

ONTARIO FEDERATION OF ANGLERS & HUNTERS



Ontario Conservation Centre

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January 19, 2017

Ms. Bree Walpole, Senior Policy Advisor
Ministry of Natural Resources and Forestry
Policy Division
Species Conservation Policy Branch
300 Water Street
Peterborough Ontario
K9J 8M5

Dear Ms. Walpole:

Subject: EBR Registry Number 012-8234: Development of the Safe Harbour Policy under the Endangered Species Act, 2007

On behalf of the Ontario Federation of Anglers and Hunters (OFAH), its 100,000 members, subscribers and supporters, and 740 member clubs, we have reviewed the proposed Safe Harbour Policy (hereafter Policy). We are encouraged by the development of a policy to provide guidance during the development of instruments that will both allow continued use of lands and simultaneously conserve and enhance the habitat of Species at Risk (SAR), and other fish, wildlife, and ecological services that occur there.

Safe harbour habitats, while potentially important for the potential recovery and resilience of SAR, also provide critical ecological services, habitat for other fish, wildlife, and insect species, and enhances biodiversity. The Safe Harbour Policy allows for the continued utilization of these lands and resources, which enables conservation based management. These are all tenets of the OFAH and it is important that the Policy allows for stewardship, conservation, and the maintenance of habitat and hunting, angling, and trapping opportunities.

The OFAH supports in principle the intent of Safe Harbour provisions, through the Endangered Species Act (ESA), on private lands to allow for a more stewardship-based approach instead of relying on prescriptive regulatory measures for SAR habitat conservation. Safe Harbour Instruments (Instrument) have the potential to protect landowners who proactively take steps to increase SAR habitat and populations, while allowing land utilization. The assurance that lands can be converted back to their original state after the Instrument period is an important inclusion, which needs to be better described in the proposed Policy.

Without effective Instruments in place there may be a disincentive for landowners to carry out stewardship activities, on their own or with a stewardship organization, for fear of attracting SAR onto their property that may create restrictions to their operations. Therefore, these Instruments need to be accessible to any landowner and structured to encourage establishment and not create excessive administrative loads and responsibilities.

ONTARIO FEDERATION OF ANGLERS AND HUNTERS

Ms. Bree Walpole
January 19, 2017
Page Two

The implementation of Instruments with private landowners will alleviate fear of regulatory consequences for creating habitat that subsequently attracts species at risk. While this arrangement affords protection for both SAR and the private landowner, it may have negative implications for neighbouring properties. While the Policy recommends avoidance to creating a safe harbour habitat adjacent to neighbouring landowners who do not wish to get an Instrument/do not want any endangered species on their property, the OFAH feels this may greatly reduce the quality and quantity of safe harbour habitats. More effective solutions may be available to the province that could satisfy both the landowner who wishes to get an Instrument and opposing landowners. We respectfully suggest that the ministry consider a radius or some other area-based boundary of protection emanating from the property with an Instrument touching on neighbouring properties. This could be effective as the proximity to the core safe harbour habitat would allow for a degree of habitat connectivity, mitigating impact on SAR populations utilizing neighbouring lands when they are being used, and allow neighbouring landowners to continued use.

In addition to individual landowner agreements, we also support/recommend that the Ministry of Natural Resources and Forestry (MNRF) include the opportunity for an intermediary to enter into individual agreements with multiple landowners and into one arrangement with the MNRF covering multiple individuals (i.e. umbrella basis). This would offer incentive for landowners to work with local third-party conservation groups that specialize in restoring and/or enhancing habitat and ecological services to encourage stewardship, and help in the development and monitoring of the safe harbour habitat. This could help reduce the administrative burden on landowners, provide a landscape-level monitoring program, and reduce ministerial workload increasing efficiency. This recommendation may also help alleviate some of the issues with neighbouring landowners who oppose a safe harbour instrument, as well as help alleviate some of the administrative and monitoring burden that could create barriers to landowners pursuing a safe harbour instrument on their own.

Section 23.16 (2) of the General Regulation of the ESA, states that the habitat must have been “created” or, in the case of bobolink and Eastern meadowlark, “enhanced” as part of the Instrument to allow for the use of that land and be exempted from Subsection 10 (1) of the ESA. While this encourages the development of new habitat for species and allows for the use of these lands later without penalty, there are examples where ongoing land utilization has occurred successfully in the presence of SAR, which would not be eligible for a Safe Harbour Instrument. This penalizes landowners and land managers who effectively maintain utilization, wildlife, habitat, and ecological services through existing (and effective) land management practices. We believe there should be consideration for circumstances when SAR are already present on a landscape (i.e. where enhancements are not required to establish a population). When there is no risk/risks to be mitigated, or when land utilization may in fact improve the habitat for SAR (e.g. the disturbance needed to maintain bobolink and Eastern meadowlark habitat and Blanding’s turtle nesting habitat), these activities must be protected from regulatory prosecution.

We respectfully suggest that the Safe Harbour Instruments be implemented on a habitat basis, and not on a species-by-species basis. The habitat-based approach supports the creation, restoration and maintenance of broad habitat types such as wetlands, grasslands and prairies, and riparian habitat that simultaneously benefit suites of species at risk.

ONTARIO FEDERATION OF ANGLERS AND HUNTERS

Ms. Bree Walpole
January 19, 2017
Page Three

The OFAH appreciates the opportunity to review the draft Safe Harbour Policy and participate in the conversation about the long-term conservation and use of lands related to Species at Risk habitat in Ontario. We look forward to working with the province further on this and any future initiatives.

Yours in Conservation,



Robert Cole
Land Use Policy and Habitat Specialist

RC/gh

cc: OFAH Board of Directors
OFAH Land Use/Access/ Trails Advisory Committee
Angelo Lombardo, OFAH Executive Director
Matt DeMille, OFAH Manager, Fish & Wildlife Services
OFAH Fish & Wildlife Staff