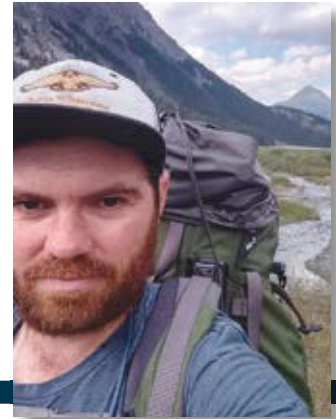


Red Tape Reduction Raises Red Flags

By Nathaniel Schmidt, AWA Director



Bill 21, the *Red Tape Reduction Act*, is the latest piece of legislation from the Alberta Government that promises to streamline bureaucratic processes across a variety of provincial government responsibilities, while putting the management of our public lands at risk. This Act follows the earlier *Red Tape Reduction Implementation Acts* (receiving royal assent in 2019, 2020 and 2021) that similarly pledged to eliminate bureaucracy under the guise of efficiency and economic freedom.

However, hidden behind these promises is the risk of potentially destructive outcomes less likely to make it into a government press release. One area in particular that looks likely to be negatively affected by this legislative initiative is the management of Alberta's public lands through amendments to the *Public Lands Act* and the *Provincial Parks Act*.

Premier Jason Kenney made the following comments about the purpose of these changes:

"We're going to take Alberta from being the most over-regulated to the freest economy in Canada. We aren't just saying we're reducing red tape – we are making it the law. We're committed to cutting red tape by one-third – and once we cut it, we will prevent new red tape from creeping back."

The Government of Alberta website explaining the Red Tape Reduction initiative paints a similarly rosy picture, referring to improved efficiency and savings in areas such as motor vehicle licensing, liquor sales, economic innovation, and occupational health and safety. On the surface, this all may sound like a great idea. After all, who wouldn't

want to save money while getting things done faster?

But the changes found in Bill 21 will fundamentally alter how our public lands are managed and our government's responsibility to publish regulations. Previously, any proposed regulatory changes under both Acts had to be brought before the Lieutenant Governor in Council (which refers to Cabinet) and then published on the public record, with notices on ministerial websites.

The Red Tape Reduction initiative replaces this process – which was already lacking in transparency itself – and makes it worse. It does so by centralising control in the office of the Minister and eliminating all but the most minimal publishing requirements. These changes are contrary to established norms in the democratic process that prioritize transparency, publicity and accountability in government decisions, attributes that were already sorely lacking in the management of public lands.

Another concerning change is the type of directives and policies that may be adopted in new regulations. For example, the amended section 1.1(1) of the *Public Lands Act* now allows a Minister to adopt "without limitation" the rules of any government, board, agency, association or person into the regulations affecting public lands. Just what these rules might be and who they come from is entirely in the hands of the Minister, who is no longer under any obligation to publish decisions other than as a posting on a website.

Taken together, these shifts could have significant effects on our public lands, following a concerning pattern from the current government in their approach

to established, public environmental goods. Other examples that come to mind include proposed changes to the parks system, coal policy, environmental monitoring, and conservation. Like all these past decisions, the government is prioritizing short-term economic development and private interests over the long-term preservation of our environmental assets. Furthermore, in all these examples, the government is attempting to minimize transparency in the hopes that no one notices.

So far, Albertans have paid attention when it matters most. But these amendments place an unsustainable level of vigilance on the public and media to discover changes affecting our public lands. In practice, we will all have less access to what our government is doing and less knowledge of why they're doing it. As a result, our role in what happens to our public lands will be greatly diminished.

This should be concerning to anyone interested in the health of our environment and equitable access to public lands. They contain some of the largest remaining areas of intact ecosystems and are already under immense stress from competing interests and uses. Furthermore, by taking away one of the few existing mechanisms to access the decisions being made, the United Conservative Party (UCP) is ensuring their decisions, and those of future governments, risk being made without proper scrutiny.

