



FAILURE TO PROTECT

GRADING CANADA'S SPECIES AT RISK LAWS

ecojustice

PHOTO BY GREG HUME

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INTRODUCTION

Canada has incredible natural wealth: from an abundance of animal, fish and plant species to the wide array of forests, mountains, grasslands and waterways that support them.

But our wildlife are in trouble. Whether you're a fisher on the west coast looking for sockeye salmon, a farmer in the prairies looking for barn swallows, an Inuit hunter in the north looking for Peary caribou, a birdwatcher in eastern Canada looking to see a prothonotary warbler, or a botanist in Nova Scotia looking for boreal felt lichen — it is obvious that the health of Canada's wildlife is in decline.

This isn't just happening in Canada though. The entire planet is in the midst of an extinction crisis. The current rate of species extinction is higher now than it has been since the dinosaurs died off en masse, some 65 million years ago. A 2005 report by the Canadian Endangered Species Conservation Council found that 30 per cent of the more than 5,000 species native to Canada it examined are at risk.¹

There is a general consensus that humans are the driving force behind this troubling trend.

Habitat loss and degradation, much of it caused by human activity, has been identified as the key factor in the endangerment of some 84 per cent of Canada's at-risk species.

Fifteen wildlife species have already disappeared from Canada forever. And if we don't act now, that number will keep growing.

Canadians stand to lose an important part of our heritage and natural capital if we fail to protect our endangered species and the habitat they need to survive. Our country's forests, mountains, grasslands and rivers are more than just places we like to explore and enjoy. These wild spaces are home to a wide array of species — the plants, fish, animals and people that make up Canada's ecosystems.

When ecosystems are intact, they regulate our climate, pollinate our food crops and enrich our soil, providing us with the clean air, water and land we all need to survive. These natural systems are important drivers of Canada's economy, supporting vital industries like forestry, fishing and tourism; species are the engine that keep these natural systems running.

The loss of any species can impact an ecosystem's ability to function and continue to provide us with services that support our cultures and economies. Sea otters, for example, maintain coastal kelp forests by controlling populations of kelp-grazing sea urchins. These kelp forests are essential nurseries for marine species that humans and other species rely on for food.²

WHY HABITAT IS IMPORTANT

At-risk species depend on habitat where they can feed, travel, mate, raise their offspring and find shelter. When a species' habitat is lost or disrupted — often due to human activity — they are often forced to live under conditions they are biologically ill-equipped to handle, leading to population declines. Without the habitat a species has evolved to live in, most species at risk cannot survive, let alone recover.

WHY HEALTHY SPECIES = HEALTHY PEOPLE

When we help animals, fish or plants by protecting the habitat they need to survive, we also help ourselves. Just like caribou and old growth forests do, people rely on the clean air, fresh water and healthy soil that sustain life in all its forms. So when we take steps to protect the boreal forest that caribou need to survive, we're also taking steps to protect a precious natural system that plays a vital role in the ecological health of Canada's vast landscape and the people who live there.

HOW TO SAVE CANADA'S SPECIES

Government has an important role to play in safeguarding our natural capital. Laws that set out to protect at-risk species and the air, water and land they — and we — need to survive are a compelling example of how governments can ensure that the pursuit of short-term economic gains doesn't come at the expense of the long-term health of our environment.

Saving Canada's wildlife doesn't have to be complicated. There are four cornerstones that can give vulnerable species a reasonable chance at surviving and recovering:

1. Identify species that need help
2. Don't kill them
3. Give them a home
4. Help them recover

Voluntary measures and political foot-dragging will not help species that are in danger of becoming extinct. But strong laws that enshrine these four cornerstones will.

An unwillingness to fully commit to these four cornerstones is the single biggest factor in Canada's poor

performance on species protection — and it begins at the national level.

The federal government passed the *Species at Risk Act* (SARA) in 2002, but since then it seems to have spent more energy undermining and ignoring the law than it has honouring it. In recent months, the federal government has made a series of deep cuts to Canada's environmental laws, the most dramatic of which were buried in Bill C-38. Rumours have swirled that the government will continue its attack on environmental protections during the Fall 2012 session of Parliament by forcing through significant amendments that would weaken SARA.

To date, the federal government has argued that environmental protection can be left to the provinces. Is that true? Do the provinces and territories have the necessary laws in place to adequately protect Canada's endangered species?

In this report card, we set out to evaluate how well Canada's federal, territorial and provincial governments are fulfilling their responsibility to protect Canada's at-risk species and the ecosystems we share. As you'll see, the results are not encouraging.

WHY SCIENCE MATTERS

We live in a complex world crowded with competing interests. But science can help us make smart long-term decisions for our natural world by relying on evidence, logic and critical thinking to present an objective view of the challenges we face. In contrast, political decision-making is generally based on short-term goals (ie. the length of an office term) and lacks mechanisms to properly assess and prioritize the natural world's needs.

METHODOLOGY

To figure out if provincial, territorial and federal laws protect Canada's at-risk wildlife, this report asks the following questions:

1 IDENTIFY SPECIES THAT NEED HELP

- Does a province or territory have laws that require the government to identify and legally list species at risk?
- Is this process guided by science (including aboriginal traditional knowledge) or by politics?
- What percentage of species listed under SARA are also listed under provincial or territorial law?

2 DON'T KILL THEM

- Does a province or territory have laws that prohibit species from being harmed in various ways (including killing, harming, harassing, capturing, taking, possessing, selling or trading them)?

4 HELP THEM RECOVER

- Does a province or territory have laws that require both the preparation of science-based recovery plans and actions to implement these plans, with timelines designed to achieve survival and recovery for the species?

3 GIVE THEM A HOME

- Does a province or territory have laws requiring the government to identify and protect the habitat species need to survive and recover?

We graded jurisdictions based on how well their laws address these questions. We emphasize that the needs outlined under *all four* cornerstones must be met — having only one or some of the needs met won't be effective.

Laws that mandate action instead of discretionary decision-making (i.e. where a law says the government “must” rather than “may” do something to protect species) received higher marks. Simply put, discretionary laws aren't effective. In recent years we have seen politicians exercise their discretion to appease loud industry voices rather than protect the wildlife and wilderness that cannot speak for itself. In the midst of this extinction crisis, it is insufficient to rely on politicians' good intentions.

Extinct	A wildlife species that no longer exists.
Extirpated	A wildlife species that no longer exists in the wild in Canada, but exists elsewhere.
Endangered	A wildlife species facing imminent extirpation or extinction.
Threatened	A wildlife species that is likely to become endangered if nothing is done to reverse the factors leading to its extirpation or extinction.
Special Concern	A wildlife species that may become threatened or endangered because of a combination of biological characteristics and identified threats.
Not at Risk	A wildlife species that has been evaluated and found to be not at risk of extinction given the current circumstances.

