



Environment and
Climate Change Canada

Environnement et
Changement climatique Canada

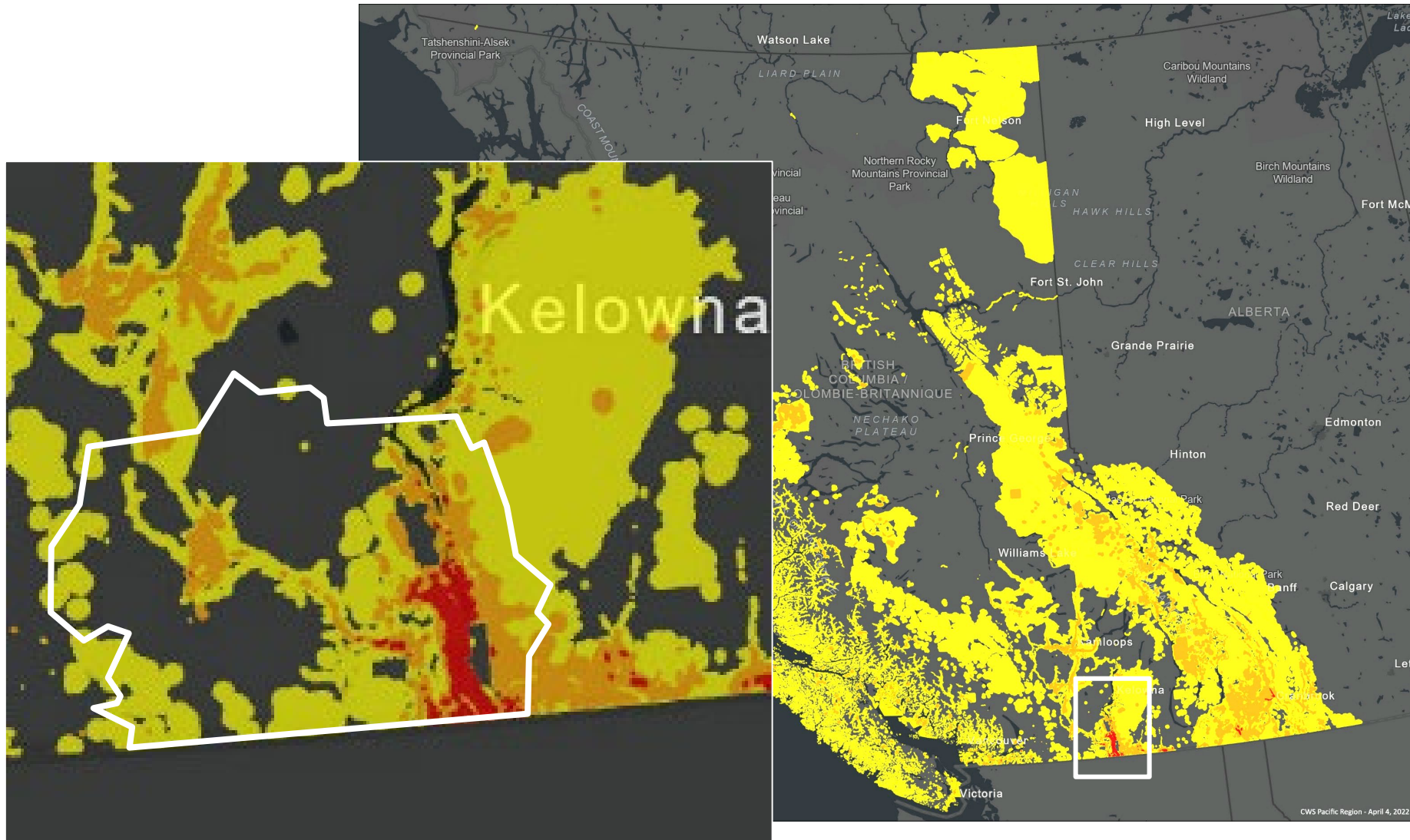
RDOS Proposed ESDP Amendments

July 6, 2023

Canadian Wildlife Service
Pacific Region



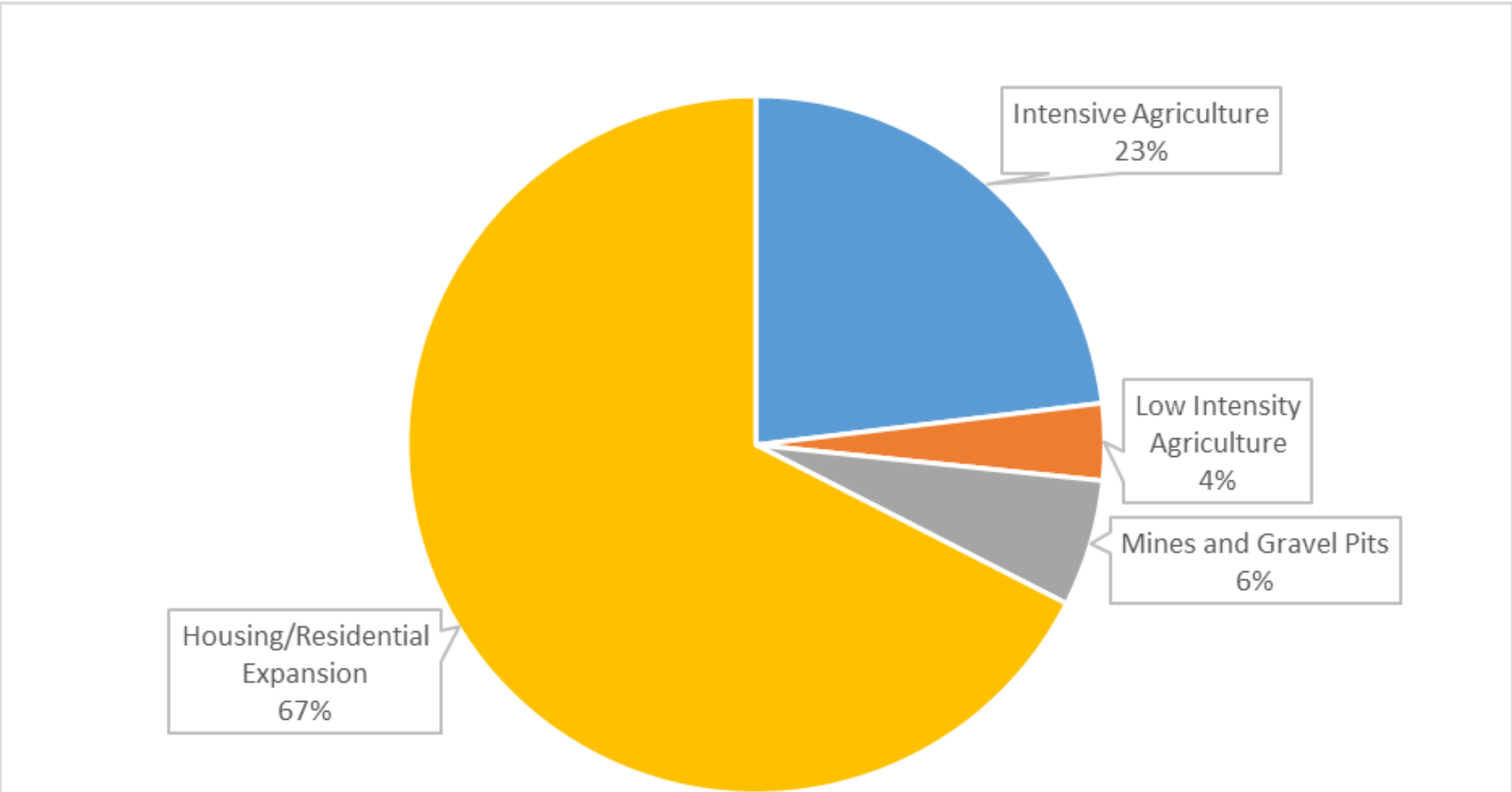
Why is CWS interested in RDOS?



Overlapping
critical habitat for
Species at Risk
in British
Columbia

Conversion of Natural Habitats/CH

1041 Hectares lost (2004/5 – 2021)



CWS Investments to RDOS 2008-2021

- Since 2008, **\$784,000** to Regional District of Okanagan Similkameen for the South Okanagan Similkameen Conservation Program (SOSCP).
 - Half of that, **\$440,895** supported the ESDP process:
 - Mapping: Sensitive Ecosystems and Species at Risk critical habitat
 - Implementation: Shared Environmental Planner & RDOS staff (2017)
 - Audit & Evaluation (2018)
-

2018 ESDP Audit Recommendations

- Create better guidance for rate payers why ESDP exists, when a permit is necessary, and what are development impacts on natural environments
 - Create better guidance for QP environmental consultants like decision-support tools, checklists, performance measurement criteria
 - Pre-screening, monitoring and evaluation of compliance (requires more internal resources and expertise)
-

