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To the Land Use Secretariat (LUS),

Re: Draft South Saskatchewan Regional Plan (Draft SSRP)

The Environmental Law Centre (ELC) is a charity founded in 1982 to provide Albertans with an objective source of information on environmental and natural resources law. The ELC's mission is to ensure that Alberta's laws, policies and legal processes sustain a healthy environment for future generations.

These recommendations are based on discussions pursued by the ELC with government and land use stakeholders inside and outside of the official consultation process. The ELC is well positioned to comment on the Draft SSRP as we have been continuously engaged in the development of the Land Use Framework (LUF), Alberta Land Stewardship Act (ALSA), the Conservation and Stewardship Tools in ALSA, and all regional planning processes to date.

The SSRP may pose the most challenging exercise under the LUF due to the uniqueness of the region and scope of issues it presents. The resulting Draft SSRP is complex. The increased public engagement by government and improved feedback tools provided during the Draft SSRP consultation stage have been of great assistance in providing these recommendations.

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Executive Summary

These recommendations are divided into three sections:

1. Advancing the LUF:

These recommendations identify the balance and principles needed to address competition, conflict and cumulative effect caused by the pressure of growth on a finite land base.

2. Strategies for implementing the SSRP:

This section proposes details to complete the strategies chosen to implement the Draft SSRP. The focus is on providing guidance and direction to decision makers. This section covers:

- **Conservation and stewardship of public lands.** This section recommends how to improve the SSRP provisions on Conservation Areas, Forestry, the Green area and White Area public lands. It includes an ELC proposal for creating networks of public and private conservation lands.
- **Conservation and Stewardship of private land.** This section proposes guidance and details to encourage use of the ALSA Conservation and Stewardship Tools. It proposes alternatives to those tools where there are barriers to their use.
- **Cumulative effects management.** This section proposes details needed for the Linear Footprint Management Framework and the Draft Surface Water Quality Framework to achieve positive environmental outcomes.

- ### 3. Managing Recreational Use of Public Land.
- This section addresses the gap in current policy identified by the LUF that dominated the Draft SSRP consultation process. These recommendations support a formalization trail system, advance a new approach to access, propose how to use of public land regulation and generate resources for enforcement. We note where new legislation could improve the mandate to manage recreation, promote working with user groups, and address liability concerns.

Advancing the LUF.

The development of the LUF highlighted two particularly widespread concerns:

One is that starting point for growth management is not a level balance. The LUF recognizes that the pressure of growth on a finite land base is causing competition, conflict and cumulative effect. The most consistent comments during development of the LUF concerned the need for environmental stewardship. Cumulative effect studies in the region that predate the LUF indicate that business as usual will cause degradation of our ecological resources. The LUF responds by adopting the recognized principle of “sustainable development” and prescribes a healthy ecosystem as a planning outcome.

A second consistent comment during development of the LUF was desire for strong provincial leadership on land use.¹ The expectation is for choices and trade-offs, clear limits and rules, and certainty for land use. The LUF proposes “smart growth” and efficient land use to reduce the human footprint, which are land use planning concepts to the core.

The sum expectation is that regional plans will foremost be land use plans and that these plans be capable of achieving environmental outcomes.

Respecting the environment, the Draft SSRP does well to adopt the LUF’s healthy ecosystem outcome but it would not be achieved. There is outstanding need for guiding principles and commitment down through the levels of detail. Respecting land use, the Draft SSRP raised widespread concern with a view that we can still “have it all and do it all” by managing it all better. Most of the work needed to address the key regional land use issues remains to be done. These opening recommendations suggest where to begin.

Recommendations:

- Include the LUF definition of Sustainable Development as a guiding principle in the SSRP.
- Include established environmental principles to promote the healthy ecosystem outcome. These include:
 - The Precautionary Principle,
 - Pollution Prevention,
 - Polluter Pays,
 - Public Participation,
 - Intergenerational Equity

Definitions of these principles are provided by the ELC at http://www.elc.ab.ca/Content_Files/Files/CoreEnvPrinciples.pdf.

Recommendations continued:

- Define smart growth in the SSRP as maintaining open space and developed areas as an alternative to sprawl.² Apply this principle to all areas of land use decision making as proposed by the LUF.
- Set quantifiable environmental objectives on par with economic objectives.
- Make all trade-offs clear. Make trade-offs progressively through the planning levels of outcomes, objectives and priorities, and eventually land uses.

Strategies for implementing the SSRP.

The LUF establishes that the 'old rules' will no longer provide the quality of life we expect. Business as usual cannot achieve the outcomes of the Draft SSRP.

The Draft SSRP cannot be implemented solely through existing legislation and policy as it implies.

The SSRP must provide guidance to decision makers as proposed by the LUF. Guidance to decision makers is the missing link in the chain between regional objectives and clarity at level of land use. The following recommendations are aimed at providing this guidance.

Conservation and Management of Public Land

These recommendations show a need to establish larger conservation management areas and networks of land and to use a slate of tools to create these areas, rather than relying on the parks proposed in the SSRP.

Conservation Areas

Headwaters protection is one place where the old rules do work. The ELC supports the implementation of the proposed Conservation Areas on public lands with designations under protected area legislation. ELC specifically supports the designation of the Pekisko Heritage Rangeland as this helps protecting the diversity of ecological regions as proposed by the LUF and because it has local support. The outstanding issue is the sufficiency of area boundaries and uncertainty over the prospect for future conservation areas at the implementation stage.

