



Ministry of
Environment and
Climate Change Strategy

PROTECTING SPECIES AT RISK:

A Primer To Support A Conversation
With British Columbians



March 2018

The Province of B.C. currently has 231 species listed under the federal Species at Risk Act but no comprehensive legislation for their protection.

I believe that British Columbians want their government to act as leaders in protecting our environment. In my role as British Columbia's Minister of Environment and Climate Change Strategy, I've been asked to bring forward new species-at-risk legislation that ensures our government is working towards the goal of protecting the biodiversity of our beautiful province while supporting a sustainable modern economy that uses our resources wisely.

Arriving at this legislation will require contributions from all British Columbians including stakeholders, members of the public and Indigenous communities. I am inviting you to join in and contribute your ideas.

This discussion paper is intended to frame the engagement process with the background and context necessary to start this meaningful conversation. We will use your feedback to start creating species-at-risk legislation and the next steps of the public engagement process.

I'm asking for your support for the actions we're taking to preserve our environment, and lend certainty to communities, industry and other stakeholders. Together we can build a modern, diverse economy that values and defends a healthy and vibrant environment, creates good family-supporting jobs and leads to a better future for our children and grandchildren.



George Heyman

Minister of Environment & Climate Change Strategy

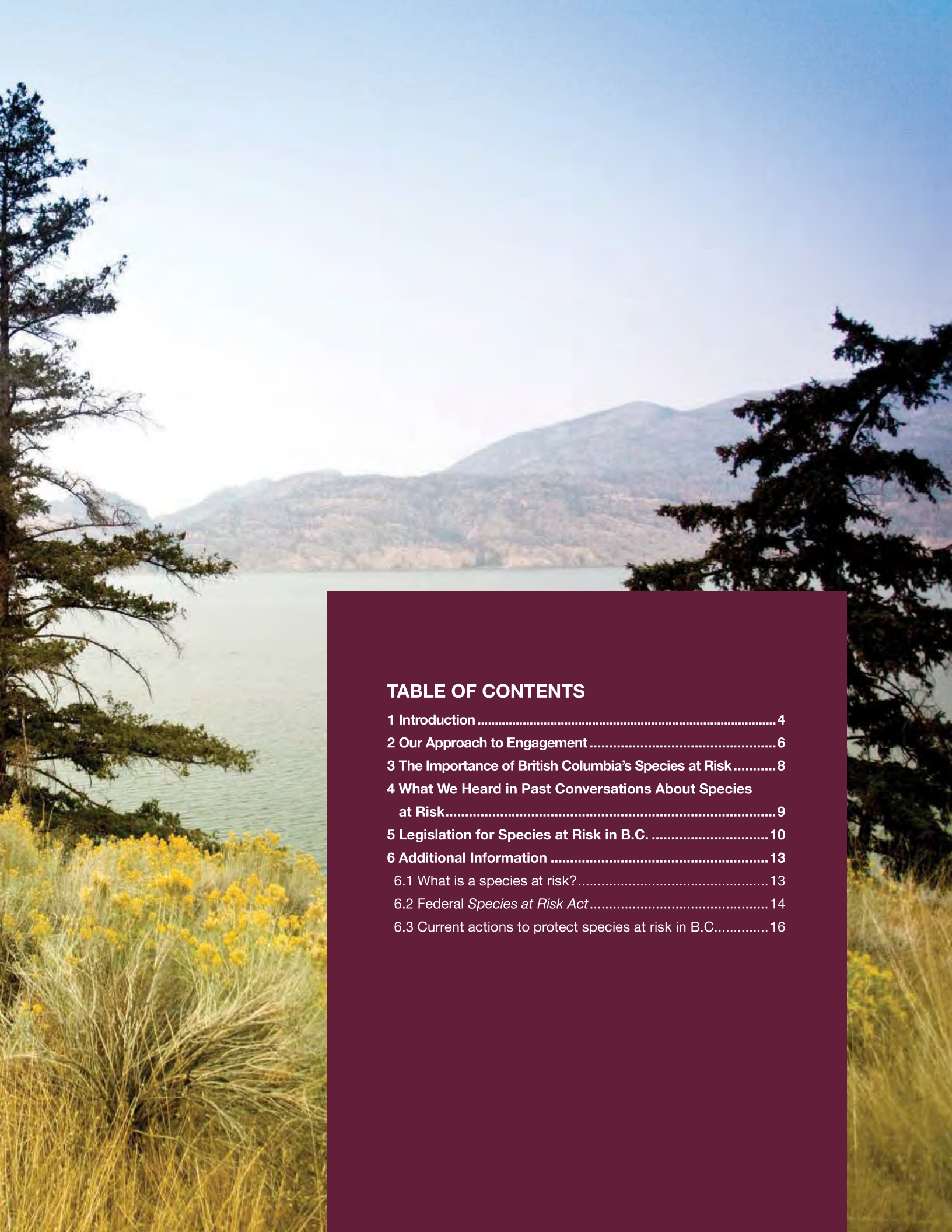


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A species at risk is any plant or animal that is native to B.C. and is likely to become extinct, or is at risk of disappearing from the province. Species assessed as extirpated, endangered, threatened or special concern are all considered species at risk.

1/ Introduction

British Columbia is Canada's most biologically diverse province, with a complex geography, broad species and ecosystem diversity, a resource-based economy, and many different Indigenous cultures. As a result, protection and recovery of species at risk will look different in different areas of the province, whether it is in the Lower Mainland or in the interior grasslands, in coastal areas or mountain ranges, on public or on private property.

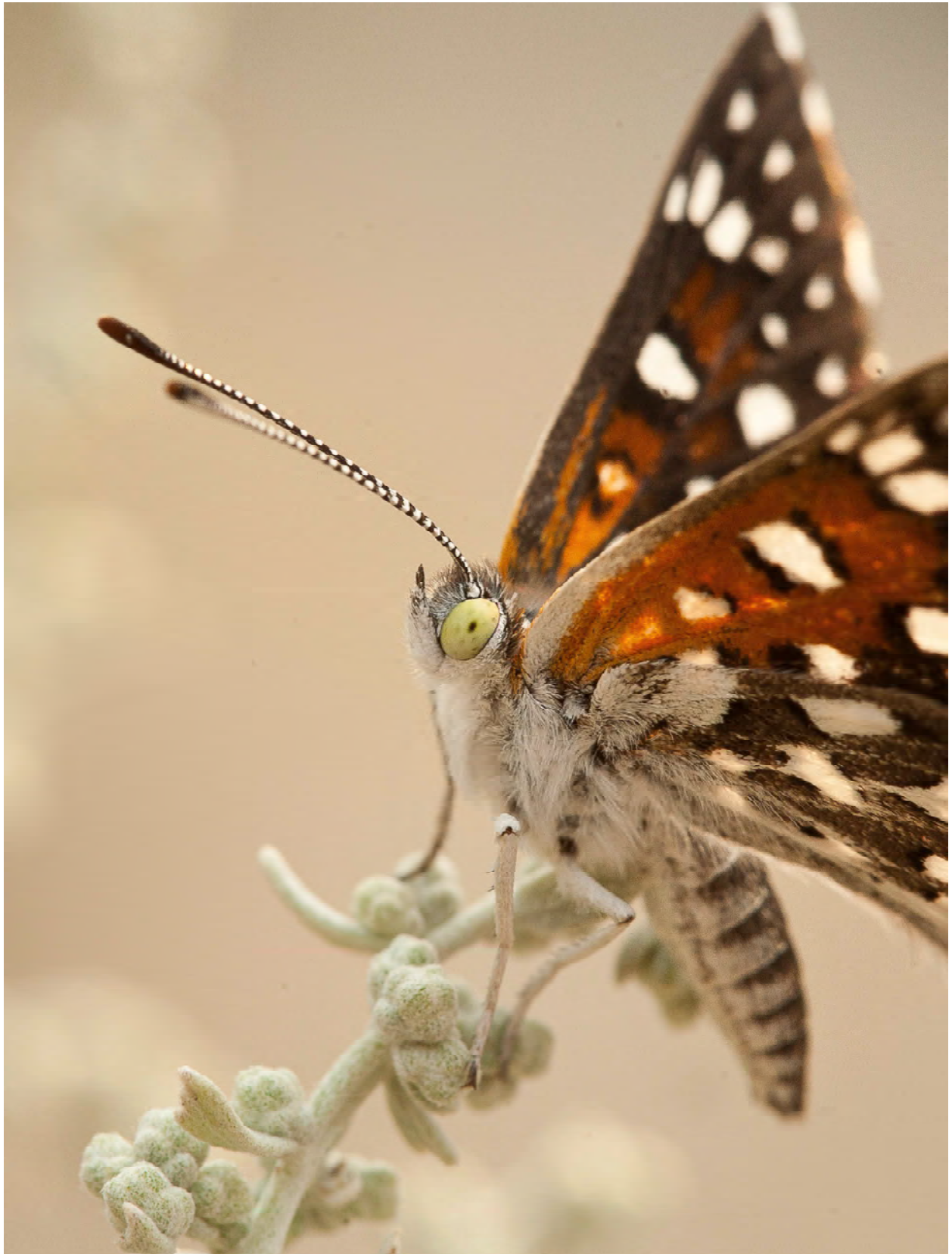
We know that species at risk need protection and we also know we need to support thriving communities and livelihoods.

