

Environmental Impacts of the Proposed Kemptville Prison

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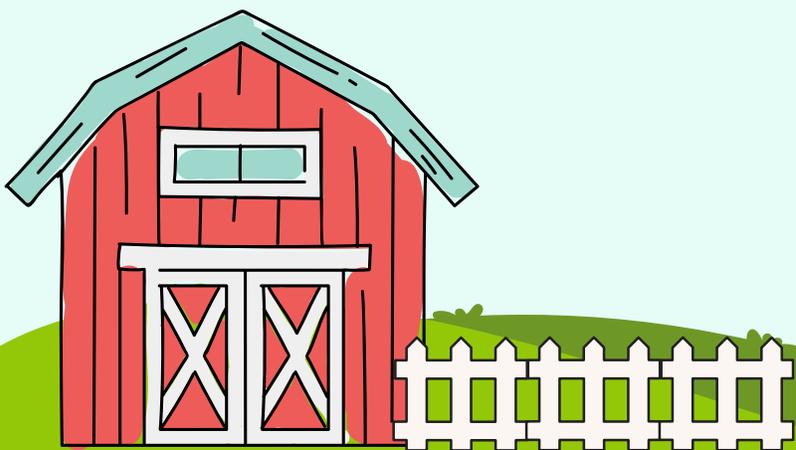


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EXECUTIVE SUMMARY

In January 2024, our team began an exploratory research project as part of the *CRM 6365: Socio-Politics of Incarceration* course taught by Dr. Justin Piché (Full Professor, Criminology, University of Ottawa) to investigate the impacts of the proposed construction of the Eastern Ontario Correctional Complex (EOCC) on the farmside lands of the former Kemptville Agricultural College. Over several months, our team examined government and court records, environmental assessments and reports, newspaper articles, public forum videos, relevant academic studies, and other sources. Through this research, we identified several negative environmental consequences associated with the construction of the EOCC should it proceed, including impacts on water, animals, plants, and prime agricultural land. In light of our findings, we conclude this infrastructure project announced by Ontario Premier Doug Ford, local MPP Steve Clark, and other officials in August 2020 should not proceed as planned.

Key Finding #1

As a result of the construction of the EOCC, Barnes Creek would experience multiple detrimental impacts such as negative effects on water quality, the creek's hydrological functions, and the disruption/destruction of habitats for over twenty species of fish.

Key Finding #2

At least 70 wildlife species will be negatively impacted by the construction of the EOCC, including several endangered species. Impacts on these species include disruptions to the species' overall living environment and reproduction, including the destruction of feeding and nesting sites.

