

**Rationale – Approval of UWR U-7-003
Mountain Caribou (*Rangifer tarandus caribou*)
Hart Ranges and Upper Fraser Planning Units**

In approving this ungulate winter range (UWR) U-7-003 each of the tests under the *Government Actions Regulation* (GAR) was considered.

GAR 2 – Limitations on Actions

1. *The order is consistent with established objectives.*

In my review of objectives established by government under the *Forest and Range Practices Act*, I find the order consistent with Section 180 (grandparenting specified designations) and S. 181 (grandparenting objectives) including the Pritchard Creek Community Watershed.

In my review of objectives established by government under the *Forest Planning and Practices Regulation*, I find the order is consistent with Section 5 (soils), S.6 [timber; as outlined below in my rationale relevant to the *Government Action Regulation* section 2(1)(b) and 2(1)(c)], S.8 (water, fish, wildlife and biodiversity in riparian areas), S.8.1 (fish habitat in fisheries sensitive watersheds), S.8.2 (community watersheds), S.9 (wildlife and biodiversity – landscape level), S.9.1 (wildlife and biodiversity – stand level), S.9.2 (visual quality), and S.10 (cultural heritage resources).

In my review of objectives established by *Land Act*, *Land Use Objectives Regulation* and *Government Action Regulation* orders, I find this order is consistent with all objectives made by those orders.

Having considered all available information pertaining to this order, I find that there are no elements of this order that would be inconsistent with established objectives applicable to forest and range practices and planning within the Upper Fraser and Hart Range Planning Units.

2. *The order would not unduly reduce the supply of timber from British Columbia's forests.*

The *Forest and Range Practices Act* (FRPA) does not define “unduly” so I will consider dictionary definitions of “unduly”, such as “excessive”, “disproportionate”, and “unwarranted”, when assessing the test under section 2(1)(b).

The test of whether an action will unduly reduce the supply of timber from British Columbia's forests needs to be considered in light of government's timber supply impact policy for the establishment of UWR for mountain caribou. I am guided by relevant policies that have been completed over time that apply to this decision.

Mountain caribou management has been addressed in the 2004 Prince George Timber Supply Review (TSR) and the 2006 Robson Valley TSR, completed by the Chief Forester of British Columbia. These reviews incorporated Allowable Annual Cut (AAC) reductions to accommodate special management for mountain caribou. Furthermore, habitat management objectives for mountain caribou have been incorporated in the Prince George, Fort St. James and Robson Valley Land and Resource Management Plans (LRMPs).

The document titled "Memorandum Of Understanding On Establishment Of Ungulate Winter Ranges And Related Objectives" and dated 2003, provides guidance with respect to government's timber supply impact policy for the establishment of UWR; impacts are based on TSR 1, TSR 2 or approved strategic land use plans, as well as the TSR 2 non timber harvesting land base (NTHLB).

The document titled "Considerations for the Selection of LUOR and GAR: Using the Land Use Objectives Regulation (LUOR) and the Government Actions Regulation(GAR) in a complementary manner", approved by the FRPA Joint Steering Committee and dated October 17, 2008, provides guidance with respect to assessing "Corporate government" direction for land and resource decisions. The document indicates that Corporate government direction for the implementation of land and resource may be provided by Cabinet in their approval of a land and resource use decision. This approval may then be used as a basis for implementing the mountain caribou decision under the GAR provided the GAR tests are met.

On October 16, 2007, government announced a plan to recover mountain caribou. The plan included a provincial commitment to protect 2.2 million ha of forested habitat, capturing 95% of mountain caribou's high suitability winter habitat, with an incremental amount of 380,000 ha of which 77,000 ha was expected to be in the timber harvesting land base (THLB); impacts to the THLB are based on TSR 2. This decision and specifically the incremental THLB commitment have established government's timber supply impact policy for the management of mountain caribou habitat. The test of unduly impacting the timber supply from British Columbia's forest for the establishment of mountain caribou habitat protection must be considered in the context of this government direction.

I note that as background information to the October 16, 2007 decision government developed a final recovery implementation plan for mountain caribou that focused habitat protection measures on high suitability winter habitat within a government sanctioned budget of 1% of THLB throughout the range (approximately 115,000 ha), with the caveat that the viability of individual operators be maintained. Analyses suggested that 95% of high suitability winter habitat throughout the range where recovery was deemed feasible could be protected within the budget and without creating a timber supply issue (although the need for further economic analyses was acknowledged). This will result in the protection of 2.2 million ha of forested land, with approximately 77,000 ha coming from the THLB. Within this context, the 77,000 ha of incremental THLB is government's target, but it is also considered the minimum incremental amount, given government's

previous accepted impacts of 1% THLB throughout the range (approximately 115,000 ha).

