

Valhalla Wilderness Society

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October 9, 2007

Mark Zacharias
Species at Risk Coordination Office
Integrated Land Management Agency
PO Box 9353 Stn Prov Govt
Victoria, BC V8W 9M1

Dear Mark Zacharias:

This letter is to confirm a telephone conversation between you and VWS director Craig Pettitt on October 5, in which you stated that SARCO's plan for the recovery of the mountain caribou was sent to Cabinet approximately one month ago. According to Pettitt, you said that it is a "Cabinet-secure" document; however, on the other hand, you said it is still open to discussion. When Craig requested a copy, you stated that he would have to meet next week with you and SARCO representative Pat Field, and sign a contract to keep the plan confidential.

As far as VWS has been able to determine, the "discussions" appear to be secret negotiations going on between parties having access to the document; that is, the "discussions" are aimed at achieving agreements behind closed doors. So far as VWS is aware, this was never mentioned in the procedures of the process as outlined by SARCO. We have contacted a number of environmental organizations that say they were not aware of any of this.

On the other hand, it is our understanding that SARCO has designated Candace Batycki of ForestEthics and John Bergenski of Wildsight as environmental representatives with which it will communicate. According to our information, the representatives of various environmental groups hold telephone conferences in which they give their input to Batycki and Bergenski, who passes it on to SARCO; SARCO takes their requests to other sectors, ie, the timber industry and snowmobiling clubs, then comes back to Candace and John, telling them what these sectors will or will not agree with. It appears that the environmental groups adjust their positions accordingly. Would you please confirm whether this is the ongoing process for these "discussions"?

Valhalla Wilderness Society's Interest in the Mountain Caribou Recovery Process

This development comes at the end of approximately four years of public process on a recovery strategy. During that time, the Valhalla Wilderness Society was a major contributor to the process. VWS director Craig Pettitt sat at the North Kootenay Recovery Implementation Group (NKRIG) table for 2 years. Several VWS directors attended conferences with government scientists and made several presentations to the Species at Risk Coordination Office (SARCO) and also traveled to Ottawa to make a presentation to the federal committee on Species at Risk (SARAC). VWS hosted a meeting between your representative, Pat Field, and 26 environmental activists and organizations. It commissioned maps that were provided to the BC government at

the suggestion of your representative, Pat Field. VWS studied many scientific reports, and made numerous detailed written submissions to SARCO. VWS networked with other organizations on a Joint Submission signed by 19 environmental groups. VWS biologists Wayne McCrory and Erica Mallam were signatories to a petition signed by over 50 biologists, calling for an end to logging old-growth caribou forest.

The Valhalla Wilderness Society has particularly brought attention to the cause of the Central Selkirk Mountain Caribou subpopulation. VWS has a park proposal to protect this herd, and the Western Canada Wilderness Committee and Purcell Alliance for Wilderness also have them. Would you please inform us who is negotiating on behalf of this area?

Basis of the complaint

Our information indicates that at least some of the participating environmental groups are willing and supportive of the talks. However, the requirement to sign the confidentiality agreement and keep the negotiations secret indirectly selects for people who will support such an approach. They have to be willing to keep the information secret, no matter how much bad news it contains for the mountain caribou.

Selectivity was also exercised *directly* by SARCO. VWS and some other groups were never told about the availability of the plan and given a choice whether to sign it or not. Generally in cases like this, government agencies say it is up to the environmental groups to inform each other; but that can hardly be said when the government has clamped a confidentiality agreement on the participants. VWS objects to these practices for the following reasons:

1. The claim that the plan is a “Cabinet-secure” document is in direct contradiction to your assertion that the plan is still “open to discussion” and has been released to various members of the public. The appearance created by this contradiction is that the document has been labeled “Cabinet-secure” for using a confidentiality agreement as a tool to exclude those groups or activists that are most outspoken to the public.
2. Decisions related to the recovery of an endangered species should be based upon science, not interest-based negotiations. Negotiations result in agreements based upon how much human stakeholders can outsmart, bluff or coerce each other to get what they want. This process reduces all the public input into the process, including thousands of letters by BC citizens, to the least common denominator between the logging companies, winter recreationists and environmental groups. The resulting government decisions are political decisions such as those made during the CORE processes, which is why the mountain caribou is endangered in the first place. The main party at interest here is the mountain caribou. The taxpayers of the province and the nation have paid for four years of scientific panel deliberations to determine what the mountain caribou need for their survival. But this is all squandered if, in the end, the final decision is one of political trade-offs.
3. Discrimination in access to information and public process. Why is it that some environmental groups participating in mountain caribou affairs haven’t even been told that the plan is available by signing a confidentiality agreement?

