

**THE *WILDLIFE ACT*:
MANAGING FOR SUSTAINABILITY
IN THE 21ST CENTURY**

DISCUSSION PAPER

Fish and Wildlife Branch

Ministry of Environment

Government of British Columbia

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INTRODUCTION



The *Wildlife Act* is the foundation for managing British Columbia's wildlife¹ resources. In recent years, there has been growing recognition of the need to review and update the Act to ensure that it enables the most effective handling of wildlife management concerns and is responsive to evolving environmental and social issues.

Wildlife is a resource managed by the government in the public interest. The Ministry of Environment² has primary legislative responsibility for managing the use of wildlife resources. In carrying out this mandate, the Ministry strives to accommodate the uses, requirements and demands for wildlife in B.C. by both recreational and commercial users within a framework of conservation and sustainability.

B.C. legislation dealing with wildlife issues can be traced back to 1859. Although the *Wildlife Act* has been updated from time to time, there has been no overhaul since 1982. In the more than two decades that have passed since that revision, there have been many changes in society with implications for wildlife management. The public has developed different attitudes toward wildlife, and toward the government role in managing wildlife. The pace of scientific and technological advancement has also increased. These changes are coupled with a rapidly growing and globalizing economy and increased pressures from industrialization and urbanization.

Wildlife must be managed to reflect a variety of values and fulfill differing needs in a way that maintains the confidence of the public in this resource. The current *Wildlife Act* requires updating and streamlining to provide a flexible legislative base to respond to current and future demands. While the conservation of wildlife resources and wildlife habitat remain as the highest priority, revising the legislation at this time also presents an opportunity for British Columbia to:

- improve client service;
- support *The New Relationship with First Nations and Aboriginal People*;
- respond to emerging wildlife management issues;
- improve the effectiveness and efficiency of decisions made under authority of the *Wildlife Act*;
- support shared stewardship of wildlife resources by facilitating new partnerships with First Nations, stakeholders, and others;
- enhance *Wildlife Act* compliance and enforcement tools; and
- streamline, rationalize and simplify the *Wildlife Act*.

¹ For the purposes of this Discussion Paper the term “wildlife” also includes fish that are defined as “wildlife” in the *Wildlife Act*.

² Throughout this Discussion Paper, the terms “Ministry” and “MoE” refer to British Columbia’s Ministry of Environment and “Minister” refers to the Minister of Environment for British Columbia.

THE DISCUSSION PAPER

The management of wildlife is a complex issue and this Discussion Paper does not attempt to provide an extensive analysis of the area. It informs the reader about a number of specific concerns that require attention and outlines the proposed responses to these concerns. Where problems have been identified in the course of the review of the *Wildlife Act*, this Discussion Paper outlines legislative proposals that may address these issues. While these legislative proposals generally describe proposed amendments to the *Wildlife Act* itself, significant issues that may only involve a regulation change have been included in some cases.

FOCUS ON THE *WILDLIFE ACT*

Legislation is a term that is commonly used to refer to both statutes and regulations. In Canada, statutes are laws that are enacted by the Parliament of Canada or by a legislative assembly in one of the provinces or territories. A statute provides the broad framework for the operation of the legislation. This framework will often set out the underlying principles that govern how that Act is to be applied, in addition to specific powers, duties, requirements, authorities, and other provisions needed to establish the foundation for the operation of the Act.

It is customary to give Cabinet a power to make regulations dealing with those matters that are too detailed for inclusion in a statute. In the case of the *Wildlife Act*, the regulations are used to expand on and clarify the particular features of the legislation, including dates for hunting seasons, descriptions of boundaries, the requirements for hunter safety training, and other items that are critical to the application of the legislation.

The *Wildlife Act* and the various regulations made under the authority of the Act are a critical part of the framework for wildlife management in B.C. The focus of the *Wildlife Act* review is to bring this framework into alignment with existing resources, wildlife management policy and social and operational realities, and to improve the ability of the Province to accommodate changes in these factors. While amendment of the *Wildlife Act* is the focus of this Discussion Paper, changes to the regulations that are identified as necessary will be addressed at a later stage of the review process.

ENGAGEMENT PROCESS AND TIMELINES

Government is seeking the views of interested parties in relation to the changes to legislation that are being proposed in this Discussion Paper. The website created for this review serves as an important resource for individuals seeking background information and a greater explanation of particular issues. It links to several background reports and other studies that pertain to a range of wildlife issues.³

Submissions to the *Wildlife Act* Review will be posted and may be viewed on this website. The website address is:

<http://www.env.gov.bc.ca/fw/wildlifeactreview/>

Submissions should be received no later than June 30, 2007 so that there will be adequate time to consider the contents and permit follow-up by Ministry staff, if required. Responses to this Discussion Paper, together with analysis by Ministry staff and other information gathered in the coming months, will form the basis for the drafting of revisions to the *Wildlife Act*.

³ Another useful source of information is the Ministry of Environment website, which can be found at the following address:
<http://www.env.gov.bc.ca>

First Nations, stakeholders, other agencies and individuals are invited to provide their perspective on the matters identified in this document. Submissions should be directed to:

Wildlife Act Review Project
Fish and Wildlife Branch
B.C. Ministry of Environment
PO Box 9363 Stn. Prov. Gov't.
Victoria, British Columbia V8W 9M2

Fax: (250) 387-0239
Email: WildlifeActReview@gov.bc.ca

BACKGROUND

WHY IS WILDLIFE MANAGEMENT SIGNIFICANT?

Healthy and diverse wildlife species provide significant environmental, social and economic benefits to all British Columbians. Wildlife also has special importance to First Nations as a source of food, and for cultural, social and ceremonial purposes.

British Columbia's wildlife resources are a vital part of the environment and are essential to the ecological balance. British Columbia has a rich diversity of wildlife species, including 1,138 species of vertebrates. Three quarters of Canada's mammal species are found in B.C. and 24 are exclusive to this province. Of the 250 bird species that breed in B.C., 55 percent breed nowhere else in Canada.

Wildlife populations are important to the provincial economy as well, supporting hunting, angling, and wildlife viewing-related activities, as well as trappers, guides, taxidermists, and others who make a living through their commercial involvement. British Columbians and visitors enjoy a unique variety of wildlife-related recreation opportunities. Economic multipliers resulting from recreation, as well as other commercial activities related to wildlife, contribute significantly to the provincial economy. Annual expenditures by hunters and anglers alone exceed \$340 million.⁴

In addition to these ecological, social and economic considerations, B.C. has provincial, national and international responsibilities with regard to the conservation of this resource. Consequently, it is vital that wildlife is managed in a sustainable way that enables the Province to steward this resource in a manner that is most likely to preserve wildlife benefits for future generations.

HOW IS WILDLIFE MANAGED IN CANADA?

Canada's provinces and territories have constitutional responsibility for most matters related to the conservation and management of wildlife populations and habitat within their boundaries. The Government of Canada has specific responsibilities with regard to the protection and management of migratory birds, protection of nationally significant wildlife habitat, control of the international trade in endangered species, and research on wildlife-related issues of national importance. The Federal government also has authority to manage "sea coast and inland fisheries". The Ministry of Environment has, through delegated authority under the Federal *Fisheries Act*, responsibility for the Province's non-salmon freshwater fisheries. In this capacity, the Ministry is responsible for freshwater fish governance,

⁴ 2000 *Survey of Recreational Fishing in Canada* (Ottawa: Department of Fisheries and Oceans, 2003) 179pp. and *British Columbia's Hunting, Trapping & Wildlife Viewing Sector* (Victoria B.C.: Ministry of Labour & Citizen's Services, 2005).

conservation and recreation efforts and issues. The licensing of freshwater recreational fishing is enabled under the Province's *Wildlife Act*. The Federal Department of Fisheries and Oceans is responsible for First Nation fisheries, commercial and recreational fisheries in tidal waters, salmon fisheries in non-tidal waters and has primary responsibility for fish habitat protection.

HOW IS WILDLIFE MANAGED IN BRITISH COLUMBIA?

The B.C. Ministry of Environment develops, manages, regulates and enforces environmental programs and legislation that contribute significantly to ensuring the health and diversity of native species and ecosystems. With the objective of protecting, maintaining, and restoring native species and ecosystems, the Ministry works to conserve biodiversity, maintain and enhance native ecosystems, and achieve a balance between the needs of wildlife and the needs of people.

The Ministry encourages others to accept a greater role in environmental stewardship and facilitates initiatives to protect and restore local environments. Wildlife, ecosystems, geography, culture, and economies of communities are very different across the province and, in recognition of this, wildlife management initiatives are rooted locally and regionally.

The Ministry's approach to sustainable wildlife management is based on a model of shared stewardship. In pursuing this direction to managing wildlife, the Ministry recognizes the need to work with other levels of government and First Nations, as well as stakeholders and the public, to effectively manage wildlife resources. In a shared stewardship model of wildlife management, First Nations, the public and stakeholders are involved in decision-making and share responsibility for environmental outcomes. A successful shared stewardship model integrates cooperative and collaborative partnerships across sectors and geographic jurisdictions. It involves effective information-sharing with stakeholders, enhancing and promoting partnerships and volunteer programs, the creation of a stewardship network and designing and developing legislation, regulations, policies and guidelines that are publicly accessible, consultation-driven and client-focused.

Specifically, the Ministry manages wildlife by:

- 1) developing environmental and regional-based planning programs;
- 2) providing guidelines and standards for the protection and conservation of species and ecosystems;
- 3) recommending to Cabinet new and amended wildlife and ecosystems protection and management legislation;
- 4) exercising decision-making under the authority of the *Wildlife Act*;
- 5) encouraging compliance with, and enhancing enforcement of, wildlife protection and management legislation;
- 6) entering into joint initiatives with other governments and partners to identify, protect and restore species and ecosystems;
- 7) collecting, analyzing and distributing scientific information on species and ecosystems so that standards for the use and protection of species and ecosystems represent the best available science;
- 8) providing scientific advice to decision-makers and implementers of resource-use policies and land-use planning; and
- 9) providing leadership in species at risk ranking and designation, and preparation and implementation of recovery plans.

WHAT IS THE VISION FOR SUSTAINABLE WILDLIFE MANAGEMENT?

In *Managing Wildlife to 2001: A Discussion Paper*,⁵ the Ministry identified the following strategic goal for its wildlife program:

*To manage the province's wildlife resources for the benefit and enjoyment of British Columbians – by maintaining an optimal balance between ecological, cultural, economic and recreational needs*⁶.

This goal has been a fundamental element of the Ministry's approach to managing its wildlife resources over the past 15 years. The vision is founded on a number of key principles and objectives that will guide decision-making under the legislation:

- The overarching objective of the *Wildlife Act* is to maintain and restore the rich diversity and abundance of native wildlife species, based on accepted biological and ecological principles.
- The Act and regulations establish guidelines and standards for the conservation of species and enable monitoring and reporting on achievements.
- The protection of human health and public safety must be considered when making any decision under the authority of the *Wildlife Act*.
- In the management of wildlife, preference is given to the health of ecological systems, and their ability to support wildlife populations over the well-being of individual animals.
- Ownership of all species defined as wildlife in British Columbia continues to be vested in the government of British Columbia, which retains decision-making authority over the management of wildlife species.
- The Act and regulations meet or exceed the requirements of other provincial and Federal legislation and accord with international obligations.
- Any human use of wildlife in British Columbia must be sustainable and must be conducted in an ethical and humane manner.
- The Act should support a diversity of opportunities related to wildlife if they do not endanger the long-term viability of a species, population or habitat. Use is allocated preferentially, in the following order:
 - First Nations;
 - residents of British Columbia;
 - residents of other parts of Canada;
 - non-Canadians.
- The Act encourages and enables British Columbians to take a greater role in environmental stewardship and facilitates partnerships with First Nations, stakeholders, government agencies, private industry and the public.

⁵ *Managing Wildlife to 2001: A Discussion Paper* (Victoria, B.C: BC Environment, 1991).

⁶ *Ibid.* at p.11.

- The Act provides the appropriate tools to enable the Province to work with First Nations in a government-to-government relationship, in accordance with British Columbia's constitutional obligations.
- The Act authorizes decision-making at the appropriate level of government. Decisions made under the authority of the Act are fair, science-based and respect the principles of risk management and administrative law.
- The Act supports the Ministry's business model by providing outcome-based regulatory requirements that encourage voluntary compliance and are applicable to all activities that impact wildlife.
- The Act sets out clear expectations, accountabilities and penalties related to non-compliance for all activities that impact wildlife.

WHAT IS THE ROLE OF FIRST NATIONS IN SUSTAINABLE WILDLIFE MANAGEMENT?

