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Re: Proposal for a Conservation Agreement for Boreal Caribou in Ontario -- ERO 019-4995

To whom it may concern:

Thank you for the opportunity to provide comments on the proposed Conservation Agreement (CA) for Boreal Caribou in Ontario. We are submitting these remarks as wildlife biologists with expertise in species at risk recovery and familiarity with relevant provincial and federal policies, and as scientists with Wildlife Conservation Society Canada. One of us (JCR) served as an advisor to Environment and Climate Change Canada during three phases of boreal caribou critical habitat science review between 2007-2016 and to the Ontario government between 2008-2017, including as a member of the Provincial Caribou Technical Committee (formally dissolved in 2014).

Our remarks express considerable concern about the direction the CA is taking as outlined in this proposal. While we are very supportive of Ontario undertaking increased efforts focused on the recovery of boreal caribou in the province – including immediate attention to population and distribution surveys within all ranges – we see no indication of any intention by Ontario to consider the contribution of forest management activities over time to cumulative disturbance within ranges, which is a key documented risk to caribou.

Management of cumulative disturbance underpins effective protection of critical habitat identified in the federal recovery strategy. While Ontario has strong policies in place that promote range-level management, the legal exemption of forest management activities – the most significant agent of disturbance in many caribou ranges – means these policies are not being implemented as originally designed. The Boreal Landscape Guide (BLG), which is used to guide forest management for caribou habitat supply in the province, is relatively new and is being implemented under the assumption that caribou populations will benefit even while overall disturbance in the Area of Undertaking (AOU) is increasing. The approach reflected in the proposed CA is to wait for new population information that will enable a test of this assumption before any changes in management direction are considered by Ontario. However, given consistent scientific research findings across boreal forests in Canada (including

in Ontario) that increases in habitat disturbance result in a greater likelihood of population decline and location extirpation of caribou, it is critical that attention be focused without further delay on evaluating how Ontario's "conservation framework" can be best implemented to manage (and reduce in some places) cumulative disturbance, including forestry, so that caribou populations can recover from their uncertain or declining condition they were in when last surveyed.

Herein, we detail our concerns and offer specific recommendations for improvement. As a first step, we provide some background information on caribou management and recovery in the province that brings us where we are today.

1. Background/historical perspective on critical habitat protection for boreal caribou in Ontario

The Caribou Conservation Plan (CCP) was published in 2009 as the Government Response Statement, or legal document governing caribou recovery in the province under Ontario's *Endangered Species Act* (2007) (ESA). It was developed prior to the first iteration of the federal Recovery Strategy in 2012, but because members of the federal science advisory group developing the boreal caribou critical habitat framework were advising the provincial process, the CCP did already include "decreasing" cumulative impacts on caribou and range-scale management.

The provincial vision for caribou conservation as described in the CCP is "self-sustaining caribou populations in a healthy boreal forest"; the ultimate indicator of successful implementation of the CCP will be the condition of the caribou populations themselves. As the Provincial Caribou Technical Committee (PCTC) remarked at the end of their tenure in 2015¹: "The continued consideration of information garnered from careful and regular monitoring, new scientific insights, and ongoing rigorous policy implementation and improvement will be essential to meeting this goal. Innumerable major and minor management decisions made at all levels of OMNRF will continue to have important influences on the outcome of caribou conservation efforts."

In December 2014, the OMRF published a number of caribou-related documents/reports, including the Range Management Policy (RMP), the State of the Woodland Caribou Resource Report and individual Integrated Range Assessment Reports for all ranges in managed forests (the latter was a series of reports that provided population survey information, disturbance levels, and risk assessments for each range). It marked the end of a tremendous five-year investment by the Ontario government in caribou inventory, assessment, research that established a solid information base throughout caribou distribution in the province. With all ranges having been surveyed twice each between 2011-2013, baseline populations were established for monitoring efforts, but a monitoring program was never established.

A Provincial Caribou Technical Committee (PCTC), composed of internal staff plus external experts was active between 2011-2014 (JCR was a member). This was assembled as per the CCP, and then disbanded in December 2014 (although the CCP did not envision it ending). There has been no formal body like this since then, but individual and subgroups of the CCP were brought together at various points in 2016 and 2017.

