



September 25, 2008

Ontario's Caribou: Extirpation by Process...

SOS Response to MNR's posted Discussion Paper

summary concerns:

Ontario's *Endangered Species Act* provides a strong legislative framework for protecting species at risk such as woodland caribou. The adoption of the new legislation indicated a departure from the status quo and an opportunity to develop a world-leading approach to caribou conservation.

However beyond establishing this legislation, there has been a frustrating lack of implementation on anything meaningful to the persistence of this species. including: (a) the inability to provide a progressive provincial forest management vision to protect boreal woodland caribou in the Area of the Undertaking, (b) no recovery action, (c) the exemption of the forest industry from the ESA, and (d) no reduction, or even stabilization of known additional threats to the species. To date, the province continues to encourage widespread use of an untested mitigation hypothesis – the “mosaic” approach – based on the unproven premise that caribou will reoccupy areas that have been industrially logged and roaded.

The recently released Discussion Paper, rather than providing a clear shift from the status quo forest management regime, merely reinforces it. The regime that in the case of remaining intact habitat simply repackages known threats to this threatened species without addressing the necessary questions, and without providing any semblance of due precaution.

This concern is shared by prominent caribou scientists, most notably by the independent Science Panel appointed by the Ministry of Natural Resources (MNR) to review the Strategy. The MNR's cover letter for the Discussion Paper suggests that the Panel's general approval of the background science in the recovery strategy extends to the Strategy as a whole.

Instead, the Panel clearly states that:

‘The Strategy demonstrates over-confidence in the capacity of habitat management to effectively protect caribou, given that it relies on the untested hypothesis that caribou will eventually return to use industrially logged areas.’¹

In fact, the science panel noted that the ‘current piecemeal development approach’...’is bound to result in failure to recover caribou populations and prevent further loss of range.’²

While the Recovery Strategy is, in the words of the Panel, ‘a solid foundation on which to start investing in caribou recovery,’ it does not go far enough. For instance, it is inconsistent with the Endangered Species Act (ESA) requirement that recovery strategies include recommendations on the areas that should be considered in developing a habitat regulation and identify habitat to be protected under the Act (Section 11(2)3). The Strategy outlines only *an approach* for identifying habitat, thus failing to meet this critical ESA requirement.

The Science Panel also notes that the Strategy falls short of directly confronting ‘the considerable constraints that will affect the likelihood of achieving its goal and objectives. Many of these constraints relate to policy and land use decisions outside of the strategy framework.’ Indeed, to stay and ultimately reverse the trend of caribou decline in Ontario, a significant rethinking and reframing of current policies and land-use management regimes is needed.

The Discussion Paper was communicated as a means for soliciting input for the development of the Caribou Conservation Plan. Yet the Discussion Paper, as the first response of the agency to the “advice to government” (Strategy and Review Panel advice), does not instill confidence that the MNR has heeded the advice of the Panel, or even reasonably considered it in framing their response.

Instead, the seven questions, several of which are alarmingly narrow and irrelevant to the legislated responsibilities at hand (i.e., What is your view of the importance of woodland caribou?; How important is it to find ways to balance social and economic considerations with caribou recovery?) underline an abject failure of the MNR to, in the Panel’s words, ‘provide adequate context to the challenging environment in which caribou recovery must occur.’³

¹ Report of the Ontario Woodland Caribou Science Review Panel, the Path Forward, p. 6.

² Report of the Ontario Woodland Caribou Science Review Panel, the Path Forward, p. 4.

³ Report of the Ontario Woodland Caribou Science Review Panel, the Path Forward, p. 5.

The upcoming Caribou Conservation Plan must address the management changes and challenges needed to ensure caribou recovery in Ontario. SOS partners have discussed what ingredients an effective Caribou Conservation Plan would require, taking significant guidance from the Science Review Panel's report.

An effective and credible Caribou Conservation Plan must include the following elements:

(1) Stop Threats by Protecting Intact Habitat

Stopping new threats upon un-accessed caribou range is a necessary precondition to achieving recovery outcomes. There is an urgent need to identify areas of remaining intact caribou range with a high probability of maintaining populations and to protect them from further industrial impacts. This step is necessary to stop continued additional threats to the species. Continuing to only apply mitigation practices when converting additional forests to management will not be successful in maintaining and recovering caribou.

