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AWA



# A WILD LANDS ADVOCATE

THE ALBERTA WILDERNESS ASSOCIATION JOURNAL



*Red Deer River Cottonwoods* PHOTO: D. OLSON

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## COVER PHOTO

Dan Olson photographed the Red Deer River's cottonwoods near Buffalo, in the Grassland Natural Region, on a crisp fall day. Grasslands are much more than wide open sweeps of unbroken prairie. The dry mixedgrasses of southeastern Alberta slowly give way to the Parkland Region's expanses of mixed aspens as you head northwards.

## FEATURED ARTIST

AWA is very pleased to feature acrylic and watercolour paintings by Calgary's Rene Thibault in this issue of *Wild Lands Advocate*. Born in Ponteix Saskatchewan Rene studied at the Alberta College of Art and Design. Rene's paintings are noted for their combination of strong tonal and textural patterns with fine detail. Whether canoeing and hiking in the Canadian Rockies or chartering a helicopter to acquire reference photos of little seen aspects of the mountains his aim is to present to the viewer scenes not commonly reflected upon. His paintings hang nationally and internationally and enrich the collections of the Whyte Museum of the Canadian Rockies, the Alberta Foundation for the Arts and the Diploma Collection of the Canadian Society of Painters in Water Colour. He is represented by the Collector's Gallery of Art in Calgary and his works may be seen on his website [www.renethibault.com](http://www.renethibault.com)

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**Editor:**  
Ian Urquhart

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Ball Creative

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Alberta Wilderness Association is a charitable non-government organization dedicated to the completion of a protected areas network and the conservation of wilderness throughout the province. To support our work with a tax-deductible donation, call (403) 283-2025 or contribute online at [AlbertaWilderness.ca](http://AlbertaWilderness.ca).

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**Please direct questions and comments to:**  
(403) 283-2025 • [awa.wla@shaw.ca](mailto:awa.wla@shaw.ca)

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## ALBERTA WILDERNESS ASSOCIATION

Box 6398, Station D,  
Calgary, Alberta T2P 2E1  
(403) 283-2025

Toll-free 1-866-313-0713

[www.AlbertaWilderness.ca](http://www.AlbertaWilderness.ca)

[awa.wla@shaw.ca](mailto:awa.wla@shaw.ca)



PHOTO: I. URQUHART

## IS THE SUN RISING OR SETTING ON PROTECTED AREAS? PART II

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The October issue of the *Wild Lands Advocate* continues the last issue's exploration of protected areas. In 2006 the provincial government initiated private and public consultations about how government, industry, and citizens should treat Alberta's 661,848 square kilometres. The goal was to craft "a comprehensive approach to planning to better manage public and private lands and natural resources to achieve Alberta's long-term economic, environmental and social goals." The final product of those consultations – the *Alberta Land Stewardship Act (ALSA)* – came into force on October 1st.

Given AWA's wilderness conservation mandate and this issue's protected areas focus we direct much of your attention here to considering what Alberta's new land-use legislation means for our treatment of Alberta's natural regions. First, what does the legislation mean for the overall quality of our stewardship role? Second, what might the new legislation mean for protected areas?

To this end, this issue of the *Advocate* tried something new. The first section of the journal is a forum on the government's new Land-Use Framework. We invited government, industry, and fellow conservationists to speak to you about what they think the ALSA means for the future of land use and protected areas in Alberta. A crucial point I take away from those submissions is that much work remains. We must be sure that the government regulations introduced to breathe life into the legislation will inspire a progressive understanding of the law.

One significant challenge land stewardship faces is that many of the landscapes we treasure rest in the White Area of Alberta – the areas where European migrants settled. It is no coincidence, therefore, that more than half of this province's endangered species struggle to survive in the Grasslands Natural Region. If we are to do well by those species and their habitats private landowners must embrace a land conservation ethic. Nigel Douglas and Carolyn Campbell tackle this reality. Nigel focuses on three protected areas established on private land: the Glenbow Ranch Provincial Park, the OH Range Heritage Rangeland, and the Bohomolec Ranch. They are wonderful examples of private landowners bequeathing their lands to such an ethic. Carolyn concentrates her attention on those aspects of the *ALSA* that create instruments to pursue land conservation objectives on private land. She applauds their potential but adds a crucial caution. They are not self-implementing; their success depends fundamentally on the government's political will to regard them as vital.

Laurie Wein approaches the private sector/protected areas relationship from another important different direction. Management practices on lands adjoining formally protected areas such as our National Parks are crucial to maintaining the Parks' ecological integrity. She considers this issue in the context of the Waterton-Glacier World Heritage Site, a jewel whose lustre is threatened by resource extraction and residential development outside of the park. To avoid our parks becoming what Tom Carpenter evocatively called "islands of extinction" such threats from outside the parks must be neutralized.

And, as Barbara Janusz reminds us, one law's impact may depend on the interpretation of another. She warns that provisions of the Land Assembly Project Area Act may sap some of the *ALSA*'s positive potential.

These articles are joined by two profiles of people who have helped improve our ecological health. Richard Secord, a leading environmental lawyer, will be delivering our annual Martha Kostuch lecture on November 20th. Recall of the Wild focuses on Gordon Kerr, retired senior government wildlife manager, who championed habitat protection. Joined by our regular updates feature we hope we have provided you with some stimulating post-Thanksgiving fare.

- Ian Urquhart, Editor



## THE GOVERNMENT'S VIEW OF ALBERTA'S LAND-USE LEGISLATION

By Morris Seiferling, Assistant Deputy Minister responsible for the Land-Use Secretariat

This summer AWA invited Sustainable Resource Development Minister Ted Morton, the Canadian Association of Petroleum Producers, the Environmental Law Centre, and Water Matters to speak directly to AWA members about the promise they feel Alberta's new land-use legislation offers to better manage public lands in Alberta.

In addition to general assessments of the legislation they were asked to consider questions such as what the new legislation may mean for protected areas.

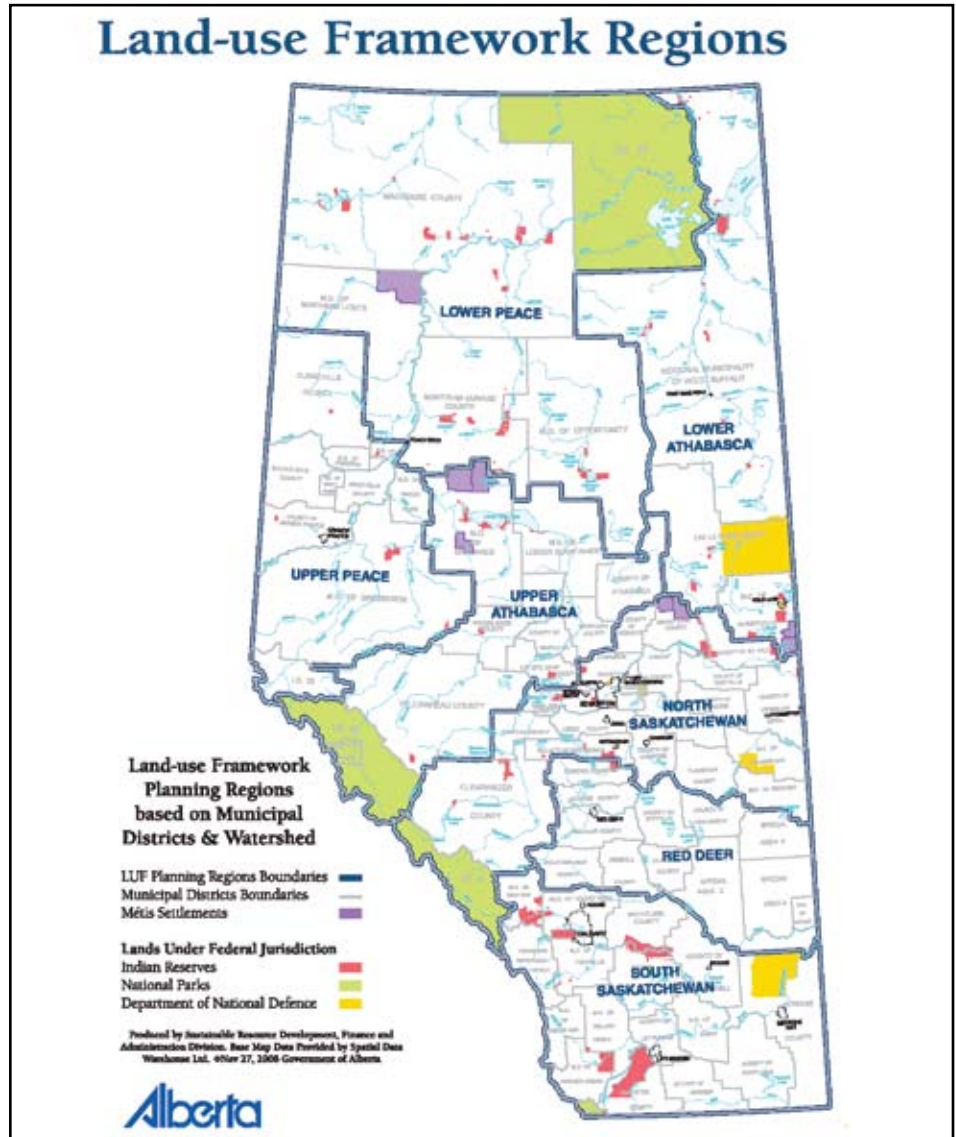
Their responses and perspectives follow.

Alberta is a unique and very fortunate place. We live in one of the most beautiful locations on Earth. The plains, foothills, mountains, parklands and Boreal forests support a magnificent array of fish and wildlife, and provide the clean water on which all life depends.

Under almost every square metre of our landscape resides some form of hydro-carbon. The development of these vast stores of natural resources has provided generations of Albertans with good jobs and economic opportunity.

As successive generations got down to the work of building our province, they all faced the same serious challenge – manage the development in a way that didn't undermine the beauty and ecological health of our home. Albertans have always taken seriously their role as stewards of the land, the natural resources, and their responsibility to the generation that would follow.

Three years ago, the Honourable Ted Morton, became Minister of Sustainable Resource Development and accepted a similar challenge from Premier Stelmach – to oversee the development of the Land-use Framework, which would establish a better balance between the economic growth that creates prosperity for Albertans while supporting their



Alberta's Land-Use Regions. Credit: Alberta Sustainable Resource Development. Used with permission.

environmental and social values.

Called the Land-Use Framework, it is the most comprehensive planning approach ever advanced in Alberta. It is a bold and innovative idea – the first time in North America that comprehensive land-use and natural resource planning has been implemented on such an ambitious scale. Alberta's Land-Use Framework sets out a new approach for managing public and private lands and natural resources to achieve a better balance of Alberta's long-term economic,

environmental and social goals.

The framework is clear that achieving this balance will require trade-offs and tough choices, but it is equally clear about the desired outcomes for Alberta:

- a healthy economy supported by our land and natural resources;
- healthy ecosystems and environment;
- people-friendly communities with ample recreational and cultural opportunities.
- clear protection of private property rights and landowner rights.

The framework is a timely response to increasing pressure on our land and natural resources in a growing and changing Alberta. It was developed in response to a time of substantial growth and positions us well for the economic recovery.

I have travelled throughout Alberta meeting Albertans in their communities to discuss the framework, the supporting legislation, and the start of the regional planning process.

The framework will be implemented through regional plans, which will consider and balance each region's unique conservation and development challenges. Critically, the seven planning regions are congruent with Alberta's major watershed, which intentionally gives us the opportunity to better integrate air, land and water policies to an unprecedented degree. Regional plans will look decades into Alberta's future, considering significant economic and population growth. The regional plan is about striking a new balance between development and conservation as well as moving beyond the status quo.

Much has been accomplished and a great deal of work has already gone into developing the first two of seven regional plans, in the Lower Athabasca and South Saskatchewan regions. We will complete these first two plans in 2010; the North Saskatchewan and Upper Athabasca will be initiated in 2010 and completed in 2011; and finally the Red Deer, Upper Peace and Lower Peace will be initiated in 2011 and completed in 2012.

Regional advisory councils will be established to provide advice to the Alberta Government for the development of regional plans. In addition to the advice from the councils, input from the public, stakeholders and aboriginal peoples will be sought. Terms of reference for each regional plan will guide the advice provided by the regional advisory councils, including conservation targets.

The Lower Athabasca Region, to cite the example of the first regional plan to be initiated, is nothing if not unique. An area covering 93,260 square kilometres in north-east Alberta, the region contains almost all of Alberta's proven oil sands reserves. It is home to the majority of oil sands development in Alberta. The Lower Athabasca is the key to Alberta's current and future growth and a major driver of

the Canadian economy.

Another equally extraordinary physical feature characterizes the region. Boreal forest spans six of Alberta's seven planning regions and blankets much of the Lower Athabasca Region. The dominant ecosystem in the region, Boreal forest is internationally recognized for its ecological importance, and as a habitat for diverse wildlife, fish and migratory bird species.

Within this context, the Lower Athabasca Regional Plan will articulate the desired outcomes and objectives for the region, make necessary trade-off decisions and set thresholds to help manage the cumulative effects of current and future development. The Government of Alberta is responsible for the development and approval of the plan, considering the advice from a regional advisory council and input from Albertans.

The Lower Athabasca Regional Plan is about striking a new balance between development and the environment. The Government of Alberta is asking for advice from the regional advisory council on how to increase the amount of conservation land in the Lower Athabasca region, while still reaching our economic and social goals. The council will consider the feasibility of conserving 20 per cent of the Boreal forest and what that will mean for the Lower Athabasca Regional Plan. This will be very challenging in the Lower Athabasca region due to the scope of development activity and the key criteria for these conservation lands. Careful planning therefore will be crucial.

Key criteria for establishing conservation areas include the following:

- areas with little or no industrial activity;
- areas that support Aboriginal traditional uses;
- areas that are representative of the biological diversity of the area (e.g., landforms, species, vegetation); and
- areas of sufficient size (i.e., roughly 4,000-5,000 square kilometres).

Considering the concentration of oil sands resources in the Lower Athabasca and the scope of development underway or anticipated, achieving new conservation objectives will be challenging. The importance of ecosystem health, however, and

Albertans' strong environmental and social goals for the area make it imperative that we plan conservation goals for the Lower Athabasca.

