

Title:	Transfer of Tax Recovery Lands to Municipalities
Number:	ESRD, Public Land Management, 2015, No.1
Program Name:	Public Land Management
Effective Date:	January 22, 2015
This document was updated on:	

1.0 Introduction

This directive provides an update to the existing processes and procedures currently being followed in the transfer of tax recovery lands to municipalities and replaces two other directives: Acquisition of Tax Recovery Lands GEN 89/2, and Transfer of Tax Recovery Lands GEN 89/3.

1.1 Purpose

Environment and Sustainable Resource Development (ESRD) is responsible for managing Alberta’s public lands. This Directive provides general information about the tax recovery lands as well as the overall direction and step by step processes to ESRD staff regarding the transfer of tax recovery lands to municipalities.

1.2 Scope

This document is intended to clarify the processes and manage procedures related to the transfer of tax recovery lands to municipalities.

Most of the tax recovery lands have already been transferred to the municipalities and the major portion of the transfer of tax recovery land process has been completed. Orders in Council have been approved for the transfer of the remaining 39, 000 acres of tax recovery lands and the transfers are scheduled to be completed by the end of 2017/18 fiscal year. Since Cabinet has already approved the transfer, this directive only deals with the processes that are followed to carry out the transfers.

1.3 Background

The term Public Land applies to lands administered under the *Public Lands Act* by the Minister of ESRD and does not include land administered under other Government of Alberta (GoA) departments, for example, lands administered by Municipal Affairs and Transportation. Public Land makes up approximately 60% of Alberta’s land base, or approximately 100 million acres.

Tax recovery lands are lands that were at one time privately owned. A large amount of land, mostly in southern Alberta, became tax recovery land as a result of drought, poor farming practices and the Great Depression of the 1930s, leading many people to forfeit their land as they were unable to pay municipal taxes. Since 1930, the GoA has acquired tax recovery lands and managed them as public land. Most of this land has been under grazing leases for decades. In 1995 the repeal of the *Tax Recovery Act* and changes to the *Municipal Government Act* prompted a review of the tax recovery lands and policies involved. Subsequent to the repeal of the Act and review of the lands and policies, the GoA made the decision to transfer tax recovery lands to the municipality upon request. The practice was confirmed in 1996, 2005 and 2011 by Cabinet.

The transfer of tax recovery lands to municipalities is authorized under the *Public Lands Act* (*Public Lands Act* 2010, s.7). The Lieutenant Governor in Council may authorize the Minister (ESRD) to sell public land to a municipal corporation at a price determined by the Minister. The current practice is to transfer the lands at \$1.00 a parcel.

Once the recommendation for the Order in Council has been approved by Cabinet, the encumbrances on the land need to be cleared. The encumbrances to be cleared include: reservations (including disposition reservations [DRS]), notations, and replacement agreements for industrial dispositions.

1.4 Precautions

This directive applies only to tax recovery lands that have been approved for transfer by Cabinet through an Order in Council.

1.5 Responsibility

ESRD staff will be responsible for using this document with the supporting documents and processes identified within. The Public Lands Policy Section, as the Directive Owner, is responsible for ongoing maintenance and updates to the policy and processes described within. Revisions to this directive may be required when there are changes to the supporting documents or processes within.

The following roles are responsible for maintaining, approving, and using this procedure:

- Directive Owner: Land and Forestry Policy Branch Policy Division, ESRD
- Directive Approver: Executive Director, Land and Forestry Policy Branch, Policy Division, ESRD
- Directive Users: ESRD Policy Division, ESRD Operations Division (Provincial Programs Branch)

The Alberta Energy Regulator is authorized to: cancel or amend oil and gas related dispositions to ensure land transfer back to municipalities is successful.

1.5.1 Designation of Directors

The Minister of ESRD is authorized to designate persons as directors for the purposes of implementing the *Public Lands Act* and Public Lands Administration Regulation (PLAR). A detailed list of classifications designated as ‘directors’ for the purposes of administering sections 15 of the *Public Lands Act* is provided in the Ministerial Order 04/2014. The delegated authority for section 67 of the *Public Lands Act* is provided in the Ministerial Order 03/2014.

Staff members are expected to ensure that they have the appropriate delegation of authority and director designation prior to carrying out provisions of the *Public Lands Act* and PLAR as they relate to cancellations, amendments, and transfer of monies to municipalities.

- [Designation of Directors under the Public Lands Act-Ministerial Order 04/2014](#)
- [Delegation of authority under the Public Lands Act –Ministerial Order 03/2014](#)

2.0 Policy

2.1 Municipalities

Tax recovery land is transferred to municipalities at their request. Once tax recovery land is transferred, the municipality is responsible for the administration and management of these lands. This includes adhering to the disposition holder's existing lease rights, unless the disposition holder waives those rights. If the municipality does not want to have the tax recovery land transferred, the Province would continue to manage and administer the land under provincial ownership, as public land.

2.2 Lands with High Conservation Value

In 1990 the GoA identified approximately 9000 acres of tax recovery lands to be retained. This retention was based on an assessment of lands with national and international conservation significance. These lands were labeled as having commanding environmental sensitivity and as such, a decision was made to not transfer them to the municipalities.

In 2011, as part of an overall land use management and stewardship initiative, the government identified additional tax recovery lands of higher conservation value based on the following criteria: proximity within one mile to major (named) watercourses and water bodies; topographic features such as badlands and coulees that indicate erosion risk and potential habitat value; and proximity to other lands that remain in provincial ownership (isolated quarters were deemed to have lower value).

As a result of this evaluation, approximately 35,000 acres of tax recovery lands are being retained to achieve conservation and stewardship objectives. These lands are important to the conservation of soil and biodiversity, and watershed protection.

