



## Complaint of Non-compliance with a Regional Plan

*Alberta Land Stewardship Act*

### Land Use Secretariat

9th floor, Centre West Building  
10035 - 108 Street  
Edmonton, AB T5J 3E1  
TEL: 780- 644-7972 or Toll Free Rite Line at: 310-0000  
FAX: 780- 644-1034  
EMAIL: [LUF@gov.ab.ca](mailto:LUF@gov.ab.ca)

Date Stamp - (*Land Use Secretariat office use only*)

Tracking Number (*Land Use Secretariat office use only*)

Prior to completing the form below, you are strongly encouraged to review the [Frequently Asked Questions for Submitting a Complaint of Non-compliance with a Regional Plan](#) document as well as section 62 of the [Alberta Land Stewardship Act \(ALSA\)](#); both are available on the Alberta Land-use website: [www.landuse.alberta.ca](http://www.landuse.alberta.ca).

### Instructions

- Complete one form for each request for complaint being filed
- Please print clearly
- Legal representation is not required; however if representation has been retained, indicate this in Part 3 of the form
- Submit completed form with the original signature, and any supplemental information by personal service, registered mail, courier, fax or email to:

Land Use Secretariat  
9th floor, Centre West Building  
10035-108 street  
Edmonton, AB T5J 3E1

Fax: 780-644-1034

Email: [LUF@gov.ab.ca](mailto:LUF@gov.ab.ca)

**PART 1: DETAILS OF COMPLAINT**

A) Name of Regional Plan: South Saskatchewan Regional Plan  
Specific provision(s) of the regional plan: See attached "Application of the S.S.R.P." Pages 6/7

B) Legal land description (township, range, meridian) that is the subject of the complaint, if applicable:  
NW 22, SW 22 and SE 22-27-21-W4M

C) The name(s) of the government agency, organization or person that your complaint is about:  
Municipal Government Board

D) Summarize what your complaint is about. Clearly identify the specific provision(s) (section) of the Regional Plan that you believe is not being complied with and explain the nature of the non-compliance.

See attached "Complaint Summary"

E) Have you contacted any of the persons or authorities named in part C above regarding this complaint?  
 No  
 Yes - List the dates, names, phone numbers, addresses (if possible) and the outcome of the interaction:

Letter of June 25, 2015

F) List any steps you have taken to try to resolve the matter and the relevant dates, file or reference numbers:  
See attached "History"

G) Section 62(2)(b) of ALSA requires the Stewardship Commissioner to be satisfied that the matter complained of is not the subject or part of the subject of an application, process, decision or appeal governed by an enactment or regulatory instrument, or that there is not an adequate remedy under the law or existing administrative practices, and no other person should investigate the complaint.  
Did you file an appeal or apply for a review?

No  
 Yes - Name of the government, agency or organization: \_\_\_\_\_

What was the result of the appeal or review? N/A

A copy of the results of the review or appeal will be submitted with the form

H) Describe the result or outcome you seek:  
The Municipal Government Board re-hear MGB 016/15 but considering and applying the SSKRP.

**PART 2: APPLICANT INFORMATION**

You are submitting the complaint as an:  Individual  Corporation

First Name: Richard & Wendy Clark Last Name: \_\_\_\_\_  
Rick & Linda Skibsted

Company Name: \_\_\_\_\_

Professional Title: \_\_\_\_\_

Email Address: rwclark@magtech.ca Fax #: \_\_\_\_\_

By providing an e-mail address, you agree to receive communications from the Land Use Secretariat by email.

Daytime Telephone #: 403 823 9984 Alternate Telephone #: \_\_\_\_\_

Mailing Address: P.O. Box 1088 \_\_\_\_\_ Drumheller \_\_\_\_\_  
Apt/Suite/Unit# Street Address City/Town

AB \_\_\_\_\_ T0J 0Y0 \_\_\_\_\_  
Province Country (if not Canada) Postal Code

K Hugh Ham  
Barrister & Solicitor

Signature: K H A \_\_\_\_\_ Date: Aug 17/15

You must notify the Land Use Secretariat of any change of address or telephone number in writing.