4. Ongoing participants must trade in their freedom of speech and agree to withhold information generated by a public process from the media, their members and their colleagues. This is particularly inappropriate for non-governmental organizations that have public membership and take in public donations. They are not allowed to alert their members or the public to aspects of the plan that are adverse to the survival for the mountain caribou.
5. VWS has not yet consulted a lawyer, but a quick reading of the *Access to Information Act* raises the possibility that SARCO may be in violation.
6. Although VWS objects to settling mountain caribou matters by interest-based negotiation, if such negotiations are going to occur, they should be carried out in a principled manner. In BC, standards for public process and interest-based negotiations have been established by two distinguished forestry commissioners appointed by the BC government. We refer you to the final report of the Forest Resources Commission (FRC), “The Future of our Forests,” by Commissioner Sandy Peel; and “A Sustainability Act for BC” by the Commissioner on Resources and Environment, Stephen Owen.

The Forest Resources Commission stated:

“High quality stewardship is possible only if it is kept arms length from the influence of short term economic or political aspirations ... (The public) must be able to see for themselves through an open process, that their participation is having an impact.”

The Commission on Resources & Environment stated:

“Increased public participation is not merely a privilege granted at the pleasure of government responding to temporary circumstances; it is a fundamental right that in the past has received inadequate recognition. The right of public participation is rooted in the common law duty of fairness, which ensures to those affected by administrative decisions the right to be heard and the absence of bias on the part of the decision-maker. In the making of land use and resource management decisions, fairness demands that all those whose interests stand to be directly or indirectly affected by a decision have an opportunity for meaningful participation, to ensure that their interests are known and properly considered by the decision-maker.” — “Public Participation Guidebook”

6. SARCO’s dictum that it will communicate with only one person and alternate from the environmental community ignores diversity within the environmental community. While the CORE processes did require sectors to be represented by one negotiating representative and one alternate, CORE also recognized the need to include several environmental sectors, so that organizations had a choice of how and by whom they would be represented.

On July 27, 2006, Pat Field attended a meeting in New Denver at which he explained to 26 participants that SARCO was communicating to the environmental community through Batycki and Bergenski. Most of the participants had never previously heard this, had never had communications from SARCO through these people, and vigorously objected to this approach. A number of environmental groups greatly object to ForestEthics’ practices. People who have participated for nearly four years in the process, who cannot conscientiously sign a confidentiality agreement or do not want Batycki and Bergenski to represent them, have been totally disenfranchised from the process.

SARCO will be well aware that VWS does not wish to engage in trade-offs with logging companies and the snowmobile clubs on the survival of an endangered species. However, VWS is entitled to assurance that negotiations of public affairs are being conducted in a fair, balanced, impartial and open manner. All members of the public ought to know that such negotiations are taking place.

The issues at stake are incredibly important to our forests and wildlife. The last time we saw a draft of SARCO's strategy, it had very little habitat protection and relied heavily upon killing predators and predator prey. New forest to be protected was overwhelmingly high elevation, with very little attention to low- and mid-elevation Interior Cedar Hemlock needed by the caribou. And in areas such as the Central Selkirks, the new protection was actually expansion of old guidelines that were nothing but a tangle of razzle-dazzle in which most of the habitat could be logged and no member of the public would ever know whether or where the real protection was supposed to be.

Since then, over 50 scientists have signed a petition stating that its earlier draft was inadequate, and calling for an end to logging old-growth caribou forest and the establishment of new protected areas and conservation zones. A similar position was submitted to SARCO signed by 18 environmental groups. How many of these people have been informed on this final stage of the process?

VWS requests immediate release of the plan and details of the negotiations so that all environmental groups can have equal access to information and equal empowerment in the process. We would like to know the terms of reference of these negotiations and the list of participants. Work on the principles of interest-based negotiations by the Commission on Resources & Environment in 2004 stated that this should be public information for all such negotiations.

If VWS has misconstrued any elements, we look forward to hearing the actual facts. We would like to remind you that full public disclosure of documents and events related to public affairs plays a critical role in protecting all parties involved, including the government. These principles began to be identified by the two forestry commissions as the result of massive public distrust of the government caused by decades of backroom deals with the timber industry.

Equal access to information also ensures that public discussion of issues will be based in verifiable facts. Unfortunately, the Valhalla Wilderness Society has not had the benefit of these considerations, thus the information we report here is only partial; but it comes from excellent sources, especially the above-mentioned conversation between yourself and VWS director Craig Pettitt.

Sincerely,
Anne Sherrod
Chair
Valhalla Wilderness Society