



Miistakis
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Alberta, Private Land Conservation, and the Pathway to Target 1: Interim Recommendations

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Alberta, Private Land Conservation, and the Pathway to Target 1: Interim Recommendations

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Introduction

The following draft recommendations are gathered as a discussion piece for stakeholders and interested persons who have contributed to the project thus far, and are not for general circulation.

These are also 'interim' recommendations, as the full report will include 1) an updated version of the recommendations (based on feedback), 2) more detail recommendations for implementation, and 3) the full research background gathered for each recommendation.

Recommendations are divided into Government of Canada/Pathway, Government of Alberta, and Land Trusts. However, several of the recommendations suggested integrated action between these important players.

Government of Canada / Pathway to Target 1

Recognize the importance of private land conservation to Pathway to Target 1

Private land conservation undertaken by land trusts and conservancies, and by provincial, and municipal governments, will play a growing role in protecting Canada's biodiverse landscapes.

Although small in number of acres than traditional protected areas, this approach has greater potential over the coming decades for effective conservation in the complex and competing matrix of land uses in southern Canada.

Private land conservation has been particularly effective in conserving underrepresented natural areas, protecting biodiversity on working landscapes, and buffering and connecting traditional protected areas.

Recognize that private land conservation efforts may be accounted for under Target 1 as 'protected areas' or 'OECMs'.

Private land conservation is pursued in Canada for a number of purposes, a preeminent one being biodiversity conservation. Some privately-conserved areas will satisfy the criteria for a 'protected area'¹, some for an 'OECM', and some neither.

¹ "The distinguishing criterion is that protected areas should have a primary conservation objective, whereas an OECM should deliver the effective in-situ conservation of biodiversity, regardless of its objectives" (IUCN WPCA 2018).

It will be important to avoid the temptation to lump all private land conservation activity into one category or the other.

For those privately-protected parcels that qualify as ‘Protected Areas’ under the IUCN guidance, a new set of assessment criteria will be needed in Canada, as the current screening tools are geared toward protected areas on public land, largely measuring strength of legislation, agency mandate, and public land management practices.

Revise CARTS to accommodate private land conservation activity

The Conservation Area Reporting and Tracking System (CARTS), as currently constructed, is geared towards public lands protected by public agencies. To properly accommodate private land conservation, CARTS will need to have at least the following adjustments:

- New fields oriented towards
 - private land conservation
 - OECMs
- Be integrated with other systems by rationalizing fields with private land conservation practitioners in the various provinces
- Be accessible to private land conservation practitioners

This accommodation requires more than technical adjustments. Private land conservation practitioners are — almost by definition — not generally motivated to add their conservation projects to a government database. A new approach to database management will be required.

It also requires recognition that data are already collected by private land conservation practitioners for a variety of purposes, and the degree to which these can be coordinated is directly related to the likelihood of those data being forwarded to CARTS.

Seek out proxy measures for screening and cataloguing private land conservation contributions to the 17% target

There is a significant risk that efforts to catalogue private land conservation contributions to the 17% target will bog down in detailed assessment and review processes. Compared with government protected-area agencies, land trusts and conservancies will have limited staff capacity to accommodate such approaches.

Many programs to which private land conservation organizations already subscribe assess the biodiversity conservation contribution being made by submitted projects. Examples include the federal Ecological Gifts program and the Alberta Land Trust Grants program. While these programs may not perfectly match the criteria used by the Pathway to Target 1 program, those slight misalignments should be overlooked in favour of the tremendous efficiencies they represent.

In short, if a privately-conserved conservation area has satisfied the criteria of one of those programs, the Pathway program should accept that assessment prima facie.

Engage the private land conservation community in assessing, cataloguing and auditing private land conservation applications to the 17% target

It would be an absurd recommendation to suggest that the land trust community assess all parks and protected areas against 'private land conservation criteria' to determine their conservation worthiness. Likewise, the private land conservation community needs to be lead partner with the Pathway program in determining how privately-conserved parcels should and could be included in the 17% calculation.