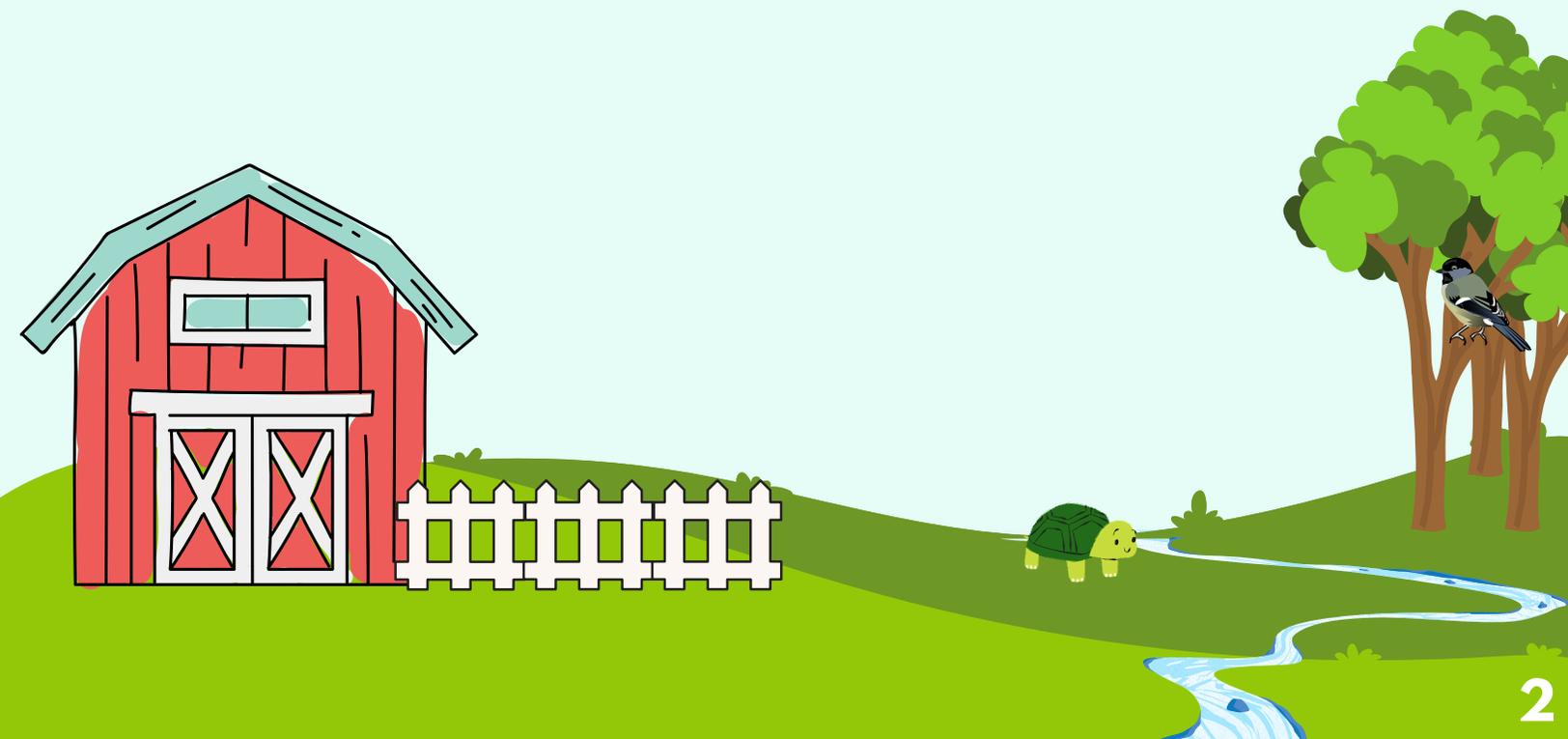
Key Finding #3

The construction of the EOCC will result in the loss of nearly 200 acres of class 2 prime agricultural farmland and existing farm buildings, while creating damage to the diverse landscapes found on the property. There will also be risks of potential ecological harm during construction, such as site grading and vegetation removal. There are also implications for land ownership and Indigenous rights, as the EOCC will be constructed on unceded and unsurrendered Algonquin Anishinaabe Territory.

INTRODUCTION

The Provincial Government's Kemptville Prison Plan

In August 2020, the Government of Ontario announced its plan to construct a new provincial prison, the Eastern Ontario Correctional Complex (EOCC), in Kemptville, Ontario (Thomson, 2021). According to Infrastructure Ontario (n.d.), the proposed EOCC would have 235 beds and serve as a multi-purpose correctional facility. The Ford government justified the construction of this prison, along with new infrastructure projects in Brockville and Napanee, by citing crowding in institutions in eastern Ontario like the Ottawa-Carleton Detention Centre as an issue requiring the expansion of the province's imprisonment capacity (Infrastructure Ontario, n.d.). In response, several Kemptville residents organizing under the Jail Opposition Group (JOG) and Coalition Against the Proposed Prison (CAPP) banners began a campaign to stop the prison on the basis that the province failed to consult the community prior to the announcement. They have also expressed their desire for the farm buildings and land where the prison is to be built to not be destroyed, and instead be preserved for future generations.



INTRODUCTION

Where Does the Ford Government Want to Build the Kemptville Prison?

The proposed prison is slated to be constructed on the grounds of the former Kemptville Agricultural College (Lachance, 2023). Through the examination of documents such as the Record of Proceeding (2023) stemming from the judicial review concerning planning matters associated with the proposed Kemptville prison, multiple significant natural features on the proposed EOCC site can be identified. Examples include prime farmland, forests, wetlands, and Barnes Creek. Several species have also formed part of their habitat on this land situated on unceded and unsurrendered Algonquin Anishinaabe Territory, including some that are considered to be of conservation concern or at risk of extinction.

