



16 September 2013

Mr. Michael Gluck
Manager, Caribou Conservation Section
Ministry of Natural Resources, Species at Risk Branch
c/o Centre for Northern Forest Ecosystem Research
955 Oliver Road
Thunder Bay Ontario P7B 5E1

Re: Development of a Range Management Policy in support of Woodland Caribou (Forest-dwelling boreal population) Conservation and Recovery in Ontario, EBR Registry Number 011-9448

Dear Michael,

Thank you for the opportunity to provide comments on the *Range Management Policy in support of Woodland Caribou (Forest-dwelling boreal population) Conservation and Recovery in Ontario* (hereafter referred to as RMP). I do so as a member of the Provincial Caribou Technical Committee (PCTC), and as a caribou scientist who has been engaged in research and recovery of boreal caribou in Ontario and nationally. The latter was through the critical habitat science review¹ that formed the basis for the recently-released national Recovery Strategy².

Although the PCTC has reviewed and discussed several previous versions of the RMP, our input ultimately had modest (at best) influence on the document that has been posted. For this reason, I feel compelled to formally record my concerns through this EBR process. The views expressed in this letter are my own, but have been influenced by extensive discussions among PCTC members in which I have had the privilege of participating over the past two years. Most of my remarks are focused on the RMP, but I also make reference to the *Draft Guidance for Assessing Impacts of Activities on Woodland Caribou and Their Habitat* (hereafter referred to as GAI), which was posted at the same time.

As outlined in Ontario's Caribou Conservation Plan (CCP), managing and limiting cumulative disturbance at the scale of local population ranges will be key to achieving the ambitious goals of boreal caribou

¹ Environment Canada, 2011. Scientific Assessment to Inform the Identification of Critical Habitat for Woodland Caribou (*Rangifer tarandus caribou*), Boreal Population, in Canada: 2011 update. Ottawa, Ontario, Canada.

² Environment Canada. 2012. Recovery Strategy for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada. Species at Risk Act Recovery Strategy Series. Environment Canada, Ottawa.

recovery. At the time when Ontario issued the CCP in 2009 it was ahead of all other provinces and territories in being explicit about both the need for and its commitment to adopting such an approach, which fits well within the framework of the national Recovery Strategy that emerged three years later. In the intervening time, Ontario has focused on collecting important data and assessing the state of population ranges, but has not provided details on how it plans to implement landscape-scale cumulative effects management, other than measuring and tracking it through the Caribou Screening Tool.

As the centrepiece of the CCP, the range management policy is of course a key policy piece. Accordingly, it should describe how MNR is going to “manage caribou ranges” as the ESA administrator responsible for ensuring the status of this species at risk does not deteriorate in the face of increasing development interests in northern Ontario. The RMP's preamble clearly states this to be its intended purpose (line 60), and pledges “new tools and approaches” (line 56). Unfortunately, however, the posted document provides little clarity on the processes by which land use and development decisions will be made and coordinated within and across population ranges at the scale of tens of thousands of square kilometers.

There are four major issues that underlie my concerns, discussed in turn below: 1) lack of mechanisms to coordinate decision making at the range scale, 2) lack of direction on limiting new disturbance, 3) reliance on mitigation rather than limitation of disturbance, and 4) overemphasis on “sub-range habitat components”.

1) Lack of mechanisms to coordinate decision making at the range scale

This document commits to adopting decision making at the scale of caribou ranges. Although the RMP states “Individual management decisions, resource allocations and disturbances at the sub-range level cumulatively contribute to overall changes in disturbance and the amount and arrangement” (lines 181-184), there is no articulation of how MNR plans to overcome this challenge. There are two facets of this problem that merit some discussion: 1) there are many land use decisions beyond those listed in lines 269-272 over which MNR has no authority, and 2) in cases where MNR does have authority, there is no clear process by which decisions will be coordinated at the appropriate scale.

Regarding the first issue, the document concedes MNR's limited authority on many ultimate decisions that will likely collectively increase disturbance, through heavy use of terminology such as “provide direction”, “influencing”, “informing”, “management should consider”, “will work with ...to collaborate”, “support decision making”, etc. This then begs the question: how is MNR then going to prevent a growing collection of piecemeal and independent land use decisions from gradually undermining its own range management goals and responsibility under the ESA? The document does not explicitly distinguish land uses over which it does not have authority and acknowledge the different approach that will be required or the constraints on the likelihood of achieving provincial caribou conservation objectives. Hence, in spite of the excellent intentions of the CCP, the process of “range management” has a high potential of being continually undermined by decisions that will be made outside of MNR's control (over much of the landbase). The document neither concedes this nor makes clear how it expects to overcome this constraint and achieve its responsibilities for caribou conservation.