Hunting, fishing, and trapping have enormous cultural, social and economic significance to First Nations throughout the province. First Nations also have unique constitutionally protected rights to hunt, fish and trap in a number of circumstances.

The Province is developing a New Relationship with First Nations and Aboriginal People that is shifting the way the Province and First Nations work together, and includes the exploration of collaborative approaches to wildlife management.

The Province is committed to respecting aboriginal rights and working cooperatively with First Nations on wildlife management issues. The Ministry has developed regional wildlife advisory processes in many regions of the province to actively engage First Nations in government-to-government discussions regarding wildlife management and allocation issues. The Ministry is engaged in several negotiations with First Nations to expand the number of these processes in other parts of B.C. Other provincial collaborative processes include information sharing agreements regarding harvest levels and species/habitat management information where First Nations' use of wildlife is a significant factor. These collaborations may be extended in the future to include cooperative inventory and research studies.

While many issues related to wildlife management are being addressed through these collaborative processes, they are not in use in all areas of the province, and they do not address all issues regarding First Nations harvest of wildlife. Current *Wildlife Act* provisions that specifically relate to First Nations are limited to licence exemptions. The Province will be conducting discussions with First Nations to determine how to improve the *Wildlife Act* with regard to First Nations-related components specifically, and wildlife management in general.

FIRST NATIONS AND THE *WILDLIFE ACT*

The *Wildlife Act* is a law of general application and applies to all persons in B.C. unless they are specifically exempted from its operation by legislation.

The current *Wildlife Act* states that a person who resides in B.C. and is registered, or is entitled to be registered, as an Indian under the *Indian Act* (Canada) may:

- hunt wildlife without a hunting licence or any other licence that is required by regulation;
- trap furbearing animals without a trapping licence;
- angle in the non-tidal waters of B.C. without an angling licence or other licence or permit required by regulation; and

- hunt a fur-bearing animal on private land with the written permission of the owner or occupier, and on Crown land with the permission of the Crown or the occupier of the Crown land, despite the fact that they:
 - are not the registered holder of the trapline for the area;
 - do not have written permission of the registered holder of the trapline for that area;
 - do not own or occupy that area; and
 - do not have a permit to trap as required by regulation.

First Nations people are exempted from the application of the *Wildlife Act* in certain circumstances as a result of the recognition in section 35(1) of the *Constitution Act, 1982* (Canada) of existing aboriginal and treaty rights. Court decisions have confirmed that the constitutionally protected First Nations right to hunt and fish for food, social and ceremonial purposes takes priority over non-First Nations uses of wildlife resources. In recognition of this right, First Nations people are not restricted to specific seasons or to bag limits when hunting, fishing or trapping within their traditional hunting areas for food, social, or ceremonial reasons.

First Nations and the Province may sometimes differ in their interpretation of where a First Nations hunter can hunt without seasonal restrictions or bag limits. This may reflect a lack of clarity or incomplete information concerning the boundaries of First Nations traditional territories. As well, different interpretations have sometimes led to uncertainty when the Province has attempted to enforce seasonal restrictions and bag limits.

Another source of uncertainty relates to First Nations' reporting of wildlife harvesting. Since the majority of First Nations in B.C. do not report on their harvest practices or total take, the Ministry must estimate the harvest totals being taken by First Nations before determining sustainable levels for the non-First Nations harvest. The Ministry is concerned that these estimates may be inaccurate and, consequently, decisions based on these estimates could have undesirable effects on wildlife species. The sharing of First Nations wildlife harvesting information could result in a better understanding of actual wildlife harvest numbers and lead to improved management of wildlife species.

To support the New Relationship with First Nations and Aboriginal People, the Ministry is working with First Nations to build relationships that encourage the effective communication of harvest levels and enhance the management of wildlife and habitat. For example, the Ministry has been working with First Nations in various regions on a collaborative process aimed at a greater mutual sharing of information and a better understanding of mutual interests. The goal is to improve management outcomes in areas where First Nations use of wildlife is a significant factor. Such processes may include co-operative inventory and research studies, an ongoing liaison with Ministry staff on matters of management, and formalized information sharing between the Province and First Nations.

The Ministry is currently engaging with First Nations to determine how to cooperatively manage wildlife in a manner consistent with the constitutional recognition of First Nations hunting rights and the New Relationship with First Nations and Aboriginal People. This review provides an opportunity to set the foundation for developing and defining the New Relationship within the context of wildlife management.

MANAGEMENT OF WILDLIFE POPULATIONS AND PROTECTION OF SPECIES

HABITAT STEWARDSHIP

The conservation of species cannot be successful without adequate protection for wildlife habitat. At the same time, the requirements of wildlife must be balanced against the needs of human users, such as those involved in commercial, industrial, urban, or agricultural development. This balance is achieved in part through strategic land-use planning.

Strategic land-use planning is an open and community-based process for determining how land will be used. It enables decisions to be made over large regions and sub-regions of the province, and helps to ensure that resource management decisions take into account the needs of communities, the economy and the environment. The process is structured to encourage participation by the public, stakeholders and various levels of government throughout a number of stages: consultation, planning, preparation, decision-making, implementation, monitoring and amendment.

Once a strategic land-use plan is approved, activities in that area are guided by the provincial land-use decision, and the directions set out in the plan. Various legislative and policy tools are used to implement a land-use plan, including the *Wildlife Act*.

The regulation of activities on Crown land

The Ministry of Environment works with the provincial Ministry responsible for regulating resource use on Crown land to ensure that these activities (e.g. forestry, mining) have a minimal impact on wildlife and wildlife habitat.

The most recent example of this type of cooperation is the development of the *Forest and Range Practices Act* with the Ministry of Forests and Range. This legislation reflects significant advances with regard to the forestry sector and it is hoped that cooperative efforts with other ministries will lead to similar results in mining, agriculture and other sectors. The Ministry is working to further champion habitat stewardship in these sectors and develop approaches to dealing with the challenge of increasing demands on the land base. Policy options are currently being explored in conjunction with the present proposals for change relating to wildlife management issues.

The regulation of activities on private land

The Ministry has only limited legislative tools that allow it to regulate the use of private lands and require the conservation of habitat on private lands.

The *Fish Protection Act* and *Riparian Areas Regulation* protect aquatic habitat by preventing the construction of dams on designated protected rivers and streams that run through private lands, allowing for the designation of sensitive streams, requiring the protection of stream-banks and providing for the recovery of fish populations. The *Water Act Water Regulation* also protects habitat in streams that cross private property. Under the *Environmental Assessment Act* protection of habitat can be included as a condition of an environmental certificate issued for a project on private land.

Acquiring private land or rights over private land

The Ministry of Environment works with owners of private land in a variety of ways to protect important habitat. Using provisions of the *Wildlife Act* and other legislation, private land may be acquired directly by the Ministry through purchase, exchange or donation. This allows the Ministry to maintain the habitat values of the area and designate the land as a conservation area (e.g. wildlife management area) or a protected area. In some cases, a former property owner may retain a life estate or tenancy on a portion

and may act as a caretaker for the land. The Province may similarly acquire easements and rights of way over private land to address conservation-related objectives. The Ministry, either alone or in partnership with a non-governmental organization, may also hold a covenant over private land for the purposes of ensuring that certain habitat values are maintained by the landowner.

In other situations, land that is owned by a non-governmental organization or individual landowner is leased to the Province for a long period of time (usually 99 years). The Province then manages that land for its habitat values subject to the conditions of the lease. In most instances, the land can be treated in much the same way as a conservation area or protected area on Crown land. For example, a number of lease properties have been incorporated into existing wildlife management areas, ecological reserves, parks or other areas managed by the Ministry of Environment.

Habitat-related land designation

The Ministry has the authority to establish parks and conservancies under the *Park Act* and the *Protected Areas of British Columbia Act*. Ecological reserves can be established under the *Ecological Reserve Act* or by the *Protected Areas of British Columbia Act*. In addition, other “protected areas” can be established under the *Environment and Land Use Act*. Designations under these Acts may result in the protection of significant ecosystems that support a variety of wildlife habitat.

The *Wildlife Act* also provides for the conservation of important fish and wildlife populations and their habitats through the designation of Wildlife Management Areas (WMAs). Lands to be designated as WMAs are acquired by the Ministry through acquisition, transferred to the administration of the Ministry (usually through a transfer of administration under the *Land Act*), or secured via a long-term lease arrangement, and are then designated under authority of the *Wildlife Act*.

A more detailed discussion of habitat protection under the *Wildlife Act* is found in Appendix 2.

SPECIES CONSERVATION

The Province provides expertise, infrastructure, and resources to support species-conservation initiatives at the regional and local level. The Province also enacts and enforces laws and regulations that create consistent levels of protection for wildlife and habitat across the province, and works with the governments of neighbouring jurisdictions to develop protections that are maintained outside of provincial boundaries.

Conserving and protecting wildlife includes managing threats to wildlife populations, such as invasive alien species, wildlife diseases, poaching and illegal use. The Ministry currently works to prevent the introduction and spread of invasive species and wildlife diseases. The Ministry also monitors and tracks the ownership and possession of wildlife to manage the threat of illegal use.

Protection of designated species and population integrity: species at risk

A vital aspect of wildlife management is the protection of species at risk. A species is said to be “at risk” if it is threatened or endangered. (For scientific purposes, species at risk also includes extirpated species that have disappeared from the province). An “endangered” species is a native species determined to be in danger of imminent extinction throughout a significant portion of its customary range in the province. A “threatened” species is one that is considered to be at risk of becoming endangered.

In May 2004, the B.C. Legislature enacted several amendments of the *Wildlife Act* to enhance the ability of the government to designate, manage and protect species that are at risk in British Columbia (*Wildlife Amendment Act, 2004*). The 2004 amendments provide Cabinet with the authority to list any species or population of animal, bird, fish, plant or other species as a species at risk to ensure additional protection.

A regulation is needed to bring these amendments into force and this regulation will include a list of species at risk that will be protected under the amended *Wildlife Act*.

Once designated in the regulation, an array of protective measures in the *Wildlife Act* will apply to species at risk unless an exemption is specifically authorized by regulation or by the Minister of Environment for designated purposes (e.g. scientific research, education, or conservation measures such as captive breeding). A more detailed discussion of this area is found in Appendix 3.

THE DEFINITION OF WILDLIFE

The definition of wildlife in the *Wildlife Act* establishes the scope of wildlife management by defining which species are covered by the provisions of the Act and regulations. *Wildlife Act* provisions apply only to those species defined as “wildlife” in the Act. Currently the Act defines “wildlife” as raptors, threatened species, endangered species, game or other species of vertebrates prescribed as wildlife and, for the purposes of several sections, includes fish (for more information about what is defined as “wildlife” under the current Act please see Appendix 4).

The current definition limits the Ministry’s ability to respond to a number of wildlife management issues because it does not provide the scope to adequately control the threat to native wildlife and wildlife habitat posed by alien invasive species and wildlife disease.

The definition is also inconsistent with other legislation. Given the importance of shared stewardship initiatives for habitat and species conservation, it is necessary that the definition of wildlife is consistent across the legislative framework for land use and resource use decisions in B.C. For example, the definition of wildlife in the *Forest and Range Practices Act* provides for the protection of endangered or threatened plants, which are currently excluded from the *Wildlife Act* definition.

Proposals for Change

- Amend the definition of wildlife so that the Province can respond effectively to emerging wildlife management issues such as alien invasive species and wildlife disease.
- Amend the definition of wildlife so it is consistent, where appropriate, with definitions in other B.C. legislation.

ALIEN SPECIES

Alien species are plants, animals and micro-organisms that are transported beyond their natural range and become established in a new area. They are also called "exotic," "introduced," "non-native," or "non-indigenous" species and may come from outside B.C. (e.g. European starlings, Scotch broom) or can be native to some parts of B.C. but are not native to regions of the province where they have been introduced artificially (e.g. black-tailed deer and raccoons on the Queen Charlotte Islands).

Humans have created many ways for plants, animals and micro-organisms to spread beyond their natural ranges, and the rate of alien species introduction is accelerating rapidly as global commerce and travel increases, and the exotic pet trade market grows. All alien species must be treated with caution; even though harmful and invasive⁷ alien species are a minority of all non-native species, the damage they do to native species populations and ecosystems, human and animal health and the economy can be severe and wide-ranging. Alien species that are invasive can be a serious threat to biodiversity – they can crowd out native species and, through competition, predation, hybridization, disease and parasite introduction, can threaten native species populations and the integrity, vitality, and complexity of native ecosystems.

