



HIGHWAY 413 PROJECT

Key Risks to Federal Terrestrial Species at Risk

Federal Provincial Working Group

June 18, 2024



Objective

- Brief on risks to federal terrestrial species at risk (SAR) under SARA as a result of the Highway 413 Project
- Provide details on federal SAR concerns that can be used as discussion points at future bilateral federal-provincial Working Group meetings

Key Authorities under SARA

Permitting (SARA s.73)

- SARA-listed migratory bird species individuals and their residences are protected under SARA everywhere in Canada (s.32-33)
- Minister may issue a permit for an activity affecting a SARA-listed species
- Pre-conditions must be met (s.73(3)):
 - All reasonable alternatives to the activity have been considered and the best solutions for the species have been adopted;
 - All feasible measures will be taken to minimize the impact of the activity on the species and their habitat; and
 - The activity will not jeopardize the survival and recovery of the species.

Emergency Orders (SARA s.80)

- The Minister must recommend to GIC to make an emergency order to provide for the protection of a species if he is of the opinion that the species faces imminent threats to its survival or recovery
- ECCC welcomes the opportunity to review and collaborate with Ontario on mitigation plans to reduce this risk.

Section 21.1

Risk Characterization Summary

Species Vulnerability

RAPIDS CLUBTAIL (END)

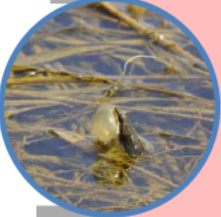
Section 21.1



Section 21.1

WESTERN CHORUS FROG (THR)

Section 21.1



RED-HEADED WOODPECKER (END)

Section 21.1



BANK SWALLOW (THR)

Section 21.1



Section 21.1

SARA Permitting - RHWO Residence

- Cavity trees used for nesting or roosting by the Red-headed Woodpecker (RHWO) are considered residence year-round because the species is likely to reuse them in consecutive years
- A residence for RHWO is protected until it is documented to not have been used for two consecutive years. Residence damage or destruction would contravene SARA, unless done under the authority of a SARA permit
- To determine whether a SARA permit is needed, the proponent should provide detailed occurrence data, mapped suitable habitat within the proposed Project footprint, and a description of the proposed activities in relation to the mapped suitable habitat

Preliminary Advice on Mitigation

- Currently, CWS is not aware of a plan to follow a mitigation hierarchy for terrestrial SAR that would ensure impacts are mitigated sufficiently and provide assurances that recovery objectives would not be jeopardized.
- For both WCF and especially for RACL avoidance of adverse effects will be key as CH may be very challenging or impossible to offset.
- **Section 21.1**

Policy and Legal Risks

- ENGO interest and increased media attention
 - The request to designate the Project was received from Ecojustice on behalf of Environmental Defence
 - Project is located within the Greenbelt
- **Section 21.1**
 - [Redacted]
 - [Redacted]
 - [Redacted]
- Mississaugas of the Credit First Nation and Six Nations of the Grand River raised concerns related to the cumulative effects on the exercise of section 35 rights of Indigenous Peoples in Canada
- Mississaugas of the Credit First Nation is of the view that as their traditional territory becomes more urbanized due to projects like the Highway 413, they continue to lose space where their community can perform ceremonies and exercise their harvesting rights