(2) Comprehensive Land Use Planning

Planning is essential for both the managed and unmanaged forests in Ontario to provide a mechanism to consider all impacts, not only forestry. Particularly, the development of intact forests must not be undertaken in the absence of this forum. Within the managed forest, the practice of forest management planning has consistently demonstrated its inadequacies to provide the essential strategic public land use forum that is clearly missing.

(3) Best Practices for Industry

Ontario needs to apply best management practices to mitigate industrial impacts in already fragmented forests within the recovery zone to provide the highest probability for caribou survival and occupancy in the future. This already impacted area is where mitigation tools already developed by MNR have a reasonable chance of contributing to recovery.

(4) Research and Monitoring Support

Ontario needs sustained rigorous research and monitoring to inform and refine maintenance and recovery efforts. This includes regular incorporation of latest science into policy and planning, delineation of local caribou ranges, and a robust monitoring program that is capable of measuring the performance of recovery efforts. This needs to extend to appropriate experimental consideration of all mitigation efforts, in marked contrast to the inadequate history of monitoring exhibited to date for the implementation of the current guidelines. This research must be prioritized and adequately supported, so that sufficient information is available for the development of the caribou habitat regulation by June 2009.

(5) Implementation Oversight

Execution of the plan needs to be done with direction of an effective technical committee and in clear concert with the ESA habitat regulations.

The Discussion Paper as presented underlines a lack of ability within MNR in critical self-evaluation of the status quo in addressing the spirit and intent of the ESA. It also demonstrates that the Science Review Panel has an additional role to play in assisting in the development of the Conservation Plan. The use of objective science and performance-based policy are critical gaps at this juncture and MNR's willingness to address these gaps will ultimately determine the real success of the Conservation Plan.

(6) Action Priority

Interim action is needed to remove ongoing threats to the species while the Plan is being developed. This includes temporary withdrawals from caribou habitat until a comprehensive Conservation Plan is in place. While sound development and quick implementation of a Conservation Plan are necessary and will benefit the species over the long term from active mitigation efforts in already disturbed forests, Caribou in Ontario have not appreciably benefited from the many years of recovery discussions that have occurred for the species. Decisive action is required to preserve the species, as well as maintain a healthy business climate.

detailed comments:

(1) Stop Threats by Protecting Intact Habitat

Stopping new threats upon un-accessed caribou range is a necessary precondition to achieving recovery outcomes. There is an urgent need to identify areas of remaining intact caribou range with a high probability of maintaining populations and to protect them from further industrial impacts. This step is necessary to stop continued additional threats to the species. Continuing to only apply mitigation practices when converting additional forests to management will not be successfully in maintaining and recovering caribou.

Applying mitigation efforts in already impacted areas has potential for species benefits – further incursions into habitat represent a known threat. These two areas, impacted and intact forests, must be recognized separately. This distinction will contribute to the necessary obligation under the ESA for MNR to identify the area of habitat that should be considered for protection (section 11(2)3 of the ESA).

The Caribou Recovery Strategy and Discussion paper currently provide no indication that policy direction will be provided to Ontario's resource managers for the specific purposes of maintaining existing intact caribou range by removing these areas from industrial development. This crucial step is absolutely necessary to set the stage for successfully recovering woodland caribou range on the managed landscape. Caribou recovery cannot begin until population

decline is halted. In certain circumstances this will mean that intact caribou range with a high probability of maintaining existing populations and resource extraction areas need to be “disentangled,” (i.e. separated spatially). The conflict between continuing resource extraction and maintaining caribou range must be addressed.

It has been demonstrated that the disentanglement exercise can begin immediately with existing information. Parcels of intact caribou range can be evaluated for the likelihood of population persistence by assessing three primary criteria: distance from roads and other industrial disturbance, current and projected quality of stands (age, species composition), and connectivity to other continuous range⁴. Some SOS members will be developing a map of priority areas using these criteria under expert guidance in the coming months.