² An example of Smart Growth Principles: <http://smartgrowth.bc.ca/Default.aspx?tabid=133>

Recommendations on Conservation Areas:

- The use of Conservation Areas for headwater protection should include more forested source water areas and wetlands, and more foothills grasslands in the upper watersheds, not just high mountain headwaters.
- Clarify where and under what circumstances new Conservation Areas can be created after the SSRP comes into force and what the process will be, particularly in the Southeast Grasslands.

Castle Public Land Use Zone

The Draft SSRP tries to reconcile a polarized debate over the Castle but it does not succeed. The use of Public Land Use Zone (PLUZ) for the Castle is anomalous. No other Conservation Areas are implemented with PLUZs. No other PLUZs purport to be Conservation Areas.

The debate over parks vs. PLUZs is polarized because it is a debate over which of the ‘old rules’ should apply. The ELC’s view is that PLUZs are not suitable for Conservation Areas unless reinforced under ALSA:

- PLUZs provide no mandate for conservation of land or wildlife and it does not require that recreation be low impact and compatible. The Draft SSRP assertion that PLUZs are effective at biodiversity conservation is unsubstantiated.
- PLUZs cannot address the cumulative effect of multiple uses because they cannot direct multiple decision makers. PLUZs have no weight in decisions on forestry, energy, grazing, surface materials, utilities or any activity other than public use. The Draft SSRP regulatory details allowing minerals and forestry activity in the Castle PLUZ are redundant.
- Multiple land use decisions over the Castle have struggled with how to address cumulative effects or consider land use policy in the context of individual decisions. The original creation of a PLUZ did not rectify this issue in future decisions.

Recommendations on the Castle Public Land Use Zone:

- The Castle should be protected under the existing slate of designations or a new legislated protected area designation if forthcoming.

Recommendations on the Castle Public Land Use Zone (continued):

- PLUZs should not be used for Conservation Areas unless they are supplemented with ALSA regulations:
 - The regulations should establish the priority uses of the Conservation Areas including headwaters protection, biodiversity conservation, and low impact recreation.
 - The regulations should require that all decisions on all uses in the Conservation Area be compatible with the priorities.
 - Consider using a Conservation Directive for the form of regulation.
- Set enforceable limits on linear disturbance Conservation Areas that are not legislated protected areas.

Forestry

ELC supports the intention for ecosystem forestry in the C-5 Forest but the Draft SSRP will not meet this intention without regulatory detail and potentially legislative amendment.

ELC notes that options to advance ecosystem forestry under the SSRP are limited:

- The forest disposition system creates barrier to ecosystem forestry.
- The SSRP cannot prevail over the purpose of timber dispositions under the Forests Act.
- The C-5 Forest Management Plan does not prevail over the purpose of timber dispositions or power to issue timber dispositions.
- The dispositions in the C-5 forest – timber quotas and licenses - provide no interest in living trees to enable disposition holders to manage the forest for non-timber objectives.
- The prospects for ecosystem forestry may be slightly better under FMAs that provide a managerial role and legal interest in living trees.

The best case scenario for forestry reform through the SSRP may be better planning of location and better mitigation of environmental impacts through operating practices.

Recommendations on ecosystem forestry:

- Create place-specific regulations for ecosystem forestry under in the SSRP.
 - Detail what ecosystem forestry involves specific to the area where it will occur.
 - The regulations should prevail over the Timber Regulations and Operating Ground Rules.
- Attempt to offset any increased to operators by having the SSRP prevail over the Timber Dues Regulations to alter royalties and fees.
- Expand the geographic range where ecosystem forestry will be pursued.
- Explore legislative change to better enable ecosystem forestry and forest stewardship incentives.

The Draft SSRP is lacking a regional cost-benefit analysis of forestry. Forestry is the only industry valued exclusively on the provincial industry rather than the regional industry. The Regional Profile and RAC resource maps indicate that forest resource is of lower value than recreation and biodiversity resources on the same land base. Current forestry practices will contribute to lost recreation opportunity. This could cause lost economic opportunity in the tourism sector.

Changing forestry practices on the Eastern Slopes could maximize provincial economic outcomes while having minimal impact on the provincial sector. An SSRP that reflects the uniqueness of the region as proposed by the LUF would not create a threat to the provincial industry.

Recommendations on valuation of forestry:

- Make forestry decisions on the Eastern Slopes based on the value of the regional industry and competing uses, not on the value of the provincial industry.
- If forestry practices cannot be made compatible with the priority uses of Conservation Areas then the
- SSRP should prohibit future timber licenses in Conservation Areas. If timber is not available to fill the quota elsewhere in the C-5 then the SSRP should alter the quota.

Eastern Slopes - Green Area

The ELC supports affirmation of headwater protection priority and watershed management intention. Regulatory detail is needed to prevent a regression from the Eastern Slopes Policy.

Recommendations on headwaters priority:

- Put the headwaters protection priority for Green Area land outside of legislated Conservation Areas in the regulatory details of SSRP;
- Include wetlands and forested source water areas in the headwater protection priority and watershed management intentions of the SSRP.
- Clearly establish further priority uses and low priority uses in the Green Area.
- Require all uses to be compatible with the priority uses.

Grasslands – White Area Public Land

The South Saskatchewan Region provides the only chance to fill the gap in the protected area system on several grassland ecoregions. Several key steps towards grassland conservation are not apparent from the face of the Draft SSRP:

- The prospect of further consultations and future Conservation Areas in the grasslands.
- Proposals by landowners and grazing lease holders for Conservation Areas to be created on the land in which they own an interest.
- Interest in creating networks of public and private conservation lands.

