

Cheating Off Your Neighbour:

How a B.C. Report Could Help Alberta Pass the Species at Risk Test

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Global biodiversity is decreasing. Our growing recognition that biodiversity is inherently related to our own health and prosperity has increased pressure on nations to address this issue, to preserve biodiversity. Given the future of our species may depend as much on biodiversity as that of any other, conserving the natural structure and functioning of ecosystems should have a very high priority. Too often this is not the case.

Despite overwhelming evidence, Western/ industrial societies generally prioritize using the land over its conservation. In Canada and Alberta, we often favour more investment in and development of fossil fuel energy over climate change strategies that reduce absolute emissions sharply. I don't think it's unfair to suggest that we often indulge wants rather than needs. This rationale is apparent in the framework of numerous policies and legislation for species at risk throughout Canada; a skeleton exists, but its teeth have been pulled for the benefit of economic growth.

Alberta, unlike a majority of provinces, doesn't have legislation dedicated to species at risk. Rather, the province tacked on the designation and protection of endangered species in Alberta to the *Wildlife Act* in 1996. However, the Act is far from effective as a conservation tool for protecting species at risk. The root of the problem? It is the absence of legal obligation and duty to protect those species. In light of those absences, as Fluker noted in 2012, the legislation is ineffective.

As it currently stands, the *Act* requires the Minister of Alberta Environment and Parks

to create and maintain an advisory body, the Endangered Species Conservation Committee (ESCC). The Committee serves two purposes: 1) to make recommendations to the Minister on which species should be listed as endangered, and 2) to develop and integrate recovery plans for designated species. However, this system does not deliver enough of value to threatened and endangered species. The Minister is not obligated to accept the recommendations of the ESCC, nor is there any legal requirement for recovery strategies to be developed and implemented within a meaningful timeline. Additionally, there is no legislative obligation to identify and protect critical habitat for Alberta's species at risk.

Evidence that this noncompulsory system is ineffective is abundant. Consider the feeble progress made towards conserving Alberta's umbrella species. For example, populations of woodland caribou continue to dwindle in part because the province won't designate provincial lands as critical habitat. Furthermore, land managers have refused to follow expert opinion and cap the amount of surface disturbance from resource development within caribou ranges.

However, Alberta is not the only jurisdiction that has failed to implement effective legislation to manage species at risk on provincial lands. For decades, British Columbia has struggled to manage the most biodiverse landscape within our nation; current estimates by the B.C. Conservation Data Center (BCCDC) indicate that 1,807 wildlife species are in decline within the province. To date, provincial managers have relied on an ensemble of policies and legislation such as

the *Wildlife Act* (1996), the *Forest & Range Practices Act* (2002), and the *Oil and Gas Activities Act* (2008) to guide management strategies rather than creating and exercising legislation solely dedicated to species at risk. A significant difference between Alberta and B.C. may be that, in 2017, B.C. declared it would develop a specific law to manage endangered species.

In October 2018, a group of scientific and legal experts released a report, *Protecting biodiversity in British Columbia: Recommendations for an endangered species law in B.C.* Written by a species at risk expert panel, the report suggested that B.C. establish a framework that mirrors certain aspects of the *Species at Risk Act* (SARA) and Committee on the Status of Endangered Wildlife in Canada (COSEWIC). The suggested framework includes specific revisions that could assist in navigating major challenges in managing species at risk on B.C. provincial lands. While the solution to combating the decline of biodiversity is multifaceted and context-dependent, the report makes several recommendations to combat deficiencies with respect to transparency, effectiveness, and accountability; these deficiencies have hindered the effective management of species at risk within most provinces.

The report recommends a legislative structure and process similar to that of the federal *Species at Risk Act* (SARA). The primary recommendation is to create an independent Oversight Committee, similar to COSEWIC, that would be responsible for: 1) assessing and listing of species that require attention on a provincial level (in addition to adopting federal listed species), 2) coordinating



Three of Alberta's species at risk that could benefit from rethinking the government's approach to the fate of endangered species: Bull trout PHOTO: © R. BLANCHARD; Woodland caribou PHOTO: © C. CAMPBELL; Greater sage-grouse PHOTO: © C. OLSON.

multiple-species recovery strategies for when ranges/habitats overlap, 3) describing and coordinating the planning process for species at risk by integrating multiple stakeholder views, 4) nominating and establishing specific species Recovery Teams, and finally, 5) providing public progress reports and evaluation of the effectiveness of recovery strategies.