Annex

Risks to Other Federally-Listed SAR*

Species	SARA Status	Provincial ESA Status	Risk Level	Species	SARA Status	Provincial ESA Status	Risk Level							
Birds				Plants										
Section 21.1				Section 21.1										
								Acadian Flycatcher	Endangered	Endangered	American Chestnut	Endangered	Endangered	
								Barn Swallow	Threatened	Special Concern	American Columbo	Endangered	Endangered	
								Bobolink	Threatened	Threatened	Black Ash	Threatened (COSEWIC)	Endangered	
								Canada Warbler	Threatened	Special Concern	Butternut	Endangered	Endangered	
								Chimney Swift	Threatened	Threatened	Dense Blazingstar	Threatened	Threatened	
								Common Nighthawk	Special Concern	Special Concern	Eastern Flowering Dogwood	Endangered	Endangered	
								Eastern Meadowlark	Threatened	Threatened	Eastern Prairie Fringed-orchid	Endangered	Endangered	
								Eastern Whip-poor-will	Threatened	Threatened	Purple Twayblade	Threatened	Threatened	
								Eastern Wood-pewee	Special Concern	Special Concern	Red Mulberry	Endangered	Endangered	
								Golden-winged Warbler	Threatened	Special Concern	Reptiles/Amphibians			
								Grasshopper Sparrow	Special Concern	Special Concern	Blanding's Turtle	Endangered	Threatened	
								Henslow's Sparrow	Endangered	Endangered	Eastern Milksnake	Special Concern	Not at Risk	
								King Rail	Endangered	Endangered	Eastern Musk Turtle	Special Concern	Special Concern	
								Least Bittern	Threatened	Threatened	Jefferson Salamander	Endangered	Endangered	
								Loggerhead Shrike, Eastern subspecies	Endangered	Endangered	Midland Painted Turtle	Special Concern	Not at Risk	
								Louisiana Waterthrush	Threatened	Threatened	Snapping Turtle	Special Concern	Special Concern	
								Olive-sided Flycatcher	Special Concern	Special Concern	Spiny Softshell	Endangered	Endangered	
								Prothonotary Warbler	Endangered	Endangered	Unisexual Ambystoma (Jefferson Salamander dependant population)	Endangered	Endangered	
								Short-eared Owl	Special Concern	Threatened	Anthropods			
Wood Thrush	Threatened	Special Concern	American Bumblebee	Special Concern	Special Concern									
Yellow-breasted Chat	Endangered	Endangered	Monarch	Endangered	Special Concern									
Mammals				Rusty-patched Bumblebee										
Little Brown Myotis	Endangered	Endangered	*Please note that the risk levels determined for these species are not fully evaluated and were based on CWS-ON knowledge of the species, habitat preferences, and limited data provided by the Proponent											
Northern Myotis	Endangered	Endangered												
Tri-colored Bat	Endangered	Endangered												

Unaddressed Effects to SAR

Pathway of Effect	Avoidance Measures	Minimization Measures
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DIRECT

Habitat Removal • Road Construction	<ul style="list-style-type: none"> Avoid the destruction of habitat by rerouting the highway corridor to outside of these species' habitats Avoid establishing construction staging areas and materials stockpiles within areas containing critical habitat for SAR 	<ul style="list-style-type: none"> Partial rerouting of the highway corridor, specifically near the Humber River Keeping the footprint of the disturbed area as small as possible Create overpasses (such as viaducts) wide enough that bridge footings do not impact the hydrology of the Humber River and limit habitat destruction/disturbance Providing a buffer zone from known species' occurrences when conducting construction activities
Mortalities through Collisions	<ul style="list-style-type: none"> Avoid the destruction of habitat by rerouting the highway corridor to outside of these species' habitats Avoid major road construction activities during critical SAR lifecycle timing windows 	<ul style="list-style-type: none"> Partial rerouting of the highway corridor, specifically near the Humber River Create overpasses (such as viaducts) wide and tall enough to allow for potential movement of SAR on both sides of the highway corridor Maintain a buffer zone from known species' occurrences when conducting construction activities No median in the highway section that crosses the Humber River

INDIRECT

Sensory Disturbance • Noise • Vibration • Light • Dust	<ul style="list-style-type: none"> Avoid the destruction of habitat by rerouting the highway corridor to outside of these species' habitats Avoid major road construction activities during critical SAR lifecycle timing windows 	<ul style="list-style-type: none"> Minimize construction activities to a specific decibel threshold to reduce impacts to SAR during critical lifecycle timing windows Maintain a buffer zone from known species' occurrences when conducting construction activities, specifically during critical SAR life stages
Altered Groundwater/Surface Water Quantity and Quality		<ul style="list-style-type: none"> Minimize in-water structures or activities that would change flow regimes Create overpasses (such as viaducts) wide enough that bridge footings do not impact hydrology of Humber River Implement a stormwater management plan to maintain current hydrological cycles and avoid pollution from road runoff Creation of stormwater retention ponds for highway runoff (not recommended close to WCF)
Discharge of Pollutants		<ul style="list-style-type: none"> Implement a stormwater management plan to maintain current hydrological cycles and avoid pollution from road runoff Utilize environmentally friendly alternatives to road de-icing salt, including physical road solutions like heated pavement
Barriers and Habitat Fragmentation	Avoid the destruction of habitat by rerouting the highway corridor to outside of these species' habitats	<ul style="list-style-type: none"> Partial rerouting of the highway corridor, specifically near the Humber River Keeping the footprint of the disturbed area as small as possible Create overpasses (such as viaducts) wide and tall enough to allow for potential movement of SAR on both sides of the highway corridor