

# ***SARA: The Species at Risk Act and Aboriginal Involvement***

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## **Newsletter # 2**

# **Finding the Balance and Maximizing Benefits for Aboriginal Peoples**

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The effect that the Species at Risk Act (SARA) will have on Aboriginal peoples will vary depending on where a community is located, the types of activities in which community members are engaged, the species and habitat that is being protected, and the measures that are put in place to protect and recover the species. In this second newsletter, we examine the potential ways in which SARA may benefit or adversely affect Aboriginal peoples, and the means through which any adverse effects can be minimized.

### **Potential Benefits of SARA**

Due to its protective role of species and habitat, the SARA presents a number of potential benefits to Aboriginal peoples that rely upon plants and animals for food and medicine. For example, the government has the power to alter the activities of non-Aboriginal groups whose activities (e.g. forestry, mining, commercial fishing, industrial development, etc.) may adversely impact Aboriginal peoples. By limiting involvement of outside groups, species that are used by Aboriginal peoples for food, social, ceremonial, and commercial purposes are more likely to be around in the future. Although short-term access to these species by

Aboriginal peoples may also be restricted, the ultimate aim of the Act is to preserve the species for the long-term, thereby providing a positive effect on the health



**Hairy Prairie Clover**

and culture of Aboriginal peoples who use the species.

### **Potential Adverse Effects**

Despite these benefits, concerns have been raised that SARA may change Aboriginal peoples' access to resource areas, restrict the type of species that can be harvested, and alter their methods for doing so. Although restrictions may only be for the short-term, this could affect activities such as hunting, gathering, and fishing. Species protection could also result in changes to economic land-use practices (e.g. agriculture,

forestry, mining, or commercial fishing) on reserve lands and restriction of development in areas considered to be critical habitat for a species at risk.

### **Decreasing Adverse Effects**

The Government of Canada can decrease potential adverse effects of SARA on Aboriginal peoples through: (1) Applying provisions within the Act; (2) Making a decision not to list a species under SARA; and, (3) Involving Aboriginal peoples meaningfully throughout the entire SARA process.

There are numerous provisions within the SARA legislation for decreasing potential adverse effects on the rights of Aboriginal peoples. For example, SARA states that it should not be interpreted so as to abrogate or derogate from existing Aboriginal and treaty rights. Under this provision, SARA impacts must be minimized or they may be considered unconstitutional.

SARA also allows for exemptions to be applied if impacts are minimized and the survival or recovery of the species is not jeopardized. In B.C. in 2006, exemptions were offered for white sturgeon that is currently harvested as by-catch in aboriginal salmon food, social, and ceremonial fisheries, and a recreational walleye fishery.

Provisions have also been included that relate directly to the use of species at risk by Aboriginal peoples. For example, exemptions to SARA prohibitions can be applied in situations where the species (or any of its parts) was in a person's possession at the time of listing or if the species (or any of its parts) is being used by an Aboriginal person for ceremonial or cultural purposes, or for dress.

There is also provision under SARA for 'fair and reasonable' compensation for losses suffered as a result of 'extraordinary impacts' related to critical habitat prohibitions. At the present time, these regulations are in the development phase so it is uncertain how compensation will ultimately be applied.

The Government of Canada can also decide not to list a species based on information in the COSEWIC assessment and/or feedback from public consultations. In 2005, the Government of Canada decided not to list the Cultus and Sakinaw Lake populations of Pacific sockeye salmon under SARA due to the significant socio-economic impacts on Aboriginal and non-Aboriginal sockeye fishers and coastal communities in British Columbia's Fraser Valley.

Adverse effects may also be decreased through meaningfully involving Aboriginal peoples at each stage of the SARA process. Some ways of involving Aboriginal peoples in SARA have included establishing the National Aboriginal Council on Species at Risk and the Aboriginal Traditional Knowledge subcommittee of COSEWIC, engaging Aboriginal peoples in consultations during the listing and recovery of species at risk, and engaging Aboriginal peoples in species and habitat stewardship activities on their reserve lands.



**Newsletter #3 provides more details about NACOSAR.**

**Newsletter #4 provides more details on the ATK Subcommittee.**

**Newsletter #5 provides more details about Aboriginal involvement in the consultation process.**

**Newsletter #6 provides more details about species at risk stewardship opportunities for Aboriginal peoples.**

### **A Fine Balance**

In the end, there will be a fine balance between protecting species at risk and their habitat for the future, and ensuring that the rights and activities of Aboriginal peoples are minimally impacted. This is important since the ultimate goal of SARA and of many Aboriginal peoples is similar: to ensure that plant and animal species are around for future generations. To this end, Aboriginal peoples should ensure that they are meaningfully involved throughout the SARA process so that they can use this legislation as a tool to achieve their own goals for protection of wildlife on their territories.

### **Next Steps**

If you would like to find out more about SARA, potential benefits and adverse impacts on Aboriginal peoples and their rights, and how to get involved in the process through consultation and stewardship activities, read related newsletters from this six-part series.

You can access information in the '**Species at Risk Information Package**' on the CIER website ([www.cier.ca](http://www.cier.ca)), and on the following government of Canada websites:

- (1) [www.sararegistry.gc.ca](http://www.sararegistry.gc.ca) (provides information on the SARA and related legal documents, including the List of Wildlife Species at Risk, permit applications, recovery strategies, action plans, regulations, orders and notices for public consultations);
- (2) [www.speciesatrisk.gc.ca](http://www.speciesatrisk.gc.ca) (provides information on the biology of species at risk in Canada, their distribution, habitat requirements and threats);
- (3) [www.aquaticspeciesatrisk.gc.ca](http://www.aquaticspeciesatrisk.gc.ca) (provides information on aquatic species at risk in Canada, including fish, reptiles, marine mammals and molluscs); and
- (4) [www.pc.gc.ca/nature/eep-sar/index\\_e.asp](http://www.pc.gc.ca/nature/eep-sar/index_e.asp) (provides information on Parks Canada's role in the recovery of species at risk

### **Additional information can be obtained from:**

Environment Canada Inquiry Centre  
351 St. Joseph Boulevard  
Gatineau, Quebec K1A 0H3  
Tel: (819) 997-2800  
Tel: (800) 668-6767  
E-mail: [enviroinfo@ec.gc.ca](mailto:enviroinfo@ec.gc.ca)

Fisheries and Oceans Canada  
Communications Branch  
200 Kent Street  
13th Floor, Station 13228  
Ottawa, Ontario K1A 0E6  
Tel: (613) 993-0999  
E-mail: [info@dfo-mpo.gc.ca](mailto:info@dfo-mpo.gc.ca)

Parks Canada  
National Office  
25 Eddy Street  
Gatineau, Quebec K1A 0M5  
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