is one of the big ones—that the minute they put an Endangered Species Act on, they're going to take over a part of land before we have any say in it. I believe the municipalities—or if it happens in the Thunder Bay district, then the Thunder Bay district league—should be looking at it, with the businesses and with the scientists to come around it.

We've given up, right now, over 25% of our land to parks and Lands for Life that we can't do anything with. What I'm asking you is, if we have to give a piece of land up for an endangered species, then I'm asking you to give up this Lands for Life that we gave you a long time ago, to help our forest industry, because I don't believe our forest industry should go down, and our mining industry shouldn't go down. We don't have too many industries up north except tourism, hunting, fishing, mining and forestry. If you're going to start taking our livelihood away—I just can't believe what's going on. I thought you people down here were voted in by the people, for the people—not for activists, not for any special interest groups—but it seems that Toronto, right now, in the eyes of all northwestern Ontario, all you guys look at is what the activists do. That's the way it's played out, with no thought of us up north.

I know last year there was a lot of talk about separating from southern Ontario. Well, keep on pushing that nail because, mark my words, we're so close to it, it's unbelievable. One more nail is all we need. If we start losing another business or another industry because southern Ontario can't handle what they've got down here and now they're coming up north to do their actions, they're making a great mistake. You're just honestly making a mistake in northwestern Ontario—and I'm talking all northern Ontario. It's not a good situation in northern Ontario, and you have to help us.

I'm not saying that we're against the Endangered Species Act, but you certainly got to help us. I don't believe for sure that the government of the day can give something to somebody and say, "Here, this little committee—you're God." They never got voted in. They never got nothing. If you're going to vote for the people who are going to sit on that committee, that's okay. But if they're not voted in, that should never happen—absolutely never happen.

If Dr. Smith would like to come up and talk to the people up north—because we are friendly people—we'd gladly have him. I'd show him his animals, and we're not out to kill them, shoot them, or anything—except your

black bears, because we got to protect our kids. I don't believe you guys have any black bears down here, so we'll send you all you want, all you want. We can load up trains every day. You'd be doing us a blessing, and we'd probably be doing you a blessing, because you could phone that hotline of yours and they could ask you where your barbecue is. That is the stupidest thing I've ever heard—when you phone that hotline—your bear hotline tips. I can't believe this government, or any government—and I'm not blaming the Liberals for it. The Conservatives are the ones who threw it out. I'm mad at them too.

1710

Mr. Bisson: For once, somebody's not mad at me. I'm so happy. It doesn't happen often. We're going to have a party here.

The Chair: That's right. It probably won't last.

Thank you, Councillor. Are you ready to take questions now?

Mr. Halonen: Yes, I am.

The Chair: You've left about three minutes, and we're starting with Mr. Miller this time. It's about a minute each, so it will have to be pretty brief.

Mr. Miller: Thank you very much for your presentation. I guess my first question is—he's come a long way—is the committee covering the costs of people who have come down from the north? Seeing the government wouldn't agree for the committee to travel around the north, are we covering the costs of those—

The Chair: We hadn't discussed that in the subcommittee meeting. Is that traditionally what we would do?

Mr. Bisson: Well, it's up to the subcommittee to decide. We've made those accommodations before.

Mr. Halonen: Municipal taxpayers are paying for me to come down.

Mr. Miller: Your taxpayers? In that case, I'll ask for unanimous consent that the cost of those who travelled from a far distance be covered.

The Chair: Okay. Mr. Miller's asked for unanimous consent.

Interjection: Agreed.

Mr. Oraziotti: Chair, do you want to refer that to the subcommittee? I don't have a problem supporting that, but is that a discussion that should take place at the subcommittee?

The Chair: I'm quite happy to do that.

Mr. Bisson: Well, it can go to the subcommittee, but he's got a motion, right? We have to decide whether we're voting for or against.

Mr. Miller: For those who ask for it. You haven't got a huge number of people down here and you've limited the time frame, so I think it's a reasonable request.