The *Alberta Land Stewardship Act*, which received Royal Assent on June 4 of this year and was proclaimed on October 1st, will support the framework by establishing the legal authority for regional plans, and require Alberta government departments, local governments and Boards to align their policy, planning and decision making with them. In addition, the Act also provides the legal foundation for new and enhanced conservation and stewardship tools.

All of the framework's seven strategies – including one focused on conservation and stewardship – support our intent to better balance conservation with development. A new conservation and stewardship strategy will identify ways of supporting the conservation objectives of regional plans, raising awareness, exploring innovative approaches for funding and expanding upon conservation and stewardship tools in the *Alberta Land Stewardship Act*. This strategy will be introduced in 2010, with an initial blueprint available later this year for stakeholder input. There will be other tools and approaches that will help us determine trade-offs as well as strengthen and implement new conservation goals. Regional plans will guide future decisions concerning the balance between development and conservation. New and creative approaches and tools will be required to foster conservation on the ground.

It is clear from the framework that the Government of Alberta will develop, implement and be accountable for regional plans. But the direction and the decisions made in the regional plans will not be made by government in isolation – the regional advisory councils will provide advice, and there will be input from a wide range of stakeholders, Aboriginal peoples and the public.

Alberta is at the start of this new planning process. We have made good progress but much work is to be done. It is exciting to have started this journey, and I would encourage all Albertans to participate in its success. 🍷



## ALBERTA'S CHANGING LAND-USE PLANNING SYSTEM

By Cindy Chiasson, Executive Director, Environmental Law Centre

The Alberta government has moved closer to implementation of its new Land-Use planning and management system in passing the *Alberta Land Stewardship Act (ALSA)* during the spring 2009 legislative session. The Land-Use Framework, which has been under development since 2006, seeks to manage Alberta's lands on a regional basis to address the cumulative effects of activities. *ALSA* provides the legislative structure and authority to anchor this initiative, but many of the details remain to be developed through regulation.

The Land-Use Framework document, released in late 2008, envisions a system of regional land-use plans for each of seven new land-use regions to be established by the province. These land-use plans will set out regional objectives, integrate provincial policies and bind decision-makers, such as municipalities and regulatory tribunals. A new governance structure will include a land-use Secretariat to oversee implementation of the framework and Regional Advisory Councils for each land-use region to provide multi-stakeholder input into the regional plans. Ultimate authority is to rest with the provincial Cabinet. Cumulative effects management, more efficient land use, a suite of conservation and stewardship tools, establishment of an information, monitoring and knowledge system, and inclusion of First Nations in land-use planning are other planned attributes of the new framework.

### About ALSA

In essence, *ALSA* creates the legal skeleton for the Land-Use Framework. It enables the provincial Cabinet to make regulations establishing the governance bodies mentioned above and setting out the process for development of land-use plans. The broad scope of discretion given to the Cabinet in *ALSA* is one of its most striking attributes. Cabinet controls all aspects of the new land-use planning



*Above the Rockies #2, watercolours on paper, 12 x 20 in.* PHOTO: © R. THIBAUT

system, from the creation of land-use regions, to the content, approval and amendment of regional land-use plans, and the process for developing these plans, including whether there will be any public involvement.

Another noteworthy aspect of *ALSA* is the clear priority given to the new planning system. The Act takes precedence over all other provincial legislation and the regional plans, when developed, will have the power of regulations and prevail over all other provincial regulations. The regional plans will bind the provincial government, agencies such as the Energy Resources Conservation Board and Alberta Utilities Commission, and municipalities. Twenty-seven existing provincial Acts, including the Municipal Government Act, Public Lands Act and Forests Act, have been amended to ensure consistency with *ALSA*. Many of these consequential amendments modify legislation to require that future decisions affecting land use are consistent with regional plans.

The Act provides for a range of conservation and stewardship tools that can be used by both government and the private sector on Alberta lands. The provisions dealing with conservation easements were moved

from the *Environmental Protection and Enhancement Act* to *ALSA* and expanded to allow for protection of agricultural land. New tools include conservation directives, which can be declared in regional plans to protect lands, and market-based options, including stewardship units, conservation offsets and transfer of development credit schemes. The details of these new tools remain to be developed in regulations under *ALSA*.

*ALSA* relies mainly on existing appeal processes, and creates new appeal processes under the *Forests Act and Public Lands Act*. While the advantage of this approach is that it does not create new bureaucratic structures, its inherent weakness is the variety of appeal processes available under Alberta laws affecting land use. This means that land-use decisions will not be subject to one consistent appeal process and that persons appealing, relevant rules and availability of costs will vary depending on the subject matter of the decision being appealed and the applicable legislation.

There is no appeal process for a decision that does not comply with a land-use plan and *ALSA* prevents any type of judicial review or other



*Above the Rockies #6, watercolours on paper, 11 x 27 in. PHOTO: © R. THIBAUT*

court intervention initiated by the public or other interests. Complaints of non-compliance may be made to the Stewardship Commissioner, a government official. *ALSA* gives the Commissioner authority to investigate complaints and then refer issues of non-compliance to the relevant Minister, government department or municipality. If the Commissioner feels that no other remedy is available, he or she may also apply to the courts for an order to deal with the non-compliance.

#### How does *ALSA* measure up?

The Environmental Law Centre has followed and provided commentary on the Land-Use Framework initiative from its beginning in 2006, with particular attention to legislative developments. In a 2008 *News Brief* article, we set out the Centre's vision for land-use in Alberta: "Land use decisions are made in accordance with sound laws and policies that are protective of the environment and are implemented and effectively applied so as to ensure the sustainability of Alberta's natural capital." One of the three necessary elements of that vision was a dedicated piece of legislation to deal with land use planning processes. More specifically, we suggested that such legislation should include the following aspects:

- It should be a single, binding Act, with corresponding amendments to existing provincial legislation.
- It should be administered by Cabinet and by an administrative secretariat, separate from individual provincial government departments.
- All government departments should be required to conform to regional plans when making land-use decisions.
- It should set out decision-making

process for land-use planning.

This should cover identification of provincial and regional priorities and related thresholds and limits; create planning regions and regional planning bodies; establish a process for developing regional plans; and provide for enforcement of regional plans in relation to local decisions.

- It should assign planning responsibilities, create a clear decision-making hierarchy and require local land-use decisions to conform to regional plans.

In large part, *ALSA* meets the basic elements envisioned by the Centre. Where more could have been done, and ideally will be done, is in relation to the decision-making process for land-use planning. While the essentials of the process, as described in the Land-Use Framework document, are provided for in *ALSA*, they are for the most part within Cabinet's discretion to create and implement. The establishment of the Regional Advisory Councils, creation of the planning process itself, development and amendment of regional plans, and content of those plans, are all either discretionary acts that can be taken by Cabinet or determined by regulations that may be made by Cabinet. As such, the ultimate import of the new land-use planning and management system is yet to be seen.

This uncertainty means that the likely treatment of current and potential protected areas in the new planning and system is also unclear. The broad discretion given to Cabinet includes important aspects of the regional planning process, such as the scope and structure of the process, any public communications and consultation, the development of provincial policies to

guide land-use planning across Alberta, and any environmental, economic or social issues to be considered in the planning process. There are few, if any, limitations or checks on this discretion, which leaves the proposed system very prone to undue political influence unless clear rules and processes are legally established in the regulations to be developed under *ALSA*.

#### Future steps

While supporting regulations are yet to be enacted, work has begun on development of regional plans for two Land-Use regions. The *Land-Use Framework* document identified as priority areas the Lower Athabasca region (Fort McMurray oil sands area) and the South Saskatchewan region (the southern-most area of Alberta, to and including Calgary). Regional advisory councils have been appointed for both regions, and public consultation on the planning process has begun in the Lower Athabasca region. The provincial government expects land-use plans for these regions to be completed and approved by the end of 2010. Development of plans for the North Saskatchewan region (covering that river basin and including Edmonton) and another region yet to be determined will begin in 2010, with scheduled completion for the end of 2011. The remaining three land-use regions will then undergo plan development, to be completed by the end of 2012.

*ALSA*'s enactment should in no way be seen as an endpoint in the development and implementation of Alberta's new land-use planning and management system. The practical effects of this system will unfold in the coming years as a full regulatory package is put in place by the province and regional plans are developed. Steps taken over the next year in the Lower Athabasca and South Saskatchewan regions may be one of the best indicators of how this system will proceed. 🍷

- A version of this article was originally published in the *Environmental Law Centre's News Brief*, Vol. 24, No. 2 (2009).

### Still Waiting - the View of the Canadian Association of Petroleum Producers

On September 10th I wrote to the Canadian Association of Petroleum Producers to invite them to contribute their views to this forum. To contribute their (unedited) views, in my opinion, would give CAPP an important opportunity to speak directly to AWA members about the promise they think this legislation offers to better manage public lands in Alberta.

After resubmitting my invitation the Association told me that there was interest within the Association but they needed to establish whether they had the internal capacity needed to generate such an article. That is the last I heard from CAPP on the issue.

Please, find a good use for the space below. Perhaps you might invite your children or grandchildren to use it to

draw their pictures of what they hope their favourite Alberta landscapes will look like in the future. Or, use it yourself to draft your letters to CAPP asking them to respond to this important issue. Their address is: 2100, 350 - 7 Avenue SW Calgary, Alberta, Canada T2P 3N9. The Association's website is: [www.capp.ca](http://www.capp.ca)

*- Ian Urquhart*





## INITIAL THOUGHTS ABOUT THE LAND-USE FRAMEWORK

By Joe Obad, Associate Director, Water Matters

In 2007 the Land-Use Framework (LUF) process was announced with great fanfare by the Alberta government. Environmentalists carrying battle wounds from failed government land planning processes in the past such as Special Places asked: what is different about the LUF from previous rounds of land-use planning in the province? And why should we get involved? Unfortunately, the answer is not clear – at least not yet. Much of what the Land-Use Framework has offered thus far has been highly conceptual making it difficult to judge whether the process will deliver on its promises. It is even more difficult to know what regional planning will mean for protected areas and watersheds. However, the final LUF identified several priority actions for immediate action offering early clues as to what Albertans can expect from the rest of the process and for protected areas and water in particular.

### Strong words

“We have reached a tipping point, where sticking with the old rules will not produce the quality of life we have come to expect. If we want our children to enjoy the same quality of life that current generations have, we need a new plan.” These serious words could have come from almost any environmental group in the province who watched exploding land development over the last two decades, but this statement is from the government’s own Land-Use Framework policy finalized in December 2008, signaling a government that recognizes the significance and scope of the problem.

The completion of the LUF arrived after a relatively uncommon set of conditions in Alberta. In 2007 and 2008, industry, government and various environmental non-profits agreed to come together through initial scoping sessions to flesh out what a Land-Use Framework for the province should look like. The consequence of this efforts lead

to creation of seven strategies, three of which are highlighted below:

*Develop seven regional land-use plans based on seven new land-use regions.*

The choice by the Alberta government to structure these regions on watersheds places emphasis on a functioning ecological system rather than political jurisdictions. While this complicates governance, it ensures a constant reference to watersheds as core concepts to which human development should adhere, rather than the other way around.

*Cumulative effects management will be used at the regional level to manage the impacts of development on land, water and air.*

The inclusion of cumulative effects management marks a significant advance in Alberta’s land-use management history. It is worth mentioning that scientists and environmentalists initiated the discussion of cumulative effects of human development to a skeptical Alberta government decades ago. Its inclusion in the LUF is the culmination of this persistent effort.

*Develop a strategy for conservation and stewardship on private and public lands.*

Justifiably, the environmental community’s previous efforts have focused on improving public lands. And yet, private land plays an incredibly vital role in protecting both watersheds and species. This is particularly true in southern Alberta where private land exceeds public land by several degrees. Devoting energy to helping land owners steward this land base is a significant advance.

Collectively, these strategies are a step forward for Alberta. How will they contribute to protected areas, headwaters, and riparian zones? The language bias is towards land “use.” This bias defers the question of maintenance and creation of protected areas to the Regional Plans. Missing is a strategy to identify and protect what remains intact

at a provincial scale. The structure of the LUF’s regional plans favours the consideration of watershed protection. Wildlife habitat that stretches across major watershed boundaries may fall through the cracks as integrating plans has already proven difficult within the LUF. If different planning mandates and regional advisory committees take different approaches to habitat challenges habitat could be managed or “protected” differently depending on the regional plan it sits within.

### Some Early LUF Tests

The LUF policy committed to some immediate priorities:

- The introduction and enactment of legislation required to support the implementation of the Land-Use Framework.
- The development of metropolitan plans for the Capital and Calgary regions.
- The regional plans for the Lower Athabasca and South Saskatchewan regions

All of these priorities are either underway or completed. A discussion of each of these three offers insight into how the LUF will proceed and its potential future success.

### New Legislation

In the spring of 2008, the *Alberta Land Stewardship Act (ALSA)* passed in the legislature and was ultimately proclaimed in October. While the environmental community expressed general support for the adoption of cumulative effects management it sounded alarm at the discretionary nature of the legislation. In other words, ALSA is enabling legislation laying out authority. ALSA commits the government to manage the cumulative effects. ALSA’s purpose statement says the act will, “create legislation and policy that enable sustainable development by taking account of and responding to the cumulative effect of human endeavour

and other events.” How the LUF process will install cumulative effects management remains to be seen.

There are other crucial omissions to ALSA. For example, there are no provisions specifically for protected areas, leaving new designations to the individual regional plans. Nor are there clauses for interim measures that could safeguard areas from inappropriate development until a regional plan is in place. The lack of interim measures leaves several land-use planning areas vulnerable because these regions will not see planning commence for several years.

Despite these limitations, ALSA still marks a step forward as it *legislates* land-use planning on a watershed scale, taking precedence over all other land-use decision-making including municipal planning. It strives to remedy the problem of fragmented decision making that has hampered management of existing protected areas, future candidates and watersheds.

### **The Calgary and Edmonton Sub-regional Plans**

The LUF contemplates the development of sub-regional plans for the greater Calgary and Edmonton regions. As sub-regional plans they will need to conform to the regional plans under which they sit.

But integrating these plans is the subject of considerable confusion related to issues of sequencing and mandates. The Capital Regional Plan (Edmonton and surrounding municipalities) and Calgary Municipal Plan (Calgary and surrounding municipalities) are both far more advanced than their would-be parent plans – the future North Saskatchewan regional plan (not yet started), and the South Saskatchewan Regional Plan (still in its infancy). These regional plans were started to resolve inter-municipal disputes and challenges and have since morphed into sub-regional components of the larger regional plans.

