

Surface Materials *Historical Resources Act* Compliance

This Bulletin is issued to assist surface materials proponents in ensuring that their projects are compliant with the *Historical Resources Act*. Under the *Act*, surface materials operations conducted in the Province of Alberta must conform to the procedures outlined below. This applies equally to operations on private or public land. This Bulletin provides guidance for the following:

- A. For surface materials operations less than five hectares in size on public land or Class 2 pits as defined in the Code of Practice for Pits on private land
- B. For surface materials operations five hectares (12.5 acres) or larger on public land, or Class 1 pits as defined in the Code of Practice for Pits on private land
- C. General conditions for all developments

A. For surface materials operations less than five hectares in size on public land or Class 2 pits as defined in the Code of Practice for Pits on private land, the proponent must consult Alberta Culture's *Listing of Historic Resources*¹ prior to initiation of any development activities. There are three possible outcomes:

- 1. **Project components do not overlap any lands contained on the *Listing of Historic resources*.** If there is no overlap, there is no requirement to seek *Historical Resources Act* approval. It is not necessary to contact Alberta Culture and the proponent may proceed with the project as planned.²
- 2. **Project components wholly or partially overlap lands identified on the *Listing of Historic Resources* as having Historic resources Value (HRV) of 5.** Given that lands with an HRV of 5 are considered to have “high potential” but do not contain known

¹ Alberta Culture's *Listing of Historic Resources* is updated twice yearly and can be found at: <http://culture.alberta.ca/heritage/resourcemanagement/landuseplanning/default.aspx>

² It is important for all proponents to understand that even if *Historical Resources Act* approval is not required prior to the initiation of land surface disturbance, or if *Historical Resources Act* approval has been granted, Section 31 of the *Act* requires that anyone who discovers an historic resource, such as an archaeological, palaeontological, historic structures or Aboriginal Traditional Use site, during the course of development must notify Alberta Culture immediately for direction on the most appropriate action.

historic resources sites, there is no requirement to seek *Historical Resources Act* approval. It is not necessary to contact Alberta Culture and the proponent may proceed with the project as planned.²

3. **Project components wholly or partially overlap lands identified on the *Listing of Historic Resources* as having HRV 1, 2, 3 or 4.** In this case, the land parcel contains significant historic resources and the proponent must obtain *Historical Resources Act* approval prior to proceeding with the project. Before applying for *Historical Resources Act* approval the proponent should consider redesign of the project components to avoid HRV 1 to 4 lands. If avoidance is possible see points 1 and 2 above. Otherwise, to obtain *Historical Resources Act* approval for a project, one of two methods may be employed:

- 3.1 The proponent or their agent may submit a Historic resources Application, providing details of the project footprint, anticipated impacts and scheduling. The *Application* must be accompanied by a detailed map and GIS file³ (where available). The application is submitted through Alberta Culture's Online Permitting and Approval (OPaC) system (www.opac.alberta.ca). Alberta Culture will review the application and respond in writing with specific requirements the proponent must satisfy to receive *Historical Resources Act* approval for the project. Completion of the requirements is likely to require the involvement of a qualified historic resource consultant to complete work under an approved permit.

OR

- 3.2 Prior to submission of a Historic Resources Application, as outlined above, the proponent may engage the services of a qualified historic resources consultant to provide a pre-application table-top screening to determine the likelihood of the project affecting recorded historic resource sites. This pre-screening may indicate:

- 3.2.1 Despite overlap between project components and lands contained on the *Listing of Historic Resources*, there are no direct conflicts between the project components and specific historic resource sites areas identified as HRV 1 to 4.

- 3.2.2 Redesign of the project components will avoid conflict with specific historic resource site areas identified as HRV 1 to 4.

Based on scenarios 3.1 and 3.2, the consultant may recommend development approval. A Statement of Justification including a mitigation/avoidance plan that outlines measures the proponent will undertake to avoid impact to historic resources must be submitted to Alberta Culture with an accompanying Historic Resources Application. The historic resource consultant's Statement of Justification will be reviewed by Alberta Culture. If Alberta Culture agrees with the recommendations and mitigation/avoidance plan, no further work will be required and written *Historical Resources Act* approval to

³ ESRI Shapefile or ESRI Feature Class using NAD 83 datum and 10TM AEP Forest projection.

proceed with the project will be granted². If Alberta Culture does not agree with the recommendation and/or the mitigation/avoidance plan, they will respond in writing with specific requirements the proponent must satisfy to receive *Historical Resources Act* approval for the project.

Where it is impossible to design a project that will avoid impact to all historic resource sites, a Historic Resources Impact Assessment (HRIA) may be required. The historic resources consultant's recommendation for an HRIA must be communicated to Alberta Culture through the submission of a Historic Resources Application, as outlined above.

