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Public Land Law Worthy of Alberta's Public Lands

*by Steven A. Kennett and Monique M. Ross**

Introduction

The management of Alberta's public lands and resources is a matter of tremendous economic, environmental and social importance. Provincial Crown land accounts for approximately 63 per cent of the province, with federally-controlled land making up another 9.6 per cent.[1] The surface and subsurface resources in this vast area, along with most of the subsurface resources under private land, are also owned by the Crown.

These public lands and resources support a wide range of economic activities, notably hydrocarbon exploration and development, forestry, mining, grazing and tourism.[2] Public lands also provide numerous recreational amenities to Albertans. These lands include most of the foothills and Rocky Mountain regions of the province, large areas of Northern Alberta and pockets of land scattered throughout the rest of the province — a varied landscape of global ecological importance due to its biodiversity and relatively undisturbed natural ecosystems.[3] Many of Alberta's public lands also have high aesthetic value.

Public land management[4] in Alberta is increasingly the subject of controversy, an inevitable result of the many and diverse values and interests that are affected by decisions regarding land and resource uses. The challenges facing those responsible for managing public lands and regulating their uses will undoubtedly be accentuated as development on and adjacent to public lands becomes more intensive, public values regarding economic and environmental trade-offs change, and threats to the long-term sustainability of natural ecosystems become better understood.

These conflicts are often played out in project-specific regulatory processes, such as the hearings on proposals for petroleum development in the Whaleback,[5] recreational and tourism facilities in the West Castle Valley,[6] and coal mining adjacent to Jasper National Park.[7] They are also evident, however, in broader land use planning and policy processes, such as the province's protected areas

Résumé

Pour la province de l'Alberta, la gestion des terres et ressources publiques est une question d'une importance critique étant donné la valeur de ces ressources aux plans écologique, économique et social. Alors que les pressions de développement des terres et ressources publiques s'intensifient et soulèvent de plus en plus de controverses, la question de la capacité du système juridique et institutionnel en vigueur à fournir un cadre juridique cohérent et intégré de gestion des terres publiques se pose avec plus d'urgence. Cet article aborde le sujet en proposant tout d'abord un modèle de "droit des terres publiques", puis en évaluant la conformité de la législation actuelle en matière de terres et ressources publiques au modèle proposé. Les auteurs concluent qu'en dépit de son abondance, la législation albertaine ne constitue pas à proprement parler un "droit des terres publiques" propre à assurer la durabilité à long terme de ces terres et ressources publiques.

initiative, *Special Places 2000*,[8] the ongoing provincial review of the Kananaskis Country management plan,[9] the proposed Alberta Forest Conservation Strategy[10] and the recently completed federal Banff Bow Valley Study.[11]

In all of these facets of public land management, there are increasing demands that a broader range of values, interests, and interrelationships be considered. The ability of current legal and institutional arrangements to provide the level of integrated decision-making required to meet the challenges of public land management is thus a matter of grave concern to those who view the sustainable use of this province's rich endowment of lands and resources as a high priority.

This article reviews the legal basis for public land management in Alberta. The question to be answered is the following: Does the considerable body of law and regulation governing Alberta's public lands and resources constitute a unified legal framework for managing the public domain? To answer this question, a template for integrated public land law is proposed as the standard against which existing legislation is evaluated.

The analysis and conclusions set out in this article summarize the results of a study of public land law in Alberta that was funded by the Alberta Law Foundation. The findings of this study are published in two Occasional Papers available from the Canadian Institute of Resources Law.[12]

A Template for Public Land Law

The starting point for this analysis is the proposition that public land law should be a unified body of substantive and procedural requirements that provides the basis for an *integrated* approach to managing public lands and resources. In practical terms, public land law should establish: (1) a normative basis for public land management that embodies principles of ecosystem management; (2) a comprehensive land use planning process; (3) a logical decision path, from broad land use policy to project-specific review and regulation; and (4) mechanisms for interjurisdictional and interagency coordination. All of these elements, it is argued, should have a solid legal foundation reflecting the important functions of law as an instrument of public policy.