These conservation efforts need to be coordinated and formalized.

Recommendations on public grasslands:

- Establish networks of public and private land.
- Set quantifiable goals for total land conserved instead of simply inventorying conserved land.
- Identify lands of high conservation value in the SSRP:
 - Identification of private land should be done through municipally identified environmentally significant areas or ecological resources or landowner proposals.
 - The initial identification need not have any weight other than mere identification.
- Use the identified lands to coordinate public and private conservation efforts:
 - Conservation Areas should be created on public land following public consultations.
 - Proposals for Conservation Areas from landowners and grazing lease holders concerning lands in which they hold their interest should be adopted if the land is in the identified area.
- Pursue reciprocal conservation donations:
 - Reciprocate private conservation by creating Conservation Areas on adjacent land.
 - Incentivize private land donations adjacent to Conservation Areas.
 - Make private lands adjacent to conservation areas a priority for funding.
- Clarify the public consultations being considered concerning grassland conservation areas.
- Clarify that limits on industrial surface disturbance on a go-forward basis could be done with no alterations to grazing consents, municipal powers or the law of property.
- Create Heritage Rangelands.
- Create policy for use of Conservation Directives.

- Irrigation potential should not be a factor in sale of public grasslands that are underrepresented in the protected area system. Expanding irrigation agriculture is not a policy gap identified by the LUF whereas protecting the diversity of ecological regions is.

Conservation and Stewardship of Private Lands

The Draft SSRP is a step forward on private conservation and stewardship but it needs much more detail to incentivize use of the ALSA tools. It is unreasonable to expect small municipalities and rural landowners to combat urban sprawl and agricultural land fragmentation without provincial involvement.

Recommendations on conservation and stewardship of private lands:

- Provide direction on where and for what end the ALSA tools should be used. This would best be done with lines on the map that identify lands.
- Use the Alberta Land Stewardship Fund to provide funding for MBI research and design, not just conservation easements. Eligible projects could include identification, inventory or valuation of ecosystem goods and services in the area identified for use of the ALSA tools.
- Use mandatory language where the intention is for municipal decision makers to comply.

Conservation Easements

Verbal encouragement is not enough to incentivize easements.

Recommendations on conservation easements:

- Provide details on where easements will contribute to implementing the SSRP. This can include geographic areas or objectives that align with allowable purposes of easements. Details could be provided through a biodiversity framework in the White Area.
- Provide direction for the use of conservation easements for agriculture (cropland).
- Make easements adjacent to Conservation Areas on Crown land a priority for funding.
- Create a municipal tax category for conservation easements.
- Create municipal tax categories for conservation taxes and development levies to fund land trusts and easement creation.
- Provide alternatives to easements that address the barriers to easement donation created by perpetual duration and lack of ongoing funding. Options could include:
 - Designation of Heritage Rangeland on private land by agreement.
 - Designation of Wild Land Park on private land by agreement.
 - Agreement or delegated authority under ALSA to manage private land for SSRP objectives.
 - Voluntary compliance with a Best Management Practice standard set in ALSA regulations.
- Agreements should provide for limited duration, ongoing payments and accountability for outcomes.
- Agreements for legislated protected areas designations should provide protection from minerals activities according to the designation.
- Protect conservation easements from oil and gas impacts. Direct the Alberta Energy Regulator to protect put conditions on approvals as needed to protect easements.

Transfer of Development Credits (TDCs)

TDCs are essential to addressing land fragmentation in the region.

The Draft SSRP needs detail to incentivize TDCs use. Municipalities currently need to independently create plans and bylaws for TDC use and zone so as to create market demand for credits. Municipalities face risks to acting independently including the need for TDCs to comply with ALSA.

Recommendations on Transfer of Development Credits:

- Establish a TDC program to support municipalities and landowners in developing TDC plans, bylaws, projects and to assure compliance with ALSA.
- Make a TDC regulation under ALSA or in the SSRP.
- Create a process for provincial approval or adoption of municipal plans and bylaws for TDCs to ensure conservation value.
- Identify lands where TDC use will be promoted including conservation and development areas.
- Require that TDCs should be sealed with conservation easements.
- Use Conservation Directives where requested by municipalities to ensure that easements are executed and fit the TDC scheme.
- All participation in TDC schemes should be voluntary.

Offset Pilots:

ELC supports the use of offset pilots that are strictly controlled.

Recommendations on offsets:

- Include the details of the pilot projects in the SSRP
- The details should include the geographic area of the project, the objectives being pursued, the development zones and conservation zones if established, the eligible offset producers and purchasers, the project administrator, the exchanges and the conserved land and the legal instrument with which the land is conserved.
- Offsets should be controlled by regulations. Use the ALSA tools to provide regulatory transparency and accountability to pilot projects. Regulations do not need to provide for a full provincial or regional MBI scheme. The SSRP or ALSA regulation should provide for the pilots.
- Grasslands that cannot be restored should not be candidates for offsets as there would be a net loss of grassland. The area disturbed should be of lower ecological value than the area conserved.

Managing Cumulative Effects

ELC supports the developed management frameworks in the Draft SSRP. This is a promising use of the new rules.

Linear Management Framework and Biodiversity Framework

ELC supports the Draft SSRP proposal to develop a linear footprint management framework and for it to be used to implement a biodiversity framework. ELC supports the Draft SSRP proposal to integrate a linear management framework with recreational trail system planning.

