

# ALIGN THE SPECIES AT RISK ACT TO RESPOND TO REGIONAL BIODIVERSITY CONSERVATION NEEDS

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Co-sponsored by the Greater Sudbury Chamber of Commerce, North Bay & District Chamber of Commerce, Sault Ste. Marie Chamber of Commerce, Thunder Bay Chamber of Commerce, Salmon Arm and District Chamber of Commerce, and Sicamous Chamber of Commerce

## Issue

As Canada's natural resource industries strive to be responsible, constructive partners in achieving national biodiversity objectives, alignment and coordination with federal, provincial, and territorial, as well as land use ministries, as proposed in the National Accord for Species at Risk, is essential.

## Background

Mineral and forestry industry challenges are compounded by the underlying issues of the Species at Risk Act (SARA), including the inadequate coordination between the federal and provincial/territorial levels of government.<sup>1</sup>[1] A more effective and stewardship driven approach to species at risk conservation and recovery, including long-term compliance and permitting mechanisms, is needed in order to deliver positive outcomes on the ground while at the same time providing clarity to project proponents.<sup>2 3</sup> [2][3] Encouraging sustainable development projects means adopting an effective approach to optimizing environmental, social, and economic priorities on the landscape that reconciles the needs of conservation of biodiversity and ecosystem function with that of resource development, community priorities, and the needs of other land users.<sup>4</sup>[4]

Under SARA, the Committee on the Status of Endangered Wildlife in Canada is required to assess species at risk,<sup>5</sup>[5] however, the process of listing a species is discretionary.<sup>6</sup>[6] Planning for conservation should be done at the landscape level and should ensure that all values of the land are understood and considered in decision making.

To provide an example, three pieces of legislation exist in Ontario under three separate ministries that oversee endangered species including the Crown Forest Sustainability Act (CFSA) under the Ministry of Natural Resources, the Endangered Species Act under the Ministry of the Environment, Conservation and Parks (MCEP), as well as the Federal Government's SARA. At present, the CFSA appears to be the best approach as it targets managing large landscapes over time and space. By ensuring we have the natural distribution of habitats on our forests for the long run, this provides the best opportunity to ensure habitat for as many species as possible.<sup>7</sup>[7] Alternatively, the Endangered Species Act in Ontario focuses more on individual species than on habitat.<sup>8</sup>[8] This leads to conflicting goals even between endangered species. For example, the whip-poor-will requires a younger conifer forest while caribou have an affinity

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<sup>1</sup> Facets Journal, May 2019, Westwood, Alana R. and Otto, Sarah P. et al., "Protecting Biodiversity in British Columbia: Recommendations for Developing Species At Risk Legislation," <https://www.facetsjournal.com/doi/10.1139/facets-2018-0042>

<sup>2</sup> Smart Prosperity Institute, February 2018, Scott McFatridge and Tony Young, "Species in the Balance: Partnering on Tools and Incentives for Recovering Species at Risk," <https://institute.smartprosperity.ca/sites/default/files/sr-02-01-18-final.pdf>

<sup>3</sup> Natural Resources Canada, "Implementing Ecosystem-based Management Approaches in Canada's Forests", 2008.

<sup>4</sup> Ibid.

<sup>5</sup> Species at Risk Act, SC 2002, c 29, s.14 [SARA].

<sup>6</sup> Ibid.

<sup>7</sup> Email correspondence with Chamber member Rayonier Advanced Materials, July 2019.

<sup>8</sup> George Morris Centre, September 2010, Al Mussell, Claudia Schmidt, and Bob Seguin, "The Ontario Endangered Species Act: Understanding the Incentives, Implications, and Alternatives," [http://www.georgemorris.org/publications/ON\\_Endangered\\_Species\\_091410.pdf](http://www.georgemorris.org/publications/ON_Endangered_Species_091410.pdf)

to older forests.<sup>9</sup> <sup>10</sup>[9][10] The CFSA approach accommodates this by providing a diversity of habitats better.<sup>11</sup>[11]

Resource industries continue to demonstrate resource stewardship vital to our nation's economy, for industries maintaining market access, and job creation.<sup>12</sup>[12] These efforts should be designed to foster trust and cooperation between governments and stakeholders and that solutions be pragmatic.

