Attachment_4:_TRCA_Submission_on_ERO_019-4075

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BY E-MAIL ONLY (clairissa.myschowoda@ontario.ca)

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Species at Risk Branch - Permissions and Compliance
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Re: Metrolinx: Permit for activities that will result in a significant social or economic benefit to Ontario (ERO #019-4075)

Thank you for the opportunity to comment on the proposed permit sought by Metrolinx, as posted by the Ministry of Environment, Conservation and Parks (MECP) on the Environmental Registry of Ontario (ERO). We understand this posting is to solicit input on a proposal for a permit under the *Endangered Species Act, 2007* (ESA) in relation to the Yonge North Subway Extension (YNSE). The proposed permit has the potential to impact species at risk and considers options to avoid and minimize impacts on the species as well as reasonable alternatives.

The Toronto and Region Conservation Authority (TRCA) has an ongoing interest in protecting wildlife species and their habitat given our roles as described below. TRCA conducts itself in accordance with the objects, powers, roles and responsibilities set out for conservation authorities (CA) under the *Conservation Authorities Act* (CA Act) and the MNRF Procedural Manual chapter on CA policies and procedures for plan review and permitting activities. TRCA is:

- A public commenting body under the *Planning Act* and *Environmental Assessment Act*;
- An agency delegated the responsibility to represent the provincial interest on natural hazards under Section 3.1 of the Provincial Policy Statement;
- A regulatory authority under Section 28 of the CA Act;
- A service provider to municipal partners and other public agencies;
- A Source Protection Authority under the *Clean Water Act*;
- A resource management agency; and
- A major landowner in the Greater Toronto Area (GTA).

In these roles, TRCA works in collaboration with municipalities and stakeholders to protect people and property from flooding and other natural hazards, and to conserve natural resources. Where endangered species are affected by development, provincial staff undertake a concurrent review of planning proposals in accordance with the ESA. TRCA supports our provincial partners and other public infrastructure providers in avoiding, mitigating and compensating to protect and restore wildlife habitat in the environmental assessment process, and through our mandate under the CA Act.

Government Proposal

We understand the government is seeking public input on a proposal for a socio-economic permit under the ESA in relation to the YNSE. Although the exact area of impact is not yet known, a larger area, known as "Study Area", is being considered for the final designs of the project.

The Study Area extends approximately eight kilometres north from Finch Station in the City of Toronto to Vaughan, Markham, and Richmond Hill. Approximately six kilometres of the extension is underground, and approximately two kilometres is at surface level. An additional kilometre of surface-level track at the northmost portion supports subway operations. A significant portion of the line is planned to be constructed underground. It will involve activities such as:

- vegetation disturbance and removal;
- site grading;
- filling;
- excavation;
- stockpiling of soil or other materials;
- construction of retaining walls, rails and roads
- (TRCA notes that other significant activities are typically establishing construction shafts and constructing emergency exit buildings and storage facilities).

We further understand that Species at Risk (SAR) have been observed within the Study Area for the project, namely: Bank Swallow (*Riparia riparia*), Barn Swallow (*Hirundo rustica*), Butternut (*Juglans cinerea*), and Chimney Swift (*Chaetura pelagica*). Additionally, there is evidence that the following species may be found within the Study Area: Eastern Small-footed Myotis (*Myotis leibii*), Little Brown Myotis (*Myotis lucifugus*), Northern Myotis (*Myotis septentrionalis*), Redside Dace *(Clinostomus elongatus*), and Tri-coloured Bat (*Perimyotis subflavus*).

The ERO posting also states that most of the Study Area has not yet been surveyed in detail for SAR. The proposed permit would require surveys to confirm or refute the presence of additional species before construction activities commence.

General Comments

TRCA commends Metrolinx for proactively seeking a permit for SAR impacts within the project Study Area in advance of the detailed design phase. This approach is consistent with a recommendation made in TRCA's previous comments to ERO postings on priority transit projects (ERO #019-1682, ERO #019-4601, ER0 #019-2243), with the rationale that comprehensive, creative, and collaborative approaches early in the infrastructure planning process facilitate streamlining, better decision making, positive outcomes and greater certainty for all stakeholders.