Recommendations on Linear Management Framework:

- Set geographic areas for use of linear framework and proceed with pilots in advance of 2017.
- Choose areas where the need is to address intensity of use rather than to strictly zone uses.
- Use the linear framework to identify where and towards what end ALSA tools will be used.
- All decision makers should be bound by the framework, including recreation authorities.
- Use quantifiable indicators of linear density related to species habitat.
- Do not set the baseline for linear disturbance on current conditions, especially where thresholds are already exceeded.
- Set clear, firm limits on linear disturbance in the area.
- Provide direction to decision makers on actions when limits and lower tiers are reached.
- Actions where limits are reached should be prohibiting new disturbance and requiring reclamation.
- Actions at levels below limits should include Integrated Land Management and use of existing disturbance so that limits are not reached.
- Allow strictly controlled offsets within the area. Offsets should be reclamation projects that produce no net increase in disturbance in the area. ALSA should be used to regulate the scheme.
- Lands that cannot be ecologically restored including such grasslands should not be disturbed.
- Provide monitoring by government or a delegated authority under ALSA.

For recommendations on use of linear management in recreation planning see page 21.

Surface Water Quality Framework and Air Quality Frameworks

General Recommendations on surface water quality and air quality frameworks:

- Non-point source pollution needs to be addressed with land use planning to support the frameworks.
- Provide more detail on management responses.
- Management responses should include regulatory responses.
- Management intentions at 'level two' should be to improve conditions, not to allow effects to increase. Prevent a sliding baseline of deteriorating environmental quality.

Surface Water Quality Management Framework.

(The "Framework") 3

Choosing an appropriate reference or baseline condition:

The ELC has significant concerns with the Framework's reference or baseline condition (described as the "baseline historical values").⁴ Setting triggers based on water quality data that is so narrow and recent fails to provide a meaningful and accurate picture of current impacts on aquatic systems in the South Saskatchewan River Basin (SSRB). To adequately encompass impacts in recent history and protect the environment, the baseline or reference condition should not be based, by-in-large, on grandfathering impacts on water quality. Basing triggers and limits on movement away from this baseline will lead to further degradation of our waterways and does not reflect a progressive pollution prevention approach. We can and must do better ensuring restoration of water quality. Instead of asking "Where are we and where do we not want to go?" we should be asking "how can we minimize the impacts of existing and current contributors to degradation of water quality?"

The ELC recommends establishing an "ideal" reference condition which more closely reflects what would be viewed as a natural system and basing management responses in relation to movement away from this reference. Further degradation should not be permitted through a water management framework system where the natural system has already been significantly altered. That is to say the "ideal" reference condition should be the primary goal and aspiration.

Recommendations:

- Conduct additional research and modelling to determine an "ideal" reference condition
- Itemize current management and policy tools used to reduce additional impacts on water quality and move toward the "ideal" condition.
- Base triggers and limits on the "ideal" condition and prescribe management actions, including the use of cost-benefit analysis, and forecast/model likely changes to water quality indicators within this framework (using multiple time scales, i.e. 5, 10, 50, and 100 years).

³ (Edmonton: Government of Alberta 2013) online: <http://environment.alberta.ca/documents/SSRP-SurfaceWaterQualityManagement-Oct10-2013.pdf>

⁴ Ibid. at p.21.

Integration with watershed plans:

There is a need to ensure water management frameworks are incorporated and aligned with integrated watershed management plans (“watershed plans”). Where watershed plans are focused on managing to maintain water quality parameters there is a need to ensure that application and implementation of the Framework will facilitate, rather than undermine, these watershed and water related objectives.

Recommendations:

- Periodically review and amend management frameworks to facilitate the outcomes of watershed plans (as published by regional watershed planning and advisory councils (WPACS)).

Reasons and transparency around the determination of trends:

The management framework document creates significant uncertainty around how trends will be determined. There is a need to publish water quality information consistently and to set out the rationale for determining when a trend is found to exist (or not).

Recommendations:

- The Framework should be amended to publish yearly reporting of data sets for all recording stations. The rationale for action, or non-action, as the case may be, should be provided.

Development of loading standards, triggers and limits: The ELC recommends augmenting the framework approach through the development of a water quality loading framework whereby triggers and limits are imposed on loading of waterways through limitations on future authorizations and during renewals of existing authorizations. This would be a more progressive approach to achieve pollution prevention, rather than focusing solely on concentrations (focused on lotic systems). Nutrient loading is a particularly a concern in lentic systems where flushing of nutrients is less effective (or in some instances non-existent).

Recommendation:

- The Framework should be augmented by a nutrient loading framework wherein triggers, limits and management actions are articulated.

Scoping and scaling of frameworks:

The approach taken for water quality frameworks should be adapted to be implemented at differing watershed scales to ensure regional water quality and management of cumulative effects. The Framework's current approach should reflect the initial step in a more comprehensive water quality management system. In its current form the framework is limited in its ability to reflect environmental assurance at a regional scale. The ELC recommends the adoption of a process within government whereby scaled down and regionally appropriate frameworks may be presented to the government for consideration and adoption. These would then become embedded in the broader water quality framework. Organizations such as WPACs or lake management associations (or other planning bodies) may be the drivers of creating such regional specific frameworks.

Recommendation:

- The Framework should set out a process by which subregional water quality management frameworks may be submitted to the department for consideration for inclusion in the existing framework. This process should include timelines for subregional framework review and the provision of reasons why a subregional framework is or is not acceptable to the department.

