



# **2017 Environmental Protection Report: Ministry Comments**



Environmental  
Commissioner  
of Ontario



# MINISTRY COMMENTS

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## Chapter 1: The *Environmental Bill of Rights*

### Ministry of the Environment and Climate Change

The Ministry of Environment and Climate Change (MOECC) would like to thank the Commissioner for acknowledging the progress the ministry has made to improve our EBR responses.

The Ministry is committed to providing timely information regarding decision notices. MOECC has remedied the majority of outdated proposals and is currently working to resolve the remaining ones. MOECC has also implemented a process to avoid future outdated notices. For example, the ministry now posts decision notices for environmental compliance approvals automatically from the Integrated Divisional System (IDS) to the Environmental Registry so that there is little to no delay between a decision date and the posting of the decision notice.

MOECC recognizes that the timeliness of some environmental compliance approval decisions could be improved. We are working to address this through the use of the Environmental Activity and Sector Registry (EASR) and process improvements to drive higher quality submissions. These include using consultant report cards and returning incomplete submissions earlier in the process. Between April 1, 2016 and March 31, 2017, MOECC posted 1,670 decision notices on Environmental Compliance Approvals.

The MOECC also recognizes the legislative notice requirements for applications for review and commits to making timely decisions. The ministry provides updates on the status of reviews that it undertakes with applicants through direct communication and by posting quarterly status reports on the Environmental Registry. The ministry also provides details on its processes for applications for review as part of the status reports.

In order to modernize the Environmental Registry, the MOECC has consulted stakeholders, the public and the Environmental Commissioner's Office on how to improve public access to environmental information. The ministry is working with Ontario Digital Services to develop a new Environmental Registry. A limited release will be available to the public in late 2017. Additional features and content will continue to roll out in 2018.

### Financial Assurance

The ministry is pleased to see positive recognition of our efforts to address the ECO's concerns related to financial assurance (FA). MOECC is taking a phased approach to continuous improvement of the FA program and we have already implemented a number of changes. For example, the ministry implemented improvements in the IDS database to better track and follow-up on FA requirements and accounts. The ministry followed up on all reported outstanding FA so that now less than 1% of total FA required remains outstanding. We are also updating the FA Guideline to include Guaranteed Investment Certificates (GICs) as the standard FA form.

### Review of the Wells Regulation

The ministry is undertaking targeted short-term actions, including developing potential regulatory amendments to clarify and update sections of the wells regulation, as well as non-regulatory changes to the wells program such as new best management practices to address an initial set of issues identified

through the review findings. The ministry also intends to undertake longer term activities to review components of the wells regulatory framework and program.

#### **ECO Recommendation:**

**The ECO recommends that: (1) the MOECC immediately complete its review of the EBR; (2) all ministries improve their practices to address operational deficiencies in administering the EBR; and (3) the MOECC amend the EBR itself to remedy legislative deficiencies.**

#### **MOECC Response:**

The ministry is working to complete the review of the Environmental Bill of Rights in the next few months. All prescribed ministries have already agreed to and begun to enhance the implementation of the EBR through a number of changes to policies such as updating of Statements of Environmental Values. MOECC is also already working with stakeholders to modernize the Environmental Registry to enhance the user experience and increase the scope and scale of citizen participation. MOECC will continue to review opportunities to make any legislative changes that may be required from the EBR review.

### **Ministry of Natural Resources and Forestry**

The Ministry of Natural Resources and Forestry thanks the ECO for its assessment of ministry performance under the EBR.

MNRF is committed to meeting its obligations under the EBR. We recognize the important role the Environmental Registry plays in allowing public input and comment for activities that may impact the environment in Ontario.

MNRF consulted on a number of important issues during the reporting year and posted 266 environmental registry notices. Six notices generated over 55,000 comments that were considered by the ministry in the decision-making process. As the Commissioner notes, the ministry posts high quality notices for policies, Acts and regulations. In the reporting year, for policy, act, and regulation notices, 86% of MNRF's postings were 45 days or longer, well exceeding the 30-day minimum.

MNRF has remedied the majority of outdated proposals. We have also taken steps to avoid outdated notices in the future.

### **Ministry of Transportation**

The Ministry of Transportation (MTO) is pleased that the Commissioner has once again recognized the ministry's achievements in meeting and exceeding responsibilities in her Environmental Bill of Rights Report Card. The ministry has upheld its belief that it is in the public's best interest to provide meaningful opportunities for public consultation and to promptly post decision notices to the Environmental Registry. At the time of this response, MTO is pleased to report that all of MTO's outdated notices have been remedied. MTO posts decision notices as soon as reasonably possible and will endeavour to meet ECO's two week best practices guideline. MTO would like to thank the ECO for the honourable mention of the ministry's University Student Wildlife Monitoring Program submitted as a nominee for the ECO Recognition

Award. Lastly, MTO would like to thank the Commissioner for her evaluation and opportunity to submit feedback.

### Ministry of Agriculture, Food and Rural Affairs

The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) is deeply committed to meeting the objectives of the Environmental Registry and the ministry's statutory obligations under the *Environmental Bill of Rights, 1993 (EBR)*.

I am pleased to see positive results for OMAFRA in the EBR Report Card for the 2016/17 fiscal year which saw progress on a number of environmental initiatives in the ministry's mandate letter. This includes broad public consultation in developing an Agricultural Soil Health and Conservation Strategy.

OMAFRA also acknowledges areas for improvement identified by the ECO and is committed to improving its performance. We will move forward on these and other important decisions that may have a significant effect on the environment. OMAFRA will also continue to update its internal processes to better meet its EBR responsibilities.

Finally, OMAFRA is honoured to have been chosen to receive the 2017 ECO Recognition Award in conjunction with our colleagues from the Ministry of the Environment and Climate Change and the Ministry of Natural Resources and Forestry for the province's Pollinator Health Strategy and Action Plan. The development of this multi-ministry initiative is a good example of the important role of the *EBR* in empowering Ontarians to participate in environmental decision making and confirms the value placed on using the Environmental Registry by OMAFRA and all other ministries involved.

### Ministry of Government and Consumer Services

I note that MGCS-related findings of the report card pertain to the Technical Standards and Safety Authority (TSSA) timeliness in posting decision notices to the Environmental Registry.

As you know, Administrative Authorities (AAs) are private, not-for-profit corporations that administer legislation and regulate specific business sectors on behalf of our ministry. TSSA is an AA that administers regulations under the Technical Standards and Safety Act, 2000. While MGCS is responsible for legislation and regulations, TSSA, which is not housed within the ministry, is responsible for operations including meeting EBR requirements.

TSSA appreciates your acknowledgement of its improved performance in the quality of notices for instruments posted on the registry.

TSSA and MGCS will work to immediately address the timeliness of posting decision notices in the future.