As duly authorized agent  
for the complainants

Information on this form is collected under the authority of section 33(c) of the *Freedom of information and Protection of Privacy Act*, RSA 2000 c-F25, for the purpose of investigating complaints of non-compliance with a regional plan.

**PART 3: REPRESENTATIVE INFORMATION (IF APPLICABLE)**

I hereby authorize the named company and/or individual(s) to represent me:

First Name: K. Hugh Last Name: Ham

Company Name: Municipal Counsellors

Professional Title: Barrister & Solicitor

Email Address: h.ham@municipalcounsellors.com Fax #: 403 571 0028

By providing an e-mail address, you agree to receive communications from the Land Use Secretariat by email.

Daytime Telephone #: 403 571 0025 Alternate Telephone #: 403 620 7250

Mailing Address: 5838 Burbank Rd SE Calgary  
Apt/Suite/Unit# Street Address City/Town

AB T2H 1Z3  
Province Country (if not Canada) Postal Code

**PART 4: CONSENT**

I, \_\_\_\_\_ (name) consent to the information in this complaint form, including my personal

information being disclosed to:

- (a) the subject of this complaint so that he/she may respond; and
- (b) other relevant persons, authorities, departments, agencies, boards or commissions who may have information relevant to this complaint

In accordance with section 40(1) of the *Freedom of Information and Protection of Privacy Act*.

Signature: K. Hugh Date: Aug 17/25  
Barrister & Solicitor

If you are representing the complainant and are NOT a solicitor, please confirm that you have written authorization to act on behalf of the applicant. Confirm this by checking the box below.

I certify that I have written authorization from the complainant to act as a representative with respect to this application on his or her behalf and I understand that I may be asked to produce this authorization at any time.

# COMPLAINT TO THE LAND USE SECRETARIAT

Re: MGB 016/15

Concerning Development within  
NW 22, SW 22 and SE 22-27-21-W4M

## COMPLAINT SUMMARY

Municipal Government Board ("MGB") decision 016/15.

In MGB decision 016/15 the Municipal Government Board declined to follow the statutory requirements of section 15 of the *Alberta Land Stewardship Act* and sub-sections 690(1) and (5) of the *Municipal Government Act*

*Alberta Land Stewardship Act*, 2000 R.S.A. c. A-26.8, as amended

- 15 (1) Except to the extent that a regional plan provides otherwise, a regional plan binds
- (a) the Crown
  - (b) local government bodies,
  - (c) decision-makers, and
  - (d) subject to section 15.1, all other persons.

*Municipal Government Act*, 2000 R.S.A. c. M-26, as amended

- 690 (1) If the Municipal Government Board receives a notice of appeal and statutory declaration under subsection (1)(a), it must, **subject to any applicable ALSA regional plan**, decide whether the provision of the statutory plan or amendment or land use bylaw or amendment is detrimental to the municipality that made the appeal and may
- (a) dismiss the appeal if it decides that the provision is not detrimental, or
  - (b) order the adjacent municipality to amend or repeal the provision if it is of the opinion that the provision is detrimental.

(emphasis added)

- (5) If the Municipal Government Board receives a notice of appeal and statutory declaration under subsection (1)(a), it must, **subject to any applicable ALSA regional plan**, decide whether the provision of the statutory plan or amendment or land use bylaw or amendment is detrimental to the municipality that made the appeal and may

- (a) dismiss the appeal if it decides that the provision is not detrimental, or
  - (b) order the adjacent municipality to amend or repeal the provision if it is of the opinion that the provision is detrimental.
- (emphasis added)

At paragraph 70 of MGB 016/15 the Board held:

The MGB cannot accept that the intent of these provisions is to broaden an appeal about the specific effect of a given bylaw or provision to something approaching a review of the bylaw for compliance with all the various goals of an ALSA plan.

