

Canadian Institute  
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Institut canadien du  
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**A Legal Guide to Non-Private Lands  
in Alberta**

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public lands or a requirement for public process when public lands are proposed to be sold, even public lands with high ecological value or economic value to present and future Albertans.

#### 8. OFFENCES AND PROHIBITIONS FOR UNAUTHORIZED USE OR DAMAGE TO PUBLIC LANDS

The *Public Lands Act* and the PLAR give public land administrators substantial management rights by virtue of the offences for unauthorized use or damage to public lands. The offence and penalty provisions of the *Public Lands Act* and regulations are so potentially powerful that they lead one commentator to call them “The Sleeping Giant of Watershed Protection.”<sup>404</sup> The main prohibitions are in sections 54 and 56 of the *Public Lands Act*, which provide (in part):

“Prohibitions

54(1) No person shall cause, permit or suffer

(a) the accumulation of waste material, debris, refuse or garbage on public land,

(a.1) loss or damage to public land,

(a.2) activities on, or the use of, public land that is likely to result in loss or damage to public land,

(b) the existence on public land of any structure or excavation of any kind that is undesirable or otherwise in contravention of this Act or the regulations,

(c) the existence on public land of any condition that may cause loss or damage to the public land,

(d) the doing of any act on public land that may injuriously affect watershed capacity,

(e) the disturbance of any public land in any manner that results or is likely to result in injury to the bed or shore of any river, stream, watercourse, lake or other body of water or land in the vicinity of that public land, or

(f) the creation of any condition on public land which is likely to result in soil erosion.

(2) A person lawfully carrying out any activity on public land in accordance with

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<sup>404</sup> Michael Wenig, “The Sleeping Giant of Watershed Protection” (April/May 2006) LawNow, online: <[http://www.pekisko.ca/pk\\_resource.html#download](http://www.pekisko.ca/pk_resource.html#download)>.

- (a) the terms and conditions of a disposition or authorization issued under this Act, and
- (b) any other applicable Acts and regulations shall not, by reason of that fact alone, be considered to have contravened this section.

Offences re Crown land, property, etc.

56(1) A person who

- (a) wilfully removes any property belonging to the Government from public land without authority,
- (b) removes any property belonging to the Government from public land without authority, ...
- (d) occupies public land and is not the holder of a disposition or of an authorization under section 20 authorizing the person to do so and is not otherwise authorized to do so under this Act and the regulations, ...
- (m) as the holder of a disposition, wilfully contravenes a provision of the disposition,
- (n) as the holder of a disposition, contravenes a provision of the disposition ... or
- (p) contravenes a provision of this Act or the regulations that is prescribed in the regulations for the purposes of this section, is guilty of an offence."

The PLAR creates numerous other offences, which will not be detailed here. The reader is directed to section 174 of the PLAR and the corresponding sections containing the prohibitions. Some of the offences will be discussed further on in this Guide.

**EXAMPLE/ISSUE/POLICY BOX #11:**

**A COMMENT ON PUBLIC LANDS ACT OFFENCES, AND PRIVATE PROSECUTIONS**

The language of the offence provisions of the *Public Lands Act* and regulations has changed over the years. Interestingly, on account of the language, earlier versions of the *Public Lands Act* made some of the offences more subjective than they now are. For example, sections 54 (a.2) and 54(b) of the *Public Lands Act* (noted above) were "in the opinion of the Minister." One must assume that a change of policy of the government led to remove the "Minister's opinion" from the constitution of these offences. Although the precise nature of the policy is not apparent, the deletion of the subjective element could make it both harder, and easier, to prosecute. For