
Public Lands, Private Conservation: Current Situation, Challenges and Opportunities

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" Alberta is, after all, a province where government readily embraces private sector models when fulfilling its public responsibilities."

Steven Kennett & Monique Ross,
In Search of Public Land Law, 1998

Public land in Alberta

- 60 percent of Alberta landbase
- Predominantly “green zone”, forested lands
- Includes “all permanent and naturally occurring bodies of water, and all naturally occurring rivers, streams, watercourses and lakes” (*Public Lands Act, s 3(1)*)



Public lands – environmental features



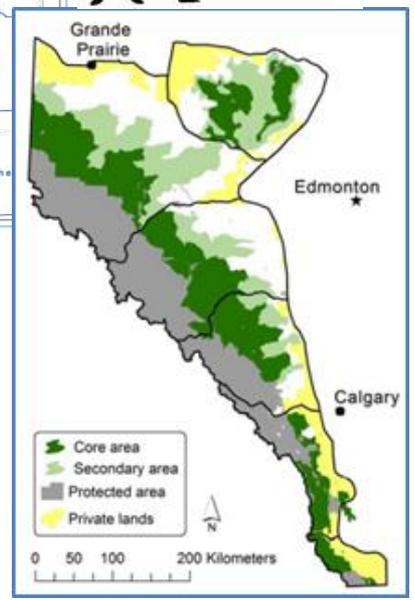
Public lands – environmental features



Grizzly Bear Management Areas and Recovery Zones



Grizzly Bear Primary and Secondary Conservation Zones per Neilsen et al 2009



Public lands – environmental features



Woodland caribou ranges from federal recovery strategy

Public Lands & Private Conservation: The Issue

- Under what conditions should private parties be allowed to access and secure public lands for conservation?

Motivations

- Philanthropy
- Corporate Social Responsibility/Social license
- Corporate commitments and policy (no net loss)
- Certification requirements (Ex.: FSC)
- Required by regulator
- Required by policy

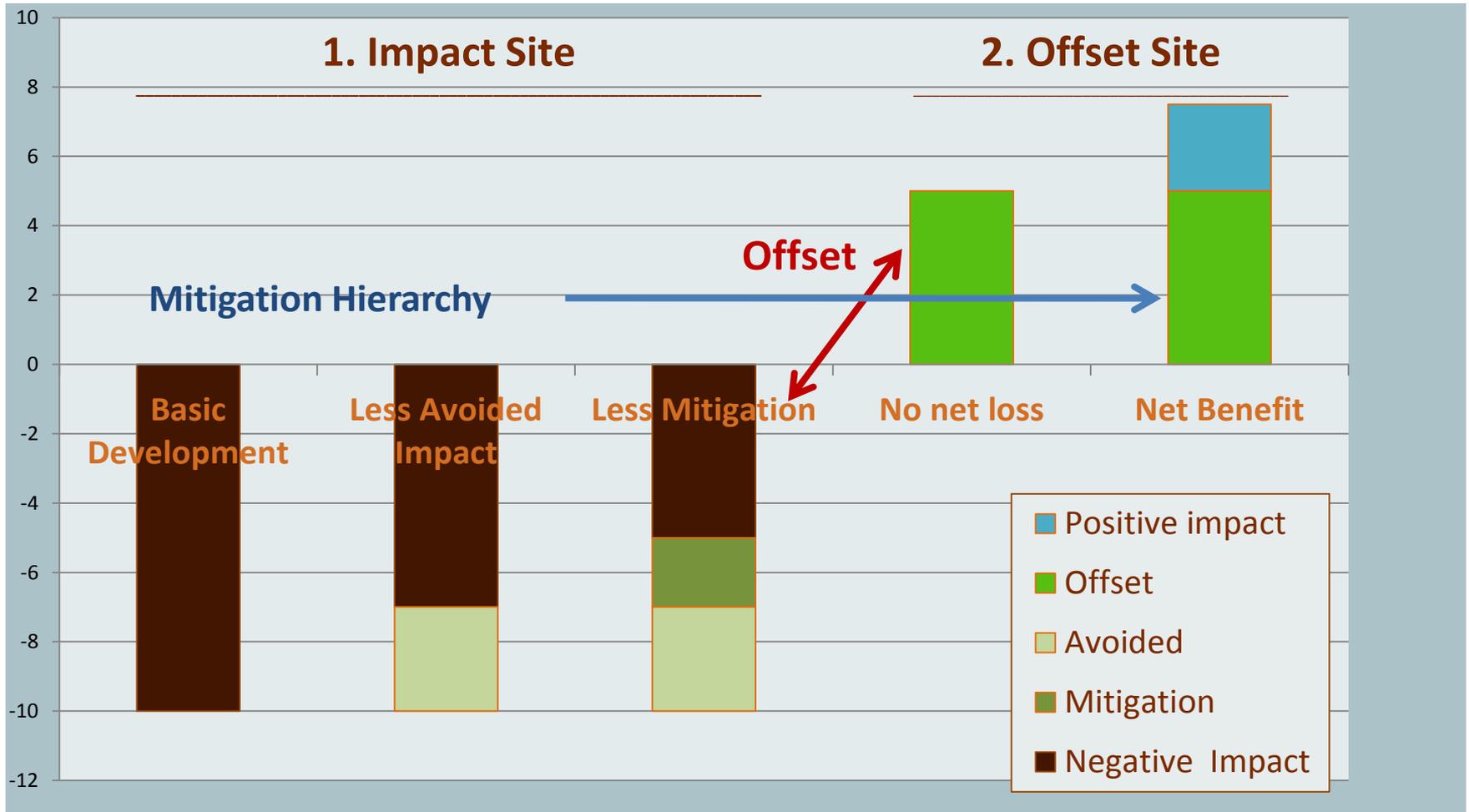
Conservation Offsets

*“[M]easurable conservation **outcomes** resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development after appropriate prevention and mitigation measures have been taken.”*