Mr. Oraziotti: That's fine.

The Chair: Unanimous consent's been asked for and given? Agreed.

Mr. Miller.

Mr. Miller: Since I only have a minute, I'll just go to the habitat question. When a species is listed by the

committee, COSSARO, the protection for habitat at that point in time is quite broad. I think it's any habitat that the species might be found in. Later on, when the species-specific habitat regulation comes into effect, I guess it's more defined. Have you any recommendations, when a species is designated, how it could be more workable for people in the north?

Mr. Halonen: Well, if it's going to be workable in the north, like if it's a mill closure or taking stuff from the mill, then I believe that the communities that are involved should definitely be talked to and asked, plus the mill, plus the mine or anything. I believe that we can work around it, and I know I'd help to work around it to save the animal. I don't want any animal dying and disappearing from this earth.

The Chair: Thank you, Councillor. Mr. Bisson.

Mr. Bisson: I want to thank you for coming down. I understand the emotion that you feel because it's one that's palpable across northern Ontario. I represent the northeast and Timmins–James Bay, and the same kind of feelings exist there. I think it's important to say that you're right, I don't hear anybody in northern Ontario saying, "We're in favour of putting species at risk or habitat at risk." That's our backyard. Quite frankly, there's more to be gained by protecting than there is by diminishing.

That being said, one of the recommendations that was made earlier this morning, I think by one of your counterparts and others, is that we should put in the legislation that at the beginning of the process that we're studying, if a species is at risk and we're going to take a certain amount of land out of circulation on a temporary basis until we make up our minds if it is at risk, we should have the same provision at the end, that you need to take socio-economic impacts into consideration at the beginning and not just at the end.

Mr. Halonen: I definitely think that should happen.

Mr. Bisson: Thank you.

The Chair: Thank you. Mr. Orazietti?

Mr. Orazietti: I don't have a question, just a comment. As a fellow northerner, I represent the riding of Sault Ste. Marie, so I'm hearing your comments. Your colleague or your fellow northern representative, the mayor from Terrace Bay, was in this morning and expressed the concern around it as well. It's great to see that the mill is on the rebound at this point. We are certainly doing everything we can. We're working very hard to make sure we maintain jobs and economic development in northern Ontario. That is, I know, one of our community's highest priorities. We're tired of seeing our youth leave and not come back and a lack of opportunity in northern Ontario.

I want you to hear the fact that the northern members—all of them, opposition members as well—are concerned about that particular issue and are working hard in their respective communities to ensure that they're prospering for many years to come, so that your kids are going to be able to live in your community for years to come as well.

I want to also say that this piece of legislation, although I appreciate your perspective, is not about special interests. It's about balancing the needs of protecting endangered species in this province with our economic and social needs as well. I guess I understand why you might be drawing those conclusions and why at times it seems frustrating that some of what may be the agenda is driven by—to use your words—special interests, but I want you to also be aware that there are many members on this committee and other members in the Legislature who are very mindful of the importance of making sure we have a very strong and healthy economy in northern Ontario, and that's an important priority. Thanks for coming down.

The Chair: Thank you, Mr. Orazietti.

Mr. Halonen: Thank you.

The Chair: The time has expired. Thank you very much for visiting us today.

Just looking ahead a little bit, we've got a vote in 17 minutes. So we should be able to get through the next delegation. The one scheduled after that is a teleconference in which the participant will be calling in, so there will be somebody in the room here to answer the phone when we're in voting, so the line won't be ringing busy.

IVEY FOUNDATION

The Chair: The Ivey Foundation is next, Timothy Gray, program director.

Mr. Timothy Gray: Good afternoon.

The Chair: Good afternoon, Mr. Gray. You've got 13 minutes to use as you see fit.

Mr. Gray: I will be very brief. My name is Tim Gray. I am program director for Ivey Foundation. I'm also a member of the provincial forest policy committee here in Ontario, and I was a member of the Minister's Council on Forest Sector Competitiveness.