The first attribute of public land law — its normative basis — consists of the principles, objectives and standards that guide decision-making. Current debate on this topic centres on the contrast between the 'multiple use' approach and 'ecosystem management' as competing general principles for public land management.[13] Multiple use has been the dominant paradigm for public land management in both Canada (including Alberta[14]) and the United States. It reflects the view that lands and resources can simultaneously meet a variety of needs and should be managed to achieve the greatest stream of benefits or outputs. While multiple use mandates can incorporate notions of sustained yield, or even more ecologically-based notions of sustainability, their practical effect is generally to confer broad discretionary power on land managers to balance competing uses as they see fit.

Criticisms of multiple use management focus on three general issues: (1) the inconsistency between the virtually unconstrained administrative and political discretion that frequently accompanies multiple use regimes and basic tenets of democracy and the rule of law; (2) the weak normative basis of multiple use in a context where public lands and resources are subject to increasing demands and ecological processes are at risk; and (3) the tendency of multiple use regimes to accord undue weight to narrow, well-organized interest groups in determining the use of public lands and resources.[15]

Critics also argue that the environmental legacy of multiple use suggests the need to look elsewhere for principles to guide public land management.[16] For example, the sustainability of public land management under the multiple use approach as practised in Alberta has recently been questioned not only by environmentalists,[17] but also by the Natural Resources Conservation Board[18] and the Future Environmental Directions for Alberta Task Force, a group of government officials, stakeholders and other experts that was established to identify priorities for making sustainable development a reality in this province.[19]

Ecosystem management is the most promising alternative normative basis for managing the public domain. This concept, while relatively new, is gaining increasing currency as a basis for land and resource management.[20] It is not, of course, a formula for resolving all land use conflicts, nor does it define precise management options. Rather, ecosystem management is a set of normative principles and operational guidelines for managing human activities in a way that permits them to coexist, over a specified management area, with ecological processes deemed to be worth protecting over the long term. More specifically, ecosystem management: embodies an ethical commitment to the value of natural ecosystems; gives rise to a series of substantive goals for public land management; requires the integration of science and public policy; takes account of the role of humans in ecosystems and the importance of human values in land and resource management; and has important implications for institutional arrangements and decision-making processes.[21]

In practical terms, ecosystem management arguably requires

decision-making at two levels.[22] The first involves determining the amount of human activity within a defined management area that is consistent with ecosystem viability. Once this ceiling is established, the second level of decision-making consists of determining the appropriate mix of uses to be allowed. For this model to operate as intended, the ecosystem viability ceiling must constitute a meaningful constraint on the 'lifestyle' choices made at the second level. While there are no *a priori* limitations on the menu of lifestyle options for land and resource use, short-term lifestyle decisions would not be permitted to cause long-term ecological damage.

Ecosystem management thus constitutes a solid normative basis for public land law. Through its ethical premise — the value of ecosystem integrity — and the set of substantive and institutional guidelines that follow from this premise, ecosystem management provides a structure for the balancing of multiple values and uses that is inevitable in public land management.

The second key attribute of public land law is a comprehensive planning process. There are a number of ways in which planning, if properly designed and executed, can improve public land management. For example, planning has the potential of focusing decision-makers on the long-term sustainability of land and resources, reducing the risk of incrementalism and associated cumulative impacts, enhancing the information base for decisions, and improving the fairness, consistency, legitimacy, predictability and efficiency of public land management.[23] To achieve these benefits, both the planning process and the resulting land use plans should have a firm basis in law.

