

## **Request for Review**

Of Ontario Ministry of Natural Resources Draft Guidelines for the conservation of Woodland Caribou

An application for review of policy made to the Environmental Commissioner of Ontario pursuant to section 61, *Environmental Bill of Rights*.

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### **Submission to:**

ENVIRONMENTAL COMMISSIONER OF ONTARIO  
Suite 605, 1075 Bay St.  
Toronto ON M5S 2B1

### **Subject of review:**

Given the extensive delay from Ontario Ministry of Natural Resources (OMNR) in providing formal guidance for addressing the management of woodland caribou in Ontario's forests, we respectfully request a review of: **the extent and sufficiency of existing guidance material and support mechanisms regarding the management of woodland caribou produced by OMNR to date, including a determination of the need for new policy and regulation for the protection of woodland caribou**, through the mechanism of the *Environmental Bill of Rights*. This request is to ensure that this necessary policy is being adequately provided to those engaged in the sustainable forest management Undertaking, as overseen by Declaration Order MNR-71, issued by the Minister of the Environment and approved June 25, 2003 as "MNR's Class Environmental Assessment Approval for Forest Management on Crown Lands in Ontario".

Key documents that should be included in this review:

- All caribou guidance drafted, utilized, and/or disseminated by OMNR, whether applicable to the entire province or to any specific region thereof
- The Draft Woodland Caribou Recovery Strategy, February 2005
- Crown Forest Sustainability Act
- Natural Disturbance Emulation Guideline, OMNR - 2001
- Ontario Forest Fire Strategy - OMNR
- Declaration Order MNR-71 (S.30, 31, 38), OMOE - 2003
- Program Plan for Wildlife Population Monitoring (as required by D.O.) – OMNR
- Independent Forest Audits for all Forest Management Units containing Caribou

## **Rationale for review:**

This review is warranted in the public interest and in order to protect the environment, because:

- The activity of sustainable forest management, inclusive of managing for wildlife and wildlife habitat, occurs within public forests in Ontario;
- Widespread loss of Caribou habitat in Ontario (including the majority of the area allocated to “sustainable forest management”) is well-documented, contributing to its status as a “threatened” species nationally;
- An important component of the mandate of the Ministry of Natural Resources, as expressed in their Statement of Environmental Values, is the stewardship obligation to the conservation of this forest species and its habitat;
- The linkages between habitat loss and the expansion of industrial forest harvesting are well established – guidelines provided to Sustainable Forest Licence holders by the Ministry of Natural Resources are a critical tool for implementing MNRs obligations in the forest;
- Without documented improvements in managing the impacts of industrial forestry upon Caribou, further loss of habitat is predictable;
- Without this review it is unlikely that MNR will affect a timely review of its own, given the history of the subject guidance; and
- Without this review, it is predictable that a further period of years will elapse in the name of “recovery planning”, contributing to the current dire pressures on this species without any clearer direction being provided to harvesters operating around Caribou habitat (please see Recovery Strategy context below).
- In more than one audits performed on operations in Ontario under the requirements of the CFSA, independent auditors of forest management units containing caribou have raised concerns about the implementation and/or likelihood of success of caribou guidance provided by MNR to forest management planners.

## **Recovery Strategy context**

A draft Woodland Caribou Recovery Strategy was posted as an information notice to the public recently during the summer vacation period. Woodland Caribou guidance provided by MNR is critically linked to the Recovery Strategy, and is referenced

within it. Originally submitted by the authors to the government in February of 2005, the document has been sitting idle and unimplemented to date. While the government continues to delay actual (on the ground) implementation of a caribou recovery strategy, *status quo* industrial development continues. This includes clear-cutting, mining and exploration activities, road building and other industrial developments, which continue in critical caribou habitat – particularly south of the cutline (the northern limit of land currently dedicated to commercial forestry in Ontario). A precautionary mechanism for interim deferrals is needed to stop industrial development in critical habitat until Action Plans are developed.

Relying upon the *status quo* caribou guidance in the interim is not advisable. If the draft Recovery Strategy is accepted by the Ontario government as is, it is suggested that the current level of caribou guidance will apply during the anticipated three to five year development period for individual recovery zone action plans and that this interim guidance will provide suitable protection. There are several reasons why more precaution should be added to this approach.