Readers of the *Wildlands Advocate* may be familiar with a story from the beginning of the UCP's term, which shows exactly why more, not less, regulation is needed. In late March 2020

the Alberta government auctioned off a parcel of Crown land near Taber to an anonymous bidder for \$460,000 (that bidder was a large-scale potato farmer who has turned this former grassland into a potato crop). This followed a promise from then-Environment Minister Jason Nixon who stated that “We are not selling any Crown or public land - period.”

Under the new legislation this problem could become widespread, as preference for private economic interests and user groups is written right into the amendments and press releases. As discussed, the Minister now has wide discretion to approve rules from private organizations and individuals mostly in secret. The official Red Tape Reduction website states that Bill 21 “Eliminates the need for Albertans who use Crown lands for business or recreation to comply with restrictive or onerous requirements where such requirements are not necessary.” Who defines what is restrictive, onerous or unnecessary? And how will the public know when rules change?

This outcome is a feature of the new legislation, not a bug; prioritizing high impact users (e.g. industry and off-highway vehicles), and secrecy over conservation, preservation, and transparency. Again, this is part of a pattern. Recent amendments to the *Public Lands Act* through Bill 79, the *Trails Act*, demonstrate this imbalance. These amendments allow the Minister to designate new recreational trails (including motorized access trails) on public lands at will, with limited publication and no scientific consultation. Like Bill 21, this leaves the door wide open for abuse and misuse of a public asset by private interests.

Users of public land may also run into problems as they try to navigate what could become a patchwork of rules from region to region. The current system already presents difficulties when trying to figure out which public land you're permitted to use, when you're allowed to use it, and who to ask for permission. Once more, this is the intention of Bill 21. Government materials state that this “Supports an outcome-based approach to managing activities on Crown land

by allowing the development of locally specific rules and moving away from the ‘one-size-fits-all’ approach in regulation.” The outcomes the government plans to prioritize are unknown. Given their track record on similar issues, we all have reason to be concerned.

Some may argue that the public's chance to express disappointment with government decisions comes at the polls. But when we elect governments, we don't give them unlimited power to make decisions. They have a responsibility to tell us what they're doing on the public record. These changes circumvent legal and normative principles that are meant to increase transparency, encourage debate, and facilitate public comment.

Ideally, this system would have been made more transparent. The regulatory system currently governing our public lands is already a patchwork that largely fails to consider environmental impacts. A better model would be a system such as the federal Regulatory Impact Analysis Statement which publicizes the issues or problems a regulation is addressing and why government intervention is needed. This would have allowed Albertans to know and understand the changes being made to their public lands. Instead, we will be left guessing.

Other questions about Bill 21 remain, such as the continued role of public lands management policies like Regional Land-Use Plans (which are themselves in need of some serious work). But regardless of the state of Regional Land-Use Plans and other policies, the loss of the requirement to at least consider priorities other than those determined by the Minister is problematic.

What the UCP refers to here as “cutting red tape” is actually the gradual dismantling of accountability and transparency. These changes allow the government to sidestep responsibility and push through an agenda that completely ignores the public interest.

This should be a non-partisan issue. People of all political stripes deserve to know what their government is doing and why they're doing it. No one should support more secrecy in government, even if it happens to benefit your own

interests. We should not stand for special interest groups, powerful individuals, or opportunistic leaders taking control over and exploiting a public resource as valuable as our public lands.

The bottom line is that our public lands are facing more pressures than ever. Our growing population continues to increase the demands for natural resources, ranching, and farming while at the same time, the worsening effects of climate change are making this same land more fragile. We need more oversight - not less - to ensure our public lands are properly managed in an increasingly challenging environment. What the *Red Tape Reduction Act* offers is nothing more than a rubber stamp for the Minister and their government to do whatever they believe is best, effectively removing the “public” from public lands. ♣

Nathaniel Schmidt sits on the AWA Board of Directors and has been involved with the organisation since 2017. He recently finished his law degree and is currently working in criminal defence with Legal Aid Alberta



The Red Tape Reduction Act threatens the management of Alberta's public lands, such as Bob Creek Wildland Provincial Park (pictured). Photo © N. Petterson