

MNRF File #: GU-L-004a-18

**Ministry of Natural
Resources and Forestry**
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4890 Victoria Ave North
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January 16, 2017

Jessica Linton
Natural Resource Solutions Inc.
1-225 Labrador Drive
Waterloo, ON N2K 4M8
Jlinton@nrsl.on.ca

**Re: MNRF Letter of Advice GU-L-004a-18
Binbrook Conservation Area - Proposed Treetop Trekking Adventure Park
City of Hamilton, Ontario**

Dear Ms. Linton,

The Ministry of Natural Resources and Forestry (MNRF), Guelph District Office, has reviewed the information provided in the Information Gathering Form on November 27, 2017 in support of the above noted project to assess the potential impacts of the proposal on Little Brown Myotis (*Myotis lucifugus*), and Eastern Small-footed Myotis (*Myotis leibii*), both Endangered species protected under the *Endangered Species Act, 2007 (ESA 2007)*. Based on the information provided, MNRF understands that the proposed project falls within the following parameters:

- The proposed works entail constructing a treetop adventure park in the Binbrook Conservation Area, including:
 - A 2,000 m² six course aerial Adventure Park in the forest canopy in the area identified as Area 2 in the map provided titled, "Binbrook Conservation Area Proposed Treetop Trekking Attraction"
 - a tower to tower zipline in Area 2
 - an approximately 3,500 m² Treewalk Village with tree houses, net bridges, slides, mini-ziplines and tunnels in Area 2
 - a small (300m²) office building in Area 1
 - trail construction and maintenance
- Site preparation will involve removal of hazard trees within the development area
- No suitable maternity roost trees will be removed as part of the tree removal noted above
- Works do not involve the removal of any buildings, walls or other anthropogenic structures
- The park will operate seasonally during daylight hours from April 1 to October 31
- Installation of structures to the trees will be done in a manner which will not damage the tree, and will allow the tree to continue to grow as it normally would.
- The park will not require lighting during dusk or dark

Based on a review of the information provided, MNRF staff have determined that the proposed project **will not adversely affect** Little Brown Myotis or Eastern Small-footed Myotis **provided the following conditions are implemented:**

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1. Removal of trees and tree limbs during site preparation will occur outside of the summer bat active period of April 30th to September 30th;
2. Construction activities during the active season should be restricted to daylight hours only and the use of artificial lighting should be avoided;
3. The limit of all construction activities should be clearly delineated to avoid unnecessary encroachment into natural features;
4. Suitable maternity roost trees and clusters of trees identified as suitable bat maternity roost trees should be excluded from the development area and left intact;
5. Platforms for the Treewalk Village and Adventure Park will be installed by hand without using large construction equipment such as elevating work platforms;
6. Construction of the Treewalk Village and Adventure Park will be conducted outside the period from May 1st to August 1st to avoid the peak of the active season for bats;
7. Educational materials, such as signage or informational pamphlets, will be developed to inform visitors about bat species at risk;
8. In the maintenance phase any newly identified hazard trees or tree limbs that have cavities suitable for use by bats should be removed outside of the summer bat active period of April 30th to September 30th. If the active season cannot be avoided for safety reasons, then exit surveys for bats will be conducted within 24 hours of removal of trees or tree limbs to confirm SAR bats are not using them (if bats are using the cavity trees contact MNRF for further advice);
9. If any Species at Risk are observed within the construction area at any time, construction will halt and MNRF will be contacted immediately.

Please be advised that it is your responsibility to comply with all other relevant provincial or federal legislation, municipal by-laws or other required approvals.

Should any of the project parameters change, please notify the MNRF Guelph District Office immediately to obtain advice on whether the changes may require authorization under the *ESA 2007*. Failure to carry out these projects as described above could result in contravention of the *ESA 2007*.

If you have any questions, please contact me at 905-562-0041 or at Elizabeth.reimer@ontario.ca.

Sincerely,

A handwritten signature in black ink that reads "E. Reimer".

Elizabeth Reimer
A/ Management Biologist

cc. Gregg Furtney (Niagara Peninsula Conservation Authority)

Subject: RE: Binbrook Conservation Area - Treetop Trekking Adventure Park - ESAIG Comments
From: "Reimer, Elizabeth (MNRF)" <Elizabeth.Reimer@ontario.ca>
Date: 4/4/2018 4:44 PM
To: Jennifer McCarter <jmccarter@nrsi.on.ca>

Hello Jen,

Thank you for your phone call last week to discuss MNRF's response to the proposed Treetop Trekking Adventure Park at the Binbrook Conservation Area. The MNRF provided a letter on January 16, 2018 (GU-L-004a-18). In that letter we indicated that we are of the opinion that the project as proposed will not contravene the *Endangered Species Act, 2007* (ESA 2007) provided certain measures were taken, e.g. disturbance to potential roost trees be avoided, timing of works avoid the active season of bats, etc. No information has been provided that would alter that opinion at this time.

With respect to Jefferson Salamander, the MNRF reviewed the proposed application and we are of the opinion that the proposed development is not likely to have adverse effects on the species because the area proposed for constructing the treetop trekking course is outside of the feature. Mapping provided in the Information Gathering Form dated November 27, 2017, indicates that the work is proposed in the FOD2 community, and will avoid the Mineral Marsh ecosite where potential habitat occurs. As such, no further measures were recommended to avoid impacts to Jefferson Salamander.

With respect to at-risk bat species, Little Brown Myotis (*Myotis lucifugus*) were detected on acoustic monitors and are believed to use the habitat within the FOD2 area. The MNRF is of the opinion that, if the avoidance measures identified in the letter referenced above are adhered to, we do not anticipate that the activity will contravene the ESA 2007. The comments provided by the ESAIEG indicate a concern that the bats are sensitive to the noise and activity relating to the operation of the treetop trekking course. The MNRF notes that, according to the data we have available, in the area where development is currently proposed the Little Brown Myotis calls were recorded; however, other species at risk were not detected. Little Brown Myotis frequently use anthropogenic features for roosting, such as attics, barns, and buildings. For that reason, Little Brown Myotis are believed to be relatively tolerant of human activity during the summer active season and are expected to continue using roosts in the Binbrook Conservation area. The MNRF recommended that educational pamphlets or signs be installed to advise visitors of the presence of bats, and identify ways that recreational visitors can avoid disturbing bats.

The bat surveys that the ESAIEG recommended are not likely to provide the necessary information to determine whether the proposed development would negatively affect bats. The primary threat to Little Brown Myotis is White-Nose Syndrome. Results of acoustic monitoring would not be able to differentiate between declines related to WNS, versus declines related to development.

I trust the above is useful to you in providing clarification on MNRF's position regarding the potential impacts to species at risk related to the treetop trekking proposal.

If you need anything further, do not hesitate to phone or email at any time.

Regards,

Elizabeth