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Re: Mackenzie Valley Highway Project – Clarification of ECCC mandate and expertise on SARA and boreal caribou; GNWT as legislated and local day-to-day manager and expertise on boreal caribou; consideration of access to advice on boreal caribou for all parties

Environment and Climate Change Canada (ECCC) is currently engaged as a party in the Mackenzie Valley Highway Project ([MVEIRB EA1213-02](#)) environmental assessment (EA). A letter from the Canadian Northern Economic Development Agency's Northern Project Management Office (NPMO) to the Mackenzie Valley Environmental Impact Review Board (the Review Board) on December 13, 2023 ([MVEIRB Public Registry #147](#)) briefly highlighted the roles of federal departments in the EA going forward. ECCC wishes to further clarify its role in administering the federal *Species at Risk Act* (SARA) in regard to federally listed Species at Risk (SAR) and expertise related to boreal caribou.

The Government of Northwest Territories (GNWT) is best placed to comment on potential project impacts to those species for which they have the legislated day-to-day management responsibility, which includes boreal caribou, and expert GNWT departments, like Environment and Climate Change (GNWT-ECC), act as independent critical reviewers during the EA process. However, ECCC understands that for the Mackenzie Valley Highway Project, the GNWT is taking a 'Whole-Of-Government' approach ([MVEIRB Public Registry #135](#)), which means that GNWT-ECC is contributing to the EA process on behalf of the developer rather than an independent expert body. The Review Board indicated to ECCC in its updated SARA Section 79 notification letter that a thorough independent expert analysis for species at risk, such as boreal caribou, was a concern given the GNWT approach, and that it may seek greater level of input from ECCC ([MVEIRB Public Registry #192](#)).

Given the legislated responsibilities, ECCC has limited local expertise on boreal caribou. ECCC may provide expertise on boreal caribou as part of an EA of a proposed project in the following circumstances:

- *if the project is on federal lands.* For example, where projects occur on federal land parcels within the critical habitat range of the boreal caribou in the Northwest Territories.
- *if ECCC has specialized expertise that is requested by the species manager or the Review Board.* For example, ECCC has expertise on the national recovery strategy interpretation, critical habitat, and other aspects of the federal SARA and its implementation.
- *if ECCC has formal management responsibilities for the impacted species, subspecies or population.* An example (outside the scope of the Mackenzie Valley Highway Project) is the treaty with the United States that provides the Government of Canada with an official international role in managing the Porcupine Caribou herd.

Under the above-noted circumstances, ECCC's advice on adverse effects for federally-listed SAR, as a general approach, is guided by information found in national recovery documents, most notably the population and distribution objectives, and is consistent with SARA's protection outcome that no individual or residence be harmed, or portion of critical habitat be destroyed, except under the conditions (discretion) allowed under SARA itself. Thus, a key foundation of ECCC's advice is that:

- all reasonable alternatives that would reduce the impact on the listed species have been considered and that the best solution has been adopted;
- all feasible measures will be taken to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals; and
- the activity "will not jeopardize survival or recovery" of a species.

ECCC recognizes that the critical review of predicted impacts of the Mackenzie Valley Highway Project on boreal caribou needs the appropriate experts. Given the concerns raised by the Review Board related to independent expert analysis for boreal caribou, ECCC will be reviewing and providing expertise on the boreal caribou information as it relates to the national recovery strategy. Given the unique situation of this proposed project, and the limited access to caribou related advice, the Review Board also may want to consider acquiring further independent expertise on boreal caribou in the Northwest Territories for all parties, particularly for specific local expertise and concerns.

I trust our comments are helpful in clarifying ECCC's role on species at risk, and boreal caribou management in particular.

Regards,

[original signed by]

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