HOW CANADA MEASURES UP



GOVERNMENT OF CANADA



In 2002, the federal government enacted the *Species at Risk Act* (SARA), Canada's first modern species protection law. This law has potential to restore Canada's at-risk species, but has been plagued by poor implementation.

Identify species that need help

Under SARA, a scientific body called the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) is required to assess species at risk,³ but the process of actually listing a species is discretionary.⁴

The Act gives the federal Cabinet authority to approve listings after receiving a recommendation from either the Minister of Environment or the Minister of Fisheries and Oceans, but the ministers responsible have consistently exploited an unlawful loophole in the Act to delay making such recommendations to Cabinet.

To date, 30 species have been denied legal listing under SARA, despite the fact COSEWIC has provided data that clearly illustrates their risk of extinction.⁵

To date, 513 out of 650,⁶ or 79 per cent of species COSEWIC has deemed "at-risk," are listed under Schedule 1 of SARA.

Don't kill them

Upon listing, SARA contains strong prohibitions against harm to a species or its residence. However, SARA's automatic protections only apply to migratory birds, aquatic species, and species on federal lands.

SARA provides no protection for most species on provincial lands, unless there is a Cabinet-level "safety net" order. Cabinet may issue a safety net order if the Minister of Environment or the Minister of Fisheries and Oceans deems that the laws of a province "do not effectively protect the species or the residences," and recommends that a safety net order be made.⁷

No such order has ever been made, and SARA has been described as protecting species only in "post offices, airports and military bases."⁸

Give them a home

As noted above, SARA provides automatic protections only for aquatic species, migratory birds, and species on federal lands. For these species, except migratory birds, there is automatic protection of residences (nests, burrows or similar) and mandatory, but not automatic, protection of their critical habitat. For migratory birds, there is no automatic protection of critical habitat.

For the vast majority of Canadian species on the vast majority of Canada's land, SARA provides no mandatory protection of habitat.

SARA provides no protections for most species' critical habitat on provincial lands without a safety net order similar to the one described above. In the 10 years since SARA was enacted, no safety net order protecting habitat on provincial lands has ever been issued.

Even in areas like marine and aquatic species protection, for which the federal government assumes primary responsibility, it has fallen short. Environmental groups, represented by Ecojustice, successfully sued the federal government for its unlawful failure to protect the habitat of resident killer whale populations found off of Canada's west coast.⁹

Help them recover

SARA requires the federal government to develop recovery plans for endangered, threatened and extirpated species within a specific time frame: one year for species added to the list as endangered, and two years for threatened or extirpated species.¹⁰

Even so, the federal government's preparation of recovery strategies under SARA has been characterized by extreme delay.

A species' habitat can be legally protected under SARA only after it is identified in a recovery strategy or action plan. Because of ongoing and illegal foot-dragging by the federal government, only two species listed under SARA have any more protection of their critical habitat now than they did prior to listing. These two species, the northern and southern resident killer whales, received their habitat protection only in response to an Ecojustice lawsuit.

Woodland caribou, boreal population

Current status

Threatened (SARA)

Population

About 32,000 animals distributed across Canada in 57 sub-populations (also called “herds”). Only 17 of these sub-populations are self-sustaining. Boreal caribou population size has declined by at least 30 per cent over the past 20 years.

Where they live

This species is highly sensitive to human disturbance and requires large areas of boreal forest that is at least 40 years old and is undisturbed by industrial development and resource extraction activities.

Primary threats to survival and recovery

Habitat loss and degradation due to industrial development (for example, oil and gas development, logging, and associated roads, seismic and power lines). Habitat disturbance harms boreal caribou not just through direct loss of suitable habitat or by creating zones of avoidance, but also by creating conditions that serve to increase other hooved species like deer and moose, and therefore the level of predation boreal caribou face.

Legal protection

Boreal caribou are distributed — and designated as a species at risk — right across Canada, making federal oversight and recovery planning under SARA crucial to its survival and recovery. No province or territory, even if its laws were strong, would have a mandate to recover this species across its national distribution, nor to coordinate protection among jurisdictions.

This species' habitat requirements have been well-studied; there is scientific consensus that this iconic species will not survive unless industrial development within its habitat is actively managed to encourage survival and recovery.

This species still does not have a SARA recovery strategy or critical habitat designation, five years past the legal deadline and in spite of two years of legal challenges. While the federal government delays taking leadership on the issue, some provinces — particularly British Columbia and Alberta — are liquidating boreal caribou habitat so rapidly that their herds will have little chance of survival without decades of active management.

Did you know?

Globally, boreal woodland caribou are one of 20 species of large mammals that have experienced the greatest decreases in their distribution during the past several hundred years.



BRITISH COLUMBIA



British Columbia has more species at risk than any other province and its poor species laws are a major contributing factor. B.C. is one of the few provinces in Canada without a specific law that protects endangered wildlife. More than 43 per cent of the province's assessed species are at risk.¹¹

Identify species that need help

While a scientific body in B.C. maintains lists of species grouped according to risk, this action is not required by law and the listing triggers no legal protection. Even though B.C. has identified 138 “red-listed” endangered or threatened species, only four¹² are legally listed under the provincial *Wildlife Act* and therefore entitled to the marginal protections set out in that law.¹³

Only three out of 191 species (1.6 per cent) listed under SARA are listed as species at risk under the B.C. *Wildlife Act*.¹⁴

Don't kill them

B.C. has no law specifically prohibiting harm to species at risk, other than a prohibition against hunting.¹⁵ In 2004,

B.C. proposed an amended law that contained modern prohibitions against harm but it was never brought into force.

Give them a home

B.C. has no laws that provide mandatory protection for the habitat at-risk species require for their survival and recovery; no species under B.C.'s jurisdiction has protection for all of the habitat it requires.

To add insult to injury, in some circumstances B.C. laws actually weaken the marginal protections offered to at-risk species. For example, B.C.'s forestry laws allow listing of at-risk wildlife, but protections are limited if they interfere with logging¹⁶ — a practice for which B.C. has been strongly criticized.¹⁷

Help them recover

B.C. laws do not require species recovery planning and implementation.

Case Study

Northern Spotted Owl



Current status

Critically Endangered (B.C.)
Endangered (SARA)

Population

Fewer than 12, reduced from a historic population of more than 1,000 birds (about 500 pairs).

Where they live

Low elevation old-growth coniferous forests in south-western British Columbia.

Primary threats to survival and recovery

Unsustainable logging practices; small population size.

Legal protection

Although the northern spotted owl has been listed under SARA since 2003, this species is in steep decline due to lack of legal protection under B.C. provincial law. Despite years of legal battles — led by Ecojustice — and some key legal victories, the provincial government has allowed logging to continue throughout the majority of the owls' habitat.