As a consequence of refusing to consider the effect of the South Saskatchewan Regional Plan (“SSRP”) the Board refused to consider the following:

Relevant Provisions of the SSRP

Page	Policy	Statement
23	Landscapes and Biodiversity	“All ecosystem services contribute to sustaining a healthy and prosperous way of life for all Albertans.”
25-28	Water and Watersheds	“The South Saskatchewan River Basin consists of four sub-basins including the Bow, Oldman, South Saskatchewan and Red Deer; along with their tributaries . . .” <sup>1</sup>
25		“Water quality is influenced in each basin and sub-basin by the unique features and land and water uses.”
27		“Degradation of riparian lands and loss of wetlands across the prairies have been widespread, contributing to altered flow regimes and degraded water quality.”
39	Outcomes and Strategic Directions for the South Saskatchewan Region	
40		“Biodiversity and ecosystem functions are sustained through shared stewardship - The benefits received from biodiversity and healthy functioning ecosystems are critical to the ongoing prosperity of all Albertans. The impacts of multiple land use demands and pressure must be managed through an integrated approach.”

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<sup>1</sup> The Rosebud River is a tributary of the Red Deer River.

40	"Watersheds are managed to support healthy ecosystems and human needs through shared stewardship - Water plays an essential role across the region and with increasing pressures and demands placed on this resource, it is essential that an integrated view across water supply, water quality and aquatic ecosystems be advanced."
57	"Industrial development, recreation and other uses also increase the risk of invasive species."
76	"It is important to use collaborative approaches and to maintain and build partnerships in the region. Shared stewardship is essential."
79	"Riparian lands are important as they are highly productive, rich and resilient parts of the landscape."
84	Encourage municipalities to use <u>Stepping Back from the Water</u> when establishing appropriate setbacks from water bodies to maintain water quality, flood water conveyance and storage, bank stability and habitat."

In refusing to consider the SSRP because it would broaden the scope of the hearing, the MGB seemed to be of the view that consideration of the SSRP was discretionary. Clearly, section 15 of ALSA and sub-sections 690(1) and (5) are mandatory prerequisites to the MGB exercising its jurisdiction to make a decision.

Consideration of regional plans is not discretionary. While it may be that the MGB might have considered the issues and concluded that the proposed development was consistent with the SSRP, the MGB clearly and specifically declined to consider the impact, if any, of the SSRP.

It is the complainant's submission that the SSRP does apply and that the proposed development contravenes the SSRP in numerous ways (see the attached submission as to whether the SSRP applies and whether the SSRP is to be considered as a stand-alone regulation or considered in the light of relevant environmental legislation).

A decision maker is bound to consider the applicability of a regional plan. A decision maker cannot decline to consider whether a regional plan applies and, if so, whether the subject matter of the decision is consistent with the relevant regional plan.

All of which is respectfully submitted on behalf of the Complainants  
by Municipal Counsellors

Per:   
K Hugh Ham  
Barrister & Solicitor

# COMPLAINT TO THE LAND USE SECRETARIAT

Municipal Government Board ("MGB") decision 016/15.  
Concerning Development within  
NW 22, SW 22 and SE 22-27-21-W4M

## Submission to the Land Use Secretariat HISTORY OF EFFORTS TO RESOLVE ISSUE

This history is a summary of proceedings and documents which may be relevant to the Secretariat's consideration of the issue. The history refers to various documents which are contained in an attached 3 ring binder for ease of reference. The documents are indexed by TAB and TAB numbers in this document refer to the TABs in the 3 ring binder.

1. This Complaint is specifically in regard to Municipal Government Board Order 016/15 (TAB 1).
2. The Complaint is that the Municipal Government Board ("MGB") refused to consider whether the South Saskatchewan Regional Plan ("SSRP") applied to an intermunicipal dispute the MGB was adjudicating pursuant to section 690 of the *Municipal Government Act*, 2000 R.S.A. c., M-26, as amended ("MGA").
3. The issue before the MGB arose from the proposed development by Badlands Motorsports Resorts of 3 automobile raceways adjacent to the Rosebud River and within its riparian area. The development includes ancillary uses on the ridge above the valley. The proposed development is more fully described in the Badlands Motorsports Area Structure Plan (TAB 5) and the Direct Control Land Use Bylaw 1657 (TAB 6).
4. The Badlands Motorsports Area Structure Plan was opposed by the Complainants at the statutory public hearing held by Kneehill County pursuant to Part 17 of the MGA. Amongst the materials provided by the Complainants in support of their opposition were:
  - a. the Environmentally Significant Areas Report adopted by Kneehill County (TAB 2) designating the Rosebud River Valley an environmentally significant area;
  - b. the relevant provisions of the then Kneehill County Municipal Development Plan, especially section 9.3 (TAB 3 p. 31, 32, 33).
  - c. an environmental review of the impact of the proposed development on

various species of birds, including species at risk prepared by Dr. Geoff Holroyd (TAB 9).

