

Wild *life Act*
Amendments

PHASE TWO

Yukon Species at Risk



December 2001

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Message from the Minister:

In November 2000 I announced that this government would proceed with Species at Risk legislation as the second phase of amendments to the *Wildlife Act*.

We must proceed with this legislation to meet our obligations under the 1998 National Accord for the Protection of Species at Risk signed by federal, provincial and territorial ministers responsible for wildlife. Under the Accord, Canada agreed to take part in a national strategy to stem the decline of biological diversity. The strategy came out of the 1992 United Nations Convention on Biological Diversity. If the Yukon government does not proceed with developing Yukon legislation, and if a species were deemed to be at risk, the federal government would make a determination regarding how their legislation would apply here.

Few Yukon wild species are at risk and with good management that should not change; but we must still make amendments to our legislation so that Yukon species at risk are protected. As we proceed, we will take into account:

- the need to manage and develop other natural resources;
- the need to be practical, straightforward, and clear in our legislation and in the program to implement the legislation;
- the need to give mandated boards, stakeholder groups and the Yukon public a chance to provide their views on the proposed legislation and program to government;
- the need to involve First Nations, according to settlement agreements; and
- the need to seek federal participation to the extent that a federal interest is involved.

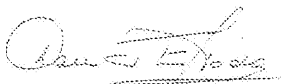
Yukon Renewable Resources staff are having preliminary discussions with Yukon First Nation governments, the Tetlit Gwich'in and the Inuvialuit about what legislative amendments and an associated program might involve. Staff are also working on this project with the Yukon Fish and Wildlife Management Board, the Wildlife Management Advisory Council and other mandated councils. Staff have contacted stakeholder groups that have a special interest in these amendments. Finally, the department has discussed the plans for species at risk legislation with federal government departments and encouraged them to take part in this process.

With this document, the Yukon government is moving into a broader public consultation. This consultation will conclude early in 2002.

During the spring and summer of 2002, we will develop the details of Yukon species at risk legislation and an implementation program so that we can bring our legislation to the Legislative Assembly in fall 2002. With this timetable, the Yukon will be able to implement a species at risk program in 2003.

I encourage you to participate in this process, and look forward to your views on how the government can best provide for the protection of species at risk in our *Wildlife Act*.

Sincerely,



Dale Eftoda, Minister
Yukon Renewable Resources

Introduction:

The process to revise the *Wildlife Act* is taking place over three years. Phase 1, dealing with administration and enforcement issues, is complete. The current species at risk discussion is Phase 2 of the process and will continue until mid 2002. Phase 3, in 2002/2003, will deal with changes to make the *Wildlife Act* consistent with Yukon settlement agreements.

For many years, the department has managed wildlife sustainably in the Yukon, and contributed to species at risk programs, both territorially and nationally. This work included participation with federal agencies, affected First Nations, mandated boards and councils, and the Yukon public. Two examples of the success of these partnerships are the recovery of peregrine falcons and wood bison.

If the Yukon does not develop our own laws about species at risk, federal legislation will apply to species at risk here even though we have managed wildlife under Yukon legislation for many decades. The Yukon must develop legislation so that government can implement national commitments in a way that best suits the needs of Yukon people and Yukon wildlife. The legislation also needs to meet national standards so that the Yukon can contribute to a coordinated effort to protect species at risk throughout Canada.

Currently, under the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), the bowhead whale is listed as endangered, wood bison and peregrine falcon are listed as threatened, and grizzly bear, wolverine and squanga whitefish are considered vulnerable or of concern, but not at risk at this time. Management and monitoring programs will be continued and reinforced as necessary to ensure that species do not become at risk. One initiative in this regard is the establishment of a Yukon Conservation Data Centre for coordinated assessment and monitoring of wildlife. Another is the creation of a new part of the *Wildlife Act* to address species at risk.