2019-2020 RDOS Internally

- RDOS staff concerned the 2017 ESDP amendments are not meaningfully addressing the objective to help protect the environment, and are a regulatory burden on rate payers and RDOS
 - RDOS Director brought forward motion to amend ESDPs (bylaw 2912) to:
 1. Only be triggered by subdivision and rezoning, and
 2. Staff should report upon options to increase effectiveness, and
 3. In no way should these prevent or discourage fire-smarting properties
-

2021 CWS Feedback on Amendments

Support RDOS retaining subdivisions & rezoning as a trigger for ESDP, and advised:

- Retain (not eliminate) triggers for alteration of land or construction of buildings.
 - Change wording to existing triggers to be more specific about grading of **soil** (not gravel), removal of **native** vegetation (not any vegetation), and construction that **increases footprint of development by disturbing soil and native vegetation**, to avoid unnecessary permits and costs to RDOS rate-payers.
 - Add exceptions if a person is carrying out **an activity necessary for protection of public safety or health** to avoid unnecessary permits and costs to RDOS rate-payers.
-

2021 CWS Feedback on Amendments

Advise implementing the 2018 ESDP audit recommendations.

- Improved guidance for rate payers
- Improved guidance for consultants doing reviews
- Carrying out regular monitoring and enforcement
- Participating in evaluation and updates to the process with Provincial and Federal partners

Offer of funding (50% cost-shared) for an RDOS Environmental Planner on-staff, and costs associated with implementing advice.

2022 CWS & Province met RDOS

Requested **deferring bylaw amendments for 1 year** to undertake an **effectiveness audit**. Questions included:

1. Are ESDPs effective at mitigating impacts of development on sensitive areas?
 2. Is the ESDP process having measurable benefits to natural environment?
 3. Is the ESDP process reasonable from a cost/benefit perspective?
 4. Where are ESDPs helpful, and where are they ineffective?
 5. Are there alternative tools that can be effective?
-

2023 Effectiveness Audit Methods

Contract terms developed by RDOS/Province/CWS, Stantec hired by CWS to do the analysis, permit data provided by RDOS planning staff.

RDOS provided 236 permits 2017-2022, Stantec reviewed 131 in detail

Sent surveys to 50 landowners (5 responded) and 30 QP consultants (11 responded)

Reviewed other existing ESDPs used among Local Governments in BC

Developed suggestions in relation to the 5 questions posed

2023 Effectiveness Audit results

1. Are ESDPs effective at mitigating impacts of development on sensitive areas?

Answer: unknown due to lack of monitoring and guidance

- Post development/construction monitoring of permits was absent or lacking
 - QPs make non-binding, unenforceable recommendations (contracted to produce reports for landowners, but not to answer feedback by RDOS)
 - QPs indicated a lack of clarity when to use REA vs. EIA
-

2023 Effectiveness Audit results

2 & 3. Is the ESDP process having measurable benefits to natural environment, and is it reasonable cost/benefit?

Answer: unknown due to lack of monitoring, enforcement (& case law)

- Most (69%) were deemed necessary, based on presence of sensitive habitat features.
 - Most permits had recommendations made by QEPs specifically indicating areas within the property of high environmental value that should be conserved... ***(but were they?)***
 - Approximately 1/3rd (31%) of the 131 permits evaluated appeared unnecessary
-

2023 Effectiveness Audit results

4. Where are ESDPs helpful, and where are they ineffective?

Answer: *Most helpful at zoning and subdivision, but still helpful with development permits on individual lots zoned for development (noting legal constraints...)*

- OCP zoning, and subdivision remains the most effective point in time to apply restrictions; ESDPs are, however, useful tools in guiding development in areas where sensitive environmental features are present.
 - Authority of Local Government to monitor and enforce permit conditions is uncertain (UBCM and Province disagree, few tests or case law)
 - Local governments across BC rely on and vary in political support and staff expertise for effective monitoring and enforcement. RDCO and RDNO have monitored, enforced, and issued fines under these permits.
-