The third element of the proposed template is that public land law should ensure a measure of integration among the stages of decision-making. Most decisions regarding public land and resources can be located at some point along the following continuum: (1) the establishment of broad policy directions and priorities; (2) land use planning; (3) rights disposition (i.e., the granting of private rights in public land and resources); and (4) project-specific review and regulation. Public land management benefits from the integration of these stages into a logical decision path for the following reasons: decision-making processes can be tailored to the types of issues that arise at each stage, certainty for those whose interests are affected by land use decisions can be increased, the progressive narrowing of issues provides direction to decision-makers, and the likelihood that important issues will be overlooked or addressed too late in the process is reduced.[24]

Finally, public land law should establish mechanisms for interjurisdictional and interagency coordination. This role is vital because of the undeniable fact that ecosystems do not respect administrative or jurisdictional boundaries. Since decisions in one area or by one set of managers frequently have implications for land management objectives pursued by others, overarching institutional arrangements or clear mandates requiring interagency and interjurisdictional coordination are necessary if an integrated approach to public land management is to be achieved.[25]

In relation to all four elements of this template, the importance of a *legal* basis for public land management is a recurring theme. This emphasis reflects the four key functions of law as an instrument of public policy: (1) law making is a public and deliberative process for setting important societal goals and priorities; (2) law can increase predictability for those whose interests are affected by government decision-making; (3) law can constrain the exercise of discretion and serve as an accountability mechanism; and (4) law is a means of structuring decision-making processes. These functions explain why democratic societies establish legal mechanisms to achieve policy objectives. All of them reinforce the rationale for developing a legal basis for public land management.[26]

Public Land Law in Alberta

Having outlined the four key attributes of public land law, this template will now be applied to evaluate land and resource legislation in Alberta. While space limitations preclude a detailed discussion of this extensive body of law in this article, the main conclusions of this review can be briefly summarized.

At the level of principles, objectives and standards, public land management is currently without a clear normative basis in law.[27] Alberta's statutes governing land and resource use lack an overarching legal framework, and even at the policy level there is no authoritative basis for an integrated approach to land and resource management. Furthermore, the sector- and process-specific statutes that govern the uses of public lands and resources provide very little substantive and procedural direction in areas critical to the integrated management of the public domain. For example, the statutory provisions that authorize comprehensive planning and rights disposition confer virtually open-ended discretion on decision-makers. In terms of the substantive normative basis for public land management, most public lands in Alberta remain subject to a multiple use regime;[28] adherence to principles of ecosystem management is nowhere mandated by law.

Alberta is also currently without a comprehensive planning process for public lands and resources and, in any case, has never had a legal

basis for such a process beyond a bare statutory authorization.[29] This gap is not adequately filled by either the zoning resulting from protected areas designation or by the sectoral planning processes that currently exist for water and forest resources. While these sectoral processes might play a limited integrative role, there is no legal requirement that they do so, nor has the relationship between them been defined in law or policy. This key element of the template for public land law is thus completely absent.

In addition, there are few legal mechanisms linking the various decision-making stages in public land management.[30] In fact, an integrated decision path from general policy issues to project-specific regulation is currently precluded by the absence of both substantive and procedural law at the early stages and by the independent statutory mandates of decision-makers responsible for project review and regulation. Problems arising from this lack of integration are well illustrated by the Whaleback[31] and West Castle[32] project reviews.

It is in relation to the fourth attribute of public land law, the existence of mechanisms for interagency and interjurisdictional coordination, that Alberta legislation contains a stronger measure of statutory support.[33] Although most of the provisions are enabling only, they have provided a legal basis for the establishment of a variety of administrative mechanisms for interagency coordination and some interjurisdictional arrangements, notably in relation to environmental assessment. They fall short, however, of establishing full integration of decision-making and there are significant gaps, notably in relation to transboundary issues.

The finding that legislation in Alberta does not measure up well when compared to the proposed template for public land law does not imply, of course, that the use of public lands and resources in this province takes place in a legal vacuum. There is a significant amount of legislation dealing with resource management on a sector-specific basis and establishing general requirements for environmental protection. The elements of this regulatory regime do not, however, add up to a coherent and integrated body of public land law.

