

December 14, 2020

**Re: Case 19117: Development Agreement for 525-unit Mobile Home Park on the Old Truro Road, Enfield**

Dear Mr. Vipond,

Species at Risk staff at the Wildlife Division, Nova Scotia Department of Lands and Forestry have reviewed the proposed development (Case 19117). Upon review, staff noted the following concerns with the proposed development:

- The site is within NS core habitat of the 'Threatened' Wood turtle (*Glyptemys insculpta*) as defined in the Nova Scotia Species at Risk Recovery Plan for Wood Turtle (Figure 1). Core habitat definition implies that Wood turtle observations, and over-wintering and reproductive activity have occurred within the footprint of the site over multiple years. It is significant habitually used habitat that supports the persistence and recovery of the species in NS.
- Additionally, in the centre of the defined core habitat within the footprint is a small triangular area approximately 536 m X 868 m that has supported Wood turtle observations in the past but is not currently defined as core habitat. Given that Wood turtles can travel 4-5 kilometers in pursuit of nesting, over-wintering, new streams and feeding areas, there is a very high probability that Wood turtles may be regularly encountered in this area (Figure 1).
- In the immediate area of the proposed development (3km or less of the project site), there were also records of the following:
  - Eastern Wood Pewee (*Contopus virens*) observations including a singing male and possible nesting habitat, indicating that the area is breeding habitat. Eastern wood pewee is listed as 'Vulnerable' under the NS Endangered Species Act (ESA) and Special Concern under the federal Species at Risk Act (SARA). As a migratory bird, the species is also protected by the NS Wildlife Act and the Migratory Birds Convention Act (MBCA).
  - Monarch (*Danaus plexippus*). This butterfly is 'Endangered' under the ESA and is currently listed as Special Concern under SARA. It is currently being considered for 'Endangered' designation under SARA.
  - 2 to 5 Bat species. The technology used to identified bats indicates 50% confidence of the presence of Little Brown Myotis (*Myotis lucifigus*). The Little Brown Myotis (bat) is 'Endangered' under both the ESA and SARA.
  - Habitat suitability models indicate that Boreal Felt Lichen (*Erioderma pedicellatum*) habitat may be present. The species is 'Endangered' under both the ESA and SARA.
  - Other observations of interest - Atlantic Salmon (proposed as threatened/endangered under SARA), American Eel (proposed as threatened under SARA)
  - Rare dragonflies: Rusty Snaketail, Skillet Clubtail

These observations indicate that no work should proceed without consideration of a NS Species at Risk permit. No permit is currently held, nor has a permit application been submitted with respect to this project. Under the NS ESA, the following prohibitions apply for 'threatened' or 'Endangered' species unless one is in possession of an ESA permit

13 (1) No person shall

- (a) kill, injure, possess, disturb, take or interfere with or attempt to kill, injure, possess, disturb, take or interfere with an endangered or threatened species or any part or product thereof;
- (b) possess for sale, offer for sale, sell, buy, trade or barter an endangered or threatened species or any part or product thereof;
- (c) destroy, disturb or interfere with or attempt to destroy, disturb or interfere with the specific dwelling place or area occupied or habitually occupied by one or more individuals or populations of an endangered or threatened species, including the nest, nest shelter, hibernaculum or den of an endangered or threatened species;
- (d) contravene any regulation made with respect to a core habitat; or
- (e) contravene an order made pursuant to Section 18.

ESA permits can only be issued for two reasons, neither of which appear to apply to this project as currently described.

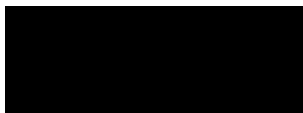
14 (1) The Minister may, upon application, issue a permit to a person authorizing the person to possess, disturb, take or interfere with an endangered or threatened species for

- (a) scientific purposes related to the conservation of the endangered or threatened species; or
- (b) the protection of human health or safety.

Therefore, upon review of the available information, it is my conclusion that the proposed development would not qualify for a NS ESA permit to disturb, interfere or cause accidental mortality of Wood turtles at this site within the red boundary (Figure 1). Further, if a permit were to be considered for the proposed development because the project was able to satisfy ESA section 14(1), the proponent would also have to demonstrate that other 'Threatened' and 'Endangered' species were not being impacted as per ESA section 13(1), including Monarch, three listed bat species and Boreal felt lichen. Extensive surveys for those species would have to be conducted during the appropriate times of year.

Please do not hesitate to contact me should you have any questions or require additional information.

