# ORDER – UNGULATE WINTER RANGE #U-5-004

**North Island Central Coast Forest District**
**Mid Coast TSA and K3H / K3K Community Forests**

This order is given under the authority of Sections 9(2) and 12 (1) of the Government Actions Regulation (GAR) (B.C. Reg. 582/2004).

The Regional Executive Director of the West Coast Region, Ministry of Forests, Lands and Natural Resource Operations (FLNR) orders that:

1. this order replaces the order established on February 27, 2007 titled "ORDER – UNGULATE WINTER RANGE #U-5-004";
2. the areas shown in the map set out in the attached Schedule A , and contained in the ungulate winter range (UWR) spatial layer stored in the Geographic Warehouse WHSE_WILDLIFE_MANAGEMENT.WCP_UNGULATE_WINTER_RANGE_SP) are established;
3. the ungulate winter range is established for mountain goat *(Oreamos americanus)*;
4. The general wildlife measures (GWMs) outlined in Schedule 1 are established for all ungulate winter range polygons set out in the attached Schedule A;
5. if there is a discrepancy between the areas shown in the map set out in the attached Schedule A and the UWR spatial layer stored in the Geographic Warehouse (WHSE_WILDLIFE_MANAGEMENT.WCP_UNGULATE_WINTER_RANGE_SP) the areas detailed in the UWR spatial layer will take precedent;
6. Pursuant to Section 7(3) of the *Forest Planning and Practices Regulation*, a person required to prepare a forest stewardship plan is exempt from the obligation to prepare results or strategies in relation to the objective set out in Section 7(1) of the Forest Planning and Practices Regulation for mountain goat winter range in the Mid Coast Timber Supply Area.
7. GWM 9 outlined in Schedule 1 is established and applies to a 500 meters specified area surrounding each ungulate winter range unit.
8. GWM 12 outlined in Schedule 1 is established and applies to a 1,500 meters line-of-sight specified area surrounding each ungulate winter range unit.
9. The GWMs outlined in Schedule 1 do not apply for the purposes of exploration, development, and production activities when these activities have been authorized for the purpose of subsurface resource exploration, development or production by the *Mineral Tenure Act,* the *Coal Act,* the *Mines Act,* the *Petroleum and Natural Gas Act,* the *Pipeline Act,* or the *Geothermal Resources Act.*

## Definitions

Words and expressions not defined in this order have the meaning given to them in the *Forest and Range Practices Act* (FRPA) and the regulations made under it, unless context indicates otherwise.

**Incursion** means new timber harvesting or road construction that is located within a UWR unit where no harvesting or road building is otherwise permitted to occur.

**Low probability of goat occupancy** means that: 1) mountain goat use of the ungulate winter range polygon was not previously verified; 2) reconnaissance carried out immediately prior to the proposed activity does not result in the detection of mountain goat or sign of mountain goat use; and 3) information sharing with First Nations has not revealed traditional knowledge of goat use during winter.

**Productive forest area** means forest included as either contributing, partial contributing or non- contributing as per Timber Supply Review (TSR) 3 planning.

**Deactivate or deactivation** refers to either partial or complete treatment of roads and trails with the intent to prevent, as much as possible, motor vehicle access while taking into account site specific operating constraints; where practicable this activity will include right-of-way re-vegetation activities to manage long term access.

**UWR unit** means a portion of "UWR U-5-004" that is a discrete polygon.

## Schedule 1 – General Wildlife Measures

1. Subject to GWMs 2 and 3, primary forest activities are not permitted within the designated ungulate winter range established by this order.

