

**Rationale – Approval of UWR U-8-004  
Mountain Caribou (*Rangifer tarandus caribou*)  
Okanagan Shuswap Forest District**

The general wildlife measures (GWMs) for ungulate winter range (UWR) U-8-004 approved on July 24, 2006 are amended by the order for UWR U-8-004 dated December 18, 2008. GWMs 1, 2 3 and 4 in the previous order have been rescinded. In approving the amendment to UWR U-8-004 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.*

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 area of this order.

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).

In the area of U-8-004 the government’s timber supply impact policy relating to the management of mountain caribou is established by the Okanagan Shuswap Land and Resource Management Plan. U-8-004 is consistent with this direction.

The amendment to UWR U-8-004 removes previously established GWMs that overlap with the Revelstoke Shuswap planning unit for mountain caribou in order to avoid a conflict with the recently established UWR U-3-004. The approval of UWR U-8-004 will not alter government’s timber supply impact policy as it relates to the management of mountain caribou in the area of the order.

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 *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 order for UWR U-8-004 would create a material adverse impact on delivered wood costs.

In addition to considering the potential for this order to have a material 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 priority<sup>1</sup> for conservation action. 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.

As such, I find the public benefit of this order to be compelling relative to the potential for any 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”, such as “excessive”, “disproportionate” and “unwarranted”, when assessing the test under section 2(1)(c)(ii).

No information has been 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 order for UWR U-8-004 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.

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 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 priority<sup>1</sup> for conservation action. 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

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

October 16, 2007 announcement to recover mountain caribou. This announcement establishes the public interest for mountain caribou management.

As such, 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.

*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.*

On June 20, 2008, all affected *Forest Act* agreement holders were given an opportunity for review and comment on U-8-004. No comments were received. The lack of comments is presumably related to the fact that GWMs were being removed rather than added to U-8-004.

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. There are no affected *Range Act* agreement holders.

*GAR 9 - General Wildlife Measures*

1. *The general wildlife measures are necessary to protect or conserve the species at risk.*

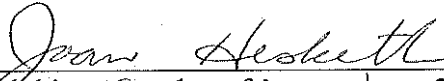
The GWMs for U-8-004 are consistent with the management direction in the Okanagan Shuswap LRMP.

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.*

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 area of the order, these do not provide the necessary protection for mountain caribou.

I find 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 the protection or conservation of mountain caribou in the areas addressed by this order.

  
Signed this 18 day of December, 2008  
Joan Hesketh, Deputy Minister  
Ministry of Environment