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Legal Hunting of an Endangered Species: A Grizzly Tale in Alberta

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Legislation commented on: *Wildlife (Grizzly Bear – Ministerial) Amendment Regulation*, [Alta Reg 115/2024](#)

On July 9 the Alberta government issued a [news release](#) announcing that the Minister of Forestry and Parks has reinstated a grizzly bear hunt in Alberta. In this post, I describe the legislative amendment made to enable the hunt and explain how effective endangered species legislation (non-existent in Alberta) would make it much more difficult for the Minister to do this. Alberta's endangered species law and policy has always been a sad joke in terms of facilitating protection or recovery of species, but the UCP government has now managed to make this a sad and twisted joke. Alberta has joined a select group of countries in the world that authorize hunting of a majestic fauna species that they also designate as threatened with extinction (membership in this group includes many African nations who cater to trophy hunters – see [Elephants, lions and leopards: 13 countries where rich people hunt endangered animals](#)).

Ineffective Endangered Species Legislation and Grizzly Bears

Alberta's Endangered Species Conservation Committee (an advisory group established pursuant to section 6 of the *Wildlife Act*, [RSA 2000, c W-10](#)) initially recommended a threatened with extinction designation for the grizzly bear in Alberta back in 2002. That recommendation was not accepted by the Minister responsible for wildlife at the time. However, as a partial response to concern over a shrinking population, the Alberta government implemented a moratorium on issuing hunting licenses for grizzlies in 2006. Concurrent with the completion a [2010 status assessment](#) (Status Assessment) on grizzly bear populations in Alberta, the Committee renewed its recommendation for the endangered designation in 2010. This subsequent recommendation was acted upon, and in 2010 the grizzly bear was designated as threatened with extinction (endangered) in Alberta (note I use the term 'endangered' in this post rather than 'threatened' because only the former term is referenced in the applicable legislation). I commented on this designation 15 years ago, and used this as an opportunity to explain that the designation was essentially meaningless because Alberta [does not have effective legislation](#) to protect and facilitate the recovery of endangered species. All observations made back then remain accurate and applicable today.

Alberta has no legislated process for making a decision on whether to designate (list) a species as endangered. Under the *Wildlife Act*, an endangered species in Alberta is simply a species that the Minister prescribes as such. No process on designation means no transparency and little or no justification for the decision on whether to designate the species as endangered.

Habitat destruction is widely understood and accepted as the primary cause of species decline and a barrier to population recovery, but Alberta has no legislated process for identifying critical habitat for an endangered species and no substantive legal protection for any habitat identified (even in protected areas other than those few areas with a ‘wilderness’ designation). Instead, Alberta relies almost entirely on discretionary power exercised by regulatory agencies or departments under resource development legislation to impose terms and conditions to mitigate the adverse impacts to habitat caused by resource extraction, agriculture, roads, and urban developments. These measures are typically in the form of operating conditions on project approvals, such as timing requirements, using existing linear disturbances, or implementing habitat offsets. There is little or no evidence that these measures are effective at protecting habitat. Even worse, there are records which reveal that Alberta officials who are responsible for identifying critical habitat for endangered species have opposed critical habitat designations because of the potential to adversely impact resource extraction (for a discussion of this in relation to the threatened westslope cutthroat trout in Alberta see [Environmental Stewardship of Public Lands? The Decline of Westslope Cutthroat Trout Along the Eastern Slopes of the Rocky Mountains in Alberta](#) at 73-74).

There is no legal requirement in the *Wildlife Act* to produce status assessments for any wildlife species or develop a plan or strategy to facilitate the recovery of an endangered species in Alberta. Provincial status assessments and recovery plans are presumably developed at the whim of the Minister or her delegates, and accordingly there is also no prescribed timeline or mandatory content for a recovery plan; no obligation to identify critical habitat and no linkage to ensure the findings in a status assessment or the strategies in a recovery plan are considered and implemented in decisions that adversely affect an endangered species.

Nevertheless, the Status Assessment and the [Alberta Grizzly Bear Recovery Plan](#) (2020 Recovery Plan) are comprehensive science-based documents which together provide detailed information on population numbers and distribution, habitat requirements, threats to the bears and their habitat, and recommendations on actions necessary to protect the species and facilitate its recovery to a minimum viable population that ensures persistence. Unfortunately, the *Wildlife Act* is a complete failure on integrating science into policy decisions, and the grizzly bear provides an excellent illustration of this. The Status Assessment and 2020 Recovery Plan are completely unenforceable and toothless in relation to actions taken to address threats to the species and population recovery. I conclude this introductory section with two examples of this, and then later show how the Minister’s decision to reinstate a grizzly bear hunt also disregards the science.

