



ALBERTA WILDERNESS ASSOCIATION

"Defending Wild Alberta through Awareness and Action"

October 28th, 2021

The Honourable Joyce Murray
Minister of Fisheries, Oceans, and the Canadian Coast Guard
Fisheries and Oceans Canada
Email: min@dfo-mpo.gc.ca

RE: Proposed Logging in/near Athabasca Rainbow Trout Critical Habitat

Dear Joyce Murray,

Alberta Wilderness Association (AWA) is writing you with urgent concern regarding threats posed to endangered Athabasca River populations of native rainbow trout (*Oncorhynchus mykiss*) due to proposed logging and related activities by West Fraser Mills Ltd. in the area surrounding Moon Creek, near Grande Cache Alberta. We request that Fisheries and Oceans Canada (DFO) defer authorization of West Fraser's proposed harvesting and watercourse crossings until DFO can provide two things. First, DFO should provide transparent and rigorous field-based evidence that the impacts of this project, in combination with past and foreseeable cumulative impacts to Athabasca rainbow trout (ART) populations and habitat, are compatible with ART survival and recovery objectives. Second, DFO should release the aforementioned evidence to the public to ensure that these concerns have been addressed.

AWA is an Alberta-based conservation group with 7,500 members and supporters in Alberta and around the world. AWA seeks the completion of a protected areas network and good stewardship of Alberta's public lands, waters, and biodiversity to ensure future generations enjoy the abundant benefits they provide. With respect to the recovery of Athabasca rainbow trout, the Court of Queen's Bench has given AWA the responsibility for monitoring court-ordered efforts to restore a pure-strain population of Athabasca Rainbows in Apetowun Creek, Alberta.

Athabasca rainbow trout (ART) were listed as Endangered under the *Species at Risk Act* (SARA) in August 2019. In September 2020, Fisheries and Oceans Canada (DFO) released the Recovery Strategy for this distinct subpopulation of rainbow trout. The Recovery Strategy identifies forestry as a threat to ART recovery. Forestry may destroy or degrade ART critical habitat through the construction of watercourse crossings (i.e., bridges or culverts) and streambank work. In 2021, DFO released a Critical Habitat Order (CHO) for ART prohibiting activities that destroy critical habitat. Moon Creek is listed as containing ART critical habitat in Table 4 of the ART Recovery Strategy and the proposed spatial harvest plan by West Fraser outlines the intent to log roughly 2,660 hectares of timber in the area surrounding Moon Creek.

AWA is very concerned about adding more water crossings, with their associated long-term harmful impacts, to threats already facing ART in the Moon Creek and Berland watersheds. Our concerns aren't

hypothetical. A new bridge across Moon Creek is proposed by West Fraser. In addition, a September 2021 independent analysis estimated that approximately fourteen other watercourse crossings would be needed to carry out the proposed cutblock operations (1). The ART Recovery Strategy explicitly states that road stream crossings contribute higher fine sediment loads to streams than all other land use activities combined. It also states that temporary crossings (i.e., those constructed for forest harvesting) cause a greater number of problems because of their high density. The Strategy further notes that smaller tributary watersheds – such as Moon Creek – are more easily affected. Due to the possibility of 15 additional watercourse crossings involved in West Fraser’s spatial harvest plan, AWA requests that DFO conduct a cumulative assessment including past and foreseeable future impacts to better understand the impact sediment loading will have for ART critical habitat in the Moon Creek-Berland area.

AWA is not confident that the surveying of Moon Creek has been adequate to identify any of the specific characteristics of ART critical habitat outlined in Table 5 of the Recovery Strategy as well as groundwater recharge areas. As the Recovery Strategy notes, protecting groundwater recharge areas is imperative for habitat security for Endangered Athabasca rainbow trout. AWA requests that West Fraser’s proposed activities lead to a thorough expert assessment of Moon Creek and other streams within the compartment for the identification of critical habitat and groundwater recharge areas, which is made available to the public along with DFO’s evaluation of how to protect this critical habitat.

We are aware that under the Fisheries Act – works, undertakings, or activities (WUAs) that result in the death of fish or the harmful alteration, disruption or destruction of fish habitat are prohibited unless otherwise authorized – and this authorization requires the project proponents to submit an offsetting plan. However, in this scenario, AWA feels that the offsetting of harmful or adverse effects on fish and fish habitat is insufficient for the protection and recovery of an endangered species and their critical habitat as listed under SARA. Peer-reviewed published research has determined that many authorizations for projects under the *Fisheries Act* (prior to the 2012 amendment which weakened habitat protections) were authorized to impact more habitat than the proponents were required to compensate for, resulting in a net loss of fish habitat (2). This is why DFO should not proceed with an offsetting approach especially with SARA listed species such as ART.