¹ Letter to Chloe Stuart (Director, Species At Risk, Ministry of Natural Resources and Forestry) from PCTC re "Evolving Role and Mandate of the Provincial Caribou Technical Committee" (April 9, 2015).

In 2016, OMNR initiated an “ESA-CFSA Integration” exercise, based on the premise that caribou measures included in forest management planning under Ontario’s *Crown Forest Sustainability Act* (1994) (CFSA), particularly those that manage habitat and minimize impact, are equivalent to the protections provided by the ESA and the caribou recovery instrument (the CCP). The purposes of the two statutes are, however, entirely different, with the CFSA devoted to sustainable forest management, while the ESA was explicitly designed to prioritize considerations for species at risk. This means that while the CFSA seeks to mitigate impacts on species at risk during timber extraction activities (i.e., making them less bad than they otherwise would be), the target of the ESA is recovery of species at risk and their habitat (i.e., improving their status and condition of their habitats). Even so, the continued assertion that these statutes were duplicative culminated in changes to both pieces of legislation that exempted caribou recovery requirements under the ESA from forest management planning.

One major consequence of forestry exemption is that the range management policy (RMP) does not currently oblige the inclusion of disturbance from forest management – the most significant agent of human disturbance in Ontario. This severely hampers the effectiveness of the range management policy, which was formulated to establish the direction and process for considering overall cumulative disturbance (i.e., including natural and human causes) in land use decision-making at the range scale of caribou, in keeping with scientific underpinnings of critical habitat designation and effective protection. We note that forestry was always, in one way or another, exempt from ESA requirements since the inception of the RMP, and forest management planning decisions have never included even consideration of cumulative disturbance, in spite of many recommendations to do so. Importantly, these legislative changes do not exempt any requirements for effective protection of boreal caribou critical habitat under the federal *Species at Risk Act* (2003) (SARA).

Like range disturbance, the absence in forest management planning today of any strategic consideration of road development and restoration from a caribou perspective is a major drawback that the PCTC and others pointed out since 2011. The road direction in the BLG does not require road regeneration (it only suggests) and does not specify some upper road density limit that cannot be surpassed during and after logging.

In summary, although there have been efforts to plan and implement caribou recovery in Ontario through the CCP, Range Management Policy and associated research, these have consistently been undermined by the exemption of forestry from all these instruments. Likewise, forest management planning under the relatively recent BLG never addressed the requirements of the CCP, and any obligation to do so was recently removed by amendments to the ESA and the CFSA under the unverified premise that the requirements of CFSA are sufficient for caribou recovery.

Where we are in this point: Most boreal caribou ranges, particularly in the AOU, have not been surveyed since 2012-3 – almost 10 years. The last range assessments published in 2014 showed that most populations appeared to be in decline and disturbance levels were in the relatively high-risk ranges (particularly ON1-8). The results of PVA modelling published in 2020 by Fryxell et al.² (including MNR authors) indicated negative annual growth rates, particularly in ranges with forestry. The province has been measuring cumulative disturbance each year (including forestry) but has not made these publicly

² Fryxell, JM et al. 2020. Anthropogenic disturbance and population viability of woodland caribou in Ontario. *The Journal of Wildlife Management* 1–15; 2020; DOI: 10.1002/jwmg.21829

available since 2018³. The measures Ontario uses differ somewhat from Canadian Wildlife Service, but both have indicated increases in disturbance levels in all ranges since 2012 (when the federal recovery strategy was published).

2. Comments on the ERO Notice – the proposed Caribou Conservation Agreement

We note that this is a discussion paper that conveys proposed elements of the CA, not the agreement itself. But we are aware that the agreement between Ontario and Canada was already being drafted well before the deadline for the comments to the ERO posting were due. We have structured our feedback to the proposed CA according to the three main sections of the document: A) Context; B) General elements of the Agreement; and C) Table of Conservation Measures. As such it is unclear how meaningful and relevant this public engagement process actually is.