Properly engaging the private land conservation community in this way would include:

- Convening the land trust community nationally² to develop criteria for the screening and inclusion of privately-conserved areas in the 17% target
- Allowing provincial variations in criteria and process to reflect the varied ecosystems, cultural systems, and organizations from province to province
- After adopting cross-country criteria at the outset, being prepared on an on-going basis to accept provincially-recommended additions to the database
- Identifying an entity in each province to represent that jurisdiction with regard to private land conservation contributions to CARTS; accept that this may or may not be a government agency
- As the national coordinating entity and holders of the CARTS database, the Pathway program, maintaining a veto on whether a privately-conserved area is included

² The land trust and conservancy community maintains very active national networks and dialogues, including the bi-lateral collaborations between NCC and DUC, the regional-sized groups involved in the nascent Land Trusts Canada, the three provincial alliances, and the land trusts still involved in maintaining the Standards and Practices through the Canadian Land Trust Alliance.

Government of Alberta

Explicitly recognize the importance of private land conservation to achieving biodiversity conservation in Alberta

Private land conservation undertaken by land trusts and conservancies, and by provincial agencies and municipal governments, will play a growing role in protecting Alberta's biodiverse landscapes.

Although small in number of acres than traditional protected areas, this approach has greater potential over the coming decades for effective conservation in the complex and competing matrix of land uses in the settled area of Alberta.

Private land conservation has been particularly effective in conserving underrepresented natural areas (such as the grasslands), protecting biodiversity on working landscapes, and buffering and connecting traditional protected areas.

Develop a provincial screening process for Target 1 that is distinct but in alignment with IUCN and Pathway direction on OECMs and private land conservation (i.e., non-traditional protected areas)

The Aichi targets, and Canada's interpretation of them, are designed to provide guidance and a "flexible framework" (Dec X/2) to be interpreted by the implementing governments. Because Canada's model of federalism has put land and resource management primarily in the hands of the provinces, different systems and cultures have evolved in each province. Thus, the most relevant authorities and opportunities for contributing to Target 1 in Alberta lie at the provincial level.

As well, biodiversity conservation efforts in Alberta are not simply aimed at satisfying a national accounting exercise; there are numerous needs and initiatives provincially including regional planning and biodiversity management frameworks, municipal conservation planning, private land conservation securement, and industry- and NGO-led initiatives, to name a few.

When tracking and encouraging the biodiversity contributions of private land conservation and other effective area-based conservation measures, Alberta needs a system that will satisfy a range of endeavours, meaning the criteria for screening and cataloguing these efforts may vary from other provincial and federal jurisdictions.

Notwithstanding this, it is critical that Alberta's screening process be in alignment with national and international guidelines to the greatest degree possible, to facilitate the

monitoring of and planning for biodiversity conservation, which is a worldwide challenge that must be addressed by a globally-coordinated effort.

To develop such an Alberta-based, nationally-relevant system, the Government of Alberta would need to do the following:.

- Develop an Alberta-based definition of ‘biodiversity conservation’ to guide Government of Alberta involvement in provincial and national initiatives
- Recognize that private land conservation efforts may be accounted for under Target 1 as ‘protected areas’ or ‘OECMs’ (or neither).
- Develop an Alberta-based definition of OECMs that aligns with the IUCN and the national Pathway to Target 1
- Work with Pathway program to align with national criteria to the greatest degree possible
- Involve the Alberta private land conservation community in the components of this process related to private land conservation
- Develop guidance for accommodating low-risk expropriation threats in the assessment of OECM eligibility
- Be conscious of overly burdensome assessment protocols, and use proxy measures of conservation value and protection certainty (such as existing assessments from the Land Trust Grant program, Ecological Gifts program, conservation easement legislation, etc.)

