



July 3, 2015

Mr. Glenn Desy
A/Coordinator Species at Risk Recovery
Species Conservation Policy Branch
Ministry of Natural Resources and Forestry
300 Water Street
Peterborough, Ontario K9J 8M5

(Sent via email to: glenn.desy@ontario.ca)

Dear Mr. Desy:

Re: Bank Swallow General Habitat Description

On behalf of the Ontario Stone, Sand & Gravel Association, I would like to thank you for meeting with us on June 18 and presenting the General Habitat Description (GHD) for Bank Swallows. Furthermore, we greatly appreciate your reaching out to our Species at Risk Taskforce last Fall to seek our input into the draft document, and incorporating many of our comments into the revised GHD.

Based on your presentation, we confirm the following:

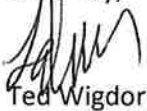
- A 50m boundary from the bank swallow colony bank face is to allow an open flyway for the birds. Temporary obstructions are permissible (permanent and semi-permanent obstructions within 50m of the colony bank face are not permitted);
- Haul roads in front of banks with intermittent traffic including trucks and loaders are considered normal use in a pit, and are acceptable;
- Typical aggregate operations provide suitable open spaces for Bank Swallows and should not conflict with Category 3 GHD;
- Open pit floor allows for birds to forage and should not conflict with foraging habitat;
- Provided there is no impact on slope stability of an active bank swallow colony during bird breeding season, there is no need to register; and
- If in the prior year there were no bank swallows nesting in the site, there is no need to provide habitat moving forward, nor to register the site for final rehabilitation.
- Per the Occupational Health and Safety Act, if the pit or quarry is intended to return to production, the area would be considered active and would not require sloping. Alternatively, the producer could cordon off the area to prevent access.

While we are quite pleased with, and supportive of, the revised GHD and the clarification you provided in your presentation, we do have a few outstanding questions for which we seek greater understanding:

1. We wish to ensure that the district offices within the ministry will interpret and apply the GHD consistently across the province in keeping with what you have presented to us. With this in mind, we encourage MNRF to add footnotes under the categories on page 1 of the GHD to link to the compatible activities on page 4.
2. We remain unclear on how to reconcile our responsibilities for rehabilitation under the Aggregate Resources Act (ARA), and provisions for bank swallow habitats under the Endangered Species Act. Along with the potential requirements to register the site, there appears to be a conflict between producers' requirements to rehabilitate the site (progressive and final), and to protect the habitat. Our understanding is that a producer must register the site and prepare a mitigation plan that shows that it is impracticable to maintain the habitat due to the rehabilitation requirements.
3. We wish to resolve potential conflicts where ARA site plans require progressive rehabilitation to return to forest, particularly in the Greenbelt as there often is a requirement to rehabilitate back to 35% forest cover. We infer from Category 3 that a producer is prevented from meeting those rehabilitation requirements within 500m of Bank Swallow colonies. In this situation, must a producer register the site, and is it acceptable in the mitigation plan that reforestation can occur within 500m of the colony, and that suitably habitat will be provided only where feasible? We require guidance on how to resolve such potential conflicts.

Once again, thank you for incorporating many of our comments into the GHD, and we look forward to receiving your comments at your earliest convenience on the above noted points where we require clarification. Our industry remains committed to the goal of protecting species at risk for Ontarians and welcomes the continued, constructive dialogue that has been the hallmark for the development of this GHD.

Sincerely,



Ted Wigdor
Chief Executive Officer

cc. Pauline Desroches, MNRF
Cynthia Robinson, OSSGA
John Buhlman, Chair, OSSGA Species at Risk Taskforce