

31 August 2011

Comments on BC Species at Risk Task Force Report

Ecojustice Canada, Sierra Club BC and Wilderness Committee

We write to provide comments on the *Report of the British Columbia Task Force on Species at Risk*, dated January 31, 2011 (the “SARTF Report” or “Report”).

Our comments are organized under the following headings:

- **Ecosystem-based approach**: our strong advice is to ensure that any shifts to an ecosystem approach take place without abandoning the needs of individual species at risk; ecosystem conservation must be seen as a complement to species-level conservation, and not as a substitute for such efforts.
- **Ecosystem-based decision process**: we have significant concerns about the decision process set out at pages 31 & 32 of the Report. We strongly recommend an approach that gives at-risk species and ecosystems mandatory protection from harm and “take”, and mandatory habitat protection. A decision to avoid protecting ecosystems or species when such protection would be “complex” or controversial should not be left to the unconstrained discretion of Cabinet; such a choice should be made only after an open process that considers independent advice about ecosystems’ and species’ recovery needs, and that considers the full economic, social, cultural and ecological costs and benefits of protecting the relevant ecosystems and species.
- **Focus on existing legislation**: existing legislation has done little to prevent the decline of BC’s biodiversity to date (BC now has over 1,900 species at risk and hundreds of ecological communities at risk). The province needs new stand-alone legislation to protect BC’s threatened species and ecosystems; we strongly recommend that the province’s efforts be focussed on developing this new legislation, rather than wasting further efforts and resources on a legislative regime that is demonstrably flawed.

Ecosystem-based Approach

The key recommended approach set out in the SARTF Report is that BC should take an “ecosystem-based approach” to species at risk.¹ The meaning of this term is not set out explicitly in the Report, but several sections refer to “bundling” lists of species and ecosystems by ecosystem “where possible”.² These bundled meta-lists would then, presumably, be the primary object of management actions to preserve BC’s threatened biodiversity.

While there are certainly benefits and efficiencies associated with ecosystem approaches – primarily the opportunity for efficient simultaneous listing, protection and recovery of groups of species – our primary concern is that the ecosystem-based approach advocated in the Report is vague and could be used as a proxy for weakening protections for individual species-at-risk and their habitats (i.e. could be used primarily as a way to reduce the landscape “footprint” of biodiversity protection in BC, resulting in a weak overall approach).

Our strong advice is to ensure that any shifts to an ecosystem approach take place without abandoning the needs of individual species at risk; ecosystem conservation must be seen as a complement to species-level conservation, and not as a substitute for such efforts.³ Details of ecosystem protection and recovery must still be assessed by reference to the needs of individual species, especially those that are vulnerable to human activities.⁴ Further, many BC species have become so rare, or their habitats so degraded, that they need individual listing and recovery planning to prevent their extinction.⁵ Finally, as climate change causes dramatic changes to some ecosystems (e.g. lodgepole pine forests), wildlife that depends on these ecosystems will need species-specific protection as their ranges shift to new habitats.

In some places, the SARTF Report seems to recognize that species-specific and ecosystem approaches must be complementary. For example, the Report states that “[a] more effective strategy [than a single-species regulatory framework]

¹ E.g. at p. 4 of the SARTF Report.

² See e.g. the chart at p. 32 of the SARTF Report.

³ See e.g. Noss, R.F., E.T. LaRoe and J.M. Scott. 1995. *Endangered Ecosystems of the United States: A Preliminary Assessment of Loss and Degradation*. Washington, D.C.: U.S. Dept. of the Interior, National Biological Service, at p. 3.

⁴ Noss 1995, *supra*, at p. 8.

⁵ Noss 1995, *supra*, at p. 8. See also Hagen, A.N. and K.E. Hodges. 2001. “Resolving critical habitat designation failures: reconciling law, policy, and biology.” *Conservation Biology* 20(2): 399-407 at p. 400. The authors note that species-specific conservation approaches are needed for full protection, to fill gaps left by “coarse filter” approaches to habitat protection.

would be based on a regulatory framework that addresses **both species and ecosystems.**⁶

We would recommend a much stronger emphasis on those sections of the Report that speak to the ongoing need for single-species approaches. For example, the primary recommendation of the Report could be amended to state that BC should: “Take **both** ecosystem-based **and species-specific** approaches to species-at-risk”. This content already appears in the Report itself. For example, the Report recommends that BC should:

Recognize that ecosystem- or landscape-level bundling of species for conservation initiatives may not always be sufficient and that **supplementary measures for dealing with individual species will still be required**, particularly with rare species, those with limited geographic distributions or those with wide-ranging habitat requirements.⁷

The SARTF Report notes that the species we are losing are the “biological moving parts” that keep our ecological communities functioning.⁸ As forester and pioneer ecologist Aldo Leopold noted years ago, “To keep every cog and wheel is the first precaution of intelligent tinkering.” The functional condition of ecosystems depends on keeping all their relevant moving parts. We thus strongly advocate keeping, and improving, a species-specific approach to species-at-risk in BC and using an ecosystem-approach where it would provide efficiencies and additional protections for the province’s biodiversity. As set out in more detail below, we recommend covering both species-specific and ecosystem-based approaches a single, new stand-alone law.

Ecosystem-based Decision Process

We also have strong concerns about the “Suggested Ecosystem-based Decision Process” set out at pages 31-32 of the SARTF Report. The flow-chart at page 32 of the Report advocates a biodiversity protection framework in which the provincial Cabinet is given wide discretion to determine whether and how to protect ecosystem “bundles” and the habitat of included species whenever the scale of management actions is “potentially large” and the implications are “more complex”.

⁶ SARTF Report, p. 20 (emphasis added).