Why We Should be Concerned?

Based on our research, it appears the construction of the proposed EOCC would cause significant and negative damage to local ecosystems comprised of water, land, plants, and animals. This report provides a detailed overview of the impacts of this infrastructure project on Barnes Creek, the local animals and plants, and the prime agricultural land itself should this infrastructure project proceed. It also reviews potential avenues to save farmland and stop the Kemptville prison on environmental grounds.



ENVIRONMENTAL IMPACT

ON BARNES CREEK

The current proposed plan for the EOCC involves **the diversion of Barnes Creek**. This diversion will affect the headwater drainage feature (HDF), which has a **multitude of ecological and hydrological functions essential to the health of the Rideau River Watershed and maintenance of the creek's diversity** (Record of Proceedings: Volume 1 of 2, 2023) [hereafter, ROP VI]. This diversion is planned despite the Municipality's Official Plan requirements that all developments are to be setback 30 metres from the creek and the Rideau Valley Conservation Authority (RVCA) expressing the importance of the maintenance and preservation of the HDF (ROP VI, 2023, p. 336). To understand the environmental impacts the diversion of Barnes Creek will have should the EOCC be built, this section will discuss:

- Barnes Creek's hydrological and ecological functions;
- Aquatic life and vegetation that will be affected by the diversion; and
- Other impacts and risks to the stream, surrounding land, and water bodies.



As seen in this photo from the ROP VI, current plans involve building the proposed prison where the creek currently runs.

The impacts of this diversion would not be limited to Barnes Creek and would **affect any bodies of water and ecosystems downstream** (RCVA, 2013; ROP VI, 2023). This includes Kemptville Creek, a sub-watershed, that leads to the Rideau River Watershed (RCVA, 2013). Barnes Creek provides flows, as well as nutrients essential to the aquatic life downstream (ROP VI, 2023). Any disruption of Barnes Creek, such as disturbed flows, contamination, excess sediment, and death of aquatic animals and vegetation, could be **detrimental to the water quality and organisms** in connected water bodies and ecosystems (EPA, 2024; RCVA, 2013; ROP VI, 2023).

ENVIRONMENTAL IMPACT ON BARNES CREEK

Water Infiltration

One of Barnes Creek's hydrological functions is water infiltration (ROP VI, 2023). Water infiltration is the entry of water into the soil (USDA, 2008). The rate of infiltration is crucial to this ecosystem. If the rate of water infiltration is too high or low for the soil's infiltration capacity, it can **negatively impact the area's plant life, as well as soil and water quality**. High infiltration rates can cause increased sediment in surrounding bodies of water, which **reduces their ability to store water and can lead to flooding** (USDA, 2008).

Stream Health

Prior to the proposed prison, the RVCA (2013) had concerns regarding the stream health of Barnes Creek due to poor water quality, nutrient and metal concentration levels, erosion, as well as a lack of diversity in organisms. The proposed prison and its construction would **exacerbate these issues through high levels of erosion, run off, and the potential toxic wastewater discharge** seen in other prisons (Bradshaw, 2018, p. 411; ROP VI, 2023).



ENVIRONMENTAL IMPACT

ON BARNES CREEK

Fish

Barnes Creek provides habitat to fish seasonally, as well as provides flow and essential nutrients to fish downstream (RCVA, 2013; ROP VI, 2023). Recorded sightings of fish through the ROP VI (2023) and RCVA (2013) show at least 22 different species of fish living within Barnes Creek and downstream. The planned alteration of this watercourse associated with the EOCC's construction would likely result in the **death of fish and the harmful disruption or destruction of their habitat** (ROP VI, 2023).