2. Where primary forest activities are planned immediately adjacent to any UWR unit, GWM 1 does not apply to an area of an incursion within the UWR unit if:

   a) the incursion is required to provide for a logical harvesting boundary or a logical road or trail location that utilizes a physical feature or administrative boundary; and

   b) the area of the incursion, or multiple incursions cumulatively, do not exceed:
      i. 3% productive forest area in UWR units with <30 hectares productive forest; or
      ii. 1 hectare of productive forest area in UWR units with >30 hectares to ≤50 hectares productive forest area; or
      iii. 2 hectares of productive forest area in UWR units with >50 hectares to ≤100 hectares productive forest; or
      iv. 3 hectares or 1% of productive forest area, whichever is greater, in UWR units with >100 hectares productive forest area.

   c) the incursion exceeds 0.5 hectare, and the area of the incursion is replaced with an equivalent or greater area of equal or better habitat contiguous to the UWR unit such that there is no net loss; and the incursion does not affect the intent or the integrity of the UWR unit; and

d) boundaries of the incursion and any replacement habitat area are provided to the Director of Resource Management, West Coast Region (via ESRI shape files) prior to the commencement of primary forest activities associated with the incursion.

3. GWM 1 does not apply if:
   a) timber harvesting within an UWR unit is necessary to create guyline tiebacks for safe timber harvesting provided that trees that fall within the UWR unit (measured at +/- 5 metres) are retained on site to function as coarse woody debris;
   b) timber harvesting is for the purposes of traditional and cultural activities, as authorized under a free use permit.

4. Where downed or damaged timber prevents goats from accessing an established winter range, an exemption from the requirement to comply with GWM 1 may be granted by the Director of Resource Management of the West Coast Region of FLNR.

5. Where forest activities are authorized within an UWR unit, they must be undertaken within a period extending from 1 June to 15 November of a calendar year to prevent disturbance to mountain goats.

6. GWM 5 does not apply to ground-based fertilization and ground-based tree planting.

7. Pesticides will not be used within the designated ungulate winter ranges established by this order, unless it is deemed to be required for forest health and the relevant First Nations are supportive of its use.

8. Until free to grow requirements are met (where applicable), GWM 7 does not apply to the cut-blocks or cutting permits issued before the date of this order.

9. Land-based primary forest activities that are within 500 metres horizontal distance of a mountain goat winter range will not result in material adverse disturbance to goats and must take place during the period starting 1 June and ending 15 November.

10. GWM 9 does not apply if the regional FLNR office is notified prior to the activity commencing and a written rationale that supports one or more of the conditions listed is made available upon request:
    a) distance between the activity and the location of mountain goats within the UWR unit is greater than 500 metres; or,
    b) snow accumulation within the area of the UWR unit being used by mountain goats is less than 30 cm between 15 November to 21 December or between 15 April to 1 June as measured at the time of activity; or,
    c) there is low probability of goat occupancy within the UWR unit.

11. Access roads and structures required for primary forest activities within 500 metres of mountain goat winter range must be constructed in a manner that will facilitate effective deactivation. Where roads are temporary and no longer required, they should be permanently deactivated and proponents should notify the Director of Resource Management of the West Coast Region, when deactivation is complete.

12. Helicopter yarding activities are not permitted within a specified area of 1,500 metres line-of-sight from an UWR unit boundary from 15 November to 1 June.

13. GWM 12 does not apply if the regional FLNR office is notified prior to the activity commencing and a written rationale that supports one or more of the conditions listed is made available upon request:
    a) distance between the activity and the location of mountain goats within the UWR unit is greater than 1,500 metres line-of-sight; or,
    b) snow accumulation within the area of the UWR unit being used by mountain goats is less than 30 cm between 15 November to 21 December or between 15 April to 1 June as measured at the time of activity; or,
    c) there is low probability of goat occupancy within the UWR unit.

14. Range developments, such as but not limited to: watering holes, fences, salt blocks, corrals, access roads or livestock trails, will be constructed in a manner that does not result in increased risk of impact to the habitat of wintering mountain goats through the concentration of livestock in the ungulate winter ranges established by this order.

Signed this 14 day of April, 2016

Sharon Hadway
Regional Executive Director
West Coast Region
Ministry of Forests, Lands and Natural Resource Operations

## Appendix 1

The following information is provided by the Ministry of Forests, Lands and Natural Resource Operations (FLNR) as background information and support to the order establishing UWR U-5-004. This appendix is not part of the order.