A. CONTEXT

- The proposed CA makes two important omissions in the opening paragraphs: 1) There is no mention of the commitment articulated in the federal Action Plan⁴ that CAs would be instruments to protect critical habitat through managing cumulative disturbance; and 2) The claim that Ontario implements range-level management does not make explicit that forestry -- the biggest agent of anthropogenic habitat disturbance for southern boreal caribou ranges -- is exempt from this policy. Although we acknowledge that the BLG does try to manage forestry to maintain historical land cover amount and age throughout caribou range, it does not track or manage cumulative disturbance levels.
- There is currently no acknowledgement of the status of the caribou populations in the CA. It will be important to state that populations have not been surveyed since 2013 and that most caribou populations were categorized by the Ontario government at the time as "non-self-sustaining" or "uncertain". This is important for establishing a baseline understanding of where Ontario is relative to the purpose of the Agreement of "self-sustaining populations" (as well as the federal recovery and CCP goals).
- The document makes several claims about the relationship between caribou recovery and the economy that seem inappropriate for a s. 11 Conservation Agreement (e.g., the "economy and environment go hand in hand" and "guaranteeing our continued prosperity"). We of course understand the interest in "balancing" conservation with socio-economic considerations, and recommend that the agreement simply adopt a clause similar in tone to what appears in caribou CAs with other provinces, for example:
 - Saskatchewan s. 8.1.2: Determining the appropriate mix of conservation measures is a multifaceted and complex undertaking that requires individual and collective analysis of biological, jurisdictional, social, economic, natural resource related tenures, and the rights and interests of First Nations and Métis communities; or
 - Alberta: AND WHEREAS the Parties recognize that achieving woodland caribou conservation and recovery will consider biological, social and economic factors.

³ Elkie, P. & K. Green. 2018. State of caribou ranges Cumulative Impacts Monitoring 2018 Estimates. Ministry of Natural Resources, Ontario. [no longer publicly available]

⁴ ECCC. 2017. Action Plan for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal Population, in Canada – Federal Actions [Proposed]. Species at Risk Act Action Plan Series. Environment and Climate Change Canada, Ottawa. vii + 24 pp

- The definition of “critical habitat” that appears in this proposed CA (“the habitat necessary for the survival or recovery of the species which includes both biophysical attributes and disturbance threshold (i.e. (that is) , 65% undisturbed habitat”) is paraphrased and should be replaced with the precise definition in the federal recovery strategy: Critical habitat for boreal caribou is identified as: i) the area within the boundary of each boreal caribou range that provides an overall ecological condition that will allow for an ongoing recruitment and retirement cycle of habitat, which maintains a perpetual state of a minimum of 65% of the area as undisturbed habitat; and ii) biophysical attributes required by boreal caribou to carry out life processes. The current text in the proposed CA places insufficient emphasis on the first part of the definition and too much emphasis on biophysical attributes. The federal Recovery Strategy and Ontario’s RMP make clear that biophysical attributes cannot be considered on their own without attention to the overall condition of the range.
- The statement in the opening pages that Ontario has a “robust provincial framework that includes laws, policies and processes to protect and recover caribou and their habitat in Ontario” should not be accepted by Canada, given that several federal assessments since 2012⁵ have shown that critical habitat is not being effectively protected in Ontario.

B) GENERAL ELEMENTS OF THE AGREEMENT

The elements we would expect are largely included, with some exceptions. The language in some sections could be strengthened, as follows:

- Missing is a principle that describes how the two parties will ensure that actions have a strong evidentiary basis and commit to developing a clear understanding of the extent to which decisions depart from such evidence (e.g., to “balance” economic interests).
- The transparency principle that is included is limited to making information publicly available (what information?), but this should be strengthened to be include transparency in in decision-making.
- Missing is a section parallel to “stakeholder engagement” that focuses on engagement of caribou expertise independent from government, which will be necessary to supplement Ontario and federal government capacity in implementing activities covered in this agreement.
- The "Governance, Accountability and Dispute Resolution" section is limited to dispute resolution and data sharing and unfortunately does not include any language related to what happens when either party does not meet its agreements, especially Ontario. We have already witnessed several circumstances with other provincial CAs where provincial actors have not conducted activities they promised within agreed-upon time frames, without apparent consequences. Both the Conservation and Financial Agreements should include clear language that includes consequences for not meeting deliverables (e.g., no further funds).
- While it is good that the "Workplan, Monitoring and Reporting" section includes checkpoints where the parties can re-examine progress on the workplan, it is very important that some external expert

