

Alberta proposes to consolidate its protected areas legislation

By Shaun Fluker

Legislation Considered:

Bill 29, [Alberta Parks Act](#), The Legislative Assembly of Alberta, [Third Session](#), 27th Legislature, 59 Elizabeth II

On November 4, 2010 the Minister of Tourism, Parks and Recreation introduced Bill 29, the *Alberta Parks Act*, for first reading in the Legislature. Bill 29 proposes to replace existing protected areas legislation in Alberta including the *Provincial Parks Act*, RSA 2000, c. P-35, and the *Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act*, RSA 2000 cW-9. If the legislature enacts Bill 29 into law in its current form, the *Alberta Parks Act* will simplify the categorizations for protected areas in Alberta but the enactment will also delegate most legal authority over protected areas to Cabinet or the Minister. These are significant changes to the existing framework.

The current legislative framework governing Alberta protected areas, and its history, is well-documented by David Poulton in [The Law of Parks and Protected Areas in Alberta](#). Poulton observes that the Alberta government has considered changes to the legislative framework before, and introduced a Bill in 1998 to enact the *Natural Heritage Act* which ultimately fell to political pressure. Over the years the Alberta protected areas system has evolved into a patchwork of designations including wilderness areas, ecological reserves, natural areas, heritage rangelands, provincial parks, wildland parks, and recreation areas. Wilderness areas offer the most legislative protection with statutory prohibitions on nearly all human activity save for rudimentary camping and travel by foot. There are only 4 wilderness areas in Alberta – all of which were designated before 1970. Provincial parks are by far the most common designation, but there are very few statutory rules on allowable and prohibited activities in a provincial park with most rules being located in the regulations enacted under the *Provincial Parks Act*. Among the current designations, only wilderness areas, ecological reserves, and to a lesser extent wildland parks, might be considered protected areas dedicated to environmental preservation.

Bill 29 sets out a framework for *all protected areas* in Alberta much like that which currently governs only the provincial park designation. In other words, a protected area in Alberta can mean just about anything from a commercialized resort area to a remote wilderness depending upon what regulations are passed to govern the park. The *Alberta Parks Act* would set the overall purpose of Alberta protected areas as balancing environmental preservation with recreation and tourism (see section 2). Gone are all the various designations except for two -- Provincial Park or Heritage Rangeland – with a Heritage Rangeland being a protected area covering grasslands (see sections 3 and 6). The area within a provincial park will be further sub-categorized into one of four zones, with each zone having prescribed uses and prohibitions set in regulations issued by provincial cabinet (section 7). The statute provides no guidance on what these zones will

represent in terms of allowable or prohibited land use. The Minister is authorized to specify by regulation the applicable zones in each provincial park.

What is important to note here is that the *Alberta Parks Act* will contain no rules on allowable or prohibited activities in a protected area. These rules will be issued by cabinet regulation. This is a major change from legislation that currently sets rules governing wilderness areas, ecological reserves, natural areas, and wildland parks. This is yet another blow to the ideal of public deliberation over how to manage public lands in Alberta. The government's answer to this veil of secrecy is a legislated 60 day notice period before regulations are enacted that govern a provincial park (section 8). A notice period in rulemaking is a poor substitute for the democratic accountability provided by debate in the elected house of representatives.

Bill 29 places no obligation on the Minister to make the preservation of ecological integrity the priority in managing Alberta's protected areas. What makes this noteworthy to me is the fact that other Canadian jurisdictions are moving towards making ecological integrity the priority in protected areas management. Both the federal government and the Ontario government legislated the priority of ecological integrity when they undertook similar statutory overhauls in 2000 and 2006 respectively. For example, section 6 of Ontario's *Provincial Parks and Conservation Reserves Act*, SO 2006, c. 12 states:

Ontario's provincial parks and conservation reserves are dedicated to the people of Ontario and visitors for their inspiration, education, health, recreational enjoyment and other benefits with the intention that these areas shall be managed to maintain their ecological integrity and to leave them unimpaired for future generations (emphasis added).

The Alberta government was undoubtedly aware of the trend to incorporate ecological integrity into its parks system, and thus Bill 29 provides a definition of ecological integrity (section 1(c)) and gives it a gratuitous appearance as one component of 'environmental conservation' – a term used in the section that sets out the overall purpose of the Alberta protected areas as balancing environmental conservation with recreation and tourism.