Conclusion

The analysis summarized in this article leads inevitably to the conclusion that public land law, as defined above, is virtually non-existent in Alberta. This conclusion is remarkable for several reasons.[34]

First, the proposed template for public land law is neither radical nor particularly novel. The standard against which the current legal regime was measured cannot, therefore, be characterized as overly demanding. Principles of integrated resource management have been widely recognized and debated for several decades, and Alberta was in fact a leader in this area in the 1970s. Ecosystem management, while not widely implemented, is at least common currency in land and resource management circles in North America and has been advocated in various venues within Alberta. The lack of congruence between the administrative and jurisdictional boundaries that limit decision-making authority and the problems confronting land and resource managers is an oft-repeated theme of legal and policy analysis. In terms of land use policy and institutional design, therefore, the four-element template for public land law seems hardly ground-breaking. Legislation in Alberta is, however, severely deficient in relation to most, if not all, of these elements.

Secondly, the absence of a coherent body of public land law in Alberta is remarkable given the tremendous economic, social and environmental significance of the public lands and resources of this province. Alberta's economy remains heavily dependent on non-renewable and renewable natural resources, including the natural landscape and opportunities for outdoor recreation that support a substantial tourism industry. Furthermore, Alberta is a province where government readily embraces private sector models when fulfilling its public responsibilities. The failure to develop an integrated body of public land law — including a clear statement of principles and objectives, a comprehensive planning process and mechanisms to coordinate decision-making — is anything but 'businesslike' when one considers the value of the province's public resources and their potential to yield benefits to Albertans in perpetuity if they are properly managed.

Finally, the absence of public land law in Alberta is remarkable because it shows the very limited role of law in this important area of governance. Broad grants of discretionary authority are commonplace and there is consequently little opportunity for law to fulfill its key functions as an instrument of public policy. In fact, the principle of the 'rule of law' has little substantive content in relation to most of the areas of decision-making that are critical to an integrated approach to managing the public domain.

While public land management should not be transformed into a highly legalistic process, there are considerable risks in conducting this important aspect of public governance through only the most minimal of legal frameworks. In order to ensure the long-term economic, environmental and social sustainability of Alberta's land and resource base, the existing patchwork quilt of legislation and policy governing public land management should be transformed into an integrated body of public land law. Only then will Albertans have public land law worthy of their public lands.

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Notes

1. Alberta Environmental Protection, *Alberta's State of the Environment Comprehensive Report* (Edmonton: 1995) at 3.

2. For a discussion of the various uses of Alberta's public lands and resources, see: Alberta Forestry, Lands and Wildlife, *Alberta Public Lands* (Edmonton: 1988).

3. Banff and Jasper National Parks (along with Yoho and Kootenay National Parks in British Columbia), Waterton-Glacier International Peace Park, Wood Buffalo National Park and Dinosaur Provincial Park are UNESCO World Heritage Sites and the Waterton-Glacier region has been designated a biosphere reserve under the UNESCO Man and the Biosphere Program.

4. The term 'public land management' is used here to refer to decision-making regarding:

(1) the use of the resources that are on, under or move across public lands (e.g., forests, rangeland, minerals, water, wildlife); and
(2) the other uses of public land (e.g., recreation, tourism, ecosystem and biodiversity preservation, protection of aesthetic values and wilderness).

5. Energy Resources Conservation Board, *Application for an Exploratory Well, Amoco Canada Petroleum Company Limited, Whaleback Ridge Area*, ERCB Decision D 94-8 (6 September 1994). See, Steven A. Kennett, "The ERCB's Whaleback Decision: All Clear on the Eastern Slopes?" (1994) 48 *Resources* 1.

6. Natural Resources Conservation Board, *Application to construct Recreational and Tourism Facilities in the West Castle Valley, near Pincher Creek, Alberta*, Decision Report #9201, December 1993. See, Steven A. Kennett, "The NRCB's West Castle Decision: Sustainable Development Decision-Making in Practice" (1994) 46 Resources 1.