The federal government has refused to use SARA's safety net provisions to protect northern spotted owl habitat in the absence of meaningful action by B.C. Environment Canada predicts that the northern spotted owl will disappear from the wild in B.C., and thus Canada, by this year.¹⁸

Did you know?

The northern spotted owl is an important indicator species; the health of the species reflects the health of the old-growth ecosystem in which it lives.

ALBERTA

Alberta is another one of the few provinces in Canada without a specific law to protect its endangered wildlife.

Identify species that need help

The *Alberta Wildlife Act*¹⁹ was originally written to manage hunting. The law was amended to establish a scientific body for evaluating the status of species at risk in Alberta; however, the Act is vague, does not define criteria for listing, does not exclude socio-economic factors, and the decision to list is discretionary.²⁰

Twenty-four out of 61 Alberta species (39.3 per cent) listed under SARA are currently listed as species at risk under Alberta's *Wildlife Regulations*.

Don't kill them

The *Alberta Wildlife Act* is largely focused on hunting, and generally prohibits hunting, exportation, trafficking, and possession of wildlife. However, Schedule 15 of

the *Wildlife Regulation* establishes an open season for hunting certain wildlife, namely big game, upland birds and migratory birds. There is no open season for hunting non-game animals, which includes endangered animals. The *Alberta Wildlife Act* prohibitions also only relate to animals and ignore fish, plant, invertebrate, and fungus species.²¹

Give them a home

The *Alberta Wildlife Act* only protects the nests and dens of certain wildlife, and does not include the habitat at-risk species need to survive and recover.²² There is no mandatory law that specifically protects the habitat and homes of species at risk.

Help them recover

The *Alberta Wildlife Act* creates a discretionary approach to species recovery.²³ There are 17 species in Alberta with recovery plans underway.²⁴

Case Study

Ord's Kangaroo Rat

Current status

Endangered (Alberta)
Endangered (SARA)

Population

About 1,000 individuals at their annual population low point. In Alberta, nine out of 19 local populations of Ord's kangaroo rat were extirpated by 2002 due to habitat loss.

Where they live

Actively eroding sand dunes and sandy habitats in the dry grasslands of southeastern Alberta and southwestern Saskatchewan.

Primary threats to survival and recovery

The loss of natural sandy habitats as a result of human-caused impacts, including climate change and industrial development — particularly oil and gas development. They can also be attracted into sandy, human-disturbed habitats in which they cannot survive.

Legal protection

Although Ord's kangaroo rat has a recovery strategy in Alberta, the province's weak laws do not protect the habitat this species requires for its survival. The final SARA recovery strategy for Ord's kangaroo rat is a year overdue, leaving the species with no legal critical habitat designation.

Some of Ord's kangaroo rat's critical habitat is found within Canadian Forces Base Suffield and the Suffield National Wildlife Area, where there is a proposal on the table to expand a gas drilling operation. With no habitat protection on provincial land, no critical habitat designation or final recovery strategy under SARA, and major industrial development planned for the only kangaroo rat habitat in Alberta that appears protected, the endangered Ord's kangaroo rat is another example of failed implementation of the laws meant to protect it.

Did you know?

Ord's kangaroo rats may serve as keystone species in prairie sand hills. Their foraging and burrowing behaviours shape the structure of sand hill ecological communities, affecting the composition of plant species, soils, and predators.



SASKATCHEWAN



Saskatchewan does not have a specific species at risk law.

Identify species that need help

Saskatchewan's *Wildlife Act*, 1998²⁵ was intended to manage hunting and was later amended to establish a vague, discretion-laden process for evaluating the status of species at risk. The listing process allows, but does not require, the Minister of Environment to consider the recommendations of a committee created under the Act to identify species at risk.

Fourteen out of 61 SARA-listed species (23 per cent) found in Saskatchewan are designated as at risk under Saskatchewan's *Wild Species at Risk Regulations*.²⁶

Don't kill them

Upon listing, the *Wildlife Act* prohibits killing, injuring, possessing, disturbing, taking, capturing, harvesting, genetically manipulating, exporting or trafficking listed species.²⁷

Give them a home

Saskatchewan's laws prohibit disturbing the den, house, nest, dam or usual place of habitation of extirpated or

endangered animals.²⁸ But, there is no requirement to identify or protect the habitat these species need to survive and recover.²⁹

The *Conservation Easements Act*³⁰ allows creating easements for the protection, enhancement or restoration of natural ecosystems, wildlife habitat or habitat of rare, threatened or endangered plants or animals.

The province has a promising *Wildlife Habitat Protection Act*³¹ but most of the activity under it predates modern species legislation;³² further, it still allows lands to be withdrawn under broad exemptions.³³

Help them recover

The *Wildlife Act* describes a process for preparing recovery strategies but has no mandatory provisions requiring them to be science-based. The Act also doesn't establish a timeline for when recovery strategies should be produced, what they should contain, what course of action they can prescribe, what must be considered during their preparation, or what the Minister must do with them.³⁴

Saskatchewan only has two recovery strategies — for the greater sage-grouse and boreal woodland caribou — currently underway.³⁵

Case Study

Greater sage-grouse



Current status

Endangered (Saskatchewan)
Endangered (SARA)

Population

There are fewer than 100 birds left in Canada. In 2012 just 18 male birds were counted in Saskatchewan, suggesting a provincial population of fewer than 60 birds in total. The Canadian population of greater sage-grouse has decreased by more than 90 per cent since 1988.

Where they live

Warm, dry sagebrush-grasslands in southeastern Alberta and southwestern Saskatchewan. The greater sage-grouse's distribution has been reduced to less than six per cent of its natural range in Canada.

Primary threats to survival and recovery

Small population size; habitat loss and degradation from historic and current industrial development, particularly oil and gas development.

Legal protection

The greater sage-grouse is disappearing from Canada due to a lack of legal protection under Saskatchewan law and in the absence of implementation of SARA's safety net or emergency order protections. Ecojustice has fought to protect these birds and their habitat since 2007 and currently seeks emergency protection for their critical habitat, which is not protected or even fully identified.

Did you know?

The greater sage-grouse is famous for the spectacular strutting courtship dance male birds perform in traditional clearings.

MANITOBA



While Manitoba has dedicated legislation to provide legal protection for at-risk wildlife and their habitat, the law is lacking. The provincial government recently acknowledged the need for stronger laws.³⁶

Identify species that need help

Manitoba's *Endangered Species Act*³⁷ requires creating an advisory committee to advise on the status of species and which species should be listed,³⁸ but the listing process itself is discretionary.

Of the 56 SARA-listed species found in Manitoba, 43 (77 per cent) are listed under Manitoba's *ESA*.

