



**Miistakis  
Institute**

# **ALSA Tools and Municipalities**

*An informational webinar series*

*Conservation Directives*

*Jason Unger*

*Environmental Law Centre*



Environmental  
Law Centre

# Conservation Directives: an unknown hope?

Jason Unger, Executive Director

February 7, 2017

# The ELC

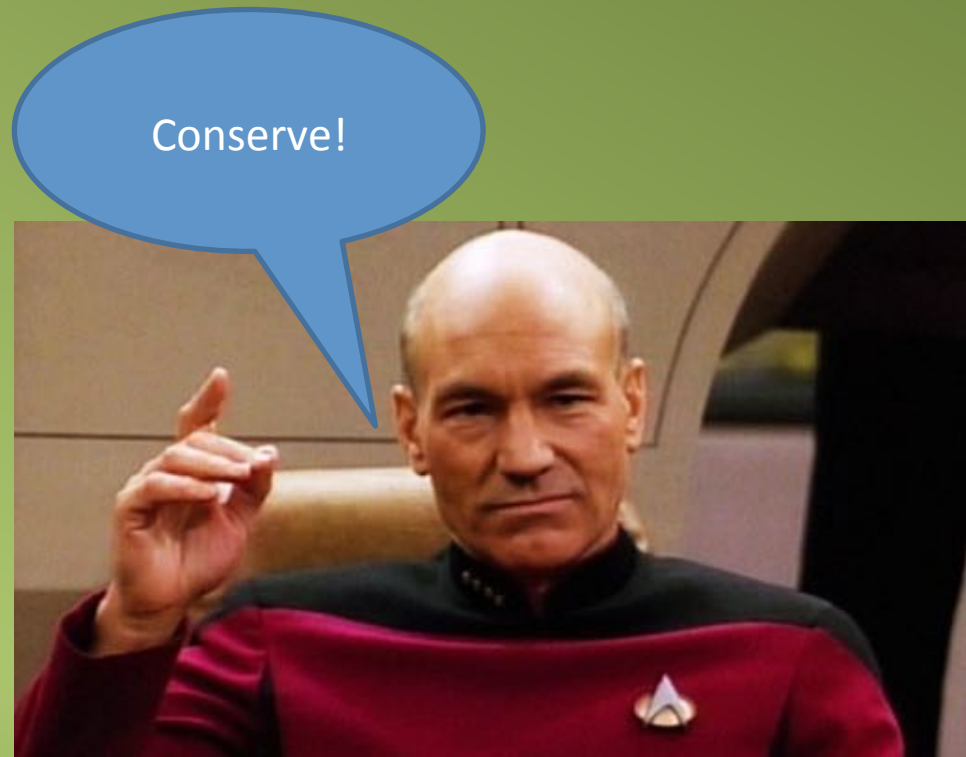
- **Vision:** A society where laws secure an environment that sustains current and future generations
- **Our mission:** To educate and champion for strong environmental laws and rights so that all Albertans can enjoy clean air, clean water and a healthy environment.
- Registered charitable organization



# Purpose

- To boldly go where no provincial government had gone before...

With \$\$\$\$



# Background

- Land Use Framework (2008)
- Strategy 4: Develop a Strategy for conservation and stewardship on private and public lands



# Legislative support

- Alberta Land Stewardship Act (2009)  
–amendments follow
- LARP approved 2012
- SSRP approved 2015  
(updated 2017 to reflect changes in the Castle region)
- NSRP?
- Land stewardship tools
  - Conservation Easements
  - Tradable development credits
  - Offsets
  - Banking
  - Conservation directives




# Legislation sent them out, never to return?!

- The red shirts of regulations and policy, i.e. the political sacrificial lamb?
- Conservation and Stewardship policy missing in action



# CD - Approach

- Provincial based land use zoning
- Can be imposed
- Right to apply for compensation