I am mindful of the strategic nature of timber supply models and that analysis, information and assumptions are never certain and change over time. For the purpose of this decision I am satisfied short-term timber supply impacts are expected to be minimal, however I expect this will be monitored over time through adaptive management and future timber supply reviews.

Based on the provincial target of 77,000 ha of incremental THLB, targets were developed for each of the eight planning units where habitat management actions are planned. The incremental THLB target for the Upper Fraser and Hart Ranges planning units is 6,132 ha. UWR U-7-003 has been developed consistent with this direction. The Prince George Habitat Team considered options for the location of the incremental habitat in the THLB and also the location of the NTHLB and potential future operability. The change in area to U-7-003 is 16,276 ha with an incremental impact to the THLB based on TSR 2 of 6,377 ha, which is 245 ha over the target amount of 6,132 ha. I find that this is within acceptable limits for the following reason. A UWR polygon in the area of George Mountain previously part of UWR U-7-003 was removed as part of this process. It is estimated that the impact to the THLB from this polygon was approximately 6000 ha. This 6000 ha was not reallocated to the budget for the Hart Ranges and Upper Fraser planning units. Therefore, although the final UWR is 245 ha over the habitat target, considering the THLB in the area of George Mountain that was not reapplied as part of this current process, I am satisfied that the true impact of U-7-003 is within the target of 6132 ha. Additional information pertaining to the identification of incremental habitat for the Upper Fraser and Hart Ranges planning units can be obtained from the report titled "Rationale for Allocation of Incremental Habitat Protection for Mountain Caribou in the Prince George Area" and dated April 1, 2008.

I am satisfied that this order will not unduly reduce the supply of timber from British Columbia's forests.

3. *The benefits to the public derived from the order would outweigh any material adverse impact of the order on the delivered wood costs of a holder of any agreement under the Forest Act that would be affected by the order.*

The FRPA does not define "material adverse impact". The test under section 2(1)(c)(i) is a "material adverse impact" not just an "adverse impact". A "material" effect is often defined as a "highly important" or "significant" effect.

No information was provided by *Forest Act* agreement holders, either prior to the review and comment period or during the review and comment period, to suggest that the revised order for UWR U-7-003 would create a material adverse impact on delivered wood costs. In the absence of information from *Forest Act* agreement holders I have considered that when the Prince George Habitat Team developed the final recommendation for U-7-003,

the location of the THLB and potential timber isolation and economic impacts were considered. Furthermore, future improved operability was considered when placing line work in the NTHLB.

I recognize that this order will restrict access to certain merchantable stands and may increase the cost of delivering timber to processing facilities, however, given the opportunity provided to *Forest Act* agreement holders to influence the location of the incremental habitat, combined with the lack of input relative to this test, I am satisfied that impacts on delivered wood costs have been minimized and are not significantly material in nature.

In addition to considering the potential for this order to have a materially adverse impact on delivered wood costs, I have considered the public benefits that will be derived from this order. Mountain caribou are currently listed as “threatened” under the federal *Species at Risk Act* and are “red-listed” (endangered or threatened) in British Columbia. The provincial Conservation Framework ranking lists this southern population as a high priority¹ for conservation action. The Prince George, Fort St. James and Robson Valley LRMPs have previously identified mountain caribou management as being in the public interest and include habitat management objectives for mountain caribou. The Species at Risk Coordination Office conducted extensive stakeholder consultation on the 2006 Draft Mountain Caribou Recovery Implementation Plan. This stakeholder consultation informed government’s October 16, 2007 announcement to recover mountain caribou. This announcement establishes the public interest for mountain caribou management.

The information I have considered, including comments from affected *Forest Act* agreement holders, does not indicate that this order would create a material adverse impact on delivered wood costs. I find the public benefit of this order to be compelling relative to the lack of an indication of a material adverse impact on the delivered wood costs of a holder of any agreement under the *Forest Act* that would be affected by the order.

4. *The benefits to the public derived from the order would outweigh any undue constraint on the ability of a holder of an agreement under the Forest Act or the Range Act that would be affected by the order to exercise the holder's rights under the agreement.*

The FRPA does not define “undue” so I will consider dictionary definitions of “undue” when assessing this test, such as “excessive”, “disproportionate”, and “unwarranted”, when assessing the test under section 2(1)(c)(ii).

Carrier Lumber Ltd. expressed concern regarding future access through UWR unit R-005 and the lack of grandparenting provisions for blocks that were previously protected by the 2003 order for UWR U-7-003. In both case the GWMs for U7-003 were revised to

¹ Ranked out as high priority “2” for Goal 1 (global conservation efforts) and Goal 3 (maintaining native diversity).

address these concerns. Provisions for future access were provided through UWR unit R-005 and grandparenting of previous blocks was continued.