Recreational Use of Public Land

Demand for recreational opportunity and impacts are increasing together. There are not enough suitable trails and campsites to meet user demand. Meanwhile recreational users have access to an extensive industrial footprint that was not planned or built for recreation. Many linear features and camping areas cannot sustain increasing use nor do they provide quality recreational experiences.

The LUF proposes enabling recreational opportunities while addressing impacts, conflicts and public safety. It favors working with users and advancing a provincial trail program.

Off Highway Vehicles (OHVs) and “random camping”: Motorized recreation poses an exceptionally difficult management challenge with “no absolute answers”.⁵ The ELC has been encouraged by multiple government staff, motorized users and non-motorized recreational users to draw comparisons to other jurisdictions in these recommendations. We focus on the jurisdictions that were cited favorably by government staff, motorized users, and non-motorized users. These include the Utah and the US Bureau of Land Management (BLM). There was further interest in Oregon, British Columbia (concerning forest lands) and Eastern Provinces (concerning snowmobiling). Staff expressed interest in the National Off-Highway Vehicle Conservation Council and the International Off-Highway Vehicle Administrators Association which we have not cited but would be happy to explore further. ELC can provide legislative provisions if requested.

Providing Recreational Opportunities

The ELC supports the provisions for the diversity of opportunities, expanded recreational spaces and investment in facilities. The indicators of opportunity provision are reasonable.

The Draft SSRP is overly focused on opportunities for OHV use. The Bureau of Land Management notes that responding to OHV issues with excessive focus on OHVs can fail as it may cause a loss of support for land management programs among other stakeholders.⁶ In Alberta, motorized recreation is growing fast but it still less popular than non-motorized recreation. Utah actively promotes motorized and non-motorized recreation in a more balanced manner than the Draft SSRP.

Recommendations on providing opportunities:

- Direct decision makers to provide non-motorized opportunities on par with motorized opportunities when creating new Public Land Use Zones, Recreation Areas, and trails.

⁵ Eos Research and Consulting Ltd., Review of Access Management Strategies and Tools, (Foothills Landscape Management Forum, February 2009). [Eos Report].

⁶ United States Geological Survey, Environmental Impacts of OHV Use, (Bureau of Land Management, Open-File Report 2007-1353). [BLM Report].

Addressing Recreational Impacts

The Draft SSRP is overly focused on providing opportunity over addressing safety, impacts and conflicts. Not addressing impacts can cause lost economic and recreational opportunities. Motorized and non-motorized recreationalists share a preference for healthy landscapes. The Tourism Framework notes that the tourism industry has no control of the product.

The Bureau of Land management finds that the economic cost-benefit analysis of OHV use is uncertain.⁷ The effects of increasing motorized recreation are “diverse and potentially profound”.⁸ Motorized recreation impacts water, air, land and biodiversity and provides a case of cumulative effects.⁹ The AESRD website does a fine job explaining issues of OHVs in wet areas. User conflict includes OHV trespassing on grazing leases and private land; property damage; and displacement of non-motorized recreationalists. Safety concerns include use of active logging roads; damage to pipelines; camping near energy operations; and human caused forest fires.

OHV use has economic benefits but these can be overstated. The main economic activity is standard household expenditures on trips and equipment, so not providing opportunities does not necessarily equal lost money to the economy as recreational money will be spent. The South Saskatchewan Region is distinguishable from US cases where tourist towns depend on OHV recreation. The proximity of public land to the cities means that most of the expenditures are made in cities. Most costs, including emergency response and conflict with other land users, are borne in the rural communities. The province does not capture any revenue from users as is done with all the other resource industries.

Recommendations on addressing impacts:

- Address impacts at a level equal to providing opportunities. Doing so will help maintain the economic and social value of the recreation resource.
- Factor local interest in a recreation economy into cost-benefit analysis.
- Evaluate environmental impacts in all decisions on creating recreational opportunities.
- Set measurable objectives and indicators for reduction of recreational impacts and conflicts. Indicators can include: amount of litter collected or diverted, number of reports of RV sewage releases, user conflicts, safety incidents, wildlife deaths or damage to industrial facilities.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

Formalizing a Regional Trail System

The need to formalize a recreational system is understood. Provincial-level OHV and environmental organizations agree on the need for recreational infrastructure, education and enforcement.¹⁰ The needed response is basically the “carrot and stick”, sometimes described as the “squeegee and sponge”:

- Attract users to suitable trails and camps by providing a desirable recreational opportunity.
- Keep users off unsuitable disturbances and areas through enforcement, education, and reclamation, all of which will be easier if the carrot works.

Tasks forces in multiple Canadian provinces further consider the need for:

- Administrative authority to provide recreational infrastructure, and
- New revenue including user payments.¹¹

ELC supports the Draft SSRP’s movement towards a formalized recreation system. Other jurisdictions viewed favorably have far more formalized trail systems than the Draft SSRP proposes. The focus on managing existing use is a realistic start as current policy and regulation has allowed more use than can be effectively managed.

ELC supports certainty of recreational use and non-use. Certainty of access is necessary to developing a recreational trail system, but only where recreational use is appropriate. Certainty of non-access where use is inappropriate is equally important to developing a Trail System.

The Draft SSRP is unrealistic in expecting that: “where there is no designation, existing access can continue but no new trails or routes may be created without an Access Management Plan”. Undesignated land with certainty of access effectively permits random use including new route creation. Amendments to the Public Lands Administration would be needed and enforcement would be exceptionally difficult.

