



ALBERTA WILDERNESS ASSOCIATION

"Defending Wild Alberta through Awareness and Action"

November 9, 2023

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

RE: FFHPP Talk Fish Habitat Engagement on Offsetting and Habitat Banking – Draft Offsetting Policy

Dear Minister Lebouthillier and Fisheries and Oceans Canada,

Alberta Wilderness Association (AWA) is writing you to submit our feedback regarding the draft discussion document: *Policy for Applying Measures to Offset Harmful Impacts to Fish and Fish Habitat* (Draft Offsetting Policy), which was released by Fisheries and Oceans Canada (DFO) for public comment in May 2023.

AWA is the oldest Alberta-based environmental conservation group with more than 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.

AWA's feedback on the Draft Offsetting Policy as well as our thoughts on DFO's approach to offsetting more broadly is summarized below:

1. Offsetting should never be permitted for works, undertakings, or activities that may have adverse impacts on species at-risk and/or their 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 (HADD) 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/or fish habitat is insufficient for the protection and recovery of at-risk species and their critical habitat as listed under Canada's *Species at Risk Act* (SARA). The purpose of SARA is to prevent wildlife species in Canada from disappearing and to provide for the recovery of wildlife species that are extirpated, endangered, or threatened as a result of human activity. According to SARA, critical habitat is "the habitat that is necessary for the survival or recovery of a listed wildlife species," therefore, any authorizing or permitting for the HADD of critical habitat would seemingly violate the purpose and intent of SARA.

2. Offsetting plans need to be constructed and proven functioning and effective prior to any impacts to verify that the offsetting has resulted in net positive benefits.

If and/or when DFO makes the decision to authorize an offsetting plan for proposed WUAs which may result in adverse effects to fish and/or fish habitat, the offsetting plan should be implemented well in advance of any potential impacts to validate whether the offsetting is effective and has resulted in net positive benefits to aquatic species. These offsetting plans should include long-term monitoring that is carried out by an independent third-party, paid for by the proponent, to validate the effectiveness of any offsetting work that has been completed.

3. Offsetting plans should require the proponent to provide greater compensation (i.e., a net positive contribution) for impacted aquatic species.

Peer-reviewed scientific research has demonstrated 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 (1). Therefore, WUAs should only be authorized if the proponent can demonstrate that its offsetting plan will result in a net positive contribution for any potentially impacted aquatic species and their habitat. Long-term monitoring following the completion of offsetting work should be conducted to confirm whether a net positive contribution has been achieved and sustained.

Recent findings suggest that the multipliers used to calculate the amount of habitat that must be replaced by an offsetting plan should be “in the order of dozens, and theoretically arbitrarily large” (2), in contrast to the relatively low multipliers (i.e., single digits) that were stated in previous literature and have been used in practice by DFO to date (3).

4. Offsetting plans should only be considered as a very last resort.

In its implementation to date, offsetting seems to be used as a regulatory tool to ensure that industrial development occurs for the benefit of industry regardless of the cost to aquatic species and their habitat. Given the deteriorated state of many of Canada’s watersheds (and the aquatic ecosystems that rely on them) due to failures at all levels of government to adequately regulate the cumulative impact of human activities on the landscape, offsetting should not be used as a tool to guarantee the permitting of projects, and it should only be considered as a very last resort. DFO should ensure that proponents demonstrate how they have investigated and considered any/all other options before a project is approved through the implementation of an offsetting plan.

Sincerely,

ALBERTA WILDERNESS ASSOCIATION



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cc: Fish and Fish Habitat Protection Program, Fisheries and Oceans Canada, dfo.ffhpp-ppph.mpo@dfo-mpo.gc.ca

References:

1. Favaro B, Olszynski M. 2017. Authorized net losses of fish habitat demonstrate need for improved habitat protection in Canada. *Canadian Journal of Fisheries and Aquatic Sciences*.
2. Laitila J, Moilanen A, and Pouzols FM. 2014. A method for calculating minimum biodiversity offset multipliers accounting for time discounting, additionality and permanence. *Methods in Ecology and Evolution*.
3. Minns CK. 2006. Compensation ratios needed to offset timing effects of losses and gains and achieve no net loss of productive capacity of fish habitat. *Canadian Journal of Fisheries and Aquatic Sciences*.