

**Ivey Foundation
Conserving Canada's Forests Program**

**Outcomes of Policy and Law Grants:
2003 – 2008: Public Summary**

December 22, 2010

Introduction

This report provides a public summary of a review of progress achieved for grants made in the area of policy and law reform in the first six years of the Foundation's *Conserving Canada's Forests Program*. The assessments were made based on an evaluation against goals and indicators for the CF program as well as a review of outcomes in jurisdictions where programs were undertaken. Advances achieved in 2009 as a result of grants made in the 2003-2008 period are noted. This report does not address progress made after 2009.

This report contains:

1. A summary statistic or objective comment on overall progress
2. Summary comments for the indicator groupings (protected area establishment and management, conservation of wildlife, and land use and forest planning)
3. A summary for each indicator that is based on an average of progress of all grants that used this indicator during this year. Red indicates that no or little progress was made; orange indicates that some progress was made, and green indicates that significant progress was made.

The report provides detailed measures of progress against each of the CF Program indicators and goals (please refer to the CF program section of the Foundation website for an explanation of their use).

Overall Cluster Assessment¹

On-the-ground progress

Protected areas establishment and land-use planning are the topic areas where the greatest improvements have occurred during the 2003 to 2009 period. Significant networks of protected areas were created in actively managed and "crowded" landscapes in Québec and Nova Scotia, and were being planned for in the largely wild areas of northern Québec and Ontario. Ivey grantees were instrumental in all of these achievements.

Improvements to laws that protect species at risk occurred at the federal level and in Ontario where a new endangered species act addresses science-based listing of at-risk species and the protection of critical habitat. Following repeated court rulings the federal government has begun to take the requirements of the *Species at Risk Act (SARA)* seriously and has begun to pursue strategies to identify critical habitat for protection.

Improvements to resource management policy that provide greater protection and planning for wildlife values have been less uniform. For example, in early 2009 after a multi-year stakeholder process the New Brunswick government decided to shift its forest practices toward intensification and to increase the conversion of natural forests to plantations, undermining conservation efforts. On a more positive note, in June 2009 the Ontario government released a caribou conservation strategy that has received support from the science community for its requirement that the cumulative impacts of industrial activities be assessed for each caribou home range. Ranges that have too much disturbance will require corrective actions. In Nova Scotia progress is being made in efforts to improve forest management practices. A summary of public hearings of forest management was released in the summer of 2009 that concludes maintenance of the industrial status quo is unacceptable and sets the stage for revisions to

¹ "Clusters" refer to the three grouping of grants made under the CF program. These include "Policy and Law", "Markets" and "Applied Science"

forest practices expected in 2010. In addition, the new provincial government has banned the use of full-tree harvesting in the harvest of biomass for energy production.

Lessons for the Foundation

Multi-year investments are key to success. Achieving policy reform outcomes requires multi-year efforts and therefore multi-year funding. For example, Ontario conservation groups worked on market place, and policy and law cluster projects for several years before the provincial government made a commitment to protect half of the northern boreal region. Had outcomes been reviewed at any point before July 2008, there would have been little demonstrable progress. However, those multi-year grantee efforts resulted in a paradigm shifting policy commitment in 2008 and a legislative commitment in 2009. Similar boreal forest protection has been proposed by the province of Québec. Ontario woodland caribou protection is promising and Nova Scotia shows signs that the government will make significant reforms. Results in New Brunswick were very disappointing, despite a multi-year investment. The slow process toward government policy change supports the importance of multi-year investment strategies (with the qualifiers discussed below). Of course when opportunities exist for quick reforms they should be seized, but systemic multi-province reform efforts require long-term investment to achieve significant and durable success.

Multi-year evaluations capture P and L progress. Policy and legislative changes take time. In some cases the process to support significant conservation law reform may take as many as ten years, and often with additional years of general issue support. In the same way that multi-year investments are needed, the Five Year Review of the Foundations CF Program highlighted the significance of reviewing policy and law successes over many years. Important work by grantees may end with little evidence of success at the conclusion of the project, but may have laid essential groundwork resulting in progress in later years. This can only be determined by taking the long view on grants and organizational funding, and by undertaking multi-year reviews in the form of five year or ten year evaluations.

