
SALE OF PUBLIC LAND IN ALBERTA

RECOMMENDATIONS FOR IMPROVING REGULATION, POLICY AND PROCEDURES

1. Introduction

The recent application to government for sale of 25 sections of public land that would see native prairie turned into irrigated potato fields was a lightning rod for public outrage over shortcomings in how government deals with public land sale. Information about the proposed sale emerged through media reports and interviews, and was often incomplete and inaccurate. The lack of an open, transparent and fair public process was a major concern for many Albertans. Standard procedures regarding sale of public land were not followed.

If the application had not been withdrawn, the Minister of Sustainable Resource Development was poised to approve the sale of a large block of native prairie assessed as of *national environmental significance* and providing habitat for several federally and provincially listed species *at risk*. The proposed deal also had implications for aquatic ecosystem health in the stressed lower Bow River and for soil conservation given that the suitability of the land for irrigation was uncertain. Given that expansion of potato production is not being encouraged, any positive contribution of the project to the regional economy was questionable. Current uses of the public land for sustainable livestock production and outdoor recreation would have been lost.

We are fundamentally opposed to the sale of public land in Alberta, with the exception of trading small cultivated parcels that have little ecological value to obtain more important habitat on private land. Protected area targets have not yet been achieved in the Prairie and Parkland of southern Alberta.

In an attempt to learn from this experience, this document has been prepared to promote discussion about improvements that are needed in regulation, policy and procedures regarding sale and acquisition of public land. The focus is on public lands in the Prairie and Parkland of southern Alberta where land use pressures are greatest. Fundamental premises throughout the document are:

- Public lands supporting native ecosystems are of significant value to Albertans now and in future
- Land use planning should define public lands that will be retained in trust for all Albertans
- Any proposal for sale, trade or acquisition of public land requires full environmental review, public notice and open, fair and transparent decision-making process.

2. Definition of Public Lands

Public Lands are lands held in trust by government. For the purposes of this document we are defining public land as:

- Land administered under the provincial *Public Lands Act*, in both the White Area and the Green Area.
- Tax recovery lands; public land that at one time was privately owned but was forfeited in the early 1900s due to unpaid taxes. Provincial funds and resources are used to maintain and manage tax recovery land.

This includes the 1.5 million acres of public land and 1.4 million acres of Tax Recovery Lands administered by the Special Areas Boards.

We are not including protected areas administered under the *Provincial Parks Act*, the Wilmore Wilderness Park Act or the *Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act*. Federal public lands are not included.

3. Value of Public Lands

Public lands support most of the remaining native ecosystems in southern Alberta. Native ecosystems are a key component of biodiversity and essential habitat for wildlife. They perform important ecological functions such as air purification, watershed protection (water capture, soil stability) and carbon storage. Remaining native ecosystems on public land are a hedge against climate change, tested as they have been over thousands of years.

Healthy native ecosystems are essential for a sustainable ranching industry, providing high quality forage, stable production and operational flexibility combined with low maintenance costs. Healthy native forests are also essential for sustainable forestry. Extensive blocks of public land may be important to cultivation agriculture by providing buffers against disease, pathogens and as habitat for pollinators.

Extensive blocks of public land provide space, a key element not only for biodiversity retention but also for the human spirit. The open space and aesthetics of native landscapes contribute to high quality recreation opportunities and tourism. As well, resource extraction activities (e.g. oil and gas development) occur on public lands with management oversight to maintain ecosystem health.

4. Suggestions to Improve Regulations, Policies and Procedures Regarding Public Land Sales

The following are suggestions to improve regulations, policies and procedures regarding public land sales.

4.1 Identify and Designate Areas of High Conservation Value Where Public Lands will be Retained

Regional plans developed under the Land-Use Framework provide a mechanism to identify public lands that should be retained and managed for protection and maintenance of biodiversity and species at risk and the other ecological goods and services that native ecosystems provide. In general the long-term interest of all Albertans is best served by retaining public lands as a trust held by government for conservation purposes. The lesson from other jurisdictions (e.g. Texas) with little public land left is that there are considerable issues over providing space for biodiversity maintenance and restoration and for recreation.

The Prairie Conservation Forum input to the Regional Advisory Council for the South Saskatchewan Region (SSRP) (August 2009) indicates that the large majority of public land remaining in the SSRP area is of high value for retaining biological diversity and ecosystem function. Included in this is a large amount of tax recovery land, some of which was settled or cultivated historically but has since reverted to native prairie. The only public lands remaining that may be suitable for sale are isolated parcels under cultivation or tame pasture or lands adjacent to large urban centres that are required for orderly urban expansion.

Areas that are zoned for conservation purposes at the regional level may include both public and private lands. One way of flagging public lands within these zones is through protective notations (PNT), reservations that identify land and resources that are managed to achieve particular conservation objectives. Protective notations identify the agency that has placed the reservation, show allowable land uses and may give management guidelines for integrating different uses on the land. Public lands under PNT are not considered for sale.