Secondly, where MNR does have authority, the document commits to the following: “Principles and actions are intended to be applied collectively to address the requirements for caribou habitat at both the range and sub-range level” (lines 177-178). Sections 6 and 7 of the document are intended to outline this process, but apart from a later statement, “Principles and actions in this policy should be

applied to improve range condition to a desirable state, and resource development approvals should follow established processes with consideration of current and future implications to caribou populations," (lines 289-91), nothing is offered to explain any mechanisms by which this will occur. The document mentions MNR's intention to "implement cumulative effects management on the landscape as directed by the CCP, work in conjunction with MNR's existing legislative framework" (lines 67-69), but it is unclear what legal tools, if any, exist to address cumulative disturbance. In the Far North, for example, current piecemeal and patchwork approach within environmental assessments (including MNR's Class EA for Resource Stewardship and Facility Development) and land use planning exacerbate the risk. The only details regarding procedure are contained in the companion GAI, which makes clear the intentions for MNR to follow the usual proponent-driven project-by-project approval approach. We know from ample experience that such a reductionist approach to managing large areas will result in the inexorable loss of caribou populations over time.

2) Lack of direction on limiting new disturbance

Section 6 of the RMP discusses three different scenarios for range condition : "uncertain if the range condition is sufficient to sustain caribou", (293), "ranges that are insufficient, or uncertain to be able to sustain caribou" (302), and "range is sufficient to sustain caribou, and meets or exceeds requirements to sustain caribou" (311). Each scenario is followed by a brief explanation describing the MNR response that is so vague that each is barely distinguishable from the others. For example, in situations where it is uncertain if the range condition is sufficient to sustain caribou or insufficient to sustain caribou, the document provides no indication of any intention of ever saying "no" to a proposed increased disturbance. In fact, in the case of "insufficient range condition", the narrative goes to exceptional lengths to discuss the opposite situation, i.e., the case when a development activity may in fact be "appropriate" (lines 305-9).

Although there is good reason not to manage by generalized hard disturbance thresholds given natural variability, the concept that there is a risk continuum (the higher the disturbance level, the greater the risk to the persistence of the population) must be acknowledged in a range-scale approach that is truly committed to managing cumulative disturbance. This means that, at some point, there will be an upper limit to welcoming new development into a landscape that is already subject to high levels of development and fire. Although the document alludes to a possible threshold approach as a decision-support tool (line 258), it goes on to state that "Ranges are to be managed based on the condition of a range and to *minimize* cumulative impacts from disturbances. Therefore, depending on range condition, management decisions may have more or less *flexibility*, and the requirement for proactive recovery may be more or less essential" (lines 272-275; italics are mine).

Practically speaking, this lack of commitment to placing limits on disturbance means that there is no direction available to either MNR staff or proponents on how to manage new development proposals in situations that are of high risk to caribou. An assumption underlying this process appears to be that the end result will be an overall benefit permit under section 17(2)(c) of the ESA. Notably, there is no direction or mention in the GAI (or any publicly available MNR policies) of the circumstances that may compel the issuance of a permit under clause 17(2)(d) (where the "main purpose of the activity authorized by the permit is not to assist in the protection or recovery of the species specified in the permit, but.... the activity will result in a significant social or economic benefit to Ontario"), or the point at which the issuance of any permit could be inappropriate.

The perils of this lack of direction is well illustrated by an "information notice" that was recently posted on the EBR (Registry # 011-9719), regarding a permitting decision in the Red Lake district about a new road for mining exploration. It is proposed to occur in a caribou range that is known to be in poor condition (with high disturbance) and where evidence suggests the population is in decline. Moreover, the road would be permitted to pass through seasonal ranges and high use areas. There is no dispute by either MNR or the proponent in this case that this road is more likely to be detrimental than beneficial to the recovery of the resident caribou population. Yet, the only option that is apparently being discussed (according to the EBR posting) is an overall benefit permit. The RMP and GAI only provide guidance with respect to this type of permit, and offer no other options for consideration. With this being the first potential permit for caribou issued under Ontario's Endangered Species Act, it will serve as a model for future permitting decisions, which are likely to accumulate. With time, the limited policy direction provided by the RMP will ultimately challenge MNR's ability to meet its CCP commitments if such permitting decisions effectively serve as the main mechanism for managing cumulative disturbance.