Multiple cluster investments support P and L outcomes. Policy and Law cluster outcomes are often the result of investments made across all program clusters (i.e. policy and law, markets and applied science). For example, the forest practices and land-use reforms achieved through the widespread adoption of FSC certification help to create a climate where it is easier to support government policy and regulatory reforms. On the market side, support for reform from U.S. wood purchasers also encourages both industry and governments to advance policy reform efforts. Similarly, the widespread availability of maps that depict the location of remaining intact forest areas (produced by Global Forest Watch) provide a common information base for conservation discussions in policy processes in multiple jurisdictions.

Multiple actors are key to success. A third observation is that multi-ENGO and multi-tactic efforts can create a “wave” of consensus regarding policy reform. This approach seems to have a higher chance of success than when one or few voices are seeking change. For example, the commitments to land-use planning in Ontario and Québec were both achieved after many different actors had been seeking change using a diversity of tactics. As a result of efforts to mobilize a broader cross-section of society, the Ontario government was hearing from wood product customers, frustrated First Nations, investors, the public and major newspaper columnists. In Nova Scotia, there were only two conservation groups initially involved in both the protected areas work and forest practices reform. To advance protected areas, conservation groups established a roundtable process with the forest industry. This joint effort by two adversaries quickly accelerated the approval and cooperation of the provincial government. Similarly the Ecology Action Centre built common cause for forest policy reform with private woodlot owners by securing provincial government money to support progressive silvicultural practices.

By contrast, efforts to achieve progressive land-use and forest policy reforms in Saskatchewan, Yukon and New Brunswick were limited by organizational capacity on the ground with fewer groups (two in Saskatchewan and Yukon, and one in N.B.) Furthermore, a lack of resources meant that they were limited to public education and outreach as their only tools to create pressure for change. In all of these cases the ENGOs had no other significant allies who could increase the pressure on government for a positive outcome. As a result, these three efforts failed to achieve positive land-use designations or forest policy reform. For the Ivey Foundation these results encourage careful assessment of whether sufficient resources and a full array of voices are in place to achieve an outcome prior to making an investment.

In summary, CF grants have helped to support several precedent-setting conservation successes with very modest resources. Policy and law grants have contributed to millions of hectares of lands protected, a new endangered species Act in Ontario, and globally leading land use planning commitments.

i) Total Cluster grant disbursed amount²: \$5,267,756

ii) Progress made on Protected Area Establishment and Management Indicators:

There were a significant number of new protected areas established with the support of 2003-2008 Ivey grants. In particular, significant progress occurred in Québec where 6.55 million new hectares of protection (permanent and interim) were secured, raising the amount of protected land from three to seven per cent of the province's land area by the end of 2008. In addition, the Coulombe Commission recommended that 12 percent of Québec forest lands be protected in future years and the provincial government announced in late 2008 that it concurred with the Coulombe recommendations and would launch land-use planning in the far north that would protect at least 50 percent of this undeveloped region. Ivey Foundation's support of this effort has been key. Our long-term contributions, with those of other funders, have allowed Québec groups to hire and retain staff, engage the public and create space for positive political decisions.

Impressive gains were made in Nova Scotia where key wilderness areas were designated on public lands, several were purchased from forest companies and the province legislated a target to protect 12 percent of the province (no mean feat in a jurisdiction where 70 percent of lands are privately owned). Ivey Foundation support provided a significant portion of the overall capacity for forest conservation work in this region.

In Ontario, Alberta, and Saskatchewan, ENGOs promoted protected areas establishment through provincial land-use planning processes. In Saskatchewan failure to secure outcomes from a precedent-setting land-use planning process resulted in the foundation deciding to allocate funds elsewhere. In Ontario, little progress was made until July 2008 when the province announced it would protect over 20 million hectares of the northern boreal forest through a land-use planning process (the characteristics which are yet to be determined). In Alberta, the provincial government is slowly inching towards making land-use planning decisions through a Framework launched in 2008. Enabling legislation was passed in early 2009 (*Alberta Land Stewardship Act*) that provides broad discretion to government about what can be included in a land-use plan and very little of the content that would address ecological issues is mandatory. However, Alberta is under considerable pressure to be seen to be doing something progressive on the environmental front and domestic restiveness concerning land-use conflicts is reaching new highs. As a result several observers have noted that the land-use planning process now

² This is the total dollar value awarded to CF Policy and Law grants from 2003 to the end of 2008. Please note that some of the grants may also have included indicators from the Markets cluster that are discussed in the Markets' Cluster Evaluation Summary.

underway (spring 2009) in the Lower Athabasca region holds promise. This perception is supported by terms of reference that require the identification of conservation areas that make up at least 20 percent of the region and comprise natural areas of four to five thousand hectares.