Don't kill them

The *ESA* prohibits killing, injuring, possessing, disturbing or interfering with an endangered species, a threatened species, or an extirpated species that has been

reintroduced.³⁹ The province's *Wildlife Act*,⁴⁰ also prohibits taking or possessing "protected" species, which may afford some protection for at-risk species, but does not apply to plants. Finally, the *Polar Bear Protection Act*⁴¹ prevents possessing or exporting a polar bear.

Give them a home

The *ESA* prohibits destroying, disturbing or interfering with the habitat of listed species.⁴² It also prohibits damaging, destroying, obstructing or removing a natural resource on which a species depends for its continued survival.⁴³

Help them recover

The Manitoba *ESA* does not require recovery planning and implementation. There are no provincial recovery strategies for at-risk species other than boreal woodland caribou.

Case Study

Piping plover *subspecies circumcinctus*

Current status

Endangered (Manitoba)
Endangered (SARA)

Population

In Manitoba there are likely fewer than eight birds, reduced from a natural population of at least 200 birds.

Where they live

Piping plover *circumcinctus* nest across Canada, from Alberta to Ontario. In Manitoba they are found primarily on the sandy shores of larger prairie lakes. This migratory bird species winters in the southern United States and the Gulf of Mexico.

Primary threats to survival and recovery

Nest predation; human disturbance (all-terrain vehicles, loose dogs) of beaches during nesting season; destruction of shoreline nesting areas by artificially high water levels and shoreline development — also the result of human impacts on these important habitat areas.

Legal protection

While piping plover *circumcinctus* populations appear to be on the rise in other regions, the Manitoba population is rapidly disappearing. Although provincial programs exist to foster stewardship and protect nests from predators, Manitoba's weak, discretionary provincial law fails to protect the birds from a key threat: water levels in Lakes Winnipeg and Manitoba that are managed to be artificially high and unnaturally consistent, thus destroying nesting habitat.

Part of the species' critical habitat was identified in a 2007 SARA recovery strategy after Ecojustice filed a lawsuit but, despite repeated promises, no critical habitat has ever been identified in Manitoba.

Did you know?

Piping plover nests are shallow depressions on the shores of lakes or rivers, lined with and camouflaged by pebbles so they are practically invisible against the beach. Piping plover chicks are also camouflaged to look like a pebbly beach.



ONTARIO

Ontario's primary legislation for protecting wildlife species is its *Endangered Species Act*.⁴⁴ Passed in 2007, the *ESA* was considered the gold-standard for species protection among the provinces. It was hailed for balancing a strong, science-based approach with flexible recovery actions that adjust to socio-economic priorities.

But the *ESA* has been inconsistently and, in some cases, poorly implemented. To make matters worse, the provincial government attempted to weaken the *ESA* with its 2012 budget bill. Although the budget bill ultimately passed without the *ESA* changes, amendments may come at a later date.

Identify species that need help

Under Ontario's *ESA*, the listing of species is mandatory, and listing decisions are made by the Committee on the Status of Species at Risk in Ontario (COSSARO), an independent body of members appointed for their relevant scientific expertise.⁴⁵

COSSARO reports to the Ministry of Natural Resources (MNR), which is required to file a regulation listing all species classified by COSSARO⁴⁶ on the Species at Risk in Ontario List (SARO).⁴⁷ However, the MNR has delayed listing decisions beyond COSSARO meetings.⁴⁸

Of the 182 Ontario species listed under SARA, the *ESA* lists 178 (98 per cent).

Don't kill them

Once a species is listed on the SARO list, extensive prohibitions apply to prevent it from being harmed or killed.⁴⁹

Give them a home

Once a species is listed, its habitat is immediately protected from damage or destruction.⁵⁰ While provisions that require describing habitat in the *ESA* are mandatory, the scope of habitat identification and regulation is flexible and discretionary.

Help them recover

Recovery strategies are specifically addressed in the *ESA*. A strategy must include identification of the habitat that a species needs to survive, and that area should be considered when developing a habitat regulation.⁵¹

The Act requires the government to respond with its intended actions within a set timeline, and conduct progress reviews.⁵² However, how the government must respond is not defined⁵³ and, to date, response statements have been weak and redundant, reiterating responsibilities the government already has under the *ESA*.⁵⁴

Out of 212 species at risk on the SARO list, 47 recovery strategies have been developed, 33 government response statements have been finalized, and an additional 12 response statements have been drafted or are underway.⁵⁵

Case Study

Butler's gartersnake



Current status

Endangered (Ontario)
Endangered (SARA)

Population

Found in fewer than 50 sites in southwestern Ontario.

Where they live

Open habitats that support seasonal wet areas and marshes.

Primary threats to survival and recovery

Habitat destruction, modification and fragmentation — specifically draining of wetlands.

Legal protection

Although its primary threat is habitat loss, the endangered Butler's gartersnake does not yet have long-term habitat protection under the *ESA*. Less than half of the sites the snakes call home have protection under other laws, and industrial development continues to destroy and fragment crucial habitat across this species' range.

Did you know?

The Canadian portion of this species' range comprises a significant percentage of its global distribution, making conservation of the Butler's gartersnake populations in Ontario critically important to its continued survival.

QUEBEC

Quebec has dedicated legislation to provide legal protection for at-risk wildlife and their habitat.

Identify species that need help

Quebec invests in a listing process that includes input from an independent committee. The province's *Act Respecting Threatened or Vulnerable Species (TVSA)* makes listing at-risk species discretionary, rather than mandatory.⁵⁸

Of the 75 Quebec species listed under SARA, 45 (60 per cent) are listed under the Quebec TVSA.

Don't kill them

The Quebec TVSA and *Wildlife Act*⁵⁹ prohibitions on harming species apply to species in two risk categories: threatened and vulnerable.

The TVSA only protects listed plant species.⁶⁰ Oddly, although fauna (animals) are referred to in the TVSA, they do not receive similar protection. Limited protection for animals is found under the *Wildlife Act*, which is

primarily a piece of hunting and fishing legislation with little language for at-risk species.

Give them a home

The TVSA regulation protects plants and in some cases habitat — prohibiting activities that alter their habitat.⁶¹ It can also prohibit destroying the fundamental nature of a wild population.⁶²

The TVSA and *Wildlife Act* provide for habitat mapping for threatened or vulnerable wildlife and plants on charts. The discretionary requirements for these charts include publishing them in the Gazette,⁶³ including them in land-use plans,⁶⁴ and alerting regional county municipality⁶⁵ and registry offices.⁶⁶

The *Wildlife Act* enables the creation of wildlife sanctuaries, controlled zones, wildlife preserves and wildlife habitats.