⁷ SARTF Report, p. 19 (emphasis added).

⁸ SARTF Report, p. 10.

BC's ongoing failure to protect its biodiversity results in large part from the absence of strong laws that would require:

- independent science-based listing of at-risk species and ecosystems;
- automatic protection of the full habitat of listed species and ecosystems pending a final decision about how much long-term protection they need; and,
- a recovery-planning process that considers independent science-based advice and Aboriginal traditional knowledge about species' and ecosystems' recovery needs, and that considers the full economic, social, cultural and ecological costs and benefits of protecting the relevant ecosystem.⁹

Habitat loss is by far the greatest threat to BC's biodiversity, affecting over 86% of species at risk in the province.¹⁰ Any approach to biodiversity protection that allows an easy "opt-out" whenever habitat protections may pose an inconvenience to competing land uses is doomed to failure.

In particular, a process that gives Cabinet a wide discretion to avoid protecting wide-ranging or controversial species (for example grizzly bears or caribou) and their associated ecosystems would be a recipe for the ongoing rapid degradation of BC's biodiversity. Ecosystems are likely to fall apart without adequate protections for species that play (or may play) central roles in ecosystem function or that serve as key indicators of ecosystem health.

There is a further difficulty with the chart at page 32 of the Report: "prioritization" at the front end means that, before a species even gets to the Natural Resources Board, the Conservation Framework has been used to determine "conservation actions" and "technical priorities" for a species, which may include a decision to

⁹ See the recommendations set out in *The Last Place on Earth: British Columbia Needs a Law to Protect Species from Habitat Loss and Global Warming*, and in *Rich Wildlife, Poor Protection: The Urgent Need for Strong Legal Protection of British Columbia's Biodiversity*: both available at <http://www.ecojustice.ca/publications>. Recovery planning should have two very clearly separated components: first, an independent science-based and ATK-based component that gives open advice about an ecosystem's or species' recovery needs; and second, a wider democratic component that includes consideration of political and economic factors before finally deciding how much habitat to protect and how much effort to devote to a species' or ecosystem's recovery. The key is to protect habitat as early as possible, so that future options are not constrained by the time the recovery planning process is completed.

¹⁰ B.C. Ministry of Environment. 2007. *Environmental Trends in British Columbia: 2007. State of Environment Reporting*. Victoria, B.C. Available online at the BC's Ministry of Environment web-site (accessed June 2008).

deny a species any habitat protection. In addition, under the Conservation Framework, any species with data deficiencies goes into an endless loop with its only recommended action being “more research” – no protection can occur prior to this research being completed, which may never happen. Thus, many species (or ecosystems) that need protection and management action may never make it past the first boxes in the flow-chart.

We strongly recommend an approach that gives species and ecosystems threatened with extinction (i.e. at least those that are endangered or threatened) mandatory protection from harm and take, and mandatory habitat protection (for critical habitat that can be identified, to the extent possible, using the best available information). A decision to avoid protecting ecosystems or species when such protection would be complex or controversial should not be left to the unconstrained discretion of Cabinet; such a choice should only be made after an open process that considers independent advice about ecosystems’ and species’ recovery needs, and that considers the full economic, social, cultural and ecological costs and benefits of protecting the relevant ecosystems and species.

Focus on existing legislation

One of the most surprising recommendations in the SARTF Report is to “strengthen existing legislation” and implement the *Wildlife Amendment Act, 2004*. The BC *Wildlife Act*, even with the amendments set out in the *Wildlife Amendment Act, 2004*, would remain one of the weakest biodiversity-protection laws in North America. The amended *Wildlife Act* would:

- still lack an independent, science-based process for listing species or ecosystems at risk;
- still lack any requirement to protect the habitat necessary for the survival or recovery of listed species or ecosystems, or to consider scientific advice and Aboriginal traditional knowledge about species’ and ecosystems’ habitat needs; and,
- still lack any requirement to plan for the recovery of listed species and ecosystems.¹¹

¹¹ For our recommendations about the requirements of this recovery planning process, please see footnote 9, above.

In short, the amended *Wildlife Act* would still be grossly-flawed legislation that fails to protect BC's biodiversity in any meaningful way. The amended *Wildlife Act* would remain, in essence, antiquated "hunting" legislation, with a few minor and awkwardly-inserted provisions that deal in a cursory way with endangered species.

As the SARTF Report notes, "We need to make fundamental changes to the way that we manage our land and resources if we expect to change [the trend of declining species and ecosystems]." ¹² We will not be able to effect this change by "tweaking" BC's existing legislation. Over 1900 of BC's species (at least 43% of those assessed) and over 300 of its ecological communities are currently at risk. ¹³

The province clearly needs a stand-alone Act to protect BC's threatened species and ecosystems; we strongly recommend that the province's efforts be focussed on developing this legislation, rather than wasting further efforts and resources on a legislative regime that is demonstrably flawed.

Conclusion

Thank you for the opportunity to provide comments about the SARTF Report. We share your vision for a British Columbia that lives within its ecological means, and that protects and maintains ecosystems with all their "moving parts". We hope you will consider these recommendations as our respectful advice for best achieving that vision.

Yours truly,

< sent by e-mail >

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On behalf of Ecojustice, Sierra Club BC and the Wilderness Committee

¹² SARTF Report at p. 6.

¹³ See e.g. SARTF Report at p. 9. See also *Last Place on Earth, supra*, at p. 7 and at footnotes 7 and 8. Several more at-risk species and ecological communities have recently been added to these lists. As of 2009, there were at least 1900 species, subspecies and population in B.C. ranked S1 to S3-S4 (inclusive of dual ranks and rank modifiers) by the B.C. Conservation Data Centre.