Other mechanisms for protected areas establishment (e.g. FSC-required forest harvest deferrals and habitat protected through *SARA*) were also pursued but have not yet resulted in any new permanently protected forest lands. FSC harvest deferral areas may yet be the basis for industry-ENGO approaches to government and/or be fed into land-use planning efforts in places such as Ontario and Alberta.

Improvements to the management of established protected areas were scant between 2003 and 2009. The most significant accomplishments occurred in Ontario where a new *Parks and Conservation Reserves Act* was passed that enshrines a mandate for maintaining ecological integrity within parks. Algonquin Park also was a beneficiary of the public input process that accompanied the new Parks Act in that the Ontario Parks Board recommended that while logging be allowed to continue, efforts be made to “lessen its ecological footprint”. As a result, the Ontario government recently announced that 98,202 ha. of the park will be added to the areas permanently off-limits to logging and road building (about 13 percent of the park). Progress also occurred in Manitoba where the provincial government banned logging in all but one provincial park in late 2008. Elsewhere, conservation groups were largely successful at preventing backsliding on this issue and successfully pointed out weaknesses in plans to reduce the level of protection afforded to parks in both B.C. and Québec, thus demonstrating that while it is difficult to create a park in Canada it is much more difficult to take it away. Ivey Foundation’s funding provided support for these efforts in B.C. and Québec. This finding counters the myth that public land conservation is somehow less permanent than private land conservation.

iii) Progress made on Conservation of Wildlife Indicators:

Efforts to increase the level of legal protection for endangered species and their habitat was successful in Ontario, where a new and widely praised act was passed in 2007. However, implementation of the law has just begun and we must await results to determine its effectiveness on the ground. At the federal level the *Species at Risk Act* became a bigger driver for change as ENGOs successfully sought court-ordered enforcement of its provisions. As a result of provincial concerns over the risk of federal intervention (possible when a province can be shown not to be acting to protect a species) the period between 2003 and 2009 saw much greater activity by provinces to develop species recovery strategies and action plans. For example the Canadian Wildlife Service has undertaken the development of a national Recovery Strategy for boreal woodland caribou that is being informed by a highly regarded science advisory panel.

These advancements in law and policy have largely not yet reached the implementation stage, especially for some of the species whose conservation conflicts with resource extraction. For example, the Alberta provincial government created a recovery strategy for woodland caribou but rejected the advice of the strategy’s authors (which included industry) to halt further resource allocation in critically threatened habitat. The outcome of caribou conservation work in Ontario is not yet clear but a progressive strategy has been released that, if followed by an implementation plan, would require the development of limits to development in herd ranges based on an assessment of the degree to which the herd is threatened by developments to date.

It seems probable that the increased legal obligations of federal and provincial species legislation will ultimately result in political decisions to protect key habitats, especially for species that conflict less with industrial activities.

Progress on policies and laws in the remaining CF wildlife conservation indicators (which measure improvements in the conservation of wildlife habitat at the landscape and site level) were limited for the 2003-2008 granting period. The usual mechanism to achieve these changes would be improvements in the policy and application of land-use and/or resource planning but these policies seem to be stalled in most jurisdictions in Canada, following a period of significant change in the 1990s. For example, in Yukon, the Kaska land-use planning process resulted in a promising draft plan that would safeguard species by incorporating “keystone” and “umbrella” species (a list of which are noted in the plan) into management practices, connecting important ecological features, and protecting riparian reserves. Unfortunately, a newly elected government put the process on hold in 2006 and the plan remains in draft form. In Ontario, the provincial Ministry of Natural Resources has been creating two new “guides” for forest management planning. These guides will detail how forest practices are to protect riparian reserves, maintain landscape connectivity and plan for retention and provision of wildlife habitat over time. These guides, however, have been in development since 2000 and by the end of 2009 were still not complete.

Québec is currently in the middle of a protracted discussion about the future of forest management and the current options range from adoption of ecosystem based management to establishment of intensively managed forest plantations on a large portion of the land-base. Next door in New Brunswick a similar series of management options was considered and the government decided to adopt a system that would almost double the amount of forest land in plantations from the current 15 percent to 28 percent. They will also roll back existing levels of old growth and riparian protection. This regressive approach to forestry closely approximates the proposal put forward by the forest industry.

