

SMALL STEPS FORWARD

Environmental Protection Report 2015/2016

EXECUTIVE SUMMARY

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Environmental
Commissioner
of Ontario

Executive Summary



The Environmental Commissioner of Ontario (ECO) is the guardian of the *Environmental Bill of Rights (EBR)*, and reports to the Ontario Legislature, and to the public, on energy conservation, climate change and environmental protection.

This report focuses on two questions:

- 1. Do the environmental rights of Ontarians get enough respect? (Volume 1); and
- 2. How well do recent Ministry of Natural Resources and Forestry (MNRF) initiatives conserve biodiversity? (Volume 2)

Environmental Rights

The environmental rights of Ontarians need more respect.

There has been meaningful progress since December 2015. As we showed in our Special Report *EBR Performance Checkup: Respect for Ontario Environmental Rights 2015/2016*, Ontario government ministries worked hard this year to improve their compliance with the *EBR*.

This was welcome and overdue. In 2015, ministries had 1,800 outdated proposal notices on the Environmental Registry reaching as far back as 1996. By the summer of 2016, more than 1,000 of these outdated notices had been brought up to date. New notices from some ministries became of better quality and more helpful to the public. We welcomed the Treasury Board Secretariat as our 15th prescribed ministry.

The Ministry of the Environment and Climate Change (MOECC) makes the largest number of environmentally significant decisions and should set a good example in respecting environmental rights. The ECO is glad to see that the MOECC has, at last, begun posting public progress updates on its outstanding applications for review. The MOECC has also begun a long-overdue review of the *Environmental Bill of Rights* itself. These initiatives are important and appreciated. However, much remains to be done:

- 1. The Environmental Registry, Ontarians’ window on significant government environmental decisions, is hobbled by obsolete software and often frustrates public participation.
- 2. The MOECC is still responsible for more than 400 outdated Environmental Registry proposals, depriving Ontarians of their legal right to seek leave to appeal on many controversial and important environmental decisions.

- 3. The MOECC has not completed *EBR* reviews from as far back as 2009, leaving Ontario residents hanging and important policy issues unresolved. One relates to the shameful impact of Sarnia’s air pollution on the health of the First Nations community of Aamjiwnaang and other similar air pollution hotspots.
- 4. When the MOECC “completes” a review, it does not always deliver what it promised. For example, the MOECC agreed in July 2015 that the public deserves to know when raw sewage is dumped into Toronto’s harbour. When it happened again in August 2016, the public didn’t receive notice.

By next year’s report, the MOECC should earn Ontarians’ trust by respecting and protecting Ontarians’ environmental rights.

The MNRF and Biodiversity

The MNRF is responsible for almost all of Ontario’s biodiversity, including the plants, animals and natural landscapes for which we are famous around the world. This biodiversity is coming under increasing threat as climate change accelerates. The MNRF has important new tools this year to conserve our biodiversity: a new *Invasive Species Act, 2015*, a new *Wildland Fire Management Strategy*, and new moose management measures. These are good steps in the right direction.

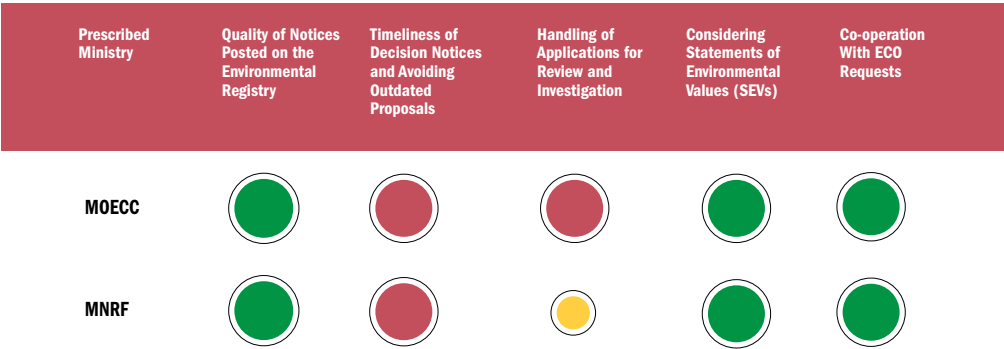
But will MNRF “walk the talk”?