The Capital Regional Plan was dysfunctional enough to be pulled under the auspices of Municipal Affairs. It has since been more orderly. However, the integration with the future North Saskatchewan Regional Plan will present significant hurdles to be sure.

Lacking such clarity from the province, the Calgary Municipal Plan (CMP) has been the subject of contentious dialogue between the

members who are rural and urban elected officials over water use, self-autonomy, and development rights. Other topics such as riparian zone and habitat protection remain far removed from the central agenda despite the fact that public input overwhelmingly rated environment concerns as high in the CMP’s public consultation process. The CMP is currently undergoing a provincial cross-ministerial review; at the same time the MDs of Foothills, Rocky View, Bighorn and Wheatland County have left the CMP.

This feuding is one indication of how habitat and watershed protection can quickly be buried by other agendas within the LUF process without leadership. Where the LUF lacks clarity, similar battles are likely to arise creating considerable uncertainty for headwaters protection and water security.

Despite these challenges, these municipal regional plans still have the potential to reel in the sprawling growth in the Edmonton and Calgary area that is gobbling up habitat, severing wildlife corridors and pressuring regional water quality and quantity. To do so, however, the province will have to bring clarity and clear expectations to the integration of municipal area planning and the regional plans.

### **Regional plans for the Lower Athabasca and South Saskatchewan regions**

True to its word, the government kicked off the regional plans for the Lower Athabasca and South Saskatchewan regions in 2009. While the process to create these plans has been controversial, there are indications the plans may create “protected” areas for wildlife and water.

At the process end, the Regional Advisory Councils (RACs) charged with the development of land-use plans, excluded candidates nominated by the environmental community for representation. Where the development of the Land-Use Framework process was highly inclusive, the RACs have been less so. The Alberta Environment Network was keenly sought by the Alberta government as a key supporter for the development of the LUF policy, but none of its representatives have been accepted onto either of the current RACs. The take away message so far seems to be that strong, vocal advocates



*Above the Rockies #11, watercolours on paper, 20 x 12 in. PHOTO: © R. THIBAUT*

for protected areas are not welcome at the RAC table. By contrast, industrial development advocates are a prominent, if not dominant, feature of the RAC composition. In fairness, there are environmental experts at the table, like Ducks Unlimited, but the allowance for strong industrial advocates while clearly excluding a community of environmental advocates that has been highly supportive of the LUF process is widely seen as a breach of faith.

Meanwhile, the Terms of Reference (ToR) that define the scope of regional plans have been a bit more encouraging. The Lower Athabasca ToR mandates its RAC to explore the feasibility of meeting a conservation scenario “higher than 20 percent while achieving the stated economic objectives.” Objectives higher than 20 percent have already been recommended by the Cumulative Environmental Management Association (20 – 40%), the Canadian Boreal Initiative (50%) and CPAWS, FAN and AWA (50%). This mandate signals a willingness to finally recognize the need for protected areas in the boreal despite significant economic pressure to develop oil sands. Since the end of the Special Places process there has been little, if any, official procedure for protected areas candidates to be explored or recommended to government. By

the time this article is printed the ToR for the South Saskatchewan should be released. The government has forecast that water will be the priority for the region, so it only makes sense to ensure more protected areas safeguard the water towers of the Southern East Slopes, such as the Castle area. The inclusion of a mandate to explore protected areas will be a crucial litmus test not just for the SSRP region but for the remaining regional planning areas.

### **A Historical Caution**

The LUF was kicked off in a time of financial optimism that has given way to a great deal of economic uncertainty. Historically, this swing in economic fortunes has not benefitted Alberta's environment as regulations and policies that safeguard the environment are treated as impediments to industrial development that provides revenue to hungry governments. The greatest example of this in recent memory was the gutting of the Eastern Slopes policy

during the recession of the early 1980s. As the Stelmach government faces the current economic downturn it is a virtual certainty that the progressive elements of the Land-Use Framework will be under attack. The LUF is far from perfect, but given the alternatives it remains the best chance on the table for protected areas for water and wildlife. As a community we need to push to remedy some of the challenges above, but recognize the LUF still takes significant steps forward for the landscapes, wildlife and water of Alberta. 🏡



## PRIVATE PROTECTION – OPTIONS FOR PROTECTING PRIVATE LAND

*By Nigel Douglas, AWA Conservation Specialist*

It is a damp and blustery day in June 2006. Denis Ducharme, then Minister for Community Development, shuffles up to the small stage and gratefully steps beneath the shelter of a proffered umbrella. “I invite you to marvel at the landscape that surrounds us,” he offers, pointing across the saturated fescue grasslands, through the mist, to the Bow River below. “It is one of the most visually spectacular and environmentally important pieces of land in Alberta.”

The occasion is the announcement of the new Glenbow Ranch Provincial Park on the banks of the Bow River between Calgary and Cochrane. The 1,314-hectare park, purchased by the province of Alberta from the Harvie family of Cochrane, will cover 14 kilometres of river-bank along the Bow River. It will protect important native grasslands, wetlands and wooded areas from the threat of impending development signaled by the scars already inflicted on the surrounding landscape. “A new park will make this a place of learning where people can develop an appreciation for this land and its heritage,” says Ducharme.

In recent years some of the greatest strides in achieving progress on new protected areas have come through the

joint efforts of government staff and determined landowners. As landowners find themselves getting older, more and more begin to wonder how they can ensure that the precious land that, sometimes for generations, has provided their families with a healthy livelihood will be managed well into the future.

So what exactly are the options available to landowners with this type of conscience who want to ensure that the land they have stewarded and loved continues to be appreciated beyond their own lifetimes? Here we look at three of the most celebrated new protected areas in recent years: the Glenbow Ranch Provincial Park, the 4,100 hectare OH Ranch near Longview and the 65 hectare Bohomolec Ranch in the Crowsnest Pass.

### **Glenbow Ranch Provincial Park**

The Harvie family sold the land for Glenbow Ranch Provincial Park to the province for \$40 million – about half its estimated market value – and also donated \$6 million to establish the Harvie Conservancy Foundation to build and operate the park. In return they received a tax receipt for the additional value of the land. Ted Morton, the local MLA, called the new park a “huge legacy” for Calgary, Cochrane and the surrounding area. “Foothills-Rocky View is absolutely at the epicentre of tension between urban

development and preserving the foothills and environment that makes southern Alberta so special,” he told the Calgary Herald that day.

The award ceremony was, of course, the culmination of a tremendous amount of work carried out by a number of people over many years. “The process to create the park started at least 30 years ago,” says Tim Harvie today. Tim is one of four children who inherited the land from their father Neil; their grandfather, Eric Harvie, had first purchased the land for the ranch in 1933. Tim Harvie remembers a conversation with his father many years ago asking what would happen to their land in the future, especially bearing in mind the development beginning to press in upon them from all directions. “My father suggested that one day open space would be more valuable than developed land,” he says. “That was pretty prophetic!”

“My father dreamed this beautiful landscape could be protected from development and conserved for all time,” says Harvie. Though many landowners before them have reluctantly decided to put up parcels of land for sale to the highest bidder, this clearly was not an option to the Harvies. So, short of donating the land to the government or to a conservation organization, what were the options available to them at the time?



*Tim Harvie at the official announcement of the Glenbow Ranch Provincial Park.*

PHOTO: C. OLSON

Organizations such as Nature Conservancy Canada (NCC) or Ducks Unlimited may accept land donations and they have some funds for purchasing land, but certainly not on the scale of the Harvie ranch. A landowner can sign a conservation easement agreement with such an organization. Effectively, they donate certain rights to the land, such as the right to subdivide or to plough the land, in exchange for a tax receipt. But conservation easements did not quite work for the Harvies. Potential receiving conservation organizations quite simply would not have had the dollars needed to buy the land outright and it was not possible to do it in stages.

Tim Harvie points out that conservation organizations are good at protecting land but then what? The Harvie land is at the doorstep of Calgary, a city of more than a million people, so to them it was begging for public use. “We didn’t want to shelve it and hoard it so no one else would see it,” says Tim Harvie. The family saw it as a “great opportunity for more people to connect with nature... to connect urban people with wilderness, particularly school groups.”

Increasingly, the option of a park seemed to make sense. “In the early 2000s we put together a team of advisors to look at the option of a provincial park,” explains Harvie. The family wanted to make sure they had done their homework before any official approaches were made. “We defined the borders, we did archaeological, historical, geological and biological studies. We put the whole package together and then had the land appraised,” says Harvie. In the fall of

2005 they approached the then Ministry of Community Development. “We’d done a pile of homework.”

It seems that the planets were certainly aligned for the park proposal. The Alberta Parks department looked at the footprint and the landscape. They were already fully aware of a shortage of grassland inventory within the province’s parks network. And, difficult though it may be to imagine now, an \$8.7 billion provincial budget surplus probably did the cause no harm! There were, of course, political hoops to jump through. Pointing to the reluctance of some politicians to support the proposals, Harvie remembers: “Some MLAs said ‘I love your park, but I’ve got a school to build.’” At the time there were divisions of MLAs along north-south and urban-rural lines; it would have been fascinating to be a fly on the Cabinet wall at the time! But the champions of the new park eventually prevailed.

Part of the beauty of the arrangement for the Harvies is that, while the future of the land has been assured along with the knowledge that it will remain as a part of Alberta’s ranching and educational heritage for the foreseeable future, the family will still play a major role in the area’s future management. Although the province owns the land, the family now holds a grazing lease.

Future governance of the park will be under a six-member Park board, half are members of the Harvie Conservancy Foundation. A trust fund will pay for a considerable amount of the future “build-out” of the park and, unlike in other “public” protected areas, the Foundation

has the ability to fund-raise for future projects. “The Government can provide you with a basic park,” says Harvie. “But if you want a truly exceptional park, then this is the way to do it.”

People who would like the opportunity to visit the Glenbow Ranch Provincial Park will have to be patient! A planning committee will produce the park’s management plan, but public access may still be a few years away. “This is a very complex project,” says Harvie. “There are public safety issues: we don’t have roads, parking lots or infrastructure. We have the railway. These are all things that take time to deal with.” Given this unique piece of land’s potential, hopefully it will be worth the wait.

### **OH Ranch Heritage Rangeland**

As with the Glenbow Ranch Provincial Park, designation of the OH Ranch Heritage Rangeland followed many years of work by one of Alberta’s more famous landowning families. Doc Seaman, World War II pilot and Officer of the Order of Canada, made his fortune in the oil and gas industry. He was a well-known Calgary philanthropist but may be best known for bringing the Atlanta Flames to Calgary. He bought the current OH Ranch land in 1987.

At the official unveiling of the new park in August 2008, Doc’s son Bob proudly declared: “This is one of the last great ranches, in our view, in this part of the world, and particularly in the foothills, the eastern slopes.” By increasing protection of the land, they were “fighting hard to maintain and preserve not only the native grasses but the whole watershed.”

Unlike the Glenbow Ranch, ownership of the OH Ranch land was mixed – public and private. Part of the land was owned by Doc Seaman and part was owned by the province which leased grazing rights to the ranch. Here, the path to continued protection of the land looked somewhat different. On the publicly-owned portion, 4,277 hectares of public land was protected by the Alberta government as the OH Heritage Rangeland; another 4,185 hectares of the privately-owned land would be protected under a series of conservation easements. Unlike the Glenbow Ranch, the main emphasis would be put on preserving the land itself as well as the ranching heritage

which underpinned its past management. The intention was not to designate the land as a high profile visitor park.

Jim Smith is a professional agrologist and was an adviser to Doc Seaman in the negotiations for the conservation of the OH Ranch. “Doc Seaman had been contemplating this for quite some time,” says Smith. “Doc believed it was a unique property not only from its sense of history but its natural capital.” Smith stresses the natural values of the land: “It is important as a large undisturbed block, a big expanse of native fescue. We have bears and have fostered sharp-tailed grouse grounds. There is an array of mammals and birds.” But at the same time the intention was not to preserve it as a museum piece: “we wanted to use the land as a demonstration of sustainable working landscapes.” The role of these Eastern Slopes fescue grasslands in protecting the province’s water supply was a major factor. “It’s all part of what turns up in your taps in Calgary,” says Smith.

Asked how easy a journey the park designation had been, Smith pauses. “It was a long process” he says, diplomatically. “We were transparent and talked to the respective departments early. A lot of things were taken into account in the decision-making process; work was done to determine the value of the natural capital, which helped the departments along the way.”

At the same time, a parallel process was taking place to protect the private land under a conservation easement. “If we want to conserve certain values inherent to the land,” says Smith “we can approach an organization such as Nature Conservancy and say ‘this is what I want to conserve; does it fit in with your mandate?’” Different organizations have different priorities in his opinion: “Ducks Unlimited is focused more on wetlands; Nature Conservancy is oriented towards preserving other species and biological troves of one kind or another; SALTS’ (*Southern Alberta Land Trust Society*) focus is recognizing the value of sustainable working landscapes - the ranching model is more their focus.” Including separate parcels of land near Dorothy and Bassano, the Ranch now has one easement with Nature Conservancy Canada, one with the Southern Alberta Land Trust Society and two with Ducks Unlimited.



*Native fescue grasslands on the OH Ranch Heritage Rangeland, west of Longview.*

PHOTO: N. DOUGLAS

According to the draft management plan for the Heritage Rangeland, the conservation easement land “will be managed, as much as possible, consistent with the management direction provided for the public land within OH Ranch Heritage Rangeland.” The draft management plan was produced with unprecedented haste in July 2008 and underwent a period of public comment. The final plan is expected soon.

#### **Bohomolec Ranch**

Protection of the Bohomolec Ranch, west of Coleman, for future generations took yet another path. The ranch is located within an important Crowsnest Pass wildlife movement corridor; it is a vital link in the dispersal chain for wide-ranging carnivores such as grizzlies or wolverine. It provides prime elk wintering habitat and the property includes Iron Ridge, one of Alberta’s few examples of volcanic rock.