⁵ Species at Risk Act Critical Habitat Report Series: ECCC (2018). Progress Report on Steps Taken to Protect Critical Habitat for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal Population, in Canada; ECCC (2019). Progress Report on Steps Taken to Protect Critical Habitat for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal Population, in Canada, June 2019. ECCC (2020). Progress Report on Steps Taken for Protection of Critical Habitat for Species at Risk in Canada (April 2019 to September 2019).

review of reporting (including by First Nations) be included to assess progress relative to goals and make recommendations for improvements.

- Use of the best available information sounds very good on paper but ignores the fact that neither Canada nor Ontario has successfully developed appropriate processes or respectful relationships with Indigenous communities within caribou range in Ontario to be able to consider "Indigenous Traditional Knowledge". This will require significant attention.

C. "TABLE OF CONSERVATION MEASURES"

- It is our recommendation that the main priority for any agreement between Ontario and Canada (and where most of the federal monetary contribution should be devoted) really must be survey/monitoring (1.1) and data sharing (1.5), which are necessary for decision-making regarding projects and regional-scale (range-scale) impacts of climate change and land use both in the AOU and the far north. Most caribou populations haven't received survey attention for 10 years, and management and land use decisions that have been carried out since then have resulted in increased overall cumulative disturbance (by the province's own measures). Many of the other activities listed in the document are only useful if and when surveys have been conducted and there is a better idea about how populations are faring and their current distribution strongholds.

However, the proposed CA presents "monitoring" as one of many activities. Although it comes first in the list there is no indication of how important it is relative to the others and what would be the relative monetary value of the federal contribution on this, the most important, activity in the proposed agreement.

It should be noted that while the document refers to this as a monitoring program, a more accurate title would be survey/inventory. Because the last time a baseline was established was 10 years ago, the priority is to understand how populations are faring today.

There is nothing stated about planned survey methodology, but our recommendation would be to focus on at least compositional surveys for the first year across the managed (forestry) ranges (ON1-8) to get some sense of cow:calf ratios and distribution. Subsequent years would follow with systematic surveys in selected ranges plus far north around Ring of Fire in the next two years, which could be designed and planned during the first year.

- As for the other conservation measures, it would be inadvisable to implement the range boundary review (1.2) prior to having current caribou distribution data in hand. These range boundary adjustments could be conducted alongside analysis of survey data. Yet in the document, these activities are designed to proceed concurrently. Even habitat restoration priorities (2.1) and protected area planning (2.2) cannot be properly done without caribou-specific information in advance, e.g., to understand where are strongholds for caribou and which areas require targeted protection to anchor caribou conservation/recovery efforts in Ontario.
- Section 3.1 and 3.2 are both ordinary provincial business related to forest management and mining activities. It is not possible at this time to measure effectiveness of forest management or mining BMPs without caribou information, yet it is our understanding that Ontario is not committing to any changes to its management approach before this information is available, including having forest management decisions be implemented as part of the RMP. The potential for updating current

management approaches (the "Conservation Framework") is reflected in section 4. Therefore, Section 3 activities, which Ontario will do as described with or without a Caribou Conservation Agreement with Canada, should therefore not be included as part of an Agreement to recover boreal caribou. A possible exception is the development of the Lake Superior Coast Range Management Plan (3.3), which we do not object to, as long as this activity does not occur at the expense of conservation and recovery activities in the core of the provincial range.

- Respecting section 4, we urge Ontario to commit to range management now and not wait for new population data before critically examining its current "Conservation Framework" for caribou. The Ontario-specific evidence has already been published within the last two years underscoring this imperative⁶. We recommend that the following immediate improvements to the framework be immediately implemented:
 - Integrate forest management into the provincial Range Management Policy, making clear how FMP fits within this broader management of cumulative disturbance within caribou ranges;
 - Make consideration of cumulative range disturbance and strategic road planning and habitat restoration central to range-level planning/management; and
 - Develop an Ontario-specific disturbance-recruitment relationship with current Ontario disturbance data (made publicly available), to inform Ontario-specific cumulative disturbance thresholds to be implemented within a comprehensive RMP.

