

ORDER – Ungulate Winter Range
U-4-012
Mountain Caribou – Southwest Kootenay Planning Unit

This order is made under the authority of sections 9(2) and 12(1) of the *Government Actions Regulation* (B.C. Reg. 582/2004) (GAR).

1. The Deputy Minister of Environment, being satisfied that
 - i. the following areas contain habitat that is necessary to meet the winter habitat requirements for mountain caribou (*Rangifer tarandus caribou*), and
 - ii. that habitat requires special management that is not otherwise provided for under GAR or another enactment.

orders that

- a) the areas shown in the map set out in the attached Schedule A (U-4-012) and contained in the ungulate winter range (UWR) spatial layer stored in the Land and Resource Data Warehouse (*tuwr_bc*) are established as ungulate winter range U-4-012 for mountain caribou. The centre point of the line on the attached Schedule A is what establishes the UWR boundary, and
- b) if there is a discrepancy between the areas shown in the map set out in the attached Schedule A and the UWR spatial layer stored in the Land and Resource Data Warehouse (*tuwr_bc*), the areas as detailed in the UWR spatial layer will take precedent.

2. The Deputy Minister of Environment, being satisfied that
 - i. the general wildlife measures (GWMs) described below are necessary to protect and conserve mountain caribou, and
 - ii. GAR or another enactment does not otherwise provide for that protection or conservation.

orders that

- a) the GWMs outlined in Schedule 1 are established for UWR U-4-012.

Schedule 1– General Wildlife Measures applicable to UWR U-4-012

Definitions:

Words and expressions not defined in this order have the meaning given to them in the *Forest and Range Practices Act* (FRPA) and the regulations made under it unless context indicates otherwise.

incursion means new timber harvesting or road construction that crosses a no harvest zone boundary and occurs within an UWR unit.

UWR unit means a portion of UWR U-4-012 that is discrete from any other portion. i.e. not contiguous with another portion.

General Wildlife Measures:

A. Within UWR units 1, 2, 3, 4, 5, 7, 8, 9, 10 and 11

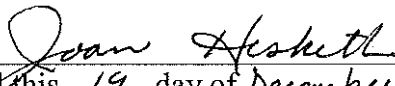
1. Timber harvesting and road construction must not occur except as provided in GWMs 2, 3, and 4.
2. GWM 1 does not apply to a portion of the UWR (the portion) if
 - a) timber harvesting and road construction in the portion would facilitate access to timber harvesting opportunities outside of the UWR;
 - b) there is no other practicable option to access those timber harvesting opportunities outside of the UWR;
 - c) timber harvesting and road construction activities within the portion are conducted to the minimum extent necessary to access those timber harvesting opportunities outside of the UWR; **and**
 - d) once access through the portion to the area outside of the UWR is no longer required to meet harvesting needs and silviculture obligations, roads within the portion are promptly deactivated as per sections 82(1)(a), (b), and (c) of the *Forest Planning and Practices Regulation* (FPPR).
3. GWM 1 does not apply to the area of an incursion if
 - a) the incursion is to provide for a logical harvesting boundary or a logical road location that utilizes a physical feature or administrative boundary;
 - b) the area of incursion does not exceed 5 hectares;
 - c) the area of an individual harvest unit within the UWR unit is less than the area of the same harvest unit outside of the UWR unit;
 - d) the total cumulative area of incursions for multiple harvest units and clearing width for roads does not exceed 20 hectares or 5% of the total area of the UWR unit, whichever is greater; **and**
 - e) if the area of incursion exceeds two hectares, prior to timber harvesting or road construction occurring in the area of incursion

- i. an alternative area of equivalent or better quality caribou habitat is identified outside of the UWR, but within the same TSA or TFL as the incursion, **and**
- ii. the mapped location of the alternative area is provided to the office of the Regional Manager of the Ministry of Environment (MoE), and the District Manager of the Ministry of Forests and Range (MoFR).

4. Timber harvesting may occur within the UWR to the extent necessary to create guyline tiebacks for timber harvesting.

B. Within UWR units 6, 12 and 13

1. Any road building or timber harvesting must be completed before January 1, 2028.
2. Where timber harvesting occurs,
 - a) timber harvesting will result in the retention of stand and landscape elements that are important for mountain caribou habitat recovery; **and**
 - b) silviculture practices will result in establishment of stand and landscape elements that are important for mountain caribou habitat recovery.
3. Following January 1, 2028, the GWMs outlined in section A of this order will apply.


Signed this 19 day of December, 2008
Joan Hesketh, Deputy Minister
Ministry of Environment

Appendix 1:

The following information is provided by MoE as background information and support to the order establishing UWR U-4-012. This appendix is not part of the order.

1. **Activities to which the order does not apply:** Section 2(2) of the *Government Actions Regulation* states

An order under any of sections 5 to 15 does not apply in respect of

- (a) any of the following entered into before the order takes effect:
 - (i) a cutting permit;
 - (ii) a road permit;
 - (iii) a timber sale licence that does not provide for cutting permits;
 - (iv) a forestry licence to cut issued by a timber sales manager under section 47.6 (3) of the Forest Act;
 - (v) subject to subsection (3), a minor tenure,
- (b) a declared area,
- (c) areas described in section 196 (1) of the Act, and
- (d) areas referred to in section 110 of the Forest Planning and Practices Regulation.