I'd like to talk to you about this important legislative initiative and thank you for inviting me here today to do so. I'd like to talk about the need to pass this act and some key elements that our organization feels require improvement before it is passed so that it meets its stated purposes.

The Ivey Foundation is a private, charitable foundation located in Toronto. It was incorporated in 1947 and has made grants totalling \$62.9 million since that time.

As the Ivey Foundation has grown, evolved, it's kept pace with its community. Its roots in London, Ontario, helped establish the city as a centre of health care excellence and home to a leading research-intensive university. Fifteen years ago, the foundation saw a growing need for investment in environmental giving and launched its Biodiversity in Forested Ecosystems program. Today, our Conserving Canada's Forests program provides support for environmental sustainability across the country.

We support policy and law reform, green markets development and applied science research with a focus

on ensuring Canada's forests are conserved and well managed.

What should be in an Endangered Species Act, based on our experience? In our view, supporting development of an Endangered Species Act within conservation policy has some parallels with the funding that we have done to support acute care within the health care system. Both are necessary, both require broader, more systemic action if they are to be ultimately successful, and both better have the right tools and equipment if you don't want dead patients.

So while we would prefer to support efforts that protect abundance, diversity and intact ecosystems, we know based on our experience in southern and northern Ontario that an effective Endangered Species Act is necessary to conserve nature and ultimately ourselves. From woodland caribou and wolverine in Ontario's boreal forest, to the prothonotary warbler and loggerhead shrike in the south, we see that conventional land management practices have not worked well enough to stop these species from rapidly disappearing.

In our view, to be effective, the key elements of this emergency room of conservation action are the following:

(1) A science-based listing: We must ensure that science, not politics, determines the basic facts of whether a species is endangered, threatened or of special concern. What actions come after this listing is of course a conversation that government will lead. But assessing a species' risk of disappearing is a scientific issue, and scientists should decide when society needs to be informed of that risk.

(2) Effective strategies for protection and recovery: The only effective mechanism for addressing the short-term survival and longer-term recovery of an endangered species is to develop a recovery strategy. This strategy must include where it lives, what threatens it, and how to minimize or eliminate these threats. Plans that do not include any one of these three key elements will not work.

1720

(3) Primacy of recovery strategies over other land-use and resource management policy and legislation: Once completed by a team of experts and approved by government, after thoughtful participation, review and consideration by all those with an interest, like some of the folks we heard from earlier today, recovery strategies must be designated as high-level authorities on land use and be mandatory. We must remember that these strategies and actions are written for managing human actions in habitats of species at risk of disappearing forever. A business-as-usual approach will ensure that recovery strategies are ineffectual.

What needs to be changed in the draft bill to help it achieve its purposes?

(1) Science-based listing: The bill currently requires that the scientists who sit on COSSARO make the decision on whether a species is endangered or threatened. This is important and should be retained. Society rightly

leaves the job of identifying and describing science issues to scientists. For example the Intergovernmental Panel on Climate Change comprises scientists, not politicians. But of course, we also leave the important work of deciding appropriate responses to these issues in the hands of elected officials.

The bill should also make it clear that the list of species designated by the provincial body—COSSARO—must include the national COSEWIC-listed species on its list unless new information warrants a different status.

(2) Recovery strategies: Currently, the bill does not include a list of required elements for recovery strategies or management plans. This means that they may not address the critical issues of habitat location and threat identification and reduction. As a response, section 11(2) of the bill should be revised to require that these issues be addressed in a manner similar to other progressive endangered species legislation in Canada.

The act currently also fails to link the content and recommendations of recovery strategies and management plans to the actions to be taken by the minister. Section 11(6) should be revised to ensure that the minister responds in detail to the recovery strategies and management plans, and that these responses, and their rationale, are available for public comment and review in a timely fashion.