Da\$%it Jim,  
we're the GOA  
not a land trust





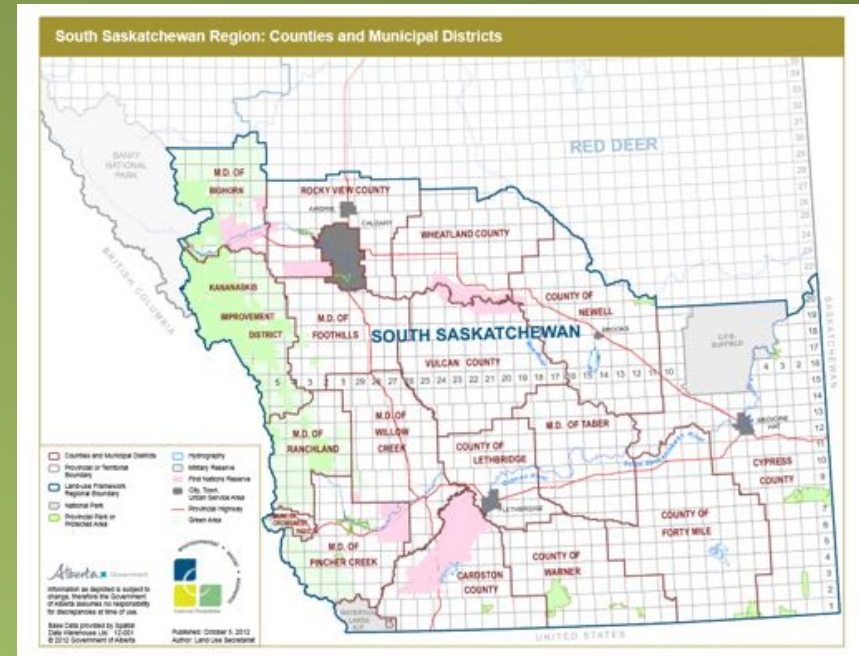
# What's in a CD?

- “permanently”
  - protect,
  - conserve,
  - manage and
  - enhance
- Values
  - Environmental
  - Natural scenic
  - Esthetic
  - Agricultural values



# What's in a CD?

- Express declaration in a regional plan
  - “Precise nature” & “purpose” and the “intended protection, conservation, management or enhancement”
  - Identify OR prescribe the means of identifying lands.
- “not an estate or interest in land”



Alberta Environment and Parks, Regional Plans,  
online: <https://landuse.alberta.ca/SiteCollectionDocuments/SSR%20Counties%20and%20Municipal%20Districts%20with%20Townships%20Map%202012-10.pdf>





# Process

- Title holder must be given notice, including
  - Identify the estate or interested affected
  - Includes a copy of the CD and purpose
  - the right to apply for compensation if they feel value is decreased.
  - Process of application
  - Right to go to Queen's Bench instead of compensation board
- Has a right to apply for compensation
  - Who has the right?
  - Title holder
    - Fee simple
    - Occupier
    - persons with estates or interests on the records at land titles or the department administering the land
  - Excludes mineral lease holder



# Compensation application

- 12 months from notice of CD
- If entitled
  - Amount of decrease in market value of estate or interest resulting solely from the express declaration of the CD and determined as of the date the CD became effective
  - Damage to injurious affection resulting from CD
  - Or damages set out in regs.
- Crown decides whether it is payable and amount
- Disagreement - Appeals (re amount) to Land Compensation Board or Alberta Court of Queen's Bench.
- Payable by the provincial government



# \$\$ and ALSA

- Cabinet is responsible for establishing, supporting or facilitating funding and cost-sharing initiatives, mechanism and instruments to support or enhance ...conservation directives (s.25).
- May be delegated to stewardship Minister



Huffington post,  
[http://www.huffingtonpost.ca/2013/08/26/spock-canadian-5-bills-snape-photos\\_n\\_3818218.html](http://www.huffingtonpost.ca/2013/08/26/spock-canadian-5-bills-snape-photos_n_3818218.html) citing  
imgur.com/J2ZQz0H

- MBI pilots enabled
- Any tax based measures must be approved by Treasury Board and Minister of Finance



# Regulations – need to beamed up

- Process for considering claims
- Respecting deductions from compensation for other compensation received.
- Terms and conditions that attach to CD (or classes of CDs)
- Notice
- Enforcement
  - local authorities and qualified organization appointees
- Registration at land titles & notice
- Amendments and termination or repeal of CDs
- Identifying “title holder”



# Municipal authority unaffected

- Except for CD itself
- Processes and rights outlined in ALSA do not detract from powers in part 17 of MGA





# Differ from existing tools

- Can be imposed
- Cabinet approval
- Cabinet may require a list of candidate areas
- Consultation on regional plans generally
  - Not necessary to specifically consult on CD per se.
- Major tool for province for conservation purposes (others are more management oriented)
- Enforceable against crown and individuals
- Discretion to authorize things contrary is limited



## Conservation Reserves

- Ownership change
- Municipal \$
- Municipal Enforcement
- Municipal monitoring
- FMV for fee simple
- No need for cabinet !!