Anthony Keith and Max and Annabelle Berretti, who had owned the property for more than 30 years, were looking, like the Harvies and Seamans, for options to ensure that the land they had managed so carefully would be preserved in the future. In their case, the land was judged to be so special that an anonymous corporation bought the property and then donated it to Nature Conservancy Canada (NCC). According

to NCC’s website, this anonymous donor has now given five properties totaling 1,416 acres (573 hectares) worth nearly \$32 million. Over \$225,000 was also donated by the Keith and Berretti families to support NCC’s stewardship endowment fund for this property and other NCC projects.

#### **Future Options**

The three ranches – Glenbow, OH and Bohomolec – provide an interesting cross-section of different protection options chosen by owners of relatively intact, ecologically-significant lands seeking to preserve them long into the future. None of these lands could have been protected without the leadership of landowners determined to contribute to the legacy of a wilder Alberta.

Obviously, the majority of us do not have the option of donating or preserving large areas of prime rangeland, but there are certainly many landowners throughout Alberta who are asking similar questions to the Harvies or the Seamans: what will happen to the land when we move on? The rest of us can support their initiatives and the conservation easement organizations. The Alberta government’s Parks department deserves considerable credit for stepping up to the plate to play their part in the protection of these priceless landscapes, and hopefully we will see more of these developments in the future. 🍄



## WHAT'S NEW IN THE TOOL BOX: PRIVATE LAND CONSERVATION PROGRAMS IN ALBERTA

By Carolyn Campbell, AWA Conservation Specialist

Alberta's Land-Use Framework (LUF) process has the potential to dramatically increase the scale and impact of legal and economic programs to conserve ecologically valuable private lands. The *Alberta Land Stewardship Act* proclaimed October 1, 2009 contains provisions to create or further support many techniques for land conservation on private land. A review of this new LUF yields many encouraging signs, some concerns, and some issues that are still unclear at this relatively early stage of LUF development.

Alberta law has allowed conservation easements since 1996. Conservation easements are contracts between a landowner and a land conservancy organization that is a registered charity to ensure the long-term protection of some aspect of that land. While the landowner retains title, the contract binds current and future landowners to protect specified values of the land and assigns to the conservancy organization a guardianship or 'interest' in the environmental values of the land. Since conservancy organizations have limited resources to devote to buying easements, landowners typically receive a tax receipt equivalent to the decrease in market value of their land caused by the restrictive provisions of the easement. Ducks Unlimited has estimated that, as of mid-2006, 30,000 hectares of land had been donated or sold as conservation easements in Alberta.

The recently passed *Alberta Land Stewardship Act* (ALSA) may greatly increase the use of conservation easements. Until now, Alberta's conservation easements were intended to protect the land's environmental, natural, scenic or aesthetic values. They applied to natural landscapes and their component parts, not human created landscapes such as agricultural areas. ALSA extends the potential use of conservation easements to agricultural lands, a much broader application.

Previously, conservation easements

were not very appealing for landowners who had insufficient income to benefit from a large tax credit. In several ways ALSA facilitates the trading of an easement's environmental benefits to other parties who can offer cash to this type of landowner. First, ALSA provides a new province-wide legal framework to support 'transfer of development credit' (TDC) programs. In TDC programs, municipalities, consistent with regional land-use plans, designate certain areas as furthering valued agricultural, environmental, natural, scenic or esthetic objectives. Less development is desired for these areas while other areas are designated as places where more development is desired. Until now, there has only been one small scale TDC program in Alberta. In other jurisdictions TDC programs have proven their value when they have been used to pursue conservation objectives on a broader regional scale.

ALSA also provides for a system whereby parcels of lands can be assigned various 'units' of stewardship value and a provincial registry will record these units as well as establish trading accounts for them. Municipalities would establish rules whereby developers must accumulate a certain number of stewardship units before a development is permitted. These stewardship units would be purchased from the landowners who own lands that qualify under the agricultural, environmental, natural, scenic or esthetic criteria. These lands then become protected by conservation easements.

Arlene Kwasniak is an Associate Professor in the faculties of Law and Environmental Design at the University of Calgary. She has written extensively on legal aspects of applying land conservation tools in Alberta, including conservation easements and the application of transfer of development credits. Professor Kwasniak is pleased with many aspects of the *Alberta Land Stewardship Act*, including the extension

of conservation easements to apply to agricultural lands. "In the big picture view of what needs to be protected," she claims, "this is an important step to preserve agricultural land and its many environmental services from more intensive development." Kwasniak also applauds the major boost to Transfer of Development Credit programs provided by ALSA.

Another boost to conservation easements in ALSA is its facilitation of 'conservation offsets' on a province-wide basis. A provincial regulatory body or a municipality may be directed under ALSA to impose conditions on an existing or proposed project to 'counterbalance' its environmental harm. That conservation offset may include paying for conservation easements elsewhere or supporting a wide range of counterbalancing activities on private land. Offsets are already used, for example, under existing wetland policy rules for *Water Act* approvals in the White Zone settled areas (primarily private lands). Under that policy, proponents of development projects are directed first to avoid wetland damage and second to minimize it; if the project proponent demonstrates that some wetland destruction is unavoidable, and the regulator agrees, a compensation framework is applied that can include wetland restoration elsewhere to offset the development. In this case there is a strong preference for restoration close to the disturbance. Under ALSA the creation of conservation offsets would be facilitated by establishing a system for registering and trading them.

One likely application of a broadened conservation offset policy, according to the December 2008 Land-Use Framework document, would be to offset and compensate for the environmental impacts of developments on public lands; this could encompass, for example, tar sands projects, coal mines or forestry operations. As promising as conservation offsets may be, AWA remains concerned



*The ecological values of this ranching landscape along the Beaver River, southeast of Lac La Biche, could benefit from expanded use of conservation tools enabled by the recently passed Alberta Land Stewardship Act. PHOTO: C. CAMPBELL*

about using this tool to permit destruction of important habitat for which there may be no real replacement or equivalent such as boreal peatlands in a woodland caribou herd's range. We must carefully scrutinize the specific application of offsets arising from this legislation.

The non-voluntary 'conservation directive' is another tool, a non-market mechanism, created by ALSA to promote or realize conservation on private or leased Crown land. A regional plan may use a conservation directive to protect permanently private land for its environmental, natural scenic, esthetic, or agricultural value. Conservation directives appear to be zoning by another name. ALSA outlines and emphasizes the right of a title-holder (including someone either owning land or administering Crown land) to apply for compensation from the provincial government for the conservation directive.

To law professor Arlene Kwasniak, the focus on compensating landowners and leaseholders for conservation directives is a worrisome aspect of ALSA. "People do not have the right to destroy the environment, nor should they receive payment for a legal obligation," she says. "There are already stewardship regulations, for example, around wetland and soil conservation, and more can be accomplished through regulation where we have problems. If the principle is enshrined that one deserves payment for limiting destructive activities, it

risks commodifying nature too much, thwarting the development of an ecological ethic."

The conservation and stewardship strategy element of the Land-Use Framework is still unfolding. While ALSA promotes specific tools, the Alberta government is still evaluating others, such as tradable development credits, that could have equally broad impacts. The tradable development credit concept is similar to emissions credit trading: a company that has been assigned a permit for development could sell any unused space to another developer who needs more land. This may create an economic incentive to proceed in a way that would minimize their combined footprint. Other tools being evaluated include lease swapping and ways to motivate faster wind up and removal of tenured energy exploration or industrial activity from lands with high conservation values. The Alberta government has stated that by November 2009 it will communicate a 'blueprint' of how the use of these tools (both in and beyond ALSA) will help meet conservation goals in regional land-use planning. Stakeholder views on the use of these tools also will be sought.

Conservation efforts on private lands could also be encouraged by a broader strategy to incorporate ecological goods and services practices into Alberta agriculture and promote these practices in the marketing of Alberta's

agricultural goods. This broader strategy is being developed by the Alberta Institute for Agriculture, Forestry and the Environment (IAFE). There is little public information to date about this strategy. AWA will participate in a workshop organized by IAFE in late October 2009 for ENGOs to discuss key relevant policy questions, including how ecological goods and services markets could be factored into agriculture and forestry business decisions.

Overall, this array of actions to promote conservation on private and public lands is both encouraging and disquieting. On the one hand, it signals a real opportunity to expand sound environmental practices on private lands. At the same time, all these programs require a high degree of government capacity and support for their design, implementation, regulation, evaluation and adjustment. While the tools are touted as market-based, the choices in regional plans and by provincial and municipal government officials will very much channel the market forces. Outcomes will depend on whether well-considered environmental goals shape every aspect of these programs. There are, in other words, many risks that other goals will derail these intentions. AWA will continue to advocate for public transparency and science-driven environmental priorities to guide the development of this new generation of conservation programs. 🍌



## OUTSIDE THREATS TO THE ECOLOGICAL INTEGRITY OF WATERTON-GLACIER

By Laurie Wein

**W**aterton-Glacier International Peace Park, a UNESCO World Heritage Site, which includes Canada's Waterton Lakes National Park in south-western Alberta and its U.S. neighbour Glacier National Park, is undoubtedly one of most important areas for biodiversity conservation in Canada. While it is an area of spectacular beauty encompassing high mountain ranges, wide valleys and scenic rivers and lakes, it is the juxtaposition of the region's unique biogeographic attributes, specifically its native prairie grassland and its adjacent forest and alpine environments, and the ecological processes these support, which have enabled this pocket of Alberta to gain international recognition for globally outstanding biodiversity. The area is also an important tri-ocean hydrological drainage, containing headwaters flowing to the Pacific, the Gulf of Mexico and Hudson's Bay.

Waterton Lakes National Park is one of Canada's smaller national parks at just over 52,000 hectares (ha). It shares a border with Montana's Glacier National Park, a park nearly 8 times as large as Waterton. Together these two national parks have been internationally recognized for their significance as a transition zone between the Rocky Mountains Biogeographical Province and the Interior Grasslands of North America. Waterton-Glacier provides a critical genetic link between the northern and southern Rockies with wildlife using the parks and surrounding areas as migratory corridors. Supporting one of the highest densities of inland grizzly bears in North America, these two parks are also home to a variety of large mammals including mountain goat, bighorn sheep, wolf, lynx and cougar as well as a number of threatened and rare species.

But, while the national park designations ensure that there will be appropriate limits on development within the park, there is growing concern



*View to the west and the B.C. border from Mt. Vimy, Waterton Lakes National Park. Waterton struggles with significant threats to its ecological integrity from hydro-carbon development and residential expansion on its edges. PHOTO: D. ARGUMENT*

regarding what the scope and scale of proposed developments in adjacent areas of Waterton-Glacier could mean for its ecological integrity.

Adequate protection for Waterton-Glacier requires effective ecosystem management of these adjacent areas. Indeed, at the time of the area's World Heritage nomination the World Heritage Committee and its advisory body International Union for the Conservation of Nature (IUCN) stated that the integrity of the site was dependent on the sustainable management of the wider "Crown of the Continent" ecosystem. Canada and the United States have made significant strides in working cooperatively through their respective national parks agencies to support transboundary management of their respective jurisdictions. There has been interest for many years in increasing the size of Waterton Lakes National Park to encompass areas within B. C.'s Flathead Valley to the west of

Waterton – a possibility that was strongly recommended by the World Heritage Committee at the time of listing.

In recent years, growing "outside" threats to the ecological integrity of Waterton-Glacier have galvanized environmental organizations to advocate in the international arena for improved protection. In June 2009, the World Heritage Committee met in Seville, Spain to assess World Heritage sites around the world. Waterton-Glacier was one of those sites. A petition presented by a coalition of eleven environmental organizations, including Canadian Parks and Wilderness Society, Sierra Club, and south-eastern B.C. based Wildsight, argued that threats from coal mining and coal-bed methane development in the Flathead meant that Canada was failing in its efforts at delivering the protection demanded by World Heritage status. These groups secured a small, but potentially greater, victory when the Committee recommended that a U.N. team, including



representatives from the IUCN, undertake a scoping mission (scheduled for late September) to determine if industrial development and other threats pose challenges to the integrity of this World Heritage site.

B.C.'s Flathead Valley includes some 150,000 ha of undeveloped wilderness. It is a haven for grizzly bears and other large mammal species; it includes the Flathead river, critical spawning habitat for bull trout and important habitat for "genetically-pure" west slope cutthroat trout which migrate north from Glacier. This year the Flathead achieved the dubious distinction of being recognized as British Columbia's most endangered river by B.C.'s Outdoor Recreation Council.

The B.C. government's land-use plans for the region largely favour resource extraction and there is a high level of interest on the part of energy and mining companies to develop coal-bed methane, coal and other minerals such as gold. While British Petroleum (BP) was forced to cancel plans to develop coal-bed methane in the Flathead Valley in February 2008 after the B.C. government excluded the area from BP's tenure rights for oil and gas, the company's current Mist Mountain proposal in the Elk Valley to the north of the Flathead still keeps the door open to coal-bed methane development.

In addition, a proposed mountain-top coal strip mine by Cline Mining Corporation is anticipated to yield 40 million tonnes of coal and will dump waste tailings into Foisey Creek, just 35 kilometres upstream of Glacier National Park. While Cline's Lodgepole Project is still under a joint provincial-federal environmental assessment review, both the U.S. Department of the Interior and Montana remain greatly concerned that heavy metal contamination from the proposed mine will reach Glacier National Park via the Flathead River. Such transmission would clearly threaten the health of those American aquatic ecosystems. In fact, a previous proposal to develop a coal mine in the Cabin Creek area of the Flathead Valley was rejected in 1988 by the International Joint Commission (a Canada-U.S. institution devoted to transboundary issues) due to concerns regarding serious downstream pollution impacts.

Timber extraction also remains a



*South Kootenay Pass looking west to the Flathead Valley. Logging, coal mining, and potential coal-bed methane development threaten the Flathead.* PHOTO: D. ARGUMENT

key industrial use within the Flathead. In 1995, when B.C.'s Akamina-Kishnina Provincial Park was created, its borders were drawn specifically to accommodate timber extraction on lower elevation slopes. Hunting, including the controversial grizzly sport hunt, is still permitted in the park despite the fact the provincial government has now stopped this hunt in other areas of the province.

Environmental organizations are pushing for the lands found in the lower third of the Flathead Valley and then east to the continental divide to be added to Waterton Lakes National Park. They also are calling for a further 300,000 ha west of the Flathead River to be designated as a wildlife management area. And, while such efforts are gaining momentum and seem to have significant support from residents of the Kootenay region (a November 2008 poll conducted by environmental organizations suggested that 7 out of 10 residents support protection for the Flathead), strong opposition remains from resource companies and hunting and off-road vehicle user organizations. Given this opposition, the provincial government is reluctant to adopt protective measures.

