



Ontario
Home Builders'
Association

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300 Water Street
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Re: Development of a Government Response Statement for Bobolink & Eastern Meadowlark
EBR Registry Number: #012-1597

Re: Proposed amendment to O.Reg 197/11 for a 10-year exemption for agricultural operations
EBR Registry Number: # 012-5138

About the Ontario Home Builders' Association (OHBA)

The Ontario Home Builders' Association (OHBA) is the voice of the land development, new housing and professional renovation industries in Ontario. OHBA represents over 4,000 member companies, organized through a network of 30 local associations across the province. Our membership is made up of all disciplines involved in land development and residential construction, including: builders, developers, professional renovators, trade contractors, manufacturers, consultants and suppliers. Our members have built over 700,000 homes in the last ten years in over 500 Ontario communities. The residential construction industry employed over 300,000 people and contributed over \$45.6 billion to the province's economy in 2014. OHBA has been engaged with the Ministry of Natural Resources and Forestry (MNRF) since the initial consultations on the *Endangered Species Act, 2007* and was a member of the Endangered Species Act Stakeholder Group and a member of the Bobolink / EML Roundtable.

Purpose of Proposed Government Response Statement and Regulation:

The Ministry of Natural Resources and Forestry (MNRF) is seeking public comments on how the government should consider the recommendations from the Bobolink and Eastern Meadowlark Round Table Report in the development of a protection and recovery approach, including the government response statement, for Bobolink and Eastern Meadowlark in Ontario. The MNRF formed the Bobolink and Eastern Meadowlark Round Table as an advisory group with agricultural,

conservation, First Nations, and industry stakeholders including OHBA to develop recommendations on a long-term approach for the protection and recovery of the species without significantly impacting Ontario's agricultural sector. On November 1, 2013, the Bobolink and Eastern Meadowlark Round Table submitted a report to the MNRF which includes a package of recommendations, of which the key recommendation is for "*an integrated solution package that includes a 10-year extension of the current exemption for agriculture, stewardship incentives, research, education and outreach.*"

The MNRF is also seeking public input on a proposal for a regulatory amendment to provide a 10-year exemption for agricultural operations with regard to Bobolink and Eastern Meadowlark, commencing December 30, 2015. Ontario Regulation 242/08 (General Regulation), includes provisions that allow certain activities to proceed that would otherwise contravene the species and habitat protection provisions of the *Endangered Species Act, 2007* (ESA).

OHBA Continued Support for ESA Stakeholder Panel Recommendations

The *Endangered Species Act, 2007* (ESA) came into effect on June 30, 2008 along with two regulations that support the implementation of the act: O. Reg. 242/08 – General Regulation, and O. Reg. 230/08 – the SARO List. O. Reg. 242/08 allows certain activities to precede that would affect threatened, endangered or extirpated species and that would otherwise not be allowed, provided specific conditions are followed to protect species and their habitat. OHBA was a member of the Endangered Species Act Stakeholder Panel, which provided recommendations in February 2013 proposing a number of new approaches to the implementation of the *Endangered Species Act* including the establishment of transition provisions and streamlining of permitting. On July 1, 2013, amendments to this regulation which OHBA supported (EBR #011-7696) came into force that allow certain activities to proceed by registering with MNRF, subject to protective conditions. OHBA continues to support these regulatory amendments to streamline and provide more certainty in the regulatory process.

OHBA Comments and Recommendations re: #012-1597

OHBA is pleased to be given an opportunity to present our comments as part of the input towards the development of a Government Response Statement (GRS) to the Recovery Strategy for Bobolink and Eastern Meadowlark in Ontario. OHBA has and continued to be engaged with the MNRF through the Bobolink / Eastern Meadowlark Round Table and through direct discussions with our members. OHBA supported the transition policy (EBR 011-5372) passed in May 2012 that exempted qualified projects from an Overall Benefit Permit by providing support for the species through contributions to support habitat creation. OHBA continues to support the Bobolink / Eastern Meadowlark Roundtable and the important role it serves in providing the government advice to support the recovery of these two species in Ontario. OHBA supports the Bobolink Round Table proposed government led actions in the development of a GRS on the Bobolink and Eastern Meadowlark.