The first illustration is a 2016 decision by the Alberta Energy Regulator to approve the construction and operation of a pipeline by Pembina Pipeline Corporation through lands identified as core or high habitat value for grizzly bears by the 2020 Recovery Plan. In decision [2016 ABAER 004: Pembina Pipeline Corporation, Applications for Two Pipelines, Fox Creek to Namao Pipeline Expansion Project](#), the Alberta Energy Regulator acknowledges the proposed pipeline will cut through core grizzly habitat but finds Pembina’s plan to mitigate adverse impacts to habitat is consistent with the 2020 Recovery Plan – without any explicit analysis in the decision (at paras 212-216).

The second illustration is in relation to wildlife corridors and highways in the highly populated and congested Bow Valley, where human-grizzlies co-existence is a serious and ongoing challenge. The 2020 Recovery Plan (at 33-34) identifies habitat loss and mortalities alongside highway corridors as a significant threat to the species. In response to this, the 2020 Recovery Plan sets out a number of strategies to improve the ability of grizzly bears to disperse in highway corridors and help to ensure secure habitat in these regions, including strategies in relation to highways:

Allowing grizzly bears to disperse across major road corridors in the face of increasing human population size, development and highway traffic rates in the Habitat Linkage Zones is a significant recovery challenge. Resolving this will require working with the responsible provincial and municipal government agencies to ensure that grizzly bear movement needs are considered in development decisions. (2020 Recovery Plan at 59)

The 2020 Recovery Plan also includes a reference to Alberta Environment data which reveals that 83% of human-grizzly bear conflicts in the Bow Valley between 1986 and 2011 occurred in residential and urban green space areas (2020 Recovery Plan at 46). Despite this information in documents that Alberta Environment itself is responsible for producing, in 2020 Alberta Environment issued a [Wildlife Corridor Approval](#) in [secret](#) that allows for residential and commercial development in Canmore along the TransCanada highway that could [approximately double](#) Canmore's current population (for additional history see [here](#)). The Corridor Approval neither makes reference to the endangered status of the grizzly bear, nor does it address any of the strategies or recovery measures set out in the 2020 Recovery Plan that relate to human-grizzly conflicts in urban areas or the challenges of managing grizzly bear movement alongside a major highway. This is gobsmacking given that Alberta Environment is the responsible authority for both the Corridor Approval and the development of recovery initiatives for the endangered grizzly bear species.

As I wrote back in 2010 [here](#): “[T]he absence of legal rules governing endangered species under the *Wildlife Act* means little transparency, no predictability, and no accountability in government decisions pertaining to protecting endangered species in Alberta. So while effective legal protection might be possible, it isn't very likely either. The grizzly bear is a case in point.” Because the legal framework is so discretionary and full of holes, part of me knew back then that I would be returning to writing about the legal protection of grizzlies in Alberta. And here we are.

Reinstatement of the Grizzly Bear Hunt

The Minister of Forestry and Parks reinstated the grizzly bear hunt by amending the *Wildlife Regulation*, [Alta Reg 143/1997](#) on June 17. The *Wildlife (Grizzly Bear – Ministerial) Amendment Regulation* was issued by [Ministerial Order 43/2024](#) and published in the [Alberta Gazette Part II](#) at pages 317-319 on June 29, 2024. Authority for this amendment regulation is provided by section 103(1)(z) of the *Wildlife Act* which gives the Minister power to make regulations on the hunting of an endangered species.

This is surely the most obvious and glaring hole in Alberta's dubious position that the *Wildlife Act* offers effective legal protection for endangered species: not only is there is no absolute prohibition

against hunting an endangered animal, but the Minister can authorize the hunting. If the Minister issues you a license to hunt an endangered animal, you can do so in accordance with the terms of that license (e.g., open season and prescribed area). Section 13 of the *Wildlife Act* gives the Minister wide discretion to issue hunting licenses, subject to provisions in the *Wildlife Regulation*. The *Wildlife (Grizzly Bear – Ministerial) Amendment Regulation* adds a new section 53.1 to the *Wildlife Regulation*, establishing terms and conditions governing the issuance by the Minister of a ‘grizzly bear management authorization’ – aka a hunting license.

