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Government of Canada
Canadian Environmental Assessment Agency
Parks Canada

Discussion Paper

Proposed amendments to the *Comprehensive Study List Regulations* under the *Canadian Environmental Assessment Act* related to ski area developments in national parks

Introduction

The purpose of this discussion paper is to solicit public comments on proposed regulatory amendments to the *Comprehensive Study List Regulations*, under the *Canadian Environmental Assessment Act* (the Act), related to developments of ski areas in national parks.

The relevant section of those regulations requires updating because it does not take into account improvements to ski area management introduced by the Parks Canada Agency in recent years. When the comprehensive study requirements related to ski area developments were first put in place, the planning process applicable to ski areas in national parks, as well as their management, was quite different from what it is today. There were no overarching policy or management guidelines to limit development in mountain national parks, and ski areas were able to request approval of any type of development, including hotel developments and major expansions of ski terrain. Such proposals required a comprehensive study type of environmental assessment.

Over the last five years, the policy, planning and approval process applicable to potential development in ski areas in national parks has been significantly improved to establish growth limits and protect the ecological integrity of our national parks, while maintaining quality visitor experience. Parks Canada Ski Area Management Guidelines were approved by the Minister of the Environment in 2006. These limit the nature of development that can be considered in ski areas and provide direction to ensure that ecological integrity is maintained or restored. These guidelines were subjected to a strategic environmental assessment and stakeholder consultations before being implemented.

In addition, each ski area is required to have site-specific guidelines to outline a broad range of conditions and mitigation measures to protect the ecological integrity of the mountain national parks. These guidelines represent site-specific application of the overarching Ski Area Management Guidelines. Ski areas must ensure that their development proposals are consistent with what is permitted in the site guidelines.

Therefore, independent of environmental assessment requirements under the Act, there are significant parameters placed upon potential development in ski areas in national parks to protect the environment.

The proposed changes to the *Comprehensive Study List Regulations* would ensure that the environmental assessment process applicable to the ski areas is current, relevant, scaled appropriately to the project and is up-to-date with respect to the planning process used to manage ski areas in national parks.

Background

Downhill skiing has a long history in Canada's national parks. The Banff Ski Club was formed in 1917 and the first commercial ski facility began operations in 1934. Downhill skiing has since

become a cornerstone of winter tourism in the Rocky Mountain national parks. Banff and Jasper National Parks of Canada are international ski destinations attracting hundreds of thousands of skiers each year. Some of the ski areas also provide summer sightseeing and hiking opportunities.

There are currently four active commercial ski areas in the mountain parks: Marmot Basin in Jasper National Park of Canada, and Sunshine Village, Lake Louise and Mount Norquay in Banff National Park of Canada. A fifth ski area, Mount Agassiz in Riding Mountain National Park of Canada has not operated since the 1999-2000 ski season.

The *Canada National Parks Act* is the legislation under which Canada's national parks are established and managed. It allows for the operation of existing commercial ski areas in Canada's national parks which are regulated by the Parks Canada Agency (Parks Canada). However, due to the pressures placed on alpine and sub-alpine environments, the *Canada National Parks Act* prohibits developing new commercial ski areas inside national parks. It also outlines the boundary limits for the ski areas.

The *Canada National Parks Act* states that national parks are dedicated to Canadians' benefit, education and enjoyment and should be used and maintained in order to leave them in the same condition for the benefit of future generations. Facilitating memorable visitor experiences that leave these special places unimpaired for future generations remains a central challenge of park management. Parks Canada considers that with careful planning and management, future changes to the ski areas can be developed and operated in a manner that restores or maintains ecological integrity of the national parks in which they are located.

Federal Environmental Assessment: Current Requirements

The Act requires federal authorities to ensure that environmental assessments are conducted when they are the proponent of a project or they intend to enable a project to proceed by providing funding, disposing of federal lands, or issuing certain permits, licences or approvals.

