

**ORDER – WILDLIFE HABITAT AREAS 3-034 to 3-036 (amendment), 3-158 to 3-160**

This order is given under the authority of sections 9(2) and 10(1) of the *Government Actions Regulation* (B.C. Reg. 582/2004).

1. The Deputy Minister of Forests, Lands and Natural Resource Operations, being satisfied that
  - i. the following area contains habitat that is necessary to meet the habitat requirements for Spotted Owl (*Strix occidentalis*); and
  - ii. the habitat requires special management that is not otherwise provided for under GAR or another enactment;orders that
  - a) this order cancels and replaces a portion of the order (that portion specific to 3-034, 3-035, 3-036) established June 13, 2006, entitled “ORDER – WILDLIFE HABITAT AREA #3-034 to 3-039”;
  - b) the areas shown in the map set out in the attached Schedule A (3-158 to 3-160) and contained in the Wildlife Habitat Areas (WHAs) spatial layer stored in the Geographic Warehouse (WHSE\_WILDLIFE\_MANAGEMENT.WCP\_WILDLIFE\_HABITAT\_AREA\_POLY) are established as Wildlife Habitat Areas for Spotted Owl. The centre point of the line on the attached Schedule A is what establishes the WHA boundaries; and
  - c) 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 (WHSE\_WILDLIFE\_MANAGEMENT.WCP\_WILDLIFE\_HABITAT\_AREA\_POLY), the areas as detailed in the WHA spatial layer will take precedent.
  - d) Pursuant to section 7(3) of the *Forest Planning and Practices Regulation* a person required to prepare a forest stewardship plan is exempt from the obligation to prepare results or strategies in relation to the objective set out in section 7(1) of the *Forest Planning and Practices Regulation* for Spotted Owl in the Cascades Forest District.
2. The Deputy Minister of Forests, Lands and Natural Resource Operations, being satisfied that
  - i. the General Wildlife Measures (GWMs) described below are necessary to protect and conserve the habitat of Spotted Owl; 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 3-034 to 3-036, and 3-158 to 3-160.
  - b) The GWMs outlined in Schedule 1 do not apply for the purposes of exploration, development and production activities when these activities have been authorized for the purpose of subsurface resource exploration, development or production by the *Mineral Tenure Act*, the *Coal Act*, or the *Geothermal Resources Act*.

## 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.

**nest and critical roost site reserves** means a forested and conserved area, normally 80 ha of Spotted Owl habitat, surrounding areas that are known by the Ministry of Environment (MOE) or Ministry of Forests, Lands and Natural Resource Operations and identified by the Director, Resource Management, Thompson Okanagan Region to be used for nesting and roosting by Spotted Owls, or those areas identified by *Forest Act* agreement holders during the course of conducting timber harvesting and road construction.

**no net loss of Spotted Owl habitat** means that any primary forest activity occurring within the WHA that causes a temporary or permanent loss of Spotted Owl habitat or habitat attributes associated with Spotted Owl habitat, is mitigated to provide a net benefit to Spotted Owls and Spotted Owl habitat within 20 years.

**Spotted Owl habitat** is defined in Section 2 of the document *Best Management Practices for Managing Spotted Owl Habitat: A component of the Spotted Owl Management Plan 2, Chilliwack and Squamish Forest Districts* dated July 7, 2009.

## Schedule 1 – General Wildlife Measures:

### *Access, timber harvesting and silviculture*

1. Do not harvest timber or construct roads within the WHA except as provided in GWM 2 and 3.
2. GWM 1 does not apply if:
  - a) timber harvesting within the WHA is necessary to create guyline tiebacks for timber harvesting and the harvested area is outside of the nest and critical roost site reserves and provided that trees that fall within the WHA boundary are retained on site to function as coarse woody debris; or
  - b) timber harvesting is for the purposes of traditional and cultural activities, as authorized under a Free Use Permit; or
  - c) road maintenance, deactivation or brushing in the road right-of-way is required.
3. GWM 1 does not apply to road construction within the WHA if:
  - a) road construction would facilitate access to timber harvesting opportunities outside of the WHA;
  - b) there is no other practicable option to access timber harvesting opportunities referenced in 3(a) outside of the WHA;
  - c) road construction activities occur outside of nest and critical roost site reserves;
  - d) negative impacts of clearing road rights-of-way are offset so that there is no net loss of Spotted Owl habitat; and

- e) road rights-of-way clearing widths within the WHA do not exceed the minimum clearing widths established under FPPR section 78.

*Pesticides*

- 4. Do not use pesticides in WHA, except for:
  - a) the use of *Bacillus thuringiensis var kurstaki* for the control of western spruce budworm;
  - b) the use of beetle pheromones for the control of bark beetles; and
  - c) the application of herbicides for control of invasive plants or noxious weeds.



