

Baldwin East Aerodrome Project – Designation Request – Agency Questions March 10, 2023

The Agency would like to meet with ECCC (including CWS) as soon as possible to discuss the species at risk indicated in the submission. Specifically, to discuss CWS input for the following:

1. *Any federal legislative mechanisms (e.g. SARA permit) that ECCC can implement if the presence of western chorus frog were to be confirmed in a future field study, as it is not listed under Ontario's Endangered Species Act; and*

For species listed in Schedule 1 of the *Species at Risk Act* (SARA) as Extirpated, Endangered or Threatened, a permit may be required from ECCC (section 73 of SARA) for activities that affect a listed terrestrial wildlife species, any part of its critical habitat, or the residences of its individuals, **where those prohibitions are in place.**

As a terrestrial species at risk, that is not a migratory bird, the SARA prohibitions for individuals and residences of Western Chorus Frog are in place on federal lands. An Order by Governor in Council would be required for these SARA prohibitions to be brought into force on non-federal lands. At this time, no such order has been made for Western Chorus Frog in Ontario. Similarly, if critical habitat were to be identified for Western Chorus Frog at this site in future, through an updated recovery strategy or action plan, an Order by Governor in Council would be required for SARA prohibitions protecting critical habitat to be brought into force.

Therefore, if the presence of Western Chorus Frog were to be confirmed at this site in a future field study, it would not trigger a SARA permitting requirement unless an Order by Governor in Council has been made to bring SARA prohibitions into effect.

Under SARA, the Minister of Environment and Climate Change Canada would be required to recommend to Governor in Council the making of an Order to bring SARA's prohibitions into force on non-federal lands under certain circumstances. These circumstances include if he is of the opinion that the species, its residences, or its critical habitat are not effectively protected, or if the species is facing an imminent threat to its survival or recovery.

2. *Effective mitigation measures that the Proponent could implement to address adverse effects to western chorus frog, if its presence was confirmed in a future field study.*

Despite limited surveying effort in this general area, there are records of Western Chorus Frog occurrences within a 10 km radius from the proposed Baldwin East Aerodrome Project. However, baseline surveys with an appropriate surveying protocol would need to be conducted within the proposed project site to determine whether the species is likely to be affected by this proposed project. If presence is confirmed or the biophysical attributes required for this species to carry out its life stages are present on site then further analysis would be required to understand the potential effects (including on individuals, residences, connectivity, metapopulation processes, etc).

Impacts to Western Chorus Frog are not easily mitigated or offset. Locating project activities to avoid or minimize effects on the species is the best option. Mitigation measures, such as construction timing windows, maintaining hydrological regimes, creating crossing structures, and installing exclusion fencing

could potentially be applied minimize effects to the species. Collecting baseline information will be important to provide project-specific advice to avoid, minimize, and possibly offset the potential effects.