Comment on the Proposed Policy on Agreements and Permits: Sections 73 and 74 of the Species at Risk Act

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The Canadian government's proposed permitting policy, as advanced through the Building Canada Strong Act (Bill C-39) and the broader Building Canada Act framework, signals a profound shift in the nation's approach to the protection of endangered wildlife. From a scientific and conservation perspective, these changes appear to erode the core safeguards embedded within the Species at Risk Act (SARA) and risk establishing a precedent in which economic imperatives outweigh the fundamental requirements of species recovery.

Central to this concern is the introduction of a "significance test" in place of SARA's longstanding strict "no jeopardy" standard. Under the current legislative framework, permits for industrial activities can only be issued when it is clear they will not jeopardize the survival or recovery of a listed species. This standard functions as a critical environmental backstop, ensuring that industrial development cannot proceed at the expense of a species' future. The draft policy, by contrast, reinterprets this threshold to allow regulators to evaluate whether harm reaches a subjective level of significance. This pivot from an absolute prohibition toward a discretionary evaluation creates a legal grey

zone, effectively authorizing incremental harm to already fragile populations – a practice well-documented in ecological literature as leading to population collapse over time.

Equally troubling is the policy's explicit exclusion of cumulative effects from jeopardy determinations. Wildlife populations rarely face singular, isolated threats. Instead, species are subject to what ecologists describe as "compounded stressors" – successive habitat fragmentation, industrial expansion, and climate-related pressures, which together operate as a slow but steady trajectory toward decline. By assessing each project in isolation, the revised permitting approach risks rubber-stamping developments that may appear individually minor, yet collectively push a population past its tipping point. This is antithetical to best practices in conservation science, which consistently emphasize the importance of regional and cumulative impact assessments.

The ambiguity surrounding biodiversity offsets in the draft policy compounds these concerns. While offsetting is occasionally employed in conservation planning, it is widely recognized that certain habitats – such as critical breeding grounds or old-growth ecosystems – are functionally irreplaceable. By failing to establish clear statutory criteria for when and how offsets may be applied, the proposed framework risks enabling ad-hoc, developer-driven offsetting schemes. In practice, this could become a "pay-to-harm" mechanism, allowing the destruction of irreplaceable habitats under the guise of compensation, undermining the very intent of SARA.

These policy shifts would compound the changes proposed in Bill C-39. The government's explicit goal of delivering a "one approval, one year" process for major economic projects accelerates industrial approvals while embedding economic feasibility as a central consideration in species-at-risk permitting. By requiring permit conditions to be "technically, economically, and practically feasible," the proposed regime effectively subordinates the biological requirements of species recovery to commercial priorities. Further, Bill C-39's mechanism for pre-approving large geographic zones for development circumvents the traditional front-end environmental review process. The draft policy should not be finalized on the assumption that it simply aligns with these amendments. Even if Bill C-39 is enacted as proposed, the policy would go further than the amended legislation by reading a significance test into the jeopardy standard, excluding cumulative effects from the jeopardy analysis, and leaving the role of offsets undefined. The result

would be an interpretation of SARA that is weaker for species than the amended Act itself. In combination, the amendments and the draft policy would create administrative pathways that could enable the approval of high-impact infrastructure projects – even when scientific evidence indicates active harm to critical habitats.

From a scientifically informed standpoint, these changes undermine the integrity of Canada's biodiversity protection framework. They introduce legal ambiguity where clarity is essential, weaken the precautionary principle that underlies effective conservation, and disregard the well-established ecological understanding that species survival depends on both direct and cumulative impact management. If implemented, the proposed permitting framework risks accelerating biodiversity loss in Canada at precisely the moment when strengthened environmental stewardship is most urgently required.