



TAR SANDS LOBBY: 1 – WETLANDS POLICY: 0?

By Carolyn Campbell, AWA Conservation Specialist

It appears that the Alberta government is about to release an unacceptably weak provincial wetland policy for public comment. In reaction to tar sands industry demands to allow ongoing loss of boreal peatlands it seems that the ‘no net loss’ principle for the province has been sacrificed. Given recent policy developments, it is vital for AWA supporters to speak out in support of, at a minimum, a ‘no net loss’ approach when the proposed provincial policy finally is released.

Importance of Strong Wetland Policy

To date, two-thirds of wetlands in the settled areas (“White Area”) of Alberta have been destroyed or impaired. A ‘no net loss’ policy was established for

settled areas in 1993 and a fairly strong regulatory application of the policy has been in place since 2007. Despite this, according to Alberta Environment, wetlands loss in settled areas continues at 0.3 to 0.5 percent per year.

Currently, there is no policy applying to wetlands in Alberta’s unsettled areas (“Green Area”). These public lands comprise somewhat more than half the province and are found largely in the boreal forest region and parts of the foothills. Neither the historic total loss nor current rate of loss of wetlands in the Green Area is known. If an industrial project is approved under *Alberta’s Environmental Protection and Enhancement Act (EPEA)* the developer has to return land to an “equivalent

land capability”.

In practice, the EPEA provision means forested uplands usually replace wetlands for two reasons. First, forests have been perceived as the preferred vegetation cover because of their economic value to the forestry industry. Without regulatory incentives, our society still under-values the water storage and purification services and critical wildlife habitat provided by wetlands. Second, the vast majority of wetlands in the northern boreal consist of thick water-saturated layers of peat that form fens and bogs, rather than the mineral soil marshes and shallow open water typical of prairie wetlands. When fens and bogs are destroyed by tar sands strip mining or other intensive



Autumn-coloured mosses in a sensitive peatland area south of Touchwood Lake in Lakeland Provincial Recreation Area. There is no method of replicating the deep peat layers of virtually all northern wetlands once they are destroyed. That is why it is so vital that northern wetlands are respected and protected finally in a provincial wetland policy. PHOTO: C. CAMPBELL

industrial development, there are no proven techniques for recreating them. In the Athabasca oilsands region, wetlands cover around 50 percent of the natural region, and 90 percent of these wetlands are peat forming.

Although research into peatland restoration and creation is underway, scientists are still in the very early stages of understanding how a limited subset of peat plant species may be re-generated even in well-controlled conditions. And this vegetation is slow growing. We may be generations away from knowing how to re-create destroyed peatlands in mining-affected areas at close to their pre-disturbance ecological functionality. That is why it is so important to have a sound wetland conservation policy for Alberta's Green Area. Without that policy, supported by strict standards and regulations, project proponents have little incentive to minimize damage to these

peat wetlands.

Undermining 'No Net Loss'

In February 2010 AWA learned that the resource industry association Alberta Chamber of Resources (ACR) had published several articles on its website. These articles claimed the Chamber had succeeded in undermining the main points of the Alberta Water Council's recommended wetland policy. The Council's recommended policy was supported by a majority of the Council's members. The mining sector (represented by Alberta Chamber of Resources) and the oil and gas sector (represented by the Canadian Association of Petroleum Producers), both of who participated fully in the Council Team that drafted a compromise wetland policy, ultimately were the only two Council sectors not supporting the policy when it went forward from Council in September 2008. The majority recommended implementing a province-wide version of the 'no

net loss' principle to wetlands. While there could be net wetland losses due to development in one region those losses would have to be offset by comparable gains in other regions. Council recommended a flexible array of science-based compensation options be used when regulators determined that wetlands would be damaged by development activities. These options, in order of preference, were wetland restoration, wetland construction, and enhancement of existing wetlands. Moreover, securing existing wetlands and conducting research on wetland reestablishment could be considered as partial compensation as long as an equal area of wetland was replaced (generally, science-based recommendations call for a greater area to be replaced than is lost in order to try to ensure the same overall wetland benefits are maintained). The Water

Council did not recommend applying the policy to existing water approvals. But, when negotiating renewals for water licenses for projects that could run for decades, renewal conditions should be informed by the policy.

