



Title:	Procedural Guidelines for Issuing Dispositions for the Purpose of Recreational Trails
Number:	1.1
Program Name:	Public Lands Policy
Effective Date:	July 1, 2018
This document was updated on:	January 30, 2018 July 19, 2018
ISBN No.	AEP Public Land Management 2018 No. 5
Disclaimer	This directive provides direction for amendments to other policies and will be reviewed after a year of implementation.

1 Introduction and Purpose

This directive provides Alberta Environment and Parks (the department, AEP) with guidelines for issuing dispositions for recreation trails and associated infrastructure on public lands.

This directive identifies:

- Triggers and considerations when determining which tool is most appropriate for issuing recreation trail dispositions.
- Standards and best practices to reduce risk to the department and recreation volunteer organizations.

Establishing and formally recognizing recreational trails and other infrastructure on public lands is of increasing importance to Albertans, and extended to the Department as agent of the public. Issuing dispositions to support the establishment of trails and relevant infrastructure must be given due consideration as an important use of public land.

AEP is responsible for managing Alberta’s public lands, except with respect to energy resource activities which is the responsibility of the Alberta Energy Regulator (AER) as defined in the *Responsible Energy Development Act* or forestry resource activities as defined under the *Forests Act* which is the responsibility of Alberta Agriculture and Forestry. For the purpose of recreation trails, AEP may issue an instrument or disposition for authorizing trails on public lands.

1.1 Background

The *Public Lands Act (the Act)* amendments that came into force on April 1, 2010 and the Public Lands Administration Regulation (PLAR) that came into force on September 12, 2011 provide the regulatory framework for dispositions. This includes issuing dispositions such as an authorization for recreational purposes or a licence of occupation. The *Act* also provides the regulatory framework for reservations such as a disposition reservation and the Regulation provides the regulatory framework for agreements.

Recreational activity on public land has been ongoing since forested and non-forested land has been made accessible by way of highways, public roadways (such as Forestry Roads), seismic

exploration and other industrial activities. This directive supports recreation management planning, sub-regional plans, and recreation management plans.¹

Recreation trails are a foundation for outdoor recreation activity on public land. Existing trails may influence the creation of new Recreation Management Plans, Regional Trail Systems, Landscape management planning, and Public Land Use Zones (PLUZs), Public Land Recreation Areas (PLRAs) and Public Land Recreation Trails (PLRTs).

Dispositions convey different rights and responsibilities. There has been variation in the disposition type used to designate trails and this has created uncertainty and risks regarding the development and management of trails. Because there is significant investment in time and money by the department and volunteer groups in creating and managing recreation trails on public land, it is important to establish an approach that recognizes and protects investments.

The desirable approach is to: develop a trail program for public land that enables construction and maintenance of trails; identify adequate monitoring and communication resources; and align with ministries who have an interest in recreation trails.

The planning for recreation trails on public land has historically been done under the direction of Integrated Resource Plans or Access Management Plans. Now, this planning is done under the direction of Land Use Framework (2008) regional plans (authorized by *Alberta Land Stewardship Act*). These regional plans provide broad direction on land use in the region, including sub-regional planning for the development of trails and management of recreation.

Currently, there are intentional and unintentional trails in Alberta on public lands.

- Intentional Trail - designated trails are created when the department receives Order in Council approval for a Public Land Recreation Trail, issues a disposition for a trail, develops sub-regional plans or a recreation management plan and specifically identifies the trail(s) as a designated trail(s), posts signs and notices in PLUZs and on vacant public land, approves notations for the purposes of recreation management plans, or approves a disposition reservation (DRS).
- Unintentional Trail - existing trails are created as a result of industrial exploration, industrial access, cumulative user trail or other linear disturbance (for example a pipeline linear disturbances that has become used by recreational users for the purposes of a trail).

1.2 Scope

This directive applies to the following instruments or dispositions:

- Authorization Recreation Trail
- Licence of Occupation (DLO)
- Disposition Reservation (DRS)
- Agreements (Recreation Trail Agreement [under DRS])

PLAR applies to public land administered under the *Public Lands Act*, WAERNAHRA lands and the Willmore Wilderness Park. PLAR does not apply to Wildland Provincial Parks, Provincial Parks or Provincial Recreation Areas; these lands are administered under the *Provincial Parks Act*. Within the *Provincial Parks Act*, recreation dispositions are authorized under section 83 of *Provincial Parks (Disposition) Regulation* which includes leases, licences, and miscellaneous permits.

¹ *Public Land Act* 8(f.3), 9(a.1), 11.1(a)

1.2.1 Out of Scope

Alberta Parks may follow a similar protocol to ensure alignment between recreation trails on public land and on lands contained within the parks system after consideration of numerous values including Land Use Framework regional plans, regional park management plans, and provided that the activity is not harmful to the area's natural or cultural resources or detrimental to the public's use and enjoyment of the area.