Supporting the need for economic prosperity along with protecting species at risk is complex. We don't yet know the best way to harmonize those two goals, but we do know that we need to work together to find solutions, and those solutions must be sustainable.

We want to work with you to develop effective species-at-risk legislation

The Ministry of Environment and Climate Change Strategy is developing legislation for protecting and recovering species at risk in British Columbia (B.C.). We want to hear your thoughts and concerns so we can develop legislation that meets the needs of British Columbians and our species at risk.

In the past 8 years, the government has held three public discussions about species at risk. These have included discussions about the Species at Risk Task Force (2010), the Five-Year Plan for Species at Risk (2014), and the Species at Risk Public Engagement (2016). The messages we received during these conversations are reflected in this paper.



Mormon Metalmark – Endangered – Jared Hobbs

2/ Our Approach to Engagement

Over the past year, the Ministry of Environment and Climate Change Strategy has evaluated the legal tools for protecting species at risk in B.C. and has consulted with the federal government and other provinces and territories about their approach to species at risk. This has provided significant insight into how B.C. might determine its own approach, but we believe the best answers lie with British Columbians.

We are reaching out to the people and organizations that have the most ability to impact, recover, and protect species at risk to help inform new legislation.

We are planning a series of discussions, some smaller in scale, and some larger, with Indigenous peoples and stakeholders such as local governments, non-governmental organizations, industry groups, professional associations, and researchers. There will also be online forums that will be open to members of the public. Our intent is to work openly to develop solutions that will inform species-at-risk legislation.

Ensuring Transparency and Accountability in the Engagement Process

Meeting summaries from all Indigenous and stakeholder meetings and any organization's written submissions will be posted to <http://engage.gov.bc.ca/speciesatrisk>. A summary of all of the feedback received will also be posted.



Vancouver Island Marmot - Endangered - Photo by Adam Taylor

We Will Use a Three-Staged Approach to Engagement:

First stage – Understanding perspectives:

The purpose of this stage is to better understand the perspectives and concerns of Indigenous peoples and stakeholders about species-at-risk legislation.

To engage Indigenous peoples, we will seek conversations at established forums where provincial government and Indigenous groups meet. Letters and emails will also be sent to Indigenous communities. Indigenous peoples across the province will also be invited to participate in a series of regional workshops scheduled to begin in spring 2018. We will be seeking input on how we should approach the engagement process, as well as seeking a better understanding of the perspectives and concerns about species-at-risk legislation. Information from these responses and conversations will determine how we move forward with future engagement with Indigenous peoples.

To engage stakeholders we will host a series of face-to-face discussions in April 2018. We will then use the information provided to create an agenda for a workshop that will be part of the second stage of this process.

Second stage – Identifying solutions:

The purpose of this stage is to continue discussing the problems, concerns, and potential impacts identified in Stage 1 and to find ways to address them. This will be the opportunity to share creative ideas about what people think B.C.'s species-at-risk legislation should look like.

The exact approach for engaging with Indigenous peoples will depend on what we hear in Stage 1. We anticipate holding a series of web-based conversations about specific policy topics. However, there are a variety of options for this stage that also include further conversations in regional workshops or targeted conversations with the Indigenous groups that may be most interested.

For organizations and experts with an interest in species at risk, we will hold a workshop to provide an opportunity to share creative ideas about what they feel B.C.'s species-at-risk legislation should include. Groups from various backgrounds will be invited to attend, creating a diverse and dynamic group that will work with us to identify approaches to building effective legislation.

To understand citizen perspectives there will be a provincial, online conversation starting in late April 2018 about topics related to species at risk.