5. Subsequently, Kneehill County held a public hearing to consider the Direct Control Land Use Bylaw (TAB 6). (The report to the Council by its administration appears at TAB 16). Over 100 members of the public appeared in opposition, including the Complainants, and amongst the materials submitted to the Kneehill municipal council was a Biodiversity Report by Cottonwood Consultants (TAB 8).
6. Notwithstanding the public opposition, the provisions of the then Municipal Development Plan and the reports by Dr. Holroyd and Cottonwood Consultants, the municipal council of Kneehill County passed both the Badlands Motorsports Area Structure Plan (TAB 5) and the associated DC land use bylaw (TAB 6).
7. In the view of the Complainants, the bylaw adopting the Badlands Motorsports Area Structure Plan (TAB 5) was not in compliance with section 622 of the MGA in that it did not conform to the Land Use Policies (TAB 7). They commenced a challenge to the validity of the bylaw pursuant to sections 536, 537 and 538 of the MGA (TAB 12)
8. In the view of the Complainants, the bylaw adopting the Badlands Motorsports Direct Control land use bylaw (TAB 6) was not in compliance with section 622 of the MGA in that it did not conform to the Land Use Policies (TAB 7). They commenced a challenge to the validity of the bylaw pursuant to sections 536, 537 and 538 of the MGA and pursuant to various other statutory procedural issues (TAB 13).
9. Both applications challenging the area structure plan and the associated Direct Control land use bylaw are presently before the Court of Queen's Bench..
10. The Complainants made submissions to the MGB to the effect that the MGB was bound to consider whether the SSRP was applicable to the section 690 appeal being considered by the MGB in Order 016/15 (TAB 13) and that the MGB consider new evidence (TAB 14).
11. On June 1, 2015, the Alberta Wetland Policy became effective (TAB 15).
12. Throughout much of the foregoing processes (except where restricted by the rules of natural justice), the Complainants have had communication with the Reeve and members of the municipal council of Kneehill County requesting that they consider the environmental consequences of the proposed development. The effective response had been that if the County were doing anything wrong, AESRD (as it then was) would have advised the County. AESRD's reported response was that AESRD makes no comment unless there is an application under the Environmental Protection and Enhancement Act and/or the Water Act.

13. The MGB is an administrative tribunal and *ex parte* communication with the tribunal is contrary to law. Having handed down MGB 016/15, the MGB is *functus officio* (subject to its statutory authority to rehear matters). Further, the Complainants were given only limited standing at the section 690 hearing (participation by parties other than the relevant municipalities is very unusual) so that it is doubtful they had standing to appeal.

All of which is respectfully submitted on behalf of the Complainants  
By; Municipal Councillors

Per;

  
K. Hugh Ham  
Barrister & Solicitor

# COMPLAINT TO THE LAND USE SECRETARIAT

Municipal Government Board (“MGB”) decision 016/15.  
Concerning Development within  
NW 22, SW 22 and SE 22-27-21-W4M

## Submission to the Land Use Secretariat APPLICABILITY OF THE SSRP

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## The Issues

The fundamental issue is whether a 'recreational' development (the "Proposed Development") consisting of a series of race tracks for high-speed automobile racing with ancillary uses (residences, restaurants, hotels, car 'paddocks', etc.) requiring the destruction of 4 wetlands adjacent to the Rosebud River consistent with the South Saskatchewan Regional Plan ("SSRP").