Unfortunately, the MNRF often fails to use its tools to provide effective conservation for Ontario’s species. We have seen instances where the MNRF:

- 1. Did what was easiest and cheapest, instead of what works;
- 2. Hoped for the best instead of collecting the data that is essential for effective species protection; and
- 3. Relied on others to do the work it should do, or used to do, without providing them with leadership, co-ordination, funding or accountability.

The impact was substantial:

- 1. Invasive species continued to be a serious threat while some practical and inexpensive precautions were ignored;
- 2. Years of fire suppression impaired the ecological health of our forests and increased the risk of catastrophic fires; and
- 3. Important wildlife populations like moose, bats and amphibians declined.



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The MNRF, like other ministries, struggles to fulfil its many mandates within the constraints of limited resources, and amid the demands of many stakeholders. But the MNRF can, and must, take its biodiversity duties more seriously. It has new tools. Will it use them well?

Walking the Fire Line: Managing and Using Fire in Ontario's Northern Forests

Ontario's forests need regular renewal by fire. But Ontario doesn't allow enough managed fire in our Crown forests to provide ecological benefits and prevent future catastrophic fires. The MNRF took a step in the right direction with a new *Wildland Fire Management Strategy* that could allow more fires to be left to burn in northern Ontario. Now the MNRF needs to let such fires burn when and where they are needed and appropriate, even if this means the loss of some potentially harvestable timber:

- Forest fires are necessary for the ecological health of Ontario's forests, particularly to enable a diversity of species types and age classes.
- Long-term fire suppression can result in older forests that are burdened with excess fuel loads, and more susceptible to catastrophic and uncontrollable fires such as the one in Fort McMurray.

A strong focus on protecting standing timber for possible future use by the forestry industry has traditionally been a substantial obstacle to restoring natural fire cycles. The MNRF has not yet faced up to the trade-offs between these two objectives.

Regular fire cycles have particular importance in protected areas such as provincial parks, which must conserve Ontario's biodiversity. Unfortunately, these areas are starved of fire because Ontario Parks lacks the resources to manage prescribed burns, and the MNRF as a whole will not assist them without payment. This is penny wise and pound foolish.

With climate change gathering speed, northern Ontario communities should increase their resistance and resilience to forest fire. The Ontario government should ensure all communities near flammable forest become "FireSmart."



Jack Pine regeneration in Woodland Caribou Provincial Park after the spring 2016 forest fire. Source: Ontario Parks.

Invasive Species Management in Ontario: New Act, Little Action

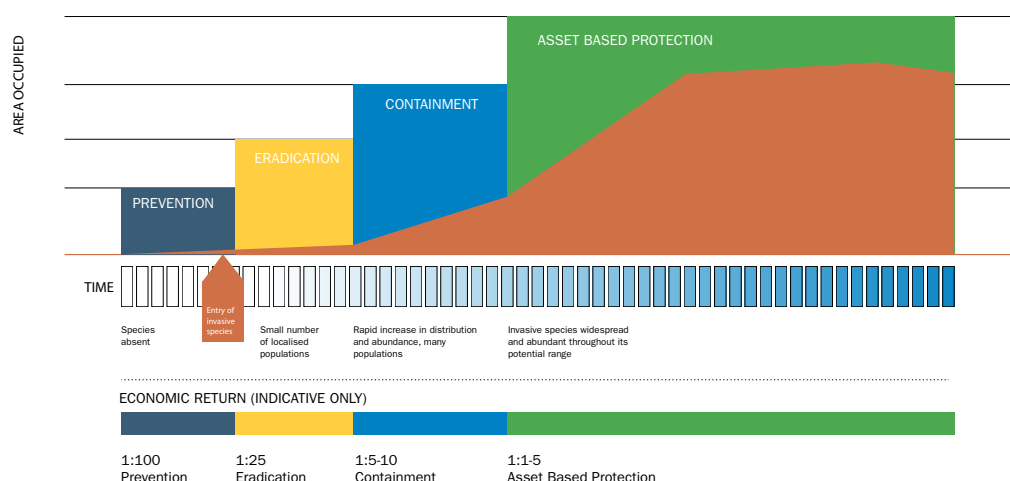
Invasive species have huge economic, social and health effects, and are among the biggest threats to biodiversity. Ontario has Canada's highest risk of invasions by non-native species (e.g., emerald ash borer, Phragmites, zebra and quagga mussels, and Asian carp). Up to 66 per cent of Ontario's species at risk are already threatened by established invaders such as garlic mustard (a forest herb), Phragmites (a grass), and round goby (a fish).