What species at risk legislation will do -

Species at risk amendments to the Wildlife Act will:

- identify species that are vulnerable and ensure that these species do not become at risk through ongoing monitoring and management programs;
- ensure the recovery of wild species and populations at risk; and
- help to prevent wild species at risk in the Yukon from becoming extinct because of human activity.

How the Yukon government will implement species at risk legislation -

The Yukon will implement amendments to our *Wildlife Act* by creating a program to monitor the status of wild species in the Yukon and to identify wild species at risk. Through the program, the department will develop and implement protection and recovery measures for at risk species. These measures may also provide for the protection of critical habitat.

The tasks before us -

The government has two tasks.

1. to make sure that wild species do not become at risk by continuing to provide effective wildlife and habitat management programs in the Yukon, based in legislation
2. to meet our national commitments as set out in the National Accord for the Protection of Species at Risk

About this Phase 2 process:

This discussion paper is the consultation focus of Phase 2 of the Yukon government's process to amend the *Wildlife Act*. Following informal discussions with other governments and key stakeholder groups, this paper provides an opportunity for Yukon citizens to comment on issues related to species at risk legislation. Other governments, mandated boards and councils and stakeholder groups are also being encouraged to participate in the consultation process. The result of this process will be amendments to the *Wildlife Act* and a new section in the *Wildlife Act* that deals specifically with species at risk.

Four principles will guide the department in the work to develop species at risk amendments to the *Wildlife Act* and a program to implement the legislation.

Principle 1:

The process must involve Yukon citizens.

Principle 2:

The legislation and program will be consistent with settlement agreements.

Principle 3:

The legislation will be compatible with federal legislation and meet the Yukon's commitments in the National Accord for the Protection of Species at Risk.

Principle 4:

The legislation should provide the tools to protect species from becoming at risk or species currently at risk from becoming extinct.

Step 1 - Discussion Paper

This paper outlines Phase 2 -species at risk issues. Specifically, the issues in this paper deal with developing legislation to prevent species from becoming at risk, and providing a program to manage the recovery of species at risk and their critical habitats.

About this paper:

This discussion paper is set up as a series of questions and answers followed by space for your comments.

There is one question per page so that you can fax or mail your comments to the Department of Renewable Resources.

If you do not have enough space on the pages of this document, please use extra paper - but be sure to clearly identify the question to which your comments relate.

There are three ways for you to comment on the points raised in this paper.

1. You can send your comments in writing to:

Wildlife Act Revisions
Department of Renewable Resources
Box 2703 Whitehorse, Yukon Y1A 2C6.

2. You can e mail your comments to: wareview@gov.yk.ca
3. You can fax comments to the Department of Renewable Resources at (867) 393-6213. If you have any questions, please call 1-800-661-0408 and ask for extension 5117. A coordinating committee, supervised by a management steering committee, is conducting the review. Your group or organization can arrange a meeting with the coordinating committee members to discuss the legislative amendments by calling the number above.

**THE DEADLINE FOR ALL COMMENTS IS
FEBRUARY 18, 2002.**

Step 2 - Report on Comments

The Department of Renewable Resources will develop a summary of comments after the public consultation period. This summary will be available to the public, so that people can see how the department is responding to comments. The Yukon government will consider these comments as we revise the *Wildlife Act* to include species at risk provisions.

Question 1:

Why is the Yukon government proceeding with species at risk changes to the Wildlife Act?

FACTS:

The Yukon agreed to develop legislation and an associated program as part of the national effort to protect wild species by signing the National Accord for the Protection of Species at Risk in 1998.

The Accord was created as a result of Canada's 1995 Biodiversity Strategy arising from the 1992 United Nations Convention on Biological Diversity.

The Accord calls for provincial/territorial legislation and programs in each jurisdiction to implement this national program regionally; and to contribute to the coordinated protection of species at risk nationally. The Yukon is managing Yukon wildlife now, and wants to be proactive in ensuring government can continue to do so, in a way that makes sense for our area.