(3) Primacy of planned actions over other land use and resource management policy and legislation: Recovery strategies or management plans mandated by the act should require that the species-specific regulations addressed in section 54 require that government actions—those derived from the recovery strategies and management plans—be the basis for the regulations. In particular, these regulations must identify the habitat necessary for persistence and recovery and the actions to be taken to reduce risk and ensure recovery.

Similarly, the permits contemplated under section 17 and the instruments under section 18 will provide exemptions to carry out otherwise prohibited activity in the habitat of an endangered or threatened species. This section is cause for concern, as there's currently no requirement for the minister to ensure that the permit or instrument approved is consistent with the goal of recovering the species.

In real-world terms, this could mean blanket approval for such instruments as existing and unmodified forest management plans being consistent with this act, when it is in fact the failure of forest management to properly provide habitat for species, such as woodland caribou, that has led to their demise throughout the entire region where forestry overlaps with their range. This is not to say that forest plans cannot be a vehicle to implement actions to protect caribou, but to be effective, they need to be consistent with the requirements for recovery contained in the recovery strategies, government actions and regulations under this act. Otherwise, forest plans will not place a primacy on securing long-term caribou persistence and recovery. Developing plans to protect caribou, ensuring ongoing wood supply to companies and

protecting jobs are feasible and practical, and efforts are now under way by conservation groups and progressive companies to make these plans a reality.

It's also important that if the minister wishes to exempt activities or issue permits, these decisions should be subject to independent expert review and none should be allowed to actually jeopardize species, even if they will have some detrimental impact that is unavoidable.

In summary, I would like to ask the committee to address revisions to the bill that ensure a clear linkage from the act of listing a species to the final steps of implementing actions for recovery on the ground. If this chain is broken, the act will not achieve its stated purposes, it will not meet Ontario's commitments nationally and internationally and will allow more species to disappear from Ontario's lands and waters.

In closing, I'd like to thank the 39 members of the Legislature who voted for Bill 184 on second reading, and hope that Mr. Martiniuk, who voted against the bill, likes the changes brought forward by this committee and votes in favour on third reading.

Thank you, and if you have any questions, I'd be happy to take them.

The Chair: You've left about six minutes, and we'll all be excusing ourselves when we recess. Starting with the NDP, Mr. Bisson. Two minutes—I'm sorry, you've changed.

Mr. Peter Tabuns (Toronto–Danforth): I did.

The Chair: You're far better looking than Gilles.

Mr. Tabuns: I lost a little weight, and I'm more clean-shaven.

Mr. Miller: Great.

Mr. Oraziotti: It's been a long day.

Mr. Tabuns: Could you give your assessment as to whether or not the MNR and the MOE, as currently resourced, would actually be able to make this act come alive, actually be able to ensure that it's carried out as envisioned by the writers and those who support it?

Mr. Gray: I think the allocation of the \$18 million-plus when the act is launched will go a long way to making that possible. It's difficult to project into the future the number of new species that might be listed and how we deal with them, but it's clear that resources are necessary to implement recovery strategies, and this act, without money, would not have worked. I think the way the government has approached it makes sense to me.

Mr. Tabuns: And so you feel the \$18 million is adequate? Do you have a sense of the scope of costs that we'd be looking at?

Mr. Gray: I don't know the minutiae of the budget of the fish and wildlife branch or other parts of MNR. I'm assuming that the budget that was developed was developed in consultation with the MNR itself so that they could properly implement the act.

Mr. Tabuns: Okay. Thank you.

Mr. Oraziotti: Thank you very much for your presentation. This issue around COSSARO and the scientific-based body making the decision as to whether a species will be automatically listed or whether or not the minister should be making the decision on that—do you want to

elaborate on that? How do you feel about that, and what do you say to those who say, "Well, these people aren't elected, and it should be the minister who ultimately decides whether or not the species is at risk or is listed"?"