1. **Activities to which the order does not apply**: Section 2(2) of *the Government Actions Regulation* states:

   An order under any of Sections 5 to 15 does not apply in respect of

   a) any of the following entered into before the order takes effect:
      i. A cutting permit;
      ii. A road permit
      iii. A timber sale license that does not provide for cutting permits;
      iv. A forestry licence to cut issued by a timber sales manager under Section 47.6(3) of the *Forest Act.*
      v. Subject to subsection (3), a minor tenure,
   b) a declared area,
   c) areas described in Section 196(1) of the *Forest and Range Practices Act*, and
   d) areas referred to in Section 110 of the Forest Planning and Practices Regulation.

2. Authority to consider an exemption from the GWMs is provided in Section 92(1) of the Forest Planning and Practices Regulation and Section 79(1) of the Woodlot Licence Planning and Practices Regulation. An exemption may be provided if the Minister's delegate is satisfied that the intent of the GWM will be achieved or that compliance with the provision is not practicable, given the circumstances or conditions applicable to a particular area.

   An exemption application should be submitted to the Minister's delegate with a rationale describing the nature of the problem and options to integrate winter range conservation with proposed forest and/or range practices, and a summary of First Nation information sharing. This submission will assist in timely consideration of the matter, and will inform the conditions, if any, of the exemption that may be granted prior to commencement of activities. Upon receipt of a complete exemption application, a determination will normally be made within 14 calendar days, unless additional First Nations consultation is required as per the applicable engagement framework. Incomplete packages will be returned to the proponent for re-submission. Information pertaining to exemption requests is available at:
   http://search.gov.bc.ca/search?site=default_collection&client=legacy_env_fe&proxystylesheet=
   legacy_env_fe&output=xml_no_dtd&filter=0&q=frpa+UWR+exemption+requests

3. For GWM 1, exemptions would only normally be considered if they result in enhancing quality of the winter range habitat as determined by the Director; or for road construction where there is no other practicable option. "Enhancing quality" means improvement of second growth young forest stands to increase future snow interception cover for ungulates (e.g. thinning dense, young forested stands to improve crown size over time), or other innovative habitat enhancement techniques.

4. GWM 1 does not apply to road maintenance, road deactivation, or brushing within the right-of- way on existing roads or trails in the UWR. These activities should be carried out in a manner that will not affect the intent or integrity of the UWR.

5. The intent of GWM 2 is to facilitate pre-authorized boundary exemptions for UWR units provided that FLNR is notified prior to the incursion taking place.

   Examples of incursions include a cut block, road, trail or landing that overlaps an UWR boundary and: a) that the intent of the UWR boundary was to follow a creek/road and in some areas the boundary extends slightly beyond the creek/road due to a GIS mapping error and creates the overlap; or b) unintentional overlap occurs with an engineered primary forest activity that becomes evident when comparing map scales (e.g. 1:2,000 vs 1:5,000); or c) *Forest Act* agreement holders can demonstrate that the block, road, trail or landing are located in a logical location and the incursion does not exceed the amount allowed.

   In almost all instances the amount of incursion is anticipated to affect a small area. No replacement area is required when the discrepancy is: a) caused by GIS boundary mapping error since the intent of the winter range has not been altered; or b) the cumulative overlap is <0.5 hectare. In other situations, the intended result is that where a boundary amendment is suggested by a *Forest Act* agreement holder and when the reduction is measureable (≥0.5 measured cumulatively in any UWR unit), it will result in no net loss to the UWR unit. Delineation of equal or better UWR habitat, in quantity and quality, will be required. A biological assessment to replace habitat should be conducted by a qualified professional with appropriate training and experience for the work being completed. If replacement habitat is required and equal or better habitat is not available contiguous to the UWR unit in question then the incursion cannot proceed under this GWM. Boundary amendments meeting the conditions identified in GWM 2 will be periodically reviewed by FLNR and the UWR boundary officially amended under the GAR. In any instances where the conditions in GWM 2 cannot be met, proposed primary forest activities will require an exemption as outlined under Section 2 of this Appendix.

   UWR units with <30 hectares productive forest area (as per TSR 3) are given a proportional incursion (3% of productive forest area) because of potential adverse impacts to small areas of existing snow interception cover. An exemption request for any incursions greater than this proportion should be submitted to the Director as outlined under Section 2 in this Appendix.