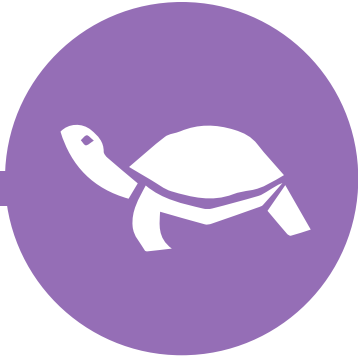
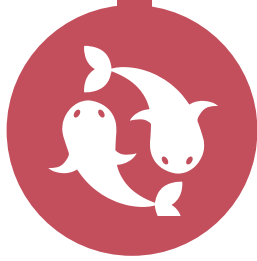
Ontario's new *Invasive Species Act, 2015*, and the 2012 *Ontario Invasive Species Strategic Plan* are useful tools for managing invasive species. But the MNRF is taking few concrete actions to prevent the introduction of invaders, detect them early, or manage and monitor species that are already doing damage. Worse, the MNRF is failing to take basic precautionary steps to block known pathways by which some invasive species spread.

Instead, the MNRF is mostly leaving the hard front-line work to municipalities, conservation authorities and private landowners, without provincial guidance, co-ordination, expertise or predictable funding. The MNRF is not collecting enough data to know which threats are the most urgent, and which control measures work best.

The MNRF should:

- restrict known pathways of invasive species spread;
- tackle invasive species in provincial parks;
- establish advisory panels with scientific expertise and local and Aboriginal knowledge; and
- report publicly on progress in managing invasive species.