Three years of negotiations, and concessions, by members of an Alberta Environment-led multi-stakeholder forum produced these principles. Extensive public consultation at key points in the deliberations showed strong support for an even stronger wetlands policy than the Council ultimately recommended. Twenty-three of twenty-five Council sectors formally supported the compromise policy: this consensus included agriculture, forestry, petrochemical and power industries, non-governmental organizations, urban and rural municipalities and Government of Alberta representatives from five departments, including Alberta Energy.

As reported in the October 2008 *Wild Lands Advocate*, the oil sands and oil and gas sectors rejected the key pillars of Council recommendations for a no net loss policy in August 2008. Instead, they demanded: to delay a provincial policy until a regional land-use framework was in place; to allow regional and watershed loss without comparable gains elsewhere; to make the compensation framework applied to projects optional rather than mandatory; and to allow oil sands mining projects to replace boreal wetlands at less than a 1:1 ratio.

Since autumn 2008 AWA and other Alberta Environmental Network organizations have been calling on the provincial government to implement swiftly the policy recommended by a majority of the Water Council, citing overwhelming public support for even stronger wetland protection measures. Alberta Environment officials' pledged to implement a provincial policy first in spring 2009, then summer or autumn 2009, then early 2010. Though the White Area wetland policy remains in effect, Alberta still lacks an overall provincial wetland policy. Perhaps an even greater concern is that there have been several dismaying indications that a very weak provincial policy will eventually emerge.

The ACR claimed on its website that its lobbying for a weaker wetland policy worked. Don't bother looking for those documents now. After the ACR was interviewed about these documents



Several major North American migratory bird routes cross the Athabasca oil sands region and wetlands such as these provide vital resting and breeding habitat for migrants. The provincial government appears set to assign low value to boreal wetlands because they are abundant on the landscape. PHOTO: J. HILDEBRAND

in March 2010 the documents were pulled from the Chamber’s website. One document stated: “on January 30, 2009, Alberta Environment said that changes were being made to the Wetland Policy and Implementation Plan that would reflect the compensation flexibility, and integration into the Land Use Framework using a sustainable development approach that were requested by ACR and CAPP [Canadian Association of Petroleum Producers].” Furthermore, remarks by ACR’s Executive Director claimed: “The Province has agreed to three of the four changes to the proposed Wetlands Policy that ACR suggested in a letter of non-consensus we delivered to the Ministry of Environment in July and while the Wetlands Policy has not yet been implemented, these changes may save literally billions of dollars for our members in the future.”

When a journalist pressed Environment Minister Renner about the ACR claims the Minister hedged on his responsiveness to the ACR’s demands. In March 2010 he reportedly said: “It is a misrepresentation to say that Alberta Environment has agreed... At the end of the day, there needs to be a clear policy that says that there are consequences that have to be acknowledged and have to be dealt with when wetlands are destroyed.” He did not provide a date when this “clear policy” would be released. We are still waiting.

Leaked 2009 Draft Suggests Weak Policy

In April 2010, the Sierra Club Prairie Chapter publicly released an August 2009 government draft of the wetland policy. This Alberta Environment draft policy backed up the ACR’s claims that the majority recommendations of Water Council have been diluted extensively.

Rather than placate the oil sands industry by having much weaker compensation apply in the mineable oil sands region, the government’s draft policy does something much more profound. It overturns the Council majority-recommended principle that all wetlands are valuable and compensation for any damage should seek to maintain the area and associated benefits the wetlands provide. Instead, it builds a wetland policy around these principles: “Not all wetlands are of equal value. Individual wetlands will be assessed... and assigned an overall wetland value of very high, high, medium or low.” The values will be assigned through a “wetland value matrix.” The over-riding criterion in this matrix seems to be the abundance of wetlands in a region or watershed. Other criteria for the wetland value matrix are: biodiversity, water quality improvement, flood retention and human value (including historical, cultural, and recreational significance). “The level of compensation required,”

the draft states, “will reflect the differences in relative wetlands value... All [compensation] options reflect the understanding that some loss of wetlands will occur in the province.” If this draft is accepted the government will show the ‘no net loss’ principle the door.