Based on the feedback from the first and second stages of engagement, we will write an intentions paper that outlines specific ideas about how government intends to draft the legislation.

Government will invite all British Columbians to comment on the intentions paper, which we anticipate releasing in Fall 2018.

Third stage – Refining solutions:

We will use feedback from the intentions paper to further refine the legislation. We will also carry out additional engagement, as we move from drafting the legislation to implementing it and developing supporting regulations and policies.

3/ The Importance of British Columbia's Species at Risk

British Columbia is world-renowned for its spectacular natural heritage. The variety of plants and animals that live here provide important environmental, social, cultural, and economic benefits to the province and its residents. B.C. also has many different ecosystems and landscapes that provide homes for many regionally, nationally, and globally significant species.

The B.C. government tracks the occurrences and populations of thousands of native plants and animals in the province. We track more than 624 vertebrate species/subspecies or varieties (343 birds, 149 mammals, 18 reptiles, 20 amphibians, and 94 fish), 6516 invertebrates, 3545 plants, and 545 lichens. There are probably many more species that we have not yet discovered, especially plants and invertebrates.

We need to conserve British Columbia's plants, animals, and ecosystems so that we have an environment that supports healthy communities and livelihoods. If we properly manage our activities and use our natural resources in a sustainable way, we can help protect vulnerable species, today and into the future.



Western Toad – Special concern – Jared Hobbs

Why are we Concerned About Species at Risk?

British Columbia has an internationally important role in conservation because many of our species and ecosystems are found nowhere else in Canada, and in some cases, nowhere else in the world. However, the number of species that are endangered, threatened, or of special concern continues to grow.

We have more species at risk than any other province in Canada. As of January 2018, the B.C. Conservation Data Centre had listed 816 species (or subspecies) as endangered or threatened.

Preventing species from becoming at risk is our greatest opportunity for maintaining healthy ecosystems. However, if a species is already at risk, we need to take conservation actions as soon as possible.



4/ What We Heard During Past Conversations About Species at Risk

During our first conversations with the public, we asked the people of B.C. what they think is important for conserving species at risk. They had strong feelings about improving protection for species at risk. They said the government should:

- provide stronger protection for species at risk and their habitats by creating species-at-risk legislation for B.C.;
- use legal measures that apply fairly and consistently across all resource sectors and lands;
- consider the long-term interests of both species at risk and community livelihoods; and
- focus on species at risk and their habitats, and on biodiversity overall.

5/ Legislation for Species at Risk in B.C.

In July 2017, the Minister of Environment and Climate Change Strategy was mandated to enact species-at-risk legislation and harmonize other laws to ensure they all work toward the goal of protecting our beautiful province.

Species-at-risk legislation will provide increased certainty for British Columbians about when and how species at risk will be protected. To be successful, the legislation will need to be supported by a broader species-at-risk program that considers such things as the rights of and reconciliation with Indigenous peoples, a broader stewardship program, and sustainable funding.

The Ministry is starting to develop species-at-risk legislation based on the following goals and principles. They reflect what we heard during our past conversations with the public.

Goal:

To manage human-related activities so that: species are recovered and are no longer considered at risk; species at risk are safeguarded from further threats; and native species are not lost from B.C.

We will use the following principles to develop the species-at-risk legislation.

Proposed Principles:

The species-at-risk legislation will be developed in a manner that:

- aims to stop the decline in the numbers of B.C.'s most vulnerable species, and improve the status of those species over time;
- engages Indigenous people and stakeholders throughout development of the policy;
- supports vibrant communities and livelihoods;
- operates transparently, openly, and cooperatively;
- supports sound decision-making, based on evidence, community knowledge, and Indigenous traditional knowledge;
- does not use a lack of scientific information as a reason to postpone protecting a species at risk if there are significant threats to that species; and
- minimizes unnecessary administrative burden for government and for those impacted by the legislation, to the extent possible.

The species-at-risk legislation will work together with existing programs and current initiatives to improve the stewardship of B.C.'s natural resources, including modernizing land use planning and improving wildlife management and habitat conservation. We anticipate development of species-at-risk legislation to start first, with these other initiatives following.

Species-at-risk legislation will be an important part of B.C.'s natural resource laws, however at times protecting species at risk could affect the interests of the public, landowners, and businesses. Species-at-risk legislation also has the potential to affect the interests of Indigenous communities.