The associated issues are:

1. Whether the Municipal Government Board ("MGB") in considering an intermunicipal dispute pursuant to section 690 of the Municipal Government Act, 2000 R.S.A. c. M-26, as amended (the "MGA") was required, to consider the impact, if any, of the SSRP on the merits of the Proposed Development?
2. Whether the SSRP applies to the relevant reach of the Rosebud River Valley?
3. Whether in interpreting and applying the SSRP the Land Use Secretariat (the "Secretariat") must confine its deliberations to the SSRP alone or whether in considering the SSRP the Secretariat must interpret it in the context of other relevant environmental legislation, regulations and/or policies?

In considering an intermunicipal dispute pursuant to section 690 of the MGA, was the MGB required to consider the impact, if any, of the SSRP on the merits of the Proposed Development?

Pursuant to ALSA, regional plans adopted pursuant to ALAS are binding on "decision makers" and pursuant to the MGA, the MGB's exercise of jurisdiction pursuant to section 690 of the MGA is subject to "any applicable ALSA regional plan:

### **ALSA**

- 15 (1) Except to the extent that a regional plan provides otherwise, a regional plan binds
- (a) the Crown
  - (b) local government bodies,
  - (c) decision-makers, and
  - (d) subject to section 15.1, all other persons.
- (2) Subsection (1) is given effect, if at all, only
- (a) by the provisions of the regional plan itself,
  - (b) in accordance with another enactment, or
  - (c) as a result of an order of the Court of Queen's Bench under section 18 and the corresponding provisions in the *Municipal*

*Government Act:*

- 2 (1)(e) "decision-maker" means a person who, under an enactment or regulatory instrument, has authority to grant a statutory consent, and includes a decision-making body;
- (2) For greater clarification, the definition of statutory consent does not include any permit, licence, registration, approval, authorization, disposition, certificate, allocation, agreement or instrument issued under or authorized by
  - (a) the *Land Titles Act*,
  - (b) the *Personal Property Security Act*,
  - (c) the *Vital Statistics Act*,
  - (d) the *Wills Act*,
  - (e) the *Cemeteries Act*,
  - (f) the *Marriage Act*,
  - (g) the *Traffic Safety Act*, or
  - (h) any enactment prescribed by the regulations.

**MGA**

- 690 If the Municipal Government Board receives a notice of appeal and statutory declaration under subsection (1)(a), it must, **subject to any applicable ALSA regional plan**, decide whether the provision of the statutory plan or amendment or land use bylaw or amendment is detrimental to the municipality that made the appeal and may
- (a) dismiss the appeal if it decides that the provision is not detrimental, or
  - (b) order the adjacent municipality to amend or repeal the provision if it is of the opinion that the provision is detrimental.
- (emphasis added)

While there might be some initial question whether the MGB in deciding a section 690 dispute is a "decision maker", any such doubt is removed by section 690(5) of the MGA.

Consequently, the statement by the MGB in decision MGB 016/15 (TAB 1) that::

The MGB cannot accept that the intent of these provisions is to broaden an appeal about the specific effect of a given bylaw or provision to something approaching a review of the bylaw for compliance with all the various goals of an ALSA plan.

is simply wrong. Section 690(5) requires the MGB decision in any section 690 dispute to be "subject to any applicable ALSA regional plan":

- 690 (5) If the Municipal Government Board receives a notice of appeal and statutory declaration under subsection (1)(a), it must, **subject to any applicable ALSA** regional plan, decide whether the provision of the statutory plan or amendment or land use bylaw or amendment is detrimental to the municipality that made the appeal and may , , , (emphasis added). .

Strangely, the MGB held that the DC land use bylaw enabling the Proposed Development was subject to the *Land Use Policies* (TAB 7) but then failed to consider the effect of section 622 of the MGA:

- Land use policies
- 622 (1) The Lieutenant Governor in Council may by order, on the recommendation of the Minister, establish land use policies.
- (2) The *Regulations Act* does not apply to an order under subsection (1).
- (3) Every statutory plan, land use bylaw and action undertaken pursuant to this Part by a municipality, municipal planning commission, subdivision authority, development authority or subdivision and development appeal board or the Municipal Government Board must be consistent with the land use policies.
- (4) Land use policies do not apply in any planning region within the meaning of the *Alberta Land Stewardship Act* in respect of which there is an ALSA regional plan.