Please comment:

Do you feel that it is important for the Yukon to have its own legislation and program to address issues relating to species at risk? If yes, why? If no, why not?

If the Yukon government does not develop its own legislation and program, the federal government will decide how federal legislation will apply, on a case-by-case basis, to the protection of wild species at risk and their habitats in the Yukon. Ottawa-based decisions could seriously affect how the government manages and develops Yukon natural resources and the use of these resources by all Yukon people, including First Nation citizens.

Question 2:

What does species "at risk" mean and what will happen if a species is determined to be "at risk"?

FACTS:

Species "at risk" means species that could become extinct. Changes to our *Wildlife Act* will establish a process to identify species at risk, what protection they may need, and how to develop recovery plans to help bring these species back to healthy population levels. The legislation will apply to all wild animal and non-migratory bird species in the Yukon. Fish, migratory birds, and plants will remain a federal responsibility but will be coordinated with the Yukon program.

The legislation and the monitoring program will address matters such as:

- Yukon based decision-making to determine if a species is at risk;
- a process for developing a list of species found to be at risk;
- recovery plans for species at risk; and
- periodic reassessments of the species at risk.

The process to identify and assess at risk wild species would look something like this.

1. Monitor status of all species in the Yukon (e.g. through a Conservation Data Centre).
2. Conduct an initial assessment and identify species at risk (via a Yukon based group that will provide advice to the minister).
3. "List" species at risk in the Yukon. Once listed, species can be reassessed at any time.
4. Develop recovery plans (Yukon Renewable Resources working with First Nations, the federal government, management boards and councils established under settlement agreements, stakeholder groups, and the Yukon public).

Please comment:

Do you have suggestions for other matters that species at risk legislation could address?

Question 3:

What about critical habitat protection for species at risk?

FACTS:

The *Wildlife Act* already makes it possible to create habitat protection areas. Revisions to the *Wildlife Act* will address the question of protecting critical habitat so that species at risk can survive and recover. Recovery plans will identify critical habitats for species at risk. Areas that could be considered critical habitat include nesting sites, calving areas, stops on migration routes, etc.

Please comment:

What do you think about the Yukon government's proposal to address the question of critical habitat protection for species at risk in its amendments to the Wildlife Act?

Do you have suggestions about how critical habitat areas for species at risk can best be protected?

Such areas may need a higher duty of care than other lands depending on species needs. For example, government could use specific prohibitions in regulations to help protect certain areas during certain times of the year (e.g. no low flying or no disturbance of nesting sites in the spring, etc.). In other words, development can coexist with protection measures under specific rules (but this does not necessarily mean that the Yukon government would have to take measures such as sub-surface withdrawal). The primary objective of the recovery planning process is to ensure species recovery. Only habitat and management measures that would promote species recovery would be considered.

The government's responsibility is to make sure that wild species do not become at risk. To achieve this goal, the Yukon government must continue to provide effective wildlife and habitat management programs. Cooperation from other governments, the private sector and individuals is essential to provide for effective protection of species at risk and their critical habitats.

Question 4:

What will the legislation and the implementation program include?

FACTS:

Given the mandates and interests of Yukon, federal, and First Nation governments, mandated public structures, individual and private sector interests, the Yukon government must develop comprehensive legislation and a carefully considered implementation program. The Yukon government must also keep the management processes and legislative tools as simple as possible so that they work for Yukon people.

The legislation and implementation program will address matters such as:

- the criteria to categorize wild species at risk;
- the process to gather and review data on the status of wild species to determine if a risk exists for a species;
- the process to assess the biological status of wild species believed to be at risk (using scientific information and traditional and community knowledge);
- the criteria to designate the level of risk based on biological status by formal listing;
- a list of wild species at risk;
- land stewardship (protection of land by private owners);
- third party rights consistent with the federal legislation on species at risk;
- recovery plans and programs, including the level of critical habitat protection programs necessary for species at risk; and
- structures to implement a coordinated program (e.g. a listing agency, assessment and monitoring work, recovery teams, Conservation Data Centre, etc.).

