



Environmental Regulatory Scope Creep

Changing environmental requirements on transportation projects

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March 2024

Agenda – Recent/New Challenges

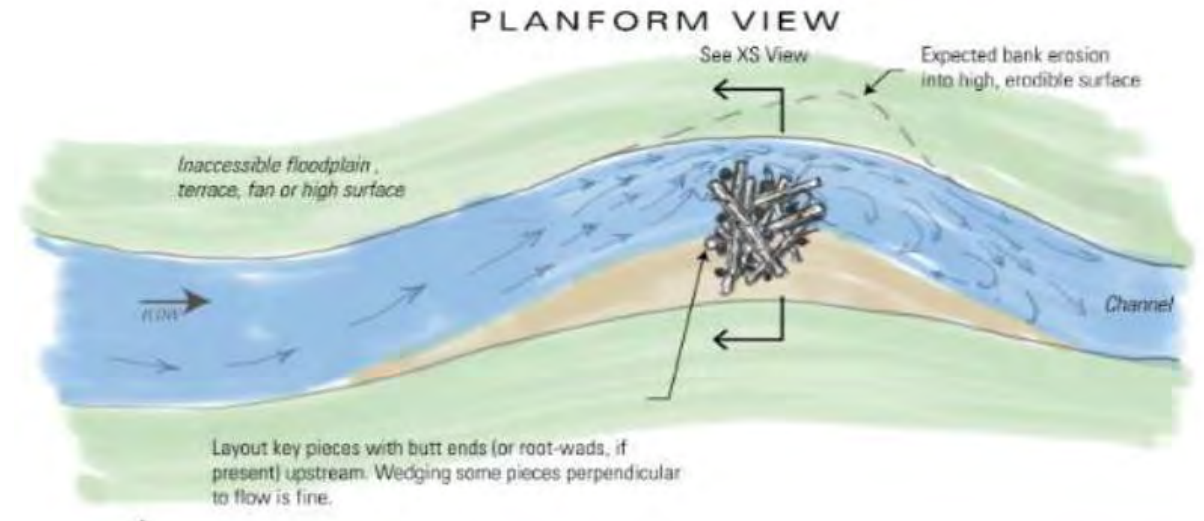
- **Federal Changes**
 - *Fisheries Act*
 - Indigenous consultation
 - Migratory birds
 - Federal overreach?
- **Provincial Changes**
 - Wetlands
 - Dugouts and pits
 - Groundwater diversion
 - Geotechnical drilling
 - Wildlife
- **Municipal Requirements**
- **Future Changes**



Federal Changes

Fisheries Act

- Increased scrutiny on applications
- Changes back to HADD are being increasingly enforced
- Conditions becoming more difficult to implement
- More back and forth
- Federal consultation
- Creative solutions are starting to be implemented



Consultation

- Engagement expectations and timelines are becoming more important and impactful to projects
- There are federal guidelines (updated guidelines for federal officials to fulfill the duty to consult)
- Engagement expectations between the provincial and federal governments vary



MBR 2022 Changes

Migratory Birds Convention Act

Pileated woodpecker



36 months

<https://www.allaboutbirds.org/guide/assets/photo/311372981-480px.jpg>

Black-crowned night heron



24 months

<https://www.featheredphotography.com/blog/wp-content/uploads/2013/11/black-crowned-night-heron-3649-ron-dudley.jpg>

Great blue heron



24 months

<https://www.eekwi.org/sites/default/files/styles/original/public/2019-10/blueheron.jpg?itok=zMAx7U1N>

MBR – Abandoned Nest Registry

Registry for Abandoned Nests | x

https://www.permis-permits.ec.gc.ca/en/AbandonedNests

Franglais

Government of Canada / Gouvernement du Canada

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Home > Registry for Abandoned Nests

Registry for Abandoned Nests

This system allows you to register one or multiple abandoned nests of species listed in Schedule 1 of the Migratory Birds Regulations, 2022. The Migratory Birds Regulations, 2022 are part of Canada's strategy to conserve migratory birds, their nests and eggs, and to protect them from harm. Please visit the Migratory Birds page to read more about the conservation of migratory birds, their legal protection and the permits available.

