

**BY EMAIL**

June 16, 2020

**Re: Proposed amendment to a regulation under the *Endangered Species Act, 2007* relating to forest operations in Crown forests (ERO No. 019-1620)**

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Please accept this submission of the Canadian Environmental Law Association (CELA) in response to the Ministry of Environment, Conservation and Parks (MECP) proposal to provide a one-year extension to the exemption allowing forest operations approved under the *Crown Forest Sustainability Act* (“CFSA”) to continue, absent regard for the prohibitions set out in the *Endangered Species Act* (“ESA”).<sup>1</sup>

**About Us**

CELA is a non-profit, public interest organization established in 1970 for the purpose of using and improving existing laws to protect public health and the environment.<sup>2</sup> For nearly 50 years, CELA has used legal tools, undertaken ground-breaking research and conducted public interest advocacy to increase environmental protection and the safeguarding of communities. CELA works towards protecting human health and the environment by actively engaging in policy planning and seeking justice for those harmed by pollution or poor environmental decision-making.

**Response to Continued Exemption of Forestry from ESA**

CELA does not support the continued exemption of forestry operations from the prohibitions of the *ESA* which provide that no person shall kill, harm or harass a species listed on the Species at Risk in Ontario List as extirpated, endangered or threatened (s. 9); nor damage or destroy their habitat (s. 10). Rather than grant this 1-year extension pending forestry’s permanent exemption from the *ESA*, as previously proposed by the government, we urge the Ministry to reconsider its policy direction.

*First*, the key safeguards under the *ESA* – namely, the protection and recovery of listed species and their habitat - cannot be met so long as the Ministry continues to exempt sector-specific activities from the scope of the Act.

*Second*, this proposal conflicts with the *ESA*’s purposes of protecting and enabling the recovery of species at risk in Ontario. Since the coming into force of the *ESA* in 2008, various exemptions through regulation were granted to activities including pits and quarries, hydro projects and forestry. Forestry has been granted multiple exemptions from the rules against harm to species and their habitats and this proposal also serves

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<sup>1</sup> Environmental Registry of Ontario (No. 019-1620), online: <https://ero.ontario.ca/notice/019-1620>

<sup>2</sup> Canadian Environmental Law Association, online: [www.cela.ca](http://www.cela.ca)

to diminish the value of the *ESA* and its core prohibitions against killing and harming threatened and endangered species, and their habitats.

*Third*, the proposal remains silent on whether forestry proponents' mitigation plans and annual reports, which are required to be submitted to the government per O Reg 242/08, will be made publicly available. In our view, proponents should be required to automatically submit mitigation plans so that they are publicly available in order to further the public's right to know, and facilitate the public's oversight of proponent activities.

Lastly, in making these recommendations, we refer the Ministry to our detailed comments previously provided on this topic, including:

- Submission on Bill 132, Schedule 16 regarding the proposed amendments to the *CFSA*, online: <https://cela.ca/submissions-on-bill-132/>
- Submission on Bill 108, Schedule 5 regarding proposed amendments to the *ESA*, online: <https://cela.ca/bill-108-more-homes-more-choices-act-2018/>
- Submission on the 10<sup>th</sup> Year Review of Ontario's *Endangered Species Act* Discussion paper, online: <https://cela.ca/10th-year-review-of-ontarios-endangered-species-act/>

Thank you for your consideration of our submission.

Regards,



Kerrie Blaise,  
Northern Services Counsel, CELA