



Working Together: Protecting Species at Risk and their Habitat under the *Species at Risk Act* Legislation in Canada

Species At Risk Act Consultation, Cooperation, and Accommodation Project

**A CWS Information Session provided with support from the
Centre for Indigenous Environmental Resources (CIER)**

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Canadian Wildlife Service - Environment and Climate Change Canada (CWS-ECCC)

March 13, 2023

WELCOME AND HOUSEKEEPING



TODAY'S OUTLINE

- 12:30 – 1:30 → Welcome
→ Project Background
→ Introductions
→ Background and Context
→ The Species at Risk Act
→ Supporting Caretakership
→ The Migratory Birds Convention Act
→ Impact Assessments and MBCA permits
→ SARA permits and Orders to support Species at Risk
- 1:30 – 1:45 → Health Break
- 1:45 – 3:15 → Questions and Conversation
- 3:15 – 3:30 → Closing

THANK YOU!

We are grateful to speak to you today from across BC
– including the territories of the:

Ts'uubaaasatx, ditidaqiiçaq disibaʔk (Ditidaht),
Quw'utsun, Hul'qumi'num Treaty Group, and
WSÁNEĆ peoples

xʷməθkʷəy̓əm (Musqueam), Tsleil-Waututh, and
Squamish peoples

Syilx Okanagan people

INTRODUCING NEW CWS UNIT

The Canadian Wildlife Service (CWS) Pacific Region established an Indigenous Relations & Stakeholder Consultation Unit in April 2022 with the goal of enhancing relationships with Indigenous communities and peoples.

The unit focuses on three key areas:

1. *Species at Risk Act* (SARA) consultation with rights holders and stakeholders
2. Partnering with Indigenous communities and organizations through funding programs:
 - Aboriginal Fund for Species At Risk (AFSAR)
 - Indigenous Partnerships Initiative (IPI)
 - Oceans Protection Plan (OPP)
3. Nation-to-Nation Agreements:
 - Treaty, Recognition of Indigenous Rights and Self-Determination agreements
 - Other formal agreements (e.g., MOUs, Protocols)



ONE OF THE GREATEST ENVIRONMENTAL CHALLENGES: THE LOSS OF BIODIVERSITY

Current status in Canada:

- There are over 500 species at risk in Canada
- In 2021: 13.5% of terrestrial and in-land waters were protected through established protected areas and Other Effective Conservation Measures (OECMs)

Target:

- 25% by 2025 | 30% by 2030

SARA can help us reach these targets through:

- Indigenous knowledge and leadership
- Caretakership supported by funding programs
- Formal agreements
- Regulatory tools



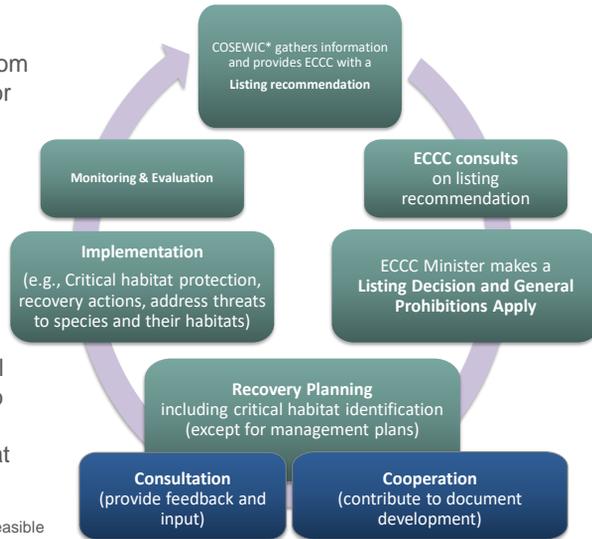
Conserved Areas, Canada, 2021

THE SPECIES AT RISK ACT (SARA)

- **Purpose:**

- Prevent species from becoming extinct or extirpated (locally extinct)
- To recover wildlife species that are extirpated*, endangered or threatened
- To manage special concern species to prevent them from becoming further at risk

* If recovery is deemed feasible



ASSESSMENT

Committee on the Status of Endangered Wildlife in Canada (COSEWIC)

- Independent committee with mandate to assess risk of extinction of wildlife species
- Includes the Aboriginal Traditional Knowledge Subcommittee (To learn more: <https://www.cosewic.ca/index.php/en-ca/>)
- Oversees development of status report using best available information: including western science, Indigenous science and knowledge, local knowledge
- Provides species assessments based on status reports