⁷ An invasive alien species is a species or subspecies introduced outside of its natural past or present distribution whose introduction and/or spread threaten biological diversity. (*Invasive Alien Species Framework for BC: Identifying and Addressing Threats to Biodiversity*. (Victoria, B.C: Ministry of Water, Land, and Air Protection, 2004) pp 79. Available at the following web address: http://wlapwww.gov.bc.ca/wld/documents/alien_species_framework_BC_0205.pdf).

B.C. currently does not have adequate legislative authority to regulate the import, possession and intra-provincial transport of alien wildlife species. Improved controls on the import and traffic of wildlife and exotic (non-wildlife) species will increase the effectiveness of strategies aimed at reducing wild animal disease transmission and the spread of alien invasive species.

The current *Wildlife Act* makes it an offence to import live wildlife, or the egg of a wildlife species, into B.C. except as authorized by a permit. However, provisions of the *Wildlife Act* and regulations apply only to alien species that are defined as “wildlife” in the Act or are prescribed as “wildlife” in the regulations. If a species is not prescribed as “wildlife”, and proves to be invasive, a change to the statute may sometimes be needed to control importation, possession, translocation, and release. Changing legislation takes time and this means that the Ministry is less able to respond quickly and effectively to threats posed by the introduction and movement of alien species.

One response to the current lack of control over alien species would be the replacement of the current set of schedules with a “clean” and “prohibited” list of species. Animals, birds, reptiles, amphibians and fish would be classified as follows: those species on the “clean” list could be permitted to enter B.C., those on the “prohibited” list could not be imported, trans-located or released by the public. If a species appeared on neither list, the onus would be placed on the importer to demonstrate that importing and possessing the species would not negatively impact wildlife, habitat or human health and safety. This would remove the Ministry’s obligation to prove that a species is a threat and make necessary regulation changes.

Proposals for Change

- Authorize the Minister to restrict the introduction of, monitor, control and manage species whose introduction into, or presence in, B.C. may present an ecological threat to wild species of native fauna or flora, or negatively impact the Province’s economy.
- Develop “clean” and “prohibited” lists in regulation to clarify which species cannot be imported, trans-located or released by the public. If a species appears on neither list, the proponent must demonstrate that importing the species will not negatively impact wildlife, habitat or human health and safety.

DISEASE

To ensure the sustainability of wildlife resources, the Ministry is responsible for supporting the maintenance of healthy wildlife populations and preventing wildlife disease. *Canada’s National Wildlife Disease Strategy* indicates that wildlife disease is a very significant concern in connection with managing wildlife resources.

In the first six months of 2003, wild animal diseases were second only to war in claiming attention and causing exceptional expenditure by governments around the world. Diseases originating in wild species have affected human health and food safety, agricultural production and economic viability, ecosystem integrity and biodiversity, and world economies on an ascending scale throughout the past century and into the current one.⁸

The Ministry is concerned about the devastating effects that wildlife diseases can have on species conservation, agriculture and economies. Particularly troubling are pathogens that can travel between species and can infect humans, such as some avian influenza viruses. This concern is not limited to live animals carrying disease. Dead animals and animal parts may still carry pathogens that can be transmitted to live wildlife and livestock. Even if a species does not survive import, the infectious organism that it carries may survive and spread to animals or humans. Under the current *Wildlife Act*, it is

⁸ Environment Canada, “Annex II, Wildlife Diseases: Background,” in *Canada’s National Wildlife Disease Strategy*, (September, 2004), online: <http://www.cws-scf.ec.gc.ca/cnwds/draft11.pdf> (17).

not an offence for a person to import dead wildlife or wildlife parts into B.C. without a permit. It is an offence to possess dead wildlife or a part of any wildlife without a permit, licence or as prescribed in regulation.

The game farming of native *cervids*, such as deer, moose, and elk, is currently not allowed in B.C. This ban has resulted in fewer cases of chronic wasting disease (which can devastate native populations of these animals) in B.C. when compared to other jurisdictions, such as Alberta, where the game farming of these animals is permitted. It is for this reason that no changes to the *Wildlife Act* that would allow the game farming of native *cervids* are proposed.

As described earlier in the Discussion Paper, the provisions of the *Wildlife Act* and regulations apply only to those species that are defined as “wildlife” in the Act or are prescribed as “wildlife” in the regulations. Concerns have been raised about numerous unregulated or under-regulated species that are imported into British Columbia to be sold as pets, for zoos, or for other commercial operations involving the display of wildlife. Any wild species that is bred, raised or kept in captivity presents an increased risk of disease transmission to humans and, under some circumstances, to animals of the same and other species. If a species is not prescribed as “wildlife”, but proves to be a disease threat, a regulation change is typically required so that the species can be classified as “wildlife”. A regulation change requires Cabinet approval. Only after that species is classified as “wildlife” can an officer enter and inspect land, premises or enclosures in which that wildlife is kept and take appropriate action to deal with any disease threat.

Time is of the essence when responding to wildlife disease threats. The need for Cabinet approval before a regulation is changed means that classifying a problem species as “wildlife” takes time. The result is that the Ministry is less able to respond quickly and effectively to disease threats. In order to permit action on an urgent basis, it is important for the Minister to have the ability to act without Cabinet approval with regard to urgent perceived wildlife disease threats that may affect human, wildlife or livestock health.

Proposals for Change

- Include emergency powers in the *Wildlife Act* to allow a wildlife officer to enter property for the purpose of investigating or destroying diseased wildlife and alien or exotic species.
- Include more provisions in the *Wildlife Act* to limit the import, and control possession and use, of live alien or exotic species that are not currently designated as “wildlife” under the *Wildlife Act*.
- Authorize the Minister to designate and take measures to manage species that pose an immediate disease threat.
- Include provisions in the *Wildlife Act* to limit the import of dead wildlife and non-wildlife species and parts.

MANAGEMENT OF WILDLIFE-HUMAN INTERACTIONS

WILDLIFE-HUMAN CONFLICTS

Human development activities and natural environmental phenomena can result in wildlife being displaced from their usual habitat, or being attracted to the food and shelter that is often available in areas of human settlement. This often results in conflicts with humans, their homes, their property, crops and livestock. In certain situations wildlife can threaten human safety – large predators such as bears can attack humans; wildlife such as deer may attract other wildlife (cougars) that can come into conflict with humans and create a problem; and some wildlife species (such as racoons) can transmit diseases to humans.

Designated Ministry officials are empowered to deal with wildlife if these conflicts have already occurred. Conservation Officers respond to incidents involving potentially dangerous animals such as bears and cougars. The use of translocation of animals as a response to wildlife conflicts has proven to be ineffective and the use of long-distance translocation is being replaced by a greater use of local release of wildlife, where appropriate.

The preferred approach is to prevent wildlife-human conflicts from happening in the first place. Some of these problems can be addressed through public education and support for municipalities regarding appropriate handling of garbage to avoid attracting wildlife, however, there is limited capacity at the provincial or community level to encourage compliance. The Ministry has developed wildlife-human conflict reduction programs to address issues such as bear and coyote conflicts and wildlife-vehicle collisions. Trappers can trap certain conflict animals under permit and release them in the immediate vicinity or destroy them. Farmers employ methods that scare off conflict animals or sometimes kill animals that damage their crops, or kill or harass livestock. The Ministry has also been working with the agriculture community on pilot projects that relate to providing hunting opportunities for deer and elk that damage crops.

While most wildlife-human conflict issues are being managed through cooperative partnerships that stress education and management, the *Wildlife Act* does include provisions such as Feeding Dangerous Wildlife Protection Orders to ensure that attractants are not made available to species defined as “dangerous wildlife”. Amendments to this section are required, however, to make it more effective in achieving compliance. As well, the *Community Charter* currently empowers communities to develop bylaws regarding attractants for species listed in Schedules B and C of the *Designation and Exemption Regulation*.

Proposals for Change

- Modify the hunting licence system to facilitate hunting on agricultural lands to control problem wildlife.
- Enable measures to ensure that members of the public that respond to wildlife conflicts (e.g. trappers, hunters) are qualified to assess conflicts and properly remove, capture and handle wildlife.

POSSESSION OF LIVE WILDLIFE

Ownership of all live wildlife (as defined in the *Wildlife Act*) is vested in the government of British Columbia. Ownership has been given to the Crown in legislation so that the government can properly manage and protect British Columbia’s wildlife resources in the public interest. Live wildlife cannot be owned privately in British Columbia. It can be legally possessed in very specific circumstances, subject to the terms and condition of a permit issued by the Ministry. Wildlife species that are kept in zoos remain the property of the Crown, although these facilities may be given permission to assign the right to possess

wildlife that they hold captive. The possession of species that are not defined as “wildlife” under the Act is regulated by some local and regional governments.

The Ministry is faced with the challenge of properly defining what is and is not regulated for the purposes of live possession. The Ministry manages the possession of only those species that are defined as “wildlife” in the Act – the current definition of wildlife does not distinguish between animals, birds and fish that are born in the wild and those that are bred and raised in captivity. The Ministry may choose to regulate the possession of some captive-bred wildlife differently from those that are bred in the wild. This could be facilitated by explicitly stating in the Act that wildlife that is, or is purported to be, captive-bred is “wildlife” for the purposes of the Act, with exemptions provided in regulation. Captive-bred wildlife could then be exempted from the application of certain sections of the Act. The Province would retain ownership of all wildlife (those that are bred in captivity and in the wild) while having greater flexibility in how captive-bred animals, birds and fish can be managed.

While the Ministry has direct authority to manage wildlife, the responsibility to monitor the welfare of wildlife held in captivity is allocated to other organizations in other legislation (e.g. *Prevention of Cruelty to Animals Act*, *Criminal Code of Canada*). The Ministry’s concern for the humane treatment of all wildlife in captivity is currently reflected in conditions that are included in all wildlife possession permits issued under the Act. There may be areas where the humane treatment of captive wildlife is not adequately dealt with in existing legislation. The Act could be amended to fill in these gaps in the law and better ensure the humane treatment of wildlife kept in captivity (e.g. include a requirement that those who possess live wildlife must demonstrate that the wildlife is being, or will be, kept in humane conditions).

Proposals for Change

- Include explicit reference to captive-bred wildlife in the definition of “wildlife” in the Act.
- Amend the Act to fill any existing legislative gaps relating to the humane treatment of captive wildlife.

WILDLIFE KEPT IN CAPTIVITY: ZOOS, WILDLIFE PARKS, SCIENCE AND EDUCATION FACILITIES

The Ministry permits zoos, wildlife parks, educational facilities and scientific institutions to possess live wildlife that cannot be possessed by the general public. Zoos and wildlife parks are places where these animals are kept in captivity for public viewing or public display. Rehabilitation facilities and businesses that sell live animals that are not “wildlife” under the Act are not zoos for the purposes of the Act and regulations. Current standards for zoos, wildlife parks, educational facilities and scientific institutions are decided by the Ministry of Environment and are included as explicit conditions on wildlife possession permits. There are no plans to change the rules respecting the government’s ownership of wildlife held by these facilities.

If these facilities wish to possess, import, export, and transport wildlife, or traffic in their right to possess them, they must apply for a separate permit for each of these activities. The Ministry is investigating the benefits of replacing the current permitting system, where each separate activity requires a separate permit, with a licensing system⁹, where the licence-holder would be authorized to carry out all of these activities. Current requirements now found in the possession permit would be maintained and included as a condition of the licence. This would be more efficient and effective than the current permitting system – adding convenience for these facilities and lowering the amount of government resources devoted to the administration of such permits.

⁹ A licence is granted automatically when an applicant satisfies a set of conditions that are set out in regulation. A licence allows an individual to do something that is generally allowed under legislations. A permit allows a person to do something that is generally not allowed under legislation unless various conditions have been satisfied. Therefore, issuance of a permit is assessed individually and each permit may have a unique set of conditions.

The Ministry is also exploring the possible benefits of requiring that, as part of such a proposed licensing scheme, licensees be required to comply with by the comprehensive set of standards for animal welfare protection created by the Canadian Association of Zoos and Aquariums, a non-profit organization established to promote the welfare of animals and encourage the advancement of education, conservation and science.

Proposals for Change

- Include enabling provisions in the Act to permit the establishment of a licensing system for rehabilitators, zoos, wildlife parks, scientific and educational facilities that possess wildlife.
- Require zoos, science and educational facilities to comply with Canadian Association of Zoos and Aquariums animal welfare protection standards.¹⁰

WILDLIFE REHABILITATORS

Wildlife rehabilitators provide refuge and veterinary care for injured and orphaned animals and are largely funded through donations from organizations and the public. Rehabilitators play an important role in the conservation of wildlife, ensuring the humane treatment of at-risk animals and birds that would otherwise be inadequately cared for in private homes or left to perish in the wild. They also help facilitate public education about wildlife and habitat.