Mr. Gray: It's an interesting issue, and I used the comparison to the Intergovernmental Panel on Climate Change for a reason. When you have a science issue and society wants to know whether or not that issue should be addressed, I think it's best to leave that decision about whether the issue is important or scientifically valid to the people who have the experience to know so.

In the case of climate change, we internationally listen to what that panel has to say and then politicians get to make the decision about what we're going to do about it, and we have lots of debates about what that should be. And climate change is a good example, again, in terms of the federal government's response to that. But I don't think anyone would argue that we should have all the political heads of state in the world get together and decide whether or not climate change is true. We should leave that to scientists. Similarly, with this act, we should leave the determination of whether a species is at risk to the scientists, and then this act provides lots of ministerial discretion for how to deal with that.

Mr. Oraziotti: Thanks for your comments.

Mr. Miller: First of all, just a clarification: At the beginning, you said you sat on the Minister's Council on Forest Sector Competitiveness; is that correct?

Mr. Gray: Yes.

Mr. Miller: So you'd know the state of the forestry sector in Ontario. If you sat on that committee, you'd know how many jobs have been lost in the last couple of years. I'm just surprised, actually, by your comments today.

I talked to a biologist involved with the forestry sector in my riding last week. He came to see me because he wanted me to support this bill. But he also stated how the Crown Forest Sustainability Act already protects endangered species on crown land. Is that correct? You're making it out like the forestry sector is not doing a good job, and yet, from the meeting with a guy who is a biologist working in the industry, he's giving me a very different message.

Mr. Gray: It depends on the species. In the case of caribou, which is the one that I was referring to, caribou have receded northward at the approximate northern limit of industrial forestry as it has moved northward over the last 100 years—broad science consensus on that.

It's not that the Crown Forest Sustainability Act or a forest management plan couldn't be used as a tool to address caribou survival, but it would need to be consistent with the provisions of the act and not just a blanket endorsement of the existing approach to forestry, which has in fact caused that species to decline. So it's a question of whether the recovery strategy for that species is the dominant legislation that's going to determine the fate of caribou, or whether it's forest practices, because with that being the situation currently, we're losing caribou.

Mr. Miller: Okay. I think we're just about out of time, but I guess in the last 30 seconds, the COSSARO listing: We heard this morning people concerned that it would be biased, that there may be science but it would be biased science. Can you speak to that?

Mr. Gray: I didn't hear that presentation, but I think when you get experts in the field of wildlife biology or plant biology who are peer reviewed, sitting at academic institutions or involved working for government, and go through a peer review process, as Dr. Smith was describing, bias is unlikely. I'm not sure how else you could elicit scientific response in a more objective way than the way that this committee is structured.

Mr. Miller: So it's peer-reviewed.

Mr. Gray: Yes.

The Chair: Thank you, Mr. Gray. Thank you very much for attending.

The committee is recessed to allow members to vote. I imagine we should be back in about six minutes.

The committee recessed from 1731 to 1739.

CREDIT RIVER ANGLERS ASSOCIATION

The Chair: Is Mr. Milo in the room? We've lost Mary Long-Irwin.

Mr. Louis Milo: I'm here. I have a general statement which I will try to read. I don't know if I'll run out of time for questions.

The Chair: There's only one way to find out, and that's to start.

Mr. Milloy: Do we have copies of your presentation?

Mr. Milo: You do not have copies of my presentation. I've got to keep you in the dark about some things.

The Chair: Okay. We're all yours.

Mr. Milo: General comments on Bill 184:

The Credit River Anglers Association has expressed support of Bill 184 in principle, but in due course, have grave concerns over the framework of this legislation and how its obligations will be fulfilled under the parameters of current culture within the various ministries responsible for this. We believe that this legislation will result in increased costs and subsequent cutbacks to derived funding. The net potential economic loss to stakeholders and governments will occur without any measurable and quantifiable net gain for species at risk.