B.C.'s Minister for Community and Rural Development Bill Bennett, whose riding contains the Flathead, has made it no secret that he opposes the expansion of Waterton to include the Flathead.

As a previous Minister of Mines and Energy for British Columbia, Bennett has publicly supported coal-bed methane and mining developments in the Elk Valley and the Flathead Valley itself. The recent decision by the B.C. government to deny tenure rights to BP for coal-bed methane may have muted his enthusiasm for industrial development in the area. But, Bennett continues to resist all efforts for the expansion of formal protection, especially if they involve additions to a national park. Indeed, in 2007 in a belligerent email to a constituent, Bennett accused the president of a Fernie-based hunting organization who opposed mining in the Flathead of being an "American spy...interested in helping the U.S. create a park in the Flathead".

Yet, public demand to protect the Flathead is growing and international scrutiny may bring some pressure to bear on the provincial government to adopt better protection of the area. The state of Montana's opposition to industrial activity in the Flathead has also been underscored by statements from the current U.S. administration that support protection of the area.

In addition to energy and mining developments in B.C. growing residential development pressures in Alberta are also a threat to the ecological integrity of Waterton-Glacier Park. This is particularly so on

the east side of Waterton Park where four residential sub-divisions either have been built or approved. These residential developments, bringing with them the loss of natural forested spaces and rangelands, have negative consequences for the healthy functioning of ecological processes and wildlife movement. In southern Alberta these types of development arguably place unsustainable pressure on the water table as new residences must compete with agricultural users for access to water rights.

Municipal land-use by-laws also pose challenges to protecting ecologically valuable areas on the periphery of both national parks from fragmentation. In southern Alberta, there is a marked difference in the land-use by-laws of two neighbours – Pincher Creek and Cardston counties. Much more sub-division of ranch lands has occurred on the east side of Waterton in Cardston county. Cardston county land-use by-laws require that only seventy acres of a sub-divided quarter section remain as agricultural land; Pincher Creek county requires that all but a maximum of ten acres must remain in agricultural production in any sub-divided parcel. Pincher Creek's more diversified tax base, one that includes a significant amount of oil and gas revenue, has allowed it to resist pressure for sub-division of land in a way that Cardston county's has not. There is little doubt that, as more urban Albertans reach retirement age and seek out the attraction of country living in close proximity to the mountains, and as ranchers and farmers continue to struggle with declining prices of agricultural commodities, the pressure for increased residential development on the boundaries of Waterton-Glacier will intensify.

The Nature Conservancy of Canada's 30,000-acre Waterton Park Front Project is addressing the issue of grouped residential development as a key threat to ecological integrity of the area directly north and east of Waterton through its work with local residents to purchase private land and, by applying conservation easements, maintain ranching as the area's dominant land use.

While both industrial and residential development have significant consequences for Waterton-Glacier's ecological integrity, threats posed by climate change dwarf them. The loss

of glaciers within Glacier National Park will have dramatic impacts on the hydrological cycle of the area. This will pose unique challenges to the ecosystem's ability to sustain healthy aquatic and riparian systems and provide downstream communities with freshwater. More extreme flooding events, earlier spring run-off and less water at particular times of the year will threaten the viability of critical streams and rivers within the region. The loss of alpine and sub-alpine environments is particularly worrisome for some plant species and for wildlife such as the mountain goats, bighorn sheep and bears that hibernate at higher elevations.

In 1850 there were 150 glaciers in Glacier National Park. Today's estimates suggest that, by 2030, the remaining 26 will have disappeared. Warmer temperatures will produce significant changes in the ecology of the area, including in high alpine environments, with some species predicted to disappear and others to move into new ranges.

Today the threats facing Waterton-Glacier raise important questions about the effective management of our national parks and threats on their periphery. They also raise questions of how federal and provincial cooperation is influenced by international instruments and how environmental organizations can and will use these instruments to their advantage in protecting wild places.

For Waterton-Glacier, the conservation lobby is hoping that the upcoming UN assessment of the World Heritage site will raise the spectre that Waterton-Glacier is at risk of being added to the World Heritage Danger List – a list that identifies those World Heritage sites considered to be under imminent threat. The World Heritage Committee may determine they should be stripped of the designation. While there are thirty-two sites currently on the Danger List (mostly in places where war and/or natural disasters have threatened outstanding values), since 2007 there have been two cases of delisting and the future could see more. This past summer Germany lost the Dresden Elbe Valley World Heritage Site due to the government's decision to build a four-lane bridge in the heart of the cultural landscape. Previously, Oman lost its designation for the Arabian Oryx Sanctuary when the government reduced the size of the protected area to allow

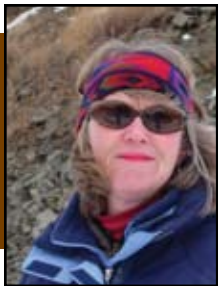
hydrocarbon prospecting. The possibility that a site anywhere in North America could be added to the Danger List would be a politically embarrassing for both Canada and the US.

This prospect of political embarrassment for Canada in particular should encourage the federal government to engage with B.C. on formal protection for the Flathead and may reignite federal-provincial discussions on the expansion of Waterton. Hopefully, it will also encourage the B.C. government to respond concretely and positively to the residents in the Flathead Valley who remain opposed to extractive industries there. One thing is sure. Engaged citizens must keep the pressure on our federal and provincial governments to ensure that globally significant ecosystems, such as those found in Waterton-Glacier, are made as secure as possible from "outside" threats to their integrity. 🍄

*Laurie Wein is a consultant working on community-based conservation and community development initiatives in Canada and overseas. Since 2005 she has been engaged with World Heritage programming in the Solomon Islands. Until very recently, she was living in the community of Waterton Park.*



*Silene uralensis, common on rocky alpine slopes, is distinguished by its Japanese lantern-like calyx. PHOTO: AWA FILE PHOTO*



## ALBERTA LAND ASSEMBLY PROJECT AREA ACT JEOPARDIZES LAND-USE FRAMEWORK

By Barbara Janusz

Like other North American jurisdictions straddling the Rocky Mountains – New Mexico, Colorado, Wyoming and Montana, – Alberta’s landscape is stunningly beautiful and rich in biological diversity. Regrettably, however, the geological upheavals that gave rise to the Rocky Mountains and created this spectacular diverse habitat also unleashed, over the past half-century, a mad rush to extract this region’s precious natural resources.

Continentially, Alberta has become a leader in petroleum development and metallurgical coal production. The wealth that these industries have generated for Albertans has ironically intensified our desire to recreate, develop country residential properties, and savour the natural environment that is at risk of being increasingly degraded through resource exploitation. As the footprint on the landscape exponentially expands, sustainability has become the rallying cry of landowners and conservationists. The cumulative effect of agricultural, industrial and recreational activity on the landscape has fomented unprecedented conflict between competing stakeholders in resource development. Sustainability has even become a slogan for government and its regulatory agencies. While the Alberta government’s Land-Use Framework, and the legislation that sanctions its implementation – Bill 36, the *Alberta Land Stewardship Act* - are ostensibly aimed at promoting sustainability, Bill 19, the *Alberta Land Assembly Project Area Act*, may derail the former Act’s environmental land-use ethic objectives.

### **The Alberta Land Stewardship Act**

With the view of managing the competing interests of the forestry and oil and gas industries, ranchers, real estate developers, conservationists and the general public, the Ministry of Sustainable Resource Development (SRD), in 2006, embarked on a

consultative initiative to integrate its land-use policies. Bill 36, the *Alberta Land Stewardship Act*, received Royal Assent six months after SRD released the Land-Use Framework. Heralded by some as a revolutionary recipe for cumulative effects management on a regional level, this law endorses an assortment of stewardship tools – conservation easements, setbacks and directives. The legislation also sanctions transfer development schemes that redirect development from ecologically sensitive land areas (see Carolyn Campbell’s article in this issue). Establishing seven land-use regions in the province, the legislation authorizes the establishment of regional advisory councils (RACs) for these regions. Mandated to prioritize land uses in accordance with cumulative effects studies, the RACs are authorized to advise on the development of regional plans that could call for the extinguishment of regulatory permits, authorizations and licenses granted to resource developers when a previously approved project does not align with the objectives of the regional plan.

It is important to note, however, that the Lieutenant Governor in Council (the provincial cabinet), has the final authority here to finalize the contents of, and time frame for, the implementation of regional plans. This limitation upon regional advisory councils’ authority potentially erodes the RACs’ mandate to prioritize competing land issues, promote sustainability and reduce the environmental impact on the landscape.

Inasmuch as the RACs may challenge the decision-making powers of local authorities some municipalities and municipal districts have questioned the new legislation. Local concerns and interests may be vulnerable to becoming preempted by those of larger centres. The Municipality of Crowsnest Pass, for example, is in the same land-use region as Calgary. Having been blessed with the largest underground aquifer, with the highest refreshment rate, in Western

Canada Crowsnest Pass is understandably anxious about Calgary’s burgeoning population and Calgaryans’ reliance on the diminishing water resources of the Bow and Elbow river systems.

### **The Alberta Land Assembly Project Area Act**

While Bill 36 was preceded by approximately three years of public consultation, another piece of legislation, Bill 19, the *Alberta Land Assembly Project Area Act*, was quietly, but boldly, following on its heels. Although still awaiting proclamation, Bill 19 was passed on April 29, 2009 and received Royal Assent on May 26th. Like the *Land Stewardship Act*, the *Land Assembly Project Area Act* is a tool for land-use planning. Regrettably, however, it has the potential to undermine the cumulative effects management and sustainability potential of the *Land Stewardship Act*.

Under section 7 of Bill 19 “[w]hen... land within a Project Area is required by the Crown for or in connection with the public project, the Crown may acquire the land by purchase or expropriation.” Public projects are defined under section 2(2) of the Act as including: “...a project related to the transportation of people or goods, which may also include as part of that project a corridor of land for pipelines, pipes, or other conduits, poles, towers, wires, cables, conductors or other devices including any ancillary structures, or...a project related to the conservation or management of water.” Under subsection (1) of Section 2 if, in the opinion of the provincial cabinet, land is required for a public project, cabinet, on the recommendation of the responsible Minister, may designate the land as a Land Assembly Project Area. The only restrictions on making that designation, (under section 3), include: preparing a plan for the project, making the plan available to the public, providing notice to registered land owners of the proposed project and consulting with those registered land owners.

Cabinet's preemptive authority, noted above with respect to the *Land Stewardship Act*, also reinforces and facilitates the implementation of the objectives of the *Land Assembly Project Area Act*. Section 4, entitled "Control, restriction and prohibitions," provides that all other legislation is subject to Bill 19. Its sweeping regulatory powers provide for the "...control, restriction, prohibition or approval of any kind of use, development or occupation of land in the Project Area..." Land that has been earmarked for a public project under this Act could, therefore, be exempted from an environmental impact assessment.

Any conservation easements, offsets or directives encumbering Project Area land, supported by a progressive interpretation of the *Land Stewardship Act*, conceivably could be extinguished.

A proposed amendment to Bill 19 to temper cabinet's power, to include "in the public interest" in Section 7, was defeated by the Conservative majority in the legislature and landowners' concerns over the erosion of private property rights fell on deaf ears. Many landowners are reported as fearing that the new legislation is immune to judicial review. The fact that the yardstick of "public interest" is not explicitly included in Bill 19, however, may not necessarily exempt the government from judicial review of its decisions to designate certain land(s) a "project area" for a public works or project. This possibility is explored in more detail below.

### Where do we go from here?

Now that Bill 19 has been passed where might those who are concerned about this legislation's impact turn to voice their opposition? As jurisdiction over the environment is a shared responsibility between federal and provincial levels of government, landowners and conservationists in the past turned to federal legislation and to the courts for remedies to protect environmentally sensitive ecosystems. The leading environmental law precedent established by *Friends of the Oldman River* set the stage for individuals and coalitions of concerned citizens to seek relief through the courts when government failed to enforce its own environmental protection legislation or regulations. In that 1991 decision, the Supreme Court of Canada granted standing to the coalition that was



*Above the Three Sisters #1, acrylics on canvas, 11 x 27 in. PHOTO: © R. THIBAUT*

opposed to constructing a dam on the Oldman River in southwestern Alberta. It ordered the federal Department of Fisheries and Oceans to conduct an environmental impact assessment of the project. Even though the federal government's interpretation of that assessment ultimately gave the green light to Alberta to proceed with the project, the Supreme Court's decision emboldened citizens and environmental coalitions to take a proactive stance against environmental degradation and industrial polluters.

Sadly, eighteen years after this decision, the Harper government in Ottawa appears to be as disinclined as Alberta was then to strike a balance between resource development and environmental protection. Recent amendments to the *Navigable Waters Protection Act* are designed to streamline the process for approval of public works that previously required an environmental impact assessment. Furthermore, the federal government announced in its budget speech in January of this year that, "for projects requiring a federal environmental assessment decision, regulations could allow one environmental assessment process to meet federal and provincial requirements, by agreement with the provinces and territories." (For an extended discussion of these federal changes see Arlene Kwasiak's article in the April 2009 issue of the *WLA*.)

With respect to the *Land Assembly Project Area Act*, if there is a potential for judicial review to serve the interests of the environment and landowners it may rest in a generous interpretation by the courts of what furthers the public interest. Historically, land use has been

understood as a valid exercise of state power provided that it promoted public health, welfare and the environment. I believe the land-use policies of the 1980s were based on an understanding of the public interest where decentralized planning approaches were privileged. Those policies, ones that encouraged development and bolstered the tax base of local government, are no longer sustainable.

The development of an environmental land-use ethic, cemented by a shift from decentralized to centralized planning, presumes instead that a comprehensive plan is formulated and implemented in the public interest. This presumption may offer the courts the opportunity, when reviewing a cabinet decision rendered under Bill 19, to interpret the law and its regulations as implicitly serving an emerging environmentally-sensitive version of the public interest. Courts may impose an overriding duty of fairness upon government bodies and officials when rendering their decision. Decisions that streamline the planning process, at the expense of property and civil rights and contrary to an environmental land-use ethic, may be deemed unfair and contrary to the rules of natural justice. I hope the courts will recognize this version of the public interest if they are asked to review the implementation of the *Land Assembly Project Area Act*. I hope the courts will find it inconceivable to interpret the executive powers under Bill 19 in a way that would compromise this progressive understanding of the public interest.