Recommendations on formalizing the trail system

- A system of designated trails, campsites and staging areas should replace random use as the baseline for recreational use of public land. Formalization in lieu of random use is the trade-off for certainty of recreational opportunities.

¹⁰ Federation of Alberta Naturalists and Alberta Off-Highway Vehicle Association, Recreational Access Management Workshop, Summary Report (April 18, 2005).

¹¹ Government of Nova Scotia, Voluntary Planning, Final Report of the Voluntary Planning Off-Highway Vehicle Task Force (November 2004); British Columbia Stewardship Panel Final Report and Recommendations, November 29, 2002; <http://www.env.gov.bc.ca/esd/recpanel/finalreport.pdf>

Recommendations on formalizing the trail system (continued):

- All trails and campsites should be planned. Identified industrial roads and purpose-built recreation trails should contribute to the Trail System subject to our recommendations on “recreation and access management planning” on page 20.
- Existing unplanned trails and campsites in unsuitable locations should be closed and reclaimed as a trade-off for the creation of suitable opportunities.
- Random use should be restricted to Public Land Use Zones and Public Land Recreation Areas clearly created for that purpose.
- Where closures are foreseeably warranted, attempt scheduled seasonal closures as opposed to add hoc closures where possible so as to contribute to certainty.

The ‘mandate’ challenge to creating a recreation trail system

The two lead land management Ministries lack sufficient legislated mandates to manage recreation across a mix of land designations. The Public Lands Act provides AESRD with little mandate to provide recreational services in lieu of managing “access” and “use”. TPR has the mandate to do so but it does not manage Green Area land where the issues are most acute.

Sufficient mandate is a feature of the jurisdictions viewed favorably. In Utah there are roughly six land management agencies with mandates to manage recreation. The Parks department administers the OHV Program and non-motorized trails programs that provide recreational infrastructure outside of Parks. The Bureau of Land Management and the National Forests Service provide trail and campground infrastructure. The British Columbia the Recreation Sites and Trails Branch has a legislated mandate to provide trails and sites on crown land outside of parks. There are formal processes for permits, fees and closures. Recreation officers assist in trail and site development.

The ELC understands that the recreation strategy will not be fully provided through regional plans. A *Recreation Trails Act bill* may be introduced and any review of parks legislation would consider recreation.

Recommendations on mandate to provide trail system:

- A *Recreational Trails Act* providing for a DAO is a meritorious option to create a legislated mandate to manage recreational infrastructure across a mixed land base. ELC requests to be engaged on this initiative. The proposals we are familiar with are advanced by motorized users and there is need to engage a broader recreational community on this option.
- The SSRP should not rely on future anticipated legislation for implementation.

Recreation and Access Management Plans

The ELC does not support continuation of the existing Resource Management Plans and Access Management Plan regime. This system is part of the problem:

- Resource Management Plans were made with no thought to recreational end use.
- Access Management Plans were laid down on what disturbances existed.
- Integrated Land Management helps reduce industrial footprint but it is limited in its ability to manage recreation as the linear disturbances are still not planned or built for recreational end use.

ELC is encouraged by the proposal for “recreation and access management plans” and for these plans to be integrated with the linear management framework.

Recommendations on recreation and access management plans:

- “Recreation and access management plans” in the areas identified in the SSRP - North Castle, Livingstone, Porcupine Hills and Willow Creek –should be subject to two conditions:
 - Conservation Areas should be considered first; and
 - Support for the concept from landowners and municipalities should be established first.
- Provide “recreation and access management plans” with regulatory weight through the SSRP or the Public Lands Administration Regulation.
- Replace all past resource management plans and access management plans with the new plans.
- Make recreational use a front-end consideration at the industrial disturbance planning stage.
 - Identify areas where trails are desired and where they are not desired.
 - Plan industrial linear disturbances so that they help, not hurt, recreation management.
- Include trails in the linear management framework.
 - Make the linear management framework binding on trail developers and decision makers.
 - Inventory disturbances to include those used by recreational users.
 - Require trail developers to reclaim unsuitable disturbances in exchange for suitable trails.
 - Progressively replace unsuitable disturbances with suitable trails without a net increase in disturbances.
- Require decisions makers to make decisions on road permitting, construction and reclamation in accordance with the “recreation and access management plan”
 - Where recreational use is desired, roads should be built in ways that make sustainable trails.
 - Where recreational use is not desired, disturbance should be denied or re-routed.

Recommendations on recreation and access management plans (continued):

- Require decision makers to consider constraints on enforcement in decisions that would create access. If enforcement is constrained and recreational access is not desirable then access creation should be avoided and any access created should be fully removed.
- Provide direction on the modification of reclamation requirements under the Public Lands Administration Regulation.
 - Allow reclamation to be waived where recreational use is desirable – and – the disturbance can sustain recreational use.
 - Require road removal and re-contouring where access is not desirable -- or -- the disturbance cannot sustain recreational use.
 - Do not waive reclamation requirements simply in response to existing recreational use or user demand.

Working with users: ELC supports collaborating with recreational users and trail associations on recreation planning. Recreation provides an opportunity to promoting stewardship. Involving users in trail planning and development is crucial to providing sought opportunities and dissuading unplanned or illegal trails.