CRAA is fully supportive of the recovery of Ontario's biodiversity and the protection of habitat but feel this is not the appropriate path to set forward with. We believe that the appropriate level of consultation on Bill 184 has not occurred in order to capture stakeholder and public opinion in considering its socio-ecologic complexity and its potential to create another regulatory hurdle for citizens to overcome.

Without adequate funding to sustain Bill 184 and without the transparency bills such as this should encompass, we believe the potential exists to create yet another level of complexity with the appropriate guidelines to deliver the service.

Currently, as Ontario enters the streamlining of fisheries management zones, we believe that Bill 184 has not

been introduced into enough of these management zones to receive the appropriate consultation it requires so that all stakeholders have the ability to be represented within their respective FMZ zones. We also believe that each zone has unique opportunities to protect species identified at risk, and each zone should require an adequate stakeholder identification process, review and consultation period. At the very least, Bill 184 should be deferred until these new zones gain approval from a fisheries management perspective.

This legislation was drafted, tabled and debated prior to EBR consultation.

A further point towards the lack of consultation of stakeholders: We question if Bill 184 could address these same stakeholders without the background consultation being done and fear that there is inadequate funding to support the stewardship program in place that currently has the potential to prevent a species from being endangered in the first place. Our friends from OFA agree that the province must be aware of the independent advisory panel recommendation 2.4, financing the implementation of an act. This is most relevant today. It reads, "Adequate resources should be allocated to the start-up and ongoing implementation of the new act because financing the act will be critical to its ultimate effectiveness." We are of the strong opinion that \$4.5 million per year will not even cover administrative, capital and sector development costs to the government and are in agreement with our friends in OFA on this point.

Based on background data, we believe that the appropriate course of action is to allow Bill 184 to be sent to the newly created management zones, once approved, and as a geographical template to allow stakeholders to comment.

We also believe that the proposed bill does not have adequate funding, as evidenced by the estimated capital expenditures of the US government. In 1989, the US Fish and Wildlife Service reported Endangered Species Act expenditures of \$43.7 million; 11 years later, they reported annual ESA expenditures of \$610 million. Independent accountants claim the actual government costs are probably four times that estimate. I can provide background data on that.

While the scale of population demographics may be modelled in a downward trend to reflect Ontario's demographics, in essence, \$4.5 million falls far short of any tangible measurable results. Citizens would be better served if these investments were made to existing stewardship programs.

Species at risk in Ontario: This section requires additional input and rephrasing to give ministerial authority and governmental accountability. To date, we feel that the majority of science is not available to determine a species at risk list. It must retain flexibility in order to give the ministry the authority to determine the listing of a species and must be based on sound science.

The newly created Ontario biodiversity strategy has two primary goals: the conservation of Ontario's biological diversity, and the sustainable use and develop-

ment of biological resources. Bill 184 should require that any management or recovery planning for species that are sustainably harvested should be developed in cooperation with key stakeholders. Much of this background data can be captured within management zone stakeholder groups. We also believe that in many cases, particularly in the case of cold water salmonids, major data gaps exist in the final determination of what sustainable harvests are.

Stewardship programs: Currently, the fish and wildlife fund, CFIP, is serviced by 28,000 on-the-ground volunteers who draw from an annual \$1-million budget. These same volunteers can have a higher rate of success in the protection and recovery of threatened species through voluntary agreements. The cost to Ontario's citizens is one quarter less and would be far more economical than a bureaucratically legislated program.

CRAA feels that the proposed permit procedures will lead to an onslaught of bureaucratic red tape and, in fact, has the potentiality to provide delays, court challenges and can potentially open avenues for additional proponents in how currently naturalized salmonid populations are managed. Once again, this has the potentiality to be in direct conflict with Ontario's biodiversity and sustainability directive by forcing the hierarchy on how fish populations are managed.

