

ORDER – Wildlife Habitat Areas

9-115, 9-119, 9-120, 9-121, 9-122, 9-123, 9-125, 9-126, 9-127, 9-130, 9-131, 9-132, 9-133, 9-134, 9-135, 9-136, 9-137, 9-138, 9-139, 9-140, 9-141, 9-142 and 9-143

Black-throated Green Warbler – Peace Forest District

This order is given under the authority of sections 9(2) and 10(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 habitat requirements for black-throated green warbler (*Dendroica virens*); and
- ii. the 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 (9-115, 9-119, 9-120, 9-121, 9-122, 9-123, 9-125, 9-126, 9-127, 9-130, 9-131, 9-132, 9-133, 9-134, 9-135, 9-136, 9-137, 9-138, 9-139, 9-140, 9-141, 9-142 and 9-143) and contained in the wildlife habitat area (WHA) spatial layer stored in the Geographic Warehouse (*twha_bc*) are established as wildlife habitat areas 9-115, 9-119 to 9-123, 9-125 to 9-127 and 9-130 to 9-143 for black-throated green warbler. The centre point of the line on the attached Schedule A is what establishes the WHA boundary; and
- b) if there is a discrepancy between the areas shown in the map set out in the attached Schedule A and the WHA spatial layer stored in the Geographic Warehouse (*twha_bc*), the areas as detailed in the WHA 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 black-throated green warbler; 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 WHAs 9-115, 9-119, 9-120, 9-121, 9-122, 9-123, 9-125, 9-126, 9-127, 9-130, 9-131, 9-132, 9-133, 9-134, 9-135, 9-136, 9-137, 9-138, 9-139, 9-140, 9-141, 9-142 and 9-143.

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 there under, unless context indicates otherwise.

Key Forb/Herb Species: the following include key forb/herb species required by black-throated green warblers for nesting/breeding activities: baneberry, rose, highbush cranberry, bunchberry, fireweed, kinnikinnick, mosses, American vetch, and peavine.

Livestock attractants: a substance or structure that draws livestock, including salt/minerals, supplements, water developments and cattle oilers.

Mixedwood forest: stand of forest that includes combinations of white spruce, trembling aspen and/or balsam poplar species.

Schedule 1 – General Wildlife Measures

Access:

1. Do not construct access structures.

Harvesting and Silviculture:

2. Do not conduct timber harvesting.

Pesticides:

3. Do not use pesticides, except for the application of herbicides to control for invasive plants or noxious weeds, if the herbicide is applied:
 - a. by spot treatments; and
 - b. outside of the breeding season (May 1st to July 31st).

Range:

4. Do not place or construct new livestock attractants, including water developments, within the WHAs. This does not apply to the continued use of an existing water development.
5. Do not drive or herd livestock through WHAs.
6. Plan livestock grazing (timing and browse utilization) to minimize negative impacts to black-throated green warblers during the breeding season (May 1st to July 31st).
7. Grazing after the nesting season (after July 31st) is preferable.
8. Maintain the desired plant community of old-growth mixedwood forests to minimize impacts to breeding habitats for black-throated green warblers.



Signed this 23 day of JULY, 2009
Doug Konkin, Deputy Minister
Ministry of Environment

Appendix 1:

The following information is intended to provide background information and support to the legal order establishing these WHAs. This appendix is not part of the legal 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. Authority to consider an exemption from these GWMs is provided in section 92(1) of the FPPR and section 36(3) of the *Range Planning and Practices Regulation*. An exemption may be provided if the Minister's delegate is satisfied that the intent of the general wildlife measure will be achieved or that compliance with the provision is not practicable, given the circumstances or conditions applicable to a particular area.

An exemption application should be submitted to the Minister's delegate (Regional Manager – Ministry of Environment, for the Region that the WHA is located) with a rationale describing the nature of the problem and options to integrate WHA conservation with proposed forest and/or range practices. 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.

- 3. The intent of GWM 4 is to eventually move all attractants from within the WHA to outside of the WHA. For example, if a salt lick is currently within the WHA, once it has been used, the next salt lick must be placed outside of the WHA.
- 4. With respect to GWM 4, MoE recognizes that water developments (i.e., dugouts) cannot be moved and thus the intent of GWM 5 is not to move this form of attractant outside of the WHA. However, no new water developments can be constructed within the WHAs.
- 5. With respect to GWM 8, the desired plant community should include the appropriate seral stage mix, species composition, and structural characteristics, as indicated in the following description:

- structural stages 6-7,
 - *Mature forest* (stage 6): trees established after the last disturbance has matured; a second cycle of shade-tolerant trees may have become established; understories become well developed as the canopy opens up; time since disturbance generally 80-140 years.¹
 - *Old forest* (stage 7): old, structurally complex stands comprised mainly of shade-tolerant and regenerating tree species, although older seral and long-living trees from a disturbance such as fire may still dominate the upper canopy; snags and coarse woody debris in all stages of decomposition and patchy understories typical; understories may include tree species uncommon in the canopy, because of inherent limitations of these species under the given conditions; time since disturbance generally greater than 140 years.¹
- age structure greater than 40 years (include pole stage and older)
- species composition including aspen and deciduous species; trembling aspen stands with over 80% cover are best
- structural characteristics include the maintenance of understorey vegetation (specifically the herbaceous and shrub layers).
 - Lush herbaceous layer,
 - Free mid-canopy space (no tall shrub layer),
 - Dense low shrubby understory (e.g. rose, baneberry, red-osier dogwood, willow).

¹ Ministry of Environment, Lands and Parks. 1998. Field Manual for Describing Terrestrial Ecosystems. Land Management Handbook No. 25, Crown Publications, Victoria, BC.