### Ministry of Northern Development and Mines

A safe and environmentally responsible mineral industry is a key strategic priority of Ontario's vision for the mineral sector. As the ECO continues reporting the province's progress on energy conservation, climate change, and environmental protections, the Ministry of Northern Development and Mines (MNDM) looks forward to supporting this important work.

MNDM would like to extend its thanks to the ECO for its overall positive assessment of MNDM's progress this year in executing its *Environmental Bill of Rights* (EBR) responsibilities. MNDM is currently in the process of updating its templates for posting notices to the Environmental Registry to ensure that we provide a sufficient level of detail to Ontarians, including a description of the activity's location. Going forward, MNDM will continue to ensure that we provide quality and timely postings to the Environmental Registry. We thank the Commissioner for her evaluation.

### Ministry of Energy

#### **Timeliness of posting decision notices on the Environmental Registry**

The score and trend indicator assigned to the Ministry of Energy in this category for the period 2016/2017, in our view, does not reflect the Ministry's increased efforts to post timely decision notices. ENERGY has posted final decisions on outstanding proposals and, compared to past years, has significantly reduced the time taken to post decisions, with almost half of our notices being posted within two to four weeks.

The Ministry continues to consider ways to improve its responsiveness, and trusts that the ECO will take this trend of improvement into account.

### Ministry of Municipal Affairs & Ministry of Housing

#### **Quality of notices for instruments posted on the Environmental Registry**

The ministry faces constraints in linking to official plans because official plans are adopted by municipalities and are not always posted online by the municipality. The Environmental Registry only allows for links to existing online resources; it does not permit the ministry to directly upload a document.

The ministry is currently looking at how it can enhance the information provided in Instrument proposal notices, including how it may be able to overcome these technical limitations.

The ministry usually does not describe the potential environmental impacts of a proposal in an Instrument proposal notice, as these are generally not known at the time of posting. The ministry will review options for improving the description of potential environmental impacts of a proposal where feasible.

**Keeping notices on the Environmental Registry up to date**

Of the ministry's eleven "outdated" notices (i.e., proposal notices posted prior to April 1, 2015, for which a final decision has not been made), eight have now been closed. The other three notices remain open as a final decision remains under consideration.

The ministry is reviewing processes with a view to ensuring our EBR postings provide sufficient detail. As part of this review, the ministry will also be looking at ways to prevent notices from becoming "outdated."

**Timeliness of posting decision notices on the Environmental Registry**

The ministry understands the importance of posting decision notices in a timely manner, and will strive to improve its timeliness in posting all decision notices.

**Handling of applications for review and investigation**

The ministry takes seriously its obligations under the Environmental Bill of Rights (EBR) regarding requests to review policies, acts, regulations or instruments. The ministry will review how it can improve letters of response, in order to ensure that responses clearly explain how decisions relate to applicants' key concerns.

## Chapter 2: Getting Approvals Right: the MOECC's Risk-Based Approach

### Ministry of the Environment and Climate Change

#### ECO Recommendation #1:

The ECO recommends that the MOECC take a risk-based approach to prioritize reviewing and updating older environmental compliance approvals (ECAs) for activities that will not be subject to EASR registration.

#### Ministry of the Environment and Climate Change Response:

The ministry agrees with the Environmental Commissioner that environmental approvals should be current and effective at managing risks to the environment from emitters and we continue to take a risk-based approach to approvals, including prioritizing, reviewing and updating older Environmental Compliance Approvals (ECAs) for activities that will not be subject to the Environmental Activity and Sector Registry (EASR).

The ministry understands the Environmental Commissioner's concerns and that's why we are committed to the following:

- Initiating an assessment of the risk associated with approvals issued prior to the year 2000 to determine the need to review all existing ECAs;
- Evaluating the benefits and costs of setting expiry dates on ECAs for high-risk emitters to determine whether this will contribute to better environmental outcomes; and
- Examining whether to include these older approvals into the database.

#### ECO Recommendation #2:

The ECO recommends that the MOECC ensure that all forms of environmental approvals (including ECAs and registrations) take into account the potential cumulative effects of multiple regulated entities on local air quality.

#### Ministry of the Environment and Climate Change Response:

MOECC is committed to improving its consideration for cumulative effects in all ministry activities.

To this end, the ministry is developing a process for assessing cumulative effects that will allow ministry reviewers to account for multiple sources of pollutants when making their decisions. Information from existing air monitoring networks, emissions inventory data and multi-source modelling will be part of the decision-making process. This process will enable the ministry to make decisions on Environmental Compliance Approval (ECAs) applications for new or expanded facilities with a more comprehensive understanding of the current air quality in different parts of the province.

The ministry is also developing an Air Zone Management Framework (AZMF) as part of the Air Quality Management System (AQMS) being implemented in Ontario. The AZMF provides guidance on management, monitoring and reporting actions that could be implemented in an air zone by industrial and non-industrial emissions sources to achieve Canadian Ambient Air Quality Standards (CAAQS) established



for ozone, PM<sub>2.5</sub>, SO<sub>2</sub> under the AQMS. These actions are to keep clean areas clean, encourage continuous improvement in areas that are not meeting the CAAQS and communicate air management activities to the public. This AZMF approach could be used to guide actions for non-industrial sources of other contaminants of concern to compliment actions taken by industrial sources in specific locations as part of the approach to addressing the impact of cumulative air emissions in Ontario.

With the implementation of the Air and Noise Emissions Environmental Activity and Sector Registry, the ministry also has additional emissions data and will have better tools to analyze data. This will aid the ministry in better decision making and provide greater transparency and increased public reporting.

We are committed to further integrating cumulative effects into the ministry's decision-making as we continue to improve the state of our environment.

**ECO Recommendations #3:**

**The ECO recommends that the MOECC resolve ongoing technical issues with Access Environment so that information about environmental approvals is more accessible to the public.**

**Ministry of the Environment and Climate Change Response:**

The ministry agrees with the need to make information about environmental approvals accessible and transparent to the public. The Access Ontario database is searchable by date, geographic location and business name for environmental approvals, including ECAs, Renewable Energy Approvals and Environmental Activity and Sector Registry.

MOECC continues to monitor Access Environment and address any performance and accessibility issues that users may be experiencing. The ministry is committed to providing an accessible, working webpage to improve transparency with respect to environmental permissions in Ontario.

**ECO Recommendations #4:**

**The ECO recommends that the MOECC post all ECAs that are still in force on Access Environment.**

**Ministry of the Environment and Climate Change Response:**

The ministry agrees with the need to make information about environmental approvals accessible and transparent to the public. Through Access Environment, members of the public have access to relevant information on all self-registered activities as well as environmental compliance approvals issued or amended after the year 2000. This information is fully searchable by date, geographic location and business name.

The ministry is currently reviewing pre-2000 approvals to determine if they require amendments or if they should be revoked. Once amendments are made by proponents they will be posted on Access Environment. Members of the public can also access all ministry-issued environmental approvals by contacting their local ministry district office.