Under the *Wildlife Act*, the Ministry issues permits to qualified applicants, allowing them to care for and release wildlife according to specific criteria found in their permits. Rehabilitator permits contain a number of conditions, including the requirement to submit a yearly report, and these requirements are specifically tailored to the region where the rehabilitator is located and the types of wildlife that are cared for. Rehabilitation permits are time-limited and must be repeatedly renewed. Based on the broad efforts to streamline regulatory requirements under the *Wildlife Act*, consideration is being given to replacing the current permitting system for rehabilitators with a licensing system.

Rehabilitated non-native animals may become invasive in rare cases, crowding out or damaging native wildlife populations, native plants and wildlife habitat. Rehabilitated animals may also carry diseases that can spread to native species, domestic animals and to humans. The current *Wildlife Act* does not contain provisions that specifically address the release of rehabilitated animals that may be invasive or may carry disease. New provisions are needed in the Act so that the Ministry can properly manage this risk.

Proposals for Change

- Include enabling provisions in the Act to permit the establishment of a licensing system for rehabilitators.
- Include provisions in the Act that specifically deal with the release of non-native animals and rehabilitated wildlife that may be invasive or carry disease.

OWNERSHIP OF DEAD WILDLIFE AND WILDLIFE PARTS

Ownership of all dead wildlife and wildlife parts is vested in the government of B.C. A person gains a property right in dead wildlife if:

- the wildlife was lawfully killed and the person has complied with all applicable provisions of the *Wildlife Act* and regulations;
- the owner has a permit or licence issued under the *Wildlife Act* or *Game Farm Act*; or
- the wildlife was purchased through the Crown assets disposal auction.

¹⁰ For more information on these standards please see the Canadian Association of Zoos and Aquariums website at: <http://www.caza.ca/careintro.htm>

The buying, selling and exporting of dead wildlife and parts is still regulated, even when they are legitimately owned by a person, so that the development of markets for dead wildlife and wildlife parts is controlled. Dead wildlife that was acquired outside of the province is also regulated once it enters the province for similar reasons.

The creation and expansion of illegal markets in highly desirable products made from wildlife presents a serious risk to vulnerable wildlife populations (e.g. bears and eagles). As these markets grow, so does poaching and trafficking. Poaching for these markets can significantly affect vulnerable wildlife populations and, because the number of animals that are killed is not reported, the proper management of a species is more difficult. For this reason, trafficking in wildlife meat and “medicinal” products (such as bear gall) is highly controlled or is prohibited altogether.

The Ministry regulates, and has the ability to track, the ownership of dead wildlife and parts that still resemble wildlife to discourage the creation and expansion of illegal markets and to fight poaching. The Ministry is responsible for determining what sorts of wildlife and parts should remain regulated and what sorts of wildlife no longer require regulation. Tracking the possession and movement of wildlife and parts is resource intensive and there may be many situations where this has little actual conservation benefit (e.g. antique wildlife trophy parts).

There are a number of issues with the regulation of the ownership of dead wildlife and wildlife parts that can only be resolved through changes to the *Wildlife Act*. They include the following:

- The remains of animals involved in wildlife-human conflicts and those that are killed in vehicle collisions cannot be owned without applying for a permit. Animal control business operators who euthanize nuisance wildlife, individuals who find road-killed wildlife, and landowners who kill wildlife that damage their property, crops or livestock, cannot own the nuisance animal carcasses and cannot sell them. As a result, the modest value of these animals can be lost.
- An ownership permit cannot be issued for dead wildlife worth over \$200. This prevents many people from picking up valuable wildlife remains that they find because the wildlife will likely be confiscated by the Ministry. The carcass is left to decompose and valuable species information is lost.
- A person does not need a *Wildlife Act* permit or licence to possess wildlife or parts that have been processed or manufactured into a product that no longer resembles the original dead wildlife or parts. However, no clear definition of the words “processed or manufactured” and “no longer resembles” is currently provided in the legislation. This results in confusion for users and Ministry staff.
- Old taxidermy pieces often do not have supporting documentation and cannot be legally possessed or sold until their legal origin is established and new permits are issued. This can be an onerous burden for individuals wishing to sell pieces acquired through inheritance or purchase.

Proposals for Change

- Adopt stronger controls and strengthen penalties for illegal taking and trafficking in wildlife and wildlife parts.
- Authorize the import, possession and transfer of wildlife and parts legally taken in other provinces and territories.
- Recognize export permits from other jurisdictions.
- Allow ownership of dead wildlife caught by nuisance animal trappers and those protecting their property.
- Streamline the regulation of old taxidermy pieces that lack proper paperwork.
- More clearly define what qualifies as a “processed or manufactured” wildlife item.

MANAGEMENT OF RECREATIONAL USE OF WILDLIFE

The Ministry of Environment maintains primary legislative responsibility for managing the use of wildlife resources and strives to accommodate recreational and commercial public uses, requirements and demands for wildlife in B.C. within a framework of conservation and sustainability. The Ministry is responsible for supporting the maintenance of healthy wildlife populations, and for setting and tracking the harvest and possession of wildlife.

HUNTERS

Hunting is a traditional and legitimate use of wildlife in B.C. First Nations people have hunted for sustenance and for social and ceremonial purposes for thousands of years. Hunting is a valuable outdoor recreational experience that promotes appreciation for and understanding of wildlife species and their habitat in the natural environment. Through the Hunter Recruitment and Retention Project, the Ministry has set a target of increasing the number of hunters in the province by 20,000 during the next 10 years. Part of this strategy will involve restructuring and streamlining the regulations and looking at changes to the licensing system.

The *Wildlife Act* can support the recruitment and retention of hunters by providing for quality hunting opportunities and being responsive to changing social norms. Where hunting opportunities can be provided, the emphasis will be on the quality of the outdoor recreation experience and safe and sustainable hunting, rather than the harvest.

In British Columbia there are two main types of hunts – general open hunts and limited entry hunts. General open seasons provide an equal hunting opportunity to anyone with a valid hunting licence and the appropriate species licences. Restrictions can be placed on hunting methods and the length of the season, and on the sex, age and number of animals to be hunted and possessed. There is no restriction on the number of hunters, or where hunting can take place in a wildlife management unit – except for limits imposed by safety considerations, such as a nearby highway.

Limited entry hunting imposes the same restrictions used in general open seasons, but it also restricts each hunting area to a set number of hunters. The size of the harvest that can be supported in that region at a specific point in time and the corresponding number of eligible authorizations is determined by Ministry staff using the best available science. Any resident of B.C. who legally possesses a resident hunter number may participate in the limited entry hunt lottery for any area of the province.

The purpose of the limited entry hunting system is to achieve wildlife management objectives without resorting to such measures as shortening seasons or completely closing areas. It is only introduced where it has become necessary to limit the number of hunters, limit the number of animals that may be taken, or limit the harvest to a certain “class” of animal. Limited entry hunting also leads to better hunter distribution and better selection of animals of specific age and sex. On the other hand, general open seasons provide the hunter with opportunistic hunting, less planning and a greater choice of hunting areas. In provincial parks and protected areas it is current practice to implement limited entry hunting in order to balance the needs of hunters with the needs of other park and protected area users so that public safety is protected and activities that take place within an area are consistent with existing protected area management plans.

All hunting that takes place in the B.C. must be carried out in an ethical and humane way. It is the policy of the Ministry that maximum usage be made of wildlife taken under the *Wildlife Act*. The *Wildlife Harvest Strategy* states, “For harvested wildlife, maximum personal utilization by hunters will be

encouraged and, where appropriate, enacted in law.”¹¹ A person who hunts wildlife and kills or injures that wildlife commits an offence if he or she fails to make every reasonable effort to retrieve it and, if it is alive, to kill it and remove the edible portions of the carcass to that person’s normal dwelling place, to a meat cutter or to the owner/operator of a cold storage plant. In the case of fur-bearing wildlife, hunters are required to bring out the hide.

The *Wildlife Act* and regulations set out restrictions on the hunting methods and tools. For example, no hunter or other person may:

- shoot wildlife from a motor vehicle or a boat that is propelled by a motor;
- use a helicopter for the purposes of transporting hunters or game;
- hunt, take, wound or kill big game while it is swimming;
- hunt waterfowl, coots and snipe with toxic shot;
- use electronic calls to hunt most wildlife;
- use methods which are unsafe or dangerous;
- waste or abandon wildlife or fish;
- sell, trade or barter wildlife;
- hunt from a provincial road;
- carry a loaded firearm in a vehicle or discharge a firearm from a vehicle;
- hunt within no-shooting areas located close to urban centres;
- hunt by the use of, or with the aid of, a light or an illuminating device; and
- hunt within provincial parks that are closed to hunting due to proximity to urban areas, etc.

Proposals for Change

- Amend the Act and regulations so that they reflect new methods of hunting and new hunting tools.
- Clarify the limited exceptions that might apply to all forms of wildlife harassment.
- Implement an enhanced odds system for some limited entry hunting draw hunts so that successful applicants are less likely to succeed in drawing a second limited entry hunt when compared to those applicants who have not yet succeeded.
- Modify the hunting licensing system for junior hunters to:
 - extend the age range for junior licences to include individuals from 10 years until 18 years, inclusive; and
 - reduce the price of species licences.
- Enable a one-time-only single-season licence for new hunters to try the sport under the direct supervision of a licensed adult hunter, but without the requirement to take the CORE exam.
- Provide general open seasons for mule deer does and white-tailed deer does for hunters under 19 years of age and the new single-season hunters mentioned above.
- Enable successful limited entry hunting applicants to share their hunt with a partner.
- Simplify regulations where feasible in order to achieve greater standardization of hunting requirements in different regions of the Province.

ANGLERS

The Ministry manages freshwater fishing in British Columbia and the Ministry’s primary focus is to conserve fish stocks and provide opportunities for sustainable harvests. First Nations people have relied on fish for sustenance and ceremonial purposes for thousands of years. In addition, British Columbia’s

¹¹ Province of British Columbia, Ministry of Environment, Lands and Parks, *Wildlife Harvest Strategy: Improving British Columbia’s Wildlife Harvest Regulations* (Victoria, B.C.: 1996) at 5.

lakes and streams offer world-class recreational angling opportunities and economic opportunities for local communities.

The Ministry of Environment shares responsibility for managing fish with the Federal Department of Fisheries and Oceans. Legislative authority for “sea coast and inland fisheries” was assigned to the Parliament of Canada in the *Constitution Act, 1867*. However, the provinces have a proprietary right to most inland fisheries, including the responsibility to legislate how and to whom fishing rights can be conveyed. Subject to arrangements with the Government of Canada, the Province uses the *Wildlife Act* and regulations to manage non-tidal recreational and non-tidal commercial angling activities. For more information on how Canada and B.C. share fisheries management responsibilities, please see the table in Appendix 5.

Recreational angling takes place on numerous rivers, lakes and streams within the province and can involve the harvest of wild and hatchery-stocked fish. Most rivers and streams in the province are not stocked and thus have more restrictive harvest regulations to conserve wild populations. The provincial stocking plan, which largely involves small lakes, is carried out by the Freshwater Fisheries Society of British Columbia, a non-profit organization funded through revenue generated by the sale of recreational angling licenses and permits.

Regulations governing the season, size and number of fish harvested, and the tackle employed are implemented at the recommendation of regional fisheries staff to achieve conservation and management goals, as well as to manage angler effort and success. Over time this has resulted in angling regulations that are complex and vary considerably across the province depending on the water body and region. Ministry staff and stakeholders have identified the need for changes so that the regulations are easier to interpret and easier to use. Ministry staff and stakeholders have also recommended changes to the *Wildlife Act*, regulations and administrative processes so that applying for and receiving a licence is more straightforward for anglers.

Proposal for Change

- Amend the Act and regulations to reduce complexity and streamline the angling licensing process.

FALCONERS

Falconry is a hunting sport in which the natural hunting skills of birds of prey (“raptors”) are used for the falconer's purposes. Traditionally, wild-caught and captive-bred raptors are trained by falconers to chase and capture prey.

Any raptor (including non-native and captive-bred birds) acquired by a falconer outside of the province becomes the property of the Crown once it is imported into British Columbia. The principal reasons for the regulation of raptors are to protect native species and habitat, to address concerns regarding alien species, and to comply with national and international law and treaties (e.g. the Federal *Species at Risk Act*, the *Convention on International Trade in Endangered Species*). The overriding objective is to ensure the integrity of the species and minimize the risk of hybridization. A further reason for the regulation of falconry is to ensure the humane treatment of raptors held in captivity. In practice, the Province allows falconers to treat the raptors they possess and use as their own property for the purposes of falconry and other uses permitted under the *Wildlife Act*.

