

August 30, 2006

**CPAWS Wildlands League's submission on "Recovery Strategy for Forest-dwelling Woodland Caribou (*Rangifer tarandus caribou*) in Ontario (draft February 3, 2005)"**

EBR Registry Number: XB06E6016

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**Summary:**

In general, the draft Recovery Strategy for Forest-dwelling Woodland Caribou (Caribou Strategy) contains some good policy recommendations and laudable recovery objectives; however, it is missing several key ingredients—immediate steps to identify and protect critical caribou habitat while the recovery strategy and action plans are being completed and a commitment to legislative protection of caribou habitat as part of the overall strategy. The government's unconscionable delay in releasing this now dated Caribou Strategy (17 months), its distorted use of the *Environmental Bill of Rights* (EBR) Registry, its proposed *status quo* of continued industrial incursions into caribou habitat in the interim and its heavy reliance on recovery approaches that favour further study over action (only 6 out of 29 stated approaches will lead to demonstrable progress) do not bode well for caribou survival and persistence in the province. CPAWS Wildlands League offers 9 recommendations that will substantially enhance the Caribou Strategy and ability of the province to halt the decline of caribou. Our recommendations will also help the province to meet biodiversity commitments under Ontario's Biodiversity Strategy and commitments under the *Accord for the Protection of Species at Risk in Canada* and the federal *Species at Risk Act*.

**Introduction:**

In response to the above notice on the *Environmental Bill of Rights* (EBR) Registry, CPAWS Wildlands League respectfully submits the following comments. The draft Recovery Strategy for Forest-dwelling Woodland Caribou (Caribou Strategy) contains a laudable goal, recovery objectives, clear articulation of why caribou are declining, anticipated challenges, and, some good policy recommendations. For example, the approach that describes "developing a provincial road strategy that considers caribou recovery at landscape and eco-regional scales" (#1 in Table 1) is excellent and long overdue. Approaches #5, 6 and 7 regarding monitoring, the maintenance of a central database of caribou observations and point data and range map are all important and needed. The draft Caribou Strategy is part way there. However, there are several challenges and glaring deficiencies with the Caribou Strategy and the government's overall approach to conservation of forest-dwelling woodland caribou. We describe these below.

**Themes of Our Critique:**

**A. A distorted public process.**

The Ministry of Natural Resources (MNR) has gravely distorted the public process in dealing with the Caribou Strategy. Public notice of the Caribou Strategy is 17

months late. The EBR Registry has been used improperly. And, by default, the MNR has deferred portions of the public participation process to another jurisdiction. All of these actions are against the public interest and are inconsistent with the intent of recovering declining populations of woodland caribou.

Posting the Caribou Strategy as an “information” notice is a misuse of the EBR Registry. By giving notice of the proposed Caribou Strategy in this fashion, the MNR avoids triggering rights of public participation guaranteed by the *Environmental Bill of Rights*. An information notice does not require the province to legally “consider” any of the comments submitted through the EBR process. This tactic flies in the face of the immediate threats faced by caribou and the urgency of implementing a successful recovery strategy and action plan. As a result, this notice makes a mockery of the public participation rights of Ontarians. Surely, of any species at risk recovery strategy, woodland caribou would merit a proper public process.

Furthermore, the office of the Environmental Commissioner of Ontario audits environmental decisions in its annual report. As this notice will not require a “decision” under the EBR, the MNR has in effect escaped further scrutiny by the ECO on this matter. This does not serve the public interest. CPAWS Wildlands League maintains that the Caribou Strategy should have been posted on the EBR Registry as a “policy” proposal.

Finally, MNR appears to have further abdicated responsibility for meaningful public participation by deferring parts of the process to the federal *Species at Risk Act* (SARA) (see Recovery Planning Guidelines for Species at Risk in Ontario June 2003). Ontarians have specific rights enshrined under the EBR that are not duplicated under SARA. Forest-dwelling Woodland Caribou reside almost exclusively on Ontario public land and, as such, the MNR assumes the lead role in the Caribou Strategy. CPAWS Wildlands League recommends that the MNR take full responsibility for ensuring the immediate protection of Forest-dwelling Woodland Caribou.

## **B. Unconscionable delay in action by government.**

The government has already put off releasing this version of the Caribou Strategy for at least 17 months. One of the consequences of the delay is that the Caribou Strategy is now out of date with new scientific research and findings. For example, new research out of the University of Trent (Solveig Vors, L and J. Schaefer, in press) demonstrate that caribou need a 12 km buffer from cutovers and experience a time lag of 20 years between disturbance by cutting and caribou extirpation. Another consequence is that the province has not taken the necessary steps to stop the decline of caribou. CPAWS Wildlands League recommends that the MNR publish and commit to firm timelines for the release of recovery strategies and action plans to avoid future delays.

## **C. Critical habitat not identified.**

The draft Caribou Strategy is incorrect in saying (in section 14.1, page 25) that identifying critical habitat is not required until the action plan stage. In fact, under SARA, critical habitat must be identified in a recovery strategy unless it is not

possible to do so, applying the precautionary principle. At the very least, as a first step, the plan must identify all currently occupied areas as critical habitat and then exercise the precautionary principle. Thresholds and management measures to conserve caribou must be implemented in those habitat areas.

**D. No immediate steps to protect critical habitat for caribou are described.**

The table on pages 49-57 describes approaches for caribou recovery and these are in general too heavily focused on recommendations that include ‘studying’, ‘defining’, ‘reviewing’ and ‘developing’. For example, there is an approach to define critical habitat but there are no steps identified to immediately protect habitat such as known wintering areas, calving areas and travel corridors in the currently occupied range.