In general, protective notations would be applied to public lands in large contiguous blocks of prairie identified through the Grassland Vegetation Inventory, significant connecting corridors between these blocks (including possible regeneration connections), Environmentally Significant Areas and other important habitat areas for at risk species (PCF 2009). A list of sources of information for determining lands that merit protective notations is provided in Appendix 1. Note that completion of the Grassland Vegetation Inventory is needed to support the mapping base needed for regional planning.

4.2 Use Conservation Easements

Cooperation between managers of public and private land may be needed to achieve conservation objectives identified in regional plans, especially in areas where there is a mix of public and private lands. Private lands of high importance for conservation may be secured by private land trusts through outright purchase, land donation or conservation agreement. Conservation agreements known as conservation covenants, conservation servitudes or conservation easements, are legal documents in which a landowner agrees to the imposition of restrictions on activities that would threaten the environmental value of the land.

This tool may be especially important to use in situations where tax recovery lands have been transferred to a municipality who then chooses to sell the land. One of the requirements of sale would be to place a conservation easement on the land prior to sale. A conservation agreement allows the owner to remain on the land and make compatible use of the land while ensuring its protection from future development.

4.3 Create Regulations Regarding Public Land Sale/Trade

Regulations are needed that clearly codify procedures to be used for public land sale/trade and that require public notice and consultation. These regulations would stipulate:

- a. Criteria that would guide determining if public land is “surplus to public needs” or “suitable for sale/trade” including:
 - Value for protecting and maintaining biodiversity and species at risk
 - Impact on other resource values (e.g. recreation)
 - Conformity with land-use policies and plans (e.g. regional plans)
 - Availability of private land for uses of economic or social importance
- b. Who may make an application and how. Canadian citizens, corporations or municipalities who currently hold a disposition or have the consent of the current disposition holder would submit an application to Public Lands.
- c. Procedure for sale/trade – The application is considered by Public Lands and through internal referral by other government agencies with an interest. If the land is determined to be suitable for sale or trade, public notice is given and opportunity for public input is provided. If there is not significant public concern about the propose sale, then the land would be sold in a public auction or tender.

4.4 Increase Government Capacity to Oversee Public Land Sale and Acquisition

Currently applications for public land sale, government acquisition of private land and working partnerships with private land trusts are addressed on an ad hoc basis by staff in Sustainable Resource Development. Changes are needed to improve the capacity of government to deal with land sale and acquisition in a strategic and consistent manner. Establishing a separate group dedicated to overseeing sale and acquisition is recommended. This could occur within Sustainable Resource Development or by establishing a separate public lands conservation estate and facilitating agency.



The recommendations in this document have been endorsed by:

Alberta Wilderness Association
Alberta Native Plant Council
Nature Alberta

For further information, contact AWA, below.

Appendix 1

Recommended Considerations for Potential Sales of Public Land

- Fisheries & Wildlife Management Information System database
- Alberta Conservation Information Management System database
- Large contiguous blocks of prairie identified through the Grassland Vegetation Inventory and listed as High Value Southern Alberta Landscapes (PCF 2009).
- Areas where rough fescue grasslands occur (Grassland Vegetation Inventory)
- Connecting corridors between large blocks of prairie and other important prairie habitats (PCF 2009)
- Smaller isolated refugia used by migrating wildlife, at risk species and game species (PCF 2009). (i.e., Migratory bird stopover sites, Piping Plover and Trumpeter Swan Breeding lakes, Snake hibernacula, bat roosting areas, Sharp-tailed Grouse and Sage Grouse leks, amphibian breeding ponds).
- Riparian areas adjacent to major waterways
- Canadian Heritage River sites
- Critical Ungulate Winter Range, including Pronghorn winter range, identified by Alberta Sustainable Resource Development and the Canada Land Inventory
- Important habitat areas for at risk species identified in federal and provincial status reports and recovery plans
- Important Bird Areas (IBA 2004-2009)
- Environmentally Significant Areas identified in the late 1980s and 90s and by Fiera Biological Consulting (2009)
- North American Priority Grassland Conservation Areas (The Commission for Environmental Cooperation and The Nature Conservancy 2005)
- Great Plains Landscapes of Biological Significance (Aldrich et al. 1997)
- Sites identified under Special Places 2000 (Alberta Environment 2007)
- Priority Migratory Bird Habitats of the Prairie Provinces (Poston et al 1990)
- Priority areas identified during planning exercises for the North American Waterfowl Management Plan (see Poston et al. 1990, more references exist)
- NAWMP/Ducks Unlimited projects
- Colonial Nesting Bird sites identified by Cottonwood Consultants Ltd. (2000)
- Sites identified under the Northern Prairie and Parkland Waterbird Conservation Plan (Beyersbergen et al. 2004).
- Western Hemispheric Shorebird Reserve Network Sites and other important shorebird areas identified by Poston et al (1990), Morrison et al (1995), Prairie Canada Shorebird Conservation Plan (Gratto-Trevor et al. 2001), Donaldson et al (2000)
- RAMSAR sites
- Important habitat areas identified in Integrated Resource Plans
- Bucks for Wildlife sites