Species of Fish

- Creek Chub
- Brook Stickleback
- Central Mudminnow
- Common Shiner
- Emerald Shiner
- Etheostoma sp.
- Fallfish
- Golden Shiner
- Largemouth Bass
- Mottled Sculpin
- Northern Redbelly Dace
- Pumpkinseed
- Rock Bass
- Eastern White Sucker
- Blackchin Shiner
- Blue Gill
- Brassy Minnow
- Fathead Minnow
- Northern Pike
- Pearl Dace
- Slimy Sculpin
- Yellow Perch

ENVIRONMENTAL IMPACT

ON BARNES CREEK

Plants and Vegetation

Plant life and vegetation have a variety of roles in the Barnes Creek ecosystem. Plants can provide shade, which help regulate the creek's temperature and prevents excess algae growth (RCVA, 2013). Excess algae growth can destroy instream vegetation, leading to a lack of oxygen supply that leaves the creek inhabitable (EPA, 2013). Instream vegetation is also important for providing nutrients, habitat, and protection from predators (RCVA, 2013). Plants along the shoreline play a role in preventing erosion, which can negatively impact instream vegetation, fish and water quality due to increased sediment carried in the water (RCVA, 2013).



Summary

The diversion of Barnes Creek will have negative impacts on the creek, surrounding land, and connected water bodies, including watersheds. Despite municipal bylaws and conservation protections meant to protect this area due to the essential ecological and hydrological function of this creek, the provincial government has chosen to proceed with the construction of the EOCC and diverting Barnes Creek.

Some of the likely impacts include:

- The death and/or harm of wildlife and aquatic life, including fish and plants; and
- Negative impacts on water and soil quality.

Other potential risks include:

- Increased risk of flooding; and
- Reduced water storage in connected water bodies.

These impacts and risks to water, land and wildlife could also have devastating long-term effects for the residents and communities in surrounding areas.

ENVIRONMENTAL IMPACT

ON ANIMALS AND PLANTS

According to the National Heritage Assessment report included in the Record of Proceedings: Volume 1 of 2 (2023) [hereafter, ROP VI], there are approximately 70 species of animals and plants located or potentially located at the site of the proposed Kemptville prison, several of which are endangered, threatened, or of conservation concern. This section will explore these animals, their presence at the site, and their status according to the *Species at Risk Act* (SARA) (2002), *Endangered Species Act* (ESA) (2007), and the *Fish and Wildlife Conservation Act* (FWCA) (1997). Relevant statuses, as defined in the SARA (2002), include:

- *species of special concern*: a wildlife species that may become a threatened or an endangered species because of a combination of biological characteristics and identified threats (p. 5);
- *threatened species*: a wildlife species that is likely to become an endangered species if nothing is done to reverse the factors leading to its extirpation or extinction (p. 6); and
- *endangered species*: a wildlife species that is facing imminent extirpation or extinction (p. 4).

Species of Bats

The site of the proposed EOCC could serve as a habitat for at least four species of bats, all of which are considered to be at risk (ROP VI, 2023). These bats include the eastern small-footed myotis, little brown myotis, northern myotis, and tri-colored bat.

Occurrence: potential

Status:

SARA: N/A

ESA: Endangered

FWCA: Specially protected
mammal



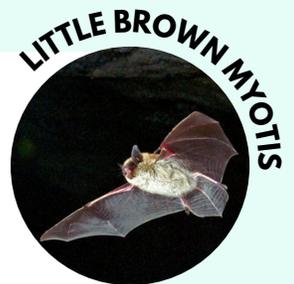
Occurrence: potential

Status:

SARA: Endangered

ESA: Endangered

FWCA: Specially protected
mammal



Occurrence: potential

Status:

SARA: Endangered

ESA: Endangered

FWCA: Specially protected
mammal



Occurrence: potential

Status:

SARA: Endangered

ESA: Endangered

FWCA: Specially protected
mammal

ENVIRONMENTAL IMPACT

ON ANIMALS AND PLANTS

The ROP VI (2023) also highlights forests and agricultural buildings found at the Kemptville Agricultural College farm sidelands as suitable maternity roosts for these bats:

“Potentially suitable maternity roost habitats for SAR bats were identified as occurring in the forested deciduous vegetation communities and the agricultural buildings within the study area. Although no SAR bats were observed during Stantec’s 2021 field program, the mature vegetation community is considered to provide an abundance of suitable maternity roost features and therefore SAR bats are anticipated to be present within this feature” (p. 175).

Thus, the ROP VI (2023) concludes that there is “potential for SAR bats to occur in the forested, deciduous vegetation communities [...] and the agricultural buildings [...] within the Study Area and therefore there is the potential for both direct and indirect impacts as a result of the Project” (p. 383).