No other *Forest Act* agreement holders, either prior to the review and comment period or during the review and comment period, provided information to suggest that the amended order for UWR U-7-003 would constrain the ability of a holder of an agreement under the *Forest Act* or the *Range Act* to exercise the holder's rights under the agreement.

The report titled "Summary Report of Mountain Caribou Recovery Plan: Timber Risk Assessment" dated June 2008 did not indicate that the proposed actions in the Hart Ranges and Upper Fraser Planning units would negatively impact the timber supply of the Prince George or Robson Valley TSAs. No additional information was provided by individual operators to indicate that U-7-003 would generate an undue constraint.

There are no affected *Range Act* agreement holders; the GWMs do not speak to range practices.

In addition to considering the potential for this order to unduly constrain the ability of an agreement holder to exercise their rights, I have considered the public benefits that would be derived from this order. Mountain caribou are currently listed as "threatened" under the federal *Species at Risk Act* and are "red-listed" (endangered or threatened) in British Columbia. The provincial Conservation Framework ranking lists this southern population as a high priority² for conservation action. The Prince George, Fort St. James and Robson Valley LRMPs have previously identified mountain caribou management as being in the public interest and include habitat management objectives for mountain caribou. The Species at Risk Coordination Office conducted extensive stakeholder consultation on the 2006 Draft Mountain Caribou Recovery Implementation Plan. This stakeholder consultation informed government's October 16, 2007, announcement to recover mountain caribou. This announcement establishes the public interest for mountain caribou management.

The information I have considered, including comments from affected *Forest Act* agreement holders, does not indicate that this order would unduly constrain the ability of a holder of an agreement under the *Forest Act* or the *Range Act* to exercise the holder's rights under the agreement. I find the public benefit of this order to be compelling relative to the lack of an indication of an undue constraint on the ability of a holder of an agreement under the *Forest Act* or the *Range Act* to exercise the holder's rights under the agreement.

² Ranked out as high priority "2" for Goal 1 (global conservation efforts) and Goal 3 (maintaining native diversity).

GAR 3 – Consultations and Reviews

1. *An opportunity for review and comment was provided to the holders of agreements under the Forest Act or the Range Act that would potentially be affected by the order.*
2. *Consultation was carried out with holders on whom the order may have a material adverse effect.*

Between October 2007 and March 2008 the Prince George Habitat Team and agency representatives on the team held several meetings with *Forest Act* agreement holders to discuss the direction for implementing incremental habitat in the Upper Fraser and Hart Ranges planning units.

On June 20, 2008 all holders of agreements under the *Forest Act* that would potentially be affected by the revisions to UWR U-7-003 were given an opportunity to review and comment on the proposed UWR line work as well as the proposed GWMs for UWR U-7-003.

The only response was received from Carrier Lumber Ltd who expressed concerns regarding future access into UWR unit R-005 and the lack of grandparenting provisions for blocks that were previously protected by the 2003 order for UWR U-7-003. In both cases the GWMs for U-7-003 were revised to address these concerns. Access is provided through UWR unit R-005 and grandparenting of previous blocks is continued.

All comments received by MOE during review/comment or consultation were made available for my consideration.

Considering the consultation with *Forest Act* agreement holders between October 2007 and March 2008, as well as the review and comment period on the final line work and proposed GWMs conducted in June 2008, I find that an opportunity for review and comment was provided to the holders of agreements under the *Forest Act* that would potentially be affected by the order and that consultation was carried out with holders on whom the order may have a material adverse effect. There are no affected *Range Act* agreement holders.

GAR 9 - General Wildlife Measures

1. *The general wildlife measures are necessary to protect and conserve mountain caribou.*

The Mountain Caribou Science Team established in 2005 identified forest harvesting and road building to be significant threats to mountain caribou. The document titled "Mountain Caribou in British Columbia: A Situation Analysis" and dated 2005 provides a detailed assessment of threats to mountain caribou.

In October 2007 government announced a plan to recover mountain caribou and committed to protecting 2.2 million ha of high suitability forested habitat from logging and road building.

http://www.env.gov.bc.ca/sarco/mc/files/MC_Recovery_Implementation_Plan_News_Release_20071016.pdf

The GWMs for UWR U-7-003 are consistent with government's October 2007 commitment of no timber harvesting and road building. The GWMs represent the current best available science pertaining to caribou habitat management and have been developed based on the Omineca Region Mountain Caribou Management Zone Strategy that was implemented in 1990 in the Prince George and Robson Valley Forest Districts as well as habitat management objectives for mountain caribou in the Prince George, Fort St. James and Robson Valley LRMPs.