It is worth noting the possibility that the LUF will not improve cooperation between users:

- The region may exhibit higher conflict on motorized issues than many other locales.¹²
- Access management planning has been unsatisfactory among motorized and non-motorized groups.
- Most users are unaffiliated with organized groups. Unaffiliated users may cause the most impacts.
- Claims that most users are responsible but for a few bad apples are anecdotal. There is likely a large middle class of users who are neither deliberately destructive nor responsible stewards.¹³
- Regional planning did not remove conflict in high conflict areas of BC.

Recommendations on involving users:

- Users should be highly involved in recreation planning and development but not dictate decisions.
- The SSRP should involve local municipalities and industry in recreation planning.

¹² Eos report, supra note 5.

¹³ *Ibid.*

Public lands regulation and zoning

Public Lands Administration Regulation (PLAR)

The Public Lands Administration Regulation needs rectification in two respects:

Wet Areas: The Regulation creates uncertainty concerning access to wet areas. The regulation prohibits OHVs in permanent water bodies but not wetlands or wet areas. The implication is that mud bogging on undesignated areas is legal subject to provisions on harm.

Recommendation on wet areas:

- Amend the Public Lands Administration Regulation to prohibit OHVs in wetlands, seasonal water bodies and wet areas. Prohibit mud bogging and destructive use of public land. The RAC Advice was unanimous and sound on this issue.

Baseline access: The Regulation creates barriers to a sustainable recreation trail system and recreation industry. The regulation makes public land “open unless closed”. Random use is the baseline. This effectively includes the ability to make new routes on undesignated land. Moving from the baseline requires closures or limit on access. This creates user opposition to management action. Access is a legislated privilege but the regulation encodes cultural entitlement. The random users have the greatest privilege despite the greatest impacts. Trail system development faces the greatest hurdles despite the potential to reduce impacts. This is the opposite of other land use industries, where higher impacts require higher justification and regulatory burden, while low impact activities are streamlined.

In Utah, the baseline for state land is “closed unless open”. Regulations allow public land to be opened through designated trails or for designated areas open to “cross country” (random) use. The promotion of opportunities includes messaging that recreational use of public land “is a privilege, not a right”.

Recommendations on “open unless closed”:

- Put a zoning designation over the entire Eastern Slopes Green Area that is not covered by legislated Conservation Areas. The legal status of the land would still be ‘open unless closed’ but formalization of the recreation system is made possible.
- The chosen designation should fit the priority uses identified in the “recreation and access management plan”. This will not always be a Public Land Use Zone.
- Create policy for use of Public Land Use Zones, Public Land Recreation Areas, Public Land Recreation Trails, and permits.

Public Land Use Zones (PLUZs)

ELC supports the expansion of PLUZs in the Green Area but not everywhere and not as a default designation. PLUZs have been cited as the best option for access management.¹⁴ This was before the tools provided by ALSA or the Public Lands Administration Regulation so it may no longer be the case.

The main advantage of PLUZs is flexibility in multiple use areas:

- PLUZs can be used for motorized, non-motorized, mixed or seasonal use¹⁵.
- PLUZs can give weight to AMPs or be used without AMPs.
- Field staff can designate trails, areas and closures.
- Public use may be adapted in response to industry activity.

The disadvantages of PLUZs for managing impacts include:

- The effectiveness of PLUZs for managing motorized impacts depends on the disturbance pattern.¹⁶
- PLUZs created for motorized use create certainty but can intensify impacts.
- PLUZs can undermine the prohibition on OHVs in water bodies by designate trail crossings without bridges.

The disadvantages of PLUZs for providing Opportunities include:

- Certainty of recreational opportunity and access is reduced as the PLUZ does not regulate industry.
- Conflict and competition can be aggravated by mixed-use PLUZs that lack a clear purpose or priority use. High impact OHV users claim to “being shut down” and move on to impact other areas while non-motorized users are displaced by OHVs.
- PLUZ use can be skewed towards OHV use by administrative preference.
- PLUZs do not require providing recreational infrastructure or reclaiming unsuitable disturbances.

Recommendations on Public Land Use Zones:

- PLUZs should be used where recreation and industry must co-exist or where recreation must adapt;
- PLUZs should be created for clear purposes of motorized, non-motorized, snow use, or mixed use.
- The baseline approach to managing PLUZs should be to designate trails and areas.
- PLUZs allowing random use should be clearly created for that purpose or not created at all.
- PLUZs should provide kiosks, maps, sanitation and waste disposal facilities at staging areas.
- PLUZs should be required to meet the baseline prohibition on OHVs in water bodies unless unbridged crossings are a necessary part of the regional trail system.

¹⁴ Eos Report, supra note 5.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

Public Land Recreation Areas (PLRAs)

ELC supports the creation of Public Land Recreation Areas for low infrastructure camping, staging areas and access points for the regional trail system. Fire rings and gravel pads are a reasonable infrastructure priority as most fires in the region are human caused. “Managed random camping” may be an oxymoron as the full infrastructure required to manage the impacts of current practices would amount to a primitive campground. ELC is concerned with the prospect of shifting recreation areas in response to random camper movement or competing land uses. This is a limited use of the tool and does not contribute to a formalized trail system. Recreation Areas in other jurisdictions often cover larger areas of mid-country and backcountry with attractive natural features but lower ecological value than parks.

