

The Honourable Dominic LeBlanc  
Minister, Fisheries and Oceans Canada  
200 Kent Street  
Ottawa, ON

March 19<sup>th</sup>, 2018

Dear Minister LeBlanc,

We are writing to express concern regarding the long delay in attaining a decision by Cabinet on whether or not to add American Eel to Schedule 1 of the *Species at Risk Act* as a Threatened species as per the 2012 COSEWIC assessment. Our position is that American Eel should be listed. DFO's public comment period closed two years ago yesterday, yet no proposed listing decision has been published in Canada Gazette Part I. We understand that DFO is in the final stages of developing listing advice, but the timeline to a final listing decision remains unclear. This uncertainty continues to hinder the creation of meaningful partnerships to advance the recovery of American Eel.

Given continued declines in American Eel abundance in the Upper St. Lawrence and Ottawa rivers, we are concerned about the consequences of further delays in making a listing decision. For instance in the early 1980s, 1 million juvenile eels returned to Lake Ontario via the Saunders eel ladder. The number of returning eels has decreased by 8000 per year since the species was assessed as Threatened in 2012, with less than 7000 returning in 2017. Increased federal action to protect and recover the species is urgently needed. Fisheries and Oceans continues to allow existing hydroelectric facilities to kill American Eel and prevent their upstream passage without any timelines or requirements to compel hydro producers to reduce mortality and improve fish passage.

Interjurisdictional cooperation is critical. Though American Eel is listed as Endangered in Ontario, protecting the species there will be insufficient if barriers and fisheries downstream continue to kill American Eel and prevent upstream passage. The government of Quebec has not listed American Eel under the *Act Respecting Threatened or Vulnerable Species*, and has no provincial recovery strategy for American Eel. As a result, there is no protection in the Quebec portion of the shared waters of the Ottawa River, despite the species' Endangered status in Ontario. Despite extremely low numbers, eels out-migrating from Ontario continue to be commercially fished in Quebec in the lower St. Lawrence River. Federal leadership is required if we are to work together to advance American Eel recovery.

We are aware that the listing of American Eel poses potential negative social and economic impacts on commercial harvest. We believe means are available to exempt American Eel fisheries in the Maritimes. Specifically, DFO could provide exemptions under SARA section 83(4) for commercial harvest in specific areas by listing this as a permitted activity in a recovery strategy. This approach has been effectively applied to permit recreational catch-and-release and harvest of Westslope Cutthroat Trout (*Oncorhynchus clarkii lewisi*), Alberta populations. To allow for time to prepare a recovery strategy, the Governor in Council could exercise discretion

under section 76 to allow permitted or licenced activities to continue for up to one year. During this time, the recovery strategy could be formally approved with clearly defined exemptions for acceptable activities, such as harvest where fisheries remain sustainable. Appropriate regulations for the sale, purchase, and possession of the species could also be developed during this period.

The consequences of further delays are dire. Inland eel populations have continued to decline dramatically since COSEWIC's 2012 decision to downgrade the species' status. The Minister of Environment's 2013 response statement listed a number of conservation activities underway for this species at risk. Unfortunately, the majority of these measures are delayed or are no longer being implemented:

- The draft National Management Plan for the American Eel was never finalized, and does not appear to have been further considered since 2009.
- The Canadian Eel Science Working Group has not met since DFO ceased leading this initiative in 2011.
- Development of the eel barrier GIS tool by DFO was halted, and the tool has been taken offline.
- Considerable fisheries reductions have been implemented at great cost to the fishing industry, yet decreases in turbine mortality have been minimal or nonexistent.
- Ontario's government response statement is more than three years overdue, delaying implementation of the province's recovery strategy.
- Federal funding for recovery actions (e.g., Habitat Stewardship Program Species at Risk Stream) is not available for this species because it has not been listed. Prevention stream funding was not offered for this species under the rationale that a listing decision was imminent, and is no longer available for any species.

We appreciate that some interim actions are in place to reduce mortality of American Eel; however, DFO has further opportunities to act in the interim to reduce impacts to American Eel from hydropower activities, the primary threat to the species. DFO could begin applying ministerial discretion under the *Fisheries Act* to require hydropower facilities to provide upstream passage for American Eel, and to avoid, mitigate, and offset turbine mortalities.

To remove uncertainty around the future federal regulatory regime and ensure that recovery actions can be undertaken by willing industry and NGO organizations during the next migration season, we request that DFO resume a leadership role on American Eel recovery by taking the following actions by May 18<sup>th</sup>, 2018:

1. Commit to including American Eel in the next group of listing recommendations;
2. Resume leadership on the 2009 multi-jurisdictional management plan for American Eel;
3. Resume leadership of the Canadian Eel Science Working Group; and
4. Make the American Eel geospatial decision support tool publicly available online.

Sincerely,



Gary Bell, President  
Algonquin to Adirondacks Collaborative



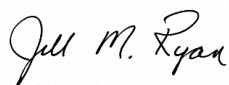
Nicholas Mandrak, President  
Canadian Aquatic Resources Section of the American Fisheries Society



David Browne, Director of Conservation  
Canadian Wildlife Federation



Jay Ritchlin, Director-General, Western Canada  
David Suzuki Foundation



Jill Ryan, Executive Director  
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Ludivine Quay  
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