Live wildlife possession permits issued by the Ministry for raptors include an annual reporting requirement detailing the status and description of raptors in possession. Possession permits will only be issued to first-time falconers after their mews (raptor housing structures) have been built, inspected, and found to meet appropriate Ministry standards. Falconers are required to have an appropriate hunting licence when using their birds to hunt prey. Falconry permits enable them to capture, transport, possess, import and export live raptors.

At the present time, the management of falconry is resource intensive. It is proposed that the current permitting system be changed to a licensing scheme. As part of this shift from permitting to licensing, specific legal authority to make regulations concerning falconry could be included in the *Wildlife Act*. The majority of requirements relating to falconry activities would then be contained within a regulation and this could introduce a greater level of transparency and consistency with regard to the management of falconry in B.C.

Proposals for Change

- Provide specific authority in the *Wildlife Act* to make regulations concerning the management of falconry.
- Establish a licensing system for falconry.

MANAGEMENT OF COMMERCIAL USE OF WILDLIFE

The Ministry of Environment is responsible for managing the commercial use of wildlife and ensuring that it does not threaten wildlife populations or the public due to wildlife habituation or unsafe practices. Commercial users of wildlife can be divided into two categories:

- those that operate under authority of a licence issued by the Province, which authorizes a variety of activities related to their commercial operation; and
- those that possess a permit issued by the Province authorizing them to use wildlife in ways that are generally controlled and restricted.

Licensed commercial users of wildlife include guide outfitters, angling guides, transporters and trappers. Taxidermists, zoos, circuses, wildlife education facilities, captive breeding for sale operations, the film industry, pet stores, animal control companies, and wildlife viewing operations are not licensed and must apply for permits with regard to their uses of wildlife.

RESPONSIBILITY FOR LICENSING COMMERCIAL USERS

The Ministry's priority is the long-term sustainability of wildlife and this is the basis for the regulation of the business practices of commercial operators. These operators depend on wildlife resources for some, or all, of their livelihood. Consequently, they have a vested interest in, and an obligation to contribute to, the effective management of the resource. At the same time, there is increasing interest on the part of organizations representing these operators in more direct involvement in the regulation of their members, including assuming some roles and responsibilities that have traditionally belonged to government. In certain circumstances, this could involve:

- providing training and testing for new commercial operators;
- issuing licences to qualified applicants;
- establishing standards of practice, codes of ethics, and other expectations for the conduct of operations by members of the organization;
- investigating complaints about practices by members of the organization;
- conducting hearings, and, where appropriate, applying sanctions for non-compliance with commercial operator standards of practice and codes of ethics; and
- providing information to the public, including (for example) a business rating system, client satisfaction survey results, or performance reviews.

The model that is contemplated would be limited to the governance of commercial operators. It would not affect the Ministry's current responsibilities in relation to such matters as:

- the allocation of quotas;
- disciplinary action and the imposition of administrative penalties for non-compliance by a licensed commercial user; and
- consultation with First Nations.

The prerequisite for this limited self-governance is that the organization has the capacity to assume these responsibilities.

The rationale for self-governance is that senior members of the regulated group have the necessary training, experience and expertise to be able to make judgments about the appropriate contents of practice standards and codes of ethics. Moreover, senior members are also best qualified to assess applicants for licensing, investigate allegations of improper conduct, and determine whether other individuals have failed to act in accordance with practice or ethical standards. A broad range of occupational groups use this approach, from technicians and scientists such as biologists, to professionals such as nurses.

To ensure the public interest would continue to be satisfactorily represented in the decisions made by the occupational group, the Minister would be authorized in the legislation to appoint public members to the board of the agency and to its committees responsible for carrying out the delegated tasks.

Under this model, a regulation would be made naming a recognized entity as the organization with the authority to license and govern the practice of all practitioners in the province. Within the internal governance structure of the entity, there would be a requirement to establish a registration committee, a complaint investigation committee and a discipline committee (these functions need to be conducted separately in order to satisfy various administrative law requirements). Specific powers and duties would be assigned by regulation to committees of the entity. For example, commercial operator entities could review situations where minimum use/effort requirements are not met by members, investigate the circumstances, and make recommendations to the Ministry on specific ways to remedy the situation or that the quota or other privilege in question revert to the Crown for possible reallocation. The Minister would also be authorized to appoint a specified number of Ministry staff or other public members as participating members of those committees.

Proposals for Change

- Enable the delegation of authority for licensing and other aspects of regulating commercial operators to relevant organizations under specified terms and conditions.
- Enable commercial operator entities to investigate and make recommendations concerning member compliance with minimum use/effort requirements.

GUIDE OUTFITTERS

British Columbia is internationally renowned for its abundance of wildlife and wilderness, and these natural resources are the cornerstone of a successful guiding industry. Licensed guides provide services to residents and visitors such as big-game hunting, wildlife viewing and trail rides. Guides and their clients constitute a significant component of British Columbia's tourism industry.

There are currently over three hundred licensed guide outfitters in B.C., and over one thousand licensed assistant guide outfitters operating under the supervision of a guide outfitter. The present system of guide licensing was initiated in 1948 and has evolved over time in response to changing industry needs and changes to how wildlife is managed in B.C. Over the years, the role of guide outfitters in wildlife and habitat management has grown, with many guides providing essential services such as inventory and habitat enhancement within their guiding areas. The guide industry has also changed in recent years and greater emphasis is being placed on wildlife viewing activities.

The Ministry issues guide licences to individuals who are citizens or permanent residents of Canada, have held *Wildlife Act* assistant guide licences for 24 months, have actively guided during those 24 months, and have public liability insurance and other qualifications prescribed by regulation. Assistant guides must be citizens or permanent residents of Canada and 19 years of age or older. An assistant guide licence is only valid when endorsed with the signature of the guide outfitter employer and that guide outfitter must be substantially present in his or her guide area when the assistant guide is guiding for game.

The Ministry may issue a guide outfitter certificate to a licensed guide outfitter, granting the holder the exclusive privilege of acting as a guide in a specific area for a period not exceeding 10 years. A new certificate may be issued on each fifth anniversary of the date of original issue for a period not exceeding ten years. The guide outfitter's exclusive privilege to provide guide services within an area does not limit the continuing right of B.C. residents to use these same areas for personal hunting.

Non-residents are required, with few exceptions, to retain the services of a guide outfitter in order to hunt big game in B.C. Ministry allocation policy determines the quotas for species that may be hunted by guided non-residents. The quotas are reviewed and set annually based on the numbers of animals available for harvest. This annual review includes discussions between guide outfitters, resident hunters and Ministry staff. Occasionally, problems occur when the Ministry receives new information on wildlife populations and conservation issues after the quota has already been allocated.

If a guide outfitter does not guide, or states that he or she does not intend to guide, hunters or anglers in a year, the guide outfitter may apply to the Ministry for permission to temporarily discontinue or partially discontinue the use of his or her guiding area. If the guide outfitter does not apply for this permission to discontinue use, the Ministry must review the guide outfitter's operation and, after the guide outfitter has had an opportunity to be heard, may suspend, cancel or refuse to renew the guide outfitter's licence, certificate or both.

Guiding businesses may be owned or financially controlled by persons or groups other than the licensed guide outfitter. Only an actual person can hold a guide outfitter licence. A group or corporation cannot hold a guide outfitter licence. All legal responsibility and liability rests with the guide outfitter who, in some cases, is simply an employee. The *Wildlife Act* does not currently address this type of arrangement and changes to the legislation may be needed to better reflect the current reality of the guiding business.

Proposals for Change

- Allow the Ministry to amend allocated quota to respond to new scientific data about conservation concerns.
- Have guides provide and adhere to an operating plan for a specified period (e.g. 1 to 5 years). This could enable a move away from prescriptive regulation and towards an outcome-based model.
- Amend the *Wildlife Act* so that an individual who has held an assistant guide licence issued by another province for 24 months, and has actively guided during those 24 months, is eligible for a *Wildlife Act* guide outfitter licence.

ANGLING GUIDES

Anglers travel from all over the world to experience British Columbia's streams and lakes, which offer some of the highest-quality angling in the world. Angling guides offer a variety of services to angling tourists and resident anglers, including access to remote streams and lakes, transportation and accommodation. The economic spin-offs of angling tourism provide significant benefits to rural communities and to the overall British Columbia economy.

The Ministry regulates angling guiding to ensure a quality angling experience for all anglers. The Ministry licenses angling guides and collects data annually on their activities in the province. An angling

guide must be a citizen or permanent resident of Canada, provide proof of liability insurance and submit an angling guide operating plan that has been approved by a Ministry of Environment Regional Manager. There are currently over three hundred licensed angling guides in B.C. and over four hundred licensed assistant angling guides operating under their supervision.

In 1990, the Ministry of Environment implemented the Classified Waters System to address conservation and angler use issues on a number of the province's most popular steelhead and trout stream fisheries. This included the creation of new licensing requirements for anglers and for the regulation of commercial angling guides through the issuance of "guided rod day" quotas. Rod day quotas give angling guides the right to guide for fish on a given stream for a fee. Recently, changes were introduced to the way that rod days are allocated to angling guides to ensure that the allocation process is fair and open, that the quota is being used, and that the Province receives a fair return for the privilege of holding it.

Previously, no time limit was placed on allocated rod day quotas. Recent amendments have limited the allocation of rod day quotas to up to 20 years with an option for renewal at the mid-point; however, a quota that was allocated prior to those amendments is not limited in the same way.

Fees from guided rod days, along with revenues generated through the sale of angling guide licenses are used to support the Freshwater Fisheries Society of B.C. and the Habitat Conservation Trust Fund, which support a number of projects to ensure the continued viability of fish populations and their habitats, thereby contributing to the long-term viability of the angling tourism industry.

Like guide outfitting businesses, angler guiding businesses may be owned or financially controlled by other persons or groups other than the licensed angling guide and the *Wildlife Act* does not presently address this fact. Changes to the *Wildlife Act* are needed so that it better reflects the reality of the angling guide industry.

Proposals for Change

- Limit the term for angler day quota for all individuals for up to 20 years with renewal at the mid-point.
- Provide that unused angler day quota will be returned to the Crown for reallocation or other uses.

TRANSPORTERS

Transporters transport hunters and their equipment to, from, or between hunting locations. This allows hunters to access a wider range of backcountry areas for recreational use. A transporter is limited to transporting hunters and is not authorized to provide guide services. Guide outfitters and angling guides can offer transporting services in addition to guide services. The Ministry began regulating and licensing hunter transporting activities in 2005 to remedy long-standing disagreements between transporters and guide outfitters concerning whether transporters were providing guiding services without authorization. In view of the recent changes that have been made, no legislative changes concerning transporters are contemplated at this time.

TRAPPERS

Trapping is a recognized and long-standing use of wildlife in British Columbia. First Nations have trapped wildlife for hundreds of years, and trapping and fur-trading played a significant role in the exploration and early development of B.C. by European settlers. The Province's first trapping regulations were established in 1906 in an effort to conserve the province's fur-bearing animals. Fur royalties were first imposed in 1921 and continue today and the Province began registering traplines in 1925 to reduce disputes among trappers and provide security for investment in trails and trapline shelters. Currently, there are over one thousand licensed trappers in B.C. Trapping continues to be an important activity for

some First Nations and the owners of registered traplines, however, its economic significance has greatly declined as consumer demand for fur clothing has decreased.¹²

Registering traplines contributes to the conservation of wildlife by encouraging responsible harvest management. A trapline is an area for which registration is granted to one or more licensed trappers for the trapping of furbearing animals. Only the registered holder of a trapline may trap fur-bearing animals in that area unless they have written permission from the registered holder of the trapline or owner/occupier of the land, or hold a trapping permit.

The Ministry may grant registration of a trapline on Crown land to a person who is, or to a group of persons who are each, 19 years of age or older and a citizen or permanent resident of Canada. A person or group must not be granted registration of more than one trapline unless the traplines are contiguous and the person or group has obtained Ministry approval for a fur management plan. Registration of a trapline does not give the holder any proprietary rights in wildlife or restrict the rights of others to hunt or capture wildlife if they are authorized to do so by regulation or a permit.

To hold a registered trapline, a person must carry on active trapping or obtain Ministry permission to temporarily discontinue the use of that trapline for a period not exceeding two years. A person fails to carry on active trapping when they do not, within a year, take furbearing animals having a value of \$200 or fifty furbearer pelts (except in circumstances where the Ministry judges this requirement as unreasonable).

Annual reports submitted by trappers provide some data on the harvest levels by species and trapline. However, more detailed information about numbers of days trapped, and types of traps used would contribute to even more effective management of fur-bearing animals by the Ministry.

Proposal for Change

- Require trappers to submit more comprehensive information to the Ministry (e.g., number of days trapped, trap type used).