## Chapter 3: Environmental Injustice: Pollution and Indigenous Communities

### Ministry of the Environment and Climate Change

#### Impacts of contamination on the Grassy Narrows and Wabaseemoong Communities

The Ministry of the Environment and Climate Change (MOECC) continuously strives to protect clean and safe air, land and water to ensure healthy communities, ecological protection and sustainable development for present and future generations of all Ontarians. The ministry shares a commitment to environmental stewardship with Indigenous communities.

The challenges set out in this chapter warrant, and are receiving, close attention from the ministry in partnership with impacted Indigenous communities. The ministry acknowledges that reconciliation requires time and commitment for the rebuilding of trust and respect.

Since 2016, Ontario has dedicated \$5.2 million to support pre-remediation science and other related activities that includes work undertaken by Grassy Narrows First Nation, Wabaseemoong Independent Nations and MOECC. This includes sampling and analysis of sediment, fish, and water being undertaken during the summer of 2017.

Ministers Murray and Zimmer (former Minister of the Environment and Climate Change and Minister of Indigenous Relations and Reconciliation respectively) visited the Grassy Narrows community in June 2016 to hear firsthand from community members about their concerns. In September 2017, Minister Ballard (Minister of the Environment and Climate Change) visited both the Grassy Narrows and Wabaseemoong communities.

The province committed in February 2017 to creating and implementing a comprehensive remediation action plan for the English Wabigoon River. As noted, in June 2017, Ontario committed \$85 million in dedicated funding for the remediation of the English Wabigoon River system, including the engineering design and implementation of remediation measures and long-term monitoring. MOECC has dedicated a fulltime executive lead to work on the English-Wabigoon River system remediation.

Ontario is committed to working with the First Nations and respecting their leadership to develop recommendations on how to administer the \$85 million funding, including a governance structure that describes the roles of the First Nations and the province.

MOECC is fully committed to ensuring that the Dryden mill site is appropriately assessed and the necessary information is collected to inform decisions on remediation. Additional study of the site, including groundwater monitoring and geophysical study of the shoreline area, is required to determine whether the site is an ongoing source of contamination to the river system. All studies related to mercury at the site and in the river system will be transparently shared with First Nations Communities, stakeholders and members of the public.

### Safe Drinking Water for Indigenous Communities

Through trilateral efforts with Indigenous communities, federal and provincial governments have developed a plan to resolve long-term drinking water advisories in Ontario First Nation communities by the end of March 2021. The province is committed to working with Indigenous partners and the federal government to help ensure First Nation reserves have sustainable access to safe drinking water.

In June 2016, the ministry established the Indigenous Drinking Water Projects Office to provide a single window for First Nations communities, Tribal Councils and Political Territorial Organizations to access in-kind technical resources and ministry expertise on request.

The ministry has been sharing our considerable drinking water and engineering expertise with Canada and First Nations, making sustainable progress in this area, and helping to eliminate long-term drinking water advisories in Ontario First Nations communities. We have been invited by First Nations communities to provide technical assessments and we participate on teams with the communities for projects from feasibility through to design, construction and commissioning. We are also working with our Crown agencies and First Nations on the delivery of training programs to support First Nations drinking water system operators and build capacity within communities to ensure the long term sustainability of drinking water on reserves. These efforts will help to provide communities with the tools to meet their needs into the future.

### ECO Recommendation 1:

**No later than June 30, 2018, the MOECC amend O. Reg. 419/05 to set up-to-date SO<sub>2</sub> air standards that protect human health.** Specifically, the MOECC should establish a SO<sub>2</sub> standard that meets or exceeds the level identified by Health Canada as being sufficiently protective of human health, i.e., a 1-hour limit of, at most, 105 µg/m<sup>3</sup> (40 ppb).

### MOECC Response:

The ministry has reviewed recent science on the health and environmental impacts of SO<sub>2</sub>, including Health Canada's recent findings, and has begun discussions with Aamjiwnaang First Nation and various stakeholders on updating Ontario's sulphur dioxide air standards.

The ministry sets air standards to help protect communities from the impacts of air emissions. The ministry's approach is to set standards at a level that is protective of both the general population and more-vulnerable populations such as children, the elderly, and people with asthma.

### ECO Recommendation 2:

**The MOECC clarify, by regulation, that acid gas flaring must be included in ESDM reports, even when associated with transitional operating conditions.** This will eliminate any confusion, and will ensure that Ontario's air quality standards and approvals apply to all industrial emissions. More broadly, the ministry must ensure that all health-relevant emissions resulting from foreseeable, repeated transitional operating conditions are properly reported, evaluated and regulated.

**MOECC Response:**

The ministry is in discussions with Aamjiwnaang First Nation and stakeholders on potential regulatory clarifications to better address emissions discharged during transitional operating conditions, with a focus on emissions of SO<sub>2</sub> from acid gas flaring at petroleum refineries.

A flare is a device used in industrial plants such as petroleum refineries and chemical plants, to burn off excess gases (hydrocarbons or sulphur containing gases). Flares serve as both pollution control devices as well as safety devices. Gas and liquid vapours not otherwise captured by refinery recycling systems are directed to the flare for combustion. The products of combustion are then discharged to the atmosphere.

Typically flares are used to dispose of low-volume continuous emissions, generated from normal refinery operations. However, the same devices may also be designed to handle large quantities of waste gases that may be generated during plant emergencies.

In order to keep the flare system functional, a small amount of gas is continuously burned, like a pilot light, so that the system is always ready for use.

Flaring is regulated through the issuance of Environmental Compliance Approvals. Flaring has not been routinely referred to the Investigations and Enforcement Branch for investigation, as it is a permitted activity. If the flaring results in an off-site impact or exceedance of an air standard, appropriate follow up is conducted and a referral may be made.

**ECO Recommendation 3:**

**The MOECC ensure the people of Aamjiwnaang have access to real time air monitoring information.** The people of Aamjiwnaang and their health professionals should know what they are breathing. For toxic contaminants with acute effects from brief exposures, like SO<sub>2</sub>, Aamjiwnaang should know about short-term spikes when they happen, not just long-term averages. All outdoor air quality monitoring data should be public, whether collected by industry or the MOECC.

**MOECC Response:**

Since 2008, the Aamjiwnaang First Nation has had access to the real-time monitoring information collected at the Aamjiwnaang air monitoring station since the station began operating.

The ministry, in conjunction with the Aamjiwnaang First Nation, local industry, and community members, is working to enhance the availability of real-time air monitoring data through the “Clean Air Sarnia and Area” website, which is currently under development, and planned to be publically launched in late 2017. This website will include real-time data on criteria air pollutants (including sulphur dioxide and total reduced sulphur compounds) and select volatile organic compounds (benzene and 1,3-butadiene). It will also include the wind conditions measured at the Aamjiwnaang station, the local Air Quality Health Index station, and industry stations in the Aamjiwnaang First Nation and Sarnia area.

