

CONTEXT: In recent years, Emergency Protection Orders (EPOs) under section 80 (2) and (4) of the Species at Risk Act (2002) (SARA), have been imposed upon Crown, private and municipal lands. The impacts of these Orders adversely affected public and private sector socio-economic interests.¹

In Southeastern Alberta and Southwestern Saskatchewan, the 2013 EPO for *Endangered* Greater Sage-Grouse contains year-round prohibitions which apply on particular portions of land totaling 1,672km² of federal and provincial Crown lands. This equates to an area approximately, twice the size the City of Calgary.²

In Quebec, the 2015 EPO for the *Threatened* Western Chorus Frog (Great Lakes/St. Lawrence – Canadian Shield Population) superseded provincial and municipal development permits and certificates of authorization required for the development of a new residential area, and the establishment of a conservation park, totaling 87.7 hectares for the Western Chorus Frog and other users, all on private and municipal lands.³

Under the SARA, the federal government is required to develop and release Recovery Strategies and Action Plans for species *Listed as Threatened or Endangered*, within 3 years of their *Listing* on Schedule 1 of the SARA.⁴

These policies include details such as: identifying critical habitat and activities likely to result in its destruction; identifying threats to the survival and recovery of the species; identifying any portions of species' critical habitat that has not been protected; and an evaluation of socio-economic costs of implementing the policies on non-federal lands.⁵

Federal Recovery Strategies and Action Plans help to guide jurisdictional governments to implement tools, regulations, policies and plans to protect critical habitat for species at risk. Municipalities do not partake in the development of federal and jurisdictional documents that can, and have, adversely impacted municipal interests and operations.

Woodland Boreal Caribou occupy 51 local population ranges, across seven provinces and two territories; their ranges cover over 233 million hectares of land in Canada.⁶ With many jurisdictional governments struggling to meet the requirements set out in the federal Recovery Strategy (2012), under sections 61 and 80 of the SARA, emergency measures could be recommended and imposed by the federal government on public lands for caribou habitat.⁷

The SARA does not provide critical habitat protection, Emergency Safety Net Order or Emergency Protection Order exemptions for at-risk species, such as boreal caribou who require very large areas of old-growth forest to facilitate their life processes. If flexibility cannot be provided for

¹ Information available at: <https://www.registrelep-sararegistry.gc.ca/default.asp?lang=En&n=C9071C8C-1>
<http://laws-lois.justice.gc.ca/eng/regulations/SOR-2013-202/page-1.html>

² Information available at: https://www.registrelep-sararegistry.gc.ca/virtual_sara/files/gen_info/fs_qr_qa_dec_ord_tetarm_sgrouse_1213_e.pdf

³ Information available at: <https://fcm.ca/home/about-us/corporate-resources/fcm-resolutions.htm?lang=en-CA&resolution=54202548-3d7f-e611-bf03-005056bc2614&srch=%western%20chorus%20frog%&iss=&filt=false>
<http://symbiocite.ca/conservation-area>

⁴ Information available at: <http://laws-lois.justice.gc.ca/PDF/S-15.3.pdf>

⁵ Information available at: <http://laws-lois.justice.gc.ca/PDF/S-15.3.pdf>

⁶ Information available at: <https://www.capp.ca/publications-and-statistics/publications/314768>

⁷ Information available at: http://registrelep-sararegistry.gc.ca/document/default_e.cfm?documentID=3199

species like caribou and entire ranges are protected under a federal Emergency Order, municipal revenues and operations could be adversely impacted without meaningful consultation.

As the federal “*Action Plan for the Woodland Caribou, Boreal Population, in Canada, 2018: Federal actions*” lists only provincial and territorial orders of government as partners in exploring conservation agreements with⁸, this leaves municipalities vulnerable to additional impacts.

Local governments are reliant on higher levels of government to apply a “local-lens” if planning for a provincial issue, such as caribou recovery.

Establishing federal section 11 conservation agreements and section 13 funding agreements with municipal partners empowers people at the local level to take direct action and ownership over environmental stewardship.

For boreal caribou, local governments are uniquely well-positioned to assist with their survival and recovery at the range-level; working directly with key stakeholders on proactive measures, off-loading some of the responsibility from jurisdictions, and ensuring sustainable land access, management and activities within and surrounding caribou ranges is being upheld.

By establishing conservation agreements with municipalities, all levels of government can mitigate adverse socio-economic impacts at local, regional, jurisdictional and federal levels.

In 2018, the estimated national population of boreal caribou is 34,000 individuals.⁹ Nationally, most caribou ranges do not meet the required 65% undisturbed habitat threshold,¹⁰ established by Environment Canada in 2011, which facilitates a 60% probability of local population recovery.

Establishing Emergency Protection or Emergency Safety Net Orders will not change the state of caribou ranges; collaboration at the grassroots level is key to halting caribou declines now, and working towards a trajectory of caribou self-sustainability – ultimately achieving the objectives of the federal Recovery Strategy for woodland boreal caribou.

On April 26, 2018 the Federation of Canadian Municipalities FCM presented recommendations to the Standing Committee on Environment and Sustainable Development, specifically stating that: regarding the *Canadian Environmental Assessment Act* (2012), Bill C-69 does not go far enough in recognizing the important role that municipalities play in relation to designated projects.

FCM proposes that section 11 of the *Canadian Environmental Assessment Act* (2012) should be expanded to include consultation with municipalities. As a result of this change, consultation with municipalities should also be added to the *Preamble* of the Act; making it very clear that this is an objective of the legislation.¹¹ These changes to the SARA legislation would ensure municipalities are meaningfully involved with at-risk species’ recovery planning, through the use of conservation agreements and meaningful consultation.

⁸ Information Available at: http://www.registrelep-sararegistry.gc.ca/document/default_e.cfm?documentID=407

⁹ Information available at: <https://www.capp.ca/publications-and-statistics/publications/314768>

¹⁰ Information available at: http://registrelep-sararegistry.gc.ca/document/default_e.cfm?documentID=3199

¹¹ Information Available: [http://parlvu.parl.gc.ca/XRender/en/PowerBrowser/PowerBrowserV2/20180426/-/1/29175?Language=English&Stream=Video&useragent=Mozilla/5.0%20\(Windows%20NT%206.1;%20Win64;%20x64\)%20AppleWebKit/537.36%20\(KHTML,%20like%20Gecko\)%20Chrome/65.0.3325.181%20Safari/537.36&_cldee=ZGZsZXRjaGVyQGhpZ2hsZXZlbC5jYQ%3d%3d&recipientid=contact-ce274263ded9e61181c0005056bc2daa-9b8c13900fa347628cadaaf83af2289e&esid=535bf4d0-5849-e811-80cc-005056bc7996](http://parlvu.parl.gc.ca/XRender/en/PowerBrowser/PowerBrowserV2/20180426/-/1/29175?Language=English&Stream=Video&useragent=Mozilla/5.0%20(Windows%20NT%206.1;%20Win64;%20x64)%20AppleWebKit/537.36%20(KHTML,%20like%20Gecko)%20Chrome/65.0.3325.181%20Safari/537.36&_cldee=ZGZsZXRjaGVyQGhpZ2hsZXZlbC5jYQ%3d%3d&recipientid=contact-ce274263ded9e61181c0005056bc2daa-9b8c13900fa347628cadaaf83af2289e&esid=535bf4d0-5849-e811-80cc-005056bc7996)