PROTECTIONS UPON LISTING

SARA: Protection of individuals and residences: 'General Prohibitions'

- SARA makes it an offence to:
 - Kill, harm, harass, capture or take individuals
 - Possess, collect, buy, sell or trade individuals
 - Damage or destroy the residence of one or more individuals
- General Prohibitions automatically apply upon listing to Extirpated, Endangered and Threatened species:
 - On all federal lands
 - To aquatic species anywhere they occur
 - To migratory birds anywhere they occur

WORKING TOGETHER ON FEDERAL RECOVERY PLANNING FOR SPECIES AT RISK

Recovery Strategies (for Threatened, Endangered or Extirpated Species):

- High-level strategic document
- Science-based, includes local and Indigenous knowledge
- Includes identification of critical habitat, to the extent possible, based on best available information

Action Plans (for Threatened, Endangered or Extirpated Species):

- Identify how recovery could happen and the actions we can take together
- Can also include identification of critical habitat
- A Whitebark Pine Action Plan is in early planning stages

Management Plans (for species of Special Concern)

- Include measures for the conservation of the species
- No critical habitat is identified

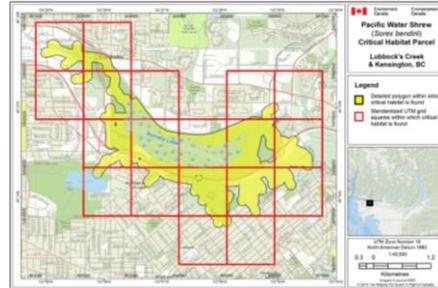


CRITICAL HABITAT

“the habitat that is necessary for the survival or recovery of a listed wildlife species and that is identified ... in the recovery strategy or in an action plan for the species”

Critical Habitat has 3 parts:

1. Location: often mapped, but also described
2. Amount: the amounts of habitat found at those locations
3. Type: list of the biophysical attributes necessary for survival and recovery of the species



SARA requires protection of:

- Listed aquatic species and their critical habitat
- Listed migratory birds covered by the Migratory Birds Convention Act
- Other listed (EX / EN / TH) species and their critical habitat on:
 - Federal lands and Reserve lands
 - Non-federal lands ONLY IF “safety net” is used

SOME WAYS THAT HABITATS ARE CARED FOR

Indigenous conservation

- Indigenous Laws
- Land Claim Agreements
- Land Use Plans
- Conservation Easements
- Co-Management arrangements
- Land Trusts
- Tribal Parks
- Biodiversity set-asides
- Negotiated agreements
- Environmental Assessments under the First Nations Land Management

Municipal or local laws

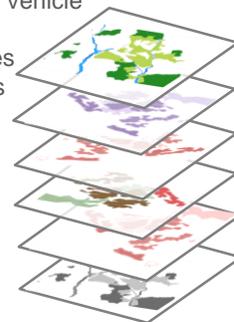
- Watercourse or Environmentally Sensitive Development Permit Areas
- Sensitive Habitat development permits

Provincial/Territorial Laws

- Wildlife Habitat Areas
- Old Growth Management Areas
- Wildlife Management Areas
- No Registration Reserves
- Coal Land Reserves
- *Wildlife Act* Motor Vehicle Prohibitions
- *Land Act* Reserves
- Forestry Deferrals
- Parks
- Protected Areas

Conservation agreements

- SARA s.10, s.11
- MOUs, Frameworks



S.10 ADMINISTRATIVE AGREEMENT

A competent minister may, after consultation with every other competent minister, enter into an agreement with any government in Canada, organization or wildlife management board with respect to the **administration of any provision of this Act for which that competent minister has responsibility**, including the preparation and implementation of recovery strategies, action plans and management plans.

S.10 POTENTIAL BENEFITS AND CHALLENGES

- *Any provision of the Act....*
 - On Indigenous held lands could this include:
 - Authoring actions plans?
 - Managing SARA permits?
 - Issuing SARA Orders?
 - Entering into s.11 agreements with Certificate of Possession holders?
 - Enforcement?
 - Pros/Cons?
 - We have never done this in full
 - We do not know what is involved or how long it would take
 - We have policy attention and access to funding to support this work

S.11 CONSERVATION AGREEMENT

The agreement must provide for the taking of conservation measures and any other measures consistent with the purposes of this Act, and may include measures with respect to:

- monitoring the status of the species
- developing and implementing education and public awareness programs
- developing and implementing recovery strategies, action plans and management plans
- protecting the species' habitat, including its critical habitat
- undertaking research projects in support of recovery efforts for the species

S.11 POTENTIAL BENEFITS AND CHALLENGES: CERTAINTY

- Both parties assured SARA requirements met within the scope of the agreement
- The need for future SARA permits and impact assessments could be simplified or eliminated
- Agreements negotiated in good faith, but unforeseen circumstances may arise and the Minister retains the legal ability to make orders with additional provisions if there is a threat to the survival of the species

S.11 POTENTIAL BENEFITS AND CHALLENGES: TIME AND MONEY

- Habitat restoration, surveying, and monitoring takes time and money
- ECCC funding is subject to annual budget allocations and approvals, so is not guaranteed
- s.11 agreements can be used to leverage funds

S. 11 POTENTIAL BENEFITS AND CHALLENGES: ONGOING RELATIONSHIP`

- Involvement of staff and leadership could be significant commitments
- Content can evolve with changes in land use, or new SAR listings, or status changes
- Content can include all aspects of SARA involvement (e.g.: consultation, recovery planning, stewardship funding)
- Could facilitate future agreements with other federal departments



Supporting Caretakership of Species at Risk and Species of Indigenous Cultural Significance

FUNDING PROGRAMS

- Providing funding to support conservation and caretakership of species and their habitats is a priority
- There are over 30 funding programs administered through CWS
- Two types of funding programs:
 - Application based such as: AFSAR, HSP and Indigenous Led Area Based Conservation
 - Co-development based such as: the Indigenous Partnerships Initiative

FUNDING PROGRAMS – EXAMPLES OF SPECIES AT RISK RELATED TOOLS



Species at Risk Management Toolkit

Sponsored By:

 Indigenous and Northern Affairs Canada Affaires autochtones et du Nord Canada



[Pacific Region - yourcier](#)

Green Bylaws Toolkit

for Protecting and Enhancing the Natural Environment and Green Infrastructure



The Migratory Birds Convention Act: a federal tool that can support Species at Risk that are also Migratory Birds

MIGRATORY BIRDS CONVENTION ACT, 1994

Migratory Birds Convention Act, 1994 (MBCA) and its regulations protect migratory birds and their eggs and prohibit disturbance, damage, destruction or removal of migratory bird nests on all land tenure anywhere they are found in Canada.

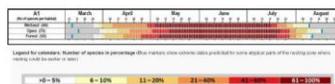
- The MBCA is implemented through two regulations:
 - Migratory Birds Regulations, 2022 (MBR 2022)
 - Migratory Birds Sanctuary Regulations
- Migratory birds are protected at all times; all migratory bird nests are protected
 - when they contain a live bird or viable egg; and the nests of 18 species listed in Schedule 1 of the MBR 2022 are protected year round.
- It is important to note that some species of birds protected under the MBCA have also been listed in Schedule 1 of the *Species at Risk Act* (SARA). These species receive protection from both the MBCA and SARA.



MBCA

ECCC focuses efforts on providing information so people can evaluate risk and work to reduce or avoid harm

1. Avoidance Guidelines
2. Technical Information
 - Timing of Nesting: Nesting zones and nesting
 - Bird Conservation Regions and Strategie
 - Risk Tables
3. Beneficial Management Practices
4. Development
 - Migratory Bird Permits



MBCA AVOIDANCE GUIDELINES

- Provide consistent and practical recommendations on reducing the risk of incidentally destroying/disturbing migratory bird nests and eggs or killing/harming migratory birds
- Provide scientific background information to help provide advice on reducing risks to migratory birds:
 - The key risk **periods** or when take is most probable
 - The key risk **sites** or where take is most probable
 - The key risk **factors** or how take is most probable



Impact Assessments: A federal tool that can support Species at Risk

IMPACT ASSESSMENT

Federally led Impact Assessments of 'designated projects'

- ECCC and CWS provide expert advice on the issues related to a project, the scope of the impact assessment and technical review of the Impact Statement (Application) to ultimately inform project conditions
- Advice focuses on items within federal mandate – migratory birds, species at risk and wetlands
- Conditions are finalized by other federal departments and apply on all lands

Section 82 Assessment of Projects on Federal Lands

- Federal authorities (e.g. ISC, ECCC, DFO) must not carry out projects on federal lands or outside Canada if they are likely to cause significant adverse environmental effects
- On federal lands, SARA permits are required if a SAR will be impacted