Should the proposed project overlap lands with an HRV 1 (Provincial Historic Resources) or HRV4c (Aboriginal Traditional Use Sites) the proponent must refer to “general conditions for all developments” below.

B. For surface materials operations five hectares (12.5 acres) or larger on public land, or Class 1 pits as defined in the Code of Practice for Pits on private land:

Applicants must apply for *Historical Resources Act* approval through Alberta Culture's Online Permitting and Approval (OPaC) system (www.opac.alberta.ca) for ALL proposed surface materials developments over five hectares in size. Development activities may not proceed until *Historical Resources Act* approval has been obtained. Information regarding the OPaC system may be found at: <http://culture.alberta.ca/heritage/resourcemanagement/archaeologyhistory/researchpermitmanagementssystem/OPaC.aspx>.

Activities that are targeted for lands that will, or are likely to, contain significant historic resource sites may require the conduct of a Historic Resources Impact Assessment prior to onset of development activities. If required, this assessment must be conducted by a qualified historic resources consultant on behalf of the proponent, at the proponent's expense.

A copy of the *Historical Resources Act* approval document must be included with the Conservation and Reclamation Business Plan (CRBP) that is submitted to Alberta Environment and Sustainable Resource Development.

C. General conditions for all developments

1. HRV 1- Designated Lands

Surface mineral projects proposed for lands identified as HRV1 (designated Provincial Historic resources) **MUST** obtain Ministerial Approval. Application for Ministerial Approval must be made by contacting the Manager of the Heritage Conservation Advisory Services Unit of Alberta Culture. Additionally, if the project requires the conduct of an HRIA the proponent's historic resources consultant also must obtain Ministerial Approval for access to the HRV 1 lands prior

to undertaking the HRIA. **Please be advised that approval for a mineral surface development is likely to be denied for HRV 1 lands.**

2. HRV4c - Aboriginal Traditional Use Sites

If project components overlap lands with HRV 4c notations (Aboriginal Traditional Use sites) proponents may be required to conduct consultation with appropriate First Nation(s). Alberta Culture will communicate directly with the proponent to outline specific compliance requirements or issue *Historical Resources Act* approval to proceed.

In accordance with the *Government of Alberta's First Nations Consultation Policy on Land Management and Resource Development*, Alberta Culture delegates procedural aspects of consultation with First Nations to industry proponents whose activities may adversely affect Aboriginal Traditional Use Sites of cultural significance that appear on the *Listing of Historic Resources*. In circumstances where consultation with First Nations is required by Alberta Culture, a consultation report must be submitted to the Historic Resources Management Branch. The assessment of adequacy of First Nation consultations is required prior to receiving *Historical Resources Act* approval for the development.

Traditional use sites that are accepted as historic resources under the *Historical Resources Act*:

- Historic Cabin Remains
- Historic Cabins (Unoccupied)
- Cultural or Historic Community Camp Sites
- Ceremonial Sites/Spiritual Sites
- Gravesites
- Historic Settlement/Homesteads
- Historic Sites
- Oral History Sites
- Ceremonial Plant or Mineral Gathering Sites
- Historic Trail Features
- Sweat/Thirst/Fasting Lodge Sites

3. Discovery of Quaternary Palaeontological Resources

Quaternary (Ice Age) palaeontological resources (fossils) are often associated with gravel deposits and may be encountered during gravel extraction activities, even on lands that have no HRV hits on the *Listing of Historic Resources*. In these instances all proponents should be aware of their obligations under the *Historical Resources Act* (Sec. 31). Should a fossil be encountered during gravel extraction activities, the operator must move the fossil(s) to a safe and secure location and contact Dan Spivak, Head, Resource Management Program at (403) 820-6210 or dan.spivak@gov.ab.ca at the earliest possible opportunity. Work may continue in the area conditional on all fossils being removed for pick up by Alberta Culture. It should be noted that Ice Age fossils are rarely petrified, and quite often look similar to the skeletons of modern animals.

For information regarding:

Listing of Historic

resources: <http://culture.alberta.ca/heritage/resourcemanagement/landuseplanning/default.aspx>

Historic resources Application:

<http://culture.alberta.ca/heritage/resourcemanagement/archaeologyhistory/researchpermitmanagementsystem/OPaC.aspx>

Historic resources Impact

Assessments: <http://culture.alberta.ca/heritage/resourcemanagement/archaeologyhistory/resourcesimpactassessments.aspx>

For further information please contact:

Head, Land Use Planning

Historic resources Management Branch

Alberta Culture

Office (780) 431-2301 Fax (780) 427-3956

<http://culture.alberta.ca/heritage/resourcemanagement/landuseplanning>

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