Business and Biodiversity
Offset Programme, 2009

- AKA “Conservation Offsets”, “Habitat Compensation”, “Compensatory Mitigation”, “Conservation Allowance”

Conservation Offsets



Conservation Offsets - Ordered by Regulators

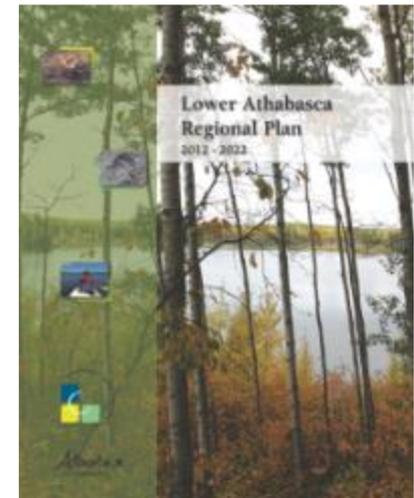
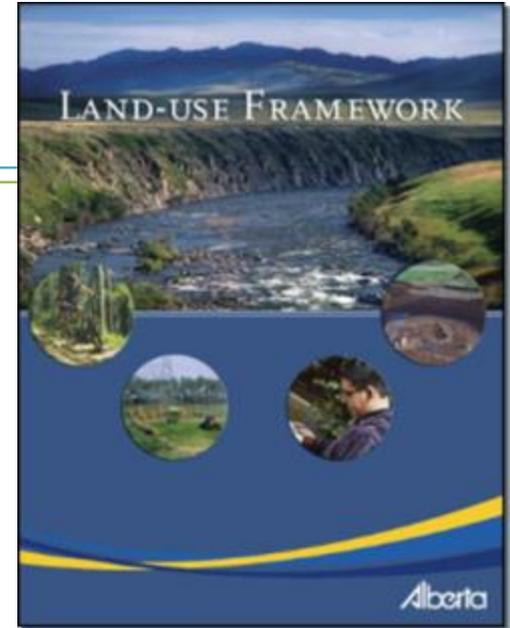
Regulatory Conditions

- NEB 2010 – 2012: 3 decisions on NGTL pipeline proposals in Horne River area: caribou habitat offsets
- JRP 2011: Total Joslyn oilsands mine: offsets for species at risk
- JRP 2013: Shell Jackpine oilsands mine: wide range of offsets recommendations
- JRP 2013: Enbridge Northern Gateway pipeline conditions: 10 conditions for 4 different types of offsets (wetlands, freshwater fish habitat, marine habitat, caribou habitat)
- NEB 2015: Kinder Morgan Canada Trans Mountain Expansion draft conditions: offsets for caribou habitat, sowaqua spotted owl habitat, rare ecological communities, wetlands, riparian habitat, and GHGs.

Conservation Offsets

Alberta Policy

- *Alberta Land Stewardship Act (2009)*
- *Alberta Wetland Policy (2013)*
- References:
 - *Responsible Action (Alberta Oilsands Strategy)*
 - *A Woodland Caribou Policy for Alberta*
 - *Lower Athabasca Regional Plan*
 - *South Saskatchewan Regional Plan*
- Pilot program in SE Alberta



Offsetting - Special Considerations

- *Attribution* and allocation of credits.
- Demonstrate *additionality* – i.e., that the conservation outcome would not have come about otherwise.



Available Conservation Actions

Private Lands

- Acquisition
- Conservation easement
 - Available only on registered (i.e., titled land)
 - Public lands may be registered to Crown, who could give easement
- **BUT no protection against rights of access to sub-surface minerals.**

Available Conservation Actions

Public Lands

- Parks and protected areas
 - Provincial Parks Act
 - Provincial parks, provincial wildland parks, provincial recreation areas
 - WAERNAHR Act
 - Wilderness areas, ecological reserves, natural areas, heritage rangelands.
 - Willmore Wilderness Act
 - Public Land use Zones
 - Protective Notations
 - Conservation areas under regional plans (what are they?)
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- All of these are only available to the Crown, with no clear opening for private initiative
 - What about additionality?

Available Conservation Actions

Public Lands Surface Dispositions and Sub-Surface Mineral Dispositions

- A temporary and limited interest for a particular purpose
- Multiple types available for development and economic use

Potential Conservation Actions

Public Lands Surface Dispositions and Sub-Surface Mineral Dispositions

- Do we need a public land surface conservation disposition?
- Should a private party be able to buy up a development disposition (surface or sub-surface) and hold it unused in the long-term (i.e., to defer development)

Co-ordination & Integration

- Multiple types of surface and sub-surface dispositions, each issued without full consideration of others, or of cumulative impacts.

“Today’s rapid growth in population and economic activity is placing unprecedented pressure on Alberta’s landscapes. Oil and gas, forestry and mining, agriculture and recreation, housing and infrastructure are all in competition to use the land – often the same parcel of land. There are more and more people doing more activities on the land. This increases the number of conflicts between competing user groups and often stresses the land itself. Our land, air and water are not unlimited. They can be exhausted or degraded by overuse.”

Alberta Land-Use Framework, 2008

Summary



- Under what conditions should private parties be allowed to access and secure public lands for conservation?
- Do we need a new types of
 - Conservation easements?
 - Mechanisms for nominating or sponsoring parks or protected areas or other public protective processes?
 - Conservation dispositions?
 - Development dispositions that can be held unused for conservation?

Summary

- How should different types of dispositions be reconciled?
- Does this require a law or policy change?
- **Where should we go from here?**