Work directly with the Alberta land trust community on national and provincial private land conservation planning and measurement initiatives

It would be an absurd recommendation to suggest that the land trust community assess all parks and protected areas against ‘private land conservation criteria’ to determine their conservation worthiness. Likewise, the private land conservation community needs to be lead partner with the Government of Alberta in determining how privately-conserved parcels should and could be assessed, catalogued, and monitored for provincial or national programs.

Properly engaging the private land conservation community in this way would include:

- Working with the private land conservation community to identify the parties and mechanisms involved in regional, provincial, and national initiatives to promote or assess private land conservation

- Identifying an entity independent of the Government of Alberta, but acceptable to both the provincial government and the private land conservation community, to report on Alberta private land conservation activity
- Working with the land trust community to develop provincial targets for private land conservation, and strategies for working towards those goals
- Being conscious of capacity limitations in the land trust community by limiting the assessment, reporting, tracking, database, and other requirements associated with accounting for private land conservation contributions to biodiversity

Develop Alberta-based private land conservation database that is integrated with CARTS at the national level, and practical at the local level

Alberta has only limited mechanisms for tracking private land conservation activity, and none that account for contributions to biodiversity. The Pathway to Target 1 process provides both an opportunity to address this fundamental need, and the risk that such a system would be “single purpose.”

Conservation planning at the organizational, municipal, regional, and national level will be increasingly in need of this type of data, so such a database must be multi-purpose and accessible (an achievable task given the number of such databases in existence elsewhere in the world).

Such a database would need to be:

- Integrated with CARTS, such that the information required for that national database could be easily extracted from the Alberta database
- Comprised of the fewest fields possible to minimize complexity, while still being relevant to organizational, provincial, and national needs
- Capable of accommodating changes in the effectively conserved area due to changes in land use activity
- Supported and stewarded on an on-going basis so as to avoid becoming a ‘snapshot’
- Publicly accessible and free (because “hidden data is unused data”)
- Spatially-explicit to support planning exercises rather than just accounting exercises
- Inclusive of all private land conservation projects, not just those that contribute to biodiversity conservation

- Acceptable to all data holders (i.e., private land conservation practitioners) based on their capacity and the database's utility to them

Develop policies for minimizing the risks associated with subsurface oil and gas rights under privately-conserved lands

Consultation with a variety of stakeholders has indicated that the climate is not appropriate for large-scale provincial policy changes with regard to private land conservation. However, there are more modest but still consequential policy changes that could be both feasible and show the provincial government's commitment to supporting and promoting private land conservation.

An area of concern for many protected-area academics and professionals with regard to private land conservation is the inability to prevent oil and gas activity on lands subject to a conservation easement. The big-policy change would, of course, be to allow conservation easements to restrict subsurface access. However the following changes could be more feasible and still effective:

- Commit to no new subsurface oil and gas leases under areas subject to conservation easements or owned (full-title) by land trusts
- Require directional drilling to access reserves under privately-conserved lands
- Develop principles under the AER similar to *Manual 007: Principles for Minimizing Surface Disturbance in Native Prairie and Parkland Areas* that would apply to oil and gas development on areas subject to conservation easements or owned (full-title) by land trusts
- Enable applications for the extinguishment, sale, or donation of sub-surface mineral rights by the holders of conservation easements or by the land trust owners of conservation properties, subject to Ministerial approval

Develop private land conservation support programs aimed at protecting the Government of Alberta's investment in private land conservation

While the "17% by 2020" target is motivating, it is also important to recognize that the Government of Alberta has been investing in private land conservation for some time, including approximately \$50 million in grants from the Land Trust Grant Program. The government's long-term plans indicate a distant horizon on these efforts.

