

# Policy and Regulatory Perspective British Columbia Government

AACO webinar  
March 2016

# Overview

BC Environmental Mitigation Policy

Boreal Caribou

Continuing work



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# British Columbia's Environmental Mitigation Policy

PURPOSE: Decision-support tool

- support timely, informed, and transparent decisions
- improve the quality, transparency, and consistency of information to support decisions



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## EMP – the basics

### POLICY:

All feasible measures are considered at one level of the mitigation hierarchy before moving to the next level – avoid, minimize, restore on-site, offset

Documented in a mitigation plan

PROCEDURES: guidance, principles



## EMP – legal implications

The EMP does not convey legal authority

- It supports existing legislation or legal requirement
- Any activities must be carried out in accordance with the relevant legislation, conditions of the approval document, and/or other legal requirements



## EMP Application – when? how?

- New or existing authorizations, where statutory decision required
- Decision as to which, where, what amount and types of mitigation will be needed rests with the statutory decision-maker
- Responsibility for mitigation rests with proponent



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## Legislative Framework

Enabling natural resource statutes and their subordinate regulations

- *Mines Act*
- *Oil and Gas Activities Act*
- *Land Act*
- *Forest Act [pertinent FRPA sections]*
- *Water Sustainability Act*
- *Transportation Act*
- *Environmental Assessment Act*
- *Environmental Management Act*



## Offset

- Definition:

- Offset – (v) to counteract, or make up for, an impact on an environmental component that cannot be adequately addressed through other mitigation measures in the hierarchy





## Offsets - Principles

- **Last resort** in mitigation hierarchy.
- Offset measures deliver tangible, measurable **on-the-ground outcomes** to make up for impacts to an environmental value; conservation measure is **linked** to the predicted impact.
- Measures are **additive /incremental** to activities planned or underway.



## Offsets - Principles

- **Like-for-like** and on-site or in-proximity measures are considered first.
- **Responsibility** for offsets rests with the proponent.
- Offset measures are **secured for duration** of the impact.
- **Residual impact before offset** should be clearly defined to allow assessment of risk and to determine the **ecological equivalency** of the residual impact.



## Offsets - Conservation mechanisms

### Onsite

- Restoration above regulation standard
- Habitat creation

### Offsite

- Restoration off-site
- Land Securement
  - Land acquisition; relinquishment of tenure; land lease; Land Act Reserves, notations of interest; Rezoning and transfer of development rights
- Conservation covenants
- Population management measures



## **Financial Offsets – When is an in-lieu payment appropriate?**

- Effects to be mitigated require actions that proponent is not authorized to carry out (e.g. population management)
- Multi-proponents in the area affecting the same value (requires larger scale mitigation that is reasonable for a single proponent to undertake)
- Most offset agreements involve a combination of proponent-conducted offsets and in-lieu payments



## Use of a Financial Trust

- Must ensure the payments are guaranteed to go towards the intended measures
- Most trusts have little to no control by government or accountability to government
- The in-lieu payment arrangement must be legal under the *Financial Administration Act*



## The EMP - Key take-away points

- Endorsed by the Natural Resource Board for implementation across the NR sector
- Guidance for mitigation planning; a decision support tool: apply the mitigation hierarchy, link mitigation to the impact
- No new legal requirements; supports existing legislation; not no-net-loss policy
- Voluntary for proponents
- Evolving

# Boreal Caribou

2003 - Canada classifies as threatened

2008 - BC classifies as threatened

2011 - BC approves the Boreal Caribou Implementation Plan (BCIP)

- Goals

- Decrease the rate of population decline

- Reduce risk of extirpation

- Objectives

- Protect Habitat to provide future recovery opportunities

- Recruit capable habitat through restoration

- Minimize the size of industrial footprint

- Reduce predators and suppress wildfire

# Boreal Caribou

2012 – Canada published the Boreal Caribou recovery strategy (SARA)