We are in the early stages of developing species-at-risk legislation. Based on what we have heard through conversations with British Columbian's and learned from other provinces and territories, we are envisioning legislation that will:

- engage Indigenous people early, and will consider the rights of and reconciliation with Indigenous peoples;
- establish a committee to assess the status of species;
- enable the legal addition of species assessed as at-risk under the new legislation;
- provide protection for species at risk and their habitat, including on Crown and private land;
- identify the actions required to recover species at risk;
- consider social, cultural, and economic values when deciding which recovery actions government will carry out;
- ensure the decisions that are made and actions that are taken under this legislation are transparent and accountable;
- have penalties for non-compliance with the prohibitions set out under the legislation; and
- be supported by a stewardship program that supports voluntary conservation, public education, and stewardship activities on the ground.



Painted Turtle - Endangered/Special Concern - Photo by Jared Hobbs

We are Seeking Your Participation:

During the early stages of developing the species-at-risk legislation, we'd like you to tell us:

- what you hope the species-at-risk legislation will achieve;
- what concerns you have about this legislation; and
- what challenges and solutions you see that could help us in developing the legislation.

We will use your feedback to start creating species-at-risk legislation and the next steps of the public engagement process.

For more information go to: <http://engage.gov.bc.ca/speciesatrisk>



Yellow-breasted chat – Endangered – Jared Hobbs

6/ Additional Information

6.1 What is a Species at Risk?

A species at risk is any plant or animal that is native to B.C. and is likely to become extinct, or is at risk of disappearing from the province.

The international community has established guidelines for determining if a species is “at risk”. B.C.’s Conservation Data Centre does this for species in the province by using the following categories:

- **Extinct** – a species that no longer exists
- **Extirpated** – a species that no longer exists in the wild in B.C. but exists elsewhere
- **Endangered** – a species facing imminent extirpation or extinction
- **Threatened** – a species that is likely to become endangered if nothing is done to reverse the factors leading to its extirpation or extinction
- **Special concern** – a species that may become threatened or endangered because of a combination of biological characteristics and identified threats
- **Data deficient** – a category that applies when the available information is insufficient to (a) determine a species’ eligibility for assessment or (b) permit an assessment of the species’ risk of extinction
- **Not at risk** – a species that has been evaluated and found to be not at risk of extinction given the current circumstances



Northern rubber boa – Special concern – Jared Hobbs

6.2 Federal *Species at Risk Act*

The federal *Species at Risk Act (SARA)* establishes a system for assessing, planning, protecting, and recovering species at risk on federal lands across Canada.

Under *SARA*, the status of a species is assessed according a number of criteria that are based on science and Indigenous traditional knowledge. Assessment is conducted by an independent, science-based committee (Committee on the Status of Endangered Wildlife in Canada [COSEWIC]) composed of scientific experts and Indigenous knowledge.

Once a species is assessed as endangered, threatened, or special concern, the federal Minister determines whether to list the species under *SARA*. For species that are legally listed as endangered, threatened, or special concern, the Act establishes a series of mandatory timelines for planning the recovery of the species and the protection of its habitat.



Golden Paintbrush - Endangered - Photo by Leah Ramsay

The federal *Species at Risk Act* provides protection for species at risk on federal lands, and sets minimum levels of protection for endangered and threatened species on all other lands, including provincial Crown land and private land. The B.C. government is expected to protect species and their residences (for example, nests and dens) for species that become listed under *SARA*, and to protect habitat once it is identified in a final recovery document. The federal government cannot legally regulate many of the activities that affect species at risk that occur on Crown or private land in B.C. However, if the provincial government does not effectively protect species at risk and their habitat, the federal government can use legal measures to limit activities that may threaten those species or habitats. To date, B.C.'s system of protecting species at risk has not met the necessary requirements under *SARA*. As a result, the province is under increasing pressure to do a better job of protecting species at risk.

For more information on the federal *Species at Risk Act*, go to <http://www.registrelep.gc.ca/default.asp?lang=En&n=24F7211B-1>



Oregon Forestsnail - Endangered - Photo by Jennifer Heron

6.3 Current actions to protect species at risk in B.C.

Most species-at-risk programs, across Canada and internationally, follow a similar approach. They generally assess the status of species to determine if they are endangered or threatened, establish a list of species that are legally considered to be at risk, plan recovery actions, apply protection and recovery measures, and report on the actions that have been taken.