There are a number of program support efforts that the Government of Alberta can pursue to protect that investment and promote private land conservation, many of which do not require further financial investment. These would include:

- Make all government-owned ecological data that is in digital form (i.e., shape files) available to private land conservation organizations to ensure their biodiversity conservation efforts are scientifically grounded
- Require any private land conservation project supported by the Government of Alberta to upload relevant data to the above-mentioned private land conservation database
- Expand the Land Trust Grant Program eligibility to include municipalities seeking to hold conservation easements
- Explore investing a portion of the Land Trust Grant Program funds in a legal defence fund to help protect private land conservation properties from legal challenges seeking to degrade their conservation value
- Provide on-going support to the above-mentioned private land conservation database to ensure it is properly stewarded, and widely accessible

Land Trusts

Develop a standardized mechanism for representing conservation purposes in private land conservation agreements

One of the challenges to understanding the biodiversity contribution made by private land conservation in Alberta is the lack of a clear and standardized mechanism for articulating the conservation *purposes* associated with a given conservation project. Instead, the wording and monitoring associated with most private land conservation agreements simply focuses on what restrictions exist; i.e., protected, yes, but protected for what? (This is distinct from the Baseline Documentation Report which tends towards an ecological inventory versus a conservation purpose)

Private land conservation practitioners in Alberta, as a community, should identify a standardized mechanism for communicating what the conservation project is conserving, one that will apply to both conservation easements and full-title lands. This can then be the basis for reporting and assessment at the organizational, provincial, and national level, and would have to be related directly to the relevant fields in the proposed provincial private land conservation database.

Potential approaches, some already in place in many cases, include:

- Conservation easement purpose statements included as part of the easement agreement
- Conservation purpose statements for full-title lands, attached to a land management charter or management plan
- Property management principles in the conservation easement agreement, stating what conservation outcomes are being sought via the management approach

Develop a community-wide approach to understanding what level of disturbance will unduly compromise the conservation values of a property

Private land conservation targets working landscapes, meaning land use and management are active and expected to change. This presents a significant challenge for the traditional approach to measuring area-based conservation outcomes, which defaults to “all change is bad.” While that extreme is unworkable, so too is simple acceptance of any change, regardless of the impact on the conservation values of the property.

‘No net loss’ concepts have emerged over the years, and proven useful as theoretical constructs, but fabulously ineffective as a management paradigm. The result for private

land conservation has been onerous, site-specific analyses that consume tremendous resources, yet often still result in an “all change is bad” conclusion.

The private land conservation community needs to develop a robust and defensible, yet practical and simple approach to accommodating the land use changes that are, and should be, part-and-parcel of conserving private land. This should involve developing a simple, measurable threshold for allowable disturbance that is deemed to have negligible impact on the conservation values.

Part of this effort will include educating various parties that, yes, some inappropriate activity will slip through, but that the overall gains will far outweigh the minimal losses.

Some potential approaches to setting this threshold identified during stakeholder consultation include:

- Allowing a set percentage (e.g., 2%) of the land base to be modified
- Allowing a set number of acres to be modified, with that number changing upwards based on different class sizes of conservation property
- Allowing acres/percentage to occur only in certain areas (e.g., uplands but not riparian; forested areas but not grasslands)

Work with Government of Alberta to develop acceptable principles for oil and gas activity on privately-conserved land

(See recommendation for Government of Alberta: *Develop policies for minimizing the risks associated with subsurface oil and gas rights under privately-conserved lands*)

An area of concern for many protected-area academics and professionals with regard to private land conservation is the inability to prevent oil and gas activity on lands subject to a conservation easement. The big-policy change would, of course, be to allow conservation easements to restrict subsurface access. However less extensive changes could be more feasible and still effective, and have been recommended to the Government of Alberta.

Two recommendations in particular would require the active participation of the private land conservation community in Alberta:

- Develop principles under the AER similar to *Manual 007: Principles for Minimizing Surface Disturbance in Native Prairie and Parkland Areas* that would apply to oil and gas development on areas subject to conservation easements or owned (full-title) by land trusts

- Enable applications for the extinguishment, sale, or donation of sub-surface mineral rights by the holders of conservation easements or by the land trust owners of conservation properties, subject to Ministerial approval

The land trust community should actively engage with the Government of Alberta in exploring the feasibility of these options.