2. **Compliance with the GWMs and Exemptions:** If timber harvesting and road building activities cannot be carried out in compliance with the established GWMs, an exemption is required from the requirement to comply with the GWMs if the activities are to proceed. The authority to consider an exemption is provided in section 92(1) of the FPPR. An exemption may be provided if the Minister's delegate (MoE Regional Manager, Environmental Stewardship Division, for the region that the UWR is located) is satisfied that the intent of the GWM will be achieved or that compliance with the provision is not practicable, given the circumstances or conditions applicable to a particular area.

If an exemption is desired, an exemption application should be submitted to the Minister's delegate with a rationale describing the nature of the problem and options to integrate UWR conservation with proposed activities. This submission will assist in timely consideration of the matter, and will inform the conditions, if any, of the exemption that may be granted prior to commencement of activities. Upon receipt of a complete exemption application, a determination will normally be made within 14 days of arrival. Incomplete packages will be returned to the proponent for re-submission.

Forest Health

Any activities to address forest health factors within the UWR that cannot be accommodated by the established GWMs will require an exemption if they are to proceed. This approach is being taken as a short term measure until final GWM language can be developed to identify those specific circumstances where the requirements of no timber harvesting and road building should not apply to activities related to address forest health factors, and therefore an exemption would not be required. The final GWMs will be consistent with the intent and direction contained in Forest Health report once it is

finalized. It is MoE's intention that these GWMs will be completed and that U-4-012 will be considered for amendment to include these GWMs prior to late-mid 2009.

Mineral Exploration Activities

Any timber harvesting or road building [off tenure] associated with mineral exploration activities, that cannot be accommodated by the established GWMs, will require an exemption if they are to proceed. This approach is being taken as a short term measure until final GWM language can be developed to identify those specific circumstances where the requirements of no timber harvesting and road building should not apply to mineral exploration activities, and therefore an exemption would not be required. MoE is committed to continuing to collaborate with the Ministry of Energy, Mines and Petroleum Resources, the Mining Association of BC and Association for Mineral Exploration in BC to develop the GWM language as well as Best Management Practices for operating within caribou habitat. It is MoE's expectation that these GWMs will be completed and that U-4-012 will be considered for amendment prior to late-mid 2009.

Guided Adventure Tourism

Any timber harvesting or road building associated with guided adventure tourism activities (e.g. glading, snow trail development and helicopter landing clearings), that cannot be accommodated by the established GWMs, will require an exemption if they are to proceed. This approach is being taken as a short term measure until final GWM language can be developed to identify those specific circumstances where the requirements of no timber harvesting and road building should not apply to guided adventure tourism activities. MoE is committed to continuing to collaborate with the heli and cat skiing sector to develop the GWM language as well as Best Management Practices for operating within caribou habitat. It is MoE's expectation that these GWMs will be completed and that U-4-012 will be considered for amendment prior to late-mid 2009.

3. **GWM A(2):** The intent of GWM A(2) is to identify those specific circumstances where the requirements of no timber harvesting and no road building do not apply in order to provide access to timber that has been isolated by the no harvest zone boundary. All the conditions in GWM 2 must be met. Where the conditions cannot be met an exemption is required.
4. **GWM A(3):** The intent of GWM A(3) is to identify those specific circumstances where the requirements of no timber harvesting and no road building do not apply in order to provide operational flexibility around no harvest zone boundaries. The intent of this GWM is to recognize that issues arise when reconciling a mapped boundary, often mapped at a much smaller scale, to a line on the ground. All the conditions in GWM A(3) must be met. Where the conditions cannot be met an exemption is required.
GWM 3(d) - MoE will work with MoFR to track the harvesting and road building that has occurred within the no harvest zone and make this information available to *Forest Act* agreement holders in order to meet the requirements of GWM 3(d).

GWM 3(e) - The requirement to provide the location of an alternative area of equivalent or better quality caribou habitat to the MoE regional office will allow MoE to amend the no harvest boundary to include these areas in the future.

5. **GWM B(2):** For the purpose of GWM B(2) the desired stand and landscape level elements include:
 - A. Lichen bearing trees
 - B. Connectivity or travel corridors.
 - C. Habitat created through silviculture practices. Silviculture practices are to be designed to meet caribou habitat objectives rather than timber objectives

6. **Adaptive Management:** The Mountain Caribou Science Team identified key uncertainties related to mountain caribou ecology and the efficacy of proposed recovery actions. Government is committed to supporting the implementation of an adaptive management strategy. Both the implementation and effectiveness of management actions will need to be monitored. Implementation efforts will need to be monitored closely and assessed to determine whether the strategy needs to be modified in order to meet recovery goals. In addition, research addressing knowledge gaps should be supported. The Recovery Implementation Plan includes the development of adaptive management and effectiveness monitoring plans for habitat, recreation and predator-prey management efforts.