

December 14, 2011

Via email to: Premier@gov.ab.ca
Peace.river@assembly.ab.ca

Honourable Alison Redford

Premier of Alberta
Room 307, Legislature Building, Edmonton AB T5K 2B6

Honourable Frank Oberle

Minister of Sustainable Resource Development
Room 404, Legislature Building, Edmonton AB T5K 2B6

Dear Premier and Minister,

Re: Sustainable Forests, Sustainable Communities (the Future of Alberta's Southwestern Forests)

The Environmental Law Centre (ELC) is a charity with a mission to ensure that Alberta's laws, policies and legal processes sustain a healthy environment for future generations. The ELC is guided by legal integrity and considers government authorities that make environmental law and policy to be its stakeholders.

The ELC is writing you in support of the Southwestern Forests report and recommendations submitted to you by numerous Southern Alberta organizations in 2011. The recommendations are for the application of principles of Sustainable Forest Management. These principles address a significant gap in Alberta's public forest regime and could be adopted with relative ease to support current government and industry initiatives.

Much law and policy concerning the Southwestern Forests is dated and self-conflicting. The *Forests Reserves Act* provides that the purpose of the Forests Reserves is the conservation of forests, forest vegetation, and optimum water supply.¹ Yet the regulation of forestry in the Forest Reserves is under the general *Forests Act*.² The forty year old *Timber Management Regulation* provides that the Department "shall manage the forest resources in accordance with established forestry principles and in the economic interest of the public."³ The result is that forestry practice is disconnected from the legislated purpose of the forests.

¹ *Forests Reserves Act*, RSA 2000, c F-20.

² *Forests Act*, RSA 2000, c F-22.

³ *Timber Management Regulation*, Alta Reg 60/1973, section 164.

This connection cannot be repaired by dated policy. The *Eastern Slopes Policy* (1984) diverged from its conservationist origins based on the “economic realities of the time”. Watershed management remained a top priority, but producing a ‘sustained yield’ of timber was made an expressed objective for much of the Southwestern Forests. These changes were made with no formal public input.

The realities of our time have changed. The South Saskatchewan Basin is closed to new water licenses and there remains a legal obligation for Alberta to pass on river flows. The Land Use Framework and the Profile of the South Saskatchewan Region show that this Region’s recreation and tourism industry creates more jobs and expenditures than Alberta’s entire forestry sector. The terms of reference for the Region affirm that the priority uses of the Eastern Slopes will be watershed protection followed by appropriate recreation. Yet business as usual means certain decline in all forest resources, especially with recreation contributing to the impact.

The forest regime is adapting to these realities. The *Alberta Land Stewardship Act* (ALSA) has changed the purpose of Forest Management Agreements from providing a sustained yield of timber to a “yield consistent with sustainable forest management principles and practices.”⁴ The Ministry defines Sustainable Forest Management as:

“management to maintain the long-term health of forest ecosystems, while providing ecological, economic, social and cultural opportunities for the benefit of present and future generations.”⁵

This definition provides that implementation is a joint responsibility with industry, but provides no further guidance for managers.

Alberta should establish new principles for government and industry forest managers in a proactive manner. An ill-defined ‘sustainable’ provision in British Columbia’s Forest Act triggered litigation, protests, and in response to the dispute, the inclusion of long-term ecological considerations in forestry decision making.⁶ Establishing such principles may be required to win support for forestry provisions in ALSA Regional Plans. The Draft Lower Athabasca Plan (LARP) would make “ecosystem forestry” binding on management as the only forestry allowed in Conservation Areas under SRD jurisdiction. However, “ecosystem forestry” requires specific forestry practices. The LARP references the International Union for Conservation of Nature Criteria but does not make them binding nor explain their appropriateness. The ELC has recommended deferring any forestry in Conservation Areas without binding, appropriate standards and will recommend the same for any South Saskatchewan Regional Plan.

⁴ *Ibid.*, section 16(1).

⁵ *Forest Management Glossary of Terms* (August 2009), Alberta Sustainable Resource Development.

⁶ *Sierra Club of Western Canada v. British Columbia (Chief Forester)* [1993] B.C.J. No. 2677, 22 Admin. L.R. (2d) 129.

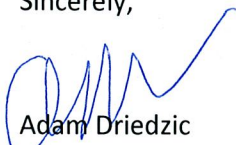
The Southwestern Forests recommendations can be readily adopted. Cabinet can make regulations for management principles under the *Forests Act*. Alternatively, principles can be adopted as policy and upheld by the Minister. The *Forests Act* provides the Minister with broad discretion to alter timber quotas in the public interest, structure Forest Management Agreements to protect forest values, and set the Annual Allowable Cut.⁷ Public lands legislation will facilitate integrated land management with non-forestry uses. The *Public Lands Act* makes timber disposition holders occupants of public land, which can promote cooperation between users.⁸ The *Public Lands Administration Regulation* enables new disturbance and reclamation standards, ecosystem restoration obligations, the reduction of forest grazing, and enforcement of recreational access.⁹

Adopting the Southwestern Forests recommendations could increase the viability of the forestry sector. Many challenges facing this sector, including dwindling timber supplies and lack of social license, can be traced to a history of non-sustainable practices. Future opportunities for the sector may lie in eco-certification under the Forest Stewardship Council or like standards. Operators in the Southwestern Forests who are considering certification will need to change their operating practices. Supportive government policy will be crucial as the current disposition system provides operators little ability to lead on managing forests for non-timber values. A sector willing to improve its practices should not be denied market opportunities by deficient policy.

Public concerns with current management of the Southwestern Forests are reasonable. It is fair to ask why logging of the Castle watershed was authorized after a Special Place designation and prior to a Regional Plan for which it is a candidate Conservation Area. The way of our time can be honored by adopting public proposals that contribute constructively to forest policy. The Southwestern Forest recommendations are consistent with legislation, departmental definitions, the content of emerging regional plans, and future opportunities for industry. The recommendations can be adopted by regulation or policy within the existing legal framework and might encourage further reform of Alberta's forest regime. The Southwestern Forests is the appropriate region for a local solution that, if successful, could benefit the greater Eastern Slopes.

The ELC is encouraged to see movement in Alberta's public forest regime and a coordinated report from its stakeholders. Please do not hesitate to contact the ELC if you wish to discuss the recommendations.

Sincerely,



Adam Driedzic
Staff Counsel

⁷ *Forests Act*, *Supra* note 1.

⁸ *Public Lands Act*, RSA 2000, c P-40, section 20.

⁹ *Public Lands Administration Regulation*, Alta Reg. 187/2011