FUR TRADERS

In B.C., fur traders are licensed under the *Wildlife Act* to trade in the skins and pelts of fur-bearing animals. They must apply for this licence and meet specific requirements before they can operate and they must collect and submit trapline royalty revenue and harvest information. There are approximately 25 licensed fur traders in B.C.

Fur traders generally export furs out of B.C. to other markets and for processing. A licensed fur trader who wishes to export fur from B.C. must also apply for an export permit for each shipment. This process has created frustration for fur traders and requires that government staff devote considerable time and resources to the issuance of these permits. One solution may be to change the current legislation so that a fur trader does not need to apply for an export permit for every shipment of furs. Instead, the legislation could be changed to allow fur traders to export furs using their licence number with the added requirement that they file a report on the furs that they have exported. This would streamline the exporting process for fur traders, provide for reporting of exported species for wildlife management purposes, and could save government and fur traders time and money.

Proposal for Change

- Change administrative requirements for exporting so that fur-traders can export using their licence number without the need for separate, individual export permits.

¹² *British Columbia's Hunting, Trapping & Wildlife Viewing Sector* (Victoria B.C.: Ministry of Labour & Citizen's Services, 2005) at 15.

COMMERCIAL WILDLIFE VIEWING

Commercial and recreational wildlife viewing is gaining increasing significance for British Columbians and for the tourism industry. Wildlife viewing can play an important role in conservation by educating wildlife viewers about wildlife and building support for conservation efforts while having minimal impact on wildlife and their habitat. Wildlife viewing has the potential to provide major economic benefits to First Nations and many communities, especially in coastal areas of the Province.

Wildlife viewing can be land-based or water-based, and may involve the use of vehicles or viewing structures. Commercial viewing activities (including water-based viewing) are not regulated by the Ministry, except in provincial parks and protected areas, where a Park Use Permit specifying operating conditions for commercial activities is required. Currently, commercial wildlife tourism operators obtain a permit from the Ministry of Tourism, Sport and the Arts to carry out their land-based activities on Crown land. While water-based viewing is common, neither the Ministry of Tourism, Sport and Arts, nor the Ministry of Environment issues permits for water-based viewing. Guide outfitters also take visitors on viewing expeditions within their guide areas.

Unmanaged wildlife viewing may unintentionally result in damage to important habitats, displacement of wildlife from preferred habitats, and the habituation of wildlife to humans (potentially increasing the risk of wildlife-human conflict and wildlife vulnerability). Wildlife viewing activities can also conflict with other uses of wildlife, such as hunting. It is important to manage viewing activities so that wildlife, habitat and public safety are protected, and competing uses of finite wildlife resources are balanced.

The Ministry has developed some standards and guidelines for commercial wildlife viewing and these are included in the master plans that recreational operators are required to adhere to under the *Land Act*. It is important to have standards and guidelines which are site- and situation-specific, and to monitor compliance among operators. However, given the diversity and number of operators, it is not clear whether all are operating under licences or permits and are subject to these standards and guidelines.

The Ministry will continue to work in cooperation with other agencies to develop and maintain standards for wildlife viewing and to monitor compliance to ensure that wildlife viewing has a minimal impact on wildlife and wildlife habitat. These standards would apply to any wildlife viewing operator, including guide outfitters. The Ministry will continue shared environmental stewardship initiatives with regard to wildlife viewing and provide the best available science so that viewing activities can be managed properly and in a sustainable manner.

The Habitat Conservation Trust Fund supports wildlife and habitat conservation primarily through surcharges on hunting, fishing and commercial wildlife use licences. In view of the benefits that accrue to viewers (paralleling the benefits to hunters and anglers) it seems appropriate by extension to include a revenue stream from wildlife viewing. These resources would be applied to the protection of species and the enhancement of wildlife habitat that supports the viewing industry.

Proposals for Change

- Impose a Habitat Conservation Trust Fund surcharge on commercial wildlife viewing activities to support habitat and species conservation.
- Establish provisions to manage high-value areas for wildlife viewing in order to ensure public safety, and minimize or mitigate habitat impacts and interference with wildlife.

TAXIDERMISTS AND EXPORTERS

Taxidermists range from those who process small numbers of wildlife for their own use and enjoyment to commercial operators who make and sell a large volume of pieces. Taxidermists do not presently need a

licence or a permit to operate but are merely required under the *Wildlife Act* to keep records. If the wildlife they are handling is legally taken, no permit is required until a taxidermist wishes to export a taxidermy work outside of B.C. There are currently about 100 taxidermists in B.C.

Taxidermists have called for improvements to the *Wildlife Act* so that the current export permitting process is simplified and the administrative burden on their industry is decreased. A licensing system could enable taxidermists to export taxidermy pieces without separate permits for each item. All taxidermy work would be documented in the records maintained by the operator and these records would include information concerning the identity of the owner and how the owner acquired lawful ownership of the wildlife (e.g., hunting licence number, possession permit, etc.).

Other issues related to how taxidermists operate under the current *Wildlife Act* include:

- The remains of animals involved in wildlife-human conflicts and road-kill of wildlife cannot be owned without applying for a permit. This reduces the number of wildlife brought regularly to taxidermists. The modest value in these animals is generally lost, as is potential revenue for taxidermists.
- Generally, the Ministry may not issue a permit transferring the right of property in dead wildlife, or parts of wildlife, worth over \$200 from the government to a person. The Ministry may issue such a permit when the person applying will receive the dead wildlife or parts as compensation for conducting work or an activity on behalf of the government or the person applying for the permit is applying on behalf of a charitable organization in B.C. This \$200 limit on ownership of dead wildlife and parts prevents many people from picking up valuable wildlife remains that they find and bringing them to taxidermists. Taxidermists may not realize potential revenue and the Ministry loses access to important information about species populations and health that could be learned from these remains.
- Old taxidermy pieces often do not have supporting documentation and cannot be legally possessed or sold until their legal origin is established and new permits are issued. Taxidermists occasionally have to deal with large quantities of these old pieces and would prefer that the process is streamlined so that working with old undocumented dead wildlife and parts is less onerous. The Ministry will continue to work with industry to look for effective ways to handle these pieces.

Proposals for Change

- Provide for a taxidermist licensing system that includes the ability to export without the need for specific export permits, and requires taxidermists to maintain detailed records concerning ownership of all wildlife handled.
- Allow ownership of animal remains involved in wildlife/human conflicts and vehicle collisions.
- Expand the circumstances in which ownership in dead wildlife and parts of wildlife worth over \$200 may be transferred from the government to an individual.

EFFECTIVE DECISION-MAKING

Decisions made under authority of the *Wildlife Act* that relate to the issuance of permits and licences or determinations about compliance with the legislation number in the thousands each year. As a result, ensuring that the system of decision-making is effective and efficient has important implications for the individuals and organizations affected by the decisions and for the use of Ministry resources.

Decision-making can be allocated in legislation in a number of different ways. Many statutes are written so that the Minister responsible for administering that Act is vested with the authority to make the majority of decisions under that Act. In practice, this decision-making authority is commonly delegated

to a designated position within a Ministry. Such a delegation can be done as required with specific conditions placed on the exercise of that delegated authority. This model allows for added flexibility when delegating authority to an appropriate operational level and when there is a need to impose or vary conditions of that delegated authority from time to time.

Other statutes are written so that a particular named official (e.g. a regional manager) is specifically authorized to make a specific decision. While this model may be more efficient in many ways, it may be problematic when a Ministry reorganization takes place or there are other changes in Ministry responsibilities that dictate the need to transfer decision-making authority from one official to another.

The current *Wildlife Act* is an example of a mixed model. At present, regional managers are named as the decision-maker with regard to wildlife management decisions in a variety of circumstances. However, the Director of the Fish and Wildlife Branch is also named as an authorized decision-maker and can make any decision that a regional manager can make. At the same time, the Act specifies that many decisions involving wildlife management must be made either by Cabinet or by the Minister. For example, the Act provides the following with regard to a limited entry hunt:

- the Lieutenant Governor in Council approves a regulation concerning the season (timing) and the range of authorizations for hunting a species or class of species;
- the Director of Wildlife may vary the authorizations on an annual basis;
- the Regional Manager decides on guide outfitter quota; and
- the Minister may close the season for that hunt.

As will be apparent from this example, decision-making authority under the *Wildlife Act* can be fragmented or inconsistent and may appear unnecessarily complex.

Regulations under the *Fisheries Act* (Canada) authorize the director for fisheries management in some provinces (in B.C. it is the Director of the Fish and Wildlife Branch) to vary a closing time, fishing quota or limit on the size or weight of fish with respect to an area or portion of an area. This process is simple and effective, and allows decision-makers to rapidly respond to emerging wildlife management issues (e.g. the need to rapidly close a river to fishing). The Ministry is interested in changing the *Wildlife Act* so that more decisions, including decisions on amendments to hunting seasons (season dates, class of animals, season closure, range of authorizations etc.) can be dealt with in a similarly rapid and efficient way by the Director of the Fish and Wildlife Branch.

Proposal for Change

- Change the way the *Wildlife Act* delegates authority to reduce the complexity of decision-making, place decision-making authority at the most effective level and allocate authority in a way that is most likely to result in the consistent application of legislation and policy across the province.

COMPLIANCE

Violations of the *Wildlife Act* and the regulations can negatively affect wildlife and their habitats. The damage done to wildlife populations from a failure to comply with legislation frequently has negative impacts on First Nations' ability to use wildlife for food, social and ceremonial purposes, and reduces the number of wildlife-related recreational opportunities for British Columbians and visitors to B.C. When wildlife populations are reduced in number, the commercial activities that depend on wildlife (guide outfitters, angling guides, trappers, wildlife viewing operations etc.) are negatively affected as well. Negative impacts on these activities, in turn, hurt local and regional economies.

At present, any person who is accused of committing an offence under the *Wildlife Act* can be compelled to appear in court to answer to the charge. If they are convicted, the penalty for a first offence can be as

high as \$100,000 and up to one year imprisonment. These are some of the highest maximum penalties in Canada for similar offences. While this has an important deterrence effect, court proceedings are often costly, slow and require significant resources from the accused, the legal system, and Ministry of Environment employees.

Police and Conservation Officers (including Park Rangers with auxiliary Conservation Officer status) are also empowered under the *Offence Act* to issue violation tickets with penalties up to \$1000. This is the most common enforcement response for offences. A violator can elect to plead guilty to a *Wildlife Act* offence by paying the prescribed penalty or can appear and dispute a ticket in court if they choose. At present, voluntary ticket fines generally range from \$100 to \$500. Ticket penalties are generally very effective in achieving immediate compliance and creating a general deterrence effect for others. They also save the violator and the Province the time and expense of a court appearance.

Currently, while the courts can prohibit an offender from taking part in activities such as hunting or angling, they do not make decisions related to the cancellation or suspension of an offender's licence or permit, or the changing of a permit's conditions. When a violator has admitted guilt, has been found guilty through a court process or has paid a violation ticket, a parallel administrative hearing process may be convened. This enables the Ministry of Environment to determine whether it may also be appropriate to cancel, suspend or change the conditions of a violator's licence or permit.

The *Wildlife Act* does not currently authorize a wildlife manager to directly levy a monetary penalty for non-compliance. Other natural resource management agencies are able to impose administrative monetary penalties for contravention of other Acts and regulations. Administrative monetary penalties are a less costly and time-consuming enforcement response than formal court proceedings.

Wildlife managers and enforcement officers require a range of flexible and responsive tools to consistently and fairly respond to non-compliance; tools that quickly achieve compliance and create a broad and enduring general deterrence effect. The courts also need to be able to administer appropriate penalties, creative solutions that mitigate the effect of an offence and create effective general deterrence.

Proposals for Change

- Reclassify offences and include new provisions in the Act to facilitate the effective use of administrative penalties when dealing with violations of the *Wildlife Act*.
- Expand circumstances where automatic licence suspensions take place (this could include public safety provisions where an individual is in possession of open alcohol while hunting).

APPEALS

The *Wildlife Act* provides that any decision of a regional manager or director affecting a licence, permit, registration of a trap-line or guide outfitter's certificate, or an application for any of these, may be appealed to the Environmental Appeal Board (EAB).¹³ The most frequent appeals of *Wildlife Act* decisions concern the following:

- individuals whose hunting and fishing privileges have been suspended because of *Wildlife Act* infractions;
- guide outfitters wanting increased allocations of big game animals; and
- angling guides seeking increased rod day allocations.

The EAB reviews all notices to appeal *Wildlife Act*-related decisions to confirm that it has jurisdiction, that the appeal documentation is complete, and that the application fee of \$25 is included. Over the past 5 years the number of *Wildlife Act* related appeals has been relatively constant at about 30 per year and the

¹³ For more information on the Environmental Appeal Board, please visit the following web address: <http://www.eab.gov.bc.ca/>

time devoted by the EAB to oral and written hearings of these appeals has been relatively constant as well.