**ECO Recommendation 4:**

**The government of Ontario and the MOECC increase technical capabilities and response capacity at the Sarnia district office by making more resources available.** Improved monitoring, more pro-active inspections, and faster response times will make it easier for the MOECC to identify violations of the EPA and ensure remedial action is taken.

**MOECC Response:**

The Sarnia District Office has enhanced its technical capabilities and capacity to respond to industrial incidents through a number of improvements. For instance, SUMMA canisters (used for taking air samples) are now located in the office and are available for the Environmental Officers to use during incidents, if necessary. Officers have been trained on the use of the canisters and the situations in which they can be deployed. SUMMA canisters are primarily for Volatile Organic Compounds (VOCs).

The Sarnia District Office is in the process of purchasing handheld equipment to assess real time air quality. This will help ministry staff determine if additional sampling or actions are required when responding to industrial incidents and odour complaints. Specifically these units will test for sulphur dioxide, hydrogen sulphide, and VOCs including benzene.

The Sarnia District Office also has access to the real time air monitoring data from government monitoring stations as well as those operated by the Sarnia-Lambton Environmental Association.

The ministry's Sarnia District Office developed new types of air inspections, focused on sources that are linked to emissions of priority contaminants – primarily benzene and sulphur compounds. The purpose of these inspections is to develop baseline information on operation and maintenance practices, to assess compliance, and to identify opportunities for reducing emissions.

The plan includes inspections of bulk loading vapour recovery systems, above ground storage tanks, boiler feed systems, wastewater treatment plant inspections, and acid gas flare inspections.

**ECO Recommendation 5:**

**The MOECC work with Aamjiwnaang to identify ways of improving transparency and trust between the MOECC and the community.** In particular, the MOECC should make every effort to fulfil the community's desire to have an Aamjiwnaang community member work alongside MOECC staff during compliance and enforcement activities.

**MOECC Response:**

As part of the ministry's Sarnia Air Action Plan, the ministry undertook a communication needs assessment to survey members of the Aamjiwnaang First Nation community to better understand community information needs, identify communication best practices and uncover trusted communication channels that the ministry can use to share environmental information, and address community concerns.

The assessment consisted of three parts to achieve optimal two-way communication:

- In-depth discussions with Environment Staff, Environment Committee, Band Council and Chief to explore ideas and barriers

- Community focus groups with elders, youth and other community members to explore the range of options available
- An on-line and in-person survey of community members to determine community priorities

Ministry staff conducted 23 in-depth discussions in February and March 2016 that included the Chief, members of Council, members of the Environment Committee, and community members. This was followed by five community focus groups in June and July 2016 and 148 surveys conducted primarily in person in late 2016 and early 2017. The majority of the participants responded positively to the ministry's outreach initiative and provided ideas for possible solutions to enhance communication and outreach.

A report is currently being prepared by ministry staff on the outcome of the communication needs assessment, including recommendations. The report will be shared with the Aamjiwnaang First Nation community.

In 2016, the ministry provided funding to help Aamjiwnaang First Nation build technical resource capacity and provide technical advice to Chief and Council related to the development of the industry standards. The ministry is currently considering how Aamjiwnaang First Nation and Walpole Island First Nation can continue to be involved with the implementation of the technical standards.

#### **ECO Recommendation 6:**

The ECO's recommendation regarding cumulative effects, set out in Chapter 2 of this report, is also worth restating here, as it has direct impact on the issues faced by the Aamjiwnaang community: "the ECO recommends that the MOECC ensure that all forms of environmental approvals (including ECAs and registrations) take into account the potential cumulative effects of multiple regulated entities on local air quality.

#### **MOECC Response:**

See MOECC's response to Recommendation #2 in Chapter 2, above.

#### **ECO Recommendation 7:**

The ECO recommends that the government of Ontario incorporate environmental justice as part of its commitment to reconciliation with Indigenous people and communities.

#### **MOECC Response:**

No comment from MOECC (leave to MIRR to respond).

### **Additional Recommendations in Chapter 3**

#### **ECO Recommendation:**

**Measuring Progress on drinking Water Access -** Setting measurable, achievable targets to monitor progress on drinking water access is a key step in measuring water quality and ending long-term advisories. The ECO commends the province for taking action to incorporate targets into the trilateral action plan. It is important,

however, that targets applicable to all water advisories (not just the long-term advisories that are the focus of the trilateral action plan) be established as well. Establishing appropriate metrics and making progress reports available to the public will help ensure transparency and accountability as the federal, provincial and First Nations governments work to meet these goals.

**MOECC Response:**

A Trilateral Steering Committee has developed an Action Plan to resolve long-term drinking water advisories in Ontario First Nation communities by April 2021. Progress Reports on this Action Plan are prepared quarterly by the Trilateral Working Group and updates are presented monthly to the Trilateral Steering Committee.

In November 2015, there were 48 long term drinking water advisories affecting 26 First Nations communities.

As per the June 30, 2017 Trilateral Working Group Quarterly Progress Report, seven long-term drinking water advisories in six communities have been lifted and 15 long-term drinking water advisories in five communities are tracking to be lifted by March 2018. Since March 31, 2017, two new long term drinking water advisories affecting two communities have been declared.

The goal of the trilateral group is to finalize and implement the action plan to resolve all long term drinking water advisories by April 2021 and to support the broad elements of a sustainable drinking water protection framework across Ontario.

The group continues to collect and assess information on the status of projects underway in communities with long term drinking water advisories and is identifying approaches to accelerate project timelines.

The Trilateral Steering Committee has also been discussing how best to track systems with shorter drinking water advisories, as well as making progress update information available online.

**ECO Recommendation:**

Ensure Provincial Officers are trained on the new benzene technical standards. Because of the detailed technical nature of the benzene technical standards, it is critical that the MOECC not only undertake compliance inspections at registered facilities, but that inspectors have specialized training to understand relevant equipment and to be alert to possible technical issues relating to such equipment. Although MOECC officers are well trained, they are responsible for many different types of facilities with a wide range of complex equipment. It cannot be assumed provincial officers always have the depth of understanding necessary to properly evaluate compliance with a new technical standard.

**MOECC Response:**

The ministry is providing training to staff on the new benzene technical standard. By the end of Fall 2017, all relevant Environmental Officers will have been offered a training course, including training for Leak Detection and Repair technologies and methods. The ministry is also looking at opportunities to expand the expertise and capacity of Operations Division to assist in the implementation and compliance assessment of the benzene technical standard.



**ECO Recommendation:**

Ensure new benzene standards get results. The MOECC must transparently monitor community air to ensure that the technical standards actually reduce benzene levels in Aamjiwnaang. The Petroleum Refining Industry Standard and the Petrochemical Industry Standard require each facility to install and operate at least six property line monitors for benzene, and to publish an annual monitoring report “including a summary of actions taken to address any statistically significant higher monitoring results.” However, property line monitors will not necessarily detect cumulative impacts, and the community should not have to wait more than a year to know what it is breathing. The MOECC should therefore have real-time community monitoring results available to the public, just as it does for major urban communities’ Air Quality Health Index.