Skepticism though about the value of judicial review may be responsible, in part, for the growing inclination for First Nations and environmental organizations

to turn to the international stage to voice their concerns over Canada's languishing environmental track record. At a committee meeting of the UNESCO World Heritage Committee, at the end of June 2009, Spain, a coalition of eleven environmental groups succeeded in garnering support to designate possibly Waterton-Glacier International Peace Park as a World Heritage Site in Danger. A scientific team, under the auspices of the International Union for the Conservation of Nature and the World Heritage Centre, has been assigned the task of investigating potential threats to the Flathead River headwaters in southeastern B.C., where the B.C. government has approved Max Resource

Corp.'s gold mining exploration plans. The exploration activities will be close to 29-Mile Creek and Howell Creek, tributaries of the Flathead River. The Flathead River forms Glacier National Park's western boundary. The environmental coalition hopes that, with pressure from UNESCO, the B.C. government will reconsider its resource extraction priorities for the pristine Flathead Valley.

The resources squandered by our government, through expensive public relations campaigns to counteract mounting international criticism of tar sands development and other resource extraction mega-projects, may be less and less able to deliver what the government

wants. In today's information age, the arena of public opinion should be on every politician's radar screen. Growing public awareness and concern over environmental degradation has evolved into a powerful weapon for defending Alberta's stunningly beautiful, diverse landscapes. Rather than risk the ire of landowners and conservationists, and the prospect of lengthy judicial proceedings, it would be infinitely wiser for our government to exercise its powers under Bill 19 in the best interests of Albertans, in harmony with the sustainability objectives of the *Land Stewardship Act* and in furtherance of an environmental land-use ethic. 🍷



## HEADWATERS MANAGEMENT — FRONT-LINE PERSPECTIVES

*By Carolyn Campbell, AWA Conservation Specialist*

**H**eadwaters are upland areas such as mountains and foothills that contribute the greatest portion of water flow in a basin. These areas accumulate, store, purify and gradually release surface and groundwater flows, so land management practices there are critically important both to wildlife and human communities. On May 1, 2009 AWA helped to host a Headwaters Implementers workshop as a follow-up to the November 2008 Headwaters Science conference. Important financial support for the Implementers workshop came from the Bow River Basin Council and the Valerie and Bryce Nolan Fund. Key in-kind support was provided by AWA, the Bow River Basin Council, and a group of professional facilitators organized by Bob Morrison. While a brief overview of the workshop appeared in the June 2009 *Wild Lands Advocate* this article highlights the speakers' presentations.

The purpose of the Implementers workshop was to gather participants from the Oldman, Bow and Red Deer River watersheds familiar with headwaters management issues. The morning program featured speakers discussing

best current practices and current gaps in headwaters management. In the afternoon all participants helped identify priority areas to address for better headwaters management. The fifty participants represented a cross section of municipal, provincial and federal governments, industries, land-owners and non-governmental organizations.

The first speaker was Evan Berger, MLA, parliamentary assistant to the Minister for Sustainable Resource Development (SRD) and chair of the Land-Use Framework MLA committee. He discussed the unfolding provincial land-use planning process: a South Saskatchewan regional advisory council (RAC) will recommend targets for a regional land-use plan to help manage cumulative effects of economic development. A provincial Land-Use Secretariat will have day-to-day responsibility for completing plans and coordinating their development across government. Cabinet will provide provincial oversight and approvals.

In discussion, Mr. Berger confirmed that Bill 19, the *Land Assembly Project Area Act*, may be applied to projects for water management such as reservoirs and canals. The *Alberta Land Stewardship*

*Act* (ALSA) will have tools to help move these types of projects towards supporting desired regional economic, environmental and social outcomes in the plan. For example, upstream landowners who are affected by regional water quality goals set for downstream user needs may be compensated through compensation offsets and other tools.

Several participants commented about a lack of 'enforcement boots on the ground' on public lands in the West Country, whether to promote good grazing practices or to protect lands and waters from abusers who are developing a sense of entitlement about their behaviour. The parliamentary assistant responded that SRD would like more funding to properly supervise these areas; he agreed with a comment that a more generalist, rather than specialist, approach to staffing could also help address the situation.

Rick Quail, municipal manager of the Town of Okotoks, led a cross-sector panel of speakers. As a downstream user, he is convinced that best headwaters practices must include management of downstream consumption. Low impact residential developments, reclaiming wastewater, encouraging the natural water retention



*The Headwaters Implementers workshop held on May 1, 2009 discussed land management practices in headwaters areas such as the upper Sheep River.*

PHOTO: N. DOUGLAS

of wetlands and aquifers through policies such as no net loss of wetlands and high quality water storage exemplify some of those practices. One gap in current practices is that the growth caps set in some communities have been essentially circumvented by upstream developments. Second, development projects generally do not have full life-cycle costing of their impacts to long-term surface and groundwater flow and quality. Third, access management plans in some areas have pushed off-highway vehicle use to other areas. This merely relocates a headwaters water quality problem. Quail thinks downstream communities could be asked to contribute financially to best practices upstream.

Gordon Cartwright, a rancher near Longview, developed the theme that a healthy rangeland makes a good watershed. For him, positive headwaters management practices include rangeland management in forest reserves and grazing lease dispositions; these arrangements help ranchers to be viable and in return they enter into a covenant to steward public land. He praised the use of controlled fire as an ecological tool, the riparian management programs of Cows and Fish, and Public Lands' range schools for the ecological awareness they foster. The gaps Cartwright identified included policies that favour depletion of public resources rather than supporting

regenerative assets such as rangeland and watersheds. Specifically, there should be more financial resources available for voluntary conservation easements to compensate ranchers who keep working landscapes together despite market incentives to sell. Monetary values should be calculated for the water supply services provided by healthy rangeland. He would like to see more integration of forestry and rangeland operations to achieve good environmental outcomes, meet landscape goals and increase employment. Finally, there should be a moratorium on invasive developments until a comprehensive plan is in place to protect working landscapes and the ecosystem services they provide.

Gord Lehn, woodlands manager of Spray Lakes Sawmills, identified the multi-year planning process that Forest Management Agreement holders must undertake as a positive current practice. Its predictive modeling demands a detailed awareness of the environment and its biodiversity. Water issues play a prominent role therein and include riparian setbacks and watershed buffer rules. In-house monitoring of results against objectives is reinforced by government inspections, audits and third party certification systems. Lehn felt improvement rests in more coordination of diverse resource management activities on the land. He would like to see riparian

buffers tuned to site-specific needs and variations rather than standardized formulas. Better data synchronization and its availability from government agencies would also be helpful.

Jim Stomp, District Manager of Fish Creek with Alberta Parks, described the classifications of provincial parks and protected areas. He noted that many ecological reserves protect headwaters and all three Alberta wilderness areas are in the headwaters. He cited positive public-private management opportunities such as the recently created Glenbow Ranch Provincial Park, OH Ranch Heritage Rangeland (see the article by Nigel Douglas in this issue) as well as developments in Eagle Point-Blue Rapids. A challenge for Alberta Parks is balancing their dual mandate of managing public lands for recreation and for protection.

Dene Cooper, Reeve of the Municipal District of Bighorn, began by noting that his MD covers a tremendous amount of territory (2600 km<sup>2</sup>) but has only 1,400 residents. Seventy percent of their land base is provincial parks. They are stewards, not just of water but of the whole ecosystem. MD Bighorn strongly supports the South Saskatchewan planning process and welcomes the commitment to advance information flows to those in the Red Deer region. In Cooper's opinion, best practices for headwaters management include maintaining democratic conversations on competing land uses through public hearings. Environmental impacts should be approached in a precautionary manner, with the burden of proof on applicants, and the best demonstrated technologies for industries should be implemented. Current gaps include that government per capita grants do not meet their watershed protection responsibilities and agricultural land taxes should not be expected to protect the watershed for downstream users. The Eastern Slopes should be managed as a block so available resources are maximized and not balkanized. MDs need to keep area structure plans and land-use bylaws aligned and updated. "Urban neighbours" need to be more aware that the rural environment is the lifeline of towns and cities in Alberta.

Questions to the panelists included whether new parks would be created in the southern headwaters. According to a

planner from Alberta Parks, southwest Alberta initiatives are being considered and the new Plan for Parks hopefully will provide a process for moving forward on the establishment of parks. On the question of using water pricing to signal its scarcity Rick Quail argued that pricing mechanisms are critical and Okotoks has recently implemented an increasing block rate. Gordon Cartwright responded to a question on what regenerative ranching would mean; he indicated there would be much less fossil fuel use and more employment in a cattle industry based on

solar-powered rangeland forage.

The final questioner asked each panelist to name one specific target related to their sector they would like to see in a regional land-use plan. Gord Lehn stated he would like to see a broad vision with industry-specific watershed objectives. Dene Cooper argued industry standards can foster a 'pollute to the limit' mentality; he would like to see an insistence on the best an operator can do on the ground. This would include big steps during refitting and continuous incremental improvements. Gordon

Cartwright would like to see a balance sheet approach taken to rangelands; this would describe their overall health and identify areas needing improvement. He would also like to see resources provided for individual operator assessment, action and monitoring. Jim Stomp would like to see targets for more foothills and grasslands to be added to the Parks system. Rick Quail would like to see limits to land consumption both in urban and rural settings through densification goals. 🍌

## RICHARD SECORD: THE NATURE OF ENVIRONMENTAL LAW

By Vivian Pharis

If someone who did not know Richard Secord was to casually encounter him, as say, by being seated next to him at the annual AWA Gala, and was to strike up conversation, that someone might be hard pressed to guess Richard as the high profile lawyer he has become. He is soft-spoken and humorous. His eyes are easily set a-twinkle. He could be readily engaged in protracted conversation about a hike in the woods, his dog's reaction to a porcupine or by a verse from Chaucer (he nearly studied English Literature at university instead of the law).

His gentle manner must often disarm in front of provincial and federal administrative boards or courts of law. But those he addresses or opposes soon learn the bite of Richard's sharp intellect and the snare of his broad range of knowledge in the areas of the law where he concentrates. By my observation, these fall roughly into three categories: environmental, aboriginal and "underdog." Perhaps the last category fits all, except that environmental and aboriginal cases are gaining in profile and becoming more main-stream. This is possibly due in part to Richard's several notable "wins" in these areas over the past ten to fifteen years of his work before courts and an array of boards and review panels in Alberta, B.C. and federally.

Listed in the 2000 edition of the LEXPERT Directory as a leading



*Richard Secord*

practitioner of Environmental Law and in 2007 by the National Post as one of the best in its "Best Lawyers in Canada" series, Richard has developed a formidable legal presence and, as a result, sometimes carries a staggering case load. This load is further (happily) burdened by being an AWA board member since 2000 and serving as its president from 2003 to 2007.

When I asked him what the triggers were that directed young Richard towards the law he hesitated for a while. He then apologized and explained it was hard to

switch gears in his brain from current preparations for a very absorbing trial and from the list of cases he had sent me by e-mail that he thought would be the focus of our discussion. But I wanted to know more about the making of Richard. What influenced him to become a person willing to defend those who are usually on the losing side, including the environment, aboriginals groups and people like Wiebo Ludwig.

I knew he had been raised on a farm west of Edmonton near the Enoch Reserve, but was surprised to learn that, at the age of 10, he had switched from Spruce Grove Elementary School to Cargilfield School in Edinburgh, Scotland. After gathering his thoughts, the unusual story of his childhood and youth began to unfold.

In 1965, Richard's mother had read of a Canada-wide scholarship for youngsters to attend a private Scottish school and she had entered her son in the contest. Richard and another Edmonton boy both won that life-changing opportunity. Apparently the proponents of the J.P. Crerar Scholarship had learned that few young Canadians could withstand the rigours of Scottish boarding schools on their own. So, they decided to send them in pairs in the hope they would support each other when things got rough.

As chance would have it, the other boy's father was a prominent Edmonton lawyer who had the time and resources to sometimes visit the boys in Scotland

during their eight years of schooling there. By contrast, Richard's own father, tied to the land as a farmer, did not have as much freedom to travel. Richard confessed that it was not at first an interest in law that made the visiting father's profession seem intriguing and appealing but rather the observation that such a profession could offer a life of varied interests, freedoms and travel.

Pressed about what triggered an interest in the environment, Richard paused again to think. It was not life on the farm, as I had expected. That life he remembers fondly for its childhood liberties and early responsibilities. But it included no holidays off the farm and no hiking or camping trips that may have sparked an early interest in nature. Life in Cargilfield School in Edinburgh did not do that either. Richard remembers, with a shudder, that school as a very cold and regimented place, almost like a prison.

But the second Scottish school he attended through his "youth" was bright and stimulating. This experience afforded him opportunities to explore Edinburgh, a place of fascinations including its many parks and beautiful, dramatic landscapes. A budding appreciation of the land, combined with a special tour of Ireland with his grandmother, brought Richard

close to new places of captivating natural and historical beauty; his eyes were opened further. Then he chose to do his law degree at the magnificent University of Durham in England where it would have been difficult to have been unaffected by the history and loveliness of the surroundings. Thus, the Alberta boy learned to appreciate nature and its many virtues far from home.

Returning to Alberta in 1978, Richard furthered his law degree at the University of Alberta by obtaining a Master of Laws degree and was called to the Alberta Bar in 1980. He articulated with a large Edmonton law firm in 1979 and became a Partner there in 1985. Until 1996 he mainly litigated for a wide variety of clients. He notes that, in 1979 when he began his legal career, environmental law was virtually unheard of. In fact, it would be years yet before Alberta's *Environmental Protection and Enhancement Act* would be written. Sometimes Richard acted for industry in cases involving decisions affecting the environment, but he found himself gravitating towards cases where he acted in defence of the land, landowners, wildlife or aboriginal peoples. He also admits that, even early on, he felt attracted towards defence of the

underdog. It seems it was just part of his nature.