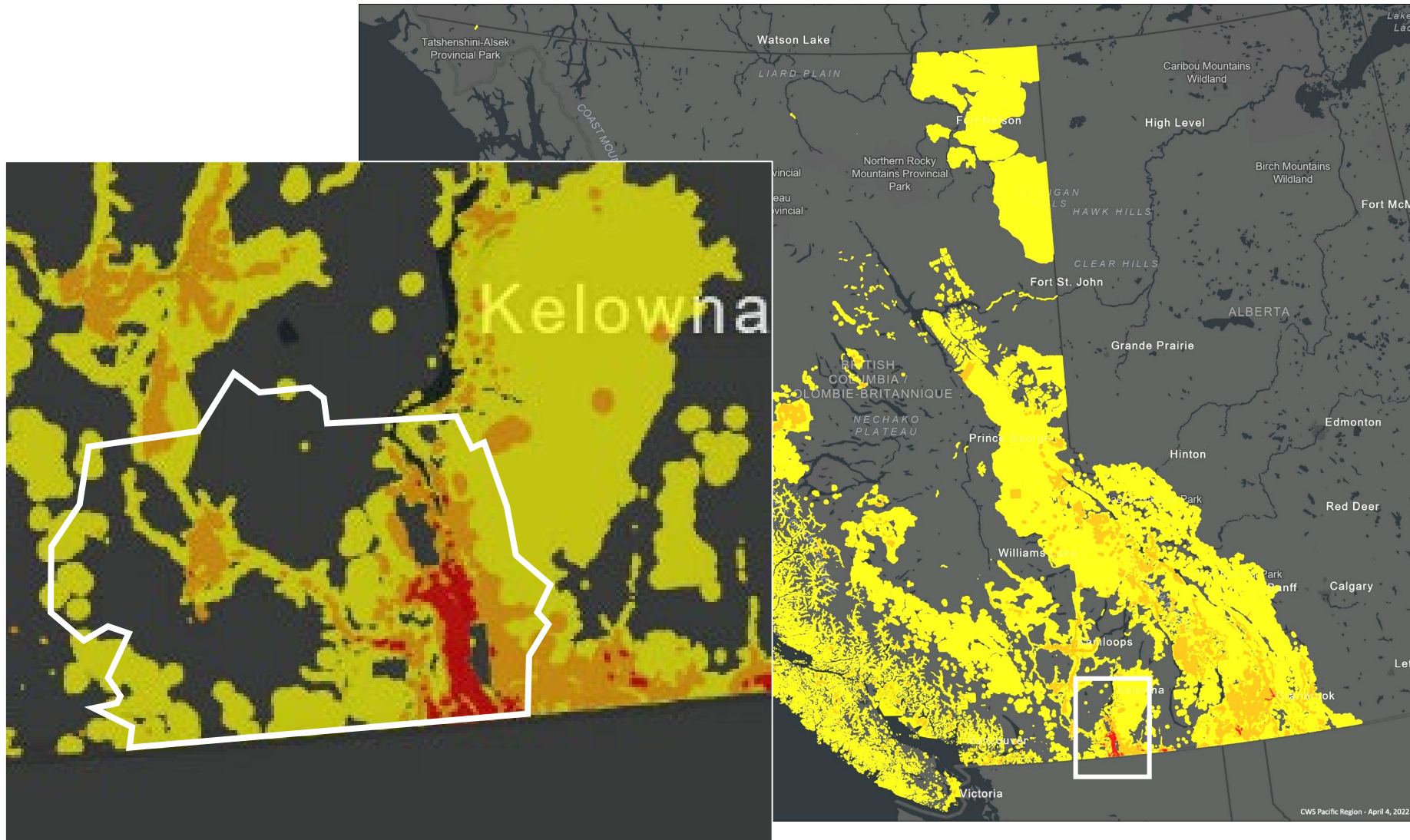
2023 Effectiveness Audit results

5. Are there alternative tools that can be effective?

Answer: Amend bylaws, hire environmental planner, update maps, etc.

- Exemptions should be included in bylaws to prevent unnecessary ESDPs.
 - Hire P.Biol. to provide pre-screening, undertake updated mapping, provide public education and outreach, and prevent unnecessary ESDPs
 - Hire P.Biol. to undertake bylaw enforcement and monitoring, similar to building inspectors, including advising QPs with better guidance.
 - Update and incorporate more detailed mapping of ESDPAs into official community plans to protect wildlife connectivity corridors and long-term development plans to avoid piece-meal conflicts one permit application at a time.
-

Why is CWS interested in RDOS?



Overlapping critical habitat for Species at Risk in British Columbia

National Accord for Species at Risk

- Federal-Provincial agreement (1998) prior to *Species at Risk Act* (2002)
 - Called for Stewardship first (voluntary action, recognition & financial support)
 - Local and Provincial governments apply their own tools in their jurisdictions
 - Federal government to focus on federal jurisdictions first
 - Federal safety-net provision for emergency protection
-

Emergency Orders (SARA s.80)

An emergency order is a regulatory tool that allows the federal government to prohibit activities that pose an imminent threat to a species and its habitat.

