

1991 BILL 314

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 314

COMMUNITY FORESTS ACT

MR. McINNIS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 314
Mr. McInnis

BILL 314

1991

COMMUNITY FORESTS ACT

(Assented to , 1991)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

PART I INTERPRETATION AND PURPOSE

Definitions

1 In this Act,

(a) "Board" means a Community Forest Board established
under Part II.

(b) "Development" means any activity or undertaking which
has or may have an environmental impact on a forest within
the jurisdiction of a Board.

(c) "Director" means a Director of a forest management area.

(d) "Forest" means all forest values, flora, fauna, water,
wilderness, aesthetics, spiritual, soils, ecological diversity and
other inherent benefits which are derived from forested lands.

(e) "Forest management agreement holder" means a party
who enters into a forest management agreement with the
Crown in Right of Alberta.

(f) "Forest management area" means the area governed by a
forest management agreement.

Purpose

2 The purpose of this Act is to ensure the health and
sustainability of the forests of Alberta and, in particular,

(a) to facilitate the right of the people of Alberta to participate and be heard in decisions affecting the forests of Alberta; and

(b) to recognize the obligations of the Province of Alberta to conserve and maintain the forests of the Province for present and future generations.

3 A court and all persons who exercise any authority or make any decision under this Act that relates to or affects a forest shall exercise that authority or make that decision in the best interests of the forest and in doing so shall consider the following as well as any other relevant matter,

(a) the ground rules, forest management plans, zoning plans, forest use allocation plans and developments should be compatible with the maintenance and preservation of the natural biodiversity of that forest in order to perpetuate or restore the integrity of functioning ecosystems;

(b) a forest has many uses, all of which should be considered in assessing the viability of ground rules, forest management plans, zoning plans, forest use allocation plans and development plans;

(c) any development of or activity in a forest, for whatever purpose, should benefit the local communities;

(d) any use of or activity in a forest must ensure a fair return for the value of that forest;

(e) there is an intrinsic value to preserving a forest in its natural state and such value should be considered in determining whether the implementation of ground rules, forest management plans, zoning plans, forest use allocation plans and development plans is viable;

(f) many aboriginal peoples live in or rely on forests and their relationship with these forests should be considered in the assessment of the ground rules, forest management plans, zoning plans, forest use allocation plans and development plans;

(g) the forests are dedicated to the people of the Province of Alberta and they shall be maintained for the benefit of future generations in accordance with this Act and the regulations; and

(h) the regulation, protection and enhancement of forests

should take place in an open atmosphere with full information made available to all interested parties.

**PART II
COMMUNITY FOREST BOARDS**

Community Forest
Board

4 A Community Forest Board shall be established for each forest management area and it shall be a corporation consisting of its members.

Board
Membership

5 (1) The Board shall consist of at least 11 members but not more than 15 members appointed by the Lieutenant Governor in Council, one of whom shall be designated by the Lieutenant Governor in Council as Chairman and another as Vice-chairman.

(2) A Board shall consist of a representative from each of the following forest users:

- (a) aboriginal peoples;
- (b) timber extractors;
- (c) recreational users;
- (d) wilderness proponents;
- (e) tourism;
- (f) fish and wildlife;
- (g) water users;
- (h) environmental groups;
- (i) local government; and
- (j) two members elected by the residents of the forest management area.

(3) Each member appointed to the Board pursuant to subsection (1) shall

(a) be unbiased and free of any potential conflict of interest relative to the forest management agreement, ground rules, forest management plans, zoning plans, forest use allocation plans or development plans which are to be considered by the Board;

(b) be free of any political influence; and

(c) have special knowledge and experience relevant to the anticipated technical, environmental, economic and social effects of the forest management agreement, ground rules, forest management plans, zoning plans, forest use allocation plans and development plans which are to be considered by the Board.

(4) Each member of the Board shall be appointed for four years.

Duties of the Board

6 The Board shall have the following duties:

(a) to complete a field based forest inventory of all natural, social and economic factors in the forest management area;

(b) to zone the forest management area;

(c) to develop plans for the allocation of the forest to individuals and organizations;

(d) to allocate the utilization of the forest to individuals and organizations;

(e) to complete an assessment report with respect to the zoning plans and forest use allocation plans;

(f) to review and hold public hearings on any proposed ground rules, forest management plans, zoning plans, forest use allocation plans or development plans as set out in Part III; and

(g) to supervise and evaluate the activities which take place in the forest management area.

