

Proposed Highway 413: Federal Responsibilities and the Case for Escalation January 12, 2026

The **proposed Highway 413** is more than a provincial transportation project. Evidence demonstrates that its design, location, and anticipated impacts:

- threaten federally protected species and their critical habitat,
- degrade watersheds essential for clean water and flood management,
- increase greenhouse gas emissions in a manner inconsistent with national climate targets, and
- represent a multi-billion-dollar investment with comparatively poor long-term public value.

Recent weakening of provincial environmental and species-at-risk protections has shifted primary responsibility to the federal government, particularly under the Species at Risk Act (SARA) and federal water and climate statutes. While highway construction is generally considered provincial jurisdiction, the exclusion of the proposed Highway 413 from the Major Projects List effectively signals that its environmental, climate, and fiscal feasibility are clearly being scrutinized at the federal level.

This document presents evidence demonstrating that federal escalation is legally justified and practically necessary. It synthesizes ecological, climate, and fiscal impacts of the proposed Highway 413 and its proposed extensions, and highlights alternative strategies worthy of the Major Projects List that better align with federal climate commitments, biodiversity protection, and responsible investment, even in areas not formally under federal project authority.

Species at Risk and Clean Water: Persistent and Heightened Legal Risk

The proposed Highway 413 corridor intersects:

- wetlands and headwater systems,
- habitat for multiple federally listed species at risk,
- watersheds critical for downstream water quality, flood mitigation, and ecosystem resilience.

Independent analyses identify impacts to at least 29 federally listed species at risk, including fish, birds, amphibians, reptiles, insects, and plants. The project would cross or destroy dozens of wetlands, including many that are provincially significant, and intersect more than 85–100 watercourses, including fish-bearing streams. Habitat fragmentation, hydrological alteration, and loss of ecological connectivity would be permanent and cumulative, as the Draft EIAR demonstrates.

Redside Dace: Heightened Federal Responsibility

The Redside Dace (*Clinostomus elongatus*) is listed as *endangered* under the federal Species at Risk Act (SARA) and occurs almost entirely in southern Ontario, primarily in tributaries flowing into western Lake Ontario. More than *80 percent of its remaining Canadian distribution* is concentrated in the Greater Golden Horseshoe, including watersheds intersected by the proposed Highway 413 corridor. Many historical populations have already been lost due to urbanization, infrastructure development, and degradation of cold, clean headwater streams.

Recent changes to Ontario's provincial species-at-risk framework have *removed Redside Dace from provincial protection*, eliminating key habitat safeguards that previously operated alongside federal law. As a result, ***the primary legal responsibility for protecting the species and its critical habitat now rests with the federal government***, particularly in what constitutes the largest remaining stronghold for the species in Canada.

Erosion of Provincial Environmental and Species Protections

Beyond Redside Dace, recent provincial legislative changes have significantly weakened environmental assessment, wetland protections, and provincial species-at-risk safeguards. Numerous species that formerly benefited from layered provincial and federal protection now face diminished or uncertain habitat security.

Species such as the Western Chorus Frog, already highly sensitive to habitat fragmentation and hydrological change, are now at even greater jeopardy in rapidly developing landscapes. With provincial mechanisms reduced or removed, federal law increasingly represents the sole meaningful line of defence for many species affected by large-scale infrastructure projects such as the proposed Highway 413.

Legal Implications under Federal Law

Under SARA:

- harm to listed species, destruction of residences, or destruction or degradation of critical habitat is prohibited unless strict federal permit tests are met,
- cumulative and regional effects are legally relevant,
- the erosion of provincial protections heightens the importance of federal enforcement.

The construction of the proposed Highway 413 and the growth it enables create long-term pressures on habitat connectivity, hydrology, water temperature, and species recovery. These impacts substantially increase the likelihood that:

- SARA permit tests cannot be met, or
- federal safety-net or emergency provisions are triggered where provincial measures are insufficient.

Clean water impacts, including altered runoff patterns, increased contaminant and road-salt loading, stream channel modification, and watershed-scale degradation, further engage federal responsibilities under the **Fisheries Act** and related water protection statutes.