2011 to 2016 – BCIP implementation, research and effectiveness monitoring

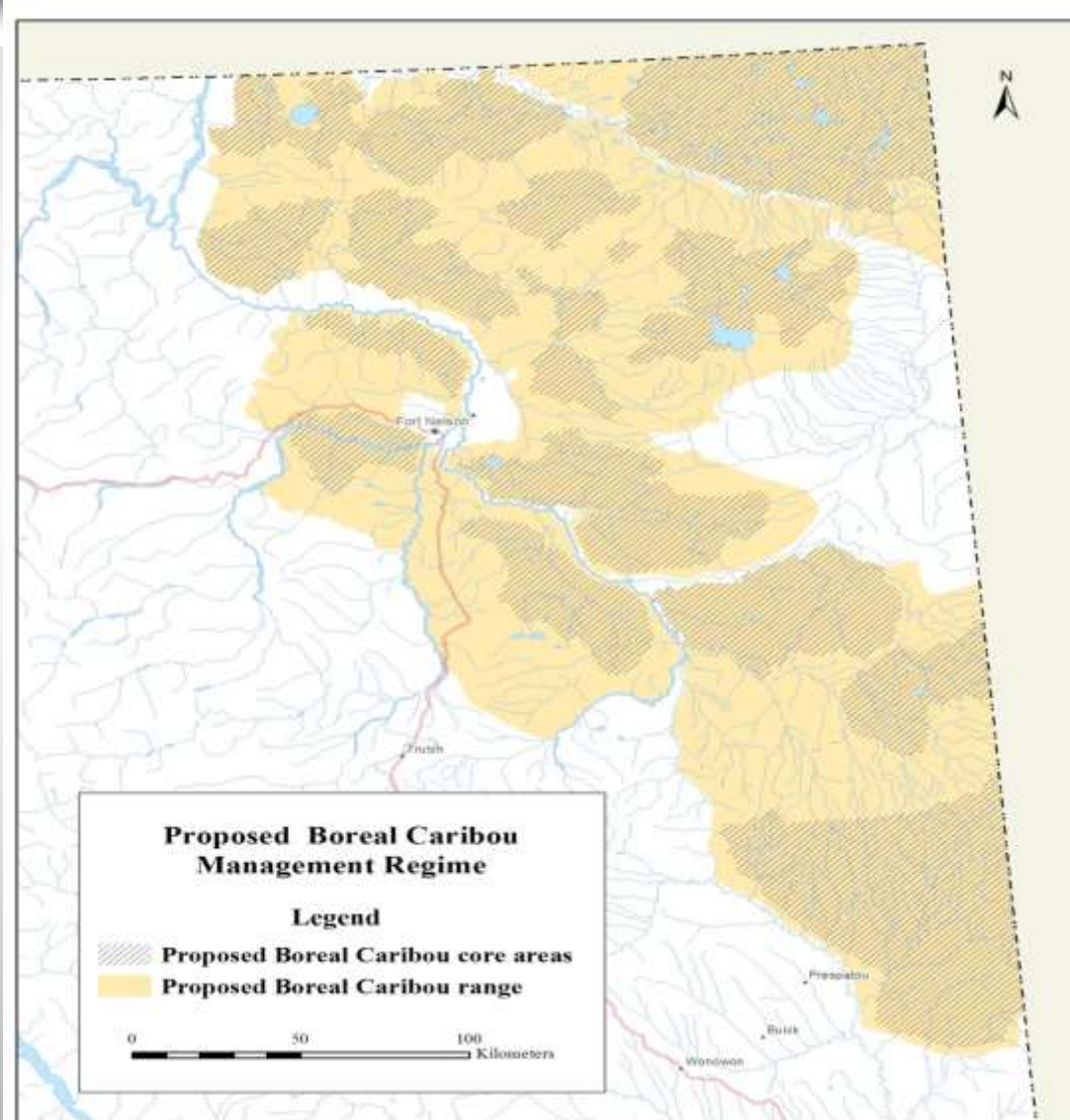
## BCIP

- Established habitat management areas in forestry and oil and gas regulations
- Established operating practices for oil and gas
- Established Resource Review Areas
- Research and effectiveness monitoring program

## Research and effectiveness monitoring results

- Improved understanding of population and habitat distribution
- Improved understanding of the drivers of population decline
- Improved understanding of effective restoration techniques





# Boreal Caribou

Area captured in proposed Boreal Caribou Management Regime

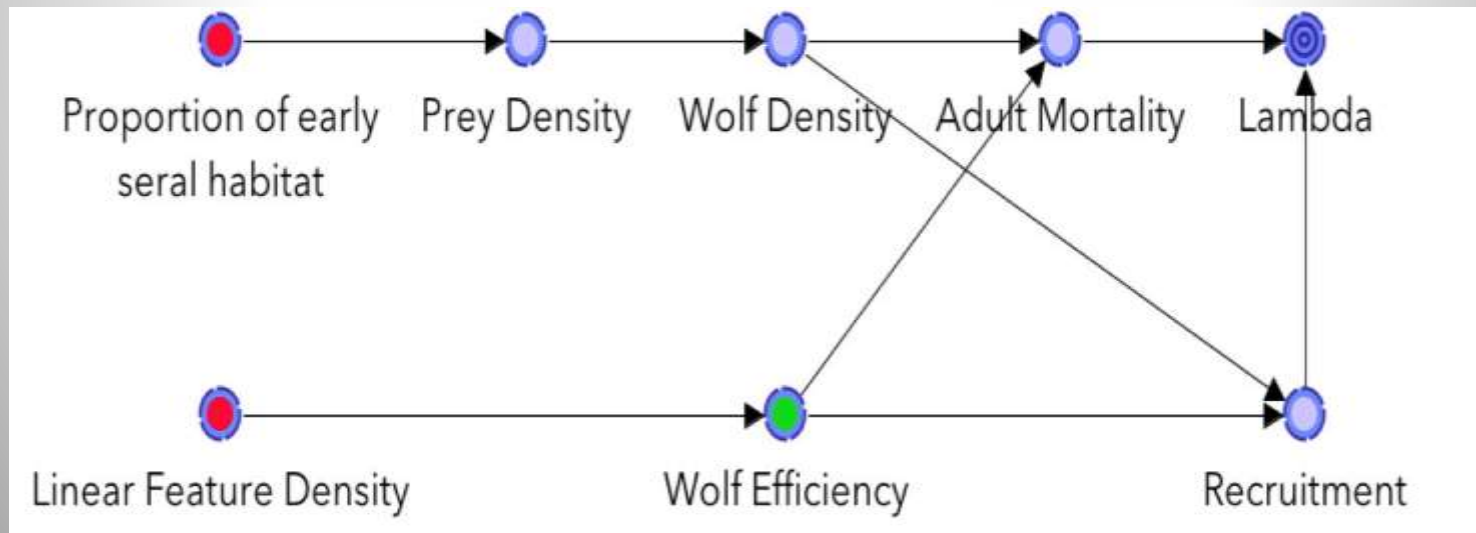
Core – 2,564,798 has.