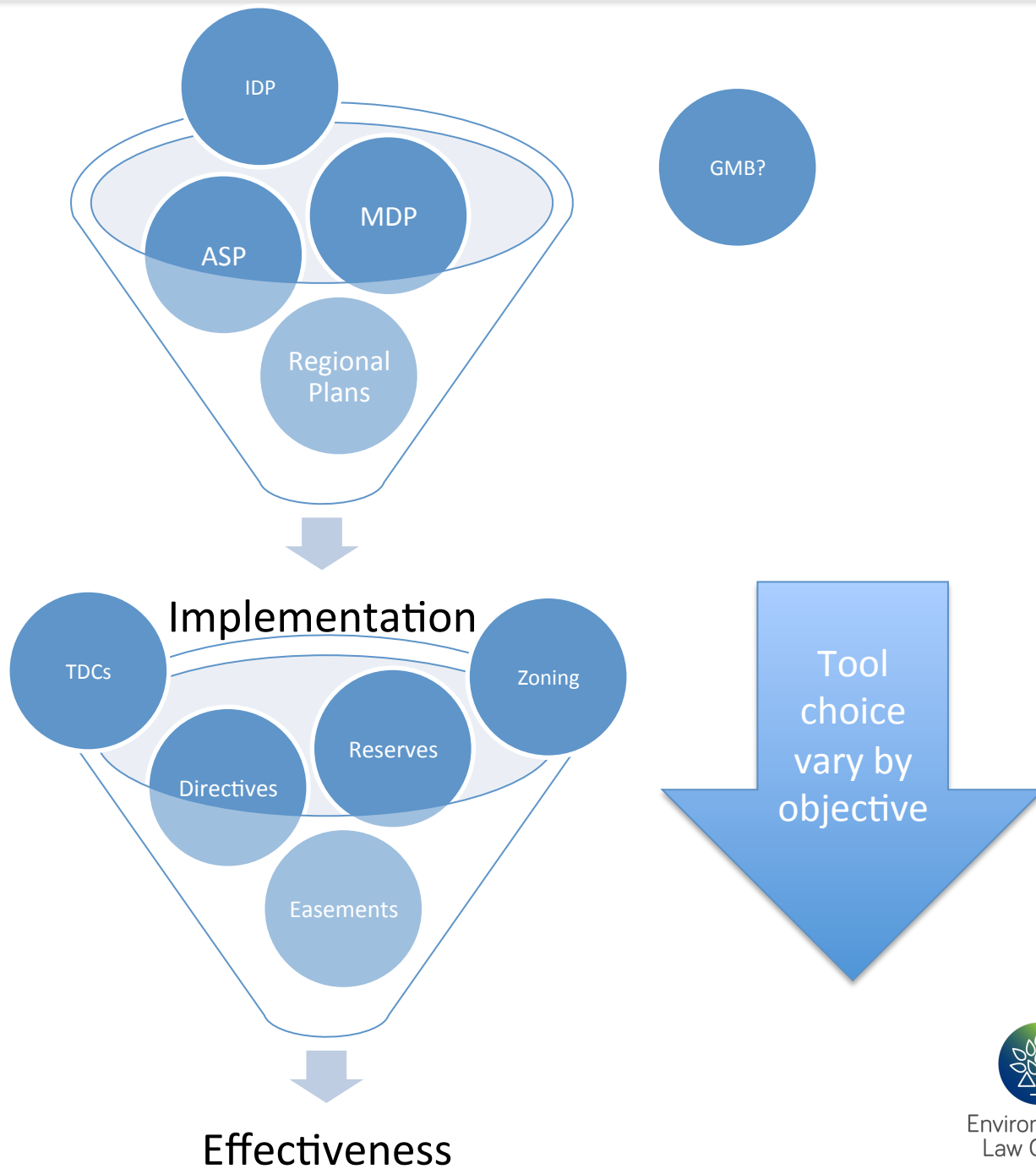


## Conservation Directives

- No ownership change
- Provincial \$
  - Municipal contribution???
- Provincial monitoring and enforcement (give up enforcement control)
  - Or delegate???
- \$\$ determined by minister and may be interest in land less than fee simple
- Can prohibit Crown interests (e.g., mineral tenure, oil and gas development)



# CDs and municipal planning



# Barriers

- Perceptions of centralized planning
- Regional plans – from inkling to inking?!
- Compensation = chilling effect
- Lack of precedent
- Policy and regulation vacuum



# Opportunities

- Potential uses
  - Integrated planning
    - Provincial/municipal & intermunicipal
  - Support of private conservation/land trust efforts
  - Preservation of land use (agricultural, forestry, recreation)
  - Wildlife corridors.
- Provincial and municipal goals for public land



# Piloting CD's

- Focus on voluntary adoption
  - Assessment and planning focus
  - Ability to collaborate and cost share?
- May be of value to overcome inter-municipal concerns or planning and development conflicts
- Minimize liability risks related to planning/development decisions



- Eastern slopes
  - Viewshed
  - Headwater/water towers
- Range lands/grasslands
- Wildlife corridors



Calgary Herald, <http://calgaryherald.com/news/local-news/wildlife-expert-quits-canmore-group-saying-developers-ignoring-ideas-on-preserving-corridors>



Pekisiko Group,  
[http://www.pekisko.ca/pk\\_about.html](http://www.pekisko.ca/pk_about.html)



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...time to go where no one has gone before!



Live long and  
have a  
prosperous  
environment



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# Discussion



## Environmental Law Centre

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