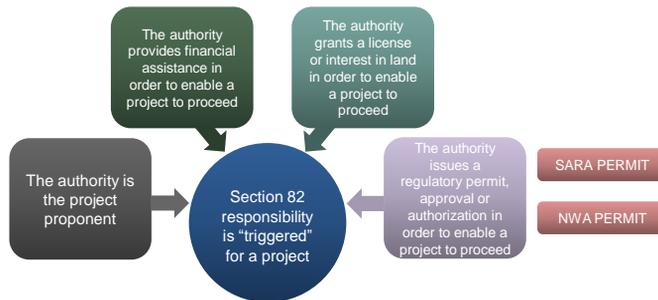
WHAT IS A S. 82 FEDERAL LANDS ASSESSMENT?

- S. 82 under IAA is similar to what was previously a s. 67 under CEAA 2012
- Projects located wholly or in part on Federal Lands (e.g. reserve lands, national parks, military bases)
- **There are 3 criteria that must be satisfied in order for a proposed activity to be considered a project for the purposes of sections 81 to 91.**



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- Projects located wholly or in part on Federal Lands (e.g. reserve lands, national parks, military bases)
- There are 3 criteria that must be satisfied in order for a proposed activity to be considered a project for the purposes of sections 81 to 91.
- **ECCC participates either by providing expert advice or as a 'decision-maker' if one of these four categories are met**



SARA Permits and Emergency Orders are tools within SARA that can support Species at Risk

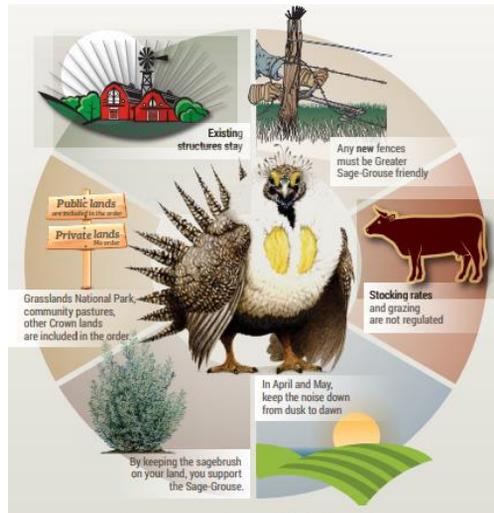
SARA PERMITS

- A SARA Permit can only be issued if the activities are: scientific research; benefitting the species, or affecting the species is incidental
- Preconditions include: best alternative/solution used to reduce impacts, all feasible means of minimizing impacts are used, activity will not jeopardize survival and recovery
- ECCC must consult with Nations before issuing a permit on reserve lands, or any other lands that are set apart for the use and benefit of a band
- Permit must contain terms and conditions governing the activity to protect the species and/or minimizing the impact

WHAT IS AN EMERGENCY ORDER?

- Under SARA, an emergency order is a tool that can be used in exceptional situations where federal intervention is needed to stop activities that pose an imminent threat to a species or its habitat
- Section 80: If the Minister is of the opinion that the species faces imminent threats to its survival or recovery, they must recommend an order to protect the species
- If the Minister receives information that indicates a species may be facing imminent threats, ECCC staff review and assess the information, and prepare an imminent threat assessment (ITA)
- The ITA helps the Minister form their opinion on whether the species is facing imminent threats to its survival and / or recovery

WHAT THE EMERGENCY ORDER MEANS TO YOU



An example from the Sage Grouse Emergency Order

STATUS OF EMERGENCY ORDERS IN CANADA

- Emergency orders have been made to protect:
 - Sage Grouse on some provincial lands in Alberta and Saskatchewan
 - Western Chorus Frog on some private lands in Quebec
- Emergency orders were recommended for:
 - Killer Whale (2018)
 - Southern Mountain Caribou (2021)
- For these two species the Government of Canada chose different approaches to address the imminent threats
- The Minister has recently formed the opinion that Spotted Owl is facing imminent threats, and will be recommending an order to protect the species



CONTACT INFORMATION

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Migratory Birds and Protected Areas Permitting:

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Species at Risk Permitting:

sarapermitting.pyr@ec.gc.ca

General Info and Questions:

Enviroinfo@ec.gc.ca

Additional Resources

USEFUL LINKS & RESOURCES

Species at Risk Act (SARA)

The Species at Risk Act (SARA) provides for the legal protection of wildlife species to prevent wildlife species from becoming extinct and to secure the necessary actions for their recovery.