More information pertaining to UWR U-7-003 and the biological basis of the GWMs can be found in the report titled "Mountain Caribou Ungulate Winter Range (UWR) Report (U-7-003) Omineca" and dated August 2003 (<http://wlapwww.gov.bc.ca/omr/documents/U-7-003.pdf>).

An adaptive management framework is currently being developed that will guide the implementation monitoring of recovery actions. Under this model the GWMs will be monitored to ensure that they are achieving the intended result for caribou while at the same time providing operational flexibility for *Forest Act* agreement holders.

I am satisfied that the GWMs established by this order are necessary to protect and conserve mountain caribou. The measures are consistent with current standards and are supported by the current best available science.

2. *The regulations under the Forest and Range Practices Act or another enactment do not otherwise provide for that protection or conservation.*

In order to meet government's commitment to the protection of 2.2 million ha of high suitability mountain caribou habitat from timber harvesting and road building, a total of 6,132 ha of incremental high suitability winter habitat within the THLB requires protection from timber harvesting and road building in the Hart Ranges and Upper Fraser planning units. This was based on the stated goal of capturing the entire high suitability habitat within line work proposed by the Mountain Caribou Science Team.

While other regulations under the FRPA or other enactments may deliver some of the special management required for the protection or conservation of mountain caribou in the Hart Ranges and Upper Fraser planning units, these do not provide the necessary protection to meet the commitment to mountain caribou recovery and specifically the requirement of no timber harvesting or road building within high suitability mountain caribou habitat.

I find that the GWMs established by this order to be necessary and I am satisfied that the regulations under the FRPA or another enactment do not otherwise provide for protection or conservation of mountain caribou in the areas addressed by this order.

GAR 12 – Ungulate Winter Ranges

1. *The ungulate winter range is necessary to meet the winter habitat requirements of a category of specified ungulate species.*

The Mountain Caribou Science Team developed a mountain caribou habitat suitability model to identify high suitability winter habitat across the range of mountain caribou. Analyses confirmed that 95% of the high suitability winter habitat could be maintained by protecting 2.2 million ha of forested land. The Science Team model was based on the best available science and expert opinion. Methods and results of Science Team modelling are summarized in two progress reports, dated January 2006 and March 2006 (<http://www.env.gov.bc.ca/sarco/mc/sciencedocs.html>).

From November 2007 to March 2008, the Prince George Habitat Team was directed to use the Science Team habitat suitability model to inform their work to identify the proposed location of incremental habitat. The Habitat Team also used the best available local information and expertise from herd experts. The Habitat Team reached consensus on the final recommendation and this recommendation was approved by the Mountain Caribou Directors Committee in March 2008. Additional background information on the work of the Habitat Team can be obtained from the report titled “Rationale for Allocation of Incremental Habitat Protection for Mountain Caribou in the Prince George Area” and dated April 1, 2008.

UWR U-7-003 includes polygons for the Takla herd and Robson Valley that are outside of the Upper Fraser and Hart Ranges planning units. Polygons in both of these areas were included as part of UWR U-7-003 approved in October 2003. The Robson Valley polygons are within the Mount Robson planning unit where there is no incremental habitat budget. The Takla herd is considered a northern caribou herd and therefore is not included as part of governments Mountain Caribou Recovery Implementation Plan. UWR polygons and associated GWMs for these two areas have not been altered as a result of the recent mountain caribou revisions to UWR U-7-003.

More information pertaining to UWR U-7-003 can be found in the report titled “Mountain Caribou Ungulate Winter Range (UWR) Report (U-7-003) Omineca” dated August 2003 (<http://wlapwww.gov.bc.ca/omr/documents/U-7-003.pdf>).

I am satisfied that UWR U-7-003 contains habitat that is necessary to meet the winter habitat requirements of mountain caribou.

2. *The ungulate winter range requires special management that is not otherwise provided for under the Forest and Range Practices Act or another enactment.*

In order to meet Government's commitment to the protection of 2.2 million ha of high suitability mountain caribou habitat from timber harvesting and road building, a total of 6,132 ha of incremental high suitability winter habitat within the THLB requires protection from timber harvesting and road building in the Hart Ranges and Upper Fraser planning units. This was based on the stated goal of capturing the entire high suitability habitat within line work proposed by the Mountain Caribou Science Team.

While other regulations under the FRPA or other enactments may deliver some of the special management required for the protection or conservation of mountain caribou UWR habitat in the Hart Ranges and Upper Fraser planning units, these do not provide the necessary protection to meet mountain caribou recovery and specifically the protection of high suitability winter habitat.

I find the UWR established by this order to be necessary and I am satisfied the regulations under the FRPA or another enactment do not otherwise provide for the protection or conservation of mountain caribou winter range habitat in the areas addressed by this order.



Signed this 6 day of Feb., 2009
Doug Konkin, Deputy Minister
Ministry of Environment