- This guidance is only applicable to forestry operations on Crown land.
- For forestry, this guidance has never been finalized. Despite being implemented in all of the units in the Northwest Region, the *Final Draft Forest Management Guidelines for the Conservation of Woodland Caribou: A Landscape Approach* has not been updated or even finalized since 1999. The guidance in the NE region is even less evident – an unpublished and apparently unfinished draft.
- A year and a half has already lapsed since the Recovery Strategy was received by OMNR, and up to 3 additional years may well elapse before Action Plans are developed (after OMNR formally accepts the recommendations).
- Together the caribou guidelines and the recovery strategy process to date illustrate a history of slow development of policy direction by the OMNR. Because of this, it would be reasonable to assume that these development targets may also not be adhered to. Should this occur, it cannot be ignored that *status quo* interim direction over another period of years could conceivably be counterproductive to the goals of recovery, without more precautionary action put into place.
- There is no indication available that the current forestry guidance is sufficient. Without any built-in adaptive management provisions or performance monitoring on the current level of guidance, we have no sound premise for assuming that the well-documented range recession of caribou in the face of industrial forest harvesting will be held in check while Action Plans are drawn up.
- For activities such as mining, and exploration, road-building, and hydro development no current guidance for mitigating impacts to caribou is available at all. For these activities, “status quo” means no additional caution at all.

Without adequate monitoring, the status quo is an unproven tool in preventing the decline of caribou in Ontario and should not be blindly relied upon.

## **Some scoping questions to assist review**

- **NW Regional guidance never finalized** – Final Draft for the NW Region, 1999 is still the most current version available to date (OMNR website).
  - Why were no efforts made to finalize/update them in the intervening 7 years?
  - Was this guideline ever considered an “approved” guide (as per Declaration Order MNR-71, S.38)?
  - To what extent has training on this guidance been provided by OMNR to those engaged in forest management planning...(including Licence holders, OMNR staff, and stakeholders)?
  
- **Absence of formal guidance for NE Region** – A draft guideline for the NE Region is rumoured to exist (referenced in the draft Caribou Recovery Strategy, Feb 2005), but is still not publicly available to date.
  - Why have the NE Regional efforts been even slower in developing formal guidelines for the species (particularly with the NW draft available to work from / contrast against)? Both the NW and the NE have been identified as “recovery zones” in the draft Recovery Strategy – does the MNR consider the NE a lower priority?
  - To what extent has this guidance been made available by OMNR to those engaged in forest management planning... (including Licence holders, OMNR staff, and stakeholders)?
  - To what extent has training on this guidance been provided by OMNR to those engaged in forest management planning...(including Licence holders, OMNR staff, and stakeholders)?
  
- **Performance hasn’t been reported on** – Forest Management Guidelines for the Conservation of Woodland Caribou: A Landscape Approach (Racey et al. 1999) have been applied for all forest management units since 1994 (Armstrong 1998).
  - What can OMNR report on the success of the guideline after 12 years of implementation ...?
  - To what extent has the OMNR met its obligations under S.30 and S.31 of the Declaration Order to monitor Caribou to test the effectiveness of Guides...?
  - What adaptive management mechanisms were built into these guidelines... (The Draft Caribou Recovery Strategy has acknowledged

that a 5 year review cycle is prudent in order to incorporate new knowledge)?

- Have the guidelines ever been reviewed or amended?
  - Have the guidelines been modified to address any better science that has come available in the intervening period?
  - Do they reflect the best knowledge available on the species today?
  - Do key assumptions test out in practice, including:
    - **natural disturbance emulation** – do clearcuts resemble wildfire from a caribou perspective? Is regeneration from clearcuts likely to adequately provide for succession to replacement stands (particularly mature conifer)?
    - **“suitable” caribou habitat** – if “suitable” caribou habitat is provided nearby, does it really mean that cutting of utilized habitat (mainly mature conifer stands) will result in the maintenance of caribou populations? Will caribou actually migrate to the “suitable” blocks and eventually return to the cut habitat as assumed in the existing guidelines?, and
    - **caribou “mosaic” of 10,000ha blocks** – is this a scale of disturbance appropriate to caribou population maintenance? What is the rationale behind the choice of 10,000ha blocks?
  - **Recent draft Caribou Recovery Strategy reliance** – as previously mentioned, the draft Woodland Caribou Recovery Strategy, submitted to the OMNR by the authors February 2003, was recently released (July, 2006). In it, the authors recommended the continued use of the “existing guidance” (specifying the Final Draft NW guidelines and the unfinished NE guidance...) while Recovery Plans are devised for each Zone – a process that is anticipated to take three years.
    - Is this guidance sufficient, given the history of slow development of appropriate policy direction by the OMNR?
    - Is this guidance sufficient, given that a year and a half has already lapsed since the Recovery Strategy was received by OMNR, and that up to 3 additional years may well elapse once OMNR formally accepts the recommendations?
    - Is future “recovery” policy therefore more important than “prevention” when it comes to the management of this species in Ontario...?
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**NB:** Please note that we wish our lawyer to also receive all correspondence on this application:

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