When he joined his present firm of Ackroyd LLP in 1996 he was already specializing in environmental and aboriginal cases. But he thinks it was the hiking trips in Waterton Lakes National Park, a long trek through Wells Gray Park in B.C. and canoeing the undammed Oldman River that raised his consciousness about the precariousness and preciousness of Alberta's landscapes. Moving to a house on one of the ravines above the North Saskatchewan River in Edmonton where he enjoys early morning walks with his dog regularly reminds him that he has chosen the right area of the right career.

On November 20th, Richard will pry himself away from his second-to-last case of 2009 in order to deliver the 2009 Martha Kostuch Lecture in AWA's Hillhurst Room in Calgary. Martha's early private prosecutions with regard to the Oldman River and tireless work to protect our environment apparently had an inspiring effect on Richard – even though in the early years of his environmental law career they were on opposite sides! The presentation he will make on November 20th will be a digest of important Alberta and Canadian legal cases that have affected and influenced environmental change or that should be further examined by environmental groups when they consider and prepare new legal challenges.

No doubt a few of his own noteworthy cases will be brought forward as examples. One notable case was one that continued over three years between 1994 and 1997 and involved the Lesser Slave Lake Indian Regional Council and a local native trapper fighting to keep toxic waste, including PCBs, from being imported into Alberta from elsewhere in Canada to be incinerated at the Swan Hills Waste Treatment Plant. Another was the Capstone case that concerned extracting large amounts of water from the Red Deer River for petroleum production. We can also expect to hear Richard's perspective on where the two recent Ecojustice wins on behalf of two endangered species will steer the so far lame application of Canada's Species At Risk Legislation. Please join us on November 20th for what promises to be a very enlightening and entertaining evening. 🐦



*Deadfall at Water's Edge, acrylics on canvas, 36 x 36 in. PHOTO: © R. THIBAUT*



**Shameful Conklin Bear Slaughter**

Alberta’s wildlife management reputation sustained another bloody nose in August in a scene reminiscent of the bad old days of the 1950s. Twelve black bears were shot and killed by Fish and Wildlife officers at a garbage dump in Conklin near Fort McMurray. Over the past summer, the bears had become used to feeding on the easily-accessible garbage and, quite incredibly, nothing had been done to stop them.

Although most of the justifiable public outrage was directed at wildlife officials who made the decision to shoot the bears, it is difficult to conceive why the situation was ever allowed to get so bad in the first place. AWA is outraged that no-one in government or industry ensured the dump was properly fenced. Why, when forestry and oil and gas field camps are obliged by law to handle their garbage so that wildlife is not attracted, was this dump at Conklin not held to that standard? Why wasn’t it immediately shut down when government officials became aware of the problem? It certainly looks like it was easier for the government to pay for twelve bullets than to ensure that landfill operators fulfilled their responsibilities.

Responses from officials were quick and consistent: it was all somebody else’s fault. Darcy Whiteside, spokesman for Alberta Sustainable Resource Development pointed out that “Alberta Environment and the municipality are responsible for ensuring proper fencing is in place to protect bears and humans.” Trevor Gemmell, from Alberta Environment, in turn pointed out that “(w)ith these types of landfills, we rely on the operator and Sustainable Resource Development to work together to identify any nuisance wildlife issues.” And, according to the Edmonton Journal, nobody from Alberta Environment or Sustainable Resource Development contacted Jarrod Peckford, supervisor of solid waste service for the Regional Municipality of Wood Buffalo, the man in charge of the dump. Shooting the bears “was their decision,” Peckford said.

Notably absent from these responses was any suggestion that lessons will



*Twelve “problem” black bears shot by government staff in Conklin are more casualties of the province’s “war on wildlife”. PHOTO: N. DOUGLAS*

be learned from this shameful event – admittedly these would be lessons AWA thought had been learned 50 years ago. According to a spokesman for Sustainable Resource Development, quoted in the Edmonton Journal, between 75 and 280 bears have been killed every year since 2001. As Kerry Diotte of the *Edmonton Sun* pointed out “there was no news release ... There would have been no news of it at all had it not been for an angry whistle-blower.”

Would we be wrong to worry that the only lesson learned here may be to make sure that, the next time garbage-habituated animals are killed, officers ensure no-one is watching?

- Nigel Douglas

**No-Net-Loss Wetlands Policy stopped by Tar Sands Industry Opposition**

The Government of Alberta still has not announced the wetland policy it promised

would be released by the summer of 2009. Time is running out for a wetland protection policy to be produced that could influence the important land-use planning process underway in Alberta’s northeast Lower Athabasca region, a region where wetlands are a central landscape feature. Alberta Wilderness Association asks you, our readers and supporters, to urge Environment Minister Rob Renner to implement a no-net-loss provincial wetland policy to better protect our boreal wetlands as soon as possible.

As we reported in the October 2008 *Wild Lands Advocate*, the extension of a wetland policy to apply for the first time to Alberta’s Green Zone (non-settled public lands) is long overdue. A multi-stakeholder Wetland Policy Team met from 2005 to 2008; the Team’s report was forwarded by the Alberta Water Council to the Alberta Environment Minister in September 2008. Unfortunately,

the Team's 'no net loss' wetland policy proposal was a non-consensus recommendation; it was accompanied by dissenting letters from the oil and gas and oilsands mining sectors. On the positive side, 23 of 25 sectors represented on the Council supported a 'no net loss' wetland policy and an "Avoid-Minimize-Compensate" framework that would apply to all proponents of projects affecting wetlands.

Public consultation feedback showed strong support for an even more stringent policy. A compelling case existed a year ago then for the Government of Alberta to implement quickly this province-wide policy.

In June 2009 AWA and other non-governmental organizations requested that Alberta Environment promptly adopt the recommended Water Council policy. It is now October and there has been no update from the Government of Alberta about when a wetland policy will be announced and whether it will be a no-net-loss policy. Further delay will mean more boreal wetlands destruction and damage by tar sands projects.



CREDIT: © PATRICK LAMONTAGNE WWW.CARTOONINK.COM



*Rocks, Clearwater Lake, acrylics on canvas, 36 x 24 in. PHOTO: © R. THIBAUT*

Please write to Alberta Environment Minister Rob Renner and ask him for a no-net-loss wetland policy to extend to northern Alberta. The contact information is: [rob.renner@gov.ab.ca](mailto:rob.renner@gov.ab.ca) or Room 425, Legislative Building, 10800 – 97 Avenue, Edmonton, AB T5K 2B6

- Carolyn Campbell

**So Many Reports – So Few Grizzlies**  
581. This is the new magic number for Alberta's grizzly bears. The figure was recently released by the Alberta government as the current population estimate for grizzly bears after the final year of a 5-year population survey. This number does not include the grizzly bear population in the northwest corner of the province.

The good news is that the number for the region between Highway 16 and Grande Cache is higher than previous estimates – a surprising 383 bears. The bad news is that the number for the whole province is still considerably less than the estimate of 1,000 – the original number that led government scientists to recommend listing the grizzly as a threatened species back in 2001.

So what does this population estimate mean for Alberta's great bears themselves? Measures to protect grizzly habitat have been notably absent over the past five years, with uncertainty over numbers being cited as a reason for inaction. Now that counting bears seems to have ceased, at least for the time being, more reports are on the way. The Endangered Species Conservation Committee (ESCC), the province's multi-

stakeholder committee, is scheduled to review a new grizzly status report, with a view to making a new status recommendation to the government.. AWA is not holding out a great deal of hope for this report. The provincial government failed to accept the ESCC's 2002 recommendation to list the grizzly as a threatened species so there seems little reason to expect that a new report will receive any more respect.

The temporary suspension of the grizzly bear hunt, the one concrete measure taken over the past five years to actually improve the situation for Alberta's grizzlies, is now coming under increasing pressure from pro-grizzly hunt organizations. Though grizzly numbers throughout the rest of the province were lower than expected, they cite the more optimistic numbers in the last survey region noted above as justification for resuming the hunt. Hopefully enough Albertans will make it clear to the government that they would be ashamed to live in a province that allowed a hunt of a species threatened in all but name.

- Nigel Douglas

**Sid Marty, *The Black Grizzly of Whiskey Creek*, (Toronto: McClelland and Stewart, 2008).**

*Reviewed by Heinz K. Unger*

It was in the summer of 1972 and we were visiting friends in Mackenzie in northeastern B.C. where the W.A.C. Bennett Dam had just been completed and Williston Lake was filling up. The only other attraction in this remote forest community was watching the bears at the dump: the black bears were going through the unsorted waste on one side and the grizzlies on the other. Bear-watching was quite safe because the Mackenzie dump was an old-fashioned tipping site; observers were at the top and the beasts were down below – a bit like a zoo without fences. We did not realize then how stupid and insensitive this sort of wildlife viewing was.

Sid Marty describes how during the 1970s this situation was happening everywhere in Alberta's national parks, especially in Jasper and Banff. There were human-bear encounters, or rather conflicts, almost daily and 1980 was a particularly bad year with 272 incidents – “bear occurrences” in National Parks language. Sixty bears had been trapped and relocated – the management response of the day – when in early September 1980 several deadly bear maulings took place at the northern edge of Banff in the Whiskey Creek area, between the CPR tracks and the Trans-Canada Highway. Panic and fear spread through the town. Not even the warden service staff knew the identity of the killer bear, and for some time it was thought that a black bear, subsequently shot, was the culprit.

Marty's book recounts the dramatic events of those few days, and it is like a crime thriller where you know who the murderer is and that he will be caught and killed in the end, but you still keep turning the pages hungrily because you want to discover exactly how. Through Marty's powerful representation of these events you cannot help but feel very sorry for the big black grizzly he calls Sticky Mouth because that bear and his kin are doomed.



The author uses the interesting and successful technique of getting into the bear's head. Not only does Sid Marty generate empathy for this creature of the wild but also and, more importantly, a valuable interpretation of how grizzly bears may think and how they are driven by their nose, stomach and instinct. They are continually hungry from the time they come out of hibernation until they are ready to go back underground again. Sid writes lyrically about the awakening of Sticky Mouth in the spring:

“The big grizzly is curled up below the tree roots on the uplifted, petrified beach of an ancient sea now lying thousands of feet above the tumult of distant valleys known to humankind. Fossil shells in the stone pressed against his ear still hold the voice of vanished oceans. The footings of the mountains are very deep, so even a slight shifting in the earth's mantle is transmitted to his nerves through the embracing arms of limestone that form the ceiling and floor of the den.”

Passages like this vividly illustrate the connectedness of nature through time and species.

For me, as the quotation above suggests, Sid Marty's writing style is both lively and accessible. Also he obviously did a tremendous amount of research and conducted dozens of

interviews, some with the survivors of the maulings, and the book includes a small but comprehensive map of Banff and its surrounding area showing all the key locations mentioned throughout the story. A rather small reference section, titled “Notes” is also appended.

As alluded to in the introduction, it is astounding how naively and casually the issue of bear and waste management was being treated in the 1970s: it took far too long to put in place bear-safe garbage containers, too long to clean up, close off and relocate sloppy landfill sites found inside the national parks and too long to deal with irresponsible commercial waste handling practices, especially by hotels and restaurants situated in the parks. Marty describes in detail how timidly senior park managers handled the big hotels such as Banff Springs and the then newly opened Rimrock because – it seems then and now – government does not want to come down hard on these powerful commercial and corporate interests. It was ordinary park wardens who identified the problems and worked on solutions, as well as smart young researchers such as Stephen Herrero.

Good public relations for National Parks management and the government, and the right spin, seemed to be much more important than the survival of the parks' grizzly bears or the common sense approach of the staff in the field. The book also refers frequently to internal National Parks politics. Sid Marty had left the Parks Canada Warden Service just a few years before the incidents recounted in the book. It is impressive to learn not just how many wardens there were employed then, but also how strong the *esprit de corps* of the warden service was in those days. The author offered his services and was gladly welcomed by his former managers as a volunteer among the armed sharpshooters seated on top of railway cars to shoot the killer bear should he try to leave the Whiskey Creek area. As this personal involvement suggests, in addition to well-researched facts, he offers the reader his personal views, impressions and recollections from his direct involvement in these events.

Will this book help us to improve current grizzly bear management by the Alberta provincial government? I hope so. It certainly raises awareness, generates understanding and empathy for the bears, gives us a historical perspective, and most importantly, demonstrates how poorly bear management was understood just 30 years ago. It is possible that in 2030 some of us will look back in disbelief at the current approach to grizzly bear management where the provincial bureaucracy is too concerned with

exact head counts and the interests of bear hunters and commercial outfitters and not concerned enough about the critical importance of grizzly bear habitat protection and conservation. In his opening chapters, Sid Marty paints a damning picture of the current state of grizzly bear management in Alberta and raises the same issues that organizations like AWA have been pointing out to government and the media for many, many years. Readers will find fascinating information, facts and data about grizzly bears sprinkled throughout the book as

the drama at Whiskey Creek unfolds.

It was a good sign to see this book was a finalist for the Governor General's Literary Awards in 2008, not just because of its literary achievement, but also for its very important subject matter and for underlining the urgent need today for our governments to offer real solutions and not just political posturing.

Like other examples of Sid Marty's nature and wildlife writing, I enjoyed *The Black Grizzly of Whiskey Creek*. I strongly urge you to read it and embrace its message. 🍷

## LETTERS TO THE EDITOR

### Alberta Views and Opposition Voices in the Province

I appreciate the accolades reviewer Dave Whitson was able to direct towards Canada's Magazine of the Year, *Alberta Views*, in his Reader's Corner piece in the August, 2009, *Wild Lands Advocate*. It is a remarkable publication, especially given its limited resources.

By the way, the same could be said of the *Advocate*, which is also doing an outstanding job heightening public awareness on conservation issues

However, I do feel stung by the conclusion of Dr. Whitson's piece when he appears to dismiss Alberta's opposition political parties by stating *Alberta Views* "has provided a more effective opposition... in Alberta than any of the Opposition parties in recent years."

As a self-acknowledged, partisan supporter of the Alberta New Democrats and AWA, I object strongly to the implications of his comments and wish to respond to them.

With a total annual budget of \$562,000, two Alberta New Democratic MLAs and their scant staff resources, perform heroically against daunting odds, including dismissive actions by most mainstream media. Although they take initiatives on a very broad range of policy issues, they still retain their primary focus on the environment, health care and jobs.