Federal Legal Escalation under SARA

Sections 73–79 of the Species at Risk Act (SARA) establish clear federal obligations where a project may affect a listed species or its critical habitat:

- **Section 73:** Any permit authorizing harm must meet strict preconditions, including:
 - Consideration of reasonable alternatives
 - Assurance that the activity will not jeopardize survival or recovery of the species
- **Sections 79(1)–(3):** Federal authorities must:
 - Identify adverse effects of the project
 - Ensure measures are taken to avoid or lessen those effects
 - Monitor outcomes, even when projects are primarily provincially regulated
- **Sections 34, 58, and 61:** Provide safety-net and emergency authorities, allowing federal intervention where provincial laws or measures are inadequate. This includes emergency orders to halt or restrict activities, protect critical habitat, or impose immediate mitigation measures.

Given the documented impacts of the proposed Highway 413 on federally listed species, most notably Redside Dace, and the weakening or removal of provincial protections, the conditions that would justify federal reliance on provincial processes are no longer assured. *In this context, federal escalation, including emergency intervention, is legally triggered and required, not discretionary.*

Implication: Environmental risk associated with the proposed Highway 413 is structural, cumulative, and legally consequential, with heightened federal responsibility arising directly from weakened provincial protections. Emergency measures could include restricting or halting construction, imposing strict mitigation conditions, or directly protecting critical habitat, ensuring irreversible harm is prevented while long-term recovery and compliance plans are established.

Climate Implications

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Transportation is **Canada's largest source of greenhouse gas emissions**, and the **proposed Highway 413** will contribute to this:

- **Highway expansion induces additional driving:** New highway capacity encourages car-dependent land use and sprawl, increasing long-term emissions despite short-term congestion relief.
- **Cumulative emissions:** Over its lifetime, the proposed Highway 413 and extensions are expected to increase regional emissions, potentially conflicting with Canada's legislated emissions-reduction pathways.
- **Limited mitigation potential:** Reliance on future electrification or offsets cannot fully counteract induced demand or land-use lock-in.
- **Ontario emissions context:**
 - Recent data show **total GTHA emissions increased in 2024**, with electricity emissions rising due to greater reliance on natural gas.
 - The **Office of the Auditor General of Ontario (2025)** confirms that provincial emissions are rising and the province is **not on track to meet its 2030 target**, heightening the need for federal oversight.

Implication: The project's design works against Canada's climate objectives. Combined with rising provincial emissions and weakened provincial accountability, the federal government has an **elevated responsibility to intervene** to ensure the proposed Highway 413 does not undermine national climate targets.

Financial Prudence and More Effective Alternatives

The proposed Highway 413 represents a **multi-billion-dollar public investment**, including:

- Construction and land acquisition
- Long-term maintenance and operations
- Downstream costs linked to induced sprawl (roads, water servicing, flood mitigation)
- When induced demand and environmental externalities are included, new highways typically deliver diminishing congestion benefits over time

Key considerations:

- The Ontario government has not provided an official cost estimate for the proposed Highway 413.
- Analytical studies, including the *Transit Over Traffic* report by Environmental Defence and Transport Action Ontario, estimate that the suite of proposed highway projects in Ontario, including the proposed Highway 413, could collectively cost up to \$80 billion.

- Ontario's official budget forecasts approximately \$29 billion over the next 10 years for provincial highway expansion and rehabilitation.

Implication: The scale of potential highway spending raises serious questions about whether the proposed Highway 413 delivers sufficient public, environmental, and climate value. Investments in *transit-led and demand-reducing alternatives* could achieve comparable or greater benefits at lower cost and environmental risk.

Alternatives include:

- regional and interregional transit expansion,
- frequent, high-capacity bus rapid transit on existing corridors,
- rail and freight investments that shift goods movement off roads,
- integrated land-use and transportation planning that reduces overall travel demand.

Unlike new highways, these approaches:

- reduce congestion more durably by lowering vehicle demand rather than inducing it,
- align with Canada's emissions-reduction pathways,
- avoid or substantially reduce impacts on species at risk, wetlands, and watersheds,
- deliver stronger long-term public value with lower fiscal and environmental liabilities.

Note: While highway construction is primarily provincial jurisdiction, excluding the proposed Highway 413 from the federal Major Projects List effectively signals federal scrutiny of its feasibility and risk, highlighting the need for escalation in areas where public funds and environmental risks are at stake.

Implication: From both a federal fiscal and environmental perspective, continued prioritization of highway expansion represents a missed opportunity. Redirecting comparable investment toward transit-led, demand-reducing solutions would better achieve mobility and economic objectives while respecting federal climate commitments, biodiversity obligations, and prudent public spending - that would be something worthy of the Major Projects List.