Please comment:

What other matters should species at risk legislation and an implementation program address?

To do all of this, the Yukon government must revise its *Wildlife Act* and develop a program to implement this legislation. Through the program, the Department of Renewable Resources can monitor the status of wild species, identify wild species at risk, and then develop and implement protection and recovery measures for the species. This may include protecting their critical habitat.

Question 5:

What's involved in this project?

FACTS:

The Yukon government will develop species at risk legislation as part of its three-phase process to revise the *Wildlife Act*. This legislation will provide "one-window" management of the species at risk program in the Yukon and link us to the national program.

Yukon legislation will apply to wild species at risk and critical habitat for those species at risk that are under Yukon government jurisdiction - land animals and non-migratory birds. The implementation program, however, will apply to all wild species at risk in the Yukon. This requires the effective involvement of all governments.

It will take the coordinated effort of the Yukon government, and federal and Yukon First Nation governments to effectively implement a species at risk program here.

- The Yukon government has jurisdiction over land-based wildlife and birds that do not migrate.
- The federal government has jurisdiction over migratory birds, fish, and plants on federal lands (before devolution of responsibility to the Yukon) and in National Parks. The federal government also has a coordinating role for wild species at risk programs nationally.
- Yukon First Nation governments have jurisdiction over their Settlement Lands and manage wildlife harvesting by their citizens in their traditional territories.
- Boards and councils established under settlement agreements have certain roles and responsibilities in reviewing legislation and programs that affect Yukon fish and wildlife and their habitats. The involvement of boards and councils in reviewing legislation and programs that affect Yukon fish and wildlife and their habitats fits well with the mandates of these groups as set out in settlement agreements.

Please comment:

How do you think governments (the Yukon, federal and First Nation governments) can most effectively deliver this program?

Question 6:

What's the situation now?

FACTS:

Besides COSEWIC, there is also a program to develop recovery programs through the Recovery of Nationally Endangered Wildlife (RENEW) program. A national council of ministers responsible for wildlife oversees RENEW. These ministers decide if they will take recovery action if a species is at risk.

The federal government is also developing legislation to help implement the National Accord for the Protection of Species at Risk. It is restructuring national programs for assessing, listing and recovery planning for species at risk. Most provinces have legislation in this area. Northwest Territories and Nunavut are developing species at risk legislation.

The Yukon *Wildlife Act* simply identifies "Specially Protected Wildlife" species, which does not adequately deal with species at risk according to the territory's commitments under the National Accord for the Protection of Species at Risk.

Yukon species on the COSEWIC list include wood bison, peregrine falcons and bowhead whales. The bowhead whale, which inhabits the ocean off the Yukon north slope, is under federal jurisdiction. The recovery of peregrine falcons has been successfully managed and populations have recovered in the Yukon. Wood bison, introduced into the Yukon as part of a national recovery program, are now thriving. Programs to help with the recovery of falcons and bison involve administrative processes that are not spelled out in legislation. This discussion about species at risk legislation is part of a process to make sure that these programs have a legislative basis to allow government to continue to manage these species.

Please comment:

Are there specific legislative provisions that you believe would help protect species at risk?

Would you find a list of species at risk useful?

Phase Two of the Wildlife Act Amendments YUKON SPECIES AT RISK

WHO?

The federal government is developing a Species at Risk Act (SARA), for species under federal jurisdiction, such as migratory birds, fish and marine mammals. However, federal legislation will apply to all animal and plant species and their critical habitats if complementary legislation and programs are not put in place in the provinces and territories. The Yukon has jurisdiction for land-based wildlife and non-migratory birds, and has managed its wildlife for many decades. This includes management and recovery programs in the Yukon for the two species currently considered at risk in the territory – wood bison and peregrine falcon. If the Yukon does not develop its own laws about species at risk, the new federal legislation will apply in the Yukon.