In the past year alone, the NDs have worked hard in the Legislature, at hearings and at other public events



PHOTO: D. OLSON

throughout the province to offer alternative and positive positions on scores of issues. They include strenuous efforts to direct attention to toxins originating from the oil sands, pushing for environmental assessments of major projects before they are approved, backing groups like the Pembina Institute and Toxics Watch in similar efforts, promoting alternative energy proposals and capping emissions, to just name a few.

Through the party's platform, they've also pushed hard for natural areas preservation, creating an Endangered

Species Council, specific regulations to reduce the ecological footprint of the oil and gas industry, water conservation, and protection of wetlands.

AWA surely knows what it's like to be continually butting heads with the entrenched interests of the economically powerful. AWA carries on valiantly and courageously, as do the New Democrats. As a professor in the University of Alberta political science department, Dr. Whitson should know that, too.

*Yours truly,  
Andy Marshall*

### Gordon Kerr – A Champion of Habitat Protection: Then and Now

By Ian Urquhart

Envy and admiration – that was what I took away from a long conversation earlier this month with Gordon Kerr about subjects such as growing up in the Crowsnest and his distinguished public service career in wildlife management. As someone who gladly would trade his Powerpoint projector for a five-weight fly-rod it did not take long for my envy reflex to kick in. How could I not be envious of someone who grew up with the Forest Reserve's thousands of square miles as his backyard?

Admiration soon followed. In his professional career, Gordon was before his time (although he is too modest to make this claim). He brought a keen sense of the critical importance of habitat to his work in Alberta's Fish and Wildlife Division. Moreover, he recognized, earlier than most I believe, that it was vital to reach out to more than the usual constituencies of wildlife managers – hunters and fishers – if you wanted to make headway on habitat protection issues.

Many of Gordon's early years were spent on a ranch a few miles west of Coleman. His father instilled in him an appreciation of "the great outdoors" just as his grandfather and grand-uncle had done for Gordon's father. So he hunted, trapped, fished, and rode horses in his rather impressive backyard, one that had yet to taste the treads of four-wheel drives and off-highway vehicles.

These years, their bounty of outdoor pursuits aside, were noteworthy for the stewardship ethic that was central to the informal education his father delivered. At their own expense, the Kerr family transplanted trout to lakes in the mountains and foothills. They also participated, along with other members of local fish and game clubs, in transplanting pheasants and relocating beavers. These stewardship initiatives had an important public dimension; while Gordon might benefit from them in the future so would others.



Gordon Kerr PHOTO: I. URQUHART

At an early age, as he tried to take advantage of the Crowsnest's natural attributes, Gordon gained the appreciation of habitat's critical importance that would guide his professional career. It came, fittingly enough, courtesy of his fly-rod. When he was fourteen Alberta's transportation department diverted a stream that ran through his family's ranch so it could build a bridge. The diversion, he said, "destroyed all my fishing holes." The bridge-building project ruined a mile of Allison Creek, nearly three miles of the Crowsnest River and therein, critical bull trout habitat. The young fly-fishing enthusiast received a hard first-hand lesson about the importance of maintaining habitat integrity.

After studying at the Universities of Montana and Alberta Gordon accepted his first job in the public service as the assistant district biologist in Lethbridge in 1963. There he was about to experience the brutal blizzard of 1964, a storm that decimated southern Alberta's then-plentiful pheasant populations. The widespread wildlife deaths associated with that calamity – Gordon autopsied ninety-seven antelope in Taber that had

died in the storm – reinforced Gordon's belief in the critical importance of habitat. "We began to realize," he recounted, "that we can stockpile these animals but...they need a place to live... if they don't have the habitat you are going to lose them all." Consequently, the Division started to look at projects that would insure that habitat needs were met.

Earlier, I noted Gordon's modesty. This attitude animated his comments about his years in Fish and Wildlife from the early 1960s up until the early 1980s. This was a golden age in wildlife management. Over a twelve year period the division's staff and budget mushroomed; the Division's staff tripled and their budget grew even more impressively. Gordon rose through the ranks rapidly, from assistant district biologist to chief wildlife biologist in just six years, promotions I am sure were due to more than his assertion that he was "the only guy around." It was an era when the province treated its wildlife management responsibilities well and generously.

His manner may have been best illustrated by his views on what he regarded as one of the major successes during his tenure in Fish and Wildlife – the Buck for Wildlife program. Gordon will not claim the major or decisive role in the birth of this program. Instead, he praises the team he was able to work with in Fish and Wildlife and their partners in the Alberta Fish and Game Association. Fish and Wildlife's emerging habitat focus was the team's vision, not Gordon's alone. Today the Alberta Conservation Association manages that program. More than thirty years after its birth, Buck for Wildlife underpins emphatically a pillar of Gordon's ongoing approach to habitat protection and enhancement – ways must be found to encourage private landowners to adopt land management practices that will serve the broader public interest in sustainability.

Another important, laudable aspect of the vision Gordon brought to his wildlife management duties was its inclusiveness. All wildlife, not just game species, needed to be incorporated into the division's mandate if it was to generate



*With the majestic Crowsnest Mountain as his backyard, Gordon Kerr learned from an early age the value of wildness.*

PHOTO: M. MACQUARRIE

support among the broader public for his wildlife and habitat management ambitions. In the late 1970s/early 1980s “we found, unless you made it of interest to the non-hunters and benefit of non-hunters, there was going to be a big wall approaching pretty soon and we were going to run into it.”

This era, one where Fish and Wildlife was able to win some important land “set aside” decisions from departments such as Public Lands, ended resoundingly at the very moment when Gordon was championing this more inclusive approach to wildlife management. Budgets for Fish and Wildlife were cut; the Division’s staff was pruned dramatically.

I believe I sensed some tiredness and frustration in Gordon’s voice when we discussed the disputes that arguably took place between his vision and those of Forestry, Public Lands, and Energy at that time. His perspective on the importance of wildlife habitat led to conflict with those who looked at habitat through the lenses of board feet of merchantable timber or jobs in the forestry or agricultural sectors. This was the beginning of a dark time for Fish and Wildlife and for advocates who believed that wildlife habitat should be an important consideration in land-use planning.

What was so frustrating for the Gordon Kerrs in government was the political failure to implement the recommendations produced by excellent, thoughtful planning processes that sought to strike a genuine balance between

interests on the land. Kananaskis Country was one example. “K-Country had a tremendous planning process go into it,” he said. “We had agreed to very many habitat things in K-Country...if you are going to put an alpine village here and offset that then you need to have wildlife preservation over there...that all looked really good until they said we’re going to have alpine villages in both places...they totally ignored the plan.”

He told the same story about the Eastern Slopes. Again, countless hours and millions of dollars were devoted to identifying the key features of the Eastern Slopes and deciding what habitat the Prime Protection Zone should cover. “I thought we were really arriving and the government adopted it and promptly threw it in the cabinet and locked it up.” A good indication of just how mistaken government was to do that came in one of Gordon’s later comments: “The Eastern Slopes plan would be excellent to take it off the wall today and use it.”

Tired of fighting with other government departments and divisions that controlled the land and refused to see the value of wildlife habitat preservation Gordon moved on to the Canadian Wildlife Service. There, as the Director of the Prairie and Northern region, Gordon was able again to pursue his lifelong interest in building teams and partnerships to promote habitat protection. He helped create Wildlife Habitat Canada, a national non-profit conservation organization, in 1984.

The most significant product of this approach came in the form of the North

American Waterfowl Management Plan. This international partnership includes national and regional governments from Canada, the United States, and Mexico as well as conservation organizations such as Ducks Unlimited and the Nature Conservancy. In its first six years the partners spent \$500 million on the restoration and protection of North American wetlands (by 2009 the partnership had spent \$4.5 billion to protect or enhance 15.7 million acres of wetlands habitat).

Although Gordon retired from the public service in 1994 he continues to serve the public and pursue his passion for habitat preservation through the Land Stewardship Centre. There his approach remains very much the same as the one he adopted nearly forty years ago. He tries to reach out to the wider public and explain “to them why they should be concerned and if the government’s going to give a subsidy for a farmer to maintain a marsh and look after it and manage it for the people that’s not just for duck hunters that’s for everybody.”

Here is where his optimism about the future shows. He does not see the public as being opposed to ideas such as preserving wetlands and forests; they are though not aware enough of how important those habitats are to delivering the “many environmental benefits that society desperately needs.” Let’s hope that, as drought looms as the “new normal” in our lives, the broader public and our political leaders embrace Gordon’s message. 🍷

## EVENTS

### TUESDAY TALKS

Pre-registration is required for all talks

Location: AWA

455 12th St NW

Calgary

Time: 7:00 p.m.

Cost: \$5 for adults, \$1 for children

Information/Reservations

Online: [www.AlbertaWilderness.ca](http://www.AlbertaWilderness.ca)

Phone: (403) 283-2025

Toll-free: 1-866-313-0713

Tuesday November 10, 2009

#### How Beavers Battled Drought

– and Won!

With Dr. Glynnis Hood

With climate change and development speeding up the rate of wetland loss in Alberta, beavers might be helping us more than we think.



*A beaver's contribution to slowing down wetland loss in Alberta.*

PHOTO: C. WEARMOUTH

Tuesday November 24, 2009

#### A New Era for Wolves and People

With Marco Musiani

Just published, "A New Era for Wolves and People" is a book that is not only about wolves and their management, but is also very much about humans and our attitudes towards them. Edited by Marco and his colleagues Luigi Boitani and Paul Paquet, the book's contributors include recognized scientists and other wolf experts who introduce new and sometimes controversial findings.



*Hikers in the Sheep Valley of Kananaskis Country.* PHOTO: N. DOUGLAS

### AWA WINTER HIKE

Tuesday February 9, 2010

#### Sheep Valley Hike

With Nigel Douglas

Join AWA's Nigel Douglas for a hike in the Sheep River valley, and a chance to make the most of this spectacular time of year. The hike will be moderate, though there may be some walking in snow (depending on weather conditions).

Cost: \$25 for AWA members,

\$30 for non-members

Pre-registration is required

Online: <http://shop.albertawilderness.ca/>

### MUSIC FOR THE WILD

This highly successful series began last year with local artists and performers supporting AWA and Alberta's Wild Spaces with an evening of great music and conversation.

Saturday November 14

*AWA is proud to present classic and modern bluegrass by*

#### THE TRAGICALLY HICK

Opening act:

John Reid and Blaine Hrabi

Location: AWA

455 12th St NW

Calgary

Time: 7:00 p.m.

Cost: \$15

Pre-registration is required

Online: <http://shop.albertawilderness.ca/>

### ANNUAL LECTURE & AWARDS

Friday November 20

#### Green Law: Environmental Precedents for Protection

With Richard Secord

AWA is proud to present the 2009 Martha Kostuch Annual Wilderness & Wildlife Lecturer, Richard Secord. Richard's lecture will address the key environmentally significant cases that have been decided in Alberta in the last 20 years. The 2009 Wilderness Defenders Award recipients are Richard Secord, James Tweedie and Judy Huntley.

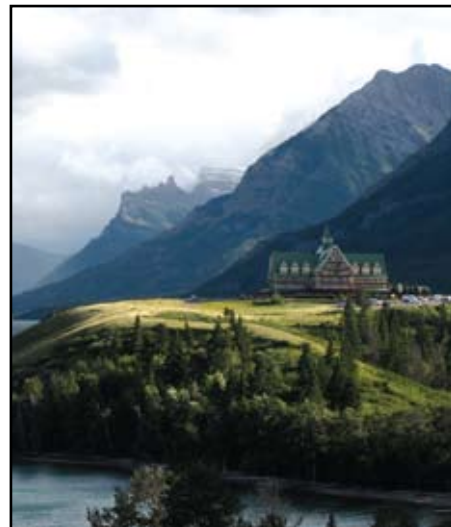


PHOTO: D. ARGUMENT

### GHOST WATERSHED WORKSHOP

Wednesday November 18,

Thursday November 19

#### Seeing the Forest among the Trees:

#### The Case for Ecosystem-based

#### Conservation Planning

With Herb Hammond of the

Silva Foundation

Sponsored by AWA and Ghost Watershed Alliance Society

Location: Beupre Hall

Time: 5:00 - 9:00 p.m.

Cost: \$20.00

Registration is limited and pre-registration is required.

Online: <http://shop.albertawilderness.ca/>

# WILD ALBERTA – A YEAR IN REVIEW

*Every fall, Alberta Wilderness Association pauses to take a deep breath and to reflect on the past year.*



PHOTO: N. DOUGLAS

- We celebrate the enduring commitment of one or more wilderness champions in Alberta with the Wilderness Defenders Awards.
- We challenge ourselves with new ideas in our Martha Kostuch Annual Wilderness and Wildlife Lecture.
- We hold our Annual General Meeting and review the past year.

We invite you to join us this year for the  
**AWARDS PRESENTATION AND ANNUAL LECTURE**  
Friday, November 20, 2009

#### ALBERTA WILDERNESS DEFENDERS AWARDS

In recognition of their outstanding conservation achievements, AWA is pleased to present the 2009 Wilderness Defenders Awards to James Tweedie, Judy Huntley, and Richard Secord. Their love of Alberta's wild lands and their persistence in defending them have inspired countless Albertans to take an active role in conservation.

#### MARTHA KOSTUCH ANNUAL WILDERNESS AND WILDLIFE LECTURE

*Green Law: Legal Precedents for Environmental Protection*  
Richard Secord, noted environmental lawyer, will examine the potential of judicial review to enhance the protection of Alberta's environment. What Alberta and Canadian legal cases have influenced our stewardship of the environment? What legal precedents should environmental groups consider when they consider challenging environmentally-destructive practices in the courts?

Location: 455 – 12 St. NW, Calgary

Wine & Cheese Reception: 6:00 p.m. • Lecture and Awards: 7:00 p.m. • Cost: Members - \$25 • Non-members - \$30

Reservations: (403) 283-2025 or 1-866-313-0713 • Online: [www.AlbertaWilderness.ca](http://www.AlbertaWilderness.ca)

#### AWA ANNUAL GENERAL MEETING

Saturday, November 21, 2009

Time: 11:00 a.m. • Location: 455 – 12 St. NW, Calgary

Registration: 1-866-313-0713 or (403) 283-2025

Return Undeliverable Canadian Addresses to:



**Alberta Wilderness Association**

Box 6398, Station D  
Calgary, Alberta T2P 2E1  
[awa@shaw.ca](mailto:awa@shaw.ca)

