

November 22, 2012

Our File: 05320

Dianne McQueen
204 Legislature Building
10800 97 Avenue
Edmonton, AB
Canada T5K 2B6

Dear Minister McQueen,

RE: Comments on Bill 202: *Public Lands (Grasslands Preservation) Amendment Act, 2012.*

The Environmental Law Centre (ELC) is an Edmonton-based charitable organization established in 1982 to provide Albertans with an objective source of information about environmental and natural resources law and policy. The ELC's vision is an Alberta where the environment is a priority, guiding society's choices. It is the ELC's mission to ensure that Alberta's laws, policies and legal processes sustain a healthy environment for future generations.

The ELC is pleased to provide comments on Bill 202, *Public Lands (Grasslands Preservation) Amendment Act, 2012*.¹ The ELC is supportive of Bill 202 as a whole, as it reflects a step forward in relation to the potential sale of environmentally valuable grasslands in the province. The Bill introduces an appropriate approach to assessment of grasslands and places a limitation on dispositions and grants to protect significant grassland habitats.

Below are several recommended amendments that would make the Bill more scientifically robust.

Recommended amendments

The s. 82.1 (d) "wildlife habitat" definition

The wildlife habitat definition should be amended to include that habitat suitable for reintroduction of endangered and threatened species (as defined in s. 82.1(c)(ii)).

The definition of "wildlife" should also have a direct linkage to listed species under the federal *Species at Risk Act*, S.C. 2002, c. 29. This linkage is important to ensure that federally listed species, if not listed provincially, are not adversely impacted by dispositions.

¹Bill 202, *Public Lands (Grasslands Preservation) Amendment Act, 2012*, 1st Sess., 28th Leg., Alberta, 2012, online: Alberta Legislative Assembly <http://www.assembly.ab.ca/ISYS/LADDAR_files/docs/bills/bill/legislature_28/session_1/20120523_bill-202.pdf>.

Expanding s. 82.2(a) to protect grasslands where contiguous land management is feasible

The fact that a parcel is less than 160 acres should not preclude it from triggering the wildlife assessment. Nor should the parcel size preclude the limitations on dispositions and grants that the Bill enables. This is particularly the case where there is an opportunity to seek the implementation of beneficial management practices on grasslands that are privately owned and that may be contiguous with a small parcel of public grasslands.

Integrating science into assessment and mitigation decisions

Several aspects of the Bill should be amended to ensure science guides decision-making in the management of grasslands in Alberta. This includes:

- i. Discerning the “significance” of wildlife habitat (s.82.3)
The assessment process for determining the “significance” of wildlife habitat on grasslands pursuant to section 82.3 should be amended to ensure that a scientific process guides the “significance” determination. The Bill currently relies on regulations promulgated by the Lieutenant Governor in Council pursuant to s.82.7 to serve this function. The Bill’s approach to the determination of significance should rely on an academic advisory body (such as the Species Specialist Subcommittees of the Committee on the Status of Endangered Wildlife in Canada).
- ii. Discerning “adequate” protection under section 82.4(2)(a)(ii)
Similar to the determination of “significance”, the determination of what is adequate protection for a disposition to proceed should be governed by science. The Bill should be amended to link a scientific advisory body to the determination of whether mitigation measures proposed by a proponent will be “adequate”.
- iii. The swap provision for habitat of “greater significance” (section 82.4 (2)(b)).
The evaluation of relative significance between two parcels of grasslands should be governed by science, to ensure the full concert of environment/biodiversity values is effectively considered.

Enabling disposition amendments

The Bill permits the granting of dispositions where there is significant wildlife habitat and where there are measures that can be taken to ensure the habitat is “adequately protected” (at s. 82.4(2)(a)(ii)). A provision should be included under this section to allow for the amendments of dispositions where measures taken pursuant to s.82.4(2)(a)(ii) prove to be inadequate. If measures prove inadequate there must be clear authority to augment the dispositions.

Conclusion

The ELC is supportive of Bill 202 in its current form, however, the amendments recommended in this letter would improve the Bill by enabling a system of assessment and mitigation that is grounded in science

Please do not hesitate to contact the Environmental Law Centre should you have any questions.

Yours truly,

Jason Unger
Staff Counsel
junger@elc.ab.ca

cc. Dr. Neil Brown, MLA
Kent Hehr, MLA
Joe Anglin, MLA
Rachel Notley, MLA