1.3 Precautions and Responsibility

This directive is intended to assist with consistency of Directors' decision making where appropriate without fettering their individual discretion.

The Operations Division as the main user of this directive is responsible for ensuring that Directors follow the policy direction and processes on an ongoing basis. The Recreation Management Section, as the Directive Owner, is responsible for ongoing maintenance and updates to the directive and processes described in this directive. More specifically, the following roles are responsible for maintaining, approving and using this procedure:

- Directive Owner: AEP Operations Division, Provincial Programs Branch, Recreation Management Section
- Directive Approver: AEP Executive Director Operations Division, Provincial Programs Branch and Executive Director Policy and Planning Division, Land Policy Branch
- Directive Users: AEP Operations and the Policy and Planning Division

1.3.1 Decision Makers

The Minister of AEP is authorized to designate persons as Directors for the purposes of implementing the *Public Lands Act* and PLAR. Designations under the *Public Lands Act* and PLAR are made to persons holding certain classifications. A detailed list of these classifications are found in a Ministerial Order setting designations of Directors for the purposes of setting terms and conditions for a disposition, authorizing the entry onto and occupation of public land (sections 15 and 20 of the *Public Lands Act*) and applications for disposition (sections 9-12 of PLAR).

- Ministerial Order: Designation of Directors under the *Public Lands Act*, Forest Land Use and Management Regulations and Public Lands Administration Regulation

2 Merit Decision Review

The Director must consider all of the elements outlined in Section 3 when making a decision on a designated trail.

In undergoing the merit review phase it may be necessary for the Director to enter into a referral process with other subject matter experts and agencies when considering trail applications. It will be at the discretion of the Director to determine which applications should be referred and to whom.

3 Instruments or Dispositions for Administering Recreation Trails on Public Land

Instrument or Disposition	Explanation	Term	Application Process and Additional Requirements	Fees	Approval Timelines
Authorization Recreational Trail	<p>An authorization is adequate for the construction or maintenance of trails</p> <p>May be issued to third party organizations for recreation trails identified in a:</p> <ul style="list-style-type: none"> • Public Land Use Zone, • Public Land Recreation Area, • recreation management plan, • regional plan or sub-regional plan <p>Preferred disposition type where new or existing trail investments are expected and where there is an interest in maintaining infrastructure</p>	Up to five years	<ul style="list-style-type: none"> • Must not have any unresolved compliance concerns related to any other disposition held in their name • Comply with the Government of Alberta's First Nation and Metis Settlement consultation policy requirements • Obtain approval from qualified aquatic environment specialist for water crossings <ul style="list-style-type: none"> ○ Bridge construction aligns with Code of Practice for Watercourse Crossings, if required, or the Trails Classification, Design and Construction Guidelines • Complete form FIN96 (non-staff volunteer activity/project approval) and form FIN98 (non-staff volunteer agreement for organizations) to outline the scope of work <ul style="list-style-type: none"> ○ may not be required if the Authorization identifies all possible work ○ may be a supplement to the Authorization for specific projects not previously identified in the Authorization ○ may not be required if the organization is doing work on its own behalf • Obtain consent from the disposition holder if there is an overlapping disposition • Align with the Trails Classification, Design and Construction Guidelines • Apply applicable conditions • Further information available in PLAR Approvals and Authorization Administrative Procedures 	<p>Fees may be applied</p> <p>No rent, no security</p>	30/90 days

Instrument or Disposition	Explanation	Term	Application Process and Additional Requirements	Fees	Approval Timelines
Licence of Occupation (DLO)	<p>Issued for new or existing trails that support recreational opportunity outside planning frameworks on vacant public land where there is no Recreation Management Plan or land designation</p> <p>Provides the conditions and authority for construction and ongoing maintenance of the trails through the life of the disposition</p> <p>May not be issued when a trail is:</p> <ul style="list-style-type: none"> • of provincial or regional significance such as a TransCanada Trail • within a Public Land Use Zone • within a Public Land Recreation Area 	5+ years	<p>As sub-regional plans or recreation management plans are completed, trails under DLO may be canceled and designated differently</p> <p>Director must ensure:</p> <ul style="list-style-type: none"> • Compliance with the Government of Alberta's First Nation and Metis Settlement consultation policy requirements • Alignment with the Trails Classification, Design and Construction Guidelines • Bridge construction alignment with Code of Practice for Watercourse Crossings, if required, or the Trails Classification, Design and Construction Guidelines • Proof of insurance is provided that is reflective of the activity's level of risk to organization and department • Consent is obtained from the disposition holder if there is an overlapping disposition <p>Security amount for the purpose of reclamation is at the discretion of Director by considering the following:</p> <ul style="list-style-type: none"> ○ Risk of spreading invasive or noxious weeds due to activity type ○ Risk of contamination due to activity type ○ Amount of infrastructure ○ Surface type and cost of reclamation ○ Applicable conditions 	Fees and/ or rent will be applied	1 year