Pursuant to subsections 53.1(2) and (7), the Minister may authorize the hunting of a grizzly bear (not accompanied by a cub) in two prescribed scenarios: (1) after a ‘human-bear conflict situation’, defined as an incident where a wildlife official determines the bear is an imminent public safety risk or the bear has killed livestock or a person, damaged property, or injured a person; or (2) a wildlife official determines the bear is located in an ‘area of concern’. Both scenarios for hunting require several discretionary determinations by a wildlife official with a significant amount of latitude, including that hunting the grizzly bear is the ‘appropriate course of action’. Also of particular note, the phrase ‘area of concern’ is not defined in the section.

As I previously explained [here](#), in Alberta there is typically no transparency associated with the enactment or amendment of regulations, which can make it difficult to decipher the justification or rationale for the legislative change. In this case, the July 9 [news release](#) tells us the grizzly bear hunt has been reinstated for public safety reasons with the title “Protection of Life and Property from Problem Wildlife”. We are told the Alberta government is taking action on ‘problem grizzlies’ because of an apparent significant uptick in predatory grizzly bear-human encounters and the loss of livestock. As to be expected with this government, the public is starved of facts and evidence to support this concern. The news release provides the following ‘Quick Facts’:

In 2020 there were three attacks; 2021 recorded a total of nine attacks by black and grizzly bears, contributing to a total of 104 attacks from 2000 to 2021.

In 2023 and 2024 there were 120 head of livestock killed by black and grizzly bears (97 cattle, 23 sheep, one goat and 21 hogs) approved for compensation under the Wildlife Predator Compensation Program resulting from death or injury from grizzly bears. Losses amounted to \$153,649 and \$13.3 million in crop losses.

Grizzly Bear numbers have increased from approximately 800 to more than 1,150 now, causing them to move into more populated rural areas.

These facts are obviously problematic for the purpose of supporting a public safety issue of ‘problem grizzly bears’ because they combine predatory attacks by grizzly and black bears together, and they are also misleading because populations numbers for grizzly bears in Alberta are, at best, an approximation based on partial data collection. The 2020 Recovery Plan (at page 18) confirms that Alberta’s information on grizzly bear populations is out-dated, with no provincial population estimate completed since 2010 (the last time a science-based [status assessment](#) was completed on grizzly bears in Alberta). Others have also confirmed the provincial information is outdated and that data collection programs have been curtailed (see [here](#)).

This shaky UCP justification for the reinstatement of the grizzly hunt was rather convincingly decoded by [David Climenhaga](#) just days after the announcement:

According to the release: “Alberta’s government is creating a new network of wildlife management responders to help stop dangerous and deadly grizzly bear attacks on people and livestock. When a problem animal like a grizzly or elk is identified, members of the approved network will help provide rapid conflict response times across all regions of Alberta. This response could include tracking and euthanizing a problem animal, while still following all rules and regulations already in place.” (As you can see from this, elk are also in the crosshairs.)

When dealing with Orwellian statements by the United Conservative Party government, in which obvious truths and their opposite are often reversed, a short glossary may be helpful:

- negative interactions: *bears being bears*
- wildlife management responders: *hunters*
- members of the approved network: *hunters known and liked by the UCP*
- rapid conflict response: *hunters with four-by-fours*
- tracking: *hunting*
- euthanizing: *shooting to death*
- all rules and regulations: *“red tape,” soon to be removed by the minister of red-tape reduction*