All information included in this application will be treated as confidential. Personal information collected as part of the notification process is protected under the Privacy Act. Once the form has been submitted, a representative from the Government may contact you if needed.

Please note: If you have any issues with the Abandoned Nest Registry System please contact the Registry team directly by emailing Avisnid-nestnotifications@ec.gc.ca.

Abandoned Nests Registrants Information

The following information, marked with an asterisk (*), is required to complete the registration of an abandoned nest.

Email *

The email to associate with this registration.

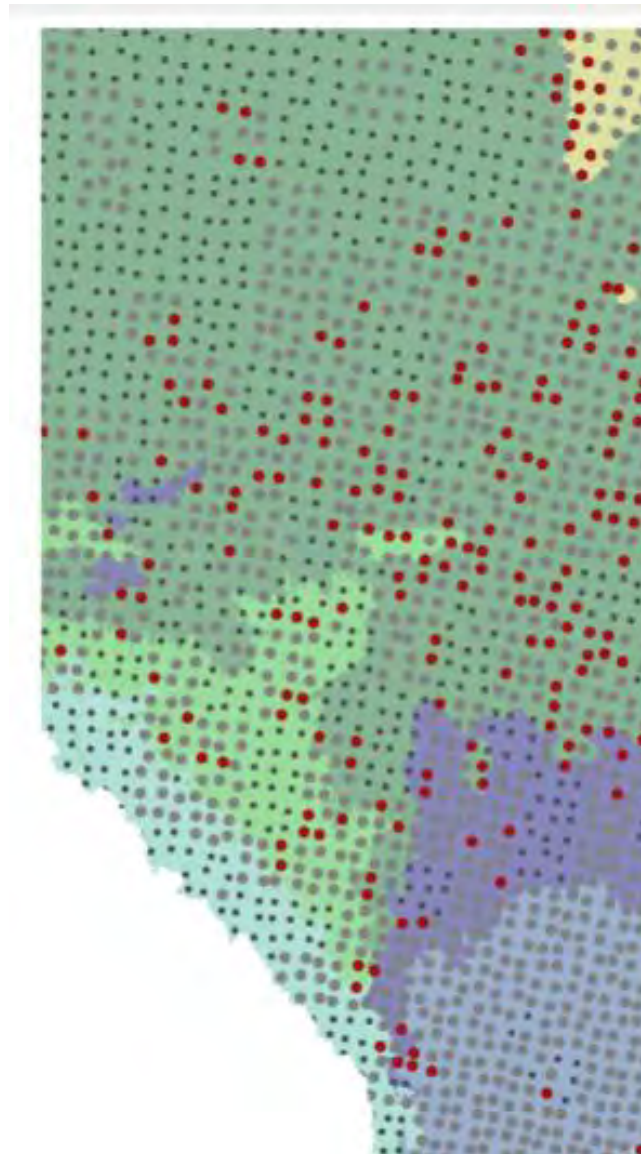
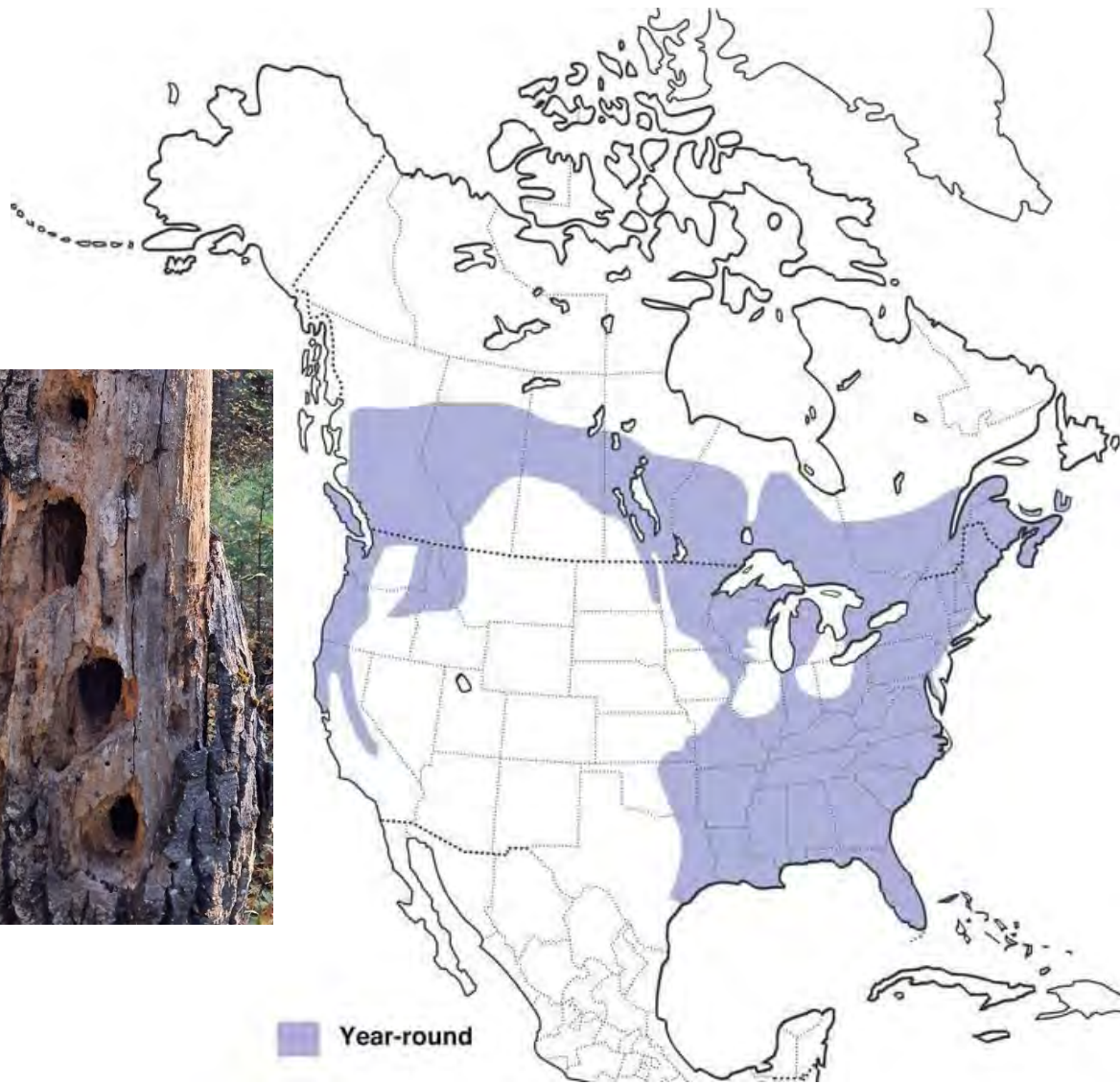
Confirm e-mail *