The following section highlights the measures that are currently being used to protect and recover species at risk in B.C.



Pygmy Short Horned Lizard - Extirpated - Photo by Jared Hobbs

Assessment of species at risk in B.C.

In British Columbia, the Conservation Data Centre (CDC) has assessed the status of species since 1991. The CDC uses a system that was developed by the Nature Conservancy of the United States (now NatureServe). More than 75 provinces, states and countries use this system. Species and ecosystems are assigned both a global and provincial rank of 1 to 5, which corresponds to endangered, threatened, special concern, data deficient and not at risk. The CDC updates B.C.'s rankings every year.

For more information on the CDC, go to <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/conservation-data-centre>

Legal listing of species at risk in B.C.

In B.C., the legal listing of species at risk can occur through several statutes. These are described below.

Wildlife Act

Certain species of wildlife (specifically, vertebrates) can be designated as endangered or threatened under the *Wildlife Act*, however, plants, invertebrates and other organisms are excluded. Three species have been listed under the Designation and Exemption Regulation under the *Wildlife Act* as endangered (American white pelican, burrowing owl and Vancouver Island marmot) and one species (sea otter) has been listed as threatened.

Forest and Range Practices Act

Categories of species at risk can be established by order under the Government Actions Regulation (GAR) made under the *Forest and Range Practices Act (FRPA)* if the Minister of the Environment and Climate Change Strategy is satisfied that the species is endangered, threatened or vulnerable. This authority applies to forest and range activities covered by *FRPA*. There are currently 85 species and sub-species listed as species at risk under the GAR.

Oil and Gas Activities Act

Categories of species at risk can be identified by order under the Environmental Protection and Management Regulation by the Minister of the Environment and Climate Change Strategy. This authority applies to activities regulated by the *Oil and Gas Activities Act (OGAA)*.

Private Managed Forest Land Act

Species at risk can be listed in Schedule C to the Private Managed Forest Land Regulation. Currently there are 36 species listed in Schedule C. This listing authority ties into the Minister's ability to establish critical wildlife habitat on private managed forest lands.

Protecting species at risk and their habitat in B.C.

British Columbia does not have its own species-at-risk legislation. Instead, species at risk and their habitats are protected by other legal measures that regulate human-related activities. These measures include the *Wildlife Act*, *Forest and Range Practices Act*, *Oil and Gas Activities Act*, and *Land Act*. In general, these Acts:

- legally identify specific species as endangered or threatened;
- limit the hunting, taking, trapping, wounding, or killing of some species, such as vertebrate species (birds, fish, mammals, amphibians, and reptiles);
- designate areas that limit some human-related activities because a species at risk or its habitat occurs there; and
- allow government to create broad objectives for land use within a specific area; this may include the protection of habitat for species at risk.

Under this approach, species at risk are protected by decisions made within the sector-specific Acts. This approach may have been sufficient in the past, but it has created a patchwork of rules that do not effectively or consistently protect all species at risk or their habitats from all types of human-related impacts across all types of land use. Specifically, there is:

- a limited ability to provide legal protection to all types of species (for example, very limited protection for plants and invertebrates);
- a limited ability to provide protection for the habitat of endangered and threatened species; and
- an inconsistent approach to protecting species and their habitat across different land tenures and from impacts of all sectors.

Specifically, species at risk and their habitat can be protected through the tools outlined below.

Wildlife Act

Wildlife Act - Section 26(1)(a) makes it an offence to hunt, take, trap, wound or kill wildlife that is an endangered or threatened species, however this does not cover inadvertent harm that may occur from other activities. There are also prohibitions in *Wildlife Act* section 9 against disturbance or destruction of muskrat or beaver dams and in section 34 against injuring or destroying birds, eggs, nests, etc.

Under section 4(2) of the *Wildlife Act*, the Minister of the Environment and Climate Change Strategy can designate land under his or her administration

as a wildlife management area (WMA), and within such an area, can designate land as a critical wildlife area to support endangered or threatened species. No activity can be permitted within a WMA without written permission from the regional manager: section 4(4). Section 7(1) makes it an offence to alter, damage or destroy wildlife habitat in a WMA.

Forest and Range Practices Act

The Government Action Regulation- Section 9(1)(a) gives the Minister of the Environment and Climate Change Strategy the power to establish, by order, a general wildlife measure (GWM) for a specified area for a category of species at risk, if he or she is satisfied that the measure is necessary to protect or conserve the species and there is no other regulatory protection.