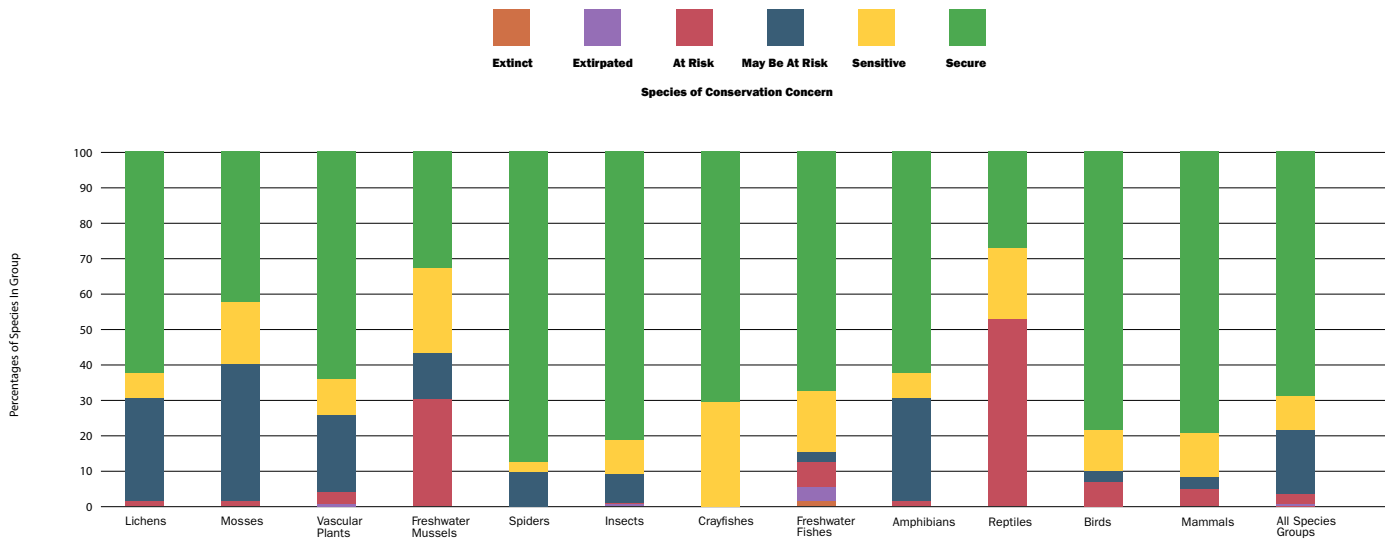


Biodiversity Under Pressure: Wildlife Declines in Ontario

The large-scale loss of biodiversity is a crisis in Ontario and around the world. As well as invasive species, the biggest threats are human-caused habitat loss and degradation, and disease, with climate change playing a growing role. The declines of moose, bats and amphibians in Ontario demonstrate that the Ministry of Natural Resources and Forestry needs to act urgently on habitat protection and biodiversity monitoring.

Ontario's Declining Moose Populations

Moose are an iconic Ontario species with particular cultural and economic significance. However, Ontario's moose are in trouble. There are now about 92,300 moose – down about 20 per cent in the last decade. In nearly half of Ontario moose management units, too few calves are reaching adult breeding age to keep the population stable.



Proportion of Ontario native wild species in secure and conservation concern categories. Source: Ontario Biodiversity Council (2015). *State of Ontario's Biodiversity*. Available at: <http://ontariobiodiversitycouncil.ca/sobr>.

The declines of moose, bats and amphibians in Ontario demonstrate that the Ministry of Natural Resources and Forestry needs to act urgently on habitat protection and biodiversity monitoring.



Source: Ryan Hagerty, U.S. Fish and Wildlife Service

There are many pressures on moose, including habitat degradation, disease and parasites (e.g., winter ticks, liver fluke, brainworm), hunting, predation and weather. Climate change is an increasingly serious threat.

The MNRF's Moose Project included changes to moose harvesting rules, and an ill-advised proposal (since abandoned) to increase the hunting of wolves and coyotes. However, the new restrictions on harvesting moose may not prevent further population declines. Ontario has approximately 98,000 licensed moose hunters – more than one licensed hunter for every moose in Ontario – plus Aboriginal peoples with a constitutional or treaty right to take moose without a licence. Based on the MNRF's estimates:

Climate change is an increasingly serious threat.

Moose Population Decline	Adult Moose Harvest (2014)	Calf Moose Harvest (2014)
-22,700 since early 2000s	Legal limit: 13,499 tags	Legal limit: one for each of the 98,000 licensed hunters
	Estimated resident harvest: 3,020	Estimated resident harvest: 1,403
	Aboriginal harvest: Unknown	Aboriginal harvest: Unknown
	Tourism industry harvest: 601	Tourism industry harvest: 26



A little brown bat infected with white-nose syndrome Source: Ryan von Linden/New York Department of Environmental Conservation used under CC BY 2.0.

White-nose Syndrome: Tragedy of the Bats

Ontario's bats are important predators of mosquitoes and other insects. Since 2010, millions of them have died from an invasive fungal disease called white-nose syndrome. As a result, four of Ontario's eight native bat species have become endangered. Bat populations across eastern North America are collapsing. There is no known treatment.

Ontario's *White-nose Syndrome Response Plan* concentrates on increasing awareness about white-nose syndrome, so as to limit the inadvertent spread of the disease by humans. The MNRF is also co-operating with other ministries and governments to share information, and to co-ordinate surveillance and research.