Access to Information

7 The public shall have access to any information available to the Board.

PART III PUBLIC PARTICIPATION

Public Review of Key Decisions

8 The purpose of public assessments of ground rules, forest management plans, zoning plans, forest use allocation plans and development plans is:

(a) to provide for an impartial, comprehensive and independent assessment of the proposed ground rules, forest management plan, zoning plan, forest use allocation plan or development plan in the following order of priority

(i) to assess the environmental impacts of the proposed

ground rules, forest management plan, zoning plan, forest use allocation plan or development on the forest, and

(ii) if the proposed ground rules, forest management plan, zoning plan, forest use allocation plan or development plan is environmentally acceptable, to assess the social and economic impacts of such ground rules, forest management plan, zoning plan, forest use allocation plan or development;

(b) to provide for a public assessment of the proposed ground rules, forest management plan, zoning plan, forest use allocation plan and development plan with the assistance of independent expertise to determine whether such ground rules, forest management plan, zoning plan, forest use allocation plan or development are compatible with the maintenance and preservation of the natural ecosystems and biodiversity of the forests of the Province of Alberta; and

(c) to ensure the right of the public to notification, information and equal participation throughout the assessment and decision making process.

Supremacy of
Public Review

9 Notwithstanding any licence, permit, approval or other authorization granted under any other law, no person may continue to utilize the forest except as permitted by this Act.

Transitional

10 (1) Where a party has entered into a forest management agreement with the Crown in Right of Alberta the existing ground rules and forest management plan under that forest management agreement shall remain in force and effect for two years from the proclamation of this Act.

(2) Upon the expiration of the time period set out in subsection (1), the ground rules and forest management plan under a forest management agreement will be of no force and effect unless approved by the Board.

Assessment
Hearings

11 The Director shall order an assessment hearing with respect to the following:

(a) the ground rules and forest management plan which are proposed to take effect after the expiration of the time period set out in section 10(1);

(b) the zoning plans;

(c) the forest use allocation plans; and

(d) any proposed developments.

12 (1) The forest management agreement holder shall complete an assessment report with respect to the proposed ground rules and forest management plan.

(2) The Board shall complete an assessment report with respect to proposed zoning plans and forest use allocation plans.

(3) The proponent of any development shall complete an assessment report with respect to that development.

(4) The assessment report shall contain the following:

(a) an identification of existing environmental, social and economic conditions and the area of major concern that should be considered;

(b) a description of the potential positive and negative impacts of the proposed ground rules, forest management plan, zoning plan, forest use allocation plan or development from the social, biophysical, economic, cultural, cumulative, regional, temporal and spatial perspectives;

(c) an analysis of the significance of the potential impacts as identified under clause (b);

(d) the plans that have been or will be developed to mitigate the potential negative impacts identified under clause (b);

(e) the identification of potential impacts as identified under clause (b) which are not fully mitigated;

(f) a consideration of the alternatives to the proposed ground rules, forest management plan, zoning plan, forest use allocation plan or development, including the alternative of not proceeding with such ground rules, forest management plan, zoning plan, forest use allocation plan or development and the impacts of those alternatives as set out in clause (b);

(g) the plans that have been or will be developed to monitor environmental, social and economic impacts that are predicted to occur in the future;

(h) the contingency plan that has been or will be developed in order to respond to the negative impacts which have not been predicted;

(i) an analysis of the other uses the forest could be utilized

for and the cost of allowing the implementation of the proposed ground rules, forest management plan, zoning plan, forest use allocation plan or development plan at the expense of these other uses;

(j) the value of the implementation of the proposed ground rules, forest management plan, zoning plan, forest use allocation plan or development plan to the local communities and to the province as a whole; and

(k) any other factors that the Director considers necessary to assess the proposed ground rules, forest management plan, zoning plan, forest use allocation plan or development.

(3) The party who completes the assessment report shall include with the assessment report any background papers, information and testing done in contemplation and preparation of the assessment report.

Deficiency Review

13 The Director, after reviewing the assessment report and all supplemental material submitted under section 12, shall

(a) if the information is complete, request further information; or

(b) if the requirements have been met, order an assessment hearing with respect to the proposed ground rules, forest management plan, zoning plan, forest use allocation plan or development plan.

Assessment Hearing

14 Where the Director orders an assessment hearing under section 13(b) the Director shall

(a) publish notice of the Director's decision and notice that the assessment report and any supplemental material filed by the party who completed the assessment report is available from the Director on request; and

(b) make available the assessment report and supplemental information during reasonable office hours to all interested parties.

Availability of Assessment Report

15 The party who completed the assessment report shall, upon request, provide the assessment report and all supplemental information to all interested parties.

Terms of Reference

16 (1) The Director shall prepare proposed terms of reference for the assessment hearing.