In all of these instances, conservation groups significantly influenced governments’ decisions to launch policy reform processes. For example, in the case of Québec, ENGOs gave voice to a widely held public view that forest management is broken and needs to be fixed. In New Brunswick, ENGOs led opposition to regressive industry proposals that led to the policy development process, and in Ontario legal actions and public campaigns have supported the forest management reform process. The impacts of markets groups efforts have also been influential on government decisions to proceed with reforms because pressures from customers and the solutions found in FSC standards have helped to lay out a reform pathway that is achievable.

Forest management concepts and language are complex and difficult to communicate to the public. As a result, when resource bureaucracies run into strong opposition to a particular proposal they have become very adept at withdrawing the proposal and refloating it sometime later after adopting the language and messaging of its critics. In addition, the protracted timeframes of government to policy reform challenge the ability of ENGOs to participate and make it difficult to maintain public and foundation support.

iv) Progress made on Land Use and Forest Planning Indicators:

Forest planning indicators had mixed results, like those described for wildlife indicators above. Land-use planning processes, however, moved markedly forward in Ontario and Québec.

In Ontario, after years of growing demands and conflict with First Nations, the Premier announced in July of 2008 that Ontario would develop and launch a land-use planning process for the far northern boreal areas of the province. This process is to include community level land-use plans for First Nation communities and will ensure the permanent protection of at least 50 percent of the region. ***This protection goal is higher than any ever made in Canada (or elsewhere) at the launch of a land-use planning process and is consistent with the protection goal of the Boreal Forest Conservation Framework and Ivey’s CF program.*** The Premier further elaborated this commitment in September 2008 by committing to create legislation to define this process by the spring or summer of 2009.

Draft legislation was introduced in June of 2009. The draft legislation, while based on the Premier's commitment, does not include mechanisms to undertake regional planning or adequately consider the input of First Nations. It is therefore at risk of not delivering on the Premier's commitment of a new approach to development in the region. ENGOs and some First Nation interests are currently working to encourage improvements to the legislation so that it can achieve its stated objectives when it returns to the legislature in 2010.

In Québec in late fall of 2008 Premier Charest also promised to pursue a very similar approach to land-use planning in the northern reaches of the boreal.

Indicator Progress

n.b. red indicates that no or little progress was made, orange indicates that some progress was made, and green indicates that significant progress was made.

Indicator 1.1: Area of protected area regulated or legislated as a result of program activities

Total grants: 20

Overall progress: There were 9.94 million hectares of new permanent protected areas and 51.7 million hectares of interim protected areas established in Canada between 2003 and 2008. Ivey Foundation support contributed to outcomes in Québec and Nova Scotia and helped to highlight recent political commitment to further designations in far northern boreal regions in Ontario and Québec. Foundation support also helped CPAWS maintain the high profile of the Nahanni and momentum for its protection (which was finalized in early 2009).

Indicator 1.2: Prohibition of industrial activity in protected areas

Total grants: 2

Overall progress: Limited progress in improving policy except in Ontario where a new *Parks and Conservation Reserves Act* was created. There was some success in showing the disadvantages of regressive policy proposals within existing protected areas.

Indicator 1.3: Requirement for maintenance of ecological integrity and conservation for management of protected areas

Total grants: 7

Overall progress: Limited progress in improving policy except in Ontario where a new *Parks and Conservation Reserves Act* was created.

Indicator 2.1: Requirement for science-based listing of species at risk

Total grants: 5

Overall progress: Significant outcomes in Ontario where a new endangered species act was created. Significant progress at the national level in advancing the implementation of the *Species at Risk Act*.

Indicator 2.2: Requirement for protection and recovery of habitat of species at risk

Total grants: 6

Overall progress: Significant outcomes in Ontario where a new endangered species act was created. Significant progress at the national level in advancing the implementation of the *Species at Risk Act*.

Indicator 2.3: Requirement that quantifiable habitat objectives for a meaningful range of indicator species are used in resource planning

Total grants: 9

Overall progress: Results are still pending in Québec (fall 2009) where a major forestry legislative rewrite is underway. Yukon and New Brunswick efforts were unsuccessful but Ontario's new woodland caribou strategy includes a requirement to determine the level of cumulative effects that have impacted individual herds.