Share spatially-explicit data on your conservation projects to inform local and regional planning

Hidden data is unused data.

The underpinning of private land conservation in general, and land trusts specifically, is the development of 'communities of conservation.' The intent is to change how we use and view our local landscapes, and empower local citizens to enact their conservation goals. Yet much of this activity goes unnoticed, and is not leveraged where it could be.

Local planning authorities are often unaware of where privately-conserved parcels are. Industrial operators are likewise often unaware until they get to a no-turning-back stage of planning. Conservation planners and NGOs are unaware of where privately-conserved parcels are. The result is that few of the people making and influencing decisions about how our landscapes are used are even aware of what land is privately conserved, let alone actively including this approach in their plans.

Because hidden data is unused data.

The Alberta private land conservation community needs to collectively commit to providing spatially-explicit, freely-available data on their land conservation activities. Some models which can be followed include:

- National Conservation Easement Database in the United States (spatially-explicit, web-accessible data on virtually all conservation easements in that country)
- CAPAD - Collaborative Australian Protected Area Database (a biennial tabulation of all protected areas, recently expanded to include privately-protected areas)
- State of Virginia Department of Conservation and Recreation's Conservation Lands Database (two web-accessible databases of digitally mapped boundaries of conservation areas, one for all protected areas except conservation easements, the other for conservation easements)

Choose an entity to be the provincial reporting body for privately-conserved land in Alberta

National initiatives like Pathway to Target 1 (17% of terrestrial and inland waters conserved by 2020) require a reporting mechanism, and a reporting body. For traditional protected areas, those bodies have logically been the parks agencies within each province and territory. However, for private land conservation (comprising both non-traditional protected areas and OECMs) those agencies are ill-suited, as they do not have management responsibility, ownership, expertise, or governance duties in relation to private land conservation.

However, Alberta Environment and Parks does represent Alberta at the federal table with respect to Pathway and other national initiatives related to biodiversity conservation. The Alberta private land conservation community should identify an entity acceptable to both the provincial government and themselves, to report on Alberta private land conservation activity.

This entity:

- Should be responsible for reporting to both the Government of Alberta and the Pathway to Target 1 program regarding private land conservation activity that supports biodiversity conservation
- Should not be perceived as an 'Alliance' or similar body intended to represent all private land conservation or land trust issues; rather it has a task-oriented role focused simply on reporting
- Would ideally liaise directly with, but be independent from, the Government of Alberta
- Could be a government agency or body, if both the Government of Alberta and the private land conservation community deemed that appropriate

Request the Pathway to Target 1 program host a forum for private land conservation practitioners

The Pathway to Target 1 has sought out and received input from private land conservation practitioners in the initial development of the program. However, as they move into more detailed implementation, especially with regard to non-traditional protected areas and OECMs, it will be vital that they hear from a wide range of private land conservation practitioners.

The Alberta land trusts should play a leadership role in requesting the Pathway to Target 1 program convene a forum on private land conservation and Target 1. Such a forum should:

- Discuss development of criteria for the screening and inclusion of privately-conserved areas in the 17% target
- Discuss provincial representation, reporting, and communication relative to private land conservation and Target 1
- Discuss modifications to the CARTS database
- Have cross-country representation
- Include a range of land trust sizes, structures, and mandates
- Include input from non-land trust entities actively engaged in private land conservation (municipalities, conservation authorities, provincial agencies)

Work with the Government of Alberta to develop provincial targets for private land conservation

Despite both land trusts and the Government of Alberta investing heavily in private land conservation in Alberta, there has been no concerted effort to identify provincial-level goals with respect to the potential contribution to biodiversity protection.

Working with the Government of Alberta, the private land conservation community should develop provincial targets for private land conservation, and strategies for working towards those goals.

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