Signed this 11 day of April, 2012

Doug Konkin, Deputy Minister

Ministry of Forests, Lands and Natural Resource Operations

## Appendix 1:

The following information is provided as background information and support to the order establishing Spotted Owl WHAs 3-034 to 3-036, and 3-158 to 3-160. This appendix is not part of the order.

1. These GWMs do not apply to persons that must comply with the *Worker's Compensation Act* and the regulations made under that Act (e.g. OH&S Regulation Part 26). Where a GWM cannot be achieved due to a safety concern, a person should consider developing a rationale related to the safety issue. Consistent with section 2(3) of the *Forest Planning and Practices Regulation*, exemptions from these GWMs are not required to meet safety requirements.
2. **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*.
3. *Forest Act* agreement holders should be familiar with the document *Best Management Practices for Managing Spotted Owl Habitat: A component of the Spotted Owl Management Plan 2, Chilliwack and Squamish Forest Districts*<sup>1</sup> dated July 7, 2009. This document was developed by the Best Management Practices (BMPs) Working Group and contains recommendations that are not directly reflected in this order, yet are still considered important for managing Spotted Owl habitat in BC. Where discrepancy exists between the BMPs and the GWMs, the latter takes precedence. The Ministry of Forests, Lands and Natural Resource Operations will review and revise the BMPs for use in the Cascades Forest District, reflecting the ecosystem and forest management regimes specific to the Lillooet TSA, to address forest health issues and fire management within and around these WHAs. Harvesting/management guidelines for enhancement and maintenance of Spotted Owl habitat within these WHAs will also be considered.
4. Authority to consider an exemption from these GWMs is provided in Section 92(1) of the *Forest Planning and Practices Regulation* and section 79(1) of the *Woodlot License Planning and Practices Regulation*. An exemption may be provided if the Minister's delegate 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.

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<sup>1</sup> Available at:

<http://www.for.gov.bc.ca/ftp/DCK/external/!publish/SOMP/DOCUMENTS/SPOWBestManagementPracticesJul2009.pdf>

An exemption application<sup>2</sup> should be submitted to the Minister's delegate (Director of Resource Management, Thompson Okanagan Region) with a rationale describing the nature of the problem and options to integrate Spotted Owl habitat 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 handled within 14 calendar days of arrival at the MFLNR Regional office. Incomplete packages will be returned to the proponent for resubmission.

For GWM 1, exemptions would generally be considered when the objective continues to meet the intent of the Spotted Owl Management Plan, as determined by the Director of Resource Management, Thompson Okanagan Region.

It is recognized that activities for decreasing forest fire risk and increasing the safety of communities, property, etc near the WHAs is an important priority. Proposed activity of this type in a WHA will be handled through the exemption process. The overall goal of fire risk management activities should be to maintain Spotted Owl habitat or provide for improved Spotted Owl habitat in the future while meeting the objectives for community safety. Community safety will take precedence.

It is also recognized that the Kanaka Bar community is immediately adjacent to the Mowhokam WHA (3-158) and may in the future need to expand into the WHA. This type of activity is beyond the authority of the GAR order under FRPA and should be considered through the established legal processes for community development.

5. For GWMs 2 and 3, *Forest Act* agreement holders contact the Director of Resource Management, Thompson Okanagan Region for locations of known nest and critical roost site reserves prior to the commencement of activities. In some cases agreement holders may, during the course of conducting timber harvesting and road construction, identify a nest or critical roost site; and if this occurs they should provide that information to the Director of Resource Management, Thompson Okanagan Region. It must be noted that since these sites represent a 'sensitive occurrence' (masked by the BC Conservation Data Centre) they are protected from being distributed to the public. Proponents required to know of these locations may have to enter into a Confidentiality Agreement with MOE (and the BC Conservation Data Centre) before the location will be provided. There are times when the information won't be released because a planned activity will fall outside the critical nest or roost site, but this will be determined by MOE/CDC upon reviewing the activity.
6. For GWM 3(d), activities to offset the negative impacts of clearing road rights-of-way (such that there is no net loss to Spotted Owl habitat), be made available upon request to the Director of Resource Management, Thompson Okanagan Region.

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<sup>2</sup> A template for exemption requests is available at: <http://www.env.gov.bc.ca/wld/frpa/index.html>

7. The six Spotted Owl WHAs referred to in this order include mature and immature stands that over time are expected to exceed the 5000 ha mature timber harvesting landbase (THLB) budget in the Lillooet TSA. With each timber supply review in the Lillooet TSA (approximately every five years), the amount of mature THLB (greater than 80 years) within the six WHAs will be reassessed to determine whether the mature THLB budget has been exceeded – if so, WHA boundaries may be adjusted, and/or areas may be identified for habitat enhancement.
8. The Kwoiek Creek IPP (Innergex) has approval from the Environment Assessment Office for a power line through the Mowhokam WHA (3-158).