Regardless, the relevant question is whether the SSRP applies to the location of the proposed development: NW 22, SW 22 and SE 22-27-21-W4M

Does the SSRP apply to the Relevant Portions of the Rosebud River and its Riparian Area?

Wheatland County lies within the SSRP and almost all of the Rosebud River is within Wheatland County. The relevant reach of the Rosebud River meanders back and forth across the boundary (although most of the Rosebud River lies entirely within Wheatland County and, therefore, within the SSR)OP).. The Proposed Development lies adjacent to the Rosebud River and much of the race track development lies adjacent to or very close to the river.

The north boundary of the SSRP is the north boundary of Wheatland County. More specifically, the boundary between Kneehill County and Wheatland County is, in the relevant location, the registered railway plan which lies at the bottom of the Rosebud River valley.

The Rosebud River meanders back and forth under the railway plan via a series of trestles which formerly carried the tracks (the tracks have been removed and the railway ties are

in the process of being removed).. Consequently, the relevant portion of the Rosebud River lies, in significant part, in Wheatland County and, therefore, within the SSRP.

The significance of the location of the boundary is that the river valley contains the river as well as associated wetlands and riparian areas. It is an ecological system the whole of which is affected by any activities within the boundaries of that system or nearby land uses which impact that ecological system. Simplistically, you cannot pollute only ½ of the width of a river nor ½ of an ecosystem. Nor are environmental impacts contained within jurisdictional boundaries.

Environmental impacts affect, at the very least, the whole of any ecological system and, thereby, the whole of the Province of Alberta and, consequently, the whole of the world - which is why Canada is a participant in international treaties related to minimizing environmental degradation. The SSRP is specifically concerned with environmental impacts within its boundaries, but it is part of a Province wide scheme of regional plans intended to protect the whole of the Province.

Should ALSA be Interpreted to Consider the Effects of a Development Immediately Adjacent to the Boundary of a Regional Plan?

Broad and Purposive Interpretation

Initially, section 13(3) of ALSA provides:

- (3) The meaning of a regional plan is to be ascertained from its text, in light of the objectives of the regional plan, and in the context in which the provision to be interpreted or applied appears. .

In addition to section 13(2), the Supreme Court of Canada decision in *United Taxi Drivers' Fellowship of Southern Alberta v Calgary (City)* 2004 SCC 19 stands for the proposition that most legislative instruments, are to be given a "broad and purposive" interpretation (taxing legislation is, for example, probably not subject to that principle).. That standard would then apply to regulations pursuant to the SSRP (and most other regulations) and is consistent with section 13(2).

The SSRP is specifically a regulation pursuant t section 13(2) of ALSA::

- 13 (2) Regional plans are legislative instruments and, for the purposes of any other enactment, are considered to be regulations.

so that it is also to be interpreted in a broad manner so as to achieve its purposes. What are those purposes?

The Purposes of the *Land Stewardship Act* are stated as follows::

- 1(2) The purposes of this Act are
- (a) to provide a means by which the Government can give direction and provide leadership in identifying the objectives of the Province of Alberta, including economic, environmental and social objectives;
  - (b) to provide a means to plan for the future, recognizing the need to manage activity to meet the reasonably foreseeable needs of current and future generations of Albertans, including aboriginal peoples;
  - (c) to provide for the co-ordination of decisions by decision-makers concerning land, species, human settlement, natural resources and the environment;
  - (d) to create legislation and policy that enable sustainable development by taking account of and responding to the cumulative effect of human endeavour and other events.  
(emphasis added)

The relevant provisions of the SSRP include the following:

Relevant Provisions of the SSRP

Page	Policy	Statement
23	Landscapes and Biodiversity	"All ecosystem services contribute to sustaining a healthy and prosperous way of life for all Albertans."
25-28	Water and Watersheds	"The South Saskatchewan River Basin consists of four sub-basins including the Bow, Oldman, South Saskatchewan and Red Deer; along with their tributaries . . ." <sup>1</sup>
25		"Water quality is influenced in each basin and sub-basin by the unique features and land and water uses."
27		"Degradation of riparian lands and loss of wetlands across the prairies have been widespread, contributing to altered flow regimes and degraded water quality."