In the case of offsetting where species at risk are concerned, the guidelines for permitting under Section 73 of SARA states that offsets will only be considered once all avoidance and mitigation options have been exhausted (3). Section 73 states that offset applicants must describe residual adverse impacts of the activities that will be counterbalanced through offsetting, and that these are subject to review and approval by ECCC or the competent minister (i.e., DFO). AWA does not have the confidence that all avoidance and mitigation measures have been investigated with regard to West Fraser’s proposed logging activity. Such an investigation needs to be conducted prior to authorization and this evidence should be made available to the public when completed.

DFO has identified Alberta’s Rocky Mountains’ Eastern Slopes as a Priority Area where species at risk are affected by habitat loss, habitat fragmentation and reduced water quality (e.g., sedimentation) and quantity (4). This suggests that a much more rigorous, precautionary approach is needed to assess and reduce present and foreseeable cumulative threats to ART. In June 2021, the Alberta Energy Regulator (AER) denied an application by Benga Mining for the approval to construct, operate and reclaim an open-pit coal mine on Grassy Mountain in Alberta’s Crowsnest Pass. This application was reviewed by a federal-provincial joint review panel, and the panel gave particular attention to the impact that the mining operation would have on another threatened species of native trout in Alberta – Westslope

cutthroat trout (WSCT). The panel concluded that the project was not in the public's interest as it was likely to result in significant adverse environmental effects on WSCT and surface water quality, stating that the nature and magnitude of these effects on WSCT and their habitat drove their public interest determination (5).

The Grassy Mountain project would have been subject to permitting and authorization by DFO under sections 35 of the Fisheries Act and section 73 of SARA and the report by the joint review panel includes DFO's assessment. On November 3rd 2020, Stephanie Martens provided an overview of DFO's submission to the joint review panel on behalf of DFO (6). Referring directly to the transcript from that day, DFO stated that "given the importance of riparian habitat for providing food sources and mitigating stream temperature increases as well as its recent inclusion as designated critical habitat in the updated Recovery Strategy, the proponent has not adequately considered the ecological context and sensitivity of WSCT in its assessment of residual effects on riparian". With regard to offsetting, DFO stated that there was too much uncertainty with the proponent's analyses, analyses which concluded that several pathways would have no residual effect. Therefore, "the quantification of impacts the proponent presents is incomplete, and, consequently, the ability of the mitigation and offsetting plan to counterbalance the impacts is uncertain". Lastly from that day, DFO noted that offsetting plans need to be constructed and proven functioning and effective prior to any impacts to verify it has resulted in net positive benefits to WSCT to ensure that activities will not jeopardize the survival and recovery of the species.

AWA feels that the findings of DFO and the decision from the joint review panel should drive stringent precautionary measures that deny or defer proposed logging activities at Moon Creek by West Fraser. This is especially appropriate since ART are listed as Endangered – as opposed to Threatened in the case of WSCT. Given our current understanding that no impact assessment has been conducted for the proposed work at Moon Creek, AWA feels that the quantification of impacts and the ability to mitigate and offset these impacts remains uncertain in this situation as well. Therefore, DFO should take a similar position regarding proposed logging in ART critical habitat as was taken for proposed coal mining in WSCT critical habitat.

AWA urges DFO to take a strong stance in the protection and recovery of Endangered Athabasca rainbow trout when considering applications for project authorizations in and near critical habitat. We feel that the logging activities and water crossings proposed by West Fraser should be delayed until they can provide sufficient evidence that the cumulative effects of this project and their impact to at-risk fish and fish habitats have been considered. We are requesting a cumulative impact assessment and we are urging DFO to abide by the precautionary approach when considering the authorization of this proposed spatial harvest plan. The dire state of ART populations and their potential recovery necessitates it.

We look forward to your reply at your earliest convenience.

Sincerely,
ALBERTA WILDERNESS ASSOCIATION



Phillip Meintzer
Conservation Specialist

cc:

Timothy Sargent, Deputy Minister, Fisheries and Oceans Canada

Kate Ladell, Director, Species at Risk Operations

Martyn Curtis, Director, Fish & Fish Habitat Protection and Species at Risk, Central and Arctic Region

References:

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