**Case Brief: Western Canada Wilderness Committee, et al. v. Canada (Fisheries & Oceans), 2014 FC 148**

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In a stinging decision, the Federal Court found that the Ministers of Environment and Fisheries and Oceans both acted unlawfully by failing to post recovery strategies in accordance with the statutory timelines set out in the *Species at Risk Act* for the Pacific Humpback Whale, Nechako White Sturgeon, Marbled Murrelet and the Southern Mountain Caribou.   While the filing of the litigation spurred the federal government to action on these particular species, there remain 167 species at risk for which recovery strategies have not been developed in accordance with the statutory timelines.

Importantly, the court held that the statutory timelines set out in the *Species at Risk Act* are mandatory and cannot be ignored by the Minister.  The court was particularly concerned that the failure to identify critical habitat, one of the requirements of a recovery strategy, deprives the Ministers of considerable leverage in dealing with the impact of industrial development on species at risk and likely has led to the destruction of such habitat.

While the court issued declarations that the Ministers had acted unlawfully, it was not prepared to order that they post final recovery strategies for the four species at this time.  However, the court did retain jurisdiction to make such orders if the Ministers did not comply with the *Species at Risk Act*.  Given the result, expect the federal government to either appeal the decision to the Federal Court of Appeal or seek to amend the *Species at Risk Act*.