The EAB must give the decision-maker full party status in the appeal on request. In practice the EAB presumes that the decision-maker is a party to the proceeding, even in the absence of a request. Once accepted, the appeal may be handled through either a written or oral hearing process. There are requirements on parties to provide full information according to a defined schedule. This places a requirement on both the appellant and the Ministry decision-maker to provide thorough documentation in a timely manner. If the Ministry decision-maker declines to become a party, the decision-maker is still obliged to provide the record to the EAB (i.e. a copy of the file).

A review of the outcome of EAB decisions in recent years suggests that appeals seeking increased allocations of big game animals to guide outfitters, seeking the reversal of Ministry decisions denying possession of dead animals such as raptors and predators, and seeking relief from the suspension of licence privileges are frequently unsuccessful. Despite this, appellants and Ministry staff must commit a significant amount of time and resources each year to these appeals.

In an effort to make the appeal process more effective and cost-efficient, a number of changes could be made to ensure that appeals are meritorious. In addition, the EAB has recommended the increased use of negotiation and mediation as alternatives to the current resource-intensive appeal process.

Proposals for Change

- Remove the right to appeal certain Ministry decisions related to licenses, certificates and registrations that are frequently unsuccessful at the EAB.
- Limit appeals to a review of the principles of administrative law where decisions are science-based, such as harvest quota allocations.

APPENDIX 1: FIRST NATIONS RIGHTS AND WILDLIFE MANAGEMENT

The New Relationship with Aboriginal People:

To learn more about The New Relationship with Aboriginal People please visit the following website:

http://www.gov.bc.ca/arr/popt/the_new_relationship.htm

Aboriginal Rights:

Section 35 of the *Constitution Act, 1982* states¹⁴:

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

(3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.¹⁵

To learn more about landmark cases in aboriginal law please visit the following website:

http://www.gov.bc.ca/arr/treaty/landmark_cases.html

The Wildlife Act:

The *Wildlife Act* exempts "Indians" as defined by the Federal *Indian Act* ("*Indian*" means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian) from licence requirements.

It says:

Hunting and licences

11 (1) A person who hunts wildlife commits an offence unless the person holds all of the following:

- a. a hunting licence issued to the person under this Act;
- b. any limited entry hunting authorization that is required by regulation;
- c. any other licence that is required by regulation;
- d. any other permit that is required by regulation.

(1.1) Subsection (1) does not apply to a person under 14 years of age on whose behalf the parent or guardian holds a hunting licence issued in accordance with section 17 (5).

(2) A person must not issue a hunting licence for a person under 10 years of age.

(3) and (4) [Repealed 2003-90-24.]

(5) A person under 19 years of age commits an offence if the person hunts unless the person is accompanied by and under the close personal supervision of a person who

- (a) is 19 years of age or older, and
- (b) holds, or is exempted from holding, a hunting licence.

¹⁴ The Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11

¹⁵ The Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11

(6) [Repealed 2003-90-24.]

(7) A person must not issue a trapping licence to a person unless the applicant is a citizen of Canada or a permanent resident of Canada.

(8) A person commits an offence if the person traps fur bearing animals unless he or she holds a trapping licence.

(9) **Subsections (1) (a) and (c) and (8) do not apply to an Indian residing in British Columbia.**
(emphasis added)

Angling licences

12 A person commits an offence if the person angles in the non-tidal waters of British Columbia unless the person is

- (a) the holder of
 - (i) an angling licence, and
 - (ii) any other licence or permit that is required by regulation,
- (b) **an Indian residing in British Columbia, or**
- (c) exempt by regulation.

Section 11.1 of the *Designation and Exemption Regulation* states:

Exemption from section 41 of the Act

11.1 (1) Subject to subsection (5), a person is exempt from section 41 of the *Wildlife Act* where the person meets all the following requirements:

- (a) the person holds a valid hunting licence under the Act;
 - (b) if the person is hunting a species that requires a species license under the Act, the person holds such a licence;
 - (c) the person is lawfully hunting for one or more of black bear, bobcat, coyote, fox, lynx, raccoon, skunk, wolf and wolverine.
- (2) Subject to subsection (5), a guide outfitter or assistant guide is exempt from section 41 of the *Wildlife Act* while guiding a person who is exempted under subsection (1) of this section.
- (3) Subject to subsection (5), a person who holds a permit is exempt from section 41 of the *Wildlife Act* in relation to the activities authorized by the permit.
- (4) Subject to subsection (5), an Indian residing in British Columbia is exempt from section 41 of the Act in relation to hunting.**
- (5) For an exemption under subsection (1) to (4) to apply,
- (a) if the activity in relation to which the exemption applies is being conducted on private land, the person must have written permission of the owner or occupier of the land, and
 - (b) if the activity in relation to which the exemption applies is being conducted on Crown land that is subject to a right of occupation, the person must have permission of the Crown or of the occupier of the land.
- [en. B.C. Reg. 112/97.]

Section 41 of the *Wildlife Act* states:

Prohibition within a trapline

41 A person commits an offence if the person sets a trap for, hunts, kills, takes or captures a fur bearing animal in an area of British Columbia unless the person

- (a) is a registered holder of the trapline for that area,
- (b) has written permission of a registered holder of the trapline for that area,
- (c) is the owner or occupier of the land,
- (d) has written permission from the owner or occupier of the land, or
- (e) holds a permit to trap that is required by regulation.

First Nations in Treaty:

Historic treaties in B.C. include Treaty Number 8 in northeast B.C. and the Douglas Treaties on Vancouver Island. The *Nisga'a Final Agreement*, which took effect in 2000, was the first modern day treaty in B.C. It contains provisions relating to the Nisga'a entitlements and allocations for wildlife in the Nass Wildlife Area, the establishment of a wildlife management committee and provision for an annual Nisga'a wildlife management plan. To reference the agreement, please visit the following website:

<http://www.gov.bc.ca/arr/firstnation/nisgaa/default.html>

Treaty negotiations continue in B.C. under the B.C. Treaty Commission process. To learn more about the treaty negotiation process, please visit the following website:

<http://www.bctreaty.net/>

APPENDIX 2: HABITAT PROTECTION

To ensure the health and diversity of British Columbia's wildlife populations it is necessary to effectively protect the habitat that those species depend on. The Ministry of Environment currently works within a shared stewardship model to inform government decision-makers and stakeholders about habitat conservation policies and risks to sensitive habitat. The Ministry builds partnerships to support environmental stewardship initiatives and, where possible, sets habitat protection standards using the limited authority provided by existing law. While this approach has been successful for some time, new challenges have arisen and changes to the *Wildlife Act* may be necessary.

There is a range of legal tools available to the Ministry that can be used specifically for the purposes of habitat conservation:

- the *Wildlife Act* provides protection for nests (occupied or otherwise) of eagles, peregrine falcons, gyrfalcons, ospreys, herons and burrowing owls, and the nests of other birds when the nest is occupied by a bird or its egg;
- the *Wildlife Act* states that a person who releases or abandons an animal, or from whose captivity an animal escapes, is liable to the government for loss or damage to wildlife habitat caused by that animal;
- the *Wildlife Act* allows an officer to kill an animal, other than a domestic animal, that is at large and is likely to harm wildlife habitat;
- wildlife management areas can be established under the *Wildlife Act* and areas of critical wildlife habitat may be identified and protected within a WMA;
- aquatic habitat may be protected through conditions set by a habitat officer under the *Water Regulation*;
- the *Fish Protection Act* provides for the designation of sensitive streams;
- the *Riparian Areas Regulation* protects fish habitat in specific areas of the province;
- the *Ecological Reserves Act* provides direct habitat protection in designated sites of ecological importance;
- the *Park Act* provides for protection of wildlife habitat in parks and recreation areas;
- the *Environmental Management Act* protects populations and habitat by managing pollution of air, land and water, and has provisions relating to the preparation of management plans for fisheries, aquatic life and wildlife;
- the *Environment and Land Use Act* has been used to designate protected areas and related habitats subject to specific uses;
- the *Creston Valley Wildlife Act* provides for the protection of habitat and populations in a defined area of land in south-eastern B.C.;
- the *Muskwa-Kechika Management Act* provides for a wildlife management and pre-tenure planning process that may establish measures for the protection of habitat and populations in a defined area of northeast B.C.; and

- The *Integrated Pest Management Act* and *Regulation* require strategies to protect wildlife, riparian areas and wildlife habitat from any adverse effects of pesticide use.

In addition, legislation under the purview of other agencies also deals with habitat conservation:

- The *Forest and Range Practices Act* and associated regulations contain provisions that are directly aimed at the protection of fish, fish habitat, and the conservation of wildlife habitat on Crown forest and range lands. Authority has been granted to the Minister of Environment to establish lists of species for which land designations may be established for the purposes of habitat conservation. Watersheds may be identified for special management. Critical residences of species listed by the Minister may be identified for protection. This creates a complete legislative framework for habitat protection applicable to the forest and range sectors. However, the legislation is only applicable on Crown forest and range lands, and only for persons undertaking forest or range practices on those lands.
- The *Environmental Assessment Act* requires that, as part of the environmental assessment process, specified development projects determine the possible impact on wildlife populations and habitat that may result from their activities. Habitat conservation and protection is not a requirement of the environmental assessment process, and is not a requirement of decisions under the *Environmental Assessment Act*. There are also no reference points in legislation that can be used as a guide during the environmental assessment process when judging the negative environmental impact on habitat of a specific development.
- The *Land Act* and *Land Use Objectives Regulation* provide some authority to establish additional provisions for wildlife habitat conservation that can complement the legal framework established by the *Forest and Range Practices Act*.
- The *Fisheries Act* (Canada) contains specific provisions that deal with activities and the deposit of substances that can harm, alter, disrupt or destroy fish habitat.

The Ministry of Environment lacks the specific authority to direct other agencies in relation to matters that can impact habitat. There are only limited provisions in law that require a decision-maker to consider the impact of a decision on habitat or populations. There are no legislative provisions governing many human activities that can seriously affect aquatic and terrestrial habitats, and impact the health and vitality of wildlife populations and plant communities. Existing legislation lacks specific benchmarks that people, organisations, committees and levels of government can use to design their actions.

There are no objectives for environmental stewardship that can be used as a common reference point for partnerships with industry and stakeholders. Habitat protection initiatives and stewardship activities for a certain species undertaken in compliance with one law may be seriously compromised by activities authorized by other statutes. For example, in the Peace Region of B.C. the critical habitat for populations of wintering ungulates of provincial significance occur on well-defined geographic features that are not widespread. The Ministry works with the forestry industry to conserve this critical habitat through forest practices regulations. However, these regulations are only applicable to forestry activities and any habitat protection effect may be compromised by wind power generation, coal, oil and gas exploration and development that also takes place in these critical habitat areas.

Legislation for habitat conservation, sustainable wildlife populations and the sustained viability of plant communities is required for all areas of the provincial Crown land base that are not encompassed in WMAs, parks or ecological reserves, and all ministries or public sector agencies that are not subject to forest and range practices legislation. However, in developing such legislation, it is also necessary to avoid unduly increasing the regulatory burden on communities, the public, or the proponents of development, and to avoid increasing the administrative burden on government agencies. Government

needs to efficiently balance the economic potential derived from an undertaking or development with the public benefit derived from conservation of habitat and protection of populations and plant communities when authorizing activities. The rights of tenure holders need to be respected as part of that process. Any changes to the *Wildlife Act* will have to balance these interests.

Ministry staff are currently assessing the present statutory jurisdiction over wildlife habitat. Once that is complete, consideration will be given to whether, and to what extent, reforms to habitat legislation could also be made in conjunction with the planned changes to the *Wildlife Act*.

APPENDIX 3: SPECIES AT RISK

INTRODUCTION

British Columbia is Canada's most biologically diverse province. The wide range of landforms and climates in the province provide habitats for more than 1,100 species of vertebrates. These include 488 species of birds, 468 species of fish, 142 species of mammals, 22 species of amphibians, and 18 species of reptiles. Invertebrate species probably number between 50,000 and 70,000, including 35,000 species of insects. British Columbia has an estimated 2,790 native vascular plants species, approximately 1,000 bryophytes (mosses and liverworts), 1,600 lichens, 522 species of attached algae and well over 10,000 species of fungi.

THE FEDERAL-PROVINCIAL REGULATORY CONTEXT FOR SPECIES AT RISK

Responsibility for the management of wildlife in Canada is shared by the Federal, Provincial, and Territorial governments. Federal responsibility includes the protection and management of migratory birds [as defined in the *Migratory Birds Convention Act* (Canada)] and fisheries, as well as nationally significant wildlife habitat, control of international trade in endangered species and research on wildlife issues of national importance.