**MOECC Response:**

The ministry, in conjunction with the Aamjiwnaang First Nation, local industry, and community members, is working to enhance the availability of real-time air monitoring data through the “Clean Air Sarnia and Area” website, which is currently under development, and planned to be publically launched in late 2017. This website will include real-time data on criteria air pollutants and select volatile organic compounds such as benzene and 1,3-butadiene. It will also include the wind conditions measured at the Aamjiwnaang station, the local Air Quality Health Index station, and industry stations in the Aamjiwnaang First Nation and Sarnia area.

**ECO Recommendation:**

Require industry to disclose and respond to ambient air quality monitoring data. In Sudbury, two companies operating the majority of large polluting facilities jointly maintain, and publicly disclose the results of, 18 fixed SO<sub>2</sub> monitoring stations. They are also required to predict where the highest pollutant concentrations will occur and to send a mobile monitor to those locations. For this purpose, they maintain a sophisticated weather office, and jointly sponsor a third party to monitor and report the pollution. Real time SO<sub>2</sub> data is accessible on two public websites. Facilities curtail production when necessary to avoid exceeding ambient air pollutant limits in the community. The MOECC should require Sarnia’s industrial facilities to undertake similar measures.

**MOECC Response:**

Local industries in the Sarnia area are voluntarily collaborating with the ministry, the Aamjiwnaang First Nation and community members to enhance the availability of real-time air monitoring data through the “Clean Air Sarnia and Area” website, which is currently under development, and planned to be publically launched in late 2017. This website will include real-time data on criteria air pollutants and select volatile organic compounds such as benzene and 1,3-butadiene. It will also include the wind conditions measured at the Aamjiwnaang station, the local Air Quality Health Index station, and industry stations in the Aamjiwnaang First Nation and Sarnia area.



**ECO Recommendation:**

Do more to confirm self-reports. The ministry should do more to confirm that facilities are accurately tracking and reporting exceedances of air standards. Having facility monitoring data independently verified, and expanding ministry powers to compel facilities to carry out modeling of specific conditions would both further this end. Additionally, increasing the number of proactive inspections undertaken by the MOECC could also help verify that facilities are operating in compliance with both their approvals and the law more generally.

**MOECC Response:**

The ministry undertakes a risk-based approach to compliance and enforcement that relies on an informed judgment matrix in determining if an incident should be referred to the Investigations and Enforcement Branch.

Incidents that are referred for investigation relating to air and water spills are actively investigated by the ministry, and charges have been laid for cases involving section 14 of the Environmental Protection Act (prohibiting a discharge of a contaminant).

On an annual basis, facilities are required to update their Emission Summary and Dispersion Modelling Reports. These reports include an Emissions Summary Table which compares the facility's maximum off-site concentrations for the contaminants that they emit, with the relevant ministry standards.

Any exceedances of an air standard identified in the Emission Summary and Dispersion Modelling Reports are required to be reported to the ministry. Ministry staff review reports of any exceedances and determine the appropriate follow-up compliance action.

The ministry also maintains ambient monitoring stations in the Sarnia area, including one located at Aamjiwnaang First Nation. Data from these stations are reviewed during specific incidents to identify potential off-site impacts and regular reports summarizing data from these stations are prepared and posted for the public.

**ECO Recommendation:**

Require advance community notice of flaring. Another strategy that could improve community confidence in the warning system, as well as improve communication generally, would be to require facilities that immediately surround Aamjiwnaang to notify the community of expected flaring as a condition of their environmental compliance approval. It is already common practice to include approval conditions requiring facilities to notify the MOECC if such incidents are anticipated, so it should be a small burden to require that they notify Aamjiwnaang's Band Council at the same time. This small measure would go a long way to alleviating a lot of the apprehension community members feel when they see flaring and do not have information about whether it is associated with an emergency or what substances are in the emissions.

**MOECC Response:**

Since 2015, the ministry has provided the Aamjiwnaang community with updates on operational issues that a company provides to the Spills Action Centre, including anticipated or actual flaring notifications. The information provided by the company is voluntary. Ministry staff will be meeting with the Sarnia

Lambton Environmental Association in 2017/2018 to discuss opportunities for industry to be more proactive in sharing operational information with the community.

**ECO Recommendation:**

**Improve Spills Action Centre responses to incidents. For the benefit of not only Aamjiwnaang, but all of Ontario, Spills Action Centre staff need to be trained on how to respond to complaints of unknown contaminants from unknown sources. The Centre should undertake routine customer service quality assurance assessments in order to ensure that staff provide callers with accurate information and appropriate responses.**

**MOECC Response:**

Comprehensive multi-day training is provided to new staff as part of their onboarding to the Spills Action Centre (SAC) and additional ministry training is provided on MOECC field response and environmental legislation.

Ongoing refresher and updated training is also provided to SAC staff.

SAC training ensures that competencies and capabilities are in place to provide the regulatory, technical and customer service standards necessary for the effective coordination and responses to spills and other environmental incidents.

SAC also has procedures in place to initiate field responses to odour complaints from the Aamjiwnaang First Nation and has a process in place to notify the band council of environmental incidents from nearby industry.

SAC provides comprehensive and timely information to nearby residents, Aamjiwnaang First Nations, other area residents and other stakeholders including the municipality and other response agencies. Staff are trained to collect pertinent accurate information and to share this information with stakeholders. SAC also has procedures in place to ensure timely notification and coordination of field responses by all agencies.

To ensure a high standard of customer quality assurance is maintained, SAC routinely reviews electronic records and audio tapes of incidents. Regular follow-up with the SAC team also occurs to ensure service delivery standards are met with a focus on continuous improvement.

## Chapter 4: Algae Everywhere

### Ministry of the Environment and Climate Change

#### **ECO Recommendation 1:**

The ECO recommends that the MOECC lead the design, testing and roll-out of economic instruments to reduce farm-based phosphorus run-off, tied to explicit phosphorus loading reductions, and verified through inspections and enforcement to protect investments of public funding

#### **Ministry of the Environment and Climate Change Response:**

As one of the proposed actions under the Canada-Ontario Draft Action Plan for Lake Erie, Canada and Ontario will evaluate the feasibility of using economic instruments to achieve phosphorus reductions, including opportunities to address agricultural runoff.

The ministry has taken steps to provide for the management of materials containing nutrients through the Greenhouse Compliance Program, including the development of the Greenhouse Nutrient Feedwater regulation, development of the streamlined Environmental Compliance Approval (ECA) process for storm water management, and using a risk based approach to establishing compliance deadlines for greenhouses to apply for the required ECAs.

#### **ECO Recommendation 2:**

The ECO repeats its 2016 recommendation that the province require municipalities to recover the full costs of stormwater management, including not only capital costs, but also costs of operations, maintenance and research and development

#### **Ministry of the Environment and Climate Change Response:**

Municipalities have the authority to set their own water rates and can recover the full cost of providing water services. A number of municipalities have implemented stormwater management utility fees to recover the cost of these services. The Province is also working with the federal government and municipalities to invest in stormwater management infrastructure, including green infrastructure such as wetlands.