Under the Act, there are four types of federal environmental assessments: screenings, comprehensive studies, review panels, and mediations. Of the approximately 6,500 federal environmental assessments undertaken every year, more than 99 per cent are screenings, the remainder being comprehensive studies and review panels. Mediation has never been used under the Act. Whatever the type of federal environmental assessment, the purpose is always the same: to identify the potential significant adverse environmental effects of a proposed project and where possible, to identify measures to mitigate those effects.

When a development in an existing ski area in a national park is proposed and is deemed to be a project as per the Act, Parks Canada is required to ensure that an environmental assessment is conducted before taking any action (e.g. issuing a permit) that would allow the project to proceed. Consistent with the principle of self-assessment established in the Act, Parks Canada conducts or oversees the preparation of the environmental assessment as the federal responsible authority if it is a screening type of environmental assessment. If a comprehensive study is required, the Canadian Environmental Assessment Agency (the Agency) assumes responsibility for the conduct of the environmental assessment.

The type of environmental assessment required depends on the nature and the circumstances surrounding the project. Most developments in national parks require a screening type of environmental assessment. Those few that require a comprehensive study are described in the *Comprehensive Study List Regulations*, which lists projects that are likely to cause significant adverse environmental effects. Section 3.1 of the Regulations specifically identifies the circumstances under which the proposed development of a commercial ski area is required to undergo a comprehensive study. The section reads as follows:

3.1 *The proposed development of a commercial ski area in a national park or national park reserve:*

1. *as set out in a long-range development plan that is to be submitted to the Minister responsible for the Parks Canada Agency for approval;*
2. *that is not consistent with a long-range development plan approved by the Minister responsible for the Parks Canada Agency; or*
3. *that is consistent with a long-range development plan approved before 1999 but that involves development of currently undeveloped, unskied or unserviced terrain.*

A comprehensive study is generally a lengthier process with added requirements. Appendix I provides a snapshot of the key differences between a screening and a comprehensive type of environmental assessment. The main differences, which are further described below, relate to the consideration of additional factors, mandatory public consultations and involvement of the Agency and the Minister of the Environment.

- **Consideration of Additional Factors**

In addition to the factors to be considered in a screening assessment (described in Annex 1), comprehensive studies are required to consider the following additional factors: the purpose of the project, alternative means of carrying out the project and their environmental effects, the need for a follow-up program, and the effects on the capacity of renewable resources to meet the needs of the present and the future.

- **Public Consultations**

For screenings, public participation is discretionary (despite this, as a matter of policy, Parks Canada always conducts public consultations for screenings), whereas for comprehensive studies, public consultation is mandatory at three specific points throughout the process: during the scoping phase, during the conduct of the comprehensive study, and once the report is completed.

- **Agency and Ministerial Involvement**

For comprehensive studies, the Agency would conduct the environmental assessment and the Minister of the Environment would issue an environmental assessment decision statement at the end of the process. For screenings, the responsible authority (e.g. Parks Canada) is responsible for conducting the environmental assessment and is the sole decision maker.

Management of Ski Areas in National Parks

Historical Background

In order to manage ski area operations in national parks, *Long-Range Development Plans* were developed in the 1980s for each ski area, which guided future developments of the ski area. For a long time, this was the main tool used for the management of ski areas and it provided guidance applicable to the development of ski areas. Essentially, it represented a one-step process. This management process is currently reflected in the *Comprehensive Study List Regulations* under section 3.1. As such, those projects requiring a comprehensive study are tied directly to this old ski area planning process employed by Parks Canada and ski area operators.

However, over the last number of years, in recognition of the fact that the *Long-Range Plans* developed in the 1980s were outdated and that a better process was needed to manage ski areas in national parks, Parks Canada put considerable effort into developing a new more fulsome approach to managing ski areas in national parks.