To date, imminent threat assessments have been initiated by members of the public providing information that suggests the possibility of an imminent threat and requesting the Minister recommend an Emergency Order.

CWS then gathers additional information and provides it to the Minister, who forms an opinion on whether the species faces imminent threats to its survival or recovery. If yes, the Minister **must** make a recommendation for an emergency order. The Governor in Council has the discretion to make the order or not.

When emergency orders are in place, specified activities in the area identified within the area specified in the order are prohibited without a permit. Emergency orders may be applied to private, municipal, provincial, and federal lands.

A key question when assessing imminent threats is whether immediate federal intervention is required beyond existing measures (e.g. bylaws).

Emergency Orders (SARA s.80)

NATIONAL OBSERVER

Tiny frog blocks 171 homes. Quebec environment minister is furious

By Mike De Souza | News | June 22nd 2016

#350 of 1981 articles from the Special Report: Reports from the Race to a Safer World

Donate

Montreal

Federal environment minister recommends emergency order to protect endangered frogs in Longueuil

The frog has been listed as an endangered species since 2010

CBC News · Posted: Nov 08, 2021 8:57 AM ET | Last Updated: November 8, 2021



The western chorus frog is considered endangered in the St. Lawrence.

VANCOUVER SUN

Environmentalists petition Ottawa to protect mountain caribou from extinction

Keith Fraser
Dec 14, 2017 · December 14, 2017 · 2 minute read · Join the conversation

ecojustice

Fighting for emergency protections for the greater sage-grouse

ALBERTA

Share this

March 3, 2014

Photo: Bureau of Land Management California via Flickr

OVERVIEW POSITION AND IMPACT THE TEAM KEY DEVELOPMENTS GET INVOLVED

Decline of Greater sage-grouse populations in Canada demanded federal emergency order.

British Columbia

Feds urged to step in to stop B.C. logging in refuge of last breeding pair of spotted owls

'It knows this is the last breeding pair and yet it continues to authorize logging,' says Ecojustice lawyer

Yvette Brend · CBC News · Posted: Oct 14, 2020 1:54 PM PT | Last Updated: October 14, 2020

The Government of Canada says spotted owls in Canada are "highly vulnerable to extinction." (Jared Hobbs/Ecojustice)

inhabits the Selkirk Mountains of only cross-boundary range for the media Wire

You are not alone

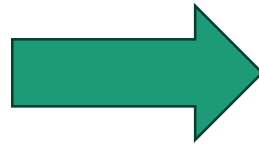
In the past 10 years since 2014, CWS invested ~**\$11.5 Million** with partners in RDOS boundaries for conservation and protection work:

- National Research Council DRAO
- Government of British Columbia
- Lower Similkameen Indian Band
- Nature Conservancy of Canada
- Nk'Mip Desert Cultural Center
- En'owkin Center
- Okanagan Nation Alliance
- Okanagan-Similkameen Stewardship Society
- Okanagan-Similkameen Conservation Alliance
- Osoyoos Desert Society
- Osoyoos Indian Band
- Regional District of Okanagan Similkameen
- Skuqualt Forestry Limited Partnership
- Southern Interior Land Trust Society
- The Nature Trust of British Columbia
- Upper Similkameen Indian Band

We support Stewardship first, and local and Provincial governments to use their own tools first.

Why is ESDP still important after subdivision?

Protect Green
Infrastructure



Flood and Drought
mitigation

Context:

All major jurisdictions in Okanagan Valley have
ESDP at building stage

Regional District of Central
Okanagan

Regional District of North
Okanagan

Oliver

Osoyoos

Penticton

Summerland

West Kelowna

Kelowna

Recommendation:

Accept Stantec report with the following:

1. Reduce unnecessary ESDPs
 - a) Exemptions
 - b) Pre-screen applications

2. Talk to other RDs
 - a) Successes and challenges
 - b) Monitoring and enforcement – ticketing for DP non-compliance

3. Address capacity
 - a) ECCC + SOSCP

Offering Collaborative Support

- ECCC is offering funding for staff person
- SOSCP is back and offering staff time – meeting with Chris next week
- RDCO and Kelowna – Standardizing ESAs for OK Valley, resource for planners
- Other RDs are keen to share their processes with RDOS
 - Prescreening
 - Ticketing for contraventions of ESDP