Species of Birds

The site of the proposed Kemptville prison also serves as a habitat or potential habitat for at least 36 birds (ROP VI, 2023). Seven of these birds are considered to be either at risk or of conservation concern, including the barn swallow, bobolink, eastern meadowlark, eastern whip-poor-will, eastern wood-pewee, grasshopper sparrow, and wood thrush.

The grasslands, forests, and farm buildings located at the site are suitable nesting and foraging habitats for these birds. According to the report included in the ROP VI (2023), “suitable nesting and foraging habitat [...] was observed to support SAR birds (eastern meadowlark, bobolink, barn swallow) and potentially suitable nesting habitat was observed

Occurrence: present
Status:
SARA: Threatened
ESA: Special concern
FWCA: N/A



Occurrence: present
Status:
SARA: Threatened
ESA: Threatened
FWCA: N/A



ENVIRONMENTAL IMPACT

ON ANIMALS AND PLANTS



Occurrence: present
Status:
SARA: Threatened
ESA: Threatened
FWCA: N/A



Occurrence: potential
Status:
SARA: Threatened
ESA: Threatened
FWCA: N/A

Occurrence: present
Status:
SARA: Special concern
ESA: Special concern
FWCA: N/A



Occurrence: present
Status:
SARA: Special concern
ESA: Special concern
FWCA: N/A



Occurrence: potential
Status:
SARA: Threatened
ESA: Special concern
FWCA: N/A

for wood thrush” (p. 383). The construction of the EOCC may impact this habitat as, for example, “building removal/decommissioning may result in the removal of nesting habitat for the provincially threatened barn swallow, if present” (ROP VI, 2023, p. 388).

Additionally, the report notes that “eastern meadowlark and bobolink were observed nesting within both the [...] vegetation communities within the Study Area” (ROP VI, 2023, p. 386), and thus, “vegetation removal within the [...] vegetation communities will result in the removal of habitat for the provincially threatened eastern meadowlark and bobolink” (ROP VI, 2023, p. 388).

Species of Turtles

The site of the EOCC could also potentially provide a habitat for at least four turtles, which are considered to be either at risk or of conservation concern (ROP VI, 2023). These include Blanding’s turtle, the eastern musk, northern map, and snapping turtles.

ENVIRONMENTAL IMPACT

ON ANIMALS AND PLANTS

Occurrence: potential

Status:

SARA: Endangered*

ESA: Threatened

FWCA: Specially protected
reptile



Occurrence: potential

Status:

SARA: Special concern

ESA: Special concern

FWCA: Specially protected
reptile



** Great Lakes/St. Lawrence population*



Occurrence: potential

Status:

SARA: Special concern

ESA: Special concern

FWCA: Specially protected
reptile



Occurrence: potential

Status:

SARA: Special concern

ESA: Special concern

FWCA: game

According to the ROP VI (2023):

“...there is potential for SAR turtles (i.e., Blanding’s Turtle) to be encountered within the Study Area during the Project’s construction activities. Barnes Creek should be considered a potential migration corridor and there is a potential for SAR turtles to be encountered moving between habitats upstream and downstream of the Study Area” (p. 384).

Additionally, road mortality due to vehicular collisions presents a threat to turtles, particularly the Blanding’s, eastern musk, and snapping turtles (Government of Ontario, 2018). These accidents occur when turtles attempt to cross or build a nest beside a road. Thus, increased traffic associated with the EOCC, should it be built, could potentially result in turtle road mortality.

Species of Plants

Finally, there are two species of plants located or potentially located at the site of the proposed Kemptville prison, both of which are of conservation concern or at risk (ROP VI, 2023). These include the butternut tree and flooded jellyskin.

ENVIRONMENTAL IMPACT

ON ANIMALS AND PLANTS

BUTTERNUT TREE



Occurrence: present
Status:
SARA: Endangered
ESA: Endangered

FLOODED JELLYSKIN



Occurrence: potential
Status:
SARA: Special concern
ESA: N/A

According to the ROP VI (2023), “a total of eighteen butternut trees were observed within the Site and several are anticipated to be within 50 m of the Project’s concept” (p. 386). However, the ROP VI (2023) notes that “site grading and vegetation removal activities may result in the kill[ing], harm, [or] harassment of the provincially endangered butternut tree and/or their habitat” (p. 388).