Ski Area Management Guidelines

This new approach represents a three-step process. The top-tier of this process is the Minister of the Environment's *Ski Area Management Guidelines* initially developed in 2000 and updated in 2006. They provide the overarching guidance that sets out how Parks Canada and ski area operators will work together to address the needs of the ski areas, while ensuring ecological

integrity and quality national park experiences. The primary goal is to provide land use certainty for the ski area operators, the Canadian public and Parks Canada. The Guidelines, which were subjected to a strategic environmental assessment, provide ski area operators with clear parameters for business planning. They lay out a broad range of requirements and limitations regarding issues, such as visitor and employee accommodation, new ski run and lift development, vegetation and ski run management, transportation and parking, development of environmental management strategies, summer use, infrastructure, and water withdrawal, in order to address potential cumulative effects issues. The Guidelines provide a number of principles to guide the preparation of *Site Guidelines* and *Long-Range Plans* specific to each ski area. For more details, consult the [Ski Area Management Guidelines](#).

Site Guidelines

The second-tier in the process is *Site Guidelines* that are developed by Parks Canada in collaboration with the affected ski area operator. Once completed, they are approved by the Chief Executive Officer of Parks Canada and outline how the ministerial direction provided in the *Ski Area Management Guidelines* is to be achieved for each site.

The *Site Guidelines* outline the scope, nature and location of development and use changes that can be considered and under what conditions. *Site Guidelines* are intended to guide development and use of ski areas for the foreseeable future. More specifically, they:

- establish permanent growth limits;
- identify types of initiatives that can and cannot be considered;
- establish ecological management parameters that must be met;
- identify initiatives that would result in substantial environmental gains;
- identify site specific ecological concerns and conditions or mitigations to address the concerns and meet the ecological parameters; and
- identify information requirements needed to support future development proposals.

Site Guidelines identify the conditions and parameters that must be met in order for specific initiatives to be considered for approval. Public consultations are an integral component of the development of *Site Guidelines* and each is subject to a strategic environmental assessment.

Long-Range Plans

The *Site Guidelines* provide direction for the preparation of *Long-Range Plans*, the third-tier in the management and planning process applicable to ski areas in national parks. It is also a site specific document; however, it is developed by the ski area operators and approved by the Minister of the Environment. It outlines the future development and operation of a ski area for all seasons for a period of 5 to 15 years and must include an environmental management system and best management practices. *Long-Range Plans* must be consistent with the *Site Guidelines* and associated strategic environmental assessment.

Park Management Plans

It is important to note that the overall management of national parks and commercial activities that take place within the parks is addressed using park management plans. These are required for each national park as per the *Canada National Parks Act* and outline directions to protect heritage resources and provide quality visitor experiences in an integrated, mutually supportive manner for each park. These plans reflect the policies and legislation of the Parks Canada Agency and are prepared in consultation with Canadians. They are reviewed every five years and generally guide the overall direction of the park for a 10 to 15-year period and serve as a framework for all planning within the park.

Ensuring that ecological integrity will be maintained or restored is a fundamental component of the park management plans. A strategic environmental assessment, focusing on cumulative

effects on the park or greater ecosystem scale, is prepared on the plan and helps to determine its content. The plan preparation is also shaped by the results of ecological monitoring, social science and area strategies addressing ecological integrity and visitor experience. Participation of the public, Aboriginal peoples and stakeholders also plays an essential role in preparing and reviewing the plans. The Banff National Park of Canada Management Plan and the Jasper National Park of Canada Management Plan support the continued operation of the mountain park ski areas. Ski area *Site Guidelines* and *Long-Range Plans* must be consistent with and complement the direction in the park management plan. Both plans have recently been reviewed and updated.

Proposed Amendments to the *Comprehensive Study List Regulations*

As described earlier, the current *Comprehensive Study List Regulations* do not adequately take into account Parks Canada's current planning process for ski areas in national parks.

Under the current *Comprehensive Study List Regulations*, the proposed development of a commercial ski area as set out in a Long-Range Plan submitted for ministerial approval and the proposed development of a commercial ski area that is not consistent with an approved Long-Range Plan must undergo a comprehensive study. Currently, there are no *Long-Range Plans* in effect; those that exist are outdated. Until new plans are in place, ski areas are generally limited to projects, such as maintenance, repair, or replacement of facilities on a "like-for-like" basis. Such projects are subject to individual environmental assessments at the screening level. Ski area operators argue that undertaking a comprehensive study is an excessive requirement given the limitations imposed by the *Ski Area Management Guidelines* and the *Site Guidelines* where cumulative effects issues are addressed.