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<sup>1</sup> The Rosebud River is a tributary of the Red Deer River.

39	Outcomes and Strategic Directions for the South Saskatchewan Region
40	"Biodiversity and ecosystem functions are sustained through shared stewardship - The benefits received from biodiversity and healthy functioning ecosystems are critical to the ongoing prosperity of all Albertans. The impacts of multiple land use demands and pressure must be managed through an integrated approach."
40	"Watersheds are managed to support healthy ecosystems and human needs through shared stewardship - Water plays an essential role across the region and with increasing pressures and demands placed on this resource, it is essential that an integrated view across water supply, water quality and aquatic ecosystems be advanced."
57	"Industrial development, recreation and other uses also increase the risk of invasive species."
76	"It is important to use collaborative approaches and to maintain and build partnerships in the region. Shared stewardship is essential."
79	"Riparian lands are important as they are highly productive, rich and resilient parts of the landscape."
84	Encourage municipalities to use <u>Stepping Back from the Water</u> when establishing appropriate setbacks from water bodies to maintain water quality, flood water conveyance and storage, bank stability and habitat."

It is inconceivable that the goals of either ALSA or the SSRP for the Rosebud River can be achieved if the environmental consequences of a development immediately adjacent to the river but just outside the boundaries of the SSRP are ignored. The direct impacts of the Proposed Development extend across the SSRP boundary.

In interpreting and applying the SSRP, must the Secretariat confine its deliberations to the SSRP alone; or, in considering the SSRP, should the Secretariat interpret it in the context of other relevant environmental legislation, regulations and/or policies?

Initially, the SSRP contains the following policies (p. 40 and p. 84):

"Watersheds are managed to support healthy ecosystems and human needs through shared stewardship - Water plays an essential role across the region and with increasing pressures and demands placed on this resource, it is essential that an integrated view across water supply, water quality and

aquatic ecosystems be advanced.”

Encourage municipalities to use Stepping Back from the Water when establishing appropriate setbacks from water bodies to maintain water quality, flood water conveyance and storage, bank stability and habitat.”

In approving the SSRP as a regulation, Cabinet is presumed to know the Crown’s existing legislation:

[15] The Legislature is “presumed to know its own statute book and to draft each new provision with regard to the structures, conventions and habits of expression as well as the substantive law embodied in existing legislation”: Ruth Sullivan, *Sullivan on the Construction of Statutes*, 5th ed (Ottawa: LexisNexis) at 411.

*Okotoks (Town) v. Foothills (Municipal District No. 31)*, 2013 ABCA 222 (CanLII); [2013] AJ No 629 (QL)

Consequently, in establishing policies in the SSRP, Cabinet is presumed to know that the *Water Act* 2000 R.S.A. c. W-3, as amended, its regulations and policies are the Crown’s fundamental statements regarding water related matters. The SSRP recognizes the fundamental importance of water and wetlands.

“Watersheds are managed to support healthy ecosystems and human needs through shared stewardship - Water plays an essential role across the region and with increasing pressures and demands placed on this resource, it is essential that an integrated view across water supply, water quality and aquatic ecosystems be advanced.”

SSRP p. 40

The SSRP policies then include specific reference to *Stepping Back from the Water*, which is a policy document used by Alberta Environment and Parks (“AEP”) in its determination of applications under the *Water Act*. In addition, on June 1, 2015, substantially all of the new *Alberta Wetland Policy* and its associated directives came ‘into force’ and including:

1. Wetland Regulatory Process Diagram – Jun 1, 2015 (1 page, 1 MB)
2. Wetland Regulatory Requirements Guide – Jun 1, 2015 ( 7 pages, 1 MB)
3. Alberta Merged Wetland Inventory (AMWI)
4. Alberta Wetland Assessment and Impact Report Directive – Jun 01, 2015 (16 pages, 1 MB)
5. Alberta Wetland Classification System (AWCS) – Jun 1, 2015 ( 66 pages, <1 MB)
6. Alberta Wetland Identification and Delineation Directive – Jun 1, 2015 (20 pages, 2 MB)
7. Alberta Wetland Rapid Evaluation Tool – Actual (ABWRET-A) Manual – Jun 1, 2015 (150 pages, 3 MB)
8. ABWRET-A Form for electronic submission - Jun 19, 2015 (23 sheets, 3 MB)