Help them recover

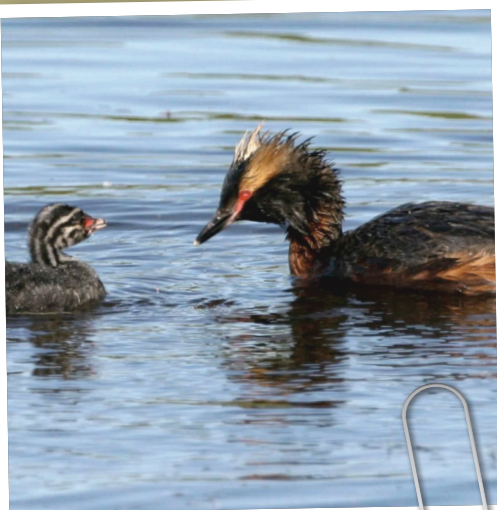
There is no legal requirement to produce recovery plans under Quebec law. Twenty one wildlife species have recovery teams or plans in place,⁶⁷ and eight plant species have published conservation plans.⁶⁸

Case Study

Horned grebe (Magdalen Islands population)

Current status

Threatened (Quebec)
Endangered (SARA)



Population

In Canada, the horned grebe breeds in the prairie provinces, British Columbia, Yukon, Northwest Territories, Nunavut, Ontario and the Quebec's Magdalen Islands. The Magdalen Islands population is estimated at roughly 15 adults. It is estimated that the bird's population has declined by 22 per cent during the last three generations.

Where they live

Horned grebes nest in freshwater and occasionally brackish water on small permanent or semi-permanent ponds until autumn, but also use marshes and shallow bays on lake borders. They generally winter in marine estuaries and bays.

Primary threats to survival and recovery

Oil spills on their wintering grounds and disturbance from human visitors. Competition with pied-billed grebes for breeding habitat could also be a limiting factor. The small size of the Magdalen Islands population makes it particularly vulnerable.

Legal protection

Almost half of the ponds that provide breeding habitat for the horned grebe on the Magdalen Islands are located within the Pointe de l'Est National Wildlife Area.

On Brion Island, all the ponds are located within the Brion Island Ecological Reserve, under the jurisdiction of the Quebec government. While the horned grebe is designated as a threatened species under Quebec's TVSA, that designation does not offer any legal protection of the species' breeding habitat.

Did you know?

The small, isolated horned grebe population on Magdalen Islands has persisted for at least a century.

NEWFOUNDLAND & LABRADOR



Newfoundland's *Endangered Species Act*⁶⁹ is one of the more comprehensive provincial statutes for protecting species at risk.

Identify species that need help

Newfoundland's *ESA* contains many similarities with *SARA*. For example, it creates a committee to assess species on the basis of science but it is slightly superior to *SARA* in that, although still discretionary, it gives the provincial Cabinet only 90 days to respond to listing recommendations.⁷⁰

Twenty-four out of 28 (86 per cent) *SARA*-listed species found in Newfoundland and Labrador are listed under the *ESA*.

Don't kill them

Newfoundland's *ESA* prohibits killing or harming listed threatened, endangered or extirpated species.⁷¹

Give them a home

The Act prohibits disturbing or destroying the residence of a threatened, endangered or extirpated species.⁷²

Recovery plans are required to identify critical habitat "where appropriate,"⁷³ but protection for critical habitat is discretionary (and, even if it was automatic, critical habitat is defined as "critical to... survival," not recovery – a serious oversight).⁷⁴

Help them recover

Recovery plans are required to identify critical habitat "where appropriate"⁷⁵ and to be prepared within one year of designation for endangered species, and two years for threatened species.⁷⁶ A management plan must be prepared within three years for special concern species, but implementation is discretionary.

There are 25 recovery or management plans developed, with an additional seven pending.⁷⁷

Case Study

Red crossbill (*percna subspecies*)



PHOTO BY ELAINE R. WILSON

Current status

Endangered (Newfoundland)
Endangered (*SARA*)

Population

There are an estimated 500 to 1,500 red crossbills on the island of Newfoundland. Their range is likely restricted to the island.

Where they live

Mature conifer forests.

Primary threats to survival and recovery

Habitat loss due to deforestation; natural forest loss as a result of insect infestation and changes in forest fire regimes.

Legal protection

The red crossbill is a migratory bird covered under the federal *Migratory Birds Convention Act*. However, Newfoundland and Labrador will assume primary responsibility for the management of a significant portion of its critical habitat once it has been identified. There is currently a federal recovery strategy for the red crossbill.

Did you know?

The *percna* subspecies is unique to the island of Newfoundland and appears to have become rare in recent years.

NEW BRUNSWICK



New Brunswick was one of the first provinces to pass legislation addressing at-risk wildlife, and the law — the province's *Endangered Species Act* — is showing its age.⁷⁸ One of Canada's shortest species at risk laws, it contains strong automatic protections for species and habitat, but is otherwise almost entirely devoid of mechanisms to actually enable species' listing and recovery.

Replacement legislation is currently before the provincial legislature. It introduces modern concepts regarding species listing and classification but eliminates automatic prohibitions against harming habitat, an alarming reversal.⁷⁹ This report only evaluates the current legislation.

Identify species that need help

Only endangered species can be listed by regulation.⁸⁰ The problem is the law doesn't actually require the province to assess which species are at risk, making listing difficult. Currently, 16 endangered species are listed and have legal protection in New Brunswick.⁸¹ This compares to 36

SARA-listed species (44 per cent), excluding those that are extirpated and extinct.

Don't kill them

The *ESA* contains extensive automatic prohibitions against harm for endangered species only.⁸²

Give them a home

The *ESA* is noteworthy in that it provides mandatory protection of an endangered species' critical habitat upon listing.⁸³

The *Protected Natural Areas Act*⁸⁴ permits (but does not require) activities in protected areas for recovery or restoration of endangered species or degraded ecosystems.⁸⁵

Help them recover

The *ESA* has no requirements for producing or implementing recovery plans. The province has published recovery plans for three species and says another 13 are underway.⁸⁶

Case Study

Wood turtle

Current status

Threatened, but not listed
(New Brunswick)
Threatened (SARA)



PHOTO BY RON WILLIAMS

Population

The wood turtle has a discontinuous range from Nova Scotia through New Brunswick, Quebec, Ontario and Minnesota and south to Virginia and Maryland. In New Brunswick they are believed to occupy several watercourses. The Canadian population is estimated to be between 6,000 and 12,000 adults.

Where they live

The wood turtle generally hibernates at the bottom of bodies of water, spends spring and fall in or near water and summers on land. It is associated with rivers and streams with sandy or gravel-sandy bottoms and prefers clear watercourses with a moderate current.

Primary threats to survival and recovery

Road traffic, nest destruction by recreational vehicles, and lost nesting habitat due to watercourse bank alterations. Turtle collection, for personal or commercial purposes, is also a growing threat.