<https://www.laws-lois.justice.gc.ca/eng/acts/S-15.3/page-1.html>

Committee on the Status of Endangered Wildlife in Canada (COSEWIC)

The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) is an independent advisory panel to the Minister of Environment and Climate Change Canada that meets twice a year to assess the status of wildlife species at risk of extinction.

<https://www.cosewic.ca/index.php/en-ca>

Species at Risk Public Registry

In this registry you will find documents relating to the administration of the SARA.

<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry.html>

Migratory Birds Convention Act (MBCA)

The MBCA protects and conserves migratory bird populations and individuals. Legal protection extends to their nests, eggs, and any part of the bird.

<https://laws-lois.justice.gc.ca/eng/acts/m-7.01/page-1.html>

SARA E-Permit site

Learn more about SARA Permits or submit a SARA Permit <https://ec.gc.ca/sara.html> (site is currently undergoing maintenance)

<https://wildlife-species.canada.ca/SPLEP-SARAPS/index.cfm?fuseaction=home.main&lang=En>

First Nations Land Management Act (FNMLA)

An Act providing for the ratification and the bringing into effect of the Framework Agreement on First Nation Land Management.

<https://laws-lois.justice.gc.ca/eng/acts/F-11.8/page-1.html>

National Aboriginal Council on Species at Risk (NACOSAR)

The Species at Risk Act (SARA) recognizes the essential role of Indigenous Peoples of Canada in the conservation of wildlife. The act calls for the creation of the National Aboriginal Council on Species at Risk (NACOSAR) to advise the Minister on implementing the administration of the act and provide advice and recommendations to the Canadian Endangered Species Conservation Council.

<https://www.canada.ca/en/environment-climate-change/services/species-risk-act-accord-funding/act-description/national-aboriginal-council.html>

National Aboriginal Lands Managers Association (NALMA)

NALMA is a dynamic organization committed to providing efficient tools and resources to its members through the Regional Land Associations and Associate Members. We honour the members of each of the Associations for their hard work and dedication, which allows NALMA to undertake the many challenges that support and promote best practices in First Nation land management.

<https://nalma.ca>

NALMA Training & Toolkits

Intended to assist First Nation Land Managers, and other key stakeholders to navigate through the three phases of the Additions to Reserve, and Reserve Creation process. The primary focus of this training is to provide participants with a clear understanding of the ATR/RC process and the First Nation's role in developing their ATR/RC proposal.

<https://nalma.ca/units/specialized-training>

Centre for Indigenous Environmental Resources (CIER) - Pacific Region

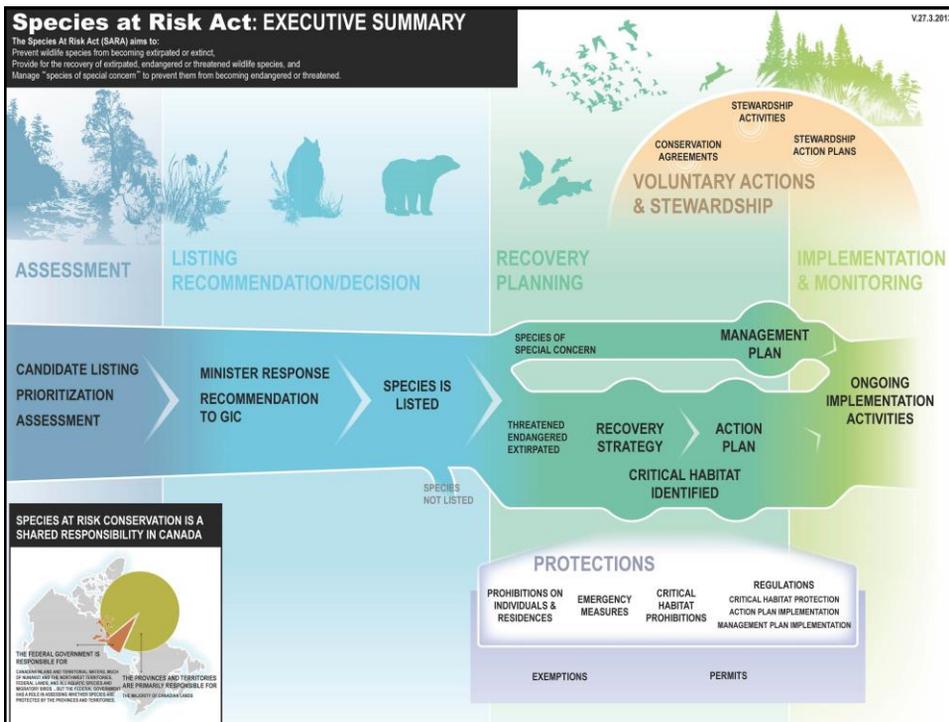
The Centre for Indigenous Environmental Resources (CIER) supports Indigenous people and communities to be leaders in positive environmental change using the best of Indigenous and Western knowledge to create a world that is in balance and supports all living things.