Under *FRPA* and its regulations, objectives with respect to wildlife habitat can be prescribed, which then must be addressed by forest professionals preparing forest stewardship plans (FSPs). Specifically, FSPs must specify the strategies or intended results with respect to specified objectives. Section 21(1) of *FRPA* requires FSP holders achieve the intended results and carry out the described strategies; contravention of this requirement is an offence under section 87(2) of *FRPA*. Objectives set by the government for wildlife include conserving sufficient wildlife habitat for the survival of species at risk (as listed under GAR) and the winter survival of specified ungulate species: section 7(1)(a) and (c) of the Forest Planning and Practices Regulation (FPPR).

Under the GAR, wildlife habitat areas (WHAs) can be established, if the area is necessary to meet the habitat requirements of a species at risk. Objectives for WHAs can also be established in section 10(2). Ungulate winter ranges (UWRs) can be established under section 12 of GAR if necessary to meet the winter habitat requirements of a specified ungulate species.

The authority of the Minister to establish WHAs or UWRs cannot “unduly reduce the supply of timber from British Columbia’s forests”: section 2(1)(b) GAR.

General wildlife measures can be established under GAR in relation to a WHA or UWR: those carrying out forest activities must comply with any such measures that apply to an area.

Oil and Gas Activities Act

No automatic protection from harming an individual species arises where a category of species has been established as endangered, threatened or vulnerable.

Under the *Oil and Gas Activities Act*, the Oil and Gas Commission is required to consider any environmental objectives established by government in deciding whether to issue, amend or extend a permit. Wildlife habitat areas can be established to meet the habitat requirements of a category of species at risk - the Commission must have regard to any established wildlife habitat areas as per the directive in Part 2, Division 1 of the EPMR in considering permits for activities under OGAA.

Environmental Assessment Act

Under the *Environmental Assessment Act*, habitat protection can be included as a condition of the environmental certificate issued for the project. Projects below the reviewable threshold are not subject to the Act.

Other statutes

Several other statutes enable the consideration of species at risk and their habitat when issuing authorizations. These include the *Parks Act*, *Water Sustainability Act*, *Environmental Management Act*, and the *Land Act*.



Recovery Planning and Implementation

Recovery planning involves identifying threats to a species at risk, and deciding which management actions will work best for that species. During the planning process, scientists provide the provincial government with expert advice on the species at risk. That advice is usually summarized in a recovery plan or a management plan.

During the planning process, an implementation plan may also be created. It outlines the management steps that the government will take when the recovery of a species at risk could have significant socio-economic effects. An example may be the protection of an area that provides habitat for a species at risk, but which in turn could restrict industrial development. There may be trade-offs, for social or economic purposes, between the amount of habitat protected and the amount of development that occurs. It is during this process that government tries to harmonize protection of species at risk with other land uses and the livelihood of communities, or even with other species.

Carrying out species recovery involves various actions, including:

- protecting habitat;
- managing species and their populations (for example, by using captive breeding or predator control);
- managing/mitigating human-related activities that directly affect species at risk (for example, closing access to important habitat, restricting hunting, or setting roadway speed limits);
- restoring habitat;
- promoting shared stewardship (including protecting species at risk on private lands); and
- promoting stakeholder relations, and consultation and education about species at risk.

Recovery actions may be carried out by a variety of government and non-governmental organizations, but this work is most effective when academia, industry, landowners, and land managers join the effort to help species at risk.

Enforcement

British Columbia's Conservation Officers enforce a number of provincial laws that help protect species at risk. In addition, federal wildlife and fisheries officers enforce laws that help protect species at risk that are under federal jurisdiction (for example, species that are protected under the *Species at Risk Act*, *Migratory Birds Convention Act*, and *Fisheries Act*).

For more information on how we address species at risk in B.C., please visit:

<https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/species-ecosystems-at-risk>



Short-eared owl - Special Concern - Jared Hobbs

PROTECTING SPECIES AT RISK

Mailing Address:

PO Box 9338 Stn Prov Govt, Victoria BC V8W 9M1.

Email:

Species.At.Risk.BC@gov.bc.ca

To participate in the discussion, please visit:

engage.gov.bc.ca/speciesatrisk

Cover Image: Vancouver Island marmot – Endangered – Jared Hobbs