Summary

Many species of animals and plants would be impacted or potentially impacted by the building of the EOCC, including several which are endangered, threatened, or of special concern. The prison and its surrounding infrastructure could potentially threaten bats by destroying potential maternity roosts, birds by disrupting their nesting habitats, turtles by interrupting migration corridors and increasing their risk of road mortality, and plants by infringing on their habitats during construction.

ENVIRONMENTAL IMPACT

ON LAND



Ontario is experiencing alarming farmland loss, with 319 acres of farmland loss daily (OFA, 2022). This is equivalent to 9 family farms. Despite growing concerns about food scarcity and insecurity, the proposed Kemptville prison is set to result in the destruction of several farm buildings and will occupy the most fertile portion of 178 acres of nutrient-rich, Class 2 farmland. This high-quality land, ideal for farming, is considered so valuable that it would be deemed too good for a solar farm (Wilson, 2022). The agricultural sector, already facing challenges with an aging workforce, is further threatened by the loss of this land, which once supported young farmers through the Kemptville Agricultural College (OFA, 2023).

The proposed prison site also features rich biodiversity, including woodlands, croplands and wetlands, raising significant conservation concerns.

Construction activities, such as site grading and vegetation removal, risk damaging this ecosystem (ROP VI, 2023). Recommendations have been made to proceed in phases with the most disturbed part of the site being cleared first and the least disturbed last (ROP VI, 2023). However, **the most effective way to prevent ecological harm is to halt the construction of the EOCC altogether.** Any disruption poses a serious threat to the balance of the delicate ecosystem thriving on this land.

INDIGENOUS LAND

When analyzing discourses of land availability and the institution of land ownership, it is important to link **racial capitalism and settler colonialism**, which prevent Indigenous peoples from having equal claims to any lands and resources that might compete with the government's interest to expand, extract, and profit (Koshy et al., 2022, p. 12). In the case of the Eastern Ontario Correctional Complex, the government has decided to construct this facility on the **unceded and unsurrendered Territory of the Anishinaabe Algonquin Nation** whose presence reaches back to time immemorial.

“Indigenous people are the original stewards of this country and continue to hold title to much of its lands and waters. They feel a spiritual connection to it and a moral obligation to defend it. What is more, they have a right to do so, enshrined in Canada’s international commitments” (The Congress of Aboriginal Peoples, 2020, p.4).

As indicated in the quote above, Indigenous peoples have a special relationship with the land, which is based on a spiritual connection and inherent responsibility to Mother Earth (Assembly of First Nations, n.d.). Indigenous peoples are often the most vulnerable group to be affected by the climate crisis (CAP, 2020, p. 3). Research demonstrates that **centering Indigenous peoples in conversations of biodiversity conservation** is proving remarkably effective. It not only allows Canada's original stewards to reconnect with their land and culture, but because of their relationship with the environment based on respect and reciprocity, they can offer often undervalued contributions (Walker, 2023).

INDIGENOUS LAND

In examining the implications of the proposed Kemptville prison, an environmental justice lens that entails cumulative analysis is necessary. This approach requires that the mitigation suggested by the developer of any proposed project must not only mitigate the environmental impact on a single subject area (e.g. the loss of habitat), but also must take into account and mitigate foreseeable environmental impacts associated with their proposal. Environmental activists remind us that no development occurs in a vacuum. The impact of such decisions has to be assessed within the context of all the other current and projected future environmental impacts. Meaningful consultation with Indigenous peoples on issues of land conservation and impacts of infrastructure projects like the EOCC is crucial in supporting both environmental justice, as well as broader social justice goals like halting addressing systemic racism, including the mass incarceration of Indigenous peoples.

Summary

The proposed prison project represents a threat to both Ontario's agricultural future and its environmental integrity. The environmental impact on the diverse ecosystems present in the area, alongside the dismissal of Indigenous land rights and stewardship, highlights deeper systemic issues at play. By prioritizing development over conservation and meaningful consultation with Indigenous peoples, the project risks long-term damage to both the land and the communities it should be protecting.