In light of the *Ski Area Management Guidelines* and the requirements for the development of *Site Guidelines*, including the conduct of a strategic environmental assessment as well as stakeholder and public consultations, assessing a Long-Range Plan that is consistent with approved *Site Guidelines* by conducting a comprehensive study adds little value to the process. Consequently, the Agency proposes to amend section 3.1 of the *Comprehensive Study List Regulations* in order to ensure that the environmental assessment process reflects the current planning process and policies applicable to ski areas in national parks.

The proposed changes to section 3.1 would require a comprehensive study environmental assessment for proposed developments under two scenarios. The first would be when a ski area does not have approved *Site Guidelines* for development and use of the ski area, except for specific projects considered to have minimal environmental effects that can be advanced before the approval of *Site Guidelines*. Projects not requiring a comprehensive study would be defined in the Regulations and could include for example, maintenance, modification and repair projects, physical structures to control erosion, replacement of facilities that do not result in expansion, and physical structures related to avalanche control. The second scenario would require a comprehensive study when a proposed development is not consistent with the approved *Site Guidelines* for a specific ski area.

Impacts of the Proposed Amendments

The proposed regulatory amendments would align federal environmental assessment requirements with the Parks Canada planning process ensuring that any development proposal is properly assessed, consistent with Parks Canada's vision for the management of national parks and that the public is given sufficient opportunity to participate. The amendments would streamline the review and approval process. They would also be consistent with how other activities that deviate from *Park Management Plans* are managed (i.e. comprehensive studies are required for proposals that are not consistent with an approved management plan).

Project proposals advanced independently, as permitted by the *Ski Area Management Guidelines*, and *Long-Range Plans* that are consistent with *Site Guidelines*, would require a screening type of environmental assessment. Public consultation opportunities would continue to be provided as part of the Park Management Plan review process, in the development of ski area *Site Guidelines*

and associated strategic environmental assessments, as well as during screening environmental assessments of projects and *Long-Range Plans* at ski areas. Although public consultation is discretionary for screenings under the Act, as a matter of policy, Parks Canada undertakes public consultation for all its environmental assessments. Key environmental issues would continue to be rigorously addressed and the possibility would remain to refer a project to a review panel if necessary. **The proposed amendments would not constitute an exemption from environmental assessment requirements.**

With these proposed amendments, participant funding would not be available for projects undergoing a screening type of environmental assessment.

Through these proposed regulatory amendments, the Agency aims to update federal environmental assessment requirements to align with Parks Canada planning process for existing commercial ski areas in national parks. They would ensure that development proposals are properly assessed and opportunities for public participation are provided. Interested parties are encouraged to submit any comments or suggestions relating to this proposed initiative before February 11, 2011, to:

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Appendix I: Comparison between Screening and Comprehensive Study Requirements

Item	Screening	Comprehensive Study
1. Factors required to be considered as part of the environmental assessment		
i) Environmental effects, including effects of malfunctions or accidents and cumulative effects, and significance of these effects	X	X
ii) Comments from public received in accordance with the Act	X	X
iii) Technically and economically feasible mitigation measures	X	X
iv) Other matters as required by the responsible authority or Minister	X	X
v) Purpose of the project		X
vi) Economically and technically feasible alternative means of carrying out the project and the environmental effects		X
vii) Need for and requirements of a follow-up program		X
viii) Capacity of renewable resources likely to be significantly affected to meet present and future needs		X
2. Process requirements		

Item	Screening	Comprehensive Study
1. Factors required to be considered as part of the environmental assessment		
i) Responsibility for conducting the environmental assessment	Responsible Authority (e.g. Parks Canada)	Canadian Environmental Assessment Agency
ii) Public participation	Conducted under Parks Canada policy	Required
iii) Submission of environmental assessment report to the Minister of the Environment for environmental assessment decision statement		X
iv) Participant funding available		X
v) Decision-making authority	Responsible Authority (e.g. Parks Canada)	Responsible Authority (e.g. Parks Canada) after Minister of the Environment issues his environmental assessment decision statement

Date Modified: 2010-12-23