A direct quote from the OFA EBR posting: "Less than one year ago when the province kicked off its discussion paper *Toward Better Protection of Species at Risk* in Ontario, and the extremely limited public consultation that followed, it introduced its intent with the following statement:

"Helping a species at risk recover can be costly and complex. The best course of action is to prevent any species from becoming at risk in the first place, through responsible land use stewardship practices. Proactively protecting species at risk, and precluding the need for recovery actions, goes hand in hand with the province's commitment to a strong economy and healthy communities."

It goes on to state that "The province's *Places to Grow* Act and *Greenbelt* Act are just two examples of legislation that will help ensure protection of Ontario's species at risk."

What it did not attempt to explain is that species-at-risk protection is also served to a greater or lesser degree through the *Provincial Parks and Conservation Reserves Act*, the *Fish and Wildlife Conservation Act*, the *Municipal Planning Act*, the *Conservation Authorities Act*, the *Crown Forest Sustainability Act*, the *Environmental Protection Act*, the federal *Fisheries Act*, the federal *Migratory Bird Act*, the federal *Species at Risk Act* and the existing provincial *Endangered Species Act*, just to name a few.

It did not attempt to explain that species-at-risk protection is also served by a large number of provincial programs and policies: the conservation land tax reduction program, the managed forest tax incentive program, MNR's fish and wildlife management programs, natural heritage protection policies under the *Planning Act*, and

invasive species awareness control programs, to name a few.

We believe there is already considerable legislation in place to prevent species from becoming endangered and significant protection of existing species at risk required by law on the Ontario landscape. The weak link in the species protection chain from preventing species from becoming endangered to recovering endangered species is not deficiencies in legislation, but meaningful incentives for enhanced stewardships and the lack of community involvement in species recovery.

CRAA believes that more would be accomplished to prevent species from becoming endangered in the first place by restricting the scope of legislated protection to endangered species and their habitats while preventing threatened species from becoming endangered through a robust stewardship program.

Ontario's species at risk will not be better protected under the proposed act, and Ontario's species may well be more in peril because the government has failed to consult adequately and meaningfully with an engaged public in the development of legislation; ignore reasoned and constructive advice of land and resource management sectors; underestimated the cost of the legislation; and not provided the necessary legislative or fiscal foundation for critically important stewardship pillars: CRAA and species at risk.

As the largest non-governmental organization with a mandate on cold water fisheries in Ontario, we represent upwards of 5,000 anglers with a keen interest in angling opportunities for salmonids. As a group we have injected over \$3.5 million in specific watersheds of Lake Ontario. In relation to stewardship partners, we are not aware of any other group in the province with such tangible investments in habitat restoration biodiversity and risk prevention of habitat loss and other related work programs in Ontario.

We firmly believe that Bill 184 must be sent back to stakeholders within each management zone, once approved, and the appropriate undertakings be done to support existing management plans.

Bill 184 has the potentiality to negate these management directives, some of which are well into the process. These management plans address many of the proposed changes the bill would offer, but in certain instances they would be diametrically opposed to the very bill.

We believe the potentiality exists that at some point, these very same management plans could be declared non-productive and the thousands of hours invested via steering committees has gone in vain.

We urge you to fulfill your fiduciary obligations and allow this proposed bill to be sent to a broader scope of stakeholders for additional input and to restructure it so that it in fact does have the potentiality to make effective and positive change within the landscape of Ontario.

In its current state, Bill 184 will only cost taxpayers millions of wasted dollars and push back stewardship programs and biological diversity decades, something the province can't afford. Thank you.

The Chair: Thank you. You've left about three minutes.

Mr. Milo: Lucky me.

The Chair: Yes, you did well—starting with Mr. Miller.

Mr. Miller: Thank you, Louis, for your presentation. So if I were to summarize, I think what I heard you say is don't spend the money on more rules because there's already enough legislation.

Mr. Milo: That's right.

Mr. Miller: So instead of spending on bureaucracy, spend it on stewardship?

Mr. Milo: That's right.

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Mr. Miller: You said CFWIP—most people here probably wouldn't know what you meant by that—community fisheries and wildlife involvement program. So that's a million dollars and it's doing a lot of good in the province.