Submit ABWRET-A-Form(s) and Shapefile(s) to:  
[ESRD.Web-SWQ@gov.ab.ca](mailto:ESRD.Web-SWQ@gov.ab.ca)

Application for Shore Line / Water Body Modification

9. LS 102 Application for Shore Line/Water Body Modification – (1 page, <1 MB)
10. LS 102 Application for Shore Line/Water Body Modification – (1 page, <1 MB)
11. Wetland Application Checklist – Jun 01, 2015 (pages 7, 1 MB)

The SSRP is part of a holistic legislative environmental scheme including the *Environmental Enhancement and Protection Act*, 2000 R.S.A. c. E-12, as amended, the *Water Act*, Part 17 of the *Municipal Government Act* 2000 R.S.A. c. M-26, as amended., as well as other relevant legislation. All of that legislation, including the SSRP, is to be read consistently so as to achieve the intended results - protection and enhancement of the environment.

The SSRP is not to be read in the abstract but in the context of environmental legislation., regulations and policies. Protection of the Rosebud River and its riparian areas is also not the sole task of, in this case, Wheatland County. Rather it is collaborative:

It is important to use collaborative approaches and to maintain and build partnerships in the region. Shared stewardship is essential.”  
SSRP p. 76

In the result, the Municipal Government Board, Kneehill County and Wheatland County all have a statutory duty to collaborate to achieve the policies and goals of the SSRP. Section 60 of ALSA and 690(5) of the MGA make that clear.

All of which is respectfully submitted on behalf of the Complainants  
By; Municipal Counsellors

Per;   
K. Hugh Ham  
Barrister & Solicitor

# COMPLAINT TO THE LAND USE SECRETARIAT

Re: MGB 016/15

Concerning Development within  
NW 22, SW 22 and SE 22-27-21-W4M

## Relevant Documents

1. Municipal Government Board ("MGB") decision 016/15.
2. Kneehill County Environmentally Significant Areas Report (Summit, February 2010).
3. Kneehill County Municipal Development Plan May 10, 2005 - in force at the time fo the adoption of Badlands Motorsports Resort Area Structure Plan - this MDP now repealed.
4. Kneehill County Municipal Development Plan July 16, 2013 - approved subsequent to adoption of Badlands Motorsports Resort Area Structure Plan - currently in force
5. Badlands Motorsports Resort Area Structure Plan
6. Direct Control Land Use Bylaw Badlands Motorsports Resort
7. Province of Alberta O.C. 522/96 - Land Use Policies
8. Cottonwood Consultants Ltd. - Badlands Motorsports Resort ASP and Direct Control land use bylaw are not consistent with the Land Use Policies & Cottonwood Biodiversity Report re NW 22, SW 22 and SE 22-27-21-W4M
9. Badlands Motorsports "Environmental Review of the Impact on Species at Risk, songbirds and their plants"; Dr. Geoff Holroyd et. al.
10. Recommended Land Use Guidelines for Protection of Selected Wildlife Species and Habitat within Grassland and Parkland Natural Regions of Alberta; Alberta Sustainable Resources.
11. Court of Queen's Bench application to quash Badlands Motorsports Resort Area Structure Plan (pending)

12. Court of Queen's Bench application to quash Badlands Motorsports Resort Direct Control Land Use Bylaw (pending)
13. Submission by Affected Landowners to the Municipal Government Board re MGB decision 016/15
14. Application to the MGB to hear new evidence re: MGB 016/15 (Kneehill County's proposal to amend Badlands Resorts Motorsports Direct Control land use bylaw
15. Alberta Wetland Policy effective June 1, 2015 (with minor exceptions)
16. Staff Report to Kneehill County Council re Badlands Resorts Motorsports Direct Control land use bylaw.