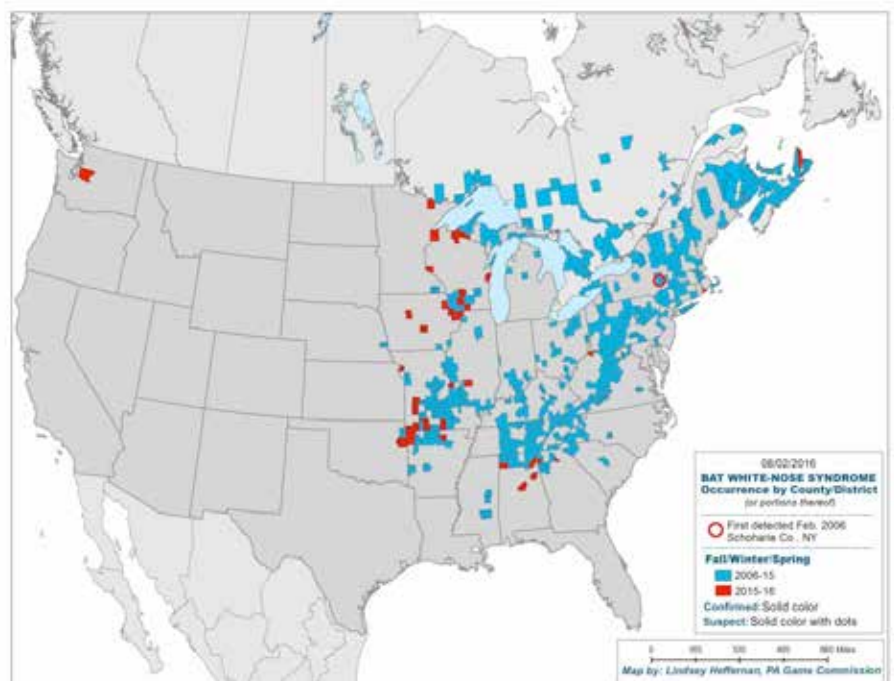
While white-nose syndrome is by far the major threat to Ontario's bats; bats can suffer additional losses from human persecution and from wind turbines. The collapse of Ontario's bat population could lead to an increase in insect pests, just as public health authorities are calling on Ontarians to protect themselves from mosquito bites because of the spread of insect-borne diseases.

Bat populations across eastern North America are collapsing. There is no known treatment.

Update: Amphibian Declines Continue in Ontario

Amphibians are the most threatened group of vertebrate animals in the world.

Both globally and in Ontario, the most significant threat to amphibians is habitat loss. Habitat degradation (e.g., from pollutants such as agrochemicals, pharmaceuticals and road salt), habitat fragmentation, road mortality, overharvesting, invasive species, infectious diseases, climate change, and ozone depletion also put pressure on amphibian populations. In 2009, the ECO recommended that the MNRF co-ordinate an inter-ministerial plan to protect and conserve amphibian populations.



Bat White-Nose Syndrome Occurrence as of August 2016. Source: Lindsey Heffernan, Pennsylvania Game Commission.



Blanchard's cricket frog (*Acris blanchardi*). Source: Jessica Piispanen/U.S. Fish and Wildlife Service Midwest used under CC BY 2.0.

Seven years later, there has been no action, and amphibian habitat (especially wetlands) continues to decline. Provincial land-use planning policies have not effectively protected amphibian habitat. In fact, the Ontario government continues to subsidize the destruction of irreplaceable wetlands under the *Drainage Act*.

Meanwhile, the MNRF does not effectively monitor amphibian populations. Most of Ontario's information about our amphibians comes from unpaid citizen science monitoring programs. These programs are immensely valuable, but would be far more effective with MNRF leadership, co-ordination and support. Ontario cannot effectively conserve biodiversity with uncoordinated piecemeal monitoring.

ECO Recognition Award

The ECO is impressed by the passion, commitment and expertise of many government staff who devote themselves to Ontario's environmental well-being, despite obstacles and constraints.

With our annual ECO Recognition Award, we are delighted to recognize the initiative of two groups of civil servants who set outstanding examples of environmental commitment and achievement last year. This award recognizes their hard work on projects that are innovative, go above and beyond legal mandates, better Ontario's environment and that meet the requirements and purposes of the EBR.