SAVE FARMLAND

AVENUES OF CONTESTATION

Raising Awareness About the Ford Government's Environmental Record:

The Ford government has continuously made policies and decisions that endanger lands and nature within Ontario, such as reducing the power of conservation authorities to stop developments that will create considerable damage to the environment, the Greenbelt scandal, the decision to build Highway 413, and more. The proposed Kemptville prison is another example of this, as the provincial government plans to build on a site designated as agricultural land under the municipality's official plan without obtaining permission from conservation authorities. Overall, the plan to pave over the Kemptville Agricultural College farmland to erect a prison will be detrimental to the environment and should be stopped.

Alternative Uses for the Land:

This heritage farmland site in Kemptville should be saved from ecological damage and instead used to enhance the community. Some examples include: the croplands used to cultivate food; the green spaces used to build greenhouses, agricultural education buildings, community centres, and Indigenous land-based education centres; and the woodlands being maintained as public walking trails. Funds currently earmarked for the proposed prison could instead be used towards revitalizing the Kemptville Agricultural College farm.

Taking Legal Action:

At a time of food insecurity and climate catastrophe, we should not be building a prison on prime agricultural land with a Rideau River watershed creek and floodplain. As this report has highlighted, the environmental impacts of the proposed prison are numerous. Further, prisoners tend to come from disadvantaged communities – the same communities bearing the biggest burdens of environmental injustice. Community groups and concerned citizens should come together to hold the government accountable for its plans to destroy the environment, entire communities, and individual lives.

Pursuing action under federal and provincial Acts:

Species at Risk Act (2002). There are four species present on the land (the barn swallow, bobolink, eastern meadowlark, and butternut tree) which are listed as either Threatened or Endangered under the SARA. According to the SARA (2002):

- **32(1)** No person shall kill, harm, harass, capture or take an individual of a wildlife species that is listed as an extirpated species, an endangered species or a threatened species.
- **33** No person shall damage or destroy the residence of one or more individuals of a wildlife species that is listed as an endangered species or a threatened species, or that is listed as an extirpated species if a recovery strategy has recommended the reintroduction of the species into the wild in Canada.
- **36(1)** If a wildlife species that is not listed has been classified as an endangered species or a threatened species by a provincial or territorial minister, no person shall
 - (a) kill, harm, harass, capture or take an individual of that species that is on federal lands in the province or territory;
 - (c) damage or destroy the residence of one or more individuals of that species that is on federal lands in the province or territory.
- **58(1)** Subject to this section, no person shall destroy any part of the critical habitat of any listed endangered species or of any listed threatened species [...] if
 - (a) the critical habitat is on federal land, in the exclusive economic zone of Canada or on the continental shelf of Canada;
 - (c) the listed species is a species of migratory birds protected by the *Migratory Birds Convention Act, 1994**.

* The barn swallow, bobolink, and eastern meadowlark are all protected under this Act.

Endangered Species Act (2007). There are three species present on the land (the bobolink, eastern meadowlark, and butternut tree) which are listed as either Threatened or Endangered under the ESA. According to the ESA (2007):

- **9(1)** No person shall,
 - (a) kill, harm, harass, capture or take a living member of a species that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species.
- **10(1)** No person shall damage or destroy the habitat of,
 - (a) a species that is listed on the Species at Risk in Ontario List as an endangered or threatened species.

Section 35 of Fisheries Act. The diversion of Barnes Creek would likely be considered a **harmful alteration, disruption, and destruction of fish habitat (HADD)** under section 35 of the *Fisheries Act*. Therefore, this diversion will likely require permission from Fisheries and Oceans Canada (ROP VI, 2023).

Areas for Further Research

While this report provides an overview of the environmental impact of the EOCC should it be built, additional research on the following related areas of concern highlighted in this report include:

- **Impacts on human health** such as the effects of poor water quality and loss of farmland on area residents; and
- **Economic costs** associated with the diversion of Barnes Creek such as the increased risk of flooding and reduced water storage borne by the residents of Kemptville and surrounding areas.

**“If prisons benefit almost no one, then almost anyone is a potential ally in the fight against more prisons [...] The wide range of negative effects of prisons, easily documented due to the prison-building boom of the past two decades, provide multiple points of entry for allies”
(Braz and Gilmore, 2006).**



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