Instrument or Disposition	Explanation	Term	Application Process and Additional Requirements	Fees	Approval Timelines
Dispositions Reservation (DRS)	<p>Department maintains trail operations but may assign maintenance to a third party</p> <p>May be issued to the department for new or existing trails that are of provincial significance (for example: Trans Canada Trail Project on public lands, Provincial Trail Network, Regional Trail Network or interconnection between Public Land Use Zones)</p> <ul style="list-style-type: none"> • May run parallel to another formal disposition such as a DLO for road access • May take over an expired disposition previously held by a third party • A Recreation Trail Agreement can be created with a third party to operate or maintain the DRS • May receive Order-in-Council under the Regulation, Schedule 6 <p>Utilizing Reservations (Notations) - when an area of significance is identified solely for recreational purpose however no management capacity or resources are available to establish a trail network, a Reservation (Notation) is the most appropriate tool in identifying activities that are permitted or prohibited in a designated, multi-use recreation area.</p>	5+ years	<p>When designated a trail under a disposition reservation (DRS), the following must be considered:</p> <ul style="list-style-type: none"> • The sub-regional plan and/or any recreation management plans • Whether the trail supports either a regional trail network or provincial trail network • If the trail is recognised by the region as a benefit to the public • If the trail, or portion of, is considered an existing trail and consider why the trail is reasonable to convert to a designated trail • Approval of water crossing from qualified aquatic environment specialist <ul style="list-style-type: none"> ○ Bridge construction aligns with Code of Practice for Watercourse Crossings, if required, or the Trails Classification, Design and Construction Guidelines • Compliance with the Government of Alberta's First Nation and Metis Settlement consultation policy requirements • Mapping requirements <ul style="list-style-type: none"> ○ A sketch plan ○ The department may require a legal survey • Risk reduction strategies for design, construction and/or maintenance as outlined in the Trails Classification, Design and Construction Guidelines • A DRS may overlap some dispositions only when a Land Use Agreement is in place with the other disposition holder 	Fees may be applied	N/A

Instrument or Disposition	Explanation	Term	Application Process and Additional Requirements	Fees	Approval Timelines
Signs and Notices	<p>Department maintains trail operations</p> <p>The department may permit or prohibit activities through signs posted in the area or through notices including printed maps, digital maps, printed information or on-line information.</p> <p>Signs and Notices are used to identify trail boundaries, closures, permissible use, and prohibited use within:</p> <ul style="list-style-type: none"> • Public Land Use Zone • Public Land Recreation Area • Public Land Recreation Trail 	n/a	<p>When approving trails through posted signs or written notice (i.e. maps), the following must considered:</p> <ul style="list-style-type: none"> • Approval for water crossing from qualified aquatic environment specialist <ul style="list-style-type: none"> ○ Bridge construction aligns with Code of Practice for Watercourse Crossings, if required, or the Trails Classification, Design and Construction Guidelines • Compliance with the Government of Alberta's First Nation and Metis Settlement consultation policy requirements • Risk reduction strategies for design, construction and/or maintenance as outlined in the Trails Classification, Design and Construction Guidelines 	No fee	n/a
Agreement - Recreation Trail Agreement	<p>Issued to a third party, this stand-alone agreement standardizes the scope for the maintenance of a recreation trail when under government held disposition (DRS)</p> <p>When a trail is not under disposition but is designated as a trail within a Public Land Use Zone, Public Land Recreation Area, or as a Public Land Recreation Trail, forms FIN 96 and 98 are required</p>	Up to 5 years	<p>The Agreement will:</p> <ul style="list-style-type: none"> • Define scope of work and limitations for recreation trail maintenance • Outline required insurance reflective of the activity's level of risk to organization and department <p>Form FIN96 (non-staff volunteer activity/project approval) and form FIN98 (non-staff volunteer agreement for organizations) will:</p> <ul style="list-style-type: none"> ○ Outline the scope of work and terms of Authorization and a schedule to provide reporting and monitoring <p>Terms of work are aligned with risk reduction strategies:</p> <ul style="list-style-type: none"> • Trails Classification, Design and Construction Guidelines • Standards and regulations associated with <i>Occupational Health and Safety Act</i> 	No fee	n/a

3.1 First Nations and Metis Settlements Consultation

The Government of Alberta has a legal duty to consult with First Nations when a proposed Crown decision has the potential to adversely impact rights that are recognized and affirmed by section 35 of the Canadian Constitution Act, 1982. These rights include Treaty Rights, as modified by the Natural Resources Transfer Agreement (NRTA), which allow First Nations to hunt, fish, and trap for food on unoccupied provincial Crown land or on other lands where access is allowed for those purposes.