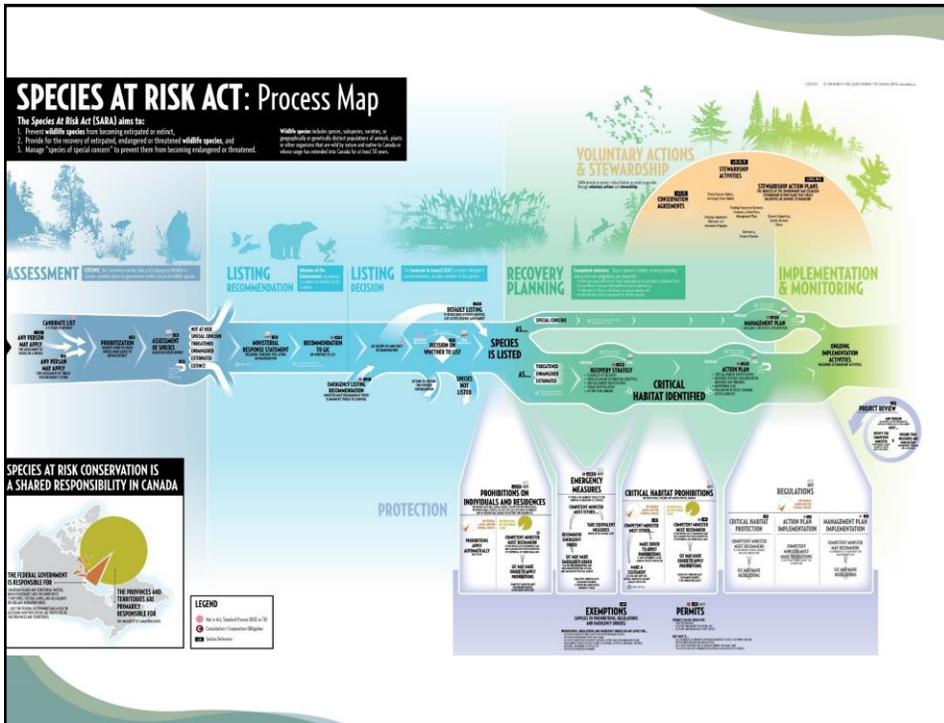
<https://yourcier.org/sara/pacific-region>

Indigenous Leadership Initiative

The Indigenous Leadership Initiative supports Indigenous Nations in honouring our responsibility to care for lands and waters.

www.ilinationhood.ca





Some benefits of protecting SAR and their habitat

•Social and Cultural

- Promote ceremony
- Practice and pass-on knowledge
- Support the revitalization of Indigenous languages and culture
- Adopt integrated, holistic approaches to governance and planning
- Opportunities for youth to connect with Elders, Knowledge Keepers, and the land
- Greater opportunity for community members to be involved in caring for the land

Well-being and Ecosystem

- Improve/maintain water quality or flood control
- Protect food security/sovereignty
- Conserve cultural keystone species
- Outdoor space for activities that improve well-being
- Combat climate change and slow biodiversity loss

Economic

- Generate jobs
- Seed conservation economies
- Showcase Indigenous culture



Jean Palfus



Canada

THE SPECIES AT RISK ACT - ROLES

Committee on the Status of Endangered Wildlife in Canada (COSEWIC)



Environment and Climate Change Canada (ECCC)



Fisheries and Oceans Canada (DFO)



Parks Canada Agency (PCA)



Provinces and Territories (P/T)



Wildlife Management Boards (WMBs)

