

BRIEFING NOTE FOR INFORMATION

DATE: January 23, 2023

PREPARED FOR: Honourable Nathan Cullen, Minister of Water, Land and Resource Stewardship

ISSUE: Federal Minister of Environment Climate Change Canada potential recommendation for an Emergency Protection Order for Spotted Owl

BACKGROUND:

- The Spotted Owl (SPOW) subspecies is listed as Endangered under the federal *Species at Risk Act* (SARA) and under the *Forest and Range Practices Act* (FRPA). Ministry of Water, Land and Resource Stewardship (WLRS) leads the management and recovery of the SPOW in Canada.
- Threats to SPOW include loss and fragmentation of habitat, competition from Barred Owls, climate change, noise disturbance, and low population (22 owls in 2006). Recovery measures include habitat protection, management of Barred Owls and a captive breeding program. A 2006 Recovery Strategy (RS) did not include a complete identification of critical habitat (CH).
- BC has protected over 281,000 ha of CH in Wildlife Habitat Areas (WHAs) under FRPA; enough to support a long-term population target of 125 breeding pairs. BC also captured most of the remaining wild owls and initiated a captive breeding and release program. The first release of three owls occurred in August 2022. One owl was apparently hit by a train and recaptured. The two remaining owls are being monitored along with the last known wild owl.
- In October 2020, Ecojustice, on behalf of their client Wilderness Committee, petitioned Environment Climate Change Canada (ECCC) to apply an Emergency Protection Order (EPO) near Spuzzum and Utzlius WHAs citing noise and vehicle traffic from timber harvesting activities as a threat to recovery. ECCC's analysis found that the Ecojustice petition was sound and that an EPO was warranted.
- In February 2021, the Province applied a temporary harvest deferral in the Spuzzum and Utzlius watersheds [s.13](#).
[s.13](#) The deferrals were put in place for one year, extended for a second year, and will be considered again by cabinet for extension until February 1, 2025.
- [s.16](#)
- On October 25, 2022, Ecojustice again petitioned for an EPO recommendation based on commercial logging within critical habitat citing 452 approved or pending cutblocks overlapping fully or partially with areas identified as potential CH in the draft RS and at least five cutblocks in close proximity to areas identified as priority for the release of captive owls.
- Although not mentioned by Ecojustice, the Transmountain Expansion Project is constructing immediately adjacent to the captive breeding centre.

DISCUSSION:

The federal SARA is "safety net" legislation that requires the assessment of the status of species. If the federal Minister is of the opinion that a species faces an "imminent threat" (IT) to its survival or recovery, the Minister must prepare a recovery strategy that includes the identification of critical habitat; and, make a recommendation to provide for the protection of the species.

There is currently no ability within SARA for the federal Minister to consider social or economic impacts that may result from recommendations for the protection of species. Recommendations by the federal Minister under SARA are provided to the federal Cabinet where social economic impacts and other provincial perspectives may be considered.

Ministry of Forests staff completed an analysis of the proposed or pending cutblocks and confirmed that approximately 1% of the identified suitable habitat, outside of protected areas, is overlapped. Overlaps are almost entirely within priority old growth and are also not being considered for authorization until consultation with First Nations is complete (i.e., harvest is "paused"). **s.13**

s.13

s.13; s.16

s.13; s.16

s.13

NEXT STEPS:

- Staff with WLRS and the Ministry of Energy, Mines and Low Carbon Innovation (EMLI) will meet with executive at Trans Mountain Expansion to confirm pipeline construction and mitigation plan (Jan 23)
- ADM David Muter will initiate consultation with First Nations on the extension of Part 13 Orders (Jan 25)
- WLRS staff will continue to meet with ECCC staff to review technical information and satellite imagery, confirm timelines for draft RS release and IT assessment (Jan 25)
- WLRS Staff will initiate consultation on adaptive management approach in draft RS (TBC)
- Extend Part 13 Deferrals (before March 31, 2023)

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REVIEWED BY:

	Initials	Date
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