Sincerely,



Dr. Donna D. Hurlburt  
Manager, Biodiversity and Species at Risk  
Wildlife Division  
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Reference Materials:

1. Nova Scotia Endangered Species Act (attached)
2. Categorized List of Species at Risk - <https://www.novascotia.ca/just/regulations/regs/eslist.htm>.
3. Wildlife Act This Act applies to all vertebrate species, specifically turtles and birds in section 51 <https://www.nslslegislature.ca/sites/default/files/legc/statutes/wildlife.pdf>

[www.novascotia.ca/natr/wildlife](http://www.novascotia.ca/natr/wildlife)

4. Endangered Species NS Recovery Plans

<https://novascotia.ca/natr/wildlife/biodiversity/pdf/recoveryplans/Recovery-plan-Wood-turtle.pdf>

[https://novascotia.ca/natr/wildlife/biodiversity/pdf/recoveryplans/RECOVERY\\_PLAN\\_Little\\_Brown\\_Myotis\\_27Sept20.pdf](https://novascotia.ca/natr/wildlife/biodiversity/pdf/recoveryplans/RECOVERY_PLAN_Little_Brown_Myotis_27Sept20.pdf)

[https://novascotia.ca/natr/wildlife/biodiversity/pdf/recoveryplans/RECOVERY\\_PLAN\\_ADOPTED\\_BorealFeltLichen\\_27September\\_2020.pdf](https://novascotia.ca/natr/wildlife/biodiversity/pdf/recoveryplans/RECOVERY_PLAN_ADOPTED_BorealFeltLichen_27September_2020.pdf)

5. The federal Species at Risk Act may need to be considered in areas of federal jurisdiction

6. The federal Migratory Birds Convention Act would also apply to all migratory birds in addition to the above.

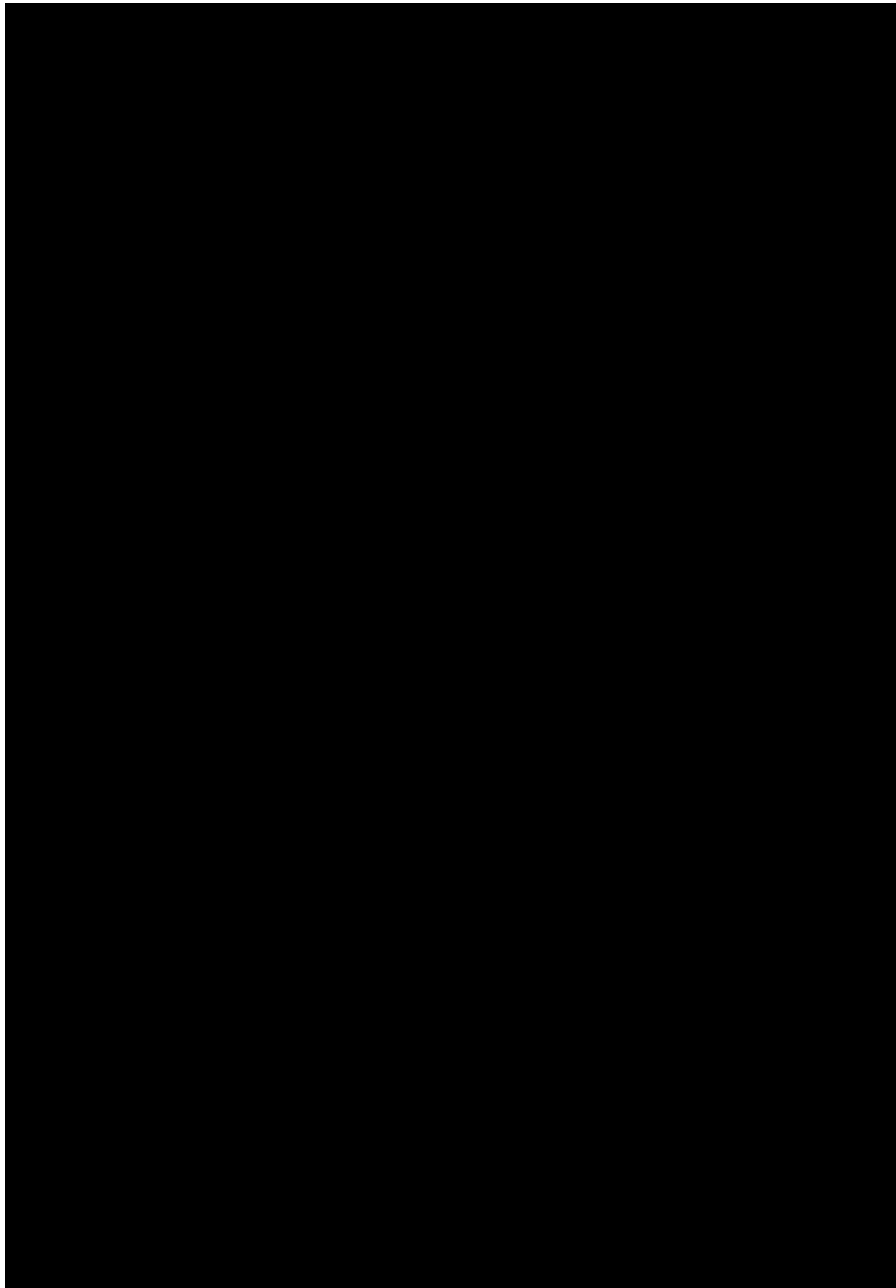


Figure 1: Wood turtle habitat on property of proposed development. Footprint of property is outlined in red. The green hatched area is defined core habitat and designated critical habitat for Wood turtle which is comprised on 200m buffers surrounding habitually used streams. The light gray area would have a high probability of supporting Wood turtle.