Federal Jurisdiction and 'One Project, One Review'

Although the proposed Highway 413 is not on the federal Major Projects list, federal jurisdiction remains fully engaged through SARA, the Fisheries Act, and the Migratory Birds Convention Act. Under the One Project, One Review framework, the federal government is expected to guide provincial assessment early in the process, ensuring that federal legal obligations are addressed without duplicating work.

In practice, however, the current federal-provincial working group on the proposed Highway 413 appears to have made limited progress in aligning the project team's mitigation measures with

DFO and SARA requirements. Critical gaps remain in the proposed mitigation of impacts to species at risk and critical habitat, as well as in watercourse and wetland protection.

Implication: While cooperative review frameworks are intended to streamline assessment, the circumstances of the proposed Highway 413 demonstrate that **federal escalation is necessary**. Early guidance alone has not been sufficient to ensure compliance with federal statutes, and direct federal intervention is required to make mitigation priorities clear, enforceable, and legally defensible. This escalation is fully compatible with the cooperative framework and is consistent with statutory responsibilities under federal environmental law.

Summary

While congestion relief and economic efficiency are legitimate goals, the proposed Highway 413 represents a high-cost, high-risk approach:

- **Species and Habitat Protection:** The project creates persistent legal risk under SARA and clean-water protections. Given the exclusion of Redside Dace from provincial protection, and the weakening of broader provincial environmental safeguards, the federal government now holds primary responsibility for ensuring that species and their critical habitats are not harmed.
- **Climate Implications:** The proposed Highway 413 is structurally inconsistent with Canada's climate commitments. Its construction and induced development will increase long-term greenhouse gas emissions, particularly at a time when **provincial** accountability for climate impacts is being reduced, further defaulting responsibility to the federal government.
- **Fiscal and Public Value:** Highway 413 diverts multi-billion-dollar public investment from alternatives that could deliver greater mobility, lower emissions, and better long-term value. The proposed project's financial and environmental risks raise concerns about feasibility and prudent use of funds.

Recommendation:

Federal intervention and escalation are warranted. At a minimum, it must reexamine whether a **regional environmental assessment or an emergency order** is now appropriate, in light of the Draft EIAR submitted by the proposed Highway 413 project team, and that scientific reports note that all the proposed mitigations would still not prevent harm to the Redside Dace. The project will not meet federal legal requirements under DFO and SARA, particularly regarding species at risk and critical habitat protection. Escalated federal review would ensure compliance with statutory obligations, safeguard species and watersheds, address climate accountability gaps, and provide clarity on the long-term environmental and fiscal feasibility of the project.

Signees

Melanie Duckett-Wilson on behalf of **Stopthe413, Climate Action Newmarket-Aurora, & the Alliance for a Liveable Ontario - York Region**

Sharon Summerville on behalf of **HeadwatersStopthe413**

Jon Bathmaker on behalf of **Friends of the Greenbelt**

Sources

- Environment and Climate Change Canada — *Recovery Strategy for Redside Dace*
- Environmental Defence Canada — *Proposed Highway 413 Species-at-Risk Analysis*
- Environmental Defence Canada — *Greenhouse Gas and Air-Pollution Modelling for Proposed Highway 413*
- Environmental Defence Canada — *Federal Areas of Responsibility Briefing*
- Ontario Nature — *Wetlands and Biodiversity Impacts of Proposed Highway 413*
- Scientists' Open Letter on Proposed Highway 413 (2024)
- Government of Canada — *Species at Risk Act*
- Government of Canada — *Canadian Net-Zero Emissions Accountability Act*
- Fisheries Act — federal law protecting fish habitat and water quality
- Canadian Environmental Protection Act, 1999 (CEPA) — federal pollution prevention and environmental protection statute
- Department of the Environment Act — establishes federal environmental authority and mandate
- Ontario Environmental Registry — *Proposed Highway 413 Project Documentation*
- The Pointer — *Fiscal and Environmental Reporting on Proposed Highway 413*
- David Suzuki Foundation — *Transportation Emissions Context*
- Environmental Defence and Transport Action Ontario — *Transit Over Traffic Report* — highway versus transit investment analysis

- Office of the Auditor General of Ontario — *Report on Progress to Reduce Greenhouse Gas Emissions (2025 Special Report)*, noting Ontario is projected to miss its 2030 emissions reduction target by at least 3.5 Mt
- Proposed 413 Draft Environmental Impact Assessment Report
<https://highway413.ca/en/eiar/>