#### **ECO Recommendation 3:**

The ECO recommends that the MOECC and OMAFRA ban, province-wide, the spreading of phosphorus-based agricultural materials, including manures, fertilizers and sewage sludges on frozen or saturated ground.

#### **Ministry of the Environment and Climate Change Response:**

As one of the proposed actions under the Canada-Ontario Draft Action Plan for Lake Erie Ontario will engage with key sectors and communities as it considers further restrictions on the application of nutrients, such as manure and potentially fertilizers, during the winter including where the ground is frozen

or snow-covered. The land application of sewage biosolids is prohibited in Ontario during the winter period.

MOECC is also reviewing its hauled sewage policy and program to address concerns about the potential impact of land application of untreated hauled sewage on the quality of groundwater and surface waters and the Ministry will develop a proposal for public consultation on an improved policy and program framework for managing hauled sewage in Ontario.

#### **ECO Recommendation 4:**

The ECO recommends that the MNRF reverse the continuing loss of wetlands in southern Ontario.

#### **Ministry of the Environment and Climate Change Response:**

No response (directed at MNRF).

#### **ECO Recommendation 5:**

The ECO recommends that the MOECC, the OMAFRA and the MNRF ensure that metrics-based and outcome-driven evaluations are built into all programs and strategies that the ministries lead, fund or partner on. Phosphorus control programs should, for example, require quantitative loadings targets, monitoring, quantitative evaluations and regular reporting as core elements.

#### **Ministry of the Environment and Climate Change Response:**

MOECC is working with OMAFRA, MNRF and the Government of Canada to finalize the Action Plan for Lake Erie entitled “Partnering in Phosphorus Control: Achieving Phosphorus Reductions in Lake Erie from Canadian Sources” by February, 2018.

The draft Plan is focused on reducing phosphorus loads into Lake Erie and will include performance measures, commitments to improve monitoring, and will require regular reporting to the public. The performance measures, together with knowledge from key research projects, will inform the evaluation and adjustment of targets and associated actions to improve the effectiveness of the Plan.

### **Ministry of Agriculture, Food and Rural Affairs**

OMAFRA appreciates the Environmental Commissioner of Ontario’s (ECO) comments and recommendations on the topic of algal blooms and phosphorus reduction in Ontario, and is committed to working on this important matter. We know that many factors contribute to algal blooms, including changing climate, invasive species and the loss of phosphorus from agricultural and municipal sources – all areas in which OMAFRA has significant involvement within our ministry’s mandate.

Ontario has set a target under the Great Lakes Protection Act to achieve a 40% reduction in phosphorus to the central and western basins of Lake Erie by 2025 and an interim target of 20% by 2020. Under the Great Lakes Water Quality Agreement, Canada has committed to having a Domestic Action Plan in place

by 2018. The draft Action Plan, “Partnering in Phosphorus Control: Achieving Phosphorus Reductions in Lake Erie”, was posted on the Environmental Registry for public comment in March 2017 and Canada and Ontario are currently finalizing the Action Plan.

Ontario’s agriculture sector is aware of the need to address the loss of phosphorus from agricultural land. OMAFRA has been working with the sector and Ontario farmers to make progress and important contributions toward meeting the targets, including the promotion of best management practices to reduce run-off and improve soil health.

In addition to the Environmental Farm Plan, the Great Lakes Agricultural Stewardship Initiative (GLASI), supports farm stewardship initiatives in the Lake Erie basin and southeast shores of Lake Huron, with a focus on initiatives that improve soil health, reduce nutrient losses and increase resiliency to extreme weather events.

Ontario is also developing an Agricultural Soil Health and Conservation Strategy, in collaboration with stakeholders, to promote healthy soils with good infiltration and aggregate stability, which reduce surface runoff and phosphorus loss.

With that background in mind, OMAFRA offers the following comments on the ECO recommendations:

**The ECO recommends that the MOECC and the OMAFRA ban all spreading of phosphorus sources, such as manure, fertilizer and sewage sludge on frozen or saturated ground.**

OMAFRA recognizes that regulatory action may be required to address this recommendation. That is why, in concert with MOECC, we have committed to exploring the potential for further regulatory restrictions on the application of nutrients during the non-growing season under the Nutrient Management Act, as stated in the Canada- Ontario Draft Action Plan for Lake Erie. Any regulatory proposal brought forward for consideration will need to be thoroughly evaluated and consulted on. For clarity, under the O. Reg. 267/03 of the *Nutrient Management Act, 2002*, sewage biosolids cannot be applied between December 1 and March 31 or on frozen or snow-covered ground.

**The ECO recommends that the MOECC, the OMAFRA and the MNRF ensure that metrics-based and outcome-driven evaluations are built into all programs and strategies that the ministries lead, fund or partner on. Phosphorus control programs should, for example, require quantitative loadings targets, monitoring, quantitative evaluations and regular reporting as core elements.**

OMAFRA agrees that metrics-based and outcome-driven evaluations should be built into programming wherever possible. For example, the draft Action Plan for Lake Erie includes commitments to monitoring, reporting progress every three years. Further research will also continue to improve our understanding of the effectiveness of on-farm best management practices that will reduce phosphorus losses from a variety of agricultural systems and land types. Performance measures are being developed as part of the final Action Plan.

## Chapter 5: Lightening the Environmental Footprint of Aggregates in Ontario

### Ministry of Natural Resources and Forestry

Aggregate resources such as sand and gravel are vital to Ontario's economy. Aggregates are used to build roads, subway tunnels, hospitals and schools. The recently released study, *Supply and Demand Study of Aggregate Resources Supplying the Greater Golden Horseshoe*, estimates that over 50% of aggregate reserves that are currently licensed are expected to be used within the Greater Golden Horseshoe over the next 20 years. In order to support Ontario's needs today and into the future, the ministry is strengthening and modernizing the management of aggregate resources in the province.

The amendments made to the *Aggregate Resources Act* (ARA) in 2017 represent a significant first step in our phased approach. The amended act offers better tools and clearer rules for the oversight of aggregate operations and enhances environmental accountability.

In October 2015, the ministry posted a document to the Environmental Registry outlining its plan to modernize the ARA policy framework titled "A Blueprint for Change". The document outlined a series of proposals that were developed in consideration of recommendations made by the Standing Committee on General Government in 2013 and input received from the public, Indigenous communities and stakeholders.

Rehabilitation is a key component of the ARA, and MNRF is committed to ensuring that operators rehabilitate aggregate sites as required by their site plan. The Blueprint proposed several changes related to rehabilitation on aggregate sites, including enhancements to rehabilitation reporting requirements and a requirement for new applications to establish a maximum disturbed area to minimize disturbance and encourage progressive rehabilitation.