   In addition to reporting incursions to the Director prior to commencement of activities as per GWM 2 (d), it is the proponent's responsibility to keep accurate records of each occurrence. Records must also be made available to a FLNR official upon request.

6. For GWM 8, regarding the potential for herbicide use on existing cut blocks in the UWR that are not yet free to grow, the intent is that herbicide treatment will consider the long term objective within the UWR unit (e.g. accelerate tree growth to maturity in the shortest time frame possible; and provide/maintain forage opportunities for ungulates). To achieve both objectives, herbicide use should be restricted to spot treatment within 1 m of desirable conifers.

7. For GWMs 10 and 13, the intent is to increase flexibility for forest activities within the designated setbacks through measurement and assessment by qualified professionals during periods of lower risk. Criteria were developed such that when the conditions are met, the risk to mountain goat fitness is low or moderate based on the physical condition of mountain goats and the severity of winter conditions at the time the activity is to take place. The "probability of goat occupancy" may be determined after a review of historical data, a completion of a field survey prior to the commencement of work, and consideration of traditional knowledge of goat use as received from the applicable First Nation(s) during the information sharing regarding primary forest activities. It should be noted that the Heiltsuk First Nation has identified a 10 business day response period for those traditional knowledge requests that occur outside of the primary forest activity information sharing process, whereby they agree that if no response is given within 10 business days, the UWR may be assumed to be "low probability" provided the other criteria are met. A rationale, prepared by a qualified professional should be made available to government upon request and should include:

   a) Introduction: description of the area and information known about the local mountain goat population and habitat use, as well as a description and timing of the proposed helicopter- logging activity.
   b) Methods: description and timing of reconnaissance survey and related activities, methods for snow depth measurements and related activities, with reference to appropriate standards (e.g. Resources Inventory Standards Committee 2002). Given that reconnaissance can be invasive and that a high proportion of mountain goats remain undetected, the costs and benefits of conducting aerial reconnaissance should be carefully considered before proceeding.
   c) Results: findings in relation to occupancy of the UWR by mountain goats, location of mountain goats within the UWR, and/or snow conditions, and a summary of the First Nation information sharing that was conducted regarding traditional goat use.
   d) Description of the condition(s) being met; mitigating factors (i.e. actual line-of-sight distances to mountain goats, snow conditions or probability of occupancy that, in the opinion of the professional, will ensure that the GWM is met.
   e) Additional risks and proposed mitigation: a description of any uncertainties and related risks, as well as additional practices that should be considered to mitigate the risks. These should include (but are not limited to):
      i. The spatial and temporal content of other human-related activities that might increase the risk of the proposed helicopter-logging activity to mountain goats;
      ii. The size and configuration of the UWR, in relation to the helicopter yarding activity, that might influence the likelihood and consequence of movement off the range, and/or restrict movement of goats within the range;
      iii. Minimizing the intensity and duration of helicopter activity;
      iv. Provisions to suspend activities if snow depth or distribution changes substantially (e.g. if snow depths reach 30 cm); and/or
      v. Monitoring of mountain goats and subsequent operational responses if mountain goat distribution and/or behavior changes.
   f) The document "Recommended Guidance for Heli-logging Activities Near Ungulate Winter Ranges Established for Mountain Goats in the Sunshine Coast Timber Supply Area" (October 2011) should be referred to when determining "low probability of occupancy" in the implementation of GWM 13.

8. Improvements in land resource inventory and scientific information may lead to amendment(s) consistent with the GAR of the goat ungulate winter ranges and associated measures including:

   a) the addition of new, or deletion of existing goat winter range polygons;
   b) the adjustment of goat winter range boundaries, and;
   c) modification of a specific measure to address operational constraints while protecting goat populations and their habitat.

9. Consistent with Section 2(3) of the Forest Planning and Practices Regulation, these GWMs do not apply to persons who must comply with the *Worker's Compensation Act* and the safety regulations under that act (e.g. danger tree felling).