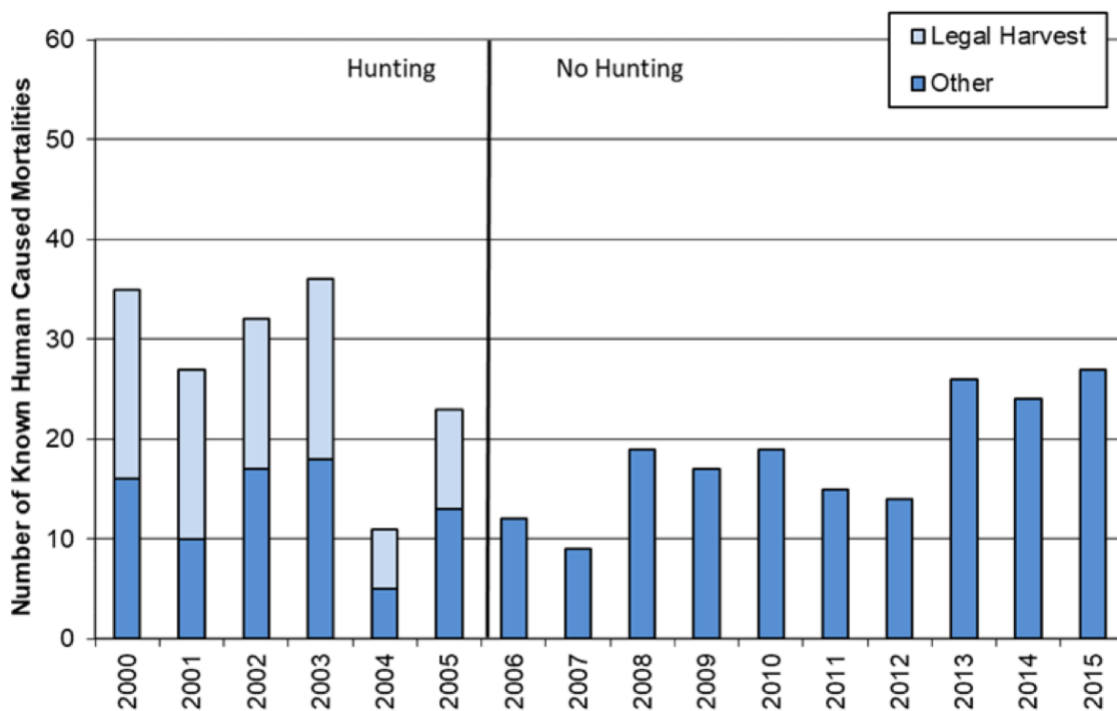
When reading section 53.1(4), which authorizes the Minister to establish a pool of eligible recipients of a hunting license and, moreover, in order to receive a hunting license a person must agree to be onsite within 24 hours of being notified, one does begin to question the political motivations here and to see how this regulatory amendment might be viewed as the establishment of a members-only trophy hunting club presided over by the Minister. It is difficult to envision how someone gets their personal affairs in order meet the 24 hour requirement, without some advance notice that a wildlife officer will be calling them under section 53.1(7) and that they will need to be in the field within 24 hours of that call. No doubt there will be some interesting records to obtain under the FOIP Act on the implementation of section 53.1.

The fact that the Minister used legislative power to authorize the hunt of an endangered species is certainly a bad look for Alberta, however that is not the worst of this. No, that sad honour belongs to the apparent full disregard for evidence-based decision-making in relation to an endangered species. Over the past few years, I’ve had the privilege of working on a number of projects concerning endangered species. One of those was sitting on a panel to develop [recommendations for effective endangered species legislation](#), and requiring evidence-based decisions is an essential component. Here, the UCP government has provided a smattering of unsubstantiated facts to justify its decision to reinstate the grizzly hunt.

In fact, the 2010 Status Assessment (which itself should be updated before any decisions like this are made) and the 2020 Recovery Plan include a significant amount of scientific data on grizzly hunting and its adverse impact on population recovery. As noted above, Alberta doesn’t have

current data to confirm grizzly bear population numbers today, so the reference in the news release to ‘more than 1150’ bears is not based on science. The 2010 Status Assessment indicates that capture and sampling methods estimated 582 grizzly bears, plus an additional 109 bears in regions outside the study area (and not including the national parks) for a total of 691 bears in Alberta (Status Assessment at 13-19). Presumably, the UCP government would have us believe that over past 15 years the number of bears has risen by more than 400, and this given a species with a low reproductivity rate. In any case, the 2020 Recovery Plan indicates the population objective is 1489 bears (at 37), so reinstating a limiting factor and threat to the population is contrary to recovery strategies.

The 2010 Status Assessment and 2020 Recovery Plan both confirm hunting is a limiting factor on grizzly bear populations – particularly hunting female bears. The Status Assessment confirms that 65% of known human-caused grizzly mortalities between 1972 and 1996 was because of legal hunting. The Status Assessment clearly states: “The persistence of grizzly bears in Alberta hinges directly on reducing human-caused mortality” (at 30) and the decision to end the legal hunt “substantially reduced the human-caused mortality of grizzly bears in Alberta.” (at 31) The 2020 Recovery Plan confirms the end of the hunt in 2006 had an early effect of reducing human-caused mortalities, but those numbers began to move upwards again *even without the hunt*:



(Source: 2020 Recovery Plan at 23)

Section 53.1 of the *Wildlife Regulation* states that a hunting license cannot be issued for a bear with a cub, but it does not preclude hunting female bears, which the science tells us with significantly increase the negative impact of a hunt on the grizzly bear population.