In the past, mining proponents faced SARA-related barriers during the environmental assessment process. The narrow application of the Canadian Environmental Assessment Act (CEAA 2012) led to mining projects being held accountable for cumulative effects on species and habitat caused by ongoing non-mining activities that were not subject to CEAA 2012. The result of which meant projects being delayed or shelved.

SARA's scope, which disproportionately focuses on mining and forestry industries, creates delays and uncertainty for projects in regions where species listed under SARA or their habitat are found on provincial Crown land.<sup>13</sup>[13] A specific concern related to the Species at Risk Act is primarily related to caribou, and the arbitrary 35 percent disturbance threshold-- a further disadvantage to industry with little evidence to support.<sup>14</sup>[14] The Species at Risk Advisory Committee and the National Boreal Caribou Knowledge Consortium are important fora for exploring solutions with other industries, civil society and Indigenous partners, however the current approach fails both caribou and industry.<sup>15</sup>[15]

Forestry companies are also faced with job loss, mill closures, and reduction in total industry wood supply requirements in staggering numbers as a result.<sup>16</sup>[16] Impacts in caribou-specific regions have already seen a direct or indirect job loss between 278 to 2837 positions. Furthermore, the expected reduction in provincial Gross Domestic Product ranges from \$27 million to \$166 million and reduced tax revenue between \$16 million and \$166 million in these respective regions. Figures that are echoed by forestry industries in other provinces.<sup>17</sup>[17]

The recent policy shift, described in the *Pan-Canadian Approach to Transforming Species at Risk in Canada*, offers promise of a more collaborative, multi-species approach to conservation and recovery.<sup>18</sup>[18] However, this approach is not yet reflected in SARA guidance, recovery strategies, conservation agreements, etc. and it is still too early to determine if the appropriate tools, government organizational and programmatic structure, and regulations will be put in place for this change to take place to achieve better outcomes.<sup>19</sup>[19]

Effective implementation of the *Pan-Canadian Approach to Transforming Species at Risk in Canada* must be informed by the best available information on species at risk, including research and data supplied by industry partners. The mining sector has contributed significantly over the years towards enhancing the understanding of species at risk through monitoring program, research funding and in-kind support on various initiatives. Decision-makers must have access to these data to ensure that the best-available scientific information informs actions on the ground.<sup>20</sup>[20]

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<sup>9</sup> Stewart, B. 2017, "Beneficial Management Practices for Southwestern Ontario Forest Birds at Risk: A Guide for Woodlot Owners and Other Forest Practitioners," Published by Bird Studies Canada. Pp. 21. [https://www.birdscanada.org/download/ONSARBMP\\_EN.pdf](https://www.birdscanada.org/download/ONSARBMP_EN.pdf)

<sup>10</sup> Canadian Parks and Wilderness Society, 2006, "Uncertain Future: Woodland Caribou and Canada's Boreal Forest," <http://wildlandsleague.org/attachments/2006.05.CPAWS.Report-Caribou.pdf>

<sup>11</sup> Crown Forest Sustainability Act, 1994, S.O. 1994, c. 25

<sup>12</sup> Evidence - ENVI (37-1) - No. 9 - House of Commons of Canada. (n.d.). Retrieved from <https://www.ourcommons.ca/DocumentViewer/en/37-1/ENVI/meeting-9/evidence>

<sup>13</sup> Natural Resources Canada, 2008, "Implementing Ecosystem-based Management Approaches in Canada's Forests," <http://www.cfs.nrcan.gc.ca/pubwarehouse/pdfs/28282.pdf>

<sup>14</sup> Canadian Mineral Industry Federation, August 2018, "Addressing Canada's Declining Mineral Industry Competitiveness, A plan for National Action," [https://www.pdac.ca/docs/default-source/priorities/public-affairs/cmif-emmc/cmif-brief-2018-emmc-final-en.pdf?sfvrsn=cfc08598\\_0](https://www.pdac.ca/docs/default-source/priorities/public-affairs/cmif-emmc/cmif-brief-2018-emmc-final-en.pdf?sfvrsn=cfc08598_0)

<sup>15</sup> Email correspondence with Chamber member EACOM Timber Corporation, July 2019.