7. Alberta Energy and Utilities Board-Canadian Environmental Assessment Agency, *Report of the EUB-CEAA Joint Review Panel — Cheviot Coal Project Mountain Park Area, Alberta*, June 1997.

8. Government of Alberta, *Special Places 2000: Alberta's Natural Heritage* (Edmonton: March 1995); See, Steven A. Kennett, "*Special Places 2000*: Protecting the Status Quo" (1995) 50 *Resources* 1.

9. The government has initiated a second round of public consultation on this issue.

10. Alberta Forest Conservation Strategy Steering Committee, *Alberta Forest Conservation Strategy (AFCS): A New Perspective on Sustaining Alberta's Forests, Final Report* (Edmonton: May 1997); see also, Glenda Hanna "AWA President Cannot Endorse AFCS Document", Wild Lands Advocate, Vol. 5 No. 6, July/August 1997, at 4.

11. Banff Bow Valley Study, *Banff-Bow Valley: At the Crossroads*, Summary Report of the Banff-Bow Valley Task Force (Ottawa: Ministry of Supply and Services Canada, October, 1996).

12. Steven A. Kennett, *New Directions for Public Land Law*, CIRL Occasional Paper #4 (Calgary: Canadian Institute of Resources Law, January 1998); Steven A. Kennett & Monique M. Ross, *In Search of Public Land Law in Alberta*, CIRL Occasional Paper #5 (Calgary: Canadian Institute of Resources Law, January 1998).

13. See, Kennett, *ibid.*, Section 3.1.

14. For example: Alberta Forestry Lands and Wildlife, *Alberta Public Lands* (Edmonton: September 1988) at 2; Alberta Forestry Lands and Wildlife, *Integrated Resource Planning in Alberta* (Edmonton: September 1991) at 3; Alberta Environment, "Water Management Policy for the South Saskatchewan River Basin", Fact Sheet (Edmonton: May 1990); Environment Council of Alberta, *The Environmental Effects of Forestry Operations in Alberta, Report and Recommendations* (Edmonton: February 1979) at 6, 85-86.

15. See, Kennett, *supra* note 12, Section 3.1.i.

16. The definitive documentation of the U.S. experience is, Charles F. Wilkinson, *Crossing the Next Meridian: Land, Water, and the Future of the West* (Washington, D.C.: Island Press, 1992).

17. See, for example: Vivian Pharis, "Can 'Special Places 2000' Protect the Eastern Slopes?" (July/August 1993) 28 *Environment Network News* 25; Reg Ernst, "Is Public Land Management Effective?" (January/February 1996) 43 *Environment Network News 11.*

18. Natural Resources Conservation Board, *supra* note 6 at 9-72 - 9-74, 10-10 - 10-11, 11-2, 12-5 - 12-6.

19. Future Environmental Directions for Alberta Task Force, *Ensuring Prosperity: Implementing Sustainable Development* (Edmonton: Environment Council of Alberta, March 1995), at 52-54.

20. See, for example: R. Edward Grumbine, "What Is Ecosystem Management?" (1994) 8(1) *Conservation Biology* 27; Reed F. Noss, "Some Principles of Conservation Biology, As They Apply to Environmental Law" (1994) 69 *Chicago-Kent Law Review* 893; Robert B. Keiter, "Beyond the Boundary Line: Constructing a Law of Ecosystem Management" (1994) 65 *University of Colorado Law Review* 293.

21. These elements of ecosystem management are discussed in more detail in Kennett, *supra* note 12, Section 3.2.2.

22. Scott W. Hardt, "Federal Land Management in the Twenty-First Century: From Wise Use to Wise Stewardship" (1994) 18 *Harvard Environmental Law Review* 345 at 392-396.

23. See, Kennett, *supra*, note 12, Section 4.1.

24. *Ibid.*, Section 5.1.

25. *Ibid.*, Section 5.2.

26. *Ibid.*, Section 6.