Legal protection

In New Brunswick, the species is not protected by any provincial law because its status is threatened and only endangered species can be listed.

Did you know?

The wood turtle is particularly vulnerable to collection, especially in the spring, when it suns itself along watercourses where vegetation cannot camouflage it. They are easy to find and capture because the turtles are not aggressive and cannot escape on land.

NOVA SCOTIA



In the midst of a weak bunch, Nova Scotia's *Endangered Species Act*⁸⁷ is one of the stronger provincial laws, primarily because it provides for some protection of habitat.

Identify species that need help

The *ESA* is one of the few pieces of legislation that determines whether to list species on the basis of scientific information and traditional knowledge.⁸⁸

Twenty-seven out of 42 (64 per cent) *SARA*-listed species found in Nova Scotia are listed under the *ESA*.

Don't kill them

Once a species is listed by the science advisory body or the Minister of Environment,⁸⁹ it triggers legal protections that prohibit people from killing, injuring, disturbing, taking or interfering with the species.⁹⁰

Give them a home

Once a species is listed, the prohibitions in the *ESA* are triggered and persons are prohibited from disturbing, destroying or interfering with their residence.⁹¹ The Minister can make an order that will protect critical habitat, but there is no automatic protection for habitat needed for survival and recovery.⁹² Currently, no species in Nova Scotia has any critical habitat protection under the *ESA*.

Help them recover

The *ESA* requires release of a recovery plan within one year of listing for endangered species, and two years for threatened species.⁹³ The Act requires designation of critical habitat.⁹⁴ Acting on recovery planning is discretionary and can be subject to socioeconomic factors.

Recovery teams are working on recovery plans for 20 species.⁹⁵

Case Study

Eastern Ribbonsnake, Atlantic population

Current status

Threatened (Nova Scotia)
Threatened (*SARA*)

Population

Unknown. Population was estimated at 1,000-3,000 in 1998, and has likely since declined.

Where they live

The Atlantic population of eastern ribbonsnake is found only in Nova Scotia. Eastern ribbonsnake is usually found beside slow-moving streams or wetland areas where dense vegetation provides cover.

Primary threats to survival and recovery

Habitat loss or degradation due to residential (cottage) and other development. Other threats include small population size, accidental death on roads, and predation by domestic pets.

Legal protection

Although the eastern ribbonsnake is listed under Nova Scotia's *Endangered Species Act* and is threatened primarily by habitat loss, it has no habitat protection under the Act. No species at risk law can effectively help species recover unless it is well implemented, and Nova Scotia is a good example: the *ESA* does not automatically protect the habitat of any species listed under the law, leaving protection of at-risk species habitat to government discretion. In 2012, the eastern ribbonsnake's *SARA* recovery strategy was finalized, and its critical habitat identified, five years late.

Did you know?

Unlike many snake species, which lay eggs, the eastern ribbonsnakes give birth to live young.



PRINCE EDWARD ISLAND



Prince Edward Island has no dedicated species at risk legislation. Similar to other provinces, it has grafted components of species protection onto its hunting law.

Identify species that need help

P.E.I.'s *Wildlife Conservation Act*⁹⁶ gives the relevant Minister the authority, but not the obligation, to create an advisory committee and a list, by regulation, for threatened, endangered, and species of special concern.⁹⁷ A species list has not been created.⁹⁸ Twelve P.E.I. species are listed under SARA.

Don't kill them

P.E.I. prohibits killing, injuring, possessing, disturbing, taking or interfering with an endangered or threatened species.⁹⁹ However, because no species are listed, no protections currently apply.

Give them a home

Notably, P.E.I.'s law automatically prohibits destroying, disturbing or interfering with the habitat of an endangered or threatened species.¹⁰⁰ But no species are listed, so no habitat is protected.

The Minister may designate areas as habitat for threatened or endangered species¹⁰¹ or make agreements with landowners and conservation groups to protect and recover these species.¹⁰² Some areas have been designated as Wildlife Management Areas.¹⁰³

Help them recover

P.E.I.'s *Wildlife Conservation Act* does not require recovery planning. The piping plover, however, has a recovery strategy and an action plan in development.¹⁰⁴ This means recovery planning is underway for one of the dozen (eight per cent) SARA-listed species in P.E.I.

Case Study

Gulf of St. Lawrence Aster

Current status

No listing (Prince Edward Island)
Threatened (SARA)



Population

In 2004, there were estimated to be 30,000 individual plants on Prince Edward Island. By 2009, there were just 128 individuals.

Where they live

Sandy marine shorelines exposed to occasional high tides and storm waves; sheltered beaches and sparsely vegetated areas in high salt marshes.

Primary threats to survival and recovery

Industrial and residential development; erosion from rising sea levels due to climate change; trampling or erosion due to recreational human activities, including use of ATV's.

Legal protection

Although this species is in rapid decline, it is not listed as an at-risk species in Prince Edward Island and therefore has no protection under provincial law. Perhaps as a result, the only remaining occurrences of this species appear to be inside Prince Edward Island National Park.

The final SARA recovery strategy for the Gulf of St. Lawrence Aster is three years overdue. Meanwhile, the species continues to decline, even within the national park. Attempts to address this decline have had to occur in the absence of a SARA recovery strategy to lay out a plan for the plant's recovery and to enable legal protection of its critical habitat.

Did you know?

The Gulf of St. Lawrence is the only place on the planet where you can find this plant.

NORTHWEST TERRITORIES



The Northwest Territories has dedicated legislation to protect species at risk.¹¹⁰

Identify species that need help

The N.W.T. *Species at Risk Act* lists species through a cooperative approach in which the Conference of Management Authorities has discretion to recommend listing. This triggers the Minister of Environment and Natural Resources' obligation to list the species within 120 days.¹¹¹

No species have currently been assessed or listed under the N.W.T. SARA. Twenty-six species are scheduled to be assessed at a rate of several per year beginning in December 2012 through till December 2017. The federal SARA lists 22 species found in the N.W.T.

Don't kill them

Species are not automatically protected upon listing. Rather, the territorial commissioner may make regulations that trigger prohibitions to protect a species.

Give them a home

There is no automatic protection for the habitat of an at-risk species. Rather, the N.W.T. SARA lets the territorial commissioner make regulations about the designation and conservation of habitat, which then trigger habitat protections.¹¹²

Help them recover

A recovery strategy must be prepared for listed species. Strategies must be completed within two years of listing a threatened species or within one year of listing an endangered species.¹¹³

NUNAVUT



Nunavut has no dedicated species at risk legislation.

Identify species that need help

Nunavut's *Wildlife Act*¹¹⁴ is one of the few pieces of legislation that relies on scientific information and traditional knowledge to determine whether to list a species. Members of the public can seek a listing and there are provisions for emergency listing.¹¹⁵ The Act does not extend, however, to fish or marine plants.¹¹⁶

To date, no species have been listed in Nunavut. SARA lists 15 species at risk in Nunavut.

