

Court File No. T-294-21



FEDERAL COURT

TIMBERWOLF WILDERNESS SOCIETY

Applicant

AND:

MINISTER OF FISHERIES, OCEANS AND THE CANADIAN COAST GUARD

Respondent

APPLICATION UNDER SECTION 18.1 OF THE *FEDERAL COURTS ACT*, RSC
1985, c F-7

NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the Applicant. The relief claimed by the Applicant appears on the following pages.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Applicant. The Applicant requests that this application be heard at **Calgary, Alberta**.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a

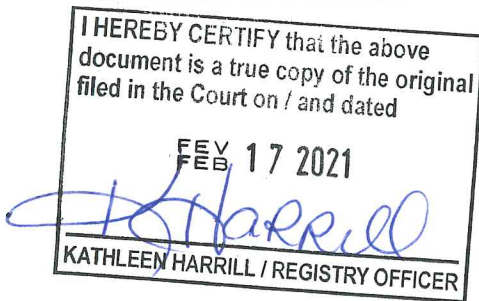
solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicant's solicitor or, where the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: FEB 17 2021

Issued by: ORIGINAL SIGNED BY
KATHLEEN HARRILL
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Address of local office:

Federal Court of Canada
3rd Floor, 635 – 8th Avenue SW
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TO: BERNADETTE JORDAN,
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APPLICATION

This is an application for judicial review in respect of the failure of the Minister of Fisheries, Oceans and the Canadian Coast Guard (**Minister**) to include a report on the implementation of the recovery strategy for the Alberta population of Westslope Cutthroat Trout on the *Species at Risk Act* public registry, pursuant to section 46 of the *Species at Risk Act*, SC 2002, c 29 (*SARA*).

The Applicant makes this application for:

1. An order in the nature of mandamus compelling the Minister to include on the *SARA* public registry a report on the implementation of the recovery strategy for the Alberta population of Westslope Cutthroat Trout in accordance with section 46 of *SARA*, within ten days of judgment in this matter.
2. An order that this Honourable Court retains jurisdiction over the matter of the Minister's obligation to post to the *SARA* public registry a report on the implementation of the recovery strategy for the Alberta population of Westslope Cutthroat Trout that complies with the requirements of section 46 of *SARA*.
3. A declaration that the Minister of Fisheries, Oceans and the Canadian Coast Guard violated the *Species at Risk Act* by delaying the publication of the report on implementation of the recovery strategy for the Alberta population of the Westslope Cutthroat Trout.
4. Such further and other relief as this Honourable Court may deem just.

The grounds for the application are:

The Parties

5. The Applicant, Timberwolf Wilderness Society, is a provincially registered non-profit society dedicated to protecting Alberta's environment, wilderness areas, and species at risk. The Applicant brings this application as a public interest litigant.
6. The Applicant has a genuine interest in the administration of *SARA* and the Minister's compliance with their duties in a manner that serves the remedial purposes of *SARA*. The Applicant is concerned with the lawful and effective application of *SARA* to restore and protect species at risk.
7. The Applicant has extensive knowledge on the conservation status and habitat requirements of the Alberta population of Westslope Cutthroat Trout.
8. The Respondent, the Minister, is the competent Minister for administering *SARA* with respect to the Alberta population of Westslope Cutthroat Trout on provincial lands.

The Alberta population of Westslope Cutthroat Trout

9. In May 2005 the Committee on the Status of Endangered Wildlife in Canada (**COSEWIC**) classified the Alberta population of Westslope Cutthroat Trout as a threatened species. The COSEWIC assessment was included in the public registry on August 30, 2007.
10. On March 27, 2013, the Governor in Council, on the recommendation of the Minister, listed the Alberta population of Westslope Cutthroat Trout as a threatened species under *SARA*.

11. On March 28, 2014 the Minister included a final Recovery Strategy for the Alberta population of Westslope Cutthroat Trout (**2014 Recovery Strategy**) on the *SARA* public registry.

The Minister's legal obligation to issue a report on the implementation of the 2014 Recovery Strategy

12. Section 46 of *SARA* requires the Minister to report on the implementation of the recovery strategy, and the progress towards meeting its objectives, within five years after it is included in the public registry and in every subsequent five year period, until its objectives have been achieved or the species' recovery is no longer feasible.

13. Section 46 of *SARA* requires the Minister to include the report on the public registry.

14. As the 2014 Recovery Strategy was published on March 28, 2014, the statutory deadline for the Minister to place a report on the implementation of the recovery strategy to the *SARA* public registry, pursuant to section 46 of *SARA*, would be five years from that date, being March 28, 2019.

The Minister delayed the placing of a report on the implementation of the Recovery Strategy onto the public registry

15. As of the date of filing of this Application, no report on the implementation of the 2014 Recovery Strategy for the Alberta population of Westslope Cutthroat Trout has not yet been placed on the public registry.

16. The Minister has failed to meet the statutory obligation under section 46 of *SARA*, and is in contravention thereof.

General Grounds for the Application

17. The Applicant relies on sections 18 and 18.1 of the *Federal Courts Act*, the *Federal Courts Rules*, *SARA*, and such further grounds as counsel may identify and this Honourable Court may consider.

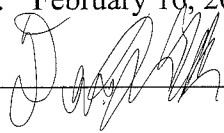
This Application will be supported by the following material:

1. The Affidavit of David W. Mayhood, to be served.
2. Material in the possession of the Minister of Fisheries, Oceans and the Canadian Coast Guard.
3. Material included on the *SARA* public registry.
4. Such further and other materials as counsel may advise and the court may allow.

Electronic Service and Coronavirus Restrictions

5. In accordance with Practice Direction (COVID-19): Update #7 (January 18, 2021) service can be completed by e-mail to 'drew.yewchuk@ucalgary.ca'.

Date: February 16, 2021



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