The 2016 ECO Recognition Award goes to MNRF staff for the Mid-Canada Radar Site Clean-up in Polar Bear Provincial Park. An honourable mention goes to the Ministry of Transportation for its project to restore fish passage in a tributary to the Saugeen River, near Southampton, Ontario. The ECO congratulates all the ministry staff who implemented these exceptional environmental projects.



Mid-Canada Radar Site Clean-up in Polar Bear Provincial Park. Source: Ontario Parks/MNRF



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Key Recommendations From This Year's Report

Volume 1

Chapter 1.2.2: No Transparency for *Aggregate Resources Act* Instruments

The Ministry of Natural Resources and Forestry should fix the long-standing deficiencies in Environmental Registry notices for *Aggregate Resources Act* instruments to ensure the public's right to be notified and comment.

Chapter 1.2.3: Outdated Proposals

All prescribed ministries should establish processes to ensure that decision notices are posted as soon as reasonably possible after decisions are made.

All prescribed ministries should remedy all of their outdated notices that remain on the Environmental Registry without a decision.

Chapter 1.2.4: Environmental Registry: Overhaul Discussions Begin

The Ministry of the Environment and Climate Change should give the needs of existing Environmental Registry users strong consideration in the design of a new Registry.

Chapter 1.4: Keeping the *EBR* in Sync with Government Changes and New Laws

The Ministry of Education should be prescribed under the *EBR* for the purposes of Applications for Review.

Chapter 2.2: Ministries' Handling of Applications for Review in 2015/2016

The Ministry of the Environment and Climate Change should conclude all overdue reviews in 2016/2017 and, further, should conduct reviews with greater speed going forward.

Chapter 2.3.2: Public Should be Alerted to Poor Water Quality After Wastewater Overflows and Bypasses

The Ministry of the Environment and Climate Change should work with Toronto Water to implement procedures for public notification of sewage bypass events as soon as possible.

Volume 2

Chapter 1: Walking the Fire Line: Managing and Using Fire in Ontario's Northern Forests

The Ministry of Natural Resources and Forestry should ensure that the fire-dependent forests it is charged with sustainably managing, including those in the Area of the Undertaking and protected areas, experience forest fire, either by letting forest fires burn or by conducting prescribed burns.

The Ministry of Natural Resources and Forestry should follow through on its commitment to build and maintain a workforce capable of executing prescribed burns, and create a team of dedicated burn personnel.

The Ontario government should ensure all communities near flammable forest become "FireSmart" by making prevention and mitigation plans mandatory, and providing adequate funding to communities to develop and implement them.

Chapter 2: Invasive Species Management in Ontario: New Act, Little Action

The Ontario government should take actions now to restrict known pathways of invasive species spread, including:

- prohibiting the sale of invasive plants;
- requiring boats to be cleaned and inspected before entering new water systems; and
- banning live bait from protected areas.

The Ministry of Natural Resources and Forestry should tackle invasive species in parks now by:

- assessing and documenting the invasive species threats to each protected area;
- developing prevention, detection and management plans; and
- allocating funds for ecological restoration that are not tied to visitor revenue.

The Ministry of Natural Resources and Forestry should establish advisory panels with scientific expertise and local and Aboriginal knowledge to propose species for regulation.

The Ontario government should report publicly on progress to manage invasive species regulated under the *Invasive Species Act*, 2015.

Chapter 3: Biodiversity Under Pressure: Wildlife Declines in Ontario

The Ministry of Natural Resources and Forestry should implement mandatory reporting for all licensed moose hunters.

The Ministry of Natural Resources and Forestry should examine and publicly report on whether habitat-related issues are playing a role in moose declines.

The Ministry of Natural Resources and Forestry should take accelerated steps to identify and implement potential recovery actions for at-risk bat species as soon as possible.

The Ministry of Natural Resources and Forestry should take steps to remedy the chronic delays in finalizing government response statements.

The Ministry of Municipal Affairs and Housing should prohibit infrastructure in provincially significant wetlands.

The Ministry of Transportation should finalize and publicly consult on its draft wildlife mitigation strategy for provincial roads.

The Ministry of Natural Resources and Forestry should develop and implement a broad-scale biodiversity monitoring program.