Don't kill them

The *Nunavut Wildlife Act* prohibits harvesting, harming, interfering, trafficking or possessing threatened, endangered, extinct or extirpated species.¹¹⁷

Give them a home

The *Wildlife Act* also prohibits substantially altering, damaging or destroying any habitat and also prohibits specific activities such as road building,¹¹⁸ but designation of critical habitat is discretionary.¹¹⁹

Help them recover

Recovery strategies must be prepared within two years of listing endangered and threatened species.

Nunavut has no listed species and therefore no recovery plans.

Peary caribou

Current status

No status (Northwest Territories)

No status (Nunavut)

Endangered (SARA)

Population

Peary caribou are endemic to Canada's Arctic tundra and are found in small groups on the Arctic islands of Nunavut and N.W.T. Historically there were an estimated 30,000 Peary caribou in Canada, however its populations have declined by an estimated 80 per cent in the last few decades.



PHOTO BY JOHN A NAGY, GNWT

Where they live

In the summer, Peary caribou are found on the upper slopes of river valleys and uplands where vegetation is richest. In the winter, they inhabit areas where the snow is not too deep, such as rugged uplands, beach ridges and rocky outcrops.

Primary threats to survival and recovery

In the past, hunting was a primary source of decline in Peary caribou. Extreme weather events are now one of the greatest threats this species faces. Severe winters and heavy snowfall prevent Peary caribou from reaching the vegetation locked beneath layers of snow and ice, leading to starvation and reproductive problems.

Unusually warm weather in recent years, linked to climate change, has led to an increase in freezing rain, which coats the tundra with a layer of ice and prevents Peary caribou from being able to forage for food. Increasing industrial activity is another threat.

Legal protection

In 2011, Peary caribou were finally listed under SARA as an endangered species, after years of delay. They are protected by land claim agreements that recognize and specify aboriginal rights to harvest wildlife.

Most of the land in Nunavut and N.W.T. is federal Crown land, and though national parks and wildlife areas protect parts of the caribou's range, the Inuit and Inuvialuit people retain their rights to hunt Peary caribou for subsistence purposes in these protected areas. Voluntary restrictions on hunting by local people are in place. A national multi-jurisdiction recovery strategy has been planned by the Nunavut and N.W.T. governments and relevant Wildlife Management Boards.

Did you know?

Peary caribou are the smallest North American caribou and Canada's northernmost caribou species.

YUKON

The Yukon does not have dedicated species at risk legislation.

Identify species that need help

The Yukon relies on its *Wildlife Act*,¹⁰⁵ but the legislation does not contain provisions that regulate species at risk, with the exception of five species, discussed below.

Don't kill them

The Yukon's *Wildlife Act* defines "specially protected wildlife" by regulation¹⁰⁶ (wildlife does not include fish, invertebrates or plants). The prohibitions extend only to hunting, trapping or possession.¹⁰⁷ Hunting and harassing of specially protected wildlife — the cougar, Peregrine falcon, Gyrfalcon, Trumpeter swan and caribou (Chisana herd) — is prohibited unless exempted by regulation.¹⁰⁸

Give them a home

The *Wildlife Act* contains provisions to designate habitat protection areas.

The Yukon's Executive Council may also make regulations intended to manage wildlife habitat areas and prescribe an area as a wildlife sanctuary. The *Wildlife Sanctuary Regulation*¹⁰⁹ establishes the following two areas as wildlife sanctuaries: Kluane Wildlife Sanctuary and McArthur Wildlife Sanctuary. Section 37 of the *Wildlife Act* prohibits hunting or trapping in a wildlife sanctuary unless allowed by regulation.

Help them recover

Yukon's laws do not provide for recovering species at risk, and there have been no recovery strategies to date.

Case Study

Baikal sedge

Current status

No status (Yukon)
Threatened (SARA)

Population

The Baikal sedge has been identified at 14 separate sites in the Yukon and one area in central Alaska.

Where they live

Sand dune ecosystems.

Primary threats to survival and recovery

Invasive exotic species and habitat destruction due to human recreational use and development; potential residential development.

Legal protection

Baikal sedge is the only plant species in Yukon considered at risk under SARA, but it is not legally protected under any territorial law. Only four of the 14 known populations of Baikal sedge are found within protected areas, such as Kluane National Park Reserve.

Recovery of Baikal sedge is considered biologically and technically feasible, and although the Yukon government has undertaken a draft management plan with a commitment to collaboratively manage each dune system to the extent possible, lack of official "at-risk" status in the province may affect the recovery of this rare species.

Did you know?

Baikal sedge exists only in rare sand dune ecosystems, where they can reproduce through clones.



PHOTO BY EUGENE REIMER 2008 / EREIMER.NET

CONCLUSION

The analysis in this report paints a clear, though unsettling, picture. Across the board, Canada's federal, provincial and territorial governments are doing an abysmal job protecting our at-risk species and the habitat they need to survive and recover.

Some are doing worse than others. British Columbia and Alberta, which are home to an incredible abundance of biodiversity and ecosystems, both received failing grades, due in large part to the fact that neither province has stand-alone legislation that protects species at risk.

But no jurisdiction should be satisfied with its performance. No one government received a grade higher than a C+; without a national plan and strong federal legislation to coordinate conservation efforts, species with populations distributed across more than one province or territory will continue to fall through the cracks.

In recent months, it has become clear that even governments that once set the bar for strong species laws – like Ontario – have fallen behind. In some cases, governments are making moves to weaken existing laws, clearing the way for major industrial projects that will harm the forests and rivers so many animals and plants need to survive.

The poor showing by the provinces and territories presents a golden opportunity for the federal government to lead by example and begin fulfilling its responsibility to protect at-risk species. On paper, the federal *Species at Risk Act* presents a logical, scientifically-sound framework for protecting vulnerable species and giving them a chance to survive and recover.

In practice, however, this Act has proved ineffective due to poor implementation

Recommendations

How can we secure a better future for species, our environment and our country? We need:

- **Strong federal, provincial and territorial species at risk laws.** These laws must be built upon the four cornerstones identified in this report card.
- **Good implementation of these laws.** This is especially important in protecting the habitat that species need to survive and recover.
- **Strong federal oversight.** When the provinces and territories fail to provide adequate legal protection of Canada's at-risk species, the federal government must be willing and able to step in – even on provincial lands – to safeguard at-risk species and the habitat they need.

by the federal government, including chronic, unlawful delays in producing recovery strategies, identifying critical habitat and implementing on-the-ground protections. To date, the only effective way to ensure that the federal government follows its own endangered species law is to take matters before the court.