27. See, Kennett & Ross, *supra* note 12, Section 4.

28. It is noteworthy that the policy statement establishing the province's 'protected areas' initiative, *Special Places 2000*, adopts multiple use language and does not even mention the term 'ecosystem management.' See, Kennett, *supra* note 8.

29. See, Kennett & Ross, *supra* note 12, Section 5.

30. *Ibid.*, Section 6.

31. *Supra* note 5.

32. *Supra* note 6.

33. Kennett & Ross, *supra* note 12, Section 7.

34. These reasons are discussed in more detail in Kennett & Ross, *ibid.*, Section 8.

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Recent Developments in Canadian Mining Law

*by John Donihee**

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Review of *Canada Mining Regulations* Ongoing

For the third time in as many years, the Government of Canada is proposing changes to the *Canada Mining Regulations*, C.R.C., c. 1516 as am. which regulate the disposition of Crown mineral interests, mineral tenures and royalties in the Northwest Territories (the "NWT" below).

In early 1997, a series of administrative changes were made to the regulations. These changes, SOR/97-117 dated 18 February, 1997 deal with housekeeping issues such as the design of forms used for various purposes including permit applications. In August 1996 Indian and Northern Affairs Canada (INAC) the federal department responsible for mining in the NWT released a discussion paper outlining proposed amendments to the *Canada Mining Regulations* (the "CMRs" below) mining royalty regime. These proposed changes included elimination of the three year royalty free period now provided for in ss. 65(3) of the CMRs. The other proposed changes include increasing the annual maximum allowances for depreciation to allow 100% recovery of capital investment before any royalty is paid, an expansion of the asset base which can be depreciated and a narrowing of the asset base which can be included in the calculation of processing allowance. These changes are proposed to be offset by an increase in the royalty rate on the first $1 million of profits to 5% and an escalating increase in maximum royalty on profits between $40 and $45 million to 13% and above $45 million to 14% from the present 12%. Canada also proposed to add a requirement for the valuation of diamond production from the NWT by a federal valuator prior to sale or export from Canada as a result of the development of Canada's first diamond mine in the Lac de Gras area of the NWT.

Consultation on these proposals took place with mining companies and industry associations, with aboriginal organizations in the NWT and with the Government of the Northwest Territories and is approaching completion.

In September 1997 INAC released another discussion paper proposing yet further changes to the CMRs which the department again labels "administrative". The proposed changes do include some clearly administrative issues such as application and issuance dates for licences and permits, conversion of units in the regulations to metric measure and fees and charges for services, products and rights.

The 1997 discussion paper also proposes some more fundamental changes including increases in the value and amount of exploration and representation work which must be filed to retain prospecting areas and claims and some tinkering with the confidentiality periods for filed work. The changes proposed appear essentially incremental but the discussion paper does not articulate Crown policy on exploration and representation work and its role in Canada's overall mineral development strategy in the NWT. Consequently, informed debate on these proposed changes will be severely hampered.

INAC plans to complete consultation on the most recent discussion paper and to combine the results of this initiative and the royalty review into one set of amendments to the CMRs scheduled for promulgation during the summer of 1998.

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For Inter-generational Justice: The Stick or the Carrot?

*by Alan Scarth**

Editor's Note: This article is in response to Ralf Buckley's article "Economic and Technology Issues in EIA" in Resources No. 59, Summer 1997.

Last spring I suggested in these pages that as Canada's environmental assessment process matures, our governments can stop their selective second-guessing of private sector decisions about the need and justification for, and the technology to be used in new development, and confine themselves to allocating biospheric capacity and regulating biospheric impact at the "end of the pipe". (*Resources*, No. 58, "No Place in the Boardrooms of the Nation").