It is also important to note that the national *Recovery Strategy for the Woodland Caribou (Rangifer tarandus caribou), Boreal population, in Canada* (2012) provides a framework (as a part of critical habitat identification) that is much more explicit than this RMP with respect to the ecological conditions that will be necessary for caribou recovery. The Recovery Strategy provides a foundation for the development and implementation of "range plans" (developed by provinces or territories) that are to be the basis of effective protection of critical habitat. Under section 61(4) of the federal Species at Risk Act (SARA), Ontario is obliged to provide effective protection of identified boreal caribou critical habitat as defined by the recovery strategy. This RMP is, however, too vague in its direction on the use of disturbance limits or thresholds to provide any assurances in this regard, which places Ontario at some risk of not being able to demonstrate effective protection of critical habitat.

3) Reliance on mitigation rather than limitation of disturbance

In the process of avoiding any discussion on limits to development, the RMP makes clear that it seeks to "manage impact" rather than manage development itself. This translates into a reliance on mitigation of individual impacts through 'best management practices' (BMPs). Contrary to verbiage in this document (lines 399-403), best management practices are not a solution to cumulative disturbance, and can do little if anything to mitigate population and range decline. Again, the singular focus of the RMP and the GAI towards overall benefit permitting of individual development projects places BMPs at the centre of caribou recovery, rather than as supportive mechanisms within a range management approach. In most cases, BMPs are measures implemented at the scale of the activity that will make little ultimate difference to the well-being of the population, particularly in moderately to highly disturbed ranges. Moreover, many are untested and so there is no assurance of their effectiveness.

4) Overemphasis on "sub-range habitat components"

In spite of the best available science suggesting that management of disturbances at the range scale must be the primary emphasis of caribou conservation and management, the RMP document places equal emphasis on a business-as-usual reductionist habitat management approach, i.e., the "sub-range components" of caribou habitat. Indeed, the province's General Habitat Protection approach (which, I note, has not been posted on the EBR) is predicated on this notion by placing focus on individual components of habitat in a "categorization" approach. This removes the emphasis on managing as a whole (range management), and as a tool or mechanism is inappropriate for range management. A heavy reliance on "considering the hierarchy of caribou habitat values across the range of spatial scales"

(376-77) is a distortion of current understanding of caribou habitat and its management that ignores the scientific evidence to the contrary.

This kind of emphasis unfortunately corresponds with the severe limitations of project-level assessment and approvals with respect to caribou conservation. There is no mention in either the RMP (s. 7.2) or the GAI (s 3.2.2) about how range condition might affect the relative value of each of the "sub-range components." In other words, if a project intersects with "Category 3 habitat features", the relative value of that piece of land is a function of the condition of the range (i.e., how much disturbance is there already). Disturbing a calving area (Category 1) will have different consequences in a range that has already experienced substantial development and fire from one that has not. Similarly, Category 3 habitat must be considered to be of very high value in a range that is highly disturbed, and "tolerance" to its disturbance correspondingly low.

In conclusion, contrary to its stated intention, the posted RMP provides limited and vague direction for how MNR intends to manage and limit cumulative disturbances within boreal caribou population ranges in Ontario. Considering that in much of Ontario caribou range, pressures are mounting and there are high aspirations for multiple developments, permitting decisions will require more explicit direction from the Species At Risk Branch of MNR than simply applying best management practices to all development activities and hoping for the best. The RMP should articulate a clear process and mechanism for how MNR will coordinate decision-making at appropriate scales for caribou and perhaps most importantly, establishing limits to new disturbance. The absence of any meaningful discussion of this in the current version increases the risk that Ontario will be unable to provide for the effective protection of critical habitat under SARA. It also illustrates the urgent need for development of a cross-sectoral policy among ministries to deal with the overall management of development in the landscape, over much of which MNR has little to no authority. Finally, the high risk inherent in the proposed RMP will necessitate enhanced monitoring and research by both Ontario and development proponents to measure success of individual mitigation measures and the well-being of caribou populations as overall disturbance levels increase. The range assessments will require continuous updating so that they can inform decision-making in a meaningful and transparent fashion.

Please let me know if any of these comments are unclear, or if they require follow-up in any other manner.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Ray'.

Justina C. Ray, Ph.D.
Executive Director and Senior Scientist

cc: Mr. Gordon Miller, Environmental Commissioner of Ontario (commissioner@eco.on.ca)