First name *

Last name *



Pileated Woodpeckers



- Species Occurrence**
- Detected: 202 Sites
 - Not Detected: 924 Sites
 - Site not yet sampled: 530 Sites
- Natural Regions**
- Boreal Forest
 - Canadian Shield
 - Foothills
 - Grassland
 - Parkland

Operational Changes Required

- Changes to regulations and citizen scientists require a different approach
 - No seasonal only sweeps (AT standards have changed)
 - More thorough work required ahead of time
- More severe consequences
 - Fines
 - Environmental Offenders Registry



Federal Overreach?

- Supreme Court of Canada – IAA Decision
 - Great read for anyone interested in EIAs
 - Act was deemed largely unconstitutional
 - Acted outside of federal jurisdiction



Provincial Changes

Wetlands

- Large increases in complexities around wetlands
- Regulation of indirect impacts
- Impacts of historical losses
- Regulation of amphibian impacts
- Different rules for different parties
- Lots of subtleties depending on client
- Huge differences between assessments and interpretation



Historical disturbance

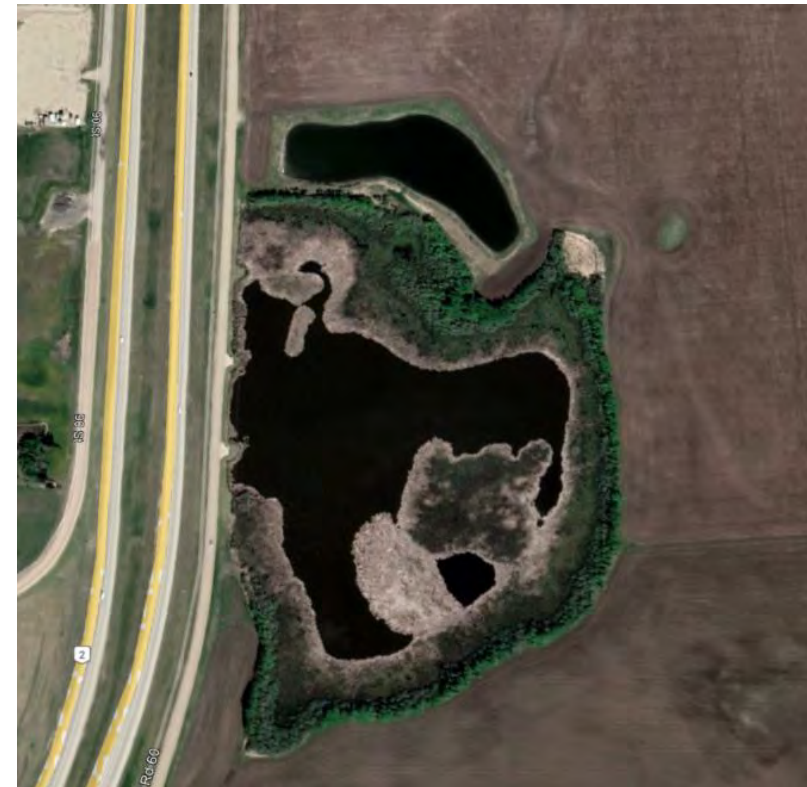
- Section 3.3 of the WAIF states that the hydrology of wetlands WL3, WL4, WL5, and WL6 appear to have been altered by construction of Highway 22x. Alteration of a wetland requires an Approval under the *Water Act*.
 - Please provide an authorization for the historical alteration of the wetlands.
 - If authorization is not present, please report this non-compliance to the Environmental Hotline at 1-800-222-6514. The non-compliant activities must be

Amphibians

- Section 4.2 of the WAIF states that mitigation measures for breeding birds and amphibians must be implemented. Please provide a discussion including the specific mitigation measures that will be adhered to and how they will minimize impacts on wetland-dependant species.

Groundwater Diversion

- Certain AEPA office are regulating subdrain systems under stormwater ponds
- Requires an understanding of flow and quality
- May limit ability to discharge
- What about other subdrains?



Geotechnical Drilling

- Remember you often need approvals which take time!
 - DFO
 - Transport Canada
 - *Water Act*
 - *Public Lands Act!*



Dugouts and Gravel Pits

- Increased regulation of dugouts
 - 2020 Guide to *Water Act* authorizations required for excavations (dugouts, borrow pits and other types of pits/excavations)
- Increased regulation of Gravel Pits
 - Progressive Reclamation
 - More approvals

Guide to
Water Act



Authorizations Required for Excavations (Dugouts,
Borrow Pits and other types of Pit/Excavations)

Alberta



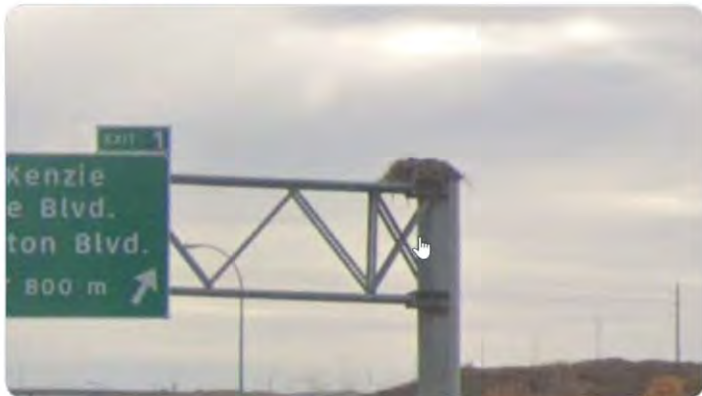
Wildlife

- Increased regulation of wildlife nests and dens
 - More listed species
 - Increased citizen scientists

How would someone review the environmental impact study for this project or was it fast tracked through? After harassing a protected species for 7 days in a provincial park, there are still no answers.