Indicator 2.4: Requirement for special planning to maintain connectivity between important habitats, core forest areas, and key landscape features

Total grants: 11

Overall progress: Yukon, Saskatchewan and New Brunswick efforts were unsuccessful and results are still pending in Québec where a major forestry legislative rewrite is underway and in Nova Scotia where government is expected to make significant changes to forestry rules in 2010. Ontario's new woodland caribou strategy includes a requirement to determine the level of cumulative effects that have impacted individual herds.

Indicator 2.5: Requirement for the protection of riparian reserves for fish and wildlife habitat

Total grants: 4

Overall progress: Results are still pending in Québec where a major forestry legislative rewrite is underway and in Nova Scotia where government is expected to make significant changes to forestry rules in 2010. Yukon, Saskatchewan and New Brunswick efforts were unsuccessful.

Indicator 3.1: Requirement for conservation first land-use planning before development decisions

Total grants: 13

Overall progress: Ontario and Québec have made major commitments to conservation-first land use planning for the northern halves of each province. No results are yet available nor have legislation or policies for implementation yet been finalized. Yukon and Saskatchewan efforts were unsuccessful.

Indicator 3.2: Requirement that forest harvest levels (or industrial disturbance rates) are the result of planning for conservation first

Total grants: 12

Overall progress: Ontario and Québec have made major commitments to conservation-first land use planning for the northern halves of each province. No results are yet available nor have legislation or policies for implementation yet been finalized. Yukon and Saskatchewan efforts were unsuccessful.

Indicator 3.3: Requirement for the maintenance of a range of forest age classes within the range of natural variation

Total grants: 11

Overall progress: Results are still pending in Québec where a major forestry legislative rewrite is underway and in Nova Scotia where government is expected to make significant changes to forestry rules in 2010. Yukon, Saskatchewan and New Brunswick efforts were unsuccessful.

Indicator 3.4: Requirement that forest species composition at the stand and landscape level be patterned on natural forest systems

Total grants: 11

Overall progress: Results are still pending in Québec where a major forestry legislative rewrite is underway and in Nova Scotia where government is expected to make significant changes to forestry rules in 2010. Yukon, Saskatchewan and New Brunswick efforts were unsuccessful.

Indicator 3.5: Requirement that site-specific operations require impact assessment prior to commencement of operations

Total grants: 5

Overall progress: Results are still pending in Québec where a major forestry legislative rewrite is underway and in Nova Scotia where government is expected to make significant changes to forestry rules in 2010. Yukon, Saskatchewan and New Brunswick efforts were unsuccessful.

Indicator 3.6: Requirement that access planning set ecological thresholds for road density, describe abandonment strategies and avoid sensitive biodiversity/ecological values

Total grants: 6

Overall progress: Results are still pending in Québec where a major forestry legislative rewrite is underway and in Nova Scotia where government is expected to make significant changes to forestry rules in 2010. Yukon, Saskatchewan and New Brunswick efforts were unsuccessful.

Indicator 3.7: Requirement that environmental pollutants impacting forest health be regulated (e.g. acid rain, ground level ozone, greenhouse gases)

Total grants: 0

Overall progress: No new requirements were adopted in policy or law and no grants addressed this issue

Indicator 3.8: Requirement that use of pesticides and GMOs be banned from commercial forest operations.

Total grants: 2

Overall progress: Results are still pending in Québec where a major forestry legislative rewrite is underway and in Nova Scotia where government is expected to make significant changes to forestry rules in 2010. Yukon, Saskatchewan and New Brunswick efforts were unsuccessful.

Appendix 1.

Assignment of Indicator levels

Much of the work that our grantees undertake involves encouraging change to government policy or corporate behaviour (markets cluster). As a result it can be difficult to determine when “some change” or “no change” has occurred. Perhaps the clearest way to describe how staff differentiate between levels is to use an example of a region where a land-use planning process is required to identify and designate protected areas. We would assign a “significant change” assessment if, at the end of the grant period, new protected areas had been identified and designated under law or policy as protected from industrial uses. An assignment of a “some change” score would occur if the responsible government has responded to the efforts of the grantee by announcing a land-use or protected areas planning process with timelines and resources (if such a commitment had not been made previous to the grant period) or if a draft protected areas plan had been produced by such a sanctioned process that was significantly influenced by the grantee. An assignment of “no change” score would occur if the grantee had failed to encourage policy commitments to change or actual outcomes during the grant period.