<sup>16</sup> Palmer, V. (2019, May 03). Vaughn Palmer: John Horgan's lack of consultation with industry concerns West Fraser boss. Retrieved from <https://vancouverun.com/opinion/columnists/vaughn-palmer-john-horgans-lack-of-consultation-with-industry-concerns-west-fraser-boss>

<sup>17</sup> According to statistics from EACOM Timber Corporation, July 2019.

<sup>18</sup> Environment and Climate Change Canada, Her Majesty the Queen in Right of Canada, represented by the Minister of Environment and Climate Change, 2018, "an-Canadian Approach to Species at Risk Conservation," <https://www.canada.ca/content/dam/eccc/documents/pdf/species-risk/pan-canadian-approach-transforming-species-risk-conservation-canada.pdf>

<sup>19</sup> Email correspondence with Canadian Mining Association, July 2019.

<sup>20</sup> Smart Prosperity Institute, February 2018, Scott McFatridge and Tony Young, "Species in the Balance: Partnering on Tools and Incentives for Recovering Species at Risk," <https://institute.smartprosperity.ca/sites/default/files/sr-02-01-18-final.pdf>

Most importantly, the Pan-Canadian Approach must continue to recognize that provinces and territories are best suited to manage land-based decisions. The recently negotiated draft Section 11 Conservation Agreement (between Canada and British Columbia) and the draft Partnership Agreement (between British Columbia, Canada, West Moberly First Nations and Saúlteau First Nations) focused on the recovery of southern mountain caribou in BC as well as the draft conservation agreements for boreal caribou in several provinces and territories demonstrate that efforts are being made for increased coordination and cooperation between federal and provincial/territorial governments.<sup>21</sup>[21] As these important agreements are implemented, all partners must work to meaningfully engage with Indigenous communities and stakeholders to ensure all views are taken into consideration as difficult land-use decisions are made.

Coordination on the definition of critical habitat is essential to ensure recovery actions are consistent and provide clarity for land users. In order to generate realistic predictions, species distribution models require the accurate co-registration of occurrence data with environmental variables. A common approach to species at risk, as outlined in the National Accord for the Protection of Species at Risk,<sup>22</sup>[22] is necessary for the successful protection and recovery of species at risk across the country. As such, a more effective, inclusive, and stewardship-driven approach is needed.

## **Recommendations**

The Canadian Chamber of Commerce calls on the Federal Government to:

1. Under the Species at Risk Act, work with provinces and territories to ensure disturbance thresholds are based on regional circumstances, scientifically supported, and published in the short-term.
2. Consider a multi-special and eco-typical approach that is region specific and allows for regional variability and consideration of location-based circumstance.
3. Improve transparency and access to species at risk data to help identify gaps and research funding priorities, while ensuring actions on the ground are informed with best available information.
4. Work with provincial and territorial governments to encourage consistent and complementary approaches to species protection and recovery, and to ensure the application of available information needed to support protection and recovery efforts.
5. Meaningfully engage with Indigenous communities and stakeholders on the development and implementation of Section 11 Conservation Agreements, *Safe Harbour Agreements* and with comprehensive socio-economic impact assessments.

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<sup>21</sup> Province implements interim moratorium on the protection of the Caribou. (2019, June 20). Retrieved from <https://www.energeticcity.ca/2019/06/province-implements-interim-moratorium-on-the-protection-of-the-caribou/>

<sup>22</sup> Environment Canada, "National Accord for the Protection of Species at Risk," <https://www.registrelep-sararegistry.gc.ca/6B319869-9388-44D1-A8A4-33A2F01CEF10/Accord-eng.pdf>