The report's proposed introduction of Recovery Teams would introduce an additional layer of expertise to help refine proposed actions and strategies recommended by the Oversight Committee. These teams would help develop a set of guidelines, which would: 1) incorporate recovery strategies with action plans that would be prioritized

based on the estimated effectiveness and costs, 2) set out clear and measurable objectives, 3) identify critical habitat and harmful activities towards species, and 4) establish standards to which subsequent monitoring and public updating must conform. These prioritized guidelines would then become a living document to be implemented and administered by the B.C. government.

What seems to me to be novel about this report's thrust is the increased reliance on non-governmental conservation experts to develop recovery strategies and action plans. The provincial government's role is narrowed to implementing these *externally* developed recovery strategies and action plans. This approach would prioritize conservation

arguments and may minimize political influences. It promises to foster an increase in transparency, predictability, efficiency, and accountability for the management of species at risk. This system is quite similar to what is in place with COSEWIC. However, it adds the condition that the *required* development of the recovery and action plans take place outside of the political realm.

Given the urgent need to take action, there are some other recommendations from the report that could be fast tracked and improve the rate of recovery for species at risk within provinces in the short term.

First, and perhaps most importantly, the report suggests adopting an automatic listing process for B.C. species that are listed

federally under SARA. This would be in addition to separately assessing and designating species that may require special attention within the province. The automatic listing approach circumvents duplication. It would eliminate the need for a second, provincial re-evaluation. Given COSEWIC's credibility, based in part on its use of the best available data and research techniques, a second, provincial re-evaluation doesn't strike me as a necessary or efficient use of time and resources. An automatic listing process would also allow for actions towards recovery to be implemented sooner as progress would no longer be delayed by awaiting provincial Ministerial decisions on listing and protecting a federally listed species. Many species within Alberta, such as woodland caribou and greater sage-grouse, could have benefited significantly under an automatic listing process, and might have altered the imperiled course they find themselves on today.

The report also suggests amalgamating the Recovery Strategy and Action planning into one stage with a strict, delimited timeline. The B.C. experts panel calls this Recovery Action Prioritization (RAP) and it differs from the two-pronged approach of SARA. Currently under SARA, the development of a Recovery Strategy is a separate process

from the development of the Action Plan. While this process is intended to enable differentiation between scientific recommendations and management decisions granting the public a more transparent and predictable process, it has not always been as time sensitive as it should be.

For example, in 2017 the average time for the development for federal Recovery Strategies was more than six years – twice the amount of time legally allotted. Furthermore, some Action Plans remain incomplete for many listed species years after recovery strategies were published. Prominent examples of this failure to protect would include westslope cutthroat trout and limber pine. With recovery teams overseeing the merged, singular approach of the RAP, the report believes it would facilitate the simultaneous collaboration of all experts (biological, socioeconomic, etc.). Guidelines would be immediately available for implementation by the provincial government. The streamlined process of RAP would not only address concerns related to timeliness, but may create a more efficient process by eliciting all expert opinions at once.

Turning back to Alberta, the conservation weaknesses of the *Wildlife Act* haven't gone unnoticed; experts such as the University of

Calgary's Shaun Fluker have pointed them out and urged government to correct them. Despite such efforts, provincial managers and political leaders appear reluctant to act. Plans to strengthen or develop species at risk legislation may be coming in B.C.; there are few to no signs they are even being thought about in Alberta.

Outside of Alberta and British Columbia, the Ford government of Ontario recently announced a review of the *Endangered Species Act*, stating that the current act is “unclear, administratively burdensome...and (creates) barriers to economic development.” Ontario's *Endangered Species Act* has already endured a round of gutting; in 2013, the government instilled a series of regulations to exempt the activities of certain industries such as forestry and hydro in relation to species at risk conservation. Now it seems that the Ford government is keen on further relaxing the Act for short-term economic gain, essentially silencing the call to action to conserve our nation's biodiversity.

Removing the economic and political influences that have impaired species at risk legislation is key to empowering meaningful conservation initiatives. If we prioritize biodiversity, we must prioritize such removal. There are no other alternatives. 🍀