Specific Recommendations: Appendix B

Conservation Measure	Recommended additions/edits/improvements
1.1	Change name of the Conservation Measure to "Boreal Caribou Inventory and monitoring"
	Include a bullet to conduct compositional and distribution surveys in ON1-8 during Year 1 for as rapid an assessment as possible as to the condition of caribou populations within the AOU and distributional strongholds to guide other "conservation measures" in this most highly-disturbed range
	Regarding survey and monitoring attention, the AOU and Ring of Fire (at least the Miissisa, James Bay, Ozhiski) should be distinguished. They will experience different impacts and land use trajectories that affect caribou in different ways (e.g., mineral exploration, mining, and roads/linear features in the north and forestry, mining and settlement in the AOU).
	The development and implementation of a monitoring program should follow the first two years
	Add performance measure "The status and current trends of all boreal caribou populations are assessed"
1.2	Link the contents of the timeline column to survey information, and updated

⁶ In addition to Fryxell et al. (2020) mentioned previously, simulations by Rempel et al. (2021) "suggest that Ontario's boreal woodland caribou population is likely to continue to decline in the absence of management strategies that address the cumulative effects (at multiple scales) of climate change and development to the region's moose-wolf-caribou system." Rempel R.S. et al. Modeling cumulative effects of climate and development on moose, wolf, and caribou populations. The Journal of Wildlife Management 85(7):1355–1376; 2021; DOI: 10.1002/jwmg.22094.

	distributional information in particular will be necessary as foundational information for adapting range boundaries
1.3	This is a good section, but there should be some explicit focus on the restoration of linear features and evaluation of effectiveness of Ontario's road decommissioning efforts Timelines must include engagement with external caribou and ecological restoration experts
1.4	Development of a caribou science plan must be developed with the participation of external caribou experts
1.5	This is very important; caribou population information is not included and should be explicitly mentioned. Models and future scenarios, which have been proprietary to date and are necessary for understanding cumulative effects, also need to be included. Performance measure should include some element of timeliness
2.1	Similar to comment above on 1.2, survey information must be explicitly linked, as updated population and distribution information will be central to the prioritization of habitat restoration. Canada should not be paying for restoration activities that are conducted in the normal business of forest management, i.e., what Ontario is obliged to do anyway – the language at present is not clear in this respect as to how this activity will contribute to caribou recovery.
2.2	Similar to 2.1, prioritization of protected areas should be done in tandem with survey information, so that the most meaningful sites to anchor caribou recovery can be chosen. At present, caribou information is not sufficiently updated, which means that selected sites are less likely to contribute meaningfully to caribou recovery. Just because a site occurs within caribou ranges doesn't mean it will provide protection. Specific reference to OLL sites should be dropped because we know that these will provide minimal coverage for boreal caribou. Mentioning OLL sites and not other candidate areas (FSC protected areas, Indigenous Protected and Conserved Areas) will create the perception that they are more important.
3.1	This section should be dropped from the CA (see above). Effectiveness of existing direction in forest management should be brought into Conservation Measure 4.
3.2	This section should be dropped from the CA (see above). Effectiveness of existing direction related to mining and mineral exploration should be brought into Conservation Measure 4.
4.1 and 4.2	Within the first year, include an analysis of the effectiveness of Ontario's current conservation measures to reduce cumulative disturbance in caribou ranges. Integrate disturbance from forestry in the Range Management Policy and modify FMP process to include tracking cumulative disturbance at the range scale. Develop an Ontario-specific disturbance-recruitment relationship within the first 2 years (for NE and NW separately). Include as a performance measure that management of cumulative

	disturbance, habitat restoration, and strategic road planning becomes central to managing disturbance in caribou ranges.
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In closing, we sincerely hope to see significant improvements to the Caribou Conservation Agreement between Canada and Ontario that emerges and would be glad to discuss with you in more detail any of our comments.

Yours sincerely,



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