The Science Review Panel commented that, ‘management actions need to be regarded as experiments’⁵ and that the hypothesis that caribou would return to cut-over areas was untested. From an experimental design perspective, control areas need to be established that are appropriate to the size of the experiment and for the habitat needs of caribou. Areas of intact caribou range within the Planning area set aside from industrial activity can provide this key counterweight to traditional forest management planning activities. Such a strategy would provide the best probability of readily stopping range recession and a credible basis from which to proceed with species recovery. The remaining intact caribou habitat in Ontario’s allocated Boreal forest represents the final opportunity for such action.

(2) Comprehensive Land Use Planning

Planning is essential for both the managed and unmanaged forests in Ontario to provide a mechanism to consider all impacts, not only forestry.

Particularly, the development of intact forests must not be undertaken in the absence of this forum. Within the managed forest, the practice of forest management planning has consistently demonstrated its inadequacies to provide the essential strategic public land use forum that is clearly missing.

Separating caribou protection areas from resource extraction should take advantage of evolving new tenure arrangements and appropriately revised mining legislation and be accomplished over the long-term through careful and comprehensive land use planning.

Such planning needs to consider all forms of industrial society’s activity including forestry, mining, power generation and transmission, tourism and recreation, community planning and transportation. Planning must occur prior to any new

⁴ Caribou: Holding the line in northeastern Ontario. Wildlands League, 2008.

⁵ Report of the Ontario Woodland Caribou Science Review Panel, the Path Forward, p. 10.

industrial activity, including mineral staking and exploration. Even in those areas identified as potentially open to development, development activities must be subject to full Environmental Assessment in order to mitigate impacts on caribou. Permits for mining activity or forestry North of the current Area of the Undertaking must only be permitted after full provincial EAs have been completed. A provincial roads strategy should be developed that recognizes the role of roads in facilitating other land uses.

Planning should consider existing and potential caribou range both inside and outside the existing Area of the Undertaking. It needs effective and regular consultation with First Nations and neighbouring jurisdictions.

(3) Best Practices for Industry

Ontario needs to apply best management practices to mitigate industrial impacts in already fragmented forests within the recovery zone to provide the highest probability for caribou survival and occupancy in the future.

This already impacted area is where mitigation tools already developed by MNR have a reasonable chance of contributing to recovery.

Best management needs to be practiced for all activities considered under comprehensive land use planning, in the areas where planning allows for them. Outside of any caribou protection zones, these practices should mitigate further impacts on caribou within their current and potential range. Given the untested hypothesis that any industrial activity can coexist with caribou over the long term, management needs to be considered a research question and the resources applied for effective adaptive management.

Forest management needs to implement planning, silvicultural and logging practices that maintain a landscape pattern, species composition and structure that provides the best chance of caribou persistence. Road densities need to be contained by strategic planning, access restriction, decommissioning and rehabilitation. Fire management should strategically use more prescribed burns and natural fires to renew caribou habitat.

Tenure, licenses, permits, contracts and renewals awarded by the Ontario Government should be explicitly performance-based against caribou recovery effectiveness. If a company has a poor record or fails to practice best management standards, permission to operate should be denied or withdrawn.

(4) Research and Monitoring Support

Ontario needs sustained rigorous research and monitoring to inform and refine maintenance and recovery efforts. This includes regular incorporation of latest science into policy and planning, and a robust monitoring program that is capable of measuring the performance of recovery efforts. This needs to extend

to appropriate experimental consideration of all mitigation efforts, in marked contrast to the inadequate history of monitoring exhibited to date for the implementation of the current guidelines.

Both the Recovery Strategy and the Science Panel Report acknowledge and stress the need for further research and long-term monitoring.⁶ For example, in the Science Panel Report, the Panel stressed that “inadequate monitoring is a constraint to management and the persistence of caribou.” Most importantly, caribou herd and ecotype boundaries must be identified—at present, Ontario lags significantly behind the majority of other provinces in which boreal woodland caribou dwell in identifying caribou populations and ranges. Work also must be done to evaluate cumulative landscape disturbances, and determine disturbance thresholds at which caribou abandon previously occupied habitat.⁷

In addition to these significant areas of research, the MNR must monitor the effectiveness of caribou conservation measures – both the maintenance of current intact range and the recovery of areas disturbed by industrial use. This will require adequate long-term funding commitments.

