

Park (Conservancy Enabling) Amendment Act, 2006 (Bill 28 -- 2006)

This Act makes certain amendments to the British Columbia *Park Act* (R.S.B.C. 1996, c. 344) which provide tools of potential use to Aboriginal communities engaged in interim consultation and negotiations with the provincial government regarding land use and conservation issues.

History

Previously under the *Park Act*, the minister could enter into “collaborative agreements” with a band or an Aboriginal community for the administration and management of parks and recreation areas and public and private use and conduct in them. The minister could also enter into agreements in respect of lands designated under other legislation, or subject to certain agreements (e.g., heritage sites, recreation areas and ecological reserves).

However, nothing in the legislation made such agreements unique to Aboriginal communities as compared with the range of other people with whom the minister could make similar collaborative agreements.

Agreements with Aboriginal communities

The recent amendments enable the minister to enter into an agreement with a “First Nation” with respect to the Aboriginal community carrying out activities necessary for the exercise of Aboriginal rights on, and having access for social, ceremonial and cultural purposes to, conservancies, parks and recreation areas. Like the previous “collaborative agreements”, these agreements can cover the management of an extensive range of public and private uses of and conduct in conservancies, parks and recreation areas and other areas for which collaborative agreements could be entered.

Conservancies are new to the legislation and the amendments enable the provincial cabinet to set aside a conservancy for the following purposes:

- (a) the protection and maintenance of biological diversity and natural environments,
- (b) the preservation and maintenance of social, ceremonial and cultural uses of First Nations,
- (c) protection and maintenance of recreational values, and
- (d) to ensure that development or use of natural resources occurs in a sustainable manner consistent with the purposes of paragraphs (a), (b) and (c).

Conservancy Protections

The amendments prohibit the grant, sale, lease, pre-emption or other alienation of an interest in land in a conservancy without a valid park use permit authorization. The same protection prevents making such an interest the subject of a lease. Protections also exist against granting, selling, removing, destroying, disturbing, damaging, exploiting, developing, improving or utilizing natural resources in a conservancy without the authorization of a valid and subsisting park use permit

and the minister's agreement that the action will not hinder the development, improvement and use of the conservancy in line with the purposes for setting aside conservancies (listed above).

The amendments prohibit the issuing of a park use permit to authorize commercial logging, mining or hydro electric power generation (other than "local run-of-the-river projects") in a conservancy.¹ Park use permits for any other activities can only be issued if the minister agrees that the activity will not restrict, prevent or inhibit the development, improvement or use of the conservancy in accordance with the purposes listed above.

However, the minister may issue a park use permit authorizing someone to continue an activity in a conservancy if that person, on the date that an area becomes a conservancy, already holds a permit or other authorization for the activity. Such potentially continuing activities do not include commercial logging, mining or hydro electric power generation (other than local run-of-the-river projects).

The amendments otherwise extend the other *Park Act* protections and prescriptions that previously applied to parks and recreation areas so that they also apply to conservancies. Despite all the protections in the amended legislation, the amendments authorize the minister to issue a park use permit for the construction of a road through any conservancy that is listed in the *Protected Areas of British Columbia Act* if the road's purpose is to provide access to natural resources existing beyond the conservancy.

Designated Wildland Areas

The amendments also enable the provincial cabinet to designate land in a conservancy area as a "designated wildland area". The amendments define "designated wildland area" as a roadless area in a park, conservancy or recreation area that is

- (a) retained in a natural condition for the preservation of its ecological environment and scenic features, and
- (b) designated or continued as a designated wildland area under this Act."

¹ Importantly, "commercial logging" means logging for the primary purpose of selling or trading the timber and "local run-of-the-river projects" is restricted to such projects that supply power for use only in the conservancy or by communities, including First Nation communities, which do not otherwise have access to hydro electric power.