Canada

DESCRIPTION OF RESIDENCE FOR ACADIAN FLYCATCHER (*EMPIDONAX VIRESCENS*) IN CANADA

Section 33 of the *Species at Risk Act* (SARA) prohibits damaging or destroying the residence of a listed threatened, endangered, or extirpated species. SARA defines residence as "a dwelling-place, such as a den, nest or other similar area or place, that is occupied or habitually occupied by one or more individuals during all or part of their life cycles, including breeding, rearing, staging, wintering, feeding or hibernating" [s.2(1)]. With respect to a listed wildlife species that is an aquatic species or a species of bird protected under the *Migratory Birds Convention Act, 1994*, the prohibition applies wherever residence of the species is found. For any other listed wildlife species, the prohibition applies automatically when the residence of the species is on federal lands and will only apply on non-federal lands if an order is made pursuant to sections 34 or 35 of SARA. Under section 97 of SARA every person who contravenes section 33 of the Act commits an offence.

The following is a description of residence for the Acadian Flycatcher (*Empidonax virescens*), created for the purposes of increasing public awareness and aiding enforcement of the above prohibition. Acadian Flycatchers are known to have one type of residence – the nest.

Species Information:

Scientific Name - *Empidonax virescens*
Common Name – Acadian Flycatcher
Current COSEWIC Status & Year of Designation - Endangered 2000
Occurrence in Canada – Ontario
Rational for Designation - This species breeds in Canada in very small numbers. There are few remaining patches of habitat sufficiently large and of adequate quality to sustain breeding populations; threats to this habitat are continuing.[1]

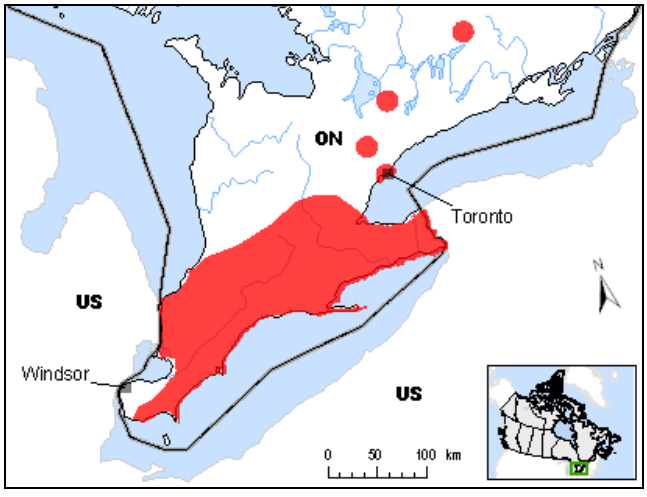

Figure 1. Known distribution of the Acadian Flycatcher (*Empidonax virescens*) in Canada.

1) The Nest

Physical Appearance and Context

Any place used as a nest by the Acadian Flycatcher is considered a residence. The Acadian Flycatcher is an area-sensitive, neotropical migrant songbird that, in Ontario, typically nests in large, mature, swampy woods and mature, well-wooded ravines[2]. The nest is located in a forest having a closed, or nearly closed (>70%) canopy, and an open understory[2,3]. The cup-like nest is generally built at low heights (2–4 m) in the fork of a horizontal branch which is often suspended over water and sometimes over a path or a small clearing[2,8]. Nests appear unkempt and loosely built, with grass and other nest materials sometimes hanging in streamers below the nest[6]. At least fourteen nest tree species are used in Ontario, including American beech (*Fagus grandifolia*), sugar maple (*Acer saccharum*), hawthorn (*Crataegus*) and eastern hemlock (*Tsuga canadensis*) [4,5,7].

Figure 2. Acadian Flycatcher nest

Function

The nest provides a container in which adult flycatchers lay and incubate eggs, and rear hatchlings. The nest may also play a role in courtship and pair formation during nest construction[6]. The adult female builds the nest, usually over 3-4 days but sometimes over two weeks[6]. Clutch size in Ontario averages about 3 eggs[7], which are creamy or buffy white in colour and sparingly marked with small brownish spots mainly at the larger end[4]. Eggs are incubated for 13-15 days by only the female[4]. All young tend to hatch within a single day and remain in the nest for 12-18 days[4].

Damage/Destruction of Residence

Federal Policy defines damage or destruction of a residence as:

> *Any alteration to the topography, geology, soil conditions, vegetation, chemical composition of air/water, surface or groundwater hydrology, micro-climate, or sound environment which either temporarily or permanently impairs the function(s) of the residence of one of more individuals.*

Any activity that destroys the function of the nest would constitute damage or destruction of the residence. This would include, but is not limited to, moving or otherwise disturbing the eggs, nest, and nest tree; changing the microclimate of the nest (such as the amount of light or internal temperature); or blocking access to the nest. The reasons why Acadian Flycatchers prefer nest sites with intact, or nearly intact, canopy cover and proximity to water are not well understood but may be related to food availability and/or nest microclimate[8]. Activities that remove canopy cover or eliminate water availability near the nest can damage its ability to function as a residence.

Period and Frequency of Occupancy

Acadian Flycatchers return to Ontario from wintering areas in mid May[4], with females typically arriving a few days later than males[6]. Nest construction begins in late May or early June, and the nest site can be used for a minimum of five weeks[4,8]. Double-brooding is a common occurrence in Ontario[7]; parents usually build another nest and extend the active breeding season to the end of August. Adults exhibit high fidelity to breeding sites, regularly returning to previously used habitats in subsequent years[4,8]. Protection should include nest building, egg laying, incubation, hatching, nestling, and brood rearing periods – a total time frame of approximately 90 days.

Additional Information

For more information on the Acadian Flycatcher, go to:
http://registrelep-sararegistry.gc.ca/species/speciesDetails_e.cfm?sid=19

For more information on SARA, go to: http://registrelep-sararegistry.dev.ncr.ec.gc.ca/default.asp?lang=En&n=24F7211B-1

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References

[1] James, R.D. 2000. Update COSEWIC Status Report on Acadian Flycatcher, *Empidonax virescens*, in Canada. Committee on the Status of Endangered Wildlife in Canada. Ottawa. 8 pp.

[2] Martin, D., J. McCracken and M.Cadman. 1999. Acadian Flycatchers in Ontario ravines. OFO News 17(2): 10-12.

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Acadian Flycatcher (*Empidonax virescens*) and Hooded Warbler (*Wilsonia citrina*). National Recovery Plan No. 20. Recovery of Nationally Endangered Wildlife (RENEW). Ottawa, Ontario.

[4] Dave Martin, personal communication.

[5] Bisson, I.A., D. Martin, and B.J.M. Stutchbury. 2000. Acadian Flycatcher, *Empidonax virescens*, nest site characteristics at the northern edge of its range. Canadian Field-Naturalist 114: 689-691.

[6] Whitehead, D. R. and T. Taylor. 2002. Acadian Flycatcher. In The Birds of North America, No. 614 (A.Poole and F.Gill, eds.) Philadelphia: The Academy of Natural Sciences; Washington, D.C.

[7] Woolfenden, B. and B. Stutchbury. 2004. Population status and productivity of Acadian Flycatchers in the Carolinian forest. Report to the Acadian Flycatcher/Hooded Warbler Recovery Team.

[8] Bonnie Woolfenden, personal communication.