The UCP government also justifies the reinstatement of the hunt as a means to reduce human-grizzly bear conflicts, but the 2020 Recovery Plan makes no reference to reinstating a hunt as a strategy to address this. Instead, the Plan speaks of managing attractants to address public safety:

Reducing conflict by securing (i.e. making no longer accessible) attractants has the potential to significantly reduce the number of bears translocated from the Recovery and Support Zones. This would result in higher survival for grizzly bears, reduce human-grizzly bear conflict, and improve public safety. As an example, the Blackfoot Challenge conservation initiative in Ovando, Montana has been effective in reducing carnivore-ranching conflicts using techniques like electric fencing, deadstock removal and deadstock composting. Between 2003 and 2006, local community groups and livestock producers have reduced human-grizzly bear conflicts by 91% (Wilson 2007). Similar projects in southern Alberta have been undertaken by the Drywood Yarrow Conservation Partnership, Chief Mountain Landowners Group and the Waterton Biosphere Reserve Association. These projects serve as models of how government grants to local groups and municipalities, combined with collaboration with local AEP staff, can significantly decrease the number of unsecured attractants (Loosen et al. 2014). The nature of many activities on ranches and farms attracts grizzly bears, so the total elimination of attractants is unlikely, yet projects such as those mentioned here show that conflict can be minimized (Loosen et al. 2014). Preventative approaches have the added benefit of helping to preserve public safety, reduce property damage and decrease grizzly bear depredation costs. (2020 Recovery Plan at 45-46)

In summary, the decision to reinstate the grizzly bear hunt is not evidence-based and disregards the science on bears. The decision undermines years of work by public officials and others who dedicated their professional lives to grizzly bear recovery in Alberta. And it exposes the *Wildlife Act* and its regulations as completely ineffective legislation on endangered species protection and recovery.

Alberta's Failure to Meet its National Commitments on Endangered Species

Is now the time to take Alberta to task on its failure to meet its obligations under the [National Accord for the Protection of Species at Risk](#)? The Accord was signed in 1996 by the federal, provincial, and territorial governments (other than Quebec) as an agreement by each jurisdiction to enact effective legislation to protect and recover endangered species. This was a key commitment in the 1995 [Canadian Biodiversity Strategy](#), which itself was a commitment made by Canada in the 1992 UN [Convention on Biological Diversity](#). At the time, there was plenty of work to be done because nearly all governments in Canada either had no applicable legislation or relied entirely on wildlife management programs to address threats to endangered species. It is questionable whether any government has since met this obligation (for example, see [here](#) on the shortcomings in British Columbia legislation); the federal *Species at Risk Act*, [SC 2002, c 29](#), is the high mark, but it too has many [problems](#) that significantly impair effectiveness. However, there is little doubt that Alberta is among the most notable laggards by failing to meet any of the commitments in the Accord, including the following:

- address all native wild species;
- provide an independent process for assessing the status of species at risk;
- provide immediate legal protection for threatened or endangered species;
- provide protection for the habitat of threatened or endangered species;
- consider the needs of species at risk as part of environmental assessment processes;
- implement recovery plans in a timely fashion;
- monitor, assess and report regularly on the status of all wild species;
- emphasize preventive measures to keep species from becoming at risk; and,
- provide for effective enforcement.

The reinstatement of the grizzly bear hunt also shows Alberta’s disregard for its commitment to evidence-based decision-making on endangered species under the 2018 [Pan-Canadian approach to transforming Species at Risk conservation in Canada](#).

The protection and recovery of grizzly bears in Alberta, and all endangered species for that matter, is much more of a social issue than a biological one (Jeff Gailus, [The Grizzly Manifesto: In Defence of the Great Bear](#) (Rocky Mountain Books, 2010)). For this reason, the effectiveness of endangered species legislation should be measured on how well it keeps the politics out of the science (I wrote about this more generally in [A Proposal for Effective Legal Protection for Endangered Species in Alberta: Introducing the Wildlife Species Protection and Recovery Act \(Alberta\)](#)). On this measure alone, the reinstatement of the grizzly bear hunt demonstrates that Alberta’s legislation on endangered species is not only ineffective, it is a total policy failure.

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