Indigenous Organizations, Communities, and Individuals

INDIGENOUS COMMITTEES UNDER SARA

- Committee on the Status of Endangered Wildlife in Canada (COSEWIC) Aboriginal Traditional Knowledge (ATK) subcommittee
 - Ensures ATK is included in species assessment
 - Communities wanting to contribute to the assessment of a species by COSEWIC and hold relevant ATK encouraged to contact ATK subcommittee at: ec.cosewic.ec@canada.ca
 - Subcommittee co-chairs: Roger Gallant, Gloria Goulet
 - <https://cosewic.ca/index.php/en-ca/>
- National Aboriginal Council on Species at Risk (NACOSAR)
 - Advises the Minister on implementing the administration of SARA
 - Provide advice and recommendations to the Canadian Endangered Species Conservation Council
 - NACOSAR-CANEP@ec.gc.ca



COSEWIC ASSESSMENT

Endangered and Threatened:

- Small Distribution Range and Decline or Fluctuation
- Small and Declining Number of Mature Individuals
- Very Small or Restricted Total Canadian Population
- Quantitative analysis (population projections) showing the probability of extinction or extirpation in the wild is at least
 - 20% within 20 years or 5 generations, whichever is longer, up to a maximum of 100 years (Endangered)
 - 10% within 100 years (Threatened)

Special Concern: Those wildlife species that are particularly sensitive to human activities or natural events but are not endangered or threatened wildlife species.

COSEWIC ASSESSMENT

Indicator	Endangered	Threatened
An observed, estimated, inferred or suspected reduction in total number of mature individuals over the last 10 years or 3 generations, whichever is the longer, where:		
1. causes of the reduction are: clearly reversible and understood and ceased	Reduction of \geq 70%	Reduction of \geq 50%
2. causes may not have ceased or may not be understood or may not be reversible	Reduction of \geq 50%	Reduction of \geq 30%
3. no direct observation (up to a maximum of 100 years)	Reduction of \geq 50%	Reduction of \geq 30%
4. where the time period must include both the past and the future (up to a maximum of 100 years)	Reduction of \geq 50%	Reduction of \geq 30%

<https://www.cosewic.ca/index.php/en-ca/assessment-process/wildlife-species-assessment-process-categories-guidelines/quantitative-criteria>

MBCA

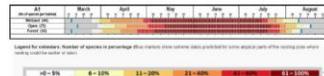
TECHNICAL INFORMATION: TIMING OF NESTING MIGRATORY BIRDS IN CANADA

- Nesting season could be any time of year, but the times of greatest risk are generally April 15 to August 15

- **The General Nesting Periods:** Multispecies nesting zones to help determine regionally relevant nesting periods within large geographical areas across Canada



- **Nesting Calendars:** show the proportion of species that are predicted to be actively nesting on a given date



MBCA

DETERMINING THE PRESENCE OF NESTS



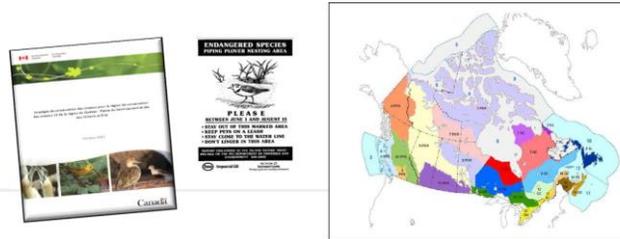
- Recommend an area search for evidence of nesting (e.g., presence of birds in breeding habitat through observation of singing birds, alarm calls, distraction displays, individuals with nesting materials)
- Point counts can provide a good indication of the presence of songbird nests in an area
- Active nest searches are generally not recommended because:
 - They have a low probability of locating all nests
 - They have a higher risk to cause disturbance to nesting birds
- Nest surveys may be appropriate when looking for obvious and easy-to-locate nests



MBCA

• TECHNICAL INFORMATION: BIRD CONSERVATION REGIONS (BCR) AND STRATEGIES

- Conservation planning tools which inform conservation priorities and practices through a nationally-consistent conservation framework
- Can be used to look at the priority and common species that can be encountered within a specific area or habitat to mitigate the impact of activities on those birds



MBCA

• TECHNICAL INFORMATION: RISK TABLES

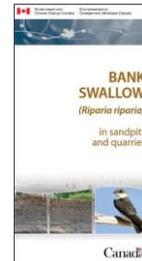
- Risk Tables can be used to determine risk level associated with activities
- Categorized by:
 - knowledge of legal obligations and planning
 - biological factors (e.g., likelihood of nesting, habitat), and
 - nature of the activities (e.g., intensity and duration)

Factor associated with management of incidental take (Full text)	Example of lower risk level	Example of higher risk level
Knowledge of legal obligations	Awareness of and understanding the relevant provisions of laws and regulations pertaining to the protection of birds, nests and eggs. Notably: the <i>Migratory Birds Convention Act, 1994</i> , the <i>Migratory Birds Regulations</i> and, where applicable, the <i>Species at Risk Act</i> .	Unaware of legal responsibilities towards the protection of birds, nests and eggs.
Risk assessment and planning	Completed a thorough risk assessment in a timeframe suitable to balance project needs with risk of incidental take of migratory birds.	Little to no pre-planning or risk assessment around conservation issues related to migratory birds.