This is a major shortcoming of the Caribou Strategy. Only six out of the 29 recovery approaches listed will lead to demonstrable progress – only if they are committed to by the province and funded adequately. Our concerns are exacerbated by the considerable delay that has already been exhibited by the province.

**E. Interim deferrals needed. Development must be diverted from habitat.**

While the government continues to delay actual (on the ground) implementation of the Caribou Strategy, *status quo* industrial development continues. This means clearcutting, mining and exploration activities, road building and other industrial developments will continue in critical caribou habitat – especially within the Area of the Undertaking (AOU). A mechanism for interim deferrals is needed to stop industrial development until action plans are developed.

Relying upon the *status quo* caribou guidance in the interim is not advisable. If the draft Caribou Strategy is accepted by the Ontario government as is, it is proposed that the current level of caribou guidance will provide suitable protection during the anticipated three to five year development period for individual recovery zone plans to be developed. There are several reasons why more precaution should be added to this approach.

- For forestry, this guidance has never been finalized. Despite being implemented in all of the units in the Northwest Region, the *Final Draft Forest Management Guidelines for the Conservation of Woodland Caribou: A Landscape Approach* has not been updated or even finalized since 1999. The guidance in the NE region is even less evident – an unpublished and apparently unfinished draft.
- A year and a half has already lapsed since the Caribou Strategy was received by MNR, and up to 3 additional years may well elapse before action plans are developed (after MNR formally accepts the recommendations).
- Together the caribou guidelines and the recovery strategy process to date illustrate a history of slow development of policy direction by the MNR.

Because of this, it would be reasonable to assume that these development targets may also not be adhered to. Should this occur, it cannot be ignored that *status quo* interim direction over another period of years could conceivably be counterproductive to the goals of recovery, without more precautionary action put into place.

- We have no indication available that the current forestry guidance is sufficient. Without any built-in adaptive management provisions or performance monitoring on the current level of guidance, we have no sound premise for assuming that the well-documented range recession of caribou in the face of industrial forest harvesting will be held in check while action plans are drawn up.
- For activities such as mining, and mineral exploration, road-building, and hydro development no current guidance for mitigating impacts to caribou is available at all. For these activities, *status quo* means no additional caution at all.
- We are concerned that the references to predator management (Approach 12, page 51 and Table A1 Lake Superior Coast recovery zone) reflect a fall-back plan that addresses the proximate causes of caribou decline and shirks tackling the underlying issue of habitat alteration effectively.

All of this adds to the urgency and need for immediate action. A mechanism for interim deferrals is needed to stop industrial development until action plans are developed. Without monitoring, the *status quo* is an unproven tool in preventing the decline of caribou in Ontario and should not be blindly relied upon.

#### **F. Legislated protection of habitat is not mentioned.**

Recovery approach #18 (on page 54) does include a weak reference to integrating protected areas into planning initiatives for the broader landscape; however, a major gap in the Caribou Strategy is the lack of any reference of the need to have areas that are off limits to industrial development.

Land use planning has traditionally not occurred at large enough scales in this province to provide for effective conservation of caribou, it is clear that even low (but undefined) levels of industrial development are sufficient to negatively affect a woodland caribou herd indicating that protection from industrial development will be necessary on large areas. There is also no evidence of a woodland caribou herd successfully recolonizing an area after industrial activity has occurred. Legislative protection of caribou habitat on a landscape scale must be an integral component of the action plans.

#### **G. Even the draft Recovery Strategy is just advice to government.**

There is no guarantee that the recommendations outlined in the draft Caribou Strategy (some which are very good and desperately needed) will be considered by the ministry in the development of its *Caribou Conservation Framework*. This

framework is a 'concept under development' and is intended to define and guide the Ministry of Natural Resources caribou conservation and recovery program. The Ontario government must make caribou recovery a priority. If Ontario continues at this slow pace of caribou recovery, in about 80 years, as Dr. James Schaefer says, we may lose caribou altogether in the province. Ontario must also ensure the timely release of action plans, update the recovery strategy and convene the Recovery Implementation Groups (RIGs) immediately.

### **Recommendations:**

In sum, the draft Caribou Strategy is part way there, however, in order for Ontario to stop the decline of forest-dwelling caribou it must require:

1. The immediate identification of critical woodland caribou habitat. The plan must identify all currently occupied areas as critical habitat and then exercise the precautionary principle. Thresholds and management measures to conserve caribou must be implemented in those habitat areas;
2. That critical habitat in the allocated forest be deferred until the action plans are completed;
3. That the MNR take full responsibility for ensuring the immediate protection of forest-dwelling woodland caribou including publishing and committing to firm timelines for the release of recovery strategies and action plans to avoid future delays;
4. A halt to all development north of the Area of the Undertaking (AOU) until a comprehensive, conservation based land use planning process can be put into place that protects habitat for species with demonstrated vulnerability to anthropogenic development such as woodland caribou;
5. Legislated protected areas as part of the action plans and overall approach to stopping the decline of caribou. Large landscape level protected areas are needed;
6. That Ontario's proposed new *Endangered Species Act* include mandatory habitat protection;
7. Mandatory public reporting every 5 years on the status and progress of caribou conservation and monitoring programs as well as updated caribou range recession maps;
8. Resources are not expended on predator control (when it is too late to be proactive) at the expense of proactive measures elsewhere in the province; and
9. That the latest scientific consensus and emerging research findings are incorporated into an updated recovery strategy, action plans and Caribou Conservation Framework.