The Government of Alberta has committed to consult with First Nations before making land use decisions that may adversely impact First Nations' Treaty Rights or Traditional Uses as outlined in *The Government of Alberta's Policy on Consultation with First Nations on Land and Natural Resource Management* (2013) and *The Government of Alberta's Guidelines on Consultation with First Nations on Land and Natural Resource Management* (2014).

The Government of Alberta has also committed to consult with Metis Settlements before making land use decisions that may adversely impact Metis Settlements' members' harvesting or traditional use activities. Consideration should also be given to *The Government of Alberta's Policy on Consultation with Metis Settlements on Land and Natural Resource Management* (2015) and *The Government of Alberta's Guidelines on Consultation with Metis Settlements on Land and Natural Resource Management* (2016).

- [Indigenous Consultation Policy and Guidelines](#)

There is a possibility that First Nation or Metis Settlement consultation may be required for permitting or prohibiting activities associated with recreation trail instruments or disposition. There should be consideration whether they have the potential to have an adverse impact on First Nations' Treaty rights, traditional uses or Metis Settlements' members' harvesting or traditional use activities. The following considerations may be helpful in evaluating whether a proposed DRS or LOC application has the potential to have an adverse impact:

- The size, location, intensity and duration of the impact.

Further referral to the Aboriginal Consultation Office (ACO) at the Ministry of Indigenous Relations is recommended if it is determined that there may be potential adverse impacts.

4 Fees

Current fees associated with dispositions are outlined in Ministerial Order Public Land Rents and Other Amounts Payable.

- Ministerial Order: [Public Lands Rents and Other Amounts Payable Order](#)

5 Appeals

PLAR provides an appeal mechanism for specific decisions made by a regulatory body (PLAR s.211). Certain people have standing to appeal the above decisions. A person to whom the decision was given may have standing and a person, including a commercial user referred to in section 98 of PLAR that is directly and adversely affected by the decision has standing (PLAR s.212 (1)).

Definitions

“agreement” means, when a trail is under a land or disposition reservation, a contract between the department and an agency.

“aquatic environment specialist” means the specialist as defined in *Environmental Protection Enhancement Act*, Code of Practice for Watercourse Crossings.

“classification” means, with regards to recreation trails, a specific width, travel surface and other construction best practices typically associated with a specific activity. Classifications provide a maximum disturbance standard and align with the Trails Classification, Design and Construction Guidelines, in support of developing a trail.

“Director” means the Director designated for the purposes of section 20 of the *Public Lands Act*.

“designated trail” means, through regional and sub-regional planning process or through a regional management plan, an area or linear disturbance (trail) identified for a specific activity or activities. Trails are mapped, signed, and maintained. For the purpose of this directive, ‘recognized trail’ is interchangeable with the term ‘designated’ as a trail in Kananaskis Trail System.

“existing trail” means a linear disturbance that is used for recreation travel, typically a user-created trail, however not necessarily approved as a designated trail. The trail may not have a recreation management plan to support its existence.

“experience” means the experience that is delivered by the trail and its surroundings. Experiences fall into three categories: Primitive Trails, Semi-Developed Trails and Developed Trails.

“Form FIN96” means an Environment and Parks form for Non-Staff Volunteer Activity Event Approval.

“Form FIN98” means an Environment and Parks form for Non-Staff Volunteer Agreement for Organizations.

“operator” means, for the purpose of this directive, a business with paying clients or an association with paying members that has been given the authority to maintain a recreation trail. The activity may be considered for public benefit or for commercial interest.

“provincial significance” means the trail is part of or connects to Trans Canada Trail or connects Public Land Recreation Areas, Public Land Recreation Trails, Provincial Recreation Areas, Provincial Parks and/or Public Land Use Zones.

“recreation trail agreement” means a formal agreement with an organization or business on recreation trails that are designated and approved. Agreements are only permissible if the designated trail is under disposition (DRS).

“recreation trail authorization” is a Temporary Field Authorization with a recreation trail purpose code, issued under Section 12 of Public Lands Administration Regulation. Authorizations are issued for short term (less than five years) access of vacant public land allowing a person or organization to enter and occupy land for a specified purpose.

“trail” means a signed and mapped travel-way for motorized or non-motorized use that has an evident tread (in summer), is developed and maintained to a prescribed standard, cleared area does not exceed in width 4.5 metres (15 feet) on either side of the centre line, and includes trailhead and associated infrastructure.

“trail construction manual” means Trails Classification, Design and Construction Guidelines.

“user created trail” see existing trail.

Signed by: _____

Date: July 19, 2018

Jeff Reynolds, Acting Executive Director
Provincial Programs Branch
Environment and Parks