The August 2009 draft policy supports a clear agenda to sanction ongoing loss of boreal region peatlands. There appears to be no scientific basis for asserting that peatlands in boreal ecosystems are less valuable than other wetlands. And, as noted above, these destroyed peatlands remain impossible to replicate. Tying value to ‘abundance’ also threatens wetlands in relatively intact prairie landscapes where they could be considered abundant. Furthermore, this approach conjures a nightmare of subjective, inconsistent valuations of wetlands within and across regions. Faced with fairly arbitrary value judgments, development project proponents from all industries, including sectors that favoured a much stronger ‘no net loss approach,’ understandably may try to seek the most favourable and lowest cost outcomes for themselves. Wetland conservation will be undermined further.

The draft policy also appears to offer up the vast majority of Alberta’s wetlands as candidates for potential disturbance. “Only the very highest value wetlands of greatest societal worth will be included in the conservation network [where industrial and residential development will not be permitted].” This would appear to disqualify any boreal region wetlands because of their relative abundance in the watershed. It is widely recognized though that, at least two boreal forest examples, the McClelland Lake wetland complex and the Peace-Athabasca Delta, deserve exceptional wetland status. Rather than bowing to the politically-driven premise that Alberta’s boreal ecosystem is expendable, science-based principles of aquatic environmental significance should determine the criteria for recognizing and protecting exceptional Alberta wetlands.

The most recent indications are that the essential philosophy of the 2009 draft government policy is still intact. On May 13, 2010, the “Alberta Prime Time” television program featured a segment on Alberta’s wetland policy. “Wetlands are highly diverse and one size fits all is

not necessarily the best approach” was one of the written comments submitted by Alberta Environment; no one from the department was available to appear on the discussion panel assembled for the program. Do we deserve more than that from the public officials who are, in law if not in fact, the stewards of Alberta’s natural heritage?

No Credible Cost Assessment

An extremely troubling aspect of this apparent policy erosion is that it appears very much driven by unsubstantiated petroleum industry claims that they cannot afford a ‘no net loss’ wetland policy. Yes, it should be expensive for mines to destroy peatlands that they can’t recreate. However, it defies belief that the pragmatic compensation options supported by almost all industry sectors on the Alberta Water Council, including forestry and agriculture, would have overwhelmed the highly profitable tar sands industry. Mines could have

replaced an equal area of wetlands, possibly well outside their lease area, and used securing wetlands and wetlands research as partial compensation. For in situ projects, a serious ‘no net loss’ wetland policy would motivate proponents to ‘avoid’ and ‘minimize’ wetland loss to a high degree based on site planning and operating best practices.

There has never been a public, transparent examination of what a ‘no net loss’ policy would cost the petroleum sector. In March 2009, both CAPP and ACR turned down a request by the *Edmonton Journal’s* Hanneke Brooymans to share their data that claimed to show how a 1:1 replacement ratio for 800 km² of wetlands lost at seven mine sites could cost industry \$170 million to \$560 million. To evaluate meaningfully the financial burden of a wetlands policy, not only do absolute cost calculations need to be scrutinized, they must also be placed in context relative to a 1.3 million barrels per day - and growing - tar sands

industry (at roughly \$US 80 per barrel in early August that would generate a gross value of tens of millions of dollars PER DAY.) Without public scrutiny of the relative financial burden of protecting and reclaiming wetlands to oil companies, polite Canadians should regard any claim of excessive costs skeptically.

For now, it is indisputable that one key demand of the tar sands sector – to delay implementing a provincial wetland policy – has been granted. Apparently, the provincial cabinet is still reviewing a proposed policy before authorizing its release for public consultation. When it is released (we assume it will be), and if our fears that the ‘no net loss’ principle will be jettisoned are realized, we will need your voices, more than ever, to try to ensure that the government does not let unproven corporate profitability claims undermine one foundation of Alberta’s ecological security. 🙏