While species protection is an area of shared jurisdiction¹²⁰ – no one government can solve Canada's biodiversity crisis alone – the federal government can send a strong message to the provinces and territories by standing behind its own species law and implementing it to the fullest extent.

The path forward is clear. If we protect species by safeguarding the clear skies, clean water and intact lands they need to survive, we will also be acting in our best interests. Thriving species mean a thriving environment, which in turn means thriving economies and thriving communities.

Canada's wildlife are in trouble. It's time for our governments to step up and take action.

If we fail now to protect our threatened species, we will squander our biological wealth and leave behind a diminished natural legacy for our children and grandchildren. All of us who share this country – humans and all other living things – deserve more.

It's time to respect and properly protect the wildlife and natural systems that support our economy and our cultures.

NOTES

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- 3 *Species at Risk Act*, SC 2002, c 29, s.14 [SARA].
- 4 *Ibid.*, s. 27.
- 5 These species are: grizzly bear, northwestern population; polar bear; sockeye salmon, Cultus population; sockeye salmon, Sakinaw population; wolverine, western population; Atlantic cod, Laurentian North, Maritimes and Newfoundland and Labrador populations; plains bison; Porsild's bryum; barren-ground caribou, Dolphin and Union populations; Coho salmon, Interior Fraser River population; white sturgeon, lower Fraser River and middle Fraser River populations; porbeagle shark; beluga whale, Ungava Bay, Cumberland Sound, Eastern Hudson Bay, Western Hudson Bay and Eastern High Arctic/Baffin Bay populations; coast manroot; Laura's clubtail; four-leaved milkweed; bocaccio; canary rockfish; Lake Winnipeg physa; winter skate, southern Gulf of St. Lawrence, eastern Scotian Shelf, Georges Bank–Western Scotian Shelf–Bay of Fundy populations; Chinook salmon, Okanagan population.
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- 8 Mira Spivak, Debate in Senate, second reading (1520), October 22, 2002.
- 9 *Canada (Fisheries and Oceans) v. David Suzuki Foundation*, 2012 FCA 40.
- 10 SARA, ss. 42, 132.
- 11 Austin, M.A., D.A. Buffett, D.J. Nicolson, G.G.E. Scudder and V. Stevens (eds.), *Taking Nature's Pulse: The Status of Biodiversity in British Columbia* (Victoria: Biodiversity BC, 2008), available online<www.biodiversitybc.org>.
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- 14 The fourth B.C. *Wildlife Act* listed species, White pelican, is not at risk nationally and not listed under SARA.
- 15 *BC Wildlife Act*, s.26.
- 16 The forestry laws prohibit protecting wildlife if it "unduly reduce[s] the supply of timber from British Columbia's forests." Section 2 of the *Government Actions Regulation*, BC Reg 582/2004 to the *Forest and Range Practices Act*, SBC 2002, c 69. "Current government policy has set a limit of 1% to the allowable impact to short-term harvest levels that may be incurred as a result of implementing measures for Identified Wildlife," Ministry of Water, Land and Air Protection, *Identified Wildlife Management Strategy Procedures for Managing Identified Wildlife Version 2004* (Province of British Columbia 2004) at 11.
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- 18 http://www.sararegistry.gc.ca/species/speciesDetails_e.cfm?sid=33
- 19 *Wildlife Act*, RSA 2000, c W-10 [Alberta Wildlife Act].
- 20 *Ibid.*, s.6.
- 21 *Ibid.*, ss.1.(11).
- 22 *Alberta Wildlife Act*, s.36, *Alberta Wildlife Regulation*, s.96.
- 23 *Alberta Wildlife Act*, s.6(3).
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- 27 *Saskatchewan Wildlife Act*, s.51.

- 28 *Wild Species at Risk Regulations*, s.5.
- 29 *Saskatchewan Wildlife Act*, s.51.
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- 31 *Wildlife Habitat Protection Act*, SS 1983-84, c W-13.2.
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- 37 *Endangered Species Act*, CCSM c E111 [Manitoba ESA].
- 38 *Ibid.*, s. 6, *Threatened, Endangered and Extirpated Species Regulation*, Man Reg 25/98.
- 39 *Manitoba ESA*, s.10.
- 40 *Wildlife Act*, CCSM c W130.
- 41 *The Polar Bear Protection Act*, SM 2002, c. 25.
- 42 *Manitoba ESA*, s.10.
- 43 *Manitoba ESA*, s.1.
- 44 *Endangered Species Act*, 2007, SO 2007, c 6 [Ontario ESA].
- 45 *Ibid.*, s. 3(2).
- 46 *Ibid.*, s. 7.
- 47 O Reg 230/o8 [SARO List].
- 48 Consolidated O Reg 230/o8 shows all species listed since January 2012, which includes species assessed and reported on by COSSARO. However, COSSARO has held two assessment meetings since then, but it is unknown what the results have been and no reports are available. Meeting reports are available online at <<http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/244543.html>>.
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- 71 *Ibid.*, s.16.
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- 73 *Ibid.*, ss. 2, 23(b).
- 74 *Ibid.*, s.2.
- 75 *Ibid.*, s. 23(b).
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- 79 *Species at Risk Act*, SNB 2012, c 6 [Not yet in force as of August 2012] [NB SARA].
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- 81 *Ibid.*
- 82 NB ESA, s.3.
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- 85 *Ibid.*, s.15(1)(c).
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- 88 *Ibid.*, ss. 10(2), 12.
- 89 *Endangered Species Act*, SNS 1998, c11, s. 11 [NS ESA].
- 90 *Ibid.*, s. 13.
- 91 *Ibid.*
- 92 *Ibid.*, s.15(4)(g), 16.
- 93 *Ibid.*, s.15(1)(a),(b).
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- 99 *Ibid.*, s.7(4).
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- 110 *Species at Risk (NWT) Act*, SNWT 2009, c 16 [NWT SARA].
- 111 *Ibid.*, s.39.
- 112 *Ibid.*, s. 80.
- 113 *Ibid.*, s. 60.
- 114 *Wildlife Act*, S Nu 2003, c 26 [Nunavut Wildlife Act].
- 115 *Ibid.*, s.130.
- 116 *Ibid.*, s. 6(3).
- 117 *Ibid.*, ss. 62,63.
- 118 *Ibid.*, ss. 65(2), 66.
- 119 *Ibid.*, s.139.
- 120 The Honourable Gerard V. La Forest, D. Gibson, and R.J. Jeerakathil, *Federal Protection of Endangered Species and the Criminal Law Power*, 1999.
- The Honourable Gerard V. La Forest and D. Gibson, *Constitutional Authority for Federal Protection of Migratory Birds, Other Cross-Border Species, and Their Habitat in Endangered Species Legislation*, 1999.



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