2.3 Formal Dispositions

When the tax recovery lands are transferred to the municipality, the municipality must honor the existing following formal dispositions types: Mineral Surface Lease, Licence of Occupation, Pipeline Agreement, Pipeline Installation Lease, and Easements. As a part of the process of transferring tax recovery land to municipalities, all formal disposition holders will be advised of the upcoming transfer to the municipality and will be asked to arrange for replacement private surface agreements with the municipality. Once replacement agreements have been obtained, ESRD will advise Alberta Energy Regulator (AER) to cancel or amend the oil and gas related dispositions. ESRD will amend or cancel non-oil and gas related dispositions. Once all encumbrances/third party interests are cleared, the land will be transferred.

2.3.1 Agricultural Dispositions

In 1996, all formal agricultural disposition holders were notified of the GoA's intention to transfer tax recovery lands to municipalities and were given one more renewal term. The last grazing lease with tax recovery lands will expire in 2017, after which all tax recovery lands will have been transferred to the municipalities. Once tax recovery land is transferred, the municipality is responsible for the administration and management of these lands.

2.4 Reservations, Notations and Agreements

Reservations are instruments used to set aside lands for other departments, governments or legal entities. Notations are instruments used to identify a management intention regarding certain land by government departments or individuals. More information about reservations and notations may be found in the PLAR Handbook of Instruments and in the Public Lands Reservation Information Guide. If there is a reservation or notation on the tax recovery land the reservation and notation needs to be removed prior to the land being transferred to the municipality. This is usually completed by amending the reservation and notation.

- [PLAR Handbook of Instruments Pursuant to Public Lands Act and Public Land Administration Regulation](#)
- [Public Lands Reservation Information Guide](#)

A Conditional Surrender of Lease (CSL) is an agreement between a disposition holder and a lender (usually a bank or another financial institution approved by the GoA) when the disposition on public land is being used as security

for a loan. More information about CSLs may be found in the PLAR Handbook of Instruments. If there is a formal disposition with a CSL attached to the disposition on tax recovery land, the approved financial institution must discharge their interest in the land prior to the lands being transferred to the municipality.

- [PLAR Handbook of Instruments Pursuant to Public Lands Act and Public Land Administration Regulation](#)

3.0 Processes

The Public Land Policy Section is responsible for managing the administration of the transfer of tax recovery lands to the municipalities. Orders in Council have been approved to transfer the remaining tax recovery lands back to the municipalities. ESRD advises the disposition holders on the lands to be transferred and provides information on acquiring replacement agreements with the municipalities and caveat registration with the Land Titles Office. Once confirmation is received from the disposition holders that they have signed agreements with municipalities, ESRD advises the AER to process the amendments and cancellations for surface dispositions related to oil and gas activities on the lands to be transferred. ESRD processes the required amendments and cancellations for dispositions not related to oil and gas activities. ESRD prepares a notification of title transfer and forwards it to the Land Titles Office for title transfer. The lands are then transferred to the municipalities, Geographic Land Information Management Planning System (GLIMPS) is updated, and the municipalities are notified.

4.0 Glossary

- **AER:** Alberta Energy Regulator
- **Agricultural Disposition:** refers to the following agricultural dispositions under the Act:
 - Grazing lease, grazing permit, farm development lease, cultivation permit, grazing license, authorization to harvest hay, head tax grazing permit (Recreational Access Regulation 2003, s.1 (1) (b)).
- **Conservation:** is the planning, management and implementation of an activity with the objective of protecting the essential physical, chemical and biological characteristics of the environment against degradation.
- **Department:** means the Department administered by the Minister (Environment and Sustainable Resource Development)
- **Disposition:** The authority granted by a regulatory body pursuant to the *Public Lands Act* to use public land for specific purposes and activities.
- **Disturbance:** in respect of public land, means human activity that moves or removes one or more of the following features of the public land or that alters or results in the alteration of the state of one or more of those features from the state in which it existed before the human activity occurred, and includes any change in the intensity, frequency or nature of the human activity:
 - Vegetation, soil, subsoil, bedrock, landform, wetland, water body or watercourse, air flow or wind currents, ambient sound volumes, light or shade.
- **Holder:** means the holder of a disposition according to the records of the Department (Environment and Sustainable Resource Development).
- **Industrial Disposition:** refers to the following dispositions: Mineral Surface Lease, Licence of Occupation, Pipeline Agreement, Pipeline Installation Lease, and Easements.

- **Minister:** means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act (Minister of Environment and Sustainable Resource Development).
- **Municipality:** a city, town, village, summer village, municipal district or specialized municipality, a town under the *Parks Towns Act*, or a municipality formed by special Act, or, if the context requires, the geographical area within the boundaries of a municipality .
- **Order in Council:** an order signed by the Lieutenant Governor in Council.
- **Rent:** includes royalties, dues, fees, rates, charges or other money payable by any person to the Crown in right of Alberta under and by virtue of any disposition, but does not include money payable as the whole or part of a purchase price.

5.0 References

To learn more about the legislation that applies to this procedure, visit the Government of Alberta Queen’s Printer.

- qp.alberta.ca
 1. *Public Lands Act*
 - Public Lands Administration Regulation
 - Recreational Access Regulation
 2. *Municipal Government Act*

5.1 Repeals

The following directives will be removed from the directory:

1. Acquisition of Tax Recovery Lands (GEN 89/2)
2. Transfer of Tax Recovery Lands (GEN 89/3)

6.0 Approval

Original signed by: _____

Date: _____

Kem Singh, Executive Director
Land and Forestry Policy Branch
Environment and Sustainable Resource Development

7.0 Appendix

7.1 Process Flowchart