The results of the effectiveness monitoring must feed into a true adaptive management approach that operates at an appropriate landscape scale. True adaptive management must validate or correct approaches taken in all elements of the Conservation Plan.

Research must include partnerships with First Nations, to incorporate Traditional Ecological Knowledge, and to provide opportunities for First Nation co-management of caribou habitat.

(5) Implementation Oversight

Execution of the plan needs to be done with direction of an effective technical committee and in clear concert with the ESA habitat regulations.

The Discussion Paper as presented underlines a lack of ability within MNR in critical self-evaluation of the status quo in addressing the spirit and intent of the ESA. It also demonstrates that the Science Review Panel has an additional role to play in assisting in the development of the Conservation Plan. The use of objective science and performance-based policy are critical gaps at this juncture and MNR’s willingness to address these gaps will ultimately determine the real success of the Conservation Plan.

The Caribou Conservation Plan must be developed under a Technical Committee’s direction. Committee members should be selected solely for their

⁶ Recovery Strategy, section 19; Report of the Ontario Woodland Caribou Science Review Panel, the Path Forward, p. 12, 14.

⁷ Report of the Ontario Woodland Caribou Science Review Panel, the Path Forward, p. 12.

knowledge and experience with the species, and members must be arms-length from the Ministry of Natural Resources. The Science Review Panel has already been engaged in the process and would be a logical place to begin recruiting for this necessary role.

Execution of the plan must occur in coordination and timing with the Endangered Species Act habitat regulation. Caribou conservation actions can be integrated with the needs of other species at risk, like wolverine, that share some of the same habitat requirements. Under the plan, knowledge should be transparently available to be shared between OMNR, companies, First Nations, and NGOs and other interested parties. To the extent that Industry is represented in development of the Plan, so must those stakeholders that represent the public and First Nation interests.

(6) Action Priority

Interim action is needed to remove ongoing threats to the species while the Plan is being developed. This includes temporary withdrawals from caribou habitat until a comprehensive Conservation Plan is in place. While sound development and quick implementation of a Conservation Plan are necessary and will benefit the species over the long term from active mitigation efforts in already disturbed forests, Caribou in Ontario have not appreciably benefited from the many years of recovery discussions that have occurred for the species. Decisive action is required to preserve the species, as well as maintain a healthy business climate.

Stressing the urgency of immediate action and the costs of delay, the Science Review Panel identified 5 priorities to be implemented right away⁸. We have added number one below.

1. Desist from industrial development in intact caribou range.
2. Delineate local caribou ranges to refine conservation measures.
3. Undertake broad scale comprehensive land use planning.
4. Create expert-guided caribou habitat regulation.
5. Develop sustained research and monitoring programs.
6. Build relationships and partnerships with First Nations to develop joint conservation activities.

⁸ Report of the Ontario Woodland Caribou Science Review Panel, the Path Forward, p. 13-14.

conclusion:

It is time for this government to take action. The purpose of the new Endangered Species Act is to design a course of action that will eventually see them delisted. Advice has been assembled for years on what needs to be done, and federal and provincial commitments continue to add up. All the while, status-quo logging and other development impacts are being fully felt by this threatened species.

The first logical step is to stop compounding the problem by adding additional threats through continued forest conversion and fragmentation. The second is to determine how development is reconciled with recovery objectives. The first requires firm interim action by government, and the second requires careful consideration of the advice provided to produce a Conservation Plan, and a subsequent Caribou regulation under the ESA that will get the job done. Action remains the sole responsibility of this government to initiate a meaningful recovery of Woodland Caribou. But we must stop talking about recovery while ignoring the reality of ongoing threats.

Sincerely,



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SOS – Save Ontario's Species is a collaboration among CPAWS Wildlands League, the David Suzuki Foundation, Ecojustice, Environmental Defence, ForestEthics and Ontario Nature