Mr. Milo: That's right.

Mr. Miller: So that's your message, that we've got enough legislation; be involved in stewardship?

Mr. Milo: By far. It's 28,000 people, on average, who get their hands into the dirt and actually work, not in a landscape perspective but actually on the ground, doing the work, identifying these species, doing the work the ministries currently can't due to lack of funding protocols and so on and so forth. You know what? I think that people generally, when they develop a passion for something, are far more willing to take on the task of getting things done.

Mr. Miller: And your group was involved with Atlantic salmon, which was extirpated in the province; correct?

Mr. Milo: Yes. We were actually the first group in the province of Ontario to introduce Atlantic salmon back into the watersheds—millions of them—before this came up.

Mr. Miller: Congratulations on that. I think that demonstrates your point.

The Chair: Mr. Tabuns, did you have a question?

Mr. Tabuns: Sorry I was late, Mr. Chair.

The Chair: No problem.

Mr. Tabuns: I'll have to pass. I didn't have a chance to hear the deputation.

The Chair: Very good. Mr. Rinaldi.

Mr. Rinaldi: Thank you very much, Mr. Milo, and thank you for what your organization does for nature in general.

Mr. Milo: Thank you.

Mr. Rinaldi: I just want to focus a question on a comment you made: not having enough resources, the \$18 million that's in the legislation. Can you give me some sense what that figure should be?

Mr. Milo: You know what? It's hard to model that out. I'm sure through some economic modelling you could do that. If we work on where it is in the States, at

\$600 million, and we model that down, if I had to take a best stab at it, I would say that you're probably talking \$60 million to \$70 million within an MNR that has a budget of \$50 million.

Mr. Rinaldi: And I fully appreciate that. Maybe I should have said this before, that we heard from some folks that while it's a good start, it might suffice, nobody really knows. So I guess what I was looking at, when you say it's not enough, how do we judge that? It's fine to compare the US, but I think we are different, and I'm not an expert on that. Just as a statement, I think the fact that there is implemented in the legislation a dollar figure—in all fairness, until we embark on whatever we're going to do, it's hard to come up with a dollar figure.

Mr. Milo: That's right.

Mr. Rinaldi: I would just suggest that I'm not sure a blanket statement—"It's not enough money"—is fair either.

Mr. Milo: If I can quantify that for you, Lake Ontario is a very diverse and very popular sport fishery. It's estimated at \$140 million currently. I'll answer that in kind of a roundabout way. The Lake Ontario management unit is a branch of the Ministry of Natural Resources and has direct control of that \$140-million industry. After salaries, after expenditures and capital costs, it has \$60,000 to do research and assessment. By a far cry, managers within that zone say they need \$1 million. So when we analyze the various parts of fish and wildlife and we look at the budget constraints that they are under, we say to ourselves, "Well, a bill such as this has the potentiality to start basically robbing funds from other sectors of the ministry, and where do we stop it? Where do we find the money?"

So to say that the bill at \$4.8 million is enough, it's hard to quantify that, equally as it is to say that it's going to cost us \$50 million or \$100 million. We can only use that as a template. A lot of times in science when we're looking at data gaps, we look at other science and try to extrapolate data that's relevant to us. Again, this is where we're looking. If we say that the US is costing \$600 million, we have to say to ourselves that potentially, based on demographics and socio-economic positions, it could cost up to \$50 million. But you're right, no one knows, and that's why this bill should go to additional stakeholders so that some of those financial ramifications can be determined.

The Chair: Thank you, Mr. Rinaldi. Thank you very much, Mr. Milo, for attending today.

The speaker we had from the Northwestern Ontario Associated Chambers of Commerce has not been in touch. We are going to offer that person some time on May 7 when we hear from the other groups. Having no more people before us, we're recessed until May 7 at 10 o'clock in the morning in room 151.

The committee adjourned at 1755.

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