Plan A (move) failed miserably, no plan B

@GlobalCalgary
@PCLConstruction



Foothills Pride @FoothillsPride · Apr 30
@RicMcIver @ConserveAlberta @theACTWS

4 days of messing now. What are you doing to these birds raising their young every year since the bridge was built. Don't like the mess they leave on the path, but surely it's not worth this.

What is the plan?

#birdsofprey

Foothills Pride @FoothillsPride · May 2

A Protected species in a provincial park been tormented for a week now.

@PCLConstruction bird experts 🤔 would love to hear from you.

One look at the birds demeanor would tell you they are in big trouble...new nest is not / will not work.

#justshootthem

Would be less cruel

Foothills Pride @FoothillsPride · May 2

Replying to @FoothillsPride @BuckbergerM and 4 others

Day 6 now both birds are actively building and agitated, they know time is running out. Eggs ready and have to drop now. I'll keep documenting their final days, once the babies die they will be gone, never to return to YYC or breed again.

#pclproud
@rebeccaschulz
@JasonNixonAB

A photograph showing a close-up of a steel structure, likely part of a bridge or overpass. A bird's nest is visible on top of the structure. The background is a cloudy sky.

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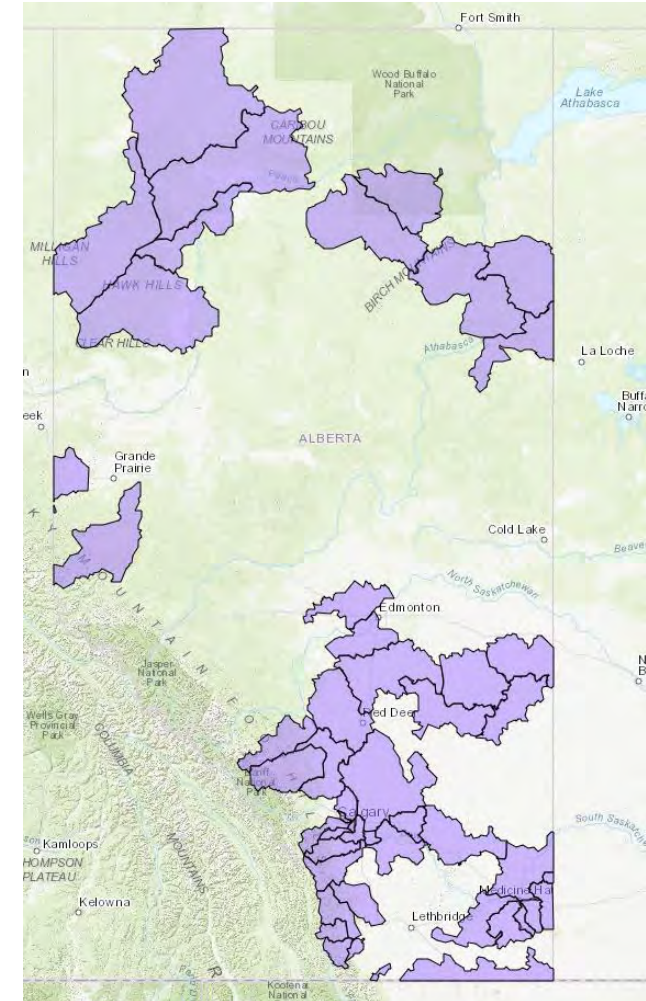
Day 7, PCL upping the ante now clearing the nest pre and post shift. After 7 days you have to admire their resilience and ferocity.

This bird has spent every minute of 7 days trying to rebuild. Eggs are a mute point now, the birds are beyond exasperated, so very cruel.



Drought

- 2024 current drought conditions
- License and TDLs will be affected



Municipal Requirements

Municipal Requirements

- Working for an in some municipalities and cities trigger new requirements around assessments, time, noise, permits, etc.
- Also an increased amount of attention from public



What's Next

Summary

- Federal government is creating a more public opinion based regulatory framework
- Less ability for scientific based justification
 - No bypass for Transport Canada public notice
 - No contemplation of benefits to fisheries impacts



Summary

- Provincially
 - New wetland delineation guidelines
 - While we talk about RTR we are seeing increased difficulty in approvals
- Public is increasingly paying attention to environmental issues





Questions?