From the current ERO posting, we understand that Metrolinx is seeking ways to minimize adverse effects on the species and that many of these mitigation measures may be included as requirements in the proposed ESA permit, such as:

- undertaking studies to confirm or refute the presence of the species prior to construction commencing;
- undertaking work at the time of year when the species are less sensitive to disturbance if habitat will be removed:

  - removing it at the time of year when the species are less likely to be present;
  - creating or enhancing habitat for the species to compensate for the habitat that was removed;
- if any members of the species will be removed (i.e., Butternut), compensating for these impacts through actions that benefit the species (e.g., plantings);
- providing contractors with education on how to identify the SAR and what steps to take should SAR be encountered within the Study Area;
- monitoring the effectiveness of any steps taken to minimize adverse effects on the species and taking additional steps to increase their effectiveness should they be found to be ineffective.

In addition to the above efforts to minimize impacts, ecological impacts that cannot be mitigated should be compensated for to maintain a robust natural heritage system resilient to the impacts from the new infrastructure. As a major landowner in the GTA and an agency actively engaged in ecological restoration projects, TRCA is well-positioned to provide potential project options and available land to facilitate ecosystem compensation.

Through watershed research, science and expertise, TRCA has developed a number of technical guidance tools and strategies that can be used to inform and support the implementation of the ESA permitting process, particularly related to mitigating impacts and providing for an overall benefit to impacted species and their habitat. TRCA's Guideline for Determining Ecosystem Compensation and TRCA's Integrated Restoration Prioritization framework are landscape level approaches to identifying ecological impairments, compensating for and improving ecosystem function.

TRCA's Guideline for Determining Ecosystem Compensation complements the Metrolinx Vegetation Guideline, with both tools able to guide the development of a strategy that compensates for and improves lost ecosystem functions, providing for an overall benefit to SAR potentially impacted by the project. While SAR are not a focus of these documents, many SAR benefit from these approaches through restoration objectives that address hydrological processes, natural cover, connectivity, landforms, and soils. Complementing the Integrated Restoration Prioritization framework, TRCA's Restoration Opportunities Planning tool is a method to inventory feasible ecological restoration projects at the watershed sub-catchment scale that include SAR considerations.

Accordingly, TRCA infrastructure planning and restoration ecology staff are available to work cooperatively with MECP and Metrolinx to ensure a natural heritage systems approach to environmental impacts is applied throughout the project, which includes accounting for and minimizing impacts to SAR.

TRCA staff are currently reviewing the YNSE under the Transit Project Assessment Process for natural heritage and natural hazard management issues and are committed to reviewing the project at the detailed design stage through our Voluntary Project Review process. In relation to the current ERO proposal, we would be pleased to work with Metrolinx on an ecosystem compensation strategy that incorporates objectives related to SAR as required under the ESA permitting process, as we have with other Metrolinx projects.

TRCA Recommendations

In light of the above, TRCA recommends that:

1) Through the Voluntary Project Review process, Metrolinx and their project consultants continue to work collaboratively with TRCA to ensure a systems approach to natural resource conservation is applied through this priority transit project, including minimizing SAR impacts and implementing an appropriate mitigation and compensation strategy.
2) Opportunities be pursued to integrate ecosystem compensation with the ESA permitting process to address impacts to the natural heritage system that cannot be avoided or mitigated.
3) Metrolinx and their project consultants consult with TRCA to identify potential ecosystem compensation projects available on TRCA-owned lands.

Thank you once again for the opportunity to provide comments on this proposal. Should you have any questions, require clarification on any of the above, or wish to meet to discuss our remarks, please contact the undersigned at 416.661.6600, Ext. 5281 or at laurie.nelson@trca.ca.

Sincerely,

<Original signed by>

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Director, Policy Planning

BY E-MAIL

cc: Kaylin Barnes, Project Manager, Metrolinx

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