

October 20, 2010

The Honourable Mel Knight
Minister, Alberta Sustainable Resource Development
#404 Legislature Building
10800-97 Avenue
Edmonton, AB T5K 2B6

Via Fax (780) 415-4818
and Courier

Dear Minister Knight:

**Re: Proposed Sale of 25 Sections of Public Land on Bow Island Provincial
Grazing Reserve**

I am writing on behalf of Ecojustice Canada regarding the proposed sale of 25 sections of public land located on the Bow Island Provincial Grazing Reserve at Townships 12 and 13, Ranges 10 and 11, West 4 ("the Land") to SLM Spud Farms for conversion into irrigated cropland for potato production.

Ecojustice Canada, along with numerous environmental organizations, is concerned about the sale of the Land. It is comprised of native grassland, which is important for ecological sustainability and biodiversity. The Alberta Government recognized the importance of the Land when it identified it as *Nationally Significant* in its Environmentally Significant Areas map.

Species-at-Risk

The Land proposed for sale and cultivation is home to at least four species listed as 'Endangered' or 'Threatened' under Canada's *Species at Risk Act*, S.C. 2002, c. 29 ("*Species at Risk Act*") and Alberta's *Wildlife Act*, R.S.A. 2000, c. W-10 ("*Wildlife Act*"), including the Burrowing Owl, Ferruginous Hawk, Sprauge's Pipit, and Loggerhead Shrike. The Land is also home to several species assessed as 'Special Concern' under the *Species at Risk Act*. There are likely other species-at-risk living on the Land, but an adequate survey has not been conducted to know the full extent of the species located on the Land.

Burrowing Owls

Research indicates that the Land is locally important to breeding Burrowing Owls and has very high potential as a nesting area. Alberta Sustainable Resource Development's Habitat Suitability Index Modelling indicates that it contains large amounts of highly suitable Burrowing Owl habitat. The Alberta Species at Risk Report, which was recently prepared for Alberta Sustainable Resource Development, indicates that the Land contains above average Burrowing Owl habitat.

Ferruginous Hawk

Alberta Sustainable Resource Development's Habitat Suitability Index Modeling indicates that the Land contains habitat suitable for Ferruginous Hawks. Alberta Sustainable Resource Development's Fish and Wildlife Management Information System contains records of Ferruginous Hawks nesting on the Land.

Sprauge's Pipit

Research indicates that the Land has very high potential for Sprauge's Pipit nesting. Alberta's Natural History database indicates that the Land is a probable breeding ground for Sprauge's Pipit, and Alberta Sustainable Resource Development's Habitat Suitability Index Modeling indicates that the Land contains habitat suitable for Sprauge's Pipit.

Loggerhead Shrike

Alberta Sustainable Resource Development's Habitat Suitability Index Modeling indicates that the Land contains habitat suitable for Loggerhead Shrike.

Legal Protections for Species-at-Risk

Sale of the Land for use by a potato producer would likely result in the destruction of members of species-at-risk, their nests or their burrows, and would be contrary to the *Species at Risk Act*, the *Migratory Birds Convention Act*, S.C. 1994, c. 22 ("*Migratory Birds Convention Act*") and the *Wildlife Act*.

The Borrowing Owl and the Ferruginous Hawk are protected as Endangered species under the *Wildlife Act*, which prohibits anyone from disturbing or destroying the house or nest of either species. They are also protected under the *Species at Risk Act*, as Endangered (Burrowing Owl) and Threatened (Ferruginous Hawk) species. The *Species at Risk Act* requires that a national recovery strategy be prepared for these species, including the identification of their critical habitat. A draft national recovery strategy has been prepared for the Burrowing Owl, but further research is currently underway to determine whether critical habitat exists on the Land. Until that determination has been made in the final national recovery strategy, the Land should not be sold.

The Sprauge's Pipit and Loggerhead Shrike are protected under the *Species at Risk Act*, which prohibits the killing, harming, harassing, capturing or taking of threatened Migratory Birds, such as the Sprauge's Pipit and Loggerhead Shrike. It also prohibits damaging or destroying their residence. The *Migratory Bird Convention Act* prohibits disturbing, destroying, or taking of their nest, nest shelter or eggs.

Responsibility of the Minister of Alberta Sustainable Resource Development

As the Minister of Alberta Sustainable Resource Development, you must abide by the laws regarding species-at-risk. As outlined above, there is evidence that the Land contains individuals, nests, burrows, and critical habitat of species-at-risk. Further studies need to be conducted to determine exactly what species-at-risk and related-habitat are located on the Land before any action is taken with respect to its sale.

It is Ecojustice Canada's position that as the Minister of Alberta Sustainable Resource Development, you have an obligation, at a minimum, to conduct a detailed survey of the Land before it is sold to determine if and where individuals, nests, burrows, or critical habitat of species-at-risk are located.

I look forward to your timely response and action on this matter.

Sincerely,

Melissa Gorrie
Staff Lawyer