The Blueprint also proposed changes to application requirements for aggregate sites – such as enhancements to requirements for studying impacts related to the natural environment, water, cultural heritage, agricultural lands, noise, traffic and dust. These changes will be addressed during the next phase of the ARA review.

The province is committed to developing a balanced approach to managing aggregate resources that recognizes the need for aggregate material and economic growth, but that also recognizes a responsibility to protect the environment. The ability to recycle and reuse non-renewable resources like aggregates is important to sustainable management. The ministry will continue to encourage the reduction, reuse and recycling of aggregate materials in a responsible manner.

MNRF will post information on future proposed ARA regulatory changes to the Environmental Registry as part of the next phase of strengthening and modernizing the ARA policy framework.

## Chapter 6: The Missing 68,000 km<sup>2</sup> – Ontario’s Protected Areas Shortfall

### Ministry of Natural Resources and Forestry

Ontario supports Canada Target 1, the national target which involves protecting and conserving 17 per cent of Canada’s terrestrial areas and inland waters as well as additional qualitative aspects. The Ministry of Natural Resources and Forestry (MNRF) is actively participating on the pan-Canadian Pathway to Target 1 initiative, along with federal, provincial and territorial governments, local governments and Indigenous communities.

The ministry recognizes the important contributions of conservation partners. In settled areas, Ontario relies on partnerships with municipalities, agencies, land trusts and individual land stewards to help conserve biodiversity. Some areas managed by these partners contribute to biodiversity conservation.

MNRF looks forward to recommendations from experts across Canada on progress toward both the quantitative and qualitative elements associated with Canada Target 1, including complex topics such as the identification of existing protected areas and other effective area-based conservation measures (OECMs), management effectiveness, connectivity and ecological representation.

MNRF recently received approvals to bring a new nature reserve class provincial park and several forest reserves initially identified under Ontario’s Living Legacy into regulation under the Provincial Parks and Conservation Reserves Act. The ministry continues to collaborate with Indigenous communities on Community-Based Land Use Plans, which include the identification of additional dedicated protected areas, in the Far North.



## Chapter 7: Getting Approvals Wrong: the MNRF's Risk-Based Approach to Protecting Species at Risk

### Ministry of Natural Resources and Forestry

#### Introduction

The Government of Ontario is committed to the stewardship of Ontario's natural resources. Through promoting public understanding and sustainable use, as well as working collaboratively with stakeholders, Indigenous communities and organizations, and the public, MNRF develops and delivers sustainable, evidence-based programs and policies. The mandate of the MNRF includes the implementation of the *Endangered Species Act, 2007* (ESA).

Under the ESA, endangered and threatened species and their habitats are automatically protected. First and foremost, the ministry promotes avoidance of adverse impacts to species at risk and their habitats. This means providing advice to proponents early in their project planning process to avoid adverse impacts to species at risk and their habitats, thereby avoiding the need for an authorization under the ESA. There are many examples where the ministry has worked with proponents to modify their activity to avoid impacts.

The ESA acknowledges that impacts cannot always be strictly avoided and includes flexibility mechanisms to authorize activities that would otherwise contravene the Act, provided all of the legal requirements can be met (e.g., providing an overall benefit to the species). This means the ESA protects species at risk and their habitat while continuing to support social and economic activities undertaken by the people and businesses of Ontario.

There are three types of authorization available under the ESA: permits, agreements, and regulatory exemptions. A permit resembles a licence that is issued to a person, company or an organization, and includes a set of conditions that must be met. An agreement is a signed contract between the ministry and an external party, which includes specific, agreed-upon provisions that must be followed. A regulatory exemption is available for eligible activities and species as long as specific legal requirements and conditions are met.

The ministry takes an adaptive management approach to the protection and recovery of species at risk. The exercise to modernize ministry approvals is an example of this. An expert panel with diverse stakeholders who had experience in obtaining ESA authorizations and implementing the Act was created to develop recommendations for the Minister on how to improve the ESA program. In 2013, based on advice received through the expert panel combined with five years of ministry experience implementing the ESA, MNRF identified certain lower risk activities (i.e., those that are typically routine and undertaken in a relatively predictable way) and streamlined the approvals process for these activities through regulatory amendments made under Ontario Regulation 242/08.

The 2013 regulatory amendments set out specific circumstances and requirements which must be adhered to in order to ensure compliance with the Act. These amendments did not change the permitting processes or requirements of the Act. The changes did enable streamlined measures for proceeding with certain kinds of activities that meet eligibility requirements to use the regulation, provided all of the conditions of the regulation provision are met.



Under this streamlined approach, proponents are required to put measures in place to ensure species at risk are protected. These measures include registering the activity with MNRF, taking reasonable steps to minimize adverse effects on the species, monitoring the effectiveness of those steps, developing and implementing a mitigation plan for the affected species, and providing details of the location, activities and mitigation measures, among others.

As well, several provisions of O. Reg. 242/08 are designed to benefit species at risk by streamlining protection and recovery activities, as well as the restoration or enhancement of native ecosystems. Where MNRF concluded that certain activities could pose a higher risk to certain species or their habitat, these activities or species were excluded from the streamlined approach. Case-specific permits may still be available for these activities. This ensures the ministry has the opportunity to provide case-specific direction on whether, or how, activities could proceed with respect to these species.

The permitting process remains an option in all cases. Most new activities that impact species at risk or their habitat still require permits.

### **Regulation Changes to the ESA**

The government recognizes the important role that Ontarians play in protecting and recovering species at risk, particularly on private land. This is acknowledged through our stewardship-first approach to the protection and recovery of species at risk and emphasis on outreach and education.

The process to develop the 2013 O. Reg. 242/08 amendments included significant engagement with various stakeholders and Indigenous groups. After the regulatory amendments were approved, meetings and training sessions were held across the province with various groups and sectors. The effort to engage and inform people of the regulatory changes likely led to increased awareness about the ESA and requirements under the Act, which may have contributed to an increased number of ESA authorizations, including the number of activities registered under O. Reg. 242/08.

At the same time the regulatory amendments were approved, general habitat protection for 65 species, including Blanding's Turtle, Butternut and American Eel, came into effect. These species were classified as threatened or endangered before the ESA came into force in 2008 and did not receive habitat protection under Ontario's previous endangered species legislation. When the ESA was passed, it provided that habitat protection would not apply to these species for five years (i.e., not until 2013). In addition, several species that occur across the province had recently been listed as endangered or threatened on the Species at Risk in Ontario List (O. Reg. 230/08).

It is apparent that the additional protection provided to the habitat of the 65 species combined with the recent listing of new species at risk that occur across the province also contributed to an increase in authorizations under the ESA.

MNRF conducted an audit of registrations from the first year the online system was operational and, as a result, completed enhancements to the online registry and tools to assist registrants with submissions and to promote understanding of reporting requirements.

The ministry is committed to continuous improvement relative to the ESA as demonstrated by audits, system enhancements, training, compliance and enforcement completed since the new regulations were implemented.