Provincial and territorial wildlife agencies (including the Ministry of Environment) are responsible for most wildlife matters including the conservation of wildlife populations and habitat within the borders of each jurisdiction.

Focusing on species at risk¹⁶, British Columbia, along with other provinces and territories and the Federal government, signed the national *Accord for the Protection of Species at Risk* in October 1996. All signatories committed to working together in a national approach, toward the following goal:

“to prevent species in Canada from becoming extinct as a result of human activity”

British Columbia, along with the other signatories, specifically committed to establishing complementary legislation and related programs that provide for effective protection of species at risk, including the following actions:

- address all native wild species;
- provide an independent (scientific) process for assessing the status of species at risk;
- legally designate species as threatened or endangered;
- provide immediate legal protection for threatened or endangered species;
- provide protection for the habitat of threatened or endangered species;
- provide for the development of recovery plans, and for advice on addressing identified threats to the habitats of threatened and endangered species;
- engage in multi-jurisdictional cooperative actions for monitoring and reporting regularly on species status;
- emphasize preventative measures to keep species from becoming at risk;
- provide for effective enforcement; and
- foster education and awareness, and partnerships with resource users, land-owners and citizens for long-term stewardship.

¹⁶ The term “species at risk” refers to threatened and endangered species, as well as species that have already disappeared from British Columbia (“extirpated species”).

Subsequent to the accord, Canada enacted the *Species at Risk Act* (SARA) on June 1, 2004, which prohibits the killing, harming, harassing, capturing or taking of species listed under SARA as threatened, endangered or extirpated. SARA also prohibits the destruction of residences of these listed species. If the provinces and territories fulfil their commitments under the accord, the SARA legislation will continue to apply on Federal lands (for all species listed under SARA), and to listed aquatic species and migratory birds on other lands. The SARA may also require that protection be afforded to critical habitat for protected species.

Taking a further step, in spring 2005 British Columbia became the first province or territory to negotiate and sign a species at risk bilateral agreement with the Federal government through the *Canada-British Columbia Agreement on Species at Risk* (the Bilateral Agreement). The purpose of the Bilateral Agreement is to clarify the respective roles and responsibilities of British Columbia and Canada related to species at risk, and to coordinate efforts between the two jurisdictions, including information-sharing and consultation in establishing joint priorities, and for key decisions where appropriate.

A NEW SPECIES AT RISK REGULATION UNDER THE WILDLIFE ACT

The *Wildlife Act* currently designates just three wildlife species as “endangered” in British Columbia: the Burrowing Owl, and the American White Pelican and the Vancouver Island Marmot. The Sea Otter is the only species under the Act that is listed as “threatened”.

In May 2004, the B.C. Legislature enacted several amendments of the *Wildlife Act* to enhance the ability of the government to designate, manage and protect species that are at risk in British Columbia (*Wildlife Amendment Act, 2004*). The 2004 amendments provide Cabinet with the authority to list any species or population of animal, bird, fish, plant or other species as a species at risk to ensure additional protection. A regulation is needed to bring these amendments into force and this regulation will include a list of species at risk that will be protected under the amended *Wildlife Act*.

In the new regulation that is being developed, Cabinet may designate a “species residence” (e.g. an individual burrow, den, nest or roost) for a species at risk. Residences provide for many important functions in the life cycles of the individuals of some species, which may include courtship behaviour, egg-laying or bearing of young, raising of the young, shelter and protection from adverse weather conditions, and hibernation over the winter. A residence is defined as:

“a place or area in, or a natural feature of, the habitat of the species at risk, or a class of such a place, area or natural feature, that is habitually occupied or used as a dwelling place by one or more species individuals of the species at risk, or considered as being necessary for that occupation or use.”

Once designated in the regulation, an array of protective measures in the *Wildlife Act* will apply to species at risk on all private and Crown lands across British Columbia. Proposed protective measures include prohibitions against the following unauthorized actions (unless specifically authorized by regulation or by the Minister of Environment for designated purposes such as scientific research, education, or conservation measures such as captive breeding):

- kill, harm, harass, capture or take an individual of a species at risk;
- damage or destroy a species residence of a species at risk;
- import a live species at risk into British Columbia;
- export a species at risk from British Columbia, including a species individual or part;
- traffic in species individuals, parts or meat of a species at risk;
- possess a species individual or a part; or
- ship or transport a species at risk individual or part within British Columbia.

Provisions for enforcement, and fines for offences related to species at risk, are contained in the *Wildlife Act*. For any of the above offences, the highest fines in the *Wildlife Act* would apply. The maximum fine could be up to \$100,000 for a first offence.

ENHANCING THE AUTHORITY OF THE GOVERNMENT OF BRITISH COLUMBIA TO PROTECT SPECIES AT RISK

Once in effect, the *Wildlife Amendment Act, 2004* and the new *Species at Risk Regulation* presently being developed will reinforce the ability of the Province of British Columbia to protect species at risk. This new legislation demonstrates British Columbia's ongoing commitment to the national *Accord for the Protection of Species at Risk* and cooperation with the Government of Canada in implementing the Federal *Species at Risk Act*.

The proposed new *Species at Risk Regulation* will focus on single-species at risk and their residences, and will form an important part of a broader provincial approach. The Province employs other legislation, policies and programs to protect and conserve species at risk and their habitats. Other components of B.C.'s overall approach focus more managing and protecting habitats and ecosystems to protect and maintain wildlife species. These other programs and legislation include:

- provincial parks and protected areas;
- strategic land use planning;
- strategies for specific, wide-ranging, endangered and threatened species for which a land use planning approach is needed (i.e. Spotted Owl, Marbled Murrelet and Mountain Caribou – under the coordination of the Species at Risk Co-ordination Office of the Ministry of Agriculture and Lands);
- environmental assessment processes;
- sectoral legislation such as the *Forest and Range Practices Act* (through the Identified Wildlife Management Strategy); and
- stewardship partnerships with the public, industry stakeholders, municipalities and conservation organizations.

The Province of British Columbia is committed to adopting a scientifically based, balanced and principled approach to environmental management that ensures sustainability, accountability and responsibility. This commitment will guide future development of the proposed new *Species at Risk Regulation* and other initiatives for protecting and conserving species at risk and their habitat.

For more information regarding how the Province works with stakeholders, First Nations and all levels of government to address the recovery of broad ranging species at risk, please visit the Species at Risk Coordination Office (SaRCO) website at the following address:

<http://ilmbwww.gov.bc.ca/sarco/>

APPENDIX 4: DEFINITION OF WILDLIFE

In the current *Wildlife Act*, the term “wildlife” is defined as follows:

"wildlife" means raptors, threatened species, endangered species, game or other species of vertebrates prescribed as wildlife and, for the purposes of sections 3 to 5, 7, 8, 84 (6.1) to (6.4), 97.1 to 98.1 and 108 (2) (v), includes fish;

Further clarification of the terms used above is as follows:

- a “raptor” is a bird of the order *Falconiformes* or its egg (vultures, eagles, falcons and hawks) or a bird of the order *Strigiformes* (owls) and its egg;
- a “threatened species” is one that has been designated in regulation;
- an “endangered species” is one that has been designated in regulation;
- “game” includes big game, small game, game birds, fur bearing animals, and other species prescribed in regulation;
 - “big game” is defined in the *Wildlife Act* as:
 - any member of the family *Cervidae*;
 - mountain sheep, mountain goat, bison or pronghorn antelope;
 - bear, cougar or wolf; or
 - a mammal prescribed as big game in regulation;
 - “small game” means animals prescribed as small game in regulation;
 - “game bird” means a bird prescribed as a game bird in regulation and includes the eggs of that bird; and
 - “fur bearing animal” means a mammal designated as a furbearing animal in regulation;
- “fish” means any vertebrate of the order *Petromyzontiformes* (lampreys) or class *Osteichthyes* (bony fishes), or invertebrate of the class *Crustacea* (crustaceans) or class *Mollusca* (mollusks) from or in non-tidal waters of British Columbia, and includes their eggs and juvenile stages.

The following species are prescribed as wildlife in Schedule A of the *Wildlife Act Designation and Exemption Regulation*:

Mammals of the following species:

- all species of the family *Leporidae* — hares and rabbits;
- all species of the family *Soricidae* — shrews;
- all species of the family *Talpidae* — moles;
- all species of the family *Vespertilionidae* — Vespertilionid bats;
- all species of the family *Ochotonidae* — pikas;
- all species of the subfamily *Arvicolinae* — voles and lemmings;
- all species of the subfamily *Sigmodontinae* — new world rats and mice;
- all species of the family *Dipodidae* — jumping mice and jerboas;
- all species of the genus *Glaucomys* — flying squirrels;
- all species of the genus *Marmota* — marmots and woodchucks;
- all species of the genus *Spermophilus* — ground squirrels;
- all species of the genus *Sciurus* — gray and fox squirrels;
- all species of the genus *Tamias* — chipmunks;
- all species of the genus *Erinaceus* — hedgehogs;

- all species of the genus *Cynomys* — prairie dogs;
- *Nyctinomops macrotis* — big free-tailed bat;
- *Aplodontia rufa* — mountain beaver;
- *Perognathus parvus* — great basin pocket mouse;
- *Taxidea taxus* — badger;
- *Nyctereutes procyonoides* — raccoon dog;
- *Erethizon dorsatum* — porcupine;
- *Thomomys talpoides* — northern pocket gopher;
- *Didelphis virginiana* — North American opossum; and
- *Myocastor coypus* — nutria.

Birds of the following species:

- all species of birds described in the American Ornithologists Union Checklist of North America Birds, 7th edition (American Ornithologists Union 1999) or its supplements, which are native to Canada or the United States of America and were not introduced by man;
- *Alauda arvensis* — skylark;
- *Acridotheres cristatellus* — crested myna;
- *Passer domesticus* — house sparrow;
- *Sturnus vulgaris* — European starling; and
- *Columba livia* — rock dove (except domestic-bred racing pigeon).

Amphibians of the following species:

- all species of the family *Ambystomatidae* — mole salamanders;
- all species of the family *Dicamptodontidae* — giant salamanders;
- all species of the family *Plethodontidae* — lungless salamanders;
- all species of the family *Pelobatidae* — spadefoots;
- all species of the family *Hylidae* — treefrogs;
- all species of the family *Ranidae* — true frogs;
- all species of the genus *Taricha* — newts;
- all species of the genus *Ascaphus* — tailed frogs; and
- all species of the genus *Bufo* — toads.

Reptiles of the following species:

- all species of the family *Emyidae* — pond and river turtles;
- all species of the family *Trionychidae* — soft-shelled turtles;
- all species of the family *Chelydridae* — snapping turtles;
- all species of the family *Viperidae* — vipers;
- all species of the genus *Podarcis* — wall lizards;
- all species of the genus *Phrynosoma* — horned lizards;
- all species of the genus *Eumeces* — skinks;
- all species of the genus *Elgaria* — alligator lizards;
- all species of the genus *Thamnophis* — garter snakes;
- *Charina bottae* — rubber boa;
- *Coluber constrictor* — racer;
- *Contia tenuis* — sharptail snake;
- *Hypsiglena torquata* — night snake;
- *Pituophis catenifer* — gopher snake; and
- *nora semiannulata* — ground snake.

APPENDIX 5: CONSTITUTIONAL RESPONSIBILITY FOR FISHERIES

Department of Fisheries and Oceans (Canada)	B.C. Ministry of Environment
<p>Fish management under the Federal <i>Fisheries Act</i> and <i>B.C. Sport Fishing Regulations</i>, including:</p> <ul style="list-style-type: none"> • Quotas or limits on size and weight of fish that may be caught; and • Closures, gear methods and bait restrictions. <p>Licensing, including:</p> <ul style="list-style-type: none"> • Tidal waters angling licences; and • Licensing salmon fishing in tidal waters. 	<p>The Director of the Wildlife Branch may vary the following Federal regulations pertaining to fish (except salmon) in non-tidal waters:</p> <ul style="list-style-type: none"> • Quota or limit on size and weight; and • Closures, gear methods and bait restrictions.
<p>Watercraft use and restrictions.</p>	<p>Non-tidal fisheries management under the <i>Wildlife Act</i> and <i>Angling and Scientific Collection Regulation</i>, including:</p> <ul style="list-style-type: none"> • Classified waters; and • Guiding for fish. <p>Licensing, including:</p> <ul style="list-style-type: none"> • Freshwater angling licences; • Freshwater angling guide licences; and • Licensing salmon fishing in fresh water.