OHBA is supportive of the exemption solutions package proposed in the report, which includes extending the agricultural exemption until 2024 as well as stewardship incentives for landowners,

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research and monitoring, and education and outreach. The rationale for the 10-year extension of the current exemption is based on both OHBA's and the Round Table's understanding and acknowledgement that farmers play a vital role in creating and managing pastures and hayfields that provide habitat for Bobolink and Eastern Meadowlark. Their support and involvement in efforts to maintain these habitats is crucial to the recovery of these species. The best way to cultivate this support is through incentives, education and voluntary measures rather than through the enforcement of the ESA prohibitions (sections 9 and 10) against harming a species or its habitat that would impede hay cutting during the nesting season. Furthermore, long-term certainty over a 10-year period is required to ensure that farmers are able to continue with haying practices that may otherwise contravene the ESA prohibitions. It will build confidence and understanding within the agricultural community and for land-owners, while appropriate stewardship actions and research are carried out.

OHBA supports the Bobolink / Eastern Meadowlark Round Table recommendation that the government continues to support the high-priority research topics previously identified by the Round Table and that the province needs to conduct a complete evaluation of all elements of the Round Table proposed solution package prior to October 2024, to determine their impact and efficacy. This evaluation needs to commence well in advance of the formal re-assessment of the status of Bobolink and Eastern Meadowlark in Ontario, which is scheduled to take place 10 years after their initial listing under the ESA (in 2020 and 2021, respectively).

OHBA supports the Bobolink / Eastern Meadowlark Round Table recommendation that in light of substantial economic costs that would be borne by Ontario farmers if they were legally required to maintain grassland habitats to benefit Bobolinks and Eastern Meadowlarks, a correspondingly substantial incentive program is necessary to achieve the recovery of grassland habitats and their bird populations. As such, a dedicated and stable source of funding must be available to ensure the long-term success of stewardship initiatives.

OHBA supports the Bobolink / Eastern Meadowlark Round Table recommendation that the Bobolink and Eastern Meadowlark should continue to be identified as priority species for allocation of funds for stewardship programming. Furthermore, where appropriate, and notwithstanding the need to continue to focus on Bobolink and Eastern Meadowlark, incentive programs should focus broadly on the maintenance, enhancement and restoration of habitats for multiple native grassland species, rather than solely on individual endangered or threatened species.

OHBA supports the Round Table recommendation on the concept of Safe Harbour as an important incentive mechanism and a key component of a successful benefits exchange program. Safe Harbour could alleviate the concerns of development proponents who are worried about maintaining properties in grassland prior to development. It could also help reduce the conversion of grassland habitats to cash crops and would also generally create opportunities for grassland habitat creation projects and enhancement.

OHBA specifically supports the following Bobolink / Eastern Meadowlark Round Table recommendations regarding Safe Harbour:

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- Clearly define and articulate in plain language what the Safe Harbour exemption means with respect to Bobolink and Meadowlark, and work with stakeholders, consultants, and MNRF and OMAF staff to raise awareness about this regulatory change;
- In addition to individual Safe Harbour agreements, the government should develop and implement umbrella Safe Harbour agreements. For stewardship organizations, umbrella agreements are a critical delivery mechanism for Safe Harbour, which will help simplify arrangements with farmers and landowners and increase participation in the benefits exchange;
- As it is being implemented, Safe Harbour needs to be included within the monitoring and assessment regime.