### Implementing the ESA

Permits are a visible output of implementing the ESA. The less visible and often unquantified aspect includes efforts to consider species at risk before undertaking activities that might have an adverse impact on the species or their habitat. To that end, providing advice to proponents to avoid adverse impacts to species at risk and their habitat is a fundamental component of MNRF's day-to-day work of implementing the ESA. For example, since 2009 in the MNRF Aurora District, outreach and advice from the ministry have helped change the timing, location and design of more than 480 proposed projects to avoid adverse impacts to species at risk, avoiding an ESA contravention and the need to issue ESA authorizations.

MNRF uses a variety of approaches to protect species at risk and their habitat through local implementation of the ESA, including:

- **targeted outreach** to key groups like municipal governments, industry associations, consultants and other Ontario ministries;
- **education** on the ESA and species at risk which may include sharing information, participating in training and outreach sessions, visiting sites, writing letters and making phone calls to provide site-specific advice on how proponents can avoid adverse impacts to species at risk; and,
- **providing advice and influencing decision-making** through participating in meetings and committees related to project proposals in order to take into account impacts to species at risk and their habitat early in the development process.

Providing advice early in the project planning process is vital to avoiding adverse impacts to species at risk and their habitat.

The City of Brampton supports some of the strongest populations of Redside Dace across the species' Canadian range. Ministry staff collaborated with a development proponent involved in the construction of new subdivisions throughout the City to incorporate thermal mitigation into stormwater pond design. Through proactive outreach with the City and the development proponent, MNRF staff were able to influence decision-making to promote avoidance measures and prevent adverse impacts to Redside Dace and its habitat.

The concept of providing overall benefit to a species involves undertaking actions that contribute to improving the circumstances for the species specified in a permit. Overall benefit is more than no net loss or an exchange of like-for-like. To that end, all overall benefit permits issued by the ministry include conditions intended to improve the circumstances for the species. The examples below highlight some innovative or multi-dimensional approaches to improving circumstances for the species in Ontario.

In Providence Bay on Manitoulin Island, ESA permit conditions for Pitcher's Thistle required the Municipality to enhance a larger area of habitat by controlling the spread of invasive species and maintaining the structure and succession of sand dunes to create favourable conditions for Pitcher's Thistle. Permit conditions also included education and outreach to the public to enhance their understanding of the steps the Municipality was taking to protect habitat and abate threats to Pitcher's Thistle.

The City of Ottawa sought an ESA permit to develop a snow dump that would impact Blanding's Turtle habitat. MNRF district staff collaborated with the City to identify an innovative means to benefit the species. The permit conditions require the City to install eco passages (i.e., combination of culverts and

exclusion fencing) to facilitate safe passage for turtles at locations in the City where road mortalities of Blanding's Turtle are high.

A proponent sought an ESA permit to construct a multi-family residential development in Eastern Whip-poor-will habitat. Permit conditions required the proponent to increase the amount of habitat available for the species. MNRF worked with the proponent to identify another area where the habitat activities would provide a greater contribution to the species. The proponent partnered with a non-governmental organization to manage the habitat for Eastern Whip-poor-will over the longer term.

MNRF recognizes the strong public interest in species at risk and the environmental importance of ESA authorizations. The *Environmental Bill of Rights, 1993* requires MNRF to post ESA authorizations on the Environmental Registry if they meet certain criteria. Not all ESA authorizations meet these prescribed criteria for posting. In response to this, MNRF has voluntarily committed to providing public consultation opportunities through the Environmental Registry for all overall benefit permit proposals (see ER #010-6162). Permit proposals that are not legally required to be posted on the Registry are posted as an Information Notice. The Information Notices allow comments to be submitted to the MNRF contact provided. All comments and submissions received are considered in the decision-making process for the authorization.

#### **Continuing to Protect and Promote Recovery of Species at Risk**

The ESA and its associated policies provide the guiding framework for the protection and recovery of species at risk in Ontario. Protecting and recovering species at risk is a shared responsibility. No single agency or organization has the knowledge, authority or financial resources to protect and recover all of Ontario's species at risk. Successful recovery requires inter-governmental co-operation and the involvement of many individuals, organizations and communities.

Awareness and understanding about species at risk and the ESA continue to grow, regularly presenting new science and opportunities for MNRF staff to build relationships and share knowledge about species at risk and their habitat, including approaches for avoiding impacts to species at risk, taking steps to minimize adverse effects and, in some cases, providing an overall benefit. It also provides opportunities to incorporate new science and adaptive management into our protection policies and approaches to recover species at risk.

The Act's flexibility mechanisms such as authorizations and regulations are intended to ensure that Ontario's businesses and residents continue to prosper while protecting and recovering species at risk and their habitats. After five years of implementing the ESA, the government learned from its stewardship and other partners that some improvements could be made to the Act's implementation. The regulatory amendments introduced in 2013 under O. Reg. 242/08 streamline authorizations for certain low-risk activities that may intersect with some species at risk. These regulatory amendments did not change the Act; the permitting process remains an option in all cases and higher-risk activities that impact species at risk or their habitat still require permits.

The government is proud that the ESA is implemented using a stewardship-first approach and recognizes that all Ontarians value and have a responsibility to help protect and recover species at risk. The dedication, skills and innovation from MNRF staff, stewardship partners, volunteers and proponents are all important pieces in Ontario's collective and continued protection and recovery of species at risk.

## Chapter 8: Failing to Protect a Threatened Species: Ontario Allows Hunting and Trapping of the Algonquin Wolf

### Ministry of Natural Resources and Forestry

Ontario has taken steps to protect the Algonquin wolf in the province since 1993. The listing of the Algonquin wolf as a threatened species under the Endangered Species Act, 2007 (ESA) in spring 2016 means that this species and its' habitat are protected.

In September 2016, Ontario took action to protect the Algonquin wolf by implementing an interim approach under the ESA and Fish and Wildlife Conservation Act, 1997 (FWCA). Hunting and trapping of wolves and coyotes were closed within three core areas where Algonquin wolves are known to occur. This closure is in addition to Algonquin Provincial Park and the surrounding townships, where a large portion of Ontario's known Algonquin Wolf population is concentrated, and where the hunting and trapping of wolves and coyotes have been closed since 2004. Collectively, these four core areas comprise the geography where Algonquin wolf is most known to occur in Ontario at this time. These closures balance the economic and safety needs of local landowners and farmers with the need to protect this threatened species within its known core occurrence areas. This approach alleviates confusion outside of core occurrence areas that may arise because of the difficulty in visually distinguishing Algonquin wolf from coyote, other wolf species and hybrids.

The interim approach protects the species while the government undertakes the recovery planning process, and seeks information and input from stakeholders and the public as part of this work.

Development of the Recovery Strategy has been initiated and will be completed within two years of listing, by June 15, 2018. The Government Response Statement will be developed within nine months of the release of the Recovery Strategy.