(2) The Director shall publish the proposed terms of reference with a notice that interested parties can submit recommendations with respect to these proposed terms of reference to the Director.

(3) The proposed terms of reference and the recommendations the Director receives pursuant to subsection (2) shall be submitted to the Board.

(4) The Board, after reviewing the proposed terms of reference and recommendations submitted pursuant to subsection (2), shall draft the terms of reference for the assessment hearing consistent with the purposes of this Act.

(5) The decision of the Board under subsection (4) shall be final and binding.

Publication and Notice

17 The Board shall publish the final terms of reference and the date, times and places of the assessment hearing or hearings.

Public Hearing Structure

18 The Board shall have the power:

(a) to schedule hearing dates;

(b) to schedule the order of presentations;

(c) to order any inquiries, investigations and independent studies that are necessary for the determination of the issues before it;

(d) to subpoena any party;

(e) to compel any party before it to answer any questions;

(f) to make rules of practice governing its procedure and hearings in order to facilitate public involvement through a non-judicial and informal but structured manner; and

(g) to do anything that it considers necessary to carry out the purpose of this Act.

Location of Hearings

19 The Board shall conduct the hearing in the forest management area and in any other location it considers necessary.

Intervenor Funding

20 (1) Individuals or groups of individuals are eligible for funding under this section provided they:

(a) have a clearly ascertainable interest which ought to be represented at the assessment hearing; or

(b) have an established record of legitimate concern for the interest it seeks to represent; or

(c) have a legitimate interest or representation which is necessary for a fair decision.

(2) On the application of an individual or group of individuals eligible under subsection (1) or on the Board's own motion, the Board may, subject to the terms and conditions it considers appropriate, make an award of costs to that individual or group of individuals to assist in the preparation and presentation of an intervention at an assessment hearing.

(3) Where the Board makes an award of costs under subsection (2), it may determine the amount of costs to be paid.

(4) All awards of costs by the Board for preparation and presentation of an intervention at an assessment hearing with respect to the ground rules and forest management plan shall be paid by the forest management agreement holder.

(5) All awards of costs by the Board for preparation and presentation of an intervention at an assessment hearing with respect to a development shall be paid by the proponent of that development.

(6) All awards of costs by the Board for preparation and presentation of an intervention at an assessment hearing with respect to a zoning plan and forest use allocation plan shall be paid by the Board subject to appropriation of funds by the Legislative Assembly.

Decision of the Board

21 The Board, after hearing the evidence, may

(a) reject the proposed ground rules, forest management plan, zoning plan, forest use allocation plan or development plan;

(b) amend the proposed ground rules, forest management plan, zoning plan, forest use allocation plan or development plan; or

(c) approve the proposed ground rules, forest management plan, zoning plan, forest use allocation plan or development plan.

Reasons for the Decision

22 The Board shall publish the decision made pursuant to section 21 together with the reasons for that decision.

Board Costs

23 (1) All costs of the assessment hearing with respect to the ground rules and forest management plan shall be borne by the forest management agreement holder.

(2) All costs of the assessment hearing with respect to a development shall be borne by the proponent of that development.

Subsidiary
Planning
Documents

24 (1) If the Board makes a decision under section 21(b) or (c), the forest management agreement holder or the proponent of a development shall submit a five year plan and annual plan to the Director which outline that party's plan of activities with respect to the implementation of the ground rules, forest management plan or development plan.

(2) The five-year plan and annual plan must be updated annually.

(3) The five-year plan and annual plan must comply with the ground rules, forest management plan, zoning plan or development plan as approved by the Board.

(4) The forest management agreement holder or proponent of a development shall make available to any interested party, at no cost, the five-year plan and annual plan.

Review of
Subsidiary Plans

25 (1) The Board, on application of an interested party, shall determine if the annual plan or five-year plan complies with the ground rules, forest management plan, zoning plan or development plan as approved by the Board or if a forest management agreement holder or proponent of a development is complying with the five-year plan or annual plan.

(2) If the Board finds that the five-year plan or annual plan does not comply with the ground rules, forest management plan, zoning plan or development plan or if a forest management agreement holder or proponent of a development is not complying with the five-year plan or annual plan, the Board shall order any further activity under the five-year plan or annual plan cease until the party complies with this Act.

Appeal

26 (1) Subject to subsection (2), any decision of the Board is final and binding.

(2) An appeal on a question of jurisdiction or on a question of law lies from the Board to the Court of Appeal.

**PART IV
MISCELLANEOUS**

Regulations **27** The Lieutenant Governor in Council may make regulations with respect to any and all matters or things that are considered necessary for the carrying out of this Act.

Coming into Force **28** This Act comes into force on a date to be fixed by Proclamation.