Recommendations on Public Land Recreation Areas:

- PLRAs should be created where the priority use for the area is recreation.
- Other uses should be assessed based on compatibility with recreation.
- PLRAs and camp sites within them should be established where suitable, not where users choose. This includes moving random campsites away from riparian areas.
- PLRAs should be reasonably permanent to provide certainty for trail system and campsite development.
- PLRAs should be considered where recreation and tourism leases may be sought.
- PLRA should be created for tent camping.
- PLRAs should provide sanitation facilities, waste collection, kiosks, maps, gravel pads and fire rings.
- PLRA should be created that are larger than camping and staging areas.
- PLRAs should include staff stations or checkpoints.
-

Liability

ELC supports the Draft SSRP proposal to identify legislative options to address liability for recreational trails. The public land manager has shown concern for liability. Recreational groups face insurance and capacity barriers to assuming liability for trail infrastructure. Legislation assigning liability would be preferable to ad hoc waivers and agreements. It is worth noting that the risks of liability can be overstated as there are few cases in which public land managers have been held liable for injury to recreational users.

Recommendations

- Liability concerns should not deter steps to implement the regional trail system or to create environmentally sustainable trails in advance of legislative reform.

Enforcement

Enforcement is agreed by all stakeholders to be necessary, notwithstanding that it is impaired by resourcing, risk to officers and the difficulty of patrolling the land base. ELC is encouraged by provisions to explore how to increase enforcement capability. This issue should not be deferred. ELC supports the Draft SSRP provisions for a program of 'guardians'.

Recommendations on enforcement:

- Create a recreation force or a formalized spectrum of 'boots on the ground' personnel that including education and stewardship by users, a guardian program, and enforcement officers.
- The solicitor general should create a specialized OHV enforcement force with expertise and machines.
- Enforcement should be funded from the mechanisms recommended below and by tax dollars.

Resourcing:

The Draft SSRP is unrealistic not identifying specific funding for a formalized recreation system and in proposing no fees for any camping. Other jurisdictions have directed revenue to provide opportunities and address impacts:

OHV user permits: Oregon requires permits for recreational OHV use of public land. Utah requires permits for use by out-of-state OHVs recreating on public land. Fees for groomed snow trails are commonplace.

Camping fees: The Bureau of Land Management, the National Forests Service and State recreation areas charge camping fees for low infrastructure camp sites on public land outside of parks. The BC Recreation Sites and Trails Branch can charge fees and trail permits.

OHV Registrations: Utah requires OHVs to have recreational registrations for recreational use of public land. Registration fees provide revenue for the OHV Program. Grants from the OHV program may go to government, trail agencies, or user groups for stewardship, education or enforcement. OHVs used for agricultural activities may opt for a cheaper agricultural registration but would require the recreational registration for recreational use.

Fuel tax: Utah and other states direct revenue from fuel tax on recreational vehicles to trails programs for motorized and non-motorized use.

Oil royalties: Utah and other states administer a federal trails grant program funded by federal energy royalties from off-shore petroleum.

Community service: Utah regulations can require community service for public land offenses.

Recommendations on resourcing:

- Provide direction on where recreational permits will be required under the Public Lands Administration Regulation. Permits should be required for all rallies, races, large gatherings or parties, commercial events, and guided or commercial trail use.
- Identify all permits, fees, fines and revenue related to recreational use of public land that are set in regulations over which the SSRP prevails. Require that this revenue be directed to formalizing the regional trail system.
- Run a pay for camping pilot at a Public Land Recreation Area with enhanced infrastructure. Set fees lower than park fees. Evaluate user willingness to pay relative to amenities provided. Evaluate impact on free camping areas and on park campgrounds.
- For the proposed Recreational Trails Act:
 - Levies on OHV registrations should be considered but more user types should pay and benefit.
 - Explore a new form of public land recreational registration with an alternative for non-recreational OHVs.
 - Explore recreational user permitting or recreational licenses.
 - Explore options that would capture the actual number of individual OHV users including 4X4 truck users.
 - For any grant programs:
 - Eligible activities for funding should include enforcement, education and trail development.
 - Government agencies, municipalities and trail organizations and user groups should be available for funding.

Conclusions

The ELC assessed the Draft SSRP against the outcomes and principles prescribed by the LUF, the strategies for conservation and stewardship and cumulative effects management proposed by the LUF, and the LUF's intention to fill a policy gap on recreational use of public land. We recommended recognized environmental principles and quantifiable objectives to ensure that the healthy ecosystem outcome has not been inadvertently traded off. We provided support for the general direction for conservation areas and recommended regulatory details to improve management of forestry and the Green Area. We found White Area conservation lacking and proposed how to create a network of public and private conserved lands and how to incentivize use of the ALSA Conservation Tools. We identified what is required for cumulative effects management frameworks to achieve environmental outcomes, including credible indicators and baselines, clear limits, clear management action and integration with watershed planning (for water quality) and recreation planning (for linear footprint management). We provided extensive recommendations on recreation management based on our comparison of Alberta's current approach to other jurisdictions. These recommendations cover the importance of addressing impacts to maintaining opportunities, the need for a formalized recreation system, recreation planning, regulatory zoning tools, resourcing for enforcement and the value of further legislative reform.

Adopting these recommendations can help realize the LUF's promise of better environmental stewardship and clarity of land uses. It would allow the land base to continue to provide the quality of life that we enjoy.

The consequences of not acting are that competition, conflict and cumulative effect fueled by the pressure of growth on a finite land base will continue, as will the demand for strong provincial leadership on land use.

The LUF presents the best opportunity in a decade to improve land use planning in Alberta. If realized, the investments by the Government of Alberta and all participants in the SSRP process will be worth it. Keep advancing the LUF, and thank you for considering our recommendations. Please do not hesitate to further engage the ELC on developing the SSRP and future regional plans.

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