Range – 4,805,603 has.

Total – 4,805,603 has.

# Boreal Caribou

Improved understanding of the factors resulting in declining populations



# Boreal Caribou

2013 – 2016 actual counts (minimum)

2013 - 952

2014 - 723

2015 - 678

2016 - 728

# Boreal Caribou

BC is revising the Boreal Caribou Implementation Plan

## Proposed New Goals guiding plan revisions

- Maintain a positive habitat trend across the boreal caribou range
  - Habitat condition monitoring
- Stabilize and achieve self sustaining populations across the boreal caribou range.
  - Lambda

# Boreal Caribou

## Habitat Condition

- Most of the habitat areas are not consistent with the definition of critical habitat in the Federal Boreal Caribou Recovery Strategy (65% criteria)
- Current habitat is not in a condition to support self sustaining populations without continuous management intervention
- Propose to manage both early seral and linear features to maintain a positive habitat trend
  - Anthropogenic creation of early seral and linear features
  - Recognize industrial Land use patterns
    - Oil and gas – linear features
    - Forestry – early seral
    - Change in level of industrial land use over time

# Boreal Caribou

## Maintain a Positive Habitat Trend

- Proposed management of linear features (oil and gas development)
  - Require a net decrease in the density of linear features within core habitats by applying habitat offsets (4:1) for future development impacts across range habitats. Offsetting will only be conducted in the core habitats and will result in a positive habitat trend over time
- Proposed management of early seral (forestry development)
  - Establish an early seral forestry objective of initially <6% across each Boreal Caribou range

# Boreal Caribou

## Process of developing the offsetting ratio

- Recommendation of the BCIP technical drafting team
- Technical drafting team comprised of professional and technical staff involved in caribou management, environmental mitigation policy development, and species management planning
- Need a concrete number in the plan for management purposes, certainty, fairness, efficiency, transparency
- No existing standard method to calculate a ratio, but there is existing practice
- Propose an interim number in the plan and seek feedback. If a good rationale exists for an alternative it will be considered



# Boreal Caribou

## Considerations in setting an offsetting ratio

- Maintain opportunities for oil and gas development
  - Existing tenures
  - Cost implications
- Offsetting will be implemented with other management actions that will have a positive impact to caribou and their habitat
  - Management of early seral
  - Management of other drivers of decline
  - Proposing other additional restoration
  - Existing regulatory requirements
  - IOPs (mitigation hierarchy)

# Boreal Caribou

## Considerations in setting an offsetting ratio

- Uncertainty
  - Pace of development and resulting rate of habitat condition improvement
  - Time lag
  - Restoration failures
  - Effectiveness of restoration techniques
  - Impaired versus removed habitat
  - Magnitude of effect on predator effectiveness
  - Amount of restoration in addition to offsetting
  - Functional versus ecological restoration
- Practice
  - Most past practice based on an equivalency goal
  - Most practice based on large projects with long TATs
  - Adaptive management and ability to adjust ratio
  - Range restoration plans
  - PNCP

# Boreal Caribou

## Requiring Offsetting

- Regulatory approach provides certainty, fairness, consistency and efficiency.
- Changes to OGAA under consideration
  - Off-site restoration an oil and gas activity
  - Requirements for the Regulator
  - Requirements for the applicant
  - Requirements for the permittee
- Guidance to OGC, applicant and permittee
- Range restoration plans

# Continuing Work – Boreal Caribou

## Revise the BCIP

- Public review and comment on a draft revised BCIP

## Continuing research on the drivers of decline

## Restoration

- Plan - Range restoration planning
- Do – Conduct restoration
- Monitor – Range restoration monitoring
- Adapt – Adjust plans/actions

## Regulatory, operational policy, guidance

## Continuing Work - EMP

- Development of an “in-lieu offset calculator”
- Guidance for government to accept in-lieu offset payments
- Identify best options for governance of in-lieu offset payments
- Expand EMP to specifically address aquatic /wetland application
- How BC will maintain /secure an offset for the duration of the impact

# Thank You

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