MBCA

BENEFICIAL MANAGEMENT PRACTICES DEVELOPMENT

- **Beneficial Management Practices** provide guidance and methods to minimize the risk of harm to migratory birds, nests and eggs and address other effects on migratory bird conservation
- ECCC's role:
 - Provide scientific background on migratory birds ecology and management needs
 - Help with interpretation of recommended objectives and conservation actions
 - e.g. BCR plans
- ECCC can provide tools to support decisions, but cannot endorse particular BMPs as this could constitute officially-induced error



A SARA PERMIT

- A SARA permit (s.73) is required when carrying out activities will result in contravening the SARA prohibitions (when/where these prohibitions apply). (Reminder prohibitions apply to species listed as Threatened, Endangered, Extirpated on Schedule-1 of SARA. These prohibitions do not apply to species listed as Special Concern (SC), therefore a permit is not required, under SARA, for activities affecting SC species.)
- A SARA Permit can only be issued if the activities are related to at least one of the following (s.73(2)):
 - The activity is scientific research relating to the conservation of the species and conducted by qualified persons;
 - The activity benefits the species or is required to enhance its chances of survival in the wild; or
 - Affecting the species is incidental to the carrying out of the activity.
- A SARA Permit can only be issued once it has been determined that the SARA preconditions (s.73(3)) have been met. It is the responsibility of the applicant to provide the information needed to assess whether the preconditions have been met. The preconditions are:
 - All reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solutions have been adopted;
 - All feasible measures will be taken to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals; and
 - The activity will not jeopardize the survival and recovery of the species.
- An issued permit must contain terms and conditions governing the activity that is necessary for protecting the species and/or minimizing the impact of the authorized activity on the species.
- If the activity is within reserve lands, or any other lands that are set apart for the use and benefit of a band under the Indian Act, ECCC must consult the band/nation before issuing a permit (s.73(5)).
- For more information on SARA permitting, and to submit a SARA permit application see the SARA e-permitting site <https://wildlife-species.canada.ca/SPLP-SARAPS/index.cfm?fuseaction=home.main&lang=En>

First Nations Land Management Act (FNMLA)

FNMLA is a government-to-government agreement recognizing First Nation's inherent right to govern their reserve lands.

- Creates pathway for opting out of the 44 lands related sections of the *Indian Act*, by developing a Land Code.

Under the *Framework Agreement* EA's and their design are outlined in Sec. 23, 25, &27

- **Sec. 23** – develop an EA regime for applied and proposed developments/activities on reserve lands
- **Sec. 25 (and 23)** – **FN's have the authority to enact EA laws that are consistent with CEAA**
- **Sec. 27** – FN's obligation to apply an EA regime depends on access to funding and experience available (until funding is established by Canada, CEAA applies)

Land Management Structure Comparison Chart				
Reserve Land and Environment Management Program (RLEMP)			First Nations Land Management Act	Self-Government
Development	Operations	Delegated Authority		
Regional Land Administration Program (RLAP)			53/60	
<ul style="list-style-type: none"> • In partnership with Indigenous and Northern Affairs Canada (INAC) • INAC performs majority of land management functions • INAC has approval authority • INAC has fiduciary obligation 	<ul style="list-style-type: none"> • In partnership with INAC • First Nation performs land management functions, INAC oversees • INAC has approval authority • INAC has fiduciary obligation 	<ul style="list-style-type: none"> • In partnership with INAC • First Nation performs land management functions in accordance with section 35 & 60 of the Indian Act • First Nation has approval authority • INAC has fiduciary obligation 	<ul style="list-style-type: none"> • Government to govt. agreement (related to land) • First Nation performs land management in accordance with their land code and laws • First Nation has final approval • First Nation has fiduciary obligation 	<ul style="list-style-type: none"> • Government to govt. agreement (related to all governance) • First Nation performs land management functions in accordance to their laws • First Nation has final approval • First Nation has fiduciary duty

(National Aboriginal Lands Managers Association, 2016)