Lastly, OHBA is a strong proponent of the **Round Tables Species At Risk Benefits Exchange Model (SARBEX)**. The establishment of a benefits exchange continues to be a top priority for the Round Table and should be a priority of the MNRF. OHBA notes that SARBEX could be expanded for use with other environmental priorities such as biodiversity offsetting (e.g. wetlands). OHBA supports the following Bobolink / Eastern Meadowlark Round Table recommendations for action:

- Allocate the seed money necessary to establish a registry, overseen by an independent third party, which would list 'sellers' who can provide benefits as part of the benefits exchange.
- Review and revise the March 28, 2013 report (*Preliminary Guidance on Legal Issues to be addressed in SARBEX Agreements*) so that it is consistent with the new regulatory framework.
- Work with the Round Table to investigate and develop a conservation banking system mechanism to give credit for ongoing conservation work within the scope of the eligible stewardship activities that can be integrated into the benefits exchange. This mechanism would enable sellers to deal with larger parcels of land on the supply side, so that eligible lands can be managed with more foresight and for greater conservation benefit.
- Work with the Round Table to investigate and enable a grasslands ecosystem- based approach to implementing the benefits exchange.

OHBA also supports the Bobolink / Eastern Meadowlark Round Table enforcement and compliance recommendation and notes that a key consideration of the recommended agricultural exemption concerns enforcement and compliance in relation to ESA regulations. Opportunities within Safe Harbour and benefits exchanges allow for third-party verification and auditing, which can contribute to MNRFs enforcement efforts and compliance monitoring.

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As noted in the Environmental Registry posting, the Bobolink and Eastern Meadowlark nest in high densities in agricultural fields and the breeding period for both species, from May to July, coincides with the time of year that hay is harvested and livestock are pastured for agricultural purposes. As a result, the protection and recovery of these two species requires the consideration and collaboration of the agricultural sector, rural landowners, and other stakeholders, including OHBA members that have extensive land holdings many of which are actively used for agricultural purposes. Recognizing this, the government amended Ontario Regulation 242/08 in 2011 to provide

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a three-year transition period during which the protection provisions of the ESA would not apply to agricultural operations with respect to Bobolink or their habitat. Eastern Meadowlark was later added to this regulation. During this time period, OHBA was appointed to the Bobolink / Eastern Meadowlark Round Table. The three-year transition period expired at the end of October 2014.

However, as recommended by the Bobolink / Eastern Meadowlark Roundtable, the MNRF initiated an interim 14-month extension to the exemption for agricultural operations with respect to Bobolink and Eastern Meadowlark (to December 31, 2015) to provide additional time for the ministry to further engage stakeholders and the public, to develop a protection and recovery approach for the species, and to evaluate the package of Round Table recommendations which as part of the comprehensive recommendations includes a recommendation for a 10-year exemption for agricultural operations.

OHBA is supportive of the Bobolink / Eastern Meadowlark Round Table recommendation for a regulation amendment to provide a 10-year exemption for agricultural operations with regard to Bobolink and Eastern Meadowlark, commencing December 30, 2015. Detailed comments supporting the amended regulation including the adoption of a solution package that consists of a series of integrated elements are covered in the previous section of this submission responding to the EBR #012-1597 posting.

Conclusion

OHBA is supportive of the recommendations of the Bobolink and Eastern Meadowlark Round Table as a basis for the development of a Government Response Statement for Bobolink and Eastern Meadowlark. OHBA is also supportive of the Bobolink / Eastern Meadowlark Round Table recommendation for a regulatory amendment to provide a 10-year exemption for agricultural operations with regard to Bobolink and Eastern Meadowlark, commencing on December 30, 2015 and expiring at the end of 2024.

OHBA appreciates the opportunity to provide comments to MNRF and to provide advice on the development of a GRS for Bobolink and Eastern Meadowlark as well as the opportunity to comment on the proposed 10-year exemption for agricultural operations. OHBA is also appreciative for the opportunity to participate as an active member of the MNRF Bobolink / Eastern Meadowlark Round Table for the last four years. OHBA strongly supports a balanced approach to the environmental, social and economic goals of the province to ensure a prosperous and high quality of life for Ontario citizens.

Sincerely



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Ontario Home Builders' Association