WHAT?

The Yukon's species at risk legislation will consist of amendments to the Wildlife Act to prevent wildlife species at risk from become extinct because of human activity and to ensure their recovery. The legislation will also identify wildlife species that are of special concern or vulnerable and ensure that these species are adequately protected through ongoing monitoring and management programs.

WHY?

In 1998, federal, provincial and territorial ministers responsible for wildlife signed the National Accord for the Protection of Species at Risk. Under the Accord, Yukon committed to continue to manage wildlife species at risk in the Yukon in accordance with the national principles and standards set out in the Accord, including the development of territorial legislation. As noted above, if we do not proceed with developing Yukon legislation, federal legislation will apply here in the Yukon. We must develop legislation so that we can implement our national commitments in ways that best suit the needs of Yukon people.

WHEN?

The process to revise the Wildlife Act is taking place over three years:

- **Phase One -Administration and Enforcement Issues**, completed 2000-2001;
- **Phase Two** -public discussion of **Species at Risk** will be underway in December 2001, with the intention of tabling legislation during the Fall 2002 sitting of the Legislative Assembly; and
- **Phase Three** -addressing changes required to ensure **Wildlife Act consistency with Yukon land claims agreements**, planned for 2002-2003.

HOW?

The Yukon government will soon be releasing a discussion paper to initiate public consultation on Species at Risk. First Nations will be involved in the process to develop species at risk legislation. The consultation will include informal discussions with other governments, mandated boards and councils, and key stakeholder groups. A coordinating committee is conducting the review. Groups and organizations can call 1-800-661-0408 (Extension 5117) with questions or to arrange meetings with the committee to discuss the Species at Risk amendments. Comments may be submitted to the Yukon Department of Renewable Resources, or can be e-mailed to wareview@gov.yk.ca.

PROVINCE (TERRITORY) Yukon

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Provincial (Territorial) Protection for COSEWIC-listed Species

Common Name	Scientific Name	Population	Status	Provincial (Territorial) Legislation and Protected Afforded	Policies and Protection Afforded	Programs and Protection Afforded
* Bowhead Whale	<i>Balaena mysticetus</i>		Endangered	Offshore not covered in YT legislation. <i>Oceans Act</i> (Canada) provides for the conservation and protection of marine mammals and their habitat.		
Eskimo Curlew	<i>Numenius borealis</i>		Endangered	<i>Wildlife Act</i> prohibits all forms of taking,		
* Anatum Peregrine Falcon	<i>Falco peregrinus anatum</i>		Threatened	possession, and sale of vertebrate species wild by nature in YT, except fish, unless expressly authorized. Nests, eggs and young are protected. These species are fully protected.		
Short-eared Owl	<i>Asio flammeus</i>		Special concern			
Tundra Peregrine Falcon	<i>Falco peregrinus tundrius</i>		Special concern			
		n/a				
* Wood Bison	<i>Bison bison althabasca</i>		Threatened	<i>Wildlife Act</i> provides for regulated harvesting and for the designation and management of habitat protection areas. Limited harvesting of these species is permitted.		Monitoring programs track the harvest to enable recognition of population changes and to apply corrective action.
Grizzly Bear	<i>Ursus arctos</i>		Special concern			
Polar Bear	<i>Ursus maritimus</i>		Special concern			
Wolverine	<i>Gulo gulo</i>		Special concern			
Squanga Whitefish	<i>Coregonus sp.</i>		Special concern	Fish and fish habitat not covered in YT legislation. <i>Fisheries Act</i> (Canada) provides for regulated harvesting and habitat protection		
Bering Cisco	<i>Coregonus laurettae</i>		Data Deficient		Guiding principle is to set and maintain sustainable limits on harvesting.	Scientific and traditional information is being gathered in a 3-year program to address the data deficiency re Squanga whitefish.