In a subsequent issue of *Resources*, Ralf Buckley, Chair in Ecotourism, School of Applied Science, Griffith University, Australia, offered full-blooded support for government intervention in entrepreneurial investment decision, arguing that there is such uncertainty about the impact of development and the ability of current technology to control that impact, that pre-emptive assessment and approval of private sector investment decisions is appropriate. (*Resources*, No. 59, "Economic and Technology Issues in EIA").

Humor and polemic aside, the underlying issue is fundamental and far-reaching, particularly in light of our commitments at Kyoto. The issue can be stated in simple terms. The bioshpere being in the public domain, should governments proactively allocate its assimilative capacity to the perceived best advantage of this and future generations? Or should the role of government be confined to putting an appropriate cost on the use of this biospheric capacity, and letting the market regulate development?

Currently, our Canadian governments are trying to ride both horses. Some private sector developers, particularly in the resource field where they may have limited political clout and are often beholden to the Crown for leases and licences, are routinely required to prove to government regulators the need and justification for their projects, and to obtain government approval for their technology. In contrast, motor vehicle owners, each putting something like a tone of carbon into the atmosphere each year with uncertain but potentially dangerous results, are never asked whether they need to invest in a vehicle, or indeed in a second or third. Even those who use vehicles for business purposes, ecotours and such, are not asked to justify their investment or obtain approval of their choice of engine. Instead, our governments in general consider it politic to restrict their jurisdiction to the end of the tailpipes of these touchy voters, confining themselves to setting emission standards or cautiously floating the idea of a carbon tax on fuel.

Whether to use a stick or a carrot to regulate the private sector is an old debate which is familiar to us in another context. In the name of social justice, some nations have sought to control the means of production in order to better distribute its rewards. The western democracies have tended to leave the means of production to the enlightened self-interest of private sector entrepreneurs, and then tax the product of their efficiency to fund services which are meant to achieve that same social justice. It is now more than a century since Karl Marx initiated this debate, and while some will say that the jury is still out on social justice, most now agree, including apparently the current Russian and Chinese governments, that letting government bureaucrats make business decisions is a recipe for national bankruptcy.

Now, in the name of another kind of social justice, the inter-generational sharing of this world's resources, there are some people, mainly in government and the academe, who would like a re-run of the old debate. I suggest we decline to thresh this old straw, and acknowledge that the private sector should be left free to decide how to invest its money, once the costs of the investment have been adjusted to fully disclose its sustainability.

Churchill said of democracy: "No one pretends that democracy is perfect or all-wise. Indeed it has been said that democracy is the worst form of Government except all those other forms that have been tried from time to time." We can say much the same of the private enterprise system for which most democracies have opted. It's the best we know, and we hope it will be up to the inter-generational challenge, given that *Homo Sapiens* does not have a good record for long-sightedness.

The modern and urgent debate has therefore moved to the kinds of carrots which will be required to persuade the nations of the world to reduce emissions of greenhouse gases to meet the Kyoto targets. Carbon taxes, tree credits, emission trades --these and other concepts raised at Kyoto need our best scientific minds and political will. Like private enterprise here at home, the nations of the world must be given a sound and attractive range of options for the exercise of their enlightened self-interest.

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New Publications

New Directions for Public Land Law, by Steven A. Kennett, 1998. 51 pages. Occasional Paper #4. $15.00

This paper examines the role and characteristics of public land law as the basis for public land management in Canada. It argues that the establishment of coherent legal regimes for public land management should involve much more than simply the aggregation of discrete statutes and regulations dealing with land use, resource management, and environmental protection. In order to meet the needs of present and future generations of Canadians, public land law in each jurisdiction should constitute a unified body of substantive and procedural requirements that provides the basis for the *integrated* management of public land and resources.

In Search of Public Land Law in Alberta, by Steven A. Kennett & Monique M. Ross. 1998. 56 pages. Occasional Paper #5. $15.00

Public land management has been the subject of much debate in Alberta, a province richly endowed with natural resources and heavily dependent on a variety of land and resource uses for its economic well-being. This paper is intended to contribute to the discussion of legal and policy options for public land management in Alberta.

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